**CHARTER TOWNSHIP OF BENTON,**

**EATON COUNTY, MICHIGAN**

**BLIGHT AND PUBLIC NUISANCE**

**ORDINANCE**

**ORDINANCE NO. 1071**

**Adopted: July 12, 2021**

**Effective: August 17, 2021**

At a regular meeting of the Township Board of Benton Charter Township, Eaton County, Michigan, held at the  Benton Charter Township Hall on July 12, 2021, at 7:00 p.m., Township Board Member Jenna Coburn moved to introduce the following Ordinance for final adoption, which motion was seconded by Township Board Member Scott Hoornstra:

*An ordinance to promote the health, safety, and welfare, by declaring certain acts, apparatus, accumulations, violations, and activities as public nuisances per se; providing the procedure for abatement of blight and public nuisances, enforcement of this ordinance, and recovery of costs incurred by Benton Charter Township; and repealing all ordinances or parts of ordinances in conflict with this Ordinance.*

THE CHARTER TOWNSHIP OF BENTON, EATON COUNTY, MICHIGAN, ORDAINS:

**SECTION 1: PURPOSE.** Consistent with the letter and spirit of Public Act 344 of 1945, as amended, MCL 41.181, and MCL 42.15, it is the purpose of this Ordinance to prevent, reduce or eliminate blight or potential blight in Benton 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 Benton Charter Township.

**SECTION 2: DEFINITIONS.**

1. “Abate” or “Abatement” means demolition, removal, repair, maintenance, construction, reconstruction, replacement, and reconditioning of structures, appliances, appurtenances, or equipment as well as removal, transportation, purchase, disposal and treatment of refuse or other substance or media capable of causing a nuisance and the use of mechanical means to control, eradicate, and eliminate the nuisance conditions.
2. “Building Materials” means lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
3. “Junk” means all rubbish, refuse, waste material, and garbage, including, but not limited to: organic refuse; food wastes; drug paraphernalia; ashes; dead animals; fish; animal bones; hides; rotten soap; parts of machinery or motor vehicles; grease; tallow; offal; shell; food containers or wrappings; cans; bottles; jars; crockery; garbage; discarded or abandoned furniture or materials, including camping and picnic gear and equipment; cartons; boxes; crates; rags; clothing; bedding; floor covering; wallpaper; sweepings; waste paper; newspapers or magazines; discarded appliances; excrement; construction debris and building materials; yard debris or rubbish including, but not limited to, grass clippings, clippings from hedges or shrubs, or detached tree branches; industrial waste; and unclean or noxious fluids.
4. “Junk Motor Vehicle” means any vehicle or portion of a vehicle that is self-propelled or intended to be self-propelled, or any trailer, camper or portion thereof that is intended to be towed behind a motor vehicle, that:
   1. Is subject to registration under the Michigan Vehicle Code, MCL 257.1, *et seq.,* and has not been registered or does not display an unexpired and valid license plate for the vehicle; or
   2. Has remained on a premise for a period of 30 days or more, and does not have an engine in running condition, four inflated tires and a battery, or is incapable of safe operation on the streets or highways as required by the Michigan Vehicle Code; or
   3. For any reason, including dismantling, disrepair or otherwise, is not operable, not repairable, cannot be started, or is unable to be propelled under its own power.
5. “Public Nuisance” means those items specifically forbidden by any provision of this Ordinance.

**SECTION 3: PUBLIC NUISANCE PROHIBITED; PUBLIC NUISANCES PER SE.** All causes of blight are public nuisances. Public nuisances are prohibited in the Township. No person shall commit, create, or maintain any public nuisance. The following acts within the Township are hereby prohibited as blight and public nuisances per se:

1. No person or entity shall maintain or permit to remain on a premises owned or occupied by him or her or it; or throw, place, or leave; or permit the throwing, placing, or leaving on the premises of another any of the following substances: junk, garbage, discarded furniture, appliances and household goods, building materials, construction debris, tires, or mobile home components in any of the following locations:
   1. Any public or private street, highway, lane, road, alley, public place, square, sidewalk, or any lands within the boundaries of the Township owned by the Township or other municipal corporation.
   2. Any river, lake, stream, or other body of water.
   3. Any private place or premises where in the opinion of the Township Ordinance Enforcement Officer or his/her agent, the above specified substances constitute a dangerous condition, disturb or annoy the quiet, comfort, or repose of a reasonable person of normal sensitivities, are detrimental to the public health, safety, or welfare, or may cause sickness or attract flies, insects, rodents, or vermin.
2. No person or entity shall keep, store, or maintain a junk motor vehicle on any premises, unless such vehicle is completely enclosed within a lawful building or located in within an approved use for such storage established pursuant to the Zoning Ordinance.
3. Any structure or part of any structure which, because of fire, wind, or other natural disaster, or merely by virtue of physical deterioration is no longer habitable, if a dwelling, nor useful for any other purpose of which it may have been intended.
4. The existence of any vacant dwelling, garage or other out-building unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals, or other unauthorized persons.
5. The existence of any partially completed structure unless such structure is under construction in accordance with a valid building permit issued by the Eaton County Department of Construction Codes for construction upon the same property and unless such construction is completed within a reasonable time.
6. None of the prohibitions enumerated above shall apply to the following:
   1. The use and storage on a bona fide farming operation of operable agricultural machines and equipment directly and currently used as part of that specific farming operation, in accordance with the Michigan Right to Farm Act (RTFA) and conforming to generally accepted agricultural management practices (GAAMPs) developed by the Michigan Department of Agriculture and Rural Development.
   2. Building materials stored on a property for use in a construction project for which there is in force a valid building permit issued by the Eaton County Department of Construction Codes for construction upon the same property unless such construction is not completed within a reasonable time.
   3. Domestic refuse stored in manner as to not create a nuisance for a period not to exceed 15 days.

