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VILLAGE OF KALEVA
MANISTEE COUNTY, MICHIGAN

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VILLAGE OF KALEVA JUNK ORDINANCE

AN ORDINANCE TO REGULATE AND CONTROL THE STORAGE AND DISPOSAL OF JUNK WITHIN THE VILLAGE; TO PROVIDE FOR THE ELIMINATION OF BLIGHTED STRUCTURES AND BUILDINGS; TO REGULATE THE OPERATION OF JUNKYARDS; TO PROVIDE FOR THE ENFORCEMENT HEREOF AND TO PROSCRIBE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

THE VILLAGE OF KALEVA ORDAINS:

Section 1 Title, Purpose and Legal Basis

1.01 This Ordinance shall be known and may be cited as the "Village of Kaleva Junk Storage and Disposal Ordinance of 1999", and shall be known in the short form as the "Junk Ordinance".

1.02 The purpose of this Ordinance is to regulate and control the storage and disposal of junk within the incorporated areas of Village of Kaleva, in order to promote the public health, safety and welfare; to protect land values; provide for safety for residents in the area from dangerous junk; to protect the groundwater lying beneath the Village; to reduce the incidence of blight and vermin; and to protect aesthetics in the Village and to regulate matters of legitimate Village concern. This Ordinance is specifically designed to:

1. Define certain terms used herein
2. Regulate the volume and conditions under which a person may store junk on one's own land
3. Regulate and coordinate with the Village Zoning Ordinance the use and operation of junkyards in the Village
4. Provide for enforcement and a system of due process for removal of junk from one's land
5. Provide for other miscellaneous provisions necessary for regulation of the Village's affairs

1.03 This Ordinance is enacted pursuant to 1895 PA 3, being MCL 67.1 as amended.

Section 2 Definitions

2.01. The following terms shall have the meanings herein assigned, unless the context clearly requires otherwise.

1. **ABANDONED VEHICLE** means any automobile or other motorized or non-motorized vehicle which has remained on the property of another for a period of forty-eight (48) continuous hours or more, with or without the knowledge and/or consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.

2. **BLIGHTED STRUCTURE OR BUILDING** means any dwelling, garage or outbuilding or any factory, shop, store, warehouse or any other structure or building, including mobile homes, travel trailers and converted vehicles intended for use as temporary or moveable dwellings, or part of a structure or building which, because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, or useful for the purpose for which it was originally constructed or intended.

3. **FARM** means a business enterprise engaged in agricultural production (and otherwise known as farms, ranches, dairies, nurseries, orchards) of crops, livestock and trees, and:

- a. Includes forty (40) or more acres of land in one ownership which is primarily devoted to agricultural use; or
- b. Has five (5) or more acres of land in one ownership, but less than forty (40) acres, devoted primarily to agricultural use, which has produced a gross annual income from agriculture of two hundred dollars (\$200.00) per year or more per acre of cleared and tillable land; or
- c. Has been designated by the Michigan Department of Agriculture as a

specialty farm in one ownership which has produced a gross annual income from an agricultural use of two thousand dollars (\$2,000.00) or more

4. **JUNK** means:

- a. Old scrap ferrous or nonferrous material, trash, rubber, worn tires, cloth, paper, rubbish, refuse, litter, unused furniture;
- b. Materials from demolition, waste building materials;
- c. Any junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, vehicles, farm equipment, boats, trailers, mobile homes, appliances and all other machines;

but, shall not include:

- a. Items being held for a customer while parts are being sought for its repair;
- b. Items that are classic or antique, kept and collected for their antique or collectable value; and
- c. Items and junk kept at a licensed Type I, II, or III landfill for purposes of disposal of solid waste, incineration, recycling and resource recovery.

5. JUNK AUTOMOBILE means any motor vehicle required to be licensed under the laws of the State of Michigan which is not licensed for a period in excess of sixty (60) days, except stock-in-trade of a duly licensed new or used automobile dealer, or, whether licensed or not, is inoperative for a period in excess of sixty (60) days, and is visible from roads or adjacent parcels and which because of damage or deterioration is or threatens to become a potential harm to the public health, safety or welfare by reason of the threat of presence of vermin or wild animals, leakage of fluids or gases, attractiveness to children, or other similar causes.

