

COUNTY OF MONTCALM

JUNK AND RUBBISH ORDINANCE

ADOPTED: JULY 10, 1973

EFFECTIVE DATE: OCTOBER 7, 1973

*As amended on the following dates:*

*June 9, 2003*

*May 24, 2004*

An ordinance to provide for control and regulation of outdoor parking, accumulation, storage and/or abandonment of junk and rubbish, including junk motor vehicles, and junk farm equipment, within certain areas of the County of Montcalm, to provide for penalties for the violation of this ordinance and to repeal any ordinance or parts of ordinances in conflict herewith.

PREAMBLE

It is hereby determined by the Board of Commissioners of the County of Montcalm that the public peace, health, safety and welfare of the inhabitants of the county is threatened by virtue of accumulations of outdoor parking, storage and abandonment of junk and rubbish, including junk motor vehicles, wreckage and parts thereof and junk farm equipment, wreckage and parts thereof in certain areas of the county where such accumulation is not now regulated by the State, township or city, under governing state statutes and city charter provisions. It is further determined that such accumulation constitutes a nuisance and that it is essential to protect the public peace, health, safety and welfare of the people of the County of Montcalm, that county regulation of junk and rubbish, including junk motor vehicles, wreckage and parts thereof, and junk farm equipment, wreckage and parts thereof; be provided within the framework of governing law.

SECTION I – Name

This ordinance shall be known and cited as the “The Montcalm County Junk and Rubbish Ordinance”.

SECTION II – Purpose

The purpose of this ordinance is to establish a county control program designed to reduce unregulated junk and rubbish, including abandoned and junk motor vehicles, wreckage and parts thereof, and junk farm machinery, wreckage and parts thereof, accumulations throughout the county to the extent permissible by state law, and nothing in this ordinance shall be construed to abrogate or affect the authority of the state under 1966 PA 219, being MCLA 252.201 et seq; MSA 9.391 (11) et seq, or under section 248 to 249 of the Michigan Motor Vehicle Code, being MCLA 257.248-257.249; MSA 9.1947-9.1948, or to interfere with the prerogative of townships under 1929 PA 12, being MCLA 445.451 et seq; MSA 19.731 et seq; being an act to authorize

townships to license and regulate junk yards and places for the dismantling, wrecking and disposing of the junk and/or refuse material of automobiles; nor is anything in this ordinance to be construed as interfering with the authority of any incorporated city or village to regulate junk yards, junk dealers, wreckers or the accumulation of junk vehicles and other junk covered by this ordinance by charter provision. It is the purpose of this ordinance to supplement state law providing for control of junk yards and the regulation of junk, as hereinabove set forth.

### SECTION III – Definitions

The term “private premises” shall mean any lot or parcel of land owned or occupied by any person whether or not improved with any dwelling, house, building or other structure whether inhabited or temporarily or continuously uninhabited or vacant.

The term “junk” is defined as old metal, wood, or any other material that because of being discarded, obsolete, or disrepair, is no longer practical to use.

The term “rubbish” is defined as (1) any material thrown away as worthless (2) trash (3) worn out and discarded material that may be returned to some use.

The term “motor vehicle” shall include every vehicle which is self-propelled.

The term “junk motor vehicle” shall include dismantled and partially dismantled motor vehicles, parts thereof, from which some part or parts which are ordinarily a component of such which have been removed or is missing, or any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power; or any motor vehicle not licensed for use upon the highways of the State of Michigan, for a period in excess of thirty days.

The term “junk farm equipment” shall include dismantled and partially dismantled farm equipment from which some part or parts which are ordinarily a component of such piece of farm equipment have been removed or are missing, when the value of such part or parts either singly or in aggregate exceeds the then appraised value of such farm equipment without said part or parts.

The term “fence” is defined as a vertical structure used to enclose a specific area without a roof and constructed of approved building materials that are of the same composition, color, texture, design, etc. to avoid being offensive to public view.

[Section III Amended on 5/24/2004 by Ordinance Number 2004-2]

### SECTION IV – Regulations

A. Except to the extent permitted under state law or city or village charter provision, no person or corporation, whether owner, tenant or manager of private property, or whether the past registered owner of the vehicle or transferee on a bill of sale covering the vehicle, shall permit the parking, storage or accumulation thereof upon any public right of way, public property or private premises within the county, of any junk, including junk motor vehicles,

wreckage or parts thereof, unless the same are wholly contained within a fully enclosed building or a completely walled enclosure, or are otherwise screened by natural objects, plantings, fences or other appropriate means so as not to be visible to public view, except for the following:

