# ELK TOWNSHIP JUNK ORDINANCE

# Ordinance No.: 2020 - 01

At a regular meeting of the Township Board for Elk Township held at the Township Hall on July 14, 2020, beginning at 7:00 p.m., this Ordinance was offered for adoption by Township Board Member \_\_\_\_\_\_\_\_\_\_\_\_, and was seconded by Township Board Member \_\_\_\_\_\_\_\_\_\_\_\_:

**AN ORDINANCE TO REGULATE JUNK, BLIGHT, INOPERABLE VEHICLES, JUNK TRAILERS AND OTHER MATTERS; TO PROVIDE FOR PROHIBITING CERTAIN USES, ACTIONS, ITEMS AND ACTIVITIES; AND TO PROVIDE FOR PENALTIES AND REMEDIES.**

THE TOWNSHIP OF ELK (“Township”), LAKE COUNTY, MICHIGAN, HEREBY ORDAINS:

# SECTION 1. TITLE AND PURPOSE

1. This Ordinance shall be known and may be cited as the ‘Elk Township Junk Ordinance.”
2. The purpose of this Ordinance is to regulate and control the accumulation, storage and disposal of junk, inoperable vehicles and junk trailers within Elk Township in order to promote the public health, safety and welfare; to protect property values; to provide for the safety of residents from dangerous or problematic junk and attractive nuisances; to protect the groundwater lying beneath the Township; to reduce the incidence of blight and vermin; to protect the aesthetic character of the Township and to regulate matters of legitimate Township concern with regard to the above conditions, uses and activities.
3. This Ordinance is specifically designed to:
	1. Define certain words and terms used herein;
	2. Regulate the volume and conditions under which a person may store junk on a parcel of land;
	3. Regulate and coordinate with other Township ordinances, and the use and operation of junkyards in the Township;
	4. Provide for enforcement and a system of due process for the control and eradication of junk, blight and attractive nuisances on and about properties within the Township; and
	5. Provide for other miscellaneous provisions for the administration of these regulations.

