

## **TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: ABANDONED VEHICLES

### Section

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*Cross-reference:*

*Automobile Graveyards and Junk Yards, see §§ 93.15 et seq.*

### § 90.01 UNLAWFUL ACT; DEFINITIONS.

(A) It is unlawful for any person to keep, park, or store any wrecked, junk, or abandoned vehicle, or part thereof, on any public or private property within the town when the vehicle, or part thereof, is not kept in a garage, structure, or other enclosure not visible from the street or neighbors' property, regardless of business zone, so as to not be exposed to public view and access.

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

**ABANDONED VEHICLE.** Any vehicle which:

- (a) Is located on public property illegally;
- (b) Is left on public property continuously for three days without being moved, except as hereafter provided;
- (c) Is located on public property in a way so as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;
- (d) Is left on private property without the consent of the owner or person in control of that property for more than 48 hours;

(e) Is six or more model years old and mechanically inoperable, and is left on private property in a location visible from public property for more than 30 days, except as hereafter provided;

(f) Is not legally registered and licensed with the state, whether on public or private property; or

(g) Not otherwise being an abandoned vehicle as heretofore defined, has been removed by the town or a private towing service under authority of an officer enforcing any statute or ordinance providing for the impoundment and storage of the vehicle, and the vehicle is not claimed or recovered by the owner or agent within 15 days of being impounded and stored.

**PUBLIC PROPERTY.** Includes public rights-of-way and easements.

**VEHICLE.** Any motor vehicle designed for use on the public streets and highways, and required to be licensed for use by the Indiana Bureau of Motor Vehicles, whether or not a particular vehicle is actually so used or so licensed.

**WRECKED/JUNK VEHICLE.** Any vehicle which, because of accident, age, misuse, mechanical or structural deterioration, or dismantling and removal of necessary parts or structural elements, has become inoperable or incapable of safe operation as a vehicle, and is:

(a) Left on public property; or

(b) Left on private property in public view, except for purposes of repair or salvage as hereafter permitted.

(1991 Code, § 90.01) (Ord. 67-5, passed 6-24-1967; Am. Ord. 83-17, passed 11-7-1983; Am. Ord. 2016-09, passed 10-10-2016) Penalty, see § 90.99

## **§ 90.02 PUBLIC HAZARD; JURISDICTION; ENFORCEMENT DUTIES.**

(A) It is hereby found and declared that the keeping, parking, or storage of any wrecked, junk, or abandoned vehicle, or parts thereof, on public or private property exposed to public view, except as expressly authorized herein, poses a threat and endangerment to the public in that the vehicles may be an attractive nuisance resulting in a risk of physical harm to children or others, may pose a fire hazard, may pose a traffic hazard, or may serve as areas for the breeding or harborage of rodents or other noxious and injurious animals; and that the keeping, parking, or storage of the vehicles therefore constitutes dangerous conduct, use, and possession of property inimical to the public health, safety, and welfare. If the vehicle is determined by the enforcement officer to be an immediate danger to the safety and welfare of the public, the officer may immediately proceed to have the vehicle towed or taken to a safe place of storage as proved by I.C. 9-21-16-3.

(B) The following officers of the town shall have concurrent jurisdiction and duties for the enforcement of this chapter:

- (1) The Town Marshal and his or her deputies;
- (2) The Street Commissioner and his or her authorized agents;
- (3) The Park Superintendent, to the extent that an offending vehicle is located upon the property of the public parks under his or her jurisdiction; and
- (4) The Zoning Inspector, to the extent pertinent to the provisions of the off-street parking requirements of the zoning code.

(1991 Code, § 90.02) (Ord. 67-5, passed 6-24-1967; Am. Ord. 83-17, passed 11-7-1983; Am. Ord. 91-04, passed 11-4-1991)

### **§ 90.03 EXCEPTIONS TO RESTRICTIONS; PERMITTED STORAGE.**

It is permissible to keep, park, or store a wrecked, junk, or abandoned vehicle, and the prohibitions and restriction of this chapter do not apply, in the following circumstances:

- (A) The vehicle is kept in an enclosed area on private premises out of public view;
- (B) The vehicle is an antique vehicle registered pursuant to I.C. 9-18-12, and would not be considered an abandoned, wrecked, or junk vehicle except for its being mechanically inoperable;
- (C) A vehicle which is operable and has a valid Indiana license plate will not be considered an abandoned vehicle if it is legally parked on a public street within one block of the residence of the registered owner or lessee of the vehicle, notwithstanding the fact that the vehicle may be left so parked for a continuous period of more than three days without being moved;
- (D) An operable vehicle may be stored or parked on public property for a continuous period of more than three days if it is owned or leased, or is properly authorized by, the public authority having charge over the public property; or
- (E) An operable motor vehicle may be legally parked on a public street, or an inoperable vehicle may be stored on private property, notwithstanding the provisions of § 90.01, if it is parked or stored as the property of a member of the armed forces of the United States who is on active duty assignment and absent from the community for that purpose.

(1991 Code, § 90.03) (Ord. 67-5, passed 6-24-1967; Am. Ord. 83-17, passed 11-7-1983; Am. Ord. 2016-09, passed 10-10-2016)

**§ 90.04 ENFORCEMENT; ABATEMENT PROCEDURE.**

If any enforcement officer finds a wrecked, junk, or abandoned vehicle being kept, parked, or stored in violation of this chapter, the enforcement officer shall forthwith begin action to abate the violation and remove the offending vehicle or part thereof in accordance with the procedures prescribed by I.C. 9-22-1-1 *et seq.* and by this section. If the vehicle is determined to be an abandoned vehicle as defined by § 90.01, other than division (g) of the definition, the enforcement officer shall attach a tag to the vehicle of the type and in the manner described by I.C. 9-22-1-11, and if the vehicle is not removed and properly disposed of by the owner within 72 hours, the enforcement officer shall then proceed to have the vehicle removed and towed or taken to a safe place of storage as provided by I.C. 9-22-1-14 through 9-22-1-16, irrespective of the officer's estimation of the market value of the vehicle or parts and notwithstanding the provisions of I.C. 9-22-1-13. The enforcement officer shall then prepare and forward an abandoned vehicle report to the Indiana Bureau of Motor Vehicles in accordance with I.C. 9-22-1-19. The Bureau of Motor Vehicles shall then take charge of the matter as provided by I.C. 9-22-1-20 and 9-22-1-22, and shall recompense the town or a private towing service for the costs of removal and storage of the vehicle as hereafter provided, if the vehicle is not claimed and the charges paid by the owner or a lienholder. However, if the offending vehicle is determined by the enforcement officer to be a wrecked or junk vehicle as defined by § 90.01, but is not also a *prima facie* abandoned vehicle in accordance with § 90.01, then the enforcement officer shall attach the same notice tag and, after 72 hours, shall, if necessary, cause the offending vehicle or parts to be removed and stored in the same manner as an abandoned vehicle as heretofore provided, but shall not file an abandoned vehicle report with the Bureau of Motor Vehicles until 15 days have elapsed since the vehicle was removed and it has not been claimed and redeemed from storage by the lawful owner or agent; but if the 15 days have elapsed, the enforcement officer shall declare the impounded vehicle to be an abandoned vehicle in accordance with division (g) of the definition in § 90.01, and shall forthwith prepare and file an abandoned vehicle report with the Bureau of Motor Vehicles as provided above, and the matter shall thereafter be administered in the same manner as in the case of any other abandoned vehicle.

