AN ORDINANCE REGULATING THE ACCUMULATION OF JUNK, TRASH, DEBRIS, INOPERABLE VEHICLES, INOPERABLE WATERCRAFT, AND INOPERABLE CAMPERS

WHEREAS, the Board of Commissioners for Noble County Indiana have determined that it would be beneficial to the citizens of Noble County Indiana to have a county ordinance regulating the accumulation of junk, trash, and debris within Noble County; and

WHEREAS, said ordinance should be construed to be in addition to the provisions of the Zoning Ordinance adopted or other existing ordinances pertaining to the accumulation of junk, trash, and debris; and

WHEREAS, the Board of Commissioners of Noble County Indiana are exercising their Home Rule Authority under IC 36-1-3-5;

BE IT THEREFORE ORDAINED BY THE COUNTY COMMISSIONERS FOR NOBLE COUNTY, INDIANA

Article 1. Definitions.
The following are the adopted definitions for the purposes of this chapter:

01 Accumulation of Junk, Trash, and Debris: includes but is not limited to keeping or depositing on, or the scattering over the premises of any of the following:
   a. Junk, trash, litter, refuse, debris, lumber, wood, and brush
   b. Abandoned, discarded, or unused objects/equipment such as automobiles, mobile homes, trailers, campers, furniture, stoves, refrigerators, freezers, appliances, cans, or containers.
   c. Motor vehicles in an inoperable condition, whether currently licensed or not. Any style or type of motor driven vehicle which has defective or missing parts, is unable to move under its own power, and/or has been wrecked, dismantled, discarded, stripped, or is in such a condition as to be generally unfit for further uses as conveyance on public ways.
   d. Automobile parts, including tires and any other portions/parts of any motor vehicle detached from the vehicle as a whole.
   e. Scrap metal or pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof.

f. Watercraft in an inoperable condition, whether currently licensed or not. Any style or type of watercraft which has defective or missing parts, is unable to displace water and remain "sea-worthy", and/or has been wrecked, dismantled, discarded, stripped, or is in such a condition as to be generally unfit for further use on the water, whether the water is privately owned or a water of the state.

g. Campers in an inoperable condition where such camper has defective or missing parts that affect either its worthiness for transport on public ways or suitability for human habitation.

02 Compost pile: pile, mound, or heap consisting solely of organic materials that are intentionally collected in order to create compost material.

03 Construction site: Private or public property where repairs to existing buildings, construction of new buildings, or demolition of existing structures is taking place.

04 Debris: remains of something broken down or destroyed, construction materials after demolition.

05 Elements: wind, weather or other condition, whether created by nature or manmade, which could reasonably be foreseen carrying litter from one place to another.

06 Enforcement Officer: the person or persons designated as enforcement officers in accordance with this ordinance.

07 Garbage: any animal or vegetable waste and all other deleterious substances, such as but not limited to waste material and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, cafes, or hotels.

08 Junk: any discarded or worn out materials or manufactured products, whether reusable or saleable or not.

09 Litter: any manmade or man used waste which, if deposited within the county tends to create danger to public health, safety, and welfare or to impair the environment of the people of the county. Litter may include, but is not limited to, any trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic, paper container, or other construction material, motor vehicle part, furniture, oil, or nauseous or offensive material of any kind, or any objects likely to injure any person or create a traffic hazard.

10 Lumber: shall mean wooden materials that are not in good usable condition or are not kept in an orderly fashion or are not actively being used in a construction process on the parcel where the materials are being kept.

11 Open Areas: any area of the lot or premises viewable from any public space or adjoining private premises.

12 Parcel: the distinct, continuous portion of land as described by the records of the Noble County Auditor/Recorder.

13 Person: means any individual, firm, organization, association, partnership, trust, company, corporation, limited liability company or other entity.

14 Private Premises: any lot or parcel of land, and any part thereof, whether improved or unimproved, that is not a public space.

15 Public Space: any and all public rights of way and places to which the general public is allowed including any property owned by a unit of government.

16 Refuse: waste, rubbish, trash, or any material of any kind that has been discarded, rejected, cast aside, or thrown away as useless, with the exception of bodily wastes.

17 Responsible party: collectively (all persons who constitute a responsible party, as defined below, are jointly and severally responsible for maintaining the premises in compliance with this ordinance):
   a. The person or persons having a present interest legal title with respect to the premises on which a violation of this Ordinance occurs;
   b. Any person or persons (such as a contract buyer) having an equitable title with respect to the premises on which a violation of this ordinance occurs;
   c. Any tenant having a possessory interest with respect to the premises on which a violation of this ordinance occurs; and
   d. Any other person in possession or control of the premises on which a violation of this ordinance occurs.

