

Markey Township Anti-Blight and Nuisance Type Activity Ordinance #36

AN ORDINANCE to secure the public health, safety, and general welfare of the residents and property owners of Markey Township, by the regulation of uses, conditions and property, including environmental conditions which exist or which may exist in the future, and to prevent, reduce or eliminate blight, blighting factors, causes of blight and nuisance-type activities and to provide for the enforcement and penalties for the violations hereof.

AUTHORITY: By virtue of the power vested by Act 246 of the Public Acts of 1945, being MCLA 41.181-183 as amended, the

TOWNSHIP BOARD OF MARKEY TOWNSHIP,
ROSCOMMON COUNTY, MICHIGAN, ORDAINS:

Section 1. TITLE. This Ordinance shall be known and cited as the Markey Township Anti-Blight and Nuisance-Type Activity Ordinance.

Section 2. LEGISLATIVE FINDINGS. It is hereby determined that there exists on privately owned parcels of land within Markey Township accumulations of junk, junk vehicles, garbage, rubbish or the maintenance of uses, blight conditions, structures or nuisance-type activities which, if allowed to exist, will tend to result in blighted or undesirable neighborhoods and that such accumulation of junk, junk vehicle(s), garbage, rubbish or blighted conditions or the continuation of nuisance-type activities constitutes a hazard to the public health, safety and welfare of the residents of Markey Township for the reasons that they provide a habitat conducive to breeding and nesting of rats, mice or other vermin and also that they contain objects with sharp edges and other hazards which could injure small children who would be attracted to play thereon without appreciating the danger thereof, and/or that they diminish property values and that the regulations contained in this Ordinance are the minimum regulations required to eliminate the foregoing undesirable condition and protect the public health, safety and welfare.

Section 3. DEFINITIONS

A. Blight. As used in this Ordinance, "blight" means any use, structure, interior or exterior, or activity which, if allowed to exist, will tend to result in blighted or undesirable neighborhoods, including but not limited to the existence of any

structure or part of any structure which, because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may be intended.

B. Garbage. As used in this Ordinance, "garbage" means any accumulation of any kind of trash, refuse, rubbish, or litter, specifically including, but not limited to, containers once containing edible, drinkable or useable materials, waste paper, tin ware or aluminum ware, tin or aluminum cans, tin or aluminum cuttings, boxes, glass, straw, shavings, barrels, lumber, paper cartons, brush, lawn cuttings, hedge trimmings as well as dead animals (or parts thereof).

C. Junk. As used in this Ordinance, "junk" shall include, but is not limited to, any used, unused, or unusable building materials whether made of wood, concrete, cement or shingles, furniture or parts thereof; machinery or parts thereof; unused or dilapidated or disassembled farm tractor(s), lawn tractor(s), whether or not licensed or registered, or any parts thereof; unused or unusable stoves, refrigerators, dishwasher, hot water tank or other appliances stored in the open; remnants of metal or other material or other cast-off material of any kind, whether or not the same can be put to any reasonable use, or any parts thereof.

D. Junk Vehicle. As used in this Ordinance, "junk vehicle" means an unused or unusable motor vehicle or parts thereof, including a vehicle which, because of mechanical condition or missing parts, cannot be driven or which lacks current and proper license and/or registration and/or insurance as required by Michigan statutes for public roadway use, and is stored or parked for a period of fifteen or more consecutive days in one location.

E. Inoperable Recreational Vehicle. As used in this ordinance, inoperable recreational vehicle shall mean any boat, camper, trailer, snowmobile, motorcycle, personal watercraft, all-terrain vehicle (ATV), dune buggy or similar recreational equipment that is either of the following:

1. Which because of dismantling, disrepair or other causes is not capable of being used for its normal intended recreational purpose as of the date of the violation, or
2. Which is required to be licensed or registered for its normal intended recreational purposes and which has not been so licensed or registered for a period in excess of six (6) months.

F. The definitions in Subsection D and E do not apply:

1. to a vehicle or recreational vehicle, or parts thereof, which are stored completely inside an enclosed building or
2. to any vehicle on the premises of a business enterprise operated in a lawful place other than in a residential district, provided the same is operated in a lawful manner, and the keeping or maintenance of such a vehicle is necessary for the operation of such business enterprise or
3. with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the county or other public agency or entity.

