

**THE TOWNSHIP OF ONEKAMA**

**ORDINANCE NO. 2002 -01**

**MANISTEE COUNTY, MICHIGAN**

**AN ORDINANCE TO AMEND AND RESTATE ORDINANCE NO. 99-04 TO REGULATE AND CONTROL THE STORAGE AND DISPOSAL OF JUNK WITHIN THE TOWNSHIP; TO PROVIDE FOR THE ELIMINATION OF BLIGHTED STRUCTURES AND BUILDINGS; TO REGULATE THE OPERATION OF JUNKYARDS; TO PREVENT, CONTROL, REDUCE OR ELIMINATE NUISANCES, ATTRACTIVE NUISANCES AND OTHER CONDITIONS CONSTITUTING OR CONTRIBUTING TO BLIGHT WITHIN ONEKAMA TOWNSHIP TO PROVIDE FOR THE ENFORCEMENT HEREOF AND TO PRESCRIBED PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH. PURSUANT TO THE AUTHORITY PROVIDED BY ACT 344 OF THE PUBLIC ACTS OF 1945, AS AMENDED, BEING MCL 125.71, ET SEQ. AND ACT 246 OF THE PUBLIC ACTS OF 1945, AS AMENDED, MCL 41.181.**

**THE TOWNSHIP OF ONEKAMA ORDAINS:**

**SECTION 1. TITLE**

A. This Ordinance shall be known and may be cited as the Onekama Township Junk Storage and Disposal Ordinance.

B. The purpose of this Ordinance is to regulate and control the storage and disposal of junk within Onekama 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 aesthetics in 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 one's own 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 necessary for the administration of the within 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) continuous hours or more without the property owner's consent and with or without such owner'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 children who might play therein to their danger, or as to afford a harbor for vagrants or criminals, or as to enable persons to resort thereto for the purpose or committing unlawful acts or maintaining a nuisance.
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, 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 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, dairies, 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 (\$2,000.00) or more.
7. GARBAGE means and includes rejected 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 motor vehicles, which by reason of dismantling, disrepair, lack of licensing or other causes are incapable of being propelled under their own power.
9. JUNK means:
  - a. Scrap ferrous or nonferrous material, trash, rubber, worn tires, cloth, paper, rubbish, refuse, litter, unused furniture;
  - b. Materials from demolition, waste building materials; and
  - c. Any inoperable motor vehicles, junk automobiles, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging

parts) vehicles, farm equipment, boats, trailers, mobile homes, appliances and/or all other machines, 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. JUNK AUTOMOBILE means any motor vehicle required to be licensed under the laws of the State of Michigan which is not licensed for a period in excess of sixty (60) days, is visible from roads or adjacent parcels and which, because of damage, disrepair or deterioration, threatens to become a potential harm to the public health, safety or welfare by reason of the threat or presence of vermin or wild animals, leakage of fluids or gases, attractiveness to children, or other similar causes.
11. 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.
12. LIQUID INDUSTRIAL 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.

13. MOTOR VEHICLES are hereby defined as any wheeled vehicle which is designed to be self-propelled, whether licensed, licenseable, or otherwise.
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. 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 twisted shut.
19. 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.
20. 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.
21. TOWNSHIP means Onekama Township.
22. VERMIN shall mean skunk, raccoon, chipmunk, squirrel, or similar animal.

### **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 Onekama Township owned, leased, rented or occupied by such person.

- A. It shall be unlawful for a person to:
1. Store or accumulate junk except in the following manner:
    - a. So that no more than two large items of junk, as herein defined, are on the parcel;
    - b. So that junk is consolidated on one part of the parcel;
    - c. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building; and
    - d. So that it is not a nuisance.
  2. Keep or store building materials outside on private property unless there is in force a valid permit from the County Building Department for construction on said property and such building materials are intended for the use in connection with such construction project.
  3. 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 or rubbish.
  4. Place ashes, junk, garbage, liquid waste or rubbish on private property without the owner's permission or on public property. This provision applies regardless of whether the ashes, junk, garbage or rubbish is in a sealed container.
  5. Keep or store 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.
  6. Intentionally deposit liquid petroleum, crude oil, liquid petroleum crude oil by-products and/or derivatives or liquid industrial wastes on the ground.
  7. 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, nor currently useful for any purposes for which it may have been intended.

