



RESOLUTION #26-06-057

A RESOLUTION REPEALING RESOLUTION #05-07-172 AND ESTABLISHING UPDATED PROCEDURES FOR THE DECLARATION OF NUISANCE AND ABATEMENT, CONTROL, AND/OR REMOVAL OF NUISANCE CONDITIONS ON REAL PROPERTY WITHIN THE UNINCORPORATED AREA OF BETHEL TOWNSHIP, MIAMI COUNTY, OHIO, PURSUANT TO OHIO REVISED CODE SECTIONS 505.87, 971.33, 971.34, AND 5579.05

The Bethel Township Board of Trustees, Bethel Township, Miami County, Ohio met in regular session on the 9th day of June, 2026 with the following Trustees being present: Julie Reese and Josh Wilkerson.

Trustee WILKERSON moved for the adoption of the following resolution:

WHEREAS, the Bethel Township Board of Trustees, Bethel Township, Miami County, Ohio ("Board") adopted Resolution #05-07-172 on July 5, 2005, establishing procedures for nuisance abatement pursuant to Ohio Revised Code Sections 505.87, 971.34, and 5579.05; **AND**

WHEREAS, Resolution #05-07-172 replaced the earlier Resolution #117-02, adopted July 23, 2002, which had established the original nuisance abatement procedures for the Township; **AND**

WHEREAS, since the adoption of Resolution #05-07-172, the Ohio Revised Code has been amended, the costs of abatement have increased, and the Board has gained substantial experience in enforcing nuisance conditions; **AND**

WHEREAS, the Board desires to repeal Resolution #05-07-172 and adopt updated procedures that reflect current statutory requirements, provide clearer notice and hearing procedures, establish current cost recovery rates, and more fully protect the health, safety, and welfare of Township residents; **AND**

WHEREAS, Ohio Revised Code Section 505.87 authorizes the Board to provide for the abatement, control, or removal of vegetation, garbage, refuse, and other debris that the Board determines to be a nuisance, and to recover all costs incurred; **AND**

WHEREAS, Ohio Revised Code Section 971.34 authorizes the Board, upon proper complaint and after viewing the premises, to cause the cutting of brush, briars, thistles, or other noxious weeds that Section 971.33 of the Ohio Revised Code requires an owner to keep cut along a partition fence; **AND**

WHEREAS, Ohio Revised Code Section 5579.05 authorizes the Board to give notice for the removal of noxious weeds. **THEREFORE**

BE IT RESOLVED, by the Bethel Township Board of Trustees of Bethel Township, Miami County, Ohio, that

SECTION 1. REPEAL OF PRIOR RESOLUTION.

Resolution #05-07-172, adopted July 5, 2005, and Resolution #117-02, adopted July 23, 2002, are hereby repealed in their entirety and replaced by this Resolution. Any property-specific nuisance resolutions previously adopted by the Board shall remain in full force and effect and are not affected by this repeal.

SECTION 2. DEFINITIONS. As used in this Resolution, the following terms shall have the meanings set forth below:

- A. "Nuisance" means any condition on real property within the unincorporated area of Bethel Township that the Board determines to be dangerous, unhealthy, unsightly, or detrimental to the neighborhood, community, or the general welfare, including but not limited to: (1) accumulations of vegetation, including grasses in excess of eight (8) inches; (2) garbage, refuse, trash, or other debris; (3) abandoned, discarded, or unused objects or

equipment, including but not limited to furniture, appliances, and building materials; (4) noxious weeds as designated by the Ohio Department of Agriculture in Ohio Administrative Code 901:5-37, as may be amended; and (5) any other condition that the Board determines constitutes a nuisance under Ohio Revised Code Sections 505.87, 971.34, or 5579.05.

- B. "Property" means any real property, whether publicly or privately owned, located within the unincorporated area of Bethel Township, Miami County, Ohio.
- C. "Owner" means the record owner of real property as shown on the records of the Miami County Auditor or Miami County Recorder.

SECTION 3. DECLARATION OF NUISANCE AND ORDER OF ABATEMENT.