(1991 Code, § 90.04) (Ord. 67-5, passed 6-24-1967; Am. Ord. 83-17, passed 11-7-1983)

**§ 90.05 IMPOUNDMENT OF VEHICLE; RECOVERY; COSTS.**

(A) When feasible, a vehicle or parts thereof becoming subject to removal and storage pursuant to § 90.04 above shall be so removed and stored by the town using town equipment, personnel, and storage facilities. However, if it is not feasible to do so, the enforcement officer shall call upon the services of a private towing and storage service with which the town has a contract to tow and store impounded vehicles. On or before December 31 of each year, the Town Council shall:

(1) Adopt a resolution fixing the rates and charges to be assessed for the towing and storage of an impounded vehicle when removed and stored by the town during the ensuing calendar year, which charges shall be reasonably related to the estimated actual costs incurred by the town; and

(2) If deemed necessary, the Town Council shall make and enter into a contract with one or more private vehicle towing and storage services to remove and store impounded vehicles, when so directed by an authorized enforcement officer during the ensuing year. The contract may be made effective for more than one year, and shall stipulate the following:

(a) The rates and charges to be assessed by the private towing service for removing and storing impounded vehicles, which shall not exceed the rates and charges which the towing service would usually charge for the removal and storage of a vehicle of equivalent type, weight, and size in the ordinary course of its business;

(b) The towing and storage charges are the liability of the owner of the impounded vehicle, or of the Indiana Bureau of Motor Vehicles from the state Abandoned Vehicle Account, if the vehicle is not recovered by the owner and is sold pursuant to law, and that the charges are not a liability of the town;

(c) The owner of the impounded vehicle is liable for any damages resulting from the removal or storage thereof to the extent provided by I.C. 9-22-1-4, and that the private towing service, and not the town, is liable for any other damages arising out of the removal and storage operation to the same extent that it would be liable for the damages in the course of any usual and ordinary towing operation undertaken in the normal conduct of its business; and

(d) The towing and storage service will keep and store the vehicle only in accordance with all provisions of law governing the management of impounded vehicles.

(B) Any resolution passed or contract entered into, pursuant to divisions (A)(2)(a) or (A)(2)(b) above, shall be considered incorporated by reference into and a part of this chapter, and two copies of the resolution or contract shall be on file in the office of the Clerk-Treasurer and available for public inspection. In addition, a copy of each current resolution or contract, or an abstract of the rates and charges provided therein, shall be filed with the Bureau of Motor Vehicles in accordance with I.C. 9-22-1-30(a)(1). The owner, lessee, or an authorized agent may recover an impounded vehicle only upon payment of the costs provided pursuant to this section and owing to the town or to a private towing and storage service, as the case may be, for the removal and storage of the impounded vehicle.

(1991 Code, § 90.05) (Ord. 67-5, passed 6-24-1967; Am. Ord. 83-17, passed 11-7-1983)

## § 90.06 PENAL VIOLATIONS.

Any person who leaves an abandoned vehicle which is operable, and is an abandoned vehicle for the causes described in divisions (a) through (c) of the definition of abandoned vehicles in § 90.01, commits an offense, respectively, of improper parking, overtime parking, and obstructive parking and shall be cited therefor, and, upon conviction, shall be fined in accordance with the schedule of penalties

for the offenses provided in § 70.99. Any person who keeps and maintains a junk vehicle in violation of the off-street parking regulation of the zoning code shall be cited for a zoning violation and subject to a penalty as provided therefor in accordance with the zoning code.

(1991 Code, § 90.06) (Ord. 67-5, passed 6-24-1967; Am. Ord. 83-17, passed 11-7-1983) Penalty, see § 90.99

**§ 90.99 PENALTY.**

Any person otherwise keeping, storing, or parking a wrecked, junk, or abandoned vehicle in violation of any provision of this chapter shall, upon conviction, be fined in a sum not less than \$25 nor more than \$300, and each day that a violation shall continue shall be a separate offense if not otherwise a discrete act and violation. The penalties provided in this section are for the penal violation of this chapter per se and are in addition to any towing or other abatement costs for which a violator may be liable as heretofore provided.

(1991 Code, § 90.99) (Ord. 67-5, passed 6-24-1967; Am. Ord. 83-17, passed 11-7-1983)

## CHAPTER 91: ANIMALS

### Section

#### *Dogs*

- 91.01 License requirements
- 91.02 Provisional town dog tax
- 91.03 Duty of Town Marshal to impound
- 91.04 Release of impounded dog
- 91.05 Disposition of unclaimed dog; suit for costs

#### *Farm Animals*

- 91.15 Zoning requirements

- 91.99 Penalty

*Cross-reference:*

*Nuisances, see Chapter 93*

#### ***DOGS***

### **§ 91.01 LICENSE REQUIREMENTS.**

It shall be unlawful for any individual to keep upon their property any more than two dogs, unless, and except if, they have obtained the appropriate zoning and/or kennel licenses required.  
(Ord. 01-01, passed 1-8-2001) Penalty, see § 91.99

### **§ 91.02 PROVISIONAL TOWN DOG TAX.**

(A) Whereas I.C. 15-5-9-17 permits a town to impose an annual tax on dogs of up to \$2, the tax of \$2 is hereby provisionally imposed and shall be levied and collected as follows.

(1) The town dog tax is abated and shall not be levied on any dog which, during any given calendar year, is so kept and controlled that it does not become subject to impoundment under the provisions of § 91.03 of this chapter.

(2) The town dog tax is not abated and shall apply to, be levied on, and collected in the case of any dog which is impounded during the calendar year pursuant to § 91.03. The owner of the dog is liable for the tax, and it shall be paid by or on behalf of the owner and collected by the Clerk-Treasurer at the time fees and costs for recovery of the impounded dog are paid on the first occasion during the year that the dog is impounded. The Clerk-Treasurer shall provide a dated receipt showing payment of the tax and including the township dog tax tag number of the dog where one is required, or other identifying description if the dog is not required to have a township tag. If the owner or agent does not recover the dog within ten days of impoundment, the Clerk-Treasurer shall serve or send notice to the owner that the town dog tax is levied and owing, and it is a penal violation of this section to fail to pay the tax within ten days of the date when the notice is issued, and each day of delinquency is a separate offense. An owner is liable for the tax only once during a calendar year; however, if the dog is sold or given to a new owner, the new owner is liable, notwithstanding the fact that the prior owner may have been assessed the tax on a previous occasion during the same year.

(B) Provisional town dog tax revenues shall be deposited in the General Fund and credited to a town dog tax account, and the monies therein shall be used to defray the costs incurred by the town to enforce this chapter and related state laws governing dog control. The town dog tax is separate from and in addition to any township dog tax, recovery charges, or other enforcement costs which may also be owing. (1991 Code, § 91.02) (Ord. 69-3, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983)

*Editor's note:*

*I.C. 15-5-9 was repealed by P.L. 162-2006*

**§ 91.03 DUTY OF TOWN MARSHAL TO IMPOUND.**

(A) (1) It is the duty of the Town Marshal to cause the impoundment of any dog which:

(a) Is found to be running at large, in that it is not upon its home premises, confined to other premises or a vehicle, or in the immediate occupancy of a human custodian, in violation of I.C. 15-5-9-13;

(b) Is found to be required by I.C. 15-5-9-1 *et seq.* to have a dog tag and is not wearing a current and valid township dog tax tag;

(c) Is found not to have a current vaccination against rabies as required by I.C. 35-46-3-1; and/or

(d) Bites a person, unless the name and address of the dog's owner is immediately ascertained.

