

**ORDINANCE NO. 7-11-05-1**

**An Ordinance regulating the use and possession or property in the Town of Milan, Indiana, which might endanger the public health, safety or welfare of its citizens.**

Be it Ordained by the Town Council of the Town of Milan, Indiana, (the *Town*):

**Article I General Provisions.**

**A. 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. (Statutory reference: Regulation and control of conduct and property for reasons of public health, safety and welfare authorized, see **Ind .Code §36-8-2-4**)

**B. Preservation of Public Peace and Order.**

The Town may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system. (Statutory reference: Authority to preserve public peace and order, see **I.C. §36-8-2-2**)

**C. 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. (Statutory reference: Regulation of air and sound, see **I.C. §36-8-2-8**)

**D. Authority to Regulate Public Gatherings.**

The Town may regulate public gatherings, such as shows, demonstrations, fairs, conventions, sporting events, and exhibitions. (Statutory reference: Regulation of public gatherings, see **I.C. §36-8-2-9**)

**E. Offenses Against Public Health, Order and Decency.**

1. All offenses against public health, order or decency not addressed by

this Code shall be governed by applicable State Statute.

2. Except as specifically set forth herein, any violation of any provision of this Chapter shall be subject to the penalties provided by § \_\_\_\_\_ of this Code. (Statutory reference: Additional regulations, see **I.C.** §35-45-1-1, et. seq.)

**F. Obscene Material.**

It shall be unlawful for any person to post in any conspicuous or public place within the Town any obscene, lewd, indecent or lascivious drawing, photograph, or picture of an indecent or immoral nature as defined in **I.C.** §35-49-2-1. (Statutory reference: Matters or performances harmful to minors, see **I.C.** §35-49-2-2; Obscene matters or performances, see **I.C.** §35-49-2-1)

**G. Littering Prohibited.**

1. No person shall throw or place or deposit any rubbish, litter or any refuse matter or any foreign matter of any kind in any street, sidewalk, alley or public place in the Town.
2. No person shall haul on any street or alley any rubbish, ashes, earth, sand, stone, or other material liable to become scattered on the streets, except in a vehicle provided with a closed or open box well closed on the side so as to retain such materials. No person shall scatter any such materials from any vehicle upon any street or alley.

**H. Barbed Wire and Electric Fences Prohibited.**

No person shall maintain or construct any fence composed in whole or in part of barbed wire or similar material designed to cause injury to persons, or any wire charged with electric current, within three feet of any street, sidewalk, alley or other public way or place, except in an Agricultural District. (Statutory reference: Fence regulations, see **I.C.** §32-10-1-1, et. seq.)

**I. Damage to Streets and Public Property Prohibited.**

No person shall deface, injure or remove any part of any sidewalk, street or alley pavement, or any street sign, lamp post, gutter, curb, drain, sewer,

culvert, tree or any other appurtenance in any street, unless authorized so to do by the Town.

**J. Handbills and Advertising Restricted.**

1. It shall be unlawful for any person, in or upon any public street or right-of-way, sidewalk, alley or other public place in the Town to display any banner, placard, advertisement or handbill, and to use the same to promote any private purpose, or for thereby soliciting any business.
2. This section shall not apply to such temporary lawful and harmless displays for meetings, charities, church suppers, etc., or when a permit therefore has been issued by the Town Clerk-Treasurer.

**K. Posting of Signs on Trees and Poles Prohibited.**

1. No person shall attach any sign, advertisement or notice to any tree, pole or shrub in any street or public place, or anywhere within the public right-of-way of any street or on any public property.
2. This section shall not prohibit traffic and street signs posted by proper authorization.

**L. Obstruction of Streets and Sidewalks by Overhanging Trees or Shrubs Prohibited.**

1. Any tree or shrub which overhangs any sidewalk, street or other public place in the Town so as to impede or interfere with traffic or travel shall be trimmed by the owner of the abutting premises or of the premises on which the tree or shrub grows so as to remove the obstruction. Traffic vision shall be made to conform to the subdivision and zoning regulations of the Town.
2. Any tree or limb of a tree which is likely to fall on or across any street, sidewalk or other public place shall be removed by the owner of the premises on which such tree stands.
3. The Town may trim or remove any tree or shrub which obstructs or endangers traffic or travel on any street, sidewalk or other public

place, or any sub-surface utility provided for public use.

**M. Erection of Poles and Wires Prohibited Without Permit.**

No person shall erect or maintain any poles or wires on or over any street, alley or other public way without a permit as addressed in \_\_\_\_\_ of this Code.

**N. Height Regulations for Awnings.**

No person shall erect or maintain any awning over any sidewalk unless all parts of the awning are at least seven feet above the surface of the sidewalk.

**O. Games on Streets Prohibited.**

No person shall play any game upon any street.

**P. Display of Goods for Sale on Public Property Prohibited.**

No person shall use any street, sidewalk or other public place for the display or sale of goods or merchandise, or write or affix any signs or advertisements on any pavement. All persons must comply with the provisions of \_\_\_\_\_ regarding licensing.

**Q. Drain Obstruction Prohibited.**

No person shall obstruct any gutter or drain in any street.

**R. Cleaning Sidewalks of Debris Required.**

The occupant, or the owner where there is no occupant, of the property adjoining any public sidewalk shall keep the sidewalk free of debris and any foreign matter.

**S. Burning on Streets or Sidewalks Prohibited.**

It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets or sidewalks within the corporate limits of the Town.

**T. Planting and Removal of Trees and Shrub Regulations.**

1. Within the Town, no person shall plant trees between the street and the sidewalk and/or property line unless they are in compliance with regulations, rules and specifications adopted by the Milan Beautification Committee (*MBC*).
2. The owner or person in control of the dominant real estate adjacent to the area between the street and the sidewalk and/or property line on which any removal of the tree or shrub is planted shall comply with the rules and regulations adopted by the MBC.
3. If any tree or shrub planted pursuant to this section shall, in the opinion of the MBC, create a hazardous obstruction to vision which may endanger vehicular or pedestrian traffic, then said tree or shrub shall be appropriately trimmed or removed pursuant to the rules adopted by the MBC.
4. If any tree or shrub planted pursuant to this section shall cause damage to any street, curb or sidewalk, then said tree or shrub causing such damage shall be removed and the damage repaired by the dominant land owner or person in control as set forth by the MBC.
5. The Town and all public utilities retain their ownership and right to access to the area between the street and the property line of the dominant owner and retain the right to reasonably remove any tree or shrub impeding necessary work to be performed by the Town and/or all public utilities, or other properly authorized users.
6. Public utilities are not exempt from the responsibility for the replacement of street trees which must be removed due to construction and maintenance unless otherwise directed by the Town.
7. Public utilities may trim street tree roots and branches as necessary for the maintenance of utility service as prescribed by state law and the rules and regulations adopted by the Street Tree Committee. The cost of such tree care is the responsibility of the affected utility.

8. Violation of any provision of this section shall be deemed an Ordinance Violation and any person violating the provisions hereof shall be fined an amount not to exceed \$2,500 for each independent offense or violation.

## **Article II. Nuisances.**

(Statutory reference: Actions for nuisances, see I.C. §34-19-1, et. seq.)

### **A. Public Nuisances.**

#### **1. Public Nuisances Prohibited.**

- a. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.
- b. An agricultural operation or any of its appurtenances is not and does not become a nuisance, private or public, by any changed conditions in the vicinity of the locality after the agricultural operation has ben in operation continuously for more than one (1) year if there is no significant change in the hours of operation, there is no significant change in the types of operation, and the operation would not have been a nuisance at the time the agricultural operation began on that locality.

**2. Public Nuisances Defined.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- a. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public; or
- b. In any way render the public insecure in life or in the use of property; or
- c. Greatly offend the public morals or decency; or
- d. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley,

highway, navigable body of water or other public way; or

- e. Is injurious to health, or indecent, or offensive to the senses, or an obstruction to the full use of property, so as essentially to interfere with the comfortable enjoyment of life or property. (Statutory reference: Nuisance defined, see **I.C.** §34-1-52-1)

**3. Public Health Nuisances.** The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition hereof:

- a. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- b. Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;
- c. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, junk vehicles, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or may be a fire hazard;
- d. All stagnant water in which mosquitoes, flies or other insects can multiply;
- e. Garbage cans which are not fly-tight, or not kept clean;
- f. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Town limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;
- g. The pollution of any public well or cistern, stream, river, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;

- h. Any use of property, substances or things within the Town emitting or causing foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health or any appreciable number of persons within the Town; or any slaughter house;
- i. All abandoned wells not securely covered or secured from public use;
- j. All noxious weeds;
- k. Any accumulation of junk, rubbish, scrap metal, automotive parts, building materials, machinery, dead trees, or parts thereof, upon any premises in a residential area;
- l. Any structure used for the collection or deposit of trash or garbage that has an open door allowing access into said structure, except when the door is open to allow the structure to be used for the deposit or removal of trash or garbage, or to allow the structure to be cleaned or repaired.

#### **4. Public Nuisances Offending Morals and Decency.**

- a. The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition hereof.
  - i. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;
  - ii. All gambling devices and slot machines;
  - iii. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled,

manufactured or rectified without a permit or license as provided for by this Code or State law;

- iv. Any place or premises within the Town where Town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated;
- v. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Indiana or the ordinances of the Town.

b. Public nuisances offending morals and decency shall also mean:

- i. Any place in or upon which prostitution (as described in **I.C.** §35-45-4);
- ii. Any public place in or upon which deviate sexual conduct (as defined in **I.C.** §35-41-1) or sexual intercourse (as defined in **I.C.** §35-41-1); or
- iii. Any public place in or upon which the fondling of the genitals of a person; is conducted, permitted, continued, or exists, and the personal property and contents used in conducting and maintaining the place or such a purpose. (Statutory reference: Actions for indecent nuisances, see **I.C.** §34-19-2

## **5. Public Nuisances Affecting Peace and Safety.**

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of this section:

- a. All buildings erected, repaired or altered within the Town in violation of the provisions of the ordinances of the Town,

Ripley county, of the State of Indiana, relating to materials and manner of construction of buildings and structures.

