

KANDIYOHI COUNTY NUISANCE ORDINANCE

Purpose:

In order to create a compatible relationship of land uses, certain standards are established to protect the public health and safety, adjacent property values and preserve aesthetic values.

Section A. Definitions.

1. **Abandoned building.** Abandoned building means any building or portion of building which has stood with an incomplete exterior shell for longer than three years or any building or portion thereof which has stood unoccupied for longer than one year and which meets one or more of the following criteria:
 - a. unsecured, or
 - b. boarded, or
 - c. having multiple exterior State Building Code violations.
2. **Abatement deadline.** Abatement deadline means the date before which the nuisance must be abated as specified in a written order.
3. **Dangerous structure.** Dangerous structure means any structure, which is potentially dangerous to persons or property including but not limited to:
 - a. a structure that is in danger of partial or complete collapse.
 - b. a structure which has any exterior parts such as chimneys, eaves, porches, siding, railings, or trim which are loose or in danger of falling;
or
 - c. a structure which has any parts such as porches, stairs, ramps, rails, balconies, or roofs which are accessible and which are either collapsed, in danger of collapsing, or unable to support a person.
4. **Enforcement officer.** Enforcement officer means any designated representative of the County of Kandiyohi, including, without limitation, law enforcement officers, the County Sanitarian, Solid Waste Officer or Zoning Administrator.
5. **Extermination.** Extermination means the eradication of rodents and other vermin by any or all approved methods such as poisoning, fumigation, or trapping.

6. **Hazardous Waste.** Hazardous waste means any waste material so defined by Minn. Stat. 116.06, Subd. 13 or described or listed as hazardous waste in Minn. Rules Chapter 7045, known as Minnesota Pollution Control and Hazardous Waste Division Hazardous Waste Rules, or other applicable State or Federal law or rules.
7. **Interested Party.** Interested party means any owner of record, occupying tenant, or lien holder of record.
8. **Last known address.** Last known address means the address shown on the records of the Kandiyohi County Assessors Office or a more recent address known to the enforcement officer. In the case of parties not listed in these records, the last known address shall be that address obtained by the officer after a reasonable search.
9. **Mail.** Service by mail means depositing the item with the United States Postal Service addressed to the intended at his or her last known address with first class postage prepaid thereon.
10. **Nuisance.** A nuisance means any substance, matter, emission, or thing that creates a dangerous or unhealthy condition or which threatens the public peace, health, safety, or sanitary condition of the county. This includes, without limitation, excessive or noxious noise, odors, vibrations, air pollution, smoke, liquid or solid wastes, heat, glare or dust. The term nuisance does not apply to normal agricultural practices being conducted in an appropriately zoned area or practices at businesses operating under a conditional use permit.
11. **Owner.** Owner means those shown to be owner or owners on the records of the Kandiyohi County Records Office.
12. **Personal service.** Personal service means service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.
13. **Property.** Property means any parcel of land whether vacant or not, whether any structure thereon is occupied or not, or whether submerged or not.
14. **Responsible party.** A responsible party means any one or more of the following:
 - a. An owner, occupant or agent,
 - b. an assignee or collector of rents,
 - c. a contract for deed vendee,
 - d. a mortgagor in possession,

- e. a receiver, executor or trustee,
 - f. a lessee,
 - g. a mortgagee in possession,
 - h. other person, firm or corporation exercising apparent control over a property.
15. **Solid Waste.** Means garbage, refuse, and other discarded solid materials, except animal waste used as fertilizer, including solid waste materials resulting from industrial, commercial, agricultural operations or community activities.
16. **Unoccupied.** An unoccupied building is a building which is not being used for a legal occupancy or a building which has been ordered vacated by the county.
17. **Unsecured.** Unsecured means open to entry by unauthorized persons without the use of tools, ladders or other similar means.

Section B. Nuisances.

Creating, maintaining or allowing a nuisance shall not be permitted. All nuisances shall be subject to abatement as provided herein. Nuisances include but are not limited to those set forth in this Section:

1. **Solid Waste.** All debris, refuse, garbage or waste material, except crop residues, shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of the land shall not permit refuse, noxious substances, or hazardous wastes to be pooled, accumulated, left, piled, deposited, buried, discharged upon, or flowing from any property, structure, or vehicle; except for:
 - a. solid waste deposited at places designated and provided for that purpose by the Kandiyohi County Solid Waste Ordinance;
 - b. solid waste stored in accordance with provisions of the Kandiyohi County Solid Waste Ordinance or vehicle parts stored in an enclosed structure.
2. **Stagnant water.** Stagnant water found in any refuse or in a container of any type.

3. **Vermin harborage and Rodent control.** Conditions which are conducive to the harborage or breeding of vermin shall be considered a nuisance. All property shall be maintained in such a manner as not to attract or harbor rodents or other vermin in such numbers as to cause damage to property or present a health threat or nuisance to adjoining properties. Vermin infestations include, without limitation, rats, mice skunks, bats, grackles, starlings, pigeons, bees, wasps, cockroaches, or flies.
4. **Hazards.** Any thing or condition which may contribute to injury of any person present on the property, including but not limited to open holes, open foundations, open wells, dangerous trees or limbs, abandoned refrigerators, or trapping devices, shall be considered a nuisance.
5. **Miscellaneous Nuisances.**
 - a. It shall be unlawful for any person in an area zoned R1 or R2 to store or keep outside of an enclosed building any unlicensed motor vehicle, whether such vehicle is dismantled or not. In other zones no more than three (3) vehicles shall be permitted.
 - b. It shall be unlawful to create or maintain a junkyard or vehicle dismantling yard without issuance of a conditional use permit, or offer for sale more than one vehicle within sight of any road right of way, unless the responsible party has the necessary conditional use permit and is licensed as a motor vehicle dealer by the State of Minnesota.
 - c. The following are declared to be nuisances affecting public health or safety:
 1. The effluent from any septic tank, drainfield or other types of human sewage disposal system, discharging upon public waters, the surface of the ground or dumping the contents thereof at any place except as authorized.
 2. The pollution of any well, cistern, groundwater, stream, lake, canal or natural body of water by sewage, industrial waste or other substance.
6. **Statute and Common Law Nuisances.** Any thing or condition on property which is otherwise defined by law, the Statutes of Minnesota or the ordinances of Kandiyohi County as a nuisance.

