

ORDINANCE 2016-01

AN ORDINANCE OF THE TOWN OF INDIAN SHORES, FLORIDA, AMENDING PART II, CODE OF ORDINANCES, CHAPTER 34 – ENVIRONMENT, ARTICLE IV.- NUISANCE, SECTION 34-112 ILLUSTRATIVE ENUMERATION, BY INCLUDING RIGHT-OF-WAYS AND FUNCTIONALLY ABUTTING RIGHT-OF-WAYS WITHIN THE REQUIRED AREA OF MAINTENANCE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF THE TOWN OF INDIAN SHORES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Indian Shores desires to provide its residents with a fair, clear and concise code; and

WHEREAS, the Florida Constitution provides for municipal home rule power and the charter of the Town of Indian Shores authorizes the Town Council to exercise any power for municipal purposes, except where prohibited by law; and

WHEREAS, the Town Council of the Town of Indian Shores desires to clarify the responsibilities of property owners with respect to abutting and functionally abutting right-of-ways within the Town; and

WHEREAS, the Town Council believes that such maintenance would be in the best interests of the Town and protect the public health, safety, and welfare as excessive vegetation may attract unwanted vermin and pests;

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

SECTION I

That the Town code of the Town of Indian Shores, Florida, Chapter 34 – Environment, Article IV.- Nuisance, Section 34-112. – Illustrative enumeration., is hereby amended to read as follows:

Sec. 34-112. - Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions is declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious growth and other rank vegetation to a height of 12 inches or more upon any premises or land within the town, regardless of whether such premises or land are occupied or unoccupied, which has ever, at any previous time, been cleared of weeds, grass, vines, palmetto scrub or other rank or noxious vegetable growth which may have previously grown or accumulated to a height of 12 inches or more. The owner of any real property abutting any dedicated right-of-way in the Town shall be required to keep the right-of-way in a clean and sanitary condition at all times by keeping the same free from weeds, trash and debris of all kinds and by keeping the grass mowed and lot clean. In mowing the grass in the area designated herein, the property owner shall cut the grass in such a manner that the grass as mowed does not extend over the sidewalk, bicycle path, curblin or edge of pavement of an improved right-of-way by more than four inches. Such mowing, edging and other maintenance shall not result in materials being blown or otherwise deposited on the road or sidewalk surfaces, per Sec. 90-103 of the Indian Shores Code. Nothing in this subsection shall be construed to require the removal of vegetable growth from virgin land which has not previously been cleared of such weeds, grass, vines, palmetto scrub or other rank or noxious vegetable growth which may have grown or accumulated to a height of 12 inches or more.
- (2) Accumulation of trash, litter, debris, garbage, bottles, paper, cans, rags, dead or decayed fish, fowl, meat or other animal matter, fruit, vegetables, offal, bricks, concrete, scrap lumber or other building debris or other refuse of any nature.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises, and all loud and raucous noise as enumerated in article III of this chapter.
- (6) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.
- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (8) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery wastes, industrial wastes or other substances.
- (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

- (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (12) Neglect or failure to keep in a state of good repair any sidewalk, footway or foot pavement situated upon any public lands lying immediately adjacent to the abutting private property by the party owning, occupying or having the custody of such abutting premises.
- (13) Allowing, suffering or permitting any trees or other growth in excess of 12 feet in height and damaged or injured to remain upon such real property when the trees or other growth create and constitute a hazard endangering the life or limb of any persons or surrounding or adjacent property.
- (14) Any source of illumination, including but not limited to spotlights, floodlights, yard lights, pole lights, parking lot illumination or external sign illumination, which has not been adequately shielded to prevent excessive intrusion into adjoining residential property or into any adjoining right-of-way in a manner such that the peace and comfort of adjacent property owners is disturbed or such lighting is a hazard to pedestrians or vehicular traffic. All bright exterior illumination between the hours of 11:00 p.m. and 7:00 a.m. not specifically approved for property protection or not required for emergency purposes is declared a nuisance.
- (15) Allowing irrigation sprinkler systems or irrigation systems to spray into or across public streets, avenues, boulevards, paved rights-of-way, sidewalks or beach accesses or to drain onto same.
- (16) Offensive dust. No person shall maintain any mill, machine or device which shall produce or emit any dust, powder or other unhealthy or dangerous substance or which shall contaminate the atmosphere in the vicinity thereof or cause or leave deposits of dust, dirt or powder on nearby lands.

SECTION II

That all ordinances or parts of ordinances in conflict herewith are hereby repealed in so far as the same conflict with the provisions of this ordinance.

SECTION III

That if a court of competent jurisdiction finds any provisions of this ordinance to be invalid or unenforceable as a matter of law, the offending portion shall be stricken and all other provisions shall remain in full force and effect.

SECTION IV

That the provisions of this ordinance shall be included and incorporated into the code of ordinances of the Town of Indian Shores, Florida as an amendment thereto, and shall be renumbered to conform to the uniform numbering system thereof as necessary.

SECTION V

That this ordinance shall be in full force and affect immediately upon its passage, or in the manner provided by law.

FIRST READING this 12TH day of January, 2016.

SECOND READING AND FINAL PASSAGE this _____ day of _____, 2016.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES, FLORIDA, THIS _____ day of _____, 2016.

ATTEST:

Elaine Jackson
Town Clerk

James L. Lawrence
Mayor

Approved as to form:

Regina A. Kardash, Esq.
Town Attorney