

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

## **TITLE 6**

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

#### **Chapters:**

- 6.01 Litter**
- 6.02 Dangerous trees, walls, poles**
- 6.03 Unreasonable noise**
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- 6.06 Removal of Weeds and Rank Vegetation**
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## Chapter 6.01

### LITTER

#### Sections:

- 6.01.010 Definition**
- 6.01.020 Acts and conditions prohibited**
- 6.01.030 Enforcement**

**6.01.010 Definition.** Any man-made or man-used waste which includes, but is not limited to, garbage, trash, refuse, debris, grass clippings, or other lawn or garden waste, paper products, glass, metal, plastic or paper containers, motor vehicle parts, furniture, carcasses of dead animals, or any other waste material of an unsightly, unsanitary, nauseous, or offensive nature. (Ord. 1995-2, Chapter I, S1, Apr. 24, 1995)

#### **6.01.020 Acts and conditions prohibited.**

- (1) The placing, causing or allowing to be thrown or disposed of, any litter along or on any public place, except in authorized litter receptacles, maintained on such public place or public property, including from a passenger or truck or other vehicle, which permits its load to fall from or be blown from, the vehicle. (Ord. 1995-2, Chapter I, S2A, Apr. 24, 1995)
- (2) The placing, causing or allowing to be thrown or disposed of, or the accumulation of, litter on private premises, such that the litter is capable of being carried or deposited by the elements upon any public place or other private premises. (Ord. 1995-2, Chapter I, S2B, Apr. 24, 1995)

**6.01.030 Enforcement.** Any person who creates or maintains any nuisance prohibited by Section 6.01.020, and who fails or refuses to abate such nuisance as required by the notice given under Chapter 6.12 of this Title, shall be fined in the sum of \$50.00. Each day the nuisance continues after the date in the notice, shall be deemed a separate offense.

The Town of Winslow shall also have the power, instead of, or in addition to, the \$50.00 fine, to abate such a nuisance, under Ind. Code 36-1-6-4, by bringing a civil action to enjoin the violation. (Ord. 1995-4, S1, Oct. 23, 1995) (Ord. 1995-2, Chapter I, S3, Apr. 24, 1995)

## Chapter 6.02

### DANGEROUS TREES, WALLS, POLES

#### Sections:

**6.02.010 Acts and conditions prohibited**

**6.02.020 Enforcement**

**6.02.010 Acts and conditions prohibited.** The causing or permitting of any tree, wall, pole, or similar object or structure, to remain standing upon any premises, in such a condition that it shall, if the condition is permitted to continue, endanger the life, limb, or property, or cause hurt, damage or injury to persons or property, upon the public streets, or public ways, adjacent thereto, by the falling thereof, or of any parts thereof. (Ord. 1995-2, Chapter II, S1, Apr. 24, 1995)

**6.02.020 Enforcement.** The Town of Winslow shall have the power to abate the nuisance described in Section 6.02.010, under Ind. Code 36-1-6-2, by notifying all persons who have a substantial interest in the property and giving them a reasonable opportunity to abate the nuisance; and if they do not do so, the Town shall have the power to enter upon the offending property, and cut, dismantle, demolish, and/or remove the dangerous object constituting the nuisance, and cause the cost of such abatement to be made a lien on the real estate. (Ord. 1995-2, Chapter II, S2, Apr. 24, 1995)

## Chapter 6.03

### UNREASONABLE NOISE

#### Sections:

**6.03.010 Acts prohibited**

**6.03.020 Enforcement**

**6.03.010 Acts prohibited.** The making of noise of a nature or volume, such that it is enough to significantly interfere with the ordinary comforts of the occupants of adjoining property, or of other property in the immediate vicinity; including, but not limited to:

- (1) Unnecessary sounding of horns;
- (2) Racing the motor or causing the screeching or squealing of tires on a vehicle;
- (3) Operating vehicles with noise-making apparatus;
- (4) Operating sound tracks or public address systems;
- (5) Playing radios, phonographs, disc or tape players, or televisions unnecessarily loudly. (Ord. 1995-2, Chapter III, S1, Apr. 24, 1995)

**6.03.020 Enforcement.** Any person who creates or maintains a nuisance prohibited by Section 6.03.010, and who fails or refuses to abate such nuisance as required by the notice given under Chapter 6.12 of this Title, shall be fined in the sum of \$50.00. Each day the nuisance continues after the date in the notice, shall be deemed a separate offense.

The Town of Winslow shall also have the power, instead of, or in addition to, the \$50.00 fine, to abate such a nuisance, under Ind. Code 36-1-6-4, by bringing a civil action to enjoin the violation. (Ord. 1995-4, S2, Oct. 23, 1995) (Ord. 1995-2, Chapter III, S2, Apr. 24, 1995)

## Chapter 6.04

### OPEN HOLES

#### Sections:

**6.04.010 Acts and conditions prohibited**

**6.04.020 Enforcement**

**6.04.010 Acts and conditions prohibited.** Causing or maintaining any open or uncovered or insecurely covered cistern, cellar, well, pit, excavation or vault upon private premises, in any open or unfenced lot or place. (Ord. 1995-2, Chapter IV, S1, Apr. 24, 1995)

**6.04.020 Enforcement.** Any person who creates or maintains a nuisance prohibited by Section 6.04.010, and who fails or refuses to abate such nuisance as required by the notice given under Chapter 6.12 of this Title, shall be fined in the sum of \$50.00. Each day the nuisance continues after the date in the notice, shall be deemed a separate offense.

