

TITLE IX: GENERAL REGULATIONS

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CARE OF PREMISES**§ 90.01 CLEANLINESS OF PREMISES GENERALLY.**

All persons owning or controlling houses or premises or vacant lots abutting on any public way, and physically and financially able to do so, shall maintain such premises in a reasonably clean and orderly manner and to a standard conforming generally to other orderly premises in that vicinity. It shall be a violation of this section to abandon, neglect, or disregard any such premises so as to permit the same to become unclean with an accumulation of litter or waste thereon.

(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.02 DUTY OF OWNER OR PERSON IN CONTROL OF PREMISES.

No persons owning or controlling any premises in the town shall allow a rank growth of grass, weeds, or other vegetation to remain thereon, or permit the same to become unsightly, unsanitary, or obnoxious, a blight to the vicinity, or offensive to the senses of users of the public way abutting the same, for a period longer than 30 days in any calendar year; or fail to comply with these requirements after a written order of any officer of the town policing unit or any health authority having jurisdiction to remedy such conditions.

(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.03 OWNERS REQUIRED TO CUT.

(A) Owners of real property located within the corporate limits of the town, shall cut and remove weeds and other rank vegetation growing on such property unless such vegetation is part of an established agricultural enterprise and is currently being used for pasture or for the production of hay.

(B) The Town's Police Department and Clerk-Treasurer's Office shall be responsible for the administration of this section.

(C) "Weeds" subject to removal under this code provision shall be those weeds which are one foot or longer in length and "other rank vegetation" subject to removal under this code provision shall be vegetation growing with excessive luxuriance and vigor which is at least one foot in length or more. For the purposes of this section the term "length" and "height" shall be synonymous. A weed or piece of

vegetation if standing is one foot or greater in height and same bends or falls over, such that its length continues to be equal to one foot in length or more, is in violation of the terms of this section.

(D) Any property owner who fails to remove weeds and other rank vegetation, as defined in this section shall be deemed in violation of this section. Notice of violation by the Town's Clerk-Treasurer's Office or Police Department shall be made by First Class, U.S. Postal Service to the property owner's address shown on the records of the Henry County Treasurer. One letter within a calendar year shall be deemed sufficient notice for each and every lot, parcel and lands owned by the offender within the corporate limits of this town in case of the party's failure to comply with the terms of this section. The town shall have the right to cut and remove weeds and rank vegetation upon the property owner's failure to do so within seven days after the mailing of notice of violation.

(E) The Town Clerk-Treasurer shall issue a bill to the property owner at the address shown on the records of the Henry County Treasurer, which bill shall include the administrative costs of \$20 plus the actual removal costs incurred by the town either by using its own employees or an independent contractor. The actual removal costs is determined to be \$100 or greater as shown by the records of the Middletown Clerk-Treasurer's Office.

(F) In the event the property owner disputes a notice of violation under this section or a bill issued under this section, such property owner may file a written appeal with the Middletown Town Council for recession or adjustment of such notice or bill within 14 days after the date of such notice or bill. Should the property owner fail to so appeal in writing within 14 days, said notice and/or bill shall be deemed final and no further appeal shall be permitted.

(G) If the property owner fails to pay a bill under this section within 30 days, the Town Clerk-Treasurer's Office shall certify to the Henry County Auditor the amount of the bill plus an additional administrative cost of \$20 incurred in the certification. The Henry County Auditor shall place the total amount certified on the tax duplicate for the party affected, the total amount including any accrued interest shall be collected as delinquent taxes are collected as shall be disbursed to the general fund of the town as provided in IC 36-7-10.1-4.

(Ord. 6-93, passed 9-7-93; Am. Ord. 8-2-05, passed 8-2-05) Penalty, see § 90.99

§ 90.04 REMOVAL OF TRASH AND GARBAGE BY TOWN; PAYMENT OF COSTS.

Any person allowing trash or garbage to accumulate or remain on premises which he occupies or which he owns or for which he is legally responsible may be given ten days' notice in writing by the Town Marshal or the health authority having jurisdiction to remove the offending materials. If, at the end of the period of notice, corrective actions have not been taken, the person shall be subject to penalties set forth herein. The town shall have the duty of having workers gather and remove it, making accurate record of the expense involved. If the responsible person does not reimburse the town within 60 days for such removal, it shall be charged to the owner of such property for the next regular tax bill forwarded to the owner by the county. The procedure of such charge shall be the same as provided in § 90.03, providing for the same to be a lien on the real estate collected by the County Treasurer.

(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.05 ACCUMULATION OF GRASS CLIPPINGS AND OTHER YARD REFUSE ON PUBLIC STREETS.

No owner of real property located within the corporate limits of the town shall permit grass clippings discharged from lawn mowers or trimmers or other yard refuse to remain upon public streets or any other public right-of-way that abuts the owner's real property.

(Ord. 2-2013, passed 6-18-13) Penalty, see § 90.99

WEEDS**§ 90.15 WEEDS AND NOXIOUS PLANTS DECLARED A NUISANCE.**

Weeds and other rank vegetation growing upon any real estate in the town are declared a nuisance. (Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.16 PERMITTING WEEDS TO REMAIN ON PROPERTY.

It shall be unlawful for any person to allow or permit any weeds or other rank vegetation to be or remain upon any property owned, leased, occupied by, or under his control. (Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.17 DUTY TO CUT AND REMOVE WEEDS.

(A) It shall be the duty of every person to cut and remove all weeds and rank vegetation from any property owned, leased, or occupied by him, or under his control, at least four times during each year, as follows:

- (1) Once between May 1 and May 15,
- (2) Once between June 1 and June 15,
- (3) Once between July 1 and July 15, and
- (4) Once between August 15 and September 15.

(B) The destruction of such weeds and other rank vegetation by use of a chemical spray consisting of 2, 4-d weed killer or other equally efficient chemical weed killer at the times herein prescribed shall be deemed a full compliance of this section. (Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.18 FAILURE TO CUT AFTER NOTICE; CUTTING AT OWNER'S EXPENSE.

Owners required to cut:

(A) Owners of real property located within the corporate limits of the town, shall cut and remove weeds and other rank vegetation growing on the property unless the vegetation is part of an established agricultural enterprise and is currently being used for pasture or for the production of hay.

(B) The town's Clerk-Treasurer and Police Department shall be responsible for the administration of the provisions of this section.

(C) Weeds subject to removal under this Code provision shall be those weeds which are one foot or longer in length, and other rank vegetation subject to removal under this Code provision shall be vegetation growing with excessive luxuriance and vigor which is at least one foot or more in length. For the purposes of this section, the term length and height shall be synonymous. A weed or piece of vegetation if standing is one foot or greater in height and same bends or falls over, such that its length continues to be equal to one foot in length or more, is in violation of the terms of this section.

(D) Any property owner who fails to remove weeds and other rank vegetation, as defined in the above shall be deemed in violation of this section. Notice of violation by the town's Clerk-Treasurer or Police Department shall be made by First Class, U.S. Postal Service to the property owner's address shown on the records of the Henry County Treasurer. One letter within a calendar year shall be deemed sufficient notice for each and every lot, parcel and lands owned by the offender within the corporate limits of this town in case of the party's failure to comply with the terms of division (A) above. The town shall have the right to cut and remove weeds and rank vegetation upon the property owner's failure to do so within seven days after the mailing of notice of violation.

(E) The Town Clerk-Treasurer shall issue a bill to the property owner at the address shown on the records of the Henry County Treasurer, which bill shall include the administrative costs of at least \$20 plus the actual removal costs incurred by the town either by using its own employees or an independent contractor. The actual removal cost is determined to be at a minimum \$250 for properties of ½ acre or less and \$350 for properties larger than ½ acre or the costs incurred by the town for time, labor, materials, equipment rental, and the cost repair to equipment as a result of damage caused in connection with the removal of weeds, whichever sum is greater.

(F) In the event the property owner disputes a notice of violation or a bill issued under division (E), such property owner may file a written appeal with the Town Council for recession or adjustment of such notice or bill within 14 days after the date of such notice or bill. Should the property owner fail to so appeal within writing within 14 days, the notice and/or bill shall be deemed final and no further appeal shall be permitted.

(G) If the property owner fails to pay a bill within 30 days, the Clerk-Treasurer shall certify to the Henry County Auditor the amount of the bill plus an additional administrative cost of at least \$20, or the actual costs incurred in the certification, whichever sum is greater. The Henry County Auditor shall place the total amount certified on the tax duplicate for the party affected, 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 as provided in IC 36-7-10.1-4.

(Ord. 6-93, passed 9-7-93; Am. Ord. 6-21-11-01, passed 6-21-11) Penalty, see § 90.99

VACANT LOTS

§ 90.30 DEFINITIONS.

