

**TITLE 6**  
**HEALTH, PEACE, SAFETY AND SANITATION**

## **TITLE 6**

### **HEALTH, PEACE, SAFETY AND SANITATION**

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## Chapter 6.01

### FOOD SERVICE ESTABLISHMENT REGULATIONS

#### Sections:

- 6.01.010 Definitions**
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**6.01.010 Definitions.** The following definitions shall apply in the interpretation and the enforcement of this ordinance:

- (1) "Eating and drinking establishment" shall mean restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain, private and semiprivate club kitchens, as well as kitchens in which food is prepared for sale elsewhere. (Ord. 1971-1, S101, Feb. 15, 1971)
- (2) "Food" as used herein shall include all articles used for food, drink, confectionery, or condiment, whether simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. (Ord. 1971-1, S102, Feb. 15, 1971)
- (3) "Itinerant eating and drinking establishment" shall mean one operating for a temporary period, in connection with a fair, carnival, circus, public exhibition, or other similar gatherings, such as, fraternal organizations, service clubs, religious, educational, and charitable institutions. (Ord. 1971-1, S103, Feb. 15, 1971)
- (4) "Employee" shall mean any person who handles food or drink during the preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room or other place in which food or drink is prepared or served. (Ord. 1971-1, S104, Feb. 15, 1971)
- (5) "Utensils" shall include any kitchenware, tableware, glassware, cutlery, containers, or other equipment of any kind or nature, which food or drink comes in contact during storage, preparation or serving. (Ord. 1971-1, S105, Feb. 15, 1971)
- (6) "Health Officer" shall mean the Health Officer of Spencer County or his authorized representative. (Ord. 1971-1, S106, Feb. 15, 1971)

- (7) "Person" shall mean any person, firm, corporation, or association. (Ord. 1971-1, S107, Feb. 15, 1971)

**6.01.020 Guidelines for inspection.** Guidelines for regulating the sanitation of all Food Service Establishments shall be obtained from the rules and regulations of HFD 17 of the Indiana State Board of Health. Copies of said Bulletin HFD 17 are herewith incorporated by reference as part of this section and two copies are filed in the office of the Clerk-Treasurer of Grandview and the Spencer County Health Office for public inspection. (Ord. 1971-1, S201, Feb. 15, 1971)

**6.01.030 Permits, license, and license fee.**

- (1) It shall be unlawful for any person to operate an eating and drinking establishment in the Town of Grandview, who does not possess an unrevoked permit from the health officer. Such permit shall be posted in a conspicuous place in such eating and drinking establishment. Only persons who comply with the requirements of this ordinance shall be entitled to receive and retain such a permit. Any permit issued by the health officer shall contain the name of the person to whom the permit is granted, the address of the premises for which the same is issued, the address of the person to whom the same is issued, if such address be different than the premises for which it is issued, and such other pertinent information as may be required by the health officer. A permit shall be issued to any person who has complied with the requirements of this ordinance and no permit or renewal thereof shall be denied on arbitrary or capricious grounds. A separate permit shall be required for each eating and drinking establishment operated or to be operated by any person. (Ord. 1971-1, S301, Feb. 15, 1971)
- (2) Such a permit may be temporarily suspended by the health officer upon the violation by the holder of any of the terms of this ordinance, or revoked after an opportunity for a hearing by the health officer upon serious or repeated violation. (Ord. 1971-1, S302, Feb. 15, 1971)
- (3) It shall be unlawful for any person to operate an eating and drinking establishment in the Town of Grandview, who does not possess a valid license for the operation of such an establishment. Any person operating an eating and drinking establishment shall, within five days after securing a permit from the health officer, obtain from the Grandview Clerk-Treasurer a license for an eating; and drinking establishment. Such license shall be provided by the Clerk-Treasurer, if there is presented at his office an unrevoked permit from the health officer, together with \$12 if the application for license is made between the 1st day of January, and on or before the 31st day of March of any year; or \$9 if the application is made on the 1st day of April, and on or before the 30th day of June of any year; or \$6 if

the application is made on the 1st day of July, or on or before the 30th day of September of any year; or \$3 if the application is made on the 1st day of October, or on or before the 31st day of December of any year. (Ord. 1971-1, S303, Feb. 15, 1971)

- (4) Every person operating an eating and drinking establishment shall pay annually to the Clerk-Treasurer, at his office, a fee for the renewal of such license, in the amount of \$12 and such renewal license shall be issued, provided the applicant presents to the Clerk-Treasurer said fee, together with an unrevoked permit from the health officer. If such renewal fee is not paid by the 31st day of January of each year, succeeding the year in which the original license was issued, then any permit which the applicant holds from the health officer shall be deemed to be automatically revoked and cancelled, and no license shall then be granted by the Clerk-Treasurer, until a new permit from the health officer has been obtained and presented to his office. (Ord. 1971-1, S304, Feb. 15, 1971)
- (5) Any person who desires to operate an itinerant eating and drinking establishment in the Town of Grandview may do so without obtaining a health permit or license, but said establishment must comply with the rules and regulations of HFD 17 of the Indiana State Board of Health. Also, employees of such establishments are subject to the same requirements as stated in Article 5, section 501. Said establishments are subject to inspection at any time by the Health Officer or his representative. (Ord. 1971-1, S305, Feb. 15, 1971)

