

ORDINANCE NO. 2022-16

**AN ORDINANCE AMENDING CHAPTERS 93
OF THE TOWN OF GENEVA CODE OF ORDINANCES**

WHEREAS, the Common Council of the Town of Geneva has adopted the Town of Geneva Code of Ordinances which includes ordinances that restricts and governs acts which may be considered as nuisances in the Town; and

WHEREAS, Ordinance No. 2019-12 was passed in order to set forth, in a more uniform manner, restrictions and procedures dealing with public nuisances and unsafe buildings in the Town of Geneva; and

WHEREAS, Ordinance No. 2019-12 was amended by Ordinance 2021-1 regarding the procedures in abating such public nuisances and unsafe buildings in the Town of Geneva; and

WHEREAS, the Common Council of the Town of Geneva now believes that it would be beneficial to the Town and to its citizens for all of said public nuisances to be codified in the Town of Geneva Code of Ordinances in a more orderly and understandable manner, and that said Code be amended to assess certain fines for said public nuisances;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF GENEVA, INDIANA THAT:

SECTION I. Title IX, Chapter 93 of the Town of Geneva Code of Ordinances, is hereby amended to read as follows:

CHAPTER 93. NUISANCES.

PUBLIC NUISANCES

§ 93.1.1 Public Nuisances Prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.

§ 93.1.2 Public Nuisances Defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

or

- (b) In any way render the public insecure in life or in the use of property; or
- (c) Greatly offend the public morals or decency; or
- (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way; or
- (e) Is injurious to health, or indecent, or offensive to the senses, or an obstruction to the full use of property, so as essentially to interfere with the comfortable enjoyment of life or property.

§ 93.1.3 Public Health Nuisances.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of § 93.1.2:

- (a) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (b) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;
- (c) Accumulations of decayed animal or vegetable matter (except for approved compost methods), trash, rubbish, rotting lumber, bedding, packing material, junk vehicles, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or may be a fire hazard;
- (d) Piles of any wood or wood product usually used or intended to be used as firewood in a residence or any accessory structure which is not contained within a covered enclosure impervious to the elements or not stored or kept in neat and secure stacks no more than four (4) feet in height as measured from the ground surface, or that has been stacked in a manner in which disease-carrying insects, rats or other vermin may breed, or which becomes a fire hazard, or which has been open to the elements for a duration which causes the wood to rot or decay;
- (e) All stagnant water in which mosquitoes, flies or other insects can multiply;
- (f) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Town limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;
- (g) The pollution of any public well or cistern, stream, river, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;
- (h) Any use of property, substances or things within the Town emitting or causing foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health or any appreciable number of persons within the Town; or any slaughter house;
- (i) All abandoned wells not securely covered or secured from public use;
- (j) All noxious weeds;
- (k) Any accumulation of junk, rubbish, scrap metal, scrap plastic, paper, cardboard, automotive parts, building materials, machinery, equipment, dead trees, or parts thereof, upon any premises in a residential area.
- (l) Any structure used for the collection or deposit of trash or garbage that has an open door

allowing access into said structure, except when the door is open to allow the structure to be used for the deposit or removal of trash or garbage, or to allow the structure to be cleaned or repaired.

- (m) Crop residue, including, but not limited to, corn cobs, bean stalks and corn stalks that exits the property upon which it was harvested and accumulates on neighboring property.

§ 93.1.4 Public Nuisances Offending Morals and Decency.

- (a) The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § 93.1.2:

- (1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;
- (2) All gambling devices and slot machines;
- (3) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified for the purpose of sale without a permit or license as provided for by this Code or State law;
- (4) Any place or premises within the Town where Town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated;
- (5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Indiana or the ordinances of the Town.

- (b) Public nuisances offending morals and decency shall also mean:

- (1) Any place in or upon which prostitution (as described in I.C. 35-45-4);
- (2) Any public place in or upon which sexual conduct (as defined in I.C. 35-49-1-9); or
- (3) Any public place in or upon which the fondling of the genitals of a person;

is conducted, permitted, continued, or exists, and the personal property and contents used in conducting and maintaining the place for such a purpose.

§ 93.1.5 Public Nuisances Affecting Peace and Safety.

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of § 93.1.2:

- (a) All buildings erected, repaired or altered within the Town in violation of the provisions of the ordinances of the Town relating to materials and manner of construction of buildings and structures.
- (b) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway.
- (c) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (d) All limbs of trees which project over a public sidewalk less than eight (8) feet above the surface thereof or less than ten (10) feet above the surface of a public street.

- (e) All use of display of fireworks except as provided by the laws of the State of Indiana and ordinances of the Town.
- (f) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use; or shall be an invitation to children and endanger the lives of such children, or which, because of its condition has become a fire hazard.
- (g) All wires over streets, alleys or public grounds.
- (h) All loud and discordant noises or vibrations of any kind, except as may be permitted under a zoning ordinance.
- (i) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town of which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished.
- (j) All parking, location or relocation of any trailer, boat trailer, truck commercial vehicle, storage unit, motor home, recreational vehicle (RV), camper shell, all terrain vehicle (ATV), camper or camping trailer, on any public street, alley or right of way for a period of more than 24 hours over a 1 month period.
- (k) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalks.
- (l) All abandoned refrigerators, iceboxes or similar containers from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside by pushing only with the strength of a small child.
- (m) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (n) Any sign, marquee, or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalks less than eight (8) feet above the sidewalk surface.
- (o) Any nuisance so defined by the Indiana Code.

§ 93.1.6 Abatement of Public Nuisances.

- (a) ***Inspection of premises.*** Whenever a written complaint is made to the Clerk-Treasurer or the Clerk-Treasurer's designee that a public nuisance exists or has existed within the Town, or upon the observance and reporting to the Clerk-Treasurer by the Marshal's office, a Town employee or Council Member that a public nuisance exists or has existed within the Town, the designated Enforcement Officer, who shall be an employee of the Town as so appointed by the Common Council of the Town, shall promptly inspect or cause to be inspected the premises and shall make a written report of the Enforcement Officer's findings to the Nuisance Committee, which shall be composed either of the Common Council of the Town, or an official committee duly appointed by the Town. Whenever practicable, the Enforcement Officer shall cause photographs to be made of the premises and shall file the same with the Nuisance Committee.
- (b) ***Summary abatement.***
 - (1) ***Notice to owner.*** If the Nuisance Committee shall determine that a public nuisance exists on private property, the Clerk-Treasurer shall direct the Town Marshal, or a

Deputy Town Marshal, to serve a notice on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of the notice on the premises, or send such notice by certified mail, return receipt requested. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within 48 hours and shall state that unless such nuisance is so abated, the Town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.

- (2) **Abatement by Town.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Enforcement Officer and Clerk-Treasurer shall have the authority to cause the abatement or removal of such public nuisance.

§ 93.1.7 Cost of Abatement.

In addition to any other penalty imposed by this Section 93.1 for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance. Said cost of the abatement shall include, but not be limited to, court costs, attorney's fees, administrative costs, and interest on any amounts incurred by the Town. If the Town uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals that may be used. The Clerk-Treasurer shall send a notice to the owner of the cost of abatement, and the owner shall then have thirty (30) days from the mailing of said notice to reimburse the Town. If said cost of abatement is not reimbursed within sixty (60) days of the mailing of said notice, the Clerk-Treasurer shall file a certified copy of the statement of costs in the Auditor's office of Adams County, and the County Auditor shall cause such costs, together with interest at the rate of 8% per annum, to be added to the property's tax duplicate to be collected as delinquent real estate taxes, pursuant to I.C. 36-7-10.1-1 et seq., which upon collection shall be deposited into the Town's General Fund.

§ 93.1.8 Penalty.

Whoever creates or maintains any nuisance defined in this Section 93.1 and who fails or refuses to abate such nuisance when so ordered, shall be fined the sum of \$100, and said fine shall be assessed by the Town Marshal or any Deputy Town Marshal. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed for abatement of such nuisance. The action against any person to enforce a penalty by the Town shall constitute a separate and additional legal remedy, and the fact that any proceedings by way of an injunction or for the abatement of any such nuisance has been or may be instituted by the Town and may be pending or concluded, shall not affect this Section 93.1 or be considered in any way as a defense to such action for the penalty herein prescribed.

GRASS, WEEDS, DEBRIS, AND OTHER RANK VEGETATION

§ 93.2.1 Removal of Grass, Weeds, Debris, and Other Such Rank Vegetation.

- (a) **Definitions.**
- (1) **Debris** shall include the remains of something broken-down or destroyed.
 - (2) **Rank Vegetation** shall include those weeds and growing vegetation which is excessively vigorous in growth, shockingly conspicuous, malodorous and/or flagrant.
 - (3) **Weeds** shall include any plant that is not valued where it is growing, and is of rank growth, tends to overgrow or choke out more desirable plants and/or is listed as a weed in the U.S. Department of Agriculture publication entitled *Common Weeds of the United States*, or in any similar government publication.
 - (4) **Grass** shall include vegetation consisting of typically short plants with long narrow leaves, growing wild or cultivated on lawns.
- (b) **Violation.** It is a violation of this section to have weeds, rank vegetation and/or debris on any real property (“property”) located within the Town’s corporate limits.
- (c) **Requirement to Cut.** All owners of real property (“property”) located within the Town shall cut and remove weeds and other rank vegetation growing thereon that exceeds an average height of eight (8) inches, and shall keep their property clear of debris. Grass shall at all times be cut to an average height of no more than eight (8) inches.
- (d) **Discharge of Cut Grass.** No property owner shall cause or allow to cause the discharge of cut grass debris onto any public street, alley or right of way unless such cut grass debris is immediately removed, in its entirety, from said public street, alley or right of way.
- (e) **Violation Notice.** In the event of a violation of this section, the Enforcement Officer, or the Town Marshal, or a Deputy Town Marshal, shall issue a written notice (“Violation Notice”) to the violating landowner. The Violation Notice shall identify the violation and order the landowner to correct the same within five (5) calendar days from the date on which the Violation Notice is served on the landowner (“Abatement Period”). Personal service, service by U.S. certified mail or any other manner service recognized in the Indiana Rules of Trial Procedure shall constitute proper service upon the landowner for purposes of this section.
- (f) **Appeal.** Any Violation Notice issued pursuant to this section may be appealed to the Hearing Authority under the Unsafe Building Regulations herein (“Hearing Authority”) if written notice of appeal is served on the Town within the Abatement Period. The timely appeal of a Violation Notice shall toll the abatement period pending the issuance of a decision thereon by the Hearing Authority.
- (g) **Town to abate.** If the landowner fails to timely abate each violation set forth in a Violation Notice, the landowner shall be deemed to have granted permission to the Town to enter the landowner’s property for the limited purpose of cutting and/or removing such debris, grass, weeds or rank vegetation located thereon and identified in the Violation Notice. If the Town uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals that may be used. The Clerk-Treasurer shall send an invoice to the owner of the cost of abatement. Said invoice shall be for a minimum of One Hundred Dollars (\$100.00) due to the administrative costs incurred by the Town. The landowner shall, within seven (7) calendar days from the date on which the landowner is served with such invoice (“Payment Period”), pay in full the amount stated thereon to the Clerk-Treasurer.

