

**NUISANCE BUILDING  
ORDINANCE  
FOR  
ROCHESTER  
TOWNSHIP**

**OLMSTED  
COUNTY**

**MINNESOTA**

**ADOPTED: July 20, 2023**  
**EFFECTIVE: August 1, 2023**

**The following regulations are in effect for residential properties in residential districts in Rochester Township, specifically for properties with a primary use as a residential dwelling. From and after the effective date of this ordinance and subsequent amendments, the use of all land and buildings within a residential district shall be in conformity with the provisions of this ordinance. Any existing building or property shall have 180 days from the date of this ordinance to bring the property into compliance and will be subject to, at the election of the Town Board, either the Abatement Procedure in Section Three or criminal enforcement under Section Five of this ordinance.**

**The following Districts are considered Residential District in this ordinance:**

Mayo Woodlands Special District  
Boulder Creek Special District  
Cairnbrae Stables Special District  
Heritage Hills 2<sup>nd</sup> Special District  
R-1 Low Density Residential District  
R-A Rural Residential District

## **SECTION ONE: BUILDINGS**

Buildings which have not been maintained in a safe and healthy condition under the Minnesota State Building Code. Any one of the following shall be prima facie evidence of failure to maintain a building in a safe and healthy condition.

- (1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
- (2) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

- (3) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- (4) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- (5) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
- (6) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
- (7) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants or criminals, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
- (8) Any building or structure has been constructed, exists or maintained in violation of any specific requirements or prohibition applicable.
- (9) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- (10) Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
- (11) Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned to constitute such building or portion thereof as an attractive nuisance or hazard to public.
- (12) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
- (13) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
- (14) Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects.
- (15) Foundation systems that are not firmly supported by footings, are not plumb, and free from open cracks one-half inch or greater and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (16) Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effect, and all roof drainage systems that are not properly anchored;

- (17) Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (18) Exterior stairs, decks, porches, balconies and all similar appendages attached thereto, including guards and handrails, which are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects, and a flight of stairs which has four or more risers lacking handrails designed and installed in accordance with the MN State Building Code;
- (19) Chimneys, cooling towers, smokestacks and similar appendages not structurally sound, not in good repair or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (20) All exterior finishes including joints between building envelope and the perimeter of windows, doors and skylights, stucco, wood, vinyl, aluminum, steel, or cement board siding, which are not weather resistant or watertight and free of decay, cracks, rot, tears, holes, gaps, or breaks;
- (21) Any building or structure that has been damaged by fire to the extent it is no longer habitable;
- (22) Mechanical appliances, fireplaces, solid-fuel burning appliances, cooking appliances and water heating appliances not properly installed or maintained in a safe working condition or capable of performing the intended function;
- (23) The lack of a safe, continuous and unobstructed path of travel from any point in a building or structure to the public way; or
- (24) Egress doors which are not readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort.

## **SECTION TWO: DUTIES OF TOWNSHIP OFFICERS**

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.

## **SECTION THREE: 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 Township, the official shall notify in writing the owner of record and occupant of the premises of such fact and order that the nuisance be terminated or abated. 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 Town Board. Thereafter, the Town Board may, after notice to the owner and 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 Town Board, the Township may seek injunctive relief.

**(B) Notice**

Written notice of the violation; notice of the time, date, place, and subject of any hearing before the Town Board; shall be served by a peace officer, the Town Clerk, designated official, or the Township Attorney on the owner of record and 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 posting 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 Town Board 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 Town Board 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 limit the legal remedies of the Township or prevent the Township from seeking a judicial remedy in its sole discretion .

**SECTION FOUR: 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 Town Board 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 Town Board may determine in each case.

Further, all charges hereunder shall be deemed governmental services pursuant to Minn. Stat. §514.67 and may be collected pursuant to that statute or Minn. Stat. §366.012 in the sole discretion of the Township.

## **SECTION FIVE: 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 the maximum penalty under statute for a misdemeanor, plus the costs of prosecution pursuant to Minn. Stat. § 366.01 in either case. Each day of violation shall constitute a separate misdemeanor.

## **SECTION SIX: 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 SEVEN: EFFECTIVE DATE**

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance.