

ORLEANS TOWNSHIP ORDINANCE NO. 75

JUNK-SALVAGE YARD ORDINANCE

ADOPTED: 3-20-12
EFFECTIVE: 4-27-12

AN ORDINANCE TO AMEND AND RESTATE IN FULL ORDINANCE NO. 7 - ORLEANS TOWNSHIP JUNK-SALVAGE YARD ORDINANCE - TO ADD REGULATIONS FOR THE TRANSFER OF A JUNK-SALVAGE YARD LICENSE UNDER CERTAIN CONDITIONS.

THE TOWNSHIP OF ORLEANS, IONIA COUNTY, MICHIGAN ORDAINS:

Section 1. Name. This Ordinance shall be known and cited as the Orleans Township Junk-Salvage Yard Ordinance.

Section 2. Purpose. The purpose of this Ordinance is to protect the health, safety and general welfare of the residents, property owners, and other persons within the Township of Orleans, Ionia County, Michigan, by requiring the licensing of and regulating the operation of junk-salvage yards and related or similar types of uses, businesses and activities within Orleans Township; to prescribe rules and regulations to govern the operation of such uses, businesses and activities; to provide penalties for the violation of such rules and regulations; and to make the same supersede all Ordinances or parts of Ordinances in conflict herewith.

Section 3. Definitions. The following words and terms are defined for the purpose of their use in this Ordinance. Any word or term not defined in this Ordinance shall be considered to be defined in accordance with its common or standard definition.

A) "Junk-salvage yard" shall include any lot, field, enclosure, place, or building used for the collecting, buying, storing, selling, salvaging, disposing, dismantling, wrecking, sorting, processing, fabricating, repairing or reforming of automobiles, vehicles, trailers, or parts thereof, or scrap, waste or damaged iron, steel, copper, brass, zinc, tin, lead, rope, rubber, rags, paper, lass, or any other scrap or waste material of any kind. The foregoing shall not, however, include properly licensed automobile service or repair garages, automobile body repair shops, used car businesses, or other repair or service business operations involving goods, machinery or equipment owned by other persons.

B) "Person" shall mean and include any person, firm, association, partnership, corporation, or other entity of whatever nature.

C) "Premises" shall mean the property owned or leased by the applicant for a junk-salvage yard license under this Ordinance on which a junk-salvage yard is located or is proposed to be located.

D) "Surface water body" shall mean an inland lake, stream, river or pond as those terms are defined in Part 301 of the Natural Resources and Environmental Protection Act, MCL 324.30101 et seq.

Section 4. License Requirement. No person shall own, maintain, or operate within Orleans Township a junk-salvage yard or related or similar type of use, business or activity until an annual license therefor has first been obtained from the Township as herein provided.

Section 5. License Application and Issuance Procedures.

A) Each applicant for a junk-salvage yard license shall first obtain an Ionia County Business Registration Certificate. A copy of the applicant's Business Registration Certificate shall be submitted with a junk-salvage yard license application. Application for a Business Registration Certificate shall be made to the Ionia County Clerk by the owner of the property at issue, or the owner's authorized agent, in accordance with the procedures prescribed by Ionia County.

B) The application for a junk-salvage yard license shall be made to the Township Clerk by the owner of the property at issue, or the owner's authorized agent, in writing and on a form prescribed by the Township, and accompanied by an annual license fee or pro rata portion thereof for the first year, which shall be returned to the applicant if the license is not issued. The license fee shall be for the purpose of assisting and defraying the cost to the Township of annual inspections of the junk-salvage yard to insure compliance at all times with the provisions of this Ordinance. The application shall be subscribed and sworn to by the applicant and filed with the Township Clerk.

C) The Township Board shall hold a public hearing on the application. Notice of the public hearing shall be published in a newspaper of general circulation not less than ten (10) days before the public hearing. Notice of the public hearing shall also be given to all property owners within 300 feet of the proposed junk-salvage yard. Notice of the public hearing shall also be made to the applicant. The applicant and any other interested parties may appear in person, by agent, or by letter at such hearing to submit comments on the application.