6. JUNKYARD means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion, or recovery of junk, and is a business which is included in the Standard Industrial Classification Manual of 1972 prepared by the U. S. Office of Management and Budget, classification 5093 and some enterprises in classification 5931, whether a part of a licensed landfill operation or not; but shall not include any part of a landfill as defined in the Solid Waste Management Act. Junkyard shall specifically include any business or operation required to have a Class C License (used vehicle parts dealer) under MCL 257.248, MSA 9.1948, as amended.

7. VILLAGE means Village of Kaleva.

8. PARCEL means any tract or contiguous tracts of land in the same ownership, whether one or more platted lots or parts of lots, as identified by a single property tax parcel number in the Village or Maple Grove Township assessment roll.

9. PERSON means any natural person, firm, partnership, corporation, limited liability company, or other unincorporated association of persons, and shall include all agents, servants and employees of such persons.

10. ROAD means a public or private road, highway, street, or right of way which affords the means of ingress or egress to abutting property and the means of travel past a parcel.

11. SOLID WASTE MANAGEMENT ACT means the Michigan Solid Waste Management Act, originally enacted as 1978 PA 641 and now Part 115 of the Natural Resources and Environmental Protection act, MCL 324.11501, et seq., as amended.

Section 3. Unlawful Acts.

3.01. It shall be unlawful for a person to maintain or permit to be maintained any blighted structure or building.

3.02. It shall be unlawful for a person to store or accumulate junk except in the following manner:

1. So that no more than two large items of junk, as herein defined, are on the parcel;
2. So that junk is consolidated on one part of the parcel;
3. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building; and
4. So that it is not a nuisance.

3.03. Section 3.02 of this Ordinance shall not apply to farms, provided the storage of junk on a farm meets the following standards:

1. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building;
2. All junk from the operation of the farm is being kept on the premises for possible future use of the farm;
3. The depositing of the junk is not a violation of the Michigan Solid Waste Management Act or does not constitute fill in violation of any other state or local law; and
4. So that it is not a nuisance.

Section 4. Junkyards.

4.01. It shall be unlawful for any junkyard to accept business or to do business unless it is:

1. Permitted under the Village Zoning Ordinance in effect for the area by land use permit, special use permit, or certified as a non-conforming use;
2. Meets all of the following conditions:
 - a. Has a Michigan Sales Tax license;
 - b. If applicable to the junkyard in question, has records of sales and other transactions which are required by 1917 PA 350, the Second Hand Junk Dealers Act, being MCL 445.401, et seq. as amended;
 - c. If applicable to the junkyard in question, has a valid Class C (used vehicle parts dealer) license issued by the Michigan Department of State, under MCL 257.248, as amended.
3. Is constructed, designed and operated according to all of the following standards:
 - a. It is screened from view of all roads and from all adjacent parcels by means of an opaque fence or earth berm not less than eight (8) feet in

height, or another form of screening, or a combination of the above;

b. It is set back from parcel boundaries at least 100 feet, and is set back 100 feet from all road rights-of-way or 133 feet from the centerline of any road, whichever is greater;

c. It is designed and operated so that noise, under normal operational circumstances, does not exceed sixty (60) decibels at the boundary of the parcel and at the nearest road;

d. It is operated so that burning or incineration of junk or any other material does not result in smoke;

e. It is designed and operated to meet or exceed all applicable state and federal air pollution, surface and ground water quality standards, and otherwise is in compliance with all other state and federal laws intended for the protection of the environment or the protection of the public health, safety, welfare and morals.

f. It complies with 1966 PA 219, the Control of Junkyards Adjacent to Highways Act, being MCL 252.201 et seq. as amended; 1917 PA 350, the Second Hand Junk Dealers Act, being MCL 445.401, et seq. as amended; the Solid Waste Management Act; and if applicable, 1949 PA 300, licensing of dealers in vehicles, etc.) being MCL 267.248, as amended.

g. No part of it is a landfill, as defined in the Solid Waste Management Act, even as an accessory function or use of the junkyard.

h. It is more than 1,000 feet from a school, campground, or park.

i. It is not otherwise adverse to the public health, safety, morals and welfare of the Village.

