

SOUTH HAVEN CHARTER TOWNSHIP
VAN BUREN COUNTY, MICHIGAN

ORDINANCE NO 123

AT A REGULAR SESSION OF THE SOUTH HAVEN CHARTER TOWNSHIP BOARD HELD
AT THE TOWNSHIP HALL, 09761 Blue Star Hwy SOUTH HAVEN, MICHIGAN ON
THE 13th DAY OF April, 2016

PRESENT: DeGrandchamp, Bertorelli, Wiatrowski, Jessup, Stein, Fisher
and King

ABSENT: None

MOTION BY: Wiatrowski, SUPPORT BY: Jessup

Whereas, the Township General Ordinance Statute, Michigan Public Act 246 of 1945, as amended, authorizes the Township Board to adopt ordinances regulating the public health, safety and general welfare of persons and property; and,

Whereas, under that authority, the Township previously adopted Ordinance No. 14 a Blight Elimination Ordinance in or about 1983; and,

Whereas, the Township Board has determined that it is in the best interest of the public health, safety, and general welfare of persons and property to adopt an updated blight elimination ordinance to regulate blight in the Township; and to enable itself to enforce some violations of Township's updated blight ordinance as municipal civil infractions; and,

Whereas the Township Board has determined that adopting the updated Blight Elimination Ordinance is in the best interest of the public health, safety, and welfare of the Township's residents.

NOW THEREFORE, the South Haven Charter Township Board, ORDAINS:
as follows:

BLIGHT ELIMINATION ORDINANCE

AN ORDINANCE TO PREVENT, REDUCE OR ELIMINATE BLIGHT, BLIGHTING FACTORS OR CAUSES OF BLIGHT WITHIN SOUTH HAVEN CHARTER TOWNSHIP, VAN BUREN COUNTY, MICHIGAN; TO PROVIDE FOR THE ENFORCEMENT HEREOF; AND TO PROVIDE PENAL TIES FOR THE VIOLATION HEREOF. PURSUANT TO THE ENACTING AUTHORITY THEREFOR PROVIDED BY 1945 PA 246 and ACT 344 OF THE PUBLIC ACTS OF 1945; AS AMENDED, now MCL 41.181 et seq., and MCL 125.71 et seq.

Section 1: PURPOSE AND LEGISLATIVE DETERMINATION.

Consistent with the letter and spirit of Act 344 of the Public Acts of 1945 and Act No. 344 of the Public Acts of 1945, as amended, it is the purpose of this Ordinance to prevent, reduce or eliminate blight or potential blight in South Haven Charter Township by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist in said Township.

The Township has determined that areas of the Township may become blighted or deteriorate in a manner that leads to blight, which would result in impairing taxable values upon which Township revenues depend; that those blighted areas are detrimental to the health, safety, and general welfare of the citizens of South Haven Charter Township, and to the economic welfare of the Township; that to improve and maintain the general character and orderly development of the community and to promote the health, safety, and welfare of the Township's residents and property owners, it is necessary to regulate certain uses, structures, and activities that - if allowed to exist or continue - will tend to result in blight

Section 2: CAUSES OF BLIGHT OR BLIGHTING FACTORS.

The following uses, structures and activities are declared to be blight, causes of blight, or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods. On and after the effective date of this Ordinance, no person, firm or corporation of any kind, shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in South Haven Charter Township owned, leased, rented or occupied by such person, firm or corporation.

A. In any area zoned for residential purposes the storage upon any property of junk automobiles, except in a completely enclosed building. For the purpose of this Ordinance, the term "junk automobiles" shall include any motor vehicle which is not licensed for use upon the Highways of the State of Michigan, and shall also include, whether so licensed or not, any motor vehicle which is inoperative, missing major component parts or unable to satisfy a Michigan State Police Vehicle Safety Inspection.

B. In any area zoned for residential purposes, the outdoor storage upon any property of building materials and commercial equipment and vehicles unless (1) there is in force a valid building permit for construction upon said property; (2) said materials are intended for use in connection with such construction; and (3) there is evidence that the materials are actively being used toward the activity the building permit authorizes. Building materials shall include any materials used to construct any structure, which includes but shall not be limited to lumber; bricks; concrete or cinder blocks; plumbing material; electrical wiring or electrical equipment; heating ducts or heating equipment; shingles; mortar; concrete or cement; nails; or screws. Notwithstanding the above, this Subsection does not apply to the extent it may conflict with the Michigan Right to Farm Act.

C. In any area, the storage or accumulation of junk, trash, garbage, rubbish or refuse of any kind without a landfill permit, except domestic refuse stored in a bin or receptacle for trash pickup at a regularly scheduled pick up time or in such a manner as not to create a nuisance for a period not to exceed 10 days. The term "junk" shall include parts of motor vehicles, unused stoves or other appliances stored in the open, remnants of metal, lumber or any other cast-off material of any kind whether or not the same could be put to any reasonable use. Notwithstanding the above, this Subsection does not apply to the extent it may conflict with the Michigan Right to Farm Act.

Section 3: ENFORCEMENT AND PENALTIES.

A. A violation of this Ordinance (or of any rule or regulation adopted pursuant to this Ordinance) constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids Blight Elimination Ordinance of South Haven Charter Township or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction.

