

TOWN OF REDKEY, INDIANA
ORDINANCE 2017- 6

Ordinance Amending Ordinances 2009-6 and 2015- 1 addressing abandoned vehicles, trash, garbage, rubbish, weeds, debris, rank vegetation, and public nuisances existing the Town of Redkey.

WHEREAS, The Town of Redkey has established Ordinances to address abandoned vehicle, trash, garbage, rubbish, weeds, debris, rank vegetation, and public nuisances within the Town of Redkey, Indiana; and,

WHEREAS, The Town of Redkey wishes to amend the Ordinance regarding those conditions within the Town of Redkey, now therefore,

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF REDKEY,
JAY COUNTY INDIANA:**

SECTION 1-DEFINITIONS

The following words shall be defined as set out below:

Debris: The remains of something broken down or destroyed.

Junk: Any of the following second hand, discarded, abandoned, or cast off materials: iron, brass, bronze, copper, tin, zinc, lead, or any other metals or compounds thereof; broken glass, rags, clothing, rubber, plastics, synthetic substances and fabrics, bottles, papers, feathers, or any other waste material or any other compound or bi-products of the foregoing enumerated materials or combinations thereof. "Junk" shall include wrecked or dismantled vehicles or parts thereof.

Rank vegetation: Weeds and growing vegetation that are excessively vigorous in growth, shockingly conspicuous, malodorous, and or flagrant.

Rubbish: Includes mixed fragments of any form or junk or any other waste materials, ruins of building, any mingled masses, anything of no value, or the remains of something broken down or destroyed.

Weeds: Includes any plant that is not valued were it is growing, and is of rank growth, tends to over grow or choke out more desirable plants and or is listed as a weed in the US Department of Agriculture Publication entitled Common Weeds of the United States, or in similar government publications.

SECTION 2-PUBLIC NUISANCES DEFINED

A public nuisance is a condition or use of property which continues for such a length of time as to:

- A. Substantially annoy, injure, or endanger the comfort, health, repose of safety of the public;
- B. In any way render the public insecure in life or in the use of property;

1. Any place or premise within the Town where town ordinances or state laws relating to public health, safety, peace, or welfare are openly, continuously, repeatedly, and intentionally violated.

C. The following places, conditions, act, things are declared to be public nuisances affecting peace and safety:

1. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from having a clear view of traffic when approaching an intersection or pedestrian cross walk;

2. All limbs of trees, hedges, or other ornamental plants which project over a public sidewalk less than 8 feet above the surface of that sidewalk or less than 10 feet above the surface of the public street or which would extend past a line which would reach upward from the sidewalk from the sidewalk at a 90 degree angle to a point 8 feet above the sidewalk;

3. All loud and discordant noises or vibrations of any kind, except as may be permitted under the Town's ordinances;

4. All obstructions of streets, alleys, sidewalks, or cross walks and excavations in or under the same, except is permitted by the ordinances of the town, which, all have been made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been or should have been accomplished;

5. All open and unguarded pits, wells, excavations, or unused basements freely accessible for any public street, alley, sidewalk;

6. All abandoned refrigerators, ice boxes, or similar containers for which the doors and other cover have not been removed or which are not equipped with a device for opening from the inside by pushing only with the strength of a small child;

7. Any unauthorized or unlawful use of property abutting on a public street, alley, or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalk;

8. Any sign, marquee, or awning which is in a unsafe condition, or which hangs over any roadway or sidewalk less than 8 feet above the roadway or sidewalk surface; and,

9. Any other nuisance as may be defined by the Indiana Code.

SECTION 3- PUBLIC NUISANCES PROHIBITED

No person shall erect, contrive, cause, continue, maintain or permit the existence of any public nuisance within the city.

SECTION 4- ABATEMENT OF PUBLIC NUISANCES

A. When complaint is made that a public nuisances exist within the town, the police chief or his or her designee, shall promptly investigate the complaint.

B. If the police chief or his or her designee determines that a public nuisance exists on public property and that it is necessary to take emergency action concerning an unsafe premise in order to protect life, safety, or property, it may take that action without issuing an order or giving notice. However, this emergency action must be limited to removing any immediate danger.

