

TOWNSHIP OF DANBY

ORDINANCE NO. 16

PUBLIC NUISANCES

An Ordinance to promote the public health, safety and general welfare; to provide penalties for maintaining public nuisances; to provide for the abatement of public nuisances by the Township and the collection of the costs therefor.

DANBY TOWNSHIP ORDAINS:

**SECTION 1 Public Nuisances Prohibited.**

Whatever annoys, injures or endangers the safety, health, welfare, comfort or repose of the public; offends public decency or aesthetic sensibilities; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Ordinance. No person shall commit, create or maintain any public nuisance.

**SECTION 2 Public Nuisances Per Se.**

The following acts, apparatus, accumulations and activities are hereby declared to be public nuisances per se:

- A. The placing or maintenance by any person or permission to remain on premises owned or occupied by him; or throwing, placing or leaving; or permitting the throwing, placing or leaving in any public place or on the premises of another any of the following substances: organic refuse, food wastes, dead animals, fish, animal bones, hides, rotten soap, grease, tallow, offal, shell, food containers or wrappings, cans, bottles, jars, crockery, garbage, discarded furniture, cartons, boxes, crates, rags, discarded clothing, bedding, floor covering, wallpaper, sweepings, waste paper, newspapers or magazines, discarded appliances, rubbish, excrement, rot, construction debris (including but not limited to lumber, bricks, block, plumbing or heating materials, roofing materials, concrete, cement, electrical materials or siding), industrial waste, unclean or nauseous fluids or gases.
- B. The emission of noxious fumes or gas, smoke, ashes or soot in such quantities as to render occupancy of property dangerous or uncomfortable to a person of ordinary sensibilities.
- C. The keeping of explosives, inflammable liquids or other dangerous substances stored in any manner or in any amount contrary to the provisions of any statute or applicable administrative regulation of the State of Michigan.
- D. All dangerous, unguarded excavations or dangerous, unguarded machinery in any public place, or so situated, left or operated on private property as to attract the public.
- E. The owning, driving or moving upon the public streets and alleys of a truck or other motor vehicle which is constructed or loaded so as to permit any part of its load or contents to be deposited upon any street, alley, sidewalk or other public or private place, or which deposits from its wheels, tires, or other parts onto any street, alley, sidewalk or other public or private place dirt, grease, sticky substances or foreign matter of any kind. Provided, however, that under circumstances determined by the Township Board to be in the public interest, the Board may grant persons temporary exemption from the provisions of this subsection conditioned upon cleaning and correcting the violating condition as specified by the Township Board and execution of an agreement by such

person to reimburse the Township for any extraordinary maintenance expenses incurred by the Township in connection with such violation.

- F. The keeping, either inside or outside of any building, structure, or dwelling, in a place accessible to children, any abandoned, unattended, unused or discarded icebox, refrigerator or any air tight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch or other locking device, or the doors, from such icebox, refrigerator or other such air tight container.
- G. Abandoning, leaving, keeping or maintaining a junk or abandoned motor vehicle, as provided in Section 6 of this Ordinance.

### **SECTION 3 Abatement; notice, authority of officers.**

Whenever any public nuisance described in Sections 1 or 2 shall exist upon Township property or upon the property of another municipal corporation within the boundaries of the Township, said public nuisance may be abated by the Township Board without notice and the cost of abatement charged as provided in Section 5 of this Ordinance. Except as provided in Section 6 of this Ordinance for junk or abandoned motor vehicles, whenever any such public nuisance shall exist on private premises within the Township, the Township Board shall give notice in writing by certified mail--return receipt requested, addressed to the owner or occupant of the property where the public nuisance exists or to the person(s) otherwise responsible for said public nuisance. Said notice shall specify the location and nature of the public nuisance and shall indicate that such owner or occupant or person otherwise responsible is required to repair, tear down, abate or otherwise remove the public nuisance **within 30 days** of the receipt of the notice. **The Township Supervisor or his or her designee is authorized to grant an extension when reasonable progress in abating the nuisance is being made. After the first extension, the Township Board, upon request by the owner, occupant or person responsible, may grant further extensions.** Following the issuance of said notice, the Township Board may proceed to initiate civil proceedings permitted by law to abate the public nuisance.

