

GENERAL PROVISIONS

§ 91.01 JUNK CARS.

(A) Definition. For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning:

JUNK CAR. Any motor vehicle which does not bear a currently valid license plate and is not in a garage or other building.

(B) Because of the danger to health from vermin and insects and to children attracted by junk cars, such cars are declared to be nuisances, except in lawfully operated junk yards or yards lawfully operated for vehicles awaiting permission for junking from the Bureau of Motor Vehicles .

(C) The Town Marshal may order any junk car removed within ten days.

(D) Notice of the order to remove shall be placed upon such junk car. Copies of such notice shall be served upon any adult occupying the real estate on which the junk car is located and upon the owner of the junk car, if known. If no occupant of the real estate or owner of the junk car can be found after reasonable search, a notice affixed to any building on the real estate shall constitute notice to the owner and occupant of the real estate and to the owner of the junk car. If there is no building on the real estate, such notice may be affixed elsewhere on the real estate.

(E) If such junk car is not removed within the time so fixed, the Town Marshal may cause such motor vehicle to be removed at the expense of the owner of the real estate, which expense shall constitute a lien on the real estate.

(Ord. 35, passed 5-21-70) Penalty, see § 91.99

Cross-reference:

Accumulation of other junk, see § 91.30 through 91.32

§ 91.02 RUBBISH, GARBAGE, WASTE MATERIALS.

It shall be unlawful and it is hereby declared to be a nuisance for any person to throw or deposit, allow to accumulate, or suffer or permit any child, servant or employee, or any member of the household of which he

is the head, to throw or deposit rubbish, trash, waste paper, garbage, waste material, putrid or unsound animal or vegetable matter, on any premises in the town, unless the same be stored in a trash barrel or rubbish bin, or in the case of garbage or putrid or unsound animal or vegetable matter, in a sound garbage can with properly fitting lid.

(Ord. 40, passed 10-5-71) Penalty, see § 91.99

WEEDS

§ 91.20 WEEDS.

Weeds, noxious plants and other rank vegetation allowed to grow at a height in excess of one foot and all weeds, noxious plants and other rank vegetation which do not exceed in height one foot after the same have reached the flowering stage within the geographic limits of the town are declared a nuisance.

(Ord. 19, passed 6-3-68; Am. Ord. 09-005, passed 8-3-09)

§ 91.21 CERTAIN WEEDS PROHIBITED.

It shall be unlawful for any person to allow or permit weeds, noxious plants or other rank vegetation after the same have reached one foot in height or weeds, noxious plants and other rank vegetation, which do not exceed in height one foot, after the same have reached the flowering stage, to remain upon any land owned, leased, or occupied by such person within the geographic limits of the town.

(Ord. 19, passed 6-3-68; Am. Ord. 09-005, passed 8-3-09)

§ 91.22 REMOVAL OF WEEDS BY OWNER.

It shall be the duty of all persons to cut and remove from any property owned, leased, or occupied by such person all weeds over one foot in height and to cut and remove from any land owned, leased, or occupied by such person all weeds which do not grow to a height of one foot when the same have reached the flowering stage.

(Ord. 19, passed 6-3-68; Am. Ord. 09-005, passed 8-3-09)

§ 91.23 FAILURE TO COMPLY.

On default of any owner, lessee, or occupant of land to cut and remove such weeds or to cause the same to be cut down, as provided in § 91.22, a five-day written notice to remove such weeds or other rank vegetation shall be issued by the Clerk-Treasurer of the town, and the same shall be served either by personal service or by written notice sent by first class mail (which shall be deemed to be served three days after mailing) to the owner at the address reflected in the records of the Auditor of Allen County, Indiana, and by posting the notice upon the property. If the landowner shall fail to remove such weeds or rank vegetation within the time prescribed in the notice or any extension of that time granted to the landowner by the Town Council, the town may remove or cause to be removed such vegetation and the Clerk-Treasurer shall make a certified statement of the actual costs incurred by the town in such removal, inclusive of a \$25 administrative fee, which statement shall be delivered to the owner of such land in person or by first class mail as above provided. The owner shall have ten days from the service of such statement to pay the same to the Clerk-Treasurer. If the landowner fails to pay the statement within ten days of service, the costs shall become a lien upon the subject real estate and the Clerk-Treasurer shall file a certified statement of the costs incurred for the removal with the Auditor of Allen County, Indiana, for inclusion on the tax duplicate against the property upon which the work was performed, the same shall be collected as taxes are collected, and when collected, shall be disbursed to the General Fund with the town.

(Ord. 19, passed 6-3-68; Am. Ord. 09-005, passed 8-3-09)

Statutory reference:

For provisions regarding removal of weeds and rank vegetation, see I.C. 36-7-10.1-1 - 36-7-10.1-4.

§ 91.24 COST OF REMOVAL OF WEEDS BY TOWN.

Whenever town employees or town equipment is utilized to remove such weeds, noxious plants or other rank vegetation, the Clerk-Treasurer shall make a certified statement of the actual costs incurred by the town in such removal, inclusive of a \$25 administrative fee, at a rate of \$50 per hour with a minimum one hour charge.

