

## **TITLE IX: GENERAL REGULATIONS**

### **Chapter**

**90. WEEDS AND VEGETATION**

**91. ANIMALS**

**92. NOISE**

**93. LITTER CONTROL**

**94. FAIR HOUSING**

**95. ABANDONED VEHICLES**

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## CHAPTER 90: WEEDS AND VEGETATION

### Section

- 90.01 Definitions
- 90.02 Growth of certain vegetation restricted
- 90.03 Notice of violation
- 90.04 Failure to abate nuisance; cost of removal; lien
- 90.05 Exceptions
- 90.06 Effective date

### § 90.01 DEFINITIONS.

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

**DETRIMENTAL PLANTS.** Canada thistle, Johnson grass, sorghum alumun, bur cucumber, and shattercane.

**GRASS.** The ornamental and/or environmental growth of plants having the slender leaves characteristic of the grass family and used to cover an expanse of land such as a lawn and is the primary ground cover for the expanse of land. Common names of **GRASS** may be, but are not limited to, bluegrass, fescue, and ryegrass.

**NATURAL AREA.** An area of land that is consonant with the surrounding land usage. The **NATURAL AREA** should be complementary and harmonious in characteristics. The **NATURAL AREA** may contain grass, weeds, and other natural growth, but not rank and noxious vegetation or detrimental plants. **NATURAL AREAS** may be, but not limited to, natural waterways, nonresidential wooded areas, and unimproved, abandoned railroad rights-of-way.

**NOXIOUS.** Harmful to living things or injurious to health, or having the potential to do so.

**RANK VEGETATION.** Vegetation that is ill smelling, fetid, malodorous, or noxious.

**WEED.** A plant commonly considered undesirable, unattractive, or troublesome.  
(Ord. 3-2004, passed 7-7-2004)

**§ 90.02 GROWTH OF CERTAIN VEGETATION RESTRICTED.**

It shall be unlawful and in violation of this chapter for any property owner to permit weeds, grass, detrimental plants, and other rank or noxious vegetation, as defined in § 90.01, to grow to a height exceeding 12 inches on their property located within the geographical limits of the town, and the vegetation exceeding the height is hereby declared to be a nuisance. Any property owner who fails to remove the weeds, grass, detrimental plants, or other rank vegetation shall be deemed in violation of this chapter.

(Ord. 3-2004, passed 7-7-2004) Penalty, see § 10.99

**§ 90.03 NOTICE OF VIOLATION.**

(A) The Clerk-Treasurer, Town Marshal, or a Town Council Member shall issue a notice of violation, in writing, to any property owner(s) in violation of this chapter.

(B) In the event that the property owner resides within the corporate limits of the town, the notice shall be served by:

(1) An officer of the Town Police Department upon the property owner(s); or

(2) Certified or registered mail addressed to the property owner's address, as shown on the records of the County Auditor's office.

(C) In the event the property owner(s) do not reside within the corporate limits of the town, to the best knowledge of the town, the notice shall be served by certified or registered mail addressed to the property owner's address, as shown on the records of the County Auditor's office.

(D) The notice shall demand the abatement of the nuisance and removal of the weeds, grass, detrimental plants, or other rank or noxious vegetation, as specified in the notice, by the property owner within ten days from the date of service of the notice or from the date of mailing the notice, whichever is applicable.

(Ord. 3-2004, passed 7-7-2004)

**§ 90.04 FAILURE TO ABATE NUISANCE; COST OF REMOVAL; LIEN.**

(A) If the property owner(s) so served does not abate the nuisance and fails to remove the specified weeds, grass, detrimental plants, or other rank or noxious vegetation on their property within the aforementioned ten days, the town shall have the right to cut and remove the weeds, grass, detrimental plants, or other rank or noxious vegetation specified in the notice. The Clerk-Treasurer or a Town Council Member shall cause the cutting and removal of such to be done and prepare a certified statement of the actual costs incurred for the cutting and removal by the town, either by using its own employees or an independent contractor.

(B) The Clerk-Treasurer shall have the statement delivered to the property owner by the Town Police Department or by certified or registered mail addressed to the property owner's address, shown on the records of the County Auditor's office.

(C) In the event the property owner(s) disputes the notice of violation issued under this chapter or a certified statement of the cutting and removal costs, the property owner may file a written appeal with the Town Council for rescission or adjustment of the notice or certified statement within seven days after the date of the notice or certified statement.

(D) Upon failure of the property owner to pay the certified statement issued under this chapter within 15 days, the Clerk-Treasurer shall file a certified copy of the statement of actual costs for the cutting and removal of the vegetation with the office of the County Auditor for placement of the amount due upon the tax duplicate of the property owner for the collection as delinquent taxes are collected and disbursed to the General Fund of the town, as provided by I.C. 36-7-10.1-4.  
(Ord. 3-2004, passed 7-7-2004)

#### **§ 90.05 EXCEPTIONS.**

This chapter shall not apply to:

(A) Agricultural crops;

(B) Hay and pasture covers; and/or

(C) Natural areas.

(Ord. 3-2004, passed 7-7-2004)

#### **§ 90.06 EFFECTIVE DATE.**

This chapter shall be in full force and effect from the date of its passage and publication, as provided by law.

(Ord. 3-2004, passed 7-7-2004)



## **CHAPTER 91: ANIMALS**

### **Section**

#### ***Animal Control and Safety***

- 91.01 Definitions
- 91.02 Restraint of Animals
- 91.03 Public Nuisance Animals
- 91.04 Vicious Animals

#### ***Keeping of Livestock***

- 91.05 Unlawful Keeping and Confining of Livestock

#### ***Responsibility of Animal Owners and Town Residents***

- 91.06 Food, Water, Shelter and Mistreatment
- 91.07 Proper Healthcare
- 91.08 Animals Waste
- 91.09 Animals in Vehicles
- 91.10 Vaccination Requirements
- 91.11 Vehicular Collision
- 91.12 Number of Animals Limited

