

Draft
(8/4/09)

TOWNSHIP OF BOIS BLANC
COUNTY OF MACKINAC
STATE OF MICHIGAN
(Ordinance No. _____)

Ordinance No. _____
Adopted: _____ Effective: _____

JUNK CONTROL ORDINANCE

At a regular meeting of the Township Board of the Township of Bois Blanc, Mackinac County, Michigan, held in the Bois Blanc Township Hall, within the Township, on the _____ day of _____, 2009, at _____ .m.

PRESENT: Members: _____

ABSENT: Members: _____

THE TOWNSHIP OF BOIS BLANC, MACKINAC COUNTY, MICHIGAN (“Township”) ORDAINS:

Section 1. Findings and Purpose. The Township Board of the Township of Bois Blanc hereby finds that it is essential and necessary to the health, safety, well-being, and welfare of the residents of the Township and the well-being of the personal and real property located within the Township that the Township adopt this Ordinance, and that the disposal and accumulation of solid and liquid waste, junk, refuse, trash, and discarded items shall occur only in a sanitary, orderly, and safe fashion. In the past, junk, waste, refuse, trash, and hazardous materials may have been improperly dumped, buried, or disposed of within the Township, which may have caused irreparable harm to property and natural resources within the Township, including but not limited to, lakes, streams, soils, groundwater, watersheds, and sensitive wetlands, all of which are essential to the health and economic well-being of the community. The Township Board further finds that the improper disposal of such materials impairs property values and poses a real and substantial risk to the health and safety of persons, pets, farm animals, and wildlife within the Township.

This Ordinance is not intended to interfere with lawful farming and generally accepted farm operations or practices. Nor shall this Ordinance be deemed to prohibit or interfere with the otherwise lawful storing or spreading of manure, fertilizers, herbicides, or other soil conditioners as part of a farm operation.

Section 2. Authorization. This Ordinance is authorized and enacted pursuant to MCL 41.181 *et seq.*, Article 4, Section 52 of the Michigan Constitution of 1963 and other applicable laws.

Section 3. Prohibited Acts. Unless otherwise expressly permitted by Section 4 hereof, it shall be unlawful for any person, entity, corporation, association, or other organization to do or permit any of the following (or to assist in doing any of the following) within Bois Blanc Township:

(A) Operate an unlicensed or unlawful dump, landfill, or sanitary landfill.

(B) Utilize, bury or dispose of any item at an unlicensed or illegal landfill or disposal site knowing the same to be unlicensed or illegal.

(C) Pour, inject, drain, dump, abandon, bury, or dispose of any discarded liquid which may be hazardous, toxic, nuclear, poisonous, putrid, dangerous, or biologically harmful into, below, within, or onto the ground, substrata, a road, or any soil, lake, stream, pond, or wetland or to accumulate or store such discarded liquids outdoors. For purposes of this subsection (C), the words hazardous, toxic, nuclear, poison, putrid, dangerous, or biologically harmful shall be as defined by any federal or Michigan law. This prohibition shall include, but not be limited to, gasoline, oil, cleaning fluid, heating oil, industrial or commercial waste, medical waste, paint waste, processed food byproducts or waste, flammable liquid, or liquid industrial by-products.

(D) Deposit, dump, drain, or cause to be drained, any harmful or hazardous liquid, sewage, or industrial waste substance from any sink, tank, motor vehicle, or any other thing, onto the surface of any land or into any open ditch, lake, stream, pond, or wetland, or into any pipe or conduit which directly or indirectly empties or deposits any such substance onto the surface of any land or into any open ditch, lake, creek, wetland, or stream.

(E) Place, throw, bury, dump, abandon, store, or accumulate outdoors any empty or partially filled cans, food containers, broken or whole bottles, trash, rubbish, garbage, litter, junk, rags, used or broken glass, mobile homes not meeting township ordinance requirements, debris, used tires, used tanks, discarded or scrap plastic, waste, boxes, barrels, scrap metal, cardboard, inoperable or partially assembled equipment or machinery, scrap rubber, crockery or utensils of any kind, automobile or vehicle bodies or parts of automobiles or vehicles (except in a duly licensed junk yard), old stoves or appliances, furniture, parts of machinery, contaminated soil, illegal pesticide, illegal fertilizer, refuse, scrap styrofoam, paper, broken pallets, cloth, batteries, mattresses or bed springs, flammable matter or substances, offal, medical waste, industrial byproducts or waste substances, or objects of a similar nature, upon, under, or on any land in the Township, or to permit any such things or substances to accumulate on land or water over which the person permitting the same occupies, owns, leases, or has control.

