

NUISANCE ORDINANCE

TOWNSHIP OF MANCELONA

COUNTY OF ANTRIM, STATE OF MICHIGAN

ORDINANCE NUMBER 3

Adopted: February 16, 1998

Effective: April 3, 1998

NUISANCE ORDINANCE

An Ordinance to preserve the peace, general welfare, order, health, and safety of persons and property in the Township, enacted pursuant but not limited to, *Michigan Public Act 246 of 1945*, as amended; to prescribe a penalty for the violation of the provisions of this Ordinance; and to repeal all ordinances or parts of ordinances in conflict with this Ordinance.

TOWNSHIP OF MANCELONA

Antrim County, Michigan

ORDAINS:

SECTION I

TITLE

This Ordinance shall be known as the Mancelona Township Nuisance Ordinance.

SECTION II

PURPOSE

The purpose of this Ordinance is to promote and secure the public health, safety, and general welfare of persons, property owners, and property in the Township of Mancelona, by establishing reasonable regulations regarding the existence, placement, storage, or keeping of garbage, junk, rubbish, and other items, and the existence of situations which annoy, injure, or endanger the peace,

general welfare, order, health, or safety of the public in their persons or property located within the Township of Mancelona.

SECTION III

DEFINITIONS

For purposes of this Ordinance, certain terms and words as used herein shall have the following meanings:

A. Building materials - any type of new or reconditioned materials used in the construction, remodeling, or repair of any type of structure, including, 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, and screws.

B. Garbage - decaying matter or food wastes, including, but not limited to, rejected or unusable animal, fruit, or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storage of, food, meat, fish, fowl, fruit, or vegetables.

C. Junk - any personal property which is or may be kept or salvaged for use, reuse, resale, or reduction, or which is possessed, accumulated, or dismantled for any of the aforesaid purposes, including, but not limited to, used or salvaged metals, tin cans, bottles, paper, plastic, cloth, glass, rubber, motor vehicle parts and tires; dismantled recreational vehicles or snowmobiles and parts therefrom; appliances and machinery of any type and parts therefrom (excepting working-condition machinery currently being used for agricultural purposes); uninhabitable mobile homes, house trailers, and travel trailers and parts therefrom.

D. Rubbish - all solid waste material, including, but not limited to, wood, paper, cardboard, plastic, glass, cloth, metal, household furniture (except furniture in good repair specifically manufactured for outdoor use), mattresses, used or demolished building materials, yard clippings, and any discarded or unusable item.

E. Person - a natural person and also includes corporations, partnerships, and associations and their officers and officials existing under or

authorized to exist under the laws of the State of Michigan or of any other state or any foreign country.

F. Owner - the grantee or vendee of the last recorded deed or contract which describes the premises, or any part thereof, upon which any nuisance exists as defined in this Ordinance.

G. Sealed container - a covered, closable container which is rodent-proofed, fly-proofed and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.

H. Structure - any type of building located on real property within the Township of Mancelona, including, but not limited to, a house, garage, shed, outbuilding, modular home, mobile home, or house trailer.

I. Totally closed structure - a structure which is sealed on top and on all sides, such as a house, garage or storage shed with a roof, floor, walls or doors around its perimeter.

J. In public view - an item that can be seen from any public property, street, roadway, highway or right-of-way or from any adjoining property. Adjoining property includes, but is not limited to, property located in the vicinity or located on the opposite side of any street, roadway, highway or right-of-way of the property where a nuisance is located.

K. Nuisance - any act or acts or omission to act on the part of any person which creates or permits the existence of a situation which annoys, injures, or endangers the peace, general welfare, order, health, or safety of the public in their persons or property. As defined herein, a nuisance includes, but is not limited to, conditions which render persons insecure in life or in the use and enjoyment of their property, such as effects and emanations from noise, glare, lights, vibration, dust, smoke, odor, gas, steam, ash, soot, acids, chemicals, fumes, cinders, worms, insects, rodents, flies, decaying matter, whether such effects and emanations are natural or result from human or mechanical alteration or manipulation of materials. A nuisance also includes residues or leachings from deposits of matter which seep into water on the surface or in the ground which contribute to making it unfit or unpalatable for human consumption or use, or for use by domestic animals. A nuisance includes a condition which is indecent,

obnoxious or offensive to the senses. In addition to those acts or omissions covered by the foregoing definition, the following are also hereby also declared to be nuisances:

1. The keeping or storage of building materials in public view on private property for more than thirty (30) days unless there is in force a valid building permit from the Antrim County Building Department for construction on that property and the building materials are for use in such construction.
2. 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 ashes, garbage, or rubbish.
3. The placing of ashes, junk, garbage, or rubbish on private property without the owner's permission or on public property, streets, roadways, highways or right-of-ways. This provision applies regardless of whether the ashes, garbage, or rubbish is in a sealed container.
4. The keeping or storage on private property of junk, garbage or rubbish, whether inside or outside of a totally closed structure or sealed container, in violation of any state, regional, district, county, or local health code, rule, statute, ordinance, or regulation, or, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source, or habitation for insects, rodents, or vermin.
5. Depositing of hazardous substances, toxic substances, petroleum products, oil, gasoline, kerosene, or industrial waste on the ground.
6. The existence, for more than sixty (60) days, of any structure or damaged partial structure which because of fire, wind, natural disaster or physical deterioration is no longer

habitable as a dwelling, nor currently useful for any other purpose for which it may have been intended. The existence, for more than sixty (60) days, of any structure which is not in compliance with State, regional, district, county, or local building and health codes, rules, regulations, statutes, ordinances, and requirements. The Township Board may issue an extension of the above time limits upon a showing of good cause.

