

BEMIDJI TOWNSHIP
NUISANCE ORDINANCE

Enacted and effective September 13, 2004.
Amended May 13, 2008
Amended July 03, 2017

Purpose: The purpose of this Ordinance is to protect the health, safety, and welfare of all residents of Bemidji Township through the regulation of nuisances that may occur within the jurisdiction of the township.

Scope/Applicability: This ordinance applies to all nuisances identified within the ordinance and located within the boundaries of Bemidji Township except as noted in the ordinance. The provisions of this ordinance supplement but do not supersede Federal, State or County regulations.

Bemidji Township’s Nuisance Ordinance is complaint driven. All complaints require a signed complaint, with the exception of a complaint initiated by a Township Board of Supervisor member and/or Township employee acting within the scope of employment. All complainants’ names shall be kept confidential except when required by law or subpoenaed by a court of appropriate jurisdiction. Upon receipt of a complaint by the Township, the complaint shall be acted upon within ten (10) working days.

All owners of property on which a nuisance as identified in this ordinance occurs shall conform to the provisions of this ordinance either by removal or abatement within the time limits established herein.

Definitions:

- 1) Ordinance shall mean the Township of Bemidji Nuisance Ordinance.
- 2) Town Board shall mean the Board of Supervisors of Bemidji Township.
- 3) “Town” shall mean the Township of Bemidji in Beltrami County, Minnesota.

Section 1: Additional Definitions:

Public Nuisance Defined.

Under Minnesota Statutes, §609.74 Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor.

1. Maintains or permits a condition; which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
2. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

3. Is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

Also, Permitting a Public Nuisance, §609.745, “Whoever having control of real property permits it to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.

Graffiti as a Public Nuisance:

Real property within the Township containing a condition that defaces it or any permanent structure, fixture or object situated thereon which in turn causes or tends or cause depreciation in the enjoyment and use, or in the value of the property in its immediate vicinity or which has the potential to unreasonably annoy, injure or endanger the safety, health, morals or general welfare of ordinary and reasonable members of the public.

Graffiti. Any inscription, word, figure, painting or other defacement or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of a structure, fixture or object, including but not limited to: buildings, walls, fences, bridges, benches, shelters, sidewalks, hydrants, fountains, pavement, curbs, trees, rocks, signs, railroad cars, vehicles, utility poles or boxes situated on public or private property by any graffiti implement, to the extent that the inscription, word, figure, painting or other defacement was not authorized in advance by the responsible party for the property, or, despite advance authorization, is otherwise deemed a public nuisance by the duly elected Town Board of Supervisors or their authorized agent, representative or appointee.

Graffiti implement. Paint, aerosol or pressurized containers of paint, indelible broad-tipped markers, paint-stick, etching equipment or any other device capable of scarring, or leaving a visible mark on any natural or manmade surface. A paint stick is further defined as any device containing a solid form of paint or other similar substance capable of being applied to a surface by pressure.

Responsible party. An owner, legal occupant or an entity or person acting as an agent for an owner by agreement, who has authority over the real property or is responsible for the property’s maintenance or management. Irrespective of any arrangement to the contrary with any other party, each property owner shall always be a responsible party for the purposes of this section. There may be more than one responsible party for a particular property.

Section 2: Public Nuisances Affecting Health.

The following are hereby declared to be public nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter, except for such matter placed in legitimate compost producing operant.
- B. All noxious weeds and other rank growths of vegetation upon public or private property as articulated in the relevant Minnesota Statutes and Minnesota Noxious Weed Rules.

- C. Sewage, septic system effluent or seepage from a soil treatment system which may constitute a health hazard (ground water contamination, contamination of garden produce, accessibility of children), emit foul and disagreeable odors, or otherwise threaten or damage real or personal property of others.
- D. Sewage pumped from a septic tank or sanitary treatment facility that is not land applied in accordance with the Minnesota Pollution Control Agency (MPCA) guidelines and applicable local ordinances.
- E. The pollution of any public well or cistern, stream or lake, wetlands, canal or body of water by sewage, industrial waste or other substances.
- F. Carcasses or animals not buried or destroyed or otherwise disposed of within 24 hours after death.
- G. All diseased animals running at large.
- H. Accumulations of refuse or other debris.
- I. Privy vaults, garbage cans and accumulations of rubbish or debris of any nature which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors.
- J. Dense smoke, noxious fumes, gas and soot, cinders, in unreasonable quantities, including exhaust emissions in excess of standards set by the Minnesota Pollution Control Agency.
- K. The use of public or private property as a landfill or for the dumping and burying of any materials except wood, clean sand, gravel, soil or dirt.
- L. Any offensive trade or business as defined by the Minnesota State Statute not operating under local permit from the Board of Township Supervisors.
- M. All other acts, omissions of acts, occupations and uses of property, which are deemed to endanger the public health.

The foregoing enumeration shall not be deemed to be all inclusive, conclusive, limiting, or restrictive.