B. This Ordinance may be enforced by such persons who shall be so designated by the Township Board by resolution adopted under this Ordinance. Unless otherwise specified by the Township Board by resolution, the following officials or officers have the authority to enforce this Ordinance and to issue municipal civil infraction citations/tickets pursuant to this Ordinance:

- Township Supervisor
- Township Clerk
- Township Ordinance Officer, being the contracted South Haven Police Department or such other Officer or law enforcement agency as shall be designated by the Township Board

C. The owner, if possible, and the occupant of any property upon which any of the causes of blight or blighting factors set forth in Section 2 hereof 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 days after service of the notice upon him. Such notice shall be served personally, posted on the property or by certified mail, return receipt requested. Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

D. Failure of the owner and/or occupant to comply with such notice within time allowed shall constitute a violation of this Ordinance. A violation of this Ordinance is a nuisance per se.

E. Any person or other entity that violates any of the provisions of this Ordinance is a nuisance per se. responsible for a municipal civil infraction as defined by Michigan law

and subject to a civil fine determined as follows: FIVE HUNDRED and no/100 DOLLARS (\$500.00) for each violation. Additionally the violators shall pay costs, which may include all direct or indirect expenses, including any and all costs of remediation or clean up, to which the Township has been put in connection with the violation (including the Township's reasonable attorney's fees incurred in enforcing this Ordinance). A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan Law, and the Township's separate ordinances. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

F. Violation - Civil Infraction. A violation of this Ordinance may be enforced as a civil infraction as stated in this Ordinance. In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages, and expenses, the Judge or Magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation of, this Ordinance. In addition to any remedies provided for in this Ordinance, any equitable or other remedies available may be sought, including the contempt powers of Court.

G. Other Remedies Not Barred. The above penalties do not prohibit the Township from seeking injunctive relief against the violator to abate the nuisance, or pursue other relief as may be available to the Township in law or equity.

H. Liens. All expenses, attorney fees, and costs incurred by the Township in abating a nuisance under this Ordinance must be charged to the person responsible for the nuisance. Also, the Township must have a lien for the amount of a judgment obtained pursuant to this Ordinance against the violator's real property located in this State. A lien provided for in this subsection does not take effect until notice of the lien is filed or recorded as provided by law and the lien does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost must be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, 206 PA 1893, as amended (now MCL 211.1 to MCL 211.157). Further, a default in the payment of a civil fine, costs, damages or expenses ordered under this Ordinance or an installment of the fine, costs, damages or expenses as allowed by the court, may be collected by the Township by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, et. seq., as amended.

Section 4: APPEARANCE TICKETS.

In accordance with the Michigan Municipal Civil Infraction Act, MCL 600.113 et seq., the Township Ordinance Enforcement Officer/South Haven Police Department (sometimes referred to as the "Authorized Township Official") is authorized to issue and serve appearance tickets upon a person an appearance ticket if the Ordinance Enforcement Officer has reasonable cause to believe that the person has committed the offense. As used herein, "appearance ticket" means a complaint or written notice issued and

subscribed by the Ordinance Enforcement Officer for the class of offenses hereinafter stated to issue the ticket, directing a designated person to appear in the 8th District Court, West, for Van Buren County, at a designated future time in connection with his or her alleged commission of the listed violation of this Ordinance for the imposition of a civil infraction penalty as above provided. The appearance ticket shall be numbered consecutively, be in such form as determined by the Attorney General, the State Court Administrator, and the Director of the Department of State Police and shall consist of the following parts:

- A. The original, which shall be a complaint or notice to appear by the officer and filed with the Court.
- B. The first copy shall be the abstract of Court record.
- C. The second copy shall be retained by the local enforcement agency.
- D. The third copy shall be delivered to the alleged violator.

Appearance tickets may be issued for violations of the Blight Ordinance and may be personally served upon the upon the alleged violator, or may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching by the copy to the building or structure with a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.

Section 5: EFFECTIVE DATE AND ADOPTION.

A. This Ordinance shall become effective thirty (30) days after it (or a proper summary of it) is published as required by law.

B. This Ordinance was adopted by the Township Board of South Haven Charter Township, Van Buren County, Michigan, at a regular meeting thereof held 13th day of April, 2016.

Section 6: SEVERABILITY/REPEALER. If any part of this Ordinance is declared invalid, that declaration does not affect the remaining parts of this Ordinance. Upon adoption of this Ordinance, Ordinance No. 14 is hereby repealed.

Section 7: CONFLICTING PROVISIONS. If other ordinances or parts of ordinances of the Township conflict with this Ordinance's provisions, this Ordinance controls.

Section 8. FILING AND PUBLICATION: The Ordinance must be filed with the Township Clerk. The Township Clerk, per MCL 41.184, is directed to publish either a true copy or summary of the Ordinance in a newspaper of general circulation in the Township within 30 days after the Township approves the Ordinance and file a copy with the Van Buren County Clerk.

ADOPTED:

YEAS: 7

NAYS: 0

ABSTAIN 0

STATE OF MICHIGAN)
)
COUNTY OF VAN BUREN)

I, BRENDA BERTORELLI, the undersigned, the duly qualified and acting Township Clerk of South Haven Charter Township, Van Buren County, Michigan, HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a regular meeting held on the 13th day of April 2016 and that a copy true copy of said Ordinance or summary there was published in a newspaper of general circulation in the Township within 30 days following adoption of said Ordinance and a copy of said Ordinance was filed with the Office of the Van Buren County Clerk.

Brenda Bertorelli

BRENDA BERTORELLI

DRAFTED BY:
MARK A. MANNING, P.C.
BY: MARK A. MANNING
SOUTH HAVEN CHARTER TOWNSHIP ATTORNEY