

## TOWN OF FRANCISCO

### Ordinance No. 2022-06: Nuisance

#### **This ordinance supersedes and replaces the following ordinances:**

Ordinance No. 2—July 16, 1920

Ordinance 2000-1—Sound Ordinance

Ordinance 2004-10—An Ordinance Pertaining to the Mowing or Removal of Weeds and Rank Vegetation

#### **DEFINITIONS**

For purposes of this ordinance, the word “nuisance” is hereby defined consistent with Ind. Code § 32-30-6-6 as the doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition, or thing either:

1. Injures or endangers the comfort, repose, health, or safety of others; or
2. Indecent; or
3. Is offensive to the senses; or
4. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage; or
5. In any way renders other persons insecure in life or the use of property; or
6. Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

#### **DESCRIPTIONS**

The maintaining, using, placing depositing, leaving, or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or constructed to be conclusive, limiting, or restrictive:

1. Weeds and other rank vegetation growing to more than twelve (12) inches high.

2. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber, or things.
3. Any condition which provides harborage for rats, mice, snakes, and other vermin.
4. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, kept in such an insanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
5. All unnecessary or unauthorized noises and annoying vibrations, including noises.
6. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
7. The carcasses of animals or fowl not disposed of within a reasonable time after death.
8. The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, or other substances.
9. Any building, structure or other place or location where any activity which is in violation of local, state, or federal law is conducted, performed, or maintained.
10. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
11. Dense smoke, noxious fumes, gas soot or cinders, in unreasonable quantities.
12. The unauthorized obstruction of any public street, road, or sidewalk.
13. Any abandoned vehicle, unlicensed vehicles, abandoned trailer or unlicensed trailer.
14. Any abandoned appliances including, but not limited to, refrigerators and freezers which have not had the door and locking mechanism removed.

## **UNSAFE BUILDING LAW**

Ind. Code § 36-7-9, et al., as amended from time to time is hereby adopted and incorporated by reference. Further, this ordinance incorporates by reference the definition of “substantial property interest” in Ind. Code § 36-7-9-2, as amended from time to time. This ordinance shall incorporate all portions of the referenced code section including, but not limited to, all requirements, limitations, findings, instructions, and definitions. Any restatements of any

particular provisions of the Code are included herein for administrative convenience and public information and are not intended to limit the inclusion of those portions of the Code that are adopted by reference only. Further, any provisions restated in this ordinance which are later amended by the legislature shall be superseded by such amendments.

The Town Board, or its designee, shall be authorized to administer and prosecute all provisions of this ordinance in inspecting and ordering the repair, removal or other remedy of any building or premises determined to be unsafe as specified by law. They may do so either with the permission of a landowner or by a court order signed by a judicial officer. The homeowner may request the presence of a uniformed law enforcement officer during said inspection.

All unsafe building or structures or portions thereof or unsafe premises within the Town which are determined to be unsafe as defined by this ordinance and the law incorporated by reference, are declared to be public nuisances and shall be abated by vacation of the unsafe building, sealing of the unsafe building, extermination of vermin, removal of trash or debris or hazardous materials, repair or rehabilitation, demolition or in any other manner as provided by the law incorporated by reference.

For purposes of this ordinance, a building or structure, or any part of a building or structure, that is:

1. In an impaired structural condition that makes it unsafe to a person or property;
2. A fire hazard;
3. A hazard to the public health;
4. A public nuisance as defined by I.C. §32-30-6-6;
5. Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
6. Vacant and not maintained in a manner that would allow human habitation, occupancy or use under the requirements of a statute or an ordinance; is considered an unsafe building.

For the purposes of this ordinance:

- a. An unsafe building; and
- b. The tract of real property on which the unsafe building is located;

are considered unsafe premises.

For purposes of this ordinance, a tract of real property that does not contain a building or structure, not including land used for production agriculture, is considered unsafe premises if the tract of real property is:

1. A fire hazard;
2. A hazard to public health;
3. A public nuisance as defined by I.C. §32-30-6-6; or
4. Dangerous to a person or property because of a violation of a statute or an ordinance.

A non-reverting unsafe building fund is established in the operating budget of the Town in accordance with Ind. Code § 36-7-9-14.

All requirements, limitations and instructions for issuing orders, providing notice; modifying or rescinding orders, holding hearings, appeals, emergency actions, actions to enforce orders, liability for the costs of performance of work required by orders, payment of costs, management of the unsafe building fund and transfer of monies, inspection warrants, civil actions, judgments, injunctions, performance bonds, civil forfeitures, appointment of receivers and rehabilitation property, transfers of property, violations, penalties and any and all other requirements, limitations and instructions and definitions of Ind. Code § 36-7-9, et al. are hereby incorporated by reference.

## **NOISE**

The Town Council of the Town of Francisco, Gibson County, Indiana, declares it to be a public nuisance to generate sound in violation of this Ordinance.

Generation of sound in violation of this Ordinance may infringe on the rights of property owners and others in the peaceful and quiet enjoyment of their property.

The generation of excess sound in violation of this ordinance may present a danger to the public by preventing drivers or pedestrians from hearing emergency vehicles or audible signals of other drivers or distracting drivers and pedestrians from dangers in the public way.

The Town Council of the Town of Francisco, thereby states as follows:

1. No person shall play, use, operate or permit to be played, used or operated, any radio, tape player, cassette player, compact disc player, loudspeaker, sound amplifier or other device designed for generating or reproducing sound, if the sound generated is audible by another human being at a distance of thirty (30) feet from the device producing the sound.
2. Possession by a person or persons of any of the sound generating machines or devices enumerated in no. 1 above, shall be prima facie evidence that such person operates, or those persons operate, the machine or device.
3. The generation of sound in violation of this Ordinance is deemed to be a public nuisance.

4. Exemptions.

- (a) This Ordinance shall not apply to properly operating vehicle alarms, authorized emergency vehicle, vehicle horns used as a warning of danger or public safety officials acting within the scope of their authority.
- (b) This Ordinance shall not apply to licensed festivals, parades or any activity authorized by governmental authorities.
- (c) This Ordinance shall not apply if the sound is generated on private property and the sound generated cannot be heard beyond the boundary lines of the private property on which it is generated.

5. A custodial parent shall be responsible for ensuring a minor child complies with this Ordinance and is responsible for any fine imposed. Minor shall mean a person under eighteen (18) years of age.

6. A person who violates this Ordinance shall be subject to the following fines:

First offense	\$ 50.00 fine payable within 30 days
Second offense	\$200.00 fine payable within 30 days
Third or subsequent offense	\$ 350.00 fine payable within 30 days

**PROHIBITED**

Any person who causes, permits, maintains, or allows the creation or maintenance of a nuisance shall be punishable by a fine not to exceed:

First offense	\$ 50.00 fine payable within 30 days
Second offense	\$200.00 fine payable within 30 days
Third or subsequent offense	\$ 350.00 fine payable within 30 days

Every day any violation of this ordinance exists shall constitute a separate offense. (State law reference – Power of Town to prohibit use of property in a way which endangers health, safety, and welfare. Ind. Code § 36-8-2-4.)

**NOTICE TO ABATE**

Whenever a nuisance is found to exist within the Town, a duly designated officer of the Town may give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

Said notice shall specify a period which is not less than ten (10) days during which the owner or occupant must abate the nuisance prior to incurring fines as described herein.

Nuisances meeting the definition of indecent nuisances pursuant to I.C. §32-30-7-1 *et. seq.* or drug nuisances pursuant to I.C. §32-30-8-1 *et. seq.* will prescribe the amount of notice consistent with those chapters. The period during which a nuisance must be abated shall begin on the day notice was received by the owner or occupant of the land.

## **CONTENTS OF NOTICE**

The notice to abate a nuisance issued the provisions of this ordinance shall contain the following:

1. An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances and not less than ten (10) days.
2. The location of the nuisance, if the same is stationary.
3. A description of which constitutes the nuisance.
4. A statement of acts necessary to abate the nuisance.
5. A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the Town may abate such nuisance and assess the cost thereof against such person.

## **SERVICE OF NOTICE**

The notice to abate a nuisance shall be served as authorized by law.

## **ABATEMENT BY TOWN**

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this ordinance to abate the same, a duly designated officer or employee of the Town may proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof. (State law reference – Power of Town to correct conditions which are in violation of ordinances, Ind. Code § 35-1-6-2.)

## **RECOVERY OF TOWN'S COSTS**

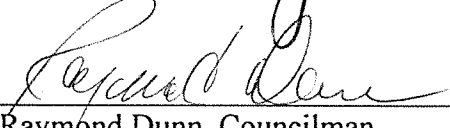
All costs incurred by the Town in the abatement of a nuisance under the provisions of this ordinance shall constitute a lien against the property upon which such nuisance existed and shall be certified by the Clerk-Treasurer to the County Auditor who shall cause such costs to be placed upon the tax duplication of the owner of such property and such costs shall then be collected from the owner as other taxes are collected.


In addition, such costs shall be a debt which may be collected by the Town in an appropriate civil action. (State law reference – Powers of Town to obtain lien for expenses incurred in correction ordinance violations, Ind. Code § 36-1-6-2.)

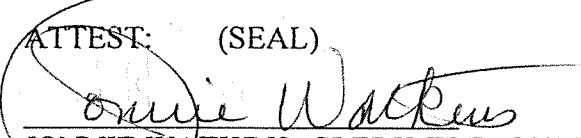
**PASSED AND ADOPTED** by the Town Council of the Town of Francisco, Indiana, this  
13<sup>th</sup> day of September, 2022.

TOWN COUNCIL, TOWN OF FRANCISCO, IN

  
\_\_\_\_\_  
Steven A. Krieg, President

  
\_\_\_\_\_  
Raymond Dunn, Councilman

  
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Harold L. Everett, Councilman

ATTEST: (SEAL)  
  
\_\_\_\_\_  
JONNIE WATKINS, CLERK-TREASURER  
TOWN OF FRANCISCO, INDIANA