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ORDINANCE NO. 29  
Property Use Ordinance

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*An Ordinance to promote the health, safety, and welfare of the citizens of the Village of Newberry by deeming certain acts unlawful. This Ordinance is adopted to specify the use of Property and in particular to prohibit some uses that diminish the use of property of others, and/or endanger the health, safety and welfare of the people and property in the Village of Newberry.*

*An Ordinance to provide for the vacation, alteration, repair or demolition of any building or other structure which is or threatens to be a Public nuisance, dangerous to the welfare of the people of the Village of Newberry, or which might tend to constitute a fire menace; To provide for the abatement of such nuisance and the recovery of costs in connection therewith; and to provide for a penalty for the violation thereof.*

*An Ordinance to regulate the width and depth of lots in plats in the Village of Newberry, Luce County, Michigan.*

*An Ordinance defining, licensing and regulating junk yards, junk shops, junk dealers, junk collecting, second hand dealers and collectors or second hand property establishing fees for the licensing thereof and providing penalties.*

*WHEREAS, The business of purchasing and dealing in second hand property and junk is one offering opportunity for theft and attracting juvenile miscreants; and said business being of such character as to effect the value of property located in the vicinity of such business; and, eliminating of health and fire hazards.*

THE VILLAGE OF NEWBERRY ORDAINS:

**Section 29:1 Trees and Other Vegetation:**

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**29:1:1 Definitions:**

The following definitions shall be applicable in the interpretation of this Ordinance:

- 1) "Lawn Extension": The unpaved portion of any street which is inside the curb line.
- 2) "Superintendent": The Superintendent of the Street Department.
- 3) "Administrator": The Administrative Assistant for the Village.

**29:1:2 Permits for Tree Planting Care or Removal:**

The Superintendent shall have the sole authority over the planting, maintenance and removal of trees in the street right-of-way and other Village property. No person without written permission of the Superintendent shall plant, remove, break, spray or take any action which will injure or destroy any tree or shrub, the base of which is located in the street right-of-way or other Village land.

**29:1:3 Private Grounds:**

No tree or other vegetation which by virtue of disease, damage or insect infestation presents a hazard to persons or vegetation on public property shall be maintained on private property.

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**29:1:4 Trimming and Corner Clearance:**

Trees and other vegetation on private property shall be maintained so that no part thereof intrudes upon the public right-of-way in the space 8 feet above the surface of the right-of-way. Vegetation on private property within 25 feet of the intersection of right-of-way lines shall not be permitted to grow above the height of 36 inches above the adjacent right-of-way surface. Trees may be maintained within 25 feet of the intersection but must have all branches trimmed to provide clear vision for a vertical height of 8 feet above the roadway surface.

**29:1:5 Lawn Extensions:**

The owner or occupant of every parcel of land is responsible for grading, planting, mowing and raking the extension so that it is covered with grass or other ground cover approved by the Superintendent with an average height not in excess of 6 inches. Upon receipt of evidence demonstrating that vegetation cannot be maintained on a lawn extension, the Superintendent may issue a permit to cover the lawn extension with stone or such other material as will present a neat appearance. The Superintendent may also designate natural areas where vegetation on the lawn extension may be permitted in excess of 16 inches.

**29:1:6 Grass and Weeds:**

This Section is reserved for previously adopted provisions. Annually, a notice shall be published in a local newspaper in May indicating that, if weeds are not cleared by July 1, they may be removed by the Village and the costs charged against the property.

**29:1:7 Enforcement:**

If private property or a lawn extension is not maintained as required by this Ordinance, the Superintendent may have the work done to bring the property or lawn extension into compliance. The notice provided for enforcement of sections other than Section 3:16 shall be sent to the address of the owner as shown on the Assessor's records at least 5 days prior to commencing the work. In the case of an immediate hazard to public safety no prior notice shall be necessary. The actual costs of the work needed to bring property or a lawn extension into compliance, together with an additional 15% of that cost shall be billed to the owner. If this amount is not paid within 45 days, it shall be a special assessment against the property as provided in Section 1:292 of this Code.

**29:1:8 Financial Hardship:**

Under proof of financial hardship, the Administrator may authorize charges under Section 3:17 to be paid in installments or to be reduced and will be subject to Council approval.

**29:1:9 Persons Responsible for Compliance:**

The owner (as shown on the Assessor's records) of private property subject to this Ordinance is responsible for compliance. Violation of this Ordinance shall be punishable by a fine of not less than \$50 for the first offense, not less than \$100 for the second offense and not less than \$200 for each additional or subsequent offense within a 2 year time period. The fine shall not exceed \$500.00.

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29:1:10 Effective Date:

This ordinance shall be effective 20 days after publication. Adopted and approved July 12, 1993. Published July 21, 1993.<sup>1</sup>

**Section 29:2 Set-Backs:**

29:2:1 Definitions:

a) "Set-back " The minimum distance from the lot line to the wall or foundation wall of any building or structure.

29:2:2 Set-Back:

No Building or structure shall be erected unless the following within the following set-back:

a) Front Lot Line: 10 feet.

b) Side Lot Line: 4 feet.

c) Rear Lot Line: 6 feet.

29:2:3 Alternate Method of Computing Set-Back:

Where the set back in Section 29:2:2 would exceed 5 percent of the dimension of the lot (5%) the set back for that particular line shall be reduced to 5% of the length or width of the lot. Set-Back not exceeding 5% shall not be modified. For this Section, a lot shall be defined as the lot according to the current plat. Unplatted lots shall not be eligible for the Alternate Method of Computing Set-Back.

29:2:4 Utility Connection:

The Village of Newberry and or the Newberry Water & Light Board shall not permit any utility service to any building or structure built in violation of this Section. It shall be the obligation of the Owner or person apply for utility service to demonstrate by a certified survey that any Building or Structure built after the effective date of this Ordinance complies with the provisions of this section. Any Building or Structure built in violation of this Ordinance shall be deemed a Nuisance. *The Village of Newberry reserves the right to add further procedures or penalties concerning set-backs. Nothing in this Ordinance shall prevent any party from maintaining a civil action concerning a Building or Structure built in Violation of this Section.*<sup>2</sup>

29:2:5 Effective Date:

This Ordinance shall be effective 20 days after publication. Adopted and approved July 12, 1993. Published July 21, 1993.

**Section 29:3 Snow Removal Zone:**

*The Village of Newberry adopts Section 3 of Ordinance 29 to prohibit placement of objects near plowed street. This Ordinance is adopted to prevent damage to objects placed in the Snow Removal Zone and to limit the claims against the Village for damages to objects placed in the zone. The Ordinance is further adopted for the purpose of informing the residents of the Village of the dangers involved in placing objects in the zone.*

29:3:1 Snow Removal Zone-Defined:

The snow removal zone is defined as:

a. The area between the improved portion of the street and the sidewalk; or

b. The area between the improved portion of the street and a distance of 5 (five) feet from the edge of the improved portion of the street if there is no sidewalk.

29:3:2 Placement of Objects in Snow Removal Zone-Prohibited:

A. No object may be attached to the ground, directly or indirectly, in the *snow removal zone*. Any object placed, in part, beneath the surface of the ground shall be deemed *per se* attached. However, attachment by anchoring, securing, pedals, or any other method is also prohibited.

B. No object may be placed in the *snow removal zone* from December 1 thru March 29.

29:3:3 Violation-Notice-Misdemeanor:

The Newberry Village Police Department may give any person violating § 29:3:2 shall be given written notice to remove the object(s) as follows:

A. Violations of § 29:3:2 A.: The owner of the property(real estate) or if the object is in the street Right of Way, the contiguous property, shall be given Thirty (30) days written notice to abate the nuisance by removing the object.