- C. Greatly offend the public morals or decency;
- D. Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous or passage any street, alley way, highway or any public way;
- E. Is injurious to health, or indecent, or offensive to the senses, or an obstruction to the full use of property, so as essentially to interfere with the comfortable enjoyment of life or property;
- F. Fail to keep grass mowed and weeds removed as to blend into the rest of the neighborhood. Grass shall be kept at a length of less than 8 inches.

SPECIFIC PUBLIC NUISANCES

The following acts, omissions, places, conditions, and things that are specifically declared to be nuisances, that shall not be construed exclude other nuisances coming within the definitions set out here and above:

A. The following places, conditions, acts, and things are specifically declared to be public health nuisances:

1. Carcasses of animals or fowl not buried or otherwise in a sanitary manor within 24 hours after death;
2. Any accumulation of decayed or animal or vegetable matter, trash, junk, rubbish, rotting lumber, bedding, packing material, automotive parts, building materials, machinery, dead trees, or parts thereof, junk or inoperable vehicles, scrap metal, or any material in which flies, mosquitoes, disease carrying insects, rats, or other vermin that may breed, or which may be a fire hazard;
3. All stagnant water in which mosquitoes, flies, or other insect that can multiply;
4. The escape of smoke, soot, fumes, noxious acid, fumes, gases, flying ash, or industrial dust within the city limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cost substantial injury to property;
5. Any use of property, substances, or things within the town omitting or causing foul, offensive, noisome, noxious, nauseas, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the town;
6. Any structure used for the collection or deposit of trash or garbage that has an open door allowing access into said structure, except when the door is open to allow the structure to be used for the deposit or removal of trash or garbage, or to allow the structure to be cleaned or repaired;
7. The accumulation of animal waste in such quantities as to creating noxious odor which can be detected from the property of another or public right of way;
8. A condition that violates environmental laws, air pollution control laws, or water pollution control laws as those terms are defined under I.C. 13-30-6-1.

B. The following places, conditions, acts, and things are specifically declared to be public nuisances offending public morals and decency;

C. The town may recover costs incurred by the chief of police or his or her designee in taking emergency action, by employing the town's attorney to file civil action for the recovery of these cost in the Circuit or the Superior Court of Jay County.

D. If the police chief or his or her designee determines that a public nuisance exist on private premises, that that nuisances does not pose a great and immediate danger to the public health, safety, peace, morals, or decency, he or she shall file a written report of his or her findings and issue a citation for the violation of this chapter. The City Court of Portland, Indiana and/or the Circuit or Superior Court of Jay County, Indiana shall be the proper Court to entertain venue and jurisdiction under the enforcement of this section.

E. On receipt of the report revealing the existence of a public nuisance, the Town Board may employ the Town's attorney to file an action to abate the nuisance to be commenced in the name of the town under I.C.32-30-6-7.

SECTION 5- REMOVAL OF WEEDS, DEBRIS, AND OTHER RANK VEGETATION

A. No person, no business, or corporation shall allow weeds, rank vegetation, and or debris to remain on any real property located within the town.

B. All persons in control of real property located within the town shall cut and remove weed, grasses, and other rank vegetation growing on the property that exceed an average height of 8 inches and keep the property clear of any debris.

C. In the event of a violation of this section, the police chief or his or her designee shall issue a written notice to the violating land owner or the occupant, which notice shall include the following:

1. The date and time the notice is served;
2. A description of the violation and the statement as to the specific ordinance section of that violation;
3. The identity of the owner or the person in charge of the real property on which the violation exist;
4. A statement that the personal responsible for the violation has 7 days from the date and time noted in sub paragraph 1 above to remedy the violation;
5. A statement indication that if the situation is not remedied within 7 days of the date and time set out in the notice, the town will employ persons chosen by the town to remedy the condition and charge the cost of the remedial action to the person responsible for the condition of the property;
6. A statement that an owner or an occupant of real estate who receives a notice under this Section may appeal the conclusion if there is a violation of this Section by filing a written notice of appeal with the clerk treasurer which shall include the following:

- a. The factual basis of the home owner or occupants contingent that there is no violation of this code section; or,
- b. An objection as to issuance of a bill pursuant to this section and a justification for the objection to that bill.