The Town of Winslow shall also have the power, instead of, or in addition to, the \$50.00 fine, to abate such a nuisance, under Ind. Code 36-1-6-4, by bringing a civil action to enjoin the violation. (Ord. 1995-4, S3, Oct. 23, 1995) (Ord. 1995-2, Chapter IV, S2, Apr. 24, 1995)

## Chapter 6.06

### REMOVAL OF WEEDS AND RANK VEGETATION

#### Sections:

- 6.06.010 Unlawful to permit weeds and rank vegetation**
- 6.06.020 Weeds and rank vegetation defined**
- 6.06.030 Enforcement procedure**
- 6.06.040 Penalty for violation**
- 6.06.050 Payment of costs and fees**
- 6.06.060 Rights of appeal**
- 6.06.070 Reservation of all other rights**
- 6.06.080 Provisions severable**
- 6.06.090 Effective Date**

**6.06.010 Unlawful to permit weeds and rank vegetation.** All owners of real property located within the Town of Winslow shall cut and remove weeds and other rank vegetation growing on their property, with such frequency as required to at all times comply with this Chapter. (Ord. 02-06, S6.06.010, May 13, 2002)

**6.06.020 Weeds and rank vegetation defined.** For purposes of this Chapter, weeds and rank vegetation are defined as thistles, burdock, jimpsion, weeds, ragweeds, milkweeds, poison ivy, poison oak, iron weeds, regardless of their height, grass or other weeds exceeding a height of twelve inches (12”), shrubs or any growth of any height where such shrub’s 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. 02-06, S6.06.020, May 13, 2002)

**6.06.030 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 of other parties with an interest in the property. If the owners do not correct the violation within ten (10) days or notice being issued, the Clerk-Treasurer may cause Town employees or contractors to enter upon the property and correct the violation. (Ord. 02-06, S6.06.030, May 13, 2002)

**6.06.040 Penalty for violation.** Any property owners in violation of this Chapter shall pay a penalty for violation in the sum of fifty dollars (\$50), 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. 02-06, S6.06.040, May 13, 2002)

**6.06.050 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. 02-06, S6.06.050, May 13, 2002)

**6.06.060 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. 02-06, S6.06.060, May 13, 2002)

**6.06.070 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. 02-06, S6.06.070, May 13, 2002)

**6.06.080 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. 02-06, S6.06.080, May 13, 2002)

**6.06.090 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. (Ord. 02-06, S6.06.090, May 13, 2002)

## Chapter 6.08

### BURNING ON PUBLIC RIGHTS OF WAY

#### Sections:

**6.08.010 Acts prohibited**

**6.08.020 Enforcement**

**6.08.010 Acts prohibited.** The burning of any trash, leaves or other matter, upon any street or alley in the Town. (Ord. 1995-2, Chapter VIII, S1, Apr. 24, 1995)

**6.08.020 Enforcement.** Any person who creates or maintains a nuisance prohibited by Section 6.08.010, and who fails or refuses to abate such nuisance as required by the notice given under Chapter 6.12 of this Title, shall be fined in the sum of \$50.00. Each day the nuisance continues after the date in the notice, shall be deemed a separate offense.

The Town of Winslow shall also have the power, instead of, or in addition to, the \$50.00 fine, to abate such a nuisance, under Ind. Code 36-1-6-4, by bringing a civil action to enjoin the violation. (Ord. 1995-4, S6, Oct. 23, 1995) (Ord. 1995-2, Chapter VIII, S2, Apr. 24, 1995)

## Chapter 6.09

### BURNING ON PRIVATE PROPERTY

#### Sections:

- 6.09.010 Comply with state law**
- 6.09.020 Enforcement**

**6.09.010 Comply with state law.** The burning of any material permitted by Ind. Code § 13-1-1.2 on the outside, on any private property, shall be done only between the hours of 8:00 AM and 5:00 PM. (Ord. 1995-2, Chapter IX, S1, Apr. 24, 1995)

**6.09.020 Enforcement.** Any person who creates or maintains the nuisance of burning during prohibited hours as prohibited by Section 6.09.010, and who fails or refuses to abate such nuisance as required by the notice given under Chapter 6.12 of this Title, shall be fined in the sum of \$50.00. Each day the nuisance continues after the date in the notice, shall be deemed a separate offense.

