

ORDINANCE NO. 4-83

AN ORDINANCE TO CONTROL AND ABATE
NUISANCES WITHIN THE TOWN OF PLAINFIELD

BE IT ORDAINED by the Board of Trustees of the Town of Plainfield, Indiana, that:

In addition to what is declared in this chapter to be a 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 proceeded against as is provided in this chapter; or in accordance with any other provisions of law. Wherever the word "NUISANCE" is used in this chapter it refers to a public nuisance.

I. ABATEMENT OF NUISANCES

- (A) In any case where any nuisance may be found to exist, it shall be the duty of the Town Board to serve notice on the owner or occupant of the premises where such nuisance exists, or on any other person so causing or allowing such nuisance to exist, to abate such nuisance within a reasonable time. In determining such reasonable time, the board shall take into consideration the degree of threat to the public health, safety, and welfare, and the means required to abate such nuisance. It shall not be necessary for such Board to designate in the notice the manner in which any such nuisance shall be abated unless such Board shall deem it advisable to do so; however, the Board shall indicate in such notice the date within which the nuisance must be abated.
- (B) If the owner, occupant, or other persons served with a notice to abate the nuisance shall refuse or neglect to abate such nuisance within the designated time after such notice is given, such person shall be subject to the penalties provided in "AN ORDINANCE ESTABLISHING FEES AND PERMITS". In addition, the Board may cause such nuisance to be abated in any manner authorized by law, including the institution in the name of the town against the owner, occupant, or other person, of an action therefor and for the recovery of the amount of expense of such abatement, the costs of such action and the attorney's fees incurred by the Town.
- (C) In addition, the Board may cause such nuisance to be abated by authorizing the proper officer of the town to remove the nuisance with the employment of town employees, and charge the owner, occupant, or other person for the cost of the removal and abatement of the nuisance, the cost to be determined by doubling the labor cost incurred by the town of abating the nuisance.
- (D) The Board shall notify the Clerk-Treasurer of the cost of abatement of any nuisance. The Clerk-Treasurer shall notify the owner, occupant, or other person against whom the abatement proceedings were brought as to the cost of abatement; and if the cost is not paid by the owner within 30 days, the proper town officers shall proceed to collect the same from the owner, occupant or other person by causing the costs to be placed on the tax duplicate, by placing a lien on the property or by suit.
- (E) The requirements for service of notice under the provisions of (A) and (B) above may be complied with by mailing such notice by certified mail, return receipt requested, to the last known address of the person sought to be notified, or by personal service of such notice on such person by any police officer so directed.

II. INSPECTION OF PREMISES

For the purpose of carrying the provisions of this ordinance into effect, it is the duty of all officers and employees of the town to report the existence of nuisances to the Town Board, and for this purpose the Town Manager, Building Inspector, the Police Department and the Fire Department or other employees designated by the Town Board shall be permitted to visit or enter into or on any building, lot, grounds, or premises within the town to ascertain and discover the existence of any such nuisances and to make examination thereof.

III. CONDITIONS DEFINED AS NUISANCES

The following conditions within the town are declared to be nuisances:

(A) Dangerous trees, or stacks. Any tree, stack, or other object adjoining a street or standing on premises in a condition that shall, if allowed to continue, endanger the life, limb, or property, or cause hurt, damage, or injury to persons or property adjacent thereto.

(B) Any building if any of the following conditions obtain:

(1) Such building has been damaged by fire or other casualty to such an extent that, following such fire or other casualty, it ceased to be occupied and such building has remained unoccupied for a period of two years from the date of said fire or other casualty;

(2) Such building has been unoccupied for a period of three years;

(3) However, no such building or premises shall be considered a nuisance if the owner has obtained the necessary permits for the repair of any existing structure which has been unoccupied because of damage, for the demolition of any existing building and its replacement with a new building, or for the construction of a building on any vacant premises.

(C) Accumulation of rubbish. An accumulation on any premises of filth, refuse, trash, garbage, or other waste material which 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 (or 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.

(D) Noxious odors or smoke. Odors, smoke, dust, or other matter emitted from premises into the surrounding atmosphere and which render ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.

(E) Noxious noise. Sound emitted from premises which destroys the enjoyment of dwelling houses or other uses of property in the vicinity by interference with the ordinary comforts of human existence.

(F) Unsafe storage. The storage of explosives or combustible material which will create a safety hazard to other property or persons in the vicinity.

