

CITY OF BUCHANAN  
BERRIEN COUNTY, MICHIGAN  
ORDINANCE NO. 2023.06/436

AN ORDINANCE TO AMEND THE BUCHANAN CITY CODE OF ORDINANCES TO PROVIDE FOR PROHIBITION AND ABATEMENT OF NUISANCES AND TO REPEAL AND REPLACE ORDINANCE SECTIONS 38-26, 38-29 SUBSECTION 3, AND SECTIONS 38-47, 38-54, 38-55, ARTICLE III,, AND PARTS THEREOF IN CONFLICT HEREWITH

THE CITY OF BUCHANAN ORDAINS:

ARTICLE II. – NUISANCES

DIVISION 1. – GENERALLY

Sec. 38-26. – Nuisances prohibited, enforcement, abatement of nuisances.

No person shall maintain a nuisance as described in Section 38-28. Any person may report a nuisance to the police department or the code enforcement officer, whose duty it shall be to investigate the facts, and if in his/her opinion a nuisance is being maintained, the Chief of Police, code enforcement officer, or police officer shall serve a written violation notice upon the person responsible for maintaining such nuisance and to the property owner.

The notice must include the following:

1. Identify the violation.
2. Identify the ordinance number violated.
3. Identify a timeline to rectify the violation.
4. Identify the possible penalties should the violation not be rectified.
5. Identify contact information to dispute/appeal the violation notice.
6. State that the owner/occupant must abate the nuisance within the set timeline.

The notice shall state that the responsible party must abate the alleged nuisance within the time limit set forth in the notice, which, unless otherwise provided in this Article II, shall not be less than two (2) days nor more than ten (10) days from the date of the service of the notice. Such notice shall be deemed to be properly served if a copy thereof is:

- a. Delivered personally; or
- b. Posted in a conspicuous place in or about the structure, or on a post driven into the ground if no structure; or
- c. Sent by certified or first-class mail addressed to the last known address (if not delivered personally).

If a cited party or parties wish to appeal a notice of abatement, such appeal must be filed with the City Clerk after the date of service of the violation notice and before the date specified for the abatement of the alleged nuisance. The City Clerk shall serve written notice of the date and time for the hearing on the appealing party in accordance with the service provisions set out in this Article II. The appeal of the violation notice shall be heard by the City Commission and the appealing party shall be allowed a hearing as to whether or not the party is a responsible party under this Article and/or if the act(s) listed in the violation notice constitutes a nuisance under this Article II. The appealing party may appear at the City Commission hearing in person or through counsel to show cause, if there is any, why the City Commission should not order any violations to cease immediately and order abatement of the violation. At the hearing, the City Commission shall receive testimony, documents, and other evidence as the Commission deems reasonably reliable and relevant to the issues concerning the violation of this Article II. The City Commission shall render a decision at the same meeting as the appeal is heard or at a subsequent meeting as the Commission shall set and that decision shall be confirmed in writing and

served on the appealing party in accordance with the service provisions set out above. The City Commission's decision on the appeal shall be final.

In case a decision has been rendered that a nuisance is being maintained, the Chief of Police, code enforcement officer, or police officer shall also proceed with the issuance of a civil infraction ticket citation against a violating party.

If the nuisance is not abated within the time required by the violation notice or as otherwise ordered in writing by the City Commission, the City Manager or a designee shall take such steps as are necessary to abate the nuisance, including but not limited to, removal and/or disposal of items specified in the violation notice and restoration of the affected area. The costs and fees of such abatement action shall be billed to the owner or owners of the subject parcel, and in the event there are two or more owners of the parcel, all such owners shall be jointly and severally liable for all abatement fees and costs. If the owner or owners of the parcel refuse, neglect, or fail to pay such costs and fees to the City within sixty (60) days of the date set in the bill for costs and fees, the City Manager or a designee shall report such costs and fees to the City Assessor who shall cause the costs and fees to be assessed against the subject parcel and added to the next City tax roll and the same shall be collected in the same manner in all respects as provided by law for the collection of real property taxes by the City.