8. Allow the existence of any vacant building, garage, house or outbuilding unless such structure is secured from entry.
9. 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 locking device or doors, or securely locking same.
10. Store inoperable 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, nor dismantled, partially dismantled or inoperable motor vehicles stored in a closed building.

B. Section 3.A, paragraphs 1, 2, 3 and 10, 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 of 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. JUNKYARDS**

A. A junkyard shall be constructed, designed and operated according to the following standards:

1. Shall meet the following conditions:
  - a. Maintain a Michigan Sales Tax license;
  - b. Maintain records of sales and other transactions which are required by, and whose business falls under, the jurisdiction of P.A. 350 of 1917, as amended, (the Second Hand Junk Dealers Act, being MCL 445.401 *et seq.*).

2. Shall be designed to comply with the following:
  - a. Shall be set back from lot boundaries at least 300 feet. Shall be set back three hundred (300) feet from a road right-of-way or three hundred thirty-three (333) feet from the centerline of a road, whichever is greater.
  - b. Shall be screened from view of adjacent roadways and from adjacent lots by means of an opaque fence, earth berm, or a combination of the above; or
3. Shall be designed and operated so that noise, under normal operational circumstances, shall not be over 60 decibels at the boundary of the lot and at the nearest road.
4. Shall not be operated so that burning or incineration of junk or any other material results in smoke. Other emissions and effluent shall meet or exceed all applicable state and federal air pollution, surface and groundwater quality standards.
5. Shall comply with Public Act 219 of 1966, as amended, (the Control of Junkyards Adjacent to Highways Act, being MCL 252.201, *et.seq.*); Public Act 350 of 1917, as amended, (the Second Hand Junk Dealers Act, being MCL 445.401 *et.seq.*); the Solid Waste Management Act; and, if applicable, Public Act 12 of 1929, as amended, (township licensing of junkyards, being MCL 445.451, *et.seq.*).
6. Shall not constitute or operate a landfill, as defined in the Solid Waste Management Act, as an accessory function to a junkyard.
7. Shall be more than 1,000 feet from a school, campground, or park.
8. Shall not be adverse to the health, safety, morals and welfare of Onekama Township.

B. A junkyard conducting business or in otherwise operation in the Township at the time of enactment of this Ordinance shall, by six (6) months after the effective date of this Ordinance, be brought into compliance with Section 4.

#### **SECTION 5. VIOLATIONS: OPTIONAL PROCEDURE**

A. If the Township Board, upon the complaint of any person, upon being informed by the Township Code Enforcement Officer, or upon its own motion, finds that there is reasonable cause to believe that a violation of the Ordinance has occurred or is occurring, it may determine the parcel or parcels of land on which such violation is occurring and may notify each owner of such parcel, in the



manner hereinafter set forth, of the nature of the alleged violations and the date and time of hearing at which the issue of the alleged violations of this Ordinance shall be brought before the Township Board. The hearing shall be held not less than twenty-one (21) days after the date of the notice. The owner or lessee of the parcel shall be invited to attend such hearing, in person or through counsel, and show cause, if any there might be, why the Township Board should not order such violations to cease immediately and the parcel in question be restored to a condition which is not in violation of the Ordinance.

B. Notice of the hearing shall be in writing and served upon the persons shown as the owners of the parcel or parcels in question on the most recent tax assessment roll and any known lessee of the parcel and any other person known to have any interest in the parcel. The Township Clerk shall cause such notice to be served by personal delivery to such persons, by anyone of suitable age and discretion, or by certified or registered mail, return receipt requested. If any of the persons entitled to notice cannot be ascertained or located, then the Township Clerk shall cause such notice to be conspicuously posted on the parcel. An Affidavit of Service or Posting shall be maintained. Service of the notice shall be accomplished not less than ten (10) days before the hearing.

C. The hearing shall be conducted before the Township Board with the Township Supervisor presiding. If the Township Board determines it to be necessary, the Township Clerk shall administer oaths to all witnesses appearing before the Township Board. The Township Board shall receive such testimony and other evidence as it deems reasonably reliable and relevant to the issue of the violation of this Ordinance and shall render a decision and order in such matter within (10) days of the hearing. The owners and the Township Board may agree to extend the date for the hearing to such other date as they may mutually agree.

