

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ABANDONED AND JUNK VEHICLES

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§ 90.01 DEFINITIONS.

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

ABANDONED. When used in conjunction with the term **VEHICLE**, means:

- (1) Any vehicle located on public or private premises which does not have lawfully affixed thereto or displayed thereon a valid, unexpired license plate permitting its operation upon the highways of the state;
- (2) Any vehicle which is left on public premises continuously without being moved for a period of ten days;
- (3) Any vehicle located on public premises illegally or in such a manner as to constitute a hazardous obstruction to the movement of pedestrian or other vehicle traffic on a public right-of-way, alley, or street;
- (4) Any vehicle that has remained on private premises without the consent of the owner or person in control of such premises for more than five days; and
- (5) Any vehicle from which there has been removed the engine or transmission or differential, or which is otherwise partially dismantled, inoperable, or incapable of permitting regular use for the

purpose of transportation and left on a private premises in a location visible from regular premises, or left on public premises.

PERSON. The last known record title holder to a vehicle according to the records of the State Bureau of Motor Vehicles.

PRIVATE PREMISES. All privately owned property located within the town which is not classified within the definition of **PUBLIC PREMISES**.

PUBLIC PREMISES. Any public right-of-way, alley, street, highway, park, or other municipally owned property.

VEHICLE. Any motor vehicle, automobile, motorcycle, truck trailer, semi-trailer, truck tractor, bus, school bus, recreational vehicle, or motor bicycle.
(Prior Code, § 90.01) (Ord. 10-20-1998A, passed 10-20-1998)

§ 90.02 DECLARATION OF NUISANCE.

Because of the danger to health from vermin and insects, and because of the danger to the safety of children attracted by these vehicles, abandoned or junked motor vehicles are declared to be nuisances.
(Prior Code, § 90.02) (Ord. 10-20-1998A, passed 10-20-1998)

§ 90.03 PROHIBITED ACTS.

(A) It shall be unlawful for any person to abandon a vehicle on any public premises or private premises, or allow an abandoned vehicle to remain on any public premises or private premises.

(B) Whenever the Town Marshal shall find any abandoned vehicle in violation of this chapter, the Marshal shall issue an order to the owner of the abandoned vehicle to remove the vehicle within ten days.
(Prior Code, § 90.03) (Ord. 10-20-1998A, passed 10-20-1998) Penalty, see § 10.99

§ 90.04 NOTICE TO REMOVE.

(A) Notice of an order to remove an abandoned vehicle shall be served as follows:

- (1) Affixed to the abandoned vehicle in a conspicuous place;

(2) Personally delivered to any adult occupying the real estate upon which the abandoned vehicle is located; and/or

(3) Personally delivered to the owner of the abandoned vehicle if the owner can be found within the town.

(B) If either the occupant of the real estate or the owner of the abandoned vehicle cannot be found, a notice shall be affixed to any building or other conspicuous place on the real estate which shall constitute notice to the owner and occupant of the real estate and to the owner of the abandoned vehicle.

(C) The Town Marshal is assigned the responsibility for removal, storage, and disposal of abandoned vehicles as public agency, as that term is used and defined in I.C. 9-22-1-3. (Prior Code, § 90.04) (Ord. 10-20-1998A, passed 10-20-1998)

§ 90.05 EXCEPTIONS.

The provisions of this chapter shall not apply to the following:

(A) Any vehicle that is considered inventory in a vehicle sales business;

(B) Any vehicle awaiting service at a commercial vehicle servicing facility;

(C) Any vehicle that is located on premises duly licensed as a junkyard, (vehicle) graveyard, or scrap-processing facility; and/or

(D) Any vehicle that is licensed as an antique motor vehicle with the State Bureau of Motor Vehicles. (Prior Code, § 90.05) (Ord. 10-20-1998A, passed 10-20-1998)

§ 90.06 REMOVAL BY TOWN.

If any abandoned vehicle in violation of this chapter is not removed within the time fixed, the Town Marshal shall cause such abandoned vehicle to be removed by a salvage yard or wrecker service. The cost and expense of such removal shall be paid by the owner of the vehicle.

(Prior Code, § 90.06) (Ord. 10-20-1998A, passed 10-20-1998)

§ 90.07 CHAPTER TO BE SUPPLEMENTAL.

The provisions of this chapter are declared to be supplemental to all other ordinances of the town. (Prior Code, § 90.07) (Ord. 10-20-1998A, passed 10-20-1998)

CHAPTER 91: ANIMALS

Section

General Provisions

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- 91.02 Adoption of animals
- 91.03 Restraint
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- 91.06 Maintaining sanitary conditions within the town
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Dogs

- 91.20 Taxation of dogs

Rabies; Vaccinations; Impoundment

- 91.35 Vaccinations
- 91.36 Vaccination certificates
- 91.37 Impoundment of suspected animals
- 91.38 Notification of authorities
- 91.39 Restraining of suspected animals

Complaints and Enforcement

- 91.50 Investigation of complaints; enforcement

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Dogs in park, see §§ 95.15 and 95.16

GENERAL PROVISIONS**§ 91.01 DEFINITIONS.**

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

ANIMAL. Any live, vertebrate creature, domestic or wild.

ANIMAL SHELTER. Facilities in the City of Anderson/Madison County that care for animals found at large. Animal Shelter or Animal Protection League.

AT LARGE. Not under restraint.

DOMESTIC ANIMAL. As defined by state law.

HARBORING. Permitting any animal to remain or to be fed within any person's enclosure, place of business, residence, or any premises controlled by that person for more than three consecutive days.

OWNER. Any person harboring an animal.

PERSON. As defined by state law.

PUBLIC NUISANCE. Any animal which is at large; or which attacks or molests other animals, humans, or passing vehicles; or which damages property; or which disturbs a reasonable person with continuous or excessive noise.

RESTRAINT. Confinement within the property of the owner or securing by a lead or leash.

STRAY. An animal whose owner cannot be identified following reasonable inquiry.

VICIOUS ANIMAL. Any animal constituting an immediate and serious danger to humans or to other animals.

(Prior Code, § 91.01) (Ord. 12-21-20B, passed 1-25-2021)

§ 91.02 ADOPTION OF ANIMALS.

(A) Adoptions may be approved by either the Animal Shelter or the Animal Protection League.

(B) Any resident of the town who adopts a cat or dog shall be responsible to seek neutering, when appropriate, by a veterinarian.

(Prior Code, § 91.02) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

§ 91.03 RESTRAINT.

(A) The owner shall exercise due care to prevent his or her animal from becoming a public nuisance. All animals, except cats, shall be kept under restraint. Each female animal in estrus shall be confined to prevent mating, unless for planned breeding.

(B) The Town Marshal or Officer shall order the confinement of any animal believed to be vicious. Confining of a vicious animal shall be within a building or secure enclosure by its owner.

(C) Any animal constituting a public nuisance shall be taken to either the Animal Shelter or Animal Protection League and impounded. A list of impounded animals shall be maintained. The owner of the impounded animal shall pay a fee that is determined by the impound facility. Animals not claimed become the property of the facility and shall be adopted or humanely euthanized.

(Prior Code, § 91.03) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

§ 91.04 ABUSE OF ANIMALS.

(A) When the operator of a motor vehicle strikes an animal, he or she shall stop at once and render all possible assistance. The operator of the motor vehicle shall immediately report the injury or death of the animal to its owner. If the owner cannot be immediately ascertained and located, the operator of the motor vehicle shall report the incident immediately to the Town Police Department.

(B) No person shall knowingly set out a poisonous substance, whether mixed with food or not, which can be eaten by any animal. However, a person may set out a common rat or mouse poison, unmixed or mixed with vegetable substances, on his or her property.

(Prior Code, § 91.04) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

§ 91.05 PERMITTED ANIMALS.

(A) It shall be unlawful for any resident of the town to:

(1) Harbor hogs, pigs, horses, chickens, turkeys, or similar animals on his or her property that would typically be considered livestock, farm animals, or poultry;

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(2) Harbor exotic animals on their property that would not typically be considered a domestic animal or a household pet;

(3) Operate on his or her property the business of boarding or breeding animals; or

(4) Harbor so many animals on his or her property, even if permitted animals, that their presence creates a public nuisance.

(B) This section regulating animals intentionally omits a listing of prohibited animals. This section shall be interpreted so that animals harbored by town residents shall not become a public nuisance, and so that animals harbored by town residents shall not adversely affect the quality of life or property values of other town residents.

(C) To the extent there is an issue about whether a resident is permitted to harbor a certain animal or certain number of animals on their property, such issue shall be referred to the Town Council. The Town Council shall consider the issue at its next regular monthly meeting. The decision of the Town Council shall be final and conclusive. An aggrieved resident may, however, appeal the decision of the Town Council to the Madison Circuit Court.

(Prior Code, § 91.05) (Ord. 12-11-17, passed 12-11-2017; Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

§ 91.06 MAINTAINING SANITARY CONDITIONS WITHIN THE TOWN.

(A) Any person who owns, keeps, harbors, or has charge/control of any animal (hereafter, “the responsible person”) shall immediately collect and remove any and all feces deposited by the animal on public property or on private property not occupied or under control of the responsible person.

(B) While a responsible person is with any such animal on property not occupied by or under the control of the responsible person, the responsible person shall have in his or her immediate physical possession a means to collect and sanitarily dispose of all the animal’s fecal matter deposited on public property or the private property of another.

