

ORDINANCE NO. 129

AN ORDINANCE REGULATING PUBLIC NUISANCES WITHIN THE TOWNSHIP OF ALEXANDRIA, DOUGLAS COUNTY, MINNESOTA

THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF ALEXANDRIA, DOUGLAS COUNTY, MINNESOTA DOES ORDAIN:

SECTION ONE. PUBLIC NUISANCE PROHIBITION.

It is hereby determined that the uses, structures, activities and causes of blight factors described within this section, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person, firm, corporation or other responsible party of any kind shall maintain or permit to maintain or permit to be maintained any public nuisance identified within this section on property in the Township which is either owned, leased, rented, or occupied by such person, firm or corporation. For purpose of this ordinance, a person, firm, corporation or other responsible party of any kind that does any of the following is guilty of maintaining a public nuisance:

(A) 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

(B) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(C) Does any other act or omission declared by law or this ordinance to be a public nuisance.

(D) Maintains or permits to be maintained on one's property or property under their control, any materials or conditions defined under this ordinance.

SECTION TWO. PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) The exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water, except naturally occurring waterbodies, natural depressions in the landscape which temporarily hold precipitation, constructed fish ponds and areas specifically constructed for stormwater management purposes;

(D) Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;

(E) Accumulation of manure, refuse, or other debris which is not part of an approved or permitted business activity or conditional/interim use permit and which does not serve, nor is it intended to serve, any useful purposes or the purpose for which it was originally intended, including but not limited to, refuse; empty cans or bottles; debris; used furniture; unused appliances; machinery parts; motor vehicle parts; vehicle tires; remnants of wood; dead trees,

shrubs or other vegetation; decayed, weathered or broken construction material no longer useable; metal; or cast off materials;

All solid waste shall be kept in a closed container until it is delivered to a Township, County or State approved final disposal site, including when such container is taken to the road, street, or alley for pick up by a collector;

(F) Privy vaults and garbage cans 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;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, domestic animal waste runoff, industrial waste, or other substances;

(H) The effluent from any cesspool, septic tank, drainfield or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof any place except as authorized by local, state or federal law;

(I) All noxious weeds, poisonous vegetation and other rank growths of vegetation upon public or private property, including, but not limited to, poison ivy, ragweed, or other poisonous plants; or any weeds, grass brush or plants which are a fire hazard or otherwise detrimental to the health or appearance of a neighborhood; and

(I) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities.

SECTION THREE. PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

(A) A person who knowingly and intentionally, in a public place engages in sexual intercourse; engages in deviate sexual conduct; or fondles the genitals of himself/herself or another person;

(B) A person who knowingly and intentionally, in a public place, appears in a state of nudity. "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

(C) A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place engages in sexual intercourse; engages in deviate sexual conduct; fondles the genitals of himself/herself or another person; or appears in a state of nudity; where he/she can be seen by persons other than invitees and occupants of that place commits the crime of indecent exposure, a misdemeanor.

SECTION FOUR. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

(B) All trees, hedges, fences, billboards, signs or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(F) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law;

(G) Radio aerials or television antennae erected or maintained in an unsecured or otherwise dangerous manner;

(H) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds or people to gather, obstructing traffic and the free use of the street or sidewalk;

(I) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;

(J) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to follow across any sidewalk;

(K) Any barbed wire or other wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;

(L) All dangerous, unguarded machinery, refrigerators or other container with doors which fasten automatically when closed and of sufficient size to retain any person, in any public place, or so situated or operated on private property as to attract the public;

(M) Wastewater cast upon or permitted to flow upon streets or other public properties;

(N) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation;

(O) Any well, hole, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(P) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;

(Q) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;

(R) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(S) Any hazardous or substandard building or structure as defined in MN Statutes 463.15 or successor statute;

(T) The permitting, whether intentional or unintentional, of animals to run at large in the streets or public places, or to be herded or driven thereon unless each animal is confined within a vehicle or restrained by means of bridles, halters, ropes or other means of individual restraints; and

(U) All other conditions or things that are likely to cause injury to the person or property of another.

SECTION FIVE. NOISE VIOLATIONS.

(A) **General Restrictions.** It shall be unlawful for any person to make, or assist in making, permit or allow the making of any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in the Township;

(B) **Prohibited Noises.** The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this Ordinance, but this enumeration is not inclusive:

(1) The continual sounding of any horn, siren, or other signaling device on a motor vehicle, except in cases of imminent danger or emergency; or the amplification of sound emitted by such signaling device beyond that of its design. Burglar alarms, sirens or similar devices installed and operated for the use specified by the manufacturer, are exempt from the provisions of this Section.

(2) Attracting the attention of the public to any business, building, structure, vehicle, or other area by creating a disturbing noise including, but not limited to, crying out, sounding a horn, ringing a bell, or issuing music or sound broadcasts through any radio receiving set, musical instrument, phonograph, stereo, loud speaker, sound amplifier, or other machine or device for the production or reproduction of sound. In addition, no person shall create loud or disturbing noise through the use of any such sound production or reproduction devices in any activities or proceedings of a business including, but not limited to, the use of loud speakers for communications. If speaker or sound systems are required by law for safety reasons, businesses shall be exempt from the provisions of this section.

