

EXHIBIT A
NUISANCE ORDINANCE
TOWN OF JOHNSTON

Section 1 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building: means any structure which is intended to be used by humans but not specifically included in the term "dwellings."

Dwelling: means any dwelling or structure, or part thereof, used and occupied for human habitation.

Junk includes, but is not limited to abandoned barrels or drums, dismantled or inoperable industrial or commercial equipment or machinery, and the following old scrap, or used items: metal, rope, wire, batteries, cardboard, plastics, pallets, appliances, motors, industrial or commercial fixtures, rubbish and wrecked or dismantled motor vehicles.

Residential area means any property developed primarily for the residential use of three or more dwellings within 1,000 feet of each other.

Rubbish: means all refuse, rejected tin cans, old vessels of all sorts, useless litter, discarded clothing and textiles, and all other things naturally included in such term.

Section 2- General prohibition.

It is declared as the policy of the town council that any act of any person, group, or business within the incorporated area of the town whereby the health or life of any person may be endangered, injured, or impaired, whereby disease may directly or indirectly be caused by the act, or whereby because of the act any property may be endangered, injured, or damaged is hereby declared to be a nuisance and unlawful.

Section 3 - Specific acts or noise restricted.

Specific acts of nuisance may include but are not expressly restricted to:

- (1) The owner, occupant, or agent of any owner or occupant of one or more lots, parcels, or areas within the town:
 - a. Permitting the premises to become unsanitary or a fire menace by allowing any offensive or unsafe matter to grow, accumulate, or otherwise occupy and remain upon such premises;
 - b. Permitting pools of water to accumulate and remain upon the premises and become stagnant and foul;
 - c. In a residential area allowing junk, disabled cars and trucks, trash, waste, old lumber, or used tires to accumulate and remain upon premises as a possible harborage for rats, snakes, and other vermin;

- d. Allowing the accumulation of abandoned or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers;
 - e. Allowing the accumulation of any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin, or other disease-carrying pests, animals, or insects; but the presence of earthworms in a compost pile shall not constitute a nuisance;
 - f. Keeping or permitting another to keep upon any premises deleterious septic material unless such material is contained in containers or vessels which deny access to humans, flies, insects, rodents, vermin, and animals;
 - g. In a residential area maintaining livestock, chickens, or groups of other domestic animals in such a manner as to allow the spread or harboring of disease, emit unpleasant odors or harmful gases, or attract rodents, vermin, or other disease-carrying pests, animals, or insects;
 - h. Maintaining a premises or a building in a condition which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located;
 - i. Allowing any partially dismantled, wrecked, junked, discarded, or otherwise nonoperating motor vehicle to remain on such property longer than ten days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential area, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise.
- (2) Any unreasonably loud or disturbing noise that causes material, physical, or mental discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof; and any noise of such character, intensity, or intermittent or continued duration which substantially interferes with the comfortable enjoyment of dwellings, or other types of residences by persons of ordinary sensibilities. The following acts, whether on or within public or private property, and the causing or permitting thereof, are hereby specifically declared to be unreasonably loud and disturbing noises in violation of this section:
- a. The playing or permitting the playing at any time of any radio, tape recorder, phonograph, portable television set, loudspeaker, sound amplifier, amplified or unamplified musical instruments, live music of any kind, or any other sound-producing device by any person while inside a public or private building, public or private modes of transportation, indoor or outdoor public sports area, or any other public or private area in such a manner or with such volume as to unreasonably disturb the quiet, comfort, or peace of the public or private residences;
 - b. The harboring or keeping of a dog or other animal or bird that by loud and frequent or habitual barking, howling, yelping, crying, crowing, cackling, or singing shall cause disturbance to the neighborhood;
 - c. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public or private place of the town for an unnecessary or unreasonable period of time, or with such volume as to create any unreasonably loud or harsh sound; provided that the prohibitions of this section shall not apply to the sound of any horn or signaling device when used as a danger warning; and further provided that authorized emergency vehicles may use warning sounds at any time;
 - d. The discharge into the open air of the exhaust of any steam engine, gasoline engine, stationary internal combustion engine, or other kind or type of engine, or motor vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises therefrom;

