

BINGHAM TOWNSHIP

ORDINANCE NO. _____

ALSO KNOWN AS THE NUISANCE ORDINANCE

AN ORDINANCE TO DEFINE, PROHIBIT AND PROVIDE PENALTIES FOR MAINTENANCE OF CERTAIN NUISANCES WITHIN BINGHAM TOWNSHIP, TO PROVIDE EXCEPTIONS TO NUISANCE PROSECUTIONS, TO PROVIDE FOR ENFORCEMENT OF THE ORDINANCE AND TO AUTHORIZE ABATEMENT OF A NUISANCE BY THE TOWNSHIP.

BINGHAM TOWNSHIP ORDAINS:

Section 1: Definitions

As used in this Ordinance the following terms shall have the meanings prescribed in this section.

- A. Abandoned vehicle — includes, but is not limited to, any vehicle which has remained on private property 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property, or for a period of 48 continuous hours or more after the consent of the owner or occupant of the property has been revoked.
- B. Blighted structure — includes, but is not limited to, any dwelling, mobile home, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure, or part of structure, which, because of fire, wind, or other natural disaster, or physical deterioration, and is no longer useful for the purpose for which it may have been intended. Exempted from this definition are structures that have been used, in the past, primarily for agricultural purposes.
- C. Building materials — includes, but is not limited, to lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, plastics, synthetics, nails, screws, or any other materials used in construction of any structure.
- D. Garbage - rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables. 'Garbage' does not include a compost pile consisting of decaying organic substances intended for soil conditioning.
- E. Junk - includes, but is not limited to, broken and/or inoperable machinery or vehicles, or parts relating to machinery or vehicles, or broken and unusable furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any cast-off material of any kind.
- F. Junk vehicle — includes, without limitation, any vehicle that is not licensed for use upon the highways and/or waterways of the State of Michigan for a period in excess of 365 days, and shall also include, whether licensed or not, any vehicle that is inoperative for any reason for a period in excess of 365 days.
- G. Outdoor Lighting Fixture — Any lighting device exterior to a building.
- H. Person - any individual, firm, corporation, association, partnership, limited liability company or other legal entity.
- I. Rubbish - non-putrescible solid wastes including ashes, paper, cardboard, metal containers, glass, bedding, crockery, bags, rags, and demolished materials.

- J. Sealed container - a covered, closable container which is rodent-proof, fly-proof and watertight such as garbage cans with properly fitting tops.
- K. Security lighting — outdoor lighting fixtures intended to discourage or make visible intrusions on the premises.
- L. Shielding — a permanently installed shade, cowl or baffle for the purpose of directing light from a lamp.
- M. Totally enclosed structure - a building such as a house, garage, barn or storage shed with a roof and floor, with walls and closable doors and windows, around its perimeter.
- N. Vehicle — includes, but is not limited to, every device in, upon, or by which any person or property is or may be transported or drawn upon a highway or waterway, except devices exclusively moved by human power.

Section 2: Intent and Purpose

The purpose of this ordinance is to promote the general health, safety, welfare and peace of the residents and property owners of Bingham Township by protecting land values, aesthetic values and the rural character of Bingham Township by regulating the following:

- A. Storage and disposal of junk, garbage, rubbish and building materials;
- B. Storage, parking and unreasonable accumulation of junk vehicles, partially dismantled vehicles and abandoned vehicles;
- C. Unreasonable or unnecessarily loud noise disturbances;
- D. Outdoor lighting fixtures that contribute to light pollution of the night sky; and,
- E. Structures that have become unsafe and/or uninhabitable due to damage by fire, wind, water or physical deterioration.

Section 3: General Nuisances

The following are hereby declared nuisances by the Bingham Township Board:

A. JUNK, GARBAGE, and RUBBISH—

- 1. The keeping or storage of ashes, junk, garbage, rubbish, or building materials on private property except as follows:
 - a. in a sealed container; or
 - b. within a totally enclosed structure; or
 - c. entirely screened from view from a public road right-of-way or adjacent property.
- 2. The placing of ashes, junk, garbage, rubbish or building materials on private property without the owner's permission, or on public property, regardless of whether such are deposited in a sealed container, within a totally enclosed structure, or screened from view.

