

Cooke Township Ordinance 2004-2 Cooke Township Junk Ordinance

Section 1 Title and Purpose

Commented [a1]:

A. Title

1. “An Ordinance Providing For The Removal And Disposition Of Abandoned, Hazardous And Junk Motor Vehicles And Debris And For The Preservation Of Neighborhoods”
2. This Ordinance may be cited as the “Cooke Township Junk Ordinance.”

B. Purpose

Whereas, the Board of Supervisors of Cooke Township finds it necessary and desirable to promote the comfort, health, and safety of occupants and visitors to the Township, to promote the attractiveness and aesthetic appearance of the Township, to protect property values throughout the Township, and to preserve the livability of neighborhoods; the purpose of this Ordinance is to limit and restrict the outdoor storage, parking, or unreasonable accumulation of junk or partially dismantled or non-operating motor vehicles, or motor vehicle parts and non-automotive debris including junk refrigerators and miscellaneous debris upon public and private premises within the Township; to avoid injury and hazards to children and others attracted to such vehicles and debris; to prevent degradation of the environment caused by such vehicles and debris; and to minimize the devaluation of property values and the psychological ill effects of the presence of such vehicles and debris upon adjoining residents and property owners.

Section 2 Definitions

For the purpose of this Ordinance, certain words and terms are defined as herein indicated:

A. Motor vehicle or vehicles: All machines designed or intended to travel over land by self-propulsion, or machines intended to be attached to a self-propelled vehicle such as trailers and campers.

B. Abandoned motor vehicle: An abandoned motor vehicle is one that:

- (1) Is left upon a public road in violation of an ordinance prohibiting parking; or
- (2) Is left on a public road or public lands for longer than seven (7) days; or
- (3) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than twenty-four (24) hours.

C. Hazardous motor vehicle and hazardous debris: any motor vehicle or collection of materials (“debris”) on private or public property that is declared to be a health or safety hazard and public nuisance, including but not limited to the following conditions:

- (1) A breeding ground or harbor for mosquitoes or other insects, rats, or other pests;

- (2) A point of weed growth and/or other vegetation over 12 inches in height;
- (3) A point of collection for pools or ponds of water;
- (4) A point of concentration of gasoline, oil or other flammable or explosive materials;
- (5) So located that there is a danger of the vehicle or debris falling or turning over;
- (6) A place in which debris, bottles or other solid waste, food waste, animal waste, or any other rotten or putrescent matter of any kind is discarded;
- (7) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass or other rigid materials; or
- (8) Any other vehicle or collection of materials specifically declared a health and safety hazard and a public nuisance by the Cooke Township Board of Supervisors.

D. Junk motor vehicle: in determining whether a vehicle constitutes a junk motor vehicle, the Township Codes Enforcement Officer, Supervisor, or other designated person shall take into consideration, but not be limited to, the following criteria:

- (1) The vehicle is partially dismantled or wrecked;
- (2) The vehicle cannot be self-propelled or moved in the manner in which it originally was intended to move;
- (3) The vehicle does not display a current license plate and a valid inspection decal;
- (4) Whether the tires, wheels and other essential parts of the vehicle are present for the operation of the vehicle, flat tires, the condition of the exterior or any other specific evidence that would support a finding that the vehicle is junked.

E. Authorized officials: The Township Codes Enforcement Officer, Township Supervisor, or other person designated by the Board of Supervisors is authorized to declare that a vehicle or collection of material meets the definitions of this Ordinance.

Section 3

Abandoned or Hazardous Vehicle and Hazardous Debris Unlawful

A. It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of real property, to allow vehicles or debris to remain on the property after they have been declared abandoned or hazardous by an authorized official.

B. The owner, lessee, or occupant shall have 30 days after notification by the Board of Supervisors to remedy the situation by removal or remediation of the vehicle or debris.

Section 4

Junk Motor Vehicles Regulated

A. It shall be unlawful for the registered owner or person entitled to the possession of a junk motor vehicle, or upon which a junk motor vehicle is located, to leave or allow a junk motor vehicle to remain on the property after the vehicle has been ordered removed.

