

ARTICLE IV. ACCUMULATION OF JUNK, TRASH, VEHICLES, ETC.*

***Cross references:** Solid waste, ch. 66; traffic and vehicles, ch. 86.

Sec. 34-111. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building materials means materials or remnants of materials used in the construction, improvement or renovation of buildings or structures, including, but not limited to, lumber, plywood, stone or brick, wiring or other electrical materials or equipment, heating or air conditioning components or equipment, plumbing fixtures or equipment, shingles or other roofing materials, mortar, concrete, cement, or plastics.

Code enforcement officer means any employee of the city so appointed by the city administrator, and the city building official or any building inspector. Deputy code enforcement officers may be appointed at the discretion of the city administrator.

Garbage means organic refuse or rejected food wastes in the form of putrescible animal, poultry, fish, fruit or vegetable wastes resulting from the handling, preparation, cooking or consumption of foods, including animal, poultry or fish carcasses or parts thereof.

Junk means discarded materials of any kind, whether or not the discarded material could be put to any reasonable use, or materials which are incapable of performing the function for which they were manufactured or intended, including, but not limited to, parts of vehicles, machinery or parts of machines, broken or unusable furniture, furnishings, recreational equipment, stoves, air conditioners, refrigerators or other appliances, or parts thereof.

Rubbish or *trash* means nonputrescible solid waste, consisting of either combustible and/or noncombustible materials, of the following types:

- (1) *Ashes*. The residue left from burning of paper, leaves, wood, coal or other combustible materials.
- (2) *Household*. Materials used or accumulated in the operation or maintenance of a household which are customarily discarded after use, including but not limited to newspapers, magazines, books, wrappings, cartons, boxes, crates, rags, or sweepings, or materials which are customarily discarded after becoming unusable due to wear or damage, such as clothing, bedding, floor coverings, wallpaper, or articles of metal, plastic, cloth or leather.
- (3) *Kitchen*. Food containers or wrappings (whether damaged or undamaged) including but not limited to cans, bottles, jars, glass, crockery, bags, sacks or plastics, or paper, plastic, wood, or metal cartons or boxes, or other similar or like articles or materials.
- (4) *Personal*. Articles or materials used for medical or hygienic purposes or for infant care.
- (5) *Yard*. The products of vegetation grown on a property, or which are brought onto a property, including but not limited to grass clippings, weeds, leaves, plants, tree

branches, clippings from shrubs, bushes or hedges, or roots and stumps.

Vehicle means an automobile, truck, bus, motor home, motorized camper, motorcycle, motor scooter, tractor, or snowmobile, dune buggy or other off-road vehicle; or any other device which is mechanically powered by gasoline, diesel fuel, electricity or other means except human or animal power. The term "vehicle" shall not include a mobile home as defined in the Mobile Home Commission Act (MCL 125.2301 et seq.).

(1) *Abandoned vehicle* means a vehicle which has remained on private property for a period of time so as to appear to be abandoned, and which remains on private property for a period of 48 hours after a code enforcement officer or a police officer has given notice as provided in this article.

(2) *Inoperable vehicle* means a vehicle which is incapable of performing the function for which it was manufactured because of damage, missing or malfunctioning parts or equipment, or for any other reason. The term "inoperable vehicle" shall include junk vehicles and scrap vehicles. An historic motor vehicle, duly registered and certified as such as prescribed by the Michigan Vehicle Code (MCL 257.1 et seq.) shall not be deemed an inoperable vehicle. A vehicle which is not licensed for use upon the highways of this state shall be deemed an inoperable vehicle.

(Code 1985, § 10-33)

Cross references: Definitions generally, § 1-2.

Sec. 34-112. Municipal civil infraction.

A person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Code 1985, § 8.3-1)

Sec. 34-113. Determination.