#### ***Animal Sacrifice***

- 91.13 Animal Sacrifice

#### ***Enforcement Procedures***

- 91.14 Enforcement Procedures

#### ***Impounded Animals***

- 91.15 Impounded Animals

## **TOWN OF MILTON, INDIANA**

### **AN ORDINANCE AMENDING THE ORDINANCE REGULATING THE CONTROL OF ANIMALS WITHIN THE TOWN OF MILTON, INDIANA**

**WHEREAS**, the Town Council ("Council") as the legislative and fiscal body for the Town of Milton, Indiana ("Town") pursuant to the authority granted by Indiana Code (IC) 36-1-3, et. seq. desires to amend the prior Ordinance codified in Chapter 91 that regulates the control of animals within the Town of Milton; and

**WHEREAS**, Council finds that it is in the best interest of those residing within the Town to adopt such an Ordinance, and the regulation of animals within the Town shall be in accordance with the terms and conditions set forth herein;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council for Town of Milton, Indiana, hereby adopts this Ordinance which regulates the control of animals within the Town with the following terms and conditions:

#### **CHAPTER 91: DEFINITIONS**

##### **Section 91.01: Definitions**

**ABANDONED ANIMAL.** Any domesticated animal which shall have been placed upon public property or within a public building unattended or uncared for or upon or within the private property of another without the express permission of the owner, custodian or tenant of the private property, and which is unattended or uncared for, which includes but is not limited to, failing to provide any animal proper and adequate food, water, shelter, or veterinary care.

**ADULT DOG.** Any dog that is three (3) months of age or older for the purposes of rabies vaccinations and/or tags.

**ADULT CAT.** Any cat that is three (3) months of age or older for the purposes of rabies vaccinations and/or tags.

**ANIMAL.** Every live vertebrate creature, domestic or wild.

**ANIMAL CONTROL OFFICER.** Any person who is authorized to implement and enforce the town's animal care and control ordinances and as defined in state statutes.

**AUCTION.** A commercial animal establishment where animals are regularly bought or sold, traded, etc., which includes, but is not limited to, a flea market.

**AUTHORIZED VETERINARY CLINIC.** Any person licensed or permitted to practice veterinary medicine under the laws of the State of Indiana.



**CAT.** Any domestic cat (*Felis Catus*).

**CIRCUS.** A commercial animal establishment variety show featuring animals as public entertainment.

**COLONY.** A group of one more feral cats, whether managed or unmanaged.

**COLONY CARETAKER.** An authorized person who provides food, water and shelter for feral cats in a registered colony.

**COMMERCIAL ANIMAL ESTABLISHMENT.** Any pet shop, auction, flea market, riding school or stable, pet grooming shop, zoological park, circus, kennel, or veterinary hospital.

**DIRECT CONTROL.** Immediate and continuous physical control of an animal (excluding herding dogs; dogs in the process of hunting; and police dogs) at all times such as by means of a fence, leash, cord or chain of sufficient strength to restrain the animal.

**DOG.** Any domesticated dog (*Canis Familiaris*).

**DOG or CAT RUNNING AT LARGE.** Any dog or cat not under direct control, not on a leash, not at heel, not beside a competent person, not in a vehicle driven or parked, or not confined within the property limits of its owner.

**DOMESTIC ANIMAL.** Any animal which may be held under normal conditions, sold, or otherwise maintained as a pet. The Town Council reserves the right to amend this definition by adding or deleting animals as from time to time determined to be an animal which has been domesticated. For illustrative purposes only, the following non-exhaustive list of animals are domestic animals: dogs, cats, rabbits, guinea pigs, lizards, hamsters, ferrets, mice, non-venomous snakes, spiders, birds, and gerbils.

**EXOCTIC ANIMAL.** A wild animal that is non-native to the State of Indiana, or any venomous snake.

**FERAL CAT.** Any cat that has no apparent owner of identification and is wild, untamed, unsocialized, unmanageable and unable to be approached or handled. An animal control officer is vested with the authority to determine whether a cat is a feral cat.

**FOWL.** Any bird kept for its eggs, meat or feathers. Fowl include clawed or hoofed birds. Fowl include, but are not limited to the following: turkey, chicken, goose, and rooster.

**GROOMING ESTABLISHMENT.** Any place of business, stationary or mobile, which accepts private pets for bathing, clipping, pedicuring or other related services.

**GUARD DOG or WATCH DOG.** Any dog trained by a recognized training facility for the purpose of protecting individuals or property from physical intrusion by another. The term *RECOGNIZED TRAINING FACILITY* means any person holding a state kennel license and a business license for either of the purposes described in this definition.

**GUIDE DOG.** A properly trained dog certified by a licensed training facility that has an expertise in training dogs for physically impaired persons and that is actually being used by a person to assist in that physical impairment.

**HARBORER and CAREGIVER.** Any person who performs acts of providing care, shelter, protection, restraint, refuge, food or nourishment in such a manner as to control an animal's activities.

**HUMANE SOCIETY.** An organization that has a nonprofit status with the Internal Revenue Service for which the central purpose is to provide for the protection of animals.

**HUMANE TRAP.** Any device used for capturing an animal without inflicting injury, pain or suffering and which provides adequate ventilation for the trapped animal. Snares, leg traps or similar devices are considered inhumane and shall not be used.

**IMPOUNDMENT.** The act of taking physical possession and control of an animal by an Animal Control Officer or other officer empowered to act by law and transporting it to an animal control facility of Humane Society.

**KENNEL and CATTERY.** Any place of business at which dogs or cats are kept for sale, breeding, boarding or training.

**LIVESTOCK.** Livestock includes horses, cows, goats, pigs or any other four-legged animal, excluding dogs and cats. Fowl are expressly included within this definition.

**MANAGED COLONY.** A colony of feral cats that are registered with the Humane Society, or its designee and is maintained by a colony caretaker using trap, neuter, or return methodology.

**OWNER.** Any person who owns, harbors, keeps, maintains, has lawful possession of, or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his or her care or who permits an animal to remain on or about his or her premises; provided, however, this shall not include a person hired or acting as custodian of the animal for its owner, and shall not include colony caretakers of registered colonies of feral cats.

**PET SHOP.** A commercial animal establishment engaging in the retail sale of animals.

**POLICE OFFICER.** Any law enforcement officer empowered to make arrests or cause to be issued summonses in the incorporated areas of the town.

**RIDING SCHOOL OR STABLE.** A commercial pet establishment that has available for hire, boarding and/or riding instruction for any horse, burro, donkey, pony or mule.

**TOWN.** The Town of Milton, Indiana.

**VICIOUS ANIMAL and DANGEROUS ANIMAL.** Any animal that attacks, bites or injures human beings, pet companion animals, or livestock or which, because of temperament, conditioning, or training, has a known propensity to attack, bite or injure human beings, pets companion animals, or livestock. No dog may be declared dangerous if a threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog or was teasing, tormenting, abusing, or assaulting the dog. This definition shall not be construed to include dogs that are part of a governmental organization.

**WILD ANIMAL.** An animal that lives in the wild or is not domesticated.

#### **Section 91.02: Restraint of Animals**

(A) It shall be unlawful for any owner of any animal to allow such animal to run at large, whether wearing a collar and tag or not, within the incorporated areas of the town. Any and all dogs or cats found running at large, whether wearing a collar or not, are subject to being immediately impounded by an animal control officer or any police officer.

(B) If the owner of the animal is a minor, the parent(s) or guardian(s) of the minor shall be jointly and severally liable and responsible for the minor's violation of this chapter.

(C) An owner of an animal shall not knowingly or negligently permit a domestic animal to destroy or deface shrubbery, lawns, flowers, gardens, or other property.

(D) An owner of an animal shall not knowingly or negligently permit any animal to chase or harass vehicles or Pedestrians on public streets and sidewalks, or obstruct the normal use of the streets and sidewalk.

(E) It shall be the duty of every owner of any animal to ensure that the animal is

kept under restraint, and to ensure that it is: (1) securely and humanely restrained by chain, cable or trolley, or other tether of sufficient strength to prevent escape; or (2) securely and humanely enclosed within a house, building, fence, pen or other enclosure out of which it cannot climb, dig, jump, or otherwise escape on its own volition; and that such enclosure is securely locked at any time the animal is left unattended; and when not secured by sub-sections (1) and (2), is kept on a leash under the control of a competent person; or off a leash and obedient to that person's command and that person is present with the animal any time it is not otherwise restrained.

(F) The following additional precautions shall be taken by the owners of vicious or dangerous animals:

(1) In addition to the requirements of sub-section (D), the owner of a dangerous or vicious animal who maintains the animal out-of-doors shall maintain a fence around a portion of the property in which the animal is to be housed. Within the fenced area, the animal must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The sides of the pen or kennel must either be buried two feet into the ground, sunken into a concrete pad, or securely attached to a wire bottom. The pen or kennel shall remain locked except when tending to the animal's needs such as cleaning or providing food and water.

#### **Section 91.03: Public Nuisance Animal**

(A) A public nuisance animal shall mean and include any animal that meets any one or more of the following:

(1) Is confirmed to have been found running at large three (3) or more times; or

(2) Damages the property of anyone other than the owner; or

(3) Is found to be vicious and running at large; or

(4) Attacks without provocation; or

(5) Excessively makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterance causing unreasonable disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept for a continuous period of at least fifteen (15) minutes or for an aggregate of thirty (30) minutes in the period of one (1) hour; or

(6) Creates unsanitary conditions or offensive and objectionable odors in enclosures or surroundings and thereby creates unreasonable disturbance or discomfort to neighbors or others in close proximity to the area where the animal is kept.

#### **Section 91.04: Vicious Animals**

(A) It shall be unlawful for any person to cause, permit, accompany or be responsible for the presence of any vicious dog, cat or other animal on the streets or within public places of the town or allow the animal to run on the premises of another at any time. Should it become necessary for the owner of a vicious animal to transport such an animal, the owner shall ensure that the animal is securely muzzled to effectively prevent it from biting any person or other animal. Upon impounding a vicious animal for any reason, the Animal Control Officer, or any police officer, for reasons of public safety, may retain the animal at the impoundment facility until disposition by the appropriate court.

(B) This section shall not apply to law enforcement dogs.

#### **Section 91.05: Unlawful Keeping and Confining of Livestock**

(A) It shall be unlawful for any person to keep, cause, or permit to be kept, or to confine, one or more horses, mules, swine, goats, sheep, or other livestock, including fowl, within the corporate limits of the town.

#### **Section 91.06: Food, Water, Shelter and Mistreatment**

(A) Every owner of every animal kept in the town shall ensure that such animal:

(1) Is kept in a clean and sanitary and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement. The person responsible for the animal shall regularly and as often as necessary, maintain all areas of animal contact to prevent odor, or health and sanitation problems;

(2) Shall have proper and adequate food that is nutritionally appropriate for the species in adequate amounts to maintain good health, fresh portable drinking water, shelter and ventilation, including quarters that are protected from excessive heat and cold, and are of sufficient size to permit the animal to move about freely;

(3) Is protected against abuse, cruelty, neglect, torment, overload, overwork, or any other mistreatment.

#### **Section 91.07: Proper Health Care**

(A) Every owner of an animal shall provide reasonably necessary veterinary care, in addition to the required rabies vaccination, and if any animal is diseased or exhibits symptoms of disease, the owner must provide adequate medical care and segregate such an animal from other animals so as to prevent transmittal of the disease.

#### **Section 91.08: Animal Waste**

(A) The owner of every animal shall be responsible for the removal of any feces deposited by his or her animal on public property, public walks, public parks, beaches, recreation areas or private property of others. Owners of service dogs are exempted from this section.

#### **Section 91.09: Animals in Vehicles**

(A) No animal shall be left unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal, e.g. extreme heat or cold. No animal shall be transported in the trunk of any vehicle.

#### **Section 91.10: Vaccination Requirements**

(A) All owners of dogs, cats, and ferrets are required to comply with Indiana Administrative Code, Title 345: Indiana State Board of Animal Health.

(B) At the time of adoption of this section, 345 I.A.C. 1-5-2 required that all dogs, cats, and ferrets three (3) months of age and older must be vaccinated against rabies, and this section incorporates those requirements, and any future more restrictive requirements thereof. The rabies vaccination of a dog, cat, or ferret shall be maintained by ongoing revaccination of the animal as follows:

(1) Ferrets shall be revaccinated within twelve (12) months of the prior Vaccination;

(2) Dogs and cats that are vaccinated with a rabies vaccine whose label recommends annual boosters shall be revaccinated within twelve (12) months of the prior vaccination; and

(3) Dogs and cats that are vaccinated with a rabies vaccine whose label recommends a booster one (1) year later and triennially thereafter shall be revaccinated within twelve (12) months of the first vaccination and shall be revaccinated within thirty-six (36) months of each vaccination thereafter.