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

TRASH, DEBRIS, GARBAGE, REFUSE AND OTHER EXTRANEIOUS MATERIAL. Ashes, cinders, clinkers, waste materials, refuse, accumulation of animal, fish, or vegetable matter from a private household, boarding house, apartment house, flat, restaurant, eating house, hotel, grocery, butcher shop, meat market, vegetable store, fish market, or discarded and refuse material of any household, such as paper, waste, metal material, broken crockery, glass, chinaware, rags, bottles, tin cans, grass, weeds, leaves, and similar type items.

VACANT LOTS. Any land or any acreage which is within 300 feet of a residence, public street, or public buildings, and upon which there are no permanent structures erected.
(Ord. 6-93, passed 9-7-93)

§ 90.31 OWNER TO KEEP VACANT LOTS FREE OF TRASH.

All persons owning or controlling vacant lots shall keep the same free of trash, debris, garbage, refuse or other extraneous material and it shall further be the duty of said persons owning or controlling vacant lots to make monthly collection and removal during the months of April through November of the material above described as may have accumulated.
(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.32 REMOVAL OF WEEDS.

(A) All persons owning or controlling vacant lots shall keep the same in a state of levelness as to allow full power mowing, and weeds and/or grass shall be mowed at least once during each of the months of May, June, July, and August.

(B) If the person owning or controlling vacant lots shall fail to cut or remove weeds or other rank vegetation growing on such lots monthly as provided herein, the health authority having jurisdiction shall at once proceed to cut and remove weeds and rank vegetation growing on the vacant lot and shall keep an accurate and itemized statement of the cost of removal of such weeds and rank vegetation on each vacant lot and charge the cost thereof against the owner of the lot, which cost shall be a lien thereon and upon the completion of the work, the town shall thereupon certify the cost to the County Treasurer. The Treasurer shall keep a record in which he shall enter the name of the owner, description of the lot from which such weeds or rank vegetation were removed, and cost of removal as certified to him by the town.

(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.33 STORAGE OF BUILDING MATERIALS.

Building materials and equipment may be placed or stored on vacant lots during the process of building on said lot or during a period no longer than one month prior to the commencement of building on said lot.

(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.34 DUMPING ON VACANT LOTS.

No person shall dump or deposit trash, debris, garbage, refuse, or other extraneous material on any vacant lot.

(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.35 USING VACANT LOT WITHOUT OWNER'S CONSENT.

No person shall use any vacant lot without the express consent of the owner thereof, except that

traversing it on foot, at pedestrian's own risk, is considered allowable unless specifically prohibited by the owner of the same or the same be posted "NO TRESPASSING" by said owner.
(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

§ 90.96 GENERAL RESPONSIBILITY OF OWNERS.

All persons owning or controlling vacant lots in the town shall maintain the same in such a condition as to contribute to, rather than detract from, the cleanliness and attractiveness of the district in which it is located, and, in general, to conform to the other orderly premises in that vicinity.
(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

DWELLINGS, STRUCTURES, EXCAVATIONS

§ 90.50 DECLARATION OF NUISANCE.

The town may declare a public nuisance and order to be removed, abated, suspended, altered, improved, or purified any dwelling, structure, excavation, business, pursuit, or thing in or about a dwelling or its lot, or the plumbing, sewage, drainage, light, or ventilation of the dwelling unfit for human habitation.
(Ord. 6-93, passed 9-7-93)

§ 90.81 TOWN MAY ORDER STRUCTURE REPAIRED OR CLEANED.

The town may order any dwelling, excavation, building, structure, sewer, plumbing, pipe, passage, premises, ground, or thing in or about a dwelling or its lot, to be purified, cleansed, disinfected, renewed, altered, or improved.
(Ord. 6-93, passed 9-7-93)

ASHES, TRASH AND GARBAGE

§ 90.60 DEFINITIONS.

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

ASHES. Any unburned particle, material or powder resulting from the remaining residue after an item has been burned.

GARBAGE. Any waste, refuse, or accumulation of animal or vegetable matter.

TRASH. Broken, discarded or refuse materials or things not defined or covered within definitions of ashes or garbage herein.
(Ord. 6-93, passed 9-7-93)

§ 90.61 PROVISION FOR STORAGE AND DISPOSAL.

(A) The occupants of any premises where ashes, garbage or trash accumulates shall place all such ashes, garbage, or trash in water-tight, or lidded containers not to exceed 55 gallons. All garbage shall be wrapped in such a manner as to prevent said container from becoming watery or sloppy.

(B) All persons shall keep and maintain the alleys and streets adjacent to their premises free and clear of any such ashes, garbage or trash not wrapped and contained as provided herein.

(C) No person shall place or permit to accumulate or remain any where in the town any garbage or other materials subject to decay, excluding leaves and grass, or any ashes or trash except in a lidded or water-tight container as herein provided. Nor shall any person dump or place or cause to be dumped or placed any ashes, garbage or trash on any premises in the town without the consent of the owners of such premises.
(Ord. 6-93, passed 9-7-93) Penalty, see § 90.99

UNSAFE BUILDINGS

§ 90.70 GENERAL PROVISIONS.

(A) Under the provisions of IC 36-7-9, there is hereby established the town Unsafe Building Code.

(B) IC 36-7-9-1 through 36-7-9-28 is hereby incorporated by reference in the Unsafe Building Code. Said law and the provisions of §§ 90.70 through 90.74 of this code shall govern all proceedings within the town for the inspection, repair, or removal of unsafe buildings. In the event the provisions of §§ 90.70 through 90.74 of this code conflict with the provisions of IC 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.

(C) Two copies of IC 36-7-9-1 are on file in the office of the Clerk-Treasurer.
(Ord. 3-20-2001-3, passed 4-3-01)

§ 90.71 DECLARATION OF PUBLIC NUISANCE.

All buildings or portions thereof and/or surrounding premises within the town which are determined after inspection by the Building Commissioner to be unsafe as defined in §§ 90.70 through 90.74 of this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal.
(Ord. 3-20-2001-3, passed 4-3-01)

§ 90.72 ENFORCEMENT OF REGULATIONS.

(A) The Building Commissioner shall be authorized to administer and to proceed under the provisions of said law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereunder, provided, however that in the event there is no Building Commissioner, and in the further event the town has entered into an agreement with the County of Henry regarding administration and enforcements then the Henry County Building Commissioner shall be so authorized.

(B) Wherever in the building regulations of the state or town or the Indiana Unsafe Building Law it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner, or any other officer of the town, this shall be construed to have such officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what such regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.
(Ord. 3-20-2001-3, passed 4-3-01)

§ 90.73 DEFINITIONS.

(A) **SUBSTANTIAL PROPERTY INTEREST.** The definition set forth in IC 36-7-9-2 is hereby incorporated by reference as if fully set forth herein.

(B) The description of an **UNSAFE BUILDING** contained in IC 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the town, by adding the following definition:

UNSAFE BUILDING. Any building or structure that has any or all of the conditions or defects, hereinafter described, provided that such conditions or defects exist to the extent that life, health, property or safety of the public or its occupants is endangered.

(1) Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(3) Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than 1½ times the working stress or stresses allowed for new buildings of similar structure, purpose, or location.

(4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location.

(5) Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(6) Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.

(7) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(8) Whenever the building or structure, or any portion thereof, is likely to collapse because of:

(a) Dilapidation, deterioration, or decay;

(b) Faulty construction;

(c) The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building;

(d) The deterioration, decay, or inadequacy of its foundation; or

(e) Any other cause.

(9) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(10) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(11) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(12) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated so as to become:

(a) An attractive nuisance to children, or

(b) Freely accessible to persons for the purpose of committing unlawful acts.

(13) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this county, or of any law or ordinance of the state or county relating to the condition, location, or structure of buildings.

(14) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any non-supporting part, member or portion less than 66% of the:

- (a) Strength,
- (b) Fire-resisting qualities or characteristics, or
- (c) Weather-resisting qualities or characteristics

required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

(15) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the Building Commissioner of Henry County or the Henry County Health Officer to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

(16) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction is determined by the Building Commissioner of Henry County or the Fire Chief of the department which has jurisdiction where said building or structure is located to be a fire hazard.

(17) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(C) **UNSAFE PREMISES**. A tract of real property on which an unsafe building is located, or a tract of real property which has accumulated trash, debris, or other material that creates a fire hazard, health hazard, habitat for vermin, or nuisance.
(Ord. 3-20-2001-3, passed 4-3-01)

§ 90.74 STANDARDS.

