

**THE VILLAGE COUNCIL OF THE VILLAGE OF ONEKAMA, MANISTEE COUNTY, MICHIGAN,
ORDAINS:**

Village Ordinances Number 25 (enacted by the Village Council on May 9, 2002) and Number 26 (enacted by the Village Council on August 3, 1989), are jointly repealed and replaced in their entirety by the following:

**Village of Onekama
Manistee County, Michigan
Ordinance Number 42**

An ordinance to protect the public health, safety, and welfare of the residents and property owners of the Village of Onekama, Manistee County, Michigan, by reducing, eliminating, and preventing blight and the causes of blight, including but not limited to the disrepair of buildings, the failure to complete construction projects, the improper storage of junk, and the growth of noxious weeds within the Village limits.

Section 1 (Title). This ordinance shall be known as the Village of Onekama Property Maintenance Ordinance.

Section 2 (Statutory Authority). This ordinance is enacted under the powers granted by the Michigan Legislature to the Onekama Village Council, including the power to enact ordinances established by Chapter VII of the General Law Villages Act, 3 PA 1895, as amended, MCL 67.1a[1].

Section 3 (Findings and Purpose). The Village Council finds that the public health, safety, and welfare of its citizens is threatened by the presence of blighted structures, incomplete construction projects, the improper storage of junk and building materials, and the uncontrolled growth of noxious weeds within the village limits. Specifically, the presence of these threats create and contribute to unsafe properties, sidewalks, streets lakes, creeks or streams; nuisances and attractive nuisances; the spread of rodents and other pests; and the diminishment of property values and acceptable public standards throughout the village. Therefore, the Village Council has enacted this ordinance to mitigate or eliminate these threats to the public health, safety, and welfare.

Section 4 (Definitions). As used in this ordinance:

“**Abandoned automobile**” means any automobile that is unlicensed or inoperable for any period of more than one (1) year. Abandoned autos do not include antique classic vehicles used in shows and parades.

“**Attractive Nuisance**” means, but is not limited to, buildings, structures, fences in major disrepair; un-mown, un-tended yards.

“Blighted structure” means any structure or part of any structure that, due to fire, natural disaster, abandonment, or lack of maintenance and repair, is not or no longer used or usable for its intended residential or commercial purpose. “Blighted structure” also means any structure or part of any structure of which the exterior surfaces (such as siding, paint, roofing materials, windows, and doors) are not in a weather-tight, structurally sound, and in completed, finished condition. “Blighted structure” also means any structure or part of any structure currently or previously under construction, renovation, or repair, and whose construction, renovation, or repair is incomplete, abandoned, postponed, or delayed beyond the time period provided in Section 5(A)(2) of this ordinance.

“Building materials” means wood, lumber, brick, concrete, vinyl, roofing materials, drywall, paneling and plaster, windows and doors, pipes and plumbing equipment, wires and electrical equipment, tools, vehicles and machinery, and any other material or equipment used for the construction, renovation, and repair of buildings or structures.

“Completely enclosed building” means a building or structure with enclosed walls on each side, and covered by an enclosed roof, and which meets the standards of Section 5(A)(2)(ii) of this ordinance.

“Junk” means abandoned automobiles, inoperable machinery, recreational vehicles including but not limited to snowmobiles, ATVs motorcycles, mopeds; yard maintenance or recreation equipment ; building materials (except as provided in Section 5(A)(3)(iii) of this ordinance); trash and debris; fuel wood that is not neatly piled in the side or rear yard.

“Noxious weeds” means grasses and other plants allowed to a height of more than twelve (12) inches. “Noxious weeds” shall not mean trees or shrubs; annual or perennial flowers, vegetables, herbs, and ornamental grasses kept in cultivated and neatly maintained gardens; plants used in designated water catchment basins; or any vegetation located within a wetland or body of water and used for the purpose restoring or maintaining the natural shoreline and/or quality of that water body or in accordance with Michigan Act 451 (Natural Resources and Environmental Protection Act), Part 301 (Inland Lakes and Streams), Part 303 (Wetlands Protection), Part 323 (Shoreland Protection and Management).

“Siding” means finished siding as listed in the State of Michigan Construction Code including shingle, vinyl, metal, brick, manufactured clapboard but does not include pre-finished covering such as Tyvek or tar paper.

“Tiered Violation Fine” means an increased fine amount imposed upon repeat violations that recur more than two years in a row as enforcement and monitoring become an undue taxpayer burden.

