

**SHELBY COUNTY, INDIANA
NUISANCE ORDINANCE
ORDINANCE NO. 2023 - 07**

THIS IS AN ORDINANCE to control improper solid waste disposal; to define nuisance solid waste accumulation, illegal dumping, and littering; to establish violations thereof; to assess penalties with regard thereto; and to provide for the abatement and/or clean-up of weeds and materials improperly accumulated, stored, or disposed of in Shelby County, Indiana. This ordinance repeals Shelby County Ordinance No. 2019-34 adopted on December 16, 2019.

WHEREAS, improper disposal of solid wastes, standing and stagnant water, and overgrown weeds can be injurious to human health, and plant and animal life; can contaminate surface and ground waters; can provide harborage to vermin and disease vectors; can interfere unreasonably with the enjoyment of life or property; can negatively impact the value of affected and adjacent properties; can degrade aesthetic appreciation of the natural environment; and can diminish the economic development potential of Shelby County; and

WHEREAS, it is the desire and duty of the Shelby County Board of Commissioners (“Commissioners”) and the Board of Directors of the Shelby County Recycling District (“Board”) to protect human health, natural resources, the environment, and economic development potential of Shelby County; and

WHEREAS, it is in the public interest to enact this ordinance to eliminate nuisance solid waste accumulation, illegal dumping, littering, and clean up public and private property in Shelby County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, INDIANA, as follows:

Section One

Title

This ordinance shall be cited as the “Nuisance Ordinance.”

Authority

The following shall be authorized enforcement agents in the enforcement of this ordinance within the unincorporated and incorporated (see Section Thirteen) areas of Shelby County, Indiana: law enforcement officials serving in Shelby County, Commissioners, Shelby County Health Department, Shelby County Highway Department, Shelby County Recycling District, and their representatives/agents are hereby authorized to investigate violations and to perform all actions necessary for the enforcement and administration of this ordinance and will be referred to herein as “Enforcement Agent(s).”

Section Two

Purpose

The purpose of this ordinance is to prohibit nuisance solid waste accumulation, illegal dumping and littering along road ways and on public and private property in Shelby County; to prevent stagnant water, overgrowth of weeds, and growth of rank vegetation; to establish penalties for violations thereof; and to provide for the clean-up of solid waste that is not disposed in accordance with Indiana law. Littering and improper disposal at recycling stations shall also be prohibited. This ordinance is intended to protect the citizens of Shelby County, Indiana, from the burden of costs related to solid waste accumulation, weed and rank vegetation growth, illegal dumping, littering, and clean up.

The primary intent of the ordinance is to discourage illegal dumping and littering on public and private property, to promote cleanup of nuisance solid waste and weeds, and to encourage the proper waste management alternatives of sanitary landfilling and recycling. Elimination of improper disposal is necessary to protect human health and the natural environment, to protect surface and ground waters from pollution, and to protect the value of property from the negative effects of solid waste accumulation, dumping, and littering. Fines and sanctions are meant to deter violations of this ordinance.

Section Three

Definitions

The following definitions shall apply in the interpretation and enforcement of this ordinance:

1. **Accumulation/To Accumulate** – (as pertains to wastes) means to heap, pile up, amass, or collect waste improperly or in improper storage containers for a period exceeding fifteen (15) days or the standard interval of local commercial collection service, whichever is less.
2. **Abandoned/Junk Vehicle** – means the following:
 - a. Any vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours; or
 - b. Any vehicle that is mechanically inoperable or incapable of movement by its own locomotion, and that is not being held for or which is under repair, to be completed within the next twenty (20) days; or
 - c. Any vehicle without a valid current state registration and license plate pursuant to Indiana Code § 9-18.1-2, and left on private property continuously in a location visible for more than twenty (20) days.
 - d. Licensing of a vehicle shall not constitute a defense to the finding that it is an abandoned/junk vehicle.
 - e. A vehicle shall not be considered an abandoned/junk vehicle if it is stored in a garage, building, or an opaque structure, which blocks the vehicle from being visible from public property.