(C) The owner of the animal is responsible for procuring the vaccinations required by this section.

#### **Section 91.11: Vehicular Collision**

(A) A person whose vehicle causes injury or death to a domestic or wild animal in the town shall immediately notify the animal's owner, if known, or local law enforcement agency, together with a description of the animal struck, the location of the striking, and an estimate as to the condition of the animal after being struck.

#### **Section 91.12: Number of Animals Limited**

(A) Subject to the exceptions set forth below, no owner may harbor more than six (6) animals within the incorporated areas of the town, and no more than six animals may be harbored in, on, or about a residence or business located within the incorporated areas of the town, even if said residence or business is occupied by more than one owner.

(B) A commercial animal establishment is excepted from the limitations set forth above provided that the establishment is compliant with any and all standards and requirements as required by state and federal regulations regarding such an establishment.

(C) The penalty for violating this Section shall be the penalty set forth in the Town of Milton, Indiana Fee Schedule.

#### **Section 91.13: Animal Sacrifice**

(A) No person shall engage in, participate in, assist in, or perform animal sacrifice. No person shall own, keep, or harbor any animal with the purpose or intention of using such animal for animal sacrifice. No person shall knowingly sell, offer for sale, give away or otherwise transfer any animal to any person when he or she knows or believes that person intends to use such animal for animal sacrifice. This section does not prohibit slaughter of animals for agricultural or legitimate religious purposes.

#### **Section 91.14: Enforcement Procedures**

To secure the proper enforcement of the provisions of this chapter, the appropriate authorities of the town may pursue any or a combination of the following remedies as they deem most appropriate to the case:

(A) Taking into custody and impounding any animal found to be kept in violation of any provision applicable under this chapter.

(B) Citing the owner of the animal for a penal town ordinance violation.

(C) If the violation constitutes an infraction or crime under statute, citing or arresting the owner of the animal for such state offense, subject to penalties as provided by law.

(D) Seeking an injunction in a court of competent jurisdiction to require the compliance of the owner of the animal under the provisions of Indiana Code §36-1-6-4(b)(1) or any other law entitling public authorities to enjoin the violation of ordinances or statutes, and including an action to recover all costs to the town of bringing the action for injunction.

#### **Section 91.15: Impounded Animals**

(A) When an animal is impounded, the Town Marshal, or any delegate thereof,

including any other law enforcement officer or deputy marshal of the town, may retain such animal in its custody for such period of time as he or she determines that it will be feasible to properly confine, shelter, and care for the animal at any town facility available for such purpose. When the Town Marshal determines that it is no longer feasible to keep such animal, he or she shall deliver custody of the same to the nearest or most convenient municipal, county, or Humane Society pound which will accept custody of the animal. However, if the animal is a wild animal, is of a species indigenous to Central Indiana, is not dangerous to humans or livestock, and is sufficiently mature to care for itself in the wild, the Town Marshal may immediately release the same in a suitable area outside of the town. If the owner of an impounded domestic animal is known, the Town Marshal shall notify him or her of the animal's impoundment. If the owner is not known, the Town Marshal may post a notice describing the animal, the time and place of its impoundment, and the reason therefore, at a place of general visibility within the town, and if the animal is livestock which may have wandered from outside the town limits, a copy of the notice shall also be sent to the office of the County Sheriff.

(B) An impounded domestic animal shall be kept by the Town Marshal or by a pound into whose custody it is delivered for at least five (5) days.

(C) Unless a court, the County Health Officer, or the state veterinarian orders the continued detention of an animal, the owner of an impounded domestic animal, other than an animal impounded for violation of Indiana Code § 35-46-3-7, as may be amended or recodified, may reclaim the animal at any time while the same is in custody of the Town Marshal by paying to the town the following fees:

(1) A charge of \$25.00 for picking up the animal; and

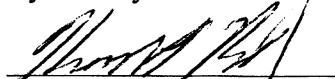
(2) A charge of \$10.00 per day for boarding and feeding the animal.

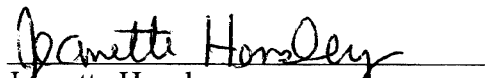
(D) Notwithstanding any provision of this chapter, the Town Marshal or his or her officers are authorized to immediately destroy any vicious animal which cannot be safely captured or kept in custody by usual and available means, or which is observed to be attacking a person, livestock, or other animal.

DULY ADOPTED this 9<sup>th</sup> day of April, 2013, to become effective upon publication.

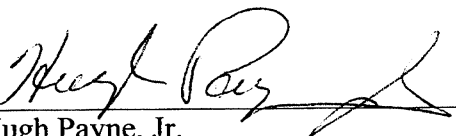
**TOWN OF MILTON, INDIANA**

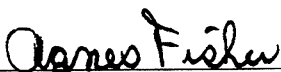
By its duly elected Town Council

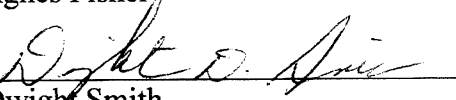
  
Kenneth Risch, President

  
Jeanette Hensley

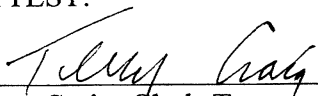


  
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Hugh Payne, Jr.

  
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Agnes Fisher

  
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Dwight Smith

ATTEST:

  
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Terry Craig, Clerk-Treasurer



## **CHAPTER 92: NOISE**

### **Section**

- 92.01 Title
- 92.02 Purpose
- 92.03 Definitions
- 92.04 Prohibited activities
- 92.05 Exemptions and permits
- 92.06 Effective date
  
- 92.99 Penalty

### **§ 92.01 TITLE.**

This chapter shall be known as the “Town of Milton Noise Ordinance.”  
(Ord. 2001-1, passed - -)

### **§ 92.02 PURPOSE.**

A purpose of this chapter is to ensure that the residents of the town may freely enjoy the public areas and homes of our town without the intrusion of noise which unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property’s value.  
(Ord. 2001-1, passed - -)

### **§ 92.03 DEFINITIONS.**

*[Reserved]*

(Ord. 2001-1, passed - -)

**§ 92.04 PROHIBITED ACTIVITIES.**

(A) No person shall operate a device for the amplification of sound where the sound is emitted directly into the public streets, ways, or parks, either for the purposes of advertising, personal fulfillment, or attracting attention, so loudly that the sound emitted can be heard to the annoyance or discomfort of persons in passing or stopped vehicles, neighboring premises, or the public streets, ways, or parks.

