

Zoning Ordinance Proposed Home Rule Resolution

**BOARDMAN TOWNSHIP TRUSTEES, MAHONING COUNTY, OHIO
HOME RULE RESOLUTION NO. 06-07**

**ENACTING AND CODIFYING A HOME RULE RESOLUTION FOR BOARDMAN TOWNSHIP
REGULATING PUBLIC NUISANCES**

The Board of Trustees of Boardman Township, Mahoning County, Ohio met in Regular Session at the Boardman Township Government Center on the 28th day of November, 2006, with the following members present: Atty. Robyn Gallitto, Kathy Miller, and Elaine Mancini.

Mrs. Mancini moved to approve a **Second Reading** of Home Rule Resolution 06-07 as follows:

WHEREAS the Boardman Township Board of Trustees adopted a Limited Home Rule Government in accordance with the Ohio Revised Code Section 504.01(B)(1) by Resolution duly adopted and approved on October 12, 1999; and

WHEREAS Boardman Township thus constitutes an Urban Township with Limited Home Rule Authority as provided in Ohio Revised Code Section 504.01(B)(1), vested with the powers, rights and immunities granted therein; and

WHEREAS it is the desire of the Boardman Township Board of Trustees to address the need to abate public nuisances, as herein defined, and promote property owner and/or landlord responsibility for activities occurring upon their property and/or property within their control:

NOW THEREFORE BE IT RESOLVED THAT THE FOLLOWING REGULATIONS BE AND HEREBY ARE ADOPTED AND APPROVED UPON FIRST AND SECOND READINGS, PUBLICATION AND CODIFICATION:

SECTION 1: PUBLIC NUISANCES DEFINED

The following activities, occurring on property within the township and engaged in by an owner, occupant or invitee of the owner or occupant, are hereby declared to be public nuisances:

1. Any disorderly conduct, disturbance of the peace, noise or other similar violation under Township Resolutions and/or statutes of the State of Ohio;
2. Any drug abuse violation under Township Resolutions and/or statutes of the State of Ohio;
3. Any gambling violation under Township Resolutions and/or statutes of the State of Ohio;
4. Any health, safety, or sanitation violations under Township Resolutions and/or statutes of the State of Ohio;
5. Any obstruction of official business violations under Township Resolutions and/or statutes of the State of Ohio;
6. Any alcohol violation under Township Resolutions and/or statutes of the State of Ohio;
7. Any sex offense under Township Resolutions and/or statutes of the State of Ohio, including but not limited to public indecency, solicitation, and prostitution;
8. Any offense against another person under Township Resolutions and/or statutes of the State of Ohio, including but not limited to assault, battery, menacing, endangering children, and contributing to the unruliness and/or delinquency of a child.
9. Any offense against property under Township Resolutions and/or statutes of the State of Ohio, including but not limited to criminal damaging, criminal mischief, burglary and arson.
10. Any theft violation under Township Resolutions and/or statutes of the State of Ohio, including but not limited to theft and receiving stolen property.

11. Any fireworks violation under Township Resolutions and/or statutes of the State of Ohio;
12. Any open burning or recreational fires in violation of Township Resolutions and/or statutes of the State of Ohio;
13. Any activity engaged in by a person under eighteen years of age which would constitute a violation of an offense listed in this section if committed by an adult.

SECTION 2: NOTICES AND ORDERS

The Chief of Police of the Township or his designee, upon finding that three or more nuisance activities declared in Section 1 have occurred on township property within any twelve (12) month period, shall cause a written notice and order to be served on the owner and/or landlord of the property, declaring that such property is a nuisance property. The notice and order shall set forth:

1. The nature of the nuisances;
2. The dates and times that the police have previously been called to the property;
3. That subsequent responses by the police to the property in question for the same nuisance will result in fines to the property owner/landlord;
4. The amount of fines to be assessed in the event of subsequent responses; and
5. That the property owner/landlord may avoid being charged costs of responses by taking steps to prevent any further nuisance activities as defined in this Resolution.

Notice and order shall be served on the property owner and/or landlord personally or by certified mail and regular mail to the person's residence, regular place of business or last known address. If the certified or regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address or on the property affected.

If, within twelve (12) months, the police response to a fourth or successive nuisance activities on the property, the property owner and/or landlord will be assessed the civil fines as prescribed in Section 3 of this Resolution. The Chief of Police or designee shall issue a home rule citation to the property owner or landlord of the property.

SECTION 3: PENALTIES

A violation of this Resolution, whereby the police are responding to a fourth or more nuisance at the property, shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

- (1) First Offense \$ 250.00
- (2) Second Offense \$ 500.00
- (3) Third Offense \$ 750.00
- (4) Fourth and Subsequent Offenses \$1,000.00

SECTION 4: AFFIRMATIVE DEFENSES

It shall be an affirmative defense of the property owner and/or landlord, and a bar to imposition of the fines set forth in Section 3, if the property owner and/or landlord demonstrates that:

1. He/She was not the owner of the property at the time of the occurrence of the prior nuisance activities; or
2. He/She, having received notice of the nuisance activity, promptly took reasonable and necessary action to abate each nuisance; or
3. He/She having received notice of the nuisance activity, evicted, ejected or removed from occupancy or possession of the property those persons causing the nuisance; or

4. He/She having received notice of the nuisance activity took action to reasonable secure the property from unwanted entry or trespass of the property.

SECTION 5: EFFECTIVE DATE OF RESOLUTION

This Resolution shall be effective thirty (30) days from the date of adoption upon both First and Second Readings, and publication thereof.

Mrs. Miller seconded the motion to approve the **SECOND READING** of Home Rule Resolution #06-07 as follows:

The Roll Call resulted as follows: Aye Nay

Robyn Gallitto, Esq. Chairperson X _____

Kathy Miller, Vice Chairperson X _____

Elaine Mancini, Trustee X _____

Date of First Reading: October 10, 2006

Date of Second Reading: November 28, 2006

Home Rule Resolution #06-07 adopted upon Second Reading this 28th day of November, 2006.

Effective Date of Resolution: December 28, 2006

BY ORDER OF THE BOARD OF TRUSTEES, BOARDMAN TOWNSHIP, MAHONING COUNTY, OHIO.

**Robyn Gallitto, Esq. Chairperson
Kathy Miller, Vice-Chairperson
Elaine Mancini, Trustee**

ATTEST

William D. Leicht, Fiscal Officer

APPROVED AS TO FORM

**Mahoning County Prosecutor's Office
Boardman Township Law Director
Mark S. Finamore
Special Legal Counsel
CERTIFICATION**

I, William D. Leicht Fiscal Officer of Boardman Township, do hereby certify that the foregoing is a true and correct copy of Home Rule Resolution No. 06-07 as appears in the minutes of the official proceedings of the Board of Trustees of Boardman Township, Mahoning County, Ohio.

William Leicht, Fiscal Officer