

DRAFT FOR TOWNSHIP BOARD PUBLIC HEARING MARCH 27, 2018

PENINSULA TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN

JUNK ORDINANCE NO. 53

Section 1 Purpose

An Ordinance to secure the public health, safety and welfare of the residents and property owners of Peninsula Township, Grand Traverse County, Michigan, by the regulation of the outdoor parking and storage of motor vehicles, mobile homes and new or used parts or junk therefrom, junk, trash, rubbish, building materials, and to provide penalties for the violation of this ordinance and to repeal any ordinances or parts of ordinances in conflict herewith.

Section 2 Definitions

The following words or terms when used herein shall be deemed to have the meanings set forth below:

- A. **"Abandoned vehicle"** shall include, without limitation, any vehicle which has remained on private property for a period of 24 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 24 continuous hours, or more after the consent of the owner or occupant of the property has been revoked.
- B. **"Building material"** shall include, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure. Building material which can be reasonably be expected to be used on a property in the near future shall not be considered "Junk" for the purpose of this ordinance.
- C. **"Farm Equipment"** means functioning apparatus, supplies, or materials used or intended for use in active farming operations. For the purpose of this ordinance, the term "functioning" includes equipment which is dormant or down for repair.
- D. **"Junk"** shall include, without limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, unusable burning barrels, tires, hazardous materials, remnants of wood, metal, rope, rubber, rags, clothing, plastic, paper, glass, garbage, appliances, televisions, remnants of tarps or any other scrap or waste material of any kind, including parts of any of the above. Also included as junk are any fallen trees, brush, branches, or overgrown vegetation that are obstructing public view on public or private roads constructed and approved according to the Peninsula Township Ordinance. "Junk" does not include Farm Equipment.
- E. **"Motor vehicle"** shall include boats, snowmobiles, ATV's, motorcycles, motor homes, ORVs trucks golf carts, not licensed for the use in which it is intended in the State of Michigan, and

shall also include, whether licensed or not, any motor vehicle which is inoperable or does not have all its main components parts attached.

- F. "Person" shall include all natural persons, firms, co- partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this Ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.
- G. "Trash and rubbish" shall include any and all forms of debris not herein otherwise classified.

Section 3 Regulations

The following words or terms when used herein shall be deemed to have the meanings set forth below:

- A. Exterior Storage Unless otherwise permitted, no person or corporation, whether he/she be the owner, tenant or manager of private property, or whether he/she be the last registered owner of the vehicle or transferee on the bill of sale covering the vehicle, shall permit the accumulation on private property of one or more motor vehicles which do not meet the following conditions:
 - i. All motor vehicle(s) must be in operating condition and eligible for use in accordance with the requirements of the Michigan Vehicle Code being Act No. 300 of 1949, as amended. A vehicle has 14 days to comply with these regulations.
 - ii. This Ordinance applies to all vehicles including but not limited to motorized vehicles, ORVs, motorcycles, boats, recreational vehicles, or any type of vehicle that has or is capable of having an engine that runs, an operating drive train, two or more wheels, and/or pneumatic tires capable of holding air.
 - iii. Any person enumerated in this Section who, under special conditions of hardship, or for valid reasons such as the preservation of a historic or classic vehicle, may request an extension of the fourteen (14) calendar days limitation above described by filing a timely request with the Township. The Zoning Administrator or Code Enforcement Officer may, at his/her discretion, after review of all the circumstances and after holding any hearing it deems necessary, grant said applicant any reasonable extension of time.
 - iv. These provisions shall apply in all Districts except where the storage of said vehicles is in a completely enclosed building or is by a licensed junk dealer.
 - v. This regulation does not apply to motor vehicles that are properly and currently licensed with the State of Michigan. However, upon expiration (without renewal) of a valid license, such vehicle must then comply with this regulation.
 - vi. Except as otherwise provided herein, no person, firm, corporation, or other legal entity shall park, store or place upon any public roadway, public property or upon any premises within the Township of Peninsula, any junk, junk motor vehicles, abandoned vehicles, unlicensed trailers, used parts or junk therefrom, any building materials or any trash and rubbish as herein defined, unless the same is wholly contained within a fully enclosed building and does not violate any zoning laws of Peninsula Township or building codes of, Grand Traverse County or the State of Michigan.