- A. The Board may adopt a resolution, pursuant to Ohio Revised Code Section 505.87, declaring that conditions existing on a specific property constitute a nuisance and ordering the abatement, control, or removal of such nuisance conditions.
- B. A property-specific nuisance resolution adopted under this Section shall identify: (1) the property address and Miami County Permanent Parcel Number; (2) the record owner(s) of the property; (3) the holders of liens of record, if known; (4) the nuisance conditions found to exist; and (5) the time period within which the owner must abate, control, or remove the nuisance, which shall be not less than seven (7) days from the date of notice.

SECTION 4. NOTICE PROCEDURES.

- A. Upon adoption of a property-specific nuisance resolution, the Fiscal Officer or the Fiscal Officer's designee shall send, by certified mail, a copy of the resolution and notice to the owner(s) of the property at the last known and best address(es), and to all holders of liens of record at their last known addresses.
- B. In addition, a copy of such notice shall be posted on the principal structure on the property and a photograph taken of such posted notice with a camera capable of recording the date of the photograph on it.
- C. If the owner's address is unknown and cannot be reasonably obtained, the notice shall be published once in a newspaper of general circulation in the Township.
- D. A copy of the property-specific nuisance resolution shall accompany all mailed and posted notices.
- E. The contents of the notice shall: (1) order the owner to abate, control, or remove the nuisance conditions, the maintenance of which has been determined by the Board to be a nuisance; (2) state that if the nuisance conditions are not abated, controlled, or removed, or if provision for their abatement, control, or removal is not made, within the time specified in the resolution (not less than seven (7) days), the Board shall provide for the abatement, control, or removal, and any costs incurred by the Board in performing that task shall be entered upon the tax duplicate and become a lien upon the land from the date of entry.

SECTION 5. NOXIOUS WEEDS ALONG PARTITION FENCES (ORC 971.33 AND 971.34).

- A. The Board may adopt a resolution, pursuant to Ohio Revised Code Section 971.34, requiring a property owner to cut brush, briars, thistles, or other noxious weeds that Ohio Revised Code Section 971.33 requires the owner to keep cut along a partition fence, as may be amended.
- B. Before adopting such a resolution, the Board must determine that an adjoining property owner, abutting on the line or partition fence of the property where the nuisance is believed to be occurring, has given ten (10) days' notice to the offending property owner.
- C. Upon ascertaining that the offending property owner has been duly notified as required by Ohio Revised Code Section 971.34, the Board shall view the offending property. If the Board determines that the brush, briars, thistles, or other noxious weeds need to be removed, the Board shall adopt a resolution at a regular or special meeting causing such removal in accordance with Section 7 of this Resolution.

SECTION 6. NOXIOUS WEEDS ON PROPERTY (ORC 5579.05).

- A. The Board may adopt a resolution, pursuant to Ohio Revised Code Section 5579.05, giving notice to an owner of property to remove noxious weeds, including but not limited to wild parsnip, wild carrot, oxeye daisy, wild mustard, and other noxious weeds.
- B. Before adopting such a resolution, the Board must receive written information from a resident or non-resident of Bethel Township in accordance with Ohio Revised Code Section 5579.05.
- C. A copy of the resolution shall be mailed to the owner of record via certified mail. If the property owner's address is unknown, it is sufficient to publish the notice once using at least one of the following methods: (1) in the print or digital edition of a newspaper of general circulation in the county; (2) on the official public notice web site established under Ohio Revised Code Section 125.182; or (3) on the web site and social media account of the Township.
- D. The property owner shall have five (5) days from the date of the resolution to remove the noxious weeds. Failure to comply within five (5) days shall authorize the Board to cause the removal in accordance with Section 7 of this Resolution.
- E. If the property is owned or operated by the Ohio Department of Natural Resources, or is park land owned and managed by the State of Ohio or a political subdivision, the Board shall notify the County Extension Agent. Within five (5) days, the Extension Agent shall meet in committee with an authorized member of the Board and an authorized supervisor designated by the Miami County Soil and Water Conservation District. The committee shall report findings and recommendations to the Board within five (5) days of the meeting, in accordance with Ohio Revised Code Section 5579.05.

