

## CHAPTER 973. - PUBLIC NUISANCE

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*Footnotes:*

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*Editor's note— Ord. No. 2008-003, § 1, adopted January 8, 2008, amended Ch. 973, in its entirety, to read as herein set out. Prior to inclusion of said ordinance, Ch. 973 pertained to similar subject matter. See also the Table of Amendments.*

## Section 973.01. - Short title and purpose.

This chapter shall be known and may be cited as the "Indian River County Public Nuisance Ordinance."

For the purpose of promoting the health, safety and general welfare of the community, the Board of County Commissioners of Indian River County finds it necessary that lands in the unincorporated areas of Indian River County be cleared of any noxious substance or material which might tend to be a fire hazard or other health hazard, or which is considered to be obnoxious and a nuisance to the general public. Such substances or material shall include, but not be limited to, the following: garbage, trash, weeds, junk, debris, unserviceable vehicles, dead trees posing a health or safety hazard, or any other offensive materials which constitute a nuisance as provided for in this chapter.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 92-11, § 9, 4-22-92; Ord. No. 2008-003, § 1, 1-8-08)

## Section 973.02. - Definitions referenced.

The definitions of certain terms used in this chapter are set forth in Chapter 901, Definitions, of the Indian River County Land Development Code.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 2008-003, § 1, 1-8-08)

#### Section 973.03. - Restrictions.

Accumulations of debris, garbage, junk, trash, weeds, unserviceable vehicles, dead trees posing a health or safety hazard, or other noxious materials, are hereby declared a public nuisance and shall be removed from all lots, parcels and tracts of land, public or private, unless otherwise permitted by the terms of this article.

(1) *Weed clearance.* The following provisions shall apply to weeds as defined in Chapter 901:

(a) Prohibition.

1. The accumulation of weeds in excess of twelve (12) inches in height is hereby prohibited on any lot, parcel, tract of land, common area, open space area, recreational tract, or landscape buffer within either a platted, recorded subdivision where the platted lots are at a minimum of fifty (50) percent developed with residential units, or within or internal to a multifamily development where a minimum of fifty (50) percent has been developed with project units.

(b) Exemptions from prohibitions.

1. Agriculturally zoned land.
2. Land with a conservation designation or within conservation and/or preservation easements.
3. Areas designated on approved development plans as conservation or preservation areas.
4. Areas authorized or required by jurisdictional agency permits to remain natural.
5. Uncleared lots within platted, recorded subdivisions.

(c) Maintenance of weeds to satisfy the twelve-inch maximum height limitation which entails the grubbing (uprooting) of vegetation shall be subject to the provisions of Chapter 927, Tree Protection and Land Clearing, of the Indian River County Land Development Code.

(d) The existence of untended weeds, as defined in Chapter 901, in excess of twelve (12) inches in height on any lot, parcel or tract of land as described in subsection 973.03(1)(a) shall be prima facie evidence of intent to violate and of a violation of this section by the owner, owners and occupant of said land.

(2) *Restriction of garbage, trash, junk, debris or unserviceable vehicles in or on public or private property:*

- (a) No person shall discard, place, abandon, accumulate, or permit or cause to be discarded, placed, abandoned or accumulated any junk, wrecked or unserviceable vehicle or the parts thereof on property in the unincorporated areas of the county unless such vehicles or parts are stored in an enclosed structure or at an authorized junk or auto wrecking yard. No person shall throw, discard, place, abandon, accumulate, or permit or cause to be thrown, discarded, placed, abandoned or accumulated any junked or unserviceable refrigerator, stove, washing machine,

water heater, or other household appliance or equipment, or any garbage, trash, junk, debris or unserviceable vehicles on property in the unincorporated areas of the county except at an authorized junk yard, or at a landfill or other solid waste disposal site that holds a permit issued by the Florida Department of Environmental Regulation pursuant to Part 4 of Chapter 403, Florida Statutes, and is operated by, or under franchise from, the county.