(Ord. No. 2023.06/436, 06-26-23)

Sec. 38-27. – Penalty.

Any violation of any of the Sections of this Article II shall constitute a civil infraction that is punishable in an amount established by resolution of the City Commission from time to time. Any person who violates this Article II shall be subject to the issuance of a civil infraction citation ticket by an authorized officer or official and required to appear in Fifth District Court. This provision shall not limit the City's rights to the remedy of enforcement by abatement set out in this Article II.

(Comp. Ords. Rev. 1991, § 35.184; Ord. No. 2023.06/436, 06-26-23)

Sec. 38-28. – Creating or maintaining prohibited.

Nuisances are not to be created or maintained. No person, owner, or occupant having control or management of any dwelling, building, structure, excavation, business pursuit, matter, or thing shall allow any nuisance to be created or to exist on the premises over which such person is the owner or exercises control or management; nor shall any person occupying any public or private street, alleyway, or any premises whatever, or having control or management thereof, within the limits of the City, create or maintain a nuisance therein.

Nuisances shall include:

1. Sec. 38-29. – Noise-producing devices
2. Sec. 38-30. – Barking dogs
3. Sec. 38-31. – Smoke, soot, cinders, noxious acids, fumes, and gases
4. Sec. 38-32. – Lights
5. Sec. 38-33. – Unsightly, offensive accumulations
6. Sec. 38-46. – Litter, which includes garbage, refuse, rubbish, and all other waste material, which tends to create a danger to public health, safety, and welfare
7. Sec. 38-48 through 38-53. – Littering, use of receptacles, sweeping, sidewalks, premises maintenance
8. Sec. 38-76. – Junk vehicles

(Comp. Ords. Rev. 1991, § 20.131; Ord. No. 2023.06/436, 06-26-23)

DIVISION 2. – NOISE

Sec. 38-29. - Noise-producing devices.

1. The operating or maintaining of noisemaking, noise-amplifying, or noise-producing instruments or devices by which the peace or good order of the neighborhood is disturbed is hereby declared a nuisance. No person, by them self or for another, shall operate or maintain any radio, phonograph, player piano, calliope, or other noisemaking, noise-amplifying, or noise-producing instrument or device in any public or private place in any manner by which the peace and good order of the neighborhood are disturbed; or persons occupying property in the neighborhood are disturbed or annoyed.
2. Excessive noise from electronically amplified sound systems in or on motor vehicles. No person operating or in control of a parked or moving motor vehicle (including motorcycles and mopeds) shall operate or permit the operation of an electronically-amplified sound system in or about the vehicle so as to produce sound that in any manner by which the peace and good order of the neighborhood are disturbed, except as follows:
  - (a) Any police vehicle, ambulance, fire engine, or emergency vehicle while engaged in emergency or necessary public activities; or
  - (b) Sound made to alert persons to the existence of an emergency, danger, or attempted crime, or for warning purposes authorized by law.

(Comp. Ords. Rev. 1991, § 20.132; Ord. No. 2006.08/372, 8-14-06; Ord. No. 2023.06/436, 06-26-23)

Sec. 38-30. – Barking dogs.

No person shall permit any dog to continue any loud and unnecessary barking which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of the neighborhood, nor shall any person keep any animal which by causing frequent or long, continued noise shall disturb the comfort or repose of any persons in the vicinity. The making or causing of such disturbances is declared to be a public nuisance.

(Comp. Ords. Rev. 1991, § 20.133)

DIVISION 3. – SMOKE, SOOT, CINDERS, NOXIOUS ACIDS, FUMES, AND GASES

Sec. 38-31. – Smoke, soot, cinders, noxious acids, fumes, and gases.

No person shall permit, or cause the escape of, such quantities of smoke, soot, cinders, noxious acids, fumes, and gases in such place or manner as to be detrimental to the public or to endanger the health, comfort, and safety of any person or of the public, or in such manner as to cause or have a tendency to cause injury or damage to property or business. The escape of such matter is hereby declared to be a public nuisance.

(Comp. Ords. Rev. 1991, § 20.134)

DIVISION 4. – LIGHTS

Sec. 38-32. – Lights.

