

EDWARDS TOWNSHIP, OGEMAW COUNTY, MICHIGAN

PUBLIC NUISANCES ORDINANCE

Ordinance No. O-2017-03

An Ordinance to promote the health, safety, and welfare of the people of Edwards Township, Ogemaw County, Michigan, by defining and prohibiting public nuisances; declaring certain acts, apparatus, accumulations, violations, and activities as public nuisances per se; providing the procedure for abatement of public nuisances, enforcement of this Ordinance, and recovery of costs incurred by Edwards Township; and repealing all Ordinances or parts of Ordinances in conflict with this Ordinance.

THE TOWNSHIP OF EDWARDS, OGEMAW COUNTY, MICHIGAN, ORDAINS:

SECTION 1: TITLE. This Ordinance shall be known and cited as the Edwards Township Public Nuisances Ordinance.

SECTION 2: PUBLIC NUISANCE DEFINED AND PROHIBITED. The term “*Public Nuisance*” means 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, and is hereby declared to be a public nuisance. Public nuisances shall include, but shall not be limited to, whatever is forbidden by any provision of this Ordinance. No person shall commit, create or maintain any public nuisance.

SECTION 3: PUBLIC NUISANCES *PER SE*. The following acts, apparatus, accumulations, violations, and activities within the Township are hereby declared to be public nuisances *per se*:

1. No person shall maintain or permit to remain on premises owned or occupied by him or her; or throw, place, or leave; or permit the throwing, placing, or leaving on the premises of another any of the following substances: organic refuse, food wastes, ashes, 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, yard debris or rubbish 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:
 - A. Any public street, highway, lane, road, alley, public place, square, sidewalk or any lands within the boundaries of the Township owned by the Township or other municipal corporation.

- B. Any river, lake, stream, or other body of water.
 - C. Any private place or premises where in the opinion of the Township Code Enforcement Officer or his/her agent the specified substances constitute a dangerous condition or are detrimental to the public health, safety, or welfare or offend aesthetic sensibilities or may cause sickness or attract flies, insects, rodents, or vermin.
2. 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.
 3. The keeping, placing, injecting, dumping, or discharging by any means of toxic or hazardous waste, explosives, inflammable liquids, or other dangerous substances into the air, water, or subsurface soil, or onto the surface of the ground, or stored in any manner or in any amount contrary to the provisions of any statute or applicable administrative regulation of the state.
 4. 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.
 5. The owning, driving, or moving upon private property 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 unto the 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 Code Enforcement Officer to be in the public interest, he/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 Code Enforcement Officer 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.
 6. 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 property.
 7. The keeping of horses or livestock unless expressly permitted by Township Ordinances or State Law or the failure to keep horses or livestock within sufficient fences, barricades, or restraints to keep such animals from entering the public way or the property of another.
 8. 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 airtight 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 airtight container.

9. Leaving, keeping, storing or maintaining a junk motor vehicle on any premises, unless such vehicle is completely enclosed within a lawful building. For purposes of this Ordinance, a junk motor vehicle is any vehicle that is self-propelled or intended to be self-propelled, or any portion of such a vehicle, that:
 - A. Is subject to registration under the Michigan Vehicle Code, MCL 257.1, et seq, and has not been registered or does not display an unexpired and valid license plate for the vehicle; or
 - B. Has remained on a premises for a period of thirty (30) days or more, and does not have an engine in running condition, four (4) inflated tires and a battery, or is incapable of safe operation on the streets and highways as required by the Michigan Vehicle Code; or
 - C. For any reason, including dismantling, disrepair or otherwise, is not operable, not repairable, cannot be started, or is unable to be propelled under its own power.

Junk motor vehicles, for purposes of this Ordinance, shall not include vehicles lawfully kept as stock in trade by a state-licensed dealer in motor vehicles.

10. Leaving, keeping, storing or maintaining an abandoned vehicle on any private or public property within the Township. For purposes of this Ordinance, an abandoned vehicle is either:
 - A. A vehicle that has remained on private property without the consent of the owner; or
 - B. A vehicle that has remained on public property for a period of not less than 48 hours.

