

**SOO TOWNSHIP
JUNKYARD ORDINANCE
Ordinance No. 5 of 2001**

AN ORDINANCE PURSUANT TO PUBLIC ACT 12 OF 1929, AS AMENDED, PROVIDING FOR THE LICENSING OF JUNKYARDS AND PLACES FOR THE DISMANTLING, WRECKING AND DISPOSING OF JUNK AND/OR REFUSE MATERIALS OF AUTOMOBILES, TO PRESCRIBE THE AMOUNT OF LICENSE FEES, TO ADOPT RULES, REGULATIONS AND CONDITIONS FOR THE OPERATION JUNKYARDS, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

SOO TOWNSHIP ORDAINS:

Section 1. Definitions. As used in this Ordinance,

- (a). "Junkyard" means a business at a fixed location or locations operated by a person who buys, stores, sells, processes, receives or recycles used rags, paper, used bags, used metal, used tires, used car parts, used appliances or any other type of machinery or automobile, when such appliance, machinery or automobile is acquired for the purpose of dismantling or stripping for the sale or recycling of used metals or parts.
- (b). "Person" or "Licensee" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.
- (c). "Junk" means used rags, paper, used bags, used metal, used tires, used car parts, used appliances or any other type of machinery or automobile when such appliance, machinery or automobile is dismantled or stripped for the sale or recycling of used metals or parts.

Section 2. Permit Required.

Any person engaged in the operation of a junkyard or junkyards within the Township shall be required to obtain a permit for each and every location of such junkyard within the Township and shall be subject to the conditions, terms and operational regulations of this Ordinance.

Section 3. Application.

Applications for a junkyard permit shall be in writing and directed to the Township Clerk along with the application fee. An application shall contain the following information:

- (a). The names and addresses of the owners of the property on which the junkyard is to be located,
- (b). The legal description of the property on which the junkyard is to be located,
- (c). The names and addresses of all persons who will have an ownership interest in the junkyard. If the applicant is a corporation, the application shall include the

names and addresses of all shareholders as well as the name and address of all persons who will be involved in the operation of the junkyard,

- (d). The name under which the business shall operate,
- (e). If the applicant is a corporation or limited liability company, proof that the applicant is a corporation or limited liability company in good standing under the laws of the State of Michigan, and
- (f). A site plan which will include the following information:
 - 1) The location of customer and employee parking,
 - 2) The location of all entrances and exits to the junkyard site,
 - 3) The location of all fencing (actual or proposed) and natural barriers,
 - 4) The location of all structures on the premises,
 - 5) The location of all structures on properties which are adjacent to the site of the proposed junkyard,
 - 6) The location of all public roads adjacent to the site of the proposed junkyard, and
 - 7) Such other information as is necessary to show that the proposed junkyard will be in compliance with all requirements of this Ordinance.

Section 4. Investigation and Hearing.

Upon receipt of an application for a new junkyard permit or a renewal by the Township Clerk, the application shall be referred to the Township Board. The Township Board may designate a person of its choosing to investigate the applicant and site. The results of such an investigation shall be reported to the Township Board at the hearing on the application. The Township Board may consider the application at a regular or special Township Board meeting. The Township Board may publish notice of the hearing on the junkyard application in a newspaper of general circulation within the Township and may notify property owners who may have an interest in the consideration of the application. At the hearing on the application the Township Board may grant the permit, deny the permit or grant the permit with conditions. At the hearing the Township Board shall also have the right to table a final decision on the application if more information is required of the applicant or any other source or if a revised site plan is required.

Section 5. Standards for Review.

In deciding whether to grant, deny or grant with conditions the application, the Township Board shall consider the following factors and the requirements of Section 6 below:

- (a). Land uses of nearby property and what effect, if any, the proposed junkyard would have on these properties. A proposed junkyard within a reasonable proximity to residential property should be discouraged.
- (b). The need of Township residents for the junkyard and the nearness of other businesses, even outside of the Township, which provide the same services or products.
- (c). Whether the applicant or any person involved in the operation of the junkyard has been convicted of a crime of theft, receiving and concealing stolen property or possession of stolen property or a similar crime within the last ten (10) years; provided, however, if the person has been incarcerated, then the ten (10) years shall be measured from the day on which the incarceration ended.
- (d). Whether the applicant has already taken action which violates this Ordinance, another Township ordinance, if any, which regulates the accumulation or storage of junk or any other State law relating to junkyards or salvage yards.
- (e). The extent to which the applicant's property has adequate parking for the proposed business. There must be at least one (1) off-street parking spot for each employee and two (2) off-street parking spots for customers.
- (f). Location and size of signs which will be used in the junkyard business and their affect on adjoining property and traffic.
- (g). Whether adequate lighting exists.
- (h). What traffic patterns are likely to be present or develop at the proposed site and its affect on traffic safety and neighboring property.
- (i). Whether the site, site plan and applicant meet or can meet all requirements of this Ordinance.
- (j). The proposed hours of operation of the junkyard and its affect on nearby properties.
- (k). Such other considerations that are reasonably related to the health, safety and welfare of the public.