(2) The above actions shall also be deemed unlawful.

(Am. Ord. 01-01, passed 1-8-2001)

(B) An impounded dog shall be taken and kept in the nearest and most convenient municipal or county pound, and shall only be released upon the written authorization of the Town Marshal as hereafter provided. However, the enforcement officer is authorized to kill, by the safest and most humane means available, any dangerous, vicious, or ferocious dog which cannot be captured by ordinary means.

(1991 Code, § 91.01) (Ord. 69-3, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983) Penalty, see § 91.99

*Editor's note:*

*I.C. 15-5-9 was repealed by P.L. 162-2006*

#### **§ 91.04 RELEASE OF IMPOUNDED DOG.**

(A) Not later than three days after the impounding of any dog whose owner or keeper is known, the Town Marshal shall notify the owner or keeper by ordinary mail, unless the owner or keeper was present at the time of the impoundment or has since made inquiry and been informed. The owner or keeper shall be advised of the procedure and requirements for recovery of the dog. To recover the dog, the owner or keeper must obtain a written release from the Town Marshal.

(B) Release shall only be given if the person seeking to recover the dog gives satisfactory evidence:

(1) Of his or her identity and right to take possession of the dog;

(2) The following fees and costs have been paid to the town Clerk-Treasurer:

(a) Five dollars for the costs of picking up the dog;

(b) Ten dollars for the costs of transporting the dog if the dog was taken to a pound outside the corporate limits of the town; and/or

(c) Two dollars housing/boarding fee for each day or portion thereof that the dog has been kept impounded, but only \$0.25 per day (or the maximum per diem fee then permitted by I.C. 15-5-9-14) shall be assessed if the only cause for impoundment was failure to have a township dog tax tag.

(3) The provisional town dog tax has been paid, either then or previously during the year, as provided by § 91.02(A)(2);

(4) The township dog tax has been paid if one of the grounds for impoundment was under § 91.03(A)(1)(b); and

(5) A release has been obtained from the County Health Officer if one of the grounds for impoundment was under § 91.03(A)(1)(c) or (A)(1)(d).

(1991 Code, § 91.03) (Ord. 69-3, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983)

*Editor's note:*

*I.C. 15-5-9 was repealed by P.L. 162-2006*

**§ 91.05 DISPOSITION OF UNCLAIMED DOG; SUIT FOR COSTS.**

(A) If an impounded dog is not claimed and recovered within 20 days of its impoundment in accordance with § 91.04, the following alternative dispositions may be made of the dog.

(1) It may be possessed by and released to any person over 18 years of age upon payment of the fees and costs set forth in § 91.04(B)(2).

(2) If it appears to be a valuable dog by virtue of breeding or special training, it may be possessed by the town and sold as provided by I.C. 15-5-9-14, and the proceeds shall be applied against any impoundment charges owed to the town, with any residue deposited in the General Fund.

(3) It shall be kept under impoundment for an additional period of time if so ordered by the County Health Officer, the State Veterinarian, or a court, and may be kept for an additional period of time at the discretion of the Town Marshal if it appears that the owner or keeper wishes and intends to recover the dog but is prevented from doing so within the 20-day period because of unusual circumstances.

(4) It may be humanely destroyed.

(B) The Town Attorney may bring a civil action on behalf of the town and against the owner or other person liable for an unrecovered impounded dog to recover any costs to the town incurred in connection with the impoundment or destruction of the dog and not recovered from any other means. The attorney is further authorized to recover the costs of any action, including attorney's fees, by this ordinance.

(Am. Ord. 01-01, passed 1-8-2001)

(1991 Code, § 91.04) (Ord. 69-3, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983)

*Editor's note:*

*I.C. 15-5-9 was repealed by P.L. 162-2006*

**FARM ANIMALS****§ 91.15 ZONING REQUIREMENTS.**

It shall be unlawful for any person to harbor or keep upon their property within the confines of the Civil Town of Rome City, Indiana, any livestock or poultry, unless the area has been zoned in an appropriate manner.

(Ord. 01-01, passed 1-8-2001)

**§ 91.99 PENALTY.**

Incident to any violation of this chapter and/or state law, the enforcement officer shall cite or charge the owner or other person liable for any violation. The fine shall be in an amount not less than \$25 nor more than \$300 for each offense. If any person does not pay the fines upon notice by any enforcement officer of the Town of Rome City, Indiana, the Town Attorney shall be hereby authorized to pursue legal action against the individual and, in addition to collection of any fine levied, recover the costs of the action, including, but not limited to, reasonable attorney's fees.

(1991 Code, § 91.99) (Ord. 69-3, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983; Am. Ord. 01-01, passed 1-8-2001)



## CHAPTER 92: HOUSING DISCRIMINATION

### Section

- 92.01 Policy statement
- 92.02 Definitions
- 92.03 Unlawful practice
- 92.04 Discrimination in the sale or rental of housing
- 92.05 Discrimination in residential real estate-related transactions
- 92.06 Discrimination in the provision of brokerage service
- 92.07 Interference, coercion, or intimidation
- 92.08 Prevention of intimidation in fair housing cases
- 92.09 Exemptions
- 92.10 Administrative enforcement

### § 92.01 POLICY STATEMENT.

It shall be the policy of the Town of Rome City 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 I.C. 22-9.5-1 *et seq.*

(Ord. 2010-09, passed 7-12-2010)

### § 92.02 DEFINITIONS.

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

**AGGRIEVED PERSON.** Includes any person who (I.C. 22-9.5-2-2):

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

**COMMISSION** (I.C. 22-9.5-2-3). The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 *et seq.*

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

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 92.04 through 92.08 or I.C. 22-9.5-5.

**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 (I.C. 22-9.5-2-8).

**FAMILIAL STATUS.**

(1) 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.

(2) The protections afforded against discrimination on the 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.

**FAMILY.** Includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in **FAMILIAL STATUS** in this section.

**HANDICAP.**

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits one or more of such persons major life activities;

(b) A record of having such an impairment;

(c) Being regarded as having such an impairment;

(d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; or

(e) Any other impairment defined under I.C. 22-9.5-2-10.

(2) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in 21 U.S.C. § 802 (I.C. 22-9.5-2-10(b)); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

**PERSON** (I.C. 22-9.5-2-13). Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under U.S.C. Title 11, receivers, and fiduciaries.

**TO RENT** (I.C. 22-9.5-2-13). Includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

(Ord. 2010-09, passed 7-12-2010)

### **§ 92.03 UNLAWFUL PRACTICE.**

Subject to the provisions of division (B) of this section, § 92.09 and I.C. Title 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. Title 22-9.5-5-1 and in § 92.04 shall apply to:

(A) All dwellings except as exempted by division (B) and I.C. Title 22-9.5-3.

(B) Other than the provisions of division (C) of this section, nothing in § 92.04 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 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 § 92.04(C), but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, 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 or her residence.

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

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

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

(Ord. 2010-09, passed 7-12-2010)

#### **§ 92.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by § 92.03 and except as exempted by §§ 92.03(B) and 92.09, 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, handicap, familial status or national origin;

(B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin;

(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, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination;

(D) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;

(E) For profit, to induce or attempt to induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin;

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

(a) That buyer or renter;

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

(c) Any person associated with that person.