- (b) The existence of any garbage, trash, junk, debris or unserviceable vehicle in or on any unauthorized property in the unincorporated area of the county, whereby said material contains evidence of ownership, shall be prima facie evidence of intent to violate and violation of this section by the person whose name appears on such material.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 92-11, § 10, 4-22-92; Ord. No. 2008-003, § 1, 1-8-08)

#### Section 973.04. - Abatement of nuisance.

- (1) Whenever a county code inspector determines that a public nuisance as described in section 973.03 of this chapter exists, the inspector shall have the authority to serve the violator with notice to appear before the Indian River County Code Enforcement Board and shall hold hearings in the manner provided in F.S. Ch. 162.
- (2) If the code enforcement board determines through a compliance hearing that the violator is still not in compliance with section 973.03 and that the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, then the code enforcement board shall direct staff to notify the Indian River County Commission, who no sooner than thirty (30) days after the compliance hearing, may issue an order to direct the county administrator or a designee for the county administrator, to abate the nuisance, authorizing the county's employees, servants, agents or contractors to enter upon the property at all reasonable times and take whatever action is necessary to abate the nuisance.
- (3) Once the county has abated a specific nuisance under this section, no further code enforcement board determination is needed for the county to take future abatement action relating to the reoccurrence of the nuisance violation.
- (4) The primary method for bringing code violator's into compliance shall continue to be the fines imposed by the code enforcement board and nothing in this section shall preclude the code enforcement board from issuing a fine relating to any nuisance violation. A nuisance violation need not rise to the level of a serious threat to the public health, safety, welfare or be in the nature of a violation that is irreparable or irreversible for the code enforcement board to issue an order of non-compliance with section 973.03.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 2008-003, § 1, 1-8-08)

#### Section 973.05. - Reserved.

Editor's note— Ord. No. 2008-003, § 1, adopted January 8, 2008, repealed § 973.05, which pertained to public hearing on nuisance. See also the Table of Amendments.

#### Section 973.06. - Assessment for abatement of nuisance.

- (1) If the county abates a nuisance as defined in section 973.03, the cost thereof to the county as to each lot, parcel or tract of land shall be calculated and reported to the code enforcement board. Thereupon, the code enforcement board, shall issue an order to assess such costs against such lot, parcel tract of land, common space, open space, recreation tract, or landscape buffer. Such order shall describe the land and state the cost of abatement, which shall include an administrative cost of two hundred fifty dollars (\$250.00) per abatement. Such assessment shall be a legal, valid and binding obligation upon the property against which made until paid. The assessment shall be due and payable forty-five (45) days after the mailing of notice of assessment after which interest shall accrue at the rate prescribed on any unpaid portion thereof.
- (2) The clerk shall mail a notice to the record owner or owners of each of said parcels of land described in the resolution, at the last available address for such owner or owners, which notice may be in substantially the following form:

NOTICE

Date:

To:

Address:

Property:

As the record owner of the property above described you are hereby advised that Indian River County, Florida did on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, order the abatement of a certain nuisance existing on the above property, sending you notice thereof, such nuisance being:

[Describe Nuisance Briefly]

A copy of such notice has been heretofore sent you. You failed to abate such nuisance; whereupon, it was abated by Indian River County at a cost of \$\_\_\_\_. Such cost, by order of the Code Enforcement Board of Indian River County, Florida has been assessed against the above property on \_\_\_\_\_, 20 \_\_, and shall become a lien on the property forty-five (45) days after such assessment. You may request a hearing before the Code Enforcement Board to show cause, if any, why the expenses and charges incurred by the County under this ordinance are excessive or unwarranted or why such expenses should not be charged against the property. Said request for hearing shall be made to the Clerk of the Code Enforcement Board in writing within thirty (30) days from the date of the assessment.

- (3) If the owner fails to pay assessed costs within forty-five (45) days, a certified copy of the assessment shall be recorded in the official record books of the county. The assessment shall constitute a lien against the property No assessment lien will be recorded if a hearing on whether the assessment is fair, reasonable and warranted is timely requested.
- (4) If the code enforcement board determines after hearing that the assessment is fair, reasonable, and warranted, a certified copy of the assessment order shall be recorded. If the board determines that the charges are excessive or unwarranted, it shall direct the county administrator to recompute the charges

and the board shall hold a further hearing after notice to the owner upon the recomputed charges.

- (5) In an action to foreclose liens, it shall be lawful to join one (1) or more lots, parcels, or tracts of land, by whomever owned, if assessed under the provisions of this chapter. The property subject to lien may be redeemed at any time prior to sale by the owner by paying a total amount due including interest, court costs and other costs incident to the action.
- (6) Upon payment of lien, the county attorney or his designee shall, by appropriate means, evidence satisfaction and cancellation of such lien.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 2008-003, § 1, 1-8-08)