

NUISANCE (G-2-1994)

An ordinance providing for the abatement of public nuisances within the Town of Swayzee, IN.

SECTION 1: NUISANCES

- (a) For the purpose of this code section, the word nuisances shall be defined as set forth in the Indiana Code IC 34-1-52-1, as follows:
- a. Whatever is injurious to health, or indecent, or offensive to the senses, or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property, is a nuisance and the subject of action.
- (b) If any person maintains, uses, creates, causes, places, deposits, leaves, or permits a nuisance to be or remain on any property, that person violates this code section. The following list includes but does not limit the conditions constituting a nuisance under this code section:
- (1) Accumulation of rubbish, trash, refuse, junk, and other abandoned materials, metals and lumber
 - (2) Any condition that could most likely provide a harborage of rats, mice, snakes and/or other vermin.
 - (3) Disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of those odors and stenches.
 - (4) Carcasses of animals or fowls, not disposed of within a reasonable time of death.
 - (5) Buildings, structures or other places and locations where any violation of Federal, State or Town law is conducted, maintained or performed.
 - (6) Accumulations of stagnant water.
 - (7) Refrigerators, stoves, dishwashers, washers/dryers or other indoor house hold appliances stored outside in public view, or in a dangerous manner unsecured.
 - (8) The storing of indoor furniture, outside in public view.
 - (9) Any building or other structure where 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 or property of the people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
 - (10) The unauthorized obstruction of any public street, road or sidewalk; and
 - (11) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial, waste or other substances / materials.

SECTION 2: ENFORCEMENT

- (c) If a nuisance exists within the Town of Swayze, the town attorney, the nuisance abatement officer or the town marshal, acting as agent for the Swayzee Town Council, shall send a written notice by certified mail, registered mail, hand delivered, or posted upon the property in which that nuisance exists or to the person causing or maintaining the nuisance. The written notice shall be sent or posted at least 10 days before an action is commenced against the person to whom the notice was sent, unless the town attorney, town marshal or the nuisance abatement officer determines that an emergency requires that an action proceed without this notice.
- (d) Any person who violates any provision of this code section shall be deemed to have committed an ordinance violation and, upon conviction, shall be fined not less than \$25 and not more than \$2,500.

Each day a violation continues after an action has been commenced to abate that nuisance shall constitute a separate ordinance violation. No additional notice under this code section shall be required to initiate these separate actions once an action has been commenced against the person violating this code section.

- (e) In addition to acting under subsection (d) of this code section, the town attorney or the nuisance abatement officer may file suit in the name of the town against any person violating any provision of this code section to obtain injunctive relief to abate that nuisance.

If the property owner, landowner, or tenant fails to remove the nuisance items as defined within this ordinance, the Town of Swayzee shall remove the nuisance items at the expense of the property owner, landowner, or tenant. The town clerk must take a certified statement of the actual cost incurred by the town in removal. The statement must be delivered to the owner of the property by a law enforcement officer of the town, or by registered/certified mail and the property owner, landowner, or tenant shall pay the amount to the Town of Swayzee. If the property owner, landowner, or tenant fails to pay the amount within 10 days, after receiving the statement, a certified copy of the statement costs shall be filed in the office of the Grant County Auditor. The auditor shall place the amount claimed on the tax duplicate against the property affected by the work, and the amount shall be collected as taxes are collected and shall be disbursed to the general fund of the town. Any monetary value acquired from the removal or disposal of such items shall be deposited within the town's general fund.

- (f) The town clerk/treasurer shall issue a certified statement to the property owner at the address shown on record which shall include the administrative cost of \$20 plus the actual removal costs incurred by the Town by using its own employees or an independent contractor. The actual removal costs shall be no less than \$100 and shall be shown by the records of the town clerk/treasurer.
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