All work for the reconstruction, repair, or demolition of buildings and other structures shall be performed in a good workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined in IC 22-12-13, adopted as rules of the Fire Prevention and Building Safety Commission (675 IAC), including 675 IAC 12-4-9 and 675 IAC 12-4-11(a), shall be considered standard and acceptable practice for all matters covered by §§ 90.70 through 90.74 or orders issued pursuant to §§ 90.70 through 90.74 by the Building Commissioner.
(Ord. 3-20-2001-3, passed 4-3-01)

TRASH AND LEAF BURNING

§ 90.85 LEAF AND TRASH BURNING REGULATED.

No fire from the burning of trash or leaves that creates dense smoke, noxious odor, or extended smoldering so as to be offensive to a neighborhood generally as determined the Town Volunteer Fire

Department or Police Department

('66 Code, § 4.24.010) (Ord. 5-88, passed 7-5-88) Penalty, see § 90.99

Cross-reference:

Civil penalty schedule, see § 36.04

§ 90.86 AREAS WHERE BURNING IS PROHIBITED.

(A) No residential or town burning of trash or leaves on public streets shall be permitted.

(B) Burning is prohibited in apartment complexes and mobile home parks.

('66 Code, § 4.24.020) (Ord. 5-88, passed 7-5-88; Am. Ord. 13-92, passed 4-7-92) Penalty, see § 90.99

Cross-reference:

Civil penalty schedule, see § 36.04

§ 90.87 OPEN BURNING.

(A) No person shall open burn any material except as provided in this section.

(B) The burning of wood shall be allowed as follows:

(1) Recreational fires including fires for Twelfth Night Ceremonies, school pep rallies, scouting fires, and residential cooking and camp fires.

(2) All residential burning of wood is prohibited except during the months of April, May, October and November provided that such burning is done in a suitable container and in accordance with § 90.88.

(3) Burning shall be allowed in indoor stoves and fireplaces where such fire does not create an air pollution problem, a nuisance or a fire hazard.

(C) All allowed burning shall be subject to the following restrictions:

(1) Except for recreational fires and indoor stoves, all burning shall occur during daylight hour in such a manner that all the materials to be burned are consumed and the fire totally extinguished by 6:00 p.m. each day.

(2) All burning must be supervised by the property owner or tenant in charge of the premises at all times.

(3) Any burning which creates an air pollution problem, a nuisance, or a fire hazard shall be immediately extinguished.

(D) No person shall burn when an air pollution alert, warning or emergency is in effect; or during periods of unfavorable meteorological conditions.

(Ord. 5-88, passed 7-5-88; Am. Ord. 2-98, passed 1-6-98) Penalty, see § 90.99

Cross-reference:

Civil penalty schedule, see § 36.04

§ 90.88 NONCOMBUSTIBLE CONTAINERS AND THE LIKE REQUIRED FOR BURNING.

All leave and trash burning within the corporate limits of the town shall be done and accomplished in noncombustible containers and the like, sufficiently vented to induce adequate primary combustion air with enclosed sides, a bottom, and a mesh covering with openings no larger than 1/4-inch square. Burning is prohibited in apartment complexes and mobile home parks.
(Ord. 13-92, passed 4-7-92) Penalty, see § 90.99

Cross-reference:

Civil penalty schedule, see § 36.04

NOISE**§ 90.90 PUBLIC POLICY.**

It is hereby declared as a matter of public policy of the town, as follows:

(A) The making and creation of loud, unnecessary or unusual noises of various kinds and by various means within the limits of the town have increased as to constitute a public nuisance; and

(B) The making, creation, or maintenance of loud, unnecessary, unnatural, or unusual noises which in their time, place and use affect and are a detriment to the public health, safety, comfort, convenience, welfare, normal enjoyment, and use of their property and the prosperity of the residents; and

(C) The necessity in the public interest for the provisions of this chapter is declared, as a matter of legislative determination for this declaration of public policy, to be designed to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity, and the peace and quiet of the inhabitants and visitors in this town.
(Ord. 5-21-96, passed 5-21-96)

§ 90.91 UNLAWFUL NOISES.

Except as otherwise provided in this section, it shall be unlawful for any person(s) to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise, or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, and peace, or safety of others within the city. Accordingly, the following acts, among others, are declared to be loud, disturbing, and unnecessary noises and in violation of this section, but such enumeration shall not be deemed to be exclusive:

(A) *Horns and Signalling Devices.* The sounding of any horn or signalling device on any automobile, motorcycle, or other vehicle in any street or public place of the town, except as a danger warning. This shall not be construed to prevent trains from sounding warnings at all crossings.

(B) *Radios, Electronic Sounding Devices.* Playing, using, or operating or permitting to be played, used or operated, any radio or electronic sound device, musical instrument, CD or tape player, or any device for producing or reproducing sound in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing

for the persons in the room, vehicle, or chamber in which such device is operated, except when a permit is granted for some special occasion. The operation of any such sound device in such a manner as to be plainly audible at a distance of 50 feet from the building or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.

(C) *Loudspeakers, Amplifiers for Advertising.* Playing, using, or operating, or permitting to be played, used, or operated, any radio, television receiving set, CD or tape player, sound amplifier, musical instrument, loudspeaker, or other machine or electronic equipment or device for producing or reproducing sound at any place on the public streets or in any vehicle used for the transportation of persons for hire as a common carrier, for the purpose of commercial or other kinds of advertising or attracting attention of the public to any activity or building or structure, which is used to disturb and annoy other persons in their businesses, homes and elsewhere in their right of personal privacy and quiet.

(D) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, internal combustion engine, or any other type of engine or power units on a motorcycle, motorboat, motor vehicle, truck or craft of any kind, except through a muffler or other device which will effectively reduce and prevent loud or explosive noises or fumes therefrom. Leaving a vehicle in a stationary position with the engine idling or running for any extended period of time, or between the hours of 10:00 p.m. and 6:00 a.m., so as to cause unnecessary noise, vibration and exhaust fumes to disturb the businesses in the community or people in residences, or to create a health hazard where exhaust fumes may be drawn into a structure placing the inhabitants at risk, is expressly prohibited.

(E) *Defect in Vehicle or Load.* The use of any vehicle so out of repair, or so loaded, or in any such manner as to create a loud and unnecessary grating, grinding, rattling, or other noises on public street.

(F) *Schools, Churches, Hospitals, Public Facilities, and Meetings.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or public meeting of the town, which unreasonably interferes with the operation thereof, provided that conspicuous signs are displayed on streets indicating that the same has been declared a school, hospital, church, or other such quiet zone. (Ord. 5-21-96, passed 5-21-96) Penalty, see § 90.99

Cross-reference:

Civil penalty schedule, see § 36.04

§ 90.92 ENFORCEMENT.

This subchapter shall become part of the Town Code of the Town of Middletown and shall be enforced by the appropriate Public Safety (Police Department) through normal process and provisions of enforcement.

(Ord. 5-21-96, passed 5-21-96)

§ 90.99 PENALTY.

(A) Except as provided in division (B) below, any person convicted of a violation of §§ 90.01 through 90.04, and §§ 90.15 through 90.61 shall be punished by a fine of not more than \$1,000. However, a person who is convicted of two violations of §§ 90.01 through 90.04, and §§ 90.15 through 90.61 within a period of 18 months shall be punished, upon conviction, by a fine of at least \$100 and not more than \$300. A person who is convicted of three or more violations of §§ 90.01 through 90.04, and §§ 90.15 through 90.61 within a period of 18 months shall be, upon conviction, punished by a fine of at least \$500, but not more than \$1,000. A separate violation shall be deemed committed on each day during or on which a violation occurs or continues.

(B) Any person who, within the previous 18 months, has not been charged with or convicted of any violation of this chapter may, within five days after receiving the notice of violation provided for herein, appear in person in the office of the County Clerk, enter a plea of guilty, and notwithstanding the provisions of division (A) above, pay a fine of \$20, plus court costs. This plea of guilty shall constitute a conviction of the offense. The person entering the plea shall at the time of entering the plea, sign a waiver of his or her right to trial and verified statement that the violation charged no longer exists and that he or she is in compliance with this chapter.
(Ord. 6-93, passed 9-7-93)

(C) In addition to any other fines or costs assessed under the provisions of this chapter, any person violating the terms of this chapter shall pay a civil penalty. Each day during or on which a violation occurs constitutes a separate offense. (See Civil Penalty Schedule, § 36.04) (Ord. 4-90, passed 12-18-90; Am. Ord. 2015-3, passed 6-9-15)

(D) A property owner that fails to comply with the provisions of § 90.05 shall be subject to a fine in the amount of \$25 for the first violation. All subsequent violations of § 90.05 shall subject a property owner to a fine in the sum of \$100. A separate violation shall be deemed committed on each day during or on which a violation occurs or continues.
(Ord. 2-2013, passed 6-18-13)

(E) No person, firm or corporation whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of §§ 90.70 through 90.74 or any order issued by the Building Commissioner. Any person violating the provisions of §§ 90.70 through 90.74 or IC 36-7-9-28 shall commit a Class C infraction for each day such violation continues. (Ord. 3-20-2001-3, passed 4-3-01)

(F) (1) Any person, firm, corporation or other entity violating the terms and provisions of § 90.91 shall be subject to fines and penalties as noted in § 36.04, Civil Penalty Schedule.