It is determined that the unregulated storage or accumulation on private property of junk, rubbish or trash, garbage, building materials, abandoned or inoperable vehicles, or the dismantling of vehicles or machinery on private property, is detrimental to the general welfare of the public in that such practices cause or contribute to the deterioration of neighborhoods and promote neighborhood blight; that such practices result in the reduction of the value, merchantability and maximum use and development of other properties in proximity thereto, and are aesthetically offensive to the owners or occupants of such other properties and to the city at large; and further, that certain of such practices are hazardous to the public health and safety in that they create harborage for vermin and other pests, cause or contribute to the spread of diseases and constitute fire hazards, and that the public good requires that such practices be prohibited.

(Code 1985, § 10-32)

Sec. 34-114. Unlawful storage, accumulation; exceptions.

Subject to the provisions of this article, it shall be unlawful for any person to store or accumulate on private property the following:

(1) Building materials, except in a completely enclosed building or in instances where such materials are being used or are awaiting use in the construction of a structure on the property to be completed within a reasonable time and in accordance with a valid

building permit issued by the city, and except building materials which constitute a part of the stock in trade of a business located on a property which is zoned for such business or use.

(2) Ashes, household or yard rubbish or trash, except for such reasonable periods of time as the ashes, household or yard rubbish or trash await regular, systematic removal and/or disposal in accordance with law. Such materials while awaiting removal/disposal shall be temporarily stored in a completely enclosed building, with the exception of yard rubbish and trash which may be temporarily stored either in an enclosed building or at a location on the property where it is as much concealed from public view as practicable.

(3) Any junk, except within a completely enclosed building, and except as provided by law upon the premises of a duly licensed junk dealer, junk buyer, dealer in new or used automobiles or automobile parts, or dealer in secondhand goods, on a property which is zoned for such use or activity.

(4) Any inoperable vehicle, except in a completely enclosed building or concealed with a securely fastened fitted cover manufactured for that purpose.

(5) Any abandoned vehicle.

(Code 1985, §§ 8.3-1, 10-34)

Sec. 34-115. Unlawful dismantling of vehicles, etc.; exceptions.

(a) It shall be unlawful for any person to dismantle, disassemble, cut up, or remove the parts from any vehicle or any machinery or appliance on private property except in a completely enclosed building.

(b) This section shall not apply to the property of a licensed junk dealer, junk buyer, dealer in automobile parts, or dealer in secondhand goods, provided that such property is zoned for such use or activity; neither shall this section apply to a property of a licensed vehicle service station or vehicle repair shop, provided the property is zoned for such use or business.

(Code 1985, § 10-35)

Sec. 34-116. Junk, ashes, building materials, household or yard rubbish or trash, vehicle violations; notice of violation; period in which to comply; contents, service of notice.

(a) A code enforcement officer who finds junk, ashes, building materials, or household or yard rubbish or trash stored or accumulated on private property in violation of this article shall issue a notice of violation in the manner prescribed in this article. A person issued a notice of violation shall, within seven days of the date of issuance of the notice, permanently remove such materials from the property, or place such materials within a completely enclosed building; refusal, failure or neglect of a person so to do before the expiration of such period shall constitute a misdemeanor. Each day after the seven-day period has expired in which a violation continues shall be a new or separate offense for which an additional notice of violation shall not be required.

(b) A code enforcement officer who finds an abandoned vehicle or an inoperable vehicle stored or kept on private property in violation of this article shall issue a notice of violation in the manner prescribed in this article. A person issued a notice of violation shall, within seven days of the date of issuance of the notice, permanently remove such vehicle from the property, or place the vehicle within a completely enclosed building, or conceal such vehicle with a securely fastened fitted cover manufactured for that purpose. Each day after the seven-day period has

expired in which a violation continues shall be a new or separate offense for which an additional notice of violation shall not be required.

(c) A notice of violation shall be personally served by the code enforcement officer upon the owner or upon an adult occupant of the property unless after reasonably diligent effort the owner or an adult occupant cannot be located thereon or personal service is refused, evaded or obstructed by the owner or occupant, in which event the code enforcement officer shall post the notice of violation in a conspicuous place upon the property and shall mail a copy by first class mail to the owner of the property as shown in the tax assessment records of the city. If the violation involves a vehicle and personal service cannot be made, the notice of violation shall be affixed to the vehicle and a copy mailed to the owner of the property.

