

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. NUISANCES

92. CURFEW

CHAPTER 90: ANIMALS

Section

- 90.01 Definitions
- 90.02 Restraint required
- 90.03 Impoundment procedure
- 90.04 Livestock prohibited within town limits.

- 90.99 Penalty

§ 90.01 DEFINITIONS.

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

ANIMAL. Any live, nonhuman vertebrate creature domestic or wild.

AT LARGE. Any animal which is off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, or on a leash.

OWNER. Any person or persons, firm, association, or corporation owning, keeping, sheltering or harboring an animal.

RESTRAINT. The securing of an animal by a leash or lead or confining it within the motor vehicle or real property limits of its owner.
(Ord. 1-85, passed 7-8-85)

§ 90.02 RESTRAINT REQUIRED.

All animals shall be kept under restraint.
(Ord. 1-85, passed 7-8-85) Penalty, see § 90.99

§ 90.03 IMPOUNDMENT PROCEDURE.

In the event any animal is found at large unrestrained within the limits of the town, any law enforcement officer, including but not limited to the Town Marshall, may take the animal into possession. The law enforcement officer shall cause the animal to be confined, either within or outside of the town. The owner of the animal may at any time within 72 hours claim the animal by filing with either the Town Clerk-Treasurer or the Town Marshall a notice of claim, which notice shall show the ownership of the animal in the person filing the notice and the notice will show that any fine as provided in this chapter has been paid and that the owner will pay the actual cost of confining said animal if the animal was confined by an entity other than the town or the Town Marshall or a \$5 per day fee for the costs of confinement if the animal was confined by the town or the Town Marshall. If the animal is not claimed within the 72-hour period, the Town Marshall, either in person or through third persons, may dispose of the animal by giving the animal away or by killing the animal.

(Ord. 1-85, passed 7-8-85)

§ 90.04 LIVESTOCK PROHIBITED WITHIN TOWN LIMITS.

It is unlawful for the owner, occupant, or person having control of or management of any property within the Town of Shelburn to raise, board, keep, house, or harbor any of the following: horses, miniature horses, or ponies; pigs, hogs, swine; cattle or any herd animal; sheep or goats; chickens, ducks, geese or other fowl (does not include birds commonly kept as caged pets); any poisonous snake or spider; any wild animal.

(Ord. 2010-4, passed 8-9-10) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) *General penalty.* A person who violates the provisions of this chapter shall be subject to a fine of up to \$50 for the first offense and up to \$100 for a second or subsequent offense together with any court costs and any legal fees incurred by the town in enforcing this chapter or in the collection and payment of the delinquent fine or fines.

(B) *Notice of violation penalty in lieu of general penalty.* Any law enforcement officer, including but not limited to the Town Marshall, may issue to the known owner of any such animal which is at large within the limits of the town without restraint in violation of § 90.02, a notice of violation of ordinance. Such notice shall impose upon the owner a penalty of \$10 for the first offense and \$25 for the second or subsequent offense, which may be paid at the discretion of the owner of the animal at the Clerk-Treasurer's office during usual business hours, whereupon the Clerk-Treasurer shall issue a receipt for payment. The penalty, if paid within three business days of the issuance of notice of violation, shall be in full satisfaction of any monetary penalties provided in division (A). In the event that such payment is not made within the time period prescribed, the town, by its Town Council, shall file proceedings for the enforcement of this chapter in the county court.

(C) Persons guilty of violation of § 90.04 shall pay a fine of \$100 for the first violation; \$150 for the second violation; and \$500 for each subsequent violation in addition to court and legal fees to be paid to the Clerk/Treasurer of the Town of Shelburn within 30 days of issuance of a ticket by a law enforcement officer of the Town. Fines collected for violations of this section shall be deposited into the Ordinance Violation Fund of the Town of Shelburn. If the violation is contested, an appearance date will be set for the alleged violator to appear in Sullivan Superior Court.

(Am. Ord. 2010-4, passed 8-9-10)

CHAPTER 91: NUISANCES

Section

- 91.01 Weeds declared a nuisance
- 91.02 Height
- 91.03 Litter and rubbish declared a nuisance
- 91.04 Blind intersections declared a nuisance
- 91.05 Offal, dead animals, vegetable matter declared a nuisance
- 91.06 Abandoned vehicles
- 91.07 Partially demolished buildings, burned buildings and uninhabitable buildings - declared a nuisance
- 91.08 Removal notice
- 91.09 Abatement
- 91.10 Appeal
- 91.11 Lien and charges
- 91.12 Open burning

- 91.99 Penalty

Statutory reference:

Municipal authority to remove weeds, see IC 36-7-10.1

§ 91.01 WEEDS DECLARED A NUISANCE.

Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of like kind, found growing in any lot or tract of land in the town are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any such place. As used in this chapter “weeds and other rank vegetation” does not include agricultural crops, such as hay and pasture. (Ord. 2-85, passed 7-8-85; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18) Penalty, see § 91.99

§ 91.02 HEIGHT.

It shall be unlawful for anyone to permit any weeds, grass or plants, other than trees, bushes, cultivated vegetables, flowers or other ornamental plants to grow to a height exceeding ten inches anywhere in the Town of Shelburn. Any such plants or weeds exceeding such height are hereby declared to be a nuisance. (Ord. 2-85, passed 7-8-85; Am. Ord. 2001-1, passed 2-12-01; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18) Penalty, see § 91.99

§ 91.03 LITTER AND RUBBISH DECLARED A NUISANCE.

Any cans, bottles, paper, plastic, indoor furniture, household appliances, rags, metal, vehicle parts, machinery, or materials for recycling or salvage must be kept in a building or in closed containers; or otherwise considered a nuisance. Logs, lumber or fire wood lying on the ground without props holding said material off the ground at least eight inches and in a safe manner on any lot or tract of land in the town are hereby declared a nuisance. Any plastic trash bags, trash, garbage or debris which are not stored in closed trash cans and the same materials kept in closed trash cans and not disposed of within every 14 days, are hereby declared to be a nuisance. (Ord. 2-85, passed 7-8-85; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18) Penalty, see § 91.99

§ 91.04 BLIND INTERSECTIONS DECLARED A NUISANCE.

Any plants, bushes, weeds, trees, whether or not growing on fences, signs, or any other structure that

causes a driver of any vehicle not to be able to see traffic from any intersecting street is detrimental to health and safety and is hereby declared to be a nuisance.

(Ord. 2-85, passed 7-8-85; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18)

§ 91.05 OFFAL, DEAD ANIMALS, VEGETABLE MATTER DECLARED A NUISANCE.

Any offal, human or animal waste, dead animals, or vegetable matter exposed to flies or lying upon any lot or tract of land in the Town of Shelburn is detrimental to health and safety and hereby declared a nuisance.

(Ord. 2-85, passed 7-8-85; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18)

§ 91.06 ABANDONED VEHICLES.

It shall be unlawful to have any abandoned vehicles on any lot or tract of land in the Town of Shelburn unless said vehicle is stored in an enclosed area not visible to the public or other properties. The presence of any abandoned vehicle in the Town of Shelburn shall be considered a nuisance. An abandoned vehicle is defined by IC 9-13-2-1 as:

(A) A vehicle located on public property illegally;

(B) A vehicle left on public property without being moved for 24 hours;

(C) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;

(D) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.

(E) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property;

(F) A vehicle that has been removed by towing service or public agency upon request of an officer enforcing a statute or ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days after the vehicle's removal; or

(G) A 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. For purposes of this division, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.

(H) A vehicle:

(1) That was repaired or stored at the request of the owner;

(2) That has not been claimed by the owner; and

(3) For which the reasonable value of the charges associated with the repair or storage remain unpaid more than 30 days after the date on which the repair work is completed on the vehicle is first stored. (Am. Ord. 2007-5, passed - -)

§ 91.07 PARTIALLY DEMOLISHED BUILDINGS, BURNED BUILDINGS AND UNINHABITABLE BUILDINGS - DECLARED A NUISANCE.

Any buildings that are partially demolished, or have fire damage and are uninhabitable are detrimental to the Town of Shelburn and are a nuisance. (Am. Ord. 2007-5, passed - -)

§ 91.08 REMOVAL NOTICE.

It shall be the duty of the Shelburn Police to serve or cause to be served a notice upon the owner and occupant of any premises on which the declared

nuisance exists in violation of the provisions of this chapter and to demand abatement of the nuisance within ten (days. For the purpose of this chapter, notice shall be deemed served upon the owner or occupant of the premises if the Shelburn Police leaves a copy of the notice in a conspicuous manner anywhere on the effected premises, and if a notice has been served in person by the Shelburn Police by uniform traffic ticket form or, a copy of such notice can be mailed "Certified" by United States Postal Service to current owner of such real estate to the same name and address to which tax duplicates are sent by the Treasurer of Sullivan County, Indiana, and such notice will be effective when same is deposited in the mail. Such notice shall be a continuous enforcement order requiring additional and future compliance with the Ordinance, second and subsequent violations may be abated by the Town of Shelburn, Indiana without further notice.

