

VILLAGE OF EMPIRE

ORDINANCE NO. 128

AN ORDINANCE TO AMEND SECTIONS 1 AND 2 OF THE VILLAGE OF EMPIRE NUISANCE ORDINANCE, BEING ORDINANCE NO. 97.

THE VILLAGE OF EMPIRE ORDAINS:

Section 1. Amendment of Section 1 of Ordinance No. 97.

Section 1, Definitions, of Ordinance No. 97 of the Village of Empire, the Village Nuisance Ordinance, is hereby amended to add thereto a new sub-paragraphs M, N and O to provide definitions for "Backyard", "Annoying animal" and "Livestock," said sub-paragraphs to read as follows:

- (m) "Backyard" for the purpose of this ordinance; the portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two family structure and extending to the side lot lines.
- (n) "Annoying animal" Any animal or fowl which, by making noises common to its species or otherwise, does so in a manner as to cause an annoyance to a reasonably prudent person, or to cause a disturbance in any neighborhood, or any animal or fowl which endangers the safety of any person or property.
- (o) "Livestock" Domestic animal, such as horse, cow, donkey, mule, goat, sheep, pig, duck, goose, turkey, chicken or guinea hen raised for home use.

Section 2. Amendment of Section 2 of Ordinance No. 97.

Section 2 of Ordinance No. 97 of the Village of Empire, the Village Nuisance Ordinance, is hereby amended to read as follows:

- A. The keeping or storage of building materials outside on private property six (6) months after an occupancy permit is issued by the Leelanau County Building Department. This subsection, however, shall not apply to building materials kept or stored outside on private property if the building materials is kept or stored in an orderly fashion. As used in this subsection, the phrase "building materials kept or stored in an orderly fashion" shall mean that all building material of the same type, including but not limited to lumber (both stick and sheet wood), cement blocks, bricks, roofing material, and siding shall be kept or stored together and not kept or stored intermingled with building material of a different type and shall be stacked in an organized fashion customary for that type of building material. By way of example and not limitation, stick lumber shall be piled with all sticks substantially parallel to one another, sheet wood shall be piled one on top of another with the

area of one sheet covering as much as possible the area of the sheet beneath it, cement blocks and bricks shall be stacked in the shape of a cube in such manner that they will not fall off the stack, and siding shall be piled with each piece substantially parallel to one another.

- B. The keeping or storage of ashes, junk, garbage or rubbish outside of a totally enclosed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage, or rubbish.
- C. The placing of ashes, junk, garbage or rubbish on private property without the owner's permission or on public property. This provision applies regardless of whether the ashes, junk, garbage or rubbish is in a sealed container.
- D. The keeping or storage of junk, garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become the breeding ground, food source or habitation of insects, rodents or vermin.
- E. Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.
- F. The existence of any structure or damaged partial structure which because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, nor currently useful for any other purposes for which it may have been intended.
- G. The existence of any vacant building, garage, house or outbuilding unless such structure is kept secure from entry by the public.
- H. The distributing, placing, posting, or affixing of posters, notices, or handbills on private property without consent of the owner or occupant except as authorized or required by law.
- I. Being the owner of a cat or dog, to permit or to allow another person to permit his or her cat or dog to do any of the following:
 - 1. To run at large within the Village.
 - 2. To trespass upon another person's real property or to in any manner injure or destroy any real or personal property belonging to another person, including but not limited to breaking or tearing open any garbage bag containing garbage or rubbish awaiting pickup or otherwise spreading garbage or rubbish on another person's property.

