

5/24

ORDINANCE PROHIBITING PUBLIC NUISANCES

BE IT ORDERED BY THE BOARD OF TRUSTEES OF THE TOWN OF MICHIGANTOWN, INDIANA AS FOLLOWS:

Section 1. In addition to what is declared in this Ordinance 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 against the provisions of this Ordinance; or in accordance with any other provisions of law. Wherever the word "nuisance" is used in this Ordinance it refers to a public nuisance.

Section 2. Whenever the singular of the word person, owner, occupant, tenant, agent, representative, company, corporation, or any other word referring to a person or entity subject to this Ordinance is used, the use thereof shall likewise include the plural of such word and likewise when the plural of such word is used, it shall include the singular. Whenever the word person or persons is used to denote someone subject to the terms of this Ordinance, such word or words shall include companies, corporations, partnerships, and other legal entities, as the case may be.

Section 3. DEFINITIONS.

For the purposes of this ordinance the definitions contained in this section shall be applied except when the context clearly indicates otherwise:

a. Automobile - A vehicle, used to transport persons or property, that is moved by an engine or motor that is a part of said vehicle, over streets, highways, tracks, or roads.

b. Automobile parts - Any portion or parts of any motor driven vehicle, whether used in the transportation of persons, animals, personal property or merchandise of any nature, that is detached from the automobile as a whole.

c. Debris - Broken scattered remains of anything, such as tree limbs, bottles, appliances, building material and paper, that would create an unkempt condition.

d. Junk - Scraps, parts or obsolete pieces of anything, including but not limited to metal, glass, paper, rags, tires, or other rubber products, wood, masonry, and plastics.

e. Junk Vehicles - Any style or type of conveyance, whether for the transportation of persons or property, that is unfit for further use as a vehicle that can be operated on public roads and highways; a conveyance not currently licensed; or a conveyance that has been placed on blocks or jacks for a period exceeding thirty (30) days.

f. Noxious Weeds - Any weed defined by the U.S.D.A. as of a prohibited or restricted nature and includes but is not limited to: thistles of any kind, bind weed, wild garlic, wild grasses such as crab, johnson, pepper and quack, giant foxtail, winter crest, buckhorn, corn cockle, curled dock, dodder, horse nettle, oseye daisy, penny crest and wild mustard.

g. Rags - Cloth products of any nature whether wearing apparel, bed clothing, towels or other usually in a dilapidated state or otherwise discontinued from use.

h. Scrap Lumber - Anything of a wood nature that could not be constructed as suitable for building in the commonly accepted manner.

i. Scrap Metal - Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy. Any pieces or parts of metal covered with porcelain, paint, or other material shall be considered scrap.

j. Scrap Paper - Paper of any kind whether loose, baled, or bundled and includes but is not limited to: boxes, whether assembled or knocked down; newspapers, in whole or in part; wrapping paper, loose or in a roll whether it be brown, waxed, white or any color; plastics such as visqueen, saran wrap and such.

Section 4. For the purpose of this Ordinance, it shall not be essential that the nuisance be created or contributed to by the owner, or tenants, or their agents or representatives, but it shall suffice if the nuisance be created or contributed to by licensees, invitees, and guests, habitual trespassers, or other persons whose presence on the premises is or could be known by the owner or occupant of the premises.

Section 5. It shall be unlawful, inside the corporation boundaries of the Town of Michigantown, Indiana, for any person, firm, partnership or corporation:

See amendment
dated 9-14-1999

~~a. To store or keep junk vehicles or automobile parts on a public right of way or on a private or public lot exposed to the view of the general public.~~

b. To put, throw, dump, leave, or deposit or to cause or allow the putting, throwing, dumping, leaving or depositing of junk, scrap of any kind, rags, debris, or junk vehicles in or upon or within the limits of any street, alley, sidewalk, thoroughfare or public way.

c. To allow any premises owned, occupied or controlled by him to become or remain in a filthy condition or to permit the use or occupation of same in such a manner as to create noxious or offensive smells or odors in connection therewith, or the allowance of the accumulation or creation of rubbish or other unwholesome and offensive matter or the allowance of the breeding of flies, rodents or other vermin on the premises to the menace of the public health or the annoyance of people residing in the vicinity.

d. To permit any building, house or structure owned by same to become so out or repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire because of its condition and lack of repair or that due to lack of adequate maintenance or neglect it endangers the public health, welfare or safety, or materially devalues and interferes with the peaceful enjoyment by owners or occupants of adjacent property.