The Town of Winslow shall also have the power, instead of, or in addition to, the \$50.00 fine, to abate such a nuisance, under Ind. Code 36-1-6-4, by bringing a civil action to enjoin the violation. (Ord. 1995-4, S7, Oct. 23, 1995) (Ord. 1995-2, Chapter IX, S2, Apr. 24, 1995)

## **Chapter 6.10**

### **NUISANCES CREATED BY OTHERS**

#### **Sections:**

#### **6.10.010 Liable parties**

**6.10.010 Liable parties.** For the purposes of this ordinance, the owner or operator of the affected property shall be liable for the conduct or conditions created or contributed to by their agents, representatives, licensees, invitees, guests or other public who enter upon the property. (Ord. 1995-2, Chapter X, S1, Apr. 24, 1995)

## **Chapter 6.11**

### **INSPECTION OF PREMISES**

#### **Sections:**

#### **6.11.010 Reporting violations**

**6.10.010 Reporting violations.** For the purpose of carrying out the provisions of Ordinance 1995-2, it is hereby made the duty of all officers and employees of the Town of Winslow, to report the existence of nuisances to the Winslow Town Council, or the Winslow Town Marshall, and for this purpose, the Winslow Town Marshall, or other employees designated by the Town Board, shall be permitted, upon 5 days notice given to the person in possession of the real estate, to enter into or upon any building, lot, grounds or premises, within the limits of the Town, to ascertain and discover any such nuisances and make examination thereof. (Ord. 1995-2, Chapter XI, S1, Apr. 24, 1995)

## Chapter 6.12

### ABATEMENT OF NUISANCES

#### Sections:

- 6.12.010 Notice**
- 6.12.020 Refusal or neglect to abate**
- 6.12.030 Manner of notification**

**6.12.010 Notice.** In any case where any nuisance may be found to exist, the Town Marshall shall cause notice to be served upon the owner or occupant of the premises where such nuisance exists, or upon any other person so causing such nuisance, with said notice to request that person to abate such nuisance by the date specified in the notice. In determining the specified date in the notice, the Town Marshall shall consult with the Town Executive, and the two shall take into consideration the degree of threat to public health, safety and welfare, and the means required to abate such nuisance, in setting such date. It shall not be necessary for the Town Marshall to designate in said notice the manner in which any nuisance shall be abated, unless the Town Executive deems it advisable to do so. (Ord. 1995-2, Chapter XII, Apr. 24, 1995)

**6.12.020 Refusal or Neglect to Abate.** If the owner, occupant, or other person served with a notice to abate the nuisance shall refuse or neglect to abate such nuisance within the time designated in said notice, the Town shall proceed to enforce this ordinance as provided by the applicable enforcement Section for that violation. If the nuisance is abated within the time designated in said notice, then the Town shall not seek further penalty for that specific incident of violation. (Ord. 1995-2, Chapter XII, Apr. 24, 1995)

**6.12.030 Manner of Notification.** The requirement for service of notice under the provisions of Section 6.12.010 of this Chapter 6.12, shall be complied with by first attempting personal service of a written notice by the Town Marshall on the owner, occupant or other person suspected of causing the nuisance; and if personal service cannot be accomplished, then by mailing such notice by registered or certified mail to the last known address of the person sought to be notified or the address of the property where the nuisance exists. (Ord. 1995-2, Chapter XII, Apr. 24, 1995)

## Chapter 6.19

### PRIVIES UNLAWFUL/SANITARY FACILITIES

#### Sections:

- 6.19.010 Depositing human excrement upon premises unlawful**
- 6.19.020 Sanitary facilities**
- 6.19.030 Official notice to provide sanitary facilities**
- 6.19.040 Installation and maintenance of facilities**
- 6.19.050 Penalty for violation**
- 6.19.060 Failure to comply**

**6.19.010 Depositing human excrement upon premises unlawful.** Be it ordained by the Board of Trustees of the Incorporated Town of Trustees of the Incorporated Town of Winslow, Indiana, that it shall be unlawful for any person, persons, firm or corporation, to place or deposit any human excrement upon the premises in an unsanitary manner, or to elect, construct, maintain, or permit, upon their premises, privies, vaults, cesspools, pits, or like places, which are unsanitary, or which are foul or malodorous; and that such conditions constitute a public nuisance. (Ord. unnumbered, S1, Feb. 6, 1939)

**6.19.020 Sanitary facilities.** Every inhabitable dwelling, business house, boarding house, lodging house, eating place, tenement, shop, factory, public hall, place of amusement, and public buildings, in the Town of Winslow, Indiana, shall be provided with a sanitary toilet. Where sanitary sewers are within 150 feet of said property, sanitary inside or outside water flushed toilets shall be installed and connected to the sewer system, where sewerage facilities are not this available a sanitary privy, or privies, shall be provided. For the purpose of this Ordinance, a sanitary privy shall be deemed to be a privy so constructed and maintained:

- (1) That flies, insects, rats or small domestic animals cannot gain access to the waste material;
- (2) That the surface or ground water cannot enter the pit or vault;
- (3) So located that waste material in the privy cannot contaminate a water supply by underground or surface drainage. (Ord. unnumbered, S2, Feb. 6, 1939)

**6.19.030 Official notice to provide sanitary facilities.** Within a period of thirty days after receiving an official order in writing from the Secretary of the Board of Health, it shall be the duty of the owner of the premises to provide said sanitary inside or outside water flushed toilets or sanitary privies as may be needed. Such official notice shall be served upon the tenant and owner, or upon

the owner's rental agent for the premises, but may served upon any person who may have by contract with the owner assumed the duty of doing those things which the order may specify. (Ord. unnumbered, S3, Feb. 6, 1939)

**6.19.040 Installation and maintenance of facilities.** It shall be the duty of the occupant or owner of the premises to install and maintain water-flushed toilets or privies in accordance with the attached rules and regulations prescribed by the Indiana State Board of Health and the Administrative Building Council of Indiana. (Ord. unnumbered, S4, Feb. 6, 1939)

