

CHAPTER 156: UNSAFE BUILDINGS AND PREMISES

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§ 156.03 UNSAFE BUILDING FUND.

There is hereby established a fund to be known as the Unsafe Building Fund. This Fund shall be used to carry out the purposes of this chapter or other purposes authorized by law.
(BC Ord. 2006-08, passed 6-28-06)

§ 156.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEPARTMENT. The Building Department of Warrick County.

ENFORCEMENT AUTHORITY. The Building Commissioner of the Building Department of Warrick County.

HEARING AUTHORITY. The Area Plan Commission of Warrick County.

SUBSTANTIAL PROPERTY INTEREST. Defined in I.C. 36-7-9-2, which definition is incorporated herein by reference.

UNSAFE BUILDINGS and UNSAFE PREMISES. Defined in I.C. 36-7-9-4, which definitions are incorporated herein.
(BC Ord. 2006-08, passed 6-28-06)

§ 156.02 ADOPTION OF UNSAFE BUILDING LAW.

(A) The provisions of I.C. 36-7-9 are adopted and incorporated, in total, by this chapter.

(B) The Building Department is responsible for the administration of this chapter.
(BC Ord. 2006-08, passed 6-28-06)

CHAPTER 157: PUBLIC NUISANCES

Section

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does not include farm equipment, farm implements, or machinery parts that are, or may be, used in agricultural operations, or may be considered antique farming implements.

GARBAGE. Includes putrescible animal and vegetable wastes, resulting from the handling, preparation, cooking and consumption of food, and any **REFUSE**, **RUBBISH**, and **YARD WASTE** as defined herein.

§ 157.01 PURPOSE AND INTENT.

It is hereby declared to be the purpose of this chapter to regulate and control the growth and require the cutting and removal of weeds and other rank vegetation on all parcels of real estate on residential and commercial properties in the unincorporated areas of Warrick County not otherwise exempted herein. It is further declared that the purpose of this chapter is to protect the public health, safety and welfare, and enhance the environment for the people of Warrick County by making it unlawful for residential and commercial property owners and occupants to allow a public nuisance as defined in I.C. 32-30-6-6 to exist on any real property located within Warrick County. (BC Ord. 2018-07, passed 4-23-18)

HEARING AUTHORITY. The Board of Commissioners, a Highway Department Supervisor, or other employee of Warrick County as specifically designated by the Board of Commissioners of Warrick County in their discretion.

JUNK. Shall include, without limitation, abandoned vehicles, parts of vehicles, scrap iron and/or other metals, wood, paper, rags, rubber tires, bottles, and/or any dismantled household appliances or parts thereof, whether inoperable or operable.

OWNER. A person holding legal or equitable title to real property used for residential or commercial purposes within the unincorporated limits of Warrick County, Indiana.

§ 157.02 DEFINITIONS.

As used in this chapter, the following terms shall have the following meanings unless otherwise designated.

PERSON. An individual, partnership, limited liability company, corporation, trust or any commercial association or venture, however defined.

ABANDONED VEHICLES. Shall have the same meaning as I.C. 9-13-2-1 as any motor vehicle that is at least three model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days. **ABANDONED VEHICLES**

PUTRESCIBLE. Substances which are subject to organic decomposition.

REFUSE. All putrescible and nonputrescible solid wastes, including animal wastes, and ashes.

RUBBISH. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, construction debris, and similar materials.

WEEDS and RANK VEGETATION. Any excessive growth of vegetation, other than trees, bushes, shrubs, ornamental plants, that is nine inches or more in height and/or listed as a weed in the U.S. Department of Agriculture publication entitled Common Weeds of the United States, or in any similar government publication. This term does not include agricultural crops, including hay and pasture, which are maintained for that purpose in areas crops are permitted to be grown.

YARD WASTE. Severed grass, weeds, leaves, brush, tree trimmings, hedge clipping and other yard and garden materials.

(BC Ord. 2018-07, passed 4-23-18)

§ 157.03 WEEDS, RANK VEGETATION, GARBAGE AND JUNK PROHIBITED.

(A) *Weeds, rank vegetation, garbage and junk declared public nuisances.* Weeds, rank vegetation, garbage and junk as herein defined that constitute violations of this chapter are declared to be public nuisances due to the danger to the public health, safety and welfare of the citizens of Warrick County.

(B) *Violation.* It is a violation of this chapter for an owner to allow weeds, rank vegetation, garbage and/or junk to accumulate on real property located within Warrick County used for residential or commercial purposes, thereby creating a public nuisance affecting a neighborhood or community as may be determined by the Hearing Authority.

(C) *Prevention of public nuisances.* All owners shall cut and remove weeds and rank vegetation and shall keep their real property clear of garbage and junk.

(D) *Violation report and violation notice.* All alleged violations of this chapter shall be subject to the following:

(1) *Violation reports.* Violations of this chapter shall be reported on forms to be provided by and submitted to the Administrator of the Warrick County Commissioners ("Violation Report"). A violation report may be submitted by any resident of Warrick County in the same neighborhood or community of the alleged nuisance.

(2) *Inspections.* Following the submission of two or more violation reports by neighbors or community members that allege a violation of this chapter, the County Commissioner in whose district the alleged violation is located, or his/her designee, shall inspect the real property that is the subject of violation reports and file an inspection report with the Administrator of the County Commissioners which shall include the following determinations:

(a) Whether the owner has violated this chapter;

(b) If any of the violation reports were filed for purposes other than to report a violation under this chapter; and

(c) If the violation reports were submitted by neighbors or community members.