(d) A notice of violation shall contain the following:

- (1) The date and time of issuance of the notice, and the name, mailing address and telephone number of the code enforcement officer issuing the notice.
- (2) The address of the property on which the violation is found.
- (3) The name of the owner or adult occupant if personal service is made.
- (4) A description of the materials or of the vehicle found to be in violation, and their location on the property.
- (5) A statement that the materials must be permanently removed from the property or placed in an enclosed building, or if a vehicle either removed, placed in an enclosed building or concealed with a securely fastened fitted cover manufactured for that purpose, before the expiration of seven days of the date of issuance of the notice.
- (6) A statement that the refusal, failure or neglect to comply before the expiration of such period of seven days shall constitute a municipal civil infraction; that process may issue and the maximum penalty for the violation; that the city may seek additional or other relief by civil process; and that the materials or vehicle may be removed and disposed of by the city and that the expense so incurred shall be paid by the property owner.
- (7) A statement that the person has the right, except for a violation of section 34-118, to appeal the notice of violation to the city council by written notice of the exercise of the right to appeal submitted to the code enforcement officer issuing the notice prior to the expiration of seven days from the date of issuance of the notice of violation.

(Code 1985, § 10-36)

Sec. 34-117. Enforcement by removal, disposal by city; expenses; lien.

After issuance of a notice of violation by a code enforcement officer and the refusal, failure, or neglect by the person to comply as provided in this article before the expiration of the seven-day period prescribed, the city may, in lieu of or in addition to arrest and criminal prosecution and/or the institution of other action provided by law, enforce the provisions of this article as follows:

- (1) Any junk, ashes, building materials, or household or yard rubbish or trash may be removed or caused to be removed by a code enforcement officer and transported to a disposal site.
- (2) All expenses incurred by the city for removal and disposal of junk, ashes, building materials, or household or yard rubbish or trash shall be paid by the owner of the property from which the materials were removed; and such expenses shall constitute a lien against the property until paid.
- (3) Any abandoned vehicle or inoperable vehicle may be taken into custody and

removed or caused to be removed by a member of the city police department, and disposed of in accordance with applicable provisions of the Michigan Vehicle Code (MCL 257.1 et seq.). Recovery of expenses incurred by the city shall be as provided by such Act, and any deficit of expenses not so recovered shall constitute a civil claim in favor of the city.

(Code 1985, § 10-37)

State law references: Abandoned vehicles, MCL 257.252a et seq.

Sec. 34-118. Garbage, kitchen or personal rubbish or trash violations; emergencies; misdemeanor; expenses, lien.

(a) The storage or accumulation on private property of garbage or of kitchen or personal rubbish or trash, except in a completely enclosed building and contained in metal or plastic containers manufactured for the temporary storage of such materials for such reasonable periods of time as such materials await regular, systematic removal and/or disposal in accordance with law is determined to constitute a nuisance per se and to pose a present hazard to the public and safety so as to require either immediate or prompt removal and disposition.

(b) A code enforcement officer who finds the storage or accumulation of materials in violation of subsection (a) of this section shall either:

(1) Intervene immediately and remove and dispose of such materials or cause such materials to be removed and disposed of in accordance with law; or

(2) Issue a notice of violation and make personal service thereof where possible on the person in violation requiring that the garbage or the kitchen or personal rubbish or trash must within 12 hours be placed in proper containers within an enclosed building or be removed and disposed of in accordance with law. If a code enforcement officer is unable to make personal service of notice of violation after reasonably diligent effort so to do, the offending material shall forthwith be removed or caused to be removed by the code enforcement officer, and issuance or service of a notice of violation shall not be required.

(c) All expenses incurred by the city in the discharge of the enforcement duties prescribed in this section shall be immediately due and payable to the city by the owner or occupant of the property, and shall constitute a lien against the property until paid. Inasmuch as a violation of this section is declared to be a nuisance per se and to constitute a present health and safety hazard, the person in violation shall not have the right to appeal a notice of violation to the city council prior to removal and disposal of the offending material, or prior to the prescribed containment thereof pending removal and disposal.