- b. All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing.
- c. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- d. All limbs of trees which project over a public sidewalk less than eight feet above the surface thereof or less than ten feet above the surface of a public street.
- e. All use of display of fireworks except as provided by the laws of the State of Indiana and ordinances of the Town.
- f. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use; or shall be an invitation to children and endanger the lives of such children, or which, because of its condition has become a fire hazard.
- g. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground.
- h. All loud and discordant noises or vibrations of any kind, except as may be permitted under a zoning ordinance.
- i. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town of which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished.

- j. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalks.
- k. All abandoned refrigerators, iceboxes or similar containers from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside by pushing only with the strength of a small child.
- l. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- m. Any sign, marquee, or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalks less than eight feet above the sidewalk surface.
- n. Any nuisance so defined by the Indiana Code.

**6. Abatement of Public Nuisances.**

- a. **Inspection of premises.** Whenever complaint is made to the President of the Town Council that a public nuisance exists or has existed within the Town, the President shall promptly notify the Town Manager, or some other Town official whom the President of the Town Council shall designate, who shall forthwith inspect or cause to be inspected the premises and shall make a written report of the findings to the President of the Town Council. Whenever practicable, the inspection officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk-Treasurer.
- b. **Summary abatement.**
  - i. **Notice to owner.** If the inspection officer shall determine that a public nuisance exists on private

property and that there is a great and immediate danger to the public health, safety, peace, morals or decency, the President of the Town Council may direct the Town Marshal or a deputy sheriff, to serve a notice on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of the notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.

- ii. **Abatement by Town.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Town Manager, or some other Town official whom the President of the Town Council shall designate, shall cause the abatement or removal of such public nuisance.
  
- c. **Abatement by court action.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the President of the Town Council, who shall cause an action to abate such nuisance to be commenced in the name of the Town. (Statutory reference: Town Attorney authorized to bring action to abate or enjoin nuisance, see **I.C. §34-19-2-2**)
  
- d. **Cost of Abatement.** In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person

causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes.

### **Article III. Graffiti.**

#### **A. Definitions.**

1. ***Graffiti*** shall include markings which deface, deform, mar or which cause the defacing, deforming, or marring of any public or private property including by way of illustration and not limitation, buildings, trees, lampposts, poles, hydrants, bridges, piers, sidewalks, streets, and alleyways, or the surface of any public or private property located upon any public thoroughfare or right-of-way, or upon any public place within the Town. However, this section shall not prohibit the posting of notices required by law to be posted.
2. ***Owner*** shall mean all public and private property owners in the Town.

#### **B. Violations, penalties.**

1. It shall be unlawful for any person to cause the appearance of graffiti on public or private property within the limits.
2. Any person who violates this section shall, upon conviction, be fined in an amount not to exceed \$2,500.
3. All fines collected pursuant to the immediately preceding subsections (a) and (b) herein shall be deposited in a special fund (the ***Fund***) for reimbursement to qualified owners of expenses incurred pursuant to this section.

#### **C. Owners.**

1. Any owner or tenant shall notify the Milan Police Department (the ***Department***) within 48 hours of the appearance of graffiti on their property.

2. Upon notification, the Department shall cause an inspection of the graffiti to be made, a police report to be filed, and shall begin an investigation as the Department deems necessary and prudent. A copy of the police report shall be forwarded to the Town Manager for purposes of commencement of deadlines and notification requirement contained herein.
3. Once an inspection has been made, the owner shall have ten business days in which to remove or cover the graffiti.
4. Noncompliance with the removal provision of this section shall occur at the expiration of the ten business-day period if the graffiti has not been either removed or covered.
5. In the event of such noncompliance, the Town Manager shall issue a written notice to the violating owner. Said notice shall order the owner to correct the noncompliance by removal and/or covering of the graffiti within five days of receipt of notice. Such notice may be served either personally on the owner or sent by certified mail with a return receipt requested. If the owner is a nonresident of the Town, notice shall be sent to owner's last known address.
6. Expenses incurred by the owner in abating the violation may be reimbursed from the Fund upon compliance with reporting procedures and removal time frames. No reimbursement will be made if the owner does not comply with the requirements set forth herein.
7. If the owner fails to abate the violation within the time prescribed by the notice, the owner shall be deemed to have granted permission to the respective Town official to cause a designee of the Town to enter the property for the limited purpose of covering and/or removing such graffiti.
8. The Clerk-Treasurer shall make a certified statement of the actual cost incurred by the Town in such covering and/or removal, and issue a bill for such costs, including administrative costs and removal costs, which bill shall be delivered to the owner either by hand or by certified mail, return receipt requested. The owner shall, within ten days of receipt or refusal of such notice, pay the amount

due at the Clerk-Treasurer's office.