# SECTION 2. DEFINITIONS

1. The following words, phrases and terms shall have the meanings assigned below, unless the context clearly indicates otherwise:
	1. ABANDONED VEHICLE means any vehicle, automobile, truck, golf cart, ATV, side-by-side, boat, snowmobile, or other motorized or non-motorized vehicle or item (or any part thereof) which has remained outdoors on a parcel or lot for a period of forty-eight (48) hours or more without the property owner's or lessee's consent and with or without such owner's or lessee's knowledge.
	2. ATTRACTIVE NUISANCE means any building, trailer, mobile home, container, abandoned vehicle, or structure which, due to dilapidation, damage, being run down, deterioration, vacancy, abandonment, neglect or being open at a door or window, allows the interior of the building, structure, trailer, container, mobile home, or abandoned vehicle to become an attraction to vermin, an attractive nuisance to children who might play therein to their danger or a harbor for vagrants or criminals.
	3. BLIGHT means an item, structure, trailer, container, mobile home, building or property that is run down, filthy, dangerous, dilapidated, a nuisance, a health hazard or a safety hazard.
	4. BLIGHTED STRUCTURE OR BUILDING means any dwelling, structure, trailer, mobile home, container, fence, garage or building, 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 safe or habitable as a dwelling, usable as a building or structure or useful for the purpose for which it was originally constructed or intended.
	5. BUILDING MATERIALS includes, but is not limited to lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, gypsum board, insulations, glass, shingles, mortar, concrete or cement, nails, screws, or any other materials used in the construction of any building or structure.
	6. DISMANTLED OR PARTIALLY DISMANTLED MOTOR VEHICLES means one or more motor vehicles, ATV’s, snowmobiles, motor homes, side-by-sides, boats, trailers, golf carts, or similar item from which some material part (or parts), ordinarily a component of such motor vehicle or item, has been removed or is missing.
	7. FARM means any business or use that constitutes a protected farm pursuant to the Michigan Right to Farm Act, being MCL 286.471 *et seq*.
	8. GARBAGE means and includes 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.
	9. INOPERABLE MOTOR VEHICLES means one or more motor vehicles (including, but not limited to, cars, trucks, boats, snowmobiles, golf carts, ATV’s, side-by-sides and similar items and apparatuses) which, by reason of dismantling, disrepair, lack of current registration or other cause, is or are incapable of being propelled under their own power or are prevented by law from being propelled on a public highway.
	10. JUNK means:
		1. Scrap ferrous or nonferrous metals, garbage, trash, rubber, five or more scrap tires, cloth, paper, rubbish, refuse, litter or used furniture;
		2. Any blighted structure or building, materials from a demolition or waste, weathered or damaged building materials; and/or
		3. Any inoperable motor vehicle, abandoned vehicle, junk vehicle, dismantled or partially dismantled motor vehicle, abandoned, scrapped, dismantled or wrecked (including parts of, or items held as salvaging parts) vehicle, or any farm equipment, boat, trailer, mobile home, snowmobile, side-by-side, ATV, motor home, container, appliance or all other machine or item found to be in a dilapidated, dangerous or deteriorating condition.
	11. LIQUID 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 lawfully used in an oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.
	12. MOTOR VEHICLES are any wheeled or track vehicle which is designed to be self-propelled, whether registered, licensed, licensable, or otherwise. This definition also includes cars, trucks, motor homes, ATV’s, snowmobiles, boats, side-by-sides and other self-propelled vehicles or apparatuses.
	13. NUISANCE is a use of property or course of conduct that unreasonably interferes with the legal right of others by causing damage, injury, harmful odors, pollution, annoyance, or inconvenience.
	14. PARCEL OR LOT 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, entity, or other unincorporated association of persons, and shall include all agents, servants and employees of such person or persons.
	16. ROAD means a public or private road, alley, highway or street right-of-way or easement which affords a means of ingress or egress.
	17. RUBBISH means solid wastes, including for example, but not by way of limitation, paper, cardboard, metal containers wood, trash, glass, bedding, crockery, bags, rags, or demolished materials.
	18. SCRAP TIRE means a tire that is no longer being used for its original purpose including, but not limited to, a used tire, a reusable tire casing, a junk tire or portions of a tire.
	19. SEALED CONTAINER means a covered, closable container which is fly-proof and watertight, such as garbage cans or containers with properly fitting tops or plastic garbage bags which have been closed or twist-tied shut.
	20. 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.
	21. TOTALLY CLOSED STRUCTURE means a lawful 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.
	22. TOWNSHIP means Elk Township.
	23. VERMIN means various small animals or insects that are destructive, annoying, or injurious to health.

# SECTION 3. UNLAWFUL ACTS

1. No person shall maintain or permit to be maintained any condition constituting a "nuisance" or an "attractive nuisance" upon any property in Elk Township owned, leased, rented, controlled or occupied by such person.
2. It shall be unlawful to:
	1. Keep or store building materials outdoors unless there is in effect a valid current permit from the Lake County Construction Code Department (successor agency) for current construction on the property where the materials are located and such building materials are intended for use in connection with such current construction project. Such prohibition shall not apply, however, to building materials kept or stored outside on private property if there is a current building permit in effect, the building materials are kept or stored in an orderly fashion, are fully covered with a protective tarp and protected from the elements and are not visible from adjoining properties or any road.
	2. Keep or store ashes, junk, trash, garbage, refuse, liquid waste or rubbish outside of a totally enclosed structure except in a sealed container designed for the purpose of holding such ashes, trash, junk, garbage, refuse, liquid waste or rubbish.
	3. Place ashes, junk, trash, garbage, refuse, liquid waste or rubbish on the private property of another without the owner’s permission or on public property. This provision applies regardless of whether the ashes, junk, garbage, refuse, trash, liquid waste or rubbish is in a sealed container.
	4. Keep or store ashes, trash, junk, garbage, refuse, liquid waste or rubbish, including inside a building, in such a manner that the items, regardless of the method of containment, have become rancid, fetid or a breeding ground, food source or habitat for insects, disease, rodents, vermin or bugs.
	5. Intentionally deposit liquid petroleum, crude oil, liquid petroleum crude oil by-products and/or derivatives or liquid industrial wastes on or into the ground.
	6. Keep or allow any building or structure which, because of fire, wind or other natural disaster or physical deterioration, is no longer habitable as a dwelling or currently useful for any purposes for which it may have been intended.
	7. Allow the existence of any vacant building, structure, garage, house, or outbuilding unless such structure is reasonably secured from entry.
	8. Keep any junk, abandoned, unattended or discarded icebox, refrigerator, safe, 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 other locking device or doors, or securely locking the same.
	9. Store or keep any inoperable, abandoned or junk motor vehicle or any dismantled or partially dismantled motor vehicles outdoors.
	10. Litter.
	11. Create, operate or keep an unlawful landfill.
	12. Install, maintain or keep a fence that has any of the following characteristics:
3. Is made of scrap, rusted or junk materials.
4. Is used to hide or conceal a violation of this Ordinance.
5. Is not made of new materials when installed.