- (h) **Failure to pay.** If the landowner fails to timely pay an invoice issued pursuant to this section, the Clerk-Treasurer, or the Clerk-Treasurer's designee, shall file a certified copy of the statement of costs in the Auditor's office of Adams County, and the County Auditor shall cause such costs, together with interest at the rate of 8% per annum, to be added to the property's tax duplicate to be collected as delinquent real estate taxes, pursuant to I.C. 36-7-10.1-1 et seq., which upon collection shall be deposited into the Town's General Fund, unless the Town's employees and/or equipment were used to abate such nuisance, and in such case, such collected amounts shall instead be deposited into the Town's Park and Recreation Fund.
- (i) **Penalty.** Whoever creates or maintains any nuisance regarding grass, weeds, debris, and other rank vegetation as defined in this Section 93.2 and who fails or refuses to abate such nuisance when so ordered, shall be fined the sum of \$50, and said fine shall be assessed by the Town Marshal or any Deputy Town Marshal. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed for abatement of such nuisance. The action against any person to enforce a penalty by the Town shall constitute a separate and additional legal remedy, and the fact that any proceedings by way of an injunction or for the abatement of any such nuisance has been or may be instituted by the Town and may be pending or concluded, shall not affect this Section 93.2 or be considered in any way as a defense to such action for the penalty herein prescribed.
- (j) This section supplements and does not limit any other remedy or action available in law or in equity regarding the subject matter hereof.

JUNK, JUNK VEHICLES AND ABANDONED VEHICLES

§ 93.3.1 Definitions of Junk, Junk Vehicle and Abandoned Vehicles.

- (a) **Junk** shall mean any articles in any form composed of or consisting of any of the following enumerated secondhand, discarded, abandoned or cast-off metals or materials, namely, iron, brass, bronze, copper, tin, zinc, lead or any other metals or compounds thereof, broken glass, rags, clothing, rubber, plastics, and synthetic substances and fabrics, bottles, papers, feathers or any other waste material or any compound or by-product of the foregoing enumerated materials; junk shall also include and mean, wrecked, abandoned or dismantled automobile or parts thereof.
- (b) **Junk Vehicle** shall mean any motor vehicle, trailer, truck commercial vehicle, storage trailer, motor home, recreational vehicle (RV), camper shell, camper or camping trailer, located on any public street, alley or right of way for a period of more than 24 hours over a 1 month period which does not bear a currently valid license plate, and is not kept in a garage or building. Junk Vehicle shall also include any vehicle from which there has been removed the engine, transmission or differential or which is otherwise partially dismantled or inoperable and left on public premises or which has been left unattended for more than (30) days on private premises in a location visible from public premises and/or private premises at ground level. Junk Vehicle shall also include any trailer, truck commercial vehicle, storage trailer, motor home, recreational vehicle (RV), camper shell, camper or camping trailer which has been left unattended for more than (30) days on private premises in a location visible from public premises and/or private premises at ground level.

- (c) **Abandoned Vehicle** shall mean any motor vehicle, car, boat, and other means of motorized transportation that is left on private premises without the consent of the owner or person in control of such premises, or on a public street, alley or right of way for a continuous period of time exceeding thirty (30) days. Abandoned Vehicle shall also include any vehicle located on public premises illegally or in such manner as to constitute a hazard or unreasonable obstruction to the movement of pedestrian or other vehicle traffic on a public right-of-way, street or highway.
- (d) **Exemptions.** The provisions of this chapter shall not apply to any vehicle located on a properly zoned vehicle sale lot, at a properly zoned commercial vehicle servicing facility, at a properly zoned automobile scrap yard, and any motor vehicle eligible for registration and licensing under I.C. 9-18-12-1, 9-18-12-2, 9-18-12-4 through 9-18-12-6 as an antique vehicle.

§ 93.3.2 Junk, Junk Vehicles and Abandoned Vehicles Declared Nuisances.

Because of the danger of health by vermin and insects and because of the danger of the safety of children attracted by junk, junk vehicles, abandoned vehicles and junked motor vehicles are declared to be nuisances except in lawfully zoned and operated junk yards.

§ 93.3.3. Storage Prohibited.

It shall be unlawful for any person to store or to allow to remain in the open upon public or private property within the Town, any disassembled and/or non-operative or unlicensed, or junked, wrecked or abandoned motor vehicle for a period of thirty (30) days or more on public property, or a period off forty-five (45) days or more on private property unless it is in connection with an automobile sale or repair business in a properly zoned area.

§ 93.3.4 Enforcement for Junk.

Any enforcement under this section for junk shall take place pursuant to § 93.1.6 and § 93.1.7. Whoever creates or maintains any nuisance regarding junk, junk vehicles or abandoned vehicles, as defined in this Section 93.3 and who fails or refuses to abate such nuisance when so ordered, shall be fined the sum of \$100, and said fine shall be assessed by the Town Marshal or any Deputy Town Marshal. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed for abatement of such nuisance. The action against any person to enforce a penalty by the Town shall constitute a separate and additional legal remedy, and the fact that any proceedings by way of an injunction or for the abatement of any such nuisance has been or may be instituted by the Town and may be pending or concluded, shall not affect this Section 93.3 or be considered in any way as a defense to such action for the penalty herein prescribed.

§ 93.3.5 Enforcement for Junk Vehicles and Abandoned Vehicles.

- (a) **Discovery, Notice and Declaration of Abandonment.** In addition to the enforcement procedures as set forth in Section 93.3.4, when a Town of Geneva Marshal or Deputy Marshal (hereinafter “officer”) discovers a vehicle in the possession of a person other than the owner of the vehicle and the person cannot establish the right to possession of the vehicle, the vehicle shall be taken to and stored in a suitable place determined by the officer. The Indiana Bureau of Motor Vehicles shall be notified within 72 hours of the location and description of a vehicle described herein. Upon receipt of notification, the

Bureau shall cause a search to be made to determine and notify the person who owns the vehicle under this chapter. Pursuant to IC 9-22-17, the Bureau shall declare a vehicle abandoned and provide for disposal under this chapter if:

- (1) The owner or lienholder under paragraph(c) below does not appear and pay all costs;
or
 - (2) The owner of a vehicle cannot be determined by a search under paragraph (k) below.
- (b) **Release to Owner or Lienholder of Stored Vehicle.** If the properly identified person who owns or holds a lien on a vehicle appears at the site of storage 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. The Town shall notify the appropriate public agency of all releases under this section. The notification must include the name, signature and address of the person that owns or holds a lien on the vehicle, a description of the vehicle or parts, costs, and the date of release.
- (c) **Tagging Abandoned or Junk Vehicle or Parts.** An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:
- (1) The date, time, officer's name, public agency, and address and telephone number to contact for information.
 - (2) That the vehicle or parts are considered abandoned.
 - (3) That the vehicle or parts will be removed after:
 - (A) Twenty-four (24) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or
 - (B) Seventy-two (72) hours, for any other vehicle.
 - (4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.
 - (5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:
 - (A) Twenty-four (24) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or
 - (B) Seventy-two (72) hours, for any other vehicle.
- (d) **Officer's Abandoned Vehicle Report.** If a vehicle or a part tagged under paragraph (c) above is not removed within the applicable period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition and missing parts. Photographs may be taken to describe the condition of the vehicle or parts.
- (e) **Vehicle or Parts Valued at Less than \$1,000.** If the vehicle is an abandoned vehicle and the market value of said vehicle or parts is less than \$1,000, the towing service shall immediately transfer the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs, if applicable, relating to the abandoned vehicle shall be provided to the storage yard. A towing service or storage yard may dispose of the abandoned vehicle not less than thirty (30) days after the date on which the towing service removed the abandoned vehicle. The public agency or storage yard disposing of the vehicle shall retain the original records and photographs for at least two (2) years. If the vehicle is

demolished, a copy of the abandoned vehicle report shall be forwarded to the Bureau by the automobile scrap yard after the vehicle has been demolished.

- (f) **Vehicle or Parts Valued at \$1,000 or More.** If in the opinion of the officer the market value of the abandoned vehicle or parts is at least \$1,000, the officer, before placing a notice tag on the vehicle or parts, shall 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 seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service
- (g) **Discovery of Vehicle Abandoned on Rental Property.**
 - (1) A person who finds a vehicle believed to be abandoned on private property that the person owns or controls, including rental property may:
 - (A) Obtain the assistance of an officer under § 93.3.5(j) to have the vehicle removed;
 - or
 - (B) Personally arrange for the removal of the vehicle by complying with subsection (B) of this section and § 93.3.5(h).
 - (2) If the person wishes to personally arrange for the removal of the vehicle, the person shall attach in a prominent place a notice tag containing the following information:
 - (A) The date, time, name and address of the person who owns or controls the private property and a telephone number to contact for information.
 - (B) That the vehicle is considered abandoned.
 - (C) That the vehicle will be removed after twenty-four (24) 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 twenty-four (24) hours.
- (h) **Towing Vehicle from Rental Property.**
 - (1) If after twenty-four (24) hours the person who owns a vehicle believed to be abandoned on private property has not removed the vehicle from the private property, the person who owns or controls the private property on which the vehicle is believed to be abandoned may have the vehicle towed from the private property.
 - (2) Notwithstanding paragraph (1) above, in an emergency situation a vehicle believed to be abandoned on private property may be removed immediately. As used in this subsection, **emergency situation** means that the presence of the vehicle believed to be abandoned interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.
- (i) **Notice to Public Agency of Vehicle Abandoned on Rental Property.** A towing service that tows a vehicle under § 93.3.5(h) shall give notice to the public agency that the abandoned vehicle is in the possession of the towing service.
- (j) **Complaint by Person Owning or Controlling Private Property.** Under complaint of a person who owns or controls private property that a vehicle has been left on the property for at least forty-eight (48) hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in §§ 93.3.5(c) through 93.3.5(f).

