

## CHAPTER 93: NUISANCES

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### GENERAL PROVISIONS

#### **§ 93.01 PROVISIONS SUPPLEMENTAL.**

The provisions of this chapter are hereby declared supplemental to all other ordinances of the town including, but not limited to, any ordinance providing for enforcement of building standards.

(Ord. 89-1, passed 5-8-89)

#### **§ 93.02 VIOLATIONS ON PUBLIC PROPERTY.**

The provisions of IC 36-1-6-2 are incorporated by reference and made a portion of this chapter.

(Ord. 89-1, passed 5-8-89)

#### **§ 93.03 DEFINITIONS.**

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

**NUISANCE.** The doing of an unlawful act, the omitting to perform a duty, or the suffering or permitting of any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

**NUISANCE VEGETATION.** Includes any and all of the following: any grasses and/or weeds exceeding eight inches of height, rank vegetation, and any vegetation that obscures the visual line of sight necessary for the safe operation of a street intersection.

**RUBBISH.** All trash and refuse, including but not limited to, glass bottles and containers, broken glass, beer and soft drink cans, rubber products or material, metals, rags, household appliances, construction debris and automotive parts.

(Ord. 89-1, passed 5-8-89; Am. Ord. 07-8, passed 2-11-08; Am. Ord. 2023-06, passed 6-13-23)

#### **§ 93.04 NUISANCES ENUMERATED.**

(A) The maintaining, using, placing, depositing, leaving or permitting to be or remain on public or private property any of the following items, conditions or actions is hereby declared to be and constitute a nuisance, provided this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Nuisance vegetation that has attained a height of eight inches or more, and has not been cut, mown or otherwise removed from private property that is abandoned, neglected or disregarded; vegetation planted in a specific zoning classification, i.e., Agricultural (AG) zoning, is excepted.
- (2) Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement, and obstructs the line of sight necessary for the safe use of public streets and rights-of-way.
- (3) A condition that causes property to become a health or safety hazard, unless specifically authorized under existing laws and regulations.
- (4) Accumulation of rubbish, trash, refuse, junk and other unused materials, metals, lumber, or other things on a property, that is readily visible from the public right-of-way.
- (5) Any condition that provides harborage for rats, mice, snakes and other vermin.
- (6) Any building or other structure that is in such a dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (7) All unnecessary or unauthorized noises and annoying vibrations.
- (8) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes that give rise to the emission or generation of such odors or stenches.
- (9) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (10) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (11) Any building, structure or other place or location where any activity in violation of local, state or federal law is conducted, performed or maintained.
- (12) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (13) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (14) The unauthorized obstruction of any public street, road, sidewalk or right-of-way.
- (15) The unauthorized operating, parking, or storage of any vehicle, trailer, boat, camper, travel trailer or other similar item as provided under § 93.05, unless operated, parked, or stored upon an approved driveway or other approved hard surface parking area, or otherwise expressly permitted, in accordance with § 93.05 and all other provisions of the Town Code and applicable laws.

(B) It shall be unlawful for any property owner, occupant or other person to allow a nuisance to exist.

(Ord. 89-1, passed 5-8-89; Am. Ord. 07-8, passed 2-11-08; Am. Ord. 2020-01, passed 10-13-20; Am. Ord. 2023-06, passed 6-13-23) Penalty, see § 93.12

#### **§ 93.05 YARD PARKING NUISANCE.**

(A) No portion of a vehicle ("vehicle" for purposes of this chapter is defined as provided in I.C. 9-13-2-196, including without limitation a motor vehicle, commercial motor vehicle, trailer, boat, recreational vehicle, camper, or travel trailer) shall be parked or stored on any area of property other than areas paved with concrete or asphalt, or other hard surface material approved by the town (gravel or stone may be permitted if specifically approved by the town), unless expressly authorized under the town code or as otherwise expressly authorized in writing by the town. Areas paved with gravel or stone as of September 8, 2020 shall be grandfathered and considered paved with acceptable hard surface material.

(B) No portion of a vehicle shall be parked or stored on property primarily used for residential purposes any deeper than the front of the dwelling on the property, unless stored or parked within a fully enclosed building.

(C) No portion of a vehicle shall be parked or stored on property over any part of a sidewalk or curb that is parallel to the street adjacent to the property.

(D) Construction or other service vehicles being used for construction at a property or nearby property, may be temporarily parked on non-hard surfaced areas and in rear yards or side yards as reasonably necessary during such construction, but not overnight unless expressly authorized in writing by the town. The terms "rear yard" and "side yard" shall have the meanings defined in § 154.03.

(E) All new hard surfaces (including any gravel or stone surfaces) to be installed for vehicle parking or storage shall require a proper permit issued by the town, and except as otherwise approved by the town, shall be installed in accordance with the Town of Whiteland's Design Standards and Specifications Manual. Before a permit is issued, the applicant shall meet with the Town Manager or his or her designee to discuss the proposed hard surface installation and what hard surface materials will be acceptable, based on the predominant general conditions of the nearby area and for functionality. The Town Manager, or his or her designee, is authorized to determine whether a hard surface material other than concrete or asphalt is approved for a permit application. Any new hard surface to be installed on property primarily used for residential purposes shall only be located in front of the building on the property (or its front building line as extended to the side property lines), and shall not extend deeper than the front of the building on the property, except as reasonably necessary to provide vehicular access to a garage located behind the front building line. Entry from the nearby roadway to any new hard surface area on property shall only be in a location approved by the town. Any hard surface installed within an easement or right-of-way shall be installed at the risk of the property owner and is subject to damage or disturbance that may be caused by users of the easement(s) and right-of-way.

(F) *Driving over curbs.* No person shall operate, park, or store any vehicle on property in a way requiring driving or pulling the vehicle over a curb instead of through an approved and properly installed curb cut, unless the use of temporary ramp structures have been specifically authorized and approved in writing by the Town Manager or his or her designee.

(G) *Repairing lawn ruts.* All owners of any property on which any vehicle has been parked or stored on a non-hard surface portion of the property shall repair any and all yard ruts and other damage to the property caused by such use, within 30 days of such damage, weather permitting.

(Ord. 2020-01, passed 10-13-20)

## ADMINISTRATION AND ENFORCEMENT

### § 93.10 TOWN COUNCIL TO DESIGNATE ENFORCEMENT OFFICIALS.

The Town Council shall, where necessary, designate individuals and institute procedures to carry this chapter into force and effect.

(Ord. 89-1, passed 5-8-89)

### § 93.11 ABATEMENT; FEES.

(A) The Town Manager or his or her designee is hereby granted authority to take all actions described in the enforcement provisions of this chapter. For any property found to be in violation of this chapter, a notice of violation shall be issued to the owner, occupant, or other responsible party, and any other person holding a substantial property interest in the property, by first class U.S. mail, postage prepaid, and taped on the front door of the property, ordering the abatement of the violation within a reasonable time of at least ten calendar days but not more than 60 calendar days, which notice shall state the nature of the alleged nuisance, the action deemed necessary to correct the condition, the amount of penalty if the violation is not abated within the time provided in the notice, that a hearing on the alleged violation may be requested with the Town Council within ten calendar days of the date of service of the notice, that if the violation is not abated within the time provided and a hearing is not requested within ten calendar days of service the notice, the town may have the violation abated, either by its own workers and equipment or by a contractor hired by the town for this purpose, and that if the penalty and charges provided in this section and authorized by law are not paid when due, they may be added to the property taxes and/or be a lien against the property. The owner or other responsible party shall abate the violation or request a hearing within ten calendar days of the date of service of the notice. A request for a hearing must be in writing, addressed to the Town Council and delivered in person or by certified mail, return receipt requested. If the violation is abated by the owner or other responsible party within the time provided in the notice, no further action shall be taken and no penalty shall be imposed. Upon the failure of the owner and/or other responsible parties to cause the abatement of the nuisance, as required by this section, after notice and opportunity for hearing before the Town Council, the town may proceed to cause the nuisance to be abated, and may charge the costs thereof against the owner and/or occupant of the property. The monetary penalty, the administrative cost incurred by the town in processing the matter, attorney's fees, and all other costs authorized by law, shall be added to the cost of abatement, and the liability therefor shall be joint and several as to the owners and all other responsible parties.

