

ORDINANCE NO. 08 - 03

**AN ORDINANCE AUTHORIZING THE LICENSING
AND REGULATION OF DEALERS IN
SECOND HAND ARTICLES**

WHEREAS, Section 30-135 of the Township Code expressly authorizes electors at an annual township meeting to authorize the licensing and regulation and direct the location of all places of business of purchasers, traders, dealers in junk and any second hand article, including motor vehicles, except in cities, villages, and incorporated towns in the township that by ordinance provide for the licensing, regulation or location of places of business of those purchasers, traders and dealers.

WHEREAS, the Electors have determined that the presence of junkyards within Hanover Township results in blighting and decreased property values of surrounding homes and properties; and

WHEREAS, the Electors have further determined that it is necessary to regulate junk yards as herein provided, including, but not limited to the location of junkyards in order to reduce blighting, protect property values and to promote the public health, safety, morals, and general welfare of the residents of Hanover Township;

NOW, THEREFORE, BE IT ORDAINED by the Electors of Hanover Township (the "Electors") at their annual meeting held on April 8, 2008, as follows:

SECTION ONE: Definitions:

For the purpose of this Ordinance, the following words and phrases shall have the following meanings ascribed to them:

A. "Junk" shall mean and include scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead or other base metals, scrap lumber, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds and sizes, any wrecked or dilapidated motor vehicle, engine, or machinery received, stored or held for more than ninety (90) days, and all articles and things discarded or no longer used as a manufactured article, composed of or consisting of any one or more of the materials or articles herein mentioned.

B. "Junk dealer" shall mean and include every person that shall engage in the business of buying, selling, bartering or exchanging, or that shall collect, receive, store or hold in possession for sale, barter or exchange, any of the things defined as junk.

C. "Junkyard" shall mean and include an open area where junk, waste, scrap, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking or salvage yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment. A junkyard does not include uses established entirely within enclosed buildings.

SECTION TWO: It shall be unlawful for any person and/or entity to operate and/or maintain a junk yard within Hanover Township, Cook County, Illinois ("Hanover Township" or the "Township") within any residential district, public land district, open land district, and/or within any planned unit development that is located

within any area or areas zoned for residential, public land, and/or open land as established under the Cook County Zoning Ordinance of 2001, as amended, and as depicted on the “Official Zoning Maps, Cook County, Illinois”, as amended.

SECTION THREE: It shall be unlawful for any person to operate or to carry on the business of junk dealer and/or to operate and/or maintain a junk yard within Hanover Township without first having obtained a license therefor as provided in this Ordinance.

SECTION FOUR: Application and Standards for Determining Issuance of a License.

A. Before any license is issued, any person desiring to operate a junkyard in Hanover Township shall first make a verified application in writing to the Township Clerk, stating thereon:

(1) The full name of the applicant. If the applicant is a firm or partnership, the names and resident addresses of all the partners, and in case of a corporation, the names and residence addresses of the president and secretary shall be stated in the application.

(2) The applicant’s residence address.

(3) The trade name of the applicant.

(4) The legal description of the premises where the junkyard is to be located and the size and approximate location of each entrance thereto and exit therefrom.

(5) Whether or not the premises where the junkyard is to be located is enclosed on its perimeter with a solid nontransparent wall or fence of a minimum height of seven (7) feet measured from ground level except the entrances and exits.

(6) Whether or not the applicant has had a license to operate and/or maintain a junkyard and/or a junk dealer license revoked within the preceding twenty-four (24) months.

(7) The zoning district in which the junkyard is to be located.

(8) Applicant's date of birth, driver's license number, business and residence addresses for the past two (2) years, and the number of applicant's certificate of registration required under the Retailers' Occupation Tax Act, the Service Occupation Tax Act, and/or the Use Tax Act, if applicable.

(9) Whether the applicant: (a) has ever been convicted of a felony; (b) has ever been convicted of a misdemeanor involving injury to a person or property within the past ten (10) years; or (c) has been convicted of a misdemeanor involving theft or deception within the past five (5) years under the laws of the State of Illinois, or any other state, or the laws of the United States, and if so, a detailed description of such felony or misdemeanor.

(10) Whether any complaint against the applicant, or any entity represented by him, to the Consumer Fraud Division of the Attorney General's office has resulted in a finding that the consumer fraud laws of the State of Illinois have been violated.

(11) If the applicant is a corporation, the information requested in the foregoing subsections (8) through (10), all inclusive, must be furnished for each officer, director or shareholder who owns or controls, directly or indirectly through any person or entity, twenty-five per cent (25%) or more of the outstanding stock of such corporation.

(12) If the applicant is a partnership, the information requested in the foregoing subsections (8) through (10), all inclusive, must be furnished for each general and limited partner, indicating which partners are general and which are limited.

(13) If the applicant is a joint venture, the information requested in the foregoing subsections (8) through (10), all inclusive, must be furnished for each joint venturer.

(14) If the applicant is employed by, or represents another person or entity, credentials evidencing such employment, agency or authorization to represent such person or entity shall be submitted with the application.

(15) The applicant shall be accompanied by written authorization to conduct a background investigation, including the authorization to receive reports from other law enforcement agencies, and to Health Officer(s) and Enforcement Officer(s) to go upon any premises from which the proposed junk yard will be located to determine whether such premises comply with this Ordinance.

B. The Township Clerk shall issue a license to the applicant within thirty (30) days of receipt of a complete license application, unless the applicant is disqualified pursuant to Section Five herein.

C. In the event of denial of a license application, the Township Clerk shall deny the application stating in writing the reasons for the denial of the license, including the requirements of this Ordinance which the applicant has failed to meet or which does not permit the issuance of a license. Such denial shall be issued within thirty (30) days of receipt of a complete license application.

D. The applicant may appeal the decision of the Township Clerk within thirty (30) days after notice of denial is mailed to the applicant by submitting to the Clerk a written request for a hearing before the Township Administrator. The Clerk shall give the applicant at least ten (10) days' prior notice of the time and place of such hearing, which hearing shall be held not more than forty-five (45) days from the date of the Notice of denial of the license application. At the conclusion of the hearing, the Administrator shall make findings of fact and enter an order affirming or reversing the denial of such application.

E. Any license issued by the Township Clerk in violation of the provisions of this Ordinance shall be null and void.

SECTION FIVE: Disqualification of Applicant.

Any applicant for a license to keep, maintain, conduct or operate a junkyard shall be disqualified for any one of the following reasons:

- (1) Falsification of an application for a license hereunder.
- (2) License for a junkyard and/or junk dealer theretofore issued to the applicant has been revoked during the preceding twenty-four (24) months.

(3) Failure to meet any one of the minimum physical requirements for a junkyard as specified in this Ordinance.

(4) The location of the proposed junkyard is in an area prohibited under Section Two of this Ordinance.

(5) The entry of a final, unappealable order by any court, administrative agency, or hearing officer finding that the licensee:

a. Is guilty of a felony.

b. Is guilty of a misdemeanor involving moral turpitude.

c. Has been engaged in acts constituting a danger to the public health, safety or morals.

d. Has violated the consumer fraud laws of the state, any other state, or of the United States.

e. Applicability to the applicant and the licensee:

(i) If the applicant and/or licensee is a corporation, any officer, director, or stockholder who owns or controls directly or indirectly twenty-five percent (25%) or more of the stock of the corporation.

(ii) If the applicant and/or licensee is a partnership, any general or limited partner.

(iii) If the applicant and/or licensee is a joint venture, any joint venturer.

(iv) If the applicant and/or licensee is a trust, the trustee and/or any beneficiary of the trust.

(v) The acts and/or omissions of any agent(s) or employee(s) of the applicant's and/or licensee's business.

(6) Failure of the licensee to pay any fine, penalty or licensee fee owed to Hanover Township.

(7) Refusal by the licensee or any person or entity related to the licensee, as specified in Subsection C5 of this Section, or manager of the licensee to permit any inspection provided for under this Ordinance.

SECTION SIX: Contents of License; Acceptance by Licensee.

