

**HOWELL TOWNSHIP  
PUBLIC NUISANCE ORDINANCE  
Ordinance No. 123, Effective April 17, 2001**

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 thereof.

**HOWELL TOWNSHIP ORDAINS:**

**SECTION 1. PUBLIC NUISANCES DEFINED AND PROHIBITED.**

A Public Nuisance is an action or condition that is offensively annoying, unpleasant, obnoxious, hurtful, harmful, injurious, vexing, difficult or distressing and causes harm or annoyance to a person or persons in a particular locality in violation of their rights in the preservation of the public health, safety and other aspects of the public welfare as members of the community. Any such action or condition that annoys, injures or endangers the safety, health, convenience, comfort, repose or other aspects of the public welfare, offends public decency or aesthetic sensibilities, interferes with, obstructs or renders dangerous any road, highway, navigable lake, river or stream, or in any way renders the public insecure in life on 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. NUISANCES PER SE.**

The following acts, accumulations, conditions and activities are hereby declared to be Public Nuisances, *per se*:

- A. Permitting to remain on premises owned or occupied by a person or by a public agency, throwing, placing or leaving, or permitting the throwing, placing or leaving on the premises of another, any observable amounts of the following substances: organic refuse, food wastes, ashes, dead animals, fish, animal bones, hides, rotten soap, grease, tallow, offal, shells, food containers or wrappings, cans, bottles, jars, crockery, garbage, discarded furniture, cartons, boxes, crates, rags, discarded clothing, bedding, floor coverings, wallpaper, sweepings, wastepaper, newspapers or magazines, discarded appliances, rubbish, excrement, rotted materials; construction debris, including, but not limited to lumber, bricks, blocks, plumbing or heating materials, siding; yard clippings, including, but not limited to grass clippings, clippings from hedges or shrubs, or detached tree branches; industrial waste, unclean or nauseous fluids or gases in any of the following locations:
- 1) Any public road, street, highway, lane, alley, public place, square, sidewalk or any lands within the boundaries of Howell Township, owned by the Township, County of Livingston, State of Michigan, other municipal corporation or government entity.
  - 2) Any river, lake, stream or other body of surface water, wetlands or flood plains.

- 3) Any private place or premises where in the reasonable judgment of the Township Manager or his or her agent, the specified substances constitute an obnoxious or dangerous condition; or are detrimental to the public health, safety or other aspects of the public welfare; or offend aesthetic sensibilities; or may cause sickness; or attract flies, insects, rodents or vermin.
- 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 normal sensitivities.
- 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. Any dangerous, unguarded excavations or dangerous, unguarded machinery in any publicly accessible place, or so situated, left or operated on private property so as to attract members of the public.
- E. The owning, driving or moving upon the public roads, 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 air blown and deposited upon any road, street, alley, sidewalk or other public or private place, or which deposits from its wheels, tires, or other parts onto the road, 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 Manager or his or her agent to be in the public interest, he or she may grant persons temporary exemption from the provisions of this subsection conditioned upon cleaning and correcting the violating condition as specified by the Township Manager or his or her agent and execution of an agreement by such person to reimburse the Township for any extraordinary expenses incurred by the Township in connection with such exemption.
- F. The keeping of bees, when such keeping results in the disturbance of the safety, comfort and repose of one or more persons, or shall render one or more persons insecure in the use of his or her property.
- G. The keeping of horses or livestock, unless permitted by Township Ordinance, or the failure to keep horses or livestock within sufficient fences, barricades or restraints to keep such animals located on property designed for their containment and from entering and roaming on a public way or onto adjacent properties.
- H. The keeping, either inside or outside of any building, structure, or dwelling, in a place accessible to children, any abandoned or unused discarded refrigerator, or any airtight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch, other locking device, or the doors, from such refrigerator or other such airtight container.
- I. The abandonment, leaving, keeping or maintaining of an unlicensed, 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 of this Ordinance shall exist upon Township property or upon the property of another municipal corporation or other government entity within the boundaries of the Township, said Public Nuisance may be abated by the Township Manager or his or her agent 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 unlicensed, junk or abandoned motor vehicles, whenever any such Public Nuisance shall exist on private premises within the Township, the Township Manager and his or her agent shall give notice in writing by certified mail, return receipt requested, and/or first class mail addressed to the owner or occupant of the property where the Public Nuisance exists or to the person(s) otherwise responsible for the property upon which said Public Nuisance is located. 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 ten (10) days of the receipt of the notice. Following the issuance of said notice, the Township Manager or his or her agent may proceed to initiate civil or criminal proceedings permitted by law to abate the nuisance with the approval of the Township Board and under the supervision of the Township Attorney.