In addition to the procedures allowed by this Ordinance for the abatement and removal of public nuisances, an abandoned vehicle may be disposed of as provided for in the Michigan Vehicle Code, MCL 257.252a, *et seq.*

11. Knowingly, and without the consent of the Township or the owner of private property in the Township, dumping, depositing, placing, throwing, or causing or permitting the dumping, depositing, placing, throwing, or leaving of litter on public or private property within the Township other than property designated and set aside for such purpose. The registered owner or lessee of a vehicle from which litter is thrown, dropped, dumped, deposited, placed or left is presumed to be the person responsible for littering.
12. Discharging prohibited items into a public drain or storm sewer. It is unlawful to make illicit discharges, as defined in subsection (A) below, either directly or indirectly to a public drain or storm sewer.
 - A. Except as provided in subsection (B) below, all discharges that are not entirely composed of storm water are prohibited. The following is a partial list, provided for informational purposes only, of common substances that are prohibited discharges

when allowed to enter a public drain or storm sewer: solid waste; human and animal waste; antifreeze, oil, gasoline, grease and all other automotive and petroleum products; flammable or explosive materials, metals in excess of naturally occurring amounts, whether in liquid or solid form; chemicals not normally found in uncontaminated water; solvents and degreasers; painting products; drain cleaners; commercial and household cleaning materials; pesticides; herbicides; fertilizers; acids; alkalis; ink; steam-cleaning waste; laundry waste; soap; detergent; ammonia; chlorine; chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and food waste; yard waste; dirt; sand; and gravel.

- B. Permissible Discharges: Discharges from the sources listed below shall only be illicit discharges if the Township Code Enforcement Officer determines that the type of discharge, whether singly or in combination with others, is causing or contributing to a water quality problem, such as those that contain more contamination than typical discharges in the Township, or that contain a type of contamination that is more toxic or is otherwise a more serious problem than typical discharges in the Township: potable water sources; washing of potable water storage reservoirs; flushing of potable water lines; natural uncontaminated surface water; natural uncontaminated groundwater; air conditioning condensation; natural springs; uncontaminated water from crawl space pumps; runoff from lawn watering; irrigation runoff; runoff from residential car washing by individuals; flows from riparian habitats and wetlands; heat; discharges in compliance with an NPDES permit; and discharges from approved footing drains and other subsurface drains or, where approval is not required, installed in compliance with applicable rules, laws and Ordinances.
- C. Exemption: Discharges resulting from public firefighting activities are exempt from regulation under this section.
- D. Testing for Prohibited Discharges: When the Township Code Enforcement Officer has reason to believe that any prohibited discharge may be occurring, the Township Code Enforcement Officer may sample and analyze the discharge and recover the costs from a responsible party in an enforcement proceeding. When the discharge is likely to contain prohibited discharges on a recurring basis, the Township Code Enforcement Officer may conduct, or may require the responsible party to conduct, ongoing monitoring at the responsible party's expense.

13. Violating the following noise regulations:

- A. General Regulation. No person, firm or corporation shall cause or create any unreasonable or unnecessarily loud noise, injurious to the health, peace, or quiet of the residents and property owners of the Township.
- B. Specific Violations. The following noise disturbances are hereby declared to be a violation of this Ordinance; provided, however, that the specification of the same is not to be construed to exclude other violations of this Ordinance not specifically enumerated:

- (i) The playing of any radio, phonograph, television, or other electronic or mechanical sound-producing device, including any musical instrument in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of a person of reasonable sensitivities.
- (ii) Yelling, shouting, singing or other noise making between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably upset or disturb the quiet, comfort or repose of a person of reasonable sensitivities.
- (iii) The emission or creation of any excessive noise that unreasonably interferes with the operation of any school, church, hospital or court.
- (iv) The keeping of any animal, bird or fowl that emanates frequent or extended noise that unreasonably disturbs the quiet, comfort or repose of a person of reasonable sensitivities; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
- (v) The operation of any automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort or repose of a person of reasonable sensitivities. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this Section.
- (vi) The sounding of any horn or other device on any motor vehicle, or otherwise, unless necessary to operate said vehicle safely or as required by the Michigan Vehicle Code.
- (vii) The erection, excavation, demolition, alteration or repair of any building or premises in any part of the Township, including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably disturbing to the quiet, comfort or repose of a person of reasonable sensitivities, other than between the hours of 7:00 a.m. and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. Urgent necessity would include snow plowing, utility repairs, and similar situations.
- (viii) The creation of a loud or excessive noise unreasonably disturbing to the quiet, comfort or repose of a person of reasonable sensitivities in connection with the operation, loading or unloading of any vehicle, trailer, railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.

- (ix) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose that, by the creation of such noise, shall be unreasonably disturbing to the quiet, comfort or repose of a person of reasonable sensitivities.
- (x) The operation of any machinery, equipment or mechanical device, to include (but not limited to) air horn, so as to emit unreasonably loud noise that is unreasonably disturbing to the quiet, comfort or repose of a person of reasonable sensitivities.
- (xi) The operation of any race track, proving ground, testing area or obstacle course for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind or nature in any area of the Township where the noise emanating there from would be unreasonably disturbing to the quiet, comfort or repose of a person of reasonable sensitivities. Under no circumstances shall any race track, proving ground, testing area or obstacle course operate after 11 p.m. on any evening.