- B. Farm Uses and Farm Equipment. Peninsula Township is an active agricultural community. This ordinance shall not regulate outdoor storage of defined "Farm Equipment" which is dormant or which is under repair for reasonable periods of time. This section shall also not apply to regular Farm Uses as recognized as a Generally Accepted Agricultural Management Practice (GAAMP.)
- C. Repair of Motor Vehicles. No repairing, re-designing, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or public property or on any property except such as may be accomplished within a fully enclosed building. However, if no fully enclosed building is located on the premises, the said repairing, redesigning, modifying or dismantling work or operations may be conducted on the premises for a period of time not to exceed one week. Repairing, redesigning, modifying or dismantling work or operations will not be permitted on any premises where the conduct of such work or operations would constitute a nuisance or annoyance to adjacent property owners or occupants and/or is in violation of any provisions of the Peninsula Township Zoning Ordinance. Nothing contained herein shall prohibit such occasional minor repair work as may infrequently be required to maintain a vehicle or trailer or parts thereof in normal operating conditions; provided, however, such minor work can be completed within a 24 hour period.
- D. Road Right-of-Way. No person shall place, discard, or abandon junk in a place where it is visible from a highway, street, or other public right-of-way, or where it is visible to an abutting landowner from that portion of the land used on a regular basis. No person shall place, discard, or abandon junk on public property or the private property of another, regardless if visible from a highway, street, or other public way, or from adjoining land.

Section 4 Nuisance

Any parking, storage, placement or operation in violation of the provisions of this Ordinance is hereby declared to be a public nuisance which may be enjoined or which may subject the violator to civil damages and the fines and penalties herein provided for.

This Ordinance shall not prevent the operation of any licensed junk yard or salvage yard, garage, body or paint shop legally operating within a District as defined in the Peninsula Township Ordinance, and shall be in addition to any other laws or ordinance controlling or regulating rubbish, refuse, litter, trash or junk.

Section 5 Severability

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any Court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part of portion thereof.

Section 6 Penalty

- A. **Enforcement.** Enforcement of the provisions of this Ordinance shall be the Peninsula Township Zoning Ordinance Enforcement Officer (or such other Peninsula Township Official as may be designated by the Peninsula Township Board), the Peninsula Township Zoning Administrator, the

Peninsula Township Attorney, the Grand Traverse County Sheriff's Department and/or the Michigan State Police.

i. Prior to enforcement action, the enforcing agent shall provide written notice of an alleged violation of this section.

- B. First Violation is a Municipal Civil Infraction.** A violation of this Ordinance, first offense, is a municipal civil infraction. Any property owner or legally responsible party who violates this Ordinance shall, as a first offense, be responsible for a civil infraction, for which the fine shall be \$150.00.
- C. Second Violation (within two years after municipal civil infraction).** A second or repeat violation (within two years after a municipal civil infraction) is a misdemeanor. Any property owner or legally responsible party who violates any provision of this Ordinance a second time within 24 months of the date a civil infraction ticket is issued (whether the violation of this Ordinance is for the same offense as a civil infraction or for some other offense under this Ordinance) shall upon conviction and in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of not more than \$500.00 and/or imprisonment for a period of not more than 93 days, plus court costs and costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense.
- D. Continuing Offense.** Each act of violation and each day upon which any such violation shall occur, shall constitute a separate offense.
- E. Remedies Not Exclusive.** In addition to any remedies provided for in this Ordinance, any equitable or other remedies available may be sought.
- F. Judge or Magistrate.** The Judge or Magistrate shall also be authorized to impose costs, damages, and expenses as provided by law.
- G. Civil Contempt.**
- i. If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the District Court, upon motion of Peninsula Township or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
 - ii. If a corporation or an association is ordered to pay a civil fine, costs, damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
 - iii. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for a payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.

- iv. If it appears that the default in the payment of a civil fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, damages or expenses.
- H. In addition to the imposition of the foregoing fines and penalties, the Peninsula Township Code Enforcement Officer, Zoning Administrator, Peninsula Township Attorney, Grand Traverse County Sheriff, the Michigan State Police, or such officer as the Township may designate, may petition for a court order to cause any junk, building materials, trash or rubbish, vehicle, trailer, or parts thereof, which violate the provisions of the ordinance to be removed from the premises, impounded and destroyed or sold for junk, and the cost thereof assessed against the owner of such vehicle, trailer or parts thereof, or of the premises on which same are located. Any sums realized on the sale of same may be retained by Peninsula Township to reimburse it for the cost incurred in such removal and sale, to the extent of such cost. Any balance of sums remaining after such reimbursement shall be returned to the owner of such a vehicle, trailer or parts thereof. If the sale does not cover the cost of removal, a lien will be placed upon the property.

Effective date.

This ordinance shall take effect following date of publication as required by law. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance, specifically including Ordinance No.41 Junk Ordinance are hereby repealed.