

**Benton Township
Cheboygan County**

Ordinance No. 2022-02-01

BLIGHT ELIMINATION ORDINANCE

An Ordinance to secure the public health, safety, and general welfare of the residents and property owners by regulating the storage of junk, rubbish, garbage, inoperable vehicles, and trailers within Benton Township, to prohibit such storage except under certain conditions, to establish minimal standards for the preservation of real property, and to provide provisions for enforcement, compliance, and penalties for violation of the ordinance. Pursuant to the enacting authority provided by Act 344 of the Public Acts of 1945, as amended.

The Township of Benton, Cheboygan County, Ordains:

Section 1. Title: This Ordinance shall be known and cited as the Benton Township Blight Elimination Ordinance.

Section 2. Purpose: This Ordinance seeks to eliminate blight and nuisances within the Township to protect the health, safety, and general welfare of the Township's residents; and, to preserve the taxable value of real properties within the Township.

Section 3. Intent: This Ordinance intends to establish reasonable guidelines and standards concerning the storage of objects or materials and to establish minimal standards for the preservation of real property which, if not regulated, would have the potential to cause blight and to devalue real property. The exercise of these regulations shall not, within reason:

- A. interfere with the normal and good practice operation of farms, farm lands, or forest lands. This Ordinance does not apply to motor-driven equipment which does not require licensing and is used entirely for off-highway work on land zoned for agricultural use; or,
- B. discourage the keeping or restoration of vehicles having antique or classic value; or,
- C. prevent normal and good practice use of fuel wood or lumber (new or used) intended for use in building projects; or,
- D. abrogate any other normal good practice use of property that is in character with the neighborhood in which it is located.

These regulations shall consider the intention of the owner, occupant, or possessor with respect to the objects or materials stored, the period of time that the storage is to be maintained, the zoning classification of the real property, the environmental features of the real property and of adjoining properties, and, in general, the impact on the economy and the character of the Township, including any impact on tourism.

Section 4. Definitions: The following terms used in this Ordinance are defined as follows:

A. Junk: As used within this Ordinance, “junk” means any unused or unusable appliances, furniture, machinery, tires, toys, or parts thereof.

B. Rubbish: As used within this Ordinance, “rubbish” means barrels, boxes, cardboard or paper cartons, glass, lumber, metal cuttings, metalware, plasticware, shavings, straw, or wastepaper.

C. Garbage: As used within this Ordinance, “garbage” means any accumulation of trash, refuse, or litter including, but not limited to, refuse from the storage, preparation, and consumption of food, as well as dead animals (or parts thereof), and discarded edible or drinkable items.

D. Vehicle: As used within this Ordinance, “vehicle” means motorized and non-motorized mechanical devices which have the primary purpose of transporting people on land, air, or water including, but not limited to, airplanes, automobiles (of any model), bicycles, boats (of any kind, including canoes), motor bikes, motorcycles, motor homes, snowmobiles, and trucks (of any model).

E. Inoperable: As used within this Ordinance, “inoperable” means any vehicle unable to perform its primary, legal function of transportation because of mechanical condition, missing parts, or non-licensure or regulation if same is required by law.

F. Trailer: As used within this Ordinance, “trailer” means any non-motorized device which must be pulled by a vehicle including, but limited to, utility and recreational travel trailers, or which had been designed for the purpose of transporting other vehicles or items of any kind.

G. Nuisance: As used within this Ordinance, “nuisance” means any building or structure not otherwise currently under construction, repair, remodeling, or rehabilitation which is in such a state of disrepair so as to be uninhabitable or unfit for the usage for which it had been intended; or, building materials kept outside on private property for nine (9) months after an occupancy permit has been issued by the Cheboygan County Building Department.

Section 5. Unlawful Acts: No owner, occupant, or possessor of real property within the Township shall keep or permit to be kept at any time upon such real property:

A. storage of junk, rubbish, or garbage unless the same is completely contained within a building which is not open to public view and not accessible to non-owners, non-occupants, and non-possessors; or,

B. storage of inoperable vehicles or trailers for more than sixty (60) consecutive days unless that vehicle or trailer is completely contained within a building or is completely screened from view behind a six-foot-high fence in the side or rear yards; or,

C. placement of junk, garbage, or inoperative vehicles or trailers on the real property of another, including on any governmentally-owned real property; or,

D. vehicles or trailers for sale subject to the following: Residential owners, occupants, or possessors may display no more than two (2) of their own vehicles or their own trailers, or no more than one (1) vehicle and one (1) trailer, at any one time for a period not to exceed sixty (60) days within any 365-day period. Vehicles or trailers for sale shall not be displayed on vacant properties. Vehicles or trailers for sale need not be licensed but shall be operable in all other ways. Vehicles or trailers shall be clearly marked "For Sale." No person shall place vehicles or trailers for sale on the real property of another, including on any governmentally-owned property or road right-of-way, without the written consent of the property owner.

F. any building or structure in such a state of disrepair so as to be uninhabitable or unfit for the purpose for which it had been intended, if no effort to ameliorate that condition has been pursued within the past nine (9) months.

Section 6. Exceptions:

A. This Ordinance does not apply to inventory on premises occupied by a merchant licensed under MCL 205.53 and conducting a lawful business or to the property of patrons of a lawful motor vehicle repair facility, to a furniture or appliance repair facility, or to a gasoline station or a motor vehicle repair facility when that property is left on the premises for service or repair, nor does this Ordinance apply to licensed salvage yards which are regulated under Public Act 12 of 1929.

B. Recreational vehicles and trailers which are usable, in good repair, and are customarily licensed on a seasonal basis shall be allowed to be kept on the owner's property without license during the off-season so long as they are stored in adherence to the Cheboygan County Zoning Ordinance.