**6.19.050 Penalty for violation.** Any person, persons, firm or corporation who shall violate any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than ten dollars (\$10.00) nor more than thirty dollars (\$30.00), and each day's violation of any such provisions may constitute a separate and distinct offense. (Ord. unnumbered, S5, Feb. 6, 1939)

**6.19.060 Failure to comply.** Upon refusal or neglect of any owner, agent, person, firm or corporation having ownership, lease, rental or control over any property, either in full, or part, to obey said order then the Department of Law in the Town of Winslow upon receiving the information from said Secretary of Board of Health shall attend to all legal proceedings for enforcement pursuant to the terms of this Ordinance. (Ord. unnumbered, S6, Feb. 6, 1939)

## Chapter 6.22

### FIREWORKS

#### Sections:

- 6.22.010 Zone where discharging fireworks is prohibited**
- 6.22.020 Fireworks discharged between 9:00 p.m. and 7:00 a.m. unlawful**
- 6.22.030 Penalty for violation**

**6.22.010 Zone where discharging fireworks is prohibited.** Be it ordained by the Board of Trustees of the Town of Winslow, Pike County, Indiana, that it shall be unlawful for any person, firm, corporation or group of persons, to shoot or in any manner discharge any fireworks in the Town of Winslow in a certain zone bounded on the north by North Street, on the south by Union Street, on the east by Walnut Street and on the west by Mill Street at any time; that fireworks under this Ordinance shall be defined as any gun, fire cracker, Roman candle or any other explosive that makes a noise or possesses any fire that might in any manner cause a fire to be started therefrom or any other explosive that makes a noise. (Ord. unnumbered, part, Dec. 7, 1936)

**6.22.020 Fireworks discharged between 9:00 p.m. and 7:00 a.m. unlawful.** Any be it further ordained that it shall be a violation of this Ordinance for any person, firm, corporation or any group of persons to explode any fireworks in the corporate limits of the said Town, fireworks being defined as above set out, between the hours of nine (9) o'clock, P.M. and seven (7) o'clock, A.M. (Ord. unnumbered, part, Dec. 7, 1936)

**6.22.030 Penalty for violation.** And be it further Ordained, that any person convicted under this Ordinance shall be fined in any sum not less than (\$1.00) dollar nor more than ten (\$10.00) dollars for each and every offense. (Ord. unnumbered, part, Dec. 7, 1936)

## Chapter 6.26

### CURFEW

#### Sections:

#### 6.26.010 Curfew times declared

**6.26.010 Curfew times declared.** The Town of Winslow declares that the established curfew times are not reasonable for the public safety under the conditions found to exist in the Town and hereby advance the curfew times within the jurisdiction of the Town to the following in accordance with Subdivision (d), I.C. 31-6-4-2.

- (1) It is a curfew violation for a child thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years of age to be in a public place:
  - A. Between 12:00 PM and 5:00 AM on Friday and Saturday or Saturday and Sunday;
  - B. After 10:00 PM on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
  - C. Before 5:00 AM on Monday, Tuesday, Wednesday, Thursday, or Friday.
- (2) It is a curfew violation for a child under thirteen (13) years of age to be in a public place after 10:00 PM or before 5:00 AM on any day.
- (3) This section does not apply to a child who is:
  - A. Accompanied by his parents, guardian or custodian;
  - B. Accompanied by an adult specified by his parents, guardian or custodian; or
  - C. Participating in or returning from lawful employment or a lawful athletic, educational, entertainment, religious, or social event. (Ord. 80-001, Aug. 4, 1980)

## Chapter 6.28

### LOITERING

#### Sections:

<b>6.28.010</b>	<b>Loitering</b>
<b>6.28.020</b>	<b>Unlawful assembly</b>
<b>6.28.030</b>	<b>Permitting minors to become loiterers</b>
<b>6.28.040</b>	<b>Failure of police officer to comply with proper procedure</b>
<b>6.28.050</b>	<b>Person's explanation deemed true at trial</b>
<b>6.28.060</b>	<b>Probable cause to assume violation</b>
<b>6.28.070</b>	<b>Penalty for violation</b>
<b>6.28.080</b>	<b>Exception</b>
<b>6.28.090</b>	<b>Effective date</b>

**6.28.010 Loitering.** No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, in any public way, street, highway, place or alley and refuse to obey the lawful command of a police officer to move on or provide to such police officer a lawful reason for remaining on such public way, street, highway, place or alley if the alleged loitering by such person would create or cause to be created any of the following:

- (1) Danger of a breach of the peace;
- (2) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place or alley reserved for pedestrians;
- (3) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place or alley;
- (4) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place or alley, in a manner that would cause a reasonable person or pedestrian of a public way, street, highway, place or alley to fear for his or her safety. (Ord. 1998-4, S(a), Nov. 23, 1998) (Ord. 1980-002, S1, S2, Aug. 30, 1980)

**6.28.020 Unlawful assembly.** No person who is a member of a group of three (3) or more persons who are loitering or prowling in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, in a public way, street, highway, place or alley, shall refuse the lawful command of a police officer to move or provide to the police officer a lawful reason for remaining in a public way, street, highway, place or alley, whether such group is stationary or in transit, if the alleged loitering would create or cause to be created any of the following:

