

CHARTER TOWNSHIP OF MONTROSE
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 21 - _____ - 94.70 et. seq.

AN ORDINANCE TO AMEND THE MONTROSE TOWNSHIP CODE OF ORDINANCES CHAPTER 94, NUISANCES, BY THE ADDITION OF SECTION 94.70 ET SEQ. – OFFENSIVE ODORS, TO PROVIDE FOR THE REGULATION OF OFFENSIVE OODORS WITHIN THE TOWNSHIP AND PENALTIES FOR VIOLATION OF SAME

The Charter Township of Montrose, Genesee County, State of Michigan,
HEREBY ORDAINS:

SECTION I

The Montrose Charter Township Code of Ordinances is hereby amended by the addition of Section 94.70 et. seq., as follows:

OFFENSIVE ODORS

94.70 PURPOSE

It is the purpose of this article to promote the health, safety, and general welfare of the citizens of the township by prohibiting offensive odors, protecting citizens from harmful air quality, and preserving the comfortable and enjoyable use of property.

94.71 OFFENSIVE ODOR DEFINED

An odor is any smell, condition or thing that is foul or offensive to the senses of a reasonable person; it is a nuisance if it unreasonably interferes with the proper enjoyment of the property of others; an offensive odor includes but is not limited to odors caused by:

- (A) Animals
- (B) Stagnant pools, garbage;
- (C) Chemicals or industrial activities;
- (D) Burning garbage, rubber, and/or other materials or substances; or

- (E) Growth, cultivation, and/or excessive use or consumption of marihuana.

94.72 PROHIBITION

Except as listed in section 94.73, below, a person is prohibited from causing or allowing the transmission or emission of an odor from his or her property that:

- (A) A reasonable person would consider an offensive odor;
- (B) Endangers the public health or welfare; or
- (C) Unreasonably interferes with another person's health, safety, peace, comfort, or enjoyment of property.

94.73 EXCEPTIONS

Offensive odors do not include ordinary odors associated with:

- (A) Cooking or preparing food;
- (B) Sanitary landfills and water/sewer treatment plants/facilities when operated in accordance with federal, state, and local laws.

94.74 ODOR NUISANCE DETERMINATION

An authorized code official or his/her authorized designee may determine that an odor violates section 94.72 by detecting an odor that he or she determines is exceedingly pungent or foul and of such intensity that it does any of the following:

- (A) Potentially causes distress, discomfort, or injury to a person with ordinary sensibilities;
- (B) Substantially interferes with the comfortable enjoyment of residential dwellings by a person of ordinary sensibilities; or
- (C) Has the propensity to induce nausea in a person of ordinary sensibilities.

94.75 PENALTY

- (A) Any violation of any provision of this chapter or of any lawful order of the administrative official, Board of Appeals or the Township Board issued in pursuance of this chapter, in addition to any action available to abate a nuisance in circuit

court, shall be deemed a civil infraction and punishable by a fine of up to \$500.00 and/or any other equitable relief as ordered by a court of competent jurisdiction.

- (B) In addition to the penalty provided in subsection 94.75(A), above, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that the condition continues to exist.

SECTION II – SEVERABILITY

If any part of this ordinance shall be determined to be unenforceable by a court of competent jurisdiction, that part shall be deemed to be severed and removed from the body of this ordinance, and the rest shall remain in full force and effect.

SECTION III – PRIOR ORDINANCES

All Township ordinances and resolutions or a part thereof, insofar as the same may be in conflict herewith, are hereby repealed.

SECTION IV – EFFECTIVE DATE

This Ordinance shall be published in a newspaper of general circulation within the Charter Township of Montrose, Genesee County, Michigan, and shall become effective upon publication.

SECTION V – INSPECTION OF ORDINANCE

A copy of this Ordinance may be inspected at the Township Clerk's Office at the Montrose Township Hall, 11444 Seymour Rd., Montrose, Michigan during regular business hours.

ON MOTION DULY MADE BY:

AND SECONDED BY:

YEAS:

NAYS:

We hereby certify that the foregoing Ordinance was adopted on the Second Reading by the Township Board of the Charter Township of Montrose at its meeting on _____, 2021.

First Reading: _____, 2021

Second Reading: _____, 2021

Published on: _____, 2021

Mark Emmendorfer, Supervisor

Steve Schlicht, Clerk

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