B. Violations of § 29:3:2 B.: The owner of the property(real estate) or if the object is in the street Right of Way, the contiguous property, shall be given Seventy-two (72) hours written notice to abate the nuisance by removing the object. However, if the object is registered with the Michigan Secretary of State, the notice shall be given to the registered owner.

a. Misdemeanor: Any person(s) failing to remove an object in the *snow removal zone*, within the time period provided, after proper written notice has been given, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

b. Proper Notice Defined: Proper written notice may be made by a written request signed by a police officer, giving a description of the object, the location of the object, a copy of Section 3 of Ordinance 29, a request to remove the object and the time period for removing the object. The notice may be

Section 29:1 Prior Ordinance No. 35:1, Adopted July 13, 1993

Section 29:2 Prior Ordinance No 35:2. Adopted July 13, 1993.

delivered by personal service, Certified mail with a Return Receipt, *or if service cannot be made in any other manner*, by a conspicuous posting on the object.

c. Objects in the *snow removal zone* in violation of Section 3 of Ordinance 29 shall constitute a nuisance. Each day of violation shall constitute a separate nuisance.

d. Nothing in this ordinance shall prohibit the Village of Newberry from exercising any other authority with regard to objects in the *snow removal zone* afforded by law.

**29:3:4 Placing/Directing Violation-Misdemeanor:**

Any person placing an object on the property(real estate) of another, or directing another person to place an object, within the *snow removal zone*, as set forth in § 29:3:2, shall be guilty of a misdemeanor.

**29:3:5 Effective Date:**

The amendment to Ordinance 29 adding Section 3 Shall be effective 20 days after publication. Section 3: Adopted and approved this 10th day of January, 1994.<sup>3</sup>

**Section 29:4 Dangerous Buildings:**

**29:4:1 Short Title:**

This Section shall be known and may be designated as the "Dangerous Building Section".

**29:4:2 "Dangerous Buildings" Defined:**

All buildings or other structures which have any or all the following defects shall be deemed "dangerous buildings".

**29:4:2a**

Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

**29:4:2b**

Those which, exclusive of the foundation, show thirty three (33) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.

**29:4:2c**

Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

**29:4:2d**

Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Village of Newberry.

**29:4:2e**

Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

**29:4:2f**

Those having sight, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

**29:4:2g**

Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of exit.

**29:4:2h**

Those which have parts thereof which are so detached that they fall and injure members of the public or property.

**29:4:2i**

Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Village of Newberry.

**29:4:2j**

Those buildings which exist in violation of any provision of any Ordinance or code of the Village of Newberry.

**29:4:2k**

Those which have become vacant and are unguarded at door or window so as to allow ready access to children, vagrants and other unauthorized persons.

**29:4:3 Dangerous Buildings-Nuisances:**

All "dangerous buildings" with the terms of Section 21:2 of this Ordinance are hereby declared to be public nuisances and shall be repaired, altered, vacated or demolished as hereinafter provided.

**29:4:4 Standards for Repair, Alteration, Vacating or Demolition:**

The following standards shall be followed in substance by the Building Inspection Team and the Village Council in ordering repair, alteration, vacating or demolition:

1                   **29:4:4a**

2                   If the "dangerous building" can reasonably be repaired or altered so that it will no longer exist in violation of the terms of  
3 this Ordinance it shall be ordered repaired or altered.

4                   **29:4:4b**

5                   If the "dangerous building" is in such condition as to make in dangerous to the health, morals, safety or general welfare  
6 of its occupants it shall be ordered vacated.

7                   **29:4:4c**

8                   In any case where a "dangerous building" is fifty (50%) percent damaged or decayed, or deteriorated from its original value  
9 or structure it shall be demolished, and in all cases where a building cannot be repaired or altered so that it will no longer exist in  
10 violation of the terms of this Ordinance it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing  
11 or erected in violation of the terms of this Ordinance or any Ordinance or code of the City or statute of the State of Michigan is shall  
12 be demolished.

13                   **29:4:5   Duties of Building Inspection Team: Inspection:**

14                   The Building Inspection Team shall:

15                   **29:4:5a**

16                   Inspect or cause to be inspected any building or other structure which in this opinion probably is existing in violation of the  
17 terms of this Ordinance, or about which a complaint is filed by any person to the effect that a building or other structure is or may  
18 be existing in violation of the terms of this Ordinance, or which is reported by the Village Fire Department or Police Department or  
19 the County Health Department, as probably existing in violation of the terms of this Ordinance.

20                   **29:4:5b**

21                   Determine for each inspection required, within the standards of Section 21:2 of this Ordinance, whether or not a violation  
22 in fact exists, and make a written record of such determination.

23                   **29:4:6   Duties of Building Inspection Team: Notice to Abate:**

24                   Whenever the Building Inspection Team determines that a "dangerous building" exists within the standards of Section 21:2  
25 of this Ordinance they shall:

26                   **29:4:6a**

27                   Notify, in writing, by registered mail or personal service, the owner, occupant, lessee, mortgagee, agent and all other  
28 persons having interest in said building found by them to be a "dangerous building" within the standards set forth in Section 21:2  
29 of this Ordinance, that:

- 30                   (1)       the owner must vacate or repair, alter, or demolish said building in accordance with the terms of the Notice and  
31 this Ordinance;
- 32                   (2)       the occupant or lessee must vacate said building or may have it repaired in accordance with the Notice and  
                    remain in possession;
- 33                   (3)       the mortgagee, agent or other person having an interest in said building as shown by the land records or the  
34 Register of Deeds of the County of Luce may at their own risk, repair, alter, vacate or demolish said building or  
35 have such work or act done.

36                   **29:4:6b**

37                   Set forth in the Notice provided for in subsection 21:6:1 hereof, a description of the building, or structure deemed unsafe,  
38 a statement of the particulars which make the building or structure a "dangerous building" and an "order" requiring the same to be  
39 put in such condition as to comply with the terms of this Ordinance within such length of time, not to exceed thirty (29) days, as is  
40 reasonable: it is provided that the Building Inspection Team may grant one or more extensions of time for compliance with said  
41 Notice, upon request from the owner, occupant, lessees, mortgagee, agent or other person having an interest in said building, when  
42 in the opinion of the Building Inspection Team the need for such extension is justified by circumstances beyond the control of said  
43 interested person or persons, the total of all such extensions not to exceed sixty (60) days.

44                   **29:4:6c**

45                   Place a Notice on all "dangerous buildings" reading as follows:

46                   "This building has been found to be a dangerous building by the Building Inspection Team. This Notice is to remain on  
47 this building until it is repaired, vacated, or demolished in accordance with the Notice which has been give the owner, occupant,  
48 lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the land records  
49 of the Register of Deed of the County of Luce. It is unlawful to remove this Notice until such Notice is complied with."

50                   **29:4:6d**

51                   Report to the Council any non-compliance with the "Notice" provided for in Subsections 21:6:1, 21:6:2 and 21:6:3 hereof.

52                   **29:4:6e**

53                   Appear at all hearings conducted by the Council and testify as to the condition of "dangerous buildings".

54                   **29:4:7   Procedure for Non-Compliance:**

55                   Upon receipt of a report from the Building Inspection Team as provided herein in Section 21:6, subsection 21:6:4, the  
56 Council shall:

57                   **29:4:7a**

58                   Give written Notice by registered mail or personal service to the owner, occupant, mortgagee, lessee, agent and all other  
59 persons having an interest in said building as shown by land records of the Register of Deeds of the County of Luce, to appear  
60 before them on the date specified in the Notice to show cause why the building or structure reported to be a "dangerous building"  
61 should not be repaired, altered, vacated or demolished in accordance with the statement of particulars set forth in subsections 21:6:1  
62 and 21:6:2; said Notice of hearing to be mailed at least ten (10) days prior to the date of said hearing.

63                   **29:4:7b**

64                   Hold a hearing and hear such testimony as the Building Inspection Team and the owner, occupant, mortgagee, lessee,  
65 or any other person having an interest in said building as shown by the records of the Register of Deeds for the County of Luce, shall  
66 offer relative to the "dangerous building", as well as testimony from other citizens affected by said "dangerous building".



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**29:4:7c**

Make written findings of fact from the testimony offered pursuant to subsection 21:7:2 as to whether or not the building in questions is a "dangerous building" within the terms of Section 21:2 of this Ordinance.

**29:4:7d**

Issue an order based upon finding of fact made pursuant to subsection 21:7:3 commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the Register of Deeds for the County of Luce, to repair, alter, vacate or demolish any building found to be a "dangerous building" within the terms of this Ordinance, and provided that any person notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building". Or any person not the owner of said "dangerous building" but having an interest in said building as shown by the land records of the Register of Deeds for the County of Luce may repair, alter or demolish said "dangerous building" at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands, by the Village as provided for in subsection 21:7:5 hereof.