(3) *Violation notices.* Upon determination that the owner has committed a violation of this chapter, the Hearing Authority, or its designee, shall issue a written notice ("Violation Notice") to the owner and any occupants of the property. The violation notice shall identify the violation(s) and order the owner to mitigate the public nuisance within ten business days from the date on which the owner has been served the violation notice ("Abatement Period"). Personal service, service by U.S. certified mail, or any other manner of service recognized in the Indiana Rules of Trial Procedure shall constitute proper service upon the owner and any occupants of the property for the purposes of this chapter. Additionally, a copy of the violation notice shall be conspicuously posted on the property by the Hearing Authority, or its designee.

(4) In the event the violation reports as confirmed by the inspection of the County Commissioner or his/her designee identify one or more abandoned vehicles on the subject property, the county shall comply with all due process requirements for notice and abatements of those abandoned vehicles as specified under Indiana law including I.C. 9-22-1 *et seq.*

(E) *Violation notice appeal.* Any violation notice issued pursuant to this chapter may be appealed to the Hearing Authority if written notice of appeal is served on the Hearing Authority by the owner prior to the expiration of the abatement period. The timely appeal of a violation notice shall toll the abatement period pending the issuance of a decision thereon by the Hearing Authority.

(F) *Abatement of public nuisance.* If the owner fails to timely abate each violation set forth in a violation notice within the abatement period, the Hearing Authority may authorize the County Attorney to file an action for an ordinance violation in the Warrick County Superior or Circuit Courts seeking an order of abatement of said nuisance. Said order of abatement shall grant the county or its designees permission to abate the public nuisance, including the cutting or removal of weeds and/or rank vegetation

and the removal of garbage and/or junk identified in the violation notice. Upon completion of the abatement, the Hearing Authority, or its designee, shall prepare a certified statement as to the actual administrative and other costs incurred by Warrick County in taking such action in addition to any penalties provided herein ("Abatement Costs"), and shall serve a copy of the invoice on the owner. The owner shall, within ten calendar days from the date on which the owner is served with such invoice ("Payment Period"), pay in full the amount stated thereon payable to the Warrick County Board of Commissioners.

(G) *Appeal of costs.* Any invoice for abatement costs issued pursuant to this chapter may be appealed to the Hearing Authority if written notice of appeal is served by the owner on the Hearing Authority within ten calendar days from the date on which the invoice is served on the owner. The timely appeal of an invoice shall toll the payment period pending the issuance of a decision thereon by the Hearing Authority.

(H) *Failure to pay.* If the owner fails to timely pay an invoice for abatement costs issued pursuant to this chapter, the Hearing Authority, or his or her designee, shall certify to the Warrick County Auditor the amount of the invoice for abatement costs, plus any additional administrative costs incurred in the certification of the same. The Warrick County Auditor shall place the total amount so certified on the tax duplicate for the property at issue, and the total amount, including any accrued interest, shall be due and payable with the parcel's real estate tax bill.

(I) *Time of appeals.* The Hearing Authority shall hear any timely requested appeal of notice of violation or invoice for abatement costs within 30 calendar days following receipt of the same, and shall thereafter promptly issue a decision granting or denying, in whole or in part, the appeal. The date on which the Hearing Authority's decision is served on the owner shall thereafter become the first calendar day of the abatement period or payment period, as applicable.

(J) *Miscellaneous.*

(1) *Venue.* The Warrick County Superior or Circuit Court shall be the court of proper venue and jurisdiction for the enforcement of this chapter.

(2) *Cumulative remedy.* This chapter supplements and does not limit any other remedy or action available in law or equity regarding the subject matter hereof.

(3) *Applicability.* This chapter shall not apply to the following:

(a) Agricultural and industrial operations as described in I.C. 32-30-6-9;

(b) Forestry operations as described in I.C. 32-30-6-11;

(c) Real property upon which agricultural crops are cultivated, including hay and pasture, as described in I.C. 36-7-10.1-3(a); and

(d) Warrick County municipal corporations as defined in I.C. 36-1-2-10, and Warrick County governmental units, departments, and school corporations.

(4) *Abatement vendors.* The Board of County Commissioners may invite and accept no less than two reasonable bids for abatement vendors who shall be private businesses and not any department of the county. Said vendors shall provide abatement services as independent contractors for violations of this chapter including the abatement of weeds and rank vegetation, garbage and junk, and the bids may be renewed and updated at various times when deemed appropriate by the Board of Commissioners.

(5) *Public Nuisance Fund.* Any and all abatement costs, fees, penalties and fines collected pursuant to this chapter shall be deposited into a Public Nuisance Fund or other fund as determined by the county fiscal body for the express purpose to cover the costs of administration of the enforcement of this chapter.

(BC Ord. 2018-07, passed 4-23-18)

§ 157.99 PENALTY.

Any person who violates a provision of this chapter shall incur a penalty which shall be part of the abatement costs and which may include the following at the discretion of the Hearing Authority:

(A) The actual administrative costs incurred by Warrick County, or its designee, in issuing the violation notice;

(B) The actual filing fees incurred in filing the ordinance violation in court and attorney fees of up to \$250;

(C) The actual administrative and other costs incurred by Warrick County in abating a public nuisance;

(D) The actual administrative costs of Warrick County certifying the abatement costs to the County Auditor; and

(E) A fine, as follows:

(1) First violation: \$100;

(2) Second violation: \$500; and

(3) Third and subsequent violations: \$1,000.

(BC Ord. 2018-07, passed 4-23-18)