No person shall use or maintain any lighting fixtures or facilities connected with any use of land, or operation of any place of business or factory, so as to reflect light upon any residential use adjacent to such lighting facilities. The use of lights in this manner is declared a public nuisance.

(Comp. Ords. Rev. 1991, § 20.135)

DIVISION 5. – LITTER, RUBBISH, REFUSE

Sec. 38-33. – Unsightly, offensive accumulations.

The City ordains, for the purpose of this Article, that a nuisance shall be described as any accumulation of motor vehicles or parts thereof, paper, litter, refuse, rubbish, lumber, tree and bush branches, logs, ashes, manure, hay and fodder, or any other material that is kept or stored in any building, vacant lot, or any other property in the City that is unsightly or is offensive to the public.

(Comp. Ords. Rev. 1991, § 35.181)

Secs. 38-34 - 38-45. – Reserved.

Sec. 38-46. – Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. This enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive:

*Litter* is defined as garbage, refuse, and rubbish as defined in this section, and all other waste material which, if thrown or deposited as prohibited in this division, tends to create a danger to public health, safety, and welfare. Any condition that provides harborage for or fosters the spread of disease or the breeding of insects, rats, mice, snakes, and other vermin.

*Refuse* is defined as all decaying and non-decaying solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, junk, and solid market and industrial wastes. Refuse includes the outdoor storage of any item or material that is deteriorated so that it is no longer fit for the intended use, indoor furniture, appliances or fixtures, or items not designed for outdoor storage, such as, but not limited to, apparel, books, decorations, mattresses, or equipment.

*Rubbish* is defined as all decaying and non-decaying solid wastes consisting of both combustible and noncombustible wastes, such as junk, unused or inoperable tools or equipment, fence wire, fence materials, firewood or lumber, building or roofing materials, inoperable or unlicensed motor vehicles or motor vehicle parts and components, motor vehicle tires or inner tubes, flammable materials, unused construction materials or scraps, paint, tubs, buckets, bins, bags, garments, plastic, paper wrappings, cigarettes, cardboard, tin or aluminum cans, yard clippings, leaves, wood, glass, bedding, crockery, fuel or lubricant containers, and similar materials.

(Comp. Ords. Rev. 1991, §§ 35.054—35.056; Ord. No. 317, 7-8-91; Ord. No. 2023.06/436, 06-26-23)

**Cross-reference—** Definitions generally, § 1-2, Code of Ordinances.

Sec. 38-47. – Reserved.

(Ord. No. 2023.06/436, 06-26-23)

Sec. 38-48. – Littering prohibited.

No person shall throw or deposit litter in or upon any street, sidewalk, or other public places within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

(Comp. Ords. Rev. 1991, § 35.071)

Sec. 38-49. – Proper use of waste receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

(Comp. Ords. Rev. 1991, § 35.072)

Sec. 38-50. – Sweeping litter into gutters, streets, other public places.

No person shall sweep into or deposit in any gutter, street, or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(Comp. Ords. Rev. 1991, § 35.073)

Sec. 38-51. – Duty to keep sidewalks clean.

No person owning or occupying a place of business or any private premises shall sweep into or deposit in any gutter, street, or other public place within the City the accumulation of litter from any building or lot. Persons owning or occupying property within the City shall keep the sidewalk in front of their premises clean.

(Comp. Ords. Rev. 1991, § 35.074)

Sec. 38-52. – Private premises; private receptacles.

No person shall throw or deposit litter on any private premises within the City, whether owned by such person or not, except that the owner or person in control of occupied private premises may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.

(Comp. Ords. Rev. 1991, § 35.081)

Sec. 38-53. – Maintain premises free of litter.

The owner or person in control of any private premises shall at all times maintain the premises free of litter; provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Comp. Ords. Rev. 1991, § 35.082)

Sec. 38-54—38-55. Reserved.

(Ord. No. 2023.06/436, 06-26-23)

Sec. 38-56. – Responsibility for violation.

Whenever any act is prohibited by this Article II, or by any amendment hereto, the prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do such act.

