

**BROCKWAY TOWNSHIP
STEARNS COUNTY
STATE OF MINNESOTA**

**ORDINANCE NO. 6
Adopted 2007 – 05.22.07
Amended – 02.12.19**

**PROHIBITING
THE
OCCURRENCE AND MAINTENANCE OF PUBLIC
NUISANCES**

TABLE OF CONTENTS

SECTION ONE: Authority/Purpose

SECTION TWO: Public Nuisances Defined

SECTION THREE: Public Nuisances Affecting Health

SECTION FOUR: Public Nuisances Affecting Peace and Safety

SECTION FIVE: Public Nuisances Affecting Noise and Sound

SECTION SIX: No Duty Created

SECTION SEVEN: Enforcement Of Ordinance

SECTION EIGHT: Abatement Process

SECTION NINE: Emergency Abatement

SECTION TEN: Cost of Abatement

SECTION ELEVEN: Assessment

SECTION TWELVE: Hazardous Buildings And Excavations: Adoption By Reference

SECTION THIRTEEN: Junk And Abandoned Motor Vehicles; Adoption By Reference

SECTION FOURTEEN: Minnesota Statutes 429.101; Adoption By Reference

SECTION FIFTEEN: Penalties

SECTION SIXTEEN: Repealer

SECTION SEVENTEEN: Severability

SECTION EIGHTEEN: Effective Date

ADOPTION OF ORDINANCE (SUMMARY)

ORDINANCE NO. 6: 2019 – 02.12.2019

THE TOWN BOARD FOR THE TOWN OF BROCKWAY, STEARNS COUNTY, STATE OF MINNESOTA, DOES HEREBY ORDAIN:

**ORDINANCE PROHIBITING
THE OCCURRENCE AND MAINTENANCE OF PUBLIC NUISANCES**

SECTION ONE

AUTHORITY / PURPOSE

The Brockway Township Board of Supervisors, pursuant to authority granted under Minnesota Statutes, Chapter 462, and 429, enacts the following rules and regulations for the purpose of protecting the health, safety and welfare of the citizens in Brockway Township by prohibiting the occurrence and maintenance of public nuisances. This Ordinance allows for the abatement of public nuisances and provides penalties for causing or maintaining a public nuisance.

SECTION TWO

PUBLIC NUISANCE DEFINED

Any person, individual, corporation, company, partnership, firm, association other legally recognized entity who, by his act or failure to perform intentionally or negligently does or causes any of the following is guilty of maintain a public nuisance;

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. Causes or maintains any condition declared by this Ordinance to be a public nuisance; or
4. Is guilty of any other act or omission declared by law to be a public nuisance and for which no remedy is specifically provided.

SECTION THREE

PUBLIC NUISANCE AFFECTING HEALTH

The following are hereby declared to be nuisances affecting health:

1. Exposed accumulation of decayed or unwholesome food or vegetable matter;
2. All diseased animals running at large;
3. Carcasses of animals not buried or destroyed within forty-eight hours (48 hours) after death;

4. Accumulations of manure excepting what would be allowed by County permit according to State guidelines, Accumulations of refuse, or other debris. Compost piles will be allowed.
5. The discharge, disposal, accumulation, or collection of sewage in a manner not authorized by law, rule or regulation;
6. 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 omit foul and disagreeable odors;
7. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
8. All noxious weeds and other rank growths of vegetation upon public or private property;
9. Burning without a permit or in violation of any applicable law
10. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

SECTION FOUR

PUBLIC NUISANCES AFFECTING PEACE AND SAFETY

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

1. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
2. All wires and limbs of trees which are so close to the surface of a public right-of-way as to constitute a danger to pedestrians or vehicles;
3. Obstructions and excavations affecting the ordinary use by the public of public right-of-ways, except under such conditions as are permitted by applicable law;
4. Placing or storing on any public right-of-way any boxes, goods, wares, merchandise, building materials, machinery, business or trade articles, except for the purpose of immediately transferring the same to some other proper place, (i.e. weekly garbage pick-up day, community service pick-up, etc.);
5. Any tree, shrub, bush, or other vegetation located on private property which obstructs routine use or travel on any public right-of-way;
6. Radio aeriels or television antennae with guy wires and/or anchors on private or public property erected or maintained in a dangerous manner;
7. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, 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, environmental, or safety hazards from such accumulation;
8. Accumulation in the open of broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use in construction or improvement presently in progress on the same premises), trash, debris, rubbish, 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 safety hazards from such accumulation;