1. Motor vehicles in operating condition eligible for use in accordance with the requirements of the Michigan vehicle code, being 1939 PA 300, as amended;
  2. Motor vehicles in operating condition held as stock in trade by a regularly licensed dealership of new or used motor vehicles or equipment used in the operation of such dealership;
  3. No more than one modified vehicle in fully operating condition such as a stock modified, redesigned or reconstructed vehicle for a purpose other than that for which it was manufactured may be permitted, provided no building or garage is located upon the premises in which said vehicle could be parked or stored, and further provided that in no event shall any such remodeled or reconstructed vehicle be parked in the front or side street yard area of any residential premises so as to be visible to passersby.
- B. No repairing, redesigning, modifying or dismantling work or operation shall be allowed upon any vehicle or parts thereof except pursuant to authority conferred by the state or township under governing law, or upon any public right of way or public property for a period in excess of 24 hours, or upon private property of a period in excess of one week, except such as shall be accomplished within fully enclosed buildings or completely walled enclosures; provided further, that such repairing, redesigning, modifying or dismantling shall be conducted in conformity with any applicable zoning ordinance and in such a manner as not to annoy the owners or occupants of adjoining property.
- C. Motor vehicles temporarily inoperable due to minor mechanical failure, but which are not in any manner, dismantled and have substantially all main component parts attached, may remain upon private property for not to exceed an aggregate total of thirty (30) days.
- D. In the event of special or peculiar hardship beyond the control of any individual due to unforeseen circumstances by reason of the application of the provisions of this ordinance, the court may grant a two week stay in any proceeding brought for violation of this ordinance, provided that the court shall have discretion to consider unreasonable or adverse effect to owners or occupants of adjoining property in considering application for such stay to the end that the spirit and purpose of this ordinance may be substantially carried out.

[Section IV Amended 5/24/2004 by Ordinance Number 2004-2]

#### Section V. – Penalties, Nuisance, Enforcement.

- A. Municipal Civil Infraction. Unless specified otherwise in this Ordinance, any person, firm or corporation who violates any provision of this Ordinance, whether as owner, lessee, permittee, licensee, agent, servant, employee or in any other capacity, is

responsible for municipal civil infraction, and shall be subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for each infraction (as authorized by Section 10(b) of Act No. 156 of the Public Acts of 1851, as amended). Repeat offenses under this Ordinance shall be subject to increased fines as provided by this Section. As used in this Section, "repeat offense" means a second (or any subsequent) violation of the same requirement or provision of this Ordinance (i) committed by a person within any one year period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

1. The fine for any offense which is a first repeat offense shall be not less than \$250.00, plus costs.
  2. The fine for any offense which is a second repeat offense, or any subsequent repeat offense, shall be not less than \$500 each, plus costs.
  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 action, including but not limited to imprisonment, collection, placement of liens or other remedies as permitted in Chapter 87 of Act 326 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. Continuing Offenses. Each day on which a violation of this Ordinance continues constitutes a separate or repeat offense and shall be subject to penalties or sanctions as a separate or repeat offense.
- C. Nuisance. The presence of an inoperable motor vehicle or parts of a motor vehicle, or the presence of dismantled or partially dismantled junk farm equipment, or the accumulation, or allowing the accumulation, of junk or rubbish, in violation of this Ordinance, is hereby declared to be a public nuisance. In addition to any remedies available at law, the County may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance.
- D. Enforcement. The Montcalm County Sheriff, and his deputies, or the County Building Official, are hereby designated as the authorized County officials to issue municipal civil infractions for violations of this Ordinance. A municipal civil infraction action may be commenced upon the issuance of a municipal civil infraction citation directing the alleged violator to appear in court.

E. Non-Exclusive Penalties. The prohibitions and penalties provided by this Ordinance shall be in addition to, and not exclusive of, prohibitions and penalties provided by other applicable laws, rules or regulations.

[Section V amended 6/9/03 by Ord No. 2]

#### SECTION VI – Construction

This ordinance shall apply to junk yards, salvage yards, garages, body or paint shops that are not regulated in a similar manner by a county municipality, or by the State of Michigan, or both.

[Section VI Amended on 5/24/2004 by Ordinance Number 2004-2]

#### SECTION VII – Saving Clause

Any action to enforce any violation of the Junk and Rubbish Ordinance which is pending on the effective date of this Ordinance amendment and which arose from a violation of a provision of the Junk and Rubbish Ordinance repealed by this Ordinance amendment, or any enforcement action which is started within one (1) year after the effective date of this Ordinance amendment arising from a violation of a provision of the Junk and Rubbish Ordinance repealed by this Ordinance amendment and which was committed prior to the effective date of this Ordinance amendment, shall be processed and determined exactly as if the applicable provision of the Junk and Rubbish Ordinance had not been repealed. [Section VII amended 6/9/03 by Ord. No. 2]

#### SECTION VIII - Severability

The provisions of this Ordinance are hereby declared to be severable, and if any clause, sentence, paragraph, section or sub-section is declared to be void or ineffective for any reason, it shall not affect any other part or portion hereto. [Section VIII amended 6/9/03 by Ord. No. 2]

#### SECTION IX - Non-Repeal

This Ordinance shall not be construed to repeal by implication any other Ordinance of the County pertaining to the same subject matter. [Section IX amended 6/9/03 by Ord. No. 2]

#### SECTION X – Effective Date

This Ordinance shall take effect upon publication in a newspaper circulating within Montcalm County, Michigan. [Section X amended 6/9/03 by Ord. No. 2]