Section C. Violations.

1. No person shall, directly or indirectly, by act or omission, create or permit a nuisance as defined in this ordinance.
2. No owner of any truck, trailer, railroad car or flat, or other vehicle shall leave the vehicle standing on or along any street, highway, railroad track, or other property within the County of Kandiyohi carrying or containing any refuse, noxious substance or hazardous waste, except for normal operations, and in no case for more than 24 hours.
3. No owner or responsible party shall permit a nuisance to remain upon or in any property or structure under his or her control.

Section D. Enforcement.

1. **Disclosure of responsible party.** Upon the request of an enforcement officer, a responsible party or owner shall disclose the name of any other responsible party or owner known to him. This shall include but not be limited to the persons for whom he is acting, from whom he is leasing the property, to whom he is leasing the property, with whom he shares joint ownership, or with whom he has any contractual relationship.
2. **Inspection of unoccupied buildings.** An owner or responsible party shall, upon the request of an enforcement officer, provide the officer with access to all interior portions of an unoccupied or abandoned building in order to permit the officer to make a complete inspection.
3. **Enforcement officer authorized to enter.** An enforcement officer shall be authorized to enter any premises in the county for the purpose of enforcing and assuring compliance with the provisions of this ordinance.
4. **Order to cease.** In the event that an enforcement officer observes a person creating or permitting a nuisance, the officer may, after identification, order the person to cease creating or to abate said nuisance. The written order shall contain the following:
 - a. a description of the real estate sufficient for identification;
 - b. a description and the location of the nuisance and the remedial action required to abate the nuisance.
 - c. the abatement deadline, to be determined by the enforcement officer allowing a reasonable time for the performance of any act required.

5. **Service.** The enforcement officer shall order the person committing or maintaining such nuisance in writing to terminate and abate said nuisance and to remove such conditions or remedy such defects. Any one of the following methods of service shall be adequate:
 - a. by personal service; or
 - b. by mail, unless it is a written order which gives three days or less for the completion of the act it requires; or
 - c. if the appropriate responsible party or owner cannot be determined or found after reasonable effort, by posting a copy of the order in a conspicuous place on the property.

6. **Appeal.** The Order shall contain a statement that it may be appealed at a hearing before the County Board obtained by filing a written request with the Department of Environmental Services before the appeal deadline which shall be the abatement deadline designated in the Order or seven (7) days after the date on the Order, whichever comes first. The order shall further require the owner or occupant of such premises, or both, to take action within a reasonable time to abate and remove the nuisance. The maximum time for the removal of said nuisance after service of the Order shall not in any event exceed 30 days. Service of the notice may be proved by affidavit of service by the enforcement officer, stating the manner and time of service.

Section E. Abatement Procedure.

1. **Abatement.** If, after service of notice, the person served fails to abate the nuisance or make the necessary repairs, alterations, or changes in accordance with the Order, the Board following a hearing may cause such nuisance to be abated and all abatement costs incurred by Kandiyohi County shall be charged against the property as a special assessment to be collected in the manner provided.

2. **Notice.** The Department of Environmental Services shall mail a notice of the date, time and place and subject of the hearing to the owner and known responsible parties.

3. **Hearing.** At the time of the hearing, the County Board may hear the enforcement officer, the owner or responsible person, and such other parties who may offer relevant testimony. After the hearing, the County Board may reverse, confirm or modify the order of the enforcement officer, or direct that the nuisance be abated, establishing a deadline for abatement.

4. **Abatement may include** but shall not be limited to the removal or cleaning of offending substances, extermination of vermin, securing or boarding unoccupied or abandoned structures, barricading or fencing, removing dangerous portions of structures, and demolition of dangerous structures or abandoned buildings.
5. **Abatement costs shall include** the cost of the abatement; investigation such as title searches, inspection, testing, notification, filing and administration.

Section F. Miscellaneous.

1. **Separability.** Every section, provision or part of this ordinance is declared separable from every other section, provision or part; and if any section, provision or part thereof shall be held invalid, it shall not affect any other section, provision or part.
2. **Effective Date.** This ordinance shall be in full force and effect from June 01, 1995.
3. **Any violation** of this ordinance shall be a misdemeanor, and subject to the penalties therefore as prescribed by M.S.609.03 (3).

Section G. Trespassing and Littering.

1. It shall be unlawful for any person to enter upon the property of another for the purpose of depositing, leaving or placing litter of any kind without the consent of the owner or person in lawful possession of said property.
2. It shall be unlawful for any person to deposit, leave or place litter of any kind on the property of another without the consent of the owner or person in lawful possession of said property.
3. **Definitions:**
Litter: For the purposes of this section litter shall include garbage, rubbish, cigarette filters, toilet paper or other paper products of any kind, and liquid or foam including, without limitation, shaving cream, paint, syrup, or other food product of any kind, or any other refuse or solid material.
4. **Penalty.** A person convicted for violation of this section is guilty of a petty misdemeanor and shall be subject to a fine not to exceed \$300.
5. **Effective Date:** This amendment shall be effective on and after the date of final publication of the ordinance (September 4, 2009).