**29:4:7e**

Provided in said Order that if the owner, occupant, mortgagee, or lessee fails to comply with the Order as provided in subsection 21:7:4 hereof, within thirty (29) days, the Village shall cause such "dangerous building" to be repaired, altered, vacated or demolished as the facts may warrant, under the standards provided in Section 21:3 of this Ordinance, and shall cause the costs of such repair, alteration, vacating or demolition to be charged, by special assessment in accordance with the provisions of the Village Charter, against the property on which said "dangerous building" existed; provided that, in lieu of said special assessment, or as an additional remedy, the Village may bring a personal action against the owner or owners of said premises to recover the cost of such repair, alteration or demolition, and provided further, that in cases where such procedure is desirable and any delay caused will not be dangerous to the health, morals, safety or general welfare of the people of the Village of Newberry, the Village Council may direct the Village Attorney to take legal action to force the owner or owners to make all necessary repairs or alterations or demolish the building.

**29:4:8 Emergency Cases:**

Notwithstanding the provisions of Section 21:6 and 21:7 of this Ordinance, in cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a "dangerous building" as defined is immediately repaired, altered, vacated or demolished, the Building Inspection Team shall report such facts to the Village Council, which shall cause the immediate repair, alteration, vacating or demolition of such "dangerous building". The cost of such emergency repair, alteration, vacating or demolition of such "dangerous building" shall be collected in the same manner as provided in Section 21:7, subsection 21:7:1 of this Ordinance.

**29:4:9 Administrative Liability:**

No officer, agent or employee of the Village of Newberry shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this Ordinance. Any suit brought against any officer, agent or employee of the Village of Newberry as a result of any act required or permitted in the discharge of his duties under this Ordinance shall be defended by the Village Attorney until the final determination of the proceedings therein.

**29:4:10 Violation-Penalty for Disregarding Notices or Orders:**

The owner of any "dangerous building" who shall fail to comply with any Notice or Order to repair, alter, vacate or demolish said building shall be responsible for a civil infraction and shall be subject to a fine not to exceed Five Hundred (\$500.00) Dollars for each offense and the further sum of Thirty (\$30.00) Dollars for each and every day such failure to comply continues beyond the date fixed for compliance. Each day shall constitute a separate offense.

The occupant or lessee in possession who fails to comply with any Notice to Vacate or who fails to repair or alter said building in accordance with any Notice given as provided for in this Ordinance shall be guilty of a misdemeanor and upon conviction, 90 days in jail and/or a fine not to exceed Five Hundred (\$500.00) Dollars for each offense and a further sum of Thirty (\$30.00) Dollars for each and every day such failure to comply continues beyond the date fixed for compliance. Each day shall constitute a separate offense.

Any person removing the Notice provided for in Section 21:6 subsection 3 hereof shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed Five Hundred (\$500.00) Dollars for each offense.

**29:4:11 Severability:**

The Sections and subsections of this Ordinance are declared to be severable, and if any portion shall be found invalid by a Court of competent jurisdiction, such invalidness shall not affect the remaining portions or applications of this Ordinance.

**29:4:12 Building, Inspection Team:**

The Building Commission shall consist of the Chief of Police, Fire Chief, and representative from the Department of Public Health.

**29:4:13 Publication and Effective Date:<sup>4</sup>**

This Section Adopted & Approved. Adopted and Amended July 13, 1987.

This Ordinance shall be published and shall be effective 20 days after publication.

**Section 29:5 Village of Newberry Appeals Board:**

**29:5:1 Establishment and Purpose:**

A Village of Newberry Appeals Board is hereby established for the purpose of hearing and deciding appeals concerning the application or interpretation of the provisions and standards of this Property Use Ordinance. (Ordinance 29.)

**29:5:2 Powers and Duties:**

The powers and duties of the Village of Newberry Appeals Board are those set forth by statute, together with those powers and duties delegated to it by Ordinance 29 and this Section, as approved, adopted and amended.

**29:5:3 Effect Appeal on Correction Time Limits:**

A responsible party who has been ordered or given notice to correct a violation of this Property Use Ordinance within a specified period of time shall not be held accountable for any time which elapses between the time of filing an appeal pursuant to the provisions of Section 29.17 and the time a decision is made by the Village of Newberry Appeals Board.

**29:5:4 Appeal Fees:**

The Administrator may, subject to the approval of the Village Council, establish and charge a uniform and reasonable fee for appeals from time to time.

**29:5:5 Procedures Prior to Hearing:**

Prior to an appeal hearing, the Village Property Use Administrator shall forward to the Village of Newberry Appeals Board the appeal form, a copy of the notice or order being appealed and a summary report of all previous action taken. Public notice of the meetings of the Board and all its committees shall be made in accordance with State law.

**29:5:6 Meetings:**

Meetings of the Village of Newberry Appeals Board shall be scheduled at least once a month, provided a Notice Requesting Hearing has been filed with the Board. All meetings and notices of meetings of the Board and its committees shall comply with the Open Meetings Act.

**29:5:7 Hearings on Appeals:**

All hearings on appeals shall take place at a regular or special meeting of the Village of Newberry Appeals Board. The Village Property Use Administrator and the Board shall have two weeks after an appeal form is filed pursuant to Section 29.17 to notify the appellant of the scheduled hearing date.

**29:5:8 Hearing Procedures:**

At any hearing of the Village of Newberry Appeals Board, the following procedures shall be followed:

- (a) Testimony of the appellant, the Village Property Use Administrator and any witnesses shall be recorded by a method provided by the Appeals Board.
- (b) The appellant, or the authorized agent of the appellant, and the Village employee who issued the order or notice shall be present.
- (c) A quorum of the Board shall be present.
- (d) Minutes shall be prepared which identify all parties present, accurately summarize all pertinent statements made, include all evidence and records submitted, show all motions and actions of each member and record the vote of each member.

**29:5:9 Decision by Board:**

After all evidence and testimony has been presented, the Village of Newberry Appeals Board shall affirm, modify or reverse the order or notice being appealed.

**29:5:10 Standards for Board Orders:**

Any order issued by the Village of Newberry Appeals Board shall include the reasons the Board granted the order and shall:

- (a) Include any necessary special conditions to carry out the intent of the provisions being appealed; and
- (b) Determine that the order is necessary to avoid causing undue hardship; or
- (c) Determine that the Administrator's order or notice was an incorrect interpretation of a standard of this Property Use Ordinance; or
- (d) Determine that an alternative proposed by an appellant meets the minimum standards for property use as expressed in this Property Use Ordinance.

**29:5:11 Summary of Rulings:**

The Village of Newberry Appeals Board shall submit a report to the Village Council annually. The report shall include a summary of recurrent appeals or recurrent problems along with resultant recommendations for modifications of this Property Use Ordinance.

**29:5:12 Membership and Appointments:**

The Village of Newberry Appeals Board shall consist of (5) Five regular members, who shall be appointed by the Village president and approved by the Village Council. Upon the effective date of this section, each member shall be appointed for three years or until his or her successor takes office. No member shall serve more than two consecutive terms. Three members shall constitute a quorum for the purpose of making a determination under this Property Use Ordinance. *The Initial appointments shall be (1) for One year, (2) for Two year, and (2) for Three year.* Appointees shall serve until a successor is appointed.

The Village president may appoint not more than two alternate members for the same term as regular members of the Board. An alternate may be called to sit as a regular member if a regular member is absent from or unable to attend two or more consecutive meetings or if the regular member must abstain from voting on a Board matter for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision is made.

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1 The Village President shall designate one member to act as Chairman and one member to act as Vice Chairman. The  
2 Chairman and Vice Chairman shall serve for one year and may succeed themselves. If the Village Clerk is not in attendance, the  
3 Chairman shall appoint a person to take the minutes.

4 **29:5:13 Rules of Procedure:**

5 1) The Village of Newberry Appeals Board shall adopt bylaws or may amend bylaws as required to carry out its  
6 responsibilities under this Property Use Ordinance, which shall not be effective until approved by the Village Council.

7 2) The Village Clerk shall act as Clerk of the Board and shall take the minutes of the meeting. The minutes shall  
8 be filed with the Village Office within 30 days of the meeting.

9 3) The Chairman shall conduct the meeting. The Vice Chairman shall conduct the meeting in the Chairman's  
10 absence.

