

BELTRAMI COUNTY ORDINANCE

NO. 11 PUBLIC HEALTH ORDINANCE

Dated: January 10, 1984  
Effective: January 10, 1984  
Recorded: November 16, 1984  
MF#286865

Amended: October 3, 1989  
Effective: October 3, 1989  
Recorded: March 21, 1991  
MF#325290

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**PUBLIC HEALTH NUISANCE ORDINANCE #11  
For Beltrami County**

**Section 1 Purpose and Authority**

- 1.1 The unique and diverse landscapes in Beltrami County are among its most valuable assets. Destroying these assets risks undermining the very characteristics responsible for our economic vitality and future potential. Protecting these assets will require the removal of all public health nuisances, to be in harmony with the surrounding aesthetics and development.

The purpose of the Beltrami County Public Health Nuisance ordinance is to establish predicable and balanced regulations that protect the public health, safety and general welfare of the people of Beltrami County, Minnesota. These regulations are intended to facilitate and identify public health nuisances, and to provide for a process of administration and enforcement in the removal of all identified public health nuisances in accordance to the powers granted under Minnesota Statutes Chapter 145A. In the event that this Ordinance conflicts with other applicable laws, regulations and ordinances, the most restrictive shall apply.

- 1.2 This ordinance establishes minimum standards for the health, safety and protection of parties who may be exposed to Public Health Hazards and/or public health nuisances by:
- (1) establishing responsibility for involved parties to assure that people are not unnecessarily exposed to the dangers of Public Health Hazards;
  - (2) preventing injury and illness to Occupants of the property and the public, especially Children and Vulnerable Adults.
  - (3) requiring that proper steps are taken to remove Public Health Hazards; and
  - (4) Requiring that appropriate tests are done to demonstrate that affected Structures and media (air, water, and soil) are sufficiently cleaned for human contact.

**Section 2 Scope**

- 2.1 This Ordinance shall be applicable in all incorporated and unincorporated municipalities (city or township) within the boundaries of Beltrami County under the jurisdiction of the Beltrami County Public Health Board.
- 2.2 The provisions of this Ordinance shall be interpreted and applied as the minimum requirements necessary to protect public health, safety and welfare.
- 2.3 Where a local community has a housing ordinance or public nuisance ordinance, this Ordinance shall apply in addition to that local ordinance and may serve to supplement the local community's enforcement of its ordinance(s).

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### Section 3 Definitions

3.1 For the purpose of this Ordinance, the following terms or words shall be interpreted as follows:

- (1) Acceptable Environmental Hazard Testing and/or Cleaning Firm means a firm that has provided written assurance to the State of Minnesota or the Health Authority that they have appropriate equipment, procedures, and personnel to accomplish clean-up and that they are an experienced HAZMAT contractor.
- (2) Board of Health shall have the meaning given to it by Minnesota Statutes section 145A.02, subd. 2.
- (3) Chemical Investigation Site means a Clandestine Drug Lab Site that is under notice and order for Cleanup and/or Remediation as a Public Health Nuisance, as authorized by Minnesota Statutes Chapter 145A, and Beltrami Ordinance #36.
- (4) Child means any person less than 18 years of age.
- (5) Cleanup means proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Cleanup is a part of Remediation.
- (6) Controlled Substance means a drug, substance or immediate precursor scheduled in Schedules I. through V. of Minnesota Statutes section 152.02 and as subsequently amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.
- (7) County Protection Unit shall mean the department and/or section of a department assigned the responsibilities for child protection and/or adult protection.
- (8) Health Authority means the Department of Environmental Services.
- (9) Medical Consultant means a physician licensed to practice medicine in Minnesota who is working under a written agreement with, employed by, or under contract with the Board of Health.
- (10) Occupant shall mean any person who occupies real property, whether with or without any right, title or interest in the property and any person in possession or charge of such property, in the event the Owner resides or is located elsewhere.
- (11) Owner means any person, firm, partnership or corporation who owns, in whole or in part, the real property and/or fixtures or personal property such as buildings, motor vehicle, trailer, boat or other appliance.
- (12) Personal Property means all property other than real estate or structures.