“Trash and debris” means household or commercial refuse; yard waste; broken, unusable or unused household goods such as appliances, furniture, tools, and toys; remnants of demolition or excavation that has been on the property for a period of 3 (three) months. “Trash and debris” does not include household or commercial refuse that is properly and temporarily stored in a container designed for that purpose, such as trash bins and recycling containers that

are emptied on a regular basis.

“Weather tight, structurally sound, and completed condition” means fully enclosed and covered with a uniform (material and color) finished siding and roofing material such as shingles, clapboards, vinyl, metal, or paneling manufactured for that purpose. Temporary construction materials such as tar paper, plywood, ice and water shield, or house wrap shall not be considered a finished siding and roofing material. Painted exterior surfaces shall not be considered a finished siding material unless completely painted in a uniform color or contrasting pattern (as a “painted lady”), and neatly maintained. “Weather tight, structurally sound, and completed condition” also means that all windows and doors are intact and properly sealed, glazed, and locked, and that the structure is secure against the entry of unauthorized animals or people.

Section 5 (Unlawful Acts).

A. Blighted structures.

- (1) Blighted structures shall not be permitted on any property in the Village of Onekama, subject to the following exceptions and conditions, the existence of which shall be determined by the Zoning Administrator, Village Council, or other enforcement officer as provided in Section 6(B) of this ordinance.
 - i. A blighted structure may be allowed on village property if no more than 135 days have passed since the structure became blighted, and it is determined that active efforts are underway to repair or remove the blighted structure.
 - ii. In order for a blighted structure to be permitted under the preceding subsection, a property owner must ensure, within 15 days of a structure becoming blighted, that the owner has secured a written plan of action with the Village; the structure is securely locked, its windows glazed or neatly boarded and otherwise securely protected against the entrance of animals or unauthorized people.
 - iii. Notwithstanding the preceding subsections, no blighted structure may remain on any property for more than 180 days if allowing the structure to remain in its blighted condition poses a threat to the health or safety of neighbors, neighboring properties, or passers-by.
- (2) A structure that is actively under construction, renovation, or repair, shall not be considered a blighted structure if the project has an active Land Use Permit and is completed within one (1) year of commencement, subject to the following exceptions and

conditions, the existence of which shall be determined by the Zoning Administrator, Village Council, or other enforcement officer as provided in Section 6(B) of this ordinance.

- i. Any construction, renovation, or repair of a structure in the village must be in accordance with any applicable construction code and/or permitting process.
 - ii. The construction, renovation, or repair of a structure shall not be considered complete until the structure is (a) in compliance with any applicable construction code, (b) habitable or otherwise available for its intended use, and (c) in a weather-tight, structurally sound, and completed condition.
 - iii. The one (1) year time limit of this subsection may be extended if it is determined that (a) an extension is necessary as a result of unforeseen circumstances or the special nature of a project, and (b) the property owner has undertaken good faith efforts to complete the project in the shortest possible amount of time beyond the one (1) year time limit.
 - iv. Properties on which structures are under construction, renovation, or repair shall at all times be subject to the provisions of this ordinance concerning the storage of junk (Subsection 3) and the growth of noxious weeds (Subsection 4).
- (3) Junk may not be kept or stored on any property in the Village of Onekama, subject to the following exceptions and conditions, the existence of which shall be determined by the Zoning Administrator, Village Council, or other enforcement officer as provided in Section 6(B) of this ordinance.
- i. Junk may be stored in a completely enclosed building, subject to compliance with any applicable building codes and provided that the storage of junk is not permitted even in a completely enclosed building, if it constitutes a nuisance or a danger to public health, safety, or welfare.
 - ii. Items considered junk by the definitions in this ordinance may be stored outside of a completely enclosed building if those items (such as machinery or abandoned vehicles) are necessary or component to the operation of a valid and licensed commercial operation that is otherwise permitted

by state law and other village ordinances, including the village zoning ordinance.

- iii. Building materials may be stored on property where a structure is actively under construction, renovation, or repair, provided that stored building materials are used on the property where they are stored within 90 days. Stored building materials shall be neatly stacked or organized and to the extent possible, protected against weather and shielded from public view. Stored building materials shall not be permitted outside of a fully enclosed building if those materials otherwise pose a threat of physical harm or danger to the public or to passers-by or those materials are not used within the 90 days.