11 **29:5:14 Compliance With Board Orders Required:**

12 No person shall violate or fail to comply with an order of the Village of Newberry Appeals Board.

13 **29:5:15 Appeals from Board Orders:**

14 Any responsible party aggrieved by an order of the Village of Newberry Appeals Board pursuant to this Property Use  
15 Ordinance may appeal such order to the County Circuit Court within twenty days from the date of the order. Otherwise, orders of  
16 the Board shall be final.

17 **29:5:16 Clerk, Notices and Requests:**

18 (1) The Village Clerk shall serve as the Clerk of the Village Board of Appeals.

19 (2) All appeals shall be filed with the Village Clerk by:

20 a) Delivering an appeal to the Village Office.

21 b) Mailing an appeal by certified mail, return receipt requested to the Village Clerk at the Village Office.

22 c) Appeals will be considered received on the date of actual receipt.

23 d) The Clerk shall send notices of Appeal Hearings at the direction of the Property Use Administrator.

24 **29:5:17 Penalty:**

25 Failure to comply with the Order of the Board of Appeals shall be a misdemeanor punishable by 90 days in jail and/or a  
26 fine of up to \$500.00 together with payment of all costs of prosecution.

27 **29.5:18**

28 A person directed to abate a violation of the property use ordinance may appeal to the Village Board of Appeals.  
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**Section 29:6 Plats and Lots:**

30 **29:6:1 Intent and Purpose:**

31 This Section is for the purpose of promoting public health, safety and general welfare.

32 **29:6:2 Short Title:**

33 This Ordinance shall be know as the Plat Regulation.

34 **29:6:3 Width and Depth of Lots:**

35 In any plat submitted to the Village Board for approval under the provisions of Act 172 of the Public Acts of Michigan of  
36 1929, as amended, where public sewer and water facilities are not installed and ready for connection within the plat or where the  
37 proprietor has not posted bond or other security with the Village to secure the installation of such facilities after the approval of the  
38 plat, no residential lot in such plat shall be less than 60 feet in width and the distance of 25 feet from the front line of said lot nor  
39 less than 120 feet in depth from the front line of said lot

40 **29:6:4 Failure to Comply:**

41 The Village Board shall reject any plat not conforming with the provisions of Section 60:3 above.

42 **29:6:5 Publication and Effective Date:**<sup>5</sup> Adopted April 8, 1996. Readopted in part, and amended July 13, 1987.  
43 Effective 20 days after adoption.  
44

**Section 29:7 Open Storage of Disabled Automobile and Repair:**

45 **29:7:1 Disabled Motor Vehicles Regulated:**

46 No person shall permit any disabled motor vehicle to be parked, stored, placed, or allowed to remain within the Village  
47 of Newberry in violation of the provisions of the Ordinances of the Village.

48 **29:7:2 Same; Prohibited on Streets:**

49 Disabled motor vehicles shall not be permitted in the rights of way of the streets, alleys or highways within the Village;  
50 provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further, that a reasonable  
51 time (not to exceed 12 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in an  
52 emergency caused by accident or sudden breakdown of the vehicle.  
53

1                   **29:7:3 Same; Front Yard:**

2 Disabled motor vehicles or any parts of a motor vehicle shall not be permitted in the front yard of a parcel of land upon  
3 which there is a structure used in whole or in part as a dwelling, unless said disabled motor vehicle shall be kept in a wholly and  
4 enclosed garage or other wholly and enclosed structure.

5                   **29:7:4 Same; Side or Rear Yards:**

6 One disabled motor vehicle may be permitted in a side or rear yard of a residence, commercial, or industrial lot as an  
7 accessory use to the main use of the lot. Service and repair work may be performed on such vehicle and incidental thereto parts,  
8 tools, and equipment may be stored and used. Nothing contained herein shall be construed as authorizing the disassembling, tear  
9 down, or scrapping of a motor vehicle, or to permit any motor vehicle to be scavenged or stripped for parts for use on another motor  
10 vehicle. Provided, however, that a disabled vehicle shall not be permitted to remain outside of a building for a period of excess of  
11 thirty (29) days on any lot used for residential purposes or on that portion of any lot within three (3) feet of an abutting lot used for  
12 residential purposes.

13                   **29:7:5 Same; Noise:**

14 Service and repair of a disabled motor vehicle which is conducted entirely within the confines of an accessory garage shall  
15 be permitted; provided, that the tearing down, stripping, or junking of a motor vehicle between the hours of 9 P.M. and 8 A.M. shall  
16 not be permitted when loud or unusual noise annoys, injures or endangers the comfort, repose, health or safety of the public.

17                   **29:7:6 Same; Where Permitted:**

18 Storage, repair, and servicing of disabled motor vehicles not authorized herein, and the tearing down, stripping, or junking  
19 of motor vehicles shall be permitted, only where and when such use is specifically authorized, permitted, or licensed under other  
20 ordinances of the Village, and in accordance therewith.

21                   **29:7:7 Same; Enforcement:**

22 It shall be the duty of the police department to enforce this Ordinance.

23                   **29:7:8 Same; Definition:**

24 Motor vehicles are hereby defined as any wheeled vehicles which are self-propelled or intended to be self-propelled.

25                   **29:7:8a Same Disabled Motor Vehicles:**

26 Shall be defined as motor vehicles which are incapable of being self-propelled upon the public streets, or which does not  
27 meet the requirement for operation upon the public streets, including a current license.

28                   **29:7:8b Same; Dwelling:**

29 Shall mean any house, building, structure, tent shelter, trailer or vehicle or portion thereof which is occupied by one or more  
30 human beings, either permanently or transiently.

31                   **29:7:9 Same; Construction:**

32 This Ordinance shall not be construed as repealing Ordinance no. 1 in effect or hereafter made relating to rubbish, litter,  
33 garbage, refuse, trash, or junk, but shall be construed as supplementary to such Ordinances as well as any Statutes of the State  
34 of Michigan relating thereto.

35                   **29:7:10 Same; Nuisance:**

36 The presence of a dismantled, partially dismantled or disabled motor vehicle on any platted or unplatted parcel of land in  
37 violation of the terms of this Ordinance is hereby declared to be a public nuisance.

38                   **29:7:11 Same; Penalties:**

39 Any person, firm or corporation who shall violate or assist in the violation of any provision of this Ordinance shall be guilty  
40 of a misdemeanor punishable by a fine not more than Five Hundred Dollars (\$500.00) or by imprisonment for a period of not  
41 exceeding ninety (90) days, or both such fine and imprisonment. Every day that such violation continues shall constitute a separate  
42 and distinct violation under the provisions of this Ordinance.

43                   **29:7:12 Same; Severability:**

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

46                   **29:7:13 Publication and Effective Date:**<sup>6</sup>

47 Adopted April 8, 1996. Readopted in part, and amended July 13, 1987. Effective 20 days after adoption.  
48

**Section 29:8 Junk and Junk Yards:**

49                   **29:8:1 Definitions:**

50 The following words shall have the following respective meanings for the purpose of this Ordinance:

51                   **29:8:1a "Junk":**

52 As used in this Ordinance, shall be deemed to be any personal property which is or may be salvaged for reuse, resale,  
53 reduction or similar disposition, or which is possessed, transported, owned, collected, accumulated, dismantled or assorted for any  
54 of the aforesaid purposes. Without limiting the aforesaid definition of junk, the term shall include used, or salvaged iron, brass, lead,  
55 copper and other base metal or metals, and their compounds or combinations used or salvaged rope, bags, paper, rags, glass,  
56 rubber and similar articles or property and used motor vehicles which are used, owned or possessed for the purpose of wrecking  
57 or salvaging parts therefrom.

58                   **29:8:1b "Person:"**

Shall be deemed to be firm, corporation, partnership or individual person.



**29:8:1c "Junk Dealer":**

Shall be deemed to be every person who engages in the business of buying, exchanging, collecting, receiving, storing or selling any article or articles herein above defined as "junk".

**29:8:1d "Junk Yard or Junk Shop":**

Shall be deemed to be any place at which a junk dealer buys, exchanges, collects receives, stores, accumulates, sells or otherwise handles junk.

**29:8:1e "Second Hand Property":**

Shall be deemed to be any used household furniture, used wearing apparel, used lumber, used brick, used tile, used plumbing fixtures, used electrical fixtures, used articles made of precious metal or metals, used jewelry, used tools and any other used article or personal property bought and sold by and from other than the original purchaser and used.

