

ORDINANCE 2005-4
NUISANCE ORDINANCE

ARTICLE 1. GENERAL PROVISIONS.

Sec. 1-1 Town's Authority To Regulate

The Town may regulate the conduct, or use or possession of property which might endanger the public health, safety, or welfare of its citizens.

Sec. 1-2 Authority To Regulate Air and Sound

The Town may regulate the introduction of any substance or odor into the air, or any generation of sound.

ARTICLE 2. SPECIFIC PUBLIC SAFETY REGULATIONS.

Division II. Garbage and Trash Regulations.

Sec. 2-1 Definitions

As used in this Division:

a. **Lot or Parcel Lot or Parcel of Real Estate.** Shall include, in addition to those grounds within their respective boundaries, all of the grounds lying to the center of the street or alley or alleys where said street or alley is not improved.

b. **Garbage.** All organic household waste, offal, animal and vegetable matter prepared or intended for use as food, condemned foodstuffs and materials and substance materials and things ordinarily disposed of in containers and incinerators by hotels, restaurants, stores, hospitals, apartment houses, and private dwellings.

c. **Trash.** Rubbish and refuse including, but not limited to, glass bottles and containers, broken glass, rubber products, metals, rags, weeds, tree topplings, grass, leaves, discarded furniture, and appliances.

d. **Rank Vegetation.** Any and all junk, rubbish, or debris which is harmful to the general public health and welfare or may detract from the appearance of the neighborhood.

e. **Other Waste Substance.** Any and all junk, rubbish, or debris which is harmful to the general public health and welfare or may detract from the appearance of the neighborhood.

Sec. 2-2 Garbage and Trash Regulations.

a. It shall be unlawful for the owner, occupant, or lessee of any lot or parcel of lot or parcel of real estate within the corporate limits of the Town to allow, suffer, or permit any garbage, trash, rank vegetation, or other waste substance to be deposited on, grown on, or remain on any said lot, parcel of lot or parcel of real estate.

b. It shall be the responsibility of the owner, occupant, or lessee of any building, structure, or property in the Town, where garbage or trash is generated or exists to provide or cause to be provided, and at all times to keep or cause to be kept portable containers, receptacles or dumpsters for holding garbage and trash.

All residential garbage and trash to be deposited in such containers, receptacles or dumpsters shall be sacked in a plastic type bags or boxes. There shall be an appropriate number of containers to hold all garbage and trash plastic type bags or boxes. In the alternative garbage and trash not held in a container as provided herein shall be limited to being set out for pick up no earlier than the night before the scheduled pick up and shall be sacked in plastic type bags or boxes closed and tightly secured.

All commercial and industrial garbage and trash shall be deposited in a dumpster of such size, type, and construction to be secure and readily and conveniently emptied and handled by collectors. There shall be an appropriate number of dumpsters having properly fitted lids or coverings to hold all garbage and trash.

c. The provisions of this Section shall apply to all single and multiple residential units and commercial and industrial properties.

Sec. 2-3 Nuisances.

Whenever and wherever garbage, trash, rank vegetation, or other waste substances shall exist, covering or partly covering the surface of any lot or parcel of lot or parcel of real estate within the corporate Town, the same shall be deemed a nuisance and a violation.

Sec. 2-4 Enforcement.

It shall be the duty of the Town Council or their appointee to enforce this Division.

Sec. 2-5 Penalties.

a. Any person violating any provision of this Article shall upon conviction thereof be fined in the amount of One Hundred Dollars (\$100.00). Each day such violation is committed or is permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Sec. 2-6 Notice To Abate, Warning Citations.

It shall be the duty of the Town Council to inspect from time to time the various lots or parcels of real estate lying within the corporate limits of the Town, and if it is found that garbage, trash, rank vegetation or other waste substances are permitted to be deposited on, grown on, or remain on such lots or parcels of lots or parcels of real estate, it shall be its duty to ascertain the names of the owners, occupants, or lessee of said property. Upon investigation and evaluation of the

severity of the violation by the Town Council, the Town Council may do one of the following:

a. Issue a warning citation to the owner, occupant, or lessee of said property that is in violation of local ordinance provisions. The warning will allow the owner, occupant, or lessee of the property in violation seven (7) days to bring the property into compliance with local ordinance provisions. If after the seven (7) day period the property is still not in compliance with local provisions, the Town Marshal may then issue a citation to the owner, occupant, or lessee of said property in violation.

b. Immediately issue a citation to the owner, occupant, or lessee of said property that is in violation of local ordinance provisions.

