

GENERAL ORDINANCE NO. 3-2016

AN ORDINANCE AMENDING THE TOWN OF FOWLERTON CODE
BY REGULATING AND PROVIDING FOR THE ABATEMENT OF PUBLIC
NUISANCES:

WHEREAS, the Town Council of the Town of Fowlerton, Indiana, wishes to establish an ordinance to address the problem of public nuisances within the town; and WHEREAS, the previous ordinance of the town relating to this subject matter and hereby repeal and replace Fowlerton General Ordinance No. 1-1969; NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FOWLERTON, INDIANA:

SECTION 1. DEFINITION.

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

NUISANCE. Doing an act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injuries or endangers the health or safety of others; or
- (2) Interferes with, obstructs, tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage, or tends to depreciate the value of the property of others; or
- (3) In any way renders other persons insecure in life or obstructs the free use of property; or
- (4) Is indecent or offensive to the senses; or
- (5) Interferes with the comfortable enjoyment of life or property of other persons; or
- (6) Violates any local ordinance, state or federal law.

SECTION 2. SPECIFIC CONDITIONS CONSTITUTING NUISANCE.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a Nuisance. However, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive upon the definition of Nuisance contained in Section 1.

(A) Weeds or rank vegetation.

- (1) "WEEDS" shall include poison ivy, giant ragweed, common ragweed, sandbur, burdock, musk thistle, Canadian thistle, bull thistle, multiflora rose, jimsonweed, buckhorn, pokeweed, wild onion, milkweed, hemp dogbane, garlic mustard, quack grass, horse weed, foxtail, prickly lettuce, cocklebur, waterhemp, pigweed, velvetleaf, curly dock, or other weeds of like kind.

- (2) "RANK VEGETATION" shall include any grasses or plants (other than trees or normally recognized ornamental bushes, flowers or other ornamental plants) growing to a height of six inches or higher.
- (3) The failure by any property owner or occupant to cut such grass and/or weeds, living or dead, on such property shall evidence that the property owner/occupant is maintaining a nuisance.
- (B) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, including metals, lumber, appliances or other things by any property owner or occupant on their property; or the dumping or placing of the same upon the property of another without the property owner's consent.
- (C) Any condition which provides harborage for rats, mice, snakes or other vermin.
- (D) Any building, mobile home or other structure which is in such a dilapidated condition that it is unfit for human habitation, or 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 or has been unoccupied for a period of two years.
- (E) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (F) Animal carcasses not disposed of within a reasonable time after death.
- (G) The pollution of any public well or cistern, stream, or body of water by sewage, dead animals, industrial waste or other substances.
- (H) Any building, structure or other place or location where any activity which is in violation of a local, state or federal law ordinance or regulation is conducted, performed, maintained or permitted.
- (I) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (J) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (K) The obstruction of any public street, road, sidewalk, dedicated easement or right-of-way or any tree or bush or other object that obstructs any public street, road, sidewalk, dedicated easement or right-of-way.

- (L) Open uncovered or insecurely covered pits, cisterns, cellars, wells, excavations, sewers or vaults situated in any open or insufficiently fenced area.
- (M) The alteration of the flow of storm water to the detriment of surrounding property.
- (N) Any abandoned vehicle, as defined by I.C. 9-13-2-1, or any vehicle which does not carry a current, state-registered license plate.
- (O) The storage of explosives or combustible material which will create a safety hazard to other property or persons.
- (P) Any tree on a premises in such a condition that shall, if allowed to continue, endanger life, limb or property, or causes damage or injury to persons or property.
- (Q) To permit furniture designed for interior use to set outside of any structure, unless placed for refuse collection.
- (R) Refrigerators, or a similar container which are placed outside a structure.

SECTION 3. CREATION OR MAINTENANCE OF NUISANCE PROHIBITED. It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a Nuisance.

SECTION 4. NOTICE OF ABATEMENT; CONTENTS.

- (A) Whenever a nuisance is found to exist within the Town of Fowlerton, the Police Department, or other persons designated by the Town Council, may proceed as to enforce compliance with this ordinance by giving written notice to the owner or occupant of the property upon which such nuisance exists, or upon the person causing or maintaining the nuisance.
- (B) The notice shall contain:
 - (1) An order to abate the nuisance within a certain time, which time shall be reasonable under the circumstances.
 - (2) The location of the nuisance.
 - (3) A description of what constitutes the nuisance.
 - (4) A statement of acts necessary to abate the nuisance.
 - (5) A statement that, if the nuisance is not abated as directed within the prescribed time, the town may:
 - (a) Enter upon the property;
 - (b) Abate the nuisance;
 - (c) Assess the costs thereof against the occupants or owner of the real; and
 - (d) Pursue all other available legal remedies.

SECTION 5. LIEN UPON THE PROPERTY.

Any and all costs incurred by the town in the abatement of a nuisance under the provisions of this ordinance shall constitute a lien against the property upon which such nuisance existed, and shall be certified by the Town Clerk-Treasurer to the County Auditor, who shall cause such costs to be placed upon the tax duplicate of the owner of such property, and such costs shall then be collected from the owner as other real estate taxes are collected.

SECTION 6. SUPPLEMENTAL EFFECT.

The provisions of this subchapter are hereby declared to be supplemental to all other provisions of the ordinances of the city, state and federal law, and other legal remedies available at law or in equity.

SECTION 7. PENALTY.

- (A) In addition to the Cost incurred by the Town to abate any nuisance any person who violates any provision of this ordinance shall also be subject to the following penalties:
 - (1) First offence: fine of Fifty Dollars (\$50.00)
 - (2) Second offence: fine of Two Hundred Dollars (\$200.00)
 - (3) Third or subsequent offence: fine of Five Hundred Dollars (\$500.00)
- (B) A second, third or subsequent offence shall be deemed to have been committed if the person cited for the offence has been given a notice to abate a similar nuisance on the same property under this ordinance within two years after notice of the prior offense. Each day that any continuing nuisance remains, commencing ten days following the date notice is given to abate the nuisance, also constitutes a separate violation and subsequent offense.
- (C) All fines assessed are in addition to any court costs incurred by the Town or ordered by any court.
- (D) In addition to the issuance of a citation for any violation under this ordinance the Town may bring a civil action in any court of record to obtain an order to abate a nuisance and recover any costs pursuant to this ordinance including collection costs and attorney fees.

SECTION 8. SEVERABILITY.

If any provisions of this ordinance or any application thereof, is held invalid, the invalidity shall not affect other applications of the provisions or terms of this ordinance, which reasonable can be given, effect without the invalid provision or term or the application thereof. Passed and adopted by the Town Council of the Town of Fowlerton on, the 12 day of September, 2016.

FOWLERTON TOWN COUNCIL

Joe T. Seward
Joe T. Seward, President

Attest: . . .

Donna F.M. Davis
Donna F.M. Davis, Clerk/Treasurer