9. Any well, hole, or similar excavation which 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;
10. Obstruction to the free flow of water in a natural waterway or a public drain, gutter, or ditch with trash or other materials;
11. Digging excavations, placing culverts, placing dams or berms, or doing any act which may alter or affect the drainage of public property or public right-of-ways;
12. The placing or throwing on any public right-of-way or other public property of any glass tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
13. The depositing of garbage or refuse on a public right-of-way or on public property;
14. Throwing, placing, depositing dirt, sand, leaves, trash, lawn clippings, weeds, grass, or other materials on public property or in a public right-of-way;
15. All other conditions or things that is likely to cause injury to the person or property of anyone.

SECTION FIVE

PUBLIC NUISANCES AFFECTING NOISE AND SOUND

No person(s) shall make or cause to be made any distinctly and loudly audible noise that is likely to unreasonably or unnecessarily annoy, disturb, injure or endanger the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of unlawful acts listed in this Section.

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Ordinance, including but not limited to the following:

1. Horns, Audible Signaling Devices. No person shall repeatedly sound any audible signaling device on any vehicle except as a warning of danger.
2. Exhaust. No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motorboat, motor vehicle, or snowmobile or other recreational vehicle(s) except through a muffler or other device that effectively prevents loud or explosive noises there from and complies with all applicable state laws and regulations.
3. Defective Vehicles or Loads. No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, or other noise.
4. Loading, Unloading, Unpacking, and Opening of Boxes. No person shall create loud and excessive noise in loading, unloading, unpacking any vehicle, or the opening and destruction of bales, boxes, crates or containers.
5. Radios, Phonographs, Paging Systems, etc. No person shall use or operate or permit the use of operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner

that is likely to disturb the peace, quiet, and comfort of another person at any time with louder volume than is reasonably necessary for convenient hearing of the person or persons who are in the room, vehicle, chamber, or immediate vicinity in which such machine or device is being operated. Operation of any such set, instrument, phonograph, machine, or other device in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at the property line if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

6. Participation in Noisy Parties or Gatherings. No person shall participate in any party or other gathering or permit any party or other gathering of people giving rise to noise, which is likely to disturb the peace, quiet, or repose of another person. When a law enforcement officer receives a complaint and determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a law enforcement officer to do so. 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. Any such noise is presumed to have the effect of disturbing the peace, quiet, or repose of another person if it is heard outside the limits of the real estate from which the party is occurring. Such a noisy party or gathering constitutes a violation of this Ordinance.
7. Animals.
 - a. No person shall keep any animal that disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise.
 - b. The foregoing provision shall not apply to animals used in the business of farming and agriculture.
8. Engine Braking Prohibited. No person may slow a vehicle by the practice known as engine braking, also referred to as “jake braking” or “dynamic braking”, whereby rapid downshifting of a vehicle’s engine is used in lieu of applying a vehicle’s brakes, causing loud noises to emit from the vehicle’s engine and exhaust system. Engine braking by any motor vehicle on any public highway, street, parking lot or alley within the limits of the Township of Brockway is hereby declared to be a public nuisance and prohibited. The foregoing provision shall not apply to emergency vehicles.
9. Exemptions. The following shall not apply to sound:
 - a. Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the Town of Brockway, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
 - b. Church bells, chimes or carillons.
 - c. School bells.
 - d. Anti-theft devices.
 - e. Machines or devices for the production of sound on or in authorized emergency vehicles.
 - f. Machines and equipment used during agricultural operations.
 - g. Activities which are duly authorized, sponsored or licensed by the Town of Brockway, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
10. Special Exemptions. Upon special request, the Town Board of Brockway may issue an exemption to contractors and operators of mining operations from the prohibitions set for the within this Ordinance for a period of time between the hours of 6:00 a.m. and 10:00 p.m. The hours covered by this exemption may be greater or less, to be in conformance with any permit that has been issued to a contractor or mining operation by Stearns County.