- (1) Danger of a breach of the peace;
- (2) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place or alley reserved for pedestrians;
- (3) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place or alley;
- (4) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place or alley, in a manner that would cause a reasonable person or pedestrian of a public way, street, highway, place or alley to fear for his or her safety. (Ord. 1998-4, S(b), Nov. 23, 1998)

**6.28.030 Permitting minors to become loiterers.** It shall be unlawful for any parent, guardian or other person having the custody or control of any minor to permit, allow or encourage such minor to become a common loiterer on any street, alley or other public place, or in any business or commercial establishment, or in any place of public resort. (Ord. 1998-4, S(c), Nov. 23, 1998)

**6.28.040 Failure of police officer to comply with proper procedure.** No person shall be convicted under this ordinance if the police officer fails to comply with the procedure outlined herein. (Ord. 1998-4, S(d), Nov. 23, 1998)

**6.28.050 Person's explanation deemed true at trial.** No person shall be convicted under this ordinance if it appears at trial that the explanation given by the person is true and, if believed by the police, would:

- (1) Have dispelled the fear for human safety;
- (2) Have dispelled the concern for safety of property;
- (3) Have dispelled the fear of a breach of the peace;

- (4) Have provided a justifiable reason for obstructing vehicular or pedestrian traffic, subject to the discretion of the hearing body. (Ord. 1998-4, S(e), Nov. 23, 1998)

**6.28.060 Probable cause to assume violation.** If a person takes flight upon appearance of a police officer who identifies himself as such, or if a person refuses to identify himself, or attempts to conceal himself, such police officer has probable cause to believe a violation of this ordinance has occurred. (Ord. 1998-4, S(f), Nov. 23, 1998)

**6.28.070 Penalty for violation.** The first violation of this ordinance in any calendar year shall be subject to admission of violation and payment of a civil penalty of \$100.00 through the Winslow Ordinance Violations Bureau, created by Town of Winslow Ordinance #1995-3. The first violation, if not admitted, and all second and subsequent violations in the calendar year, shall be prosecuted pursuant to Indiana Code §34-28-5-1 et. seq. Any person who is found to have violated this ordinance shall be subject to a fine as determined by the court, not to exceed \$2,500.00 per violation. (Ord. 1998-4, S(g), Nov. 23, 1998) (Ord. 1980-002, S3, Aug. 30, 1980)

**6.28.080 Exception.** The provisions of this Ordinance shall not apply to solicitation for any lawful business or any lawful charity. (Ord. 1998-4, S(h), Nov. 23, 1998)

**6.28.090 Effective date.** This ordinance shall be in full force and effect from and after its publication, as provided by law.

Duly passed and adopted by the Town Council of the Town of Winslow, Indiana, on the 23<sup>rd</sup> day of November, 1998. (Ord. 1998-4, S(i), Nov. 23, 1998)

## Chapter 6.38

### ABANDONED VEHICLES

#### Sections:

- 6.38.010 Compliance with state laws and regulations**
- 6.38.020 Establishment of Abandoned Vehicle Department**
- 6.38.030 Definitions**
- 6.38.040 Exempt vehicles**
- 6.38.050 Responsibility of owner**
- 6.38.060 Vehicle in possession of a non-owner**
- 6.38.070 Tagging abandoned vehicle or parts**
- 6.38.080 Self-help by owner of rental property**
- 6.38.090 Abandoned vehicle report**
- 6.38.100 Duties of the Bureau of Motor Vehicles**
- 6.38.110 Sales by the Bureau of Motor Vehicles or the Department**
- 6.38.120 Bill of sale**
- 6.38.130 Removal and storage costs**
- 6.38.140 Proceeds of sale**
- 6.38.150 Abandoned Vehicle Fund**
- 6.38.160 Allowable charges for towing and storage**
- 6.38.170 Power to facilitate Ordinance**
- 6.38.180 Immunity from liability**
- 6.38.190 Approved towing service and storage facility**

**6.38.010 Compliance with state laws and regulations.** The Town of Winslow intends that this Ordinance shall not conflict with any provision of Indiana law or regulation, and if Indiana statutes or regulations are amended, to conflict with any provision in this ordinance, then this Ordinance shall be considered amended, to comply with the amendments to statutes or regulations. (Ord. 2000-01, SI, Mar. 27, 2000)

**6.38.020 Establishment of Abandoned Vehicle Department.**

- (1) There is hereby established the Winslow Abandoned Vehicle Department pursuant to IC 9-22-1-3, which shall be authorized and responsible for the administration of the provisions of this ordinance pertaining to the removal, storage and disposal of abandoned vehicles and parts. (Ord. 2000-01, SII 1, Mar. 27, 2000)
- (2) The Winslow Abandoned Vehicle Department shall consist of the Winslow Executive, the Winslow Town Marshall and Deputy Marshall, and the Winslow Superintendent of the Street Department. (Ord. 2000-01, SII 2, Mar. 27, 2000)

