

new

ORDINANCE #17

AN ORDINANCE TO REGULATE AND CONTROL THE STORAGE AND DISPOSAL OF JUNK WITHIN THE VILLAGE; TO PROVIDE FOR THE ELIMINATION OF BLIGHTED STRUCTURES AND BUILDINGS; TO PROVIDE FOR THE ENFORCEMENT HEREOF AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

THE VILLAGE OF EASTLAKE ORDAINS:

Section 1 Title, Purpose and Legal Basis

1.01 This Ordinance will be known and may be cited as the Village of Eastlake Junk Ordinance.

1.02 The purpose of this Ordinance is to regulate and control the storage and disposal of junk within the Village of Eastlake, in order to promote the public health, safety and welfare; to protect land values; to provide for the safety of residents in the area from dangerous junk; to protect groundwater lying beneath the Village; to reduce the incidence of blight and vermin; and to protect aesthetics in the Village and to regulate matters of legitimate Village concern.

This Ordinance is specifically designed to:

- 1) Define certain terms used herein.
- 2) Regulate the volume and conditions under which a person may store junk on one's land.
- 3) Provide for enforcement and a system of due process for removal of junk from one's land.
- 4) Provide for miscellaneous provisions necessary for regulation of the Village's affairs.

1.03 This Ordinance is enacted pursuant to Section 1 of 1945 PA246, being MCL 41.181 as amended, and being MCL 445.451 as amended.

Section 2. Definitions

2.01 The following terms will have the meanings herein assigned, unless the context clearly requires otherwise.

- 1) **BLIGHTED STRUCTURE OR BUILDING** means any dwelling, garage or outbuilding or any factory, shop, store, warehouse or any other structure or building, or part of a structure or building which, because of fire, wind or other natural disaster or physical deterioration is no longer inhabitable as a dwelling, or useful for the purpose for which it is intended.
- 2) **JUNK** means:
 - a) Old scrap ferrous or nonferrous material, trash, rubber, cloth, paper, rubbish, refuse, litter, unused furniture;
 - b) Materials from demolition, waste building materials;

new

- c) Any junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvage) automobiles, vehicles, farm equipment, boats, trailers, mobile homes, appliances and all other machines;

But will not include items being held for a customer while parts are being sought for its repair.

- 3) 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, or, whether licensed or not, is inoperative for a period of sixty (60) days and is visible from roads or adjacent parcels.
- 4) VILLAGE means the Village of Eastlake.
- 5) PARCEL means the tract or contiguous tracts of land in the same ownership, whether one or more are platted lots or parts of lots, as identified by a single property tax parcel number in the Village assessment roll.
- 6) PERSON means any natural person, firm, partnership, corporation, limited liability company, or other unincorporated association of persons, and will include all agents, servants and employees of such persons.
- 7) 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.

Section 3. Unlawful Acts

3.01 It will be unlawful for a person to maintain or permit to be maintained any blighted structure or building.

3.02 It will be unlawful for a person to store or accumulate junk (as defined in Section 2).

Section 4. Violations Procedure

4.01 If the Planning Commission, upon the written complaint of any person, or upon its own motion, finds that there is reasonable cause to believe that a violation of this Ordinance is occurring, it may determine the parcel or parcels on which such violation may be occurring and may notify each owner of such parcel, in the manner hereinafter set forth, of the nature of the alleged violations and the date and time of a hearing at which the alleged violations of this Ordinance will be brought before the Planning Commission. The hearing will be held not less than twenty-one (21) days after the date of the notice. The owner or lessee of the parcel shall be invited to attend such hearing, in person or through council, and show cause, why the Planning Commission should not order such alleged violations to cease and the parcel in question be restored to a condition which is not in violation of this Ordinance.

