

223.000 - CONSTRUCTION MAINTENANCE Ord. No. 02-01 Adopted: February 18, 2002

THE TOWNSHIP OF ATLAS ORDAINS:

223.001 - Title.

Sec. 1. This Ordinance shall be known and may be cited as the Township of Atlas Construction Maintenance Ordinance.

223.002 - Intent.

Sec. 2. The purpose of this ordinance is to prohibit the depositing and accumulation of litter; to provide regulations for the proper handling and prompt removal of litter, garbage, debris, waste material, dust, sand mud and dirt from construction sites, buildings under construction, and areas, streets, roads, and highways abutting or adjacent thereto; to preserve the public health, safety and welfare; to properly handle and promptly remove such matter which has severe adverse effects on the community by tending to create a nuisance, creating hazardous conditions which may result in injury to persons or property attracting vermin, causing annoyance to residents and other persons who work in or pass through the township, and detracting from aesthetics of the neighborhoods; and to provide regulations for the use of portable toilets on construction sites.

223.003 - Refuse bins.

Sec. 3.1. *Refuse Bins.*

- a. *Use.* No person shall place or allow refuse to accumulate outside of a refuse bin.
- b. *Lids.* All refuse bins shall be fitted with lids which shall be kept completely closed at all times, except for times of filling and collection, to prevent the contents of a refuse bin from being dispersed by winds or otherwise.
- c. *Screening.*
 1. All refuse bins located in the township must be enclosed or screened from public view. Such screening shall consist of a wall or fence not less than one (1) foot higher than the height of the refuse bins placed therein, which completely conceals its contents from public view, but in no instance shall such screening be less than five (5) feet in height on three (3) sides. Posts or bumpers shall be provided within the enclosure to protect it from damage from the refuse bin. The inside dimensions of the enclosure

shall be such as will permit adequate access for refuse collection vehicles as well as completely enclosed refuse bins within the three (3) sides so that no refuse bin projects outside of the open side.

2. Screening materials shall consist of any of the following:
 - a. Masonry.
 - b. Wood, provided the wood is cedar, redwood, marine grade exterior plywood, or equivalent of at least five-eighths ($\frac{5}{8}$) inch (1.5875 centimeters) thickness or other types of wood which have been pressured treated with preservatives. If cedar, redwood, or plywood is used in the screening, it shall be protected from possible rot or decay by the application of a preservative. Wood that has been pressured treated need not be further protected from possible rot or decay.
 - c. Evergreen shrubbery consisting of permanent, living plant materials which shall be continuously maintained in a sound, health and vigorous growing condition, free of plant diseases and insect pests, and free of weeds, refuse and debris. The shrubbery shall be planted and maintained so as to create a continuous barrier.
 3. This article is not intended to require the enclosure of any refuse bin used on a temporary basis during the construction of any building, provided that the refuse bin is removed from the premises or is moved to be approved, enclosed location on the site prior to the issuance of a final certificate of occupancy for the building under construction. This article is not intended to require the enclosure of any refuse bin unless that refuse bin is otherwise visible from a public place, or an area to the general public.
 - d. *Prohibited bins.* No person shall place or maintain any refuse bin within the township which is banned as a hazardous product pursuant to Part 1301, Sub Chapter B, Chapter 11, Title 16 of the Consumer Product Safety Commission Rules under Section 8 and 9 of the Consumer Product Safety Act 15 U.S.C. 2057 and 2058.
 - e. *Requirements of owner.* No person shall place or maintain any refuse bin within the township until:
 1. The owner thereof or the person placing or maintaining such refuse bin in the township shall file with the township a sworn affidavit or such other evidence verifying that such refuse bin is not a prohibited refuse bin;
 2. The owner thereof or the person placing or maintaining such refuse bin in the township shall permanently place a conspicuous area of such refuse bin such person's name, address, and telephone number.
 - f. *Enforcement.* The department of building and safety is hereby charged with the enforcement of this section.
2. *Refuse Collection/Removal.*

- a. *Time.* No refuse, weather properly stored or not, shall be kept on a premises for more than one (1) week. It shall be the responsibility of both the owner and the person in control of the premises to properly dispose of all refuse on at least a weekly basis.
- b. *Enforcement.* Upon receiving a complaint or having reason to believe that refuse is not being disposed of in accordance with [sub)section a., an ordinance enforcement officer may request from the owner and/or the person in control of the premises, evidence that said person is employing a refuse collection service which collects refuse on at least a weekly basis, or show a receipt evidencing the power in control of the premises to produce such evidence within one (1) week or receiving a notice of violation, shall constitute in evidence a presumption that the refuse is not being disposed of in accordance with subsection a. The notice of violation shall contain a contact number whereupon a person may obtain a list of licensed refuse collection companies.
- c. Material shall not be dropped by gravity or thrown outside the exterior walls of a building demolition or erection. Wood or metal chutes shall be provided for the removal of such materials. Where the removal of any material will cause an excessive amount of dust, such material shall be wet down to prevent the creation of a nuisance.