### **6.38.030 Definitions.**

- (1) "Vehicle" has the meaning stated in IC 9-13-2-196 (d), and refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, or a motorized bicycle; and as those terms are defined in IC 9-13-2. (Ord. 2000-01, SIII 1, Mar. 27, 2000) (Ord. 9-22-80, S2(a), Nov. 3, 1980)
- (2) "Abandoned vehicle" has the meaning stated in IC 9-13-2-1, as follows:
  - A. A vehicle located on public property illegally.
  - B. A vehicle left on public property without being moved for three (3) days.
  - 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 forty-eight (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 a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than the abandoned vehicle law, if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal.
  - G. A vehicle that is at least three (3) model years old, is mechanically inoperable and is left on private property continuously in a location visible from public property for more than twenty (20) days. (Ord. 2000-01, SIII 2 a-g, Mar. 27, 2000) (Ord. 9-22-80, S2b, Nov. 3, 1980)
- (3) "Parts" has the meaning stated in IC 9-13-2-122, and refers to all components of a vehicle that, as assembled, do not constitute a complete vehicle. (Ord. 2000-01, SIII 3, Mar. 27, 2000)
- (4) "Officer" has the meaning stated in IC 9-22-1-2, as follows:
  - A. A regular member of the state police department.

- B. A regular member of a city or town police department.
- C. A town marshal or town deputy marshal.
- D. A regular member of the county police force.
- E. An individual of an agency designated by ordinance of the fiscal body.

Each member of the Winslow Abandoned Vehicle Department is an officer for the purpose of enforcing this ordinance. (Ord. 2000-01, SIII 4 a-e, Mar. 27, 2000)

**6.38.040 Exempt Vehicles.** This ordinance does not apply to a vehicle described in IC 9-22-1-1, as follows:

- (1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways. (Ord. 2000-01, SIV 1, Mar. 27, 2000)
- (2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment. (Ord. 2000-01, SIV 2, Mar. 27, 2000)
- (3) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility. (Ord. 2000-01, SIV 3, Mar. 27, 2000)
- (4) A vehicle located upon property licensed or zoned as an automobile scrapyard. (Ord. 2000-01, SIV 4, Mar. 27, 2000) (Ord. 9-22-80, S5, Nov. 3, 1980)
- (5) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle. (Ord. 2000-01, SIV 5, Mar. 27, 2000)

**6.38.050 Responsibility of Owner.** The person who owns an abandoned vehicle or parts is responsible for the abandonment and is liable for all of the costs incidental to their removal, storage, and disposal. (Ord. 2000-01, SV, Mar. 27, 2000)

**6.38.060 Vehicle in Possession of a Non-Owner.** When an officer discovers a vehicle in the possession of a person, other than the person who owns the vehicle, and the person cannot establish the right to possession of the vehicle, the officer shall follow the procedure provided by IC 9-22-1-5, -6, -7, -8, -9 and -10, as follows:

- (1) The officer shall cause the vehicle to be removed and taken to a storage facility. (Ord. 2000-01, SVI 1, Mar. 27, 2000)

- (2) The officer shall notify the Bureau of Motor Vehicles, within 72 hours, of the location and description of the vehicle; the Bureau shall then cause a search to be made to determine and notify the person who owns the vehicle, as provided by IC 9-22-1-20. (Ord. 2000-01, SVI 2, Mar. 27, 2000)
- (3) If the Bureau cannot determine who owns the vehicle, the Bureau shall declare the vehicle abandoned, and provide for disposal of it, pursuant to IC 9-22-1. (Ord. 2000-01, SVI 3, Mar. 27, 2000)
- (4) If the properly identified person who owns or holds a lien on the vehicle appears at the storage site before disposal of the vehicle or parts, and pays all costs incurred against the vehicle or parts at that time, the vehicle or parts shall be released. (Ord. 2000-01, SVI 4, Mar. 27, 2000)
- (5) The towing operator shall notify the Bureau of the release, and the release shall state the name, signature and address of the person who owns or holds a lien on the vehicle, a description of the vehicle or parts, the costs paid and the date of release. (Ord. 2000-01, SVI 5, Mar. 27, 2000)
- (6) If the person who owns or holds a lien on the vehicle does not appear and pay all costs, the bureau shall declare the vehicle abandoned, and provide for disposal under IC 9-22-1. (Ord. 2000-01, SVI 6, Mar. 27, 2000)

**6.38.070 Tagging Abandoned Vehicle or Parts.**

- (1) When the officer finds, or is notified of, a vehicle or parts, believed to be abandoned, the officer shall tag the vehicle or parts, in a prominent place, with the following information, as provided by IC 9-22-1-11, as follows:
  - A. The date, time, officer's name, public agency and address and telephone number to contact for information.
  - B. That the vehicle and parts are considered abandoned.
  - C. That the vehicle or parts will be removed after 72 hours.
  - D. That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle.
  - E. That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours. (Ord. 2000-01, SVII 1 a-e, Mar. 27, 2000) (Ord. 9-22-80, S3, 4, Nov. 3, 1980)

- (2) If the vehicle or parts tagged, is not removed within 72 hours, the officer shall prepare a written Abandoned Vehicle Report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. The officer shall also obtain a photograph of the vehicle as provided by IC 9-22-1-12. (Ord. 2000-01, SVII 2, Mar. 27, 2000)
- (3) If, in the opinion of the officer, the market value of an abandoned vehicle or parts is less than \$500.00, the officer shall immediately dispose of the vehicle to an automobile storage facility and forward a copy of the Abandoned Vehicle Report and photograph or photographs, to the Bureau of Motor Vehicles, as provided by IC 9-22-1-13. The photographs may be taken by the officer, the towing service, or the storage facility. The Winslow Abandoned Vehicle Department shall retain the original records and photographs for at least two (2) years.