#### **6.01.040 Inspections.**

- (1) The County Health Officer or his agent bearing proper credentials and identification shall be permitted to enter upon all properties at all reasonable times for the purposes of inspection, observation, measurement, sampling, and testing necessary to carry out the provisions of this ordinance. (Ord. 1971-1, S401, Feb. 15, 1971)
- (2) At least once every 12 months the health officer shall inspect every eating and drinking establishment located within the Town of Grandview. In case the health officer discovers the violation of any item of sanitation required he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied. Any violation of the same item of this ordinance on such second inspection shall call for immediate suspension or revocation of permit. (Ord. 1971-1, S402, Feb. 15, 1971)

- (3) One copy of the inspection report shall be filed with the owner or operator of the establishment and a second copy shall be filed with the Spencer County Health Department. (Ord. 1971-1, S403, Feb. 15, 1971)
- (4) Any eating and drinking establishment may at any time make application for reinstatement of the permit. (Ord. 1971-1, S404, Feb. 15, 1971)
- (5) Within one week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated provision or provisions of this ordinance have been complied with, the health officer shall make a reinspection, and thereafter as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the requirements, and in case the findings indicate compliance shall reinstate the permit. (Ord. 1971-1, S405, Feb. 15, 1971)
- (6) The person operating the eating and drinking establishment shall upon request of the health officer permit access to all parts of the eating and drinking establishment and shall permit copying any or all records of food purchased. (Ord. 1971-1, S406, Feb. 15, 1971)
- (7) Samples of food, drink, and other substances may be taken and examined by the health officer as often as may be necessary for the detection of unwholesomeness or adulteration. The health officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated. (Ord. 1971-1, S407, Feb. 15, 1971)

**6.01.050 Health certificates.** No person shall be permitted to work in an eating and drinking establishment or an itinerant eating and drinking establishment who does not have a health certificate issued by a licensed physician. Such certificates shall be renewed annually and shall include any test deemed necessary by the physician to determine whether or not such employee has, or is a carrier of, any infectious or contagious disease. He shall also show proof of having a current negative Tuberculin Skin Test or proof of a current Chest X-ray. (Ord. 1971-1, S501, Feb. 15, 1971)

**6.01.060 Penalties.** Any person who violates any of the provisions of this ordinance or who refuses to comply with any lawful orders, rules, or regulations of the health officer, as provided in this ordinance shall upon conviction, be punished for the first offense by a fine of not less than ten dollars or more than fifty dollars; for the second offense by a fine of not less than fifty dollars nor more than one hundred dollars; and for the third and subsequent offenses by a fine of two hundred dollars and imprisonment in the county jail for not less than thirty days nor more than ninety days. Each day of operation in violation of the provisions of this ordinance shall constitute a distinct and separate offense. (Ord. 1971-1, S601, Feb. 15, 1971)

**6.01.070 Repeal of date of effect.** All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect immediately upon its adoption and its publication as provided by law. (Ord. 1971-1, S701, Feb. 15, 1971)

**6.01.080 Ordinance in force.** Passed and adopted by the Trustees of the Town Board of Grandview, Spencer County, State of Indiana, on this 15<sup>th</sup> day of February 1971. Whereunto the Board of Trustees of the Town of Grandview have hereunto set their hands and seals this 15<sup>th</sup> day of February, 1971, at a regular meeting of said Trustees of Town Board duly convened and held as provided by law. (Ord. 1971-1, S801, Feb. 15, 1971)

## Chapter 6.04

### PUBLIC INTOXICATION

#### Sections:

**6.04.010 Public intoxication**

**6.04.020 Penalty for violation**

**6.04.010 Public intoxication.** Be it ordained by the Board of Trustees of the Town of Grandview in the State of Indiana, that it shall be unlawful for any person to drink any spirituous, vinous, or malt liquor, or any intoxicating liquor as a beverage in or on any public street, alley or sidewalk in the said Town of Grandview. (Ord. No. 20, S1, Sept. 19, 1910) (Ord. No. 3, S1, No date)

**6.04.020 Penalty for violation.** Any person violating the provisions of this Ordinance will be deemed guilty of disorderly conduct, and upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not less than one nor more than ten dollars for each offense. (Ord. No. 20, S2, Sept. 19, 1910) (Ord. No. 3, S1, No date)

## **Chapter 6.12**

### **OBSTRUCTION OF JUSTICE**

#### **Sections:**

#### **6.12.010 Obstruction of Justice**

**6.12.010 Obstruction of Justice.** Every person who shall obstruct, hinder or molest any officer of the Town of Grandview in the discharge of any duty pertaining to his office, shall be deemed guilty of disorderly conduct, and upon conviction thereof shall be fined in any sum not exceeding ten dollars nor less than one dollar for each offense, with cost of prosecution. (Ord. No. 3, S7, No date)

## **Chapter 6.16**

### **DESTRUCTION OF PROPERTY**

#### **Sections:**

#### **6.16.010 Destruction of property**

**6.16.010 Destruction of property.** Every person who shall wantonly injure any private building, market house, school house, church or any edifice or fence whatever, or any shade or ornamental tree planted or growing in any public place or grounds, or along any street or alley within the Town of Grandview, shall be deemed guilty of disorderly conduct, and upon conviction thereof shall be fined not exceeding ten dollars nor less than one dollar for each offense and cost of prosecution. (Ord. No. 3, S9, No date)

## Chapter 6.19

### FIREWORKS ORDINANCE

#### Sections:

- 6.19.010 Discharge of fireworks prohibited**
- 6.19.020 Sale of fireworks prohibited**
- 6.19.030 Storage of fireworks prohibited**
- 6.19.040 Penalty for violation**
- 6.19.050 Town Marshal to direct removal of fireworks**