Section 5. Pre-existing Junkyards.

5.01. Upon the enactment of this Ordinance, the Village Planning Commission shall cause to be made an inventory of all junkyards presently in business in the incorporated portions of the Village. Such inventory shall include a site plan of each junkyard, a general inventory of the nature and extent of junk, and such other information as the Village Planning Commission deems relevant.

5.02. Any junkyard in business in the Village at the time of enactment of this Ordinance shall be allowed to continue in business as a junkyard on the parcel of land, or portion of the parcel of land, where it is presently located and in operation, except as otherwise provided in Sections 5.03 and 5.04 of this Ordinance.

5.03. A junkyard in business under Section 5.02 of this Ordinance, which:

1. Ceases to operate for one year or more;

2. Enlarges so as to occupy more land than was occupied and used at the time of enactment of this Ordinance, as shown on the inventory site plan made pursuant to Section 5.01 of this Ordinance; or
3. Relocates to different land than was occupied and used at the time of enactment of this Ordinance, as shown on the inventory site plan made pursuant to section 5.01 of this Ordinance;

shall be required to comply with all aspects of this Ordinance.

5.04. A junkyard in business in the Village at the time of enactment of this Ordinance shall, by six (6) months after the effective date of this Ordinance, be brought into compliance with Section 4.01.1, 4.01.2, 4.01.3a, b, c, d, e, f, g and i.

Section 6. Violations: Optional Procedure.

6.01. If the Village Council, upon the complaint of any person or upon its own motion, finds that there is reasonable cause to believe that a violation of the Ordinance is occurring, it may determine the parcel or parcels of land on which such violation is occurring and may notify each owner of such parcel, in the manner hereinafter set forth, of the nature of the alleged violations and the date and time of a hearing at which the issue of the alleged violations of this Ordinance shall be brought before the Village Council. The hearing shall be held not less than twenty-one (21) days after the date of the notice. The owner or lessee of the parcel shall be invited to attend such hearing, in person or through counsel, and show cause, if any there might be, why the Village Council should not order such violations to cease immediately and the parcel in question be restored to a condition which is not in violation of the Ordinance.

6.02. Notice of the hearing shall be in writing and served upon the persons shown as the owners of the parcel or parcels in question on the most recent tax assessment roll and any known lessee of the parcel and any other person known to have any interest in the parcel. The Village Clerk shall cause such notice to be served by personal delivery to such persons, by anyone of suitable age and discretion, or by certified or registered mail, return receipt requested. If any of the persons entitled to notice cannot be ascertained or located, then the Village Clerk shall cause such notice to be conspicuously posted on the parcel. An Affidavit of Service or Posting shall be maintained. Service of the notice shall be accomplished not less than ten (10) days before the hearing.

6.03. The hearing shall be conducted before the Village Council with the Village President presiding. If the Village Council determines it to be necessary, the Village Clerk shall administer oaths to all witnesses appearing before the Village Council. The Village Council shall receive such testimony and other evidence as it deems reasonably reliable and relevant to the issue of the violation of this Ordinance and shall render a decision and order in such matter within ten (10) days of the hearing. The owners and

the Village Council may agree to extend the date for the hearing to such other date as they may mutually agree.

6.04. The Village Council shall determine whether a violation of this Ordinance exists and, if so, what shall be done to restore the parcel in question to a condition that is not in violation of this Ordinance, which decision may include, but shall not be limited to, ordering the owner of the parcel to remove and lawfully dispose of all junk from the parcel, the demolition and removal of a blighted structure or building or the owner of a junkyard to comply with the provisions of Sections 4 and 5 of this Ordinance . All persons entitled to notice of hearing shall be notified of the Village Council's decision, which decision shall be in writing and served, in person or by certified or registered mail, return receipt requested, at such person's last known address or the address where the service of the notice of hearing was accomplished.