C. Exceptions. None of the prohibitions enumerated above shall apply to the following:

- (i) Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
- (ii) Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, Edwards Township, or the County of Clare, between sundown and 7 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours.
- (iii) Warning devices emitting sound for warning purposes as authorized by law.
- (iv) Animal and machine noises produced as a result of farming operations, including those operations protected by the Michigan Right to Farm Act (RTFA) and conforming to generally accepted agricultural management practices (GAAMPs) developed by the Michigan Department of Agriculture.

SECTION 4: ABATEMENT; NOTICE; CIVIL INFRACTIONS AND CIVIL PROCEEDINGS; AUTHORITY OF OFFICERS TO ABATE PUBLIC NUISANCES.

1. **Public Nuisances on Township Property.** Whenever any public nuisance described in Sections 2 or 3 shall exist upon Township property or upon the property of another municipal corporation within the boundaries of the Township, such public nuisance may be abated by the Township Code Enforcement Officer or his/her agent without notice and the cost of abatement charged as provided in Section 6.

2. **Public Nuisances on Private Property.** Whenever any public nuisance shall exist on private premises within the Township, the Township Code Enforcement Officer or his/her agent 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 otherwise responsible for such public nuisance. Such 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 days of the receipt of the notice. Following the issuance of such notice, the Township Code Enforcement Officer or his/her agent may proceed to initiate civil infraction or other civil proceedings permitted by law to abate the public nuisance.
3. **Civil Infractions.** Any person or other entity who causes or permits to continue a public nuisance as prohibited by the Ordinance is responsible for a municipal civil infraction as defined by Michigan law and is subject to a civil fine of not more than \$500.00, plus costs, which may include all direct or indirect expenses to which the Township has incurred in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.
4. **Abatement by Township Officials.** If the Township intends to abate the nuisance by entering the property and causing the work to be done to repair, tear down, abate, or otherwise remove the nuisance and charge the cost thereof to the property owner, such intent, and the advisement of the owner or occupant that a hearing may be requested within the ten-day period pursuant to Section 5 of this Ordinance, shall be done. If no hearing is requested in the time allotted, or following a hearing held pursuant to Section 5, such nuisance may then be repaired, torn down, abated, or otherwise removed by the Township Code Enforcement Officer or his/her agent and the cost thereof charged as provided in Section 6. If the actual owner or occupant of the premises is unknown or cannot be located, notice may be given by posting a copy of such notice upon a conspicuous part of the property where the public nuisance is located and by mailing a copy of such 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 10 days before further action by the Township Code Enforcement Officer.

SECTION 5: HEARING. If, after notice provided under Section 4(4), the recipient of the notice requests a hearing as therein provided, a hearing shall be held before the Township Supervisor or a hearing officer appointed by the Township Supervisor to determine whether a violation of this Ordinance has or is occurring on the property in question. The Township Supervisor or his appointed hearing officer 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 Supervisor or his/her appointed hearing officer determines that the condition violates the provisions of this Ordinance, he/she 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 nuisance in question within a reasonable time, but not less than five days. If the public nuisance is not repaired, torn down, abated, or otherwise removed within the period allowed in the order, the Township Code

Enforcement Officer or his/her agent may repair, tear down, abate, or otherwise remove such public nuisance and charge the cost thereof as provided in Section 6.

SECTION 6: ABATEMENT; COSTS. All expenses incurred by the Township Code Enforcement Officer or his/her agent 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 such person fails to pay the charge within 30 days after a statement therefor is mailed to him or her, 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 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, such lien to be enforced in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

SECTION 7: PUBLIC NUISANCES; EMERGENCY ABATEMENT; COSTS. The Township Code Enforcement Officer may act to abate a public nuisance without giving notice as specified in Section 4, if the public health, safety, or welfare requires immediate action. The cost of abating such nuisance shall be charged as specified in Section 6.

SECTION 8: SEVERABILITY. The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such Ordinance which shall continue in full force and effect.

SECTION 9: REPEAL. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed; provided that this Ordinance shall not be construed to repeal expressly or by implication any provision of the Township Zoning Ordinance.

SECTION 10: EFFECTIVE DATE. This Ordinance shall take effect 30 days after publication as required by law.

Roll Call:

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Jeff Keister, Supervisor
Edwards Township

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Edwards Township Board at a duly scheduled and noticed meeting of that Township Board held on _____, 2017, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the _____ newspaper, a newspaper that circulates within Edwards Township, on _____, 2017.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of Ordinances kept by me for that purpose, including the date of passage of the Ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Ogemaw County Clerk on _____, 2017.

ATTESTED:

Dennis Stephens, Clerk
Edwards Township