

**BANKS TOWNSHIP
NUISANCE ORDINANCE
Ordinance No. ___ of 2021**

AN ORDINANCE TO PROHIBIT NUISANCES WITHIN BANKS TOWNSHIP TO ENSURE THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

THE TOWNSHIP OF BANKS ORDAINS:

Section 1. Purpose.

It is hereby found and declared that the purposes of this Ordinance are to eliminate public nuisances within all areas of Banks Township for the protection of the health, safety, morals and general welfare of its residents; to preserve existing values of other properties within or adjacent to such areas and all other areas of the Township; and to preserve the taxable value of the property within such areas and all other areas of the Township.

Section 2. Definitions. As used in this Ordinance,

“All terrain vehicle” or “ATV” means any motor vehicle designed for off-road use, including but not limited to mopeds; scooters; off-road motorcycles (dirt bikes); dune buggies; golf carts; side by side utility vehicles; and three, four, or six wheeled vehicles designed for off-road use that have low-pressure tires, have seats designed to be straddled by the rider, and are powered by a gasoline engine or an engine using other fuels.

“Boat” means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft and nonmotorized boats such as a canoes, rowboats, and sailboats. Boat, however, does not include an air mattress, paddleboard, paddleboat, boogie board, or similar device used by one (1) or two (2) persons for floating or paddling.

"Building materials" mean lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, windows and window frames, molding, insulation, Tyvek or any other materials used in construction of any structure.

"Dismantled" means the state of having a part or parts removed or missing that are integral to the operation of or required by any law or regulation to be present on a motor vehicle, boat, or other item to which it is normally attached.

“Dock” means a pier, platform, or other structure extending from the shore or a lake or river over the water to which a boat is moored.

"Garbage" means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables. "Garbage" does not include one (1) compost pile consisting of decaying organic substances intended for fertilizing land; provided, however, that the compost pile is no larger than five feet (5') square and is located on the property so that it cannot be seen from any public highway or seen from any adjoining land owned by another person.

"Harbor or harboring" means providing food and/or shelter to any animal for any period of time in excess of twelve (12) hours or being in charge or control of any animal under any written or verbal agreement with the animal's owner.

"Hoist" means a mechanical device attached permanently or temporarily to the bottomland of a lake or river and used to raise or lift a boat out of the water for the purpose of preventing or restricting the motion of the boat.

"Inoperable" means incapable of being used for the purpose or purposes for which an item is designed or normally used, either physically or by operation of law, due to dismantling, disrepair, or the lack of a currently valid Michigan license or registration. In addition, the following items shall be deemed inoperable: any motor vehicle, all-terrain vehicle, self-propelled recreational vehicle, or snowmobile which lacks functioning tires or treads that permit self-propelled motion and any boat with a hole or holes in its hull.

"Junk" means items or objects that are old, discarded, or not currently being used for the purpose or purposes for which they are designed or normally used, including but not limited to used or salvaged metals and their compounds or combination; used or salvaged rope; rubber; rotting wood; scrap iron; tires and snowmobile treads; parts for motor vehicles, boats, all-terrain vehicles, recreational vehicles, snowmobiles, and/or trailers; inoperable or dismantled refrigerators, stoves, dishwashers, dryers, washing machines, and furniture; and inoperable or dismantled lawn mowers, weed trimmers, snow blowers, snow plows, tractors, and any other machinery used for excavation, maintenance, or snow removal.

"Liquid industrial wastes" means any liquid brine, by-product, industrial wastewater, leachate, off-specification commercial product, sludge, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity, except any liquid brine normally used in oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.

"Marine equipment" means any item used or intended for use in conjunction with boats or water related activities, including but not limited to swimming rafts, docks, hoists, dock supports, buoys, outboard motors, oars, boat trailers, sails, rope, masts, anchors, and any other stationary or movable structure intended to support a boat.

"Motor vehicle" means any wheeled vehicle which is self-propelled or intended to be self-propelled.

"Owner of a cat or dog" means any person or persons owning or harboring a cat or dog. Any person who harbors a cat or dog on or about property owned or occupied by that person for a period of five (5) days shall be deemed the owner of such animal.

"Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

"Recreational Vehicle" means any motor vehicle or trailer capable of being self-propelled or towed that is equipped with living space, sleeping quarters, and associated amenities, including but not limited to motor homes, fifth wheel trailers, pop-up campers, caravans, camper vans, travel trailers, and truck campers.

"Rubbish" means hazardous or non-hazardous, non-putrescible solid wastes, including but not limited to combustible waste such as paper, cardboard, brush, bags, rags, and litter of any kind and non-combustible waste such as metal containers, glass, bedding, crockery, and demolished items, objects, or materials of any kind.

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

"Snowmobile" means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated but is not a vehicle that must be registered under the Michigan vehicle code, being Act No. 300 of the Public Acts of 1949.

"Totally enclosed structure" means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

"Trailer" means any wheeled vehicle designed and normally towed behind a motor vehicle which is required to have a currently valid Michigan registration to be lawfully operated on a public highway.

"Vermin" means a noxious or objectionable animal, including but not limited to a mouse, rat, chipmunk, squirrel, skunk, racoon, or porcupine.

Section 3. Nuisances. The following are hereby declared to be nuisances:

- A. The keeping or storage of building materials outside on private property six (6) months after an occupancy permit is issued by the Antrim County Building Department. This subsection, however, shall not apply to building materials kept or stored outside on private property if the building material is kept or stored in an orderly fashion. As used in this subsection, the phrase "building material kept or stored in an orderly fashion" shall mean that all building material of the same type, including but not limited to lumber (both stick and sheet wood), cement blocks, bricks, roofing material, and siding shall be kept or stored together and not kept or stored intermingled with building material of a different type and shall be stacked in an organized fashion customary for that type of building material. By way of example and not limitation, stick lumber shall be piled with all sticks substantially parallel to one another, sheet wood shall be piled one on top of another with the area of one sheet covering as much as possible the area of the sheet beneath it, cement blocks and bricks shall be stacked in the shape of a cube in such a manner that they will not fall off the stack, and siding shall be piled with each piece substantially parallel to one another.
- B. 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 such ashes, junk, garbage, or rubbish.
- C. The placing of ashes, junk, garbage or rubbish on private property without the owner's permission or on public property. This provision applies regardless of whether the ashes, junk, garbage or rubbish is in a sealed container.
- D. The keeping or storage of ashes, junk, garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitation of insects or vermin.
- E. The intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.

- F. The existence of any structure or damaged partial structure which because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, nor currently useful for any other purposes for which it may have been intended.
- G. The existence of any vacant building, garage, house or outbuilding unless such structure is kept secure from entry by the public.
- H. Except as authorized or required by law, the distributing, placing, posting, or affixing of posters, notices, or handbills on private property without consent of the owner or occupant or in a public right-of-way.
- I. Being the owner of a cat or dog, to permit or to allow another person to permit his or her cat or dog to do any of the following:
 - 1. To run at large within the Township.
 - 2. To trespass upon another person's real property or to in any manner injure or destroy any real or personal property belonging to another person, including but not limited to breaking or tearing open any garbage bag containing garbage or rubbish awaiting pickup or otherwise spreading garbage or rubbish on another person's property.
 - 3. To create malodorous or offensive waste conditions on the owner's property outside of a totally enclosed structure or anywhere on the property of another person; or
 - 4. To whine, yelp, bark, howl or make other sounds common to its species such that said noise can be heard by any person from an adjoining lot line or from the right-of-way of any adjoining public street between the hours of 12:00 a.m. (midnight) and 5:00 a.m. or at any time in a habitual manner. For purposes of this subsection, "habitual" means whining, yelping, barking, howling, or making other sounds common to its species on three (3) or more occasions separated by at least one (1) hour within a one (1) week period.
- J. Any use of public streets or public sidewalks, or both, which causes a crowd to gather and obstructs the free, lawful movement of people and vehicles along said streets and sidewalks.
- K. The keeping of any inoperable or dismantled icebox, refrigerator or similar airtight container having a door or access with a magnetic seal, snap latch or other locking device, in a place accessible by children without first removing the magnetic seal, snap latch or locking device or doors, or securely locking same.
- L. Except as provided in subsections 1 - 2 below, the keeping or storage of inoperable or dismantled motor vehicles, boats, all-terrain vehicles, recreational vehicles, snowmobiles, and/or trailers outside of a totally enclosed structure on private property.
 - 1. An inoperable or dismantled motor vehicle, boat, all-terrain vehicle, recreational vehicle, snowmobile, and/or trailer may be kept outside of a totally enclosed structure on private property for no more than fifteen (15) days for the purpose of being repaired or awaiting repairs. This subsection shall apply to individuals making the repairs and to gas and service stations engaged in the business of making repairs.