- e. The use of any wagon, cart, automobile, truck, motorcycle, or other vehicle so out of repair or loaded in such a manner or with material of such nature as to create loud or irritating grating, grinding, rattling, or other noises;
 - f. The creation within the town of loud or excessive noise in connection with loading or unloading of any vehicle, or the opening or destruction of bales, boxes, crates, containers, or the like, without exercising reasonable care to limit such noise and to confine the same;
 - g. The operation within the town between the hours of 8:00 p.m. and 7:00 a.m. of any pile driver, power shovel, pneumatic hammer, derrick, or hoist, or other appliance, the use of which is attended by loud or disturbing noises;
 - h. The operation of any noise-creating blower or power fan, the operation of which causes loud or disturbing noise, unless such blower or fan is muffled to deaden such noise;
 - i. The creation of any loud, irritating, or disturbing noise in the vicinity of any school, church, or neighborhood while the same is in use or occupied, and which unreasonably interferes with the workings of such institution, or which disturbs persons of ordinary sensibilities within these buildings or neighborhoods. Signs shall be displayed at or near such a public building indicating that the same is a school, or church. The term "neighborhood" shall be defined as one or more houses;
 - j. Yelling, shouting, hooting, whistling, singing, loud music (live or recorded), or any other amplified or unamplified equipment on the public or private streets or other public or private areas (to include residences) of the Town at any time or place of such duration, frequency, or volume as to disturb the peace, quiet, comfort, or repose of persons in the vicinity of the disturbances listed above;
 - k. The use or operation of any mechanical or electrical device, apparatus, or instrument to amplify, intensify, produce, or reproduce a human voice or any other sound when the sound from such activity is noticeably audible as to disturb the peace, quiet, comfort, or repose of persons in the vicinity of the disturbances
 - l. The loud playing of sound reproduction devices, amplifiers, loudspeakers, and other sound devices in any public park, outdoor public place, or privately owned or controlled courtyard or outdoor areas, including from vehicles, the sound and/or noise which is audible as to disturb the peace, quiet, comfort, or repose of persons in the vicinity of the disturbances.
- (3) The owner, occupant, agent of any owner or occupant, or user of any one or more lots, parcels, or areas within the Town using such lot or any building or erection thereon for the purposes of lewdness, prostitution, gambling or for the sale or distribution or consumption of any illegal substance are all declared a nuisance and shall be abated as provided for in this section;
- (4) Any person who makes any excessive, unnecessary, or unusually loud noise which disturbs others within the unincorporated areas of the Town. The term "excessive, unnecessary or unusually loud noise" means any sound which is plainly audible at a distance of 200 feet from its source. Sounds from emergency vehicles, churches, schools, lawn mowers, and other yard maintenance equipment and construction and public works machinery and equipment are exempt from the provisions of this section.

Section 4 - Complaints/ investigation.

Wherever the Town, through the Mayor or Council, shall receive complaints from three or more residents of the Town who reside within 1,000 feet of the property line of the lot, lots, parcels, or areas where the alleged nuisance exists or where a member of town council becomes aware that there exists a situation which is harmful to the general health, safety, welfare, or security of the community, shall institute an investigation to determine if there is a reasonable basis for the complaint. The town can request that other agencies or

departments assist them in making such a determination. The Police Chief or designated officer is hereby authorized to exercise the powers prescribed herein. In the exercise of these powers, the officer may:

1. Investigate the dwelling conditions in order to determine if the dwellings are unfit for human habitation.
2. Administer oaths and affirmations, examine witnesses and receive evidence.
3. Enter upon premises for the purpose of making examinations, provided such entries be made in such manner as to cause the least possible inconvenience to the persons in possession.
4. Fix the duties of such officers, agents and employees as they deem necessary to carry out the purposes of this article.
5. Delegate any of their functions and powers under this section to such officers and agents as they may designate.

Section 5 - Voluntary abatement.

If there is a reasonable basis for a complaint the officer shall, by formal contact attempt to get the person, persons, or entities to willingly and voluntarily abate the nuisance or correct the situation within 30 calendar days of the date of the warning. The officer shall have the authority to enter into any agreement to abate as may be appropriate provided that the same does not commit the town to expend any public funds in any form or nature, be it monetary, equipment, or personnel.

Section 6 - Assistance of county or state government.

If, after taking the actions provided for in section 5, the officer is not successful in getting the person, persons, or entities to willingly and voluntarily abate the nuisance or correct the situation about which complaints are received, they shall then request the appropriate agency or department of county or state government to assist in having the nuisance abated or the situation corrected.

Section 7 - Summons to appear in magistrate's court.

If the nuisance is not abated within a 30-day period, unless a delay is caused by another government agency, the officer may issue a summons to the property owner or responsible party. If the nuisance cannot be abated within a 30-day period and the property owner or responsible party has attempted to remedy the nuisance, the officer may extend the 30-day period an additional 30 days before issuing the summons.

Section 8 - Abatement by town/ lien.

If the owner fails to comply with an order to remove and demolish the dwelling or remove the junk, the town council Chief may cause such nuisance to be removed, cleaned up, demolished or otherwise abated. Any such public funds used to abate the nuisance shall be deemed to be a lien upon the real property upon which the cost was incurred and shall be recorded in the registrar of mesne conveyance.

The court may determine that the situation is so harmful or injurious to health, security, general welfare and safety of the community that the town may hire a contractor to expend funds to abate the nuisance. If the owner or the responsible person fails to comply with an order to remove, clean up, demolish, or abate the nuisance within the time frame defined by court, the town may cause such nuisance to be removed, cleaned up, demolished or otherwise abated. Any such public funds used to abate the nuisance shall be deemed to be a lien

upon the real property upon which the cost incurred, shall be recorded in the registrar of mesne conveyance, and shall be collected in the same manner as other town taxes.

Section 9 - Court action.

- (a) Complaints concerning nuisances described in subsections 3[(2) and (4)] made by one or more residents of the town within 1,000 feet of the affected property may be investigated by the officer. The officer, upon witnessing, observing or hearing a violation of subsections 3[(2) and/or (4)], may issue a warning or may issue a citation against any violator of said sections with such charge or charges to be adjudicated by the magistrate's court.
- (b) The town council may instruct their attorney to institute an action in the appropriate court seeking injunctive relief requiring the person, persons, entity or entities to abate any nuisance or to cease and desist from the offending behavior. In addition, the town council authorizes the court to utilize the penalties as stated in Section 10.99 Penalties.