

ORDINANCE NO. _____

AN ORDINANCE REGARDING AMENDMENT OF §90.037

WHEREAS, in §90.037 of the Milan Code the public health nuisances are defined; and

WHEREAS, in the interest of public safety Town Council desires amend §90.037(K) to apply to all real estate within the town rather than just residential properties.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MILAN:

Section 1. That § 90.037(K) of the Milan Code is hereby amended to read as follows:

“(K) Any accumulation of junk, rubbish, scrap metal, automotive parts, building materials, machinery, dead trees, or parts thereof, upon any real estate; and”

Section 2. All ordinances and parts of ordinances in conflict herewith are hereby repealed. All others remain in place.

This Ordinance shall become effective thirty (30) days after notice of the adoption shall have been published in a paper.

Primarily adopted by the Council of the Town of Milan, this ____ day of _____, 2017.

Ayes:

Nays:

Whole number of Council being three.

Finally, adopted by the Council of the Town of Milan, this ____ day of _____, 2017.

Ayes:

Nays:

Whole number of Council being three.

Whereupon, Town Council declared said Ordinance adopted.

Noel Houze, Jr., President and Council Person

Melissa Baker, Council Person

Don Call, Council Person

Attest _____
Debra Fugate-Hackman, Clerk- Treasurer

§ 90.037 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 hereof:

(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, 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) All stagnant water in which mosquitoes, flies or other insects can multiply;

(E) Garbage cans which are not fly-tight or not kept clean;

(F) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the town limits in 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 stench 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, automotive parts, building materials, machinery, dead trees, or parts thereof, upon any premises in a residential area; and

(L) Any structure used for the collection or deposit of trash or garbage that has an open door allowing access into the 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.

(Ord. 7-11-05-1, passed 8-8-2005) Penalty, see § 90.999

- 91.01 Definitions
- 91.02 Storage prohibited
- 91.03 Abandoned vehicles, junk cars declared public nuisances
- 91.04 Time limits
- 91.05 Removal procedures on public and private property
- 91.06 Enforcement
- 91.07 Disposing and sale of stored vehicles
- 91.08 Towing and storage charges of abandoned vehicles

91.99 Penalty

§ 91.01 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE.

(a) A vehicle located on public property illegally or a vehicle left on public property continuously without being moved, for more than five days;

(b) A vehicle mechanically inoperable located on public property in a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;

(c) A vehicle that has remained on private property without the consent of the owner, or person in control, of that property, for more than 15 days;

(d) A vehicle from which there has been removed the engine, transmission or differential or that is otherwise partially dismantled or inoperable and left on public property;

(e) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than in I.C. 9-22-1-1 et seq., if the vehicle once impounded is not claimed or redeemed by the owner or his or her agent within 15 days of its removal; and/or

(f) A vehicle that is six or more model years old and mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 30 days.

JUNK. 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, for the purpose of this division, a **JUNK CAR** shall mean any motor vehicle which does not bear a currently valid license plate, and is not kept in a garage or building.

(B) All other terms defined in I.C. 9-22-1-1 et seq., as amended, are incorporated herein by reference thereto.

(Ord. 7-11-05-1, passed 8-8-2005)

§ 91.02 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 and unlicensed, or junked, wrecked or abandoned motor vehicle for a period of five days or more on public

property, or a period of 15 days or more on private property unless it is in connection with an automobile sale or repair business.

(Ord. 7-11-05-1, passed 8-8-2005) Penalty, see § 91.99

Statutory reference:

Abandoned vehicle regulations, see I.C. 9-22-1 et seq.

§ 91.03 ABANDONED VEHICLES, JUNK CARS DECLARED PUBLIC NUISANCES.

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

(B) Because of the danger to the health from vermin, the danger of personal injury to children attracted by the vehicles, danger of fire by the storage of gasoline and oil thereon, any abandoned, unlicensed, inoperable, disassembled, wrecked or junked motor vehicle on any street or public property for more than five days or upon any private property for more than 15 days, except as hereinafter provided, is declared to be a nuisance and unlawful.

(Ord. 7-11-05-1, passed 8-8-2005) Penalty, see § 91.99

§ 91.04 TIME LIMITS.