(F) Allow the accumulation of materials which provide rat harborage or which may serve as food for rats or is accessible to such rodents or in or around which flies, insects, rodents, or vermin may exist, breed, or multiply, or to suffer or permit upon any premises stagnant or filthy water deemed a health hazard by the Mackinac County Health Department (excluding natural wetlands), dead animals or unwholesome meat, or any other unwholesome, filthy, deleterious, or offensive thing or substance.

(G) Litter on any property or roadway within the Township.

(H) Accumulate, place, store, or allow or permit the accumulation, placement, or storage of trash or junk outdoors on any property within Bois Blanc Township, except in a lawful sanitary landfill, a lawful junk yard, or not to exceed eight (8) days' storage in watertight storage receptacles designed for the temporary accumulation of trash.

Section 4. Exceptions to this Ordinance. The following activities shall not be subject to the requirements of Section 3 of this Ordinance:

(A) The lawful disposal of materials or items into or within a lawful sanitary landfill, hazardous materials landfill, or facility or incinerator properly licensed by the state of Michigan.

(B) The lawful disposal of materials or items into or within a lawful waste disposal site which has been expressly approved or authorized by the Township under its zoning ordinance or other ordinances.

(C) The otherwise lawful storage, use, and application of lawful fertilizers (excluding human waste), herbicides, and insecticides pursuant to agricultural, landscaping, lake weed control, or horticultural uses.

(D) The accumulation or spreading of animal (non-human) manure for agricultural purposes.

(E) The composting of plant, vegetative, or crop matter.

(F) Winter treatment of roads, sidewalks, steps, and other ways for snow and ice removal.

(G) The lawful storage of automobile or vehicle bodies or parts at a lawful and approved junk yard.

(H) Lawfully and properly maintained feed, chemical, fertilizer, fuel, or liquid storage tanks, whether above or below ground, including the contents thereof.

(I) The outdoor storage of bona fide farm equipment, farm implements and farm vehicles, if being used for ongoing farm operations and if in compliance with any and all other applicable Bois Blanc Township ordinances.

(J) The lawful disposal of human and conventional household waste pursuant to a lawful municipal or underground septic disposal system, or as otherwise expressly allowed pursuant to any applicable ordinance.

(K) Notwithstanding any provision of this Ordinance, the following items may be buried or disposed of within the Township:

(1) Clean fill;

(2) Crops, natural compost or vegetative items;

- (3) Rocks or untreated wood;
- (4) Cables, conduits, pipes and tubes which are being utilized for utilities, drainage or irrigation purposes;
- (5) Cement;
- (6) Basements, shelters, foundations, lawful structures and nontoxic pilings or anchors.
- (7) Conventional firewood.
- (8) Cemetery uses and burial of pets.
- (9) Approved and lawful underground storage tanks.
- (10) Burying of dead farm animals if buried on land comprising the farm where the animals were from.
- (11) Approved, lawful underground septic systems.
- (12) Burying of any road killed animal at or near the site killed.
- (13) Disposal of game remnants by the hunter or fisherperson involved if the game was lawfully killed.

Section 5. Violation; Penalty, Remedies and Enforcement. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

Section 6. Other Persons Who May Be Liable. The prohibitions and penalties of this Ordinance shall apply not only to any person, firm, entity, corporation or association which does anything prohibited by this Ordinance and those who aide and abet such acts, but also to any owner, co-owner, lessee, tenant, licensee, part-owner, occupant or person, firm, corporation, or entity owning or having control of any premises or property from, through, or onto which any such prohibited items, materials, or substances are drained, buried, dumped, abandoned, stored, or accumulated and who permits or acquiesces in such actions or Ordinance violations.

Section 7. Additional Remedies. In addition to the above remedies, the Township or any person may institute a civil lawsuit to abate any violation of this Ordinance. Any violation of this Ordinance is a nuisance *per se*.

Section 8. Severability. The sections and portions of this Ordinance shall be deemed severable. Should any section, clause or provision of this Ordinance ever be declared to be invalid, in whole or in part, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the section, clause, sentence, or provision declared to be invalid.

Section 9. Effective Date. This Ordinance shall take effect thirty (30) days after this Ordinance or a summary thereof is published in the newspaper as provided by law.

Section 10. Repeal. This Ordinance shall repeal the prior Township _____ Ordinance (adopted on _____) in its entirety.

The above Ordinance was offered for adoption by Township Board Member _____, and was seconded by Township Board Member _____, the vote being as follows:

YEAS: _____

NAYS: _____

ABSTAIN/ABSENT: _____

ORDINANCE DECLARED ADOPTED

CERTIFICATION

The above Ordinance was adopted by the Bois Blanc Township Board at a regular meeting held on _____, 2009, at the Bois Blanc Township Hall pursuant to the required statutory procedures.

Respectfully submitted by:

Dated: _____, 2009

Joan Schroka
Bois Blanc Township Clerk