

NUISANCE ORDINANCE

CHAPTER 95; NUISANCES; HEALTH AND SANITATION

Section

General Provisions

- 95.01 Town's Authority to regulate
- 95.02 Authority to regulate air and sound
- 95.03 Authority to regulate public gatherings
- 95.04 Definitions
- 95.05 Common law and statutory nuisances
- 95.06 Certain conditions declared a nuisance
- 95.07 Nuisance created by others
- 95.08 Removal of ice and snow
- 95.09 Garage, Porch, Patio and Yard Sales

Litter and Dumping Regulations

- 95.25 Throwing litter from vehicle
- 95.26 Tracking foreign matter on streets
- 95.27 Hauling loose material
- 95.28 Sweeping litter into gutters
- 95.29 Merchants and Occupants to keep sidewalks free of litter and material
- 95.30 Posting notices
- 95.31 Litter on private property
- 95.32 Dumping of trash prohibited

Weeds and Rank Vegetation

- 95.45 Unlawful growth
- 95.46 Notice to remove
- 95.47 Removal costs
- 95.48 Right to appeal

Tree Trimming

- 95.60 Restricted by sidewalks
- 95.61 Obstruction of street lights prohibited
- 95.62 Tree cutting regulations

Noise

- 95.75 Loud and unnecessary noise prohibited
- 95.76 Enumeration of certain prohibited acts
- 95.77 Exemptions

Parking

95.80 Parking Restrictions

Enforcement; Abatement and Appeal Procedures

95.90 Abatement Procedure

95.91 Non-Private Real Estate Violation and General Violations

Restrictive Covenants and Conditions

95.92 Real Estate Developments

GENERAL PROVISIONS

§ 95.01 TOWN'S AUTHORITY TO REGULATE.

The town may regulate the conduct or use or possession of property which might endanger the public health, safety or welfare of its citizens.
(I.C. 36-8-2-4) ('97 Code, § 6-1)

§ 95.02 AUTHORITY TO REGULATE AIR AND SOUND.

The town may regulate the introduction of any substance or odor into the air or any generation of sound.
(I.C. 36-8-2-8) ('97 Code, § 6-3)

§ 95.03 AUTHORITY TO REGULATE PUBLIC GATHERINGS.

The town may regulate public gatherings, such as shows, demonstrations, fairs, conventions, sporting events and exhibitions.
(I.C. 36-8-2-9) ('97 Code, § 6-4)

§ 95.04 DEFINITIONS.

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

DWELLING. Any part of any building or its premises used as a place of residence or habitation or for sleeping by any person.

JUNK. Boxes, trash, motor vehicle parts, unseaworthy or dilapidated watercraft, tires, trailers, non-operable appliances, furniture not designed for outdoor use, any dilapidated furniture or any fabric covered furniture whether designed for indoor or outdoor use or carpeting allowed to remain outdoors for ten (10) days, any piece of machinery which is not operable when immediately connected to its normal power source. Any item or items identified hereafter as junk by the Bristol Town Council by amendment to this Ordinance. Placing "for sale" signs on any item shall not exempt said item from this Ordinance.

NUISANCE. Public nuisance.

RANK VEGETATION. Means the following:

- (1) Lawn grass or weeds which are permitted to grow to a height of more than twelve inches on any developed (i.e., building or improvements have been constructed on the property), residential, commercial or industrial property (whether occupied or not) or on any undeveloped land or land in agricultural use;

(2) Trees, bushes, shrubs, vines and the like, whether cultivated or naturally growing, which are permitted to grow so as to:

(a) Encroach upon, obstruct the normal use of or render hazardous a public sidewalk or vehicular thoroughfare; or

(b) Encroach upon, impair the normal use and enjoyment of or detract from the appearance of any adjacent public or private property.

UNFIT FOR HUMAN HABITATION. Dangerous or detrimental to life or health because of:

(1) Want of repair;

(2) Defects in the drainage, plumbing, lighting, ventilation or construction;

(3) Infection with contagious disease; or

(4) The existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling.