If the Township intends to abate a 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 Township shall notify the property owner and occupant of this intent and advise the owner or occupant that a hearing may be requested within the ten (10) day period pursuant to Section 4 of this Ordinance. If no hearing is requested in the time allotted or following a hearing held pursuant to Section 4 of this Ordinance, said nuisance may then be repaired, torn down, abated or otherwise removed by the Township Manager and his or her agent 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 ten (10) days before further action by the Township Manager or his or her agent.

### **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 or a hearing officer appointed by the Township Board to determine the applicability of this Ordinance to the property in question. The Township Board or its appointed hearing officer shall make a decision with written findings of fact based upon an investigation and evidence presented at the hearing as to whether the activity or condition in question violates the provisions of this Ordinance. If the Township Board or its appointed hearing officer determines that the activity or condition violates the provisions of this Ordinance, the Township 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 Manager or his or her agent 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 or its employees or agents in repairing, tearing down, abating or otherwise removing a Public Nuisance under this Ordinance shall be charged to the person responsible for the Public Nuisance, including either the occupant of the land in question, the person who appears as owner of party in interest upon the last local tax assessment records of the Township, or both. If said person or persons fail to pay said charge within thirty (30) days after a statement therefor is mailed to them, 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 the Public Nuisance was located on the next general assessment/tax 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 shall be enforced in the manner prescribed by the general laws of the State providing for the enforcement of tax liens.

## **SECTION 6. UNLICENSED, JUNK OR ABANDONED MOTOR VEHICLES PROHIBITED.**

- A. A "Motor Vehicle" is hereby defined as any wheeled vehicle that is self-propelled or intended to be self-propelled. An "Unlicensed, Junk or Abandoned Motor Vehicle," for purposes of this Ordinance shall include:
- 1) Any motor vehicle or portion thereof that has remained on the premises of another for a period of forty-eight (48) continuous hours or more without the consent of the owner or occupant of the property or for a period of forty-eight (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 that has remained on the premises of an owner or occupant for a period of thirty (30) consecutive days or more, and does not have an engine in running condition, four (4) inflated tires, and/or a battery; or
  - 3) Any motor vehicle or portion thereof that has remained on the property of an owner or occupant for a period of 90 days or more and does not have attached current license plates; or
  - 4) Any motor vehicle or portion thereof that is in fact abandoned by its owner; or
  - 5) Any motor vehicle or portion thereof that for any reason is not operable and not repairable.
- B. No person shall abandon a motor vehicle or portion thereof on the premises of another.
- C. No person shall store, maintain, keep, leave or authorize the storage, maintenance, keeping or leaving of any unlicensed, abandoned or junk motor vehicle or part thereof on any private property under his/her ownership, tenancy or control, except as provided in paragraph "D" below.

