

ORDINANCE NO. 106

AN ORDINANCE OF THE TOWN OF INDIAN LAKE, TEXAS REPEALING ORDINANCE NO. 0081 AND ANY AMENDMENTS THERETO, AND ANY PARTS OF ORDINANCES WHICH WOULD BE IN CONFLICT WITH THIS ORDINANCE; PROHIBITING ANY ACCUMULATION OF STAGNANT WATER, MOLD, CARRION, FILTH, TRASH, WEEDS, OR OTHER MATTER LIABLE TO PRODUCE DISEASE ON ANY LOT OR PREMISES WITHIN THE TOWN OF INDIAN LAKE, ALLOWING FOR CORRECTION OR REMOVAL OF SAME BY THE TOWN; PROVIDING FOR A LIEN IN FAVOR OF THE TOWN AGAINST THE OFFENDING REAL ESTATE FOR EXPENSES AND FEES COVERING SUCH CORRECTION OR REMOVAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE AND DECLARING AN EMERGENCY.

WHEREAS, the accumulation of stagnant water, mold and mildew, carrion, filth, trash, weeds, or other matter liable to produce disease and may injure or affect public health and comfort. and

WHEREAS, the Town Council finds that it is in the best interest of the citizens of the Town of Indian Lake to have an ordinance clarifying the regulations, procedures and penalties for properties and their owners for the accumulation of such nuisances.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN LAKE, TEXAS:

SECTION 1: Definitions.

For the purpose of this Ordinance, the following terms shall carry the meanings as set out below:

Stagnant Water = not flowing or running, stale or foul from standing,

Mold and mildew = fungus growth on siding or the outside of the house, buildings, or store rooms.

Carrion = the decaying flesh of dead animals

Filth = offensive or disgusting dirt or refuse; foul matter:
smut, grime, slime, garbage, putrefaction, manure, sludge, uncleanness, slop, impurity, mud, muck, putrescence, mire, trash, corruption, silt, crud, slush, dung

Weed = a plant that is not valued where it is growing and is usually of vigorous growth.

Rubbish = something that is worthless or nonsensical.

Brush = scrub vegetation.

Trash = something worth little or nothing.

Nuisance = a state of facts requiring governmental action for the establishment and maintenance of public health, safety, order and convenience.

Owner = any person shown by any public record maintained by Appraisal District or Town Clerk to have an interest in a property lying in the limits of the Town of Indian Lake, Texas as of the date of the abatement of public nuisance under this ordinance or any successor in title taking with actual or constructive notice of the existence of a public nuisance.

Abatement cost = the Town's cost of labor, equipment and supplies for, or the contract price of and any charges to the Town with respect to, its removal and disposal of weeds or trash from a property.

SECTION 2: Unsanitary Conditions

It is unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied,

- a. includes record owner or tenant
- b. within the corporate Town limits
- c. to permit or allow
- d. any stagnant or unwholesome water, sinks, refuse, filth, carrion, weeds, rubbish, brush and refuse, trash, debris, junk, garbage, impure or unwholesome matter of any kind or objectionable or unsightly matter of whatever nature to accumulate or remain upon such real property or within any public easement on or across such real property or upon any adjacent public street or alley right-of-way between the property line of such real property and where the paved surface of the street or alley begins.
- e. It is further unlawful and declared a nuisance for any person to dump or permit to be dumped, throw upon or along any drain, gutter, alley, sidewalk, street, park, right-of-way or vacant lot into or adjacent to water, or any public or private property, within the corporate limits, any unwholesome water, refuse, rubbish, trash, debris, filth, carrion, weeds, brush, junk, garbage, impure or unwholesome matter of any kind or other objectionable or unsightly matter of any kind

SECTION 3: Tall Grass

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied

- a. includes record owner and any tenant
- b. within corporate Town limits
- c. to permit weeds, brush or any objectionable or unsightly matter to grow to a height greater than 12 inches upon such real property

Presumption

- a. All vegetation which exceeds 12 inches in height is presumed to be objectionable and unsightly; except regularly cultivated crops, as provided by ordinance.
- b. within 150 feet of any property line which abuts street rights-of-way, alleys, utility easements, subdivided additions, developed property or any buildings or other structures.

The person also has a duty to keep the area from the line of his property

- a. to the curblines next adjacent to it, if there is a curblines; and, if not, then
- b. to the center line of the adjacent unpaved street; or
- c. to the edge of the pavement

cleared of the above-referenced matter

SECTION 3: Affirmative Duty to Clean Premises

It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property to remove, drain and/or fill all prohibited matter or conditions and to cut and remove all weeds, brush, vegetative growth and other objectionable or unsightly vegetation as often as may be necessary to comply with the above and use every precaution to prevent the same from occurring or growing on such property.

SECTION 4: Notice of Abatement and Penalty

Any person failing to comply must be given notice

- a. personally to the owner in writing
- b. by letter addressed to owner at post office address as recorded in the appraisal district records
 - does not require certified mail

If the above cannot be accomplished, then by

- a. publication at least once
- b. posting notice on or near the front door of each building on the property; or
- c. posting the notice on a placard attached to a stake driven into the ground on the property, if there are no buildings.¹

If notice is mailed in accordance with the above, and the Postal Service returns the notice as “refused” or “unclaimed,” the notice is considered valid and delivered.

If the person fails or refuses to comply within 7 days after the date of notification, the Town may go upon the property and do or cause to be done the work necessary to achieve compliance. State law provides for a one-year notice provision; specifically

- a. the Town, in the notice, may inform the owner by regular mail and a posting on the property, or by personal delivery that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice that the Town, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice occurs within the one-year period, and the Town has not been informed in writing by the owner of an ownership change, then the Town, without notice, may take any corrective action and assess its expenses.
- b. In the event the owner or occupant of any lot or premises upon which a condition described in this Ordinance fails to correct, remedy or remove such condition. The Town will bill the owner for abatement cost plus a service charge equal to 100% of the expense incurred and

a \$100.00 administrative fee will be added. Such expenses shall be assessed against the lot or real estate.

- c. If the owner neglects to pay the fines assessed on the property than a lean on the property in the amount owed the Town will be filed with the County.
- d. Upon the third (3rd) violation and any thereafter within a 12 month period following notice of the first violation then a citation will be issued to the owner and upon conviction in the Municipal Court shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense. The owner will also be liable for the expenses assessed against the property for the corrective action.
- c. There is no abatement hearing required unless due to serious health and safety concerns abatement came before notice for example bee swarms or attacks.

SECTION 5: Severability Clause

That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 6: Effective Date

That the present ordinances of. the Town of Indian Lake are inadequate to provide for the proper regulation of parking of commercial vehicles creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the Town Council of the Town of Indian Lake, Texas, on the 19th day of June, 2019.

ATTEST:

APPROVED:

James Chambers, Mayor

Amy Lopez, Town Secretary