(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 such dwelling, because of a handicap of:

(a) That person; or

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

(c) Any person associated with that person.

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

(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such 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 modifications, reasonable wear and tear excepted;

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

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that:

1. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

2. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

3. All premises within such dwellings contain the following features of adaptive design:

- i. An accessible route into and through the dwelling;
- ii. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- iii. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph division (F)(3)(c)3.iii. of this section.

(5) Nothing in this division requires 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.

(Ord. 2010-09, passed 7-12-2010) Penalty, see § 10.99

#### **§ 92.05 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, handicap, familial status, 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; or
- (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, handicap, or familial status.

(Ord. 2010-09, passed 7-12-2010) Penalty, see § 10.99

**§ 92.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE.**

It shall be unlawful to deny any person access to or membership or participation in any 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 him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

(Ord. 2010-09, passed 7-12-2010) Penalty, see § 10.99

**§ 92.07 INTERFERENCE, COERCION, OR INTIMIDATION.**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 92.03 through 92.06.

(Ord. 2010-09, passed 7-12-2010) Penalty, see § 10.99

**§ 92.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.**

Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

(A) Any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he or she 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 or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection 15(A); or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) 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, handicap, familial status, or national origin, in any of the activities, services,

organizations or facilities described in division (A) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 2010-09, passed 7-12-2010)

#### **§ 92.09 EXEMPTIONS.**

(A) Exemptions defined or set forth under I.C. Title 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) of this section.

(B) 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 lodging to its members or from giving preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, ***HOUSING FOR OLDER PERSONS*** means housing:

(a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program) or;

(b) Intended for, and solely occupied by, person 62 years of age or older; or

(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 2010-09, passed 7-12-2010)

**§ 92.10 ADMINISTRATIVE ENFORCEMENT.**

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commissioner as set forth in division (B) hereof shall be vested in the Chief Elected Official of the Town of Rome City, Indiana.

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

(C) All executive departments and agencies of the town of Rome City, Indiana, 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 Elected Official and the Commission to further such purposes.

(D) The Chief Elected Official of the Town of Rome City, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 2010-09, passed 7-12-2010)



## CHAPTER 93: NUISANCES

### Section

#### *General Provisions*

- 93.01 Activities which are public nuisances
- 93.02 Abatement
- 93.03 Relationship of chapter to other code sections; preexisting activities

#### *Automobile Graveyards and Junk Yards*

- 93.15 Definitions
- 93.16 Storing junk in outdoor area unlawful
- 93.17 Automobile repair businesses
- 93.18 Supplementary nature of subchapter

#### *Noise Regulations*

- 93.30 Noise that emanates from private property
- 93.31 Noise that emanates from public property
- 93.32 Exemptions

#### *Miscellaneous*

- 93.45 Storage of wood on property

- 93.99 Penalty

*Cross-reference:*

*Abandoned Vehicles, see Chapter 90*

## **GENERAL PROVISIONS**

### **§ 93.01 ACTIVITIES WHICH ARE PUBLIC NUISANCES.**

Except as hereafter provided, it is declared a public nuisance and a violation of this chapter for any person to keep and maintain any condition or use of property, or to carry on or suffer to be carried on any activity, as follows:

(A) The keeping of any animal which, by causing frequent or continual noise or odor, shall disturb the comfort or repose of persons in any dwelling or residential neighborhood;

(B) Maintaining any condition of property, other than a natural condition of the land, which is conducive to the breeding or harborage of noxious, annoying, or injurious animals and insects, including, but not limited to, rats, mice, mosquitoes, flies, and termites;

(C) Causing or permitting excessive and annoying noise or dust from the operation of machinery or vehicles, except to the extent that their operation is necessary for the ordinary purpose of construction, industry, or transportation, and the noise or dust is natural to their operation and cannot be prevented by reasonable and ordinary means;

(D) Causing or permitting the emission and dissemination of dense, toxic, foul-smelling, irritating, or annoying smoke, fumes, dust, ash products, or condensates;

(E) Causing or permitting any other frequent or continuous condition, use, or activity which causes substantial endangerment, disturbance, or impairment of the public health, tranquillity of the community, or the use and enjoyment of public property or their private property by others; and/or

(F) Accumulating and maintaining on private premises, in any area visible from a public place, thoroughfare, or adjoining private premises, rubbish and junk, including, but not limited to: neglected machinery; wrecked, dismantled, or inoperative boats or other mobile equipment; broken or discarded household furniture or equipment; scrap metal, lumber, or other construction materials; or packing boxes, scrap or waste paper, and similar trash and debris.

(1991 Code, § 93.01) (Ord. 69-4, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983; Am. Ord. 84-1, passed 6-4-1984) Penalty, see § 93.99

## **§ 93.02 ABATEMENT.**

(A) Whenever the Town Marshal, or other enforcement officer having jurisdiction, shall find that a prohibited public nuisance, as defined and enforceable under § 93.01 of this chapter, is being kept and maintained by any person, and the nature of the nuisance is so that it derives from and arises out of the condition or use of any real property, the enforcement officer shall present the complaint to the Town Attorney together with particulars and evidence as may be compiled.

(B) It shall be the duty of the Town Attorney to investigate the complaint, and if he or she finds it valid and further finds that the nuisance is:

(1) A corrigible condition or use that reasonable corrective action may be taken so as to render the condition or use no longer a public nuisance, he or she shall then require and pursue the appropriate corrective action in the manner provided by I.C. 36-1-6-2; or

(2) Not a reasonably corrigible condition or use subject to any particular corrective action, except by the ceasing and desisting from some use or activity causing or creating the nuisance, and the person responsible will not so cease and desist voluntarily nor upon pain of the penalties for violation as hereafter provided, he or she shall initiate an action for injunction as provided by I.C. 36-1-6-4 (a); and the collateral actions as are necessary to recover enforcement costs, including attorney's fees, on behalf of the town.

(1991 Code, § 93.02) (Ord. 69-4, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983)

### **§ 93.03 RELATIONSHIP OF CHAPTER TO OTHER CODE SECTIONS; PREEXISTING ACTIVITIES.**

The provisions of this subchapter are intended to be supplemental to all other ordinances or provisions of this code, and do not supersede any other ordinances or provisions declaring or implying any matter to be a public nuisance; nor which prohibit, restrict, or regulate the matter; or which permit and authorize the condition, use, or activity. If any condition, use, or activity violates both the provisions of this chapter and another ordinance or code prohibition, the violation may be prosecuted or abated in accordance either with this chapter or the other ordinance or code provision, except that any condition, use, or activity prohibited by this chapter and being also a penal violation of state law shall be prosecuted and abated in accordance with the latter. Furthermore, however, the provisions of this section, pursuant to I.C. 32-30-6-9, do not apply to any agricultural or industrial activity which has been carried on for more than one year, and the nuisance of the activity arises out of a change in the locale and environs and not out of any change in the activity itself, and the activity would not have constituted a substantial nuisance except for the change in the locale and environs of the activity.