B. JUNK VEHICLES, PARTIALLY DISMANTLED VEHICLES, ABANDONED VEHICLES -

The parking or storage, or placing upon any lands within the township, any junk vehicle, abandoned vehicle, or partially dismantled vehicle, unless the same is:

- 1. wholly contained within a totally enclosed structure, or
- 2. entirely screened from view from a public road right-of-way or adjacent property, and
- 3. does not violate any zoning or building laws of Bingham Township, Leelanau

County or the State of Michigan, or meets one of the following conditions:

- a. Vehicles that are temporarily inoperable, because of damage resulting from accident, collision, or minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached, upon presentation to the enforcing officer written proof the vehicle is in process of maintenance or repair, and/or is involved in insurance claims litigation or a similar matter and additional time is required for settlement or repair before such vehicle can be moved.
- b. Not more than one vehicle in fully operating condition, such as stock car or modified car that has been re-designed or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall any such vehicle be parked in the front or side street yard area of any such residential premises.
- c. Unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer or other motorized vehicle dealer.
- d. Any inoperable or damaged vehicle on the premises of an authorized vehicle repair garage.

C. NOISE -any loud, unnecessary, unnatural or unusual noise, created, maintained or permitted by any person, and the noise is of such character, intensity or duration, either steadily or intermittently, or by reason of the hour of the day or night, place or use, that it annoys, disturbs, injures, endangers or impairs the comfort, health, convenience, safety, welfare, enjoyment, and peace and quiet of other persons in the vicinity.

D. OUTDOOR LIGHTING — Outdoor lighting fixtures that are NOT designed to be directed generally downward, with shielding if necessary, in such a way as to limit all lighting above the fixture from horizontal and upward, with the following exceptions:

1. Single decorative lamps of less than 40 watts.
2. Outdoor lights utilized for the purpose of illuminating official flags according to proper flag etiquette.
3. Security lighting equipped with infrared or motion sensors.

E. BLIGHTED STRUCTURES — Any blighted structure, unless the same is:

1. Kept securely locked, and
2. Windows kept glazed or neatly boarded up, and
3. Otherwise protected to prevent entrance thereto by unauthorized persons.
4. The following are exceptions to this sub-paragraph:
 - a. Those structures in the process of rehabilitation or reconstruction in accordance with a valid building permit issued by the Leelanau County Building Inspections Department.
 - b. Any structure designated or deemed, by the Bingham Township Board or other approved authority, as contributing to the Township's rural character and/or having historical value.

Section 4: General Exemptions

The following exemptions are a complete defense to a Prosecution pursuant to Section 3 of this Ordinance:

- A. INDUSTRIAL USAGE - The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property, and is properly screened from view in compliance with applicable requirements of the Bingham Township Zoning Ordinance.
- B. EMERGENCY SITUATIONS - Authorized emergency vehicles involved in emergency situations.
- C. AGRICULTURAL OPERATIONS - Any activity that is regulated as a farm operation" within the Michigan Right to Farm Act, 1980 P.A. No. 93, MCLA 286.471 et seq, and conducted in accordance with the State of Michigan's Generally Accepted Agricultural and Management Practices (GAAMPs).

Section 5: Prohibition

No person shall commit, create, or maintain any nuisance. No person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person. Each day a nuisance shall exist shall be construed as a separate violation.

Section 6: Penalty/Civil Infraction

Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

Section 7: Enforcement Officer

The Township Board shall designate the authorized township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 8: Civil Action

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 9: Abatement by Township

If the owner or possessor of any property on which a nuisance exists fails to eliminate a nuisance after having received notice from the Township' designated enforcement officer of the existence of the nuisance, the designated enforcement officer may take such steps as are necessary to abate or eliminate the nuisance, in accordance with established enforcement procedures. The cost of elimination of the nuisance by the Township, including reasonable attorney fees, may be collected in a lawsuit against the owner and/or possessor of the property

on which the nuisance existed and/or against the person who committed, created, or maintained the nuisance.

Section 10: Validity

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 11: Effective Date

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the township.

Ordinance No. _____ was adopted on the _____th day of _____ 2016 by Bingham Township Board of Trustees, as follows:

Motion By:

Support By:

Roll Call Vote: Yeas:
 Nays:
 Absent:

Motion Carried.

I certify that this is a true copy of Ordinance No. _____ was adopted at a regular meeting of the Bingham Township Board of Trustees on _____, 2016 and published in the Leelanau Enterprise on _____, 2016.

BINGHAM TOWNSHIP

_____ By:
Midge Werner, Supervisor

_____ By:
Peggy Core, Clerk

Date of Township Approval:
Date of Publication:
Effective Date: