

Approved
5/4/09

**HOMESTEAD TOWNSHIP
BENZIE COUNTY, MICHIGAN
STATE OF MICHIGAN**

HOMESTEAD TOWNSHIP ORDINANCE NO. 5-1-09

ADOPTED: 5-4-09

EFFECTIVE: 6-20-09

"HOMESTEAD TOWNSHIP JUNK ORDINANCE"

AN ORDINANCE TO REGULATE AND CONTROL THE STORAGE AND DISPOSAL OF JUNK WITHIN THE TOWNSHIP; TO REGULATE THE OPERATION OF JUNKYARDS; 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 HOMESTEAD ORDAINS:

SECTION I TITLE, PURPOSE AND LEGAL BASIS

Section 1.01 This Ordinance shall be known and may be cited as the "Homestead Township Junk Storage and Disposal Ordinance of 2009" and shall be known 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 within the unincorporated areas of Homestead 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,
- B. Regulate the volume and conditions under which a person may store junk on one's own land,
- C. Regulate and coordinate with the Township Zoning Ordinance the use and operation of junkyards in the Township,

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

- E. 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.

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property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.

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, 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, junk automobiles and abandoned vehicles;
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 the 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.

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, in 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 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 Homestead 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:

- A. So that no more than two (2) large items of junk, or the equivalent in volume – abandoned, scrap, dismantled or wrecked (including parts of) automobiles, farm equipment, trailers, mobile homes, and all other machines, etc. – are on the parcel;
- B. So that junk is consolidated on one part of the parcel;
- C. 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
- D. So that 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:

- A. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building;
- B. All junk from the operation of the farm is being kept on the premises for possible future use of the farm;
- C. 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. So that 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:

- A. 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;
 - 2. 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.
- C. Is constructed, designed and operated according to all of the following standards:
 - 1. 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;
 - 2. It is set back from parcel boundaries at least 100 feet, and is set back 100 feet from all road right-of-way or 133 feet from

the centerline of any road, whichever is greater;

3. 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;
4. It is operated so that burning or incineration of junk or any other material does not result in smoke;
5. 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;
6. 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;
 - c. the Solid Waste Management Act;
 - d. And, if applicable, 1949 PA 300, licensing of dealers in vehicles, etc, being MCL 267.248, as amended.
7. 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;
8. It is more than 1,000 feet from a school, campground, or park;
9. It is not otherwise adverse to the public health, safety, morals and welfare of the Township.

SECTION V PRE-EXISTING JUNKYARDS

Section 5.01 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 5.02 Any junkyard in business in the Township 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.

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

- A. Ceases to operate for one year or more;
- B. 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 the Ordinance; or
- C. 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.

Section 5.04 A junkyard in business in the Township 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 IV.

SECTION VI VIOLATIONS: MUNICIPAL CIVIL INFRACTION

Section 6.01 The following persons are authorized to enforce this Ordinance and to issue municipal civil infraction citations under this Ordinance pursuant to MCL 600.8701 -8735 as amended of the Revised Judicature Act: :1) Township Supervisor 2) Township Zoning Administrator 3) Benzie County Sheriff deputies and 4) all other persons authorized by Resolution of the Township Board.

Section 6.02 Any person violating this ordinance shall be deemed to be responsible for a municipal civil infraction and shall be subject to the schedule of civil fines set forth below along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9 or more than \$500 be ordered. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law, including injunctive orders requiring the removal of junk from Property and allowing the Township to remove junk from Property if the person fails to do so, and to recover the Township's costs in doing so.

Fine Schedule

First Offense: \$100

Second Offense: \$200

Third Offense: \$300

Section 6.03 Lien for Fines and Costs. If a person responsible for a municipal civil infraction shall fail to pay any fines or costs as set forth within Section 6.02 (including any and all costs incurred by the Township, Township officials or their representative in removing or causing to be removed any junk from Property) within 30 days after payment is ordered, the Township may obtain a lien against the land, building or structure containing the junk. The lien may be enforced and discharged in accordance with the procedures in the Revised Judicature Act for municipal civil infractions, MCL 600.8701 - 8735 as amended, and in the manner prescribed by the General Property Tax Act, MCL 211.1 to 211.151 as amended.

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 affect the remainder of the Ordinance. 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 any one or more sections, sub-section, phrases, sentences or clauses be declared invalid.

SECTION VIII REPEAL

This Ordinance repeals any prior Township junk ordinance.

SECTION IX EFFECTIVE DATE

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

THOSE VOTING IN FAVOR: *Geetings, Rosa Miller, Moore & Demitroff.*

THOSE VOTING AGAINST: *—*

THOSE ABSENT OR ABSTAINING:

CERTIFICATION

I, Mary Geetings, Clerk of the Township of Homestead, Benzie County, Michigan, do hereby certify that the above is a true and correct copy of the Homestead Township Junk Storage and Disposal Ordinance of 2009 as adopted by the Homestead Township Board at a meeting held on the 4 day of May, 2009, at which a quorum was present.

Date: 5/5/09

Mary Geetings
Mary Geetings, Clerk
Homestead Township

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Filed with the County Clerk: 5/21/09