e. To erect, use or maintain a dwelling which is unfit for human habitation. A "dwelling" shall include any part of any building or its premises used as a place of residence or habitation or for sleeping by any person. A dwelling is "unfit for human habitation" when it is dangerous or detrimental to life or health because of want of repair, defects in the drainage, plumbing, lighting, ventilation or construction, infection with contagious disease, or the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling.

f. To cause or allow any tree, stack or other object to remain standing upon such premises in such 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.

g. To permit to emit 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.

h. To allow any pool of stagnant water to accumulate and stand on any property.

i. To make or cause to be made any noise noxious enough to destroy the enjoyment of dwelling houses or other uses of property in the vicinity by interfering with the ordinary comforts of human existence, including but not limited to continual pounding, continual barking by one or more dogs, unnecessary sounding of horns, racing the motor or causing the screeching or squealing of tires on any vehicles, radios or phonographs or televisions, and sound trucks or public address systems.

j. To cause or allow debris, junk, noxious weeds, such an accumulation on any premises of filth, trash, garbage or other waste materials 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. 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 such business and to clean up such wastes as are not deposited in receptacles at the close of business of each day (if such business operates continuously, at least once each day) and at such other times when weather conditions are such that waste from the operation of such business is being blown to adjoining premises.

k. To store or allow on the premises such combustible or explosive material as to create a safety hazard to other property or persons in the vicinity.

l. To maintain or allow any unlocked refrigerator or upright or chest type freezer, or refrigerator or freezer without doors removed, or any open or uncovered, or insecurely covered cistern, cellar, well, pit, excavation or vault to be situated upon private premises in any open or unfenced lot or place.

m. To maintain or allow the growing of trees with less than fourteen (14) feet clearance over streets or less than eight (8) feet, over sidewalks, or the growing and maintenance of shrubbery in excess of three (3) feet in height within the radius of twenty (20) feet from the point where the curb line of any street intersects the curb line of another street. No shrub shall be planted between the curb line of any street within a radius of twenty (20) feet from the point where the curb line of any street intersects with the curb line of another street.

n. It shall be the duty of every owner, occupant or person in charge of any lot or land within the Town to cause noxious weeds to be destroyed by spraying with a chemical approved by the Board of Trustees or by cutting them or digging them under.

Section 6. ADMINISTRATION AND ENFORCEMENT

~~a. In any case where any nuisance may exist, it shall be the duty of the Town Marshal, at the direction of the Board of Trustees to serve notice upon the owner of the premises where such nuisance exists and upon any other person so causing such nuisance to abate such nuisance within thirty (30) days of said notice.~~

b. If the owner, occupant, and any other person or entity served with a notice to abate the nuisance shall refuse or neglect to abate such nuisance within the designated time:

~~1. Such person, persons, or entity, shall be assessed a fine in the sum of \$10.00 per day, with each day constituting a separate violation of the ordinance, and~~

See amendment
dated 11-14-2005

See amendment
dated 9-14-1999

2. In addition thereto, the Board of Trustees may, at its option, remove or cause to be removed or do or cause to be done such other acts as are necessary and reasonable to abate said nuisance, and the Town Clerk shall make a certified statement of the actual cost incurred by the Town in such removal, which statement shall be delivered to the owner of such real estate by the Town Marshal, or by certified mail, or where appropriate, by publication, provided such owner shall have been served with notice as provided in Sub-section (a) and such owner shall have not more than ten (10) days within which to pay said amount to the Treasurer of the Town. If such owner fails to pay said sum within the time prescribed, a certified copy of the statement of such costs shall be filed in the Auditor's office of the county wherein said real estate is located, and the said Auditor shall place the amount so claimed on the tax duplicate against the real estate of the owner affected by said work, and the same shall be collected as taxes are collected or said costs may be collected by suit; or

3. The Board of Trustees may cause such nuisance to be abated in any manner authorized by law, including the institution in the name of the Town of Michigantown against the owner, occupant, or other person, of any action therefor, for the recovery of judgment against the owner and/or occupant in the total sum of fines assessed under Section 6.b.1. above, and for the recovery of the amount of expense of such abatement.

c. The requirement for service of notice under the provisions of this section of this Ordinance may be complied with by the mailing of such notice to the person or persons sought to be notified, provided, however, that when the owner is unknown, notice shall be to the person or persons in whose name or names the real estate taxes on said real estate are shown of record in the office of the Auditor of Clinton County, wherein said real estate is located, by registered or certified mail to the last known address of the person or persons sought to be notified, or by personal service of such notice by the Town Marshal, or when the address of such person or persons is unknown, by publication of said notice once each week for three consecutive weeks in a newspaper of county-wide circulation, published in Clinton County.

