

TOWN OF CARLISLE, INDIANA
ORDINANCE NUMBER 2017- 4

AN ORDINANCE RELATING TO PUBLIC HEALTH AND SAFETY IN THE TOWN OF
CARLISLE, INDIANA

WHEREAS, this Ordinance is adopted by the Town Board of the Town of Carlisle (the "Town"), County of Sullivan, State of Indiana, and;

WHEREAS, the Town adopted Ordinance 2017-2 an Ordinance Relating to the Public Health and Safety in the Town of Carlisle, Indiana, and;

WHEREAS, the Town desires to repeal and replace said ordinance;

WITNESSETH:

THIS ORDINANCE, made and established by the Town in a regularly scheduled meeting of the Town Board to ordain and regulate the removal of weeds, rank vegetation, litter and rubbish, offal, dead animals, and vegetable matter and to collect monies for the violation of the same, pursuant to the Town's authority to create ordinances relating to the public health and safety of the Town and pursuant to Ind. Code 36-1-3-4 and Ind. Code 36-7-10.1-3.

NOW THEREFORE, LET IT BE ORDAINED BY THE TOWN BOARD OF THE TOWN OF CARLISLE, Sullivan County, Indiana, that Ordinance 2017-2 is hereby repealed and replaced by this ordinance this 3 day of October 2017. Regulation of weeds, rank vegetation, rubbish, and trash and to collect monies for the violation of same within the Town of Carlisle shall be as follows:

SECTION 1.00 WEED AND RANK VEGETATION

1.01 WEEDS AND RANK VEGETATION. For the purposes of this ordinance, the terms "weeds" and "rank vegetation" are defined as useless vegetation, course vegetation, woody vegetation, grass, or weeds greater than twelve (12) inches of height, excluding agricultural crops such as hay or pasture and excluding trees, bushes, shrubs, and gardens planted or cultivated by the landowner or occupant. Weeds and rank vegetation include, but are not limited to, the following:

amaranthus retroflexus	(rough green pigweed)
ambrosia elatior	(common ragweed)
ambrosia trifida	(giant ragweed)
arctium minus	(burdock)

bidens grondosa	(beggarticks)
chenopodium album	(lambs quarter)
cirsium arvense	(common thistle)
concoluvuls, all species	(bindweed)
remex, all species	(docks)
rhùs radicans	(poison ivy)
solanum carolinense	(horse nettle)
sonchus arvensis	(saw thistle)
sorghum halepense	(Johnson grass)
xanthium pennsylvanicum	(cocklebur)

1.02 WEED NUISANCE. It shall be unlawful for the owner, occupant, or lessee of any lot or parcel of lot of real estate within the Town limits to allow, suffer, or permit grass or weeds of any kind to grow or mature upon any such premises to a height of over twelve (12) inches. Any grass and weeds over the height of twelve (12) inches shall be deemed a nuisance.

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 Town limits, to cut grass and weeds on such property at least six (6) times between May 1 and October 31 of each calendar year.

Whenever and wherever grass, weeds, or rank vegetation shall exist of a height of over twelve (12) inches, covering or partly covering the surface of any lot or parcel of lot or parcel of real estate within the Town limits, the same shall be deemed a nuisance and shall be a violation of this ordinance.

1.03 NOTICE. Upon the complaint by a Carlisle resident of a potential violation of this ordinance, it shall be the Town Marshal's duty to investigate such claim and verify the validity of such written complaint and the Town Marshal shall ascertain the names of the owners, occupants, or lessees of said property and to notify such owners, occupants, or lessees in writing, that such nuisance be cut or removed or destroyed or otherwise abated, within ten (10) days from the date of such notice.

Complaints of weed or rubbish nuisances or violations of this ordinance may also be given, whether in writing or verbally, to the Town Board. Such complaints will be directed to the Town Marshall to then investigate and give notice pursuant to this ordinance.

If the Town Marshall witnesses, discovers, or otherwise gains knowledge of a violation of this ordinance, the Town Marshall may investigate and verify whether there is a violation and provide notice pursuant to this ordinance.

Notice shall be sent to the owner of record as the name and address appears on the tax statement from the Treasurer's Office in Sullivan County, by certified mail. If any lot or parcel of a 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 Board of Carlisle shall cause a notice to cut, remove, or otherwise destroy the weeds and/or grass to be published in some daily newspaper of general circulation in such Town at least one time each week for two (2) successive weeks.