9. Any notice of violation or bill issued under this section may be appealed to the Town Council if notice of appeal is given to the Clerk-Treasurer within seven days of the owner's receipt or refusal of the notice of violation. The Town Council shall hear any properly requested appeal at a regularly scheduled meeting within 30 business days following receipt of such appeal request and shall make a determination at the meeting at which it hears the appeal or at its subsequent regularly scheduled meeting.
10. If the owner fails to pay a bill issued under this section within the time specified, the Clerk-Treasurer shall certify to the Ripley County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the Town.
11. Nothing contained herein shall be construed to preclude any criminal investigation by any other law enforcement agency.

#### **Article IV. Removal of Weeds, Debris, and Other Such Rank Vegetation.**

1. **Definitions.**
  - a. *Debris* shall include the remains of something broken-down or destroyed.
  - b. *Rank Vegetation* shall include those weeds and growing vegetation which is excessively vigorous in growth, shockingly conspicuous, malodorous and/or flagrant.
  - c. *Weeds* shall include any plant that is not valued where it is growing, and is of rank growth, tends to overgrow or choke out more desirable plants and/or is listed as a weed in the U.S. Department of Agriculture publication entitled Common Weeds of the United States, or in any similar government publication.

2. **Violation.** It is a violation of this section to have weeds, rank vegetation and/or debris on any real property located within the Town's corporate limits.
3. **Requirement to cut.** All owners of real property located within the Town shall cut and remove weeds and other rank vegetation growing thereon that exceeds an average height of six inches, and shall keep their property clear of debris.
4. **Violation Notice.** In the event of a violation of this section, the Town Manager and/or his designee, or an officer of the Police Department shall issue a written notice (*Violation Notice*) to the violating landowner. The Violation Notice shall identify the violation and order the landowner to correct the same within seven calendar days from the date on which the Violation Notice is served on the landowner (*Abatement Period*). Personal service, service by U.S. certified mail or any other manner service recognized in the **Indiana Rules of Trial Procedure** shall constitute proper service upon the landowner for purposes of this section.
5. **Appeal.** Any Violation Notice issued pursuant to this section may be appealed to the Town Council if written notice of appeal is served on the landowner. The timely appeal of a Violation Notice shall toll the abatement period pending the issuance of a decision thereon by the Town Council.
6. **Town to abate.** If the landowner fails to timely abate each violation set forth in a Violation Notice, the landowner shall be deemed to have granted permission to the Town to enter the landowner's property for the limited purpose of cutting and/or removing such debris, weeds or rank vegetation located thereon and identified in the Violation Notice. In such case, the Town Manager, or his designee, shall prepare a certified statement as to the actual administrative and other costs incurred by the Town in taking such action, and serve a copy of the invoice on the landowner. The landowner shall, within seven calendar days from the date on which the landowner is served with such invoice (*Payment Period*), pay in full the amount stated thereon to the Clerk-Treasurer.

7. **Appeal of costs.** Any invoice issued pursuant to this section may be appealed to the Town Council if written notice of appeal is served on the Clerk-Treasurer within seven calendar days from the date on which the invoice is served on the landowner. The timely appeal of an invoice shall toll the payment period pending the issuance of a decision thereon by the Town Council.
8. **Failure to pay.** If the landowner fails to timely pay an invoice issued pursuant to this section, the Clerk-Treasurer shall certify to the Ripley County Auditor the amount of the invoice, plus any additional administrative costs incurred in the certification of the same. The Auditor shall place the total amount so certified on the tax duplicate for the property at issue, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the Town.
9. **Time of appeals.** The Town Council shall hear any timely requested appeal of a Notice of Violation or invoice within 30 calendar days following receipt of the same, and shall thereafter promptly issue a written decision granting or denying, in whole or in part, the appeal. The date on which the Town Council's decision is served on the landowner shall thereafter become the first calendar day of the abatement period or payment period, as applicable.
10. **Penalty.** Any person who violates any provision of this section shall be subject to a penalty of up to \$500.00. Each day that a violation continues shall constitute a separate offense.
11. **Court.** Any Court situated in Ripley County, Indiana, shall have venue and jurisdiction for the enforcement of this section.
12. **Supplemental Remedy.** This section supplements and does not limit any other remedy or action available in law or in equity regarding the subject matter hereof.  
  
(Statutory reference: Removal of weeds and rank vegetation, see I.C. §36-7-10.1-3, et. seq.)
13. **Collection of Monies from Property Owners.** If the owner fails to pay said sum assessed for the removal and/or cutting of the debris,

weeds, or rank vegetation within the time prescribed, the Clerk-Treasurer shall file a certified copy of the statement of costs in the Auditor's office of Ripley County, and the Auditor shall place the amount so claimed on the tax duplicate against the lands of the landowner affected by the lien, and the same shall be collected as taxes disbursed to the General Fund of the Town.