(C) A responsible person shall keep premises or land occupied by or under the control of the responsible person free from accumulations of animal fecal matter that are unhealthy to any person or persons, or are unhealthy or offensive to the neighborhood. The premises on which any animal is kept shall be maintained in a clean and sanitary condition so that the premises do not attract rodents, flies, or insects, and so that animal waste does not adversely affect other persons or the neighborhood.

(Prior Code, § 91.06) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

§ 91.07 NEGATIVE IMPACT OF FERAL CATS.

(A) (1) The community is negatively impacted, as well as birds, small mammals, and other wildlife, by feral cats. Feral cats can spread disease and attract such unwanted animals as raccoons. Diseases spread by these roving animals include rabies, roundworm, and ringworm.

(2) These feral colonies tend to grow in certain areas where well-meaning residents continuously feed them. An inordinate number of cats in one area can result in damage to personal property.

(B) For these reasons, residents who continue to place food out for feral and/or stray cats shall be in violation of this section. Residents should be educated and discouraged from feeding feral cats. (Prior Code, § 91.07) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

DOGS

§ 91.20 TAXATION OF DOGS.

The Council levies a tax of \$5 on each dog in the town. It shall be unlawful for any person to keep, own, or harbor a dog within the limits of the town without first obtaining a license and paying the foregoing tax.

(Prior Code, § 91.15) (Ord. 01-17-06, passed 1-17-2006; Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

RABIES; VACCINATIONS; IMPOUNDMENT

§ 91.35 VACCINATIONS.

No person shall harbor any animal which is capable of contracting rabies which is six months or older and which has not been vaccinated against rabies. The anti-rabic vaccine shall be of a type approved by the State Board of Health. The animal shall be given a rabies booster vaccination once every six months. A durable metal tag issued at the time of vaccination shall be firmly affixed to the collar of the animal, and this, with the certificate issued at the time of vaccination, shall be evidence of compliance with this section.

(Prior Code, § 91.30) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

§ 91.36 VACCINATION CERTIFICATES.

The owner of any animal required to be vaccinated against rabies under this chapter shall place a vaccination certificate upon the collar of the animal and shall produce proof that any required licenses for the animal have been obtained.

(Prior Code, § 91.33) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

§ 91.37 IMPOUNDMENT OF SUSPECTED ANIMALS.

(A) Any domestic animal which has bitten a person or appears to be suffering from rabies or any infectious or dangerous disease shall be impounded at the expense of the owner for a period of not less than 14 days and until it can be determined if the animal is rabid. If the animal dies while impounded, a test shall be conducted, at the expense of the owner, to determine if the animal is rabid. The death of any animal suspected to have been rabid shall be reported to the County Health Officer and the Clerk-Treasurer immediately following the discovery of its death.

(B) Any domestic animal which has been bitten by an animal suspected to be rabid shall be confined for a period of six months at the expense of the owner or shall be destroyed.

(Prior Code, § 91.31) (Ord. 12-21-20B, passed 1-25-2021)

§ 91.38 NOTIFICATION OF AUTHORITIES.

No person who knows or suspects that an animal under his or her control is rabid shall allow that animal to leave his or her control except to be taken to the Animal Shelter or a veterinarian. Any person who knows or suspects that an animal is rabid shall immediately notify the Clerk-Treasurer. If any animal capable of contracting rabies bites any person or animal, any physician, hospital, veterinarian, law enforcement officer, or any other person with knowledge of the circumstances shall notify the Clerk-Treasurer. That person or persons shall file a report in the office of the Clerk-Treasurer stating the identity and location of the persons or animals concerned.

(Prior Code, § 91.32) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

§ 91.39 RESTRAINING OF SUSPECTED ANIMALS.

The Council shall issue a proclamation ordering all persons to muzzle or place under restraint any animal capable of contracting rabies which is under their control whenever it determines that the existence of rabies or the possibility of its occurrence constitutes a serious and present danger to the residents and animals of the town. The proclamation shall include a date for the expiration of its provisions. The violation of any provision of the proclamation constitutes a violation of this chapter.

(Prior Code, § 91.34) (Ord. 12-21-20B, passed 1-25-2021) Penalty, see § 10.99

*COMPLAINTS AND ENFORCEMENT***§ 91.50 INVESTIGATION OF COMPLAINTS; ENFORCEMENT.**

(A) Upon receipt of a complaint signed by a competent person, the law enforcement office shall investigate to determine whether there is reasonable suspicion to believe a violation of this chapter has occurred. The complaint must state the nature and date, name and address of the responsible person, and description of the animal.

(B) If the law enforcement officer observes a violation or receives two signed complaints from competent persons residing in two separate homes, the responsible person shall be subject to the following enforcement actions.

(1) If there has been no violation within the past 90 days, the warning citation shall state the date and time of issuance, name and address of the person accused, nature of the offense, and description of the animal involved. This offense must be abated within 72 hours.

(2) If the current violation has been preceded by a single documented violation (warning or citation) in the prior 90 days, the violation citation shall be issued to an appropriate court, where the Town Attorney shall prosecute the offense seeking the imposition of a fine as per this chapter and seeking a court to mitigate the violation.

(3) If the current violation has been preceded by two or more violations (warning or citation) within the prior 90 days, or there are aggravating circumstances, persistent public safety concerns, or a public nuisance, a citation shall be issued.

(Prior Code, § 91.45) (Ord. 12-21-20B, passed 1-25-2021)

CHAPTER 92: DISCRIMINATORY PRACTICES

Section

Affirmative Action

- 92.01 Short title
- 92.02 Intent
- 92.03 Equal opportunity employer
- 92.04 Contractors dealing with town
- 92.05 Application of ordinances

Americans with Disabilities Act (ADA) Policy

- 92.20 Effective communication
- 92.21 Modifications to policies and procedures
- 92.22 General grievance procedure
- 92.23 Specific complaint procedures

AFFIRMATIVE ACTION

§ 92.01 SHORT TITLE.

This subchapter shall be cited as the “Affirmative Action Ordinance.”
(Prior Code, § 92.01)

§ 92.02 INTENT.

It is the intent of this subchapter to establish the concept of nondiscrimination as an official policy in all aspects of the employer-employee relationships within the town and in all other business dealings and functions of the town.
(Prior Code, § 92.02)

§ 92.03 EQUAL OPPORTUNITY EMPLOYER.

The town shall provide equal employment opportunity in all aspects of the employer-employee relationship, including recruiting, hiring, training and promotion, conditions and privileges of employment, educational systems, social and recreational programs, compensation benefits, discipline, and termination of employment to all qualified individuals, without discrimination because of age, race, sex, color, religion, handicap as defined by law, or national origin, except when sex or physical requirement is a bona fide occupational qualification as provided by law.

(Prior Code, § 92.03) Penalty, see § 10.99

§ 92.04 CONTRACTORS DEALING WITH TOWN.

All surveyors and contractors shall adopt and observe the same standards of nondiscrimination established and observed by the town as set forth in § 92.03.

(Prior Code, § 92.04) Penalty, see § 10.99

§ 92.05 APPLICATION OF ORDINANCES.

The town shall apply the provisions of all ordinances approved and adopted by the Town Council equally to the citizens of the town, and to all other persons to whom they apply, without regard to age, race, sex, color, religion, handicap as defined by law, or national origin.

(Prior Code, § 92.05)

AMERICANS WITH DISABILITIES ACT (ADA) POLICY**§ 92.20 EFFECTIVE COMMUNICATION.**

(A) The town will, upon request, provide appropriate aids and services leading to effective participation for people with disabilities to participate equally in the town's programs, services, and activities.

(B) Anyone who requires an auxiliary aid or service for effective participation or modification of policies or procedures to participate in a service, program, or activity should contact the office of the ADA Coordinator as soon as possible, but no later than 48 hours before the scheduled event.

(Prior Code, § 92.15) (Ord. 11-20-12, passed 11-20-2012)

§ 92.21 MODIFICATIONS TO POLICIES AND PROCEDURES.

(A) The town will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. The ADA (Americans with Disabilities Act of 1990, being 42 U.S.C. §§ 12101 et seq.) does not require the town to take any action that would fundamentally alter the nature of its services or programs, or impose an undue financial or administrative burden to the town. Complaints regarding a service, program, or activity of the town that is not accessible to persons with disabilities should be directed to the ADA Coordinator.

(B) The town will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

(Prior Code, § 92.16) (Ord. 11-20-12, passed 11-20-2012)

§ 92.22 GENERAL GRIEVANCE PROCEDURE.

The town has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the ADA, being 42 U.S.C. §§ 12131 et seq. Title II states, in part, that “no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in programs, services, or activities sponsored by a public entity.”

(Prior Code, § 92.17) (Ord. 11-20-12, passed 11-20-2012)

§ 92.23 SPECIFIC COMPLAINT PROCEDURE.

(A) Complete the Town Grievance Form. The grievance form can be found on the town’s website (www.townofedgewoodin.us) or in the ADA Coordinator’s office. A grievance may be communicated in writing, by e-mail, by fax, or by telephone, but must follow the format of the Town Grievance Form.

(B) A grievance concerning the accessibility of the town’s services, programs, or activities should be addressed to:

Town of Edgewood
3317 Nichol Avenue
Town of Edgewood, IN 46011
ATTN: Clerk-Treasurer

(C) A grievance should be filed within 90 days after the grievant party becomes aware of the alleged violation. The ADA Coordinator will send an acknowledgment of receipt of the grievance within 12 working days.