('97 Code, § 6-94)

WEED. Any plant, vine or small bush which is naturally growing and is not normally planted deliberately, cultivated and maintained for ornamental or agricultural purposes.

§ 95.05 COMMON LAW AND STATUTORY NUISANCES.

In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the common law and statutes of Indiana as public nuisances may be treated as such and be proceeded against as is provided in this chapter or in accordance with any other provision of law.

('97 Code, § 6-95)

§ 95.06 CERTAIN CONDITIONS DECLARED A NUISANCE.

(A) It shall be unlawful for the owner, occupant or person having control or management of any land within the municipality to permit a public nuisance to develop thereon.

(B) It shall be unlawful to intentionally create a condition or do acts which create or constitute a public nuisance.

(C) The following conditions are declared to be public nuisances.

(1) Dwellings and Buildings unfit for and intended or being used for human habitation.

The erection, use or maintenance of a commercial building and/or dwelling which is unfit for human habitation. Buildings or dwellings which are not connected to public utilities (water, sewer) or do not have operable heating and lighting systems. Buildings damaged by fire or weather whose repair is not beginning within ninety (90) days and completed within three hundred sixty five (365) days from date of damage.

- (2) Dangerous buildings adjoining streets. Any building, house or structure so out of repair and dilapidated that it will, if the condition is allowed to continue, endanger the life, limb or property of or cause hurt, damage or injury to persons or property using or being upon the streets or public way of the municipality adjoining the premises by reason of the collapse of the building, house or structure or by the falling of parts thereof or of objects therefrom.
- (3) Dangerous trees or stacks adjoining street. Any tree, stack or other object standing in such a condition that it will, if the condition is allowed to continue, endanger the life, limb or property of, or cause hurt, damage or injury to persons or property upon the public streets or public ways adjacent thereto by the falling thereof or of parts thereof.
- (4) Dilapidated buildings.
 - (a) Any building, house or structure which is so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire or which due to lack of adequate maintenance or neglect endangers the public health, welfare or safety or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.
 - (b) In addition, and specifically as to any buildings or structures used for human residence, no person shall occupy as owner/occupant or let to another for occupancy any dwelling which does not comply with the following requirements:

Every dwelling unit shall contain: (i) a kitchen sink in good working condition, (ii) a room which affords privacy to a person within said room and which is equipped with a flush toilet and a bathroom sink in good working condition, and (iii) a room which affords privacy to a person within said room a bathtub or shower in good working condition, all of which properly connected to a water system and sewer system, if available, and if no sewer system is available to a septic system approved by the County of Elkhart.

- (c) Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.
- (d) Every foundation, floor, wall, ceiling, and roof shall be reasonably weather tight and rodent proof; shall be capable of affording privacy; and shall be kept in good repair.
- (e) The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the building. Roof drains, gutters, and down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a hazard on the premises or adjacent property.
- (f) Every window, exterior door, and basement hatchway shall be reasonably weather tight and rodent proof and shall be kept in sound working condition and good repair.
- (g) Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound working condition and good repair. Metal fire escapes shall be maintained in a rust free condition.
- (h) Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- (i) All wood and metal surfaces, including but not limited to, window frames, doors, door frames, cornices, porches and trim shall be maintained in good condition. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted.
- (j) All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- (k) All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts, and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
- (l) Any pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.
- (m) All additions or improvements to any building or structure must be made in accordance with the County of Elkhart Building Code.
- (n) All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon or within any structure located thereon.
- (o) All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
- (p) Any portion, member or appurtenance of a building shall not be likely to fail, to become detached, dislodged or to collapse and thereby injure persons or damage property.
- (q) The building or structure shall not be manifestly unsafe for the purpose for which it is being used.
- (r) The building or structure shall not be in such a condition that it is likely to partially or completely collapse due to:
 - (i) Dilapidation, deterioration, or decay;
 - (ii) Faulty construction;
 - (iii) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; or
 - (iv) The deterioration, decay or inadequacy of its foundation.
- (s) The building shall not be so damaged by fire, earthquake, flood or any other cause that the structural strength and stability is materially less than it was before the catastrophe, and is less than the minimum requirements for new buildings of similar structure, purpose or location.
- (t) The building or structure shall not be so damaged by fire, wind, earthquake or flood that it has become so dilapidated and deteriorated as it becomes freely assessable to persons.
- (u) The building or structure shall not, because of obsolescence, dilapidated condition, deterioration, damage, lack of sufficient fire resistive construction, electrical wiring, gas connection, or heating apparatus, become a fire hazard.
- (v) A portion of the building or structure shall not remain on the real estate more than three (3) months after demolition or destruction.

- (5) Accumulation of rubbish. An accumulation on any premises of filth, refuse, trash, garbage, overgrown vegetation, damages, obsolete or unusable machinery, damaged, obsolete or unusable equipment, inoperable appliances, scrap not stored in enclosed containers, or other waste material which endangers the public health, welfare or safety or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger of its catching or communicating fire, its attracting and/or propagating vermin, rodents or insects or its blowing or rubbing into any street, sidewalk or property of another or its propensity to constitute a safety hazard as an attractive nuisance to children.
- (6) Noxious odors or smoke. Emission into the surrounding atmosphere of odor, dust, smoke, or other matter which renders ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.
- (7) Noise. Emission of noise which is noxious enough to destroy the enjoyment of dwellings or other uses of property in the vicinity by interfering with the ordinary comforts of human existence.
- (8) Storage of explosives or combustible material. The storage of combustible or explosive material which creates a safety hazard to other property or persons in the vicinity.
- (9) Open wells. The maintenance of any open, uncovered or insecurely covered cistern, cellar, well, pit, excavation or vault situated upon private premises in any open or unfenced lot or place.
- (10) Trees and shrubbery obstructing streets and sidewalks. The growing and maintenance of trees with less than 14 feet clearance over streets or less than eight feet over sidewalks or the growing and maintenance of shrubbery in excess of three feet in height within the radius of 20 feet from the point where the curb line of any street intersects with the curb line of another street.
- (11) Scrap metal. The storage of scrap metal within the municipal limits except on premises authorized by the municipality for such purposes.
('97 Code, § 6-96) (Ord. 5-8-97(A), passed 5-8-97)
- (12) Junk. The accumulation and storage on property in the Town, other than inside a secured building out of sight of the public and adjoining property occupiers. Provided that if stored in building, said storage must not create or constitute a health hazard or fire hazard. Storage and accumulation by Town Maintenance Department in the performance of their duties shall not constitute a violation.

§ 95.07 NUISANCE CREATED BY OTHERS.

For the purposes of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests or other persons for whose conduct the owner or operator is responsible or by persons for whose conduct the owner or operator is not responsible but by the exercise of reasonable care would have prevented, or simply if once created the owner or occupant allows the public nuisance to continue after receipt of notice to have it abated.

§ 95.08 REMOVAL OF ICE AND SNOW.

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the municipality abutting upon any sidewalk to keep the sidewalk abutting this premises free and clear of snow and ice and to remove therefrom all snow and ice accumulated thereon within a reasonable time which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated. Failure to do so shall constitute a public nuisance. ('97 Code, § 6-105).

§ 95.09 GARAGE, PORCH, PATIO AND YARD SALES.

(A) No person, firm or corporation and no group or groups of persons shall organize, operate and maintain a garage, porch, patio, rummage, or yard sale zoned (residential sales) in any residential area or on any premises primarily used for residential purposes for any period or term exceeding four days after which the premises are to be cleaned up, and no person, firm, corporation, group or groups of persons may thus organize, operate or maintain such yard or garage sale more than four times a year.

(B) Residential sales shall be allowed provided the following conditions are met:

- (1) No merchandise other than normally found in a household may be sold;
- (2) The sale is conducted by the owner or occupant of the premises on which the sale is being conducted;
- (3) No signs are posted off the premises where the sale is occurring;
- (4) Sale hours do not exceed 7:00 a.m. to 8:30 p.m.; and
- (5) No traffic hazard is created by the sale of the people attempting to attend the sale. The Town Marshal shall determine the existence or non-existence of a traffic hazard.

(C) Failure to adhere to these requirements shall constitute creating a public nuisance. Each day of violation shall constitute a separate offense. The offense may be charged against the owner of the location, the party conducting the sale, or both. (Ord. 12-18-03, passed 12-18-03)

Litter and Dumping Regulations

§ 95.25 THROWING LITTER FROM VEHICLE.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the municipality or upon private property. Doing such acts shall constitute creating a public nuisance.

(97 Code, § 6-58)

§ 95.26 TRACKING FOREIGN MATTER ON STREETS.

No person shall drive or move any vehicle or truck within the municipality, the wheels or tires of which carry onto or deposit in any street, alley or other public way mud, dirt, sticky substances, litter or foreign matter of any kind. Doing such shall constitute creating a public nuisance.

(97 Code, § 6-59)

§ 95.27 HAULING LOOSE MATERIAL.

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt or loose material of any kind in or upon any street, alley, sidewalk or other public place shall haul it or cause it to be hauled in vehicles provided with the tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown, or deposited upon any street, alley, sidewalk or other public place. Any materials which fall from or which are thrown, blown or deposited from any vehicle upon any street, alley, sidewalk or other public place shall be removed immediately by the person in charge of the vehicles. Violating the requirements shall constitute creating a public nuisance.

§ 95.28 SWEEPING LITTER INTO GUTTERS.

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. Failure to adhere to these requirements shall constitute creating a public nuisance.

§ 95.29 MERCHANTS AND PROPERTY OCCUPANTS TO KEEP SIDEWALKS FREE OF LITTER.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the municipality the accumulation of litter from any building or lot or from any public or private sidewalk. Persons owning or occupying places of business within the municipality shall keep the sidewalk in front of their business premises free of litter. Displaying merchandise for sale on public sidewalks is prohibited, except in conjunction with annual sidewalk sale days approved by resolution of the Town Council. No person shall encumber or store material on any street or sidewalk so as to interfere with free and unobstructed use of said sidewalk or street. Failure to adhere to these requirements shall constitute creating a public nuisance.

§ 95.30 POSTING NOTICES.

No person shall post or affix any notice, poster or other paper or device which is calculated to attract the attention of the public to any lamp post, public utility pole or

shade tree or upon any public structure or building, except as may be authorized by law. Failure to adhere to these requirements shall constitute creating a public nuisance. ('97 Code, § 6-63)

§ 95.31 LITTER ON PRIVATE PROPERTY.

No person shall throw or deposit litter on any occupied private property within the municipality, whether owned by that person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon streets, sidewalks or other public places or upon any private property. Failure to adhere to these requirements shall constitute creating a public nuisance. ('97 Code, § 6-64)

§ 95.32 DUMPING OF TRASH PROHIBITED.

Depositing or dumping of trash, litter, junk vehicle or appliances or other litter or rubbish on town property is prohibited, except to the extent it is deposited in authorized, proper collection receptacles in such a manner that the item deposited in the receptacle will be prevented from being carried or deposited by the elements on the streets, sidewalks or other public places. Failure to adhere to these requirements shall constitute creating a public nuisance.

WEEDS AND RANK VEGETATION

§ 95.45 UNLAWFUL GROWTH.

The owner of any lot or parcel of land within the town shall during each of the months of April, May, June, July, August and September remove all weeds and rank vegetation of any kind growing upon the property greater than twelve inches. Failure to adhere to these requirements shall constitute creating a public nuisance.

(§ 97 Code, § 6-82) (Ord. 01-09-97, passed 1-09-97)

§ 95.46 NOTICE TO REMOVE.

(A) Pursuant to I.C. 36-7-10.1-1 et seq., the Town Council shall require the owners of real property in the town to cut and remove weeds or other rank vegetation growing on that property. A three-day written notice to remove the vegetation shall be issued by the Clerk-Treasurer and served by a law enforcement officer upon the landowner if he or she is a resident or by certified mail addressed to his or her last known address if he or she is a nonresident.

(B) The Town Marshal or his or her designee may issue a citation to a person violating this section. The first citation to an individual shall impose a \$100 fine. Each subsequent citation issued to an individual shall impose a penalty of an additional \$75 fine.

('97 Code, § 6-83) (Ord. 01-09-97, passed 1-09-97)

Nuisances; Health and Sanitation

§ 95.47 REMOVAL COSTS.

(A) If the landowner fails to remove the vegetation within the time prescribed, the town may remove the vegetation. The Clerk-Treasurer shall make a certified statement of the actual cost incurred by the town in the removal. The statement shall be delivered to the owner of the property by a law enforcement officer of the town or by registered mail, and the owner shall then make payment to the Clerk-Treasurer.

(B) If the landowner fails to pay the amount within ten days after receiving the statement, a certified copy of the statement of costs shall be filed in the office of the Auditor of the county in which the property is located. The Auditor shall place the amount claimed on a tax duplicate against the property affected by the work and the amount shall be collected as taxes are collected and shall be disbursed to the General Fund of the town.

(C) The cost of mowing properties in the town is a minimum of \$75 per hour per lot.

04/18/07

('97 Code, § 6-84) (Res. - -, passed 6-6-91; Am. Ord. 1996-3, passed 7-11-96; Am. Ord. 01-09-97, passed 1-09-97)

§95.48 RIGHT TO APPEAL.

Any person aggrieved shall have the right to appeal to the legislative body. The appeal shall be taken within 30 days after the notice. The legislative body shall act on the appeal within 30 days after its receipt.

TREE TRIMMING

§ 95.60 RESTRICTED BY SIDEWALKS.

It shall be unlawful for the owner of any shade trees or ornamental trees growing in any street in the town to allow any of the branches thereof to grow at a closer distance than 14 feet from the sidewalk level. ('97 Code, § 6-88) (Ord. - -, passed 6-28-29) Penalty, see § 10.99

§ 95.61 OBSTRUCTION OF STREET LIGHTS PROHIBITED.

It shall be the duty of the owner of every lot or part of lot fronting on any street or highway in the town to cause the shade trees in front of the lot or part of lot to be trimmed in such a manner that the branches will not obstruct the light of the electric street lights nor in any way impair the efficiency of the street lights in the town.
('97 Code, § 6-89) (Ord. - -, passed 6-28-29)

§ 95.62 TREE CUTTING REGULATIONS. (Repealed)

('97 Code, § 6-90) (Ord. - -, passed 6-28-29) Penalty, see § 10.99

NOISE

§ 95.75 LOUD AND UNNECESSARY NOISE PROHIBITED.

(A) It shall be a violation of this chapter for a person to make or allow property under his or her control to make any loud, raucous, improper, unreasonable, offensive or unusual noise which disturbs, injures or endangers the comfort, repose, health, peace, safety or quiet enjoyment of others within the town.

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(B) It shall be the duty of every real property owner, the owner or manager of any business in the town or motor vehicle driver operating a vehicle within the town to prevent persons using property under their control from violating this section.
(Ord. 8-19-99, passed 8-19-99)

§ 95.76 ENUMERATION OF CERTAIN PROHIBITED ACTS.

(A) The following acts, among others, are declared to be loud, raucous or disturbing noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive.

(B) The acts enumerated in this section are declared to be a public nuisance, but the enumeration of the particular offenses hereinafter particularly defined shall not be construed as limiting the generality of this section or limiting the offense hereunder to the particular offense hereinafter enumerated:

(1) Using, operating or permitting to be played, used or operated any radio receiving set, CD player, musical instrument, speakers, tape deck, public address or paging system or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated and who is a voluntary listener. The operation of any such set, instrument, phonograph, machine or device in such a manner to be plainly audible to any persons on or in an adjoining property, apartment, office, structure, sidewalk or vehicle shall be prima facie evidence of a violation of this chapter.

(2) Using, operating or permitting to be placed, used or operated any radio receiving set, musical instrument, CD player or tape deck, loudspeaker, sound amplifier, public address system or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(3) Yelling, shouting, whistling or singing on the public streets at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any commercial building or in any dwelling or other type of residence or of any person in the vicinity.

(4) The creation of any loud and raucous noise on any street adjacent to any school, library, church or court while the same are in use which unreasonably interferes with the working of such institution or which unduly disturbs persons in the facilities, provided conspicuous signs are displayed in the streets indicating that the same is a school, library or court street.

(5) The use of any sound creating instrument or device for the purpose of generating a sound to attract attention by creation of noise to any performance, show or sale.

(6) The participation in or permitting of any parties or gatherings which create loud or raucous noise.

(7) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(8) The use of any automobile, motorcycle or vehicle with appurtenances attached thereto so as to create loud or unnecessary grating, grinding, rattling or other noise.

(9) To operate, cause to operate or use a motor vehicle such as to cause excessive noise levels as a result of a defective or modified exhaust system or as a result of unnecessary rapid acceleration, deceleration, revving or tire squeal or as the result of the operation of audio devices such as but not limited to radios, CD players and tape players on or from such vehicle.

(10) To intentionally or unintentionally utilize or engage an engine exhaust or compression regulating system or similar device installed on a diesel engine which results during the braking, freewheeling or deceleration of the engine and the vehicle upon which it is installed noise greater than that which occurs when that same engine is under acceleration. Noise caused by the activity shall be considered excessive noise and is prohibited. (Ord. 8-19-99, passed 8-19-99)

(C) In addition to the standards set forth above any noise or sound shall be considered excessive noise and a nuisance if it exceeds a noise level of 85 decibels (dba) based on a distance of measurement 15 feet from the noise source. Decibel measurement shall be only one source of evidence for ordinance violation.

§ 95.77 EXEMPTIONS.

The following are exempted from the provisions of the foregoing section 95.76;

(A) Sound emitted from sirens of authorized emergency vehicles.

(B) Lawn mowers, garden tractors, farm equipment, remodeling, repair and construction tools and equipment being used on a job site and similar home power tools when properly muffled for up to four hours per day between the hours of 8:00 a.m. and 8:00 p.m.

(C) Burglar alarms on light motor vehicles of the electronic signaling type which transmit a nonaudible signal to a receiver which can be carried by the owner or operator of the vehicle.

(D) Celebrations on legal holidays (i.e., those recognized by the State of Indiana as paid holidays for State of Indiana employees) and celebrations in connection with duly authorized parades.

(E) Noise created on a manufacturing or commercial property in a properly zoned location as a result of the manufacturing or commercial business being conducted at said location after 7:00 a.m. in the morning and before 7:00 p.m. in the evening, provided it does not exceed 85 decibels.

(F) Church or worship center bells sounded in conjunction with a function or service.

(Ord. 8-19-99, passed 849-99)

§ 95.80 PARKING RESTRICTIONS

No parking of motor vehicles or trailers in excess of 8 feet shall occur, other than on town streets where permitted, and on off street paved or other hard surface areas. Gravel parking areas or driveways are acceptable "hard surfaces". Failure to use appropriate hard surfaces shall constitute creating a public nuisance by the owners of the motor vehicle or trailer.

Enforcement, Abatement and Appeal Procedure

§ 95.90 ABATEMENT PROCEDURE. PRIVATE REAL PROPERTY.

(A) If the offense is use, occupancy or an act involving private real property, it shall be the duty of an officer or agent designated by the legislative body to serve or cause to be served a notice upon all easily ascertained persons holding a substantial interest in any premises (i.e., occupant and owner) on which there is kept, maintained or occurring any nuisance in violation of the provisions of this chapter and to demand the abatement of the nuisance within a reasonable time stated in the notice no less than 48 hours and no more than 30 days. The notice shall contain a statement the recipient of the notice has a right to dispute the violation described in the notice by filing with the Town Clerk/Treasurer before the expiration of the time provided for abatement a request for review by the Town Council in which case the matter and action on the notice shall be delayed until the next Town Board meeting and said matter shall be placed on the agenda for review. Notice shall be served upon persons by any reasonable means, except where a specific means is required by state statute, in which case that means of notice shall be used, if the whereabouts of the persons is unknown and cannot be ascertained by the officer or agent in the exercise of reasonable diligence. The serving of notice may be made by posting a copy of the notice in a conspicuous place on the premises affected by the notice. However notice is given, the officer or agent shall make an affidavit or other written record of the date, method of giving notice, and shall file the same along with a copy of the notice with the Town Clerk.

(B) If the person so served does not request review by the Town Board or abate the nuisance within the reasonable period stated in the notice, the municipality may proceed to abate the nuisance, keeping an account of the expense of the abatement, and the expense shall be charged and paid by the owner or occupant. Notice of the costs and expenses incurred shall be provided in the same manner as notices of abatement to the

owner or occupant .Upon receipt of this notice, the occupant or owner of the real estate may request a review of the amounts and/or of any lien and may request an accounting of the proceeds, if any, from the disposition of items removed from the premises. The decision of the review by the Town Council shall be provided to the owner and/or occupant prior to any enforcement action.

- (C) Charges for nuisance abatement shall be a lien upon the premises.
- (D) The Town shall protect its right to a lien by recording a written instrument indicating that it claims a lien under this chapter and stating the amount due the Town. The amount due the Town shall accumulate interest on any unpaid balance at the rate of 10% per annum from the date of the recordation of the lien.
- (E) A copy of the lien described in division (D) of this section shall be delivered to the owner or occupier of the real estate. Failure or refusal to pay the amount within 30 days of its receipt will subject the owner or occupier to legal action by the Town's attorney to collect the amount due together with accrued interest, court costs, costs of collection and other costs and expenses that the court may allow or impose, including but not limited to attorney's fees for the town attorney.
(^{'97} Code, § 6-97) (Ord. 5-8-97(A), passed 5-8-97)
- (F) Except as specifically provided otherwise by Ordinance or state statute, the procedure for enforcement, abatement and appeal of nuisance ordinance violations shall be as provided herein, except that the instigation by the Town or by the alleged violator of any court proceeding regarding any alleged violation will terminate any appeal proceedings.

§ 95.91 NON-PRIVATE REAL ESTATE VIOLATION AND GENERAL VIOLATIONS.

Violations of nuisance ordinances not specific to use or occupancy of private real estate, or where no penalty or fine is specifically stated, shall be enforced by the issuance of a citation by town police officers and shall be further enforced or appealed in the same manner as any other misdemeanor citation issued by town police officers. The penalty for any such violation shall be an amount not to exceed \$2,000 and shall be no less than \$100. Each day the violation occurs shall be a separate offense. Violation of any town noise ordinance shall be enforced as stated herein and not in regards to use or occupancy of private property.

Notwithstanding the above, in the event the alleged nuisance is not immediately (within 48 hours) abated, the town may pursue abatement in the same manner as provided for the abatement of nuisance on private property and/or may pursue any other legal remedy.

Restrictive Covenants and Conditions

§ 95.92 REAL ESTATE DEVELOPMENTS.

Real estate developments, residential or commercial, which occur within the Town limits of Bristol, or outside, but are thereafter annexed into the Town of Bristol, which at the time of development record in the Elkhart County Recorder's office as part of said development's plat map, rezoning, or otherwise, covenants or conditions

04/18/07

regulating or restricting use or developing the land within said developments, the Town shall consider violations of those recorded covenants or restrictions as the creation of a public nuisance and may enforce said violation as otherwise provided for in the public nuisance sections of the Town Ordinances.

04/18/07