**29:8:1f "Second Hand Dealer":**

Shall be deemed to be any person who engages in the business of buying, exchanging, collecting, receiving, storing or selling any property herein defined as "second hand property".

**29:8:1g "Second Hand Store":**

Shall be deemed to be any place at which a second hand dealer buys, exchanges, collects, receives, stores or sells "second hand property".

**29:8:1h "Collector":**

Shall be deemed to be a person engaged in the business of collecting, receiving or purchasing a second hand property or junk.

**29:8:2 Licenses:**

No person shall maintain or operate a second hand store or junk shop or junk yard without first obtaining a license therefore. Application shall be presented to the Village Council and shall state the name, firm or corporation, place of business, business conducted and maintained and residence of applicant for a period of 3 years prior to the application. Such application shall be referred to the police, health and fire departments for the purpose of investigation and recommendation. After such recommendations have been made and submitted to the Village Council, they shall have the sole power to grant license and shall be issued by the Village Clerk.

Any applicant seeking to establish a junk shop or junk yard in a location not previously licensed for that purpose, or any licenses seeking to relocate or move a junk yard not in the location of a previously established junk yard or junk shop, must first obtain the consent in writing of 65% of the owners of residential property within 300 feet of any part of the area in which the proposed business is to be conducted. Said area shall include any portion to be used for the storage of any property in connection with such proposed business.

**29:8:3 Fees:**

For each person, corporation, co-partnership or firm engaged in or carrying on the business of second hand dealer or junk dealer, as hereinbefore defined, having a yard for the storage of second hand property and/or junk, the sum of \$100.00 per annum; Provided, that separate license must be taken out for each yard so used for the storage of second hand property and/or junk. All licenses issued hereunder, shall expire on the 31st day of December of each year.

**29:8:4 Fences:**

No person shall maintain a junk yard or junk shop within the Village of Newberry unless such business is carried on entirely inside a building or buildings, or unless the premises on which said business is conducted are entirely enclosed, except for gates and places of ingress, by a fence not less than 7 feet in height. The fence area required hereunder shall be vision restricting.

Gates for access to said premises shall swing inward and such gate shall be closed when the premises are not open for business.

**29:8:5 Retail Merchants:**

Any person, corporation, member or members of a co-partnership or firm whose business in whole or in part is that of purchasing, selling or exchanging or receiving second hand articles of any kind is hereby declared to be a second hand dealer or junk dealer; Provided, that this definition shall not apply to Retail Merchants who repossess their own merchandise sold on a title-retaining contract, or chattel mortgage basis.

**29:8:6 State Law and Record Keeping:**

All persons who operate as junk dealers or second hand dealers shall comply with the State Law in the matter of keeping records of merchandise sold and purchased. Such records shall be open for inspection to the Law Enforcement officers. Such entries or any receipts given shall be numbered consecutively.

**29:8:7 Condition of Junk Yards or Shops:**

All premises used as a junk yard or junk shop shall be kept and maintained in a clean, sanitary and neat condition. The person operating a junk yard or junk shop shall maintain the premises so used so that rats, vermin and fire hazards are as far as practicable reduced to a minimum. No rubbish or portion or parts or wrecked machines and other accumulations which are to be discarded by such junk dealers shall be burned in such premises without the written consent of the Fire Chief.

**29:8:8 Petition of Objection of Location:**

No person shall keep or store any second hand property or junk within 300 feet of any residence if 65% of the owners or residential property within 300 feet from any part of the area used for the location and conduct of a junk or second hand business, shall have filed with the Village Clerk, a petition objecting to the conduct of such business and the selling, buying or storing of second hand property of junk within such area. Such petition shall be effective as conveying such objections and complying with this Section when it is received by the Village Council at an official meeting.

**29:8:9 Penalties:**

Any person violating any of the provisions of this Ordinance shall be punished by a fine of not exceeding \$500.00, not less than \$200.00, or by imprisonment in the county jail of Luce County not exceeding 90 days or by both such fine and imprisonment in the discretion of the court trying the offender.

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**29:8:10 Grandfather Clause:**

Any lawfully licensed junkyard under previously adopted Ordinance 15, and in full compliance with those requirements shall be considered licensed under the provisions of this ordinance, subject to the payment of annual fees herein provided, the burden of proof to establishing, the payment of fees and compliance shall be with the licensee.

**29:8:11 Publication and Effective Date:**<sup>7</sup>

Adopted April 8, 1996. Readopted in part, and amended July 13, 1987. Effective 20 days after adoption.

**Section 29:9 House Trailers and Mobile Homes:**

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**29:9:1 Definitions:**

a) Trailer Coach Defined:

As used in this chapter, "trailer coach" means any vehicle used or so constructed as to permit its being used as a dwelling or sleeping place, which is or may be mounted on wheels, and which is or may be propelled either by its own power or by another vehicle to which it may be attached.

b) Mobile Home, House Trailer, Defined:

A dwelling unit, factory built and factory assembled, designed to be conveyed on streets and highways on its own wheels or on a flatbed trailer or other trailer, to be placed at the site where it is to be occupied fully assembled except for minor unpacking, assembly and utility work. A prefabricated home shall not be included in this definition. A home complying with the terms of the city building ordinance relating to construction of single-family homes, and placed on a foundation complying with all of the terms of the city building code relating to single-family homes, shall not be deemed to be a mobile home. The definition in Ordinance 14:1:1 is amended to read the same as Section 29:10:1(b)

**29:9:2 Prohibited Parking and Uses:**

(a) No person shall park or cause to be parked a trailer coach overnight on any street, alley, highway or other public way or place.

(b) No trailer coach shall, at any time, be parked between the established set-back line and the curb line on any lot.

(c) No trailer coach shall be used or occupied unless there is a clear unoccupied space of at least ten feet on all sides thereof.

(d) No person shall park or permit the parking of any occupied trailer coach or use or occupy or permit the use or occupancy of a trailer coach on any site, lot, field or tract of land not specifically licensed as a trailer coach park, except only as provided in this chapter.

**29:9:4 Conditions for Parking on Dwelling Premises; Permit Required:**

Not more than one trailer coach may be parked, used and occupied on the premises of any dwelling, provided that the occupants of the trailer coach have free access to, and the unlimited use of, the sanitary facilities of the dwelling on such premises and provided, further, that the operator of such trailer coach obtains a permit as provided for in this chapter. (1975 Code Sec. 5.103)

**29:9:5 Permit Application; Fee Display:**

Application for a permit to park, use and occupy a trailer coach on the premises of a dwelling shall be made to the Property Use Administrator and shall state the address of the dwelling, the name of the owner or occupant in control thereof, the name and address of the owner or operator and the license number of such trailer coach. The consent in writing of the owner or occupant in control of the dwelling premises to the parking, use and occupancy, and to the use of the sanitary facilities as herein provided, shall accompany the application or be endorsed thereon. Upon the filing of such application, Property Use Administrator, shall cause an inspection to be made of such dwelling premises and trailer coach. If he finds that adequate facilities are afforded on the premises for the disposal of waste and excreta and it appears that the parking, use and occupancy of such trailer coach comply with the statutes of the State and these Codified Ordinances, he shall approve such application. Upon the filing thereof with the Village Clerk and payment of a fee as determined from time to time by the Village Council, the Village Clerk shall issue a permit, which shall limit the time of such parking, use or occupancy to a period not longer than six weeks from the date of the application therefor. Not more than one permit shall be issued for any one trailer coach or to any one trailer coach operator or occupant in any one twelve-month period. Every permit shall be displayed in or on the trailer coach for which it is issued on the side nearest to a public street in such manner as to be readily noticeable at all times.

**29:9:6 Waste Water:**

No person shall spill or drain any wastewater or liquid waste of any kind from a trailer coach upon the ground or upon any paved area.

**29:9:7 Removal of Wheels or Tires; Blocking and Stabilizing; Occupancy Limit:**

No person shall remove or cause to be removed the wheels or tires from any trailer coach except for the purpose of repair, nor shall any person elevate, block or stabilize any trailer coach other than with jacks designed, provided and intended for that purpose. No parked trailer coach shall be occupied for sleeping purposes by a greater number of persons than such vehicle is designed and arranged to accommodate.

