CHARTER TOWNSHIP OF GENESEE

ORDINANCE NO. 614 NUISANCE ABATEMENT ORDINANCE

THIS IS AN ORDINANCE TO PRESERVE THE PEACE, WELPARE, ORDER, HEALTH, AND SAFETY, OF PERSONS AND PROPERTY IN THE CHARTER TOWNSHIP OF GENESEE BY THE ABATEMENT OF NUISANCES, AND TO PRESCRIBE VARIOUS PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE AND TO REPEAL ANY ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THIS ORDINANCE SHALL REPEAL ORDINANCE 574 AND SHALL STAND AS ITS REPLACEMENT

**THE CHARTER TOWNSHIP OF GENESEE, COUNTY OF GENESEE, STATE OF MICHIGAN, DOES HEREBY ORDAIN:**

Section 1. **TITLE AND PURPOSE**

This Ordinance shall be known and may be cited as Genesee Township Ordinance Number 614, the Nuisance Abatement Ordinance. The Township, as allowed by law, hereby declares by this ordinance, that it is purpose and intent of this ordinance is to preserve the peace, welfare, order, health, and safety, of persons and property in the Charter Township of Genesee, and to prescribe various penalties for the violation of the provisions of this ordinance and to repeal any ordinances or parts of ordinances in conflict therewith.

Section 2. **DEFINITIONS**

1. The word **"persons"** or **"person"** as used in this ordinance means a natural person and also includes corporations, partnerships and associations and their officers and officials existing and are authorized to exist under the laws of the State of Michigan or of any other state or any foreign country. Additionally, "persons" may include either one of several, or all property owners of said property and/or renters of same, or people in temporary possession and/or control of any real estate and/or any item of personal property creating a violation of the provisions of this ordinance.

2 The word **"nuisance"** as referenced in this ordinance, means any act(s) or omission(s) to act on the part of any person as defined above, which creates, allows or provides for the existence of an occurrence, or situation which injures or endangers the peace, welfare, order, health, or safety of the public and their persons or property, or adversely affect the value of any real or personal property of any other person and/or municipality. As defined herein, a nuisance includes, but is not limited to conditions which render persons insecure as it relates to their own personal safety, health and welfare, or in the use and enjoyment of their property, and/or the value of same, whether that property be real and/or personal property,

such as any adverse effects as a direct consequence from noise and/or sounds of any sort, glare, lights, vibration, dust, smoke, odor, gas, steam, fly-ash, soot, acids, chemicals, fumes, cinders, worms, insects, or other living animals and/or organisms including rodents, flies, decaying matter, or waste matter and/or unsightly junk (including but not limited to inoperable vehicles, a collection of refuse material, including but not limited to wood, building materials, tires, and the like), as well as the manner in which a property is maintained, including but not limited to a failure to mow grass and/or a lawn and/or otherwise fail to maintain a premises and/or structure. A nuisance also includes residues, or leaching from deposits of matter, which seep into the water on the surface or on the ground, thereby making it unfit or unpalatable for human consumption and/or occupation, or for use by domestic animals. Nuisance also includes a condition, which is indecent, obnoxious or offensive to the senses. A nuisance may also include loud music emanating from either a motor vehicle, structure, or played outside, in a loud obnoxious and/or offensive manner, especially if such sound and/or other nuisance as is defined herein, can be heard, observed, or felt, on a public roadway or on or upon adjoining parcels of property, with separate ownership and/or rights of possession of same.

Section 3. **OFFENSIVE ODOR AS NUISANCE**

1. Offensive Odor Defined: An offensive 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:

* 1. Animals
	2. Stagnant pools, garbage;
	3. Chemicals or industrial activities;
	4. Burning garbage, rubber, and/or other materials or substances; or
	5. Growth, cultivation, and/or excessive use or consumption ofmarihuana.
1. Prohibition of offensive odors: Except as listed in subsection 3, below, a person is prohibited from causing or allowing the transmission or emission of an odor from his or her property that:
	1. A reasonable person would consider an offensive odor;
	2. Endangers the public health or welfare; or
	3. Unreasonably interferes with another person's health, safety, peace, comfort, or enjoyment of property.
2. Exceptions: Offensive odors do not include ordinary odors associated with:
	1. Cooking or preparing food;
	2. Sanitary landfills and/or water treatment plants operated in accordance with all applicable federal, state, and local laws.
	3. Industrial activities located in the Industrial District (Energy Drive) which are operated in accordance with all applicable federal, state, and local laws and

regulations.

1. Odor Nuisance Determination: An authorized code official or his/her authorized designee may determine that an odor violates this ordinance, section 3, 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:
	1. Potentially causes distress, discomfort, or injury to a person with ordinary sensibilities;
	2. Substantially interferes with the comfortable enjoyment of residential dwellings by

a person of ordinary sensibilities; or

* 1. Has the propensity to induce nausea in a person of ordinary sensibilities.

Section 4. **PENALTY**

1. Any person who creates, causes, allows, suffers or permits the existence of a nuisance shall be guilty of a misdemeanor. Each day that such nuisance is permitted to exist shall constitute a separate misdemeanor. Any person who is convicted of such a misdemeanor shall be punished by a fine not in excess of $300.00 or by imprisonment in the Genesee County Jail for a period not to exceed 90 days, or both such fine and imprisonment in the discretion of the Judge imposing sentence, plus costs of prosecution and any court costs. Each day the nuisance is determined to have existed may constitute a separate offense.
2. Furthermore, the CHARTER TOWNSHIP OF GENESEE may enforce this ordinance by way of civil infraction, being Ordinance Numbers 559 and 560, or any amendment thereto, as well as any action as allowed by law, including but not limited to any action in either the district and/or circuit court of the County of Genesee, State of Michigan, and/or in the appropriate court of federal jurisdiction, all as the circumstances may warrant. In the event the Townships chooses to issue a civil infraction citation, the fines shall be as follows:
	1. First Offense: The fme for a first offense of any infraction shall be no less than One Hundred Fifty Dollars ($150.00):
	2. Second Offense within two years: The fine for a second offense infraction shall be no less than Two Hundred Fifty Dollars ($250.00);
	3. Repeat Offense, any three (3) or subsequent offenses within three (3) years: The fine for any infraction which is a third or greater offense within three (3) years shall be no less than Five Hundred Dollars ($500.00).
3. In addition to any and all other penalties as provided herein, that any fines, costs, and/or other fees assessed shall be applied by the Township against the Township tax rolls for \_ purposes of collection as would any other amounts of monies as otherwise taxed, including but not limited to any assessment of interest, administrative costs or other fees associated therewith.

Section 5. **ABATEMENT**

1. It is the duty of the person who creates, causes, allows, suffers or permits the existence of a nuisance, to abate the same.
2. The term "abate" or "abatement" shall include demolition, removal, repair, maintenance, construction, reconstruction, replacement and reconditioning of structures, appliances, appurtenances or equipment; and it shall also include removal, transportation, buying, disposal and treatment of refuse, manure or other substance or media capable of causing obnoxious odors or of attracting or breeding flies, and the application of chemicals, insecticides or other substances or the use of mechanical means to control, eradicate and eliminate the nuisance conditions, including screen-belts of trees and fences; and it shall also include the obligation to cease and desist all activities causing the nuisance.

Section 6. **ENFORCEMENT**

The supervisor is hereby authorized to enforce this ordinance, and he/she may delegate the enforcement to any administrative official or employee of the township. The township may seek abatement of a nuisance and such other relief as may be obtained by civil proceedings in court. This is in addition to and not in derogation of prosecutions for violations of this ordinance under Section 3 hereof.

Section 7. **SEVERABILITY**

The various sections, parts, and clauses of this ordinance are hereby declared to be severable. If any part, clause, sentence, paragraph or section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Section 8. **CONFLICTING LAWS**

If any term of this ordinance conflicts with any previous ordinance, this ordinance shall prevail. Unless otherwise provided for herein, any section of any previous ordinance shall remain in full force and effect.

Section 9. **REPEAL**

Ordinance 574, The Nuisance Abatement Ordinance, published January 31, 2018, is hereby REPEALED and REPLACED with this Ordinance.

Section 10. **EFFECTIVE DATE**

This ordinance shall become effective on the 30th day following publication.

We hereby certify that the foregoing Ordinance was adopted on the Second Reading by the Township Board of the Charter Township of Genesee at its meeting on November 9 2021.

First Reading: October 12

, 2021

Second Reading: November '9

Published on: October 2o >

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Wayne G:"Bates, Clerk