SECTION 7. ABATEMENT BY TOWNSHIP AND COST RECOVERY.

- A. If the owner of the property fails to abate, control, or remove the nuisance after the notice period has expired, or no agreement for abatement has been entered into under Ohio Revised Code Section 505.87(D), the Board shall provide for the abatement, control, or removal of the nuisance and may employ the necessary labor, materials, and equipment to perform the task.
- B. All costs incurred by the Township in providing for the abatement, control, or removal of the nuisance shall be paid out of the Township general fund from moneys not otherwise appropriated.
- C. The following rates shall apply to abatement work performed by the Township or its agents:
 - (1) Hourly rate for Township labor and equipment: as established by Resolution by the Township Trustees.
 - (2) Administrative fee: as established by Resolution by the Township Trustees.
 - (3) In the event that contractors are used, the actual cost incurred by the Township shall be assessed against the property owner, including but not limited to rental fees, dumping fees, disposal fees, towing fees, storage fees, and any other fees or costs incurred.
- D. Pursuant to Ohio Revised Code Section 505.87, the Board shall collect the total cost of abating, controlling, or removing the nuisance from the property. To do so, the Board shall make a written report to the Miami County Auditor of the Board's action. The report shall include a proper description of the property and a statement of all expenses incurred and the date of their incurrence in providing for the abatement, control, or removal of the nuisance, including the Board's costs for its services, the costs incurred in providing notice, any fees or interest paid to borrow moneys, and the amount paid for labor, materials, and equipment to abate the nuisance.
- E. On behalf of the Board, the Fiscal Officer shall prepare the report described in Section 7(D) above and provide such report to the Board for approval. Once approved by the Board, the Fiscal Officer shall deliver the report, along with a certified copy of the property-specific nuisance resolution, any notices issued, and a certified copy of the Resolution approving the report, to the Miami County Auditor.

F. The costs incurred, when allowed, shall be entered upon the tax duplicate, shall be a lien upon the property from the date of entry, shall be collected as other taxes, and shall be returned to Bethel Township and placed in the Township general fund.

SECTION 8. AGREEMENTS FOR ABATEMENT.

The owner(s) and lien holders of the property may enter into an agreement with the Board or an authorized employee of the Board to secure the abatement of the nuisance, pursuant to Ohio Revised Code Section 505.87(D). Such agreement shall specify the timeline and scope of abatement and shall be documented in writing.

SECTION 9. APPLICABILITY.

Properties in the incorporated sections of Bethel Township, Miami County shall not be subject to the regulations of this Resolution.

SECTION 10. CUMULATIVE REMEDIES.

The remedies provided in this Resolution are cumulative and are in addition to, and not in lieu of, any other remedies available to the Township under the Ohio Revised Code, including but not limited to actions for injunction, mandamus, or abatement in any court of competent jurisdiction. This Resolution does not abridge, amend, or otherwise affect the Township's authority to regulate junk motor vehicles under Ohio Revised Code Section 505.173 or any resolution adopted thereunder.

SECTION 11. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. Sections of the Ohio Revised Code referenced herein may be amended, and any such amendments shall be deemed incorporated into this Resolution to the extent applicable.

SECTION 12. EFFECTIVE DATE.

This Resolution shall be in full force and effect immediately upon adoption. Upon adoption, Resolution #05-07-172 and Resolution #117-02 are hereby repealed. All formal actions of this Board concerning and relating to the passage of this Resolution were adopted in an open meeting of the Board, and all deliberations of this Board that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Trustee REESE seconded the motion and the Board voted as follows upon roll call:

Vote:	Trustee Kama Dick	<u>ABS</u>	_____
	Trustee Julie Reese	<u>yes</u>	<u>Julie Reese</u>
	Trustee Josh Wilkerson	<u>yes</u>	<u>Josh Wilkerson</u>

Attest: Rhonda Ross
Rhonda Ross, Fiscal Officer
Bethel Township, Miami County, Ohio