#### **Article V. Animal Regulations.**

- A. It shall be unlawful for any person to maintain cows, swine, chickens, horses, sheep, goats or ducks within the limits of the Town in any area consisting of less than three acres, except in an Agricultural District.
- B. **Cattle, Dairy Cattle, and Hogs Prohibited.** It shall be unlawful for any person to keep within the Town any feeding lots or barns for the stabling and feeding of any cattle, dairy cattle or hogs, for feeding or dairying purposes; or to erect or maintain any stock pens to be used for feeding pens or lots for cattle or hogs. All pens for such purposes are declared a nuisance and dangerous to the public health of the citizens of the Town.
- C. **Poisoning Dogs and Cats Prohibited.** It shall be unlawful for any person to place, feed or make available to any dog or cat any poison or poisoned food or other substance for the purpose of poisoning, killing, destroying or harming such animals.
- D. **General Animal Care.** Every person responsible for any animal located within the Town shall ensure that such animal:
  - 1. Is kept in a clean, sanitary and healthy manner and is not confined so as to be forced to stand, sit or lie in excrement.
  - 2. Has sufficient wholesome food and water which is proper and nutritional for that species of animal.
  - 3. Has a proper and adequate structure provided that is kept in a sanitary manner and that will protect the animal from all elements of the weather and will allow the animal to stand, sit and lie down without restriction.
  - 4. Receives proper veterinary care as necessary to treat illness, disease

and/or injury, to prevent the transmission of disease to other animals or human beings and to promote good animal health.

5. Is not beaten, cruelly treated, overloaded, overworked or otherwise abused.
6. Is not abandoned, neglected or tortured.
7. Does not become a public nuisance under **I.C. §34-1-51-1**, or otherwise.
8. Does not, unprovoked, bite, kick, butt, claw, assault, attack or otherwise create a danger to the health and/or safety of other animals or human beings.
9. Is properly vaccinated and/or licensed as required by law.
10. Is prevented from running at large on property other than private property owned or lawfully occupied by its Owner by means of a leash, chain or other appropriate physical restraint.
11. Is not left unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal.
12. Is not transported in the open bed of a vehicle unless confined in an appropriate manner so as to reasonably prevent the animal from jumping or being thrown from same.
13. Does not defecate on the property of another unless the person responsible for the animal immediately thereafter removes or has removed from such property as much of the feces as is reasonably possible.

#### **Article VI. Junk and Junk Cars.**

- A. **Definition of Junk and Junk Cars.** The word ***Junk*** used in this division shall mean any articles in any form composed of or consisting of any of the following enumerated secondhand, discarded, abandoned or cast-off metals or materials, namely, iron, brass, bronze, copper, tin, zinc, lead or any other metals or compounds thereof, broken glass, rags, clothing, rubber, plastics,

and synthetic substances and fabrics, bottles, papers, feathers or any other waste material or any compound or by-product of the foregoing enumerated materials; junk shall also include and mean, wrecked, abandoned or dismantled automobile or parts thereof. for the purpose of this division, a Junk Car shall mean any motor vehicle which does not bear a currently valid license plate, and is not kept in a garage or building.

- B. **Junk and Junk Cars Declared Nuisances.** Because of the danger of health by vermin and insects and because of the danger of the safety of children attracted by junk or junk cars, abandoned and junked motor vehicles are declared to be nuisances except in lawfully operated junk yards.
- C. **Storage Prohibited.** It shall be unlawful for any person to store or to allow to remain in the open upon public or private property within the Town, any disassembled and/or non-operative and unlicensed, or junked, wrecked or abandoned motor vehicle for a period of five days or more on public property, or a period of 15 days or more on private property unless it is in connection with an automobile sale or repair business.
- D. **Abandoned Vehicles.** (Statutory reference: Abandoned vehicle regulations, see **I.C.** §9-22-1, et. seq.
- E. **Abandoned Vehicles Declared Public Nuisances.** Because of the danger to the health from vermin, the danger of personal injury to children attracted by such vehicles, danger of fire by the storage of gasoline and oil thereon, any abandoned, unlicensed, inoperable, disassembled, wrecked or junked motor vehicle on any street or public property for more than five days or upon any private property for more than 15 days, except as hereinafter provided, is declared to be a nuisance and unlawful.
- F. **Abandoned Vehicle Defined.** Abandoned Vehicle means:
  - 1. A vehicle located on public property illegally, or a vehicle left on public property continuously without being moved, for more than five days;
  - 2. A vehicle mechanically inoperable located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;

3. A vehicle that has remained on private property without the consent of the owner, or person in control, of that property, for more than 15 days;
4. A vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperable and left on public property;
5. A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than in **I.C. §9-22-1-1 et seq.**, if the vehicle once impounded is not claimed or redeemed by the owner or his agent within 15 days of its removal; or
6. A vehicle that is six or more model years old and mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 30 days.
7. All other terms defined in **I.C. §9-22-1-1, et. seq.**, as amended, are incorporated herein by reference thereto.