(G) Open wells. The maintenance of any open, uncovered, or insecurely covered cistern, collar, well, pit, excavation, or vault situated on private premises in any open or unfenced lot or place.

(H) Trees and shrubbery obstructing streets and sidewalks. The growing and maintenance of trees with less than 14 feet clearance over streets, or less than eight feet over sidewalks, or the growing and maintenance of shrubbery in excess of three feet in height within the radius of 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 and the property line of any street within a radius of 20 feet from the point where the curb line of any street intersects with the curb line of another street.

(I) Junk, scrap metal, and motor vehicles. The storage within public view of motor vehicles in an inoperative condition, motor vehicles unfit for further use, automobile parts or scrap metal within the town limits.

(1) Motor vehicle in an inoperative condition. Any style or type of motor-driven vehicle used or useful for the conveyance of persons or property which is unable to move under its own power due to defective or missing parts, and which has remained in such condition for a period of not less than ten consecutive days.

(2) Motor vehicles unfit for further use. Any style or type of motor-driven vehicle used for the conveyance of persons or property which is in a dangerous condition, has defective or missing parts, or is in such a condition generally as to be unfit for further use as a conveyance.

(3) Automobile parts. Any portion or parts of any motor-driven vehicle as detached from the vehicle as a whole.

(4) Scrap metal. Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its original intended purposes.

IV. NOTICE TO ABATE

(A) In the event any building or premises shall become a nuisance as herein provided, the Town Board shall notify the owner of such real estate of the existence of a nuisance on the real estate, and shall further notify the owner that the owner must take steps to abate the nuisance within 30 days from the date of receipt of the notice, and that, if the owner fails to do so, said Town Board shall itself abate the nuisance within 30 days from the date of receipt of the notice and hold a lien against the real estate for the cost involved.

(B) Such notice shall be sent by certified mail, return receipt requested, to the address appearing on the tax duplicates for said real estate. In the event the owner is not at said address and the postal authorities are not apprised of a new address, the Town Board shall take reasonable measures to give notice to the owner.

V. ABATEMENT BY OWNER

The owner of any real estate on which is situated a nuisance may abate the same by entering into a contract for the repair or alteration of any existing structure which has been unoccupied because of damage or by entering into contracts for the demolition of any existing building and its replacement with a new building or for the landscaping of the premises in a manner which will remove any hazard to the safety of pedestrians and motorists and which will remove all physical blight from the premises.

VI. ABATEMENT BY TOWN

In the event the owner of any real estate on which is situated a nuisance has not abated such nuisance within 30 days of receipt of the notice, the board shall proceed to abate such nuisance and by landscaping the premises in a manner which will remove any hazard to the safety of pedestrians and motorists and which will remove all physical blight from the premises. It shall be the duty of said Board to maintain such by landscaping until the real estate is sold or otherwise alienated. However, said Board may extend the aforesaid 30-day period by an additional 30 days if the Board determines that the owner of the real estate involved is making a good faith attempt to abate the nuisance on said real estate.

VII. BILLING

The Town Board shall submit a bill for the labor, equipment, and material used in said demolition or initial landscaping to the owner of the real estate involved. Thereafter, said Board shall submit a bill annually for the cost of maintaining any landscaping. If the bill is not paid within 90 days from the date of submission, the board shall proceed to file a lien against the property in the amount of the bill together with interest at the rate of 12% per annum, plus costs and reasonable attorney fees.

VIII. TEST FOR NUISANCE

Whether or not a particular annoyance constitutes a nuisance shall depend on its effect on persons of ordinary health and average sensibilities, and not its effect on persons who are delicate or abnormally sensitive, or whose habits, tastes, or conditions are different than persons of ordinary sensibilities.

IX. NUISANCES CREATED BY OTHERS

For the purpose of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner or tenants, or their agents or representatives, but merely that the nuisance is created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by persons whose conduct the owner or operator, by the exercise of reasonable care, should have become aware of.

X. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its adoption, approved by the Town Board, and publication as required by law.

PASSED and adopted by the Board of Trustees of the Town of Plainfield, Indiana, on this 25th day of July, 1983.

Rolene G. Bruchman
W. Kelly
Henry W. Horn
Robert M. Wood
John D. Lodge

ATTEST:

Virginia H. Weber
CLERK-TREASURER

Publish August 11 - August 18, 1983