4.02 Notice of the hearing will be in writing and served upon the persons shown as owners of the parcel or parcels in question on the most recent tax assessment roll and any known lessee of the parcel and any other person known to have any interest in the parcel. The Zoning Administrator will cause such notice to be served by personal delivery to such persons, by anyone of suitable age and discretion, or by certified or registered mail, return receipt requested. If any of the persons entitled to notice

new

cannot be ascertained or located, the Zoning Administrator will cause such notice to be conspicuously posted on the parcel. An affidavit of Service or Posting will be maintained. Service of the notice will be accomplished not less than ten (10) days before the hearing.

4.03 The hearing will be conducted before the Planning Commission with the Chair presiding. The Planning Commission will receive testimony and other evidence as it deems reasonably reliable and relevant to the issue of the alleged violation of this Ordinance and will render a decision and order in such matter within ten (10) days of the hearing.

4.04 The Planning Commission will determine whether a violation exists or not, and, if so, what must be done to restore the parcel in question to a condition that is not in violation of this Ordinance, which decision may include, but will not be limited to, ordering the owner of the parcel to remove and lawfully dispose of all junk from the parcel, the demolition and removal of a blighted structure or building within thirty (30) days after service of the order upon them. All persons entitled to notice of hearing will be notified of the Planning Commission's decision, which will be in writing and served, in person or by certified or registered mail, return receipt requested, at such person's last known address or the address where the service of notice of hearing was accomplished.

Section 5, Violations Resolution

5.01 If the owner of the parcel fails, refuses or neglects to comply with the decision and order of the Planning Commission within thirty (30) days after service of the order upon them, the Planning Commission will recommend to the Village Board the method by which the parcel would best be brought into compliance.

- 1) **REMOVAL & DISPOSAL** - If the owner of the parcel fails, refuses or neglects to comply with the decision and order of the Planning Commission within thirty (30) days after service of the order upon them, the Planning Commission may recommend to the Village Board to cause the junk to be removed from the parcel and lawfully disposed, may cause a blighted structure or building to be demolished and removed or repaired and rehabilitated to a condition of safety in compliance with this Ordinance. The cost of such actions will be billed each of the owners of the parcel who will be jointly and severally liable therefore. If the owners of the parcel, refuse, neglect or fail to pay such costs within sixty (60) days of the Village's invoice to them, the Village Clerk will report such costs to the Village Treasurer who will cause such costs to be assessed against the parcel in question. The costs so assessed will become a lien against the parcel in the same manner as other ad valorem taxes and interest, penalties and fees will be charged and collected in the same manner as other ad valorem taxes.
- 2) **CIVIL INFRACTION** - The Planning Commission may recommend to the Village Board that the Ordinance be enforced by the law enforcement agencies and officers authorized to act within the Village, who are hereby designated as the authorized local officials to issue civil infraction citations per the Village of Eastlake Civil Infraction Ordinance.

New

3) CIVIL ACTION - The Village or any other person adversely affected by a violation of this Ordinance, may commence an action in the Circuit Court for Manistee County for an injunction, or any other appropriate remedy, to prevent, enjoin, abate, correct or remove junk, blighted structures or buildings permitted, accumulated, stored or maintained in 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.

5.02 The procedures set forth in this Section of the Ordinance are optional and nothing in the Ordinance will be construed to prevent the Village from seeking immediate enforcement under either or both Sections nor will the fact that the Village has employed either procedure set forth above be a bar to later enforcement hereof under the other procedure.

Section 6 Severability

This Ordinance and the various parts, sections, subsections, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it will not be affected thereby. The Village Board declares that it would have passed this Ordinance and each section, subsection, phrase, sentence and clause therefore respective of the fact that any one or more sections, subsections, phrases, sentences or clauses be declared invalid.

Section 7 Repeal

All Ordinances or parts of Ordinances Inconsistent or In conflict with this Ordinance are hereby repealed to the extent they are in conflict, but only to the extent of such conflict or inconsistency.

Public Hearing January 14th, 2015
Council Approved February 11th 2015