(Res. 84-004, passed 9-4-84; Am. Res. 85-004, passed 2-4-85; Am. Res. 05-010, passed 8-1-05; Am. Ord. 09-005, passed 8-3-09)

§ 91.25 APPEAL.

Any appeal of the removal notice or statement for costs must be made within ten calendar days of the date of the removal notice or statement of costs, whichever is applicable. Any appeal must be in writing and shall be made to the Town Council, which shall set the matter for hearing. The hearing may be at a special or regular meeting of the Town Council. After the hearing, the Town Council shall issue its written findings. Any appeal from written findings of the Town Council must be made to a court of general jurisdiction in Allen County within ten calendar days of the issuance of the Town Council's written findings, or the decision of the Town Council shall be final.

(Ord. 09-005, passed 8-3-09)

§ 91.26 COURT ORDER.

If the owner denies the town permission to be on his or her property to remove the weeds, noxious plants or other rank vegetation to abate the nuisance, then the town may file a complaint against the owner in a court of general jurisdiction in Allen County seeking an order from the court finding a violation of this subchapter and authorizing the town to go onto the property for the purpose of cutting, mowing and removing vegetation that constitutes a violation of this subchapter.

(Ord. 09-005, passed 8-3-09)

§ 91.27 COURT COSTS AND ATTORNEY FEES.

In the event that it is necessary to file a complaint against any owner that is guilty of violating any provision of this subchapter, the owner shall also be adjudged to pay the costs of the prosecution, including reasonable attorney fees, which shall be assessed to the owner as additional costs incurred by the town and imposed upon the owner for violation of this subchapter.

(Ord. 09-005, passed 8-3-09)

§ 91.28 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NOXIOUS WEEDS. Any weed over 12 inches in height defined by the U.S. Department of Agriculture from the federal noxious weed list, as from time to time amended, and shall include but not be limited to:

- (1) Canada thistle (*Cirsium arvense*);

- (2) Johnson grass and Sorghum album (Sorghum halepense);
- (3) Bur cucumber (Sicyos angulatus);
- (4) Shattercane (Sorghum bicolor (L.) Moench spp. drummondii (Steud.) deWet);
- (5) Poison ivy;
- (6) Poison sumac;
- (7) Poison oak;
- (8) Quackgrass (Elytrigia repens);
- (9) Carolina horsenettle (Solanum carolinense);
- (10) Cocklebur (Xanthium strumarium); and
- (11) Wild mustard (Brassica kaber var. pinnatifida)

RANK VEGETATION. Any plant exceeding 12 inches in height, excluding therefrom trees, shrubberies, flowers, ornamental grasses, and agricultural crops such as hay and pasture.

(Ord. 09-005, passed 8-3-09)

ACCUMULATION OF JUNK

§ 91.30 DEFINITION.

For the purposes of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

JUNK. Any machinery, appliance, scrap materials, building materials, product or merchandise, scrap metal, or other materials, which are old, rusty, wrecked, damaged, deteriorated or discarded machinery, appliances, scrap metals, or which are not suited for use upon the premises, or the condition of which prevents its use for the purpose for which it was intended.

(Ord. 08-009, passed 11-17-08)

§ 91.31 PROHIBITED ACTS.

No person shall place, discard, or abandon junk in a place where it is visible from a highway, street, or other public way, or where it is visible to an abutting landowner from that portion of the land used on a regular basis or visible from a highway, street or other public way. No person shall place, discard, or abandon junk on public property or the private property of another, whether or not visible from a highway, street, or other public way, or from adjoining land.

(Ord. 08-009, passed 11-17-08)

Cross-reference:

Junk cars, see § 91.01

 **§ 91.32 ENFORCEMENT.**

The authority for enforcing this subchapter shall be with the Town Council, the Clerk-Treasurer, the Allen County Police Department, the Allen County Department of Planning Services, and the Allen County Department of Public Health, and may be enforced in the manner provided by I.C. 36-1-6-2.

(Ord. 08-009, passed 11-17-08)

 **§ 91.99 PENALTY.**

(A) If any such order described in § 91.01 is not obeyed within the time fixed, the owner of the junk car and the occupant and owner of the real estate upon which it is located shall each, upon conviction, be subject to a penalty not exceeding \$50. Each day on which the junk car is permitted to remain on the real estate after the time fixed in such order shall constitute a separate offense.

(Ord. 35, passed 5-21-70)

(B) Any person violating or failing to comply with § 91.02 shall, upon conviction, be fined for each offense not less than \$5 nor more than \$100. Each day's violation of this section shall constitute a separate offense.

(C) A person violating the provisions of § 91.31 shall be subject to a civil penalty not to exceed \$2,500, plus costs. Each day a violation continues constitutes a separate offense. The fine herein imposed shall be paid to the town's General Fund.

(Ord. 40, passed 10-5-71; Am. Ord. 08-009, passed 11-17-08)