

Suttons Bay Township

Ordinance No. _____ of 2009

SUTTONS BAY TOWNSHIP ACCUMULATED JUNK ORDINANCE

THE TOWNSHIP OF SUTTONS BAY HEREBY ORDAINS:

SECTION 1. TITLE AND PURPOSE

- A. This Ordinance shall be known and may be cited as the Suttons Bay Township Accumulated Junk Ordinance.
- B. The purpose of this Ordinance is to regulate and control the storage and disposal of junk within Suttons Bay Township, in order to promote the public health, safety and welfare; to protect property values; provide for the safety of residents in the area from dangerous junk and attractive nuisance; to protect the groundwater lying beneath the Township; to reduce the incidence of blight and vermin; to protect aesthetic character of the Township and to regulate matters of legitimate Township concern with relation to the foregoing. This Ordinance is specifically designed to:
 - 1. Define certain terms used herein;
 - 2. Regulate the volume and conditions under which a person may store junk on a parcel of land;
 - 3. Regulate and coordinate with the Township Zoning Ordinance the use and operation of junkyards in the Township;
 - 4. Provide for enforcement and a system of due process for control of junk, blight and attractive nuisances on and about properties within the Township; and
 - 5. Provide for other miscellaneous provisions for the administration of these regulations.

SECTION 2 DEFINITIONS

- A. The following terms shall have the meanings herein assigned, unless the context clearly requires otherwise.
 - 1. **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) hours or more without the property owner's or lessee's consent and with or without such owner's or lessee's knowledge.

2. ATTRACTIVE NUISANCE means any building, abandoned vehicle, or structure because of dilapidation, damage, vacancy, abandonment or neglect, that is open at door or window, leaving the interior of the building, structure, or abandoned vehicle to become an attraction to vermin, children who might play therein to their danger, or as to afford a harbor for vagrants or criminals.
3. BLIGHTED STRUCTURE OR BUILDING means any dwelling, garage or outbuilding, or any factory, shop, store, warehouse or any other structure or building, including mobile homes, travel trailers and converted vehicles intended for use as temporary or moveable dwellings or part of a structure or building which, because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, or useful for the purpose for which it was originally constructed or intended.
4. BUILDING MATERIALS includes but is not limited to lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, gypsum board, insulations, glass, shingles, mortar, concrete or cement, nails, screws, or any other materials used in construction of any structure.
5. DISMANTLED AND PARTIALLY DISMANTLED MOTOR VEHICLES are defined as one or more motor vehicles from which some material part (or parts) ordinarily a component of such motor vehicle, has been removed or is missing.
6. FARM means a business enterprise engaged in agricultural production (and otherwise known as farms, ranches, diaries, nurseries, orchards) of crops, livestock and/or trees, and:
 - a. Which includes forty (40) or more acres of land in one (or common) ownership and which is primarily devoted to agricultural use; or
 - b. Has five (5) or more acres of land in one (or common) ownership but less than forty (40) acres, devoted primarily to agricultural use, which has produced a gross annual income from agriculture of at least two hundred dollars (\$200.00) per year per acre of cleared and tillable land during any two (2) years within the previous five (5) year period; or
 - c. Has been designated by the Michigan Department of Agriculture as a specialty farm in one (or common) ownership and which has produced a gross annual income from agriculture of two thousand dollars (\$2000.00) or more.
7. GARBAGE means and includes food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for use in food, or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables.

8. INOPERABLE MOTOR VEHICLES are defined as one or more motor vehicles, which by reason of dismantling, disrepair, lack of current registration or other causes are incapable of being propelled under their own power or are prevented by law from being propelled on a public highway.
9. JUNK means:
- a. Scrap ferrous or nonferrous metals, garbage, trash, rubber, five or more scrap tires, cloth, paper, rubbish refuse, litter, unused furniture;
 - b. Any blighted structure or building, materials from demolition, waste building materials; and
 - c. Any inoperable motor vehicles, junk automobiles, dismantled vehicles, abandoned-scraped-dismantled or wrecked (including parts of, or items held for salvaging parts) vehicles, or any farm equipment, boats, trailers, mobile homes, appliances and/or all other machines found to be in a deteriorating condition, but shall not include:
 1. Items being held for a customer while parts are being sought for its repair;
 2. Items that are classic or antique, kept and collected for their antique or collectable value; or
 3. 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.
10. JUNKYARD means a business enterprise or a part of a business enterprise, engaged wholly, or in part, in the purchase, acceptance, handling, storage, resale, recycling, conversion, or recovery of junk, and which is reasonably includable in the definitions established by the Standard Industrial Classification Manual of 1972 prepared by the U.S. Office of Management and Budget, classification 5093 and some enterprises in classification 5931, whether a part of a licensed landfill operation or not. The foregoing 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 (as a used vehicle parts dealer) under MCL 257.248, MSA 9.1948, as amended.
11. LIQUID WASTE means any liquid brine, by-product, industrial wastewater, leachate, off-specification commercial product, sludge, grease-trap clean out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity, except any liquid brine normally used in oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.

12. MOTOR VEHICLES are hereby defined as any wheeled vehicle which is designed to be self-propelled, whether registered, licensed, licensable, or otherwise.
13. NUISANCE is a use of property or course of conduct that interferes with the legal right of others by causing damage, annoyance, or inconvenience.
14. 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.
15. 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.
16. 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.
17. RUBBISH means solid wastes, including for example, but not by way of limitation, paper, cardboard, metal containers wood, glass, bedding, crockery, bags, rags, or demolished materials.
18. SCRAP TIRE means a tire that is no longer being used for its original purpose including, but not limited to, a used tire, a reusable tire casing, or portions of a tire.
19. SEALED CONTAINER means a covered, closable container which is fly-proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twist-tied shut.
20. SOLID WASTE MANAGEMENT ACT means the Michigan Solid Waste Management Act, originally enacted as 1978 PA641 and now Part 115 of the Natural Resources and Environmental Protections Act, MCL324.11501, *et seq.*, as amended.
21. TOTALLY CLOSED STRUCTURE means a building capable of being sealed, through the closure of structural openings on all sides, such as a house, garage or storage shed with a roof, floor and walls or collapsible doors around its perimeter.
22. TOWNSHIP means Suttons Bay Township.
23. VERMIN shall mean various small animals or insects that are destructive, annoying, or injurious to health.

SECTION 3 UNLAWFUL ACTS

No person shall maintain or permit to be maintained any condition constituting a “nuisance” or an “attractive nuisance” as defined in this Ordinance, upon any property in Suttons Bay Township owned, leased, rented or occupied by such person.

- A. It shall be unlawful for a person to:
1. Keep or store building materials outside on private property unless there is in force a valid permit from the Leelanau County Construction Code Department for construction on said property and such building materials are intended for the use in connection with such construction project. This subsection, however, shall not apply to building materials kept or stored outside on private property if the building materials are kept or stored in an orderly fashion.
 2. Keep or store ashes, junk, garbage, liquid waste or rubbish outside of a totally enclosed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage, liquid waste or rubbish.
 3. Place ashes, junk, garbage, liquid waste or rubbish on private property without the owners permission or on public property. This provision applies regardless of whether the ashes, junk, garbage, liquid waste or rubbish is in a sealed container.
 4. Keep or store ashes, junk, garbage, liquid waste or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitat for insects, rodents or vermin.
 5. Intentionally deposit liquid petroleum, crude oil, liquid petroleum crude oil by-products and/or derivatives or liquid industrial wastes on the ground.
 6. Keep any structure or damaged partial structure, which because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling or currently useful for any purposes for which it may have been intended. Such structures must be cleaned up within a six month period unless extended by the Township Board.
 7. Allow the existence of any vacant building, blighted structure, garage, house, or outbuilding unless such structure is secured from entry.
 8. Keep any abandoned, unattended or discarded icebox, refrigerator, or similar airtight container having a door or access with a magnetic seal, snap latch or other locking device, in a place accessible by children without first removing the magnetic seal, snap latch or other locking device or doors, or securely locking same.
 9. Store, or allowed to be stored on own property, inoperable, abandoned, junk automobile, or dismantled or partially dismantled motor vehicles outdoors. This Section shall not apply to garages and services openly and actively engaged

in making service repairs for the public, or dismantled, partially dismantled or inoperable motor vehicles stored in a closed building.

- B. Section 3.A., paragraphs 1, 2, and 9 of this Ordinance shall not apply to farms, provided the storage of junk on a farm meets the following standards:
1. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building;
 2. All junk from the operation of the farm is being kept on the premises for possible future use on the farm;
 3. The depositing of the junk is not a violation of the Michigan Solid Waste Management Act or does not constitute fill in violation of, or otherwise violate any other state or local law; and
 4. So that it is not an attractive nuisance.

SECTION 4 VIOLATIONS

- A. Any person who violates any provision of this Ordinance shall be responsible for 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 punished as follows:
1. For a first offense, the person shall be fined not less than \$100.00, nor more than \$200.00, plus the costs of prosecution and other sanctions provided by law.
 2. For a second offence occurring within three (3) years of the date the person was found responsible for the first or immediately preceding offense, the person shall be fined not less than \$300.00 nor more than \$500.00, plus the costs of prosecution and other sanctions provided by law.
 3. For a third or subsequent offence occurring within three (3) years of the date the person was found responsible for the first or immediately preceding offense, the person shall be fined not less than \$1,000.00 nor more than \$5,000.00, plus the costs of prosecution and other sanctions provided by law.
- B. The Township Code Enforcement Officer and other persons appointed by the Suttons Bay Township Board are hereby designated as the authorized township officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

- C. Nothing in this Ordinance shall prohibit the Township or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance. A violation of this Ordinance is deemed to be a nuisance per se.

SECTION 5 SEVERABILITY

This Ordinance and the various parts, sections, subsections, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is determined to be unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each section, subsection, phrase, sentence and clause therefore irrespective of the fact that any one or more sections, subsection, phrases, sentences or clauses be declared invalid.

SECTION 6 REPEAL

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but only to the extent of such conflict or inconsistency.

SECTION 7 EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days followings is publication as required by law, following adoption by the Township Board.

TOWNSHIP OF SUTTONS BAY

By: _____
Richard Bahle, Supervisor

By: _____
Sandra VanHuystee, Clerk