Section 5
Exceptions

A. One junk motor vehicle in its entirety can be located outside on private property, if the junk motor vehicle is entirely concealed by fenced enclosures or permanent vegetation or topography that prevents its view from outside the property, or which is covered by a cloth or plastic cover which has been specifically manufactured for the covering of vehicles. The Codes Enforcement Officer, Supervisors, or other designated persons have the authority to determine whether any junk motor vehicle is adequately concealed as required by this section and whether the junk motor vehicle presents a hazard as defined in this Ordinance.

B. Nothing in this Ordinance shall apply to any vehicle:

- (1) In a building or other structure that provides a complete enclosure;
- (2) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the lawful operation of the business enterprise. Mere storage or idle standing of a vehicle does not constitute a vehicle necessary to the operation of the business enterprise;
- (3) In an appropriate storage place or depository maintained in a lawful place and manner; or
- (4) On the premises of a farmstead, when necessary for the operation of the farmstead.

Section 6
Vehicle Removal Authorized

A. Upon investigation, the Board of Supervisors may order the removal by the Township of an abandoned, hazardous or junk motor vehicle as defined in this Ordinance after finding in writing that the health and aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such findings shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public.

B. An abandoned, hazardous or junk vehicle which is to be removed, shall be towed or removed only after a reasonable effort to give notice to the registered owner or person entitled to possession of the vehicle.

- (1) If the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by certified mail.
- (2) If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Township on or after a specified date, unless the vehicle is removed by the owner or legal possessor prior to that time.

C. If the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a hazard or junk, such appeal shall be made to the Board of Supervisors in writing, heard at the next regularly scheduled meeting of the Board, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

D. Circumstances justifying removal of vehicle without prior notice: Notwithstanding section **5C** above, for vehicles left on public roads over which Cooke Township has authority or on private right-of-ways, an authorized official may determine that immediate removal of such vehicles is warranted when there is a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing immediate damage to public or private property.

E. Any vehicle which has been ordered removed may, as directed by the Board of Supervisors, be transported to a storage garage or area by a tow truck operator or towing business hired by the Township.

- (1) Whenever such a vehicle is removed, the Township shall immediately notify the last known registered owner of the vehicle; such notice to include the following:
 - (a) The description of the removed vehicle;
 - (b) The location where the vehicle is stored;
 - (c) The violation with which the owner is charged;
 - (d) The procedure the owner must follow to redeem the vehicle.
- (2) Whenever a removed vehicle has no valid registration or registration plates, the Township shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth above.
- (3) At any stage in the proceedings, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this Ordinance.
- (4) Any removed motor vehicle which is not claimed by the owner or other party entitled to possession within sixty (60) days will be disposed of by the Township, or by the tow truck operator or towing business having custody of the vehicle if so directed by the Township.
- (5) The Township may seek full recovery from the owner of all reasonable expenses and fees attendant to removal and storage of the vehicle.

Section 7
Enforcement

The Cooke Township Supervisors, Township Codes Enforcement Officer, or other designated person shall be responsible for enforcing the provisions of this Ordinance.

Section 8
Protection against Criminal or Civil Liability

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, hazardous or junk motor vehicle, for disposing of such vehicle as provided in this Ordinance.

Section 9
Severability

The provisions of this Ordinance are severable, and if any provision of this Ordinance or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance.

Section 10
Penalties

Any person who shall violate or permit the violation of this Ordinance shall, upon being found liable therefor in a civil proceeding commenced by this Township, pay a civil penalty of not less than Fifty (\$50) Dollars and not more than One Thousand (\$1000) Dollars plus all court costs, including reasonable attorney fees, incurred by this Township.

Section 11
Inconsistent Ordinances Repealed

All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 12

This Ordinance shall become effective five (5) days after its enactment.

ENACTED and ORDAINED, this ___ 1ST ___ day of ___ November _____, 2004.

SAM SANGIALOSI, CHAIRMAN

CARL W. JONES III, VICE-CHAIRMAN

DIANE M. BATT, SUPERVISOR

ATTEST:

JANET FRANTZ, SECRETARY