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- (13) Property Agent means a person authorized by a property owner to act in transacting business matters or in managing the affairs of the property.
  - (14) Public Health Hazard shall mean any condition upon real property which poses an immediate and direct hazard to human health due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals or other means of transmission or infection.
  - (15) Public Health Nuisance shall have the meaning given to it by Minnesota Statutes section 145A.02, subd. 17 and shall include, but not be limited to, any condition which poses an immediate and direct hazard to human health if left unremedied due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals, or other means of transmission or infections.
  - (16) Remediation means methods employed in dealing with Public Health Hazards/Public Health Nuisances and include, but are not limited to, assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of materials.
  - (17) Structure means a Structure, building or other fixtures upon real property.
  - (18) Vulnerable Adult shall have the meaning given to it by Minnesota Statutes section 626.5572, subd. 21.

#### **Section 4 Prohibitions**

- 4.1** The creation or maintenance of a Public Health Hazard or Public Health Nuisance is prohibited.
- 4.2** The following are hereby expressly declared to be Public Health Hazards or Public Health Nuisances, without limitation by reason of such enumeration:
  - (1) Failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed insect and rodent proof container designed or reasonably adapted for such purpose, except for the immediate time preceding pick-up by a refuse hauler.
  - (2) Accumulation of carcasses of animals, birds, or fish by failing to bury or otherwise dispose of a carcass in a sanitary manner within 24 hours after death. This provision shall not apply if the animals, birds or fish are intended for human consumption;

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- (3) Accumulation of decayed animal or vegetable matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing material, scrap metal, tires or any other substances in which flies, mosquitoes, other disease carrying insects, rodents or other vermin can harbor; this definition does not include compost bins or compost sites which are being managed in accordance with acceptable standards;
  - (4) Any Structure which has become dangerous for further occupancy because of sanitary defects;
  - (5) Infestations of flies, fleas, cockroaches, lice, ticks, rats, mice, fly larvae, and hookworm larvae;
  - (6) Unnatural breeding grounds which support mosquito larvae and mosquitoes carrying West Nile Virus, LaCrosse encephalitis, or any other disease causing microorganisms;
  - (7) Accumulations of animal feces, rubbish or junk remaining in any place so as to become injurious and dangerous to the health and safety of any individual or to the public in general;
  - (8) Causing or allowing improper sewage disposal facilities to be operated, or causing or allowing the effluent from any cesspool, septic tank, drain field or sewage disposal system to discharge upon the surface of the ground or into any body of water;
  - (9) Maintaining a hole or opening caused by an improperly abandoned cistern, septic system, unused or non-maintained private swimming pool, foundation, mine shaft or tunnel, including an improperly abandoned, sealed, barricaded or backfilled excavation;
  - (10) The ownership, possession or control of any unused refrigerator or other container with doors which fasten automatically when closed or sufficient size to retain any person to be exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access to the public;
  - (11) Maintaining a hazardous building or hazardous property which because of inadequate maintenance dilapidation, physical damage, unsanitary condition or abandonment constitutes a fire hazard or a hazard to public safety or health

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## **Section 5 Administration**

- 5.1** This Ordinance shall be administered by the Beltrami County Environmental Services, hereinafter referred to as the “Health Authority”.
- 5.2** It shall be the duty of the Health Authority to determine whether or not a Public Health Hazard or Public Health Nuisance exists.
- 5.3** In accordance with Minnesota Statutes section 145A.04, subd. 7, the Health Authority has right of entry for inspection of property where a Public Health Hazard or Public Health Nuisance is suspected or known.
- 5.4** This Ordinance shall be construed to incorporate and be consistent with the relevant portions of Beltrami County Ordinance #128 (and subsequent amendments): individual Sewage Treatment System Regulations; Ordinance # 31 (and subsequent amendments): Hazardous Waste Management Ordinance; and Ordinance #'s 114 and 137 (and subsequent amendments): Solid Waste Management Ordinance in the enforcement of clean-up and remediation of Public Health Nuisances.
- 5.5** Waste generated through cleanup or remediation of a site that is considered a Public Health Hazard/Public Health Nuisance shall be treated, stored, transported, and disposed in accordance with applicable Minnesota Department of Health, Minnesota Pollution Control Agency, and Beltrami County guidelines, rules and regulations for clandestine lab clean-up, for solid waste, and for hazardous household/other hazardous wastes.
- 5.6** Fees for the administration of this ordinance may be established and amended periodically by action of the Beltrami County Board of Commissioners.