**29:9:8 Inspection:**

The Property Use Administrator, his authorized representative and any member of the Police Department, or any of them, are hereby authorized to enter and inspect, at any reasonable time, any premises upon which a trailer coach is parked, used or occupied for the purpose of ascertaining that the owner, operator or occupant thereof is complying with all statutes, ordinances, rules and regulations governing the same.

29:9:10

No trailer shall be set unless the trailer complies with HUD<sup>8</sup> standard in effect at the date of installation.

- a) The owner shall furnish proof of compliance to the Property Use Administrator.

29:9:11

All mobile homes shall comply with all State, County, and local laws concerning site preparation and installation.

29:9:12

No one shall set a mobile home unless they have obtained a permit from the Property Use Administrator.

- a) A permit must be obtained before setting any mobile home.  
b) No final permit shall be issued unless this ordinance has been complied with.

29:9:13

Adoption and effective date: Adopted April 8, 1996.

**Section 29:10 Regulation of Fences:**

**29:10:1 Short Title:**

This section may be referred to and cited as the "Fence Ordinance of the Village of Newberry" or just the "the Fence Ordinance."

**29:10:2 Purpose:**

The purpose of this section is to permit such fences that will not, by their reason, size, location, construction or manner of display, endanger the public safety of individuals, obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals; and to permit and regulate fences in such a way as to support and complement land use objectives and aesthetic purposes while protecting the rights of adjacent properties to light, air and view. (Ord. 36-84. Passed 12-18-84.)

**29:10:3 Definitions:**

In addition to the definitions contained elsewhere in this ordinance, as used in this chapter:

- (a) "Corner lot" means a lot abutting the intersection of a street and an alley.  
(b) "Double frontage lot" means an interior lot having frontages on two nonintersecting streets.  
(c) "Fence" means a structure or erection forming a barrier on either the whole or any portion of a given area.  
(d) "Hedge" means a bush, shrub or a living green fence of any nature forming a barrier on either the whole or any portion of a given area.  
(e) "Height of a fence" means the vertical distance as measured from the ground level at the lowest grade level within three feet of either side of such fence to the uppermost portion of the fence.  
(f) "Obstruction to visibility" means any fence or hedge so located whereby drivers of motor vehicles will have their vision impaired, or whereby public safety is diminished.  
(g) "Right of way" means all of the land lying between property lines on either side of all streets, alleys and boulevards in the Village and includes lawn extensions and sidewalks and areas reserved therefor where the same are not yet constructed.  
(h) "Screening" means fencing or berms, as required in specific locations, for the purpose of providing a visual or sound barrier.  
(i) "Yards" are defined as follows:  
(1) "Front yard" means that area measured by the full width of the front lot line to a depth measured from such lot line to the first supporting member of the main structure. The first supporting member includes the main building or any projection thereof, other than the usual steps, entranceways, unenclosed balconies or open roofless porches. For the purpose of this chapter, properties having frontage on a lake, river, creek or other waterway are required to meet front yard fence requirements along that water frontage and along any street frontage.  
(2) "Rear yard" means that area measured by the full width of the rear lot line to a depth measured from such lot line to the first supporting member of the main structure. The first supporting member includes the main building or any projection thereof, other than projections of the usual steps, entranceways, unenclosed balconies or open roofless porches or patios.  
(3) "Side yard" means that area between the main building and the side line of the lot that extends from the front yard line to the rear yard line. For the purpose of this chapter, a corner lot in a residential district shall be determined to have only front and rear yards, the rear being defined as that area located beyond the building line on both street or street and alley frontages. (Ord. 36-84. Passed 12-18-84.)

**29:10:4 Construction; Permit Required; Application; Fee:**

No person shall construct or cause to be constructed any fence upon property within the Village without first obtaining a permit therefor, unless otherwise stated. Application for such a permit shall be made to the Property Use Administrator and shall contain all required information, including site drawings, showing the location of the proposed fence in relation to any structure, street or alley, as well as the proposed height of the fence, for the purpose of determining whether or not the erection of such fence will be contrary to any of the provisions of this Ordinance. The permit is in addition to any permit required by the law of other governmental units. A fee in the amount established by the Village Commission shall be paid for such permit and shall be submitted along with the application for the permit.

**29:10:5 General Provisions - Property Use:**

- 1) District shall be defined by the real estate tax assessment use as set forth on the last Village tax statement.
- 2)(a) Agricultural Districts. No restrictions are imposed to limit the size, type or location of fences in an agricultural district except that:
  - (1) No fence may be located in a public right of way.
  - (2) No fence which is an obstruction to visibility shall be located within twenty-five feet of any street intersection.
  - (3) No permit is required for a fence in an agricultural district.
- 2)(b) Residential Districts. In any residential district:
  - (1) No fence or hedge which presents an obstruction to visibility shall be located within twenty-five feet of any street intersection.
  - (2) In a front yard, twenty-five feet or less from a street right of way, fences or hedges shall not exceed four feet in height. Fences between twenty-five feet of the right of way and the first supporting member of the main structure shall not exceed five feet in height. Fences in the side yard shall not exceed five feet in height.
  - (3) In the rear yard, fences may be erected to a height of five feet.
  - (4) Except on properties having frontage on a lake, river, creek or other waterway, double frontage lots shall be fenced in accordance with the following provisions:
    - A. The yard fronting on the street of the property's postal address shall be fenced in accordance with paragraph (b)(2) hereof.
    - B. Side yard fences on interior lots may be erected to a height of six feet.
    - C. The remaining property shall be considered a rear yard for fencing purposes, except that in the twenty-five feet or less from the rear street right of way, fences shall not exceed four feet in height. Further, no fence on the rear yard shall exceed four feet in height any closer to the street than the front yard limit line of an adjacent lot.
  - (5) Provisions for fences on corner lots in any residential district shall be the same as provided for in this subsection, with the exception that a five-foot fence may not be located any closer to the street than the front yard limit line of an adjacent lot.
  - (6) Fences or hedges of a concealment type shall be used to screen open parking spaces if there are more than three such spaces located less than twenty feet from the side or rear lot line.
- (c) Commercial, Office and Industrial Districts. In commercial, office and industrial districts:
  - (1) Fences or hedges of a concealment type shall be erected on the common lot line whenever such lot line separates a commercial, office or industrial district from a residential district, and shall be installed concurrently with the commercial, office or industrial use of the land or building. Such fence shall be not less than five feet in height nor more than eight feet in height. The fence or hedge design shall be submitted to the Building Inspection Department with the permit for review and approval.
  - (2) Storage yards for motor vehicles for salvage shall be governed by Section 29.7 and Section 29.8.

**29:10:6 Swimming Pools; Property; Recreational Sites:**

- (a) Swimming Pools. Fences around swimming pools must meet the requirements of the law of all other governmental units. Such fences must be constructed to a minimum of four feet in height, may not be of split rail design and must completely enclose the pool, with all gates being of a self-closing and latching type, with the latch on the inside of the gate.
- (b) Fences Around Public Property. An open mesh-type fence to partially or fully enclose any public property may be constructed to a maximum of ten feet in height and no permit is required.
- (c) Recreational Sites. A ten foot high fence is allowed by permit to enclose private tennis or basketball courts, school or church playgrounds or other similar recreational areas, provided that all yard setbacks are maintained and that no obstruction to visibility is created thereby.

**29:10:7 Construction:**

- (a) The construction requirements for the placement of fence posts and supports are as follows:
 

<u>Type Fence or Post</u>	<u>Fence Height (ft.)</u>	<u>Post Depth Below Grade (in.)</u>
Line	0 to 5	24
Line	Over 5	30
Corner	0 to 5	30
Corner	Over 5	36

  - (1) Steel posts shall be set in cement or concrete or driven to the post depth below grade as required in this subsection.
  - (2) Wood and other materials shall be set to the post depth below grade as required in firmly tamped earth.
- (b) Except for fences in agricultural districts under Section 29:10:5(a):
  - (1) No fence shall be constructed or maintained which is charged with or connected to an electric current.
  - (2) Cleaved selvages are permitted only on wire fences five feet or more in height.
  - (3) There shall not be attached, affixed or placed any spike, nail, barb, including barbed wire, or any other pointed instrument on any fence, except on the uppermost edge not to extend more than eighteen inches from a fence eight feet in height on the common lot line in a commercial or industrial district, separating the commercial or industrial district from a residential district.