Section 6. Requirements.

The following regulations and conditions are required for the granting of a new or renewed junkyard permit and the continued operation of a junkyard:

- (a). The minimum site area allowable for a junkyard shall be ten (10) acres.
- (b). No junkyard shall be permitted closer than six hundred feet (600') to a dwelling house. This requirement is a minimum. It does not mean that a junkyard is

automatically allowed because it is greater than six hundred feet from a dwelling house. The number of dwelling houses and their proximity to the proposed junkyard site are factors to be considered under Section 5. This requirement is not violated if a new dwelling house is erected within six hundred feet of a pre-existing, lawful junkyard.

- (c). No junkyard shall be operated so as to create a nuisance by reason of noise, odors, fumes, filth or unsanitary conditions. Intensity level of sounds generated by the operation of the junkyard shall not exceed sixty (60) decibels, as measured on the A scale, between the hours of 6:00 p.m. and 8:00 a.m. daily when measured at the property line of the residential use which is closest to the junkyard.
- (d). There shall be no burning of junk on the premises.
- (e). Licensee shall comply with all statutes and administrative rules of the State of Michigan regarding the operation of the licensee's business.
- (f). All junkyards shall provide an area of sufficient size for the dismantling of motor vehicles and/or appliances. Said area shall have an impervious surface, such as concrete, so construed and sloped that any liquids will flow to a drain. Said drain shall be connected to a storage tank of a type approved by the Michigan Department of Natural Resources and/or Department of Environmental Quality for the storage of hazardous waste. Contents of said storage tank shall be hauled and disposed of in the manner as prescribed by law. It shall be unlawful to spill, pour or dispose of any liquid, such as gas, oil or antifreeze, on or into the ground.
- (g). Any fluids such as those mentioned above, if stored on the premises in containers such as barrels, cans, etc., shall be stored on an impervious surface also sloped so as to drain into the above mentioned storage tank and so as to prevent any leakage or spillage from contaminating the soil or groundwater.
- (h). Every junkyard licensee in the Township shall at all times keep a book in which shall be legibly written in ink at the time of purchase or receiving any goods, articles or things, an accurate account and description in the English language of the goods, articles or other things purchased or received, the amount of money paid therefor, the date and time of purchasing or receiving such goods, articles, and/or things, the name and address of the person or persons selling or leaving such goods, articles and/or things and a description of the person or persons from whom those goods, articles, and/or things were purchased or received. This book shall be open to inspection by the State Police, Chippewa County Sheriff's Department or a designee of the Township Board during normal business hours.
- (i). It shall be the duty of the licensee upon receiving information that any goods, articles or things purchased or left with the licensee have been lost or stolen to notify in writing the Michigan State Police or the Chippewa County Sheriff's Department of such fact.

- (j). The junkyard shall have a wall, fence or screen around the entire perimeter of the property to be used as a junkyard unless naturally shielded by woods or hills of such nature that junk located on the property cannot be seen from any public street or highway adjacent to the property or from adjacent land.
- (k). Walls, fences or screens shall:
 - 1) Be of a uniform height in relation to the ground upon which they stand and shall be a minimum height of eight feet (8').
 - 2) Be constructed at least five feet (5') inside the front, side and rear lot lines and at least twenty-five feet (25') from the boundary of a public road right-of-way.
 - 3) Be maintained in a manner commensurate with the original site plan and as originally erected.
- (l). Junk shall not be piled higher than the height of the wall, fence or screen.
- (m). All activities associated with the junkyard shall be confined within the enclosed area of the wall, fence or screen. No equipment or material associated with the junkyard shall be used or stored outside the wall, fence or screen.
- (n). A wall, fence or screen may consist of natural or planted vegetation or earthen embankments protected to minimize erosion, subject to specific approval of the Township Board which shall insure that the proposed barrier meets the criteria of Section 6(k) 1) - 3).
- (o). The junkyard may be inspected during normal hours of operation by a representative of the Township Board. If the licensee fails to consent to the inspection, then an administrative search warrant may be issued by a court or magistrate under applicable law.
- (p). No licensee shall purchase or receive any junk from a person under the age of eighteen (18) years.

Section 7. Permit Conditions.

The Township Board may grant the permit with such conditions as the Township Board deems reasonably necessary to protect the health, safety and welfare of the public and to ensure compliance with this Ordinance. By way of example and not limitation, the Township Board may limit the days and hours of operation of the junkyard. The Township may also set conditions which shall be met by the applicant as a prerequisite to the issuance of the permit.

Section 8. Renewal.