- f. A vehicle covered by a tarp or other plastic, vinyl, rubber, cloth, textile, or any other similar material covering is considered to be visible for purposes of this ordinance.
 - g. Nothing contained in this ordinance shall be construed to apply to farm machinery, equipment, or implements, unless the farm machinery, equipment, or implement is mechanically inoperable or incapable of movement by its own locomotion, and that is not being held for or which is under repair, to be completed within six months, or within such extended period as may be determined by the Enforcement Agent.
 - h. For purposes of this ordinance, a vehicle, which is required to be registered, pursuant to Indiana Code § 9-18.1-2, shall be deemed to be an unregistered vehicle unless a valid license plate, issued uniquely for that vehicle, is securely fastened to it in the manner prescribed by Indiana Code § 9-18.1-4-4, which for passenger vehicles, pick-up trucks, and motorcycles, shall be upon the rear of the vehicle.
3. **Abate** — means to end nuisance solid waste accumulation, illegal dumping, littering, and growth of weeds and/or rank vegetation by removal, clean up, and proper disposal.
 4. **Clean-Up Costs** – include all costs incurred by Shelby County or any Shelby County government entity in cleaning up solid waste dumped in violation of this ordinance, including landfill fees and time expended by Enforcement Agents and/or their agents in effecting such clean up.
 5. **Complaint** – means a written communication on the County’s designated form, electronic or hard copy, to an Enforcement Agent addressing a violation of this ordinance setting forth the nature and location of the violation, and containing the written or electronic signature and contact information of the reporting individual (if not anonymous). Complaint forms shall be made available at the office of the Shelby County Recycling District, as well as the Shelby County Recycling District’s website.
 6. **Construction/Demolition Waste** – means any discarded construction or demolition materials including, but not limited to, lumber, wood, paneling, drywall, roofing shingles, siding, plumbing, electrical, doors, windows, floor coverings, and cabinets.
 7. **Contaminated**— (as pertains to recyclables) means un-rinsed containers with food or product residues; non-container glass materials, containers which contained oils, pesticides, fertilizers, herbicides, poisons, or other hazardous materials; materials fouled with dirt or other substances foreign to their original contents or composition; wet or saturated newspapers; and any other condition which renders the materials un- recyclable.
 8. **Discard**—means to abandon, deposit, desert, discharge, dispose, drop, dump, eliminate, emit, jettison, leave, pitch, place, put, scrap, spill, leak, throw, or toss any item of solid waste or derivative thereof, or any inherent waste-like material in a manner such that the discarded substance remains upon the land as solid waste.
 9. **Dumping/To Dump** – means the discarding along county roadways or at any location other than a site of generation, any items of solid waste, commonly known as garbage, rubbish, refuse, construction and demolition debris, household trash, baby diapers, food

service wastes, old appliances, tires, scrap metal, vehicle parts, and all other items and materials defined as "Solid Waste" below.

10. **Electronic Waste** – means discarded computers, televisions, telephones, answering machines, radios, stereo equipment, tape recorders, video cassette recorders, compact disc players, calculators, electric wire, and other waste possessing electronic circuitry.
11. **Fill Material** – means any material that is used for filling such as clean soil, clay, shale, gravel, or sand. Concrete will be allowed if the maximum particle size is 24 inches or less in diameter and all protruding reinforcing steel is removed from the concrete particle.
12. **Garbage** – means all putrescible (rotten) animal solid, vegetable solid, and semi-solid wastes from the processing, handling, preparation, cooking, serving, or consumption of food or food materials. Such materials carry the potential of harboring vector-borne diseases.
13. **Generate** - means the act or process of producing solid waste. "Generator" means the person whose actions or processes result in the unwanted solid waste materials.
14. **Hazardous Waste** – means any waste, including but not limited to, household hazardous wastes, used oils, solvents, and chemicals that because of its quantity, concentration, or physical, chemical, or infectious characteristics may: (a) cause or significantly contribute to an increase in mortality or increase in serious irreversible or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, handled, disposed of, or otherwise managed; or (c) be nondegradable or persistent in the environment; or (d) be biologically magnified; or (e) cause or tend to cause cumulative effects.
15. **Highway or Road** – means that portion of the state or county public highway or road system so designated on the General Highway and Transportation Map, as amended by the Indiana Department of Transportation or the Shelby County Highway Department.
16. **Inert Solid Waste**— means uncontaminated earth, rock, rigid concrete, bricks, tiles, aged asphalt, uncontaminated natural wood, brush, leaves, grass clippings, wood chips, sawdust, etc., shall be considered to be inert waste for the purpose of this ordinance.
17. **Infectious Waste** - means any waste that is capable of transmitting a communicable disease, including but not limited to, pathological waste (i.e., human tissues, blood, excreta, and secretions), medical and laboratory wastes, contaminated or fouled bedding, bandages, dressings, diapers, contaminated animal carcasses, offal, excreta, body parts, bedding, etc.
18. **Junk**— means items which are considered abandoned, dismantled, discarded, or otherwise unusable including, but not limited to vehicles, machinery, equipment, appliances, or other household goods and furniture. The term shall also include residue from burning and component parts, such as engines, transmissions, drive train, suspension, fenders, doors,

hoods, wheels, windshields, and tires removed from vehicles or any other part of a vehicle. This term shall also include building materials or materials related thereto not implemented in the construction process for a period exceeding twenty (20) days.