Section 3: Public Nuisances Affecting Peace and Safety

The following are declared to be nuisances affecting public peace and safety.

- A. The ownership, possession or control of any unused refrigerator or other container with doors which fasten automatically when closed or sufficient size to retain any person to be exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access to the public.
- B. The placing or throwing on any road, road right of way, street, alley, highway, sidewalk or other public property of any glass, tacks, nails, bottles or other nuisance which may injure any person or animal or damage any pneumatic tire when passing over the same.
- C. Structures accessible to the public which have been damaged by fire, decay or otherwise structurally unstable to such an extent as to endanger the public safety.
- D. All trees, hedges, billboards, or other obstructions, which prevent persons from having a clear view of all traffic approaching an intersection from cross

- streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
- E. All wires, limbs of trees, vegetation, or other obstructions situated near the surface of a sidewalk, street or road as to constitute a danger to pedestrians or vehicles.
 - F. All explosives and flammable liquids or other dangerous substances or materials stored or accumulated in any manner so as to be readily accessible to persons other than the owner, or authorized personnel acting on behalf of the owner in any amount other than that provided by applicable law or ordinance.
 - G. All unreasonable, unnecessary and annoying vibrations, and/or continuous noise.
 - H. The operation, within any area zoned residential, of any motor vehicle (including, but not limited to, motorcycles, snowmobiles, ATV's, lawnmowers) not equipped with a muffler limiting noise to ninety (90) decibels or less at 50 feet from the source of the noise.
 - I. The distribution of handbills, except as provided by law or ordinance.
 - J. All signs must be placed and/or removed in accordance with the Bemidji Township Sign Ordinance. Garage sale signs must be removed within 48 hours of the placement of the sign.
 - K. Obstructions and excavations affecting the ordinary use by the public of streets, roads, or public grounds except under such conditions as are permitted by this ordinance or other applicable law.
 - L. Radio aerials or television antennae or any communications equipment, appurtenant structures or apparatus over 35 feet high erected or maintained in a manner inconsistent with current industry accepted standards and permitted in accordance with the Bemidji Township Ordinances.
 - M. Any use of property abutting on a public street or road or any use of a public street or road which causes large crowds of people to gather, obstructing traffic and the free use of the street or road.
 - N. All hanging signs, awnings, and other similar structures over streets and roads, or so situated so as to endanger public safety, or not constructed and maintained as provided by township ordinance(s).
 - O. All dangerous, unguarded machinery in any public place, or so situated, or operated on private property as to attract and endanger the public.
 - P. Waste water cast upon or permitted to flow upon public or private property.
 - Q. Accumulations in the open of discarded or unused machinery, building materials, household appliances, motor vehicles (or parts of motor vehicles), or other material, in a manner conducive to the harboring of rats, mice, skunks, snakes, cats or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulation.
 - R. Any well, pit, chasm, void, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other persons coming on the premises where it is located.

- S. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch.
- T. Any act which may alter or affect the surface or grade of a public street, roadway, or right of way.
- U. The unauthorized depositing of garbage, refuse, furniture, or vehicle parts on a public right-of-way or on private property.
- V. The casting of paper, plastic, wood, or any material from construction, billboards, or signs on the ground and allowing the same to blow across any public street, alley, right of way, sidewalk, private or public property.
- W. The distribution of all indecent or obscene pictures, books, pamphlets, magazines or newspapers.
- X. All other conditions or things which are likely to cause injury to the person or property.

The foregoing enumeration shall not be deemed to be all inclusive, conclusive, limiting, or restrictive.

Section 4: Public Nuisances: Graffiti Vandalism

- A. It shall be unlawful for any person to intentionally place or apply, or attempt to place or apply, graffiti on any surface of a structure, fixture, or object located on public or private real property within the Township without the advance authorization of a responsible party for the property. This shall apply to permanent, temporary or moveable structures or objects such as vehicles and railroad cars.
- B. It shall be unlawful for any person to possess any graffiti implement with the intent to use the same to place or apply graffiti on any public or private real property within the Township or on any surface of a permanent structure, fixture or object located thereon.
- C. Duty of property owner. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession of or who has the right to possess such property to maintain the property in furtherance of keeping the property clear of graffiti at all times.

Section 5: Land Use Prohibited from Locating or Relocating in Bemidji Township As Public Nuisances Affecting Health, Peace and Safety.

- A. Sanitary Landfills: (household trash)
- B. Landfills or accumulation of abandoned, or discarded refrigerators, freezers, plumbing fixtures i.e. toilet bowls, bathtubs, water softeners, water heaters, washers, dryers, and/or other white goods.
- C. Any unreasonable accumulation of any other material which would cause a health or safety hazard.
- D. Salvage yards in areas zoned residential.

The foregoing enumeration shall not be deemed to be all inclusive, conclusive, limiting, or restrictive.