7. The existence of any vacant structure, unless the same is kept secure from entry by the public, or entry by birds, animals and vermin.
8. The existence of any occupied mobile home that does not have skirting which completely covers and secures the area beneath the mobile home so the same is secure from entry by animals and vermin.
9. The distributing, placing, posting, or affixing of posters, notices, or handbills on public buildings, public property, street signs, lamp posts, or utility poles, except as may be authorized or required by law, without the prior approval of the Mancelona Township Board.
10. The distributing, placing, posting, or affixing of posters, notices, or handbills on private property without the prior consent of the owner or occupant, except as authorized or required by law.
11. The existence of any dog on any property within the Township of Mancelona which annoys or disturbs any person occupying or residing on property in the vicinity by reason of frequent or habitual barking, yelping, or howling.
12. The existence of any pipe protruding from the ground or of any guide wire on any property within the Township of Mancelona which is not completely fenced-in or properly posted pursuant to the Michigan Recreational Trespass Act,

being MCL 324.73102 as amended, unless said pipe or guide wire is no less than six (6) feet in height, and completely painted or covered to a height of six (6) feet or to its top with a bright color or reflective material.

SECTION IV
PROHIBITION

No person shall commit, create, cause, or maintain any nuisance within the Township of Mancelona. No person shall knowingly permit the existence of a nuisance on real property within the Township of Mancelona which is owned or possessed by such person. Each day a nuisance shall exist shall be construed as a separate violation of this Ordinance.

SECTION V
PENALTY

Any person who commits, creates, or maintains a nuisance, and any person who knowingly permits the existence of a nuisance on real property within the Township of Mancelona which is owned or possessed by such person, shall be guilty of a misdemeanor. Each day that such nuisance is permitted to exist shall constitute a separate misdemeanor. Any person who is convicted of such a misdemeanor shall be punished by a fine of not more than \$ 500.00 or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment in the discretion of the judge imposing sentence, plus costs.

SECTION VI
ABATEMENT

It is the duty of the person who commits, creates, causes, or maintains a nuisance to eliminate or abate the same. It is the duty of the owner or possessor of any property on which a nuisance exists to eliminate or abate the same. The term "abate" or "abatement" shall include, but not be limited to, the removal of ashes, junk, garbage or rubbish; demolition, removal, repair, maintenance,

construction, reconstruction, replacement, and reconditioning of structures, appliances, appurtenances, or equipment; removal, transportation, buying, disposal, and treatment of garbage, manure, or other substance or media capable of causing obnoxious odors or of attracting or breeding flies, and the application of chemicals, insecticides, or other substances or the use of mechanical means to control, eradicate, and eliminate the nuisance conditions, including screen-belts of trees and fences.

If the owner or possessor of any property on which a nuisance exists fails to eliminate or abate a nuisance, the Township Supervisor, after receiving authorization by the Township Board, shall take such steps as are necessary to abate or eliminate the nuisance. The cost of elimination or abatement 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 VII ENFORCEMENT

The Township Supervisor is hereby authorized to enforce this ordinance. The Supervisor may delegate the enforcement of this ordinance to the Township Constables, the Antrim County Sheriff's Department, the Michigan State Police, or any other delegatee permitted by law. Prosecutions may be commenced by Appearance Ticket issued by the Township Constables, the Antrim County Sheriff's Department, the Michigan State Police, or by a Complaint and Warrant from the District Court.

SECTION VIII SEPARATE COURT ACTION

Nothing in this Ordinance shall prohibit the Township or any interested party or agency from seeking such other relief as may be permitted by law or in equity regarding the existence of a nuisance.

SECTION IX

VALIDITY

If any section, provision, or clause of this Ordinance, or the application thereof, to any person or circumstance is held to be 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 X

REPEAL

The previous nuisance Ordinance and all ordinances, parts of ordinances, resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed upon the effective date of this Ordinance.

SECTION XI

EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its publication in the Antrim County News.

Dated: 4-3-98

Margaret Chapman
MARGARET CHAPMAN, Clerk
Mancelona Township

MANCELONA TOWNSHIP

ORDINANCE CERTIFICATION

At a regular meeting of the Township Board, Township of Mancelona, Antrim County, Michigan, held in the Mancelona Township Hall, located at 202 W. State St., Mancelona, Antrim County, Michigan, on February 16, 1998, at 7:00 p.m.:

PRESENT: Sue Robinson, Ray Merillat, Yousef Jabara, Gerald Patrick and Margaret Chapman

ABSENT: none

Ordinance No. 3, the NUISANCE ORDINANCE was considered by the Board and upon motion made and seconded, the Township Board duly adopted said Ordinance upon the following vote:

YES: Sue Robinson, Ray Merillat, Yousef Jabara, Gerald Patrick and Margaret Chapman

NO: none

I, Margaret Chapman, as Mancelona Township Clerk, hereby certify that said Ordinance was adopted by the Mancelona Township Board at said meeting as set forth above; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act; that a synopsis of said Ordinance was published in the Antrim County News on *March 4*, 1998, and that a true and complete copy of said Ordinance can be inspected or obtained at the office of the Mancelona Township Clerk in the Mancelona Township Hall.

Margaret Chapman
MARGARET CHAPMAN, Clerk
Mancelona Township