

# **TOWNSHIP OF INDIANFIELDS**

## **PUBLIC NUISANCE ORDINANCE**

### **Ordinance No.50**

At a meeting of the Township Board of Indianfields, Tuscola County, Michigan, held at the Indianfields Township Hall on September 3, 2015, at 8:00 a.m., Township Board Member Osborn moved to adopt the following Ordinance, which motion was supported by Township Board Member Campbell.

*An ordinance to promote the health, safety, and welfare, by providing for the regulation, prevention, reduction, or elimination of the blight or potential blight in the Township, defining and prohibiting blight; 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 Indianfields Township; and repealing all ordinances or parts of ordinances in conflict with this ordinance.*

### **THE TOWNSHIP OF INDIANFIELDS ORDAINS:**

#### **SECTION 1. TITLE.**

This ordinance shall be known and cited as the Indianfields Public Nuisances Ordinance.

#### **SECTION 2. DEFINITIONS**

“Abate” or “Abatement” means demolition, removal, repair, maintenance, construction, reconstruction, replacement, and reconditioning of structures, appliances, appurtenances or equipment as well as removal, transportation, purchase, disposal and treatment of refuse or other substance or media capable of causing a nuisance and the use of mechanical means to control, eradicate, and eliminate the nuisance conditions.

“Building Materials” means lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.

“Litter or Junk” means all rubbish, refuse, waste material, and garbage, including, but not limited to: organic refuse; food wastes; drug paraphernalia; ashes; dead animals; fish; animal bones; hides; rotten soap; parts of machinery or motor vehicles; grease; tallow; offal; shell; food containers or wrappings; cans; bottles; jars; crockery; garbage; discarded or abandoned furniture or materials, including camping and picnic gear and equipment; cartons; boxes; crates; rags; clothing; bedding; floor covering; wallpaper; sweepings; waste paper; newspapers or magazines; discarded appliances; excrement; 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; and unclean or noxious fluids or gases.

“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.

### SECTION 3. PUBLIC NUISANCE PROHIBITED; PUBLIC NUISANCES PER SE

Public Nuisances are prohibited in the Township. No person shall commit, create, or maintain any public nuisance. The following acts, apparatus, accumulations, violations, and activities within the Township are hereby prohibited as public nuisances *per se*, unless otherwise permitted by the Township Zoning Ordinance or otherwise approved by the Township Board:

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: junk, garbage, discarded furniture, appliances and household goods, building materials, construction debris, tires, mobile home components, inoperable equipment, industrial waste, unclean or noxious 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 Ordinance 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, dust 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 of Michigan.

4. All dangerous, unguarded excavations or dangerous, unguarded machinery in any public place, or so situated, left upon or operated on private property as to attract the public.
5. Unless under the reasonable control of a person, the failure to keep any dog on the property of its owner or custodian or to restrain it from excessive barking, entering the public way or the property of another.
6. 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.

7. 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.

8. The outdoor storage of mobile homes (other than those which are legally used and occupied for dwelling purposes), truck bodies, or semi-trailers, either as vacant units or storage units, except a bona fide operating farm with a Farm Service Agency number may utilize one (1) unlicensed semi-trailer for farm storage.

9. Any structure or part thereof which because of fire, wind or other natural disaster, or merely by virtue of physical deterioration, is no longer habitable as a dwelling or useful for any other purposes for which it may originally have been intended.
10. The making, continuing, or causing to be made, or knowingly assisting, allowing, or encouraging any other person or persons to make, continue or cause any loud noise which either disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, within the limits of the Township of Indianfields. Such noises deemed to be loud, disturbing noises in violation of this Ordinance include, but are not limited to:
  - a. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the Township except as a danger warning; the creation by means of any such signaling device of any unreasonable loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle, or other device operated by engine exhaust; and the use of any signaling device when traffic is for any reason held up.
  - b. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises there from.
  - c. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise.
  - d. Intentionally or by the immoderate operation of a motor vehicle to cause tires to squeak or screech.
  - e. The using, operating, or permitting to be played, any radio receiving set, musical instrument, phonograph, loudspeaker, or any other mechanical or electrical device capable of producing or reproducing sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room or vehicle in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.
  - f. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the functions of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.

- g. The transportation of rails, pillars, or columns or iron, steel, or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
- h. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.
- i. The operation of any noise-creating blower or power fan, or any internal combustion engine the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- j. 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 loud, frequent or habitual barking, yelping, or howling of any dog in an area where such barking can be clearly heard from nearby residential property.

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

- a. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
- b. Warning devices emitting sound for warning purposes as authorized by law.
- c. The storage of machines and agricultural equipment and the noises of animals and machines 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 Section 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 Ordinance Enforcement Officer or his/her agent without notice and the cost of abatement charged as provided in Section 5.

2. *Public Nuisances on Private Property.* Whenever any public nuisance shall exist on private premises within the Township, the Township Ordinance Enforcement Officer or his/her agent shall give notice in writing by either personal, hand delivery or 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 Ordinance 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 this 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 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. *Misdemeanor.* Any person, firm or corporation who violates any of the provisions of the within ordinance may be subject to and found guilty of a misdemeanor and shall be subject to a fine of up to \$500.00 and/or imprisonment for up to 90 days in jail as may be determined by a court of competent jurisdiction. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of.

5. *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 Ordinance 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 Ordinance Enforcement Officer.

#### SECTION 5. HEARING.

If, after notice provided under Section 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/her appointed hearing officer shall make a decision with written findings of fact based upon his/her 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 Ordinance 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, the Township Ordinance 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 therefore, 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 therefore is mailed to him or her, the amount of expenses incurred by the Township, the Township Ordinance Enforcement Officer or his/her agent 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 tax 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 Ordinance 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 to prevent an imminent threat to the public health, safety or welfare. 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, including Ordinance No. 26, An Ordinance Prohibiting Unnecessary Noises; and Ordinance No. 43, Blight Ordinance; provided that this ordinance shall not be construed to repeal expressly or by implication any provision of the Township Zoning Ordinance.

#### SECTION 10. ENACTMENT AND EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after publication as required by law.

Roll Call:

YEAS: Campbell, Osborn, Rendon,

NAYS: None

ABSENT: Keilitz, Woloshen

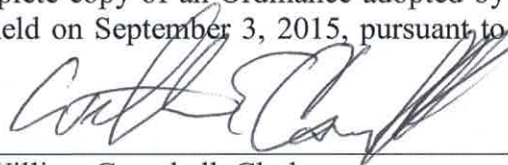
ORDINANCE DECLARED ADOPTED.



Ray Rendon, Supervisor

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Indianfields Township Board at a Special Meeting held on September 3, 2015, pursuant to the procedures required by law.



William Campbell, Clerk