(2) Any person, firm, corporation or other entity violating the terms and provisions of § 90.91 three or more times within a continuous period of six months shall be deemed an "Habitual Offender", and said act shall constitute an Infraction (Class C) and shall be cited into the appropriate court to answer to the charge of "Disorderly Conduct", pursuant to the Indiana Code and any successor law. (Ord. 5-21-96, passed 5-21-96; Am. Ord. 2015-3, passed 6-9-15)

CHAPTER 91: ANIMALS

Section

General Provisions

- 91.01 Keeping hogs, cattle, horses, mules, goats, chickens, sheep, geese or ducks prohibited
- 91.02 Exception when stable, barn or pen located away from residence
- 91.03 Seining of minnows

Control of Dogs, Cats and Other Pets

- 91.15 Definition
- 91.16 Control of pets
- 91.17 Compliance with state law
- 91.18 Capture and impounding
- 91.19 Cost of keeping impounded animals
- 91.20 Animals in public
- 91.21 Female animal in heat
- 91.22 Barking dogs
- 91.23 Administration and enforcement

- 91.99 Penalty

Cross-reference:

Civil penalty schedule, see § 36.04

Horse, ponies or mules, restricted on streets and sidewalks, see § 92.02

GENERAL PROVISIONS

§ 91.01 KEEPING HOGS, CATTLE, HORSES, MULES, GOATS, CHICKENS, SHEEP, GEESE OR DUCKS PROHIBITED.

It shall be unlawful for an person to keep or maintain any hog or hogs, cow or cattle, horse or horses, mule or mules, sheep, chicken or chickens, geese, duck or ducks, within the corporate limits of the town, except where said hog or hogs, cow or cattle, sheep, chicken or chickens, geese, duck or ducks, are kept for the purpose of immediate slaughter, sale or shipment, and where said horse or horses, mule or mules, are kept for immediate sale or shipment.

('66 Code, § 4.08.110) (Ord. 1-69, passed 4-1-69) Penalty, see § 91.99

§ 91.02 EXCEPTION WHEN STABLE, BARN OR PEN LOCATED AWAY FROM RESIDENCE.

The provisions of § 91.01 shall not apply to the keeping of any cow or cattle, horse or horses, mule or mules, or sheep, within the corporate limits of the town where the pens or building where such animals are located at distance of at least 300 feet from the nearest residential property.

('66 Code, § 4.08.120) (Ord. 1-69, passed 4-1-69)

Cross-reference:

Civil penalty schedule, see § 36.04

§ 91.03 SEINING OF MINNOWS.

No person, his or her agent or employee, shall use or cause to be used any type of seine, minnow trap, dip net, bucket or other device for the purpose of seining or otherwise taking small fish, minnows or other bait from the water of any creek or stream within the corporate limits of the town or upon any property owned by the town.

('66 Code, § 4.04.010) (Ord. 3-58, passed 8-27-58) Penalty, see § 91.99

CONTROL OF DOGS, CATS AND OTHER PETS**§ 91.15 DEFINITION.**

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

OWNER. A person having a right of property in a dog, cat or other pet, or who owns, keeps or harbors such a pet, or who has it in his care.

('66 Code, § 4.08.010) (Ord. 1-69, passed 4-1-69; Am. Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89)

§ 91.16 CONTROL OF PETS.

(A) It shall be the responsibility of the owner of all pets to maintain control of said animals. This shall include but not be restricted to leashes, pens, kennels and/or fences.

(B) No owner shall allow their pet to run loose or unfettered upon street, sidewalk, parkway, alley or public area within the town.

('66 Code, § 4.08.020) (Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89) Penalty, see § 91.99

§ 91.17 COMPLIANCE WITH STATE LAW.

It shall be the responsibility of each owner of a dog, cat or other pet or animal, to be in compliance with all applicable state laws.

('66 Code, § 4.08.030) (Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89)

§ 91.18 CAPTURE AND IMPOUNDING.

Any pet found running at large or unattended outside the property limits of its owner in the town shall be considered to be a public nuisance. It shall be the duty of the New Castle-Henry County Humane Society in cooperation with the Police Department to impound any such animal. Impoundment shall be the responsibility of the County Humane Society Animal Control Officer and the place of impoundment shall be in the New-Castle-Henry County Animal Shelter. If at the expiration of five days after impoundment such animal shall not have been redeemed by the owner, the Humane Society may dispose of such animal.

('66 Code, § 4.08.040) (Ord. 1-69, passed 4-1-69; Am. Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89)

§ 91.19 COST OF KEEPING IMPOUNDED ANIMALS.

The cost of keeping impounded animals shall be determined from time to time by the Animal Shelter and the Humane Society.

('66 Code, § 4.08.050) (Ord. 1-69, passed 4-1-69; Am. Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89)

§ 91.20 ANIMALS IN PUBLIC.

(A) It shall be unlawful for a pet, except when on a leash controlled by the owner or his or her agent, to use or be upon any public street, sidewalk, parkway or public area within the town.

(B) It shall be unlawful for any pet, even on a leash, to be in or enter upon the premises of any commercial establishment, except any business for the sale or treatment of animal pets anywhere within the town, during the time that any of the places or establishments are open for use by the public or persons entitled to use the same.

(C) No leash shall be longer than eight feet in length.

(D) The provisions of this section shall not apply to dogs leading blind persons.

('66 Code, § 4.08.060) (Ord. 1-69, passed 4-1-69; Am. Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89)
Penalty, see § 91.99

§ 91.21 FEMALE ANIMAL IN HEAT.

The owner of any animal in heat shall keep the same confined on a leash at all times and shall not permit such animal to be at large in the streets, parks or other public places in the town, or on any premises other than those of the owner.

('66 Code, § 4.08.070) (Ord. 1-69, passed 4-1-69; Am. Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89)
Penalty, see § 91.99

§ 91.22 BARKING DOGS.

(A) It shall be unlawful for any person to own, keep, possess or harbor any dog which by loud or frequent barking, howling or yelping shall cause annoyance or disturbance to the citizens of the city or constitute a nuisance unless such dog shall be confined in a duly licensed veterinary hospital for treatment and care.

(B) Any person that violates this section shall be fined in the sum of \$25 for the first offense and \$50 for each subsequent offense.

(Ord. 16-92, passed 11-4-92; Am. Ord. 2018-02, passed 7-17-18) Penalty, see § 91.99

§ 91.23 ADMINISTRATION AND ENFORCEMENT.

(A) The Town Council shall have the authority to establish rules and regulations concerning the administration of this subchapter.

(B) The County Humane Society in cooperation with the Police Department of the town shall be charged with carrying out the provisions of this subchapter.

('66 Code, § 4.08.080) (Ord. 1-69, passed 4-1-69; Am. Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89)

§ 91.99 PENALTY.

(A) Any person violating the provisions of this chapter for which no other penalty is set forth shall pay a civil penalty. (See Civil Penalty Schedule, § 36.04) ('66 Code, § 4.08.100) (Ord. 1-69, passed 4-1-69; Am. Ord. passed - - ; Am. Ord. 9-88, passed 4-4-89; Am. Ord. 4-90, passed 12-18-90; Am. Ord. 2015-3, passed 6-9-15)

(B) All persons, their agents or employees violating the provisions of § 91.03 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$10 nor more than \$50. ('66 Code, § 4.04.020) (Ord. 3-58, passed 8-27-58)

(C) Any person violating the provisions of § 91.22 shall be fined as noted in § 36.04, Civil Penalty Schedule.

(D) In addition to the penalties set forth in divisions (A), (B) and (C), any person who fails to comply with § 91.16 shall be fined in the sum of \$150 (or the current fee charge to the town by the Humane Society, whichever is higher) if the town requests assistance from the Humane Society as a result of the person's pet not being properly confined.

(Ord. 16-92, passed 11-4-92; Am. Ord. 2015-3, passed 6-9-15; Am. Ord. 2017-2, passed 9-19-17)

CHAPTER 92: STREETS AND SIDEWALKS

Section

- 92.01 Obstructions prohibited
- 92.02 Horses, ponies, mules and the like
- 92.03 Boundaries for street and sidewalk regulations
- 92.04 Cutting and trimming trees
- 92.05 Planting of trees on highway terraces prohibited
- 92.06 Standards for street repair; street/alley easement excavation permit
- 92.07 Sidewalk maintenance

- 92.99 Penalty

§ 92.01 OBSTRUCTIONS PROHIBITED.

