

VILLAGE OF HONOR

AMENDED ORDINANCE NO. 44

BLIGHT AND JUNK ORDINANCE

AN ORDINANCE TO PREVENT, REDUCE OR ELIMINATE THE ACCUMINATION OF BLIGHT OR POTENTIAL BLIGHT AND THE ACCUMINATION OF, TO SECURE THE PUBLIC EALTH, SAFETY AND GENERAL WELFARE, TO MAINTAIN PROPERTY VALUES AND TO MAINTAIN AND IMPROVE THE AESTHIC APPEARANCE OF THE COMMUNITY BY PROHIBITING OR ELIMINATING BLIGHT OR POTENTIAL BLIGHT WITHIN THE VILLAGE OF HONOR AND FOR THE ESTABLISHMENT OF ENFORCEMENT ROCEDURES AND PENALTIES FOR VIOLATION OF THIS ORDINANCE.

The Village of Honor, County of Benzie, State of Michigan ordains:

SECTION 1. NAME

This ordinance shall be identified as the Village of Honor Blight and Junk Ordinance.

SECTION 2. PREAMBLE

It is determined that the unregulated storage or accumulation on private property of junk, rubbish or trash, garbage, building materials, abandoned or inoperable vehicles or the dismantling of vehicles or machinery and the existence of dangerous structures on private property is detrimental to the general welfare of the public in that such practices cause or contribute to the deterioration of neighborhoods and promote neighborhood blight; that such practices result in the reduction of the value, merchantability and maximum use and

development of other properties in proximity thereto and are aesthetically offensive to the owners or occupants of other properties and to the Village at large; and further, that certain such practices are hazardous to the public health and safety in that they create harborage for vermin and other pests, cause or contribute to the spread of diseases and constitute fire hazards, and that the public good requires that such practices be prohibited.

SECTION 3. 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:

AESTHETIC means well maintained, visually pleasing and in keeping with the other structures in the neighborhood.

BLIGHT means non-maintained, damaged, derelict and dangerous to the general welfare of the public.

BUILDING MATERIALS means materials or remnants of materials used in the construction, improvement or renovation of buildings or structures, including but not limited to lumber, plywood, stone or brick, wiring or other electrical materials or equipment, heating or air conditioning components or equipment, plumbing fixtures or equipment, shingles or other roofing materials, mortar, concrete, cement or plastics.

ENCLOSED STRUCTURE means a building with four walls and a ceiling which can enclose garbage, trash, yard trash, junk, damaged vehicles and parts of vehicles, junk vehicles and abandoned vehicles, so they are not visible from a road or from an adjacent parcel.

GARBAGE means organic refuse or rejected food wastes in the form of putrid animal, poultry, fish, fruit or vegetable wastes resulting from the handling, preparation, cooking or consumption of foods, including animal, poultry or fish carcasses or parts thereof. Also includes fishing and hunting byproducts including but not limited to: skins, intestines, bones, and flesh.

JUNK means discarded materials of any kind, whether or not the materials could be put to any reasonable use, or materials which are incapable of performing the function for which they were manufactured or intended, including but not limited to;

- A. Old scrap ferrous or nonferrous material, trash, rubber, worn tires, cloth, paper, rubbish, refuse, litter, unused furniture;
- B. Materials from demolition, waste building materials;
- C. Any junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) vehicles, parts of vehicles, farm equipment, boats, trailers, mobile homes, appliances, machinery or parts of machines, televisions, computers or other electronic items; but shall not include;

- 1). Items being held for a customer while parts are being sought for its repair that are stored in an enclosed building; and/or
- 2). Items that are classic or antique, kept and collected for the antique or collectable value, kept in good condition and/or stored in an enclosed building.

JUNK AUTOMOBILE means any motor vehicle required to be licensed under the laws of the State of Michigan which is not licensed for a period in excess of sixty (60) days, except stock-in-trade of a duly licensed new or used automobile dealer, or, whether licensed or not, is inoperative for a period in excess of sixty (60) days, and is visible from roads or adjacent parcels and which because of damage or deterioration is or threatens to become a potential harm to the public health, safety or welfare by reason of the threat or presence of vermin or wild animals, leakage of fluids or gases, attractiveness to children or other similar causes, or which is missing a major component part. A **MAJOR COMPONENT PART** means:

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| A The engine | I. The trunk floor pan |
| B The transmission | J. The cargo box of a pickup |
| C A door allowing ingress or egress from the vehicle's passenger compartment | K. The hood |
| D The frame, or if the vehicle has a unitized body, the supporting structure or structures Which serve as the frame | L. The cab of a truck |
| E The right or left front fender | M. The body of a passenger vehicle |
| F. The front or rear bumper | N. The window glass |
| G The right or left rear quarter panel | O. The wheels |
| H The deck lid, tailgate, or hatchback | |

JUNK YARD means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion or recovery of junk, whether a part of a licensed landfill operation or not; but shall not include any part of a landfill as defined in the Solid Waste Management Act. Junkyard shall specifically include any business or operation required to have a Class C License (used vehicle parts dealer) under MCL 257.248, MSA 9.1948, as amended. Junkyards are specifically prohibited in the Village of Honor per the Village of Honor Zoning Ordinance.

VILLAGE means the Village of Honor.

PARCEL means any tract or contiguous tracts of land in the same ownership, whether one or more platted lots or parts of lots, as identified by a single property tax parcel number in the Village assessment roll.

PERSON means any natural person or any firm, co-partnership, corporation, limited liability company, association of natural persons, incorporated or unincorporated, whether acting individually or by a servant, agent or employee. A person in violation of any of the provisions of this article, whether as owner or vendee of the premises or as an agent, servant or employee

of an owner or vendee and any tenant or occupant of the premises shall be equally liable as principals, except as otherwise provided in this article.

ROAD means a public or private road, highway, street, or right-of-way which affords the means of ingress or egress to abutting property and the means of travel past a parcel.

RUBBISH OR TRASH means non-putrid solid waste, consisting of either combustible or noncombustible materials, of the following types:

- A. Ashes. The residue left from burning of paper, leaves, wood, coal or other combustible materials.
- B. Household. Materials used or accumulated in the operation or maintenance of a household which are customarily discarded after use, including but not limited to newspapers, magazines, books, wrappings, cartons, boxes, crates, rags or sweepings or materials which are customarily discarded after becoming unusable due to wear or damage, such as clothing, bedding, floor coverings, wallpaper or articles of metal, plastic, cloth or leather.
- C. Kitchen. Food containers or wrappings, whether damaged or undamaged, including but not limited to cans, bottles, jars, glass crockery, bags, sacks or plastics, or paper, plastic, wood or metal cartons or boxes or other similar or like articles or materials.
- D. Personal. Articles or materials used for medical or hygienic purposes or for infant care.
- E. Yard. The products of vegetation grown on a property or which are brought onto a property, including but not limited to grass clippings, weeds, leaves, plants, tree branches, clippings from shrubs, bushes or hedges or roots or stumps.

VEHICLE means an automobile, truck bus, motor home, motorized camper, motorcycle, motor scooter, tractor, boat, snowmobile, dune buggy or other off-road vehicle; any other device which is mechanically powered by gasoline, diesel fuel, electricity or other means except human or animal power. The term shall not include a mobile homes as defined in Act No. 96 of the Public Acts of Michigan of 1987 (MCL) 125.301 et seq), as amended.

- A. Inoperable vehicle means a vehicle which is incapable of performing the function for which it was manufactured because of damage, missing or malfunctioning parts or equipment or for any other reason. The term shall include junk vehicles and scrap vehicles. A historic motor vehicle, duly registered and certified as such as prescribed by the Michigan Motor Vehicle Code [Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq., MSA 9.1801 et seq.), as amended] shall not be deemed an inoperable vehicle. A vehicle which is required to be licensed and/or insured by law, but is not licensed and/or insured for use upon the highways of this state as required by law shall be deemed an inoperable vehicle. A

trailer, regardless of whether or not it is mechanically powered by gasoline, diesel fuel, electricity or other means except human or animal power, which is required to be licensed and]or insured by law but is not licensed and/or insured as required by law, shall also be deemed an inoperable vehicle for purposes of this Ordinance.

SOLID WASTE MANAGEMENT ACT means the Michigan Solid Waste Management Act, originally enacted as 1978 PA 641 and now Part 115 of the Natural Resources and Environmental Protection Act, MCL 324.11501, et seq, as amended.