A vehicle which is 10 model years or older, that has extensive deterioration to the interior or exterior, or is inoperable; or a vehicle which is 5 model years or older, which has been extensively destroyed by fire, explosion, vandalism, or other causes, excluding traffic accidents, and is inoperable; is presumptively valued at \$100 or less, as provided by 140 IAC 5-1-4. (Ord. 2000-01, SVII 3, Mar. 27, 2000)

- (4) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is at least \$500.00, the officer shall, before placing a notice tag on the vehicle or parts, make a reasonable effort to ascertain the person who owns the vehicle or parts, or who may be in control of the vehicle or parts. After 72 hours the officer shall require the vehicle or parts to be towed to a storage facility as provided by IC 9-22-1-14. (Ord. 2000-01, SVII 4, Mar. 27, 2000)

#### **6.38.080 Self-help by Owner of Rental Property.**

- (1) A person who owns rental property, and who finds a vehicle believed to be abandoned on that person's rental property, shall attach, in a prominent place, on the vehicle, a notice tag containing the following information, as provided by IC 9-22-1-15:
  - A. The date, time, name and address of the person who owns the rental property, and a telephone number to contact for information.
  - B. That the vehicle is considered abandoned.
  - C. That the vehicle will be removed after 72 hours.

- D. That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle.
  - E. That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours. (Ord. 2000-01, SVIII 1, Mar. 27, 2000)
- (2) If, after 72 hours, the person who owns the vehicle believed to be abandoned on rental property, has not removed the vehicle from the rental property, the person who owns the rental property may have the vehicle towed, as provided by IC 9-22-1-16. The towing operator shall do the following:
- A. Contact the Bureau of Motor Vehicles to obtain the name and address of the person who owns the vehicle.
  - B. Deliver by Certified Mail, a copy of the information contained in the notice tag to the person who owns the vehicle, not later than five (5) business days after the vehicle is removed.
  - C. Notwithstanding the 72 hour requirement, in an emergency situation, a vehicle may be removed immediately. "Emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the owner of the rental property or poses a threat to the safety or security of persons or property, or both.
  - D. The towing operator shall give notice to the Winslow Abandoned Vehicle Department and the Bureau of Motor Vehicles that the abandoned vehicle is in the possession of the towing operator. (Ord. 2000-01, SVIII 2 a-d, Mar. 27, 2000)
- (3) If a person who owns or controls private property, complains to the Winslow Abandoned Vehicle Department that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, then the officer shall follow the same procedures as set forth above, in Section 6.38.070. (Ord. 2000-01, SVIII 3, Mar. 27, 2000)

**6.38.090 Abandoned Vehicle Report.** Within 72 hours after removal of an abandoned vehicle to a storage facility, under Sections 6.38.060, 6.38.070, or 6.38.080 above, either the Winslow Abandoned Vehicle Department or the storage facility, shall prepare and forward to the Bureau of Motor Vehicles, an Abandoned Vehicle Report, containing a description of the vehicle, including the following information concerning the vehicle.

- (1) Make

- (2) Model
- (3) Identification number
- (4) Number of the license plate

The Winslow Abandoned Vehicle Department or the storage facility, whichever prepares the Abandoned Vehicle Report, shall request that the Bureau of Motor Vehicles advise the Winslow Abandoned Vehicle Department or the storage facility of the name and most recent address of the person who owns or holds a lien on the vehicle.

If the vehicle or parts are in such a condition that vehicle identification numbers or other means of identification are not available to determine the person who owns or holds a lien on the vehicle or parts, they may be disposed of to an automobile storage facility and a copy of the Abandoned Vehicle Report and photograph or photographs of the vehicle or parts shall be forwarded to the Bureau of Motor Vehicles, as provided by IC 9-22-1-13. The Winslow Abandoned Vehicle Department shall retain the original records and photographs for at least two (2) years. (Ord. 2000-01, SIX, Mar. 27, 2000)

**6.38.100 Duties of the Bureau of Motor Vehicles.** Upon receipt of an abandoned vehicle report under Section 6.38.090 the Bureau shall do the following:

- (1) Conduct a reasonable search through the national automobile theft bureau and the state police department to determine whether the vehicle or parts have been reported as stolen. (Ord. 2000-01, SX 1, Mar. 27, 2000)
- (2) Conduct a reasonable search of bureau records to determine the person who owns the vehicle or parts or the person who holds the lien of record. (Ord. 2000-01, SX 2, Mar. 27, 2000)
- (3) If a reasonable search discloses the name and address of the person who owns or holds a lien on the vehicle, mail a written notice, by first class mail, to:
  - A. The person who owns the vehicle, with a copy to each person who holds a lien on the vehicle if the bureau disposes of the vehicle; or
  - B. The public agency if the public agency disposes of the vehicle;

Indicating that the vehicle or parts have been impounded at a certain location and must be removed within twenty (20) days after the date of mailing of the notice and advising that the vehicle or

parts will be disposed of after that time. The notice must advise the person who owns or holds a lien on the vehicle that all costs incurred in removing and storing the vehicle or parts are the person's legal responsibility. (Ord. 2000-01, SX 3 1, 2, Mar. 27, 2000)

**6.38.110 Sales by the Bureau of Motor Vehicles or the Department.** If the person who owns or holds a lien upon a vehicle does not appear within twenty (20) days after the mailing of a notice under Section 6.38.090, the Bureau of Motor Vehicles or the Winslow Abandoned Vehicle Department shall sell the vehicle or parts.