No person, firm or corporation shall place personal property or any other obstruction upon the streets and sidewalks of the town for a period of time in excess of 24 hours, unless a permit therefor is obtained from the Town Council.

('66 Code, § 4.12.010) (Ord. 3-75, passed 9-16-75) Penalty, see § 92.99

Cross-reference:

Civil penalty schedule, see § 36.04

§ 92.02 HORSES, PONIES, MULES AND THE LIKE.

No person, firm or corporation shall ride, lead or have in their possession horses, ponies and mules upon the streets and sidewalks of the town unless a permit therefore is obtained from the Town Council. ('66 Code, § 4.12.020) (Ord. 3-75, passed 9-16-75) Penalty, see § 92.99

Cross-reference:

Civil penalty schedule, see § 36.04

For additional regulations regarding animals, see Ch. 91

§ 92.03 BOUNDARIES FOR STREET AND SIDEWALK REGULATIONS.

(A) The restrictions placed upon the use of streets and sidewalks of the town as set forth in this chapter shall extend in an east-west direction from a point 300 feet east of the intersection of Locust and 5th Streets and in the town and along Locust Street west to the Penn Central Railroad [Conrail] track.

(B) The restrictions placed upon the use of streets and sidewalks of the town as set forth in this chapter shall also extend in a north-south direction 300 feet east of the intersection of Locust and 5th Streets and in the town and along 5th Street south to the Penn Central Railroad [Conrail] track.

('66 Code, § 4.12.030) (Ord. 3-75, passed 9-16-75)

Cross-reference:

Civil penalty schedule, see § 36.04

§ 92.04 CUTTING AND TRIMMING TREES.

(A) Any commercial person, firm or corporation cutting or trimming trees or removing stumps on all lots within the boundaries of the town must first obtain and file, a written permit with the Clerk Treasurer's Office at least 48 hours prior to beginning such work.

(B) prior to obtaining a permit, all such persons, firms and corporations cutting or trimming trees or removing stumps are required to:

(1) Inform the Town Clerk Treasurer's office of the location of work to be done and whether the work will involve blocking a public street or passageway. The Clerk Treasurer will provide forms for this purpose.

(2) Examine the work site for possible damage to electric or other utility lines.

(3) Examine street, curbs and sidewalks in the town to determine if damage to the same may be involved.

(4) Be liable for any and all damage to electric lines, streets, curbs, sidewalks and/or other property of the town.

(5) The cost of the permit shall be \$5 for each job.

(6) Such persons, firms or corporations shall be required to file proof of current liability insurance coverage, with limits of \$250,000 per person and \$500,000 per occurrence.

(7) The terms of this section shall not apply to property owners cutting or trimming trees or removing stumps on their own lots or property.
(Ord. 10-93, passed 7-20-93)

§ 92.05 PLANTING OF TREES ON HIGHWAY TERRACES PROHIBITED.

(A) *Definition.* The term **TERRACE** as it is used herein shall mean the land between the sidewalk edge and the curb or street edge.

(B) *Prohibition against planting.* Absent approval given by the Town Council, it shall be unlawful to plant any trees, shrubs or hedges in a terrace located within the town limits of the town.

(C) *Variance.* The town may grant a variance to this prohibition and allow such planting upon the following:

(1) The applicant makes written request to the Town Council to plant a tree, shrub or hedge in the terrace. The application must identify the species of plant, set forth its projected height and width, and provide a plot plan showing the location of the tree, shrub or hedge within the terrace. The applicant must set forth the reason or reasons the applicant desires to plant in the terrace. This application must be mailed to all surrounding property owners by certified mail, return receipt requested. Further, the property owner must advise by written notice the surrounding property owners and the community in general of the time and date the Town Council will consider the applicant's request by publishing a notice setting forth the hearing date, time and place at least 14 days prior to the hearing in a newspaper of general circulation with the town.

(2) The Town Council, in its discretion, may allow planting in the terrace if it determines that:

(a) The planting will not obstruct the vision of motorists;

- (b) The planting will not detract from the value or use of surrounding property owners;
 - (c) The planting will not interfere with utilities, whether they be below ground, at ground level, or above ground;
 - (d) The planting will not obstruct the view of any street sign or other sign legally and properly placed in the right-of-way of the thoroughfare; and
 - (e) The planting will enhance the overall appearance of the property and/or neighborhood.
- (3) In considering such matters, the Council must offer the applicant, affected property owners and public and private utilities the opportunity to appear and present argument.
- (4) The decision of the Town Council is final and may not be appealed.
(Ord. 6-20-06, passed 7- -06) Penalty, see § 92.99

§ 92.06 STANDARDS FOR STREET REPAIR; STREET/ALLEY EASEMENT EXCAVATION PERMIT.

- (A) Any person, firm, corporation or other entity desiring to cut, excavate, pierce, penetrate or otherwise damage the public street and alleys of the town, shall first apply to the Clerk Treasurer of the town for a permit to do such work, the application for which is attached to Ordinance 2-99, passed January 19, 1999, and marked Exhibit A.
- (B) The application fee shall be \$50 for each cut, excavation, penetration, piercing or other damage caused to such street or alley.
- (C) In the event the proposed damage exceeds 100 feet, there shall be an additional application or permit fee of \$50 per each additional 100 feet. The application and permit fees shall be non-refundable.
- (D) The Clerk/Treasurer shall refer such application to the Town Superintendent who shall either approve or disapprove of the application or modify the conditions under which the permit may be granted.
- (E) Repair of the street or alley shall be done in accordance with the repair specifications attached to Ordinance 2-99, passed January 19, 1999, and marked Exhibit B.
(Ord. 2-99, passed 1-19-99) Penalty, see § 92.99

§ 92.07 SIDEWALK MAINTENANCE.

- (A) *Applicability.* This section shall apply to all sidewalks within the town that are located within the right-of-way.
- (B) *Owner shall keep abutting sidewalk in good repair.* The owner of any parcel that is abutted by a sidewalk shall keep the portion of the sidewalk that abuts the owner(s)'s property in a state of good repair and free from conditions that cause, create, or result in a hazard to pedestrians.
- (C) *Owner shall perform necessary repairs.* The town, acting on the recommendation of its Utility Superintendent, shall provide notice to any property owner(s) that has failed to comply with the provisions of division (B) and request that the owner effectuate the necessary repairs so that the sidewalk that abuts the owner(s)'s real estate is in good repair and safe for pedestrian travel no later than 90 days after service of the notice.

(D) *Town may elect to effectuate repairs.* In the event the owner(s) fails to effectuate the necessary repairs within 90 days, the town may cause the sidewalk to be repaired or properly safeguarded. In determining whether to effectuate repair of any sidewalk, the town shall consider all relevant factors, including, the availability of funds to pay for the repairs, the degree of danger posed by the defective sidewalk, the frequency on which the defective sidewalk is transversed or otherwise used and the timeframe within which the necessary repairs may be completed.

(E) *Town may immediately repair hazardous sidewalks.* In the event that any sidewalk is, as a result of excavation, holes, or other depressions, immediately dangerous and likely to cause substantial injury to persons on or near the sidewalk, the town, acting through its Utility Superintendent, may cause immediate repairs to be made to the sidewalk or the sidewalk to be properly safeguarded and restricted from public use. In determining whether to immediately repair a sidewalk or take other action contemplated by this division, the Utility Superintendent must consider the degree of danger posed by the sidewalk, the funds and materials available by which to effectuate the repairs, the steps needed to properly effectuate the repairs or otherwise remedy the dangerous condition, the equipment available to town of personnel to properly remedy the danger or defective sidewalk and the degree of risk posed to town employees or contractors in effectuating the repair.

(F) *Notices required under this section.* The town shall serve and notices required by this section on all owners of any real estate (reflected in the records of the Henry County Assessor), abutting a dangerous or defective sidewalk by certified mail, personal delivery, or posting a copy of the notice in a conspicuous place on any dwelling or building located on the real estate and mailing a copy, by First Class U.S. Mail to the owner(s) at the address listed on the records.

(G) *Repair standard.* When effectuating repair to any dangerous or defective condition on a sidewalk, the owner(s) shall take all necessary steps to remedy the dangerous condition or defective condition, shall remove all concrete debris and any roots protruding into the sidewalk pathway, shall replace portions of the sidewalk that have been removed with concrete of the same length and width and no less than four inches thick and shall level and backfill the pathway opening with compacted fine crushed stone so as to create an even level walking surface. The owner(s) shall also comply with all applicable building codes and safety regulations, and shall obtain all necessary permits, if any, prior to effectuating the repairs.