Sec. 2-7 Illegal Dumping.

a. It shall be a violation of this Division for any person to throw, cast, discharge, dump, place, deposit, place, leave, cause to be thrown, discharged, dumped, deposited, placed or left on any Town-owned or maintained property any waste, paper, ashes, glass, cans, dirt, tree toppings, leaves, weeds, grass, discarded furniture, appliances, organic household waste, animal remains, rubbish, waste, garbage, refuse, and trash.

b. Anyone found to be in violation of this provision shall be fined One Hundred Dollars (\$100.00)

ARTICLE 3. WEEDS, GRASS AND RANK VEGETATION CONTROL.

Sec. 3-1 Definitions.

Lot or Parcel of Lot or Parcel of Real Estate. Shall be included in addition to those grounds within their respective boundaries of all of the grounds lying to the center of the street or alley or alleys where said street or alley is not improved.

Removing grass and/or weeds. The elimination of said grass and/or weeds by cutting, spraying or other effective means.

Rank Vegetation. Shall have the meaning set out in Sec. 2-1 d.

Sec. 3-2 Weeds, Grass and Rank Vegetation; Nuisance.

a. It shall be unlawful for the owner, occupant or lessee of any lot or parcel of lot of real estate within the corporate limits of the Town to allow, suffer or permit grass and/or any weeds of any kind to grow or mature upon any such premises to a height of over ten inches (10").

b. It shall be the duty of the owner, occupant or lessee of any lot or parcel of lot or parcel of real estate within the corporate limits of the Town, to cut grass and/or weeds on such property at least four (4) times between May 1 and October 31 of each calendar year.

c. Whenever and wherever grass and weeds shall exist of a height of over ten inches (10"), covering or partly covering the surface of any lot or parcel of lot or parcel of real estate within the corporate limits of the Town, the same shall be deemed a nuisance and a violation.

d. It shall be unlawful for the owner, occupant or lessee of any lot or parcel of lot or parcel of real estate within the corporate limits of the Town to allow, suffer or permit rank vegetation of any kind to collect or remain upon such premises.

e. Whenever and wherever rank vegetation shall collect or remain covering or partially covering the surface of any lot or parcel of lot or parcel of real estate within the corporate limits of the Town, the same shall be deemed a nuisance and a violation of this Article.

Sec. 3-3 Notice to Owners.

Ten (10) days to abate nuisance - It shall be the duty of the Town Council (or any Town Department) to inspect from time to time the various lots or parcels of lots or parcels of real estate lying within the corporate limits of the Town, and if it shall find that weeds and/or grass are permitted to grow in violation of this Article, or rank vegetation is permitted to collect or remain on any such lots or parcel of lots or parcel of real estate, it shall be his duty to ascertain the names of the owners, occupants or lessees of said property and to notify such owners, occupants or lessees in writing, that such weeds and/or grass shall be cut and removed or otherwise destroyed, or such rank vegetation shall be removed, within ten (10) days from the date of such notice.

Notice shall be sent to the owner of record as the name and address appears on the tax statement from the Treasurer's Office of Vermillion County, by certified mail. If any lot or parcel of lot or parcel of real estate is not occupied or leased, and the owner is a non-resident of the Town, or his residence is unknown, or if notice is returned by Postal Department because of its inability to make delivery thereof, the Town shall cause a notice to cut, remove or otherwise destroy the weeds and/or grass and/or rank vegetation to be published in some daily newspaper of general circulation in such Town at least one each week for two (2) successive weeks.

Sec. 3-4 Failure of Owner To Abate Nuisance.

a. If any owner, occupant or lessee of any lot or parcel of lot or parcel of real estate shall fail to cut or remove or otherwise destroy or abate such weeds and/or grass and/or rank vegetation after receiving notice as provided in Sec. 3-4, it shall be the duty of the Town to cause the same to be cut or removed or otherwise destroyed or abated. When the Town has effected the cutting, removal or destruction or abatement of such nuisance the Town shall prepare a sworn statement showing the cost of the work performed and it shall bill the owner of record. Such bill shall be due and payable at the time of receiving the statement.

b. Failure of Owner to Pay - When the full amount due the Town is not paid by such owner within ninety (90) days after the work has been performed, as provided in Sec. 3-4, then, and in that case, the Town shall cause to be recorded in the County Recorder's Office a sworn statement showing the cost and expense incurred for the work, date the work was done and the location of the property on which said work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property. If the owner of real property fails to pay a bill issued under this Section within the time specified, the Town shall certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected, all as provided in *I.C.* § 36-7-10.1.