## **Section 6 Abatement**

- 6.1** When the Health Authority determines that a public health violation is being maintained or exists in the County, the authority shall:
- (1) notify in writing of such fact, the owner and occupant of the violation and shall order that such violation be terminated and abated
  - (2) serve notice in person or by certified or registered mail
  - (3) post notice on the premise in question if the premises are not occupied and the owner is unknown
  - (4) specify the steps to be taken to abate the violation, not to exceed thirty (30) days
  - (5) report to the Beltrami County Board of Commissioners, and to the respective town board, or municipalities where the public health violation is present of the notice noncompliance.

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- 6.2** The Beltrami County Board of Commissioners shall notify the owner, occupant and/or all persons known to have contributed to said violation that a public hearing will be held at which time the owner, occupant, and/or all persons known to have contributed to said violation shall have an opportunity to be heard regarding the violation.
- 6.3** Notice shall be served at least ten (10) days before the hearing before the Beltrami County Board of Commissioners.
- 6.4** Notice is served on the date said notice deposited in the mail, posted, or personally served upon the owner, occupant, and/or other persons. If notice is given by posting, at least thirty (30) days shall elapse between the day of posting the notice and the hearing. After the hearing, the County Board of Commissioners may provide for the abatement of the violation.

### **Section 7 Costs and Reimbursements**

- 7.1** If the County is required to remove or abate a Public Health Hazard/Public Health Nuisance, the County may recover the costs incurred in removal or abatement in a civil action; or at the discretion of the County Board, the cost of an enforcement action under this Ordinance may be assessed and charged against the real property on which the Public Health Nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.
- 7.2** Nothing in this Ordinance is intended to limit the subrogation rights of any party and the Owner Occupants. The County shall maintain the right to recover costs, referenced in this section, from persons contributing to the damage, such as the operators of the clandestine drug lab and/or other lawful sources.

The County Administrator, or the Administrator's formally identified designee, shall be fully authorized to act, consistent with Minnesota Law, on behalf of the County to direct funds to assure prompt Remediation of Public Health Nuisance Sites.

Nothing herein precludes or limits the County from seeking recovery of costs through other methods allowed by Federal or State law.

### **Section 8 Modifications and Appeals**

- 8.1** The Health Authority may modify conditions of the declaration and order removal of the declaration of Public Health Nuisance.
- 8.2** Such modification or removal shall be only after the Health Authority has determined the level of Public Health Hazard is sufficiently reduced through remediation to warrant modification or removal of the declaration. The Health Authority may rely on information from competent sources, including those supplied by the Owner, Occupant and/or others such as state and local health, safety, and pollution control authorities to reach such decisions.

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**Section 9 Enforcement**

- 9.1** Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- 9.2** In the event of a violation or a threat of violation of this Ordinance, the County Attorney may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance, or any other appropriate action in court, to prevent, restrain, correct or abate such violation or threatened violation.

**Section 10 Severability**

- 10** If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of this ordinance.

**Section 11 Effective Date**

- 11** Ordinance shall be effective upon passage by the Beltrami County Board of Commissioners and upon publication according to law.



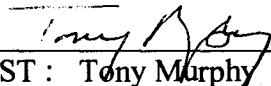
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The Beltrami County Public Health Nuisance Ordinance No. 11, is hereby officially adopted on the 21st March, 2006.



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Joe Vene, Chair  
County Board of Commissioners



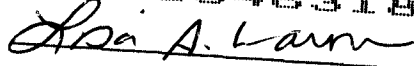
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ATTEST: Tony Murphy  
County Administrator

OFFICE OF COUNTY RECORDER  
COUNTY OF BELTRAMI, MINNESOTA

THIS IS TO CERTIFY  
THAT THIS INSTRUMENT  
WAS FILED IN THIS  
OFFICE ON 04/13/2006 AT  
11:35:11AM BY DOCUMENT NUMBER

0000463181



ANN F. ALLEN  
COUNTY RECORDER

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