(3) The loading or unloading of any motor vehicle or handling any bales, boxes, crates, or containers in such a manner as to cause loud, unnecessary or disturbing noise.

(4) Disturbing noise on any street adjacent to any school, learning institution, religious institution or Court or adjacent to any hospital or home for the aged, or other similar institutions which interferes with the working of such institution or unreasonably disturbs or annoys inhabitants of the institution, provided that conspicuous signs indicating the presence of such institutions are clearly displayed.

(5) The operation of any motor vehicle or any minibike or other similar vehicle or device in any way which results in the squealing of tires or the creation of any other disturbing noise on any highway, private road, public or private parking lot, driveway, or other property in the Township, except when there is reason to do so for the safe operation of the vehicle.

(6) The operation of an internal combustion engine or the repairing, rebuilding, building or testing of vehicles or equipment in such a manner as to create disturbing noise.

(7) Operation of earthmoving or related construction equipment on residential property for more than five (5) days within a thirty (30) day period, except during

construction or remodeling activity for which a building or grading permit has been obtained.

(8) The operation of a public address or sound amplification system in any public or private park.

(9) A radio receiving set, musical instrument, phonograph, stereo, or other machine or device used for reproduction of sound, used or operated in such a manner as to disturb the peace, quiet, or comfort of others in its vicinity. The operation of any receiving set, instrument, phonograph, stereo machine or device between 11:00 p.m. and 7:00 a.m. shall be prima facie evidence of a violation of this section if done in such a manner as to be plainly audible at the real property boundary of the building, structure or residence, or other area in which it is located, or at a distance of 50 feet from any motor vehicle or portable site in which it is located.

(10) Any disturbing noise in any multi-use apartment building audible beyond the property line of the area or premise owned, rented, leased, or used by such person.

(11) Participation in any party or gathering which creates loud or disturbing noises between the hours of 10:00 p.m. and 7:00 a.m. as determined at the property line of the building, structure, rental unit, or other enclosure in which such party or gathering occurs. In the event that such party or gathering is determined by a Township official to violate this Ordinance, all persons except the owner, renter, lessee or other occupant shall promptly leave the premises in an orderly manner.

(12) **Definition.** The terms “Loud, disturbing, and unnecessary noises”; “Disturb the peace, quiet, or comfort of others in its vicinity”; “Disturbing noise”; and “Loud or disturbing noise(s)” shall mean:

(a) Any sound measured at any time in excess of 70 decibels at the property line of the site which is the source of the sound, or at 50 feet from any motor vehicle or other portable site which is the source of the sound; or

(b) Any sound measured in excess of 60 decibels at the property line of the site which is the source of the sound, or at 50 feet from any motor vehicle or other portable site which is the source of the sound, between the hours of 11:00 p.m. and 7:00 a.m.

(C) Operational Limits for Various Sound Sources.

(1) No person shall engage in, permit, or allow construction or grading activities involving the use of power equipment, or other activities resulting in loud or disturbing noise at any time other than between 7:00 a.m. and 10:00 p.m.

(2) No person may operate any outdoor power implements including, but not limited to, power lawn mowers, power hedge clippers, power saws, or other such implements at any time other than between 7:00 a.m. and 10:00 p.m. Operation of equipment for snow removal shall be exempt from the provisions of this Section when initiated within twelve (12) hours of completion of the recent snowfall.

(3) No person shall drive or operate any minibike, snowmobile, or other similar recreational vehicle not licensed for travel on public streets at any time other than between 7:00 a.m. and 10:00 p.m. on any day of the week.

(D) Exceptions to Regulations. The foregoing regulations shall not be applicable to:

(1) Noise necessary for the protection or preservation of property or the health, safety, or life of a human being;

(2) The operation of motor vehicles on public streets and highways in compliance with State and local laws;

(3) Operation of locomotives and railroad cars;

(4) Sirens or warning devices used by public safety personnel in emergency situations; and

(5) Emergency work such as utility maintenance and snow removal necessary to restore public service or to eliminate a hazard, or maintenance activities conducted or contracted for by the Township of Alexandria.

(E) Variances. The Supervisors of the Township may permit variances from the strict compliance of any of the provisions of this Ordinance if there are special circumstances or conditions that exist and the granting of such a variance will not materially affect the health, safety or general welfare of the public. The Supervisors of the Township, in their discretion, may require notification of property owners if a variance to the provisions of this Ordinance is to be considered.

SECTION SIX. NUISANCE PARKING AND STORAGE.

(A) Declaration of nuisance. The outside parking and storage on residentially zoned property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: (1) obstructs views on streets and private property, (2) creates cluttered and otherwise unsightly areas, (3) prevents the full use of residential streets for residential parking, (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, and (6) otherwise adversely affects property values and neighborhood patterns.