11. Hourly Restrictions on Certain Operations. No person shall, between the hours of 11:00 p.m. and 5:00 a.m. drive or operate any mini-bike, or other recreational vehicle not licensed for travel on public highways when the noise or said equipment may make or cause to be made any distinctly and loudly audible noise that is likely to unreasonably or unnecessarily annoy, disturb, injure or endanger the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value.
12. Landlord's Liability. Violation of the noise and sound portion Section of this Ordinance shall be the action of the owner of the residential dwelling unit even though he/she does not reside in the unit as well as the persons on the premises who violate said Ordinance, except that the owner shall be liable only for those violations occurring after receipt of written notice from the Town of Brockway of a violation of the noise control Section having occurred at the residential dwelling unit. For purposes of this section, owners are defined to include corporations and partnerships as well as individual owners.

SECTION SIX

NO DUTY CREATED

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 SEVEN

ENFORCEMENT OF ORDINANCE

The Town Board, the Board's designee (i.e. Zoning Administrator or duly authorized representatives), or any duly licensed and appointed law enforcement officer of the State of Minnesota or its political subdivisions may enforce this Ordinance.

SECTION EIGHT

ABATEMENT PROCESS

Whenever the Town Board or the Board's designee (i.e. Zoning Administrator or duly authorized representative) determines that a public nuisance is being maintained or exists on property within the township, the owner or occupant of such property shall be notified of the fact in writing. The notice shall be served in person or by certified or registered mail. If the property is not occupied and ownership of the property cannot be ascertained, or in the event that personal service cannot be made, or re-certified or registered mail is returned, notice is deemed served when posted on the property or deposited in the U.S. Mail.

Written Notice: A written notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding thirty days (30 days), within which the nuisance is to be abated (halted). If the nuisance is not abated within the time specified within the notice, then the Township may abate the nuisance itself after conducting a hearing before the Town Board and/or by an independent hearing examiner.

Hearing Notice: A hearing notice shall be served in the same manner as described above and shall be given at least ten days (10 days) prior to the date of the hearing before the Town Board. In order to expedite matters the Township may, in its discretion, include notice of the aforementioned hearing in the original notice of abatement.

Hearing: If after conducting a hearing on the matter the Town Board determines that abatement is necessary to protect the public, health, safety and welfare, then the Township may abate the nuisance itself, or cause the same to occur, in any manner and using any method that it finds appropriate. Property owner may appeal decision of Town Board to District Court.

SECTION NINE

EMERGENCY ABATEMENT

If the Township determines that a nuisance constitutes a serious and eminent danger to the public health, safety or welfare, then the Township may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. After summarily abating a nuisance, the Township shall notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.

SECTION TEN

COST OF ABATEMENT

The cost of nuisance abatement shall be borne by the offending property owner. If the Township undertakes nuisance abatement, it shall bill the property owner for all cost and disbursements associated therewith, including all disposal fees, service fees and attorneys' fees. If the property owner does not pay such bill, then the Township shall certify such unpaid amount to Stearns County to be assessed against the property and to be collected with property taxes as provided in Section Ten below.

SECTION ELEVEN

ASSESSMENT

On or before September 1 next following abatement of any nuisance, the town clerk shall prepare a list of unpaid charges for nuisance abatement to be assessed against the respective properties upon which nuisances have been abated. The aforementioned assessments shall be made in accordance with the procedures set forth in Minnesota Statutes § 429.101, against each separate lot or parcel to which the nuisance abatement charges are attributable. The Township may spread the charges against any such property, not to exceed ten installments, as the Township may determine appropriate in each case. The Clerk shall certify all assessments made hereunder to the Stearns County Auditor for collection in the same manner as property taxes for the following year.

SECTION TWELVE

HAZARDOUS BUILDINGS AND EXCAVATIONS; ADOPTION BY REFERENCE.

The "Hazardous and Substandard Building Act" Minnesota Statutes Chapter 463, as the same may from time to time be amended, is hereby adopted and incorporated herein by reference. Any hazardous building or dangerous excavation may be abated in accordance with the provisions of that law.

