

Chapter 7.24 Miscellaneous Nuisances.

7.24.010 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context indicates a different meaning.

(1) Nuisance. A condition or activity which endangers the health, safety, or welfare of the public or any individual; causes injury to property; or unreasonably interferes with an individual's possession or ordinary use or enjoyment of his or her property.

(2) Declared Nuisance Conditions. A nuisance that has been present in the City of Jasper and is expressly declared as a Nuisance under Chapter 7.24.030.

(3) Reasonable. An action or behavior that is rational, appropriate, ordinary, or usual under the existing circumstances.

(4) Unreasonable. An action or behavior that is clearly inappropriate, excessive, or harmful and lacks justification.

(5) Property. Any home, shelter, barn, or other structure found on a property and the lawn or grass areas within the property boundaries.

7.24.020 Common Law and Nuisances. In addition to what is a Declared Nuisance Condition in this chapter, those offenses which are known in the common law and those that are which are identified according to statutes of Indiana as public nuisances, where any such nuisance exists within the City, may be treated as such and be proceeded against as a Declared Nuisance Condition would be in accordance with the provisions of law.

7.24.30 Declared Nuisance Conditions.

(1) Noise. The making, causing, or permitting to be made of any noise which, because of its loudness and frequency, unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the city.

A. Such noises can include, but are not limited to:

1. Sounding Horns or Bells;
2. Engines, Mufflers, and Exhaust;
3. Music;
4. Radios;
5. Speakers;
6. Animals; and
7. People.

- B. The factors, standards, and conditions which shall be considered in determining whether a violation of the provisions of this section has been committed, include, but are not limited to, the following:
1. The level of noise;
 2. Whether the nature of the noise is usual or unusual;
 3. Whether the origin of the noise is natural or unnatural;
 4. The level and intensity of the background (ambient) noise, if any;
 5. The proximity of the noise to residential or commercial sleeping areas;
 6. The nature and zoning of the area within which the noise emanates;
 7. The density of inhabitation of the area within which the noise emanates;
 8. The time of day and night the noise occurs;
 9. The duration of the noise;
 10. Whether the noise is constant, or recurrent or intermittent; and
 11. Whether the noise is produced by a commercial or noncommercial activity;
 12. If the noise is produced by a commercial activity, whether the use is lawful under the provisions of Title 16, Unified Development Ordinance, and whether the noise is one that could reasonably be expected from the commercial activity;
- C. -The following uses and activities shall be exempt from the noise regulations set forth in this chapter:
1. Those who can substantiate that animal noise, otherwise in violation of this section, was caused by an injury or illness of the animal(s) or by willful trespass, torment, or abuse of the animal(s) on its property by others.
 2. Noises of authorized safety signals and warning devices;
 3. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency or any other public safety operation;
 4. Noises resulting from emergency work, which is to be construed as work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger; and including work by private or public utilities when restoring utility service.

- (2) **Cisterns and Vaults.** All open or uncovered cisterns, cellars, wells, pits or vaults situated in any open or unfenced lot or place within the City of Jasper. Further, the cover placed on the cistern, cellar, well, pit or vault must be covered with a heavy, permanent and tight cover, or filled with a tightly compact material, and secured in such a manner and of such a construction that a small child cannot open or remove the cover.
- (3) **Property Maintenance.** It is the purpose of this section to establish a minimum standard for the maintenance of the grounds of property, within the City of Jasper, in order to protect the public health, public safety, property values and to prevent nuisance conditions. Grounds includes primary, appurtenant, and accessory structures such as homes, garages, sheds and fences.

- A. All ~~grounds or parts thereof~~ property shall be maintained to prevent unsafe, unsanitary and/or nuisance conditions and to avoid any adverse effect on the value of adjoining and neighboring properties. Any use or condition of property or portion thereof, including buildings, structures, mobile homes, and vehicles located thereon, shall be maintained in order to avoid unsafe conditions, injurious to the health, safety, and welfare of the public or the occupants of the property. Property shall be maintained so as to avoid conditions that attract, harbor or provide a breeding place for insects or rodents, create a fire hazard, are indecent or offensive to the senses, or which unlawfully obstruct the passage or use in the customary manner in a park, square, street, easement or highway.
- B. ~~Materials intended for the private use of the property owner, including, but not limited to items such as firewood, may be stored on the property as long as such material is screened from all public ways and from all abutting properties and is not in violation with any other code section.~~
- ~~B-C.~~ Examples of items and materials or conditions which are considered to be nuisance conditions include, but are not limited to ~~accumulation, for more than one week, on any part of the property of~~ the following:
- ~~1. Refuse;~~
 1. Accumulation, for more than one week, on any part of the property of trash, refuse, junk including items such as:
 - a. Household trash;
 - ~~2. Junk;~~
 - ~~a.b.~~ Batteries;
 - ~~b.c.~~ Rubber including tires;
 - ~~c.d.~~ Unused or inoperable appliances and operable appliances located outside, but intended for indoor use;
 - ~~d.e.~~ Broken, worn and/or unused furniture or any furniture designed for indoor use;
 - ~~3. Inoperable machinery;~~
 - ~~a. Dead, decayed, diseased or hazardous trees which constitute an unsightly appearance, or present a danger to public safety and welfare, or are detrimental to neighboring properties or property values.~~
 - ~~b.f.~~ ~~Discarded~~ Unused, inoperable or discarded mechanical supplies, such as plumbing ~~or~~, heating, air conditioning, supplies, etc.;
 - ~~c.g.~~ Old or scrap metals (i.e. copper, brass, iron, steel) or other ferrous or non-ferrous material;
 - ~~d.h.~~ ~~Dirt, salvage~~ Salvage materials, including lumber ~~or~~, dirt, and other debris;
2. **Any structure in a state of substantial deterioration**, including but not limited to:

- a. peeling ~~paint~~ on a façade,
- b. broken windows,
- c. roof in disrepair,
- d. damaged porch, ~~and/or~~
- e. broken steps or other deterioration or disrepair,

that is visible from a public street, sidewalk, or from neighboring properties, where such conditions would have a tendency to depreciate substantially the aesthetic environment or property values of surrounding properties.

~~4.—~~

3. **Trees and other vegetation.**

a. Dead, decayed, diseased or hazardous trees which constitute an unsightly appearance, or present a danger to public safety and welfare, or are detrimental to neighboring properties or property values.

a.b. Trees or other vegetation obstructing visibility at an intersection, or which restrict or impede access to public use of adjacent sidewalks or streets, obstruct official traffic-control devices, or prevent access by city street sweepers cleaning streets.

~~5.4.~~ Clotheslines or clothes hanging in front yards, on front porches, or balcony railings and visible from a public street;

~~6.5.~~ Attractive nuisances dangerous to children, including but not limited to ~~abandoned, broken or neglected equipment, machinery, dilapidated structures, refrigerators and freezers,~~ hazardous excavations and hazardous pools, whether or not they contain any water or liquid.

~~7.6.~~ Items for Sale. Any item or combination thereof for sale on a property for more than 7 days per month. There shall not be more than ~~—two (2)~~ items for sale at one time ~~unless being sold in conjunction with a yard or garage sale;~~

~~8.7.~~ **Vehicles.** The parking ~~or storing~~ of any vehicle, visible to the public, in the lawn or landscape area of any front, ~~side or back~~ yard, ~~visible to the public~~ or ~~neighbors~~ corner lot side yard facing a street of a property designed or used as a residence, except on an area that is paved, shall be prohibited, ~~unless on an impervious surface.~~

a. Vehicles subject to these provisions include all ~~motorized and nonmotorized vehicles that are permitted to be driven on public streets, including, but not limited to, cars, trucks, trailers, boats, campers, recreational vehicles, farm equipment, motoreycles and boats, dirt bikes, ATV's snowmobiles and dune buggies~~ or motorized vehicles.

b. ~~Impervious~~ Paved surfaces shall include concrete, asphalt, grouted continuous brick, ~~cobblestone, turf block or or~~ any similar, ~~durable and dustless~~ surface.

c. The ~~impervious~~ paved surface, which includes existing driveways, shall not exceed 40% of the entire front or street side yard area. ~~If concrete runners are used, the area between the runners shall be counted as part of the total surfacing area.~~

- d. Vehicles parked in any front or street side yard shall not be parked in such a manner that it creates a hazard for pedestrians or other vehicular traffic.
- e. Semi-trailers detached from the truck tractor, or other vehicles detached from the primary mode of transportation including, but not limited to, trailers, recreational vehicles, farm equipment, boats, campers, or similar vehicles, shall not be parked upon any public street of the City of Jasper, ~~Indiana~~ provided, however, that the terms of this Section shall not apply to semi-trailers in the process of being unloaded or loaded.
- ~~f. The following provisions shall be enforced, consistent with the provisions of the City of Jasper Unified Development Ordinance:
 - ~~i. Parking areas, spaces and aisles, including both required minimum excess parking spaces, shall not be used for storing vehicles that are not used in conjunction with the primary use of the lot.~~
 - ~~ii. Parking areas, spaces and aisles, including both required and excess parking spaces, shall not be used for storing merchandise or display of merchandise.~~
 - ~~iii. Motor Vehicle Repair: Motor vehicle repair work in parking areas shall be permitted in residential districts, provided that the vehicle under repair is owned by the occupant of the residential property; the frequency, duration and scope of such use is reasonable and customary as accessory to the residential use; and no business is being conducted in conjunction with such repair use. Repair work in parking areas, including both required and excess parking spaces, shall be prohibited in all other zoning districts.~~
 - ~~iv. Parking of Nuisance Vehicles:
 - ~~1. Vehicles and Trailers: The parking of any vehicle or trailer of any type without current license plates or in an inoperable condition shall be prohibited within a parking area.~~
 - ~~2. Storage, Occupancy, Sales or Similar Uses: Vehicles, campers or tractor/trailers of any type shall not be parked and used for the purpose of storage, occupancy, sales or similar use.~~
 - ~~3. Wrecked Motor Vehicle Repair: No wrecked or inoperable motor vehicle shall be stored in an unscreened parking area while awaiting repair.~~~~~~