1.04. CONTINUOUS ABATEMENT. If an initial notice of violation and abatement has been issued to the owner of record as provided above, a continuous notice of abatement may be posted at the property at the time of abatement. This continuous abatement notice serves as notice to the real property owner that each subsequent violation during the same calendar year for which the initial notice of violation was provided may be abated by the Town or its contractors and the costs and fees associated with the abatement may be assessed against the property.

1.05 FAILURE OF OWNER TO ABATE NUISANCE. 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 nuisance after receiving notice as provided above, the Town Board of Carlisle may cause the same to be cut or removed or otherwise destroyed or abated. When the Town Board of Carlisle has affected the cutting, removal or destruction or abatement of such nuisance the Town Board of Carlisle 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.

1.06 FAILURE OF OWNER TO PAY. If the full amount due the Town is not paid by such owner within thirty (30) days after such invoice for the work has been issued, the Town Board of Carlisle may collect unpaid bills for work performed pursuant to I.C. 36-7-10.1-3 by one of the following methods.

As provided in I.C. 36-7-10.1-4(a), if the Town does not proceed to collect on the bill pursuant to I.C. 36-7-10.1-4(b), then the Town shall certify to the Sullivan County Auditor a sworn statement showing the cost and expense incurred by such Town Board for the work, date the work was done, and the location of the property on which said work was done. The certification of such statement shall constitute a lien and privilege on the property. The amount of the bill shall include any additional administrative costs incurred in the certification. As provided in I.C. 36-7-10.1-4(a), the auditor shall place the total amount certified on the tax duplicate for the property affected and the total amount, including accrued interest, shall be collected as delinquent taxes are collected.

As provided in I.C. 36-7-10.1-4(b), the Town may bring an action in an appropriate court to collect the amount of the bill, plus any additional costs incurred in the collection, including court costs and reasonable attorney's fees. If the Town obtains a judgment under I.C. 36-7-10.1-4(b), the Town may obtain a lien in the amount of the judgment on any real or personal property of the owner.

1.07 PENALTIES. Any person violating any of the provisions of this ordinance shall be fined in the amount of Fifty Dollars (\$50.00) per violation, which fine is payable within ten (10) days of the violation to the Clerk-Treasurer of the Town of Carlisle, and will be deposited in the General Fund of the Town of Carlisle. Each day that such violation occurs shall constitute a separate violation for which the owner or occupier of the Residence may be subject to a fine as set out in this provision. The Town Marshal is authorized to bring action in the Sullivan County Courts against any person who fails to timely pay any fine assessed for a violation of this ordinance within the required time.

1.08 APPEALS. Any property owner aggrieved by notice, billing, or fine under this ordinance may appeal in writing to the Town Board, by filing same with the Clerk-Treasurer no later than 10 days from the date of receipt of notice and/or billing. Said writing shall state concisely the basis for appeal and shall be timely filed to be valid and heard. The appeal shall be heard by the Town Board at the next regularly scheduled Town Board meeting. The Town Board may give its decision on the appeal at that meeting or in writing at a later date.

SECTION 2.00 RUBBISH AND TRASH

2.01 DEFINITIONS. As used in this Ordinance, the terms defined herein shall have the following meanings unless another is expressly utilized:

1. Rubbish. The term "Rubbish" shall mean unacceptable waste, including but not limited to crates, barrels, building materials, lumber, concrete, metals, shavings, tires, commercial or industrial appliances, industrial waste and liquids, liquid and water wastes which are normally disposed of in a sanitary sewer, hazardous waste, ashes, computers, batteries, sleeper-sofas, recliners, and water heaters.
2. Trash or Garbage. The terms "Trash" or "Garbage" shall mean all: a.) non-decaying-solid and semi solid items, except for rubbish and yard waste; b.) waste resulting from handling, preparation, cooking for consumption of food; and c.) waste from the handling, storage, and sale of produce. The terms shall also include bottles, cans, paper, boxes, and related items.
3. Yard Waste. The term "Yard Waste" shall mean leaves; hedge, shrub, bush or tree trimmings; limbs or sticks from trees, bushes, shrubs, or hedges, whether dead or alive; and other organic matter normally associated with yard and garden maintenance.

2.02 RUBBISH AND TRASH NUISANCE. Any Rubbish and any Trash or Garbage not in a trash container, as determined by the Town Board or the Town Marshall, on any lot or parcel of lot or parcel of real estate within the Town limits are hereby declared a nuisance and it shall be

a violation of this ordinance to permit any such Rubbish, Trash, or Garbage to remain in any such place.

2.03 LITTER AND RUBBISH NUISANCE. Rubbish, Trash, Garbage, Yard Waste, litter and unused materials found on any lot or parcel of lot or parcel of real estate within the Town limits are hereby declared a nuisance and it shall be a violation of this ordinance to permit any such litter or Rubbish to remain in any such place.