(d) Any provision contained in this article notwithstanding, immediate intervention by a code enforcement officer shall be performed or taken to correct or alleviate any condition involving the unlawful storage and/or accumulation of garbage, junk, building materials, abandoned or inoperable vehicles, or rubbish or trash which constitutes an emergency. An emergency is a condition which poses a clear and present hazard to public health and safety, or which poses an imminent threat to become so if not immediately corrected or alleviated. All expenses incurred by the city to correct, alleviate or abate an emergency shall be immediately due and payable to the city and shall constitute a lien against the property until paid. The owner or occupant of a property on which an emergency exists shall not be issued a notice of violation and shall not have a right to appeal to the city council.

(Code 1985, § 10-38)

Sec. 34-119. Appeal of notice of violation; notice of appeal; hearing; decision.

(a) Except where otherwise provided in this article, a person whose property is the subject of a notice of violation may appeal the notice of violation to the city council in the manner prescribed in this section.

(b) A person who elects to appeal a notice of violation shall give notice of the exercise of the right to appeal prior to the expiration of seven days from the date of issuance of the notice of violation. The appeal notice shall be submitted in writing to the code enforcement officer who issued the notice of violation, who shall promptly inform the city clerk of receipt of the notice of appeal. The filing of a notice of appeal as prescribed in this subsection shall toll the seven-day period stated in the notice of violation until a decision is rendered by the city council; provided, however, that the seven-day period shall not be tolled if a notice of appeal is filed and thereafter withdrawn or abandoned, or if an appeal is not continued by an appellant with reasonable diligence to final disposition, or if an appeal is found by the council to be clearly frivolous or capricious.

(c) The city council shall conduct a hearing of an appeal which has been duly exercised in accordance with this section at a regular or special meeting thereof which is held not less than five days nor more than 21 days after the date of receipt of the appeal notice. Hearings conducted by the council pursuant to this section shall be subject to the Open Meetings Act. The code enforcement officer who issued the notice of violation shall have an opportunity in which to present evidence to the council in support of the notice of violation. The person appealing the notice of violation may appear in person or by representative before the council, and shall be afforded an equal opportunity in which to present evidence that the notice of violation should be vacated or modified. The code enforcement officer shall thereafter have a reasonable opportunity in which to rebut the evidence presented by the appellant. The code enforcement officer and the appellant shall each have the right to produce witnesses in support of their respective arguments or positions, and each shall have the right to cross examination of witnesses who testify to the contrary. The mayor, with the assistance of the city attorney, shall preside at the hearing and shall have the authority to prescribe prior to the commencement of the hearing reasonable time constraints and procedural rules which shall govern the proceedings.

(d) Upon hearing the evidence, which may include maps, charts, photographs, physical evidence, or the testimony of the code enforcement officer, other city officials or employees, the appellant, experts, or other persons found by the council to be qualified or to have knowledge in the premises, the city council may affirm, vacate, or in any manner modify the notice of violation. The decision of the city council shall be founded on the greater weight of the credible evidence presented and shall be based upon findings of fact. The decision and findings of fact of the council shall be by a majority roll call vote of the members in attendance at the meeting. The decision or findings of fact may be made by the council at the conclusion of the hearing, or may be postponed by the council by a majority vote of the members present to a subsequent regular or special meeting. If a decision or findings of fact are postponed, all councilmembers present at the hearing must be present at the subsequent meeting at which a decision and findings of fact are made, and only those members of the council who were in attendance at the hearing shall be entitled to vote. All findings of fact and decisions of the city council shall be final.

(Code 1985, § 10-39)

Sec. 34-120. Penalties; payment of expenses; civil process.

Except where otherwise provided in this article, if the city removes or removes and disposes of junk, rubbish or trash, garbage, or building materials, the owner of the property from which such materials were removed or removed and disposed of shall pay all costs and expenses incurred by the city within 30 days; and unless so paid, a lien shall attach against the property until payment is received by the city.

(Code 1985, § 10-40)

Secs. 34-121 - 34-150. Reserved.