

THE TOWNSHIP OF ONEKAMA
ORDINANCE NO. 2019-04
MANISTEE COUNTY, MICHIGAN

AN ORDINANCE TO AMEND AND RESTATE ORDINANCE NO. 99-04 AND 2002-01, 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 Anti-Blight, 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 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 regulations within.

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 of committing unlawful acts of 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 of 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 (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, or under the Right to Farm Act, P.A. 93, MCL 286.471 *et seq*
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 related 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:

- i. Items being held for a customer while parts are being sought for its repair
- ii. Items that are classic or antique, kept and collected for their antique or collectable value; or
- iii. 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, licensable, 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 demolition 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 not 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 Onokama 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 Onokama 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 to 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 Land Use Permit 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. Blight or Junk on any parcel, any abandoned, discarded, unusable, unsightly, or unused objects or equipment including, but not limited to, furniture, stoves, refrigerators, freezers, cans, implements, parts of motor vehicles, any type of motor vehicle and/or water craft and/or trailer lacking State Registration OR stored in a number exceeding that

allowed in District (see Z.O. Article 10-1032, Articles 37, 43), machinery, cloth, rubber, bottles, metals, boxes, cartons, tarps, plastics, crates or similar material or items.

10. 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.
11. 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: 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 eliminat4e 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.

SECTION 6. PENALTY

- A. Whoever violates any provisions of this Chapter is guilty of a civil infraction in accordance with Onekama General Ordinance 99-02, subject to fines and penalties as provided therein or as stated by amendment, including the ability of the Township of Onekama to seek equitable remedies required to correct the violation, in addition to all other sanctions and accrued costs to the Township as provided in Section IV.
- B. Any person or other entity who violates any of the provisions of this Ordinance is responsible for a Municipal Civil Infraction as defined by Michigan Law and subject to a civil fine determined in accordance with the following schedule or that given in any amended Municipal Civil Infraction ordinance approved by the Onekama Township Board:

1st Violation within a three (3) year period * - \$100 *

2nd Violation within a three (3) year period * - \$200 *

3rd Violation within a three (3) year period * - \$300 *

4th or Subsequent Violation within a three (3) year period * - \$400 *

*Determined on the basis of the date of the same violation(s) on the same parcel or tract.

- C. Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation,

including any attorney fees, and all costs incurred by the Township to correct a violation in the event of continued non-compliance by the person or other entity determined to be the owner(s) of the property on which the violation is charged.

- D. A violator of this ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan Law. Each day the same violation of this ordinance continues to exist on the same parcel or tract constitutes a separate violation. Provisions of this Ordinance may also be enforced by a suit for injunctive relief.

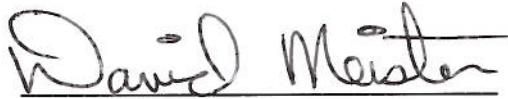
Motion by Bob Blackmore, Second by Shelli Johnson to approve the Ordinance to take effect immediately upon approval.

Those Voting in Favor: Jim Wisniski, LaVonne Beebe, Shelli Johnson, Bob Blackmore.

Those Voting Against: None

Those Absent or Abstaining: David Meister

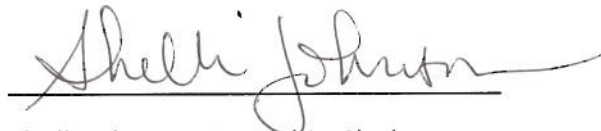
Ordinance Declared PASSED

A handwritten signature in dark ink, reading "David Meister", written over a horizontal line.

David Meister, Township Supervisor

CERTIFICATION

The undersigned Clerk of Onekama Township hereby certifies that the foregoing is a true and accurate copy of the Ordinance adopted by the Onekama Township Board of Trustees at a regular meeting held on the 1st day of October, 2019, which meeting was duly noticed and called in accordance with Act 267 of the Public Acts of 1976, as amended.

A handwritten signature in dark ink, reading "Shelli Johnson", written over a horizontal line.

Shelli Johnson, Township Clerk