2. An inoperable or dismantled motor vehicle, boat, all-terrain vehicle, recreational vehicle, snowmobile, and/or trailer may be kept outside of a totally enclosed structure on private property for no more than fifteen (15) days for the purpose of being marketed for sale.
- M. The keeping or storage of inoperable or dismantled marine equipment outside of a totally enclosed structure on private property.

Section 4. Inspections.

Township representatives shall have the duty and the right to inspect property or buildings to determine violations of or compliance with this Ordinance. Township representatives may exercise this right of inspection by consent of the person having the possession of the property or building or by an administrative search warrant issued by a court of competent jurisdiction.

Section 5. Prohibition.

No person shall commit, create, or maintain any nuisance. No person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person.

Section 6. Industrial Usage.

The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property.

Section 7. Penalty.

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

Section 8. Enforcement Officer.

All person(s) appointed by the Township Board shall be hereby designated as the authorized township official(s) to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 9. Separate Court Action, Nuisance Per Se.

Nothing in this Ordinance shall prohibit the Township or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance. A violation of this Ordinance is deemed to be a nuisance per se.

Section 10. Abatement by Township.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may abate the nuisance conditions on the property through the procedures specified in this section.

- A. When the Township desires to abate a nuisance on property that exists in violation of this Ordinance, the Township shall send a written notice to the owner and/or possessor of the property. The notice shall describe the location of the property, describe the nature of the nuisance and the provision(s) of this Ordinance being violated, give the owner and/or possessor of the property no less than thirty (30) days to eliminate the nuisance on the property without intervention by the Township, and inform the owner and/or possessor of the property of his or her right to request that a municipal civil infraction citation be issued by the Township as provided in Subsection B below. The written notice shall be served on the owner and/or possessor of the property personally or sent to the owner and/or possessor of the property by certified mail, restricted delivery and return receipt requested. The thirty (30) day time period shall commence on the date of the personal service or in the case of service by certified mail shall commence on the date the owner and/or possessor of the property signs for the certified mail.
- B. Within thirty (30) days after service of the written notice from the Township of the existence of a nuisance on his or her property, the owner and/or possessor of the property may request in writing that the Township issue a municipal civil infraction citation and that a formal hearing be held in the District Court concerning whether a nuisance exists on the property. If the owner and/or possessor makes this written request, then the Township shall issue a municipal civil infraction citation, shall request that a formal hearing be held in the District Court, and shall not enter the property to abate the nuisance as authorized under subsection C below, unless authorized to do so by the District Court Judge.
- C. If the owner and/or possessor of any property on which a nuisance exists fails to eliminate the nuisance within thirty (30) days after service of the written notice from the Township and has failed to request within this same thirty (30) day time period that a municipal civil infraction citation be issued as provided in subsection B above, the Township reserves right to pursue a lawsuit forcing the owner and/or possessor to comply with zoning cost and/or to charge \$100 per diem until nuisance is abated.
- D. The reasonable costs of abating the nuisance incurred 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 11. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held 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 12. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the township.

Ordinance No. ____ was adopted on the _____ day of _____, 2020, by the Banks Township Board as follows:

Motion by:

Seconded by:

Yeas:

Nays:

Absent:

Donna L. Heeres, Clerk

Thomas Mann, Supervisor

I certify that this is a true copy of Ordinance No. ____ that was adopted at a regular meeting of the Banks Township Board on _____, 2020 and published in the _____ on _____, 2020.

Dated: _____

Donna L. Heeres, Clerk