C. Recreational, commercial, and agricultural vehicles and trailers not required to be licensed or registered by the State of Michigan shall be allowed to be kept on the owner's property so long as they are stored in adherence to the Cheboygan County Zoning Ordinance.

D. Junk, rubbish, and garbage may be kept in a temporary, roadside storage container covered by a closed lid, which is used for the purpose of keeping mice, rats, vermin, or all manner of foraging animals away from the container's contents, for up to forty-eight (48) hours prior to pick-up by a refuse-hauling company, so long as that temporary storage container shall not be larger than two (2) cubic yards in size.

Section 7. Enforcement and Sanctions:

A. Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act of 1961, being Sections 600.101 – Sections 600.9939 of Michigan Compiled Laws, and shall be subject to a civil fine as authorized by Section 3 of Act 246 of the Public Acts of Michigan of 1945, as amended.

B. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50 nor more than \$500 for the first offense, and not less than \$100 nor more than \$1,000 for each subsequent offense, in the discretion of the Court, together with the costs of enforcing this Ordinance including, but not limited to, collection of actual attorney fees and court costs. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person on the same property within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.

C. Each day on which any violation of this Ordinance occurs or continues to occur constitutes a separate offense subject to separate fines or sanctions. However, additional Notices of Blight Ordinance Violations, fines, or other sanctions will not normally be immediately issued during the pendency of enforcement proceedings if an offending party has responded to the first Notice of Blight Ordinance Violation by placing that matter on the agenda of the next meeting of the Township Board.

D. In addition to pursuing a municipal civil infraction proceeding pursuant to Section 7(B) herein, and in addition of other remedies available at law, 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 this Ordinance and may recover its actual attorney fees and court costs expended in pursuing such remedies.

E. All remedies available to the Township under this Ordinance and under Michigan law shall be deemed to be cumulative and not exclusive.

F. Any use of land that is commenced or conducted; and, any activity, building, item, or structure that is used, erected upon, moved to, placed upon, reconstructed, razed, extended, enlarged, altered, maintained, or changed in violation of this Ordinance shall also be declared a nuisance per se.

G. Any person, firm, or entity that assists with or enables the violation of this Ordinance shall be responsible for aiding and abetting, and shall be considered to have violated Ordinance. Further, any unsuccessful attempt to violate this Ordinance shall also be considered a violation of this Ordinance as if that unsuccessful attempt had actually succeeded.

H. The Cheboygan County Sheriff is designated as the official authorized to enforce this Ordinance, acting upon an approved motion brought by the Township Board of Trustees. Following referral to the Sheriff by the Board of Trustees, the Sheriff may deliver a letter to the offending party, advising the offending party that (s)he is in violation of this Ordinance and that enforcement action may be taken if the alleged violation has not been remedied within forty-five (45) days from the issuance of that letter. During that 45-day period, the offending party may discuss that letter with the Township Board of Trustees, and the Township Board may, at its discretion, vitiate the Sheriff's letter, in which case the matter is closed and in which case no further proceedings can proceed. However, if the Township Board does not vitiate the Sheriff's letter within forty-five (45) days from its issuance, then the Sheriff may, at his discretion, issue a

citation to the offending party, in which case enforcement of that citation shall proceed through normal legal channels. At that point, the Township Board is not involved in the channel of normal legal proceedings.

Section 8. Prima Facie Proof: In any litigation or enforcement arising under this ordinance, testimony that any:

A. appliances, furniture, machinery, toys, or parts thereof, have been observed in the same place for at least seven (7) consecutive or non-consecutive calendar days shall constitute prima facie proof that such constitute junk, as defined in Section 4.

B. unlicensed vehicle included, but not limited to, airplanes, automobiles (of any model), bicycles, boats (of any kind, including canoes), motor bikes, motorcycles, motor homes, snowmobiles, and trucks (of any model), or parts thereof, that have been observed in the same place for at least forty-five (45) consecutive calendar days shall constitute prima facie proof that such constitute inoperable vehicles, as defined in Section 4.

C. building or structure which is in such a state of disrepair so as to be uninhabitable or unfit for the usage for which it had been intended and upon which no effort to construct, repair, remodel, or rehabilitate that building or structure has been undertaken for nine (9) months; and, any building materials kept outside on private property for nine (9) months shall constitute prima facie proof that such buildings, structures, and building materials shall constitute prima facie proof that such constitute nuisance, as defined in Section 4.

Section 9. Severability: The provisions of this Ordinance are declared to be severable, and if any section, clause, provision, sentence, or word is declared void or unenforceable by any court of competent jurisdiction for any reason, that finding shall not affect any other portion of this Ordinance.

Section 10. Effective Date: This Ordinance shall take effect thirty (30) days after publication as required by law.

THIS ORDINANCE No. 2022-02-01 was adopted on the **1**st day of February 2022, by the Benton Township Board by the following action:

Motion by: Trustee Ron Fenlon

Seconded by: Treasurer Jayne Passen

Yeas:

Trustee Pete Redmond, Treasurer Jayne Passen, Clerk Carol Neumann
Trustee Ron Fenlon

Nay's: Supervisor Bruce Brandt

Absent: Ø

Carol Neumann
Carol Neumann, Township Clerk

Bruce Brandt
Bruce Brandt, Township Supervisor

I certify that this is a true copy of Ordinance No. 2022-02-01 that was adopted at a regular meeting of the Benton Township Board on February **1**, 2022, and will be sent to Cheboygan Daily Tribune to be published.

Carol Neumann
Carol Neumann, Township Clerk

2.7.2022
Date