

# **Charter Township of Orion**

## **Ordinance No. 160**

### **Nuisance**

Adopted July 6, 2020

**AN ORDINANCE TO PROMOTE HEALTH, SAFETY, AND WELFARE; TO DEFINE AND PROHIBIT PUBLIC NUISANCES; TO DECLARE CERTAIN ACTS, APPARATUS, ACCUMULATIONS, VIOLATIONS, AND ACTIVITIES AS PUBLIC NUISANCES PER SE; TO PROVIDE THE PROCEDURE FOR ABATEMENT OF PUBLIC NUISANCES, ENFORCEMENT OF THIS ORDINANCE, AND RECOVERY OF COSTS INCURRED BY ORION TOWNSHIP; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE.**

## **ARTICLE I – GENERAL DEFINITION OF PUBLIC NUISANCE**

Whatever injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway or any body of water; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Ordinance. No person shall commit, permit, create or maintain a public nuisance.

## **ARTICLE II – NUISANCE PER SE**

The following acts, accumulations, conditions and activities are hereby declared to be Public Nuisances, *per se*:

- A. Permitting to remain on premises owned or occupied by a person or by a public agency, throwing, placing or leaving, or permitting the throwing, placing or leaving on the premises of another, any observable amounts of the following substances: organic refuse, food wastes, ashes, dead animals, fish, animal bones, hides, rotten soap, grease, tallow, offal, shells, food containers or wrappings, cans, bottles, jars, crockery, garbage, discarded furniture, cartons, boxes, crates, rags, discarded clothing, bedding, floor coverings, wallpaper, sweepings, wastepaper, newspapers or magazines, discarded appliances, rubbish, excrement, rotted materials; construction debris, including, but not limited to lumber, bricks, blocks, plumbing or heating materials, siding; yard clippings, including, but not limited to grass clippings, clippings from hedges or shrubs, or detached tree branches; industrial waste, unclean or nauseous fluids or gases in any of the following locations:
- (1) Any public road, street, highway, lane, alley, public place, square, sidewalk or any lands within the boundaries of Orion Township, owned by the Township, County of Oakland, State of Michigan.
  - (2) Any river, lake, stream or other body of surface water, wetlands or flood plains.
  - (3) No person shall maintain or permit to remain on their premises, so owned, occupied, or possessed by another, substances that constitute a dangerous condition or are detrimental to the public health, safety, or welfare or may cause sickness or attract flies, insects, rodents, or vermin.
- B. The emission of noxious fumes or gas, smoke, ashes, or soot in such quantities as to render occupancy of property dangerous to a person of ordinary sensibilities.
- C. The keeping, either inside or outside of any building, structure, or dwelling, in a place accessible to children, any abandoned, unattended, unused, or discarded icebox, refrigerator, or any airtight container of any kind which has a snap latch or other locking device thereon without first removing the snap latch or other locking device or the doors from such icebox, refrigerator, or other such airtight container.
- D. Any dangerous artificially created condition on a river, lake, stream or other body of surface water that is a health or safety concern;
- E. For purposes of this section, “Bubbling System” shall mean mechanical device(s) or a series of mechanical devices designed to retard or prevent the formation of **ice** in or around lakefront structures on a public lake. For purposes of this section “Public Lake” means a lake with 2 or more property owners adjacent to it. A lakefront structure shall include a dock and/or boathouse. Said devices utilize as their mode of operation one or more of the following mechanisms: pumped air, artificial water turbulence, or the addition of heat to the water body. Any bubbling system that creates an area of open water on a public lake that exceeds six feet beyond any structure needing protection from potentially damaging ice shall constitute a dangerous artificially created condition.

- F. To store or otherwise to accumulate in or on the dwelling unit objects or substances of a nature or in a quantity reasonably likely to create a hazard to the safety or health of an occupant of another dwelling unit on the same or a contiguous property, even if the objects or substances are not visible from a public place or a public right-of-way.
- G. Any dangerous, unguarded excavations or dangerous, unguarded machinery in any publicly accessible place, or so situated, left or operated on private property so as to attract members of the public.

### **ARTICLE III – ENFORCEMENT**

- A. **Enforcement.** An Ordinance Enforcement Officer shall first investigate, or cause to be investigated, the existence of the alleged public nuisance to determine whether or not a public nuisance as defined in Article I or a nuisance per se as defined in Article II exists and to further determine the person who has created, is committing, is permitting or is maintaining that public nuisance. The Ordinance Enforcement Officer shall then commission, permitting or maintenance of such public nuisance, specifying in particular the nature of the public nuisance, the corrective action to be taken to abate the public nuisance, and the time limit for the abatement of the public nuisance, which shall be a reasonable time, but not to exceed twenty (20) days from the time the notice is served.
- B. **Public Nuisance on Private Property.** Except as provided in the Michigan Vehicle Code (MCL 257.1 et seq.) for junk or abandoned motor vehicles, 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 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.

### **ARTICLE IV – ABATEMENT**

- A. **Failure to Abate.** At the expiration of the time limit in the notice, if the person responsible for the public nuisance has not complied with the requirements of the notice, the Township administration shall take other action as permitted by Township Ordinance or state law, or otherwise abate the public nuisance. The cost of such abatement shall be charged against the premises and the owner thereof.
- B. **Emergency Abatement.** The Township Supervisor may order the abatement of any such public nuisance if the public safety requires immediate action. Thereafter the cost of abating such nuisance shall be charged against the premises and the owner thereof in accordance with the provisions of Section 5.

### **ARTICLE V – COSTS**

- A. **Costs, Generally.** All of the costs of enforcement activities provided for in this Ordinance and incurred by the Township shall be billed to the owner of the property, or other clearly responsible party, and shall be paid within 30 days of mailing. All costs of such abatement-related and Ordinance enforcement activities shall be a personal debt owed to the Township by the person billed for the public nuisance and, if the public nuisance is attributable to the use, occupancy, care, control, dominion or ownership of any land or premises, shall also, in addition to being a personal debt, be charged against such premises and the owner thereof and shall be a lien on the property until paid. It shall be a violation of this Ordinance for any person to fail, neglect or refuse to comply with an order issued pursuant to the provisions of this Chapter unless an appeal is lawfully filed as provided for in this Chapter.
- B. **Abatement, Costs.** All expenses incurred by 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 therefor, 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 therefor is mailed to him or her, the amount of expenses incurred by the Township 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 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, the lien is to be enforced in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

**ARTICLE VI – PENALTY**

- A. **Penalty.** Any person or other entity who causes or permits to continue a public nuisance as prohibited by the 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 to 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.

**ARTICLE VII – SEVERABILITY, EFFECTIVE DATE AND ADOPTION**

- A. **Severability.** This Ordinance and all provisions hereof are hereby declared to be severable and if any provision hereof or part hereof is adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason whatsoever, it is hereby declared and provided that the remainder of this Ordinance shall not be affected thereby.
- B. **Effective Date.** This Ordinance shall be published in a newspaper of general circulation in the Township of Orion, and shall become effective upon publication, as provided by law.