(D) Following the filing of a grievance, the ADA Coordinator shall determine whether, and to what extent, an investigation of the grievance is warranted. Any resulting investigation shall be conducted by the ADA Coordinator, or his or her designee. In the case of a property or access issue, the grievance will also be investigated by the Town Clerk-Treasurer or Building Commissioner. A thorough investigation affords all interested persons and their representatives an opportunity to submit evidence relevant to a grievance. The ADA Coordinator will complete the investigation within 60 calendar days of receipt of the grievance. If appropriate, the ADA Coordinator will arrange to meet with the grievant to discuss the matter and attempt to reach an informal resolution of the grievance. Any informal resolution of the grievance shall be documented in the ADA Coordinator file, and the case will be closed.

(E) If an informal resolution of the grievance is not reached within 60 calendar days of receipt of the grievance, a written determination as to the validity of the complaint, and description of the resolution, if appropriate, shall be forwarded by the ADA Coordinator to the Executive Officer for approval.

(F) The ADA Coordinator shall communicate the determination and resolution to the grievant within 90 calendar days of receipt of the grievance, unless the Executive Officer authorizes additional time for further consideration of the grievance. Any authorized extension of time will be communicated to the grievant. Any request for reconsideration of the response to the grievance shall be at the discretion of the Executive Officer.

(G) (1) If the grievant is not satisfied with the town's handling of the grievance at any stage of the process, or does not wish to file a grievance through the town's ADA Title II grievance procedures, the grievant may file a complaint directly with the U.S. Department of Justice, or other appropriate state or federal agency. Use of the town's grievance procedure is not a prerequisite to the pursuit of other remedies.

(2) The resolution of any specific grievance will require consideration of varying circumstances, such as the specific nature of the disability; the nature of the access to services, programs, or facilities at issue; the essential eligibility requirements for participation; the health and safety of others; and the degree to which an accommodation would constitute a fundamental alteration to the service, program, or facility, or cause an undue hardship to the town. Accordingly, the resolution by the town of any one grievance does not constitute a precedent upon which the town is bound or upon which other complaining parties may rely.

(H) The town's ADA Coordinator shall maintain ADA grievance files for three years.
(Prior Code, § 92.18) (Ord. 11-20-12, passed 11-20-2012)

CHAPTER 93: FIRE PREVENTION

Section

93.01 Open burning restrictions

93.02 Fire Departments to recover service charges for fire protection services

§ 93.01 OPEN BURNING RESTRICTIONS.

The guidelines for open burning are as follows.

(A) Only leaves and wood products should be burned.

(B) Fires should be attended at all times until completely extinguished.

(C) If a fire creates an air pollution problem, a nuisance for neighbors, or a fire hazard, it should be extinguished.

(D) No burning should be conducted during unfavorable meteorological conditions. The town will use the standards set by the Air Pollution Control Board of the City of Anderson in determining whether or not weather conditions are meteorologically unfavorable for burning.

(E) All burning should occur between 9:00 a.m. and 4:00 p.m. If the material being burned has not been consumed by 5:00 p.m., the fire should be extinguished and the burning material dispersed in order to prevent subsequent combustion.

(F) The Council recommends and suggests to the residents of the town that they consider alternate methods of disposing of leaves, such as shredding, mulching, and composting the leaves, or simply bagging them and having them hauled away. Shredding, mulching, and composting are all excellent ways to turn leaves into a soil conditioner.

(G) Burning must be done only in containers designed for burning in order to adequately contain the fire.

(Prior Code, § 93.01) (Res. passed 10-18-1988) Penalty, see § 10.99

§ 93.02 FIRE DEPARTMENT TO RECOVER SERVICE CHARGES FOR FIRE PROTECTION SERVICES.

(A) When the Fire Department first responds to an incident, it shall impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined by state law) that is involved in a hazardous material or fuel spill, or chemical- or hazardous material-related fire (as defined by state law).

(B) The Fire Department shall not impose a charge, however, on a natural person who resides within the town who pays property taxes within the town, or who pays Fire Department user fees, unless the charge is for recovery of expendable materials, such as absorption materials, emulsifiers, or other agents used in cleanup operations.

(C) Any payments received under this section shall be deposited in the town's Fire Department and Ambulance Fund.

(D) The schedule of charges and fees shall be as follows:

(1) For initial response with a fire engine, a fire truck, or a fire apparatus, including a hazardous material response unit, or a fire rescue unit dispatched on a fire or hazardous material incident: \$250 per response vehicle, except command/control vehicle, which is \$100;

(2) For each hour or fraction thereof as on-scene assistance: \$150 per response unit and \$50 per command/control vehicle;

(3) For expendable materials, such as absorption materials, emulsifiers, or other agents used in cleanup operations, including firefighter "turnout gear" and other firefighter equipment, the actual replacement cost of those materials; and

(4) For collection of debris, chemicals, fuel, or contaminated materials resulting from a spill, the actual cost of removal and disposal at an authorized location.

(Prior Code, § 94.07) (Ord. 03-18-13, passed 3-18-2013)

CHAPTER 94: NUISANCES

Section

- 94.01 Definitions
- 94.02 Yards
- 94.03 Littering and burning garbage
- 94.04 Unlawful deposit of garbage
- 94.05 Exception for compost and recyclables
- 94.06 Action by designee

§ 94.01 DEFINITIONS.

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

COMPOST. A mixture of decayed plants and other organic matter used by gardeners for enriching soil.

GARBAGE. Discarded food waste or other unwanted or useless material.

HAZARDOUS MATERIAL. Explosives, pathological wastes, radioactive chemicals and materials, and similar items, the exposure to which may create a health hazard.

PERSON. An individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency, or any other entity recognized as a person by law.

RECYCLABLE. A material or product that is capable of being recycled.

REFUSE. All putrescible and nonputrescible solid waste, including ashes, dead animals, construction and industrial waste, street sweepings, unwanted vegetation, and lawn clippings.

RUBBISH. All nonputrescible wastes, including boxes, broken glass, cans, crockery, dirt, grass, metalware, sweepings, or litter of any kind.

(Prior Code, § 94.01) (Ord. 11-18-08, passed 11-18-2008)

§ 94.02 YARDS.

(A) The owner and/or any person having control of any property within the town shall be required to keep the grass, weeds, and other wild vegetation cut or mowed to a height of not more than eight inches, and to keep and maintain his or her property in a neat and orderly manner, so as not to detract from the overall appearance of the neighborhood, and shall not allow garbage, refuse, or rubbish to be piled or remain thereon.

(B) (1) If any person fails to comply with this chapter, the town shall cause the property to be cleaned, mowed, or otherwise brought into compliance, with any costs associated with the clean-up being billed to the owner and/or person having control of the property. Thereupon, a notice shall be sent by the Town Marshal, Clerk-Treasurer, or Building Commissioner by certified mail to the owner and/or person having control of the property advising about the amount owed, and further advising that the person or persons shall have ten days after the receipt of the notice to pay the amount billed, with payment being made to the Clerk-Treasurer's office.

(2) Any owner or person having control of the property may appeal the amount billed, in writing, to the Town Council within ten days after receipt of the notice, in which case hearing shall be scheduled at the next regular meeting of the Town Council. Subsequent to hearing, the Town Council shall either affirm or rescind the billing notice, and if affirmed, shall allow the owner or person having control of the property an additional ten days from the date of notification of its decision to pay the amount billed. If timely payment is not made, the town shall then institute an action at law against the owner and/or person having control of the property to recover the clean-up costs, and any enforcement expenses, including a reasonable fee for the Town Attorney.

(3) Any action brought under this section may be joint and several, that is, at the discretion of the town, such action may be brought against either the owner or person having control of the property, or against both the owner and the person having control of the property. In lieu of instituting an action at law, the town may certify the amount of costs and expenses billed to the County Auditor to be collected as delinquent taxes are collected.

(Prior Code, § 94.02) (Ord. 8-17-04A, passed 8-17-2004; Ord. 07-17-07, passed 7-17-2007; Ord. 11-18-08, passed 11-18-2008) Penalty, see § 10.99

§ 94.03 LITTERING AND BURNING GARBAGE.

No person shall throw, deposit, or burn garbage, hazardous material, refuse, or rubbish whatsoever within the town.

(Prior Code, § 94.03) (Ord. 11-18-08, passed 11-18-2008) Penalty, see § 10.99

§ 94.04 UNLAWFUL DEPOSIT OF GARBAGE.

No person owning or having control of any property within the town shall allow any garbage, hazardous materials, refuse, or rubbish to be thrown or deposited in any place or manner in violation of this section.

(Prior Code, § 94.04) (Ord. 11-18-08, passed 11-18-2008) Penalty, see § 10.99

§ 94.05 EXCEPTION FOR COMPOST AND RECYCLABLES.

This chapter shall not be enforced or interpreted to prohibit composting or the temporary storage of recyclables.

(Prior Code, § 94.05) (Ord. 11-18-08, passed 11-18-2008)

§ 94.06 ACTION BY DESIGNEE.

Any action to be taken by the Town Marshal, Clerk-Treasurer, or Building Commissioner under this chapter may also be taken by their duly authorized designee.

(Prior Code, § 94.06) (Ord. 11-18-08, passed 11-18-2008)

CHAPTER 95: PARKS AND RECREATION

Section

General Provisions

- 95.01 Town parks
- 95.02 Hours during which town parks will be open
- 95.03 Alcoholic beverages prohibited

Dogs in Park

- 95.15 Prohibitions
- 95.16 Dogs running at large

GENERAL PROVISIONS

§ 95.01 TOWN PARKS.