D. The Township Board shall determine whether a violation of this Ordinance exists and, if so, what shall be done to restore the parcel in question to a condition that is not in violation of this Ordinance, which decision may include, but shall not be limited to, ordering the owner of the parcel to remove and lawfully dispose of all junk from the parcel, the demolition and removal of a blighted structure or building or the owner of a junkyard to comply with the provisions of Sections 4 and 5 of this Ordinance. All persons entitled to notice of hearing shall be notified of the Township Board's decision, which decision shall be in writing and served, in person or by certified or registered mail, return receipt requested, at such person's last known address or the address where the service of the notice of hearing was accomplished.

E. If the owner of the parcel fails, refuses or neglects to comply with the decision and order of the Township Board within thirty (30) days after service of the order upon them, the Township Board

may, in its sole discretion, cause junk to be removed from the parcel and lawfully disposed, may cause a blighted structure or building to be demolished and removed or repaired and rehabilitated to a condition of safety or may cause a junkyard to be brought into compliance with this Ordinance. The cost of such actions shall be billed to each of the owners of the parcel who shall be jointly and severally liable therefor. If the owners of the parcel, refuse, neglect or fail to pay such costs within sixty (60) days of the Township's invoice to them, the Township Clerk shall report such costs to the Township Treasurer who shall cause such costs to be assessed against the parcel in question. The costs so assessed shall become a lien against the parcel in the same manner as other *ad valorem* taxes and interest, penalties and fees shall be charged and collected in the same manner as other *ad valorem* taxes.

F. The procedures set forth in this Section of the Ordinance are optional and nothing in this Ordinance shall be construed to prevent the Township from seeking immediate enforcement of this Ordinance under Section 6, nor shall the fact that the Township has employed the procedures set forth in this Section of the Ordinance be a bar to later enforcement hereof under Section 6.

#### **SECTION 6. VIOLATIONS: CIVIL INFRACTIONS**

A. This Ordinance is enforceable by all law enforcement agencies and officers authorized to act within the Township, by the Township Code Enforcement Officer, or any other official duly authorized to issue civil infraction violation notices and/or citations.

B. Any person, or other entity of any kind found to be in violation of this Ordinance shall be notified in writing to remove or eliminate the nuisance or attractive nuisance identified in the notice within ten (10) days after service of the notice upon him. Such notice may be served personally or by certified mail, return receipt requested. Additional time may be granted by the enforcement officer where bonafide efforts to remove or eliminate such nuisances or attractive nuisances are in progress.

C. Failure to comply with such notice within the time allowed by the owner and/or occupant shall constitute a violation of this ordinance.

D. Any person or other entity of any kind found to be in violation of this Ordinance and who fails to remedy such violation as provided herein, shall be deemed responsible for a municipal civil infraction as defined by Michigan statute, which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct and indirect, to which Onokama Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than Ten Dollars (\$10.00) or more than Five Hundred Dollars (\$500.00) be ordered. A violator of this Ordinance shall also be subject to such additional sanctions

and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

1st violation within 3-year period*	\$100.00
2nd violation within 3-year period*	\$200.00
3rd violation within 3-year period*	\$300.00
4th violation within 3-year period*	\$400.00

\*determined on the basis of the date of violation(s)

### **SECTION 7. 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, sub-section, phrase, sentence and clause therefore irrespective of the fact that any one or more sections, sub-section, phrases, sentences or clauses be declared invalid.

### **SECTION 8. 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 9. EFFECTIVE DATE**

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

THOSE VOTING IN FAVOR: John Hock, Ronna Oliver, Helen Mathieu, David Meister

THOSE VOTING AGAINST: None

THOSE ABSENT OR ABSTAINING: Absent - Blanche Miller

ORDINANCE DECLARED PASSED

  
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Helen Mathieu, Clerk

**CERTIFICATION**

I, Helen Mathieu, Clerk, Township of Onekama, Manistee County, Michigan, do hereby CERTIFY that the above is a true and correct copy of the Ordinance as adopted by the Onekama Township Board at a regular meeting held on the 4<sup>th</sup> day of June, 2002.

*Helen Mathieu*

Helen Mathieu, Clerk