**6.19.010 Discharge of fireworks prohibited.** The discharge, firing or use of all fire crackers, rockets, torpedoes, Roman candles, or other fireworks or substances designed and intended for pyrotechnic display, and of all pistols, canes, cannons, or other appliances, using blank cartridges or caps containing chlorate of potash mixture, or other explosives, is hereby prohibited within the corporate limits of the Town of Grandview, Indiana, or within two miles thereof. (Ord. 39, S1, June 4, 1917) (Ord. 32, S1, July 6, 1914) (Ord. unnumbered, Nov. 21, 1908)

**6.19.020 Sale of fireworks prohibited.** The sale of fireworks at retail is prohibited within the corporate limits of the Town of Grandview, Indiana. (Ord. 39, S2, June 14, 1917) (Ord. 32, S2, July 6, 1914)

**6.19.030 Storage of fireworks prohibited.** The storage or sale of fireworks at wholesale is prohibited within the corporate limits of the Town of Grandview, Indiana. (Ord. 39, S3, June 14, 1917) (Ord. 32, S3, July 6, 1914)

**6.19.040 Penalty for violation.** Any person, firm or corporation violating any of the provisions of this Ordinance as regards the storage and sale of fireworks shall be deemed guilty of a misdemeanor and be fined not less than ten (\$10) dollars nor more than twenty-five (\$25) dollars for each day's neglect of compliance. Provided also, that violation of other sections of this Ordinance shall be considered a misdemeanor punishable by a fine not exceeding ten (\$10) dollars. (Ord. 39, S4, June 14, 1917) (Ord. 32, S5, July 6, 1914)

**6.19.050 Town Marshal to direct removal of fireworks.** Town Marshal may, at his discretion, remove or have removed, at the owner's expense, all stocks of fireworks or other combustibles exposed for sale, or held in stock in violation of this Ordinance. (Ord. 39, S5, June 14, 1917) (Ord. 32, S6, July 6, 1914)

## Chapter 6.22

### UNLAWFUL DISCHARGE OF FIREARMS

#### Sections:

- 6.22.010 Discharge of Firearms**
- 6.22.020 Exemptions**
- 6.22.030 Penalty, Costs, Attorney Fees**

**6.22.010 Discharge of Firearms.** No person shall discharge any firearm within the Town of Grandview or in such a manner that a firearm projectile is fired into the Town. (Ord. 2002-5-05, S6.22.010, May 6, 2002)

**6.22.020 Exemptions.** This Chapter shall not apply to authorized law enforcement or military officials or to any person using a firearm in a reasonable manner as an act of self-defense. (Ord. 2002-5-05, S6.22.020, May 6, 2002)

**6.22.030 Penalty, Costs, Attorney Fees.** A violation of this Chapter shall subject the violator to a penalty and fine of One Hundred Dollars (\$100.00), plus the Town's costs and attorney fees expended to enforce this Chapter. Each discharge of a firearm shall constitute a separate violation. In addition to recovery of payment of fines, the Town may also seek injunctive relief to prevent future violations. (Ord. 2002-5-05, S6.22.030, May 6, 2002)

## Chapter 6.23

### REMOVAL OF WEEDS AND RANK VEGETATION

#### Sections:

- 6.23.010 Unlawful to permit weeds and rank vegetation**
- 6.23.020 Weeds and rank vegetation defined**
- 6.23.030 Enforcement procedure**
- 6.23.040 Penalty for violation**
- 6.23.050 Payment of costs and fees**
- 6.23.060 Rights of appeal**
- 6.23.070 Reservation of all other rights**
- 6.23.080 Provisions severable**
- 6.23.090 Effective date**

**6.23.010 Unlawful to permit weeds and rank vegetation.** All owners of real property located within the Town of Grandview shall cut and remove weeds and other rank vegetation growing on their property, with such frequency as required to comply at all times with this Chapter. (Ord. 2002-5-06, S6.23.010, May 6, 2002)

**6.23.020 Weeds and rank vegetation defined.** For purposes of this Chapter, weeds and rank vegetation are defined as dog fennel, dock, or sweet smelling fern of any height; grass or other weeds exceeding a height of thirty (30) inches; shrubs or any growth of any height where such shrubs or growth's height and location creates an unreasonable unsafe obstruction of the sight lines of vehicles at any intersection. Weeds and rank vegetation does not include agricultural crops, including hay and pasture, unless such growing crops create an unreasonable unsafe obstruction of the sight lines of vehicles at an intersection. (Ord. 2002-5-06, S6.23.020, May 6, 2002)

**6.23.030 Enforcement procedure.** The Clerk-Treasurer or her designated representative shall send a written notice of violation of this Chapter along with a copy of the Chapter. Such notice shall be sent to the owners and addresses as listed in the office of the County Treasurer and may also be mailed or delivered as the Clerk-Treasurer determines, including service by the Town Marshall or other Town employee upon owners or other parties with an interest in the property. If the owners do not correct the violation within ten (10) days of notice being issued, the Clerk-Treasurer may cause Town employees or contractors to enter upon the property and correct the violation. (Ord. 2002-5-06, S6.23.030, May 6, 2002)

**6.23.040 Penalty for violation.** Any property owners in violation of this Chapter shall pay a penalty for violation in the sum of one Hundred Dollars (\$100.00) which penalty amount will be noted in the written notice of violation, and shall be payable within ten (10) days of issuance. All property owners shall

be jointly and severally liable for payment of such penalty. (Ord. 2002-5-06, S6.23.040, May 6, 2002)