18 Trash: rubbish such as feathers, coffee grounds, ashes, tin cans, paper boxes, glass, wood, shrubs, yard clippings, leaves, tree trimmings, and other similar materials whether bagged or not bagged.

19 Wood: fibrous, organic materials but shall not include firewood kept in an orderly fashion and being used on the parcel where it is being kept.

20 Zoning Administrator: the duly appointed zoning administrator appointed by the Noble County Plan Commission.

Article 2. Accumulation of junk, trash and debris prohibited.

21 It is a violation of this ordinance for any person to permit the accumulation of junk, trash and debris upon the "open areas" of any property within Noble County Indiana that is owned, leased and/or controlled by such person, except as provided in this ordinance. In the event of such a violation, each person who is a responsible party commits a violation of this ordinance.

Article 3. Exception for compost piles.

22 Notwithstanding any other provision of this ordinance to the contrary, it shall not be a violation of this ordinance to create and maintain a compost pile provided that:
   a. The compost pile does not occupy an area of greater than 100 square feet; and
   b. The compost pile is at least 100 feet from any public space; and
   c. The compost pile is either 100 feet from any private premises or completely screened by a fence or other man made or natural screen such that the compost pile is not visible from any other parcel of real estate.

Article 4. Maintenance of property.

23 Private premises: It shall be the duty of any person owning or controlling any private premises to maintain such private premises in a clean and orderly manner. It shall be a violation of this ordinance to abandon, neglect, or disregard the condition or appearance of any premises so as to permit the accumulation of junk and trash thereon.

24 Public places: It shall be the duty of any person owning or controlling any public place to keep the premises clean of all junk, trash, litter, refuse, and debris and shall take measures, including daily cleanup of the premises, to prevent the accumulation of the above listed materials or movement by the elements to adjoining properties. It shall be a violation of this Ordinance to abandon,

neglect, or disregard the condition or appearance of such premises so as to permit the accumulation of junk and trash thereon.

25 Construction sites: The property owners and contractors in charge of any construction site shall maintain the construction site in such a manner as to avoid the accumulation of junk and trash, nor shall any junk or trash be allowed to be carried by the elements to adjoining properties. All junk, trash, and litter from construction or related activities shall be picked up at the end of each work day and placed in containers for regular removal.

Article 5. Violations created by others.

26 In the event that a condition occurs which constitutes a violation of this ordinance each responsible party is deemed to have committed a violation of this ordinance regardless of whether or not such responsible party personally created or contributed to such condition.

Article 6. Enforcement Officers.

27 The enforcement officers shall be the Noble County Zoning Administrator or his designee, the Noble County Health Officer or his designee, and any law enforcement officers within Noble County.

28 The Noble County Zoning Administrator shall have primary responsibility for administration and enforcement of this ordinance.

Article 7. Inspection.

29 The enforcement officers are hereby empowered to the fullest extent of the law, in the performance of this function, to enter upon any land within Noble County for the purposes of making inspections, examinations, surveys, or to place and maintain thereon monuments, markers, notices, signs, or place cards in order to affect the provisions of this ordinance. The enforcement officers shall present proper identification when entering upon any land or structure for the purposes of this ordinance.

Article 8. Order to Repair and Appeals.

30 When a complaint addresses private premises and a violation is found to exist as observed by an enforcement officer, the enforcement officer shall issue an Order to Repair to be served upon the owner of the property in question, granting that owner a minimum of ten (10) calendar days in which to remove the violation.

31 This Order to Repair shall be served by the enforcement officer or authorized employee directly by personal service to the responsible party or by certified mail to the responsible party. The Order to Repair shall contain the following information:

a. The address or common location of the property in violation
b. The date of the order
c. The case number assigned to the violation
d. The nature of the violation(s) present on the date of the order
e. The name of the enforcement officer posting and/or mailing the Order to Repair
f. The address and telephone number of the issuing enforcement officer

g. A warning that if the violation is not removed within a specified number of days after the notification, the enforcement officer will abate the violation and seek recovery of the actual costs involved in the removal of the violation.

32 Upon receipt of an Order to Repair, the responsible party, or his duly authorized representative, may notify the Zoning Administrator of an intent to object to the Order to Repair. This correspondence shall be in writing and shall specify the address of the property involved together with the case number assigned to the violation. Any such correspondence must be received by the Zoning Administrator within ten (10) calendar days of posting and/or receipt of the Order to Repair, whichever comes first.

33 Upon receipt of a properly completed written objection to the Order to Repair, the Zoning Administrator shall place the objection on the next Board of Zoning Appeals agenda that is available and inform the person objecting of the meeting time, date, and location. The Board of Zoning Appeals shall determine upon receipt of the case file and any evidence presented by the enforcement officer or person objecting the appropriate action allowed under IC 36-1-6-9. There shall be no cost to person objecting for filing such an objection. Upon receipt of a properly completed written objection, an enforcement officer may not take further action regarding the violation until after a decision is rendered by the Board of Zoning Appeals.

34 The Board of Zoning Appeals may affirm, reverse, or modify the Order to Repair issued under section 30. The decision shall be made in writing.

35 After the administrative remedies available in this ordinance have been exhausted, the responsible party may only appeal the violation in accordance with IC 36-1-6-9(e).

Article 9. Enforcement and Penalties

36 If the enforcement officer determines that a violation has not been abated as directed in the written Order to Repair in section 30 and an intent to object under section 32 has not been filed that enforcement officer may cause a citation for the violation of the county ordinance to be issued.

37 If, after an appeal is heard, the Board of Zoning Appeals affirms or modifies the Order to Repair, the owner shall have a minimum of ten (10) calendar days in which to remove the violation. If the enforcement officer determines that a violation has not been abated as directed in the written Order to Repair from the Board of Zoning Appeals, that enforcement officer may cause a citation for the violation of the county ordinance to be issued.

38 In addition to the issuance of a citation for violation, the Zoning Administrator, in the name of the Noble County Auditor, may issue a request to the county to abate the violation, and shall thereafter furnish the Auditor with a statement of the actual cost involved in the removal of the violation. The actual abatement may be performed by a county department or services may be procured through a third party by obtaining bids for such services through IC 5-22, except where the cost of abatement will be less than five-hundred dollars ($500). In instances where the cost of abatement will be less than five-hundred dollars ($500), the Zoning Administrator shall solicit at least three quotes on the open market and select the quote of the lowest responsive price.

39 The Zoning Administrator shall make a statement of the actual costs incurred in the elimination of the violation. The costs shall include:

a. The cost of the removal of the violation

b. Administrative fees equal to twenty-five per cent (25%) of the cost of the removal of the violation or $50.00, whichever is greater
c. All costs associated with the recovery of the balance due

40 Said statement shall be delivered to the property owner by first class mail with a certificate of mailing, certified mail, or personal service. The owner shall pay the notice amount to Noble County within thirty (30) days after issuance, which shall be deposited in the Nuisance Abatement Fund.

41 If the responsible party fails to pay the amount within the time period stipulated in section 40, a copy of all costs shall be filed as required in IC 36-1-6-2 in order to cause a lien to be attached to the tax duplicate and all costs for the filing and recording of the lien shall be added to the total cost due.

42 A responsible party who violates this ordinance may be subject to one or more of the following:
a. An ordinance violation penalty in the amount up to $100 for each day that a violation exists. A separate violation shall be considered to exist for each day that a violation is allowed to continue.
b. The violation may be determined to be a public nuisance. In such cases, the owner will be subject to all applicable laws and remedies pertaining to public nuisances as defined by Indiana Code.
c. Complaints regarding the appearance or upkeep of property may also be enforced as an infraction or crime under any applicable state law which may include but is not limited to:
1. Solid waste as defined in Indiana Code
2. Weed control as defined in Indiana Code and as enforced by the Township Trustee
3. Littering as defined in Indiana Code
4. Noble County's Unsafe Building Ordinance and as enforced by the Building Commissioner and Board of Commissioners
5. Disposal of Dead Animals as defined in Indiana Code.

41 The Zoning Administrator, acting in the name of Noble County, is empowered to bring civil action as prescribed in IC 34-28-5-1 as allowed by IC 36-1-6-4. The Zoning Administrator may utilize the services of the County Attorney, Plan Commission Attorney, or outside counsel.

Article 10. Miscellaneous.

42 Construction: Any term defined in this ordinance by reference to a state statute or county ordinance shall have the same meaning whenever used in this ordinance unless clearly inapplicable by the context in which it is used. Any reference to a state statute or county ordinance shall mean the statute or ordinance as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.

43 Severability: Should any section, paragraph, sentence, clause or any other portion of this ordinance be declared by a Court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if, such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Board in adopting this ordinance. To this end the provisions of this ordinance are severable.

44 Nuisance Abatement Fund: There is hereby created a nuisance abatement fund. All monies remaining in said fund at the end of each year shall remain in the fund and not revert to the General Fund pursuant to the authority of IC 36-1-3-5. The monies in said fund shall be expended

and used only for the purposes of enforcing this ordinance. Said fund shall also have added to it monies, if necessary, as may be appropriated by the County Council. All revenues from citations and abatements shall be deposited into said fund.

Article 11. Effective Date.

This ordinance shall be in full force and effect on _____.

Passed by the County Commissioners of Noble County, Indiana on the _____.

Board of Commissioners
Noble County, Indiana

_____
Gary Leatherman

_____
Anita Hess

_____
Justin Stump

Attest:_____
Tonya Jones, Auditor