(A) Lots #81, #124, and #187 in the original plat of the town and Lots #108 and #151 in South Edgewood are designated as public parks, public playgrounds, and recreation centers.

(B) The Town Council shall establish, develop, maintain, equip, and beautify all public playgrounds, parks, and recreation centers, and shall adopt suitable rules, regulations, and bylaws to preserve order for the control of these facilities.

(Prior Code, § 95.01)

§ 95.02 HOURS DURING WHICH TOWN PARKS WILL BE OPEN.

(A) The town parks owned, operated, and maintained by the town shall hereafter be opened to the public from one-half hour before sunrise until one-half hour after sunset year-round. Individuals shall not enter into or upon said parks except during the hours indicated, unless in the performance of official duties or with the consent of the Town Marshal.

(B) It shall be unlawful for any person to enter upon or into any park owned, operated, and maintained by the town except during the visiting hours designated in division (A) above.
(Prior Code, § 95.02) (Ord. 36-10-3-2, passed 7-21-1987) Penalty, see § 10.99

§ 95.03 ALCOHOLIC BEVERAGES PROHIBITED.

(A) The use by an individual of any alcoholic beverage within any area designated by the town as a park area is prohibited.

(B) The possession by an individual of any alcoholic beverage within any area designed by the town as a park area is prohibited.

(C) Appropriate signs shall be erected, visible to persons using areas designated as park areas, of said prohibition of the use and/or possession of any alcoholic beverage in said park area.
(Prior Code, § 95.03) (Ord. 8-20-02B, passed 8-20-2002) Penalty, see § 10.99

DOGS IN PARK

§ 95.15 PROHIBITIONS.

It shall be unlawful for any person to permit or cause a dog to enter upon any park owned and operated by the town for the use and enjoyment of its citizens.
(Prior Code, § 95.15) (Ord. passed 7-21-1987) Penalty, see § 10.99

§ 95.16 DOGS RUNNING AT LARGE.

The owner of any dog running at large who enters upon or into a park operated and maintained by the town shall be deemed, for the purposes of this subchapter, to have permitted the dog to enter into and upon the park.
(Prior Code, § 95.16) (Ord. passed 7-21-1987) Penalty, see § 10.99

CHAPTER 96: SMOKING

Section

Smoking Regulations in Public Buildings

- 96.01 Definition
- 96.02 Designation of smoking and non-smoking areas
- 96.03 Posting
- 96.04 Duties of town officials

SMOKING REGULATIONS IN PUBLIC BUILDINGS

§ 96.01 DEFINITION.

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

SMOKING. The carrying or holding of a lighted cigarette, cigar, pipe, or any other lighted smoking equipment, or the inhalation or exhalation of smoke from any lighted smoking equipment.
(Prior Code, § 96.01) (Ord. 13-1-13-1, passed 11-9-1987)

§ 96.02 DESIGNATION OF SMOKING AND NON-SMOKING AREAS.

(A) *Town Hall.* All portions and parts of the Town Hall shall be a non-smoking area and facility.

(B) *Fire Barn.* All portions and parts of the Fire Barn shall hereafter be a non-smoking area and facility.

(C) *Storage and equipment building south of Town Hall.* All portions and parts of the storage and equipment building located immediately south of the Town Hall shall hereafter be a non-smoking area and facility, except the office area in the police car garage, which shall hereafter be a smoking area.
(Prior Code, § 96.02) (Ord. 13-1-13-1, passed 11-9-1987; Ord. 1999, passed 7-16-1991) Penalty, see § 10.99

§ 96.03 POSTING.

(A) The Clerk-Treasurer shall cause conspicuous signs to be posted in the non-smoking areas of the Town Hall, substantially reading as follows:

SMOKING IS PROHIBITED BY STATE LAW AND TOWN ORDINANCE IN THIS AREA,
WHICH HAS BEEN DESIGNATED AS A NON-SMOKING AREA

(B) The Clerk-Treasurer shall post in the smoking area a conspicuous sign which shall read as follows:

SMOKING PERMITTED IN THIS AREA WHICH HAS BEEN DESIGNATED A SMOKING AREA

(Prior Code, § 96.08) (Ord. 13-1-13-1, passed 11-9-1987)

§ 96.04 DUTIES OF TOWN OFFICIALS.

Any member of the Town Council, the Clerk-Treasurer, the Town Marshal, or any of his or her deputies, may request persons who are in violation of this subchapter to refrain from smoking. In the event that such individual shall not thereafter refrain from smoking, the Town Marshal or any of his or her deputies, may, themselves, remove such individual from the building, and in the event that such request is made by a member of the Town Council or the Clerk-Treasurer, then such official shall request the Town Marshal, or one of his or her deputies, to remove such individual from the non-smoking area of the Town Hall, and the Town Marshal or the Deputy requested to do so shall immediately cause said individual to be removed. However, no such request shall be made by any of the above named individuals, nor shall any person be removed from a non-smoking area of any of the buildings belonging to the town, unless the non-smoking signs provided in § 96.03 have been posted.

(Prior Code, § 96.04) (Ord. 13-1-13-1, passed 11-9-1987)

CHAPTER 97: STREETS AND SIDEWALKS

Section

- 97.01 Extension of town roads
- 97.02 Authority of Town Road Commissioner
- 97.03 Closing portion of the street
- 97.04 Snow plowing policy
- 97.05 Municipal highway system
- 97.06 Designation of roads

§ 97.01 EXTENSION OF TOWN ROADS.

No road or street in the town, constructed and/or maintained by the town, shall be extended by any person or corporation beyond the corporate limits of the town, nor shall any person or corporation construct or extend a road or street from outside the corporate limits of the town to the town connecting the road or street into the town road system without the permission of the Town Council.

(Prior Code, § 97.01) (Ord. 12-19-89, passed 1-16-1990) Penalty, see § 10.99

§ 97.02 AUTHORITY OF TOWN ROAD COMMISSIONER.

In the event any corporation or person does, or attempts to, extend a street or road in the town, which was constructed or is maintained by the town, or does or attempts to extend a road or street from outside the corporate limits of the town into the town, connecting a road or street into the town road system, the Town Road Commissioner shall construct barricades at the corporate limits of the town preventing motor vehicles from entering into or leaving the corporate limits of the town on such street or road. The Town Road Commissioner shall also cause a sign to be erected on the street or road, within the corporate limits of the town, facing the traffic approaching said point both from within the town and from outside the town bearing the words, "ROAD CLOSED DO NOT ENTER," and no person shall enter the town upon, or leave the town upon, such street or road where said sign and/or barricade has been erected.

(Prior Code, § 97.02) (Ord. 12-19-89, passed 1-16-1990) Penalty, see § 10.99

§ 97.03 CLOSING PORTION OF THE STREET.

(A) The Town Council may close any road, or street, or portion thereof in the town, not subject to the jurisdiction of any other municipal entity or to the jurisdiction of the state. The Town Road Commissioner, acting for the Council, may close, or partially close, such a street or road until the next meeting of the Town Council. The Town Council or Town Road Commissioner shall consider the recommendations of the Town Marshal, any requests of the residents of the town, weather conditions, and other relevant factors before closing any road or street or portion thereof.

(B) In the event the Town Council or Town Road Commissioner closes a road or street, or any portion thereof, pursuant to this section, the town shall cause appropriate markers and lighting to be placed on the perimeters of the closed portion of such street or road, and no person shall drive any motor vehicle on the closed area of such road or street.

(Prior Code, § 97.03) (Ord. 12-19-89, passed 1-16-1990) Penalty, see § 10.99

§ 97.04 SNOW PLOWING POLICY.

(A) As the snow level on streets reaches approximately two inches, plowing should commence and continue until all streets have been cleared.

(B) Special attention is to be given to clearing intersections where turning is made difficult due to the angle of the streets involved, and the plowed snow depth prevents passage.

(C) Good judgment should be used if snowfall continues after initial plowing as to when to start plowing again.

(Prior Code, § 97.04) (Ord. passed 5-15-1995)

§ 97.05 MUNICIPAL HIGHWAY SYSTEM.

(A) The Council establishes the Municipal Highway System, consisting of all highways contained in the volume titled "Edgewood Road Inventory." Two copies of this volume are on file in the office of the Clerk-Treasurer for public inspection and are incorporated herein by reference.

(B) On or before November 1 of each year, the Board shall compile a list of those highways accepted or vacated by the town during the past year. A copy of this list shall be sent to the County Council of Governments to assist the Council in promptly obtaining highway assistance funds for the town.

(Prior Code, Ch. 97 App. § 1)

§ 97.06 DESIGNATION OF ROADS.