19. **Junkyard** – means any establishment, place of business, or parcel of real property, which is maintained, used, or operated for storing or keeping, at any one time in excess of two non-operating, wrecked, scrapped, ruined, or dismantled motor vehicles, abandoned/junk vehicles, or parts thereof.
20. **Litter** – means discarding in any location other than a proper waste storage container any item of solid waste such as a can, bottle, cigarette butt, package, wrapper, or any other material, excluding organic refuse such as a single apple core, banana peel, or leftover food item. Littering may also include any item of waste material moved by wind, water, or animals into a public way or any combination of these items exceeding a volume of one cubic foot.
21. **Open Dump** – means the consolidation of solid waste from one or more sources or the discarding of solid waste at any location that does not fulfill the requirements of a sanitary landfill as proscribed by state law or regulations, and that exists without daily cover and without regard to the possibilities of contamination of surface or subsurface water resources, air, land, or other hazard or threat of hazard to the environment or safety.
22. **Owner** – means the property owner of record, as found in the records of the Shelby County Recorder's office.
23. **Person** – means, but is not limited to, an individual, partnership, firm, company, corporation, trust, estate, or legal representative or agent. A "person" may include an owner or possessor of an object subject to this ordinance. All "persons" shall be jointly and severally liable for fulfilling the requirements of this ordinance.
24. **Public Nuisance** — means any condition or thing existing or allowed to exist that:
 - a. Injures or endangers the comfort, health, or safety of others or the environment;
 - b. Unlawfully interferes with, obstructs, or tends to destruct or renders dangerous for passage any public or private street, highway, sidewalk, alley, stream, or ditch; or
 - c. Unreasonably interferes with the comfortable enjoyment of life and/or property, or is likely to depreciate the value of other's property.
25. **Public Property** – means any public right-of-way, road, street, highway, alley, park, or other state, county, or municipally-owned property.
26. **Recyclables** – means material segregated from the waste stream for the purpose of collection and reprocessing to recover and reuse as a materials resource. This shall include, but not be limited to, glass containers, newspapers, office papers, corrugated cardboard, aluminum and steel containers, and certain plastic containers.

27. **Salvaging** – means the controlled removal of reusable or recyclable waste materials from a solid waste disposal facility and implies consent of the owner of the waste materials.
28. **Scavenging**— means the uncontrolled and unauthorized removal of materials from solid waste at any point in the waste management system.
29. **Shelby County Recycling District**— means that territorial area formerly known as the Shelby County Solid Waste Management District and described in the Shelby County Ordinance #1991-3 and cited as Shelby County Code Article 3, Chapter 7, Section 9 (SCC 3-7-9).
30. **Solid Waste** – means any garbage, refuse, sludge, or other discarded or disposed materials, including, but not limited to, solid, liquid, or semi-solid or contained gaseous materials resulting from any operation, activity, or source. This definition excludes hazardous and infectious wastes defined above.
31. **Storage** – means:
- a. As pertains to waste storage, only, proper temporary containment of waste materials in a waste storage container for a period not to exceed fifteen (15) days or the standard interval of local commercial collection service, whichever is less; or
 - b. Locating an object that is not hazardous or infectious waste in a facility or structure, whether temporarily or permanently, so that the object is not visible from public property or a public right-of-way. Any facility or structure designated or intended to store an object shall comply with any and all applicable building codes and zoning regulations for such facilities or structures; otherwise, it shall not qualify as “storage” for purposes of this ordinance; and
 - c. Shall not include covering or otherwise making an object less visible by the use of tarps, canvasses, blankets, or other such items.
32. **Vector** – means any animal or substance capable of harboring and transmitting microorganisms or disease from one animal to another or to a human.
33. **Vehicle** – means any motor vehicle, such as, an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, bus, school bus, motor home, recreational vehicle, or motor bicycle.
34. **Visible** – shall mean capable of being seen from any public road, right-of-way, or public property or from privately owned real property.
35. **Waste Storage Container** – means a proper and suitable receptacle used for the temporary storage of solid waste, infectious, or hazardous wastes while awaiting collection. Containers shall be designed to prevent escape or leakage of contents and should be resistant to scavenging animals. Plastic bags, paper bags, and corrugated boxes shall not be considered to be proper containers for outdoor storage of wastes.
36. **Weeds and Rank Vegetation** – means the following:

- a. Growth of vegetation, other than trees, bushes, shrubs, ornamental plants, or agricultural plants cultivated in an orderly manner for the purpose of producing food and/or feed, in excess of ten (10) inches; and
- b. All plants set forth in Indiana Code section 15-16-7-2 or plants that are poisonous or detrimental to human health or have been determined to be noxious by the Indiana legislature or by rule of the Indiana Department of Natural Resources or Indiana Department of Agriculture.
- c. Weeds and rank vegetation exclude the following:
 - i. Wetlands;
 - ii. Woods;
 - iii. Nature Preserves;
 - iv. Undeveloped areas;
 - v. Agricultural crops, such as hay and pasture; or
 - vi. Grasses intended to provide a teeing ground, fairway, rough, controlled heather, hazard, or putting area for a golf course that is in operation.

Section Four

Acts Prohibited

The following acts shall constitute a violation of this ordinance:

1. No person shall discard or dump construction/demolition waste, hazardous waste, infectious waste, or solid waste along any public road, in or near any public or private river, lake, stream or ditch, or on the property of another person. No person shall discard or dump such materials in a receptacle not designed and/or intended to be a Waste Storage Container.
2. No person shall conduct any activity on public or private land which results in the accumulation of construction/demolition waste, electronic waste, stagnant water, hazardous waste, infectious waste, or solid waste, so as to unreasonably interfere with the public health, safety, peace, and enjoyment of the general public and as such shall be deemed a public nuisance.
3. No person owning and/or occupying real property shall cause or consent to final disposal upon said property of solid waste materials (other than inert solid waste or fill material) that is generated by said person or by any other person, unless otherwise licensed or permitted as a disposal facility.
4. No person shall discard inert solid wastes on public property for final disposal or for use as fill material without the consent of the Commissioners or Board.
5. No person shall litter, nor permit any dependent minor or other person for whom he/she is legally responsible, to litter, nor cause another person to litter.

6. No person shall discard any materials other than recyclables in any facility or container intended for collecting recyclables. Leaving recyclable or non-recyclable material outside the recycling bin shall constitute illegal dumping.
7. No person shall deposit any contaminated recyclable materials in any County or Recycling District facility or container intended for collecting recyclable materials.
8. No person shall conduct scavenging of materials at any facility or container intended for collecting recyclable materials.
9. No person, either knowingly or unknowingly, shall contract with another party to engage in any acts prohibited by subsections 1 through 8 of this Section. A violation of this provision of this ordinance shall be an offense of the same degree for the waste generator as the violation committed by the hired contractor.
10. No person shall store, accumulate, or allow to remain on any private property any abandoned/junk vehicle or junk which is visible from a public place or public road. It is hereby declared that any abandoned/junk vehicle or junk is detrimental to the safety, health and welfare of the general public and community, tends to reduce the value of private property, and is detrimental to the economic welfare of Shelby County and is hereby declared to be a public nuisance.
11. No person may establish, operate, cause, or maintain a junkyard, or scrap metal processing facility or store or allow accumulation of junk on any real property which is visible or deemed a public health nuisance, except for the following:
 - a. those which are screened by natural objects, plantings, or other appropriate means so as not to be visible at any point during the year; and
 - b. those located within areas which are zoned for industrial and/or business use under the authority of law of a zoning ordinance.
12. No owner and/or occupant of real property shall allow any growth of weeds in excess of ten (10) inches in height upon his or her property.
13. No owner and/or occupant of real property shall allow the growth of rank vegetation upon his/her/its real property.
14. No owner and/or occupant of real property shall allow stagnant water to accumulate in containers and/or other items that retain water upon his/her/its real property.

Section Five

Weeds and Rank Vegetation

1. Nothing in this ordinance shall be deemed to apply to agricultural plants or crops, such as hay and pasture.

2. No owner or occupant of real property located within Shelby County shall permit said real property to become overgrown with weeds and rank vegetation. The following standards shall be the criteria used in determining that weed growth is detrimental to or threatens public health or safety:
 - a. Where the real property is located in a platted subdivision containing two or more residential structures, grass or other vegetation in excess of ten (10) inches in height shall be considered weeds.
 - b. In all other areas with Shelby County, weeds, grass, or other vegetation, excepting actively used agricultural crop land, in excess of ten (10) inches in height shall be considered weeds where:
 - i. The real property is located within fifty (50) feet of a county road intersection;
 - ii. The real property is located within a county right-of-way;
 - iii. The real property is located within one hundred fifty (150) feet of any residential structure located in Shelby County; or
 - iv. The real property is in such a condition that it creates a threat to public health safety as a result of rodent, insect, reptile, or mosquito harborage.
3. The Compliance Officer and/or an Enforcement Agent shall be responsible for administration and enforcement of this Section Five.
4. When a complaint alleging a violation of this Section Five is received by the Compliance Officer and/or an Enforcement Agent, the Compliance Officer and/or Enforcement Agent may inspect real property from a public property or from adjoining property with that owner's permission. If the Compliance Officer and/or Enforcement Agent need to enter the property to complete an inspection and the owner or occupant of the property does not voluntarily give permission to enter the property to make the inspection, the Compliance Officer and/or Enforcement Agent shall seek approval, through an administrative search warrant (see Indiana Code section 36-7-9-16) or other court order, from a court of law to enter onto any occupied property and make an inspection. The search shall be limited to the places pertinent to the complaint or as outlined in the inspection warrant. No such administrative search warrant or other court approval shall be necessary if the real property is abandoned, the real property can be inspected from a public property, and/or the Compliance Officer and/or Enforcement Agent has the owner's permission to enter the property. The Compliance Officer and/or Enforcement Agent shall document any violation of this Section Five and issue a notice to the property owner to cut the weeds or cut or remove the rank vegetation within fifteen (15) calendar days. The notice becomes final fifteen (15) days after notice is given.

Notice of Violation

5. For any property found to be in violation of this Section Five, the Compliance Officer and/or Enforcement Agent may issue a notice to remove weeds and/or rank vegetation to the owner notifying the owner of the violation and giving the owner fifteen (15) calendar days to abate the violation. Said notice shall also state the amount of penalty included if the violation is not abated within the fifteen (15) days. If the violation is corrected by the

owner or other responsible party within fifteen (15) days, no further action will be taken and no penalty imposed. An Enforcement Agent may extend this deadline, as necessary.

6. The notice to remove weeds and/or rank vegetation shall be in writing and shall be served on the owner of the property in at least two of the following manners: (a) delivery in person, (b) by first class mail, and/or (c) by placement of the notice to remove weeds and/or rank vegetation in a conspicuous place on the property where a violation occurs. As outlined in Indiana Code section 36-7-10.1-3, the notice shall also state:
 - a. The location of the violation;
 - b. The nature of the violation;
 - c. The time period for correcting the violation; and
 - d. The remedy that the Enforcement Agent may seek for the violation.
 - e. Any notices to be given hereunder by first class mail shall be deemed sufficiently given when placed in an envelope directed to the owner at the owner's address and deposited in a United States Post Office mailbox postage prepaid.
7. No section of this ordinance shall prevent an Enforcement Agent from executing emergency action as set forth in Indiana Code section 36-7-9-9.
8. An owner or occupant of real property who disagrees with notice to remove weeds and/or rank vegetation may appeal the notice pursuant to the procedure set forth in Section Ten of this ordinance.

Penalties

9. Any owner or occupant of real property within Shelby County, after notice has been served upon him/her/it as provided in this Section Five, who shall fail to comply with the order of an Enforcement Agent within fifteen (15) days thereafter shall be fined not more than one hundred dollars (\$100.00) and costs for the first violation; two hundred and fifty dollars (\$250.00) and costs for the second violation; and five hundred dollars (\$500.00) and costs for all subsequent violations.

Removal of Weeds and/or Rank Vegetation by an Enforcement Agent

10. If the violation has not been abated by the owner as noticed, an Enforcement Agent may enter the property and abate the violation utilizing its own employees and equipment or a contractor engaged by an Enforcement Agent pursuant to a public bidding process. The Compliance Officer and/or an Enforcement Agent shall accompany the Enforcement Agent's employee or contractor engaged to bring the property in compliance with this ordinance. The Enforcement Agent or its contractor shall not be responsible for the removal of any trees, bushes, shrubs, ornamental plants, or agricultural plants cultivated in an orderly manner for the purpose of producing food.
11. The Enforcement Agent may issue an invoice to the owner or occupant of the real property for the costs incurred in cutting grass and/or removing the weeds or rank vegetation, including administrative costs and penalties pursuant to this Section Five. If the

owner or occupant of the real property fails to pay an invoice issued under this Section within one week, the Enforcement Agent may certify to the Shelby County Auditor the amount of the actual cost of removal. The County Auditor shall thereupon place the amount of the cost of removal of the weeds or rank vegetation plus administrative costs and penalties on the tax duplicate as a charge against the owner or occupant of the real property. The cost shall be a lien thereon and shall be collected by the Shelby County Treasurer at the same time and in the same manner as taxes due the county and state are collected. The Enforcement Agent shall have the authority to initiate legal proceedings to foreclose upon any lien outstanding for a period in excess of one year including the property owner and any person appearing to have an interest in the real property for purposes of notice.

12. The Enforcement Agent reserves the right to make exceptions to this Section Five in certain circumstances, i.e., for real properties that have been sold at tax sales within the twelve months prior to a violation.

Section Six

Investigation

Upon receipt of any complaint of an alleged violation of this ordinance, the Compliance Officer and/or an Enforcement Agent shall conduct an investigation of such complaint. In the event that the Compliance Officer and/or Enforcement Agent determines that there is not a violation of this ordinance, but believes that the activity may constitute a violation of a health ordinance or zoning ordinance, the Compliance Officer and/or Enforcement Agent may forward a copy of the report of investigation to another county or city agency for further review and investigation.

1. Items contained in waste materials or recyclable materials, which bear information such as names and addresses, shall be considered as evidence for identifying the property owner or generator of the discarded materials and shall constitute rebuttable evidence that the person whose name is found therein has violated this ordinance. Witness accounts or surveillance documentation of any acts prohibited herein shall be considered evidence to identify violators. Any other pertinent evidence, including photographs and identification, by license plate number may be considered to determine whether a violation of this ordinance has occurred.
2. No enforcement action may be taken under this ordinance against a owner on whose property waste has been improperly disposed without the property owner's consent, unless there has been made a diligent and good faith effort to identify, locate, and take enforcement action against the person that committed or caused the violation.
3. Any person who in good faith provides information concerning a name, a license number, or any other evidence of a responsible person's identity found in wastes improperly disposed on either public or private property shall not be held liable to said person for an action taken by the Compliance Officer and/or Enforcement Agent against the person as a result of information provided.

4. The Compliance Officer and/or Enforcement Agent shall have the right to enter any premises for the purpose of performing any duties imposed by the provisions of this ordinance.
5. Upon the finding of a violation of this ordinance, the Compliance Officer and/or Enforcement Agent shall have the right and be permitted to review any and all property, except such property qualifying as "storage" herein, whether or not visible from public property or public road, to determine if further visible violations exist on the property and may order further action consistent with the requirements and intent of this ordinance.

Section Seven

Warnings and Citation

1. The following persons are hereby authorized to issue warnings and citations under this ordinance
 - a. The Compliance Officer and/or an Enforcement Agent; or
 - b. A police officer, deputy sheriff, or other designated enforcement officer operating under a cooperative agreement with the District.
2. A warning or citation shall be served by one of the following means reasonably calculated to give notice to the person alleged to have committed a violation followed by certified mail, return receipt requested: (a) in person; (b) to a member of the person's family who is over the age of eighteen (18) years who resides at the person's residence; (c) if the person is a firm, corporation, or other entity, to any employee, agent, or representative; or (d) posted in a conspicuous location on the premises containing a violation.
3. A warning issued under this ordinance shall be on a form approved by the Enforcement Agent, which shall include:
 - a. A description of the location of the alleged violation;
 - b. A brief description of the nature of the alleged violation together with the provision of the ordinance alleged to have been violated;
 - c. The date and time when the alleged violation was observed or occurred;
 - d. The name of the person issuing the warning and the date the warning was issued;
 - e. A statement that failure to correct the alleged violation within a specific time may result in the issuance of a citation and order to appear before the Compliance Board and the maximum penalty or fine that may be assessed if the person is adjudged guilty of violation of the ordinance.
4. A citation issued under this ordinance shall be on a form approved by the Enforcement Agent, which shall include:
 - a. The items contained in 3 above; and
 - b. A description of the rights of the person cited to request a hearing for review, review procedure, and possible penalties or fines for failure to appear at the hearing all as provided in this ordinance.

Section Eight

Enforcement, Abatement, and Clean Up

1. In matters involving a health and/or vector hazard, the Shelby County Health Department may conduct investigation and enforcement according to laws governing public health.
2. In matters involving a zoning issue, the Plan Commission may conduct investigation and enforcement of the county zoning ordinance.
3. The Enforcement Agent in conjunction with an appointed Shelby County Recycling District Compliance Board shall be empowered to order the abatement of violations of this ordinance and to issue orders and fines as designated.
4. Any person or persons identified violating this ordinance, shall be subject to the following schedule for abatement:
 - a. An Enforcement Agent shall notify the person of an alleged violation in accordance with Section Seven. Depending upon the extent of the violation, the notice will state that violation abatement must occur within a reasonable length of time, usually between ten (10) days and sixty (60) days, from the date of notice. If abatement does not occur within the stated time, the Enforcement Agent reserves the right to abate the nuisance through the use of private contractors or the public workforce.
 - b. If a small amount of trash, litter or recycling is found on public property, designated Enforcement Agent or other designated agents may search the material for identification evidence and then properly dispose or recycle the material. Evidence will be forwarded to an Enforcement Agent for further action.
 - c. The owner of property on which improper disposal acts have occurred may be included as a party of an enforcement action against a person who committed the violation for the purposes of obtaining access to the land to clean up and properly dispose of the wastes.
 - d. Either abatement of the violation or a request for appeal must be filed with the Compliance Board within the time frame designated in the notice for the identified person or property owner to avoid fines, an order to appear, or other legal action. Appeals will be heard pursuant to Section Ten.
 - e. It shall not be a defense to this ordinance that other persons have participated in the violation and any person adjudicated to have violated this ordinance may be held liable for all costs related to action to bring compliance with this ordinance.
5. If the owner and/or occupant has been notified under the provisions of this Nuisance Ordinance and has failed to comply with the requirements of this Nuisance Ordinance within the time specified, the owner and/or occupant shall be deemed to have granted permission to the Enforcement Officer to enter upon the owner and/or occupant's property for the purpose of causing such violation(s) to be abated and/or removed.
6. A person who has been issued and has received a violation notice and has not abated or removed the violation from the premises:

- a. Must supply full information regarding the violation notice to a person who takes or agrees to take a property interest in the premises before transferring or agreeing to transfer that interest; and
 - b. Must, within five (5) days after transferring or agreeing to transfer a property interest in the premises, supply the Enforcement Officer with written copies of:
 - i. The full name, address, and telephone number of the person taking a property interest in the premises; and
 - ii. The legal instrument under which the transfer or agreement to transfer the property interest is accomplished.
7. No section of this ordinance shall prevent an Enforcement Agent from executing emergency action as set forth in Indiana Code section 36-7-9-9.

Section Nine

Penalties and Sanctions

1. In all cases where a person or property owner is alleged to have violated this ordinance, an Enforcement Agent shall have the authority to issue all orders necessary, including but not limited to orders to appear before the Shelby County Recycling District Compliance Board, as appointed by the Board. Cases involving fines will be presented to the Compliance Board by the Compliance Officer or an Enforcement Agent after due notice has been given.

The Compliance Board shall have the authority to levy fines not to exceed three hundred dollars (\$300.00) per day up to a total of five thousand dollars (\$5,000.00) for each violation that remains unabated. Persons who are ordered to appear before the Compliance Board or Board and who fail to appear may be subject to an additional fine of up to five hundred dollars (\$500.00). For any violation that remains unabated for a period in excess of one year, the Compliance Board may levy additional fines as in a case where the person or property owner has been the subject of an investigation or abatement proceeding previously.

In all cases where a person or property owner having been the subject of an investigation or abatement proceeding previously, whether or not related to the same property or subject matter, the Compliance Board shall have the authority to levy fines not to exceed five hundred dollars (\$500.00) per day up to a total of ten thousand dollars (\$10,000.00) for each violation that remains unabated. Any fine levied by the Compliance Board shall be in addition to any fine levied previously. Persons who are ordered to appear before the Compliance Board or Board having been the subject of an investigation or abatement proceeding previously and who fail to appear may be subject to an additional fine of up to one thousand dollars (\$1,000.00).

2. All expenses including fines and abatement costs incurred by the County, the Recycling District, and/or an Enforcement Agent in enforcing this ordinance shall become a lien on property owned by the person or persons as afforded by Indiana Code section 36-1-6-2. The lien shall be placed and recorded on the property tax duplicate and collected from the

property owner as taxes are collected. The Compliance Board shall have the authority to initiate legal proceedings to foreclose upon any lien outstanding for a period in excess of one year including the property owner and any person appearing to have an interest in the real property for purposes of notice.

3. All monies collected through the enforcement of this ordinance shall be placed in the general fund pursuant to Indiana Code sections 36-7-10.1-4 and 36-7-10.1-5 and shall be dispersed through the Shelby County Recycling District for the enforcement of this ordinance.

Section Ten

Right to Contest

1. A person cited under this ordinance is entitled to seek review of the violation order(s), penalty(ies), or both, by filing a written petition for review to the Shelby County Recycling District, 1600 IN-44, Shelbyville, Indiana, 46176, postmarked within fifteen (15) working days of receipt of the violation order(s) and penalty(ies). ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, or legal holidays.) If a petition for review is not timely filed, the violation order(s) and penalty(ies) shall be deemed final orders of the Shelby County Recycling District.
2. Upon receipt of the petition for review, the Compliance Board will affirm, amend, or dismiss the violation order(s) and penalty(ies). The Compliance Board shall issue written findings based upon the evidence submitted by the Compliance Officer and/or Enforcement Agent and information submitted by the person seeking review. Within thirty (30) days after receiving the petition for review, the Compliance Board shall mail by first class United States mail, a copy of its findings to the petitioner. A petition for review will be certified to the Board.
3. If the petitioner disagrees with the findings issued by the Compliance Board, the petitioner may appeal the findings to the District Board. All appeals must be filed with the District's Board no later than fifteen (15) days after the date of the findings. Upon receipt of the appeal, the District's Board shall notify the petitioner of a hearing date. At a hearing before the Board, the Board may hear testimony and consider written evidence. The appellant does not have to be represented by counsel at the hearing and the Board shall not be bound by rules of evidence. The appellant must present sufficient evidence to rebut the presumption that a violation of the ordinance occurred. Within thirty (30) days following the hearing, the District's Board shall issue written findings of fact and shall notify the appellant thereof. Failure of the appellant to appear at the hearings shall not prevent the Board from issue findings. The written findings of the Board shall be deemed final orders.
4. If the petitioner disagrees with the findings issued by the District Board, the petitioner may appeal the findings to the Shelby County Circuit or Superior Court. All appeals must be filed within fifteen (15) days from the final order or be forever barred.

5. While an order or violation is in the appeal process, all enforcement actions are stayed. This stay continues until the expiration of ten (10) days after the last opportunity for appeal has expired.

Section Eleven

Severability

Each section, subsection, sentence, clause and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any section, subsection, sentence, clause or phrase to be unconstitutional, void or ineffective for any cause shall not affect any other section, subsection, sentence, clause or phrase or part hereof. The Commissioners can modify this ordinance as deemed necessary.

Section Twelve

Administrative Rules and Policies

The District's Board may establish written rules and policies, not inconsistent herewith to carry out the provisions thereof.

Section Thirteen

Applicability and Effective Date

1. This ordinance shall apply to the entirety of Shelby County, Indiana. Enforcement shall include towns and incorporated areas, unless such areas currently enforce a more stringent ordinance. Incorporated areas may enforce this ordinance.
2. All portions of former ordinances in conflict herewith are hereby repealed or superseded. This ordinance shall become in full force and effect from and after its adoption and publication as required by law.
3. Any violation of the provisions of this ordinance that occurred prior to the enactment of this ordinance, and which was a violation of existing state law, shall not be exempted from enforcement under this ordinance.
4. Nothing contained herein shall prevent or supersede the enforcement of any other ordinance or law by any other county department, board, or agency.

The above and foregoing Nuisance Ordinance was recommended to the Commissioners for approval and adoption by a vote of 6 ayes and 0 nays of the members of the Board of Directors of the Shelby County Recycling District at its regular meeting on the 9th day of February, 2023.

ADOPTED on this 6 day of March, 2023 by the Commissioners by a vote of 3
ayes and 0 nays.

**BOARD OF COMMISSIONERS OF
SHELBY COUNTY, INDIANA**

Don Parker
Don Parker, President

Kevin Nigh
Kevin Nigh, Member

Jason Abel
Jason Abel, Member

ATTEST:

Amy Glackman
Amy Glackman, Auditor
Shelby County, Indiana