(Comp. Ords. Rev. 1991, § 35.111; Ord. No. 2023.06/436, 06-26-23)

Secs. 38-57—38-75. – Reserved.

DIVISION 6. – JUNK VEHICLES

Sec. 38-76. – Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Junk vehicles* shall include, without limitation, any vehicle which is not licensed for use upon the highways of the State of Michigan or registered with the State for a period in excess of sixty (60) days, and shall also include, whether licensed or not, any vehicle which is inoperable for any reason for a period in excess of sixty (60) days, provided that there is excepted from this definition unlicensed, but operable, vehicles which are kept as the stock in trade of a regularly licensed and established new or used vehicle dealer; provided further that the time limit such vehicles may remain upon the premises of a vehicle repair business shall be a period of one hundred twenty (120) days, with an extension of an additional thirty (30) day period upon presentation to the City Chief of Police of written proof that the offending vehicle is involved in insurance claims, litigation, or a similar matter and additional time is required for settlement before a vehicle can be moved.

*Private premises* is defined as any lot or parcel of land owned or occupied by any person, whether or not improved with any dwelling, house, building, or other structure, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard or portions of a yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to any dwelling, house, building, or other structure erected thereon.

*Public places* are defined as any and all streets, sidewalks, boulevards, alleys, parking lots, and spaces or other public ways and any and all public parks, squares, spaces, and grounds that are owned, operated, or controlled by the City.

*Recreational vehicle* is defined as a vehicle that has its own motive power, or is towed by a vehicle, and is primarily designed to provide temporary living quarters for recreational, camping, travel, or seasonal use. The term includes, but is not limited to, a motor home, travel trailer, park model trailer, or pickup camper.

*Trailer* is defined as every vehicle with or without motive power designated for carrying property or persons or for being drawn by a motor vehicle, including, but not limited to, truck trailers, travel trailers, camping trailers, or utility trailers.

*Vehicles* is defined as every device in, upon, or by which any person or property is or may be transported or drawn upon any roadway or highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks. A “vehicle” shall include any trailer, watercraft, recreational vehicle, motor vehicle, or farming equipment of any type.

*Watercraft* is defined as any vessel for use on water that is propelled by human power or uses a motor-driven propeller, an internal combustion engine, or a water jet pump as the source of propulsion.

(Ord. No. 319, § 1.2, 7-22-91; Ord. No. 2023.06/436, 06-26-23)

**Cross-reference—** Definitions generally, § 1-2, Code of Ordinances

Sec. 38-77. – Visibility to public.

The owner or person in control of any private premises shall, at all times, keep junk vehicles on the private premises or on any public places immediately adjacent to the private premises from being visible to the public. For purposes of this section, a junk vehicle shall be deemed not to be visible to the public only if fully enclosed within a garage, barn, or pole barn.

(Ord. No. 319, § 1.2, 7-22-91)

Sec. 38-78. – Exceptions.

The sole exceptions to the requirements of Section 38-77 shall be:

1. Vehicles as defined in Section 38.76.
2. Licensed automobile salvage, scrap, or junk yards, which shall not be governed by this Article.

(Ord. No. 319, § 2.2, 7-22-91; Ord. No. 2023.06/436, 06-26-23)

ARTICLE III – Reserved.

Secs. 38-79 – 39-89. – Reserved.

(Ord. No. 2023.06/436, 06-26-23)

This ordinance shall become effective fifteen (15) days after enactment and publication pursuant to Chapter 7, Section 7.4 and Section 7.5 of the Charter of the City of Buchanan, Michigan.

MADE, PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN, ON THE 26th DAY OF JUNE 2023, AND IT WAS PUBLISHED IN THE BERRIEN COUNTY RECORD NEWSPAPER ON, July 6th, 2023.

\_\_\_\_\_, Mayor Sean Denison

\_\_\_\_\_, City Clerk Kalla Langston

#### CERTIFICATE OF ADOPTION

I hereby certify that the foregoing is a true and complete copy of an Ordinance passed at a regular meeting of the Buchanan City Commission, held on the 26TH day of JUNE 2023.

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KALLA LANGSTON, City Clerk