223.004 - Litter.

Sec. 4.

1. *Legislative Intent.* In the development and enhancement of this article it is recognized that proper handling and prompt removal of litter, garbage, debris, waste material, dust, sand, mud and dirt from construction sites, buildings under construction, and areas, streets, roads, and highways abutting or adjacent thereto, is essential to the preservation of the public health, safety and welfare. The failure to properly handle and promptly remove such matter has severe adverse effects on the community by tending to create a nuisance, creating hazardous conditions which may result in injury to persons or property attracting vermin, causing annoyance to residents and other persons who work in or pass through the township, and detracting from aesthetics of the neighborhoods. The purpose of this article is to provide regulations for the prevention of such effects and to provide penalties for the violation of this article, the needs of the community may require expeditious removal of the objectionable matter by the township itself. To this end, a procedure is hereby established by which the township, after due notice is given to the primary contractor or owner of a construction site or building under construction, may remove the objectionable matter and charge the cost of the removal to the owner or party in interest in whose name the subject appeared upon the last tax assessment records.

2.

Definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Construction Material means any material used for the purpose of the erection, alteration, repair, reconstruction, conversion, demolition, moving, or equipping of any building or structure, or the excavation, filling, grading or regulation of a lot in connection therewith.

Construction Site means a lot on which the erection, alteration, repair, reconstruction, conversion, demolition, moving, or equipping of any building or structure, or the excavating, filling, grading or regulation of a lot in connection therewith, is taking place, has taken place, or will take place.

Debris means any accumulation of broken or detached matter, including but not limited to pieces of stone, brick, cement, plaster, lumber, pipe, wallboard, and shingles.

Garbage means putrescible animal and vegetable matter.

Litter means garbage and debris and all other matter which is thrown, dumped, placed, left, or deposited as prohibited in this article, which may tend to create a danger to the public health, safety and welfare.

Owner means the person or party whose name appears upon the last tax assessment records of the township.

Primary Contractor means the person that has obtained the building permit for building on the construction site or the person that is in control of construction on the construction site.

Street or Highway means (1) the entire width between boundary lines of any way publicly maintained when any part thereof is open to the use of the public for purposes of vehicle travel; (2) the entire width between boundary lines of any way dedicated for public use within a recorded plat irrespective of whether street improvements within the plat have been accepted by the township of Atlas; (3) the entire width of any public or private street contained within a site condominium.

Waste Material means any putrescible, and nonputrescible solid waste, except body waste, including but not limited to garbage, debris, uprooted vegetation and herbage, tree limbs and stumps and any other matter which if thrown, dumped, placed, left or deposited as prohibited in this article, may tend to create a danger to the public health, safety and welfare.

3. *Requirements of person in charge of building site.*

- A. Each contractor who owns, controls or is in possession of a construction site or building under construction shall:

- 1) Provide a receptacle at each construction site and building under construction which shall be of sufficient size and dimension to adequately contain such litter, garbage, debris and waste material as may be found at the construction site or building under construction;
 - 2) Place all litter, garbage, debris and waste material from the construction site within the receptacle;
 - 3) Place all construction materials within the confines of the lot lines of a construction site or building under construction;
 - 4) Sweep the streets, roads or highways adjacent to the abutting the construction site, or building under construction at least once per week, or more frequently if litter shall be dumped, deposited, placed or thrown on the streets, roads or highways.
 - 5) Maintain the construction site, building under construction, and adjacent area free of litter, garbage, debris and waste material.
 - 6) Maintain the street, road or highway adjacent to or abutting such construction site or building under construction free of dust, sand, mud, dirt, litter, garbage, debris or waste material from the construction site or building under construction.
- B. The failure of a person to comply with the requirements of this section shall constitute a violation of this article. The commission of any of the following acts shall constitute a violation of this article:
- 1) The dumping, depositing, placing, throwing, leaving or burying or causing or permitting the dumping, depositing, placing, throwing, leaving or burying of litter, garbage, debris or waste material at any construction site or building under construction;
 - 2) The transferring of litter, garbage, debris, or waste material from one construction site or building under construction to another.
 - 3) The dumping, depositing, placing, throwing, leaving, or causing or permitting the dumping, depositing, placing, throwing or leaving of dust, sand, mud, dirt, litter, garbage, debris or waste material on any street, road, highway or right-of-way.
 - 4) The placing of construction materials on any street, road, highway or right-of-way.
 - 5) Refuse, construction materials and equipment shall not be placed or sorted so as to obstruct access to fire hydrants, standpipes, fire or police alarm boxes, utility boxes, catch basins or manholes, nor shall it be placed so as to obstruct normal observations of traffic or to hinder the use of public transit loading platforms.
 - 6) All refuse materials shall be removed in a manner which prevents injury or damage to persons, adjoining properties and public rights-of-way.