D) The applicant shall also submit a survey map of the premises and the land proposed to be a junk-salvage yard, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended (MCLA 54.211) by a land surveyor licensed by the State of Michigan, showing the dimensions and legal descriptions of the parcel, the location of all existing and/or proposed structures or other land improvements, existing or proposed public or private roads, location of existing or proposed utilities, surrounding residential and/or commercial structures, and any other structures required by this Ordinance.

E) Following the public hearing, the Township Board shall approve or deny the application. The Township Board may not issue a junk-salvage yard license unless, after giving full consideration to the information contained in the license application, any objections of adjoining property owners, the general character and trend of the community development,

traffic conditions, the possible depreciation of adjoining property values, and the health, safety and welfare of persons and property, it determines that the site at issue is suitable for such use and fully complies with the rules and regulations set forth in the Ordinance and any other applicable Township or County Ordinance or State law.

F) Every license issued by the Township shall be on a form prescribed by the Township Board, and shall be signed by the Township Clerk and counter-signed by the Township Supervisor. Junk-salvage yard licenses shall not be transferable, and shall expire on the 15th day of January of each year following the issuance thereof. Notwithstanding the foregoing, any junk-salvage yard licensed prior to [INSERT EFFECTIVE DATE OF ORDINANCE NO. 73], that does not meet the requirements of Section 6(A) and/or 6(D) of this Ordinance may be transferred upon approval by the Township Board, provided, that the Township Board may impose any conditions on the transferee it deems necessary for the health and safety of the Township's citizens. The Township Board shall have the right to deny any transfer requested pursuant to this section. Licenses may be renewed upon payment of the annual fee.

Section 6. Rules and Regulations for Operation of a Junk-Salvage Yard. No junk-salvage yard shall be allowed to be operated or maintained within Orleans Township unless it complies at all times with the following rules and regulations:

- A) The premises shall be a minimum of five (5) acres in size.
- B) All material located upon the premises shall be stockpiled in a neat and orderly manner or shall be contained within enclosed storage buildings except when being loaded, unloaded, and/or being actively worked upon.
- C) All outdoor storage or processing of materials shall be screened from adjoining properties and public highways by a hedge, fence or other natural or artificial barrier. Such screening shall be constructed and maintained in an attractive manner, shall be at least eight (8) feet high, and shall be of sufficient density and height to accomplish the complete screening of the outdoor operations and storage from view of adjoining properties and public highways.
- D) The boundaries of the junk-salvage yard shall be at least one thousand (1,000) feet from a church, school, park or boundary of any occupied residential property.
- E) A vegetative ground cover shall be planted between the required screening and any public right-of-way and any surface body water and maintained in good condition.
- F) No debris or material shall be burned upon the premises which by reason of excessive smoke or odor is offensive or may tend to be offensive to the surrounding area, except upon prior written approval of the Township Fire Department. No fire shall be allowed to continue unattended or to be lighted in violation of any rule, regulation or law of the State of Michigan, County of Ionia, or Township of Orleans.
- G) Unsalable or unusable material shall not be deposited upon the premises except

where the same is so commingled with salable or usable material that it cannot easily or conveniently be previously separated off the premises.

H) Off-street parking for customers and employees, sufficient to take care of the greatest number of vehicles which might reasonably be expected to be on the premises at any given time shall be maintained on the premises by the owner or operator. Each parking space shall be not less than ten (10) feet by twenty (20) feet in size, exclusive of driveways thereto.

I) Such operation shall be equipped with a permanent office building for the transaction of business with customers and suppliers.

J) No dangerous, unhealthy, or hazardous condition shall be allowed to exist upon the premises.

K) Any storage buildings or office buildings located upon the premises shall be constructed according to all applicable Township-County-State building and other construction codes, shall be constructed of standard building materials customarily designed for building construction and shall be fully painted or colored an unobtrusive and subdued color.