(B) Unlawful storage.

(1) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in conjunction with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

SECTION SEVEN. JUNK/SALVAGE/SCRAP YARDS

(A) Declaration of nuisance. Any junk, salvage or scrap yard not specifically approved or permitted as a legal nonconformity by the Alexandria Township Zoning Ordinance shall constitute a hazard to the health and welfare of the residents of the community as such facilities can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present

physical danger to the safety and well-being of children and citizens. Motor vehicles and other scrap materials also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

(B) Inoperable motor vehicles. It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to Minn. Stat. § 168B.011, subd. 3, as it may be amended from time to time. Motor vehicles shall include, but are not limited to, automobiles, trucks, motorcycles, snowmobiles, trailers, stock and demolition vehicles, all-terrain vehicles, lawn mowers and watercraft.

(C) Screening. This section does not apply to inoperable motor vehicles temporarily stored for up to forty-eight (48) hours outside of a building or in public view; up to three (3) motor vehicles enclosed in a building and/or kept out of view from any street, road, or alley; vehicles stored at a legally permitted or Township-authorized junk or salvage yard; or vehicles stored at a legally permitted or Township-authorized auto repair facility/service station, paint shop or body shop and is awaiting repair or delivery to the owner; these shall not constitute a junk, salvage or scrap yard. . Permissible screening may include fencing, coniferous/evergreen trees or shrubs, berms or other means which block at least 75% of the view.

SECTION EIGHT. ENFORCEMENT.

Township officials may apply and enforce any provision of this ordinance relating to public nuisances within this jurisdiction. Any peace officer or other designated township official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated township official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

The provisions of this are directory in nature and shall not be construed to create a duty on the part of the Township, its officers, employees or agents to any person, individual, corporation, partnership, company firm, association or other legally recognized entity. The Township, its officers, employees and agents shall not be liable for any failure to enforce the provisions of this Ordinance.

SECTION NINE. ABATEMENT PROCEDURE.

(A) Procedure. Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the city, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated within a reasonable amount of time. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the Board of Supervisors. Thereafter, the Board of Supervisors

may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the Board of Supervisors, the township may seek injunctive relief by serving a copy of the Board of Supervisors order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(B) Notice. Written notice of the violation; notice of the time, date, place, and subject of any hearing before the Board of Supervisors; notice of the Board of Supervisors order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by positing it on the premises.

(C) Emergency procedure; summary enforcement. In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the Board of Supervisors may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the township and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (A) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the Board of Supervisors may order summary enforcement and abate the nuisance.

(D) Immediate abatement. Nothing in this section shall prevent the township, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

(E) Unlawful parties or gatherings. When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section Four, Subdivision D, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

(F) Judicial remedy. Nothing in this section shall prevent the township from seeking a judicial remedy when no other adequate administrative remedy exists.

(G) Appeal. The property owners or responsible party may appeal an order to abate a nuisance to the Board of Supervisors, provided that any appeal must be submitted in writing to the Township Clerk for the Township of Alexandria no later than the time for abatement specified in the notice or ten (10) days following receipt of the violation notice, whichever is sooner.

If the property owner or responsible party requests an appeal in compliance with the provisions established by this subdivision, a hearing before the Board of Supervisors shall be scheduled at its next meeting occurring at least fifteen (15) days after the filing of the Notice of Appeal. Following said hearing, the Board of Supervisors shall, by resolution, determine whether a violation is evident. Upon finding of a violation, the Board of Supervisors shall order that the cited conditions be abated.

The Township shall proceed with making the necessary arrangements to have the cited violation abated. Any and all costs that may be incurred by the Township to alleviate the cited violation shall be the property owner's or responsible party's obligation.

Failure by a property owner or responsible party to reimburse the Township of Alexandria for any reasonable costs incurred concerning the enforcement of this Ordinance shall be cause to certify said costs to the Douglas County Auditor as a special assessment against the property in question.

SECTION TEN. RECOVERY OF COST.

(A) **Personal liability.** The owner of the premises on which a nuisance has been abated by the township, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the township of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the township clerk or other township official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the township clerk.

(B) **Assessment.** After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the township clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The Board of Supervisors may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the Board of Supervisors may determine in each case.

SECTION ELEVEN. PENALTY.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

SECTION TWELVE. SEVERABILITY.

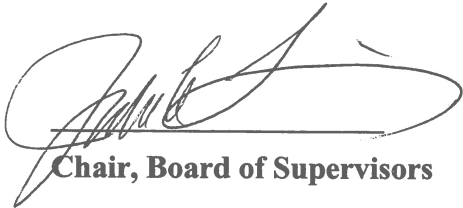
If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION THIRTEEN. EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Statutes, as may be amended from time to time.

Passed by the Board of Supervisors this 5th day of December, 2016

Attested:


Chair, Board of Supervisors


Township Clerk