It shall be unlawful for any person to store or allow to remain in the open upon any public street, public property or private property within the town, any disassembled or inoperable and unlicensed, or any junked, wrecked or abandoned motor vehicle for a period of five days or more on the public street or other public property, or for a period of 15 days or more on any private property, unless it is in connection with an automotive sales or repair enterprise, which is operated under a duly issued and exhibited store license and is located in a properly zoned area.

(Ord. 7-11-05-1, passed 8-8-2005) Penalty, see § 91.99

§ 91.05 REMOVAL PROCEDURES ON PUBLIC AND PRIVATE PROPERTY.

(A) *Public property.*

(1) Whenever the Town Marshal or his or her designee shall find the vehicle placed or stored in the open upon a public highway, alley or thoroughfare, or other public property, within the town, he or she shall issue an order to the owner of the vehicle, if known, to remove the vehicle within three days.

(2) Notice of the order shall be given to the owner, if known, in writing, but if the owner shall be unknown, the written notice shall be placed in plain view upon the vehicle.

(3) If the vehicle is not removed within three days after the notice, the Town Marshal, or his or her designee shall cause the vehicle to be removed by a junk or salvage yard or wrecker service, the cost and expense of the removal by a junk or salvage yard or by a wrecker service to be paid by the owner of the vehicle.

(4) Impounded vehicles shall be released either upon payment by the owner, operator or authorized representative of same, of the fees charged for towing and storage, or upon order of the Town Marshal or his or her designee, or upon the order of the judge of a court of competent jurisdiction.

(5) The form of all notices shall be issued pursuant to the provisions of I.C. 9-22-1-11.

(B) *Private property.*

(1) Whenever the Town Marshal or his or her designee shall find the vehicle placed or stored in the open upon private property, within the town, he shall issue an order to the owner of the vehicle, if known, or the person who owns or controls the private property upon which the vehicle is placed or stored according to the procedures set forth in I.C. 9-22-1-11 through 9-22-1-14.

(2) Impounded vehicles shall be released either upon payment by the owner, operator, or authorized representative of same, of the fees charged for towing and storage, or upon order of the Town Marshal or his or her designee or upon the order of a court of competent jurisdiction. (Ord. 7-11-05-1, passed 8-8-2005)

§ 91.06 ENFORCEMENT.

(A) If the vehicle is not removed within three days after the notice, the Town Marshal or his or her designee shall issue a written order of violation hereof and enforcement shall be by the Town Attorney or his or her designee, and appropriate action by a court of competent jurisdiction.

(B) The form of all notices shall be issued pursuant to the provisions of I.C. 9-22-1-11. (Ord. 7-11-05-1, passed 8-8-2005)

§ 91.07 DISPOSING AND SALE OF STORED VEHICLES.

The provisions of I.C. 9-22-1-27 et seq. shall govern the disposition and sale of stored vehicles.

(A) *Abandoned Vehicle Fund.* The Abandoned Vehicle Fund as established herein shall be governed by the provisions of I.C. 9-22-1-30.

(B) *Exempt vehicles.* This chapter does not apply to:

- (1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;
- (2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;
- (3) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility;
- (4) A vehicle located upon property licensed or zoned as an automobile scrap yard; or
- (5) A vehicle registered and licensed under I.C. 9-18-12, as an antique vehicle.

(Ord. 7-11-05-1, passed 8-8-2005)

§ 91.08 TOWING AND STORAGE CHARGES OF ABANDONED VEHICLES.

An owner or lien holder who claims a vehicle impounded and declared abandoned by the Town Police Department shall be charged a towing fee and a per day storage fee. The storage fee shall be allowed to accumulate for a maximum period of 60 days.

(Ord. 7-11-05-1, passed 8-8-2005)

Statutory reference:

Town Council required to establish charges and means of disposition of vehicles by ordinance, see I.C. 9-22-1-30

§ 91.99 PENALTY.

(A) Any person who is judged to have violated the provisions of this chapter is subject to a fine of up to \$500 in addition to towing and storage charges.

(B) All provisions and respective civil penalties are designed for enforcement through a court of competent jurisdiction.

(Ord. 7-11-05-1, passed 8-8-2005)

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