NORTHPORT VILLAGE NUISANCE ORDINANCE

ORDINANCE NO. ___ OF 2024

AN ORDINANCE TO DEFINE, PROHIBIT AND PROVIDE PENALTIES FOR MAINTENANCE OF CERTAIN NUISANCES WITHIN THE VILLAGE OF NORTHPORT, TO PROVIDE EXCEPTIONS TO NUISANCE PROSECUTIONS, TO PROVIDE FOR ENFORCEMENT OF THE ORDINANCE AND TO AUTHORIZE ABATEMENT OF A NUISANCE BY THE VILLAGE.

THE VILLAGE OF NORTHPORT ORDAINS:

SECTION 1 - DEFINITIONS

AS USED IN THIS ORDINANCE THE FOLLOWING TERMS SHALL HAVE THE MEANINGS PRESCRIBED IN THIS SECTION.

A. **Abandoned vehicle** - includes, but is not limited to, any vehicle which has remained on private property for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant of the property has been revoked.

B. **Blighted structure** - includes, but is not limited to, any dwelling, mobile home, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure, or part of structure, which, because of fire, wind, or other natural disaster, or physical deterioration, and is no longer useful for the purpose for which it may have been intended. Exempted from this definition are structures that have been used, in the past, primarily for agricultural purposes.

C. **Building materials** - includes, but is not limited, to lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, plastics, synthetics, nails, screws, or any other materials used in construction of any structure.

D. **Correlated Color Temperature (CCT)** - A unit of measure for light color, measured in degrees, based on the Kelvin temperature scale (K). Color temperatures over 3500K are called "cool", or "daylight" colors, while lower color temperatures (2700 - 3000K) are considered "warm" colors.

E. **Fully Shielded** - An outdoor fixture constructed and mounted so that the installed fixture emits no light above the horizontal plane passing below the fixture.

F. **Garbage** - rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables. 'Garbage' does not include a compost pile consisting of decaying organic substances intended for soil conditioning.

G. **Glare** - Light entering the eye directly from luminaries or indirectly from reflective surfaces. This may cause visual discomfort, disability, loss in visual performance or visibility.

H. **Junk** - includes, but is not limited to, broken and/or inoperable machinery or vehicles, or parts relating to machinery or vehicles, or broken and unusable furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any cast-off material of any kind.

I. **Junk vehicle** - includes, without limitation, any vehicle that is not licensed for use upon the highways and/or waterways of the State of Michigan for a period in excess of 365 days, and shall also include, whether licensed or not, any vehicle that is inoperative for any reason for a period in

excess of 365 days.

J. **Light Trespass** -Any light, falling beyond the legal boundaries of the property it is intended to illuminate, causing annoyance, loss of privacy, or other nuisance.

K. **Lumen-A** unit of measure used to qualify the amount of light produced by a lamp or emitted from a fixture (as distinct from "watt", a measure of power consumption).

L. **Outdoor Lighting Fixture** - any lighting device exterior to a building.

M. **Person** - any individual, firm, corporation, association, partnership, limited liability company or other legal entity.

N. **Rubbish** - non- putrescible solid wastes including ashes, paper, cardboard, metal containers, glass, bedding, crockery, bags, rags, and demolished materials.

0. **Sealed container** - a covered, closable container which is rodent-proof, fly-proof and watertight such as garbage cans with properly fitting tops.

P. **Skyglow** - Brightening of the nighttime sky caused by artificial light directed or reflected upwards or sideways.

Q. **Security lighting** - outdoor lighting fixtures intended to discourage or make visible intrusions on the premises.

R. **Totally enclosed structure** - a building such as a house, garage, barn or storage shed with a roof and floor, with walls and closable doors and windows, around its perimeter.

S. **Vehicle** - includes, but is not limited to, every device in, upon, or by which any person or property is or may be transported or drawn upon a highway or waterway, except devices exclusively moved by human power.

SECTION 2 - INTENT AND PURPOSE

The purpose of this ordinance is to promote the general health, safety, welfare and peace of the residents and property owners of VILLAGE OF NORTHPORT by protecting land values, aesthetic values and the rural character of VILLAGE OF NORTHPORT by regulating the following:

A. Storage and disposal of junk, garbage, rubbish and building materials;

B. Storage, parking and unreasonable accumulation of junk vehicles, partially dismantled vehicles and abandoned vehicles;

C. Unreasonable or unnecessarily loud noise disturbances;

D. Outdoor lighting fixtures that contribute to light pollution of the night sky, including glare, light trespass, and skyglow.

E. Structures that have become unsafe and/or uninhabitable due to damage by fire, wind, water or physical deterioration.

F. Creation or maintenance of a natural or man-made conditions that is unsafe and/or creates an unreasonable risk of personal injury or property damage, to any person or property, including the owners or occupants of the property where the condition is located.

SECTION 3 - GENERAL NUISANCES

THE FOLLOWING ARE HEREBY DECLARED NUISANCES BY THE NORTHPORT VILLAGE COUNCIL:

A. **JUNK, GARBAGE, and RUBBISH** -

1. The keeping or storage of ashes, junk, garbage, rubbish, or building materials on private property except as follows:

a. in a sealed container; or
b. within a totally enclosed structure; or
c. entirely screened from view from a public road right-of-way or adjacent property.

2. The placing of ashes, junk, garbage, rubbish or building materials on private property without the owner's permission, or on public property, regardless of whether such are deposited in a sealed container, within a totally enclosed structure, or screened from view.

B. JUNK VEHICLES, PARTIALLY DISMANTLED VEHICLES, ABANDONED VEHICLES

The parking or storage, or placing upon any lands within the VILLAGE, any junk vehicle, abandoned vehicle, or partially dismantled vehicle, unless the same is:

1. wholly contained within a totally enclosed structure, or
2. entirely screened from view from a public road right-of-way or adjacent property, and
3. does not violate any zoning ordinance of THE VILLAGE OF NORTHPORT, or any building code of Leelanau County or the State of Michigan, or meets one of the following conditions:
   a. Vehicles that are temporarily inoperable, because of damage resulting from accident, collision, or minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached, upon presentation to the enforcing officer written proof the vehicle is **in** process of maintenance or repair, and/or is involved in insurance claims litigation or a similar matter and additional time is required for settlement or repair before such vehicle can be moved.
   b. Not more than one vehicle in fully operating condition, such as stock car or modified car that has been re-designed or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall any such vehicle be parked in the front or side street yard area of any such residential premises.
   c. Unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer or another motorized vehicle dealer.
   d. Any inoperable or damaged vehicle on the premises of an authorized vehicle repair garage.

C. NOISE - Any loud, unnecessary, unnatural or unusual noise, created, maintained or permitted by any person, and the noise is of such character, intensity or duration, either steadily or intermittently, or by reason of the hour of the day or night, place or use, that it annoys, disturbs, injures, endangers or impairs the comfort, health, convenience, safety, welfare, enjoyment, and peace and quiet of other persons in the vicinity.

MAY NEED A MORE OBJECTIVE DEFINITION OF A NOISE NUISANCE THAT IS DETERMINED BY TIME OF DAY, DURATION OF DISTURBANCE , LEVEL OF VOLUME. NOISE NUISANCE ORDINACES CAN BE DIFFUCULT TO ENFORCE IF THE DEFINITION OF AN ACTIONABLE NOISE IS NOT WELL DEFINED. THE ZONING ORDINANCE DOES HAVE SOME STANDARDS, BUT SUCH AN ORDINACE IS BETTER LEFT TO A SEPARATE POLICE POWER ORDINANCE RATHER THAN A ZONING ORDINACE THAT IS REALLY ONLY EFFECTIVELY ENFORCIBLE AGAINST A PROPERTY OWNER.

D. OUTDOOR LIGHTING - Any outdoor lighting fixture that is NOT fully shielded is considered a nuisance when:

I. The initial lamp lumens are over 600 lumens.

2. The Color Correlated Temperature (CCT) of the lamp is above 3000K.

Exceptions:

a. Outdoor lights utilized for the proper illumination of an official flag. The US flag should have a light source sufficient to distinguish the colors of the flag, so it is recognizable by the casual observer. (Downward directed solar lights are available for flag poles).

b. Security lighting equipped with infrared or motion sensors.

E. BLIGHTED STRUCTURES - Any blighted structure, unless the same is:

1. Kept securely locked, and
2. Windows kept glazed or neatly boarded up, and
3. Otherwise protected to prevent entrance thereto by unauthorized persons.

Exceptions:

a. Those structures in the process of rehabilitation or reconstruction in accordance with a valid Land Use Permit issued the Village Zoning Administrator and/or a building permit issued by the Leelanau County Building Inspections Department.

b. Any structure designated by the NORTHPORT Village Council, Zoning Administrator, other approved authority, as contributing to the VILLAGE's rural character and/or having historical value.

c. Any structure being demolished according to the terms of a Land Use Permit issued by the Village Zoning Administrator during the time designated in said Land Use Permit.

F. **DANGEROUS CONDITIONS** - the creation, maintenance, or failure to abate after notice, any activity or condition existing on private property, which causes significant and substantial interference with the person, property, health, safety or comfort of, or creates a serious risk of injury or death to the owner or occupant of that property, an adjoining land owner or occupant, or the general public, including invitees, licenses, and trespassers.

SECTION 4 -GENERAL EXEMPTIONS

THE FOLLOWING EXEMPTIONS ARE A COMPLETE DEFENSE TO A PROSECUTION PURSUANT TO SECTION 3 OF THIS ORDINANCE:

A. INDUSTRIAL USAGE - The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property, and is properly screened from view incompliance with applicable requirements of the VILLAGE OF NORTHPORT Zoning Ordinance.

B. EMERGENCY SITUATIONS - Authorized emergency vehicles involved m emergency situations.

C. AGRICULTURAL OPERATIONS - Any activity that is regulated as a fann operation" within the Michigan Right to Farm Act, 1980 P.A. No. 93, MCLA 286.471 et seq, and conducted in accordance with the State of Michigan's Generally Accepted Agricultural and

Management Practices (GAAMPs).

SECTION 5 - PROHIBITION - No person shall commit, create, or maintain any nuisance. No person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person. Each day a nuisance shall exist shall be construed as a separate violation.

SECTION 6 -PENALTY/CIVIL INFRACTION - Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961. being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/1 00($500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

SECTION 7 - **ENFORCEMENT OFFICER** - The Village Manager, and such other officers as the Village Council shall designate, are authorized to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

SECTION 8 - CIVIL ACTION - In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the VILLAGE may initiate proceedings in the appropriate Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

SECTION 9 - **ABATEMENT BY VILLAGE** - If the owner or possessor of any property on which a nuisance exists fails to eliminate a nuisance after having received notice from the VILLAGE' designated enforcement officer of the existence of the nuisance, the designated enforcement officer may take such steps as are necessary to abate or eliminate the nuisance, in accordance with established enforcement procedures. The cost of elimination of the nuisance by the VILLAGE, including reasonable attorney fees, may be collected in a lawsuit against the owner and/or possessor of the property on which the nuisance existed and/or against the person who committed, created, or maintained the nuisance.

SECTION 10 - VALIDITY - If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

SECTION 11 - EFFECTIVE DATE -This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the VILLAGE.