Once a junkyard permit is issued under this Ordinance, the permit shall automatically terminate on January 31 of the next year. An application to renew the permit shall be made on or before January 2 of each year. A request for a renewed permit may be granted, denied or granted with continued or new conditions. The decision whether to renew the permit shall be based on the following considerations:

- (a). Whether there are or have been violations of this Ordinance and the frequency and severity of those violations,
- (b). Whether there are or have been violations of applicable State of Michigan statutes or administrative rules and the frequency and severity of those violations,
- (c). Whether there are or have been violations of any conditions of the permit and the frequency and severity of those violations,
- (d). Whether the standards of Section 5 and the requirements of Section 6 continue to be met, and
- (e). Whether the application fee has been paid with the application for renewal.

Section 9. Application and Annual Fees.

The application fee for new permits or renewals shall be set by resolution of the Township Board and may be amended by the Township Board. If a new permit is issued after June 30, then the annual permit fee for the first year shall be reduced by one-half ($\frac{1}{2}$) of the regular annual permit fee.

Section 10. Existing Licensees.

All junkyard licensees who have obtained a junkyard permit before the effective date of this Ordinance shall comply with all requirements of this Ordinance within three (3) years from the effective date of this Ordinance.

Section 11. Financial Guarantees.

As a condition of approving the permit the Township Board may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the Township be furnished by the applicant in sufficient amount to ensure compliance with all fiscal improvements which must be made to the proposed junkyard site. The financial guarantee shall be deposited with the Township Clerk at the time of issuance of the permit. As work progresses, the Township Board shall authorize a proportional rebate of the financial guarantee upon completion of a proportionate amount of the improvements.

Section 12. Permit Revocation.

If there is reason to believe that a licensee has violated this Ordinance or a permit condition, the Township Board may revoke the junkyard permit in compliance with the following procedure. Written notice of the alleged violations and the date of a public hearing at which the Township Board will consider these allegations shall be sent to the licensee at his or her last known address. Licensee may present evidence at the hearing. If the Township Board determines after the hearing that the licensee has violated the terms of this Ordinance or permit conditions, the Township Board may revoke the permit or impose such additional conditions on the permit as it deems appropriate to ensure compliance with this Ordinance and/or earlier permit conditions. This revocation procedure shall be in addition to any enforcement action available to the Township.

Section 13. Penalty/Civil Infraction.

Any person who shall violate any provision of this Ordinance or any permit issued pursuant to this Ordinance shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. A person or licensee who violates the terms of this Ordinance or any permit issued pursuant to this Ordinance, whether as owner or as agent, servant or employee shall be equally liable as the principal. Each day this Ordinance is violated shall be considered as a separate violation.

Section 14. Enforcement.

The Township Supervisor or other official designated by the Township Board is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 15. Nuisance.

A violation of this Ordinance or any permit issued pursuant to this Ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 16. Injunctive Relief.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 17. Severability.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance shall be invalid, such invalidity shall not effect any remaining

portion or application of this Ordinance which can be given effect without the invalid portion or application.

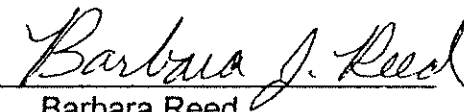
Section 18. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the township.

SOO TOWNSHIP

By: 
James Molitor

Its: Supervisor

By: 
Barbara Reed

Its: Clerk

ORDINANCE CERTIFICATION

At a regular meeting of the Soo Township Board, Chippewa County, held in the Soo Township Hall, located at 639 Three and One-half Mile Road, Sault Ste. Marie, Michigan, on July 11, 2001, at 7:30 P.M.

PRESENT: Molitor, Perron, Reed, Osborn

ABSENT: _____

It was moved by Molitor and supported by Harold Osborn that the following Ordinance be adopted:

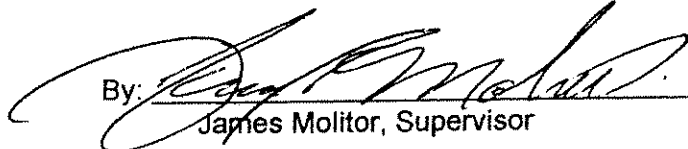
(See attached SOO TOWNSHIP ORDINANCE)

YES: Reed, Molitor, Osborn, Perron

NO: _____

ORDINANCE DECLARED ADOPTED.

SOO TOWNSHIP

By:  _____
James Molitor, Supervisor

I, the undersigned, the Clerk of the Township of Soo, Chippewa County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Soo Township Board of said County at its regular meeting held on _____, 2001, relative to adoption of the ordinance therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act; this ordinance was published in the _____ on _____, 2001 and was filed with the County Clerk on _____, 2001.

Dated: _____
Barbara Reed, Clerk

Note: The Ordinance and this Ordinance Certification should be filed with the County Clerk within one (1) week of publication and the Ordinance should be placed in the Township Ordinance Book.