

**VILLAGE OF EMPIRE
NUISANCE ORDINANCE
Ordinance No. 97 of 2005**

AN ORDINANCE TO PROHIBIT NUISANCES WITHIN THE VILLAGE OF EMPIRE TO INSURE THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

THE VILLAGE OF EMPIRE ORDAINS:

Section 1 – Definitions

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

- A. “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, nails, screws, or any other materials used in construction of any structure.
- B. “Exotic animal” means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle, but is of the wild nature or disposition, and which , because of its size, vicious nature or other characteristics, would constitute a danger to human life or property.
- C. “Garbage” means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food of that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables. “Garbage” does not include one (1) compost pile consisting of decaying organic substances intended for fertilizing land; provided, however, that the compost pile is no larger than five feet (5’) square and is located on the property so that it cannot be seen from any public highway or seen from any adjoining land owned by another person.
- D. “Harbor or harboring” means providing food and/or shelter to any animal for any period of time in excess of twelve (12) hours or being in charge or control of any animal under any written or verbal agreement with the animal’s owner.
- E. “Junk”- By way of example and not limitation the term shall include used or salvaged metals and their compounds or combination, used or salvaged rope, rubber, tires or car parts.
- F. “Liquid industrial wastes” means any liquid brine, by-product, industrial wastewater, leach ate, off-specification commercial product, sludge, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity except any liquid brine normally used or stored in regard to oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.

- G. “Owner of cat or dog” means any person or persons owning or harboring a cat or dog. Any person who harbors a cat or dog on or about property owned or occupied by that person for a period of five (5) days shall be deemed the owner of such animal.
- H. “Person” means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.
- I. “Rubbish” means non-putrescible solid wastes including ashes, paper, cardboard, metal containers, glass, bedding, crockery, bags, rags, and demolished materials.
- J. “Sealed container” means a covered, closeable container which is rodent proof, fly proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.
- K. “Totally closed structure” means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

Section 2 – Nuisances

The following are hereby declared to be nuisances:

- 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 of any horse, cow, donkey, mule, goat, sheep, pig, duck, goose, turkey, chicken, guinea hen, or exotic animal within the Village.

Section 3 – 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 4 – 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.

Section 5 – 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 Section 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 6 – Enforcement

The Village Zoning Administrator and Village President are hereby designated as the authorized Village officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 7 – Civil Action

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

Section 8 – Abatement by Village

If the owner or possessor of any property on which a nuisance exists fails to eliminate a nuisance after having received Notice from the Village of the existence of the nuisance, the Village Zoning Administrator or Village President, after receiving authorization by the Village Council, may take such steps as are necessary to abate or eliminate the nuisance. The Notice shall describe the location of the property, describe the nature of the nuisance and give ten (10) days in which the owner or possessor may eliminate the nuisance without intervention by the Village. The written Notice may be served personally or may be sent by first-class mail and certified mail with return receipt to the last known address of the owner or occupier of the premises. The time period shall commence on the date of the personal service or in case of mailing service shall be deemed to have taken place on the date of mailing.

The cost of elimination of the nuisance by the Village, 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 9 – Cost Recovery; Lien

- (a.) The costs incurred by the Village to abate or eliminate the nuisance, including reasonable attorney fees, shall be reimbursed to the Village by the owner or party in interest in whose name the property appears.
- (b.) The owner or party in interest in whose name the property appears upon the last local tax assessment roll shall be notified by the Village Clerk of the amount of the costs of eliminating the nuisance by first-class mail and certified mail with return receipt at the address shown on the records. If the owner or party in interest fails to pay the costs within thirty (30) days after mailing by the Village Clerk of the notice of the amount of the costs, the Village shall have a lien for the costs incurred by the Village to bring the property into compliance with this Ordinance. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the state General Property Tax Act.

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 applications of this Ordinance which can be given effect without invalid portion or application.

Section 11 – Effective Date

This Ordinance shall become effective twenty (20) days after its enactment.

VILLAGE OF EMPIRE

By: _____
Michael J. Deering, President

By: _____
Patricia L. Zoyhowski, Clerk