L) All buildings, machinery, equipment, structures and outdoor storage shall be so located as to minimize any adverse effect of such outdoor storage upon adjoining property owners or occupants and upon the public on adjoining highways without thereby creating undue business hardship.

M) The junk-salvage yard shall not operate between the hours of 10:00 pm. and 7:00 a.m. The junk-salvage yard shall have at least one qualified adult person on duty supervising operations on the premises during all hours that the junk-salvage yard is open for business.

N) None of the operations of the junk-salvage yard, including any storage or dismantling activities, shall be conducted in a public right-of-way, or in such a manner as to obstruct sidewalks, streets, alleys or rights-of-way.

O) The junk-salvage yard activities shall not create an unreasonable disturbance to adjoining residents by reason of excessive noise or disagreeable odors or fumes.

P) No junk-salvage yard shall be used as a landfill or other dumping ground for solid waste or hazardous waste of whatever nature unless all permissions and licenses required by the Township, County, State of Michigan and the United States have first been obtained.

Q) Licensees shall submit an annual report outlining how the licensee has handled and properly disposed used oil, antifreeze, wiper and/or brake fluid, batteries and other liquid or solid waste generated in the operation of the junk-salvage yard. Following submittal of the annual report, the Township shall conduct an annual inspection of the junk-salvage yard to ensure compliance at all times with the provisions of this Ordinance. The annual report submittal shall be due before and shall be a condition of any renewal of the junk-salvage yard license for the premises.

R) Upon vacating or abandoning a site for junk-salvage yard purposes, all junk, automobiles or parts thereof, and any other scrap or material of whatever nature shall be forthwith removed from the premises and disposed of in a lawful manner.

S) The Township Board may, for cause shown, grant exceptions to the regulations herein contained where the spirit, intent and purpose of these regulations will still be complied with and an unnecessary or unreasonable hardship would otherwise exist by a strict construction and enforcement of such regulations.

Section 7. Suspension or Revocation of License. The Township Board may suspend or revoke any junk-salvage yard license as a result of any violations of the terms and conditions of said license or the rules and regulations specified by this Ordinance. Such revocation or suspension shall be determined by the Township Board at a regular meeting of said Board preceded by notice to the holder of the license of the proposed action and the time, date, and place of the meeting at which the matter will be heard. At such time the holder of the license shall have an opportunity to present any evidence or arguments on his behalf. The extent of any suspension or revocation of the license shall be in the discretion of the Township Board, and shall be based upon the nature of the violation or violations which have occurred, the frequency thereof, and the likelihood of their correction with respect to future operations. The holder of a junk-salvage yard license shall be entitled to at least seven (7) days prior notice in writing delivered to the place of business of any proposed suspension or revocation, the alleged grounds therefor, and the time, date and place of the meeting concerning same, if the license is suspended or revoked by the Board, the reasons for same shall be set forth in writing and mailed to the holder of the license at his last known address within eight (8) days after the Township Board decision concerning same.

Section 8. Penalties: Nuisance.

A) Civil Infraction Violation. Unless specified otherwise in this Ordinance, violations of this Ordinance shall be a municipal civil infraction which is an act or omission that is prohibited, made or declared to be unlawful, or an offense by this Ordinance, but which is not a crime under this Ordinance, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs may be ordered as authorized by Act 236 of Public Act of 1961 as amended, subject to the following provisions:

1. Sanctions for a violation of a civil infraction shall be a civil fine in the amount of not less than \$50.00, plus other costs, damages, expenses, and other sanctions for each infraction.

2. Increased civil fines may be imposed for repeat violations by a person of any requirement or provision of this Ordinance. As used in this section, "repeat offenses" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within a two-year period of any prior admission or determination of responsibility (unless some other period is specifically provided by this Ordinance) and (ii) for which the person admits responsibility or is

determined to be responsible. Unless otherwise specifically provided by this Ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

(a) The fine for any offense which is a first repeat offense shall be no less than \$250.00, plus costs.