(H) *Liability of owner for work performed by town.* In the event that the town performs any work authorized by this section, within 30 days following the completion of work, the town shall send a statement requesting payment in full of the costs incurred to the owner or owners of the real estate abutting that portion of the sidewalk that was repaired. In the event that an owner(s) fails to repay any sum incurred by the town within 30 days following service of the statement or otherwise make acceptable arrangements for repayment with the Town Clerk-Treasurer, the town may, to the extent permitted by law, perfect a lien against the owner(s)'s real estate abutting the sidewalk where the repairs were performed. The town may further file suit to recover the costs incurred in effectuating repair. In the event the town pursues litigation to collect sums owing under this section, the owner(s) shall be liable for all costs and expenses incurred by the town, including reasonable attorney fees. All owners of real property shall be jointly and severally liable for costs incurred by the town under this section.

(I) *Penalty provision.* In addition to the obligation to repay the town for costs incurred in effectuating repair, all persons who violate the provisions of this section may be fined in the sum of \$100 for the first violation. All subsequent violations shall subject a property owner to a fine up to the sum of \$200. All owner(s) of real property abutting a sidewalk that is in disrepair in violation of this section are jointly and severally liable for any fine imposed under this section.

(J) *Opportunity for hearing.* Any property owner that receives a notice required by division (B) may request a hearing in front of the Town Council for the purpose of reviewing the affected sidewalk and evaluating whether such sidewalk is in disrepair or is otherwise dangerous. All requests for hearing shall be delivered to the Clerk-Treasurer no later than 20 days after notice is served on any property owner(s)

in the manner set forth in division (F). The failure to request a hearing shall result in the sidewalk being deemed in need to repair and the owner(s) shall be required to comply with this section. All decisions made by the Town Council after a hearing shall be final, subject to review as permitted by applicable law. (Ord. 3-2014, passed 7-1-14)

§ 92.99 PENALTY.

(A) Any person violating the provisions of this chapter for which no other penalty is set forth shall pay a civil penalty of \$10 for the first offense and \$25 for each subsequent offense. (See Civil Penalty Schedule, § 36.04) ('66 Code, § 4.12.040) (Ord. 3-75, passed 9-16-75; Am. Ord. 4-90, passed 12-18-90)

(B) Any person violating the provisions of § 92.04 shall be punished by a fine not to exceed \$20. (Ord. 10-93, passed 7-20-93)

(C) Any person who violates § 92.05 shall be subject to the following:

(1) Removal of the offending plant, tree or shrub by the town and assessment of the cost of said removal; and

(2) A fine not to exceed \$100.

(D) Violation of § 92.06 shall constitute a misdemeanor and be subject to a fine of \$100 per day for each violation of § 92.06. (Am. Ord. 2-99, passed 1-19-99; Am. Ord. 6-20-06, passed 7- -06)

CHAPTER 93: PARKS

Section

- 93.01 Littering
- 93.02 Park name change

- 93.99 Penalty

Cross-reference:

Parking restrictions in park, see § 72.01

§ 93.01 LITTERING.

No person shall cause litter or refuse of any kind to be placed in the parking area of Dietrich Memorial Park or the park environs except in the properly designated litter receptacles.
(‘66 Code, § 9.12.020) (Ord. 4-76, passed 8-3-76) Penalty, see § 93.01

Cross-reference:

Civil penalty schedule, see § 36.04

§ 93.02 PARK NAME CHANGE.

The Middletown Community Park is changed to “Harry Bud Dietrich Memorial Park.”
(‘66 Code, § 9.04.010) (Res. passed 3-15-66)

§ 93.99 PENALTY.

Any person violating the provisions of this chapter for which no other penalty is set forth shall pay a civil penalty. (See Civil Penalty Schedule, § 36.04)
(‘66 Code, § 9.12.030) (Ord. 4-76, passed 8-3-76; Am. Ord. 4-90, passed 12-18-90; Am. Ord. 2015-3, passed 6-9-15)

CHAPTER 94: MOTOR VEHICLES

Section

Storage of Motorized and Non-motorized Vehicles

- 94.01 Definitions
- 94.02 Investigation
- 94.03 Violation
- 94.04 Exemptions

- 94.99 Penalty

STORAGE OF MOTORIZED AND NON-MOTORIZED VEHICLES

§ 94.01 DEFINITIONS.

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

MOTOR VEHICLES include all vehicles originally constructed to be used on the public highways or off road for transportation of people or goods. This would include, but not be limited to, automobiles, trucks, vans, buses, motorized recreational vehicles and construction vehicles.

NON-MOTORIZED VEHICLES. Any vehicle originally constructed to be mounted on or pulled by a motorized vehicle. This would include, but shall not be limited to, semi-tractor trailers, camper shells, cultural trailers and no-motorized construction vehicles.

STORAGE. The housing, keeping, maintaining or accumulating of goods, material, waste, refuse, or any other product, commodity or item for any purposes.
(Ord. 2-94, passed 6-21-94)

§ 94.02 INVESTIGATION.

(A) It shall be the duty of the Clerk-Treasurer of the town to investigate complaints in regard to potential violations of this chapter.

(B) After investigation, the Clerk-Treasurer shall issue notice to residents of the town and/or property owners within the corporate limits of the town of their potential violation of the provisions of this chapter.

(Ord. 2-94, passed 6-21-94)

§ 94.03 VIOLATION.

It shall be unlawful after investigation and notice as provided for herein for any person, firms or corporations to park any motorized or non-motorized vehicle on public or private property for the purpose of storage for a period in excess of 30 days.

(Ord. 2-94, passed 6-21-94)

§ 94.04 EXEMPTIONS.

The following shall be exempted from this prohibition:

(A) Nothing herein shall be deemed to prevent property zoned commercial and industrial enterprises from loading and unloading commodities or goods from vehicles engaged in transportation purposes. Facts to be considered in determining whether loading and unloading activities are taking place in length of time at site, transfer of goods, appropriate licensing and permits for use on the public highways. If a vehicle remains on site for a period in excess of 30 days, it is presumed be used as storage rather than loading or unloading.

(B) Nothing herein shall prevent individuals from keeping on private property a single recreational vehicle, camper trailer, camper shell, pick-up truck, horse trailer, trailers for storage and hauling of antique or race cars, and boat trailers which are used for personal and family purposes, provided the vehicle is parked and stored in accordance with existing ordinances governing the parking and storage of the vehicles. All the vehicles, motorized or non-motorized, must have the proper permits or licensing for use on the public highways.

(Ord. 2-94, passed 6-21-94)

§ 94.99 PENALTY.

(A) Whoever violates this chapter shall be fined not more than \$25. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(B) In addition to the penalties set forth in rhetorical paragraph 4(A) above, the town may seek and the Court may order a violator of this chapter to remove the offending motorized and non-motorized storage vehicles and items stored at his or her cost or, in the alternative, the town may remove the vehicles and items and have the cost of removal reduced to judgment which shall act as lien on real and personal property owned by the offender.

(C) Nothing herein shall prevent licensed contractors from using motorized or non-motorized vehicles for storage while work is in progress on highway and street projects, public buildings, industrial buildings multi-family housing and commercial buildings. However, this exception shall not extend to construction of single-family dwellings. The storage vehicles are to be removed from the premises upon completion of the project or be subject to the penalties provided for herein.

(Ord. 2-94, passed 6-21-94)

CHAPTER 95: RUMMAGE SALES

Section

- 95.01 Definitions
- 95.02 Permits
- 95.03 Length of sale
- 95.04 Advertisements
- 95.05 Exemptions

- 95.99 Penalty

§ 95.01 DEFINITIONS.

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

RUMMAGE SALES. Sales of clothing, furniture, housewares and miscellaneous personal items by an individual, family, group of individuals or organization, such individual or group not being regularly engaged in such business and not being the holders of a retail sales permit or license.
(Ord. 2-95, passed 4-18-95)

§ 95.02 PERMITS.

(A) Individuals or groups desiring to conduct a rummage sale at their home, garage or other property within the corporate limits of the town shall apply for a permit to conduct such sale at the Clerk-Treasurer's office, complete the necessary application and pay the required permit fee.

(B) The permit fee shall be \$3.00 per single authorized rummage sale, payable to the town.
(Ord. 2-95, passed 4-18-95)

§ 95.03 LENGTH OF SALE.

All permits for rummage sales shall be for a maximum period of seven successive days and another rummage sale shall not be conducted at the same location for a period of thirty days thereafter.
(Ord. 2-95, passed 4-18-95)

§ 95.04 ADVERTISEMENTS.