**G. Time Limits.** It shall be unlawful for any person to store or allow to remain in the open upon any public street, public property or private property within the Town, any disassembled or inoperable and unlicensed, or any junked, wrecked or abandoned motor vehicle for a period of five days or more on such public street or other public property, or for a period of 15 days or more on any private property, unless it is in connection with an automotive sales or repair enterprise, which is operated under a duly issued and exhibited store license and is located in a properly zoned area.

**H. Removal Procedures on Public and Private Property.**

**1. Public property.**

- a. Whenever the Town Marshal or his designee shall find such vehicle placed or stored in the open upon a public highway, alley, or thoroughfare, or other public property, within the Town, he shall issue an order to the owner of such vehicle, if known, to remove such vehicle within three days.

- b. Notice of such order shall be given to such owner, if known, in writing, but if such owner shall be unknown, such written notice shall be placed in plain view upon the vehicle.
- c. If such vehicle is not removed within three days after such notice, the Town Marshal, or his designee shall cause said vehicle to be removed by a junk or salvage yard or wrecker service, the cost and expense of such removal by a junk or salvage yard or by a wrecker service to be paid by the owner of the vehicle.
- d. Impounded vehicles shall be released either upon payment by the owner, operator, or authorized representative of same, of the fees charged for towing and storage, or upon order of the Town Marshall or his designee, or upon the order of the Judge of a Court of competent jurisdiction.
- e. The form of all notices shall be issued pursuant to the provisions of **I.C. §9-22-1-11**.

2. **Private property.**

- a. Whenever the Town Marshall or his designee shall find such vehicle placed or stored in the open upon private property, within the Town, he shall issue an order to the owner of such vehicle, if known, or the person who owns or controls the private property upon which such vehicle is placed or stored according to the procedures set forth in **I.C. §9-22-1-11** through **§9-22-1-14**.
- b. Impounded vehicles shall be released either upon payment by the owner, operator, or authorized representative of same, of the fees charged for towing and storage, or upon order of the Town Marshall or his designee, or upon the order of a Court of competent jurisdiction.

**I. Enforcement.**

- 1. If such vehicle is not removed within three days after such notice,

the Town Marshall, or his designee shall issue a written order of violation hereof and enforcement shall be by the Town Attorney or his designee, and appropriate action by a Court of competent jurisdiction.

2. The form of all notices shall be issued pursuant to the provisions of **I.C. §9-22-1-11**.
3. Any person who is judged to have violated the provisions of this Code is subject to a fine of up to \$500 in addition to towing and storage charges.
4. All provisions and respective civil penalties are designed for enforcement through court of competent jurisdiction..

**J. Disposing and Sale of Stored Vehicles.** The provisions of **I.C. §9-22-1-27**, et. seq., shall govern the disposition and sale of stored vehicles.

1. **Abandoned Vehicle Fund.** The Abandoned Vehicle Fund as established in Chapter 2 of this Code, shall be governed by the provisions of **I.C. §9-22-1-30**.
2. **Exempt Vehicles.** This division does not apply to:
  - a. A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;
  - b. A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;
  - c. A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility;
  - d. A vehicle located upon property licensed or zoned as an automobile scrap yard; or
  - e. A vehicle registered and licensed under **I.C. §9-18-12**, as an antique vehicle.

**K. Towing and Storage Charges of Abandoned Vehicles.** An owner or lien

holder who claims a vehicle impounded and declared abandoned by the Milan Police Department shall be charged a towing fee and a per day storage fee. The storage fee shall be allowed to accumulate for a maximum period of 60 days. (Statutory reference: Town Council required to establish charges and means of disposition of vehicles by ordinance, see **I.C.** §9-22-1-30)

## Article VII. Vicious Animal Regulations.

- A. **Definitions.** For the purposes of this division the following definitions shall apply unless the context clearly indicates or requires a different meaning:
1. ***Animal Control Officer*** shall mean any person or persons employed, contracted for or appointed by the Town for the purpose of aiding in the enforcement of this division, including any officer of the Milan Police Department whose duties in whole or in part include assignments which involve the enforcement of this division.
  2. ***Enclosure*** shall mean a fence or structure of at least six feet in height or other structure suitable for preventing the entry of young children, and for confining a vicious animal therein, in conjunction with other measures which may be taken by the owner or approved by the Animal Control Officer. An enclosure shall be securely designed, constructed and locked so as to prevent a vicious animal from escaping therefrom. The enclosure shall conform to the building codes and zoning requirements of the Town.
  3. ***Owner*** shall mean any person, firm, corporation, organization, or department processing, harboring, keeping, possessing or having custody or control of a vicious animal.
  4. ***Vicious Animal*** shall mean any one of the following:
    - a. Any animal which, when unprovoked, in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon streets, sidewalks, or any other public grounds or places; or
    - b. Any animal with a propensity, tendency or disposition to attack unprovoked. Evidence of such propensity, tendency or disposition shall include, but not be limited to, lunging at a fence in a vicious or terrorizing manner in apparent attitude of attack when someone walks by or by chasing any person; or
    - c. Any animal which causes injury to or otherwise endangers the safety of human beings or domestic animals; or