(B) No person shall operate a radio, television set, musical instrument, tape, compact disc, or phonograph record player, amplifier, and similar device in such a manner as to be plainly audible beyond the sound source's property boundaries or through walls common to two or more dwelling units within a building. This includes, but is not limited to, the operation of the devices from or within vehicles.

(C) No person shall operate a domestic power tool outdoors between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and 9:00 p.m. and 8:00 a.m. on weekends and holidays in such a manner that will disturb or annoy any reasonable person nearby.

(D) No person shall operate a tool or equipment used in construction, drilling, or demolition between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and 9:00 p.m. and 8:00 a.m. on weekends and holidays in such a manner that will disturb or annoy any reasonable person nearby.

(E) No person shall operate a horn or other audible signal device on any motor vehicle or motorcycle in such a manner that will disturb or annoy any reasonable person nearby, provided that this provision shall not apply to an emergency vehicle operated by an ambulance service or governmental unit.

(F) No person shall participate in any party or gathering between the hours of 11:00 p.m. and 7:00 a.m. giving rise to noise that is plainly audible beyond the sound source's property boundaries or through walls common to two or more dwelling units within a building.

(G) No person shall operate a motorcycle or motor vehicle in such a manner which causes excessive noise as a result of a defective or modified exhaust system or as a result of unnecessary acceleration, deceleration, engine revving, or tire squealing.

(H) No person shall operate a sound amplification device in such a manner as to cause vibrations perceptible without the aid of instruments beyond the sound source's property boundaries. This includes, but is not limited to, the operation of the devices from or within vehicles.

(I) No person shall yell, shout, hoot, whistle, or sing in the public streets so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence.

(J) No person shall keep an animal which causes frequent or continued noise that disturbs the comfort or repose of persons in any dwelling, hotel, or other type of residence.  
(Ord. 2001-1, passed - -) Penalty, see § 92.99

**§ 92.05 EXEMPTIONS AND PERMITS.**

(A) The provisions set forth in this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of work to prevent or alleviate physical or property damage threatened or caused by calamity or other exceptional circumstances.

(B) The Town Council shall have the authority to issue permits for the following situations, notwithstanding the foregoing prohibitions:

(1) Holidays, celebrations, concerts, parades, or other special events, both public and private; and

(2) Persons who demonstrate that the foregoing prohibitions constitute an unreasonable hardship due to temporary circumstances.

(C) Permits may contain any conditions that are necessary to minimize the adverse impact of the activity, including a time limit.

(D) Noncompliance with any condition of a permit shall terminate the permit and subject the person holding same to the provisions of this code.

(E) The Town Council may issue guidelines defining the procedures to be followed in applying for a permit and the criteria to be considered in the issuance of a permit.  
(Ord. 2001-1, passed - -)

**§ 92.06 EFFECTIVE DATE.**

This chapter shall be effective as of its passage and publication.  
(Ord. 2001-1, passed - -)

**§ 92.99 PENALTY.**

Any person who shall violate any provision of this chapter shall be fined as follows:

(A) First offense, \$25;

(B) Second offense, \$50; and

(C) Third and subsequent offense, \$100.  
(Ord. 2001-1, passed - -)



## CHAPTER 93: LITTER CONTROL

### Section

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**GENERAL PROVISIONS****§ 93.01 DEFINITIONS.**

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

**COMMERCIAL HANDBILL.** Any handbill which:

- (1) Advertises anything for sale, or promotional gifts or prizes;
- (2) Directs attention to any business or other activity for the purpose of either directly or indirectly promoting the interests thereof by sales or by other means;
- (3) Directs attention to or advertises any meeting, exhibition, theatrical or other performance, or event of any kind for which an admission fee is charged; or
- (4) While containing reading or pictorial matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

**CONSTRUCTION SITES.** Any private or public property upon which repairs to existing buildings, construction of new buildings, or demolition of existing structures is taking place.

**ELEMENTS.** Any force which with reasonable foreseeability could carry litter from one place to another.



**HANDBILL.** Any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet, or any other printed matter or literature which is not delivered by United States mail, except that **HANDBILL** shall not include a newspaper.

**LITTER.** Any uncontainerized human-made or human-used waste deposited within the town, otherwise than in a litter receptacle. **LITTER** may include, but is not limited to, any garbage, trash, refuse, confetti, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic, or paper container or construction material, motor vehicle part, furniture, oil, carcass of a dead animal, or nauseous or offensive matter of any kind, or any object likely to injure any person or create a traffic hazard.

**LITTER RECEPTACLES.** Any container which is designed to receive litter and to prevent the escape of litter deposited therein and which is of the size or sufficient capacity to hold all litter generated between collection periods.

**LOADING or UNLOADING DOCKS.** Any dock space or area used by any moving vehicle for the purpose of receiving, shipping, and transporting goods, wares, commodities, and persons.

**NEWSPAPER.** Any newspaper of general circulation, as defined by law, any newspaper duly entered with the United States Postal Service in accordance with federal statute or regulation, and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold or distributed to the public.

**PARK.** A public or private park, reservation, playground, recreation center, or any public or private area devoted to active or passive recreation, or any other area under the supervision of the town.

**PARKING LOTS.** Any private or public property with provisions for parking vehicles, to which the public is invited or which the public is permitted to use or which is visible from any public place or private premises.

**PERSON.** Any natural person, firm, partnership, association, corporation, company, nonprofit organization, or any governmental entity.

**PRIVATE PREMISES.** Any dwelling house, building, or other structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox, or other structure belonging or appurtenant to the dwelling house, building, or other structure.