G. Nuisance-Type Activity. As used in this Ordinance, "nuisance-type activity" means any condition or use of interior or exterior of a dwelling, premises or property which is detrimental to the premises or property of another or which causes or tends to cause substantial decrease in the peace and tranquility or value of other property, in the neighborhood in which the offending premises or property is located. This includes, but is not limited to, the following:

1. The keeping of, or depositing on, or scattering over or around the dwelling, premises or property any decomposable substances, and specifically including substances edible by and attractive to rodents, rats or other vermin and any substances, including garbage, fish and offal, filth and/or rubbish, constituting breeding areas for flies and bacteria.
2. The maintenance of any vacant dwelling, garage or other outbuilding unless such building(s) is/are kept securely locked, windows glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals, or other unauthorized persons.
3. The storage of logs for the purpose of firewood must be stored neatly in split and stacked 4 foot high by 8 foot cords in the side or rear yards of the property. When clearing a lot in preparation of a construction site, the storage of un-split logs, stumps and/or pulp wood for periods greater than 12 months is prohibited on land or property in platted subdivisions or parcels of less than one acre, within the following residentially zoned districts: R-1(a), R-1(b) and R-2.

Section 4. UNLAWFUL ACTS. On or after the effective date of this ordinance, it shall be unlawful for any person, firm or corporation of any kind, either as an owner, occupant or possessor of land within Markey Township to commit any of the following

A. Maintenance of Blight. Maintain or permit to be maintained any blight or causes of blight on any property in Markey Township which is owned, leased, rented or occupied by such person, firm or corporation, whether or not it creates or causes the diminution in the value of other property in the neighborhood in which such premises are located. An owner or occupant or possessor of land shall keep the exterior of any and all structures thereon in a clean, safe and sanitary condition.

B. Storage of Junk. Place, store or keep, or permit the placement, storage or keeping of any junk on the exterior portion of any property in Markey Township, or on any street right of way, or other property. The moving of junk from one property within Markey Township to another where it is likewise prohibited shall not be deemed to have corrected the violation for purposes of this section any citation or civil proceeding shall not be dismissed.

C. Storage of Junk Vehicles or Inoperable Recreational Vehicles. Park, place, store or keep, or permit the parking, placement, storage or keeping of any junk vehicle or inoperable recreational vehicle on the exterior portion of any property in Markey Township, or on any street right of way, or other property at any time for more than fifteen (15) days, any junk vehicle or inoperable recreational vehicle thereon unless the same is within a completely enclosed building. This subsection shall not apply to property in a commercial district for which the owner, occupant or possessor has applied for and received a Junk Yard License pursuant to the Markey Township Junkyard Ordinance No. ___ and provided the owner, occupant or possessor has complied with the requirements of the Junkyard Control Statute MCLA 252.201 et seq.

D. Storing of Rubbish or Garbage. No owner, occupant or possessor of land in Markey Township shall keep or permit to be kept at any two (2) times, not less than fifteen (15) days apart, within any calendar month on such parcel any rubbish or garbage unless the same is kept within a closely covered can or other metal, plastic or rubber container designed for same and sufficient to prevent entry by rats, mice vermin or other animals.

E. Dumping of Junk, Rubbish or Garbage. No person, corporation, association or other legal entity shall either themselves or through their agents, dump or deposit any amount of junk, rubbish or garbage as defined herein on any property owned by another, including property owned by the federal government, the State of Michigan, or any governmental agency.

F. Removal of Building Materials. Within a period of no greater than twelve months from the date a Certificate of Occupancy has been issued, all building materials, including but not limited to lumber, roofing materials, trees and stumps removed during construction shall be removed from the site.

G. Maintenance of Nuisance-Type Activity. No person, firm or corporation of any kind shall maintain or permit to be maintained any nuisance type activity on any property in Markey Township which is owned, leased, rented or occupied by such person, firm or corporation which may be injurious to the health, peace and quiet, safety or tranquility of the residents or property owners of the township or causes substantial diminution of value of other property in the neighborhood.