SECTION THIRTEEN

JUNK AND ABANDONED MOTOR VEHICLES; ADOPTION BY REFERENCE

Minnesota Statutes, Chapter 168 B, as the same may from time to time be amended, is hereby adopted and incorporated herein by reference. Both Junk and Abandoned Motor Vehicles may be abated in accordance with the provisions of that law.

SECTION FOURTEEN

MINNESOTA STATUTES 429.101; ADOPTION BY REFERENCE

Minnesota Statutes, Chapter 429.101, as the same may from time to time be amended; is hereby adopted and incorporated herein by reference.

SECTION FIFTEEN

PENALTIES

Violation of this Ordinance is a misdemeanor offense punishable by up to the greater of ninety days (90 days) and/or a \$1000 fine or the maximum allowed by law. Each day a nuisance continues to exist is deemed a separate punishable offense under this Ordinance plus the costs of prosecution. The Township may, in its discretion, seek any civil remedies available to it as well, including injunctive relief and reimbursement of all costs and disbursements, including Attorney's fees expended by the Township in enforcing this Ordinance. Each right or remedy accruing to the Township under this Ordinance or at law is separate and distinct and may, in the Township's discretion, be exercised independently or simultaneously with any other right or remedy.

SECTION SIXTEEN

REPEALER

This amended Ordinance No. 6 repeals prior *Ordinance No. 2, An Ordinance Prohibiting the Dumping of Garbage on Town Property*, adopted and dated the 5th day of July, 1977, recording document number 489862, and *Ordinance # 6, An Ordinance Regulating Nuisances and Offenses*, adopted and dated the 24th day of May, 2005 and *Ordinance #6, Ordinance Prohibiting the Occurrence and Maintenance of Public Nuisances*, adopted and dated the 22nd day of May, 2007.

SECTION SEVENTEEN

SEVERABILITY

Should any section, paragraph, provision, sentence or lesser part thereof of this Ordinance be found to be invalid by a Court of competent jurisdiction, then such invalid portion shall be severed from this Ordinance and all remaining sections, paragraphs, provisions and sentences shall remain in full force and effect.

SECTION EIGHTEEN

EFFECTIVE DATE

This Ordinance, its rules and regulations shall take effect and be in full force immediately following its adoption and publication by the Brockway Township Board of Supervisors.

This Ordinance is adopted this 22nd day of May, 2007 by the Brockway Township Board of Supervisors.

This Ordinance shall be effective upon publication in the official Brockway Township newspaper.

/s/ Joe Lyon
Chair, Brockway Township Board of

Supervisors
ATTEST:

/s/ Debra Determan
Clerk, Brockway Township

Published in the Stearns County Morrison located in Albany, Minnesota, Stearns County, on the 9th day of June, 2009.
Published in the St. Cloud Times located in St. Cloud, Minnesota, Stearns County, on the 10th day of June, 2009.

AMENDMENT NO. 1

Motion by Supervisor Fiedler, seconded by Supervisor Dowrick to adopt the amended Ordinance Prohibiting the Occurrence and Maintenance of Public Nuisances, No. 6.

The motion was passed failed on the following vote:

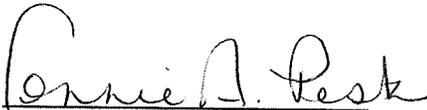
Ayes: 3
Nays: 0
Abstain: 0
Absent: 0

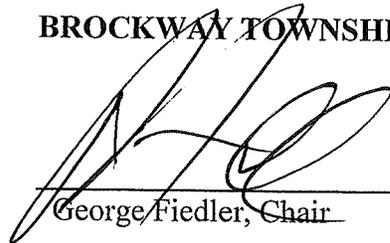
Motion was passed and the amended Nuisance Ordinance was adopted and the Clerk was instructed to publish the Adoption Summary and file said Ordinance in the Brockway Town Office.

Adopted on the 12th day of February, 2019.

ATTEST:

BROCKWAY TOWNSHIP


Connie Pesta, Clerk


George Fiedler, Chair