D. The appeal shall be filed within 5 days of receipt of the notice, if the objection goes to the existence of a violation for failure to remove weeds and grasses under this section and within 10 days for any other purpose.

E. The notice of violation shall be personally delivered to the owner or occupant, or by certified mail to an out of town owner, and posted in a prominent place at the entry of the subject premises or served in any other matter recognized in the Indiana Rules of Trial Procedure.

F. If the land owner or occupant fails to timely abate each violation set forth in a notice of violation or file a timely appeal, the land owner or occupant shall be deemed to have granted permission to the city to enter the land owner or occupants property for the limited purpose of cutting and or removing such debris, weeds, or rank vegetation located thereon and identified in the notice of violation, and the chief of police or his or her designee shall have the right to enter the land to cut and or remove debris, weeds, or rank vegetation located thereon.

G. In such case, the Clerk Treasurer shall prepare a certified statement that the actual, administrative class, as well as other costs incurred by the town in taking such action, and by ordinary mail a copy of the invoice to the land owner or occupant. The land owner or occupant shall, within 7 calendar days from the date of which the land owner or occupant is served with such invoice pay in full the amount stated on the invoice to the town.

H. If the land owner fails to timely pay an invoice issued pursuant to this section, the Clerk Treasurer shall certify to the county Auditor the amount of the invoice, plus an additional administrative costs incurred in the certification process, the Auditor shall place the total amount so certified on the tax duplicate for property taxes at issue, and the total amount, including any accrued interest, shall be collected as delinquent taxes and shall be disbursed to the general fund of the city.

I. Upon receipt of an appeal, the Clerk Treasurer shall arrange a time and place for a hearing in front of the Town Board. The Clerk Treasurer shall also notify the Chief of Police to cease further action pursuant to the notice until the same can be heard and considered by the Town Board.

J. The homeowner or occupant shall be given written notice of the date, time, and place of the hearing in front of the Town Board.

K. If the Town Board determines that the homeowner or occupant is responsible for violation of this chapter, the Town Board shall affirm the action of the Chief of Police or his designee. If the Town Board determines that the homeowner or occupant is not responsible for a violation of this chapter, the Town Board shall issue a finding accordingly and no action of the Chief of Police or his or her designee to remedy the conditions shall be authorized.

L. Any action by the Town Board may be appealed to the Circuit or Superior Court of Jay County.

M. This section supplements and does not limit any other remedy or action available law or in equity available to address public nuisances.

N. After one notice has been posted on a property, the Town shall have the right to continue to abate the nuisances by cutting and removing the weeds, grasses, rank vegetation as the need arises throughout the growing without the necessity of further notification. For the

purpose of this division, the growing season is the period of time between the first day of March and the last day of November in any calendar year.

SECTION 5- COST OF ABATEMENT

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance, or maintenance of public nuisance, the cost for abating a public nuisances by the Town shall be collected as a debt from the owner, occupant or person causing, permitting, or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner such cost shall be assessed against the real estate as other special taxes. These costs shall include, but not limited to reasonable and necessary attorneys' fees incurred for the Town attorney in pursuit of an abatement action in the Circuit or Superior Court of Jay County.

SECTION 6- PENALTY

Any person found guilty of violating any of the provisions of this chapter shall be upon convictions, be fined in a sum of not more than \$2,500.00. Each violation shall constitute a separate offense.

This Ordinance was duly passed in regular session of the Town Council of the Town of Redkey, Jay County Indiana, on this 20 day of April, 2019.

DATED: 4/20/19

TOWN BOARD OF REDKEY, INDIANA

Chris Cross

Town Board Member

[Signature]

Town Board Member

[Signature]

Town Board Member

[Signature]

Town Board Member

[Signature]

Town Board Member

Attest: Debbie James
Debbie James
Clerk-Treasurer