

VILLAGE OF BOYNE FALLS NUISANCE ORDINANCE
Ordinance No. 37

THE VILLAGE OF BOYNE FALLS ORDAINS:

Section 1. Definitions.

As used in this Ordinance the following terms shall have the meanings prescribed in this section.

- A. "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.
- B. "Garbage" means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables.
- C. "Junk" - By way of example and not limitation the term shall include used or salvaged metals and their compounds or combination, used or salvaged rope, rubber, tires or car parts.
- D. "Liquid industrial wastes" 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.
- E. "Rubbish" means nonputrescible solid wastes including ashes consisting of both combustible and noncombustible wastes, such as paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, bags, rags, and demolished materials.
- F. "Person" means an individual, firm, corporation, association, partnership, or limited liability company, or other legal entity.
- G. "Sealed container" means a covered, closable container which is rodent-proof, fly-proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.
- H. "Totally closed structure" means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

Section 2. Nuisances.

The following are hereby declared to be nuisances:

- A. The keeping or storage of building materials outside on private property unless there is in force a valid building permit from the Charlevoix County Building Department for construction on that property and the building materials are for use in such construction except in those districts zoned Agricultural under the Township Zoning Ordinance.
- B. The keeping or storage of ashes, junk, garbage 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.
- C. The placing of ashes, junk, garbage 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.
- D. The keeping or storage of junk, garbage 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 habitation of insects, rodents or vermin.
- E. Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.
- F. The existence of 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 other purposes for which it may have been intended.
- G. The existence of any vacant building, garage, house or outbuilding unless such structure is kept secure from entry by the public.
- H. The distributing, placing, posting, or affixing of posters, notices, or handbills on private property without consent of the owner or occupant except as authorized or required by law.
- I. Any dog that whines, yelps, barks, howls, or makes sound common to its species such that said noise can be heard by any person on an adjoining property or on an adjoining public street between the hours of 12:00 A.M. (midnight) and 5:00 A.M. or at any time when said noise occurs on three (3) or more occasions separated by at least one (1) hour within a one (1) week period.

AMENDMENT TO ORDINANCE 37 SECTION 2. NUISANCES.

J.

WHEN ANY LOT WITHIN THE VILLAGE, BECAUSE OF UNCONTROLLED GROWING OF GRASS AND NOXIOUS WEEDS BECOMES IN THE OPINION OF THE VILLAGE COUNCIL, A PUBLIC NUISANCE, OR IN ANY MANNER AFFECTS OR WHICH MIGHT AFFECT THOSE RESIDING OR HABITUALLY GOING NEAR SUCH LOT, THE COUNCIL MAY PRESCRIBE A FORM OF NOTICE AND DIRECT THE VILLAGE CLERK TO GIVE SUCH NOTICE BY FIRST CLASS CERTIFIED MAIL, ADDRESSED TO THE LAST KNOWN ADDRESS OF THE OWNER OF THE LOT TO ABATE SUCH NUISANCE OR THE VILLAGE WILL MOW THE LOT AND THE OWNER WILL BE CHARGED A FEE.

Section 3. Prohibition.

No person shall commit, create, or maintain any nuisance. No person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person. Each day a nuisance shall exist shall be construed as a separate violation.

Section 4. Industrial Usage.

The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property.

Section 5. Penalty/Civil Infraction.

Any person who shall violate 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, and shall be subject to a fine as determined by the Village Council pursuant to Ordinance No. 47. Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

Section 6. Enforcement.

The Village Marshall is hereby designated as the authorized village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 7. Abatement by Village.

- (a). If the owner or possessor of any property on which a nuisance exists fails to eliminate a nuisance after having received notice from the Village of the existence of the nuisance, the Village Marshall, after receiving authorization by the Village Council, shall take such steps as are necessary to abate or eliminate the nuisance. The notice shall describe the location of the property, describe the nature of the nuisance and give ten (10) days in which the owner or possessor may eliminate the nuisance without intervention by the Village. The written notice may be served personally or may be sent by first-class mail to the last known address of the owner or occupier of the premises. The time period shall commence on the date of the personal service or in the case of mailing service shall be deemed to have taken place on the date of mailing.
- (b). The cost of elimination of the nuisance by the Village, including reasonable attorney fees, may be collected in a lawsuit against the owner and/or possessor of the property on which the nuisance existed and/or against the person who committed, created, or maintained the nuisance.

Section 8. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 9. Separate Court Action.

Nothing in this Ordinance shall prohibit the Village or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance. A violation of this Ordinance is deemed to be a nuisance per se.

Section 10. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Village.

VILLAGE OF BOYNE FALLS

By: *Blake Kenney*
Blake Kenney, President

By: *Marilyn Cousineau*
Marilyn Cousineau, Clerk

AMENDMENT TO ORDINANCE 37 SECTION 2. NUISANCES.

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