

### ARTICLE III.

## JUNK AND TRASH ACCUMULATION AND MAINTENANCE OF UNSAFE OR BLIGHTED STRUCTURES

### Sec. 8-46. 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:

*Owner* means a person who holds legal title to the vehicle or right of possession of the vehicle.

*Junk Automobiles* shall include any motor vehicle whether so licensed or not, which is inoperative.

(Comp. Ords. Amended 7-20-2019; 1999, § 71.002; Ord. of 4-7-1964, § 2; Ord. of 6-7-1993, § 2; Ord. of 11-8-1999)

### Sec. 8-47. BLIGHTED PROPERTY

#### 1. PURPOSE OF SECTION

The purpose of this section is to promote the health, safety and general welfare of the public by requiring a level of maintenance of private property which will protect the livability, appearance and social and economic stability of the village and which also will protect the public from the health and safety hazards and the impairment of property values which results from the neglect and deterioration of property. It is not the purpose of this section to regulate artistic cultural or religious expression.

#### 2. DEFINITION OF BLIGHTED PROPERTY

Any property in an industrial or commercial zoning district or used as industrial or commercial property on which there exists any one or more of the following conditions or activities is a blighted property for the purposes of this section:

##### (a) Abandoned Building or Structure

1. A building or structure which is not being inhabited, occupied or used and which is unsecured. For purposes of this section, a building or structure is unsecured when the public can gain entry without the consent of the owner.
2. A partially constructed, reconstructed or demolished building or structure upon which work is abandoned. Work is deemed abandoned when there is no valid and current building or demolition permit or when there has not been any substantial work on the project for a period of six (6) months or more.

##### (b) Attractive Nuisance

Property which is in an unsecured state so as to potentially constitute an attraction to children, a harbor for vagrants, criminals or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful act.

(c) A Building or Structure Which is in a State of Disrepair

1. Exterior wall and/or roof coverings which have become deteriorated and do not provide adequate weather protections, resulting in termite infestation and/or dry rot.
2. Broken or missing windows or doors which constitute a hazardous condition or a potential attraction to trespassers.
3. Building exteriors, walls, fences, signs, retaining walls, driveways, walkways, sidewalks, or other structures on the property which are broken, deteriorated, or substantially defaced, to the extent that the disrepair is visible from any public right of way or visually impacts neighboring public or private property or presents an endangerment to public safety.
4. Building exteriors, walls, fences, signs, retaining walls, driveways, walkways, sidewalks, or other structures on the property which have been repainted in such a manner that the appearance may be further deteriorated or substantially defaced.

(d) Scrap Vehicles

1. The phrase, scrap vehicles shall include any unlicensed vehicle that is unable to be moved under its own power. If the said vehicle has been setting for over a month in this condition, it will be considered scrap unless there is a verifiable order for parts to repair it. If the vehicle sets for a period in excess of 30 days, shall be kept in a fully enclosed building.
2. All car(s) for sale including scrap vehicles must be registered with the Village.
3. Any vehicle for sale must not be on the Right-of-way.

(e) Property Inadequately Maintained

1. Overgrown, diseased, dead, or decayed trees, weeds or vegetation that:
  - a. Are likely to harbor rats, pigeons, vermin, and other nuisances; or
  - b. Substantially detract from the aesthetic and property values of neighboring properties; or
  - c. Constitute a fire hazard or other condition that is dangerous to public health, safety or welfare; or
2. Solid waste which includes “garbage” “refuse” and “rubbish” constitutes blight and blighted property in the following situations:
  - a. The accumulation of solid waste is visible from a street or public right of way, is not enclosed in an approved container, and is present for more than seventy-two (72) consecutive hours; or
  - b. The accumulation of solid waste is being stored or disposed of in a manner that would allow the material to be transported by wind or otherwise onto or upon any public street, public right of way, or neighboring property, unless the method of storage or disposal is specifically allowed by this code.

3. Any swimming pool, pond or other body of water is abandoned, unattended, unfiltered or not otherwise maintained, resulting in water becoming polluted. Polluted water is defined for the purpose of this section, as water which contains organic growth, including algae, remains of rubbish, refuse, debris, papers, and any other foreign matter or materials, which, because of its nature or locations, constitutes an unhealthy or unsafe condition.