If the Township intends to abate the public nuisance by entering the property and causing the work to be done to repair, tear down, abate or otherwise remove the public nuisance and charge the cost thereof to the property owner, the notice to the property owner or occupant shall advise of this intent and advise the owner or occupant that a hearing may be requested within the 10 day period pursuant to Section 4 of the Ordinance. If no hearing is requested in the time allotted, or following a hearing held pursuant to Section 4 of this Ordinance, said public nuisance may then be repaired, torn down, abated or otherwise removed by the Township Board and the cost thereof charged as provided in Section 5 of this Ordinance. If the actual owner or occupant of the premises is unknown or cannot be located, notice may be given by posting a copy of said notice upon a conspicuous part of the property where the public nuisance is located and by mailing a copy of said notice by certified mail--return receipt requested, addressed to the owner or party in interest at the address shown on the Township tax records, at least 12 days before further action by the Board.

### **SECTION 4 Hearing.**

If, after notice provided under Section 3 of this Ordinance, the recipient of said notice requests a hearing as therein provided, a hearing shall be held before the Township Board to determine the applicability of this Ordinance to the property in question. The Township Board shall make a decision with written findings of fact based upon his investigation and evidence presented at the hearing as to whether the condition in question violates the provisions of this Ordinance. If the Township Board determines that the condition violates the provisions of this Ordinance, the Board shall order the person requesting the hearing or owner or occupant of the premises in question to repair, tear down, abate or otherwise remove the public nuisance in question within a reasonable time but not less than five (5) days. If the public nuisance is not repaired, torn down, abated or otherwise removed within the period allowed in the order, the Township Board may

repair, tear down, abate or otherwise remove said public nuisance and charge the cost thereof as provided in Section 5 of this Ordinance.

#### **SECTION 5 Abatement; Costs.**

All expenses incurred by the Township Board in repairing, tearing down, abating or otherwise removing a public nuisance under this Ordinance shall be charged to the person responsible therefor, the occupant of the land in question or the person who appears as owner or party in interest upon the last local tax assessment records of the Township. If said person fails to pay said charge within 30 days after a statement therefor is mailed to him, the amount of expenses incurred by the Township in repairing, tearing down, abating or otherwise removing the public nuisance may be paid from the Township general fund and the amount thereof assessed against the lands on which said expenditures were made on the next general assessment roll of the Township and shall be collected in the same manner as other taxes are collected. The Township shall have a lien upon such lands for such expense, said lien to be enforced in the manner prescribed by the general laws of the State providing for the enforcement of tax liens. In the alternative, the Township may collect the expenses it incurs from the person responsible therefor in the manner provided by law for the collection of debts.

#### **SECTION 6 Junk or Abandoned Motor Vehicles.**

- A. A motor vehicle is hereby defined as any wheeled vehicle which is self-propelled or intended to be self-propelled. Junk or abandoned motor vehicles for purposes of this section, shall include:
- (1) any motor vehicle or which has remained on the premises of another for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property or for a period of 48 continuous hours or more after the consent of the owner or occupant of the property has been revoked; or
  - (2) any motor vehicle or portion thereof which, for a period of 30 consecutive days or more does not have an engine in running condition, four inflated tires, and a battery; or
  - (3) any motor vehicle which, for a period of 72 hours or more does not have attached current license plates; or
  - (4) any motor vehicle which is in fact abandoned by its owner; or
  - (5) any motor vehicle which is for any reason not operable and not repairable.
- B. No person shall abandon a motor vehicle or part thereof on the premises of another.
- C. No person shall store, maintain, keep, leave, or authorize the storage, maintenance, keeping or leaving of any abandoned or junk motor vehicle or part thereof on any private property under his ownership, tenancy or control.
- D. The following motor vehicles shall not be deemed junk or abandoned vehicles for purposes of this section: (1) vehicles stored within a fully enclosed building, (2) one **operable recreational Vehicle**, (3) **One operable, unlicensed vehicle that is kept out of view from neighboring properties and any and all public or private rights-of-way**, (4) vehicles kept as stock in trade by a regularly licensed dealer in motor vehicles, or (5) vehicles stored by a licensed junk dealer. The Board may, upon written application, exempt from this section for any reasonable period of time any historic or classic vehicle, any vehicle in a process of restoration or repair, or any vehicle which by reason of special circumstances is deemed by the Board not to be a junk or abandoned vehicle.

- E. The Township Board or its agent may remove any junk or abandoned motor vehicle or part thereof from the property of the Township or other municipal corporation within the boundaries of the Township without notice and may dispose of said vehicle in the Township dump or otherwise dispose of said vehicle. The Township Board may remove or cause to be removed any junk or abandoned motor vehicle or part thereof from any unenclosed private property after having notified the vehicle owner and/or lienholder, if known, and the property owner or occupant of such property in writing of his intention to do so at least 48 hours prior to such removal. If the vehicle owner and/or lienholder cannot be determined, a copy of said notice shall be placed upon the vehicle at least 48 hours prior to removal. The Township Board may dispose of said vehicle at the Township dump or may otherwise dispose of said vehicle. The cost of hauling away and disposing of a junk or abandoned motor vehicle may be charged as provided in Section 5 of this Ordinance. The removal of a junk or abandoned motor vehicle by the Township Board shall not excuse or relieve any person of the obligations imposed by sub-sections 6(B) - 6(C) of this Ordinance nor from the remedies for violation thereof.