(1991 Code, § 93.03) (Ord. 69-4, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983)

## ***AUTOMOBILE GRAVEYARDS AND JUNK YARDS***

### **§ 93.15 DEFINITIONS.**

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

***AUTOMOBILE GRAVEYARD.*** Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

***AUTOMOBILE REPAIR BUSINESS.*** An establishment engaged in the mechanical or structural repair or restoration of automobiles, trucks, or other motor vehicles for pay or profit.

**JUNK.** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous materials.

**JUNK YARD.** An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard.

**VISIBLE.** Capable of being seen by a person of normal visual acuity using a state highway, town street, or other publicly maintained thoroughfare.

(1991 Code, § 93.15) (Ord. 84-1, passed 6-4-1984)

#### **§ 93.16 STORING JUNK IN OUTDOOR AREA UNLAWFUL.**

It is declared to be a public nuisance, and is unlawful and a penal violation of this subchapter, for the owner or operator of any automobile graveyard or junk yard to place, keep, or store any junk in any outdoor area wherein the same is visible as defined by § 93.15. Any areas must be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible.

(1991 Code, § 93.16) (Ord. 84-1, passed 6-4-1984) Penalty, see § 93.99

#### **§ 93.17 AUTOMOBILE REPAIR BUSINESSES.**

(A) The owner or operator of an automobile repair business may temporarily place, keep, and store wrecked or junk motor vehicles in a visible outdoor area, provided that:

(1) No more than three vehicles, or parts thereof, be so placed, kept, or stored at any given time;

(2) No one vehicle shall be so placed, kept or stored for a period in excess of 12 days;

(3) All the vehicles are actually in the process of being repaired, or are being used to obtain parts for other vehicles actually in the process of being repaired, by the automobile repair business; and

(4) The vehicles are kept in a confined, screened area from which public view is unavailable or obscured.

(B) If any of the above conditions are not met, the owner or operator of an automobile repair business shall be obliged to comply with the provisions of § 93.16 respecting the screening of any outdoor area wherein any noncomplying vehicles are placed, kept, or stored.

(1991 Code, § 93.17) (Ord. 84-1, passed 6-4-1984; Am. Ord. 2016-09, passed 10-10-2016) Penalty, see § 93.99

**§ 93.18 SUPPLEMENTARY NATURE OF SUBCHAPTER.**

The provisions of this subchapter are intended to be supplementary to, and to impose additional restrictions on, the owners or operators of automobile graveyards, junk yards, and automobile repair businesses, notwithstanding the provisions of § 90.03(A).

(1991 Code, § 93.18) (Ord. 84-1, passed 6-4-1984)

***NOISE REGULATIONS*****§ 93.30 NOISE THAT EMANATES FROM PRIVATE PROPERTY.****(A) *Unreasonable noise prohibited.***

(1) It shall be a violation of this subchapter for a person, after having been warned to desist, to make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof, unless the making and continuing of the same cannot be prevented, or is necessary for the protection or preservation of property, or of the health, safety, life or limb of some person.

(2) It shall be a defense to this subchapter that noise consists of speech or other communications, of gathering with others to hear or observe such speech or communication, or gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political, or religious questions.

(3) It shall be a violation to keep or maintain, or permit the keeping of, upon any premises owned, occupied, or controlled by such person any animal or fowl otherwise permitted to be kept which, by any sound, cry or behavior, shall cause annoyance or discomfort to a reasonable person of normal sensitiveness.

(4) It shall be a violation to cause any noise to emanate from any private or public piece of property loud enough to be heard on neighboring pieces of property so as to disturb the peace after 11:00 p.m. on a weekend evening unless a permit has been issued.

(B) *Enumeration of certain prohibited acts.* The following acts, uses or noises, among others, subject to the specific exemptions provided herein, are declared to be unreasonable noise in violation of this subchapter. 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 a sound in such a manner as to unreasonably disturb the peace, quiet, or comfort of the neighboring inhabitants, after having been warned to desist.

(2) Using, operating, or permitting to be played, used or operated any machine or device whether producing or reproducing a sound on any public right of way adjacent to any school, church, court, or governmental building, while the same are in use, which unreasonably interferes with the workings with such institution, after having been warned to desist.

(3) No person shall set off fireworks or any other noisemaker in the town, except on recognized national holidays or by special permit after the hour of 11:00 p.m.

(Ord. 2013-05, passed 11-12-2013; Am. Ord. 2016-09, passed 10-10-2016)

### **§ 93.31 NOISE THAT EMANATES FROM PUBLIC PROPERTY.**

*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, bodies of water, or thoroughfare, if the sound generated in any manner so as to create any noise as to disturb the peace, quiet, and comfort of neighboring residents between the hours of 10:00 p.m. of one day and 7:00 p.m. of the following day.

(B) Any motor vehicle on a public right-of-way, highway or public space if the sound generated in any manner so as to create any noise as to disturb the peace, quiet and comfort of neighboring residents between the hours of 10:00 p.m. of one day and 7:00 p.m. of the following day.

(Ord. 2013-05, passed 11-12-2013)

### **§ 93.32 EXEMPTIONS.**

The following shall be exempted from the provisions of this subchapter:

(A) Sound emitted from sirens of authorized emergency vehicles.

(B) Lawn mowers, leaf blowers and pressure washers and other similar equipment, between the hours of 8:00 a.m. and 9:00 p.m.

(C) 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.

(D) Celebrations on Halloween and legal holidays.

(E) Permitted, by the Town Council, parades, festivals and events between the hours of 8:00 a.m. and 12:00 midnight.

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

(G) The emission of sound for the purposes of alerting persons to the existence of an emergency or for the performance of emergency work.

(H) Sounds associated with normal conduction of a legally established non-transient business when such sounds are customary, incidental and within the normal range appropriate for such use.

(I) Noise from church bells and governmental public address systems including those operated by the town, East Noble School Corporation and the Orange Township Trustee and Fire Department.

(J) 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.

(Ord. 2013-05, passed 11-12-2013)

### ***MISCELLANEOUS***

#### **§ 93.45 STORAGE OF WOOD ON PROPERTY.**

(A) *Restrictions.* It should be unlawful for any residential lot to have upon it stored more than six neatly stacked cords of wood as same is discussed in Ord. 2014-05.

(B) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***CORD OF WOOD.*** Wood stacked at a height of four feet, a width of four feet, for a length of eight feet.

(Ord. 2014-05, passed 9-8-2014)

#### **§ 93.99 PENALTY.**

(A) Any person maintaining a public nuisance in violation of §§ 93.01 through 93.03 shall, upon conviction, be fined in a sum of not less than \$25 nor more than \$300, and each day that any violation shall continue shall be a separate offense if not otherwise a discrete act and violation. The fine provided

by this division (A) is for the penal violation of the ordinance per se, and any violator shall be cited and prosecuted therefor and liable to the penalty, notwithstanding any additional action for enforcement or costs incurred pursuant to § 93.02.

(Ord. 69-4, passed 4-30-1969; Am. Ord. 83-16, passed 11-7-1983)

(B) Any violation of §§ 93.15 through 93.18 may be abated by the town in the same manner as other public nuisances are abated in accordance with § 93.02; any owner or operator responsible for the violation shall, in addition to any costs of abatement, be liable for the penalties for maintaining a public nuisance as prescribed by § 93.17.

(Ord. 84-1, passed 6-4-1984)

(C) Whoever violates any provision of §§ 93.30 *et seq.*, upon adjudication thereof, shall be fined not less than \$50, not more than \$500 for each offense. Each day any violation shall continue shall constitute a separate offense.

