

## **CHAPTER 8. NUISANCE**

### **AN ORDINANCE TO AMEND THE CENTRAL LAKE VILLAGE CODE BY MAKING SOME CHANGES TO CHAPTER 8 CONCERNING NUISANCE ORDINANCE THEREOF**

#### **THE VILLAGE OF CENTRAL LAKE ORDAINS:**

##### **Section 1. Amendment of Village Code.**

The Central Lake Village Code is hereby amended to making changes to Chapter 8, which shall read in its entirety as follows:

##### **8.1 DEFINITIONS:**

As used in this Chapter the following items shall have the meanings prescribed in this section:

- (a) "AMPLIFIED SOUND SYSTEM" means a device which produces or amplifies sound either electronically or mechanically and includes but is not limited to radios, stereos, phonographs, compact disc players, tape players, televisions, musical instruments, drums and sound amplifiers.
- (b) "BUILDING MATERIALS" includes but is not limited to lumber, bricks, concrete or cinderblocks, plumbing or heating materials, electrical wiring or materials used in construction of any structure.
- (c) "EXOTIC ANIMAL" means and includes any wild animal, reptile or fowl which is not naturally tame or gentle, but is of wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property.
- (d) "GARBAGE" means rejected food waste, 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 vegetable. "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 (5) feet square and is located on the property so that it cannot be seen from any adjoining land owned by another person.
- (e) "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 of control or any animal under any written or verbal agreement with the animal's owner.

- (f) "HIGHWAY OR STREET" means the entire width between the boundary lines of every way publically maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (g) "JUNK" Shall include but not limited to parts of machinery or motor vehicles, tires, vehicle parts, unused stoves or other appliances stored in open, remnants of wood, metal or any other material or other cast of material of any kind whether or not the same could be put to an y immediate reasonable use.
- (h) "LIQUID INDUSTRIAL WASTES" means any liquid brine, by-product, industrial wastewater, leachate, off specification commercial product, sludge, grease trap residue, used oil or other liquid waste produced by, incident to or resulting from industrial or commercial activity except any liquid brine normally used or stored in regard to oil or gas extraction on a site permitted by Michigan Supervisor Wells.
- (i) "MOTOR VEHICLE" means every vehicle which is designed to be self-propelled
- (j) "OWNER OF 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 that animal.
- (k) "PERSON" means an individual, firm, corporation, association, partnership, limited partnership, estate, trust, Limited Liability Company or other legal entity.
- (l) "RUBBISH" means nonputrescible solid waste including ashes, paper, cardboard, metal containers, glass, bedding, crockery, bags, rags and demolished materials.
- (m) "SEALED CONTAINER" means a covered, closeable container which is rodent proof, fly proof and watertight such as garbage cans with property fitting tops or plastic garbage bags which have been closed or twisted shut, providing they remain closed and unopened.
- (n) "SIDEWALK" means that portion of a highway or street between the curb lines or lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.
- (o) "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 closeable doors around its perimeters.

- (p) "VEHICLE" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway and specifically includes bicycles, scooters, skateboards and tricycles.

**8.2 NUISANCES:** The following are hereby declared to be nuisances:

- (a) The keeping or storing of building materials outside on private property six (6) months after an occupancy permit is issued by the Village of Central Lake Code Enforcement Officer. This subsection, however, shall not apply to building material 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 intermingled with building material of a different type 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 junk, garbage or rubbish on private property, including inside 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, rodents or vermin.
- (e) Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial waste on the ground.
- (f) The existence of any vacant building, garage, house or other outbuilding unless such structure is kept secure from entry by the public.

- (g) The distributing, placing, posting or affixing of posters, notices or handbills on private property (including automobiles) without consent of the owner or occupant except as authorized or required by law.
  
- (h) Being the owner of a cat or dog, to permit or allow another person to permit his or her cat or dog to do any of the following:
  - (1) To run at large within the Village limits
  - (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 bags 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 to fail to immediately remove said wastes from public property
  - (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 the purpose of this subsection, "habitual" means whining, yelping, barking, howling or make 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.
  
- (i) The harboring of any horse, cow, donkey, mule, goat, sheep, pig, duck, geese, turkey, guinea hen or exotic animal within the Village.
  