**Section 7      Unlawful Noise Prohibited.**

A. It shall be unlawful, and it shall be deemed a public nuisance, for any person to unreasonably make, continue or cause to be made or continued any noise that annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities, or that injures or endangers the health, peace or safety of the public within the Township. The following acts, among others, are declared to be unlawful noises in violation of this section, and are deemed to be public nuisances per se, but this enumeration shall not be deemed to be exclusive, namely:

- (1)    **Radios, phonographs and musical instruments.** Operating, playing or permitting the operating or playing of any radio, phonograph, television set, amplified or unamplified musical instrument, drum, loudspeaker, tape recorder or other sound-producing device, in such a manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, hospital or residence. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible on real property or in a dwelling unit other than that from which the noise originates or emanates shall be prima facie evidence of a violation of this section.
- (2)    **Shouting and whistling.** Yelling, shouting, hooting, whistling, singing or making any other loud noises on the public streets, sidewalks, bike pathways or other streets or paths located within the Township, between the hours of 11:00 p.m. and 7:00 a.m. the following day, or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, hospital or residence.
- (3)    **Animals and Birds.** Owning, possessing or harboring any animal or bird that frequently or for continued duration howls, barks, meows, squawks or makes other sounds at any time or place so as to annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, hospital or residence.
- (4)    **Construction.** Operating or permitting the operation of any tools or equipment used in construction, excavation, demolition, alteration or repair of any building, street or highway, between the hours of 9:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom is plainly audible in any dwelling, hotel, hospital, office or residence, or on any residential property other than the property from which the noise emanates or originates, unless a variance therefor is first obtained from the Township Board.
- (5)    **Engines.** Operating or permitting the operation of any steam engine or internal combustion engine, whether stationary or mobile, so as to annoy or disturb the quiet, comfort or repose of a person of normal sensitivities in any office, dwelling, hotel, hospital or residence. This sub-paragraph shall not prohibit the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snowblower or similar device used outdoors in residential areas between the hours of 7:00 a.m. and 9:00 p.m. the same day, nor shall it prohibit the operation of a state-licensed motor vehicle in a manner expressly permitted by state law.

B. In addition to its normal meaning, the term "person" as used in this section means a person who causes or makes an unlawful noise; or a person who is in control of the property or premises from which an unlawful noise originates or emanates; or a person who owns the property or premises from which an unlawful noise originates or emanates.

- C. The provisions of this section shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- D. The Township Board may grant an applicant a variance of this section to permit construction noises during hours otherwise prohibited hereunder, after notice and hearing, upon a showing that compliance with this section would constitute an unreasonable hardship on the applicant, on the community or on other persons.

**Section 8      Public Nuisances; Emergency Abatement; Costs.**

The Township Board may act to abate a public nuisance without giving notice as specified in Section 3, if the public health, safety or welfare requires immediate action. The cost of abating such public nuisance shall be charged as specified in Section 5.

**Section 9      Enforcement and Penalties.**

The Township may enforce any violation of this Ordinance by resort to one of the following:

**A.      Injunction and Abatement.**

In addition to any other remedies that may be available, the Township may commence proceedings in a court of proper jurisdiction to enjoin or abate any public nuisance in violation of this Ordinance. Such proceedings shall be governed by the applicable statutes and court rules of the State of Michigan.

**B.      Civil Infraction Citation.**

Any person who is found responsible or admits responsibility for violation of this Ordinance shall be subject to a civil fine and costs. The civil fines are set forth in Civil Infraction Ordinance, Ordinance No. \_\_\_\_\_, unless otherwise specified. Further, the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in an ordinary civil action and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment. However, in no case shall costs of less than \$9.00 nor more than \$500.00 be ordered.

**SECTION 10 Effective Date.**

The Ordinance shall become effective thirty (30) days after publication in a newspaper in general circulation within Danby Township.

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Gary Reisbig, Township Supervisor

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Carol Brown, Township Clerk

Ordinance adopted as Ordinance No. 16, adopted September 24, 1998, as amended by Ordinance No. \_\_\_\_ adopted November 21, 2002