The names of the several streets located in the town are designated as follows:

(A) *Beechwood Lane*. From Park Road southwest to Corporation Line;

(B) *Berkeley Road*. From Beechwood Lane north and then south to Ivy Drive;

(C) *Boulevard Way*. Commencing at the southeast corner of Lot #43 in Edgewood Manner Addition, at Park Road, and running thence west to Edgewood Drive;

(D) *Central Way*. Beginning at the northwest corner of Lot #1 East Edgewood addition and running thence south to State Road 32;

(E) *Cherry Road*. Commencing at the northeast corner of Lot #44 in Edgewood Manor Addition at Park Road, and running thence west to Edgewood Drive;

(F) *Colony Road*. Beginning at the northeast corner of Lot #4 in the original plat and running thence north on both sides of Lot #20 and #21 in the original plat to the northeast corner of Lot #69 in the original plat;

(G) *Davis Drive*. Commencing at the southwest corner of Lot #56 in the original plat at Woods Road, and running thence north to the south side of Lot #288 in Edgewood Second Continuation Addition, thence west to Pershing Drive;

(H) *Davisson Drive*. Commencing at the southwest corner of Lot #328 in Donnelly's Addition at Donnelly Drive, and running thence north northwesterly to the Corporation Limit at the northeast corner of Lot #327 in said Addition;

(I) *Dogwood Drive*. From Edgewood Drive southwest to the corporation line or town boundary to Central Way;

(J) *Donnelly Drive*. Commencing at the northeast corner of Lot #247 in the original plat at Winding Way, and running thence west and north to the northwest corner of Lot #336 in Donnelly's Addition, thence east to Winding Way at the northeast corner of Lot #238 in the original plat;

(K) *Edgewood Court*. Off North Edgewood Drive between Lot #12-16-17;

(L) *Edgewood Drive*. Commencing at the southeast corner of Lot #18 in Edgewood Manor Addition, at State Road 32, thence north to Manor Road, then jogging east then north to the corporation

line at Willow Road, and also south from Nichol Avenue to Westfield Drive, slight jog west and then south to Berkeley Road;

(M) *Elm Court*. Commencing at Davis Drive on the south side of Lot #288 in Edgewood Second Continuation Addition, and running thence northeast, east, north, and east to the corporation line at the southeast corner of Lot #290 in said Addition;

(N) *Forse Drive*. Commencing at the northeast corner of Lot #58 in the original plat at Manor Road, and running thence south to Maple Road;

(O) *Garden Court*. Beginning at the southwest corner of Lot #18 in the Continuation of East Edgewood Addition, and running thence north to Edgewood Road;

(P) *Golf Club Road*. Beginning at State Road 32 at the southwest corner of Lot #123 in the original plat, and running thence north to Lot #249 in the original plat, thence east to Winding Way;

(Q) *Hawthorne Road*. From Park Road northeast to Edgewood Drive North;

(R) *Holly Lane*. From Donnelly Drive Lot #339-340 east to dead end;

(S) *Knoll Road*. Commencing at the southwest corner of Lot #166 in the original plat, and running thence east to the southeast corner of Lot #159, thence along both sections of the fork in said road to Winding Way;

(T) *Laurel Lane*. Commencing at Park Road west and running along the north ends of Lots #54 to 47 inclusive to Orchard Lane, and also beginning at Lot #286 of the Sixth Continuation of South Edgewood Addition and south and west to South Central Way;

(U) *Linden Lane*. Beginning at the southwest corner of Lot #131 in the original plat at Golf Club Road, and running thence east to Tower Road;

(V) *Logamar Lane*. From 8th Street west to Corporation Line;

(W) *Longfellow Road*. From Hamilton Road north on 8th Street one block west of Park Road North, south to Hawthorne Road;

(X) *Magnolia Drive*. From Park Road South, west on Laurel Lane one block and north on Magnolia Drive to Windsor Way;

(Y) *Manor Road*. Beginning at the northwest corner of Lot #57 in the original plat at Davis Drive, and running thence east to the corporate line to intersect with Park Road;

(Z) *Maple Street*. West from Park Road North to Edgewood Drive North;

(AA) *North Park Road*. Commencing at the southwest corner of Lot #125 in the original plat and running thence east and north to North Park Drive;

(BB) *Northway Court*. From Donnelly Drive Lot #328 and #329 north to cul-de-sac;

(CC) *Oakwood Drive*. From Park Road south to South Winding Way;

(DD) *Orchard Lane*. Commencing at the southeast corner of Lot #11 in the original plat at State Road 32, and running thence north to Woods Road and from Nichol Avenue south to Windsor Way, west one block bearing to the south to Westfield Drive;

(EE) *Park Road*. Commencing at State Road 32 at the southeast corner of Lot #43 in Edgewood Manor Addition, and running thence north along the east corporation line to 8th Street, and then south to the corporation line;

(FF) *Pershing Drive*. Commencing at the southwest corner of Lot #276 in Edgewood Second Continuation Addition, and running thence north to Winding Way;

(GG) *Redwood Road*. From Park Road south to South Winding Way;

(HH) *South Park Drive*. Commencing at Golf Club Drive at the southwest corner of Lot #117 in the original plat, and running thence east to Tower Road;

(II) *South Winding Way*. From Nichol Avenue south to corporation line one block south of Tulip Street;

(JJ) *Sunset Drive*. Beginning at its junction with Winding Way at the north side of Lot #211 in the original plat, and running thence east to Lot #309, thence south, crossing Winding Way at the Northwest corner of Lot #196, and continuing thence southwesterly to Winding Way at the northeast side of Lot #253;

(KK) *Tower Road*. Beginning at the northwest corner of Lot #101 in the original plat, at Winding Way Street, and running thence south to State Road 32;

(LL) *Tulip Street*. From Edgewood Drive west to South Winding Way;

(MM) *Washington Court*. Commencing at the southwest corner of Lot #8 in the Continuation of East Edgewood Addition, and running thence north to Winding Way;

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(NN) *Wertz Road*. Commencing at the northeast corner of Lot #65 in Edgewood Manor Addition at Manor Road, and running thence south to Maple Road;

(OO) *Weslow Court*. South on Park Road to 16th Street, east on 16th Street to Weslow Court, south and north to cul-de-sac;

(PP) *Westfield Court*. East from Edgewood Drive to cul-de-sac;

(QQ) *Westfield Drive*. From South Winding Way east to Edgewood Drive;

(RR) *Willow Road*. Beginning at the southwest corner of Lot #262 in Edgewood Second Continuation Addition at Central Way, and running thence east to the west side of Edgewood Drive, Lot #3;

(SS) *Winding Way*. Commencing at State Road 32 at the southeast corner of Lot #8 in the original plat, and winding thence west and north, crossing Central Way at the northwest corner of Lot #34 in the original plat, and continuing along the east side of Lots #84, #137, #153, #154, and #253, and the north sides of Lots #251, #250, #242, and #241 and continuing north to the southeast corner of Lot #232, thence east to the northeast corner of Lot #214, and thence winding in a southerly direction along the east side of Lots #214, #215, #216, and the like to the northwest corner of Lot #197 in the original plat, and running thence in an easterly direction, crossing Central Way at the northwest corner of Lot #1 in East Edgewood Addition, and continuing east to the corporation limits;

(TT) *Windsor Way*. From Park Road south to Edgewood Drive, south one block to Dogwood Drive, one block west and running north to South Central Way;

(UU) *Woodmere Drive*. From Winding Way north to Logamar Lane; and

(VV) *Woods Road*. Commencing at the southwest corner of Lot #74 in the original plat at Central Way, and running thence east and southeast to the southwest corner of Lot #47 in the original plat where it intersects with Winding Way and Maple Road, east to Edgewood Drive.

(Prior Code, Ch. 97 App. § 2)

CHAPTER 98: NOISE CONTROL

Section

- 98.01 Scope
- 98.02 Definitions
- 98.03 Loud and unnecessary noise prohibited
- 98.04 Prohibited acts
- 98.05 Prohibited noise
- 98.06 Exemptions

Cross-reference:

Nuisances generally, see Ch. 94

§ 98.01 SCOPE.

The provisions of this chapter shall apply to the control of all noise within the town limits, as it now exists or shall hereafter be established.

(Prior Code, § 98.01) (Ord. 12-15-1998, passed 12-15-1998)

§ 98.02 DEFINITIONS.

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

MOTOR VEHICLE. Any vehicle powered by mechanical engine, and designed to be driven or used on any public or private property. ***MOTOR VEHICLE*** shall include, but not be limited to, automobiles, vans, trucks, motorcycles, motor scooters, dune buggies, snowmobiles, all-terrain vehicles, go-carts, minibikes, and trail bikes.

PERSON. Any individual, association, partnership, joint venture, or corporation which includes any officer, and employee, department, agency, or instrumentality thereof.

(Prior Code, § 98.02) (Ord. 12-15-1998, passed 12-15-1998)

§ 98.03 LOUD AND UNNECESSARY NOISE PROHIBITED.

(A) It shall be a violation of this chapter for a person to make any loud, raucous, improper, unreasonable, offensive, or unusual noise, disorder, or tumult, which disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the town, or to permit such noise, disorder, or tumult to be made in or about his or her house or premises, and the same is declared to be a public nuisance.

(B) Further, it shall be the duty of every owner, occupant, manager, agent, or operator of any property, structure, vehicle, or business in the town, to prevent persons using property under his or her control from violating this chapter.

(Prior Code, § 98.03) (Ord. 12-15-1998, passed 12-15-1998) Penalty, see § 10.99

§ 98.04 PROHIBITED ACTS.

(A) The following acts, uses, or noises, among others, subject to specific exemptions, are declared to be loud, raucous, or disturbing noises in violation of this chapter.

(B) Such enumeration shall not be deemed to be exclusive:

(1) Using, operating, or permitting to be played, used, or operated any machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for the convenient hearing for the person who is in the room, vehicle, or property in which such machine or device is operated and who is a voluntary listener;

(2) Using, operating, or permitting the use or operation of any machine, instrument, or device capable of producing or reproducing of sound which is cast upon other properties, including the public right-of-way, for the purpose of commercial adverting or to attract attention to any activity, performance, sale, place, or structure;

(3) Using, operating, or permitting the use of operation of any machine, instrument, or device capable of producing or reproducing any sound on any public transportation vehicle;

(4) Using, operating, or permitting to be played, used, or operated any machine or device for the producing or reproducing of sound on any public right-of-way adjacent to any school, institution of higher learning, church, or court while the same are in use, or adjacent to any hospital which unreasonably interferes with the working of such institution, or which unduly disturbs patients in the hospital; and

(5) Allowing animals owned or under the control of the property owner to make noise in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants.
(Prior Code, § 98.04) (Ord. 12-15-1998, passed 12-15-1998; Ord. 6-15-1999, passed 6-15-1999)
Penalty, see § 10.99

§ 98.05 PROHIBITED NOISE.