**6.23.050 Payment of costs and fees.** The Clerk-Treasurer may issue a bill for all costs incurred in correcting a violation of this Chapter, including removal costs and administrative costs. Issuance of such a bill shall be to property owners in the same manner as notice of violation. If such bill is not paid within ten (10) days of issuance, the Clerk-Treasurer may certify to the County Auditor the amount of the bill, plus any administrative costs incurred in the certification and may file a lien against the property for the costs of removal. (Ord. 2002-5-06, S6.23.050, May 6, 2002)

**6.23.060 Rights of appeal.** Property owners or other responsible parties shall have the right to appeal the issuance of a notice of violation, penalty, or issuance of a bill, provided they file a written appeal with the Clerk-Treasurer within ten (10) days of the issuance of a notice or bill. All appeals will be scheduled and heard by the Town Council. The Town Council may modify, condition or withdraw the notice of violation, penalty, or bill in any manner they deem appropriate. (Ord. 2002-5-06, S6.23.060, May 6, 2002)

**6.23.070 Reservation of all other rights.** Nothing in this Chapter shall be construed to limit the Town's enforcement of this Chapter, including the Town's right to seek immediate injunctive relief in emergencies or to respond to repeated violations. The Town may pursue all or some of its remedies as allowed by law, and no failure on the part of the Town to pursue some or all of its remedies for any particular violation shall affect its rights or remedies as to any future violation related to the same or different owners or the same or different property. The Town may recover its attorney fees and costs expended to enforce or defend its enforcement activities. (Ord. 2002-5-06, S6.23.070, May 6, 2002)

**6.23.080 Provisions severable.** If any section or part of this Chapter is declared invalid or unconstitutional by any court of competent jurisdiction, such section or part shall be deemed separate, distinct and independent and such holding shall not affect the validity of any remaining sections or parts which can be given full force and effect. (Ord. 2002-5-06, S6.23.080, May 6, 2002)

**6.23.090 Effective date.** This Chapter shall be in full force and effect upon its passage and thirty (30) days after its publication as provided by law. Passed and adopted this 6<sup>th</sup> day of May, 2002. (Ord. 2002-5-06, S6.23.090, May 6, 2002)

## Chapter 6.27

### TRASH, RUBBISH, JUNK VEHICLES ON PROPERTY

#### Sections:

- 6.27.010 Unlawful to have junk on property**
- 6.27.020 Unlawful to have visible, unoperable, unlicensed vehicles or trailers upon property; exceptions**
- 6.27.030 Repairing vehicles**
- 6.27.040 Penalty for violation**
- 6.27.050 Abatement**
- 6.27.060 Remedies cumulative**

**6.27.010 Unlawful to have junk on property.** It shall be unlawful for a person, firm, or corporation to have on his property trash, rubbish, junk or debris that is visible from a public street or from neighboring property. (Ord. 2000-4-5, S1, Apr. 5, 2000)

**6.27.020 Unlawful to have visible, unoperable, unlicensed vehicles or trailers upon property; exceptions.** It shall be unlawful for a person, firm, or corporation to park, store, or place upon any right-of-way or public property or upon private property within the Town of Grandview any motor vehicle unless the same is wholly contained within a fully enclosed building except for the following;

- (1) Duly licensed and operable vehicles with all main components attached.
- (2) Vehicles or trailers that are temporarily inoperable and have all main components attached, which may remain upon such private property for a period not to exceed thirty (30) days.
- (3) Any operable vehicle intended and actually utilized for agriculture purposes.
- (4) Motor vehicles, with missing components, which are brought or towed into an automotive service establishment for repair. (Ord. 2000-4-5, S2, Apr. 5, 2000)

**6.27.030 Repairing vehicles.** No repairing, modifying, or dismantling shall be allowed upon any vehicle for a period in excess of seventy-two (72) hours, except within fully enclosed buildings, and which will not constitute a nuisance or annoyance to adjoining property owners or occupants, Any such work within any seventy-two (72) hour period heretofore allowed shall not, however, consist of any major repair, redesigning, modifying, or dismantling work but only such occasional minor work as may infrequently be required to maintain a vehicle in normal operating condition. (Ord. 2000-4-5, S3, Apr. 5, 2000)

**6.27.040 Penalty for violation.** Any person, firm or corporation, whether a principal, agent, employee or otherwise, who violates any of the provisions of this Ordinance shall be guilty of an infraction and upon conviction, shall be fined not less than Ten Dollars (\$10.00) and not more than Three Hundred Dollars (\$300.00), for each offense, such fine to inure to the Town of Grandview. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2000-4-5, S4, Apr. 5, 2000)

**6.27.050 Abatement.** The Town Attorney shall, immediately upon any violation of this Ordinance having been called to his attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove such violation (I.C. Section 36-1-6-4). Such action may also be instituted by any property owner who may be especially damaged by any violation of this Ordinance. (Ord. 2000-4-5, S5, Apr. 5, 2000)

**6.27.060 Remedies cumulative.** The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Ord. 2000-4-5, S6, Apr. 5, 2000)

## Chapter 6.28

### SALVAGE YARDS/BURNING OF TIRES

#### Sections:

- 6.28.010 Unlawful to own or operate an automobile salvage yard**
- 6.28.011 Unlawful to burn tires**
- 6.28.020 Abandoned or dilapidated vehicle defined**
- 6.28.030 Any violation declared a public nuisance**
- 6.28.040 Penalty for violation**
- 6.28.050 Liability for losses or damages**
- 6.28.060 Separability of provisions**

**6.28.010 Unlawful to own or operate an automobile salvage yard.** It shall be unlawful for any person, firm or corporation to own, maintain or operate what is commonly known as an automobile salvage yard or junk yard within the corporate limits of the Town of Grandview, Indiana, upon which premises abandoned or dilapidated motor vehicles or other vehicles are kept, parked, stored or maintained, for the purposes of salvaging the same or parts therefrom. (Ord. 1964-2, pt. S1, Jan. 6, 1964)