- d. Any animal which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or
  - e. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for animal fighting; or
  - f. Any animal not licensed according to any applicable Federal law and/or any applicable State law other than **I.C. 15-5-9-1**;
5. Notwithstanding the above definition of vicious animal, no animal shall be declared vicious if:
- a. An injury or damage is sustained from the animal by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime; or
  - b. Any injury or damage is sustained from the animal by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the animal at issue or was on the property of the owner of such animal; or
  - c. The animal was protecting or defending a human being within its immediate vicinity from an unjustified attack or assault;
  - d. The animal is a K-9 patrol dog or police dog owned or kept by a law enforcement agency and is being used in the line of duty or for law enforcement purposes.
6. **Notification of Change of Circumstances.**
- a. The owner of a vicious animal shall notify the Milan Police Department immediately upon becoming aware that the

vicious animal is on the loose, is unconfined, or has attacked another animal or human being.

- b. The owner of a vicious animal shall notify the Milan Police Department within 24 hours if the vicious animal has died, or has been sold or given away.
- c. If a vicious animal has been sold or given away, the owner shall also provide the Milan Police Department with the name, address and telephone number of the new owner of the vicious animal within 24 hours of the time such action occurred.
- d. The owner of a vicious animal who fails to comply with the provisions of this section shall be subject to a fine of up to \$2,500.

**7. Control of Vicious Animals.**

- a. All vicious animals shall be confined in an enclosure. It shall be unlawful for any owner to maintain a vicious animal upon any premises which does not have an enclosure.
- b. It shall be unlawful for any owner to allow any vicious animal to be outside of the dwelling of the owner or outside of its enclosure unless it is necessary for the owner to obtain veterinary care for the vicious animal or to sell or give away the vicious animal, or to comply with commands or directions of the Animal Control Officer, a Milan Police Department officer or to comply with the provision of this division which requires the vicious animal to have a tattoo or other identifying permanent mark. In such event, the vicious animal shall be restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, or other appropriate device, and shall be under the direct control and supervision of the owner of the vicious animal. In addition, the vicious animal shall be muzzled or otherwise restrained in such a manner that will prevent the animal from biting or otherwise inflicting injury on a person or animal, but that will not cause injury to the vicious animal or interfere

with its vision or respiration.

8. **Exemption.** If an animal is determined to be a vicious animal under and solely on account of that definition in this Code, such ruling shall become null and void as of the date on which the Owner of such animal fully complies with all applicable Federal and/or State laws concerning the licensing of such animal.

9. **Inquiry.**

a. The Animal Control Officer is empowered to make whatever investigation he deems necessary to ensure compliance with the provisions of this division, including, but not limited to, obtaining a search warrant from a court of competent jurisdiction.

b. Any person may file a complaint that a vicious animal is being harbored within the Town. Such complaint shall be filed with the Milan Police Department on a written form provided by the Milan Police Department. The Animal Control Officer shall conduct an investigation upon the receipt of such a complaint.

10. **Penalties.**

a. Subject to the above provisions of this Code, upon a finding by a court of competent jurisdiction that an animal is a ***Vicious Animal*** as defined in this Code, and such vicious animal:

(a) Does not have a valid permit in accordance with the provisions of this division; or

(b) Has an owner who had not secured or maintained liability insurance in accordance with the provisions of this division; or

(c) Is outside of its dwelling, or outside of its enclosure in violation of the provisions of this division; or

- (d) Is not tattooed or otherwise permanently marked in accordance with the provisions of this division.

Such vicious animal shall be confiscated by the Animal Control Officer and, upon order of a other court of competent jurisdiction, destroyed in an expeditious and humane manner. In addition, the owner of the vicious animal shall pay a fine of up to \$2,500.

- b. If a vicious animal shall, when unprovoked, kill wound, or assist in killing or wounding a domestic animal, the vicious animal shall be confiscated by the Animal Control Officer and, upon order of a court of competent jurisdiction, be destroyed in an expeditious and humane manner. In addition, the owner of such vicious animal shall pay a fine of up to \$2,500.
  - i. If a vicious animal shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the vicious animal shall be confiscated by the Animal Control Officer and, upon order of a court of competent jurisdiction, be destroyed in an expeditious and humane manner. In addition, the owner of such vicious animal shall pay a fine of up to \$2,500.
  - ii. The penalty provisions of subsections (i), (ii), and (iii) above shall not apply unless the animal, prior to the offense alleged, shall have been declared to be a vicious animal pursuant to the provisions of this division.

#### 11. **Determination of a Vicious Animal Status.**

- a. In the event the Animal Control Officer reasonably believes that an animal is a vicious animal as that term is defined in this Code, he or she is empowered to refer the matter to a court of competent jurisdiction for the purpose of determining whether or not the animal in question should be declared a vicious animal for purposes of this section of this Code.

