

CHAPTER 93: HEALTH AND SANITATION; NUISANCES

Section

- 93.01 Anti-blight
- 93.02 Combustible materials; burning
- 93.03 Smoke detectors
- 93.04 Fire limits; fire prevention generally
- 93.05 Placing building material on sidewalks, streets and the like

- 93.99 Penalty

§93.01 ANTI-BLIGHT.

(A) *Purpose.* Consistent with the letter and spirit of Public Act 344 of 1945, being MCL §125.71 *et seq.*, as amended, it is the purpose of this section to prevent, reduce or eliminate blight or potential blight in the village by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist in the Village.

(B) *Cause of blight or blighting factors.* It is hereby determined that the following uses, structures and activities are 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 chapter, 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 the Village, which is owned, leased, rented or occupied by such person, firm or corporation.

(1) In any area, the storage upon any property of one or more junk automobiles, except in a completely enclosed building. For the purposes of this section, the term “junk” automobile shall include any motor vehicle which is not licensed for use upon the highways of the state, cannot be lawfully driven on public streets pursuant to state statutes, or whether so licensed or not, include any motor vehicle which is inoperable. “Inoperable” means incapable of being operated or propelled under its own power by reason of dismantling, disrepair or other cause, for any reason. Recreational vehicles, travel trailers, “fifth wheels” and other similar vehicles that are normally used for travel purposes and that are licensed either annually or during the period of use, which are kept in repair and parked in the driveway, parallel to the side of a residence, or in the back yard, shall be exempt from this subsection. No such vehicle shall be allowed to remain on any property when used for living purposes.

(2) In any area, the storage upon any property of building materials, except in a completely enclosed building, unless there is in force a valid building permit issued by the Village for construction upon the property and the materials are intended for use in connection with such construction. Building materials shall include, but not be limited to: wood, 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 material used in constructing any structure.

(3) In any area, the storage or accumulation of junk, trash, rubbish, or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance. The term “junk” shall

include bottles, cans, garbage, rubbish, parts of machinery or motor vehicles, appliances stored in the open, remnants of wood, metal or any other materials and/or building materials, or other cast-off material of any kind, whether or not the same could be put to any reasonable use.

(4) In any area, the existence of any structure, or part of structure, which because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, nor legally occupiable, pursuant to Village zoning, building or other Village regulations, nor useful for any other purpose for which it may have been intended.

(5) In any area, the existence of any vacant dwelling, garage, or other out-buildings not kept securely locked, windows kept glazed, or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

(6) In any area, the existence of any partially completed structure, unless such structure is in the course of construction, in compliance with a valid building permit issued by the Village and the construction is completed within a reasonable time.

(7) In any area, the storage upon any property of one or more junk watercraft, except in a completely enclosed building. For the purposes of this section, the term “junk” watercraft shall include any boats, pontoon boats, watercraft or devices designed for water recreational purposes, which are not registered with the state, cannot be lawfully used on any waters of the state pursuant to state statutes, or whether so registered or not, any boats, pontoon boats, watercraft or devices designed for water recreational purposes, which are inoperable. “Inoperable” means incapable of being operated or propelled under its own power by reason of dismantling, disrepair or other cause.

(8) In any area, the existence of semi-trailers being used for storage, unless they are kept in the ordinary course of business in a district zoned specifically for commercial business.

(9) In any area, the existence of noxious weeds. Noxious weeds shall be defined as in MCL §247.62 *et seq.*, as amended, and the Enforcement Officer is appointed as the Village Noxious Weed Commissioner, pursuant to the statute. Owners of property within the Village shall be required to destroy, control, or remove noxious weeds as defined above.

(10) In any area, the existence of grass weeds or brush in violation of an ordinance governing the cutting and destroying of grass, weeds and brush in the village.

(11) In any area, the existence of large amounts of lumber and/or timber. An accumulation of this type of material is allowed as a designated wood pile under the following conditions: the woodpile area to be located within the back yard; the wood is to be stacked orderly, with no random piles; the woodpile is to be maintained in such a manner so as not to allow harborage for rodents, snakes or other vermin. Woodpiles must be maintained so as not to endanger the safety of others or tend to depreciate the value of the property of others.

(12) In any area, the storage upon any property of one or more junk snowmobiles or motorcycles, except in a completely enclosed building. For the purposes of this section, the junk snowmobiles or motorcycles shall include any snowmobiles or motorcycles which are not registered with the state, cannot be lawfully driven where permitted, pursuant to state statutes, or whether so registered or not, any snowmobiles or motorcycles which are inoperable for any reason. “Inoperable” means incapable of being operated or moved under its own power by reason of dismantling, disrepair or other cause.