**6.28.011 Unlawful to burn tires.** It shall further be unlawful hereafter for any person, firm or corporation to burn or cause to be burned or to destroy by burning, or to otherwise destroy, any automobile tires, rubber tires of and kind or any abandoned or dilapidated motor vehicles or other vehicles within the corporate limits of the said Town of Grandview, Indiana. (Ord. 1964-2, pt. S1, Jan. 6, 1964)

**6.28.020 Abandoned or dilapidated vehicle defined.** For the purpose of this Ordinance (Chapter), the phrase "abandoned or dilapidated motor vehicles or other vehicles" shall be deemed and construed to mean, any and all motor vehicles or other vehicles of any kind or character which are, for any reasons, no longer used or useful upon the public highways in the manner for which said vehicle or vehicles were originally manufactured or designed. (Ord. 1964-2, S2, Jan. 6, 1964)

**6.28.030 Any violation declared a public nuisance.** Any violation of this Ordinance (Chapter) is hereby declared and shall constitute a public nuisance. (Ord. 1964-2, S3, Jan. 6, 1964)

**6.28.040 Penalty for violation.** Any person, firm or corporation who violates any provision of this Ordinance (Chapter) is guilty of misdemeanor and on conviction shall be fined in any amount not exceeding One Hundred Dollars (\$100.00). A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. (Ord. 1964-2, S4, Jan. 6, 1964)

**6.28.050 Liability for losses or damages.** Any person violating any provision hereof shall be liable for any losses or damages occasioned to any property owner or the said Town of Grandview. (Ord. 1964-2, S5, Jan. 6, 1964)

**6.28.060 Separability of provisions.** The invalidity of any section, clause, sentence or provision of this Ordinance (Chapter) shall not affect the validity of any remaining portion of this Ordinance (Chapter) which can be given effect without such invalid parts or part. (Ord. 1964-2, S6, Jan. 6, 1964)

## Chapter 6.29

### OPEN BURNING

#### Sections:

<b>6.29.005</b>	<b>Joint Ordinance</b>
<b>6.29.010</b>	<b>Title</b>
<b>6.29.020</b>	<b>Purpose</b>
<b>6.29.030</b>	<b>Applicability</b>
<b>6.29.040</b>	<b>Definitions</b>
<b>6.29.050</b>	<b>Acts Prohibited</b>
<b>6.29.060</b>	<b>Acts Allowed</b>
<b>6.29.070</b>	<b>Variances</b>
<b>6.29.080</b>	<b>Burning Guidelines</b>
<b>6.29.090</b>	<b>Ordinance Enforcement Authority</b>
<b>6.29.100</b>	<b>Investigation</b>
<b>6.29.110</b>	<b>Enforcement</b>
<b>6.29.120</b>	<b>Penalties and Fines</b>
<b>6.29.130</b>	<b>Indirect Liability</b>
<b>6.29.140</b>	<b>Spencer County Illegal Burning Fund</b>
<b>6.29.150</b>	<b>Severability</b>
<b>6.29.160</b>	<b>Applicability and Effective Date</b>

**THIS IS AN ORDINANCE** to control unsafe and improper burning of wastes, to define trash burning, to establish violations thereof, and to protect the citizens of Spencer County from the health threats associated with the burning of trash.

**WHEREAS**, the burning of residential trash has traditionally been tolerated as acceptable means of disposal;

**WHEREAS**, in recent years public awareness has greatly increased with regard to the source of pollutants in our environment;

**WHEREAS**, it is quite evident that burning in general generates smoke which by its nature contains pollutants and contaminates the environment, in turn, causing harm to human and animal life;

**WHEREAS**, said pollutants are a danger to the health, safety and welfare of all the citizens of Spencer County; and

**WHEREAS**, the health and safety factors far outweigh the traditional tolerance of burning as a means of trash disposal.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF SPENCER COUNTY, INDIANA, THE SPENCER COUNTY SOLID WASTE DISTRICT BOARD OF DIRECTORS AND PARTICIPATING INCORPORATED COMMUNITIES as follows: (Ord. 2005-6, Sept. 06, 2005-Spencer County

Commissioners adoption; Sept. 12, 2005-Spencer County Solid Waste Management District adoption; Nov. 3, 2005-Town of Grandview adoption)

**6.29.010 Title.** This ordinance is titled "Joint Spencer County Illegal Trash Burning Ordinance. (Ord. 2005-6, S1, Nov. 3, 2005)

**6.29.020 Purpose.** This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Spencer County, Indiana due to the air pollution and fire hazards of outdoor burning and burning trash. (Ord. 2005-6, S2, Nov. 3, 2005)

**6.29.030 Applicability.** This ordinance applies to all outdoor burning and trash burning within Spencer County. If a provision in a city or town ordinance in Spencer County covers a provision contained in this ordinance, the city or town ordinance controls.

- (1) This ordinance does not apply to grilling or cooking using charcoal, wood, propane, natural gas in cooking or grilling appliances.
- (2) This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device unless the material being burned includes trash as defined in 6.29.040 of this ordinance.
- (3) This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating construction or maintenance activities. (Ord. 2005-6, S3, Nov. 3, 2005)

**6.29.040 Definitions.**

- (1) "Clean Wood" means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
- (2) "Emergency Situation" - refers to any situation that because of: a) the type of material being burned (i.e. hazardous or noxious materials), b) the atmospheric conditions during the burning, or c) the careless nature in which the burning is occurring; poses a threat to the public health, the safety of public or private property, or the welfare of the environment.
- (3) "Exemption" - defined under 326 IAC 4-1-0.5: Exemptions include, but are not limited to, allowances for open burning to occur when burning clean untreated wood and natural wood products (including leaves), charcoal and other traditional food cooking fuels, vegetation from a farm, an orchard, a nursery, a tree farm, or a drainage ditch as well as fires used for recreational or ceremonial

purposes, such as school pep rally fires or the celebration of scout activities, unless prohibited by a burn ban or local ordinance.