No person shall play, use, operate, or permit to be played, used, or operated, any machine or device for the producing or reproducing of sound, if it is located in or on any of the following:

(A) Any public property, including any public right-of-way, highway, building, sidewalk, park, or thoroughfare, if the sound generated is audible at a distance of 30 feet from its source; or

(B) Any motor vehicle on a public right-of-way, highway, or public space, if the sound generated is audible at a distance of 30 feet from the device producing the sound.
(Prior Code, § 98.05) (Ord. 12-15-1998, passed 12-15-1998) Penalty, see § 10.99

§ 98.06 EXEMPTIONS.

(A) Exemptions shall not be permitted within any duly established quiet zone when such zone is designated by appropriate signage.

(B) The following shall be exempted from the provisions of this chapter:

(1) Sound emitted from sirens of authorized emergency vehicles;

(2) Lawn mowers, garden tractors, and similar home power tools when properly muffled, between the hours of 7:00 a.m. and 9:00 p.m.;

(3) Burglar alarms or other warning devices when properly installed on publicly or privately owned property, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time;

(4) Celebrations on Halloween and legal holidays;

(5) Permitted parades or festivals;

(6) Attendant noise connected with the actual performance of athletic or sporting events and practices related to them;

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(7) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency work;

(8) Sounds associated with the normal conduction of a legally established non-transient business within the normal range appropriate for such use. For bars, restaurants, and similar businesses that play music, have DJs, or project sound outside the confines of their premises, however, only if such sounds are generated not later than 10:00 p.m. on Sunday, Monday, Tuesday, Wednesday, and Thursday, and not later than 11:00 p.m. on Friday and Saturday; and

(9) In the case of motor vehicles, where the noise is the result of a defective or modified exhaust system, if the cause is repaired or otherwise remedied within seven calendar days.
(Prior Code, § 98.06) (Ord. 12-15-1998, passed 12-15-1998; Ord. 06-21-21, passed 7-19-2021)

CHAPTER 99: TREES

Section

General Provisions

- 99.01 Definitions
- 99.02 Purpose
- 99.03 Town Tree Board's authority and duties
- 99.04 Licensing required

Tree Planting, Protection, and Removal

- 99.15 Tree planting, maintenance, and replacement
- 99.16 Official tree list
- 99.17 Topping prohibited
- 99.18 Notice procedures
- 99.19 Nuisance or hazard
- 99.20 Adjacent landowner responsibility
- 99.21 Mutilation of trees prohibited
- 99.22 Tree protection requirements
- 99.23 Private trees, shrubs, and vegetation
- 99.24 Special circumstances

Enforcement

- 99.35 Enforcing agent
- 99.36 Interference
- 99.37 Appeals
- 99.38 Right to enter private property
- 99.39 Emergencies

Cross-reference:

Parks and recreation, see Ch. 95

GENERAL PROVISIONS**§ 99.01 DEFINITIONS.**

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

ALTER. To change the appearance or function of a tree.

APPROVAL. Written permission from the Tree Board that allows an individual or organization to go forward with some action that affects a tree.

CALIPER. The length, in inches of a straight line, measured through the trunk of a tree 12 inches above the ground.

CLEARING. The removal of substantially all trees from a lot.

COMMUNITY FOREST. The collection of trees, shrubs, other vegetation, and associated natural features that make up the town tree canopy and its growing zone.

COMMUNITY FORESTRY. The ecology of native and non-indigenous plantings, creating a forest in the human living environment, and emphasizing the practice of wise professional planned management of all tree resources within an urban area, including trees in public streets, in public areas, and on private property, to provide for multiple-use benefits for the general well-being of the entire community.

DAMAGE. To injure any part of a tree in a way that adversely affects its health, strength, appearance, function, or longevity.

DESIGNEE. Any person or persons designated by the Town Council to assume some or all of the duties outlined in this chapter.

DEVELOPER. The owner of the land or person who is the applicant for alteration of the land.

DRIPLINE. An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.

HAZARD or NUISANCE. Trees, shrubs, and all other woody vegetation on public and private property that pose a threat to public safety by their condition or location.

LANDSCAPE PLAN. The design and specifications for the placement of any live plant materials, such as trees, shrubs, ground cover, and grasses, including the retention of existing vegetation; and

human-made structures, such as walls, fences, and berms; for the purposes of enhancing property value and aesthetics; protecting the community's environment; and minimizing the negative impact on the visual order of the community.

LANDSCAPING. The use of natural plant materials, including, but not limited to, ground covers, shrubs, and trees (deciduous and evergreen). **LANDSCAPING** also involves the placement, preservation, and maintenance of such plant materials, and includes such elements as fences, walls, lighting, and earth mounding.

MUNICIPALITY. A city, town, village, borough, or other district incorporated for local self-government.

PARKS. All public parks having individual names.

PARKWAY. The part of the property not covered by sidewalk or other paving, lying between the property line and the curb line of any street. In the absence of a curb, the curb line of a street shall be deemed to be the edge of that portion of the public right-of-way maintained and open to the use of the public for public travel.

PERSON. Every person, firm, association, partnership, corporation, and individual.

PEST. Any injurious plant, animal, disease, insect, or other organism that harms trees, other woody vegetation, or humans.

PLANTING. To set trees, shrubs, or other plants in the ground to grow.

PROPERTY OWNER. The person owning such property, as shown by the County Auditor's plat of the town.

PRUNING. The judicious removal of plant parts to increase usefulness, beauty, or vigor.

PUBLIC AREA. All other grounds owned by the town.

PUBLIC TREE. Any street tree, park tree, or other woody plant on town property.

RECOMMENDED TREE. A tree of two and one-half inches or greater in diameter, as measured six inches above grade, which will grow to a minimum height of 50 feet at maturity.

SHADE TREE. Any tree located within the right-of-way of the public streets and highways of the town.

SHRUB. A woody plant of relatively low height, distinguished from a tree by having several stems rather than a single trunk.

STREET or HIGHWAY. The entire width of every public way or right-of-way, when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

STREET TREE. Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the town.

TOPPING. The severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

TOWN TREE POLICY. A manual prepared by the Town Tree Board pursuant to this chapter, containing regulations and standards for the planting, maintenance, and removal of trees, shrubs, and other plants upon town-owned property.

TREE DIAMETER. The diameter of a tree measured at a point four and one-half feet above the ground.

TREE OWNER. Owner of the property on which the tree grows.

TREE SERVICE. An individual or organization engaged in the business of pruning, spraying, injecting chemicals, or removing trees, shrubs, or stumps for compensation.

TREE TRUNK. The stem portion of a tree, from the ground to the first branch thereof.

TREES, SHRUBS, AND OTHER PLANTS. All vegetation, woody or otherwise, except lawn grass and flowers less than 24 inches tall.

URBAN FORESTRY PROGRAM. All of the town resources, time, and efforts directed toward the development and maintenance of a safe, healthy, aesthetically pleasing, and fully stocked population. (Prior Code, § 99.01) (Ord. 10-19-04, passed 10-19-2004)

§ 99.02 PURPOSE.

(A) *Preamble.* The town has plans to plant, replace, and maintain trees on public-owned property; this chapter establishes policies, regulations, and standards necessary to ensure the town will realize the benefits provided by its community forest.

(B) *Health and welfare of the community.*

(1) The provisions of this chapter are enacted to accomplish the following: promote and protect the public health, safety, and general welfare by providing for the development of a community forestry plan to address the planting, maintenance, and removal of public trees and shrubs within the town, in order to promote, maintain, and improve the town's urban forest resource.

(2) Whereas, the Town Council has determined that the protection of trees on public property within the town is not only desirable but essential to the present and future health, safety, and welfare of all citizens; and

(3) It is the intent of this chapter to promote the community health and welfare by protecting trees and woodlands for the unique benefits they provide.

(C) *Be it ordained.* Whereas, it appears that a formal program of management of trees on publicly owned lands is appropriate to advance these worthwhile purposes, now therefore, be it ordained by the Town Council.

(D) *Short title.*

(1) This chapter shall be known and shall be cited as the "Tree Ordinance of the Town of Edgewood, Indiana."

(2) The short title of this chapter shall be the "Tree Ordinance," and this chapter shall hereafter be so cited if referred to for purposes of amendment or otherwise.

(E) *Intent.*

(1) This chapter provides full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks, and public places of the town; and to trees, plants, and shrubs located on private property that constitute a hazard or threat, as described herein.

(2) Therefore, the purpose of this chapter is to provide regulations for the planting of new trees and the maintenance and preservation of existing trees on all properties in the town, both public and private, undeveloped or developed.

(3) It is the intent of this section to provide regulations that ensure the placement of trees along the street right-of-way and on private property, to protect against excessive noise, heat, and glare, and to enhance the attractiveness and value of property.

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- (4) The purposes of the Tree Board shall be:
- (a) Promoting the responsible planting of trees on public and private property;
 - (b) Providing public education about trees;
 - (c) Promoting proper maintenance of trees;
 - (d) Advocating trees within the town; and
 - (e) Developing innovative and joint funding for projects.

