

ORDINANCE NO. 141 (AS AMENDED)

AN ORDINANCE TO PREVENT, REDUCE OR ELIMINATE BLIGHT, BLIGHTING FACTORS OR CAUSES OF BLIGHT WITHIN KIMBALL TOWNSHIP, ST. CLAIR COUNTY, MICHIGAN; TO PROVIDE FOR THE ENFORCEMENT HEREOF; AND TO PROVIDE PENALTIES FOR THE VIOLATION HEREOF, PURSUANT TO THE ENACTING AUTHORITY THEREFOR PROVIDED BY ACT 344 OF THE PUBLIC ACTS OF 1945, AS AMENDED, AND ACT 246 OF THE PUBLIC ACTS OF 1945

THE TOWNSHIP OF KIMBALL ORDAINS:

Section 1. Purpose

The purpose of these regulations is to limit and restrict the outdoor storage and unreasonable accumulation of junk cars, dismantled, partially dismantled or unlicensed inoperable motor vehicles or the parts thereof and other junk upon any land in the Township except as specifically provided otherwise herein. These are declared to be blight and blighting factors which cause a negative impact upon the area and community of Kimball Township, cause injury to children and others attracted to dilapidated or incomplete structures, and cause the devaluation of property values, and in general cause adverse effects by the presence of such blight and blighting factors upon adjoining residents and property owners; this Ordinance is adopted pursuant to Act 246 of Public Acts of 1945 and any other applicable law.

Section 2. Regulations

A. No person, firm or corporation shall store, place or suffer or permit to be stored or placed, or allowed to remain on any parcel of land for a period of more than 48 hours, more than two junk motor vehicles, unless the partially dismantled or inoperable vehicles are kept within a wholly enclosed structure or are located in an approved junk yard as otherwise provided by Township Ordinance or other law. The one or two junk motor vehicles allowed for more than 48 hours must be stored in the rear yard of said premises in a manner such that it does not constitute a public nuisance and is not visible from any public place or street or any adjoining residentially zoned parcel.

B. Except as otherwise allowed by law, no junk, machinery, equipment, vehicles, lumber piles, crates, boxes, building blocks, or other materials either discharged, unsightly, or showing evidence of a need for repairs order to be operable,

shall be placed, stored, suffered, parked, abandoned or junked in an open area that is visible from the street, public place or an adjoining residentially zoned parcel, for longer than 48 hours nor in such manner so as to constitute a public nuisance. This section does not apply to storage of building materials for on-site construction purposes or wood products for heating purposes stacked in an orderly fashion in rear yards.

C. In the event of a violation written or verbal notice shall be given to the owner or person in possession of the premises upon which the violation is occurring and/or the owner or person in possession of the personal property causing the violation. The notice shall direct the person to whom it is issued to remove or cause to be removed said personal property within 48 hours after the giving of such notice. Failure to comply with such notice within 48 hours shall constitute an additional and separate violation of this Ordinance. The above notwithstanding, upon investigation, a written extension of time to comply may be issued to the owner or person in possession.

D. Exclusions. This ordinance does not apply to bona fide farming activities except as to paragraph A above, and does not apply to premises or property otherwise authorized or pre-empted by law.

### SECTION 3. Definitions

A. Junk. For purposes of this ordinance, junk is any of the following items that are substantially damaged, deteriorated, have parts missing, or are in a condition in which said items cannot be used for the purpose for which the product was manufactured, including materials intended for recycling: an unlicensed motor vehicle, equipment, machinery, appliance, product, scrap metal, or scrap material, or merchandise, or any parts of the foregoing items.

B. Rear Yard. For purposes of this ordinance, rear yard shall be defined as that area behind a building on said premises or if there is no building then that area behind minimum front yard set-back for buildings.

C. Inoperable Motor Vehicle. For purposes of this ordinance, an inoperable motor vehicle shall mean any unlicensed vehicle which is incapable of being self-propelled upon the public streets, or which does not meet the requirements for operation upon the public streets.