3. To create malodorous or offensive waste conditions on the owner's property outside of a totally enclosed structure or anywhere on the property of another person; or
 4. To whine, yelp, bark, howl or make other sounds common to its species such said noise can be heard by any person from an adjoining lot line or from the right-of-way of any adjoining public street between the hours of 12:00 AM (midnight) and 5:00 AM or at any time in a habitual manner. For purposes of this subsection, "habitual" means whining, yelping, barking, howling, or making other sounds common to its species on three (3) or more occasions separated by at least one (1) hour within a one (1) week period.
- J. The harboring annoying animals
- K. The harboring of any livestock on lots less than 2 acres, within the Village of Empire with the following exception
- (1) A person who keeps or houses hens on his or her property shall comply with the following requirements:
 - a) Must obtain a permit pursuant to subsection (2) of this section.
 - b) Keep no more than 4 hens.
 - c) The principal use of the person's property must be for a single-family dwelling or two-family dwelling.
 - d) No person shall keep a male chicken (rooster).
 - e) No person shall slaughter any hens (outdoors)
 - f) Any person keeping hens shall remain subject to public nuisance animal controls Ordinance #97 of the Village of Empire.
 - g) The hens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
 - h) A person shall keep hens in the backyard only.
 - i) All enclosures for the keeping of hens shall be constructed, repaired and maintained in a manner to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.
 - j) All feed and other items associated with the keeping of hens that are likely to attract or to become infested shall be so protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
 - k) Chicken coops and enclosures shall be at least 20 feet from any residential structure not owned by the permittee unless written permission is granted from the owner of the affected residential structure.

- l) If the requirements of subsection (3) are not fully complied with, the Village may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.
- (2) Any person who keeps hens in the Village of Empire shall obtain a permit from the Village prior to acquiring the hens and pay a permit fee set by Village Council. This permit shall be kept by the owner and presented upon demand by any city official. A permit may be obtained prior to June 1, 2010 by any property owner of a property whose principle use is as a single-family or two-family zoned property within the Village of Empire. Permits issued prior to June 1, 2010 will expire on July 1, 2011 and be renewable for two-year periods. Permits shall provide a limited license for the activity, and no vested zoning rights shall arise from said permit issuance.
- (3) Notwithstanding the issuance of a permit by the Village, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include, but are not limited to, deed restrictions, condominium master deed restrictions, neighborhood association by-laws and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of hens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
- (4) Livestock may be kept with the advanced written permission of the Village Zoning Administrator, and Village President which shall be given if the following are demonstrated.
 - a) The animals are kept securely and humanely.
 - b) The animals are not kept within 100 ft. of any neighboring residence.
 - c) The parcel is greater than 2 acres in size.
 - d) All laws and ordinances regarding sanitation of the premises or buildings where the animals are kept are complied with.
 - e) There is no adverse effect upon adjoining public or private property.
 - f) It is otherwise legal to keep such animals.
 - g) No exotic animals may be kept.

Section 3. Remainder in Effect.

The remaining sections of Ordinance No. 97 shall remain in full force and effect.

Section 4. Effective Date.

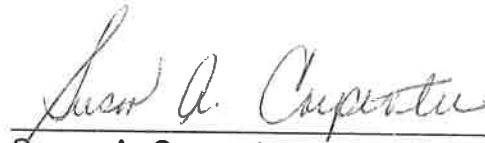
This ordinance shall take effect upon the later of 21 days after adoption or the date of its publication in the manner provided by law.

At a regular meeting of the Village Council of the Village of Empire held on March 23 2010, adoption of the foregoing ordinance was moved by Karen Baja and supported by Lanny Sterling

Voting for: Sterling, Diller, Barr, Baja, Payment, Plumstead and Carpeneter

Voting against: None

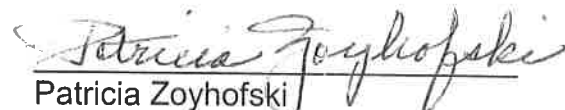
The Village President declared the ordinance adopted.



Susan A. Carpenter
Village President

CERTIFICATION

The foregoing is a true copy of Ordinance No. 128 which was enacted by the Village Council of the Village of Empire at a regular meeting held on March 23, 2010.



Patricia Zoyhofski
Village Clerk