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**29:10:8 Nuisances and Abatement:**

Any fence or hedge, under construction or completed, which, through lack of repair, neglect, type of construction, placement or otherwise, is a hazard or endangers any person, animal or property, is hereby deemed a nuisance. If such unsafe condition exists in regard to a fence or hedge, the Property Use Administrator or his or her agent shall notify the owner, agent or person in control of the property upon which the fence or hedge is located, describing the unsafe condition and ordering abatement of the nuisance by requiring the unsafe fence or hedge or any portion thereof to be removed, repaired or modified. Such an order shall provide a time limit not to exceed fourteen calendar days from the date of service for such repair, modification or removal. No person shall fail to comply with such an order within the stipulated time limit. An appeal from such notice and order must be taken within the fourteen-day period or abatement procedures may be taken by the Village, with any expense incurred chargeable to the property as a single lot assessment.

**29:10:9 Notices:**

The notice required in Section 12:10:8 shall be in writing and shall be deemed proper and served upon the owner, agent or person in control of the property upon which a fence is located when sent by certified United States mail, return receipt requested, with such receipt being binding as to the date of service. If the same is returned by the United States Postal Service because of its inability to make delivery thereof, the date of service shall be the date the notice is returned to the sender.

**29:10:10 Equitable Remedies:**

The penalty provided in Section 29:10:12 shall not preclude the application of any other remedy available in law or in equity to prevent or remedy a violation of any of the provisions of this section.

**29:10:11 Appeals:**

Any person who is directly or adversely affected by a decision or order of the Property Use Administrator may appeal, in writing, by petition, to the Village of Newberry Board of Appeals.

**29:10:12 Penalty:**

Whoever violates or fails to comply with any of the provisions of this section is responsible for a civil infraction and shall be fined not more than five hundred dollars (\$500.00).

**Section 29.11 Property Use Administrator:**

**29:11:1**

The Property Use Administrator shall be appointed by the Village President and approved by the Village Council.

**29:11:2**

The duties of the Property Use Administrator shall be approved by council.

**29:11:3**

The Property Use Administrator shall report to the Village President or such other Village Official or employee as directed by the Village President.

**29:11:4**

The Property Use Administrator shall recommend to the Village President such other inspectors as necessary to carry out the enforcement duties of Ordinance 29.

**29:11:5**

The compensation of the Property Use Administrator and such inspectors as appointed shall be determined by the Newberry Village Council.

**29:12 Penalty**

**29:12:1**

A violation of Ordinance 29 is a misdemeanor with a penalty of 90 days in jail and/or a fine of \$500 or both.

**29:13 Adoption, Publication, Severability, and Effective Date:<sup>9</sup>**

**29:13:1**

This Ordinance is effective 20 days after publication. This Ordinance shall be effective on May 15, 1996 and shall be published at least 20 days prior to the effective date.

The Clerk shall cause a copy of the Ordinance to be published in the Newberry News within 15 days and further shall make copies of this Ordinance available for public inspection at the Village Offices located in the NEWBERRY WATER & LIGHT BUILDING. Approved and adopted April 8, 1996.

**29:13:2 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 portion hereof.

**29:13:3 Inconsistent Ordinance Repealed:**

Any Ordinance, or portion inconsistent with this Ordinance is repealed to the extent that it is inconsistent.

NOTE: An earlier version of Ordinance 29 was adopted January 8, 1996, but was repealed prior to its effective date.

  
Robert Cameron, President

  
Janice Galor, Village Clerk

ADOPTION HISTORY:

Introduced: April 8, 1996

Adopted: April 8, 1996

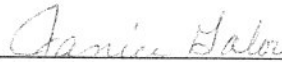
Effective: May 15, 1996

CERTIFICATE

I hereby certify as Clerk of the Village of Newberry, that a copy of the above Ordinance was published by me in the Newberry News on April 24, 1996, in the Village of Newberry and have attached a copy of said Ordinance together with a Printer's Affidavit to this Certificate.

Dated: 4-24, 1996.

Seal:

  
Janice Galor,  
Village Clerk

Distribution: One (1) copy (signed) should be retained by the Clerk. One (1) copy (signed) should be returned to the Village Attorney.

Note to Publisher:

Please provide 2 Affidavits of Publication:

- (1) Mail one copy with billing to:
- Janice Galor  
Village Clerk  
Newberry Water & Light Building  
Newberry, Mi 49868
- (2) Mail one copy to:
- James W. Robinson  
Village Attorney  
PO Box 433  
Newberry, Mi 49868

1. Section 29:1 Prior Ordinance No. 35:1, adopted July 13, 1993.  
Section 29:2 Prior Ordinance 35:2, Adopted July 13, 1993.  
Section 29:3 Prior Ordinance 35:3. Adopted January 10, 1994.  
Section 29:4 Prior Ordinance No 24. Adopted July 13, 1987, Published July 22, 1987.  
Section 29:6 Prior Ordinance No 20. Adopted April 8, 1996. Readopted July 13, 1987. Published July 13, 1987.  
Section 29:7 Prior Ordinance No 16. Adopted April 8, 1996. Readopted July 13, 1987. Published July 13, 1987.  
Section 29 8 Prior Ordinance No 15 Adopted April 8, 1996. Readopted July 13, 1987. Published July 13, 1987.

**PRINTER'S AFFIDAVIT**

State of Michigan  
County of Luce

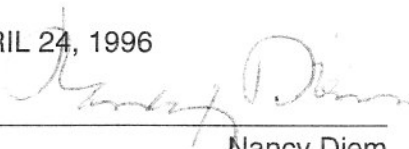
SS Nancy Diem, being duly sworn, deposes and says that she is the printer and publisher of the Newberry News, a weekly newspaper printed, published and circulated in the Village of Newberry, Luce County, Michigan.

Further that the

ORDINANCE #29 - PROPERTY USE


of which the annexed notice is a true and complete copy, was duly published in said Newberry News, Inc. once in each week for 1 week, and that the publication of said notice was made in said newspaper on the following dates:

APRIL 24, 1996

  
\_\_\_\_\_  
Nancy Diem

Sworn and subscribed before me this 13th day of MAY, A.D. 1996.

My commission expires 2/4/99.

  
\_\_\_\_\_  
Karen A. Brackett, Notary Public

## BLIGHT ORDINANCE

### **29.8.12**

An ordinance to prevent, reduce, or eliminate blight, blighting factors or cause of blight that are detrimental to the health, safety, morals and general welfare of the inhabitants within the Village of Newberry, Michigan; to provide for the enforcement hereof; and to provide penalties for the violation hereof.

### *THE VILLAGE OF NEWBERRY ORDAINS:*

#### **29:8:13 Purpose**

It is the purpose of this ordinance to prevent, reduce or eliminate blight or potential blighting factors that are detrimental to the health, safety, morals and general welfare of the inhabitants within the Village of Newberry 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 Village of Newberry.

#### **29:8:14 Causes of Blight or Blighting Factors**

It is hereby determined that the following uses, structures and activities and 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 the Village of Newberry owned, leased, rented or occupied by such person, firm or corporation.

(A) In any area the storage upon any property of junk automobiles. For the purpose of this ordinance the term "junk automobiles" shall include any motor vehicle, part of a motor vehicle, or former motor vehicle, stored in the open, which is not currently licensed for use upon the highways of the State of Michigan, and is either (1) unusable or inoperable because of lack of, or defects in, component parts; or (2) unusable or inoperable because of damage from collision, deterioration, or having been cannibalized; or (3) beyond repair and therefore not intended for future use as a motor vehicle; or (4) being retained on the property for possible use of salvageable parts.

(B) In any yard or adjacent to any building, local shopping district, or central business district, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed thirty (30) days. The term "junk" shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood, decayed, weathered or broken construction materials no longer suitable for safe, approved building materials, metal or any other material or other cast off material of any kind whether or not the same could be put to any reasonable use.

(C) In any area the existence of any structure or part of any structure which because of fire, wind, or other natural disaster, or physical deterioration is not longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended.

(D) In any area the existence of any vacant dwelling, garage, or other outbuilding unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

#### **29.8:15 Enforcement and Penalties**

(A) This ordinance shall be enforced by the Property Use Administrator and the Village of Newberry Police Department.

