TUSCARORA TOWNSHIP BLIGHT ORDINANCE
ORDINANCE NO. 19

AN ORDINANCE TO PROVIDE FOR REGULATION AND CONTROL OF THE STORAGE, ACCUMULATION AND DISPOSITION OF JUNK, TRASH, RUBBISH, ABANDONED VEHICLES, WRECKED, DISMANTLED UNUSABLE VEHICLES AND BUILDING MATERIALS, THE MAINTENANCE OF BLIGHTED STRUCTURES AND OTHER BLIGHTING FACTORS OR CAUSES OF BLIGHT (ALL WITHOUT UNDULY RESTRICTING THE ORDERLY PURSUIT OF THE AGRICULTURAL, LOGGING AND CONSTRUCTION TRADES), AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF, ALL PURSUANT TO THE ENABLING AUTHORITY PROVIDED BY ACT 246 OF THE PUBLIC ACTS OF 1945 (MCL 41.181 et seq.) AS AMENDED.

**THE TOWNSHIP OF TUSCARORA ORDAINS:**

**Section 1. Definitions.**

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

1. The term "junk" shall include, without limitation, unused, damaged or deteriorated machinery or equipment, parts of machinery or equipment or motor vehicles, broken or unusable furniture, unused stoves, refrigerators or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use.
2. The term "junk vehicles" shall include, without limitation, any motor vehicle or motorized equipment, with the exception of unlicensed farm vehicles and snow removal vehicles, which is not licensed for use upon the highways of the State of Michigan for a period in excess of 60 days and shall also include, whether licensed or not, any motor vehicle or motorized equipment which is inoperable for any reason for a period in excess of 60 days; provided that there is excepted from this definition unlicensed but operative motor vehicles or motorized equipment which are kept as the stock in trade of a regularly licensed dealer of new or used automobiles or other motorized vehicles or equipment; provided, further, that the time limit such vehicles may remain upon the premises of a motor vehicle repair garage shall be a period of 120 days rather than 60 days, with extension of additional 30 day periods upon presentation to the enforcing officer of written proof the offending vehicle is involved in insurance claims litigation or a similar matter and additional time is required for settlement before a vehicle can be move. "Operable" shall be defined pursuant to Michigan Vehicle Code, Act 300 of 1949 as amended.
3. The term "abandoned vehicles" shall include, without limitation, any motor vehicle or motorized equipment which has remained on private property for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant of the property has been revoked.
4. The term "blighted structure" shall include without limitation any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure or part of a structure which, because of fire, wind or other natural disaster, age or physical deterioration is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.
5. The term "building materials" shall include, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, cement, nails, screws, or any other materials used in constructing any structure.
6. The term "person" shall include all natural persons, firms, co-partnerships, corporations and other entities of any form, and all associations of natural persons incorporated or un-incorporated, 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.
7. The terms "trash" and "rubbish" shall include any and all forms of debris not herein otherwise classified.

**Section 2. Determination.**

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk vehicles and building materials and the maintenance of blighted structures, upon private property within the Township of Tuscarora in the manner proscribed in this ordinance tends to result in blighted and deteriorated neighborhoods, the impairment of property values, the exposure of the land, waters and air to hazardous substances, the exposure of persons, especially children, to personal injury, the spread of vermin and disease, the increase in criminal activity and the impairment of aesthetic values and therefore is contrary to the public peace, health, safety and general welfare of the citizens and property of Tuscarora Township.

**Section 3. Storage or Accumulation of Trash, Rubbish, Junk, Junk Vehicles and Abandoned Vehicles.**

It shall be unlawful for any person to store, or to permit the storage or accumulation of trash, rubbish, junk, junk vehicles or abandoned vehicles on private property in the Township except within a completely enclosed building or upon premises for which a special land use permit for the operation of a junkyard has been obtained pursuant to Cheboygan County zoning Ordinance No. 200, as may be from time to time amended, and which otherwise complies with the provision of said Ordinance 200, including without limitation, the provisions in section 3.6 thereof. Nothing in this section, however, shall prohibit the storage of trash or rubbish in sealed containers in such a manner as not to create a nuisance for a period not to exceed 30 days.

**Section 4. Blighted Structures.**

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, mobile home, trailer, garage, out-building, factory, ship, store, or warehouse unless the same is kept securely locked the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the Cheboygan County Construction Code/Zoning Department, and unless such construction is completed within a reasonable time.

**Section 5. Storage or Accumulation of Building Materials.**

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property except in a completely enclosed building, or except where such building materials are part of the raw materials or stock in trade of a business located on property for which the operation of such business is either a permitted use or a use approved by issuance of a special use permit, pursuant to Cheboygan County zoning Ordinance No. 200, as may be from time to time amended, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the Cheboygan County Construction Code/Zoning Department and unless such construction is completed within a reasonable time after the issuance of such permit.