A. All licenses issued under this Ordinance shall state:

(1) Such license is issued on the name of the junk dealer solely for the purpose of keeping, maintaining, conducting, and operating a junkyard;

(2) The expiration date thereof;

(3) The legal description of the premises where the junkyard is to be located;

(4) Such license shall be used and the privileges thereof exercised only at the described premises; and

(5) Such license is nonassignable and nontransferable.

B. The licensee, by the acceptance of such license, expressly agrees to all the terms and conditions thereof and to the terms and provisions of this Ordinance and all amendments thereof.

SECTION SEVEN: Entrances and Exits.

The premises where a junkyard is located shall not have more than two (2) entrances and two (2) exits, each of which shall not exceed fifteen (15) feet in width at the perimeter of the premises.

SECTION EIGHT: Fences; Specifications; Posting Signs.

A. The premises where a junkyard is located shall be enclosed on its perimeter with a solid, nontransparent, vertical wall or fence of a minimum height of seven (7) feet measured from ground level, except for the entrances and exits.

B. The solid, nontransparent wall or fence, and the gates or doors, if any, at the entrances and exits, shall not contain any sign, poster or advertising matter of any

kind whatsoever, excepting one sign of the licensee thereon not exceeding twenty (20) square feet in size.

SECTION NINE: Junk Prohibited on Adjacent Streets and Township Roads.

Licensee shall not deposit, dump, drop, discard, throw, leave or cause the depositing, dumping, dropping, throwing, or leaving of any junk upon any public streets and/or alleys adjacent to a junkyard and/or upon any Township road located within Hanover Township.

SECTION TEN: Purchases from Minor Restricted.

No licensee under this Ordinance shall purchase or receive any article whatsoever from any minors without the written consent of their parents or guardians.

SECTION ELEVEN: Inspections.

Any licensee under this Ordinance shall at all times allow any Cook County Sheriff, public health authorities, Hanover Township Enforcement Officer or other law enforcement officer having jurisdiction, free access to any and all portions of the junkyard for the purpose of inspection. For purposes of this Ordinance, the Cook County Sheriff or other law enforcement officer having jurisdiction and Hanover Township Enforcement Officer are referred to as "Enforcement Officers".

SECTION TWELVE: License Fee.

Every applicant for a license hereunder shall pay a non-refundable licensee fee in the amount of \$250.00 to Hanover Township, which license shall be valid for a period of one (1) year from the date that it is issued. The applicant shall pay a non-refundable license fee of \$250.00 for each renewable license application thereafter.

SECTION THIRTEEN: Suspension.

A. The Township Administrator is hereby authorized to summarily order the cessation of business operations, closing of the premises where it is carried on, and the suspension of any license issued to the licensee for a period not to exceed thirty (30) days when the continued conduct or operation of any junkyard (whether or not licensed) constitutes a danger to the public health, safety or morals.

B. Within three (3) business days after such suspension or order, the Township Administrator shall schedule a hearing to be held within a reasonable time for the purpose of determining whether or not such license should be revoked or whether such unauthorized business should be permanently prohibited from continuing. Such hearing shall be conducted as provided in Section Fifteen herein. Said hearing shall be conducted within seven (7) business days from the date of such suspension or order.

SECTION FOURTEEN: Revocation.

Any license issued under this Ordinance during the term of such license may be revoked by the Township Board of Trustees for any of the following causes:

A. Any fraud, misrepresentation, or false statement contained in the application for such license.

B. Any violation of this Ordinance.

C. The entry of a final, unappealable order by any court, administrative agency, or hearing officer finding that the licensee:

1. Is guilty of any felony.
2. Is guilty of a misdemeanor involving moral turpitude.
3. Has been engaged in acts constituting a danger to the public health, safety or morals.

4. Has violated the consumer fraud laws of the state, any other state, or of the United States.

5. Applicability to the applicant and the licensee:

a. If the applicant and/or licensee is a corporation, any officer, director, or stockholder who owns or controls directly or indirectly twenty-five percent (25%) or more of the stock of the corporation.

b. If the applicant and/or licensee is a partnership, any general or limited partner.

c. If the applicant and/or licensee is a joint venture, any joint venturer.

d. If the applicant and/or licensee is a trust, the trustee and/or any beneficiary of the trust.

e. The acts and/or omissions of any agent(s) or employee(s) of the applicant's and/or licensee's business.