(Ord. 2-85, passed 7-8-85; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18)

§ 91.09 ABATEMENT.

If the person so served does not abate the nuisance within ten days, the Shelburn Police or the Town Council may proceed to abate such nuisance, by hiring an independent cleaning crew and paying the independent cleaning crew for their expenses or use Town of Shelburn employees and equipment to abate the nuisance. Any and all costs incurred by the Town Police or Town Council, to abate the nuisance shall be charged to and paid by the owner of the premises. (Ord. 2-85, passed 7-8-85; Am. Ord. 1988-3, passed 9-10-88; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18)

§ 91.10 APPEAL.

If the owner or occupant of the property feels that he/she has not violated the provisions of this chapter, upon receiving such notice, he/she has seven days to contact the Clerk-Treasurer of the Town of Shelburn,

Indiana and state in writing why he/she has not violated the provisions of this chapter. The Clerk-Treasurer, after receiving the reasons why such person feels he/she is not violating the provisions of this chapter, will cause this action and appeal to be heard at the soonest meeting of the Town Council. The Town Marshall will present his evidence of the alleged violation to the Town Council and the person appealing the violation notice shall present their defense against the claim. If the Council finds that the violation did occur the Council will give a written report to the Clerk-Treasurer of their finding, with a copy mailed to the owner or occupant. If the Town Council finds against the person so served, the town may proceed under § 91.09 and said expenses shall become a lien as stated in § 91.11.

(Ord. 2-85, passed 7-8-85; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18)

§ 91.11 LIEN AND CHARGES.

Charges for the abatement and removal of the nuisance described in this chapter shall become a charge against the owner of the premises. If not paid within 30 days, the Clerk-Treasurer shall file a lien against the property in accordance with I.C. 36-1-6-2.

(Ord. 2-85, passed 7-8-85; Am. Ord. 1988-3, passed 9-10-88; Am. Ord. 2004-7, passed 12-21-04; Am. Ord. 2007-5, passed - -; Am. Ord. 2010-7, passed 9-13-10; Am. Ord. 2018-8, passed 8-13-18)

§ 91.12 OPEN BURNING.

(A) *Applicability.* No person shall open burn any material except as provided in the following exemptions:

(1) *Exemptions.* The following types of fires are permitted:

(a) Fires celebrating school pep rallies, scouting activities, and camp or picnic fires used solely for recreational purposes, where such fires are properly controlled by a responsible person.

Shelburn - General Regulations

(b) Residential burning where residence contains two or fewer units.

(c) Burning shall be in a non-combustible container with enclosed sides, a bottom and mesh covering with openings no larger than 1/4 inch square or, a pile no larger than ten feet by ten feet and the surrounding area cleared of combustible material to a distance of at least twenty feet in all directions.

(d) Burning is prohibited in apartment complexes Household or Farm burning of wood or wood products derived from yard maintenance or farming operations. Commercial clearing operations are not considered farm or household operations.

(2) All exemptions shall be subject to the following:

(a) Only wood or vegetation products shall be burned.

(b) Fires shall be attended at all times.

(c) If a fire creates an air pollution problem, a nuisance or a fire hazard, it shall be extinguished.

(d) All residential and farm burning shall be conducted during daylight hours and shall be extinguished at sunset.

(e) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc.

(B) *Nuisance and airborne particulate.*

(1) *Applicability.* This section shall apply to all persons in the Town of Shelburn.

(2) *Limitations.*

(a) It shall constitute a nuisance for any person to permit or cause the preventable

emission of such quantities of air containments from whatever source, in such place or manner as to endanger the public, nor in such a manner as to cause or have a tendency to cause injury or damage to property or business. This provision shall specifically include the incineration of garbage, rubbish, trash, or any other material which produces smoke or noxious or offensive odors in such quantity, or in such duration as to interfere with the comfortable enjoyment of life or property or the conduction of business.

(b) It shall be unlawful for any person to cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the wind, or is susceptible to being windborne, without taking reasonable precautions or measures to minimize atmospheric pollution. It shall be unlawful for any person to operate or maintain or cause to be operated or maintained, any premises, open area, right of demolition, or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind, or susceptible to being windborne without taking precautions or measures to minimize atmospheric pollution. No person shall maintain or conduct, or cause to be maintained or conducted, any parking lot, or automobile and/or truck sales lot, or use any roadway unless such lot or roadway is maintained in such a manner as to minimize atmospheric pollution.

(c) *Waiver.* Nothing in any section of this ordinance relating to regulation of emission of air contaminants shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

(C) *Fines - Offenses.* A fine will be imposed in the amount of \$150 for the first offense and in the amount of \$250 for each offense thereafter. (Ord. 2019-9-9, passed 9-9-2019)

§ 91.99 PENALTY.