### 3. PROPERTY BLIGHT-NUISANCE

Any property, which is blighted property, is hereby declared and determined to be a public nuisance.

### 4. GENERAL OBLIGATION

No person, firm or corporation whether as owner, agent or manager of the subject property, or as lessee, sublessee or occupant in possession of the property shall maintain any property in a blighted condition or shall cause or permit the property to be blighted. No person, firm or corporation shall take any action or allow any action to be taken in violation of any provision of this section or order issued pursuant thereto.

### 5. ENFORCEMENT RESPONSIBILITY – DELEGATION OF AUTHORITY

The Village is charged with the responsibility for the enforcement of this section. The Village Ordinance Enforcement Officer is authorized to make such inspections and take any action on behalf of the village as may be required to enforce the provisions of this section.

### 6. PROPERTY BLIGHT-ABATEMENT REQUIRED

The person, firm or corporation whether as owner, agent or manager of the subject property, or as lessee, sublessee or occupant in possession of the property shall immediately cause the property blight to be abated. Whenever the Village finds that a property is blighted, the Village may require or take necessary abatement actions to cause the property blight to be abated in accordance with the provisions of this section or other applicable municipal provisions. Temporary corrective measures may be required prior to the time permanent abatement actions are instituted. The Village or other employees with enforcement responsibilities may authorize a compliance schedule providing such schedule is reasonable in its timetable of corrections and meets the intent of this section.

### 7. SUPERVISION OF WORK

Any abatement action performed by the Village shall be accomplished under the supervision either

- a. By Village personnel; or
- b. By contract awarded by the Village.

### 8. WORK STANDARD

Whenever the Village performs any abatement action, the Village shall not be required to perform such abatement actions to the standard that the property, building or structure complies with all applicable provisions of this code. The Village shall perform such actions as are determined by the Village to be necessary to be necessary to abate or remedy the nuisance caused by such property, building or structure. Such limited abatement action by

the Village does not relieve the property owners from any requirement to bring the property into compliance with any applicable provisions of this code.

#### 9. PROCEDURES OF THIS ORDINANCE-CUMULATIVE

- a. Procedures used and actions taken for the abatement of property blight are not limited by this section. Procedures and actions under this section may be utilized in conjunction with or in addition to any other procedure applicable to the regulation of buildings or structures or property. This section shall not constitute a repeal of any other provision of this code except as expressly stated.
- b. All property blight conditions which are required to be abated pursuant to this section shall be subject to all provisions of the Village of Lyons code including, but not limited to building construction, repair or demolition and to all property improvement, zoning and fire code provisions.

#### 10. PENALTIES FOR VIOLATION

Any person violating any of the provisions of this section shall be deemed guilty of an infraction.

- a. A first violation of any provision of this section, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than \$100.00 plus costs;
- b. A second violation of any provision of this section, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than \$250.00 plus costs;
- c. A third or subsequent violation of any provision of this section, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than \$500.00 plus costs;
- d. Each day of continued violation shall constitute a separate offense;
- e. Any fine not paid by the violator shall be assessed to their Village property taxes;
- f. Any person violating any of the provisions of this section with reference to blighted property, more than three (3) times in any twelve (12) month period in addition to abatement of the nuisance and the penalties above shall be required to enter into a continuing maintenance agreement with a qualified person to provide continuing and immediate care to the property so as to avoid and abate conditions of blight and shall present to the Village proof of said agreement.
- g. In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provisions, the violation of which is a municipal civil infraction, including, but not limited to, abatement of the violating condition or the granting of any injunctive relief.

## 11. JOINT OR COMMON OWNERSHIP

Whenever blighted property is jointly owned, owned as common property or is otherwise subject to multiple ownership whether in fee or as an easement, the owners of the property shall be jointly and severally liable for the nuisance. The village may apportion each owner's liability in reasonable proportion to each individual's ownership interest in the subject property.