- (4) The growth of noxious weeds is not permitted on any property in the Village of Onekama.

Section 6 (Enforcement and Penalties).

- A. Municipal Civil Infraction. A violation of any provision of this ordinance shall be considered a municipal civil infraction and punished according to the provisions of Village Ordinance No. 30 and the schedule of fines specifically established below in this ordinance. Each day in which a violation occurs or continues shall be considered a separate offense and shall be subject to separate penalties.
- B. Enforcement Officer. The village Zoning Administrator shall enforce the provisions of this Ordinance unless the Village Council designates another person as enforcement officer.
- C. Notice. When the enforcement officer is made aware of a violation or potential violation of any provision of this ordinance, he or she shall investigate the potential violation. If a violation exists, the enforcement officer shall send a letter by certified, first-class mail (delivery confirmation or return receipt requested) to the responsible property owner, informing him or her of the violation. A copy of the Violation Notice shall simultaneously be posted at a conspicuous location on the property where the violation exists. A property owner shall have ten (10) days, from the date of receiving notice of a violation of this ordinance by mail, to remedy the violation or seek an extension of time for remedy from the Zoning Administrator or Village Council. If service by mail cannot be confirmed, this time limit shall be extended to fifteen days from the date of posting the notice on the property in question. No extension of time shall be given for remedy of a violation of this ordinance unless a property owner actively initiates and demonstrates good faith efforts toward a

remedy or complete resolution of the violation. If a violation is not remedied within this ten-day period, or the time period is not extended, the violation shall be a municipal civil infraction, and the Zoning Administrator shall issue a municipal civil infraction notice or citation as provided in Village Ordinance No. 30.

D. Fines. Municipal civil infraction fines for violations of this Ordinance shall be as follows.

- (1) Blighted structures and incomplete construction. Any violation of Sections 5(A)(1) or 5(A)(2) of this Ordinance shall be punishable by a fine of \$200.00 per day.
- (2) Junk. Any violation of Section 5(A)(3) of this Ordinance shall be punishable by a fine of \$100.00 for an initial violation. Subsequent violations by the same property owner shall be punishable by a fine of \$150.00 per day.
- (3) Noxious weeds. Any violation of Section 5(A)(4) of this Ordinance shall be punishable by a fine of \$50.00 for an initial violation. Subsequent violations in the same year on the same parcel shall be punishable by a fine of \$100.00 per day.
- (4) Tiered fines. If junk or noxious weed violations are repeated more than two years in succession, the fine imposed automatically doubles.

E. Failure to Comply. If, ten (10) days after any person in violation of this ordinance admits responsibility for the violation under Village Ordinance No. 30, or ten (10) days after a court has ordered compliance with the provisions of this ordinance, the Village Council determines that a person has failed to remedy any applicable violation or comply with a court order, the Village shall remedy the violation at the property owner's expense. Within ten (10) days of completion, the Village shall send an invoice to the property owner for any work done or contracted for in carrying out this provision. If an invoice issued under this provision remains unpaid after ninety (90) days, the Village shall place a special assessment on the property in question, under the provisions of Village Ordinance No. 24, until the invoice, costs, and interest are paid.

F. Other Remedies. Enforcement of this ordinance under the provisions established above shall not limit the right of the village or any private person to seek other remedies – including damages and injunctive relief – as necessary and otherwise allowed by law.

Section 7 (Severability).

- A. The validity of any portion of this ordinance shall not affect the independent validity of any other portion of this ordinance. By enacting this ordinance, the Village Council intends that each provision of the ordinance is considered and enacted independently from each other provision.

Section 8 (Repeal).

- A. By enactment of this ordinance, any other ordinance whose provisions conflicts with this ordinance is hereby repealed, including former ordinance numbers 25 and 26, as specified above.

Section 9 (Effective Date).

- A. This ordinance shall be effective on October 20, 2011 the day following its passage by the Village Council on October 19, 2011. The effective date of this ordinance is therefore October 20, 2011.

VOTING FOR: Ralph Drumm, Alice Hendricks, Kim Lagerquist, Evelyn McNeil, Robert Blackmore

VOTING AGAINST: Ken Bauer

ABSENT: Richard Gulch

Therefore, it is certified that the foregoing is a true and correct copy of the Village of Onekama Property Maintenance Ordinance passed by the Village Council at a regular meeting held on October 19, 2011.

_____, Village Clerk
Ruth Hudson