- b. Pending such court hearing, the court decision, and any appeal thereof on the issue of whether an animal should be declared a vicious animal, the Animal Control Officer is empowered to seize and impound the animal. The owner of such animal shall be responsible for the reasonable costs and expenses of such impoundment.
  - c. Whenever a court of competent jurisdiction determines that an animal is a vicious animal, it shall allow an appropriate time for the appeal of such decision and/or of any penalty imposed by the court as a result of such decision, and, if the court orders such animal to be destroyed, for any medical tests which may need to be performed on the animal.
- 12. **Costs of Enforcement.** All costs associated with the enforcement of this division shall, to the maximum extent possible, be assessed to the owner of a vicious animal in violation of this division. Such costs shall include, but not be limited to, the costs of investigating whether the animal is vicious, as well as the costs of capturing, impounding and boarding the vicious animal.
- 13. **Miscellaneous Provisions.**
  - a. In any case arising under this division, the burden of proof shall be upon the owner of an animal to prove that any action by such animal was *provoked*.
  - b. Whenever it is necessary to make an inspection of or enter onto private property in order to enforce any of the provisions of, or perform any duty imposed by, this division, or an Animal Control Officer has reasonable cause to believe that the keeping or maintaining of an animal constitutes a public nuisance or is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, such Animal Control Officer shall, if time and circumstances permit, first attempt to present proper credentials to the occupant of the property on which such animal is located and request entry thereon, explaining the reasons therefor. If entry is refused or cannot be obtained, or time and circumstances do not reasonably allow the above

procedures to be followed, such Animal Control Officer shall have the power to secure lawful entry to and inspect the property.

- c. Nothing in this division shall be construed to limit any other rights or actions, criminal or civil, in law or equity.
- d. Nothing in this division shall be construed to in any way limit any law enforcement officer from exercising his legal authority to seize and/or destroy any animal as a public nuisance, in order to protect person and property, or otherwise.
- e. If any section, subsection, paragraph, sentence, clause, or phrase of this division is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this division so long as enforcement of same can be given the same effect.

#### **Article VIII. Noise Regulations.**

- A. No person shall play, use or operate any machine or device for the producing or reproducing of sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs and cassette players, nor any other machine or tool that produces sound, nor shall any person operate any motor vehicle that contains a modified or defective exhaust system, if such machine, tool or vehicle is located in or on any of the following:
  - 1. Any public property, including any public right-of-way, highway, building, sidewalk, public space, park or thoroughfare and the sound generated therefrom is (A) audible 40 feet or more from its source, or (B) is at a level of 90 decibels or more when measured on a dB(A) scale from a distance of not less than six feet from its source; or
  - 2. Any is (A) audible 40 feet or more outside of said private property line, or (B) is at a level of 90 decibels or more when measured on a dB(A) scale from a distance of not less than six feet from said private property line.

- B. The following are exempted from the provisions of this section:
1. Sounds emitted from authorized emergency vehicles.
  2. Lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts and power tools, when properly muffled, between the hours of 6:00 a.m. and 10:00 p.m. only.
  3. Burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.
  4. Parades, festivals, carnivals, fairs, celebrations, concert performances, band and drum corps performances, and artistic performances, as well as any rehearsals for same, and all other events authorized by the Board of Public Works and Safety or other appropriate governmental entity.
  5. Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.
  6. The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency construction, repair or other work.
  7. Sounds associated with the use of legal fireworks.
  8. Sounds associated with the normal conduct of legally established non-transient businesses, organizations and governmental entities, when such sounds are customary, incidental and within the normal range appropriate for such use.
  9. Rubbish collection utilizing any mechanical equipment between the hours of 6:00 a.m. and 9:00 p.m. only.
  10. Subject to the other provisions of this section, and any other applicable law, rule or regulation, those sounds associated with motor vehicles lawfully operating on Town streets.

11. Sounds associated with equipment or animals lawfully utilized by handicapped persons to accommodate their handicap.
  12. Sounds associated with the operation of aircraft or snow removal equipment.
- C. No person shall keep any animal, other than a service animal lawfully used by a handicapped person to accommodate his handicap, which, by causing frequent or long-continuing noise that is audible 40 feet or more from its source when the animal is on public property or 40 feet or more outside of a private property line when the animal is on private property, does disturb the comfort or repose of any other person.
- D. Any person who violates the provisions of this section shall be guilty of an infraction, punishable by a fine of not more than:
- |                                |               |
|--------------------------------|---------------|
| First offense                  | Up to \$ 250  |
| Second offense                 | Up to \$ 500  |
| Third offense                  | Up to \$1,000 |
| Fourth and subsequent offenses | Up to \$2,500 |
- E. Any Court of competent jurisdiction shall be the court of proper venue and jurisdiction for the enforcement of this section.
- F. Citations for violation of this section may be issued by any member of the Milan Police Department

(Statutory reference: Regulation of air and sound authorized, see **I.C.** §36-8-2-8)