- (4) "Hazardous Materials" - means any waste that because of its quantity; concentration; or physical, chemical, or infectious characteristics may: a) cause or significantly contribute to an increase in mortality or increase in serious irreversible, or incapacitating reversible, illness; or, b) pose a substantial present or potential hazard to health or the environment when improperly treated, stored, transported, handled, disposed of or otherwise managed; or c) be nondegradable or persistent in the environment; or d) be biologically magnified; or e) cause or tend to cause cumulative effects; or f) be defined in 40 CFR 261.3 and any future amendments.
- (5) "Noxious Materials" - are defined as materials that when burned produce by-products that may be injurious to human health or the environment. This list of materials shall include, but not be limited to, tires, roofing material, treated lumber, waste oil, oil contaminated products, herbicide/pesticide products and their containers.
- (6) "Open Burning" - defined under 326 IAC 4-1-0.5 (6) as the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber."
- (7) "Predominantly Wooden Structure" defined as a "clean wood" structure with no coatings, wiring, plumbing fixtures, or other non-wood items.
- (8) "Person" - for the purposes of this ordinance, shall be defined by the definition in IC 13-11-2-158 as any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, municipal corporation, city, school city, town, school district, school corporation, county, any consolidated unit of government, political subdivision, state agency, or any other legal entity.
- (9) "Solid Waste" - shall mean any garbage, refuse, sludge, or other discard or disposed materials including solid, liquid or semi-solid or contained gaseous materials resulting from any operation, activity or source. For the purposes of this ordinance this definition excludes hazardous materials as defined above.
- (10) "Stack" - means a duct, chimney, flue, or other conduit arranged for the purpose of emission or channeling of air pollutants into the atmosphere.

- (11) "Trash" - means any waste material except clean wood products and leaves.
- (12) "Unattended Burning" - means the burning of materials without a person in attendance. This definition shall include, but not be limited to, leaving the property where open burning is occurring, being outside of visual sight of where the open burning is occurring, going indoors while open burning, and leaving a fire before it is fully extinguished.
- (13) "Variance" - a permit allowing open burning with the approval of the Indiana Air Pollution Control Board or its designated agent or agents. (Ord. 2005-6, S4, Nov. 3, 2005)

**6.29.050 Acts Prohibited.**

- (1) Burning of all hazardous materials and all noxious materials, as defined within this ordinance or as defined by any state or federal laws, rules or regulations.
- (2) Burning of household trash either on the ground or in a burn barrel including but not limited to food waste, packaging, newspaper, corrugated cardboard, container board, office paper, plastic containers, polystyrene and disposable diapers.
- (3) Wood products that are painted, varnished, or stained including, but not limited to, plywood, composite wood products.
- (4) Unattended burning that creates or could create an emergency situation.
- (5) Any burning not exempt as provided herein or allowed by a variance. (Ord. 2005-6, S5, Nov. 3, 2005)

**6.29.060 Acts Allowed.** All acts as defined by IC 13-17-9-1 subject to the conditions of IC 13-17-9-3 and as amended, including exemptions as defined herein.

- (1) Burning of clean wood, leaves, weeds, brush, stumps and any other vegetative debris.
  - A. If the brush pile is **More Than** one hundred twenty-five (125) cubic feet (for example 5 ft. long, 5 ft. wide, 5 ft. high) Spencer County Dispatch must be notified at 649-2286 before igniting.
- (2) Recreational or ceremonial fires that meet the following conditions:

- A. Only clean untreated wood or charcoal shall be used. Paper products can be used for ignition purposes only.
  - B. If the pile is **More Than** one hundred twenty-five (125) cubic feet (for example 5 ft. long, 5 ft. wide, 5 ft. high) Spencer County Dispatch must be notified at least twenty-four (24) hours prior to any burning.
  - C. The fire shall not be ignited more than two (2) hours before the recreational activity is to take place and shall be extinguished upon the conclusion of the activity.
  - D. The pile to be burned shall be less than one thousand (1,000) cubic feet (For example: 10 ft. long, 10 ft. wide and 10 ft. high.)
  - E. The fires shall not be used solely for disposal purposes.
  - F. Fires shall not take place within five hundred (500) feet of any fuel storage area or pipeline.
- (3) Burning of predominantly wood structures on real property or wood remnants of the demolition of a predominantly wooden structure originally located on real property.
- A. The Spencer County Solid Waste Management District must be notified 72 hours (3 days) before the planned burn.
  - B. All wood structures or remnants of the demolition of wooden structures must be inspected and a notice of approval must be issued before the planned burn.
  - C. The notice of approval shall be made available at the burning site to state or local officials upon request.
- (4) All Allowed Acts and Variances are subject to and shall adhere to the Illegal Trash Burning Ordinance Policies and Guidelines as adopted by the Spencer County Solid Waste Management District Board. (Ord. 2005-6, S6, Nov. 3, 2005)

**6.29.070 Variances.** Variances must be obtained from the Indiana Air Pollution Control Board or its designated agent or agents for the following circumstances.

- (1) Burning of refuse consisting of material resulting from a natural disaster.
- (2) Burning for the purpose of fire training.

