

**THE TOWNSHIP OF ONEKAMA**

**ORDINANCE NO. 99-04**

**MANISTEE COUNTY, MICHIGAN**

**AN ORDINANCE 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 PROVIDE FOR THE ENFORCEMENT HEREOF AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HERewith.**

**THE TOWNSHIP OF ONEKAMA ORDAINS:**

**SECTION 1. TITLE**

A. This Ordinance shall be known and may be cited as the Onkama Township Junk Storage and Disposal Ordinance, and shall be known in the short form as the "Junk Ordinance".

B. The purpose of this Ordinance is to regulate and control the storage and disposal of junk within of Onkama Township, in order to promote the public health, safety and welfare; to protect land values; provide for the safety of residents in the area from dangerous junk; to protect the groundwater lying beneath the Township; to reduce the incidence of blight and vermin; and 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 removal of junk from one's land.

5. Provide for other miscellaneous provisions necessary for regulation of the Township's affairs.

C. This Ordinance is enacted pursuant to Section 1 of 1945 PA 246, being MCL 41.181, as amended, and 1929 PA12, being MCL 445.451 as amended.

## **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, or for a period of forty-eight (48) continuous hours.
2. **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.
3. **FARM** means a business enterprise engaged in agricultural production (and otherwise known as farms, ranches, dairies, nurseries, orchards) of crops, livestock and trees, and:
  - a. Which includes forty (40) or more acres of land in one ownership which is primarily devoted to agricultural use; or
  - b. Has five (5) or more acres of land in one ownership, but less than forty (40) acres, devoted primarily to agricultural use, which has produced a gross annual income from agriculture of two hundred dollars (\$200.00) per year or more per acre of cleared and tillable land; or

- c. Has been designated by the Michigan Department of Agriculture as a specialty farm in one ownership which has produced a gross annual income from an agricultural use of two thousand (\$2,000.00) or more.

4. JUNK means:

- a. Old scrap ferrous or nonferrous material, trash, rubber, worn tires, cloth, paper, rubbish, refuse, litter, unused furniture;
- b. Materials from demolition, waste building materials;
- c. Any junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, vehicles, farm equipment, boats, trailers, mobile homes, appliances and 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; and
  - (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.

5. 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. And is visible from roads or adjacent parcels and which because of damage or deterioration is or 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.

6. JUNKYARD means a business enterprise , or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion, or recovery of junk, and is a business which is included in 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; but 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 (used vehicle parts dealer) under MCL 257.248, MSA 9.1948, as amended.

7. TOWNSHIP means Onkama Township.
8. 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.
9. 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.
10. 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.
11. 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.

### **SECTION 3. UNLAWFUL ACTS**

A. It shall be unlawful for a person to maintain or permit to be maintained any blighted structure or building.

B. It shall be unlawful for a person to store or accumulate junk except in the following manner:

1. So that no more than two large items of junk, as herein defined, are on the parcel;
2. So that junk is consolidated on one part of the parcel;

3. 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
4. So that it is not a nuisance.

C. Section 3.B 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 any other state or local law; and
4. So that it is not a 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. Has a Michigan Sales Tax license;
  - b. Have 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 one of the following:
  - a. Shall be set back from lot boundaries at least 300 feet. Shall be set back 300 feet from a road right-of-way or 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, vegetation, earth berm, or another form of screening, or a combination of the above; or
  - c. Shall not be visible from a road or from adjacent lots.

3. Shall be set back from lot boundaries at least 100 feet. Shall be set back 100 feet from a road right-of-way or 133 feet from the centerline of a road, whichever is greater.
4. 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.
5. 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.
6. 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 Acts; and, if applicable, Public Act 12 of 1929, as amended, (township licensing of junkyards, being MCL 445.451, *et.seq.*).
7. Shall not operate a landfill, as defined in the Solid Waste Management Act, as an accessory function to a junkyard.
8. Shall be more than 1,000 feet from a school, campground, or park.
9. Shall not be adverse to the health, safety, morals and welfare of Onkama Township.

## **SECTION 5. PRE-EXISTING JUNKYARDS**

A. Upon the enactment of this Ordinance, the Township Planning Commission shall cause to be made an inventory of all junkyards presently in business within the Township. Such inventory shall include a site plan of each junkyard, a general inventory of the nature and extent of junk, and such other information as the Township Planning Commission deems relevant.

B. Any junkyard in business in the Township at the time of enactment of this Ordinance shall be allowed to continue in business as a junkyard on the parcel of land, or portion of the parcel of land, where it is presently located and in operation, except as otherwise provided in sections 5.C and 5.D of this Ordinance.

C. A junkyard in business under Section 5.A of this Ordinance, which:

1. Ceases to operate for one year or more;
2. Enlarges so as to occupy more land than was occupied and used at the time of enactment of this Ordinance, as shown on the Inventory site plan made pursuant to Section 5..A of this Ordinance.
3. Relocates to different land than was occupied and used at the time of enactment of this Ordinance, as shown on the inventory site plan made pursuant to section 5.A of this Ordinance;
4. Shall be required to comply with all aspects of this Ordinance.

D. A junkyard in business 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 6. VIOLATIONS: OPTIONAL PROCEDURE**

A. If the Township Board, upon the complaint of any person 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 7 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 7.

#### **SECTION 7. 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 citations.

B. Any person who violates any provision of this Ordinance shall be guilty of a civil infraction and subject to penalties:

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)

In addition to the above-prescribed civil fines, costs in the amount of \$10.00 shall be assessed by the Violations Bureau if the fine and costs are paid within 10 days of the date of service of the municipal ordinance violation notice. In the event that the fine and costs are not paid within 10 days of the date of service of the municipal ordinance violation notice, costs of \$20.00 shall be assessed by the Bureau.

#### **SECTION 8. 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 adjudged unconstitutional or invalid, it 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 9. 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 10. 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:        David Meister, Blanche Miller, Harold Sorenson, Tina Garwood,  
   Helen Mathieu

THOSE VOTING AGAINST:        None

THOSE ABSENT OR ABSTAINING:        None

ORDINANCE DECLARED PASSED

---

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 2nd day of March, 1999.

---

Helen Mathieu, Clerk