**SECTION 4: ABATEMENT; NOTICE; CIVIL INFRACTIONS AND CIVIL PROCEEDINGS; AUTHORITY OF OFFICERS TO ABATE PUBLIC NUISANCES.**

1. **Public Nuisances on Township Property.** Whenever any public nuisance described in Section 3 shall exist upon Township property or upon the property of another municipal corporation within the boundaries of the Township, such public nuisance may be abated by the Township Ordinance Enforcement Officer or his/her agent without notice and the cost of abatement shall be charged as provided in Section 6.
2. **Public Nuisances on Private Property.** Whenever any public nuisance shall exist on private premises within the Township, the Township Ordinance Enforcement Officer or his/her agent shall give notice in writing by either personal, hand delivery or by certified mail, return receipt requested, addressed to the owner or occupant of the property where the public nuisance exists or to the person otherwise responsible for such public nuisance. Such notice shall specify the location and nature of the public nuisance and shall indicate that such owner or occupant or person otherwise responsible is required to repair, tear down, abate, or otherwise remove the public nuisance within 30 days of the receipt of the notice. Following the issuance of such notice, the Township Ordinance Enforcement Officer or his/her agent may proceed to initiate civil infraction or other civil proceedings permitted by law to abate the public nuisance.
3. **Civil Infractions.** Any person or other entity who causes or permits to continue a public nuisance as prohibited by this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and is subject to a civil fine of not more than $500.00, plus costs, which may include all direct or indirect expenses which the Township has incurred in connection with the violation, including attorney’s fees, and any order from the Court as necessary to obtain and maintain compliance with this Ordinance. Violators are subject to additional sanctions, remedies, and judicial orders as authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

**SECTION 5: PUBLIC NUISANCES; EMERGENCY ABATEMENT; COSTS**. The Township Ordinance Enforcement Officer may act to abate a public nuisance without giving notice, as specified in Section 3, if the public health, safety, or welfare requires immediate action to prevent an imminent threat to the public health, safety, or welfare. The cost of abating such nuisance shall be charged as specified in Section 6.

**SECTION 6: ABATEMENT; COSTS.** All expenses incurred by the Township, the Township Ordinance Enforcement Officer or his/her agent in repairing, tearing down, abating, or otherwise removing a public nuisance under this Ordinance shall be charged to the person responsible therefor, the occupant of the land in question, or the person who appears as owner or party in interest upon the last local tax assessment records of the Township. If such person fails to pay the expenses incurred by the Township in abating a nuisance within 30 days after a statement for said charges is mailed to him or her, the amount thereof shall be assessed against the lands on which the expenditures were made on the next general tax assessment roll of the Township and shall be collected in the same manner as other taxes are collected. The Township shall have a lien upon such lands for such expense; such lien is to be enforced in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

**SECTION 7: SEVERABILITY.** Should any provision, section, paragraph, sentence, or word of this ordinance be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance shall remain in full force and effect.

**SECTION 8: REPEAL.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 9: EFFECTIVE DATE AND ADOPTION.** This Ordinance shall take effect 30 days after its publication as required by law.

**INTRODUCED FOR POSTING, PUBLICATION AND SUBSEQUENT FINAL ADOPTION:**

YEAS: \_\_7\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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STATE OF MICHIGAN )

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COUNTY OF EATON )

I, the undersigned, the duly qualified and acting Clerk of the Charter Township of Benton, Eaton County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of an Ordinance adopted at a regular meeting of the Township Board on the 12th day of July, 2021, and that such Ordinance was duly published in the Charlotte Shopping Guide on the 17th day of July, 2021.

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Eugene Shanahan, Township Clerk

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Gary Suits, Township Supervisor