- (3) Burning of natural growth derived from a clearing operation or removal of natural growth for change in the use of the land. (Ord. 2005-6, S7, Nov. 3, 2005)

**6.29.080 Burning Guidelines.** All Allowed Acts and Variances must follow these guidelines (defined in 326 IAC 4-1-3):

- (1) Only wood products or other pre-approved material may be burned.
- (2) Fires shall be attended at all times until completely extinguished and all cold.
- (3) Burning shall occur only in daylight hours with the exception of rallies and recreational or ceremonial fires.
- (4) If a fire creates an air pollution problem, a nuisance or a fire hazard, it shall be extinguished.
- (5) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc.
- (6) All persons during burning shall have sufficient fire suppression equipment present.
- (7) Burning must be in compliance with any state and/or local burn bans.

Any granted variance cannot violate the provisions of the 326 I.A.C. 4-1-3 et seq. and as amended, or I.C. 13-17-9. (Ord. 2005-6, S8, Nov. 3, 2005)

**6.29.090 Ordinance Enforcement Authority.** The following shall be authorized enforcement agents in the enforcement of this ordinance within the limits of Spencer County, Indiana: Area law enforcement officials serving the County, the Spencer County Health Department and the Spencer County Solid Waste Management District. (Ord. 2005-6, S9, Nov. 3, 2005)

**6.29.100 Investigation.**

- (1) It shall be the duty of the authorized enforcement agents to evaluate any report or complaint of a violation of this ordinance for proper enforcement procedures.
- (2) Authorized enforcement agents shall provide a written "Illegal Burning Case Report" of all reported burning violations to the Solid Waste Management District.

- (3) The Solid Waste Management District shall be responsible for issuing the violator a "Notice of Violation for Illegal Burning" and, if necessary, enforcement of penalties or fines as set forth herein.
- (4) If access to property is granted, the investigation shall proceed on a voluntary basis. If access is needed to proceed with any investigation, but is denied, the authorized enforcement agents may seek any necessary authorizations, including a search warrant, to enter the property; provided, however, in cases of a visible emergency situation a access to property shall be deemed granted.
  - A. Any pertinent evidence may be considered to determine whether a violation of this ordinance has occurred and the identity of any violator. (Ord. 2005-6, S10, Nov. 3, 2005)

#### **6.29.110 Enforcement.**

- (1) If a condition violating this ordinance exists on real property, the authorized enforcement agents may take the following actions:
  - A. In cases of actions violating this Ordinance a certified "Notice of Violation" shall be issued by the Solid Waste Management District to all owner(s) of record at their last known mailing address.
  - B. In cases of an emergency situation, an authorized enforcement agent, as set forth herein, may take immediate action to suppress the fire. If action to suppress the fire and bring the property into compliance is taken; the costs of these actions may be recovered as set forth in this ordinance.
- (2) It shall be a violation of this ordinance to interfere with any authorized enforcement agent while in the performance of their duties hereunder.
- (3) The owner(s) of property on which illegal burning acts have occurred may be included as a party in an enforcement action against a person who committed the violation.
- (4) A notice of ordinance violation shall state the name of the person(s) to whom the notice is being issued, the nature of the violation, the specific section of this ordinance that has been violated, the date of the notice, and the fine imposed, if warranted, for the violation in accordance with this ordinance. The notice of ordinance violation shall direct the person to whom it is issued to respond to the Director of the Spencer County Solid Waste Management District and submit an acceptable clean-up plan specifying dates and an acceptable plan for any future solid waste disposal. (Ord. 2005-6, S11, Nov. 3, 2005)

**6.29.120 Penalties and Fines.**

- (1) Class "C" Violation. Any person who violates any of the provisions of this ordinance, except the burning of noxious materials and/or hazardous materials, and whose violation is a first violation, commits a Class "C" violation of this ordinance. Class "C" violations have no fines. Person(s) responsible for a Class "C" violation shall:
  - A. Contact the Spencer County Solid Waste Management District within the permitted time on the Notice of Violation.
  - B. Pay for the costs of fire-suppression - if the fire department was required to extinguish the fire.
  - C. Provide evidence/receipts that the site of the illegal burn, including the burn barrel, has been cleaned up and the waste has been properly disposed or reimburse the authorized enforcement agents for all costs related to the clean-up.
  - D. Provide an acceptable plan for any future trash disposal.
  
- (2) Class "B" Violation. Any person who violates any of the provisions of this ordinance, except the burning of noxious materials and/or hazardous materials, and whose violation is a second violation or any other subsequent violation, commits a Class "B" violation of this ordinance. Person(s) responsible for a Class "B" violation shall:
  - A. Contact the Spencer County Solid Waste Management District within the permitted time on the Notice of Violation.
  - B. Pay a fine of One Hundred Dollars (\$100.00).
  - C. Pay for the cost of fire suppression, if the fire department was required to extinguish the fire.
  - D. Provide evidence/receipts that the site of the illegal burn, including the burn barrel, has been cleaned up and the waste has been properly disposed or reimburse the authorized enforcement agents for all costs related to the clean-up.
  - E. Provide an acceptable plan for any future trash disposal.
  