SECTION 4. REQUIRED REMOVAL OF NOXIOUS WEEDS AND GRASS

It shall be the duty of every owner, occupier, or possessor of any lands, and of every person, firm, or corporation having charge of any lands within the Village of Honor to cut down and destroy or remove, or cause to be cut down and destroyed or removed all noxious weeds and grass growing to a height in excess of twelve (12) inches and when said lands adjoining an alley, street, or highway to also cut down and destroy or remove or cause to be cut down and destroyed or removed all noxious weeks and grass growing to a height in excess of twelve (12) inches between the lot line and center of such alley, street or highway.

SECTION 5. PROHIBITED STORAGE OF JUNK, JUNK AUTOMOBILES, INOPERABLE VEHICLES AND OF OTHER MATERIAL

Subject to the provisions of this article, it shall be unlawful for a person to place, store, accumulate or allow to be placed or stored or to be accumulated on any property within the Village the following:

- A. Building materials, except in a completely enclosed building or in instances where the materials are being used or are awaiting use in the construction of a structure on the property to be completed within a reasonable time and in accordance with a valid Village Land Use Permit and a Building Permit issued by the County Building and Code Enforcement Department, and except building materials which constitute a part of the stock in trade of a business located on a property which is zoned for such business or use.
- B. Ashes, household or yard rubbish or trash, except for such reasonable periods of time as such await regular, systematic removal and disposal in accordance with law. Such materials while awaiting removal and disposal shall be temporarily stored in a completely enclosed building, with the exception of garbage, yard rubbish and trash which may be temporarily stored either in an enclosed building or in a secure container, on the property owner's property, while waiting for regularly scheduled garbage/trash pickup. Such container must be removed from curbside and stored in an enclosed location within twenty-four (24) hours after said pickup.
- C. Any junk, except within a completely enclosed building or fence and except as provided by law upon the premises of a duly licensed, dealer in new or used

automobiles or automobile parts, any business of vehicle mechanical or body repair, on a property which is zoned for such use or activity.

D. Any Junk Automobile or an inoperable vehicle, except in a completely enclosed building or concealed with a securely fastened fitted cover manufactured for that purpose.

- 1) Excluding vehicles, recreational vehicles and lawn maintenance vehicles being worked on for minor repairs or maintenance (such as tire changes, oil changes, replacing batteries or head/rear lights or similar projects) that will take no more 30 days to complete and are performed by the property and vehicle owner.

SECTION 6. PROHIBITED DISMANTLING OF VEHICLES, MACHINERY OR APPLIANCES

It shall be unlawful for any person to dismantle, disassemble, cut up or remove the parts from any vehicle or any machinery or appliance on private property except in a completely enclosed building.

SECTION 7. PROPER ABANDONMENT OF REFRIGERATORS AND OTHER AIRTIGHT CONTAINERS

It shall be unlawful for any person to leave outside of any building or dwelling or in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator, or any other container of any kind which has an airtight door, or lock which may not be released for opening from the inside of said icebox, refrigerator or container, without first removing the locks or doors from the icebox, refrigerator or container.

SECTION 8. STORAGE OF RECREATIONAL VEHICLES, BOATS, SNOWMOBILES AND TRAILERS

A. Storage of Recreational Vehicles, Boats, Snowmobiles and Trailers must comply with the following conditions to be stored or occupied for periods exceeding thirty (30) days:

Storage is limited to those Recreational Vehicles, Boats, Snowmobiles and Trailers owned by the owner of record, renter or legal occupant of property.

B. Recreational Vehicles, Boats, Snowmobiles and Boat Trailers shall be kept and stored in a good repair and slightly condition.

C. Recreational Vehicle, Boat, Snowmobile or Trailer which is stored as provided for in this Section shall not be inoperable as defined in Section 3.

D. Recreational Vehicles, Boats, Snowmobiles and Boat Trailers shall be stored or

parked within the confines of the rear yard area with a three (3) foot set back from the rear lot line. Where this rear yard storage is not possible, these vehicles may be parked in side and front yard, with a three (3) foot minimum setback area, but may not obstruct the Public Right of Way and/or create a hazardous situation. On river front property, the yard abutting the river shall be considered as the rear yard for the enforcement of this section of the Code.

E. All recreational vehicles and campers shall not be connected to sanitary facilities or permanent water connections, and shall not be occupied for a period to exceed thirty (30) days.

F. Those persons authorized by the Village Council to enforce this Ordinance, or the Village Council, may upon written request, grant a one-time extension of seventy-two (72) hours renewal for occupancy, if upon an inspection the vehicle is not obstructing the Public Right of Way nor creating a hazardous condition.