H. Complicity. Any person who procures, aids or abets the commission of any act in violation of this Ordinance, whether individually or together with another person, or as principal agent or accessory, shall be guilty or responsible for the commission of the violation as if he/she/they committed the act themselves, which shall include, but not be limited to any person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision herein.

Section 5. PRIMA FACIE PROOF

A. Blight. In any litigation arising under this Ordinance, testimony that any premises which has been observed to have any of the following on at least two (2) separate dates, at least four (4) days apart, within any calendar month, shall constitute prima facie proof that such property is a blight causing substantial diminution in the value of other property in the neighborhood in which such premises is located:

1. Any structure, which is so damaged, decayed, dilapidated, unsanitary, and unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.
2. Any structure, which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

3. Any structure which, because of its general condition or location is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

4. Any partially dismantled, wrecked, junked, discarded or otherwise non-operating motor vehicle on such property.

B. Junk or Junk Vehicle and Inoperable Recreational Vehicle, Garbage or Rubbish.

In any litigation arising under this Ordinance, testimony that any furniture, machinery, appliance, or parts thereof have been observed in the same place on at least two (2) separate dates, at least four (4) days apart, within any calendar month shall constitute prima facie proof that such machinery, appliance or parts thereof are inoperable, unused, or unusable as defined in Section 2 above. Likewise, in any litigation arising under this Ordinance, testimony that any motor vehicle or inoperable recreational vehicle, or parts thereof, have been observed in the same place for a period of fifteen (15) consecutive days shall constitute prima facie proof that such motor vehicle or parts thereof are inoperable, unused or unusable as defined in Section 2 above.

C. Nuisance-Type Activity. In any litigation arising under this Ordinance, testimony that any nuisance type activity as defined herein has occurred on at least two (2) separate dates, at least four (4) days apart, within any calendar month shall constitute prima facie proof that such activity has existed contrary to this Ordinance.

Section 6. PENALTIES

A. Any violation of this Ordinance shall be a Municipal Civil Infraction, subject to payment of a civil fine of not less than \$100.00, plus applicable costs and other sanctions for each violation as authorized by Section 21 of Act 359 of the Public Acts of 1947, as amended and the Markey Township Municipal Ordinance Violations Bureau Ordinance.

B. Repeat offenses under this Ordinance shall be subject to increased fines as provided by this Section. As used in this Section, "repeat offense" means a second (or any subsequent) violation of the same requirement or provision of this Ordinance within any three (3) year period for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

1. The fine for any offense which is a first repeat offense shall be not less than \$250.00, plus costs.

2. The fine for any offense which is a second repeat offense or any subsequent repeat offense, shall be not less than \$400.00, plus costs.

C. Each day on which any violation of this Ordinance occurs or continues, constitutes a separate offense subject to separate sanctions.

D. If there is any evidence of retaliation by any offender against any complainant or witness, such evidence shall be communicated to the District Court. In sentencing any violator, the District Court or Magistrate shall first examine the evidence of retaliation, and if such be shown, shall consider such acts, including the amount of property damage, and sentence the violator accordingly, which sentence may include restitution for any damage.

Section 7. DECLARATION OF NUISANCE

Any violation of any provision of this Ordinance is hereby declared to be a nuisance and the Township may seek enforcement of the Ordinance by suit for injunction, damages, or other appropriate legal action, as against a nuisance. Any such civil action shall be in addition to any prosecution for violations of this Ordinance as a Municipal Civil Infraction.

Section 8. ENFORCEMENT OFFICER

This Ordinance shall be enforced by such persons who shall be so designated by the Township Board.

Section 9. SEVERABILITY

The invalidity of any clause, sentence, paragraph or part of this Ordinance shall not affect the validity of the remaining parts of this Ordinance.

Section 10. EFFECTIVE DATE

This Ordinance shall take effect 15 days following publication, as required by law, on August 26, 2010. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

This Ordinance was adopted by the Township Board of the Township of Markey, Roscommon County, Michigan at a regular meeting held on August 9, 2010, on a roll call vote, Five aye votes were recorded. Zero nay votes.

I certify that this is a true and correct copy of Markey Township Anti-Blight and Nuisance Type Activity Ordinance #36.

Esther Rons
Markey Township Clerk