(5) **TREES**, as defined, regulated and protected herein, are declared to be a natural public resource, and the town encourages planting, replacement, and protection of trees, as herein set out, in the interest of the health, safety, and welfare of present and future citizens of the town.

(6) To attain that end, it shall be unlawful to cut down, damage, poison, or in any other manner destroy or cause to be destroyed any tree or woodland, as covered by the terms of this chapter, except in accordance with the provisions herein mentioned.

(7) This chapter provides for the care of trees and shrubs on public rights-of-way, and aids in the proper growth of a landscape program to enhance the beauty of the town.
(Prior Code, § 99.02) (Ord. 10-19-04, passed 10-19-2004)

§ 99.03 TOWN TREE BOARD'S AUTHORITY AND DUTIES.

(A) *The Tree Board's right to plant, maintain, and remove trees on public property.* The Tree Board shall have the power to plant, preserve, spray, trim, or remove any tree, shrub, or plant on any parkway, alley, or public ground belonging to the town.

(B) *The town's right to plant, maintain, and remove trees on private property.* The town shall have the right to cause the removal of any dead, diseased, or structurally damaged trees on private property, when such trees constitute a potential hazard to life and property within the right-of-way or on public property.

(C) *The Tree Board designated as the town department responsible for trees.*

(1) The town's Tree Program shall be administered by the Tree Board.

(2) The Tree Board shall be supported in its program by other town departments and organizations.

(D) *Duties of the Tree Board.* The duties of the Tree Board shall be as follows.

(1) *Advice and consultation pertaining to the Tree Ordinance.*

(a) The Tree Board shall advise and consult on any matter pertaining to the Tree Ordinance and its enforcement.

(b) The topics under which this advice and consultation shall be given shall include, but are not limited to, any of the following.

(2) *Duty to plan and implement an annual plan of work.*

(a) It shall be the responsibility of the Tree Board to study, investigate, consult, and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas.

(b) Such plan will be presented annually to the Town Council and, upon its acceptance and approval, shall constitute the official comprehensive town tree plan for the town.

(3) *Duty to allocate funds.* The Tree Board shall investigate available grants, loans, or contributions from other governmental agencies, public or private corporations, or individuals.

(4) *Duty to advise.*

(a) When planning for the parks and/or any other area of the town under the control of the park or other boards or commissions, the Tree Board shall make their recommendations in writing to the appropriate board or commission, which shall adopt or otherwise act on the recommendations.

(b) The Tree Board shall study the problems and determine the needs of the town, and advise the Council in connection with its tree-planting programs, as developed.

(c) The Tree Board shall be advisory in nature, with the purpose of providing advice to the Town Council as to the preservation, protection, and management of the community forest of the town, in accordance with the intents and purposes of this chapter.

(5) *Duty to advise on ordinances, policies, specifications, and legislation.* The Tree Board shall make recommendations to the Town Council through the appropriate Council committee, and to town departments or other advisory bodies, as may be appropriate, on the following subjects:

(a) Ordinances affecting the planting, removal, and maintenance of trees in the town; and

(b) Recommending desirable legislation concerning the tree program and activities for the town.

(6) *Duty to develop a management plan.*

(a) The Tree Board shall develop and, in each subsequent year, update the community forestry plan.

(b) The plan shall outline community forestry program activities for a minimum of the next five years.

(c) This plan shall describe the forestry activities to be undertaken by the town, the reasons for those activities, their possible funding source(s), the means of accomplishing the activities, the alternatives available to the town to fund or accomplish each activity, the projected date of completion, and the consequences if an activity is not completed.

(d) Activities shall include, but are not limited to, street tree inventory, tree planting, and removal.

(7) *Duty to develop and maintain a tree list.* A street tree list for the town shall be developed and approved by the Tree Board.

(8) *Duty to amend management plan.* The Town Tree Board shall have the responsibility of regularly updating a master, systematized tree management and planting program.

(9) *Duty to supervise.*

(a) The Tree Board shall have the authority and duty to supervise all work done in accordance with the terms of this chapter.

(b) A representative of the Tree Board shall supervise employees of the Parks Department regarding the community forest.

(10) *Duty to carry out management activities.*

(a) The Tree Board shall oversee the pruning of trees and shrubs on town property so that no tree or shrub shall obstruct or interfere with:

1. The free passage of pedestrians on any sidewalk;
2. The free passage of vehicles on the paved portion of any street;
3. The views of traffic signs or signals; or
4. The extension or maintenance of wires for street lights.

(b) The duties of the Tree Board shall be interpreted to include, but not be limited to, the protection, maintenance, removal, and planting of trees on public property.

(c) The Tree Board shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property, to ensure the safety or to preserve the aesthetics of such public sites.

(11) *Duty to inspect for and control insect and disease problems.* The Tree Board shall recommend the removal of trees deemed by the Tree Board to be diseased, dying, or dead.

(12) *Duty to manage risk and control nuisances.* The Tree Board is empowered to seek from any court of competent jurisdiction an order directing immediate abatement of any public nuisance, such as removal of dead or living trees or limbs that are determined by the Tree Board to be a hazard to public safety and property, or removal of trees or limbs that have actually fallen across a street, a sidewalk, or other town property.

(13) *Duty to review requests.* The Tree Board shall review and thereafter approve or disapprove the street tree treatment assistance requests.

(14) *Duty to educate citizens and to promote tree care.*

(a) The Tree Board shall make available to any interested person copies of the Tree Ordinance and information about the activities of the Tree Board.

(b) The Tree Board shall promote the conservation of healthy trees and encourage the recycling of tree debris.

(c) The Tree Board will advise citizens and the town on such issues as tree preservation on private property.

(d) The Tree Board shall be responsible for promoting trees and tree care throughout the town.

(15) *Duty to set policy.*

(a) Policy concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the town, as well as comprehensive plan goals and policies related to trees.

(b) The Tree Board shall have the authority to enforce the rules and regulations stated in this chapter governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets or other public sites in the municipality, and shall direct, regulate, and control the planting, maintenance, and removal of all trees growing now or hereafter in any public area of the town.

(16) *Duty to hear appeals.* The Tree Board shall investigate complaints from any person concerning the planting, maintenance, protection, and removal of any tree.

(17) *Duty to enforce.*

(a) The Tree Board Chair shall cause the provisions of this chapter to be enforced.

(b) In the absence of the Tree Board Chair, these duties shall be the responsibility of a qualified alternate designated by the municipality.

(c) The Tree Board shall give notice and issue citations to owners or possessors of private property where such violations have occurred or are occurring.

(18) *Exemptions.* Trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical, shall be exempted from this section at the discretion of the town department responsible for maintaining the trees, after consultation with the Tree Board.

(Prior Code, § 99.03) (Ord. 10-19-04, passed 10-19-2004)

§ 99.04 LICENSING REQUIRED.

(A) It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs, or vines within the town, without being licensed by the City of Anderson.

(B) Such license shall comply with any and all restrictions imposed by the City of Anderson, Ordinance 6-96, §§ 23 and 24.

(Prior Code, § 99.04) (Ord. 10-19-04, passed 10-19-2004) Penalty, see § 10.99

TREE PLANTING, PROTECTION, AND REMOVAL**§ 99.15 TREE PLANTING, MAINTENANCE, AND REPLACEMENT.**

(A) It is the public policy of the town to maintain existing trees, and to provide for and encourage the planting of new trees within the town to the greatest extent possible.

(B) The Tree Board shall be responsible for planting all new trees required by this chapter, and for maintaining their growth and survival.

(C) It shall be the policy of the town to replace trees on public property or public right-of-way that have died or been removed because of disease or poor health.

(D) In the selection and spacing of trees, the town shall be guided by a street tree plan reviewed by the Tree Board.

(Prior Code, § 99.15) (Ord. 10-19-04, passed 10-19-2004)

§ 99.16 OFFICIAL TREE LIST.

(A) The Tree Board shall maintain an extensive list of recommended trees for planting in public areas.

(B) The purpose of this listing will be to maintain diversity in the total tree population.

(C) To aid in the selection of trees for private and public properties, this list shall be available to residents of the town upon request.

(D) The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.

(Prior Code, § 99.16) (Ord. 10-19-04, passed 10-19-2004)

§ 99.17 TOPPING PROHIBITED.

(A) It shall be unlawful, as a normal practice, for any person, firm, or town department to top any street tree, park tree, or other tree on public property.

(B) Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical, shall be exempted from this chapter, at the determination of the Tree Board.

(Prior Code, § 99.17) (Ord. 10-19-04, passed 10-19-2004) Penalty, see § 10.99

§ 99.18 NOTICE PROCEDURES.*(A) Order required for a notice to take action.*

(1) Upon determination that a public nuisance exists, the Tree Board, or its designated representative, shall serve written notice upon the owner or occupant of the premises where the tree is located to abate the nuisance.

(2) Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the Tree Board shall order such person or persons, within ten days after receipt of written notice, to so prune such trees.

(B) Service of a notice to take action. Such notice shall require the elimination of the nuisance no less than 30 days after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year.

(C) Contents of a notice to take action.

(1) The notice shall describe the kind of tree, shrub, or other plant or plant part that has been declared to be a public nuisance; its location on the property; and the reason for declaring it a nuisance.

(2) The notice shall state the actions that the property owner shall undertake to abate the nuisance; and

(3) The notice shall require such property owner to eradicate, remove, or otherwise control such condition within a reasonable time to be specified in such notice.