- (j) Jumping or diving into water from any public street, bridge or bridge abutment, village owned dock or public sidewalk.
  
- (k) No person operating or in control of a parked vehicle or motor vehicle and no person operating a vehicle or motor vehicle on a highway or other place open to the general public including an area designated for the parking of vehicles or motor vehicles shall operate or permit another to operate an amplified sound system that is clearly audible from the vehicle or motor vehicle by an individual of ordinary hearing ability under either of the following circumstances:

- (1) At a distance of fifty (50) feet from the vehicle or motor vehicle between the hours of 7:00 a.m. and 10:00 p.m.
- (2) At a distance of twenty-five (25) feet from the vehicle or motor vehicle between the hours of 10:00 p.m. and 7:00 a.m. the following day.

No person shall operate or permit another person to operate an amplified sound system from any real property within the Village that is clearly audible by an individual of ordinary hearing ability under either of the following circumstances:

- (1) At a distance of fifty (50) feet from the boundaries of the property on which the amplified sound system is being operated between the hours of 7:00 a.m. and 10:00 p.m.
- (2) At a distance of twenty five (25) feet from the boundaries of the property on which the amplified sound system is being operated between the hours of 10:00 p.m. and 7:00 a.m. the following day.

No person shall operate or permit another person to operate an amplified sound system on a highway or sidewalk that is clearly audible by an individual of ordinary hearing ability under either of the following circumstances:

- (1) At a distance of fifty (50) feet from the device producing the sound between the hours of 7:00 a.m. and 10:00 p.m.
- (2) At a distance of twenty five (25) feet from the device producing the sound between the hours of 10:00 p.m. and 7:00 a.m. the following day.

**NOISE EXEMPT ACTIVITIES:**

Noise ordinance violations shall not apply to the operation of amplified sound systems when used in connection with parades, musical productions or events authorized by the Village, school district or civic or community organizations; to the operation of amplified sound systems by the Village and any police or fire official when used to disseminate official information and to the operation of amplified sound systems used to give official warnings such as sirens, whistles, bells or horns as authorized by the State Motor Vehicle Code or the Uniform Traffic Code adopted by the Village. Noise ordinance shall not apply to Village DPW operations, commercial or residential construction which is in compliance with local building and zoning regulations and/or the normal lawn care by either private or professional services.

**8.3 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. Each day a nuisance shall exist shall be construed as a separate violation.

**8.4 INDUSTRIAL USAGE:**

The storing 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.

**8.5 PENALTY/CIVIL INFRACTION:**

Any person who shall violate any provision of this chapter shall be responsible for a municipal civil infraction as defined by 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 Dollars (\$500.00). Each day this chapter is violated shall be considered as a separate violation. Any action taken under this section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

**8.6 ENFORCEMENT:**

The Village Code Enforcement Officer is hereby designated as the authorized Village official to issue municipal civil infraction citations directing alleged violators of this chapter to appear in court.

**8.7 ABATEMENT BY VILLAGE:**

If the owner or possessor of any property on which a nuisance exists fails to eliminate a nuisance after having received notice from the Village of the existence of the nuisance, the Village Code Enforcement Officer, after receiving authorization by the Village Council, may take such steps as are necessary to abate or eliminate the nuisance. The notice shall describe the location of the property, describe the nature of the nuisance and give ten (10) days in which the owner or possessor may eliminate without interventions by the Village. The written notice may be served personally or may be sent by first class mail to the last known address of the owner or occupier of the premises. The time period shall commence on the date of the personal service or in the case of mailing service shall be deemed to have taken place on the date of the mailing. The cost of the elimination of the nuisance by the Village, 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.

**8.8 VALIDITY:**

If any section, provision or clause of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portions or applications of this Chapter which can be given effect without the invalid portion or application.

**8.9 SEPARATE COURT ACTION:**

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

**Section 2. Severability.**

If any provision or section of this Chapter be held invalid for any reason, such holdings will not affect the validity of the remaining provisions of this Chapter. It is the legislative intent that this Chapter shall remain valid despite the invalidity of any such provisions or section.

**Section 3. Effective Date.**

This Ordinance shall become effective twenty (20) days after its enactment.