13. Keep, operate or possess a junkyard.

14. Keep, operate or possess an outdoor scrap yard, recycling facility, or similar use or activity.

15. Keep, maintain or allow an attractive nuisance.

16. Keep, maintain or allow blight or any nuisance.

17. Keep, maintain or allow a blighted structure.

18. Keep, store, maintain or allow a junk, inoperable, partially dissembled or unsafe camping trailer, motor home, camping vehicle or similar vehicle or item outdoors.

19. Keep, use, store or maintain a junk, dilapidated, unused, unsafe or partially dissembled mobile home.

20. Keep, store, use or maintain a junk, dilapidated, partially disassembled or unsafe camping trailer, motor home or camper outdoors.

# SECTION 4. EXEMPTIONS FROM THIS ORDINANCE

The following uses, businesses and activities are exempt from this Ordinance.

1. *Bona fide* farm and agricultural uses that are protected by the Michigan Right to Farm Act, being MCL 286.471 et seq., including farm vehicles and equipment that are actively being used for farming. If a farm vehicle, equipment or item has been kept outdoors and in an inoperable or dilapidated state for more than three consecutive years, it shall be presumed not to be exempt from this Ordinance.

# SECTION 5. VIOLATIONS AND REMEDIES

1. Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, as amended, and shall be punished as follows:
2. For a first offense, the person shall be fined not less than $100, nor more than $300, plus the costs of prosecution and other sanctions as provided by law.
3. For a second offence occurring within two (2) years of the date when the person was found responsible for the first or immediately preceding offense, the person shall be fined not less than $300 nor more than $500, plus the costs of prosecution and other sanctions as provided by law.
4. For a third or subsequent offence occurring within two (2) years of the date when the person was found responsible for the first or immediately preceding offense, the person shall be fined not less than $1,000 nor more than $5,000, plus the costs of prosecution and other sanctions as provided by law.
5. The Elk Township Ordinance Enforcement Officer and such other persons as may be appointed by the Elk Township Board are hereby designated as the authorized Township officials to issue and pursue notices of violations and/or municipal civil infraction citations for a violation of this Ordinance.
6. Nothing in this Ordinance shall prohibit the Township or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance or a violation of this Ordinance.
7. A violation of this Ordinance is deemed to be a nuisance *per se*.

# SECTION 6. 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 of this Ordinance is determined to be unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby and shall remain in effect and valid. The Township Board hereby declares that it would have passed this Ordinance and each section, subsection, phrase, sentence and clause therefore irrespective of the fact that any one or more sections, subsections, phrases, sentences or clauses be declared invalid.

# SECTION 7. REPEAL

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent that they are in conflict, but only to the extent of any such conflict or inconsistency. This Ordinance repeals and replaces Ordinance No. 2018-01 in its entirety.

# SECTION 8. EFFECTIVE DATE

This Ordinance shall take effect upon the expiration of thirty (30) days following its publication (or a summary) as provided by law.

The vote to adopt this Ordinance was as follows:

YEAS:

NAYS:

ABSENT/ABSTAIN:

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance adopted by the Elk Township Board at the time, date and place as specified above, pursuant to the required statutory procedures.

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|  |  |  | Respectfully submitted,By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |  Karen Fickies  Elk Township Clerk |