(B) The owner or the occupant of any property upon which any of the causes of blight or blighted factors set forth in 29:8:14 hereof is found to exist shall be notified in writing (Notice of Blight) to remove or eliminate such causes of blight or blighting factors from such property within (fourteen) 14 days after service of the notice upon him. Such notice may be served personally or by mailing the same by registered mail, return receipt requested, to the premises or to the last known address of the



Village of Newberry  
Ordinances

owner. (C) An owner or occupant may apply for an Abatement Extension Permit. The application shall be made to the Property Use Administrator. The Abatement Extension Permit must be made prior to the expiration of the fourteen (14) day notice. Permits may be granted allowing additional time to comply where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress. The abatement extension shall not exceed (thirty) 30 days. An application fee of at least \$10 shall be paid at the time of application and shall be increased from time to time by resolution of the Village Council.

(D) In the event that an owner or occupant fails to comply with a "Notice of Blight" the Village shall at its option abate the blight at the expense of the property owner. The expenses of removing the "Blight" shall be added to the real property tax assessment of the property owner.

(E) Failure to comply with such notice within the time allowed shall constitute a violation of this ordinance. Violation of this Ordinance shall be a misdemeanor. The minimum penalty shall include a fine of:

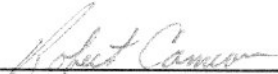
1. \$50 for the first offense;
2. \$150 for the second offense; and,
3. \$450 for a third or subsequent offense committed within 10 years of the first offense.

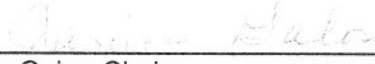
**29:8:16 Publication and Effective Date:**

The clerk shall cause a copy of this Ordinance to be published in the Newberry News within 15 days and further shall make copies of this Ordinance available for public inspection at the Village Offices located in the NEWBERRY WATER AND LIGHT BUILDING.

This Ordinance shall be effective twenty (20) days after adoption, November 13, 1996.

Approved and adopted by the Village Council on October 14, 1996.

  
\_\_\_\_\_  
Robert Cameron, President  
Village of Newberry

  
\_\_\_\_\_  
Janice Galor, Clerk  
Village of Newberry

Adoption History:  
First Draft Reading : September 9, 1996  
Adopted: October 14, 1996  
Effective: November 13, 1996

Village of Newberry  
Ordinances

CERTIFICATE

I hereby certify as Clerk of the Village of Newberry, that a copy of the above Ordinance was published by me in the Newberry News on the 27<sup>th</sup> day of October, 1996, in the Village of Newberry and have attached a copy of said Ordinance together with a Printer's Affidavit to this Certificate.

Dated: 10-23-96

Janice Galor  
Janice Galor, Village Clerk

Seal:

Distribution:

One (1) copy (signed) should be retained by the Clerk.

One (1) copy (signed) should be returned to the Village Attorney.

**PRINTER'S AFFIDAVIT**

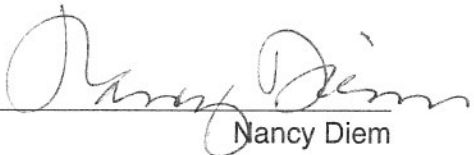
State of Michigan  
County of Luce

SS Nancy Diem, being duly sworn, deposes and says that she is the printer and publisher of the Newberry News, a weekly newspaper printed, published and circulated in the Village of Newberry, Luce County, Michigan.

Further that the  
BLIGHT ORDINANCE

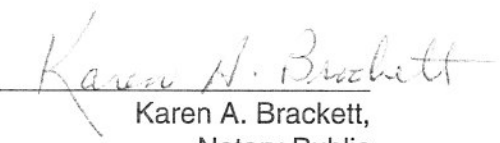
of which the annexed notice is a true and complete copy, was duly published in said Newberry News, Inc. once in each week for 1 week, and that the publication of said notice was made in said newspaper on the following dates:

OCTOBER 23, 1996

  
Nancy Diem

Sworn and subscribed before me this 28th day of  
OCTOBER A.D. 1996.

My commission expires 2/4/99.

  
Karen A. Brackett,  
Notary Public

## AMENDMENT TO ORDINANCE 29

1. Ordinance 29 is amended to add the following Sections:

A)

29:9:1 Definitions:

c) *Manufactured Home, Defined:*

*A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.*

B)

29:9:2 Prohibited Parking and Uses:

e) *No manufactured home nor mobile home shall be placed in the property in the Village of Newberry for a period in excess of sixty (60) days unless it is properly installed, inspected, and state, local and village permits issued. The owner of any property upon which a mobile home or manufactured home is stored in excess of sixty (60) days shall be given a notice by the Property Use Administrator or the Police Department that they have ten (10) days to remove the manufactured home or mobile home from the property or to obtain the proper permits and complete the installation.*

2. Publication and Effective Date:

The clerk shall cause a copy of this Ordinance to be published in the Newberry News within 15 days and further shall make copies of this Ordinance available for public inspection at the Village Offices located in the NEWBERRY WATER & LIGHT BUILDING.

This Ordinance shall be effective twenty (20) days after publication.

Approved and adopted by the Village Council on August 9, 1999.



Robert Cameron, Village President



Janice Galor, Village Clerk

Adoption History:

Introduced: August 9, 1999

Adopted: August 9, 1999

Effective:



CERTIFICATE

I hereby certify as Clerk of the Village of Newberry, that a copy of the above Ordinance was published by me in the Newberry News on the 11<sup>th</sup> day of August, 1999, in the Village of Newberry and have attached a copy of said Ordinance together with a Printer's Affidavit to this Certificate.

Dated: 8-11-99

Janice Galor  
Janice Galor, Village Clerk

Seal:

Distribution:

- One (1) copy (signed) should be retained by the Clerk.
- One (1) copy (signed) should be returned to the Village Attorney.

## **Administrative Enforcement Amendment to the Property Use Ordinance**

An Amendment to assure prompt and consistent enforcement of the Property Use Ordinance, to add additional duties and authority to the position of Property Use Administrator, and to provide for the general Health, Welfare, and Safety of the residents of the Village of Newberry.

### **Section 29:31:1 Title: Administrative Enforcement**

**Section 29:31:2 Duties: Property Use Administrator:** It shall be the duty of the Property Use Administrator to administer enforcement of the Property Use Ordinance.

**Section 29:31:3 Power: Property Use Administrator:** The Property Use Administrator and the Newberry Police Department shall be authorized to execute and serve Administrative Notices (Tickets). These Notices (Tickets) shall be pre-printed and pre-numbered under the direction of the Newberry Police Department. The Chief of Police shall have the care and control of the Administrative Notices, however the Chief shall be authorized to assign a sufficient number of the Notices to the care and control of the Property Use Administrator or Newberry Police Officers to allow each to fulfill their duties. The Chief of Police shall keep a record showing the disposition of all notices at any given time.

**Section 29:31:4 Issuance of Administrative Notices:** Administrative Notices, which shall be known as Property Use Tickets, may be issued under the following circumstances:

- a) Warning Notice: For the purpose of giving notices as required under this ordinance.
- b) Administrative Violation Ticket Notice: For the purpose of assessing an administrative penalty, when a Warning or Notice has already been given.
- c) In addition to the Newberry Village Police Department, the Property Use Administrator shall be authorized to give the Notices authorized by this section.

**Section 29:31:5 Administrative Violation Fee:** Any person who fails to comply with a notice to abate or correct a violation of the Property Use Ordinance may be assessed an Administrative Violation Fee.

**Section 29:31:6 Property Use appeals Board:** The Property Use Appeals Board shall recommend a schedule of Administrative Fees and a time for payment to the Newberry Village Council. The Council shall adopt, reject, or modify these recommendations.

This Ordinance Amendment shall be effective twenty (20) days after adoption, May 4, 2003.

Approved and adopted by the Village Council on April 14, 2003.

Dated: 4-29-03

Robert Cameron  
Robert Cameron, President

Dated: 4-29-03

Janice Galor  
Janice Galor, Clerk

CERTIFICATE

I hereby certify as Clerk of the Village of Newberry, that a copy of the above Ordinance Amendment was published by me in the Newberry News on the 30<sup>th</sup> day of April, 2003, in the Village of Newberry and have attached a copy of said Ordinance Amendment together with a Printer's Affidavit to this certificate.

Dated: 5-01-03

Janice Galor  
Janice Galor, Clerk

Seal: