

LAKE TOWNSHIP  
BENZIE COUNTY, MICHIGAN  
STATE OF MICHIGAN

LAKE TOWNSHIP ORDINANCE No. 07-01-06

ADOPTED: 7-06-06

EFFECTIVE: 8-12-06

**LAKE TOWNSHIP JUNK ORDINANCE**

AN ORDINANCE TO REGULATE AND CONTROL THE STORAGE AND DISPOSAL OF JUNK WITHIN THE TOWNSHIP; TO REGULATE THE OPERATION OF JUNKY ARDS; TO PROVIDE FOR THE ENFORCEMENT HEREOF AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

THE TOWNSHIP OF LAKE ORDAINS:

SECTION I TITLE, PURPOSE AND LEGAL BASIS

Section 1.01 This Ordinance shall be known and may be cited as the "Lake Township Junk Storage and Disposal Ordinance of 2006" and shall be know in the short form as the" Junk Ordinance".

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

A. Define certain terms used herein,

Regulate the volume and conditions under which a person may store junk on one's own land,

Regulate and coordinate with the Township Zoning Ordinance the use and operation of junkyards in the Township,

Provide for enforcement and a system of due process for removal of junk from one's land, and

Provide for other miscellaneous provisions necessary for regulation of the Township's affairs.

Section 1.03 \_\_\_\_\_ This Ordinance is enacted pursuant to Section 1 of 1945 PA 246, being MCL 41.181 et seq as amended.

## **SECTION II: DEFINITIONS**

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

**ENCLOSED STRUCTURE** means a building with four walls and a roof which can enclose Junk Vehicles and Junk Automobiles so they are not visible from a road or from an adjacent parcel.

**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 one thousand dollars (\$1,000.00) or more.

**JUNK** means:

- A. Old scrap ferrous or nonferrous material, trash, rubber, worn tires, cloth, paper, rubbish, refuse, litter, used furniture;
- B. Materials from demolition, waste building materials;

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;

Items that are classic or antique, kept and collected for the antique or collectable value; and

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.

**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 ninety (90) 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 ninety (90) 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 or presence of vermin or wild animals, leakage of fluids or gases, attractiveness to children or other similar causes, or which is missing a major component part.

**A MAJOR COMPONENT PART** means:

- A. The engine
- B. The transmission
- C. The right or left front fender
- D. The hood
- E. A door allowing ingress or egress from the vehicle's passenger compartment
  
- F. The front or rear bumper
- G. The right or left rear quarter panel
- H. The deck lid, tailgate, or hatchback
- I. The trunk floor pan
- J. The cargo box of a pickup
- K. The frame, or if the vehicle has a unitized body, the supporting structure or structures which serve as the frame
  
- L. The cab of a truck
- M. The body of a passenger vehicle
- N. The window glass
- O. The wheels

**JUNK YARD** 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, 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.

**TOWNSHIP** means Lake Township.

**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 Township assessment roll.

**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.

**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.

**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 III UNLAWFUL ACTS**

Section 3.01 On One's Own Land It shall be unlawful for a person to store or accumulate junk on land other than that occupied by a licensed, permitted junkyard, except in the following manner:

So that no more than two (2) items of junk, or the equivalent in volume to one (1) old automobile or boat and one(1) appliance - abandoned, scrap, dismantled or wrecked (including parts of) automobiles, farm equipment, trailers, mobile homes, and all other machines, etc. - are on the parcel;

Junk is consolidated on one part of the parcel not to exceed ten percent (10) of total parcel;

Junk is not visible from a road or from adjacent parcels so that the junk is inside an enclosed building; and

D. It is not a nuisance.

Section 3.02 Farms Section 3.01 of this ordinance shall not apply to farms, provided the storage of junk on a farm meets the following standards:

Junk is not visible from a road or from adjacent parcels so that the junk is inside an enclosed building;

B. Junk from the operation of the farm is being kept on the premises for possible future use of the farm;

The depositing of the junk is not a violation of Solid Waste Management Act or constitutes fill in violation of any other state or local law; and

D. It is not a nuisance.

## **SECTION IV JUNKYARDS**

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

Permitted under the Township Zoning Ordinance in effect for the area by land use permit, special use permit, or certified as a non-conforming use;

B. Meets all of the following conditions:

1. Has a Michigan Sales Tax license;

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;

3 **If** applicable to the junkyard in question, has a valid Class C (used parts dealer) license issued by the Michigan Department of State, under MCL 257.248, as amended.