## 12. SUMMARY ABATEMENT-IMMINENT DANGER

a. Any condition of property blight which is reasonably believed to be imminently dangerous to life, limb, health or safety of the occupants of the property or to the public may be summarily abated by the Village.

b. Actions taken to abate imminently dangerous conditions may include but are not limited to repair or removal of the conditions creating the danger and/or the restriction from use or occupancy of the property on which the dangerous conditions exist or any other abatement action determined by the Village to be necessary.

## 13. SUMMARY ABATEMENT PROCEDURES; NOTICE POSTING

Whenever the Village reasonably believes property to be blighted and imminently dangerous to life, limb, health or safety, the Village shall declare the same to be a public nuisance and give notice to the owner by posting a notice on the property stating therein that unless a written objection is filed with the Village clerk or such dangerous condition be abated within twenty-four (24) hours by the destruction or removal of such blighted condition, the work of abating such imminently dangerous condition shall be done by the Village and the expense therefore assessed upon the lots and lands from which the blighted condition shall have been destroyed or removed. If the dangerous condition persists and there is no written objection timely filed with the Village clerk within twenty-four (24) hours, the Village, village employees, contracting agents or other representatives are expressly authorized to enter upon private property to abate the dangerous condition. Costs for any summary abatement performed by or on behalf of the Village shall be accounted and reported to the Village council assessed after public hearing and collected pursuant to provisions of this code.

## 14. RESTRICTION FROM USE

If there exists on a blighted property any condition reasonably believed to be imminently dangerous to life, limb, health or safety should such property be occupied or used, the Village may order the immediate restriction from use or occupancy of the blighted property in addition to requiring other abatement actions to be taken.

## 15. RESTRICTION FROM USE OR OCCUPANCY - DEFINED

For the purpose of this section, an order to "restrict from use or occupancy" include either total or partial restriction from use or occupancy of either all or some specified portion of a building, structure or property. The methods which may be used for such restriction from use or occupancy include, but not limited to, the construction, erection, installation and maintenance of such fencing, enclosures, barricades and/or other protective devices, used for the purpose of closing, barring, boarding, locking and/or otherwise securing all means of access to a property, building or structure as will effectively prevent entry into the building or structure or onto the property by unauthorized persons and effectively prevent any use or occupancy.

**16. RESTRICTION FROM USE OR OCCUPANCY – POSTED**

Whenever any property, building or structure is ordered restricted from use or occupancy, the following notice shall be posted. Said notice may be posted at or upon each entrance or exit of the property, building or structure in the following form:

**RESTRICTED  
DO NOT ENTER  
UNSAFE TO ENTER, USE OR OCCUPY**

It is a misdemeanor to enter, use or occupy this building or premises, or to remove or deface this notice.

Village of Lyons, Mi

**17. COMPLIANCE WITH NOTICE REQUIRED**

Whenever any property, building, or structure is ordered restricted from use or occupancy and the property is duly posted, no person shall remain in or on or enter the property, building or structure, except that entry may be made to perform abatement actions under permit. Whenever such abatement actions require any permits, such required permits shall be obtained prior to the commencement of any such abatement actions. No person shall remove or deface any such notice after it is posted until the required abatement actions have been completed and inspected and approved by the Village.

**18. RESOLUTION DECLARING NUISANCE; PUBLICATION OF NOTICE OR RESOLUTION**

Whenever any property is determined by the Village to be blighted and it is further determined that the condition is not imminently dangerous to life, limb, health or safety, the Village shall pass a resolution declaring the same to be a public nuisance and ordering the Village to give notice of the passage of such and stating therein that, unless such nuisance be abated without delay by the destruction or removal of such blighted condition, the work of abating such nuisance shall be done by the Village authorities and the expense thereof assessed upon the lots and lands from which the blighted condition shall have been destroyed or removed. The Village shall provide notice of such resolution by certified mail with return receipt requested addressed to the owner of the property at the address shown on the last available equalized assessment roll for the property, or as otherwise known and by posting notice at or upon each entrance or exit of the property. The Village clerk shall thereupon fix the time and place for hearing any objections to the proposed destruction or removal of such blighted property.