4. *Clean-up of mud, dirt and debris on streets.* Whenever work or construction in the township causes the deposit of mud, dirt, debris or any other material on a street, highway, pathway, or alley, the developer, builder, contractor and permit holder, as well as the owner of the premises where the work or construction is taking place, shall be responsible for clean-up and compliance with this section. Any mud, dirt, debris or any other material deposited on a street, highway, pathway or alley shall be removed by the end of the workday. However, upon notification from the township to the permit holder that a dangerous condition exists due to the accumulation of mud, dirt, debris or any other material on a street, highway, pathway or alley, the person(s) responsible above, shall immediately clean the street, highway, pathway or alley within two (2) hours.
5. *Responsible for cost of clean-up.*
 - A. *One person responsible.* If it becomes necessary for the township to clean an accumulation of mud, dirt, etc. from a street, highway, pathway or alley on account of the failure of the person responsible under [sub]section 4. to do so, the township may perform necessary street clean-up and the person responsible shall pay to the township the cost of clean-up with a certified check or cash deposit and the person responsible shall pay to the township the cost of the clean-up.
 - 1) *Use of permit cash deposits.* The township may use that cash deposit filed with the township in order to obtain reimbursement for the cost of clean up.
 - 2) *Immediate replenishment of cash deposit.* In the event it becomes necessary for the township, pursuant to this subsection to use a cash deposit on file with the township, the permit holder shall be required to immediately replenish and replace the cash deposit.
 - B. *Multiple persons responsible.* If an accumulation of mud, dirt, etc., appears to be the responsibility of more than one person or is related to building or construction activities on more than one site, the cost of clean up by the township shall be prorated and charged against the cash deposits of all the persons determined by the township supervisor and/or township building department.
 - C. *Lien.* In those cases where deposited funds are insufficient to cover the cost of clean up performed by the township, or payment has not been received, such costs shall be a lien against the real property and shall be reported by the building official to the assessing officer of the township who shall assess the cost against the property. The owner or party in interest in whose name the property appeared upon the last tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within thirty (30) days after mailing by the assessor of

the notice of the amount thereof, the assessor shall add the same to the next tax roll of the township and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes.

6. *Enforcement.* In addition to the township's use of certified checks and cash deposits, pursuant to [sub)section 5. above, the building official upon determining there has been a failure to comply with the requirements of [sub)section[s] 3 and 4; may order the stoppage of work, the withholding of inspections, and/or the staying or revocation of the building permit issued for the work site until compliance is obtained.

223.005 - Portable toilets.

Sec. 5.

1. *Definitions.* Portable toilet means a receptacle for human waste temporarily in a location for human use.
2. *Prohibited.* It is unlawful within the township to keep, maintain or permit to remain on any land zoned residential, commercial or industrial a portable toilet.
3. *Exceptions.* The prohibited use of a portable toilet shall not apply to those portable toilets allowed and required on construction sites, pursuant to R. 408.40129 of the Michigan Administrative Code, or to those utilized at a public park or school facility. No permit is required.
4. *Toilets at construction site.*
 - A. Toilets at construction sites shall be provided for employees as follows:
 - 1) 1 to 20 employees — 1 toilet.
 - 2) 21 to 40 employees — 2 toilets.
 - 3) 41 or more employees — 1 additional toilet for each additional 40 or less employees.
 - B. A job site that is not provided with a sanitary sewer shall be provided with 1 of the following toilet facilities, unless prohibited by local codes:
 - 1) A privy; if use of the privy will not contaminate groundwater or surface water.
 - 2) A chemical toilet.
 - 3) A recirculating toilet.
 - 4) A combustion toilet.
 - C. The requirements of this rule for sanitation facilities shall not apply to a mobile crew (i.e. essential public utilities crew) that has transportation readily available to nearby toilet facilities.
 - D. To assure sanitation, a toilet shall be serviced and maintained on a regular basis.
 - E. A toilet shall be supplied with toilet paper.

223.006 - Repealer.

Sec. 6. All ordinance or parts of ordinances in conflict herewith are repealed.

223.007 - Severability.

Sec. 7. Should any section, subsection, paragraph, sentence, clause, or word of this Ordinance be held invalid for any reason, such decisions shall not affect the validity of the remaining portions of the Ordinance.

223.008 - Savings.

Sec. 8. This Ordinance shall not affect violations of any other ordinance existing prior to the effective date of this Ordinance and such violation shall be governed and shall continue to be separately punishable to the full extent of the law under the provision of such ordinance at the time the violation was committed.

223.009 - Penalties.

Sec. 9. Violation of this ordinance is a municipal civil infractions. In addition to pursuing a municipal civil infraction proceeding, the Township may also institute an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive. Each day a violation of this ordinance shall exist shall be deemed a separate offense. In addition to a fine to be determined by the township board, the court, at its discretion, may award other costs, attorney's fees, damages, expenses and other remedies as provided by law.

(Amended: Ord. No. 16-02, §§ 1, 2, 6-20-16)

223.010 - Effective date.

Sec. 10. This Ordinance shall become effective thirty (30) days after publication.