Is constructed, designed and operated according to all of the following standards:

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;

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;

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

4. 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;

5. **It** complies with:

- a. 1966 PA 219, the Control of Junkyards Adjacent to Highways Act, being MCL 252.201 et seq, as amended;
- b. 1917 PA 350, the Second Hands 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.

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;

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

D. Upon the enactment of the Ordinance, the Township Board shall cause to be made an inventory of all junkyards presently in business in the unincorporated portions of the Township. 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 Township Board deems relevant.

## **SECTION V VIOLATIONS: MUNICIPAL CIVIL INFRACTIONS**

Section 5.01 This Ordinance is enforceable by all law enforcement agencies and officers authorized to act within the Township and by the Township Enforcement Designee who are hereby designated as the authorized local officials to issue civil municipal infraction citations.

Section 5.02 \_\_\_\_\_ Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction and subject to penalties as follows:

- A. A person found responsible for a first offense shall be fined not less than \$100.00, nor more than \$500.00, plus costs;
- B. A person who violates this Ordinance when having been previously found responsible or admitted responsibility for a violation of this Ordinance in a prior municipal civil infraction proceeding, shall be fined not less than \$250.00 nor more than \$500.00, plus costs;
- C. A person who violates this Ordinance when having been found responsible or admitted responsibility on at least two prior occasions for violation of this Ordinance in a municipal civil infraction proceeding, shall be fined \$500.00, plus costs.

Section 5.03 \_\_\_\_\_ Any person who violates this Ordinance will be ticketed by an authorized local official and required to appear in the 85<sup>th</sup> Judicial District Court.

Section 5.04 In addition to the civil fines imposed pursuant to the section above for violation of the provisions of this Ordinance, a person who is found to be "responsible" for a municipal civil infraction shall be responsible for the payment of costs in the action of not more than five hundred (\$500.00) dollars. "Costs" as used in this section, are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment, which expenses may include reimbursement for attorney fees incurred and/or other costs, damages, and expenses. The Township may also file a lien against the land, building or structure for unpaid fines and costs as provided by law.

#### SECTION VI VIOLATIONS: CIVIL ACTION

Section 6.01 In addition to all other remedies available under the law, the Township or any other person adversely affected by a violation of the Ordinance, may commence an action in the circuit court for Benzie County for an injunction, or other appropriate remedy, to prevent, enjoin, abate, correct or remove junk, 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 VII SEVERABILITY

Section 7.01 This Ordinance and the various parts, sections, sub-sections, 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 Township Board hereby declares that it would have passed this Ordinance and each section, sub-section, phrase, sentence and clause therefore irrespective of the fact that anyone or more sections, sub-section, phrases, sentences or clauses be declared invalid.

#### SECTION VIII 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 IX EFFECTIVE DATE

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

~ THOSE VOTING IN FAVOR: Jim Webber, Harlan Reichle, Bill Robinson and Anna Grobe.

THOSE VOTING AGAINST: None

THOSE ABSENT OR ABSTAINING: James Catton

CERTIFICATION

I, Anna Grobe, Clerk of the Township of Lake, Benzie County, Michigan, do hereby certify that the above is a true and correct copy of the Lake Township Junk Storage and Disposal Ordinance of 2006 as adopted by the Lake Township Board at a meeting held on the 6th day of July 2006, at which a quorum was present.

Date: 7-6-06

Anna Grobe, Clerk,  
Lake Township

Published: 7-12-06