- (1) If the bureau sells the vehicle or parts, it shall be to the highest bidder at a public sale. Notice of the sale shall be given under IC 5-3-1, except only one (1) newspaper insertion one (1) week before the public sale is required.

If the department sells the vehicle or parts, it may either:

- A. Sell to the highest bidder at a public sale. Notice of the sale shall be given under IC 5-3-1, except that only one (1) newspaper insertion one (1) week before the public sale is required.

or

- B. Sell the vehicle or parts as unclaimed property under IC 36-1-11. The twenty (20) day period for the property to remain unclaimed is sufficient for a sale under this subdivision. (Ord. 2000-01, SXI 1, Mar. 27, 2000)

**6.38.120 Bill of Sale.** A person who purchases a vehicle under Section 6.38.110 shall be furnished a bill of sale under IC 9-29-7. A person who purchases a vehicle under Section 6.38.110 must:

- (1) Present evidence from a law enforcement agency that the vehicle purchased is roadworthy, if applicable; and,
- (2) Pay the appropriate title fee under IC 9-29-4 to obtain a certificate of title under IC 9-17 for the vehicle. (Ord. 2000-01, SXII, 1 & 2, Mar. 27, 2000)

**6.38.130 Removal and Storage Costs.** The costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on a vehicle shall be paid from the Abandoned Vehicle Fund established under Section 6.38.150. The charge payable by the person who owns or holds a lien on a vehicle for towing, storing, or removing an abandoned vehicle or parts may not exceed the limits established by Section 6.38.160. (Ord. 2000-01, SXIII, Mar. 27, 2000)

**6.38.140 Proceeds of Sale.** The proceeds of sale of an abandoned vehicle or parts under Section 6.38.110 shall be credited against the cost of the removal, storage, and disposal of the vehicle. (Ord. 2000-01, SXIV, Mar. 27, 2000)

**6.38.150 Abandoned Vehicle Fund.**

- (1) There is hereby established for the Town of Winslow, an Abandoned Vehicle Fund, as required by IC 9-22-1-30. (Ord. 2000-01, SXV 1, Mar. 27, 2000)
- (2) If the department sells the vehicle or parts, the proceeds from the sale of abandoned vehicles or parts, including:
  - A. Charges for bills of sale; and
  - B. Money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles; shall be deposited with the town treasurer and placed by the treasurer in the unit's Abandoned Vehicle Fund. (Ord. 2000-01, SXV 2, Mar. 27, 2000)
- (3) The costs incurred by the department in administering this ordinance shall be paid from the Abandoned Vehicle Fund. (Ord. 2000-01, SXV 3, Mar. 27, 2000)
- (4) The Town of Winslow shall annually appropriate sufficient money to the fund to carry out this ordinance. Money remaining in the fund at the end of a year remains in the fund and does not revert to the General Fund. (Ord. 2000-01, SXV 4, Mar. 27, 2000)

**6.38.160 Allowable Charges for Towing and Storage.**

- (1) Charges for providing towing service for abandoned vehicles, shall be the reasonable value of the service rendered according to the usual and customary charges in the Winslow community, and pursuant to 140 IAC 5-1-1(b), the Town sets the maximum amount it will pay for any one towing charge at \$30.00. (Ord. 2000-01, SXVI 1, Mar. 27, 2000)
- (2) Charges for storage for abandoned vehicles and parts, shall be the reasonable value of the services rendered according to the usual and customary charges in the Winslow community; and pursuant to 140 IAC 5-1-2 (c), the Town sets the maximum amount it will pay for storage charges at \$8.00 per day. (Ord. 2000-01, SXV 2, Mar. 27, 2000)

**6.38.170 Power to facilitate ordinance.** To facilitate the removal of abandoned vehicles or parts, the Town of Winslow may:

- (1) Employ personnel;
- (2) Acquire equipment, property, and facilities; and
- (3) Enter into towing and storage contracts. (Ord. 2000-01, SXVII 1-3, Mar. 27, 2000)

**6.38.180 Immunity from Liability.** Pursuant to IC 9-22-1-32, the following are not liable for loss or damage to a vehicle or parts occurring during the removal, storage, or disposition of a vehicle or parts under this Ordinance:

- (1) A person who owns or leases, or occupies property from which an abandoned vehicle or parts are removed.
- (2) The Town of Winslow and the Winslow Abandoned Vehicle Department.
- (3) A towing service.
- (4) An automobile scrapyard. (Ord. 2000-01, SXVIII 1-4, Mar. 27, 2000)

**6.38.190 Approved Towing Service and Storage Facility.** Any towing service or storage facility which is used for the removal and storage of abandoned vehicles or parts by law enforcement officers, and which has not been disapproved by the Bureau of Motor Vehicles, because of violations of the Bureau's rules and regulations, may be used by the Town for towing and storage of abandoned vehicles and parts. (Ord. 2000-01, SXIX, Mar. 27, 2000)