(C) *Enforcement.*

(1) The owner, if possible, and the occupant of any property upon which any of the causes of blight or blighting factors set forth above 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. Such notice may be served personally or by certified mail, return receipt requested, or by leaving the same with an adult person on the premises, or by affixing the same on two prominent places on the premises, in which latter case, a copy of the notice shall be sent to the owner or occupant at his or her last known address by regular mail with proof of mailing. 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.

(2) Failure to comply with such notice within the time allowed by the owner and/or occupant shall constitute a violation of this section.

(3) Owners and occupants with a prior violation under this Ordinance found to have blight on their property are in immediate violation of this Ordinance and may be issued a citation without providing 10 days' notice.

(4) A person found to have violated this ordinance by a court of competent jurisdiction shall be penalized as follows:

(a) 1st Offense. A civil fine of up to \$100 plus costs of up to \$500.

(b) 2nd Offense. Where the Defendant has one (1) prior violation, a civil fine of up to \$250 plus costs of up to \$500.

(c) 3rd Offense. Where the Defendant has two (2) prior violations, a civil fine of up to \$500 plus costs of up to \$500.

(d) 4th Offense. Where the Defendant has three (3) prior violations, a civil fine of up to \$1,000 plus costs of up to \$500.

In addition to the above, said Court may issue and enforce any judgment, writ, or order necessary to enforce this ordinance, including but not limited to ordering abatement of the blight or issuing a standing blight removal order permitting the Village of Lawton to remove said blight and seek post order or judgment compensation for the costs of removal, or grant any other relief permitted by MCL 600.8302.

If 31 days after payment is due in the judgement or order of the court, the amount due in said judgement or order (excluding damages) is not paid, and if the legal description is contained in the Judgement itself, the Judgement may be recorded as a lien on the real property containing the blight pursuant to MCL §600.8731(1).

The costs recoverable are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Village of Lawton has incurred pursuant to MCL §600.8727(3).

(5) The Village Council, Planning Commission or the Village Attorney may institute injunction, mandamus, abatement, or any other appropriate action, or proceedings to prevent, enjoin, abate or remove any blight or blighting factors. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

(6) In addition to enforcement by a law enforcement officer, the Village may designate one or more code enforcement officers to enforce this ordinance.

(7) A "prior violation" as defined by this ordinance, includes a Judgment in favor of the Village for a violation of this Ordinance, and any alleged violation of this Ordinance that was dismissed pursuant to an agreement entered into between the Village of Lawton and the individual, firm or corporation, maintaining or permitting to be maintained the blight.

(Ord. 159, passed 2-12-2002, Amended Effective 5-3-2016) and see Penalty see §93.99

§93.02 BURNING

(A) *Prohibited open burning.*

(1) General prohibition on open burning. Open burning is prohibited in the Village unless the burning is specifically permitted by this Section, or otherwise permitted by the Village Council and in accordance with all Fire Department rules and regulations.

(2) Open burning of refuse. Open burning of refuse is prohibited. Refuse is defined as anything thrown away, waste, or rubbish.

(3) Burning of materials. Burning of trees, logs that do not fit into a burn pit or patio wood-burning unit, shrubbery, brush, stumps, leaves, refuse and grass is prohibited.

(4) Burning of construction and demolition waste. Burning of construction and demolition waste is prohibited.

(5) Burning Barrels prohibited. No person shall install, use, maintain or operate a “burning barrel” or other similar fire resistant container for open burning.

(B) *Permitted outdoor and open burning.*

(1) Outdoor wood-fired boilers. The installation, use, or maintenance of outdoor wood-fired boilers in the Village shall be with the approval of the Village Council and shall be subject to all zoning regulations. Outdoor wood-fired boilers shall not be located closer than 75' from the nearest structure which is not on the same property as the outdoor wood-fired boiler and shall not be a nuisance to neighboring property.

(2) One backyard burn pit or patio unit(s) e.g. barbecue or smoker grill, table top burners, portable fire pits or chiminea, may be used and/or installed in the Village only in accordance with all of the following:

(a) The backyard burn pit or patio unit shall not be used to burn refuse, leaves, brush, grass clippings, or construction or demolition waste.

(b) The backyard burn pit or patio unit shall only burn clean wood or commercially produced fuel products.

(c) The backyard burn pit or patio unit shall be located at least 25 feet from the nearest structure which is not on the same property as the backyard burn pit or patio burning unit.