(Ord. 2013-05, passed 11-12-2013)

(D) Each day a residential lot is in violation of § 93.45 shall be deemed a separate offense, and each offense shall receive a fine of up to \$200 plus attorney's fees and all other costs of enforcement.

(Ord. 2014-05, passed 9-8-2014)

(1991 Code, § 93.99)

## CHAPTER 94: WEED ABATEMENT

### Section

- 94.01 Definitions; exclusions
- 94.02 Unlawful maintenance of weeds and vegetation
- 94.03 Enforcement procedure
  
- 94.99 Penalty

### **§ 94.01 DEFINITIONS; EXCLUSIONS.**

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

**DESTRUCTION ORDER.** The notice served by the enforcement authority on the property owner of the ordinance violation.

**ENFORCEMENT AUTHORITY.** The town executive or, in cases of appeal, the Town Council.

**PROPERTY OWNER.** The person occupying the property, the holder of legal title, or a person having control over the property of another, which includes a right-of-way, easement, license, or lease.

**RANK VEGETATION.** The uncontrolled, uncultivated growth of annuals and perennial plants.

**WEEDS, GRASSES.** Includes Canada thistle, thistles, johnson grass, sorghum, alum (i.e., allium), bur cucumber, shattercane, crown vetch, or any similar ground covering growth, but shall not include shrubs, trees, cultivated plants, or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious, illegal, or detrimental plants.

(C) The Indiana Cooperative Extension Service shall be the referenced technical authority for the enforcement authority with respect to the definition of exempt matters, shrubs, trees, cultivated plants, and crops.

(Ord. 2012-06, passed 10-8-2012)

**§ 94.02 UNLAWFUL MAINTENANCE OF WEEDS AND VEGETATION.**

It is unlawful for any person owning real estate in the town to suffer, permit or allow any grasses, weeds, thistles, brush, undergrowth or rank vegetation of any kind whatsoever to remain or grow upon any vacant or unimproved lot, lots, parcels or tracts of land, or on the lawn between the sidewalk and the curb line in front of any such real estate to a height of eight inches or more, and it shall be the duty of any person owning, leasing or controlling any such lots, tracts or parcels of land or other real estate within the town, to cause any weeds, thistles, underbrush or rank vegetation of any kind to be removed before reaching eight inches in height.

(1991 Code, § 95.01) (Ord. 67-3, passed 6-24-1967; Am. Ord. 2012-06, passed 10-8-2012) Penalty, see § 94.99

**§ 94.03 ENFORCEMENT PROCEDURE.**

(A) The Town Marshal or Town Manager shall make or cause to be made an inspection of all lots or other parcels of land (improved or unimproved) within the corporate boundaries of the town during the growing season to determine that all such lots or parcels are in compliance with § 94.02.

(B) A lot or parcel shall be adjudged in violation of § 94.02 if:

(1) It is a tract between any public sidewalk and a public street, and weeds or other rank vegetation (including lawn grass) have been permitted to grow to a height of more than eight inches; or

(2) It is an improved lot or parcel, and weeds or other rank vegetation (including lawn grass) have been permitted to grow to a height of more than eight inches; or

(3) It is a vacant and unimproved lot or parcel, other than natural forestlands or wetlands, and weeds or other rank vegetation have been permitted to grow to a height of more than eight inches.

(C) The inspector shall make a list identifying the location of any lot or parcel found to be in violation, and may collect corroborative evidence such as vegetation samples or photographs including a recognizable scale object, and shall promptly deliver same to the Clerk-Treasurer, Town Marshal or Town Manager. The Clerk-Treasurer, Town Marshal or Town Manager shall determine the name and address of the owner of each noncomplying lot or parcel as listed in the Wastewater Utility, or the tax rolls of the Noble County Assessor's Office, and shall prepare a written notice to the owner stating that his or her property, adequately identified by location, has been found to harbor weeds and rank vegetation in violation of this chapter, and that if the same are not cut and properly removed within five days of receipt of the notice, the weeds and rank vegetation will be cut and removed by the town at the owner's expense, and that he or she will further be subject to penalties for violation as hereafter provided. The Clerk-Treasurer, Town Marshal or Town Manager shall send the notice to the landowner by certified mail addressed to the landowner's last known address. The Clerk-Treasurer, Town Marshal or Town Manager shall advise the Street Commissioner of the date of service or delivery of the notice, and if landowner does not appeal, then on the sixth day after such date or as soon after that as

possible, the Street Commissioner shall reinspect the lot or parcel to determine if it has been brought into compliance. If not, he or she shall cause the weeds and rank vegetation (including grasses) removed either by the town or a private contractor, keeping a careful record of the actual costs of the cutting and removal, including personnel time if town employees are used. The record of costs shall be promptly provided to the Clerk-Treasurer, Town Marshal or Town Manager, who shall then prepare a certified statement of the costs incurred by the town, and shall cause same to be served or delivered to the property owner in the same manner as the original notice of violation. If the costs are not paid within ten days of service or delivery of the certified statement, the Clerk-Treasurer, Town Marshal or Town Manager shall certify a copy of the statement to the County Auditor, who shall collect and disburse the amount claimed to the town at the same time and in the same manner as taxes on the property are collected and disbursed, all as provided by I.C. 36-7-10-3 (b)10.1-5. In addition, the Clerk-Treasurer, Town Marshal or Town Manager shall cause to be issued a complaint and summons citing the property owner for penal violation of this chapter, and specifying each day elapsing between the expiration of the five-day period after the owner's receipt of the original notice of violation and the day when the weeds and vegetation (including grasses) are finally cut and removed to be a separate offense and violation, as hereafter provided. The complaint and summons shall be served and prosecuted in the same manner as other citations for town ordinance violations.

(D) The landowner may appeal the notice if, within five days, he or she tenders written objection to the Clerk-Treasurer. The matters alleged in the appeal will be heard by the Town Board at its next meeting.

(E) The Town Marshal may post a continuous abatement notice any time after five days following the above written notice of violation.

(1991 Code, § 95.02) (Ord. 67-3, passed 6-24-1967; Am. Ord. 83-16, passed 11-7-1983; Am. Ord. 2012-06, passed 10-8-2012)

## § 94.99 PENALTY.

Any property owner who is given notice of noncompliance, and who shall fail to bring his or her property into compliance with this chapter within five days after receipt of such notice as provided by § 94.03, commits a penal violation of this chapter, and upon conviction shall be fined in an amount not less than \$250, and each day that such violation continues shall be deemed a separate and distinct offense. The penalties provided by and imposed pursuant to this section are in addition to any costs collected for bringing the offending property into compliance.

(1991 Code, § 95.99) (Ord. 67-3, passed 6-24-1967; Am. Ord. 83-16, passed 11-7-1983; Am. Ord. 2012-06, passed 10-8-2012)

*Cross-reference:*

*Civil penalty, see § 37.31*



## **CHAPTER 95: PARKS AND RECREATION**

### **Section**

**95.01 Prohibition of piers in Lakeside Park; enforcement provisions**

**95.99 Penalty**

### **§ 95.01 PROHIBITION OF PIERS IN LAKESIDE PARK; ENFORCEMENT PROVISIONS.**

(A) In the Town of Rome City, Indiana, no one, except the Rome City Park Board, will be allowed to place a pier, pier posts, watercraft of any type, or any other semi-permanent structure in the water, floating upon the water, or tied along the water's edge in Lakeside Park.

