

## **JUNK AND GARBAGE ORDINANCE - XVI**

An Ordinance to regulate the storage and dumping of junk, rubbish and garbage within Gerrish Township, to prohibit such storage except under certain conditions and to regulate the dumping of junk, rubbish and garbage at the Gerrish Township compost/Recycling Site and to provide penalties for violation.

THE TOWNSHIP OF GERRISH, Roscommon County, ORDAINS:

### **Section 1. Legislative Findings.**

It is hereby determined that there exists on public or private property or water within Gerrish Township accumulations of junk, rubbish, and/or garbage and that such accumulation of junk, rubbish, and/or garbage constitutes a hazard to the public health, safety and welfare of the residents of Gerrish Township for the reasons that they provide a habitat conducive to breeding and nesting of rats, mice and other vermin; further junk, rubbish and/or garbage 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 that junk, rubbish, and/or garbage 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 2. Definitions.**

**A. Junk.** As used in this Ordinance, 'junk' means any unused or unusable building materials, furniture, machinery, appliances, or parts thereof, including unused or unusable motor vehicles or parts thereof. Building materials shall include but shall be limited to 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. An unused or unusable motor vehicle includes, but is not limited, to a vehicle which, because of mechanical condition or missing parts cannot be driven, or a lack of current and proper license and/or registration, or a lack of insurance as required by Michigan statutes for public roadway use, and is stored or parked for a period of thirty (30) or more consecutive days in one location.

**B. Rubbish.** As used in this Ordinance 'rubbish' means waste paper, tin ware or aluminum ware, tin or aluminum cans, tin or aluminum cuttings, boxes, glass, straw, shavings, barrels, lumber, paper cartons which do not constitute recyclable products contained entirely inside of an appropriately designated container for disposal at a recycling center, and any yard waste not included in the definition of "compost material".

**C. Garbage.** As used in this Ordinance 'garbage' means any accumulation of trash, refuse or litter, specifically including, but not limited to, containers once containing edible, drinkable or useable materials, as well as dead animals (or parts thereof) and discarded edible, drinkable or perishable items.

D. Yard Waste. Yard Waste includes but is not limited to logs, branches or cut limbs, brush, lawn cuttings, hedge trimmings, and leaves generated by clearing, maintenance and/or cleaning up of natural materials growing on the property.

E. Compost Material. As used in this Ordinance, Compost Material means yard waste composed of small diameter cut limbs, brush, lawn cuttings, hedge trimmings, and leaves.

F. Recyclable Products. As used in this Ordinance, Recyclable Products include those articles comprised of tin, aluminum, cardboard, paper, or glass contained entirely inside of an appropriately designated container for disposal at a recycling center.

G. Public or Private Property or Water. The term “public or private property or water” includes but is not limited to, the right of way of a street, road or highway, a body of water or water course, or the shore or beach thereof, including the ice above the water; a park, playground, building, refuge, or conservation or recreation area; and residential or farm properties or timberlands.

### Section 3. Unlawful Acts.

A. Storing of Junk. No owner, occupant or possessor of land within the Township shall keep or allow to be kept at any two (2) times, not less than four (4) days apart, within any calendar month on such parcel any accumulation of junk thereon which has a total cumulative weight exceeding forty (40) pounds or a total cumulative dimension exceeding nine (9) cubic feet unless the same is within a completely enclosed building.

B. Storing of Rubbish and Garbage. No owner, occupant or possessor of land in Gerrish Township shall keep or allow to be kept at any two (2) times, not less than four (4) 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 contain designed for same and sufficient to prevent entry by rats, mice and other vermin.

C. Dumping or Littering of Junk, Rubbish and Garbage. No person, corporation, association or other legal entity shall either themselves or through their agents, dump, throw, litter, leave or deposit or permit the dumping, throwing, littering, leaving or depositing of any amount of junk, rubbish, garbage, or recyclable products as defined herein, on any public or private property or water, and/or in any trash container, dumpster, etc. owned or maintained by another, including property owned by the Federal government, the State of Michigan, Gerrish Township, or any other governmental and/or private entity unless prior permission is obtained, except that Recyclable Products may be deposited at the Gerrish Township Compost/Recycling Site during normal operating hours and consistent with the rules established for the operation thereof.