(A) Anyone who violates §§ 91.02 or 91.03(B) or (C) shall be subject to the following penalty: Upon

discovery of the condition, the Town Marshal shall issue a violation notice ticket to the owner or occupant of the property. The owner or occupant will then have seven days from notice to correct the violation. If the violation has not been corrected at the end of the first seven days, the owner or occupant shall pay a fine in the amount of \$50; and an additional fine of \$50 shall be levied upon the owner or occupant for each seven day period thereafter in which the violation continues to exist. Fines shall be payable to the Clerk-Treasurer.

(B) Anyone who violates § 91.07 shall be subject to the following penalty:

(1) Upon discovery of the condition, the Town Marshal will deliver notice of the violation to the owner or occupant of the property, and to the Town Council by use of the uniform ticket form.

(2) The owner or occupant will have 90 days from the time of notice to complete the removal or repair of the structure. If the removal or repair of the structure is completed within 90 days, there shall be no fine or cost. If the removal or repair of the structure is not completed, the fine shall be \$50; and, for each week thereafter in which the condition has not been remedied it shall be a further violation and another fine of \$50.

(C) Anyone who violates any other provision of this chapter shall be subject to a penalty as provided for in § 10.99.

(D) Any fine not paid to the Clerk-Treasurer within 40 days of the notice of violation shall be filed in the Sullivan Superior Court and legal action taken as necessary.

(E) Any person receiving a notice of violation has a right to appeal to the Town Council in person and in writing, before the matter is filed in court, at the first meeting of the Council after notice of violation is given.

(Ord. 2001-1, passed 2-12-01; Am. Ord. 2007-5, passed - -)

CHAPTER 92: CURFEW

Section

- 92.01 Violations
- 92.02 Exceptions
- 92.03 Police procedures

(A) Accompanied by the child's parent, guardian, custodian or an adult appointed by the child's parent, guardian or custodian;

(B) Legally emancipated under the laws of this or another state; or

(C) Participating in, going to, or coming from:

(1) Lawful employment;

(2) A school sanctioned activity;

(3) A religious event;

(4) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

(5) An activity involving the exercise of the child's rights protected under the United States Constitution or Article 1, § 31 of the Constitution of the State of Indiana, or both, such as the freedom of speech and the right of assembly;

(6) An activity conducted by a nonprofit or government entity that provides recreation, education, training, or other care under the supervision of one or more adults; or

(7) Interstate or international travel from a location outside Indiana to another location outside Indiana.

(8) Participating in an activity undertaken at the prior written direction of the child's parent, guardian or custodian.

(Ord. 2002-5, passed 9-30-02; Am. Ord. 2007-7, passed 10-15-07)

§ 92.01 VIOLATIONS.

(A) It is a curfew violation for a child 15, 16, or 17 years of age to be in a public place, a place of public access, or on private property without permission of the owner:

(1) Between 11:00 p.m. on Friday night and 5:00 a.m. on Saturday;

(2) Between 11:00 p.m. on Saturday night and 5:00 a.m. on Sunday;

(3) After 9:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; and

(4) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(B) It is a curfew violation for a child less than 15 years of age to be in a public place, a place of public access, or on private property without the owner's permission after 9:00 p.m., or before 5:00 a.m. on any day.

(Ord. 2002-5, passed 9-30-02)

§ 92.02 EXCEPTIONS.

It is a defense to a violation of § 92.01 if the child, at the time the child engaged in the prohibited conduct, was:

§ 92.03 POLICE PROCEDURES.

(A) Any police officer finding a child in violation of this chapter shall:

(1) Detain the child and contact the juvenile/probation officer on call;

(2) Contact the parent or guardian of the child and have the parent or guardian come to the Sullivan County Sheriff's Department to take custody of the child;

(3) Make a written report of the incident which will include the parent or guardian signature showing receipt of custody of the child:

(a) One copy to the Shelburn Police file;

(b) One copy to the Juvenile/Probation office;

(c) One copy to the prosecutor's office; and

(d) One copy to be given to the Department of Family and Children.

(4) If the police officer cannot locate the parent or guardian, that officer shall immediately contact the on call case worker for the Department of Family and Children; and assist with placement of the child as necessary.

(B) A law enforcement officer may not detain a child or take a child into custody based on a violation of this chapter unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

(1) The child has violated this chapter; and

(2) There is no legal defense to the violation.

(Ord. 2002-5, passed 9-30-02; Am. Ord. 2007-7, passed 10-15-07)