Section 6: Enforcement Duties

The duly elected Town Board of Supervisors or their authorized agent, representative or appointee shall enforce the provisions of this ordinance. The county sheriff and state health officer may assist in such enforcement. Such officers have the power to inspect public and private premises within the bounds of their authority and take all reasonable precautions to prevent the commission and maintenance of public nuisances; however, except in cases of exigency or an emergency imminently dangerous to the public health, safety, or welfare, such inspections must be done pursuant to a search warrant issued by a court of appropriate jurisdiction in the event access to private premises for such inspection is denied by the owner or occupant.

Section 7: Abatement

The existence of conditions deemed to be a public nuisance of which affect the health, safety, and welfare of the township or its residents are subject to the removal and abatement provisions specified and as per applicable Minnesota Statutes.

Subd. 1:

Wherever the Township determines that a public nuisance is being maintained or exists on premises within the jurisdictional boundaries of the Township, the owner or occupant of the premises shall be notified in writing and ordered that such nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises or by publication in a newspaper designated by the Township for legal notices. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding thirty (30) days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the Township may, after notice to the owner or occupant for an opportunity to be heard, provide for the abating of the nuisance by the Township. The notice of such action by personal service or by certified or by registered mail shall be given at least ten (10) days before the date stated in the notice when the Township will consider the matter. If notice is given by posting or publication, at least thirty (30) days shall elapse between the day of posting or publication and the hearing.

The owner and/or offender may request a public hearing before the Board of Supervisors within thirty (30) days of his/her receipt of the notice. If a public hearing is requested by the owner or offender within 30 days of the notice, the owner or offender must cease activities and clean up the site with 10 days after the receipt of the hearing decision or within thirty (30) days of the receipt of the Township's original notice, whichever is later.

An appeal of the decision made by the Town Board of Supervisors may be made to the District Court within thirty (30) days of the rendering of that decision.

If the order for abatement is not complied with within the above time periods, the Town Board may prosecute for this violation as a misdemeanor or take other measures necessary in abating within their authority as well as cost recovery proceedings.

Removal of graffiti by perpetrator. The Township may require any person applying graffiti on public or private property to either remove or pay for all costs for removal of the graffiti within 24 hours after notice by the Township or property owner. The removal must be performed in a manner prescribed by the Township, with materials and colors compatible with existing surfaces and to comparable or improved condition before the graffiti application as determined by the Township. Where graffiti is applied by a person under 18 years old, the parents or legal guardian will also be responsible for such removal or for payment for the costs of removal. Failure of any person to remove graffiti or pay for the removal will constitute an additional violation of this chapter.

Removal of graffiti by property owner or Township. The Township may also order that the graffiti be removed by the property owner or any person who may be in possession or who has the right to possess such property, pursuant to the nuisance abatement procedure herein. Graffiti removal and corrections must be performed with materials and colors compatible with existing surfaces as determined by the Township. If the property owner or responsible party fails to remove offending graffiti within the time specified by the Township, the Township may commence abatement and cost recovery proceedings for the graffiti removal in accordance with this Ordinance.

Subd. 2:

Emergency Abatement

When the agent authorized by the Town Board of Supervisors charged with enforcement determines that a nuisance constitutes a serious and imminent danger to the public health or safety, the agent may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The agent shall immediately thereafter notify the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail. The agent shall also immediately report and document in writing to the Town Board of Supervisors the above conditions which required immediate action and the method of remedies taken to abate the public nuisance.

Section 8: Penalty

Any person who is found to be in violation of any provision of this ordinance may be guilty of a misdemeanor and may be punished by a fine not to exceed the maximum allowed by state law. Every day that the offense occurs shall be deemed a separate violation of this ordinance.

Section 9: Recovery of Cost

A. Personal Liability

The owner or offender of the premises on which a nuisance has been abated by the Township shall be personally liable for the cost to the Town of the abatement, including administrative and legal costs. As soon as the work has been completed and the cost determined, the Town Clerk shall prepare a bill for the cost and mail it to the owner/offender by certified mail. Thereupon the amount shall be immediately due and payable.

B. Assessment

On or before October 1 of each year following abatement of a nuisance by the Township, the Township Clerk shall list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under applicable Minnesota Statutes against each separate lot or parcel to which the nuisance abatement charges are attributable. The Town Board of Supervisors may then submit the charges against such property under applicable Minnesota Statute(s) for certification to the County Auditor/Treasurer for collection by the County Auditor/Treasurer to be paid to the Township as other taxes and assessments.

C. False Complaint

Bemidji Township reserves the right to seek reimbursement for all costs incurred in prosecuting false claims, claims made in bad faith, harassment claims, and or claims without merit.

D. This section is not intended to prohibit a private property owner from seeking additional penalties or remedies.

Section 10: Effective Date

This Amended Ordinance shall take effect and be in force on the 3d day of July, 2017. The original Nuisance Ordinance was adopted by the Town Board of Bemidji Township at their regular meeting the 13th day of September, 2004, Amended May 13, 2008, Amended June 29, 2017.

Township Clerk _____

Township Supervisor _____

Township Supervisor _____

Township Supervisor _____

Township Supervisor _____

Township Supervisor _____