~~9.8.~~ **Entryways.** Any property on which one or more entryways to the primary structure is hindered from use by items such as weeds, shrubbery, debris, trash, junk or any other item identified in this ordinance;

~~10.9.~~ Items obstructing streets, sidewalks and drainage;

- a. Any item, including but not limited to trees and shrubbery, the growth of which interferes with the use or maintenance of/or causes damage to public rights-of-way, including streets, alleys and sidewalks;
- b. Any item that causes an obstruction to a public drainage system.

- (4) **Light.** The making, causing, or permitting to be made of any light that is disrupting the health, safety, or welfare of the neighborhood or surrounding area. Examples of light that could be disruptive include:
1. Any light that shines into the property of a neighboring property owner and disrupts the neighboring property owner;
 2. Any flashing lights that could affect the health of an individual in the surrounding area.
- (5) **Odor.** The making, causing, or permitting to be made of any unnecessary, noxious, offensive, or unhealthy odor by any person that disturbs the neighborhood or surrounding area. Such odor can include:
1. Animals;
 2. Animal waste;
 3. Smoke – see Jasper Municipal Code §§5.10.090 and 5.10.100;
 4. Gases;
 5. Manure, except for manure that is applied as part of an operating farm located in an Agriculturally zoned area;
 - ~~5.6.~~Trash;
 - ~~6.7.~~Plants; and
 - ~~7.8.~~Any source that could create an unnecessary, noxious, offensive, or unhealthy odor.

7.24.040 Enforcement and Penalty. Any person, persons, firm or corporation causing or maintaining any nuisance, by violating any of the provisions of this chapter commits a Class D code violation for the first violation, a Class C code violation for the second violation, and a Class B code violation for the third or subsequent violation. Each day's operation or maintaining of said nuisance or any part thereof shall be a separate violation.

7.24.050 Administrative Liability. No officer, agent, or employee of the City of Jasper shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the City of Jasper as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the City attorney until the final determination of the proceedings therein.

Chapter 7.26 Swimming Pools, Hot Tubs, and Spas.

7.26.010 Swimming Pools, Hot Tubs, and Spas

- (1) **Private Residential Swimming Pools.** This section shall apply to private residential swimming pools, including a receptacle for water or an artificial pool of water having a depth of more than 42 inches, intended for the purpose of immersion or partial immersion therein of human beings, installed and maintained in or above the ground, outside of a building, used for a one and two family dwelling unit; provided that such private residential swimming pool is maintained by an individual primarily for the sole use of his household

and guests and not for the purpose of profit or in connection with any business operated for profit.

- (2) Hot Tubs and Spas. A unit constructed of wood, plastic, concrete, metal, or other solid non-collapsible material intended for the purpose of immersion or partial immersion therein of human beings, installed and maintained in or above the ground outside of a building used for a one and two family dwelling unit; provided that such device is maintained by an individual primarily for the sole use of his household and guests and not for the purpose of profit or in connection with any business operated for profit.
- (3) Fences & Covers. All private residential swimming pools shall be completely enclosed by a fence.
 - a. Inground Swimming Pool Fences. For all fences installed as enclosures for inground swimming pools, no openings shall exist larger than four inches in dimension, except for doors and gates. All fence openings or points of entry into the pool shall be equipped with gates. The fence and the gates shall be a minimum of four feet in height above the walk grade level. All gates and doors shall be equipped with self-closing and self-latching devices placed at the top of the gate and made inaccessible to small children.
 - b. Hot tubs, and spas. Hot tubs and spas need not be fenced if they are covered with a heavy, permanent and tight cover, and secured in such a manner and of such construction that a small child cannot open or remove the cover.
 - c. Above-ground Swimming Pool Fences. Above-ground swimming pools need not be fenced if their side walls are at least four feet in height, or when a fence is secured on top of the side pool walls to a minimum of four feet in height as measured from ground level. Furthermore, an above-ground swimming pool, installed temporarily (not more than 48 hrs) need not be enclosed by a fence.
- (4) Swimming pool covers shall not constitute an enclosure in lieu of a fence.
(Ord. 2019-40, S1, Dec. 18, 2019)

7.26.020 Enforcement and Penalty. Any person, persons, firm or corporation causing or maintaining any nuisance, by violating any of the provisions of this chapter commits a Class D code violation for the first violation, a Class C code violation for the second violation, and a Class B code violation for the third or subsequent violation. Each day's operation or maintaining of said nuisance or any part thereof shall be a separate violation.

7.26.030 Administrative Liability. No officer, agent, or employee of the City of Jasper shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the City of Jasper as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the City attorney until the final determination of the proceedings therein.