Section 7. For the purpose of carrying the provisions of this Ordinance into effect, it is hereby made the duty of all officers and employees of the Town to report the existence of nuisances to the Board of Trustees or the town marshal and for this purpose the town marshal or other employees designated by the Board of Trustees, after reasonable notice to the occupant and at reasonable times, shall be permitted to visit, enter into or upon any lot, grounds, or premises within the limits of the Town to investigate complaints of any such nuisances and to make examination thereof.

Section 8. If any clause, sentence, section, paragraph or part of this ordinance shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance, but shall be confined in its operation to the clause, sentence, section, paragraph or part thereof, which is directly involved in the controversy in which such judgment shall have been rendered.

Section 9. All Ordinances, or parts hereof, in conflict with the provisions of this Ordinance are hereby repealed.

Section 10. This Ordinance shall be in full force and effect from the date of its passage by the Board of Trustees of the Town of Michigantown, Indiana and its publication, all in accordance with the law.

DATED THIS 19th DAY OF OCTOBER, 1991.

BOARD OF TRUSTEES
MICHIGANTOWN, INDIANA

BY Wayne D. Wellman
BY Judith J. Rule
BY Larry J. Rule

ATTEST:

Judith J. Rule
Clerk-Treasurer

**AN ORDINANCE AMENDING ORDINANCE NUMBER 91-7,
"ORDINANCE PROHIBITING PUBLIC NUISANCES"**

*Publ
9/30/99
Legal after
publication*

IT IS HEREBY ORDAINED by the Town Council of the Town of Michigantown, Indiana that Ordinance Number 91-7 is hereby amended as follows.

A. Section 5.a. is hereby amended by substituting for Section 5.a. the following subsection:

Section 5. It shall be unlawful, inside the corporation boundaries of the Town of Michigantown, Indiana, for any person, firm, partnership, corporation or other entity.

a. to store or keep junk vehicles or vehicle parts on a public right of-way or to keep junk vehicles or vehicles parts on private property outside of an enclosed building or a fenced area where the junk vehicles or automobile parts can be seen by the general public. All junk vehicles and vehicle parts must be kept or stored in an enclosed building or within a fenced area and out of the public view.

B. Section 6.b.1. is hereby amended by substituting for the existing subsection 6.b.1. the following subsection:

Section 6. ADMINISTRATION AND ENFORCEMENT.

b. If the owner, occupant, and any other person or entity served with a notice to abate the nuisance shall refuse or neglect to abate such nuisance within the designated time:

1. Such person, persons or entity shall be assessed a fine in the sum of \$50.00 per day, with each day constituting a separate violation of the ordinance.

All remaining provisions of Ordinance Number 91-7, as previously amended, are hereby ratified and confirmed.

This Amendment to Ordinance 91-7 is adopted this 14th day of September,
1999.

TOWN COUNCIL, TOWN OF MICHIGANTOWN

By: Linda S. Ingram, President

By: David R. Collins

By: Barbara Catron

Attest:

Judith J. Kule
Clerk/Treasurer

AN ORDINANCE AMENDING ORDINANCE NUMBER 91-7,
"ORDINANCE PROHIBITING PUBLIC NUISANCES"

IT IS HEREBY ORDAINED by the Town Council of the Town of Michigantown, Indiana that Ordinance Number 91-7, as previously amended, is hereby further amended as follows (changes in boldface type):

Section 6. ADMINISTRATION AND ENFORCEMENT. is hereby amended at paragraph a. by substituting for the existing 6.a. the following paragraph 6.a.:

a. In any case where any nuisance may exist, it shall be the duty of the Town Marshal, at the direction of the **Town Council**, to serve notice upon the owner of the premises where such nuisance exists and upon any other person causing such nuisance to abate such nuisance within **ten (10) days** of said notice. **Following this initial notice, for further violations of the same or similar nature on the same property within twelve (12) months of the initial notice, additional notices shall be served by the Town Marshal upon the owner directing the owner to abate the nuisance within twenty-four (24) hours of the notice.**

All remaining provisions of Ordinance Number 91-7, as previously amended, are ratified and confirmed and shall remain in full force and effect.

This Amendment to Ordinance Number 91-7, as previously amended, is hereby

ADOPTED this 14 day of November, 2005.

TOWN COUNCIL, TOWN OF MICHIGANTOWN

By Rebecca S. Huber

By David L. Collins

By Barbara P. Paton

Attest:

Judith Rule
Judith Rule, Clerk-Treasurer