Sec. 3-5 Penalties.

Any person violating any of the provisions of this Article shall upon conviction thereof be fined in an amount of One Hundred Dollars (\$100.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Article 4 Miscellaneous Public Safety Regulations.

Sec. 4-1 Trick-or-Treating Curfew Regulations.

a. Door-to-door trick-or-treating in residential or neighborhood areas within the Town limits of Fairview Park, Indiana, shall be two (2) days only; the day before Halloween and Halloween day. Trick-or-Treating will end with a curfew at 9 o'clock p.m. both days.

Sec. 4-2 Light and Noise Nuisance

a. It shall be a violation of this Section for any person to cause or permit any nuisance or annoyance to any person in the Town of Fairview Park, Indiana by use of noise or light, or any sound or light emitting device, mechanism or thing.

b. It shall be a violation of this Section for any parent of any person under the age of eighteen (18) years, or the guardian or person charged with, or having custody of, any such person under the age of eighteen (18) years to cause or permit a nuisance or annoyance to any person in the Town of Fairview Park, Indiana, by means of noise or lights and the use of any device, mechanism or thing emitting annoying and nuisance sounds or lights.

Sec 4-3 Penalties. Any person violating the provisions of this Article shall be fined One Hundred Dollars (\$100.00).

ARTICLE 5. DISTURBING THE PEACE.

Sec. 5-1 Obstruction of Traffic.

a. No person shall without good cause obstruct vehicular or pedestrian traffic and the same is declared a public nuisance.

Sec. 5-2 Damaging Streets and Sidewalks Prohibited.

No person shall intentionally destroy, injure, damage, or deface any street, sidewalk, or alley.

Sec. 5-3 Excavations and Obstructions; Barriers Required.

No person shall leave any excavation or any obstruction of any kind or nature within or upon any part of any sidewalk, street, alley or public place, unless the same shall be surrounded by sufficient barriers, and the location thereof distinctly marked by lights placed and maintained through the night, in such a way and in such manner as to effectually prevent any accident.

Sec. 5-4 Removal of Barricades.

a. Whenever the Street Department of Fairview Park is in the process of repaving or repairing or otherwise performing maintenance tasks on streets and alleys in the Town of Fairview Park, they shall be empowered to place distinctly marked barricades to direct or restrict the flow of traffic around the working area.

b. It shall be unlawful for any person to move such a barricade and for any person to operate a motor vehicle on any area of a street or alley protected by such a barricade.

Sec. 5-5 Overhanging Trees and Stumps Near Sidewalks.

a. No owner or occupant of any lot or tract of land fronting on any street shall allow the branches or foliage of any trees growing upon such lot or tract of land or upon the sidewalk in front thereof or adjacent thereto to hang down below a distance of eight feet (8') above the surface of the sidewalk.

b. No owner or occupant of any lot or tract of land fronting on any street shall allow the stump of any tree to project above the surface of the ground between the property line and the curb line within that part of the sidewalk abutting upon such lot or tract of land.

Sec. 5-6 Penalties.

Any person violating this Article shall be fined in the amount of One Hundred Dollars (\$100.00).

ARTICLE 6. SPECIFIC NOISE REGULATIONS.

Sec. 6-1 Unnecessary Noises Prohibited.

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noises or any noise which either

annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the Town of Fairview Park.

Sec. 6-2 Violations Declared.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Article, but said enumeration shall not be deemed to be exclusive, namely:

a. **Radios, Phonographs, etc.** The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty feet (50') from the building, structure or vehicle in which it is located shall be *prima facie* evidence of a violation of this Article.

b. **Yelling, Shouting, etc.** Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

c. **Animals, Birds, etc.** The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

d. **Defect in Vehicle or Load.** The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

Sec. 6-3 Noise from Vehicles.

a. It shall be a violation of this Article for any person to cause, allow or permit noise, music, and sounds from radios, stereos, and amplifiers, to be audible from ten feet (10') of a moving or stationary vehicle.

Sec 6-4 Penalties

Any person violating this Article shall be fined in the amount of One Hundred Dollars (\$100.00).

ARTICLE 7. ABANDONED AND JUNKED VEHICLES.

