

ARTICLE 2: NUISANCE

Section 1. *Discharge of firearm prohibited.*

1) It shall be unlawful and prohibited for any person to point, aim, fire or discharge or to permit or allow to be pointed, aimed, fired or discharged, a firearm or any other similar weapon or device of any type within the corporate limits of the town.

2) The regulations and prohibitions set forth in this section shall not apply to law enforcement, military or other authorized personnel in the performance of their official duties. Further, the regulations and prohibitions set forth in this section shall not apply to the discharge of a firearm in a lawful defense of person or property or otherwise permitted by law.

3) *Definition. FIREARM.* Any device that will expel a projectile and includes any such device commonly referred as a pistol, revolver, rifle, gun or shotgun.

4) Violations of this section shall be punishable as follows:

a) First violation shall result in a fine of \$100; and

b) Subsequent violations shall result in a fine of \$200.

5) Further, any person found to be in violation of this section shall be responsible for and liable to the town for all reasonable costs incurred by the town in the enforcement of this section. Costs include, but are not limited to, reasonable attorney fees. Each discharge of a firearm shall constitute a separate offense.

6) The provisions of this section shall be in full force and effect from and after the date of publication as required by I.C. 5-3-1.

(Ord. 2005-01, passed 2-2-2005)

Section 2. *Obstruct alleys.* Any person who shall obstruct or hinder the passage of any street, alley, lane or sidewalk or crossing in said town by placing thereon any building material or any vehicle to be repaired or any animal to be shod, any box, barrel, furniture, wood, coal or any other material whatever or by hitching or tying any animal on any sidewalk or crossing in the town shall be fined therefore in any sum not exceeding \$5 for each day or part of a day the same may remain, provided that nothing herein shall prohibit the loading or unloading of any goods or merchandise or anything, without needless delay and also providing that any person occupying any building for business purposes shall have the privilege of using two feet of the sidewalk next to the building for the purpose of exhibiting goods or any article of trade, provided further that building material intended for building purposes during the progress of erection or improvement shall be excepted.

(Ord. 4, passed - -)

Section 3. *Running water on street.* Any person, firm or corporation who shall cause or permit any water or other liquid substance to drip, flow, run or drain from any shed, roof or spouting directly or

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indirectly on, to, over or across any sidewalk, whether improved or unimproved, in the town, commits a Class C infraction.

(Ord. 30-84, passed - -)

Section 4. Billboards.

1) The erection, maintenance or operation of billboards or other structures for the exhibition to the public of posters, advertisements or bills, within the corporate limits of the town, along the public highways and other public places, is unsightly and is hereby declared to be a public nuisance and as such prohibited.

2) It shall be unlawful for any person, firm or corporation to erect, construct, maintain or operate, within the corporate limits of said town, any billboard or other structure for the exhibition to the public of posters, advertisements or bills, along the public highways and other public places.

(Ord. 150, passed - -)

Section 5. Property owners - responsibilities.

1) All owners or occupants of real estate within the geographical limits of the town shall be under a duty to remove or cause to be abated any public nuisance as defined herein. This duty shall also extend to the area commonly known as the tree row, which is the area of ground lying between private property and the curb or the paved or improved portion of the street.

2) The following conditions hereby are declared public nuisances:

a) Whenever any tree or other vegetation exists on private property in close proximity to any municipal property or governmental right-of-way or easement that because of its location, size or condition interferes with the public safety or lawful use of such property, right-of-way or easement;

b) Whenever any tree, limb, shrub, vine, plant or other vegetation may be standing adjacent to any public street so as to obstruct thereby the vision of travelers along such street;

c) Whenever any dead, rotting, decayed, broken or dangerous tree, limb, shrub, vine, plant or other vegetation overhang are close to a public way;

d) Whenever any tree, limb, shrub, vine, plant or other vegetation may overhang the surface of a public way so that it obstructs the movement of pedestrians and vehicles. It is presumed that an unobtrusive height is eight feet above the surface of a sidewalk and 15 feet above the surface of the street or alley;

e) Whenever any tree, tree stump, limb, branch or other vegetation, as a result of storm damage, rotting or otherwise, overhangs or has fallen in a public way or creates a hazard or potential hazard to travelers along such public way;

(f) Whenever any weed or grass exceeds ten inches in height.

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3) *Failure to remove or abate; notice.*

a) If any owner or occupant of real estate located within the geographical limits of the town fails to perform the duties set forth in section 1 of this article, the Clerk-Treasurer shall prepare and serve or cause to be served upon such owner or occupant a written notice to abate such nuisance within five days from the date that notice was served upon the owner or occupant.

4) *Abatement by town; payment of cost.*

a) If the Clerk-Treasurer has issued a written notice as described under division 3 of this section and the owner or occupant of the real estate within the geographical limits of the town has not abated the nuisance, the Council may cause the nuisance to be abated. The actual cost incurred by the town in abating such nuisance shall be set forth in a certified statement by the Clerk-Treasurer. The certified statement of such costs shall be served upon the owner or occupant of the real estate. The certified statement shall contain a legal description or a commonly known address of the premises, the expenses and costs incurred, the date(s) the nuisance was abated and a notice that the town claims a lien for this amount.

b) The owner or occupant shall pay the actual cost incurred by the town in causing such abatement within 30 days from the date that the certified statement of costs is served upon such owner or occupant. If the owner or occupant of the real estate fails to pay the costs within the time prescribed, a certified copy of the statement of costs shall be delivered to the County Auditor=s Office. The Auditor shall place the amount shown on such certificate on the tax duplicate against such real estate and the amount shall be collected when taxes are collected. When collected, such amount shall be disbursed to the town for deposit in the General Fund.

5) *Penalties.* Violations outlined in this article are punishable as Class C infractions pursuant to I.C. 34-28-5-4, which allows for a judgment of up to \$500. The payment of a penalty for the violation of any provision of this article shall not excuse the violation or permit it to continue. A separate offense shall be deemed committed each day such violation occurs or continues.

6) *Foreclosure of lien.* Real estate subject to a lien for unpaid charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the town. The Town Attorney hereby is authorized and directed to institute such proceedings, in the name of the town, in any court having jurisdiction over such matter.

7) *Procedure for appeal.* Any owner or occupant who wishes to appeal the notice of violation or certified statement of costs under this article shall file a written appeal to the Clerk-Treasurer within five days of the notice of violation or certified statement of costs being served upon the owner or occupant. The Council shall conduct a hearing thereon within 30 days of the written appeal being filed with the Clerk-Treasurer. The owner or occupant appealing shall have the opportunity to present evidence to the Council at such hearing.

8) *Effective date.* The provisions of this article shall be in full force and effect from and after

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the date of publication as required by I.C. 5-3-1.
(Ord. 2001-12, passed 7-5-2001)