(B) In the event the Town Council shall cause a nuisance to be abated on any property, as compensation to the town for its services in causing the abatement, the owner and/or occupant shall be charged the following fees:

<b>Type of Service</b>	<b>Amount</b>
<b>Type of Service</b>	<b>Amount</b>
Administration	\$200.00
Labor:	
Laborer	\$35.00 per hour
Truck driver	\$30.00 per hour
Equipment operator	\$30.00 per hour
Crew leader	\$40.00 per hour
Hired contractor	Actual cost

Equipment:

Riding law mower	\$25.00 per hour
Pickup truck and trailer	\$30.00 per hour
Tractor/bush hog	\$100.00 per hour
Single-axle dump truck	\$50.00 per hour
Backhoe/loader	\$100.00 per hour
Bobcat or equivalent	\$100.00 per hour
Excavator - mini	\$100.00 per hour
Weedeater	\$20.00 per hour
Chainsaw	\$20.00 per hour
Chipper	\$100.00 per hour
Disposal	Actual incurred

(Ord. 89-1, passed 5-8-89; Am. Ord. 07-8, passed 2-11-08; Am. Ord. 2013-07, passed 5-13-13; Am. Ord. 2020-01, passed 10-13-20; Am. Ord. 2023-06, passed 6-13-23)

**§ 93.12 PENALTY.**

(A) Any person admitting a violation of, or (A) found to have violated, §93.04 may be fined up to \$50 per day for each day's violation.

(B) Any person found by a court to be in violation of §93.04 may be fined not more than \$2,500 for each violation.

(C) Each day such violation is permitted to continue may be deemed to constitute a separate violation.

(Ord. 07-8, passed 2-11-08; Am. Ord. 2023-06, passed 6-13-23)

**NOISE**

**§ 93.20 NOISE AND SOUND EMISSION REGULATIONS.**

(A) No person shall play, use or operate, or permit to be played, used or operated any machine or device for the producing or reproducing of sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs and cassette players, or any other machine or tool that produces sound, nor shall any person operate any motor vehicle, machine or tool that contains a modified or defective exhaust system, if such machine, tool or vehicle is located in or on any of the following:

(1) Any public property, including any public right-of-way, highway, road, street, alley, building, sidewalk, public space, park or thoroughfare and the sound generated therefrom is audible 50 feet or more from its source, or is at a level of 90 decibels or more when measured on a dB(A) scale from a distance of not less than six feet from its source; or

(2) Any private property and the sound generated therefrom is audible 50 feet or more outside of said private property line or is at a level of 90 decibels or more when measured on a db(A) scale from a distance of not less than six feet from its source; or

(3) The following are exempted from the provisions of this section:

(a) Sounds emitted from authorized emergency vehicles.

(b) Lawn mowers, weed blowers, garden tractors, construction repair equipment, go- carts and power tools, when properly muffled, between the hours of 7:00 a.m. and 9:00 p.m. only.

(c) Burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.

(d) Parades, festivals, carnivals, fairs, celebrations, concert performances, band and drum corps performances, and artistic performances, as well as any rehearsals for same, and all other events authorized by the Town Council or other appropriate governmental entity.

(e) Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.

(f) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency construction, repair or other work.

(g) Sounds associated with the use of legal fireworks or celebrations of legal holidays to the extent permitted under § 92.22.

(h) Sounds associated with the normal conduct of legally established non-transient businesses, when sounds are customary, incidental and within the normal range appropriate for such use.

(i) Sounds emitted from sound amplifying devices from which a permit has been obtained pursuant to the Municipal

Code of the town.

(j) Sounds associated with a motor vehicle which has a defective or modified exhaust system, if the cause is repaired or remedied within seven calendar days.

(k) Sounds associated with the operation of aircraft or snow removal equipment.

(B) Any person who violates the provisions of this subchapter shall be subject to the following fines:

(1) First offense: \$25

(2) Second offense: \$50

(3) Third offense and subsequent offenses: \$100

(C) The Johnson County courts shall be the courts of proper venue and jurisdiction for the enforcement of this section. All fines/assessments shall be paid to the Clerk-Treasurer of the town at the Whiteland Town Hall within 30 days of the offense or a court order.

(D) A custodial parent shall be responsible for ensuring that a child under 18 years of age complies with this subchapter, and said parent shall be responsible for any fine imposed hereunder.

(E) Citations for violation of this section may be issued by any sworn member of the town Police Department.

(Ord. 05-6, passed 11-14-05; Am. Ord. 2014-12, passed 2-9-15)