(d) The backyard burn pit or patio unit shall not cause a nuisance to neighbors.

(e) The backyard burn pit or patio unit shall be approved by the Village or Fire Department.

(f) The backyard burn pit or patio unit shall be attended by an adult at all times until extinguished and any ashes are cold.

(C) *Village Bags.*

The Village Department of Public Works maintains a supply of biodegradable bags for the purpose of bagging leaves and other biodegradable refuse. Bags may be purchased at the Village Clerk's office at such price as the Village Council shall from time to time establish, which price shall be posted at the Department of Public Works and the Clerk's Office. Only bags obtained from the Village shall be used. Each bag shall be sealed at the top by string, metal twisted strip or such other means as shall ensure that the contents will not spill out. Twigs and sticks may be placed in the bags if they do not substantially damage them. Branches and larger sticks or limbs shall be neatly placed next to the bags set out for pick-up, as provided in division (B)(3) below, or upon arrangements made by, and at the expense of, the property owner or the person or persons responsible for the maintenance of the property.

(D) *Village Council Exceptions.*

The Village Council, upon special request, may grant one-time permits for campfires, organizational bonfires and other open burning within the Village, when it deems the same not to be against the public interest and not contrary to the underlying purpose of this Section 93.02. The requests shall be made to the Village Clerk in writing and factually supported by the applicant or his or her representative at the time of the Council's consideration.

(Ord. 78, passed 2-9-1988; Ord. 119, passed 5-22-1990; Ord. 122, passed 9-11-1990 Amended Effective March 29, 2016). Penalty, see §93.99.

§93.03 SMOKE DETECTORS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SLEEPING AREA. An area of a building in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate ***SLEEPING AREAS***, but bathrooms are not separate ***SLEEPING AREAS***. Bedrooms or sleeping areas on different floors or levels are separate ***SLEEPING AREAS***.

SMOKE DETECTOR. A device, approved or listed by a recognized independent testing laboratory, which detects visible or invisible particles of combustion other than heat and which, when activated, provides an alarm suitable to warn the occupants.

(B) *Requirements.*

(1) *New dwellings.* The installation of a minimum of one smoke detector per sleeping area is hereby required for all new single- or multiple-occupancy residential dwelling constructed subsequent to the effective date of this section. As an alternative to a smoke detector, a fire detection system may be installed. No fire detection system shall be installed unless a permit is issued therefor by the Building Inspector.

(2) *Existing dwellings.* All existing single- and multiple-occupancy residential structures shall, within three years of the effective date of this section, at the time of any change in ownership or in the case of rental property at the time of any change in tenants or when a structural change or repair is made costing \$1,000 or more, whichever occurs first, shall have installed therein a minimum of one smoke detector per sleeping area or a detection system. No detection system shall be installed unless a permit is issued thereof by the Building Inspector.

(3) *Special installations.* In buildings other than a single-family residence, where a common hallway is used, smoke detectors shall be spaced not more than 25 feet apart in the hallway; in buildings other than a single-family residence, a smoke detector shall be placed on each level, including the basement, of the building.

(4) *Installation.* Each required smoke detector shall be mounted on the ceiling or a wall not more than 12 inches from the ceiling, at a point centrally located in a corridor or area giving access to rooms in each sleeping area. In an efficiency dwelling unit, the detector shall be centrally located on the ceiling of the main rooms. Where sleeping rooms are on an upper level, the detector shall be placed at the center of the ceiling directly above the stairway. Care should be exercised to ensure that the installation will not interfere with the operating characteristics of the detector. When activated, the detector shall provide an audible alarm in the dwelling unit. Smoke detectors with D.C. power supply only are permitted, as are detectors with A.C. power supply backed up by a secondary supply which is D.C. An A.C. only powered unit is not permitted for residential type occupancies. Where A.C. /D.C. combination units are used it is required that all A.C. lines be wired directly to the building's power supply. All D.C. power detectors shall have built-in protection to warn of battery failure.

(5) *Maintenance.* It shall be the responsibility of the owner of each dwelling unit and structure covered by this section to maintain all smoke detectors in good working order. This requirement applies to smoke detectors required to be installed by any state or federal law as well as smoke detectors required to be installed by this section, unless otherwise required by state or federal law.

(Ord. 102, passed 4-14-1987) Penalty, see §93.99

§93.04 FIRE LIMITS; FIRE PREVENTION GENERALLY.