(D) Failure to comply with a notice to take action. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the town to remove such trees, and to assess the property owner for the cost of services.

(Prior Code, § 99.18) (Ord. 10-19-04, passed 10-19-2004)

§ 99.19 NUISANCE OR HAZARD.

(A) The Tree Board shall remove, or order to be removed, any tree or part thereof that is in an unsafe condition or that, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus or insect infestation.

(B) The following are declared public nuisances under this chapter:

(1) *Trees obstructing traffic.* Any tree or shrub that obstructs the free passage of pedestrian or vehicular traffic, or that obstructs a street light or traffic control device.

(2) *Dead or dying trees.*

(a) Any dead or dying tree, shrub, or other plant, whether located on town-owned property or on private property.

(b) The owner shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to public safety.

(3) *Hazardous trees.*

(a) A **HAZARDOUS TREE** is any otherwise healthy tree, shrub, or other plant, whether located on town-owned property or on private property, that, by reason of its location or condition, constitutes an imminent danger to the health, safety, or welfare of the general public.

(b) Trees shall not interfere with overhead utility lines or create irresolvable public safety hazards.

(4) *Diseased or pest-infested trees.* Any tree or part thereof that is afflicted with any dangerous and infectious insect infestation or plant disease shall be cured or destroyed.
(Prior Code, § 99.19) (Ord. 10-19-04, passed 10-19-2004)

§ 99.20 ADJACENT LANDOWNER RESPONSIBILITY.

(A) Every owner of any tree overhanging any street or right-of-way within the town shall prune its branches so that they shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection, so that there shall be a clear space of 13 feet above the street surface or eight feet above the sidewalk surface.

(B) The owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace.

(Prior Code, § 99.20) (Ord. 10-19-04, passed 10-19-2004) Penalty, see § 10.99

§ 99.21 MUTILATION OF TREES PROHIBITED.

(A) *Abuse or mutilation of public trees.*

(1) No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, or other materials that may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by written permission of the Tree Board.

(2) Snow will not be plowed, blown, shoveled from roof tops, or piled in a manner that damages trees.

(3) No trees on land owned or maintained by the town shall be pruned in a manner that impairs their health.

(4) In addition, no person shall cut down, lop, take, or otherwise destroy any ornamental or shade tree, shrub, flowers, bulb, or fruit standing or growing on any public ground or any street, sidewalk, park sidewalk, promenade, or park, parkway, or boulevard in the town.

(B) *Mutilation of trees and plants.* No person shall:

(1) Damage, cut, carve, transplant, or remove any tree or plant;

(2) Injure the bark of any tree or plant; or

(3) Pick the flowers or seeds of any tree or plant.

(Prior Code, § 99.21) (Ord. 10-19-04, passed 10-19-2004) Penalty, see § 10.99

§ 99.22 TREE PROTECTION REQUIREMENTS.

(A) *Protection from disease and pestilence.*

(1) Upon the discovery of any destructive or communicable disease or other pestilence that endangers the growth or health of trees, or threatens to spread disease or insect infestations, the Town Forester shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated.

(2) The notice shall require such property owner to eradicate, remove, or otherwise control such condition within a reasonable time to be specified in the notice.

(B) *Protection from posting and wire.*

(1) It shall be unlawful for any person, firm, or public utility to attach any sign, advertisement, or notice to any street tree or park tree.

(2) It shall be unlawful to attach a potentially harmful device or structure (i.e., tree houses) to or on public trees, unless otherwise authorized by the Tree Board.

(3) Other than to support a young or broken tree, it shall be unlawful to attach or place any rope or wire on any tree growing in a public place.

(4) It shall be unlawful to attach or place any sign, poster, advertisement, or notice on any tree growing in a public place.

(C) *Protection from fire.*

(1) No person shall allow fire or heat to come in contact with any tree on land owned or maintained by the town.

(2) Nor shall any person set a fire, or permit any fire to burn, when such fire or the heat thereof will injure any portion of any tree.

(D) *Protection from utilities.*

(1) Each public utility company shall exercise reasonable diligence in the maintenance of its plant construction so as to avoid damage to trees.

(2) Utility companies shall not cause or permit any wire charged with electricity to come in contact with any tree or plant.

(E) *Protection from toxins.* No oil or any injurious chemical or substance shall be placed on the ground around such trees or shrubs.

(F) *Protection from vehicles and equipment.* No person shall, without the written permission of the Tree Board or its designated agent, place any booth, stand, or other structure, or station any wagon, car, or other vehicle in any public park.

(G) *Protection from animals.* No person shall fasten an animal to a tree or shrub located on town property, or cause an animal to stand so that it can damage such tree or shrub.
(Prior Code, § 99.22) (Ord. 10-19-04, passed 10-19-2004) Penalty, see § 10.99

§ 99.23 PRIVATE TREES, SHRUBS, AND VEGETATION.

(A) The town shall have the right to order the removal of any dead or diseased trees on private property within the town when such trees constitute a hazard to life or property, or harbor insects or disease that constitute a potential threat to other trees within the town.

(B) Trees, shrubs, and vegetation on private property that may affect safety and welfare (through, for example, infectious disease, insect problems, dead or dying limbs, or the obstruction of street lights, traffic signs, or visibility) may require coordination among the owner, the Town Council, and the Tree Board in order to inspect and eliminate the hazard. The town shall also have the right to order the removal or the trimming of any such trees, shrubs, or vegetation.

(C) All dead trees on private property shall be removed by the owner of such property. The town shall also have the right to order the removal of such dead trees.

(D) To protect the roadways throughout the town, to promote the safety of traffic and pedestrians, and to allow access to fire hydrants, all trees planted by any owner on his or her property shall be planted at least four feet away from any roadway, traffic sign, or fire hydrant, and all vegetation or shrubs shall be planted at least four feet from any roadway, traffic sign, or fire hydrant. To the extent any such trees, shrubs, or vegetation are already located on the owner's property, they shall be trimmed back to meet the four feet requirement. The town shall also have the right to order the removal or trimming of such trees, shrubs, or vegetation.

(E) In the event of the failure of the owner to comply with any order issued under this section, the town shall have the authority to remove such trees, shrubs, or vegetation, or cut back such trees, shrubs, or vegetation, and add the cost of this work to the owner's property taxes.

(F) If the tree trunk emerges from the ground on the line for the roadway and private property, the cost of removal shall be shared proportionately by the town and the private property owner.

(G) The issue of whether trees, shrubs, or vegetation fail to comply with this section, and the issue of whether enforcement is necessary and/or appropriate, is fact sensitive. Therefore, the town reserves the right to enforce this section as it deems appropriate.

(H) The foregoing language of this section which allows the town to order removal or trimming, and then, upon failure to comply with such order, to add the cost the town incurs to the property owner's taxes, is not intended to prevent the town, as a separate and distinct remedy, from assessing a fine against the offender under § 10.99.

(Prior Code, § 99.23) (Ord. 10-19-04, passed 10-19-2004; Ord. 2-10-20, passed 7-20-2020) Penalty, see § 10.99

§ 99.24 SPECIAL CIRCUMSTANCES.

(A) *Tree becomes public property.* Any tree planted pursuant to this section shall become the property of the town.

(B) *Improper planting.* Whenever any tree shall be planted or set out in conflict with the provisions of this chapter, it shall be lawful for the Tree Board to remove or cause the removal of the same, and the exact cost thereof shall be assessed to the owner, as provided by law in the case of assessments.

(C) *Removal, replanting, and replacement.* No person shall remove a town tree without first obtaining permission from the Tree Board.

(Prior Code, § 99.24) (Ord. 10-19-04, passed 10-19-2004) Penalty, see § 10.99

ENFORCEMENT**§ 99.35 ENFORCING AGENT.**

The Tree Board shall enforce such rules, regulations, permit, and penalty procedures as are deemed necessary to enforce the intent of this chapter.

(Prior Code, § 99.35) (Ord. 10-19-04, passed 10-19-2004)

§ 99.36 INTERFERENCE.

No person, firm, or corporation shall prevent, delay, or in any manner interfere with the Tree Board or its designated agents in the performance of their lawful duties.

(Prior Code, § 99.36) (Ord. 10-19-04, passed 10-19-2004) Penalty, see § 10.99

§ 99.37 APPEALS.

(A) *Appellate authority of the Town Council.*

(1) The Town Council shall have the right to review the conduct, acts, and decisions of the Tree Board.

(2) Any person may appeal any ruling or order of the Tree Board to the Town Council, which shall hear the matter and make a final decision.

(B) *Request for appeal.* The request for appeal shall:

(1) Be in writing;

(2) Be filed with the Town Hall; and

(3) Contain any and all facts that are offered in support of the appeal.

(C) *Appeal of tree removal.*

(1) The person may appeal the Tree Board's decision to remove or not remove the tree to the Tree Board.

(2) If the tree is to be removed, the cost of removal will be charged to the property owner.
(Prior Code, § 99.37) (Ord. 10-19-04, passed 10-19-2004)

§ 99.38 RIGHT TO ENTER PRIVATE PROPERTY.

The Tree Board or its official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant, or plant part that is suspected to be a public nuisance, and to order its removal if necessary.

(Prior Code, § 99.38) (Ord. 10-19-04, passed 10-19-2004)

§ 99.39 EMERGENCIES.

In the event of windstorm, fire, flood, or other widespread natural calamity, the Town Council President may declare a state of emergency and allow operations necessary to remove threats to public safety.

(Prior Code, § 99.39) (Ord. 10-19-04, passed 10-19-2004)