(B) The enforcement provisions of Chapter 37 of the Rome City Code of Ordinances shall apply to this chapter.

(Ord. 2000-02, passed 7-10-2000)

### **§ 95.99 PENALTY.**

Each violation shall be deemed a Class A Infraction with a fine of \$100; in addition, a fine of \$25 per day for each day the violation continues until violation is corrected.

(Ord. 2000-02, passed 7-10-2000)



## CHAPTER 96: FIRE PREVENTION

### Section

- 96.01 Open burning
- 96.02 Certain types of off-premise furnaces and fuels prohibited
- 96.99 Penalty

### § 96.01 OPEN BURNING.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**OPEN BURNING.** The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber.

(B) No person shall start, kindle, cause, allow, or maintain any form of open burning of any materials on private or public property, except as specifically authorized by this section. No person shall allow the accumulation or existence of combustible material that constitutes or contributes to open burning.

(C) *Exemptions.* The following types of burning are allowed:

(1) The burning of charcoal, clean untreated wood, and other cooking fuels customarily used in an outdoor grill or traditional food cooking devices.

(2) Campfires until midnight.

(3) Fires used for recreational or ceremonial purposes. Recreational or ceremonial fires shall meet the following conditions:

(a) Only clean, untreated wood or charcoal shall be used. Paper or petroleum products can be used for ignition purposes only.

(b) The fire shall not be ignited more than two hours before the recreational activity is to take place and shall be extinguished upon the conclusion of the activity.

(c) The pile to be burned shall be less than 1,000 cubic feet (for example: 10 ft. x 10 ft. x 10 ft.).

(d) The local Fire Department shall be notified 24 hours in advance if the pile to be burned is more than 125 cubic feet (for example: 5 ft. x 5 ft. x 5 ft).

(e) The fire shall not be for disposal purposes.

(f) The fire shall not be within 500 feet of a pipeline or fuel storage area.

(D) All exemptions under division (C) shall be subject to the following:

(1) Only wood products or products derived from wood shall be burned unless otherwise stated above;

(2) Fires shall be attended at all times until completely extinguished. Fires shall be burned in a fire pit, barrel, or surrounded by flame retardant material to prevent the spread of the fire.

(3) Recreational fires in town parks shall be subject to approval by the Park Department;

(4) If fires create a nuisance or a fire hazard, they shall be extinguished immediately.

(5) No burning shall be conducted during unfavorable meteorological conditions, such as temperature inversions, high winds, air stagnation and the like.

(6) No fire shall contain or consume items which will naturally result in noxious fumes or excessive smoke.

(7) Burning shall not be conducted within 30 feet of a building located on adjacent property.

(E) Burning with prior approval of the Fire Department consistent with Rule 326 IAC 4-1 shall be allowed for the following:

(1) Emergency burning of spilled petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire hazard or water pollution problem;

(2) Burning of refuse consisting of material resulting from a natural disaster;

(3) Burning for the purpose of fire training;

(4) Burning of natural growth derived from a clearing operation, i.e., removal of natural growth for change in use of the land;

(5) Burning of highly explosive or other dangerous materials for which no alternative disposal method exists or where transportation of such materials is impossible.

(F) The following conditions apply to all exemptions and variances:

(1) Burning shall be done during safe weather conditions. Burning shall not occur during high winds, temperature inversions, air stagnation, or when a pollution alert or ozone action day has been declared.

(2) Fires must be attended at all times until completely extinguished.

(3) Fires must be extinguished if they create a fire hazard, nuisance, pollution problem, or threat to public health.

(4) Firefighting equipment adequate for the size of the fire shall be on-site and nearby during times of burning.

(5) Burning shall not be for disposal purposes.

(6) All burning shall comply with other federal, state, and local laws, rules, and ordinances.

(G) *Enforcement.* Any person found in violation of this section shall be subject to the following procedures:

(1) The Rome City Marshal's Office shall issue a warning notice to a first time violator, stating that they are in violation. The person must then correct the violation by immediately extinguishing the fire.

(2) Failure or refusal by the violator to immediately extinguish the fire in violation of this section shall also result in the Fire Department having the authority to go upon private property to extinguish said fire.

(3) Each subsequent starting, kindling, causing, or allowing of a new fire after a warning notice or citation has been issued shall be considered a separate offense.

(4) *Liability for fire.* Any person who allows the accumulation or existence of combustible material which constitutes or contributes to open burning may not refute liability for violation of this section on the basis that said fire was set by vandals, accidental, or act of God.

(H) The open burning provisions are enforceable by the Rome City Town Marshal's Office acting on his or her own initiative or at the request of the Town Council.

(Ord. 99-06, passed 10-11-1999; Am. Ord. 2020-16, passed 12-14-2020) Penalty, see § 96.99

**§ 96.02 CERTAIN TYPES OF OFF-PREMISE FURNACES AND FUELS PROHIBITED.**

(A) It shall be unlawful for any individual to create a furnace or other burning device intended to provide heat or hot water to a residence, separate or apart from the location of such furnace, burning device, or structure housing the same, and to cause such furnace or other burning device to expel smoke, fumes or other noxious or unpleasant odors from the real estate upon which the premises is located.

(B) Industrial areas and/or industrial zoned areas will be exempt from this section.  
(Ord. 06-05, passed 7-10-2006) Penalty, see § 96.99

**§ 96.99 PENALTY.**

The enforcement provisions of Chapter 37 of the Rome City Code of Ordinances shall apply to this chapter, and each violation shall be deemed a Class A Infraction with a fine of \$100 plus any and all attorney's fees and costs of collection.

(Ord. 99-06, passed 10-11-1999; Am. Ord. 2020-16, passed 12-14-2020)

## CHAPTER 97: STREETS AND SIDEWALKS

### Section

#### *General Provisions*

97.01 Removal of snow and ice from sidewalks and private property

#### *Replacement of Sidewalks*

97.15 75/25 sidewalk replacement program

97.16 Inspection and payments

97.17 Replacement of sidewalks by owners

97.18 New sidewalks

97.19 Sidewalk specifications

97.99 Penalty

### ***GENERAL PROVISIONS***

#### **§ 97.01 REMOVAL OF SNOW AND ICE FROM SIDEWALKS AND PRIVATE PROPERTY.**

The removal of snow and ice from sidewalks, drives and private property shall be as follows:

(A) The owner and/or occupant of any dwelling, building, or subdivided lot or property shall keep the sidewalks in front thereof clean at all times of the year. Within 24 hours after any fall of snow or formation of ice, such snow or ice shall be removed from the sidewalks.

(B) Where the owner or occupant of any property shall fail or refuse to remove any snow from the sidewalk as required within the prescribed period of time, the town may remove such snow, and the cost of such removal shall be assessed to the property owner.

(C) (1) It shall be unlawful for any person to throw, push, or deposit in any manner snow, slush, or ice from any drive or private property onto any street or sidewalk in such a manner as to impede the safe progress and movement of vehicular or pedestrian traffic.

(2) Persons who violate this division (C) are responsible for costs incurred by the town to remove the impediment to safe progress and movement of vehicular and pedestrian traffic.

(D) If a person, or persons, living at any property affected by this section should be unable physically to comply herewith, they may apply to the Town Board for assistance. After a hearing concerning the nature of this physical problem, the Town Board will decide if and to what extent assistance shall be granted.