(A) No building or structure shall hereafter be constructed, altered or removed, nor shall the equipment of a building, structure or premises be constructed, altered or repaired or removed, except in conformity with the provision of this section.

(B) No building or structure shall hereafter be built, enlarged, altered or moved without a permit from the building official to be appointed by the Village Council.

(C) Fire limits of the Village shall be and are hereby declared to be all land or property lying within the following blocks or areas:

(1) Blocks 1, 2, 3, 4, 5, 6 and 7 inclusive of the Original Plat of the Village;

- (2) Tyler's Addition to the Village;
- (3) Block 1 of Furnace Addition to the Village;
- (4) Hight's Addition to the Village;
- (5) Block 8, Whiteheads Addition to the Village;
- (6) Blocks 1, 2 and 3 inclusive, Dodge's Addition to the Village; and

(7) Also those lands, exclusive of Block 1 of Furnace Addition and Hight's Addition to the Village, lying Northerly of the Penn-Central RR right-of-way, Westerly of Main Street (M-119), Easterly of Walker Street and Southerly of White Oak Street in the Village.

(D) Within the fire limits above described, no building or structure shall hereafter be extended on any side or new building constructed or old building moved within the limits unless the construction conforms to the requirements of this section.

(1) No building of frame construction or unprotected metal construction, except private dwellings, shall hereafter be moved from without to within the fire limits.

(2) No building of frame construction or unprotected metal construction or which has a wooden cornice, except private dwellings, except as hereinafter provided in division (D)(3) below, shall be erected hereafter within the fire limits.

(3) Subject to the following provisions, laminated wood trusses may be used only in churches or church buildings used only for religious purposes, but in no event may they be used in any building where general education of schooling takes place.

(a) The char-rating of the trusses must be adequate, in specific ratings from the manufacturer, to conform to underwriter's specifications and the State Inspection Bureau.

(b) The trusses shall not be enclosed.

(c) The trusses may not be re-worked in any manner after their original manufacturer.

(d) Any building in which the trusses are used may not be decked with any combustible material.

(e) The first floor and basement of any building using the trusses must be of a fire-retardant construction.

(Ord. 16, passed 1-6-1970) Penalty, see §93.99

§93.05 PLACING BUILDING MATERIAL ON SIDEWALKS, STREETS AND THE LIKE.

(A) No person, either personally or by agent, or employee owing, building or repairing any house or other building shall permit any lumber, brick, plaster, mortar, earth, clay, sand, stone or other material to remain on any sidewalk of the Village after sunset of the day on which it was placed there, without the permission of the Superintendent of Public Works or the Chief of the Police Department.

(B) No person, either personally, by agent or employee shall place any stone, timber, lumber, planks, boards, bricks or other material in or upon any street, alley or public space of the Village, except for the purpose of building, and only then upon permission first obtained from the Superintendent of Public Works or Chief of the Police Department, and the material shall not be allowed to remain in the street, alley or public space after the completion of the building. The space to be used can only be that space in front of the lot or premises upon which the material is to be used and shall not occupy and obstruct more than one-half of any street or alley and, after the building is completed, all building material, dirt and rubbish shall be removed without delay.

(C) It shall be the duty of the person before occupying any public sidewalk, street or alley for any purposes heretofore expressed to file application with the Village Clerk for a permit to use the sidewalk, street or alley. After the application has been made and filed with the Village Clerk, the Superintendent of Public Works or Chief of the Police Department shall investigate the space designated in the application and, if it is approved, may issue a permit stating therein the sidewalk, street or alley to be occupied, and the length of time the permit is to be in force; provided, however, that the applicant, before receiving the permit, shall deposit with the Village Clerk a deposit as established by the Village Council from time to time, to be returned to the applicant if the Superintendent of Public Works or Chief of the Police Department so recommends. It being understood that the facts heretofore stated are the guarantee that the applicant will properly guard by good and sufficient fence or other barrier during the daytime, and guard by a sufficient number of red lanterns during the nighttime, and should the applicant fail to properly guard the material in the opinion of the Superintendent of Public Works or the Chief of the Police Department, then in that event, the Superintendent of Public Works or the Chief of Police may proceed to properly guard same and deduct from the deposit what he or she believes to be a proper charge for the service.

(D) It is understood that any applicant applying for a permit agrees to be responsible for any and all damages resulting to any persons or property as a result of placing any material upon any sidewalk, street or alley.

(Ord. 21, passed 1-6-1970) Penalty, see §93.99

§93.99 PENALTY.

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the Chapter or orders, rules, regulations and permits issued thereunder.