Sec. 7-1 Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article:

a. **Person.** Any person, firm, partnership, association, corporation, company or organization of any kind.

b. **Motor Vehicle.** A machine propelled by mechanical power designed to travel along the ground by use of wheels, treads, runners, or slides, and transports persons or property or pulls machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, and tractors.

c. **Street or Highway.** Shall include alleys, and shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of general travel, both ambulatory and vehicular.

d. **Enforcement Officer.** That employee of the Town who shall be appointed by the Town Council of the Town to be responsible for the enforcement of this Article.

e. **Inoperative Motor Vehicle.** Any motor vehicle not within an enclosed building, in a non-operating condition, or in a wrecked, damaged, deteriorated, or in a wrecked, damaged, deteriorated, or partially dismantled condition.

f. **Abandoned and Junked Motor Vehicle.** Any motor vehicle which shall either be in such a deteriorated or destroyed condition as to be unable to be operated safely with due regard to standards set by the State of Indiana for motor vehicle equipment, or shall be permitted to remain unmoved for a longer period than five (5) days on either public or private property so as to permit of the conclusion that the owner or owners thereof have relinquished all right, title and interest in such vehicle, and no longer intend that such vehicle be operated and maintained in operable condition for use as such vehicles are generally employed.

g. **Partially Exempt Real Estate.** Real estate upon which is operated a motor vehicle body shop, repair garage, or service station in an area not in violation of the Zoning Ordinance of the Town.

h. **Totally Exempt Real Estate.** Real estate upon which is operated a motor vehicle wrecking yard, salvage yard, or junk yard in an area not in violation of the Zoning Ordinance of the Town.

i. **Non-Exempt Real Estate.** All real estate in the Town of Fairview Park which is not partially or totally exempt real estate, as defined herein, except streets and highways.

Sec. 7-2 Abandoned Vehicles Prohibited.

a. It shall be unlawful for any person to abandon any motor vehicle within the Town, and no person shall leave any motor vehicle at any place within the

Town for such time and under such circumstances as to cause such vehicle to reasonably appear to have been abandoned, junked and inoperable, and in no event, in such condition, for a period exceeding seventy-two (72) hours as is provided herein.

b. It shall be unlawful for any person to leave, keep, park, store or place any inoperative motor vehicle, or abandoned or junked motor vehicle on any street or highway within the Town for more than seventy-two (72) hours.

c. It shall be unlawful for any person being the owner or custodian of an inoperative, abandoned or junk motor vehicle to leave, keep parked, store or place an inoperative, abandoned or junk motor vehicle on any non-exempt real estate in the Town for more than seventy-two (72) hours after being properly served with a removal notice.

d. It shall be unlawful for the owner, operator, lessee, or manager of a business on partially exempt real estate to place, park, keep, store or cause or permit to be placed, parked, kept, or stored any inoperative, abandoned or junk motor vehicle, or part thereof, on such partially exempt real estate, except and unless said vehicle is awaiting repair parts or service, and then, in that event, the said vehicle shall not be permitted on said real estate for a period of more than sixty (60) days.

Sec. 7-3 Service of Notices.

a. Service of a removal notice relating to an inoperable, abandoned or junked motor vehicle located upon a street or highway shall be sufficient if a copy be affixed to said vehicle and a copy mailed by ordinary United States mail to the owner of said vehicle, if said owner be known.

b. Service of a removal notice relating to an inoperable, abandoned or junked motor vehicle on non-exempt property, or unlawfully, on partially exempt property shall be sufficient if:

(1) A copy be affixed to the subject vehicle, and

(2) A copy be left with any responsible person found upon the real estate upon which the subject vehicle is located, or, if no such person be found or if such real estate is unoccupied, then if a copy be posted upon said real estate in a conspicuous place, and

(3) A copy be mailed by ordinary United States mail to each of the following persons, if said persons be known:

(A) The owner of the real estate upon which the subject vehicle is located.

(B) The owner of the subject vehicle.

(C) Any lienholder claiming a security interest in said vehicle.

Sec. 7-4 Enforcement Officers.

The enforcement officer shall be authorized to enter upon real estate within the Town to inspect motor vehicles and to deliver notices under this Article, so long as the enforcement officer has reasonable cause to believe that a violation is being committed, and, furthermore, he shall be authorized to enter upon said real estate for the purpose of removing motor vehicles as hereinbefore provided in this Article; provided, further, that the enforcement officer shall not be authorized to enter an enclosed building in any event.

Sec. 7-5 Penalties.

Any person violating any of the provisions of this Article shall be fined in the amount of One Hundred Dollars (\$100.00) and each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Sec. 8-1 Separability.

If any section, subsection, sentence, clause, phrase, or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Passed and adopted this 13th day of December, 2005.

Larry Natalie, President

James Hall

Tonya Smith

David Crane

Norma Snedeker

Attest: _____
Teresa Baker, Clerk-treasurer