(Ord. 05-07, passed 10-10-2005; Am. Ord. 2011-03, passed 5-9-2011) Penalty, see § 97.99

### ***REPLACEMENT OF SIDEWALKS***

#### **§ 97.15 75/25 SIDEWALK REPLACEMENT PROGRAM.**

(A) The Town Manager will receive requests for sidewalk replacement, inspect the affected property, determine the condition and need for replacement, and keep an up-to-date list of interested and eligible participants.

(B) The Town Manager will annually invite quotes from a minimum of three contractors on the replacement of eligible sidewalks.

(C) The Town Manager, along with the contractors, will inspect the requested sidewalk replacement locations, measure and mark the area to be replaced during a mandatory pre-quote conference. A sidewalk section may not be split. If any portion of a section is on the adjoining property, the complete section will be replaced as if it were the participant's. The sidewalk program is intended to replace complete sidewalks. The replacement of only one or two sections is expensive, due to minimum charges, and is not encouraged by the town. This program is a replacement program. New sidewalks or first time sidewalks may be made eligible only by specific agreement of the Rome City Town Board.

(D) Town Council will receive the quotes and take same under advisement.

(E) The Town Council will direct the Town Manager to contact property owners affected by any sidewalk project, advising the property owners of the nature of the project, of the Town Council's decision to go forward with same, of the approximate cost to the property owner, and of the availability of this program to the property owner. The property owner may then apply, and if accepted, shall be responsible for 25% of the cost of the project to the pro rata extent it affects the property owned by the applicant.

(F) Town Manager shall report findings to Council and recommend action.

(G) Council shall award project to the lowest responsive and responsible quoter.

(H) Within two weeks prior to the commencement of construction by the lowest responsive and responsible quoter, participant shall submit payment of their 25% of the total of the projected project cost as concerns their real estate to the Rome City Clerk-Treasurer by check, cashier's check, or money order, payable to the contractor, unless prior to that time property owner has entered into an agreement with the Town of Rome City providing for a low interest loan to property owner for their share of the expense, repayable to the town in monthly or three annual payments. The initial interest charged for the agreement shall be 3%, but may from time to time be modified based upon the cost of money to the town. In any such case, the Clerk-Treasurer shall hold payments for the contractor until the work is completed and accepted by the town. Payment required hereunder may be delivered in person to the Town Hall, mailed to the Town Hall at P.O. Box 338, Rome City, Indiana, 46784, and any party wishing to become involved in the low interest loan program for the sidewalks, shall apply at the Town Hall through the Town Manager, and all of the process must be completed on or before two weeks prior to construction, or the monies paid hereunder. Any party who fails to make and complete arrangements prior to the two week period shall be deemed ineligible for the low interest loan.

(I) Upon receipt of payment from the participant, the contractor will be notified by the Town Manager to proceed with the work. All work must be completed within 45 days from the date the notice to proceed is issued. The contractor will be subject to a 10% penalty for work that is not completed within 45 days, unless otherwise agreed upon by the Town Manager.

(J) Handicap accessible sidewalks shall be installed, paying special attention to ramping at intersections, meeting ADA Federal Standards for slope and width.

(K) Replacement will be limited to a minimum width of four-foot sidewalks (see below) and a maximum width matching the existing sidewalk found on the property, running the length of the property in the public right of way.

(Ord. 2011-04, passed 5-9-2011; Am. Ord. 2012-02, passed 3-12-2012; Am. Ord. 2013-01, passed 8-12-2013; Am. Ord. 2020-11, passed 12-14-2020)

## **§ 97.16 INSPECTIONS AND PAYMENTS.**

(A) Two inspections by the Town Manager are required, the first when the sidewalk is formed and before it is poured; the second is the final inspection when the work is completely finished, including all grade work and re-seeding of grass. The Town Manager is authorized by the Town Council to inspect the project site and, upon satisfactory completion of the work, authorize payment. Payment will consist of the 25% paid by the participant and 75% paid by the town.

(B) If any payment due and owing hereunder is made more than 30 days after the date said payment is due, there shall be added to such payment a 10% penalty. The penalty shall be calculated by multiplying 0.10 times the amount of the payment that is made late. All costs of collection, including attorney fees, should be assessed against any late payment. If any payment is not made after its due date, upon ten days advance written notice, all sums due and owing shall become a lien on the real estate and

shall be collected as such lien, and may by affidavit tendered from the Town Clerk-Treasurer to the Noble County Recorder and the Noble County Auditor be placed upon the real estate tax rolls of the County of Noble and assessed and collected as any other lien against the real estate of any such party. (Ord. 2011-04, passed 5-9-2011; Am. Ord. 2020-11, passed 12-14-2020)

**§ 97.17 REPLACEMENT OF SIDEWALKS BY OWNERS.**

The Town Council recognizes the fact that some property owners may want to replace sidewalks on their own property. The Town Manager is authorized to issue permits for same. (Ord. 2011-04, passed 5-9-2011; Am. Ord. 2020-11, passed 12-14-2020)

**§ 97.18 NEW SIDEWALKS.**

The responsibility for construction of new sidewalks within the town limits and zoning boundary of the Town of Rome City is with the developer or owner of an undeveloped lot. In established areas without sidewalks, the Town Council will review individual sidewalk requests for new construction. (Ord. 2011-04, passed 5-9-2011; Am. Ord. 2020-11, passed 12-14-2020)

**§ 97.19 SIDEWALK SPECIFICATIONS.**

(A) Concrete mix design for sidewalks shall have a cement factor of six bags (limestone) per cubic yard.

(B) One-half inch expansion joint shall be placed where new sidewalk meets old sidewalk, where new sidewalk meets curb, and at 50 foot intervals.

(C) All sidewalk shall be five feet in width, except in case of the continuation of an existing sidewalk. Minimum sidewalk width shall be four feet.

(D) All sidewalks shall have a minimum thickness of four inches for pedestrian traffic and six inches for vehicular traffic.

(E) Slope sidewalk toward street one-fourth inch per foot.

(F) Sidewalks shall remain the property and responsibility of the property owner.

(G) Place contraction joints at intervals no greater than the width of sidewalk being constructed. Within area of six inch thick concrete, a maximum spacing of ten feet is allowed.

(H) The surface shall have a "slip-resistant" texture or "broom finish".

- (I) A letter of approval will need to be obtained from the Clerk-Treasurer's office.
- (J) Construction standards and detail drawings shall be maintained by Town Manager and available upon request.

(Ord. 2011-04, passed 5-9-2011; Am. Ord. 2020-11, passed 12-14-2020)

**§ 97.99 PENALTY.**

- (A) Persons who violate § 97.01 are responsible for the costs incurred by the town to remove the impediment to safe progress and movement of vehicular and pedestrian traffic.
- (B) It is unlawful for any person to violate § 97.01, and for any such violation the property owner shall be fined as a Class A infraction as follows:
  - (1) First offense in a 24-month period: \$100 plus costs of collection;
  - (2) Second offense in a 24-month period: \$150 plus costs of collection; and
  - (3) Each subsequent offense in a 24-month period: \$250 plus costs of collection.

- (C) The involved property owner shall further pay for any and all reasonable legal fees or costs of collection incurred in collecting such cost of snow removal and/or fines and penalties pursuant to a violation of § 97.01.

(Ord. 05-07, passed 10-10-2005)