(k) **Abandoned Vehicle Report.**

- (1) Within seventy-two (72) hours after removal of an abandoned vehicle to a storage yard or towing service under §§ 93.3.5(e), 93.3.5(f) or 93.3.5(h), the public agency or towing service shall conduct a search of national data bases, including a data base of vehicle identification numbers, to attempt to obtain the last state of record of the vehicle in order to attempt to ascertain the name and address of the person who owns or holds a lien on the vehicle.
 - (2) A public agency or towing service that obtains the name and address of the owner of or lienholder on the vehicle shall, not later than seventy-two (72) hours after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the:
 - (A) Name;
 - (B) Address; and
 - (C) Telephone number;of the public agency or towing service. The notice must be made by certified mail or a certificate of mailing or by means of an electronic service approved by the Bureau.
 - (3) Notwithstanding I.C. 9-22-1-4, a public agency or towing service that fails to notify the owner of or the lienholder on the vehicle, as set forth in this division, may not collect additional storage costs incurred after the date of receipt of the name and address obtained.
- (l) **Means of Vehicle Identification Not Available; Disposal without Notice.** If a 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, the vehicle may be disposed of without notice.
- (m) **Purchasers at Public Sales.** A person that purchases a vehicle under this chapter shall be furnished a bill of sale for each abandoned vehicle sold by the public agency upon paying the fee for a bill of sale imposed by the public agency. The fee may not exceed \$6 for each bill of sale. A person that purchases a vehicle under this chapter must:
 - (1) Present evidence from a law enforcement agency that the vehicle purchased is roadworthy, if applicable; and
 - (2) Comply with the applicable requirements under I.C. 9-17; to obtain a certificate of title for the vehicle.
- (n) **Payment of Removal, Storage and Disposition 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 account established under § 93.3.5(q). 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 ordinance adopted under § 93.3.5(q).
- (o) **Sale Proceeds Credited Against Removal, Storage and Disposition Costs.** The proceeds of sale of an abandoned vehicle or parts under this chapter shall be credited against the costs of the removal, storage, and disposal of the vehicle.
- (p) **Sales; Deposit. Of Proceeds; Payment of Public Agency Costs; Appropriations.**
 - (1) This section applies to sales of abandoned vehicles or parts by local units.
 - (2) 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 Clerk-Treasurer and placed by the Clerk-Treasurer in the Town's abandoned vehicle fund.
- (3) The costs incurred by the Town in administering this chapter shall be paid from the abandoned vehicle fund.
- (4) The fiscal body shall annually appropriate sufficient money to the fund to carry out this chapter. Money remaining in the fund at the end of a year remains in the fund and does not revert to the general fund.
- (5) Notwithstanding paragraph (4) above, the Town Council may transfer money from the fund.
- (q) **Abandoned Vehicle Fund.** There is hereby created the Town of Geneva Abandoned Vehicle Fund which shall be a revolving fund, and all moneys paid to the Town for the cost of removal, storage and disposal of abandoned vehicles shall be placed in such fund and in no other place. Such fund shall also have added to it such moneys as may be appropriated by the Common Council and such moneys also shall not revert but shall remain in the Abandoned Vehicle Fund.
- (r) **Liability for Loss or Damage to Vehicle or Vehicle Parts.** The following are not liable for loss or damage to a vehicle or parts occurring during the removal or storage of a vehicle or parts under this chapter:
- (1) A person who owns, leases, or occupies property from which an abandoned vehicle or its contents or parts are removed.
 - (2) A public agency.
 - (3) A towing service.
 - (4) An automobile scrap yard or storage yard.
 - (5) An agent of a person or entity listed in paragraphs (1) through (4) above.

OUTDOOR BURNING REGULATIONS

§ 93.4.1 Application of Outdoor Burning Regulations.

All outdoor burning of any material is banned within the municipal Town limits except as provided by § 93.4.2 and I.C. 13-17-9.

§ 93.4.2 Exceptions.