- (3) Class "A" Violation. Any person whose acts violate this ordinance by the burning of noxious materials and/or hazardous materials commits a Class "A" violation of this ordinance. Person(s) responsible for a Class "A" violation shall:

- A. Contact the Spencer County Solid Waste Management District within the permitted time on the Notice of Violation.
  - B. Pay a fine of Two Hundred Fifty Dollars (\$250.00).
  - C. Pay for the cost of fire suppression, if the fire department was required to extinguish the fire.
  - D. Provide receipts evidencing all costs related to the clean-up of the waste and proper disposal of any waste related to the violation; or reimburse the authorized enforcement agents for all cost related to the clean-up.
  - E. Provide an acceptable plan for any future waste disposal.
- (4) If further actions in violation of this ordinance occur, or if no action to bring a property into compliance by the property owner(s) occurs within the permitted time, litigation may be pursued in the County Circuit Court, or any successor court.
- A. The County Attorney, the Solid Waste Management District Attorney, or a designated agent of these, may pursue litigation of this ordinance in the County Circuit Court, or any successor court.
- (5) Upon adjudication or admission of any violation of this ordinance in Spencer County Circuit Court, or any successor court, the violator shall be subject to the following fines and penalties:
- A. Any person who has committed a Class "C" violation of this ordinance shall be fined by the Court a sum of not less than One Hundred Dollars (\$100.00) and not greater than Five Hundred Dollars (\$500.00) per violation.
  - B. Any person who has committed a Class "B" violation of this ordinance shall be fined by the Court a sum of not less than Two Hundred Fifty Dollars (\$250.00) and not greater than One Thousand Dollars (\$1,000.00) per violation.
  - C. Any person who has committed a Class "A" violation of this ordinance shall be fined by the Court a sum of not less than Five Hundred Dollars (\$500.00) and not greater than Two Thousand Five Hundred Dollars (\$2,500.00) per violation.
  - D. Any person found to be in violation of any provision of this ordinance, whether by admission or adjudication, shall, in addition to any fines as set forth above, be required to provide an acceptable plan for any future solid waste disposal, be assessed all costs and expenses of the fire

suppression, investigation, clean-up and removal of waste connected with the violation, and shall, in addition, be liable for all reasonable attorney fees, court costs, and other costs incurred by the County or District in connection with the enforcement of the ordinance.

- E. Failure or refusal to bring property into compliance with this ordinance after adjudication of a violation shall constitute a Class "A" violation of this ordinance. Each day a noncompliance continues shall constitute a separate violation of this ordinance. (Ord. 2005-6, S12, Nov. 3, 2005)

**6.29.130 Indirect Liability.**

- (1) Any person who allows the accumulation or existence of combustible material(s) which constitutes or contributes to a fire causing air pollution may not refute liability for the violation of this ordinance on the basis that said fire was set by vandals, accidental, and/or act of God, pursuant to 326 I.A.C. 4-1.
- (2) A property owner cannot direct another person to carry out actions in violation of this ordinance or knowingly allow another person to carry out actions in violation of this ordinance on their property.

Violating this provision constitutes a violation of the ordinance and carries the equivalent sanctions and penalties as the violation. (Ord. 2005-6, S13, Nov. 3, 2005)

**6.29.140 Spencer County Illegal Trash Burning Fund.**

- (1) All fines, penalties, and clean-up costs paid pursuant to this ordinance shall be deposited into the Spencer County Illegal Trash Burning Fund.
- (2) The funds collected in the Spencer County Illegal Trash Burning Fund shall be administered under the direction of the Spencer County Solid Waste Management District Board of Directors after a public meeting notice has been sent to all affected Spencer County taxing authorities.
- (3) The funds collected within the Spencer County Illegal Trash Burning Fund shall be used for the following purposes:
  - A. Reimbursement to area fire departments for costs related to the suppression of fires.
  - B. Clean-up and disposal cost of materials collected at illegal burn sites.

- C. Court fees and attorney fees related to the prosecution of burn violations.
- D. Educational materials to inform residents of and the publicizing of the Trash Burning Ordinance.
- E. Other expenditures as deemed appropriate by the Spencer County Solid Waste Management District Board of Directors and affected Spencer County taxing authorities. (Ord. 2005-6, S14, Nov. 3, 2005)

**6.29.150 Severability.** If any part of this ordinance shall be deemed invalid its invalidity shall not affect the remaining parts of this ordinance. (Ord. 2005-6, S15, Nov. 3, 2005)

**6.29.160 Applicability and Effective Date.**

- (1) This ordinance shall apply to the entirety of Spencer County, Indiana. Enforcement shall include incorporated cities and towns that adopt this ordinance, unless such areas currently enforce a more stringent ordinance.

Incorporated Cities mid Towns, without a burn ordinance, may enter into an inter-local agreement with the Solid Waste Management District to delineate enforcement and investigation procedures of this ordinance.

- (2) All portions of former ordinances in conflict herewith are hereby repealed or superseded. This ordinance shall become effective from and after its adoption and publication as required by law. (Ord. 2005-6, S16, Nov. 3, 2005)

## Chapter 6.31

### CURFEW FOR JUVENILES

#### Sections:

**6.31.010 Curfew for under age 18**

**6.31.020 Penalty for violation**

**6.31.010 Curfew for under age 18.** It shall be unlawful for any boy or girl under the full age of eighteen (18) years to wander about the streets of the Town of Grandview or be in or about any highway or public place in the Town of Grandview between the hours of 11:00 o'clock P.M. and 5:00 o'clock A.M. without being on any lawful business or occupation, except returning home or to his place of abode after attending a religious or educational meeting or social function sponsored by a church or school. (Ord. No. 1978-4, S1, Sept. 18, 1978)

**6.31.020 Penalty for violation.** Any boy or girl violating this ordinance is a delinquent child as defined by the statutes of the State of Indiana and shall be referred to the Juvenile Division of the Spencer Circuit Court for appropriate action by that court. (Ord. No. 1978-4, S2, Sept. 18, 1978)