D. Dumping of Yard Waste. No person, corporation, association or other legal entity shall either themselves or through their agents, dump, litter or deposit any amount of yard waste on any public or private property or water lands belonging to another and/or the Federal Government, the State of Michigan, Gerrish Township, or any other governmental and/or private entity unless prior permission is obtained, except that Compost Materials may be deposited at the Gerrish Township Compost/Recycling Site

during normal operating hours and consistent with the rules established for the operation thereof.

E. Improper Use of Compost/Recycling Site. No person, corporation, association or other legal entity shall either themselves or through their agents, dump, litter or deposit any Compost Material or Recyclable Products at the Gerrish Township Compost/Recycling Site except during normal operating hours and according to the rules established by the Township Board for the operation thereof and as posted at the site.

F. All persons who violate any provision of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall be equally liable as principals.

#### Section 4. Prima Facie Proof.

A. In any litigation arising under Section 3 A of this Ordinance, testimony that any unused or unusable building materials, furniture, machinery, appliances, or parts thereof has 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.

B. In any litigation arising under Section 3 A of this Ordinance, testimony that any unused or unusable motor vehicle, or parts thereof have been observed in the same place for a period of thirty (30) 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. In any litigation arising under Section 3 C or D of this Ordinance, testimony or video evidence that a person, corporation, association or other legal entity either themselves or through their agents, dumped or deposited or caused the unauthorized dumping or depositing of Yard Waste, or dumped or deposited or caused the unauthorized dumping or depositing of any junk, rubbish or garbage at the Gerrish Township Compost/Recycling Site shall constitute prima facie proof of a violation of this Ordinance.

D. In any litigation arising under Section 3 E of this Ordinance, testimony or video evidence that a person, corporation, association or other legal entity either themselves or through their agents, dumped or deposited or caused the unauthorized dumping or depositing of Compost Material or any Recyclable Products at the Gerrish Township Compost/Recycling Site after posted hours and/or according to the rules established by the Township Board for the operation thereof and as posted at the site, shall constitute prima facie proof of a violation of this Ordinance.

#### Section 5. Penalty.

A. Any person who violates Sections 3 A through C of this Ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$500.00 or by imprisonment in the county jail not exceeding ninety (90) days, or by both fine and imprisonment.

B. Any person who violates Sections 3 D or E of this Ordinance shall be responsible for a municipal civil infraction. Civil sanctions under this section may

include, without limitation, fines, damages, expenses and costs as authorized by Public Act 236 of 1961, as amended, subject to the following provisions:

1) Sanctions for a violation of a civil infraction shall be a civil fine in the amount of not less than \$75.00, plus other costs, damages, expenses and other sanctions for each infraction.

2) Increased civil fines may be imposed for repeat violations. The increased fine for a first repeat offense shall be not less than \$250.00, plus costs. The increased fine for a second repeat or any subsequent repeat offense shall be not less than \$500.00, plus other costs.

3) A municipal civil infraction action may be commenced upon the issuance of a municipal civil infractions citation directing the alleged violator to appear in court.

4) Failure to answer a citation to appear in court for a municipal civil infraction is a misdemeanor violation punishable by a fine of not more than \$500, plus other costs, or by imprisonment for a term not to exceed 90 days, or both fine and imprisonment.

5) Failure to comply with an order, judgment or default in payment of a civil fine, costs, damages or expenses so ordered may result in enforcement actions, including, but not limited to, imprisonment, collections, placement of liens or other remedies as permitted in Chapter 87 of PA 236 of 1961, as amended.

6) A municipal civil infraction is not a crime under this ordinance, and is not a lesser included offence of a criminal offence or an ordinance violation that is not a civil infraction.

#### Section 6. Declaration of Nuisance.

A violation of any provision of this Ordinance is determined to be detrimental to the health, safety and general welfare of the residents, property owners and other persons within the township, and is hereby declared to be a nuisance per se. Any violation of this ordinance shall constitute a basis for injunctive relief against the violator or land owner to restrain and prohibit the violator or owner from continuing the violation, in addition to any other relief or penalty provided by this ordinance or allowed by law. The township or any owner or owners of real estate within the township may bring an action to enjoin such alleged violation activity.

#### Section 7. Effective Date.

This Ordinance shall take effect on the date of publication.

Adopted: June 13, 1989

Amended: July 9, 1991

March 8, 1994

January 9, 2001

May 13, 2003

July 8, 2003

May 7, 2007