SECTION 9. NOTICE VIOLATIONS

A. Notice of violations of this Ordinance shall be served by the persons authorized by the Village Council.

B. The owner, if possible, and the occupant of any property upon which any of the causes of blight or blighting factors set forth in this Ordinance is found to exist shall be notified in writing to remove or eliminate such causes of blight or blighting factors from such property within ten (10) days after service of this notice to said owner or occupant.

C. A notice of violation shall be served:

- 1) By delivering the notice to the owner personally or by leaving the same at his or her residence, office or place of business with some person of suitable age and discretion, or
- 2) By mailing said notice by first class to such owner at his last known address, or
- 3) If the owner is unknown, by posting said notice in some conspicuous place on the premises.
- 4) No person shall interfere with, obstruct, mutilate, conceal, or tear down any official notice or placard posted by the Enforcement Officers designated by Village Council, unless permission is given by said person to remove said notice.

SECTION 10. VIOLATIONS: MUNICIPAL CIVIL INFRACTIONS

- A. This Ordinance is enforceable by all law enforcement agencies and officers authorized to act within the Village by the Village Council and are hereby designated as the authorized local officials to issue municipal civil infraction citations.
- B. Any person who fails to correct blight conditions identified in this Ordinance, after notice is given under the foregoing section, is in violation of this Ordinance and shall be responsible for a municipal civil infraction and subject to penalties as follows:
 - 1. A person found responsible for a first offense shall be fined not less than \$25.00 nor more than \$100.00, plus costs;
 - 2. person who violates this Ordinance when having been previously found responsible or admitted responsibility for a violation of this Ordinance in a prior municipal civil infraction proceeding, shall be fined not less than \$25.00 nor more than \$100.00, plus costs.
- C. A person who violates this Ordinance when having been found responsible or admitted responsibility on at least two prior occasions for violation of this Ordinance in a municipal civil infraction proceeding, shall be fined \$100.00, plus costs.
- D. Any person who violates this Ordinance will be served with a citation by an authorized local official and required to appear in the 85th Judicial District Court. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of the Ordinance.
- E. In addition to the civil fines imposed pursuant to the section above for violation of the provisions of this Ordinance, a person who is found to be “responsible” for a municipal civil infraction shall be responsible for the payment of costs in the action of not more than one hundred (\$100.00) dollars. “Costs” as used in this section, are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Village has been put in connection with the municipal civil infraction, up to the entry of judgment, which expenses may include reimbursement for attorney fees incurred and/or other costs, damages, and expenses. The Village may also file a lien against the land, building or structure for unpaid fines and costs as provided by law.
- F. Further, the Village may seek an injunctive order from the 85th District Court requiring the person in violation of this ordinance to bring his or her property into compliance with this Ordinance pursuant to the equitable authority granted to District Courts under Chapter 87 of the Revised Judicature Act at MCL 600.8701 et.seq. Such an order may include the right of the Village to enter the property in order to bring the land, building or structure into compliance, in the event the

person in violation fails to do so, and to charge the cost of bringing the land, building or structure into compliance as a lien against the land, building or structure.

SECTION 11. VIOLATIONS: CIVIL ACTION

In addition to foregoing remedies and, all other remedies available under the law, the Village or any other person adversely affected by a violation of this Ordinance, may commence an action in the circuit court for Benzie County for an injunction, or other appropriate remedy, to prevent, enjoin, abate, correct or remove junk, or junkyards operated, permitted, accumulated, stored or maintained in violation of this Ordinance, or any other violation of this ordinance, and to prevent, enjoin abate or otherwise prohibit the continuation of such violation. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

SECTION 12. SAVING CLAUSE

Provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable, for any reason by a court of competent jurisdiction, the remaining portions of said ordinance shall remain in full force and effect.

SECTION 13. EFFECTIVE DATE

This Ordinance shall take effect 10 days after its publication.

Roll Call Vote:

Kathy McManus Yes Richard Fast Yes Dennis Rodzik ABS Joe Schettek Yes

William Ward Yes **4 Motion Carried** **0 Motion Denied**

ORDINANCE DECLARED PASSED. _____, CLERK

CERTIFICATION

I, Debra Reed, as Clerk of the Village of Honor Council, do hereby certify that the foregoing VILLAGE OF HONOR BLIGHT AND JUNK ORDINANCE was duly adopted by motion and roll call vote, by the Village of Honor Council at a regular meeting of said Council on December 08, 2014 at which a quorum was present.

Debbie Reed, Clerk