2.04 ACCUMULATED TRASH. Any accumulated Rubbish, Trash, Garbage, or Yard Waste on any lot or parcel of lot within the Town limits that has not been set out for trash pick-up within the next 24 hours is unsafe and unsanitary and is hereby declared a nuisance and it shall be a violation of this ordinance to permit such accumulated Trash, Rubbish, or Yard Waste to remain in any such place.

2.05 OFFAL, DEAD ANIMALS, VEGETABLE MATTER NUISANCE. Any offal, dead animals, or vegetable matter exposed to flies or lying upon any lot or parcel of lot or parcel of real estate within the town limits are hereby declared a nuisance and it shall be a violation of this ordinance to permit any such offal, dead animals, or vegetable matter to remain in any such place.

2.06 NOTICE. Complaints of an alleged violation of this ordinance may be made to the Town Marshall or made to the Town Board, which will then refer the complaint to the Town Marshall. If the Town Marshall either receives a complaint of a violation of this ordinance or witnesses a violation of this ordinance, the Town Marshall may then give written notice of the violation by delivering a written warning to the occupants or owners of the property.

Notice may also be sent to the owner of record as the name and address appears on the tax statement from the Treasurer's Office in Sullivan County, by certified mail. If any lot or parcel of a 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 Board of Carlisle may cause a notice to remove Rubbish, Trash, Yard Waste, or, generally, to abate a nuisance to be published in some daily newspaper of general circulation in such Town at least one time each week for two (2) successive weeks.

2.07 CONTINUOUS ABATEMENT. If an initial notice of violation and abatement has been issued to the owner of record as provided above, a continuous notice of abatement may be posted at the property at the time of abatement. This continuous abatement notice serves as notice to the real property owner that each subsequent violation during the same calendar year for which the initial notice of violation was provided may be abated by the Town or its contractors and the costs and fees associated with the abatement may be assessed against the property.

2.08 FAILURE OF OWNER TO ABATE NUISANCE. If any owner, occupant, or lessee of any lot or parcel of lot or parcel of real estate shall fail to remove or otherwise destroy or abate such nuisance 14 days after receiving notice as provided above, the Town Board of Carlisle may cause the same to be removed or otherwise destroyed or abated pursuant to I.C. 36-1-6-2(a). When the Town Board of Carlisle has effected the removal or destruction or abatement of such nuisance the Town Board of Carlisle 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 30 days after issuance.

2.09 FINES. The Town may impose a warning, followed by a fine of \$50.00 for violations of the provisions set forth in this Ordinance. Fines may be issued to either the owner or the occupier of the premises. Each day that such violation occurs shall constitute a separate violation for which the owner or occupier of the Residence may be subject to a fine as set out in this provision with the previous fine serving as the required warning and as notice of the violation. The fine is payable within ten (10) days of issuance to the Clerk-Treasurer of the Town of Carlisle, and will be deposited in the General Fund of the Town of Carlisle; and the Town or its agent is authorized to bring action in the Sullivan County Courts against any person who fails to timely pay any fine assessed for a violation of this ordinance within the required time.

2.10 NON-PAYMENT. The Town or its agent may collect on unpaid fines and bills for abatement. As provided in I.C. 36-1-4-3 and 36-1-4-17, the Town or its agent may bring an action in a court of competent jurisdiction to collect the amount of the money owed, plus any additional costs incurred in the collection, including court costs and reasonable attorney's fees. If the Town obtains a judgment, the Town may obtain a lien in the amount of the judgment on any real or personal property of the owner.

2.11 APPEALS. Any property owner aggrieved by notice, billing, or fine under this ordinance may appeal in writing to the Town Board, by filing same with the Clerk-Treasurer no later than 10 days from the date of receipt of notice and/or billing. Said writing shall state concisely the basis for appeal and shall be timely filed to be valid and heard. The appeal shall be heard by the Town Board at the next regularly scheduled Town Board meeting. The Town Board may give its decision on the appeal at that meeting or in writing at a later date.

3.01 SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance 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.

This ordinance is hereby adopted and passed by the Town Board of the Town of Carlisle this 3 day of October, 2017 and shall become effective two weeks after being recorded and published in the Town's ordinance book by the Clerk-Treasurer.

Azalia Barfield
Azalia Barfield, Town Board President

Harold Hatfield
Harold Hatfield

Clint Durall
Clint Durall

Attested: Susan Ridgway
Susan Ridgway, Town Clerk-Treasurer

Date of Entry into the Ordinance Book: October 4, 2017