(A) All locations of advertisements, notices, and directional signs must be registered by the applicant on the town's application form and all such advertisements, notices and directional signs must be removed by 8:00 p.m. on the last registered day of the sale. Such advertisements shall not be placed on town utility poles. All signs, advertisements and notices must have the name of the rummage sale registrant clearly identified on the back of the notice.

(B) All sale merchandise must be removed from yards, porches and driveways, and other outside locations by 8:00 p.m. on the last registered day of the sale.
(Ord. 2-95, passed 4-18-95)

§ 95.06 EXEMPTIONS.

Churches, clubs and other charitable organizations shall be exempt from the terms of this chapter.
(Ord. 2-95, passed 4-18-95)

§ 95.99 PENALTY.

Any person or group violating the terms of this chapter and any of the provisions contained herein shall result in a fine of \$25. In addition, a fine of \$10 per day will be imposed for every day that such notices, advertisements and directional signs are not removed following the time restraint described in § 95.04 (last day of sale), and/or for any additional day the sale continues beyond the time restraint (seven days) described in § 95.04.
(Ord. 2-95, passed 4-18-95)

CHAPTER 96: FAIR HOUSING

Section

96.01	Policy statement
96.02	Definitions
96.03	Unlawful practice
96.04	Discrimination in the sale or rental of housing
96.05	Discrimination in residential real estate-related transactions
96.06	Discrimination in the provision of brokerage services
96.07	Interference, coercion, or intimidation
96.08	Prevention of intimidation in fair housing cases
96.09	Exemptions
96.10	Administrative enforcement of chapter

§ 96.01 POLICY STATEMENT.

It shall be the policy of the town to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and IC 22-9.5-1 et seq. (Ord. 7-18-95-3, passed 7-18-95)

§ 96.02 DEFINITIONS.

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

AGGRIEVED PERSON. Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that the person will be injured by a discriminatory housing practice that is about to occur. (IC 22-9.5-2-2)

COMMISSION. The Civil Rights Commission or a local agency designated by an ordinance adopted under IC 22-9.5-4-1. (IC 22-9.5-2-3)

COMPLAINANT. A person, including the Commission, who files a complaint under IC 22-9.5-6. (IC 22-9.5-2-4)

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 96.04 through 96.08 or IC 22-9.5-5. (IC 22-9.5-2-7)

DWELLING. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one or more families. (IC 22-9.5-2-8)

FAMILIAL STATUS. One or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on this basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. (IC 22-9.5-1-2)

FAMILY. Includes a single individual (IC 22-9.5-2-9), with family being further defined under **FAMILIAL STATUS** above.

PERSON. One or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries. (IC 22-9.5-2-11)

TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant. (IC 22-9.5-2-13)
(Ord. 7-18-95-3, passed 7-18-95)

§ 96.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) below, IC 22-9.5-3 and § 96.09, the prohibitions against discrimination in the sale or rental of housing set forth in IC 22-9.5-5-1 and in § 96.04 shall apply to:

(A) All dwellings except as exempted by division (B) below and IC 22-9.5-3.

(B) Other than the provisions of division (C) of this below, nothing in § 96.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of such house prior to the sale, the exemption shall apply only to one such sale within any 24 month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if such house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person; and

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 96.04(C), but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer this title, or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(C) For the purposes of division (B), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or

(2) He has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 7-18-95-3, passed 7-18-95)

Statutory reference:

Exemptions for sale or rental of certain dwellings, see IC 22-9.5-3-1

§ 96.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 96.03 and except as exempted by §§ 96.03(B) and 96.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, disability, or national origin. (IC 22-9.5-5-1(a))

(B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental of a dwelling, because of race, color, religion, sex, familial status, disability, or national origin. (IC 22-9.5-5-1(b))

(C) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make such a preference, limitation, or discrimination. (IC 22-9.5-5-2)

(D) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is available for inspection. (IC 22-9.5-5-3)

(E) For profit, to induce or attempt to induce any person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, sex, disability, familial status or national origin. (IC 22-9.5-5-4)

(F) (1) To discriminate in the sale or rental or otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in the dwelling after it is sold, rented, or made available; or

(c) Any person associated with the buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of a disability of:

(a) The person;

(b) A person residing in or intending to reside in the dwelling after it is sold, rented, or made available; or

(c) Any person associated with the person.

(3) For purposes of this subsection, discrimination includes:

(a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:

1. The public use and common use parts of the dwellings are readily accessible to and usable by persons with disabilities;
2. All the doors are designed to allow passage into and within all premises within the dwellings and are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and
3. All premises within dwellings contain the following features of adaptive design:
 - a. An accessible route into and through the dwelling;
 - b. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - c. Reinforcements in bathroom walls to allow later installation of grab bars;
 - d. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(4) As used in (F)(3)(c) above, **COVERED MULTIFAMILY DWELLINGS** means:

- (a) Buildings consisting of four or more units if the buildings have one or more elevators;
- (b) Ground floor units in other buildings consisting of four or more units. (IC 22-9.5-5-5)

(5) Compliance with the rules of the fire prevention and building safety commission that incorporate by reference the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for people with physical disabilities ("ANSI A117.1") satisfies the requirements of (F)(3)(c)(3) above.

(6) This section does not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others. (IC 22-9.5-5-5) (Ord. 7-18-95-3, passed 7-18-95)

§ 96.06 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because, of race, color, religion, sex, familial status, disability, or national origin.

(B) As used in this section, the term **RESIDENTIAL REAL ESTATE-RELATED TRANSACTION** means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 - (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (b) Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.

(Ord. 7-18-95-3, passed 7-18-95)

Statutory reference:

Appraisals of real estate, see IC 22-9.5-3-5

Loans or financial assistance, see IC 22-9.5-5-6

§ 96.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service of facility because of race, color, religion, sex, disability, familial status or national origin.

(IC 22-9.5-5-7) (Ord. 7-18-95-3, passed 7-18-95)

§ 96.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by this chapter; or because the person has exercised or enjoyed or has encouraged any other person in the exercise or enjoyment of any right granted or protected by this chapter.

(IC 22-9.5-5-8) (Ord. 7-18-95-3, passed 7-18-95)

§ 96.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under color of law, by force or threat of force intentionally injures intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(A) Any person because of his race, color, religion, sex, disability, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(B) Any person because he is or has been, or to intimidate the person from:

(1) Participating, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in an activity, service, organization or facility described in division (A) above;

(2) Affording another person opportunity or protection to participate in any activity, service, organization or facility described in (A) above; or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in an activity, service, organization or facility described in division (A) above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate is subject to the following penalties under Indiana law:

(1) A fine of not more than \$1,000, or imprisonment for not more than one year, or both;

(2) A fine of not more than \$10,000 or imprisonment for not more than ten years, or both, if bodily injury results from the violation; and

(3) Imprisonment for any term of years or for life if death results from the violation.
(Ord. 7-18-95-3, passed 7-18-95)

Statutory reference:

Fair Housing Code offenses, see IC 22-9.5-10-1

§ 96.09 EXEMPTIONS.

(A) Exemptions defined or set forth under IC 22-9.5-3 et seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) below.

(B) Religious Organizations; Private Clubs. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(C) Housing for Older Persons.

(1) As used in this section, **HOUSING FOR OLDER PERSONS** means housing that the Commission determines is:

- (a) Specifically designed and operated to assist elderly persons under a federal or state program;
- (b) Intended for and solely occupied by persons at least 62 years of age or older; or
- (c) Intended and operated for occupancy by at least one person at least 55 years of age in each unit.

(2) Housing that includes units that are unoccupied or that are occupied by persons who do not meet the age requirements of (1)(b) and (c) above does not fail to meet the requirements for housing for older persons if:

- (a) The unoccupied units are reserved for persons who meet the age requirements of (1)(b) and (c) above; or
- (b) The occupants who do not meet the age requirements of (1)(b) and (c) above have resided in the housing since September 13, 1988, or an earlier date, and the persons who became occupants after September 13, 1988, meet the age requirements of (1)(b) and (c) above.

(3) The provisions of IC 22-9.5-1-2 relating to familial status do not apply to housing for older persons.

(Ord. 7-18-95-3, passed 7-18-95)

Statutory reference:

Housing for older persons, see IC 22-9.5-3-4

Private clubs, see IC 22-9.5-3-3

Religious organizations, see IC 22-9.5-3-2

§ 96.10 ADMINISTRATIVE ENFORCEMENT OF CHAPTER.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) hereof shall be vested in the Chief Executive Officer of the town.

(B) Notwithstanding the provisions of IC 22-9.5-4-8, the town, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the sections of this chapter by complainants to the Indiana Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to IC 22-9.5-6 and the Chief Elected Officer of the town, shall refer all complaints to the Commission as provided for under division (A) of this section to the Commission for purposes of investigation, resolution and appropriate relief as provided for under IC 22-9.5-6.