**19. HEARING ON NOTICE TO DESTROY OR REMOVE PROPERTY BLIGHT**

At the time stated in the notice, the council shall hear and consider any and all comments to the proposed destruction or removal of such property blight and may continue the hearing from time to time. The council, by motion or resolution, shall allow or overrule any and all objections, if any, after which the council shall thereupon be deemed to have acquired jurisdiction to proceed and perform the work of destruction or removal of such property blight.

**20. ABATEMENT BY THE VILLAGE UPON ORDER OF COUNCIL; PRIOR ABATEMENT BY PROPERTY OWNER**

The council shall by resolution order the abatement of such nuisance or cause the same to be abated as may be determined by the Village council, Village employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property for such purposes. Any property owner shall have the right to abate such nuisance or have the same destroyed or removed at his own expense; provided that such nuisance shall have been completely abated prior to the arrival of the Village council or their authorized representative to abate the nuisance.

#### 21. ACCOUNTING AND REPORTING COSTS OF ABATEMENT BY VILLAGE

The Village shall keep an account of the costs of abating such nuisance and embody such account in a report and assessment list to the council, which shall be filed with the Village clerk. Such report shall refer to each separate lot or parcel of land by description sufficient to identify such lot or parcel, together with the expense proposed to be assessed against each separate lot or parcel of land.

#### 22. ASSESSMENT OF ABATEMENT COSTS – NOTICE OF HEARING

The Village clerk shall post copies of such report and assessment on the bulletin board in the council chambers at the Village office; on the bulletin board in the Village clerk's office located at the Village office; and on the bulletin board near the entrance door of the Village office, together with a notice of the filing thereof and of the time and place when and where it will be submitted to the Village council for hearing and conformations, notifying property owners that they may appear at such time and place and object to any matter contained therein. A like notice shall also be published twice in a newspaper of general circulation published and circulated with the Village. The posting and first publication of such notice shall be made and completed at least ten (10) days before the time such report shall have been submitted to the Village council.

In addition to the posting and publication of such notice described above, the report and assessment list, together with a notice of the filing thereof and of the time and place when and where it will be submitted to the Village council for hearing and confirmation, notifying property owners that they may appear at such time and place and object to any matter contained therein, shall be served on the property owner at least ten (10) days before the hearing by any of the following methods:

- 1) By personal service on the owner of such property; or
- 2) By sending a copy of such notice by registered or certified mail return receipt requested, addressed to the owner of the property at the address shown on the last available equalized assessment roll for the property, or as otherwise known, and by posting notice at or upon each entrance or exit of the property.

#### 23. SAME – HEARING AND CONFIRMATION

At the time and place fixed for receiving and considering such report, the Village council shall hear the same together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating such nuisance; and the Village shall attend such meeting with his record hereof; and upon such hearing, the council may make such modifications in the proposed assessment there for as it may deem necessary, after which such report and assessment all be confirmed by resolution. The amount of the cost of abating such nuisance referred to in such report shall constitute special assessments against

such respective lots or parcels of land and after thus made and confirmed shall constitute a lien on such property for the amount of such assessment until paid.

#### 24. COLLECTION

The Village shall cause the amount of the assessment to be entered on the Village assessment roll opposite the description of the particular property, and the amount shall be collected together with all other taxes thereon upon the property. Thereafter, such amounts shall be collected at the same time and in the same manner as general Village taxes are collected and shall be subject to the same penalties and interest and the same procedure and sale in case of delinquency as provided for the Village taxes. All laws and ordinances applicable to the levy, collection and enforcement of Village taxes are hereby made applicable to such special assessment.

#### 25. SEVERABILITY

The invalidity of any clause, sentence, paragraph, or part of this ordinance shall not affect the validity of the remaining parts of this ordinance.

(Comp. Ords. Amended 7-15-2019, eff. 7-20-2019; Amended 8-20-2018, eff. 9-10-2018; Amended 11-17-2014, eff. 12-2-2014; 1999, § 71.002; Ord. of 4-7-1964, § 2; Ord. of 6-7-1993, § 2; Ord. of 11-8-1999)