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500.00, plus costs per offense.

3. Failure to answer a citation or notice to appear in court for a municipal civil infraction is a misdemeanor violation punishable by a fine of not more than \$500.00, plus other costs, or by imprisonment for a term not to exceed 90 days, or both fine and imprisonment.

4. Failure to comply with an order, judgment, or default in payment of a civil fine, costs, damage, or expenses so ordered may result in enforcement actions, including but not limited to imprisonment, collections, placement of liens or other remedies as permitted in Chapter 87 of Act 236 of Public Acts of 1961 as amended.

5. A municipal civil infraction is not a lesser included offense of a criminal offense or an ordinance violation that is not a civil infraction.

B) Misdemeanor Violations. It shall be a misdemeanor punishable upon conviction by a fine of not to exceed \$500.00 (plus other costs), imprisonment for a term of not to exceed 90 days, or both fine and imprisonment; for any person who:

1. makes a knowing false statement, representation, or certification in an application, report, record, plan, or other document filed or required to be maintained pursuant to this Ordinance or other state or federal law; or

2. willfully continues or violates this Ordinance after suspension or revocation of a permit authorized under this Ordinance or other ordinances or state law.

C) Nuisance. Operation of a junk-salvage yard in violation of the regulations contained in this Ordinance, is hereby determined to be detrimental to the health, safety and general welfare of the residents, property owners, and other persons within Orleans Township, and is deemed a public nuisance. Any violation of this Ordinance shall constitute a basis for injunctive relief against the violator to restrain and prohibit the violator from continuing the violation, in addition to any other relief or penalty provided by this Ordinance or allowed by law.

D) Continuing Offenses. Each day on which a violation of the Ordinance continues, constitutes a separate or repeat offense and shall be subject to penalties or sanctions as a separate or repeat offense.

E) Enforcement Actions. This Ordinance shall be enforced by the person or persons

designated by the Orleans Township Board. A municipal civil infraction action may be commenced upon the issuance of a municipal civil infractions citation directing the alleged violator to appear in court.

Section 9. Severability. This Ordinance and the various parts, sections, paragraphs, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, paragraph, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

Section 10. Repeal. All Ordinances and parts thereof which are inconsistent or in conflict herewith are hereby repealed; provided, however, that nothing in this Ordinance shall be considered to repeal any provision of the Orleans Township Anti-Blight Ordinance (Ordinance No. 6), which shall be construed to supplement this Ordinance where applicable.

Section 11. Effective Date. This Ordinance shall take effect thirty (30) days after publication in a newspaper circulating within the Township of Orleans, Ionia County, Michigan.

Moved by J. Noe, seconded by L. Patrick, that the foregoing Ordinance be adopted.

Yeas: J. Noe, L. Patrick, E. Groom, J. Patrick

Nays: C. Chipman

Absence: None

ORDINANCE DECLARED ADOPTED.

Jim Patrick, Supervisor

Ellie Groom

Ellie Groom, Clerk

CERTIFICATION

I hereby certify that this Ordinance was adopted by the Orleans Township Board in regular session held on March 20, 2012 and that it was published in Sentinel Standard on March 28, 2012.

Ellie Groom
Ellie Groom

Subscribed and sworn to before me this 28th day of March, 2012

Joel D. Noe Joel D. Noe

Notary Public
State of Michigan, County of Tonia
My commission expires: 3-18-2013

SUMMARY OF JUNK-SALVAGE YARD ORDINANCE

Orleans Township has adopted an ordinance to amend its Junk-Salvage Yard Ordinance. The ordinance provides that junk-salvage yard licenses may be transferred under certain conditions upon approval by the Township. This ordinance will become effective on 4-27-12. A true and complete copy of the ordinance can be obtained from Ellie Groom, Orleans Township Clerk, at 5265 Belding Road, Belding, Michigan 48809-8532.

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