**PUBLIC PLACE.** Any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and parks, squares, plazas, grounds, and buildings frequented by the general public, whether publicly or privately owned.

(1981 Code, § 4.701) (Ord. 6-1982, passed 6-7-1982)

**§ 93.02 ENFORCEMENT.**

Regulations set forth in this chapter shall be enforced by the Town Marshal.  
(1981 Code, § 4.702) (Ord. 6-1982, passed 6-7-1982)

**§ 93.03 ABATEMENT OF NUISANCES.**

The accumulation of litter on any private premises is hereby declared to be a nuisance. The town shall abate each such nuisance at the expense of the owner or occupant of the premises in the manner provided by ordinance for abatement of environmental nuisances, if the owner or occupant fails, after receiving notice in the time and manner provided by the ordinance on environmental nuisances, to remove the litter or confine it in a container complying with this chapter. Payment of the expenses of abating the nuisance shall not relieve any person from paying the fine provided for violation of this chapter.

(1981 Code, § 4.703) (Ord. 6-1982, passed 6-7-1982)

***LITTERING STREETS*****§ 93.15 CONVEYANCE OF MATERIAL.**

No person shall convey any material over any street or public way in a manner that causes or permits the litter to fall on a street or public way.

(1981 Code, § 4.704) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

***MAINTENANCE OF PROPERTY*****§ 93.30 LITTER COLLECTION AND STORAGE AREAS; CLEAN CONDITION.**

Every owner or occupant or lessee of a house or building used for residence, business, or commercial purpose shall maintain litter collection and storage areas so that no litter is outside of containers.

(1981 Code, § 4.705) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.31 DUTY TO COLLECT LITTER BEFORE IT IS CARRIED FROM THE PREMISES.**

All litter that is subject to movement by the elements or by animals shall be secured by the owner of the premises where it is found before the same is removed by the elements or by animals to adjoining premises.

(1981 Code, § 4.706) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.32 NEGLECTED PREMISES VISIBLE TO THE PUBLIC.**

It shall be the duty of any person owning or controlling a house or other building or premises, including vacant lots visible from any public place or private premises, to maintain the premises in a reasonably litter-free condition.

(1981 Code, § 4.707) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.33 AREAS AROUND BUSINESS PREMISES; CLEAN CONDITION.**

The owner or person in control of any place open to the public, including, but not limited to, restaurants, shopping centers, fast-food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations, and hospitals and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements or by animals to adjoining premises or to any street or other public place.

(1981 Code, § 4.708) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.34 LOADING OR UNLOADING DOCKS.**

The person, firm, company, or corporation owning, operating, or in control of a loading or unloading dock shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried by the elements or by animals to adjoining premises.

(1981 Code, § 4.709) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.35 CONSTRUCTION SITES; CLEAN CONDITION.**

The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried by the elements or by animals to adjoining premises. All litter from construction activities or any related activities shall be picked up at the end of each workday and placed in containers which will prevent litter from being carried to adjoining premises.

(1981 Code, § 4.710) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.36 SIDEWALKS AND ALLEYS.**

No person owning, occupying, or controlling any premises shall permit any litter to spread from the premises to an adjacent public sidewalk or public alley, and, if any litter does spread to a public sidewalk or alley, the owner, occupant, and person in control of the premises shall immediately clean up all the litter. The owner, occupant, and person in control shall be responsible for complying with this section. (1981 Code, § 4.711) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.37 PLACEMENT OF GARBAGE CONTAINERS ALONG STREET; UNEMPTIED GARBAGE CONTAINERS.**

(A) It shall be unlawful for any person in control of the premises which is served by a commercial or public refuse collection service to place their filled garbage containers on the edge of the street more than 12 hours prior to the time for scheduled garbage pickup. The town will post on the town bulletin board, at the Town Office Building, the times for rubbish pickup. The times may change from time to time, but the time for determination of violation in regards to this section shall be 12 hours prior to the time posted at the Town Office Building.

(B) It shall be unlawful for any person in control of the premises which is served by commercial, public, or private refuse collection to permit empty garbage containers to remain at the edge of the street for more than six hours following the scheduled garbage pickup. The time of pickup will be determined as set out in division (A) of this section.

(C) It shall be unlawful for any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste, or garbage which has been containerized in accordance with a contract for its removal to allow that refuse, waste, or garbage to remain uncollected beyond the date provided by the contract for its collection and removal, or to allow that container to remain unemptied for longer than 14 days or after that refuse, waste, or garbage creates any condition which is offensive due to odor, attraction of vermin, or danger to health.

(1981 Code, § 4.712) (Ord. 6-1982, passed 6-7-1982; Ord. 1994-2, passed 4- -1994) Penalty, see § 10.99

**§ 93.38 NEGLECTED REFUSE CONTAINERS; CONTRACTOR.**

It shall be unlawful for any person who has contracted to collect and remove refuse, waste, or garbage to allow that refuse, waste, or garbage to remain uncollected beyond the date provided by the contract for its collection and removal, or in any case to allow that container to remain unemptied for longer than 14 days or in any case until after that refuse, waste, or garbage creates any condition which is offensive due to odor, attraction of vermin, or danger to health. If any contractor fails to comply with this section, the Superintendent of Public Works may proceed at the contractor's expense, after notice in the manner provided in the ordinance on abatement of environmental nuisances.

(1981 Code, § 4.713) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

***LITTER RECEPTACLES***

**§ 93.50 PUBLIC PLACES.**

Every owner, occupant, tenant, or lessee using or occupying any public place shall provide adequate litter receptacles of sizes, numbers, and types as required to contain all litter generated by those persons frequenting that public place.

(1981 Code, § 4.714) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.51 PARKING LOTS.**

Any parking lot shall be equipped with litter receptacles in compliance with this subchapter.

(1981 Code, § 4.715) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.52 PRIVATE PREMISES.**

The owner or person in control of a private premises shall maintain as many litter receptacles as necessary and in such a manner that litter will be prevented from being carried by the elements or by animals to adjoining premises.

(1981 Code, § 4.716) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.53 SPECIFICATIONS.**

Litter receptacles shall comply in size, material, and all other characteristics with the specification of regulations made from time to time by ordinance for refuse containers.