(C) All executive departments and agencies of the town, shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Executive Officer and the Commission to further such purposes.

(D) The Chief Executive Officer of the town, or the Chief Executive Officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information. (Ord. 7-18-95-3, passed 7-18-95)

Statutory Reference:

Administration of Fair Housing Code, see IC 22-9.5-4 et seq.

Appeals, see IC 22-9.5-11-1, IC 22-9.5-11-2

Enforcement

Civil Rights Commission, see IC 22-9.5-8.1 et seq.

Complaints, see IC 22-9.5-6 et seq.

Hearings, see IC 22-9.5-6-14

Investigations, see IC 22-9.5-6-3, IC 22-9.5-6-7

Private persons, see IC 22-9.5-7 et seq.

Remedies, administrative, exhaustion of, see IC 22-9.5-11-3

CHAPTER 97: ABANDONED VEHICLES

Section

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§ 97.01 TITLE.

This chapter shall be known as "The Abandoned or "Junk" Vehicle and Boat Ordinance."
(Ord. 5-1-01, passed 6-19-01)

§ 97.02 PURPOSE.

(A) The purpose of this chapter is to regulate and prohibit the keeping, parking and storage of abandoned or "junk" vehicles and boats on public and private property within the corporate limits of the town.

(B) Abandoned vehicles or "junk vehicles or boats" shall not be kept, parked or stored within the corporate limits of the town in accordance with the following provisions of this chapter.
(Ord. 5-1-01, passed 6-19-01)

§ 97.03 DEFINITIONS.

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

ABANDONED or "JUNK" VEHICLE. Any of the following:

- (1) A vehicle located on public property illegally;
- (2) A vehicle left on public property without being removed for 20 days;
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;
- (4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours;
- (5) A vehicle from which the engine, transmissions, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public or private property;
- (6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days of the vehicle's removal; or
- (7) A vehicle that is at least three model years old is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days.

OFFICER. Any of the following:

- (1) A regular member of the State Police Department;
- (2) A regular member of the City Police Department; or
- (3) A City Marshal or Town Marshal Deputy.

VEHICLE. Includes motor vehicles, boats, semi-tractors and trailers or parts thereof.
(Ord. 5-1-01, passed 6-19-01)

§ 97.04 APPLICABILITY.

This chapter does not apply to the following:

- (A) A motor vehicle or boat in good operating condition and being used periodically by the owner thereof;
 - (B) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;
 - (C) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;
 - (D) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility;
 - (E) A vehicle located upon property licensed or zoned as an automobile scrap yard; or
 - (F) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle.
- (Ord. 5-1-01, passed 6-19-01)

§ 97.05 RESPONSIBILITY OF OWNER.

The person who owns an abandoned vehicle or parts is:

- (A) Responsible for the abandonment; and
- (B) Liable for all the costs incidental to the removal, storage, and disposal of the vehicle or parts under this chapter.
(Ord. 5-1-01, passed 6-19-01)

§ 97.06 INABILITY TO ESTABLISH RIGHT TO POSSESSION.

When an officer discovers a vehicle in the possession of a person other than the person who owns the vehicle and the person cannot establish the right to the possession of the vehicle, the vehicle shall be taken to and stored in a suitable place.
(Ord. 5-1-01, passed 6-19-01)

§ 97.07 NOTICE TAG.

An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

- (A) The date, time, officer's name, public agency, address, and telephone number to contact for information;
- (B) That the vehicle or parts are considered abandoned;
- (C) That the vehicle or parts will be removed after 72 hours;
- (D) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle; and
- (E) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts himself or herself within 72 hours.
(Ord. 5-1-01, passed 6-19-01)

§ 97.08 PREPARATION OF REPORT; PHOTOGRAPHS.

If a vehicle or a part tagged under § 97.07 is not removed within the 72-hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.
(Ord. 5-1-01, passed 6-19-01)

§ 97.09 DISPOSITION OF VEHICLE OF LESS THAN \$100 IN VALUE.

If, in the opinion of the officer the market value of an abandoned vehicle or parts determined under § 97.07 is less than \$100, the officer shall immediately take the necessary steps to dispose of the vehicle to an automobile scrap yard. A copy of the abandoned vehicle report and photographs relating to the

abandoned vehicle shall be forwarded to the State Bureau of Motor Vehicles. The public agency disposing of the vehicle shall retain the original records and photographs for at least two years.
(Ord. 5-1-01, passed 6-19-01)

§ 97.10 DISPOSITION OF VEHICLE OF \$100 OR MORE IN VALUE.

If, in the opinion of the officer the market value of the abandoned vehicle or parts determined under § 97.08 is at least \$100, the officer, before placing a note tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or part. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage area.
(Ord. 5-1-01, passed 6-19-01)

§ 97.11 VEHICLE ABANDONED ON RENTAL PROPERTY; NOTIFICATION PROCEDURES.

A person who finds a vehicle believed to be abandoned on the person's rental property shall attach in a prominent place a notice tag containing the following information:

(A) The date, time, name and address of the person who owns the rental property and a telephone number to contact for information;

(B) That the vehicle is considered abandoned;

(C) That the vehicle will be removed after 72 hours;

(D) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle; and

(E) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours.

(Ord. 5-1-01, passed 6-19-01)

§ 97.12 DISPOSITION OF VEHICLE ABANDONED ON RENTAL PROPERTY.

If after 72 hours the person who owns a vehicle believed to be abandoned on rental property has not removed the vehicle from the rental property, the person who owns the rental property may have the vehicle towed from the rental property. The towing operator shall do the following:

(A) Contact the bureau to obtain the name and address of the person who owns the vehicle.

(B) Deliver, by certified mail, a copy of the information contained in the notice required under § 97.11 to the person who owns the vehicle. The notice required by this subdivision must be given not later than five business days after the vehicle is removed.

(Ord. 5-1-01, passed 6-19-01)

§ 97.13 REQUIREMENTS OF TOWING OPERATOR.

A towing operator who tows a vehicle under § 97.12, shall give notice to the public agency and State Bureau of Motor Vehicles that the abandoned vehicle is in the possession of the towing operator.

(Ord. 5-1-01, passed 6-19-01)

§ 97.14 VEHICLE ABANDONED ON PRIVATE PROPERTY; NOTIFICATION AND DISPOSITION PROCEDURES.

Upon receipt of a complaint by a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in § 97.07 and § 97.10.
(Ord. 5-1-01, passed 6-19-01)

§ 97.15 ABANDONED VEHICLE REPORT.

(A) Within 72 hours after removal of an abandoned vehicle to a storage area under § 97.09, § 97.10, or § 97.12, the public agency or storage lot shall prepare and forward to the State Bureau of Motor Vehicles an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

- (1) The make;
- (2) The model;
- (3) The identification number; and
- (4) The number of the license plate.

(B) The public agency or storage lot shall request that the State Bureau of Motor Vehicles advise the public agency or storage lot of the name and most recent address of the person who owns or holds a lien on the vehicle.

(Ord. 5-1-01, passed 6-19-01)

§ 97.16 DISPOSAL OF VEHICLE WITHOUT NOTICE.

If a vehicle or parts are in such a condition that vehicle identification numbers or other means of identification are not available to determine the person who owns or holds a lien on the vehicle, the vehicle may be disposed of without notice.

(Ord. 5-1-01, passed 6-19-01)

§ 97.17 PROCEDURES; ESTABLISHMENT OF ABANDONED VEHICLE FUND.

(A) The Town Council shall, by ordinance, establish procedures to carry out this chapter, including the following:

- (1) The charges allowed for towing and storage of abandoned vehicles, which shall be filed with the State Bureau of Motor Vehicles.
- (2) The means of disposition of vehicles.

(B) The Town Council shall establish an abandoned vehicle fund for the purposes of this chapter.
(Ord. 5-1-01, passed 6-19-01)

§ 97.18 REMOVAL OF ABANDONED VEHICLES; ESTABLISHMENT OF PROCEDURES.

To facilitate the removal of abandoned vehicles or parts, a public agency may employ personnel, acquire equipment, property and facilities and enter into towing contracts for the removal, storage and disposition of abandoned vehicles and parts. The Town Council may, by ordinance, establish procedure to carry out this section.

(Ord. 5-1-01, passed 6-19-01)

§ 97.19 EXEMPT FROM LIABILITY.

The following are not liable for loss or damage to a vehicle or parts occurring during the removal, storage or disposition of a vehicle or parts under this chapter:

(A) A person who owns, leases or occupies property from which an abandoned vehicle or parts are removed;

(B) A public agency;

(C) A towing service; and/or

(D) An automobile scrap yard.

(Ord. 5-1-01, passed 6-19-01)