- D. The following motor vehicles shall not be deemed unlicensed, junk or abandoned vehicles for purposes of this Ordinance: vehicles stored within a completely enclosed building, vehicles kept as stock in trade by a regularly licensed dealer in motor vehicles, vehicles stored by a junk or abandoned vehicle dealer or agent properly and currently licensed by the State of Michigan. The Township Manager or his or her agent may, upon written application, exempt from this Ordinance for any reasonable period of time any historic or classic vehicle which by reason of special circumstances is deemed not be a junk or abandoned motor vehicle.
- E. The Township Manager or his or her agent may remove any unlicensed, junk or abandoned motor vehicle or part thereof from the property of the Township or other municipal corporation or other government entity within the boundaries of the Township without notice and may dispose of said vehicle in a prescribed or otherwise acceptable manner. The Township Manager or his or her agent may remove or cause to be removed any unlicensed, junk or abandoned motor vehicle or part thereof from any open area on 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 or her intention to do so at least forty-eight (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 forty-eight (48) hours prior to removal. The Township Manager or his or her agent may dispose of said vehicle in a prescribed or otherwise acceptable manner. The cost of hauling away and disposing of an unlicensed, junk or abandoned motor vehicle may be charged as provided in Section 5 of this Ordinance. The removal of an unlicensed, junk or abandoned motor vehicle by the Township Manager or his or her agent shall not excuse or relieve any person of the obligations imposed by subsections 6(B) or 6(C) of this Ordinance nor from the criminal penalties 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 any noise that excessively 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 *prima facie* evidence of unlawful noises in violation of this Section 7, and are deemed to be Public Nuisances *per se*, but this enumeration shall not be deemed to be exclusive, namely:
  - 1) Radios, Record or CD Players and Musical Instruments: Operating, playing or permitting the operating of any radio, CD player, television set, car stereo, musical instrument, drum, loudspeaker, tape recorder, or other sound-producing device, amplified or unamplified, in such a manner or with such volume at any time or place so as to excessively annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, motel, hospital or residence, or the operation of any such radio, instrument, CD player, television set, 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, or the operation of a car stereo so as to be plainly audible at a distance of fifty (50) feet from the vehicle in which it is located.

- 2) Shouting and Whistling: Yelling, shouting, hooting, whistling, singing, or making any other loud noises on public roads, streets, sidewalks, pathways or other roads, 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 excessively annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, dwelling, hotel, motel, 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 excessively annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in any office, hotel, motel, 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, road, street or highway, between the hours of 9:00 p.m. and 7:00 a.m. the following day or all day on Sundays or federal holidays, such that the sound thereof is plainly audible in any hotel, motel, hospital, office or residence located on any property other than the property from which the noise originates, with the following exceptions:
  - a. Noise from the operation of any tools or equipment used in construction, excavation, demolition, alteration, or repair of any building or other structure, site grading, road, street or highway that is normal to such operations shall be permitted daily between the hours of 7:00 a.m. and 9:00 p.m., except that no such operations shall be conducted on Sundays, Thanksgiving Day, Christmas Day and New Years Day. Any operation that does not exceed sixty (60) decibels at the property line of the property in which it is conducted may operate at any time on any day between the hours of 7:00 a.m. and 9:00 p.m.
  - b. Noise from the operation of any tools or equipment used in home improvement or maintenance projects personally conducted by the owner or occupant of an existing residence or other type of building or structure shall be permitted on any day between the hours of 7:00 a.m. and 9:00 p.m.
- 5) Engines: Operating or permitting the operation of any engine, whether stationary or mobile, so as to excessively annoy or disturb the quiet, comfort or repose of a person of normal sensitivities in any office, hotel, motel, hospital or residence. This subparagraph 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.
- 6) Smoke: A person, industry, corporation, firm, or business shall not discharge into the atmosphere from any single source of emission or collective sources of

emission located on any lot or parcel, any air contaminant for a period or periods of time aggregating more than three (3) minutes in any one (1) hour which results in the following:

- a. As dark or darker in shade than that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines.
  - b. Of such density as to obscure an observer's view to the degree equal to or greater than the shade of smoke described in (a) above.
  - c. At no time for any period of time shall smoke emissions be darker than Ringelmann No. 3.
- 7) Dust, Dirt or Fly Ash: There shall be no discharge into the atmosphere of any levels of materials or substances of any kind or combination of kinds exceeding twenty (20) grams per cubic foot of the carrying medium. There shall be no discharge of any materials or substances into the atmosphere which creates conditions harmful or potentially harmful to any human, animal or plant material located on the same property as well as adjacent properties. All equipment involved in any process shall be maintained in an approved operating condition so as to keep any produced dust, dirt or fly ash to the minimum possible.
  - 8) Noxious Gas: No noxious gas shall be permitted to escape into the atmosphere in concentrations detrimental to human, plant or animal life.
  - 9) Open fires: A person, industry, corporation, firm or business may burn combustible refuse in an open outdoor fire, if permitted, subject to written approval with specified conditions by the Township and Fire Department as not being detrimental to the health, safety and welfare of adjoining properties and the community generally.
  - 10) Vibration: Vibrations from any operation on any lot or parcel shall be controlled to the extent that they cannot be felt beyond any property line bounding or beyond the lot or parcel from which such vibrations emanate.
  - 11) Glare and Heat: All operations which produce glare and heat, such as welding or acetylene torch cutting shall be performed in such a manner that the glare cannot be seen from any road, street or highway or adjacent property and any heat produced on a lot or parcel through any operation shall be insulated that the temperature at any of its property lines shall not increase above that which is registered as the temperature for any particular time of day by the local Weather Bureau.
  - 12) Light: Lights for buildings and other structures and parking areas, whether located inside, outside or in or under covered buildings or other structures and parking areas shall be so located, oriented and shielded so as not to shine directly onto any adjacent properties, roads, streets or highways.

- 13) Radio Transmission: Any electronic equipment shall be so shielded that its operation will not interfere with any other installation and use of radio, television, cellphone or other electronic equipment.
- 14) Flammable Liquids, Liquified Petroleum Gases and Explosives: shall not be stored on any lot or parcel without the approval of the State of Michigan Fire Marshall and the local Fire Department and shall comply with all the State of Michigan rules and regulations as established by the "Fire Prevention Act," Public Act 207 of 1941, as amended.
- 15) Odor: There shall be no emission or escape of any materials or any obnoxious odor in such quantities as to be readily detectable so as to pose a hazard or to create any physical discomfort to the users and occupants of adjacent properties or those persons walking or traveling by in vehicles on adjacent roads, streets or highways, subject to State Law, i.e., Michigan Right to Farm Act.
- 16) Radioactive Materials and Wastes: The delivery, storage, use and removal of radioactive materials and wastes shall have the approval of the responsible Federal, State and local agencies and in no case shall radioactive materials and wastes be permitted to exceed quantities established as safe by the United States Bureau of Standards when measured at the property lines of the property upon which such materials are located.
- 17) Open Storage: All storage of building materials, sand, gravel, stone, lumber, equipment and supplies shall be continually or permanently located within an area not closer than one hundred fifty (150) feet from any road, street or highway right-of-way line, and not less than twenty (20) feet from any side or rear lot line of the lot or parcel upon which they are located. The on-site location of openly stored lumber, coal or other combustible materials shall be accessible by means of a Fire Department approved driveway which provides direct and free access at all times by fire trucks. All such open storage shall be screened from all roads, streets and highways and all adjacent properties by a solid eight (8) foot high wall, fence, berm, evergreen planting or any combination of them. The storage of any of the aforementioned shall not be piled so as to exceed the eight (8) foot high required solid barrier.

#### **SECTION 8. PUBLIC NUISANCES, EMERGENCY ABATEMENT, COSTS.**

The Township Manager or his or her agent 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 nuisance shall be charged as specified in Section 5.



**SECTION 9. PENALTIES.**

Repealed and replaced by ordinance #132, Civil Infractions Ordinance.

(Ord. No. 133 Eff. March 15, 2002)

**SECTION 10. APPEARANCE TICKETS.**

In all arrests and prosecutions for violation of this Ordinance, Appearance Tickets and the appropriate procedures set forth in Act 147, Michigan Public Acts of 1968, as amended, may be used whenever appropriate.

**SECTION 11. EFFECTIVE DATE.**

This Ordinance shall become effective thirty (30) days after its publication.

(Ord. No. 123 eff. April 17, 2001)