

CHAPTER 93: NUISANCES

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Cross-reference:

Admission of violation to the Ordinance Violation Bureau, see § 31.03(E)

§ 93.01 COMMON LAW AND STATUTORY NUISANCES.

In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the common law and the statutes of Indiana as public nuisances may, in case any thereof exist within the Town Limits, be treated as such and be proceeded against as is provided in this chapter; or in accordance with any other provisions of law. Wherever the word "nuisance" is used in this chapter it refers to a public nuisance.

(Ord. 76-7, passed 11-18-76)

§ 93.02 ABATEMENT OF NUISANCES.

(A) In any case where any nuisance may be found to exist, it shall be the duty of this Town Council to serve notice upon the owner or occupant of the premises where the nuisance exists, or upon any other person so causing the nuisance, to abate the nuisance within a reasonable time.

(1) In determining the reasonable time the Council shall take into consideration the degree of threat to the public health, safety and welfare and the means required to abate the nuisance.

(2) It shall not be necessary for the Council to designate in the notice the manner in which any such nuisance shall be unabated unless the Council shall deem it advisable to do so; however, the Council shall indicate in the notice the date within which the nuisance must be abated.

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(B) (1) If the owner, occupant or other person served with a notice to abate the nuisance shall refuse or neglect to abate the nuisance within the designated time after the notice is given, the person shall be subject to the penalties provided in § 93.99 of this chapter.

(2) In addition, the Council may cause the nuisance to be abated in any manner authorized by law, including the institution in the name of this town, against the owner, occupant or other person, of an action therefor and for the recovery of the amount of expense of the abatement.

(C) (1) The Council shall notify the Clerk-Treasurer of the cost of abating any nuisance.

(2) The Clerk-Treasurer shall notify the owner, occupant or other person against whom the abatement proceedings were brought as to the cost of abatement; and if said cost is not paid by the owner within 30 days, the proper officers of the town shall proceed to collect the same either by causing said costs to be placed on the tax duplicate or by lawsuit.

(D) The requirement for service of notice under the provisions or divisions (A) and (C) may be complied with by the mailing of the notice by registered or certified mail to the last known address of the person sought to be notified or by personal service of the notice by any police officer as directed.

(Ord. 76-7, passed 11-18-76) Penalty, see § 93.99

§ 93.03 DUTY TO REPORT.

It is hereby made the duty of all officers and employees of the town to report the existence of nuisances to the Town Council.

(Ord. 76-7, passed 11-18-76) Penalty, see § 93.99

§ 93.04 CERTAIN CONDITIONS DECLARED TO BE NUISANCES.

The following conditions within the town constitute and are hereby declared to be nuisances:

(A) *Dangerous trees, stacks, etc., adjoining street.* There is caused or suffered any tree, stack or other object to remain standing upon the premises in the condition that it shall, if the condition is suffered to continue, endanger the life, limb or property or cause hurt, damage or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof.

(B) *Accumulation of rubbish.* There is caused or suffered the an accumulation on any premises of filth, refuse, trash, garbage or other waste material that it endangers the public health, welfare or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger of its catching or communicating fire, its attracting and propagating vermin, rodents or insects, or its blowing into any street, sidewalk or property of another.

(1) It shall be the duty of persons owning or being in charge of those business establishments whose patrons purchase goods or services from their automobiles, commonly known as "drive-ins," to furnish sufficient covered receptacles for the deposit of wastes created in the operation of the business.

(2) It shall also be their duty to clean up the wastes that are not deposited in receptacles at the close of business of each day (or if the business operates continuously, at least once each day) and at the other times when weather conditions are such that waste from the operation of the business is being blown to adjoining premises.

(C) *Noxious odors or smoke.* There emits from premises into the surrounding atmosphere such odors, dusts, smoke or other matter as to render ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.

(D) *Noise.* There emits from premises noise noxious enough to destroy the enjoyment of dwelling houses or other uses of property in the vicinity by interfering with ordinary comforts of human existence.

(E) *Storage of explosives or combustible material.* There is stored on the premises such combustible or explosive material as to create a safety hazard to other property or persons in the vicinity.

(F) *Open wells.* There is caused or suffered the maintenance of any open or uncovered, or insecurely covered, cistern, cellar, well, pit, excavation or vault situated upon private premises in any open or unfenced lot or place.

(G) *Trees and shrubbery obstructing streets and sidewalks.*

(1) There is caused or suffered the growing and maintenance of trees with less than fourteen feet clearance over streets or less than eight feet, over sidewalks, or the growing and maintenance of shrubbery in excess of three feet in height within the radius of twenty feet from the point where the curb line of any street intersects the curb line of another street.

(2) No shrub or tree shall be planted between the curb or allowed to grow between the curb or street line and the property line of any street within a radius of 20 feet from the point where the curb line of any street intersects with the curb line of another street.

(H) No persons owning or controlling any premises in the town shall allow a rank growth of grass, weeds, or other vegetation to remain thereon, or permit them to become unsanitary or a nuisance, or fail to comply with the requirements of this ordinance.

(I) (1) Weeds and other rank vegetation growing on any lot or ground, including a vacant lot, in the town are declared to be a nuisance.

(2) It shall be unlawful and a violation of this ordinance for any person to allow or permit any weeds or other rank vegetation to be or remain on any property owned, leased, occupied by, or under his control.

(Ord. 76-7, passed 11-18-76; Am. Ord. passed 5-14-88) Penalty, see § 93.99

§ 93.05 TEST FOR NUISANCE.

Whether or not a particular annoyance, of the character listed in § 93.04, constitutes a nuisance shall depend on its effect upon persons of ordinary health and average sensibilities, and not its effect upon persons who are delicate or supersensitive, or whose habits, tastes, or conditions are such that they never are sensible of any annoyance.

(Ord. 76-7, passed 11-18-76)

§ 93.06 NUISANCE CREATED BY OTHERS.

It shall not be essential that the nuisance be created or contributed to by the owner, or tenants, or their agents, or representatives, but merely that the nuisance be enacted or contributed to by licensees, invites, guests or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care, the owner or operator, ought to have become aware of.

(Ord. 76-7, passed 11-18-76) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) Whoever creates or maintains any nuisance defined in this chapter, or by any other law, or other portion of this code of ordinances, and who fails or refuses to abate the nuisance when so ordered, shall be fined not more than \$100.

(B) A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed by the Town Council for abatement of said nuisance.

(C) The action against any person to enforce a penalty by the town shall constitute a separate and additional legal remedy and the fact that any proceedings by way of an injunction, or for the abatement of any the nuisance, has been or may be instituted by the town and be pending or concluded, shall not affect this chapter or be considered in any way as a defense to the action for the penalty herein prescribed.

(Ord. 76-7, passed 11-18-76)