D. Failure of the licensee to pay any fine, penalty or licensee fee owed to Hanover Township.

E. Refusal by the licensee or any person or entity related to the licensee, as specified in subsection C5 of this Section, or manager of the licensee to permit any inspection provided for under this Ordinance.

No revocation shall be effective until after the licensee has had an opportunity to have a hearing as provided in Section Fifteen herein.

SECTION FIFTEEN: Hearings.

A. The Township Clerk shall cause to be served upon the licensee or the licensee's agent, either personally or by certified mail, return receipt requested, written notice signed by the Township Administrator;

1. That his, her or its license will be revoked effective not less than twenty (20) days after such notice is served upon said licensee or licensee's agent;

2. Specifying the cause for such revocation, including the nature of the violation, the section number of the municipal code or any ordinance or law he, she or it has violated, if applicable, and the date, time and place such violation occurred and/or continued; and

3. Informing the licensee that he, she or it has the right to a hearing before the Township Board of Trustees, provided the licensee requests such hearing by written notice to the Clerk within ten (10) days after notice of revocation is served upon the licensee or licensee's agent.

B. If the licensee does not request a hearing within ten (10) days after service upon the licensee or its agent of the notice provided for in subsection A of this Section, the Township Board of Trustees, at its next regular meeting, shall review the charges against the licensee and the report of the enforcement official, and shall make written findings of fact and conclusions of law as to whether or not there is cause for license revocation, and shall submit such findings and conclusions within seven (7) days of said meeting.

C. If the licensee requests a hearing, the license may not be revoked until the conclusion of such hearing and only upon the making of findings and conclusions by the Township Board of Trustees that there is cause for the license revocation. If a suspension is in place, said suspension need not be lifted but may in fact be extended by the Board of Trustees for a period not to exceed an additional thirty (30) days upon

findings by it that the continued conduct or operation of the business constitutes a danger to the public health, safety and morals. At the hearing on the revocation, evidence shall be presented demonstrating the violation or cause on the basis of which the license should be revoked and the licensee or his, her or its attorney shall have the right to examine witnesses and present evidence on behalf of the licensee. After the conclusion of the hearing, the Board of Trustees shall make findings of fact and conclusions of law as to whether or not there is cause for license revocation and shall submit such findings and conclusions to the licensee within seven (7) days after the conclusion of the hearing.

D. Upon receipt of written determination by the Board of Trustees that there is cause for the revocation of any license, the Township Clerk shall revoke such license.

SECTION SIXTEEN: Authority of the Township Board.

The Hanover Township Supervisor, Board of Trustees, Township Administrator, Township Clerk and Enforcement Officers are each hereby authorized to perform all acts necessary to enforce the terms of this Ordinance.

SECTION SEVENTEEN: Limitation on Applicability of this Ordinance.

Nothing in this Ordinance shall apply to any junkyard and/or junk dealer operating a junkyard that is located within a city, village and/or incorporated town that by ordinance provides for the licensing, regulation, or location of places of junkyards and/or junk dealers.

SECTION EIGHTEEN: Penalty.

Any person violating any provision of this Ordinance shall be fined Five Hundred Dollars (\$500.00).

SECTION NINETEEN: SEVERABILITY. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION TWENTY: REPEAL OF PRIOR ORDINANCES. All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION TWENTY-ONE: EFFECTIVE DATE. This Ordinance shall be in full force and effect upon its passage and approval.

VOTE OF ELECTORS: *Michael Kelly, Katy Delan Bauer, Jason Hughes*
AYES: *5* *Robert Goffinski, Sandra Westlund-Deinikan*

NAYS: *0*

PASSED: April 8, 2008

APPROVED: April 8, 2008



Michael E. Kelly, Township Supervisor

ATTEST:

Brian P. McGuire

Brian P. McGuire, Township Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the Township Clerk of Hanover Township, Cook County, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance 08-03 enacted on April 8, 2008, and adopted by the Electors of Hanover Township at the Annual Hanover Township meeting held on April 8, 2008, as the same appears from the official records of Hanover Township.



Brian P. McGuire
Brian P. McGuire, Hanover Township Clerk