- (a) The following types of fires are permitted subject to the limitations found in subsection (b):
- (1) Fires used for celebrating school pep rallies.
 - (2) Fires used for celebrating scouting activities.
 - (3) Fires used for recreational and cooking purposes, i.e., camp fires.
 - (4) Farm burning and burning by the Department of Natural Resources as allowed by I.C. 13-17-9.
 - (5) Burning with prior receipt of a variance application and approval of the Indiana Air Pollution Control Board or its designated agent as allowed by 326 IAC 4-1-1.
- (b) All permitted type of fires shall be subject to the following:
- (1) Only untreated wood products shall be burned unless otherwise stated.

- (2) Fires shall be attended at all times until completely extinguished.
- (3) If fires create an air pollution problem, a nuisance, a health hazard, or a fire hazard, they shall be extinguished. A nuisance shall be defined so as to include a complaint regarding the burning from any downwind property owner or occupant.
- (4) All residential burning shall occur between sunrise and sunset, during which the fires may be replenished, but only in such a manner that all of the burning material is consumed by sunset.
- (5) No burning shall be conducted unless the wind is at least five (5) m.p.h. and no more than 15 m.p.h.
- (6) No burning shall be conducted on property owned by another party, including publicly-owned streets, roads, and highways.
- (7) No burning shall be conducted on any paved street or alley within the Town.
- (8) No burning shall be conducted within 50 feet of a structure owned by another party.
- (9) No burning shall be conducted within 50 feet of a power line.

§ 93.4.3 Enforcement.

The Town of Geneva Fire Department and the Town of Geneva Marshal's Office shall have authority for issuing citations for violations of this division.

§ 93.4.4 Penalty.

Any person found to be in violation of this Section 93.4 shall be fined the sum of \$100, and said fine shall be assessed by the Town Marshal or any Deputy Town Marshal. A separate offense shall be deemed committed upon each occurrence of such nuisance. The action against any person to enforce a penalty by the Town shall constitute a separate and additional legal remedy, and the fact that any proceedings by way of an injunction has been or may be instituted by the Town and may be pending or concluded, shall not affect this Section 93.4 or be considered in any way as a defense to such action for the penalty herein prescribed.

MISCELLANEOUS REGULATIONS

§ 93.5.1 Nondisposal of Dangerous and Toxic Materials.

Any and all collected trash, garbage and/or refuse containing potentially dangerous and toxic materials must be otherwise legally disposed of, and will not be subject to Town trash pickup.

§ 93.5.2 Smoking Prohibited in the Geneva Town Facilities.

(a) **Definitions.**

- (1) **Geneva Town Facilities.** Geneva Town Facilities shall include the buildings and the grounds surrounding the Geneva Town Hall, Geneva Municipal Parks, Geneva Fire Station, Geneva Town Garage and Water Works, and Geneva Waste Treatment Plants, but shall exclude all public streets, alleys and rights-of-ways.
- (2) **Person.** Any man, woman, or child, regardless of age.
- (3) **Smoke or Smoking.** To ignite or cause to be ignited tobacco or a tobacco product or derivative, which includes but is not limited to tobacco, marijuana or a derivative thereof, such that the product or derivative emits a gas or cloud which is commonly understood to be smoke, which may be or is intended to be inhaled by any person.

- (b) **Prohibition.** No person shall have in his possession any lighted tobacco product, tobacco derivative, including but not limited to pipes, cigars, cigarettes, or other devices used for smoking of tobacco or tobacco-like products, which includes but is not limited to tobacco, marijuana or a derivative thereof, within or upon the grounds of Geneva Town Facilities.
- (c) **Fine.** Any person who violates the provisions of this section shall be guilty of an infraction, punishable by a fine of \$100, to be paid to the Town Clerk-Treasurer.
- (d) **Citations.** Citations for violation of this section may be issued by any member of the Town of Geneva Marshal's Office.

§ 93.5.3 Noise Regulations.

- (a) No person shall play, use or operate any machine, motor vehicle, device, or thing that produces or reproduces sound if the sound therefrom generated, made, caused or otherwise emitted is audible 50 feet or more from its source:
 - (1) At a level of more than 55 decibels for a period of five (5) minutes or more within any 30-minute period of time between the hours of 8:00 a.m. and 10:00 p.m., when measured on a dB(A) scale, or
 - (2) At a level of more than 50 decibels for a period of five (5) minutes or more within any 30-minute period of time between the hours of 10:00 p.m. and 8:00 a.m., when measured on a dB(A) scale, or
 - (3) At a level of more than 70 decibels for any period of time, when measured on a dB(A) scale.
- (b) The following are exempted from the provisions of this section:
 - (1) Sounds emitted from authorized emergency vehicles.
 - (2) Lawn mowers, weed blowers, garden tractors, construction and repair equipment, and similar home power tools, when properly muffled, between the hours of 6:00 a.m. and 10:00 p.m. only.
 - (3) Burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.
 - (4) Parades, festivals, carnivals, fairs, celebrations, concert performances, band and drum corps performances, and artistic performances, as well as any rehearsals for same, and all other events authorized by the Hearing Authority or other appropriate governmental entity.
 - (5) Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.
 - (6) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency construction, repair or other work.
 - (7) Sounds associated with the use of legal consumer fireworks during the following days and times:
 - (A) Between the hours of 5:00 p.m. and two (2) hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9;
 - (B) Between the hours of 10:00 a.m. and 12:00 midnight on July 4;
 - (C) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.
 - (8) Sounds associated with the use of the Town of Geneva Marshal's Office Firing Range.
 - (9) Sounds associated with the normal conduct of legally established non-transient businesses, organizations and governmental entities, when such sounds are customary,