(1981 Code, § 4.717) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.54 PERIODIC EMPTYING OF RECEPTACLES.**

All litter shall be removed periodically from litter receptacles as necessary to comply with this chapter.

(1981 Code, § 4.718) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.55 PREVENTION OF SCATTERING.**

Persons placing litter in litter receptacles shall do so in such manner as to prevent litter from being carried from the receptacles by the elements or by animals.

(1981 Code, § 4.719) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.56 UPSETTING OR TAMPERING WITH RECEPTACLES.**

No person shall cause the removal, upsetting, mutilation, defacing, or tampering with litter receptacles or cause the contents thereof to be spilled or to be strewn in or upon any public place or private premises.

(1981 Code, § 4.720) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.57 LITTER RECEPTACLES OBSTRUCTING TRAFFIC.**

Litter receptacles shall not be placed in any location where they may obstruct vehicular traffic or unreasonably obstruct pedestrian traffic.

(1981 Code, § 4.721) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.58 EXTERIOR OF LITTER RECEPTACLES.**

Litter receptacles located on publicly-owned property shall be conspicuously identified and shall be free of commercial advertising. The name of a civic group furnishing a litter receptacle may be placed on the receptacle.

(1981 Code, § 4.722) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.59 RECEPTACLES TO BE PROVIDED BY THE TOWN.**

In the Central Business District and in such other areas as the Street Department may deem advisable, it may cause to be placed in convenient places litter receptacles, to be provided and serviced either by contract or by direct operation by the town. The Street Department may also cooperate with any merchants' association or civic group by permitting the placing by the merchants' association or civic group of litter receptacles in the same or in any other area of the town.

(1981 Code, § 4.723) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.60 INTERPRETATION.**

This subchapter shall not be interpreted as repealing or relaxing any standards set by ordinance.

(1981 Code, § 4.724) (Ord. 6-1982, passed 6-7-1982)

**HANDBILLS**

**§ 93.75 THROWING OR DISTRIBUTING HANDBILLS IN PUBLIC PLACES.**

No person shall throw, scatter, or cast any kind of handbill in or upon any public place within the town; provided, however, it shall not be unlawful for any person to hand out or distribute handbills in any public place to any person willing to accept such.

(1981 Code, § 4.725) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.76 PLACING HANDBILLS IN VEHICLES.**

No person shall deposit, fasten, throw, scatter, or cast any handbill in or upon any vehicle. The provisions of this section shall not be deemed to prohibit the handing of any noncommercial handbill to the owner or other occupant of any vehicle who is willing to accept.

(1981 Code, § 4.726) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.77 DISTRIBUTION OF HANDBILLS ON VACANT PRIVATE PREMISES.**

No person shall place any handbill in or upon any private premises which are vacant.

(1981 Code, § 4.727) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.78 PREMISES POSTED AGAINST HANDBILL DISTRIBUTION.**

No person shall place any handbill upon any premises if requested by anyone thereon not to do so or if there is placed on the premises in a conspicuous position near the entrance thereof a sign bearing notice indicating that the occupants of the premises do not desire to have any such handbills left upon the premises.

(1981 Code, § 4.728) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.79 MANNER OF HANDBILL DISTRIBUTION ON INHABITED PRIVATE PREMISES.**

No person shall place any handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to any other person then present in or upon the private premises. However, in case of inhabited private premises which are not posted against handbill distribution as provided in this subchapter, any person, unless requested by someone upon the premises not to do so, may place or deposit any handbill in or upon the inhabited private premises, if the handbill is placed or deposited so as to prevent it from being carried by the elements about the premises or elsewhere.

(1981 Code, § 4.729) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.80 CLEANUP.**

Any person distributing handbills shall maintain the area which they are utilizing free of any litter caused by the handbill distribution.  
(1981 Code, § 4.730) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.81 ACTIVITIES EXEMPT FROM THE APPLICATION OF THIS SUBCHAPTER.**

The provisions of this subchapter shall not be deemed to apply to the distribution of mail by the United States, or to the distribution of newspapers.  
(1981 Code, § 4.731) (Ord. 6-1982, passed 6-7-1982)

**§ 93.82 HANDBILL TO CONTAIN THE NAMES AND ADDRESSES OF PRINTER AND SPONSOR.**

It shall be unlawful for any person to distribute any handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the names and addresses of the following:

(A) The person who printed, wrote, compiled, or manufactured the handbill; and

(B) The person who caused the handbill to be distributed.

(1981 Code, § 4.732) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.83 OWNER OF PREMISES NOT TO PERMIT ITS USE FOR UNLAWFUL ADVERTISING.**

It shall be unlawful for the owner, lessee, or occupant of any premises to permit any person, whether licensed or acting under the terms of this subchapter or otherwise, to attach to any building structure or fixture located upon the premises or to deposit or keep upon, or to distribute from his or her premises, any poster or handbill containing any matter prohibited by the terms of this subchapter or by state or federal law.

(1981 Code, § 4.733) (Ord. 6-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 93.84 CONSTRUCTION OF THIS SUBCHAPTER WITH OTHER LAWS.**

This subchapter shall not be deemed to repeal, amend, or modify any provision of this code or other town ordinance prohibiting, regulating, or licensing any person using the public streets or places for any private business or enterprise.

(1981 Code, § 4.734) (Ord. 6-1982, passed 6-7-1982)



## CHAPTER 94: FAIR HOUSING

### Section

- 94.01 Policy statement
- 94.02 Definitions
- 94.03 Unlawful practice
- 94.04 Discrimination in the sale or rental of housing
- 94.05 Discrimination in residential real estate-related transactions
- 94.06 Discrimination in the provision of brokerage services
- 94.07 Interference, coercion, or intimidation
- 94.08 Prevention of intimidation in fair housing cases
- 94.09 Exemptions
- 94.10 Administrative enforcement

### § 94.01 POLICY STATEMENT.

It shall be the policy of the town to provide, within constitutional limitations, for housing throughout its corporate limits, as provided for under the Federal Civil Rights Act of 1968 (42 U.S.C. §§ 3601 *et seq.*), as amended, the Federal Housing and Community Development Act of 1974 (42 U.S.C. §§ 5401 *et seq.*), as amended, and I.C. 22-9.5-1 *et seq.*  
(Ord. 1994-2, passed 2-7-1994)

### § 94.02 DEFINITIONS.

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

**AGGRIEVED PERSON.** Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
  - (2) Believes that the person will be injured by a discriminatory housing practice that is about to occur.
- (I.C. 22-9.5-2-3)

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

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

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 94.04, 94.05, 94.06, 94.07, or 94.08 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.** 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 the individual or the written permission of the parent or other person. The protections afforded against discrimination on this basis of **FAMILIAL STATUS** shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

**FAMILY.** Includes a single individual, with the status of the **FAMILY** being further defined in the definition for **FAMILIAL STATUS** in this section.