6.05. If the owner of the parcel fails, refuses or neglects to comply with the decision and order of the Village Council within thirty (30) days after service of the order upon them, the Village Council may, in its sole discretion, cause junk to be removed from the parcel and lawfully disposed, may cause a blighted structure or building to be demolished and removed or repaired and rehabilitated to a condition of safety or may cause a junkyard to be brought into compliance with this Ordinance. The cost of such actions shall be billed to each of the owners of the parcel who shall be jointly and severally liable therefor. If the owners of the parcel refuse, neglect or fail to pay such costs within sixty (60) days of the Village's invoice to them, the Village Clerk shall report such costs to the Village Treasurer who shall cause such costs to be assessed against the parcel in question. The costs so assessed shall become a lien against the parcel in the same manner as other ad valorem taxes and interest, penalties and fees shall be charged and collected in the same manner as other ad valorem taxes.

6.06. The procedures set forth in this Section of the Ordinance are optional and nothing in this Ordinance shall be construed to prevent the Village from seeking immediate enforcement of this Ordinance under Sections 7 and 8 nor shall the fact that the Village has employed the procedures set forth in this Section of the Ordinance be a bar to later enforcement hereof under Sections 7 and 8.

Section 7 Violations: Civil Infractions

7.01. This Ordinance is enforceable by all law enforcement agencies and officers authorized to act within the Village and by the Village Zoning Administrator who are hereby designated as the authorized local officials to issue civil infraction citations.

7.02. Any person who violates any provision of this Ordinance shall be guilty of a civil infraction and subject to penalties as follows:

1. A person who violates this Ordinance shall be guilty of a civil infraction, shall be fined not less than \$100.00, nor more than \$500.00 plus costs.

2. A person who violates this Ordinance shall be guilty of a civil infraction and when having been previously found responsible or admitted responsibility for a violation of this Ordinance in a civil infraction proceeding, shall be fined not less than \$250.00 nor more than \$500.00 plus costs.
3. A person who violates this Ordinance shall be guilty of a civil infraction and when having been found responsible or admitted responsibility on at least two prior occasions for violation of this Ordinance in a civil infraction proceeding, shall be fined \$500.00 plus costs.

7.03 Any person who violates this Ordinance will be ticketed by an authorized local official and required to appear in the 85th Judicial District Court.

Section 8 Violations: Civil Action

8.01. The Village or any other person adversely affected by a violation of this Ordinance, may commence an action in the Circuit Court for Manistee County for an injunction, or other appropriate remedy, to prevent, enjoin, abate, correct or remove junk, blighted structures or buildings or junkyards operated, permitted, accumulated, stored or maintained in violation of this Ordinance, and to prevent, enjoin, abate or otherwise prohibit the continuation of such violation. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

Section 9 Severability

This Ordinance and the various parts, sections, sub-section, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, sub-section, phrase or clause is adjudged unconstitutional or invalid, it shall not be affected thereby. The Village Council hereby declares that it would have passed this Ordinance and each section, sub-section, phrase, sentence and clause therefore irrespective of the fact that any one or more sections, sub-section, phrases, sentences or clauses be declared invalid.

Section 10 Repeal

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but only to the extent of such conflict or inconsistency.

Section 11 Effective Date



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This Ordinance shall take effect on the 30th day following its publication as required by law.

THOSE VOTING IN FAVOR: Fitzgerald, McKinley, Peterson,
Grossnickle and Holtz

THOSE VOTING AGAINST: None

THOSE ABSENT OR ABSTAINING: Absent: R. Schafer and Vess

ORDINANCE DECLARED PASSED. Yes, August 16, 1999

Margaret E. Peterson
Clerk

CERTIFICATION

I, Margaret E. Peterson Clerk of the Village of Kaleva, Manistee County, Michigan, do hereby **certify** that the above is a true and correct copy of the Ordinance as adopted by the Village Council of the Village of Kaleva at a regular meeting held on the 16th day of August, 1999.

Margaret E. Peterson
Clerk

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