Section 4. Penalty Clause and Persons Authorized to Enforce Civil Infraction

A. Any person, firm or corporation who violates any provision of this Ordinance, or any amendment, including the owner, possessor or occupier of any premises within the Township who allows or suffers such violation upon said premises, is "responsible" for having committed a Grade Two municipal civil infraction, as provided for in Act 12 of Public Acts of 1994 and authorized by Act 14 of Public Acts of 1994 and Act 246 of Public Acts of 1945.

B. Such violation is punishable by a civil fine currently set by this Ordinance and Kimball Township Ordinance #141-C as a Grade 2 Offense subject to the following schedule of fines:

Offense	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup> or more
Grade	Offense	Offense	Offense	Offense
2	\$100.00	\$275.00	\$375.00	\$500.00

The determination of 1st, 2nd, 3rd and 4th Offense or more shall be based upon the three year period immediately proceeding the dates of a violation, as alleged or as determined, as the case may be.

C. Costs of the action may be taxed and imposed against the defendant. Costs are not limited to costs taxable in ordinary civil actions and may include all expenses, direct or indirect, to which the plaintiff (the Township or other enforcing municipality, agency or other entity) has been put in connection with the municipal civil infraction, up to entry of judgment. Costs shall be not less than \$9.00 and not more than \$500.00.

D. Any judicial order, sanction writ or other court order, or any post judgment remedy, as provided by law, necessary to enforce the Ordinance and correct or abate a violation, or necessary to enforce any orders and determinations of the court, judge or district court magistrate, and including civil contempt proceedings, may be issued as appropriate and as provided for by law, including but not limited to the imposition of liens against real estate interests, seizure of property, attachment and garnishment and including post judgment enforcement costs and expenses as provided for by law, including any other enforcement authority set forth in any ordinance. This ordinance is enforceable by the judge or magistrate, and by the Township or other enforcing agency or entity to the fullest extent as provided by law relative to violations of municipal civil infractions. In addition to anyone else pursuant to (A) above,

any Township Ordinance Enforcement Officer and the Township Supervisor are authorized to issue citations for violation of this Ordinance, and to enforce this Ordinance in general, and the Township Board may authorize by Resolution or Ordinance, other Township agents and personnel to enforce this Ordinance. This latter sentence is supplemental to any other ordinance, resolution or motion and does not impair the same.

E. The enumeration of certain powers and remedies within this paragraph is not intended to restrict any enforcement authority or remedy or sanction provided for by law, specifically including Public Acts 12 and 14 of 1994 and 246 of 1945.

Provided further however, a violation of this Ordinance is not a misdemeanor and shall not be considered a lesser included offense of any criminal offense.

F. Each day that a violation continues constitutes a separate and independent violation and is subject to the penalties provided for herein for each such violation. A violation of this Ordinance is hereby declared to be a public nuisance per se.

G. The municipal civil infraction notice or citation may be served personally or as otherwise provided by law and if the violation involves the use, condition or occupancy of land or of a structure, the notice or citation may be posted upon the premises or attached to the structure at issue, with a copy sent by first class mail to the owner at his last known address, and/or the owner and address as disclosed by the Township tax rolls. Failure to appear or respond to any notice and/or citations relative to a municipal civil infraction shall be subject to such penalty as is otherwise provided by law.

#### SECTION 5. Severability

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason, it shall not affect any other part or section hereof.

#### SECTION 6. Construction

Whenever any provision of this ordinance imposes more stringent requirements, regulations, restrictions or limitations that are imposed or required by the provisions of any other law or ordinance, then the provisions of this ordinance shall govern. Conversely, whenever the provisions of any other law or ordinance impose more stringent requirements, regulations, restrictions or limitations than are imposed by this ordinance, then the

provisions of such other law or ordinance shall govern.

SECTION 7. Effective Date

This Ordinance and the amendments to this Ordinance were all effective 30 days after publication of this Ordinance and each respective amendment.

Certification

I, Joyce Shaffer, Clerk of the Township of Kimball, do hereby certify that this is a true and correct copy of Ordinance No. 141 as presently amended and effective. Ordinance No. 141 was amended by Ordinance 141-A, 141-B, and 141-F, and 141-C as amended by 141-E as to the Fine Schedule, and the amendments thereto were lawfully adopted and published.

Date: 6/24/02

  
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Joyce Shaffer, Clerk  
Kimball Township

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