- incidental and within the normal range appropriate for such use.
- (10) Rubbish collection utilizing any mechanical equipment between the hours of 6:00 a.m. and 9:00 p.m. only.
 - (11) Subject to the other provisions of this section, and any other applicable law, rule or regulation, those sounds associated with motor vehicles lawfully operating on Town streets.
 - (12) Sounds associated with equipment or animals lawfully utilized by handicapped persons to accommodate their handicap.
 - (13) Sounds associated with the operation of aircraft or snow removal equipment.
 - (14) Sounds associated with church and temple bells and chimes.
 - (15) Sounds associated with building construction between the hours of 7:00 a.m. and 9:00 p.m. only, as well as, and to the extent that, such construction is necessitated at other times due to a bona fide “emergency”, as that term is defined in I.C. 36-1-2-4.5, as the same may be amended from time to time.
- (c) No person shall keep any animal which, by causing frequent or long-continuing noise that is audible 50 feet or more from its source when the animal is on public property or 50 feet or more outside of a private property line when the animal is on private property, does disturb the comfort or repose of any other person.
 - (d) **Penalty.** Citations for violation of this section may be issued by any member of the Town of Geneva Marshal’s Office, and any person found to be in violation of this section shall be subject to a fine of \$100 for each violation, to be paid to the Town Clerk-Treasurer. A separate offense shall be deemed committed upon each occurrence of such nuisance.

§ 93.5.4 Unsafe Building Regulations.

- (a) **Adoption by reference.** I.C. 36-7-9-1 through 36-7-9-28, as amended from time to time, which addresses unsafe buildings and the enforcement of building standards, is hereby adopted and incorporated in full by this reference, and is supplemented by the additional terms and conditions of this section. Two copies of the same are on file in the office of the Clerk-Treasurer. All proceedings within the Town for the inspection, repair, and removal of unsafe buildings shall be governed by this law and the provisions of this subchapter. In the event the provisions of this subchapter conflict with the provisions of I.C. 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.
- (b) **Declaration of Public Nuisance.** All buildings or portions thereof within the Town which are determined after inspection by the Building and Planning Director to be unsafe as defined in this subchapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.
- (c) **Administration.**
 - (1) The Building and Planning Director, as the Enforcement Authority, shall be authorized to administer and to proceed under the provisions of this law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.
 - (2) Whenever in the building regulations of the Building Department or the Town of Geneva Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Building and Planning Director, or any other officer of the Building Department, this shall be construed to give that officer

only the discretion of determining whether the rules and standards established by the ordinance have been complied with; and no such provision shall be construed as giving any office discretionary powers as to what such regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

(d) **General Definitions.**

- (1) **Director** shall refer to the Building and Planning Director of the Town of Geneva.
- (2) **Enforcement Authority** shall refer to the Building and Planning Director of the Town of Geneva.
- (3) **Hearing Authority** shall refer to the Hearing Authority which shall be composed of the Clerk-Treasurer and two (2) members of the Town Council.
- (4) **Town** shall refer to the Town of Geneva, Indiana.
- (5) **Substantial Property Interest** shall refer to any right in real property that may be affected in a substantial way by actions authorized hereunder, including a fee interest, a life estate interest, a future interest, a present possessory interest and/or the equitable interest of a contract purchaser.
- (6) **Unsafe Premises** shall refer to an “unsafe building,” as defined hereinbelow, and the tract of real property on which the unsafe building is located.

(e) **Unsafe building defined.** An **Unsafe Building** contained in IC 36-7-9-4 is hereby incorporated by reference herein as if copied in full, but is also supplemented to provide minimum standards for building conditions or maintenance in the Town by adding the following definition:

Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are in danger.

- (1) Is in an impaired structural condition that makes it unsafe to a person or property;
- (2) Is a fire hazard;
- (3) Is a hazard to the public health;
- (4) Is a public nuisance;
- (5) Is dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance;
- (6) Is vacant and not maintained in a manner that would allow human habitation, occupancy or use under the requirements of any statute or ordinance;
- (7) Has any door, aisle, passageway or other means of exit that is not of sufficient width or size or is not arranged so as to provide safe and adequate means of exit in case of fire or panic;
- (8) Has the walking surface of any aisle, passageway, stairway or other means of exit so warped, worn, loose or otherwise unsafe so as not to provide safe and adequate means of exit in case of fire or panic;
- (9) Has stress on any material, member or portion thereof, due to dead and/or live loads, that is more than one and one-half times the working stress allowed for new buildings of similar structure, purpose or location;
- (10) Has any portion thereof that has been damaged by fire, earthquake, wind, flood or other cause to such an extent that the structural strength or stability thereof is materially less than it was before such event and is less than the minimum

- requirements for new buildings of similar structure, purpose, or location;
- (11) Has any portion, member or appurtenance thereof that is reasonably likely to fail, to become detached or dislodged or to collapse and thereby injure persons or damage property;
 - (12) Has any exterior portion, member, appurtenance or ornamentation thereon that is not of sufficient strength or stability, or is not anchored, attached or fastened, so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for such buildings;
 - (13) Has any portion thereof that was warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of new buildings of similar structure, purpose or location;
 - (14) Is, or has any portion thereof that, because of (1) dilapidation, deterioration, or decay; (2) faulty construction; (3) the removal, movement, or instability of any portion of the ground necessary for the support of such building; (4) the deterioration, decay, or inadequacy of its foundation; or, (5) any other cause, is reasonably likely to partially or completely collapse;
 - (15) Is, or has any portion thereof that is, manifestly unsafe for the purpose for which it is being used;
 - (16) Has exterior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;
 - (17) Shows, exclusive of its foundation, 33% or more damage or deterioration of any supporting member, or 50% or more damage or deterioration of any non-supporting member, enclosure or outside wall or covering;
 - (18) Has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated so as to become (1) an attractive nuisance to children, or (2) freely accessible to persons for the purpose of committing unlawful acts;
 - (19) Has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by any law of the State of Indiana or any Town ordinance or building regulation relating to the condition, location or structure of buildings;
 - (20) Has, whether or not it was erected in accordance with all applicable laws and ordinances, in any non-supporting part, member or portion, less than 50%, or in any supporting part, member, or portion, less than 66%, of the (1) strength, (2) fire-resisting qualities or characteristics, and/or (3) weather-resisting qualities or characteristics that would be required by law in the case of a newly constructed building thereat of like area, height and occupancy;
 - (21) Is used or intended to be used for dwelling purposes and, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Adams County Health Department to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease;
 - (22) Is, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits or lack of sufficient fire-resistive construction, determined by the Town of

- Geneva Fire Department to be a fire hazard;
- (23) Is the remnant of a building or structure that remains on site after the attempted demolition or destruction of such building or structure; or
- (24) Is abandoned for a period in excess of six (6) months, so as to constitute an attractive nuisance or hazard to the public.
- (f) **Nuisance.** All buildings or portions thereof within the Town which are determined after inspection by the Director to be “unsafe” as defined in subsection (e) above, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the terms and conditions of this section.
- (g) **Authorized official.** The Director shall be authorized to administer and enforce this section and to proceed under the provisions hereof in ordering the repair, removal or other disposition of any building or structure found to be “unsafe.”
- (h) **Hearing.** Any hearing required pursuant to such order shall comply with I.C. 36-7-9-7.
- (i) **Action performed by contractor.** Pursuant to I.C. 36-7-9-10 and 36-7-9-11, the Clerk-Treasurer may cause any action required by an order of the Director hereunder to be performed by a contractor.
- (j) **Authority to determine compliance.** Any provision hereof which provides for the approval or direction of the Director, or any other officer of the Town, shall be construed as giving such person only the discretion to determine whether compliance with the rules and standards established by this section have occurred, and not as giving such person any discretionary powers as to the substance of such rules and standards, nor any power to require conditions not prescribed by this section, nor any power to enforce these section provisions in an arbitrary or discriminatory manner.
- (i) **Work performed in workmanlike manner.** All work for the reconstruction, repair, or demolition of buildings and other structures performed pursuant hereto shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade. The provisions of all building laws referenced in I.C. 22-12-1-3, as adopted as rules of the Fire Prevention and Building Safety Commission described in I.C. 22-12-1-6, shall be considered standard and acceptable practices for all matters covered hereby and/or all orders issued by the Director pursuant hereto.
- (j) **Unsafe Building Fund.** An Unsafe Building Fund is hereby established in the operating budget of the Town in accordance with the provisions of I.C. 36-7-9-14.
- (k) **Construction and the like forbidden.** No person, firm, corporation or other entity, whether as owner, lessee, sublessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this section and/or any order issued by the Director hereunder.
- (l) **Violation.**
- (1) Any person violating any provision of this chapter may be subject to a fine in any sum not exceeding \$2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this chapter.
- (2) Any violation of the provisions of this section shall constitute a Class C Infraction for each day such violation continues, except where another penalty is expressly set forth in I.C. 36-7-9 *et seq.*
- (m) **Performance bond.** The Hearing Authority shall, after proper notice and hearing, adopt a schedule setting forth the maximum amount of performance bonds applicable to various

types of actions ordered by the Director hereunder and the amount of the average processing expense incurred in taking the actions necessary hereunder concerning a typical unsafe premises.

- (n) **Severability.** Should any section, paragraph, sentence, clause, or phrase of this section be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, the remainder of this section shall continue in full force and effect and not be affected thereby.

SECTION II. This Ordinance shall be in full force and effect from and after its passage and approval by the Common Council of the Town of Geneva and due publication thereof.

Duly passed, adopted and resolved by the Board of Trustees of the Town of Geneva, State of Indiana, on January 10, 2023.

COMMON COUNCIL OF THE TOWN OF GENEVA

Agnes A. Schoch, President

Andrew J. Briggs

Gary L. Hendershot

Arlen R. Mitchell

Marvin R. Schwartz