**Section 6. Removal of Junk, Junk Vehicles, Abandoned Vehicles, Blighted Structures, Building Materials, Trash and Rubbish.**

The Township Supervisor, Clerk or Chief of Police or their duly authorized representatives may enter the property or premises to remove or cause to be removed any junk, junk vehicles, abandoned vehicles, blighted structures, building materials, trash or rubbish stored or maintained in violation of this Ordinance, provided that the owner or occupant of such property is personally served in writing if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property, of (1) the intention to remove the property within 30 days if the problem is not corrected, and (2) notice that an owner or occupant may request a hearing within 5 days of receipt of the notice before the Township Board to discuss the blight determination and removal notice. If after a hearing the Board votes to affirm the blight determination, or if an owner or occupant fails to appear or fails to request a hearing, the such junk, junk vehicles, abandoned vehicles, blighted structures, building materials, trash or rubbish stored in violation of this Ordinance, shall be removed and disposed of or sold. The proceeds of the sale of the personal property shall be applied in payment of the costs of the action and abatement, and the balance, if any, shall be paid to the persons entitled thereto.

Where there exists a determination of blight that reasonably creates an imminent threat or risk to health or safety of the public, then the Township Supervisor, Clerk or Chief of Police or their duly authorized representatives may enter the property to immediately remove or cause to be removed source of the threat. The phrase “imminent threat” means, but is not limited to, environment or toxic exposure to natural resources, air, or water sources or attractive nuisances that pose as inherently dangerous condition to children.

Such removal by the designated enforcement official is authorized irrespective of whether municipal civil infraction proceedings are initiated as authorized by this Ordinance and shall not excuse or relive any person of the obligation imposed by this Ordinance to keep his or her property free from storage or accumulation of junk, junk vehicles, abandoned vehicles, blighted structures, building materials, trash or rubbish not from the civil infraction sanctions authorized in this Ordinance. The taking, removal and disposing of any property of the owner or occupant by any officer or agent directed to execute the same is not a trespass, nor shall such officer be liable either civilly or criminally therefore. Township officers, agents, employees, or independent contractors working on behalf of the Township shall be granted governmental immunity to applicable laws.

An owner or occupant may file an appeal within 14 days after entry of the Board decision to the circuit court. An appeal to the circuit court shall be a review by the court of the certified record provided by the Board hearing. Once an appeal is filed, the court may stay the decision and any sanctions or costs imposed. The court, as appropriate, may affirm, reverse, or modify the decision. The court shall hold unlawful and set aside a decision of the Board if substantial rights of an alleged violator have been prejudiced because the decision is any of the following: (a) In violation of the constitution or statute, charter, or ordinance; (b) In excess of the authority or jurisdiction of the agency as conferred by the statute, charter, or ordinance; (c) Made upon unlawful procedure resulting in material prejudice to a party; (d) Not supported by competent, material, and substantial evidence on the whole record; (e) Arbitrary, capricious, or clearly as abuse or unwarranted exercise of discretion; or (f) Affected by other substantial and material error of law.

**Section 7. Lien for Costs of Removal: Collection.**

Any and all costs incurred by the Township, Township officials or their representative in removing or causing to be removed any junk, junk vehicles, abandoned vehicles, blighted structures, building materials, trash or rubbish pursuant to this Ordinance, shall be reimbursed by the owner of the property from which the junk, junk vehicles, abandoned vehicles, blighted structures, building materials, trash or rubbish was removed. All such costs shall be billed by the Township to the property owner and if not paid within 30 days of the date of such bill, the Township shall have a lien against the property in the amount of such bill to the extent provided by MCL 125.539 et seq. and all other applicable laws. The Township may also maintain an action to recover such costs in a court of appropriate jurisdiction.

**Section 8. Citations.**

The Township Supervisor, Clerk or Chief of Police, or their duly authorized representative may issue and serve a municipal civil infraction citation pursuant to the provisions of Act 12 of the Public Acts of 1994 (MCL 600.8791 et seq.), as amended to any person he or she has reasonable cause to believe has violated or failed to comply with the provision of this Ordinance. Municipal civil infraction citations issued under this ordinance shall be substantially in the form required by MCL 600.8709.

**Section 9. Penalty.**

Any violation of, or any failure to comply with, the provision of this Ordinance shall be deemed a municipal civil infraction, subject to all of the provision of Act 12 of the Public

Acts of 1994 (MCL 600.8701 et seq.), as amended, including a civil fine up to $500.00, plus costs, actual damages and expenses (including actual attorneys fees and expenses), as well as the issuance of equitable writs and orders pursuant to MCL 600.8302. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate infraction, separately sanctionable as set forth above.

**Section 10. Construction.**

This Ordinance, being adopted pursuant to Act 246 of the Public Acts of 1945 (MCL 41.181 et seq.), is an ordinance adopted to promote the public health, safety and welfare of the people of Tuscarora Township and shall not be construed as a zoning ordinance. Nothing in this Ordinance shall be construed to permit any activity or use which is prohibited or restricted by Cheboygan County Zoning Ordinance No. 200.

**Section 11. Validity; Effective Date and Adoption.**

Should any section, clause or provision of this Ordinance be declared by any court to be invalid, the same shall not affect the validity of the remaining portions of such section of this Ordinance or any part thereof other than the part so declared to be invalid.

This ordinance shall become effective thirty (30) days after publication as required by law.

This ordinance was adopted by the Township Board of the Township of Tuscarora, Cheboygan County, Michigan at a regular meeting thereof held on 03/05/1996.