(I.C. 22-9.5-2-9)

**HANDICAP.** With respect to a person:

(1) A physical or mental impairment, which substantially limits one or more of the person's major life activities;

(2) A record of having such an impairment;

(3) Being regarded as having such an impairment;

(4) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*);

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

**TO RENT.** Includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.

(I.C. 22-9.5-2-13)

(Ord. 1994-2, passed 2-7-1994)

### **§ 94.03 UNLAWFUL PRACTICE.**

(A) Subject to the provisions of division (B) of this section, § 94.09, and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 94.04 of this chapter shall apply to all dwellings, except as exempted by division (B) of this section and I.C. 22-9.5-3.

(B) Other than the provisions of division (C) of this section, nothing in § 94.04 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 the single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her 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 the 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 salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, or salesperson, or person; and

(b) Without the publication, posting, or mailing, after notice of advertisement or written notice in violation of § 94.04(C), but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer this title.

(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 the 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;

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(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 transactions 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. 1994-2, passed 2-7-1994) Penalty, see § 10.99

**§ 94.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by § 94.03 and except as exempted by §§ 94.03(B) and 94.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, 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 or facilities in connection therewith, because of race, color, religion, sex, 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 the dwelling is in fact so available;

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

(F) (1) To discriminate in the sale or rental of, 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 the dwelling, because of a handicap of:

(a) That person;

(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 (F), *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 the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; 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 9-13-1988, a failure to design and construct those dwellings in such a manner that:

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

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

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

a. An accessible route into and through the dwelling;

b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*) and of the American National Standards for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of division (F)(3)(c)3. of this section.

(5) Nothing in this division (F) 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 or whose tenancy would result in substantial physical damage to the property of others.  
(Ord. 1994-2, passed 2-7-1994) Penalty, see § 10.99

#### **§ 94.05 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.

(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. 1994-2, passed 2-7-1994) Penalty, see § 10.99

#### **§ 94.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.**

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 or her in the terms

or conditions of the access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

(Ord. 1994-2, passed 2-7-1994) Penalty, see § 10.99

**§ 94.07 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 or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 94.03, 94.04, 94.05, or 94.06.

(Ord. 1994-2, passed 2-7-1994) Penalty, see § 10.99

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

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

(A) Any person because of his or her 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;

(B) Any person because he or she is or has been, or in order to intimidate the 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 division (A) of this section; or

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

(C) Any citizen because he or she is or has been, or in order to discourage the 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 not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results, shall be fined not more than \$10,000, or imprisoned for 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. 1994-2, passed 2-7-1994)

**§ 94.09 EXEMPTIONS.**

(A) Exemptions defined or set forth under I.C. 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 those persons, unless membership in the 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 the lodgings 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 persons (as defined in the state or federal program);

(b) Intended for, and solely occupied by, persons 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. 1994-2, passed 2-7-1994)

**§ 94.10 ADMINISTRATIVE ENFORCEMENT.**

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) of this section shall be vested in the President of the Town Council.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the town, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of this chapter by complainants to



the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6, and the President of the Town Council shall refer all the complaints to the Commission as provided for under division (A) of this section to the Commission for purposes of investigation, resolution, and appropriate relief, as provided for under I.C. 22-9.5-6.

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

(D) The President of the Town Council, or the President's designee, shall provide information on remedies available to any aggrieved person or complainant requesting the information.  
(Ord. 1994-2, passed 2-7-1994)



## **CHAPTER 95: ABANDONED VEHICLES**

### **Section**

- 95.01 Findings
- 95.02 Definitions
- 95.03 Responsibility of owner
- 95.04 Taking and storage of vehicle; declaration of abandonment; release to owner or lienholder; disposal
- 95.05 Notice tag; preparation of report; disposition of vehicle of less than \$100 in value; disposition of vehicle of \$100 in value or more
- 95.06 Abandoned vehicle report; forwarding to Bureau
- 95.07 Disposal of vehicle without notice; failure of appearance of owner or lienholder; public sale
- 95.08 Removal of abandoned vehicles
- 95.09 Complaint of property owners
- 95.10 Exempt from liability
- 95.11 Costs charged to Abandoned Vehicle Account
- 95.12 Disposition of proceeds of sale
- 95.13 Deposit of proceeds from sale of abandoned vehicles in Abandoned Vehicle Account; appropriations; reversion to General Fund
- 95.14 Inapplicability of chapter
- 95.15 Adoption of rules
- 95.16 Assessment of costs of removing, storing, and disposing of abandoned vehicles

### **§ 95.01 FINDINGS.**

The Town Council finds that abandoned vehicles are a public nuisance and a safety and health hazard.

(1981 Code, § 4.601) (Ord. 5-1982, passed 6-7-1982)

**§ 95.02 DEFINITIONS.**

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

***ABANDONED VEHICLE.*** Means:

- (1) A vehicle located on public property illegally;
- (2) A vehicle left on public property continuously without being moved for three days;
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;
- (4) A vehicle that has remained on private property without the consent of the owner, or person in control, of that property for more than 48 hours;
- (5) A vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperable and left on public property;
- (6) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than this chapter, if the vehicle once impounded is not claimed or redeemed by the owner or his or her agent within 15 days of its removal; or
- (7) A vehicle that is six or more model years old and mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 30 days.

***AUTOMOBILE SCRAP YARD.*** A business organized for the purpose of scrap metal processing, automobile wrecking, or operating a junkyard.

***BUREAU.*** The Bureau of Motor Vehicles.

***FISCAL BODY.*** The Town Council.

***OFFICER.*** Means:

- (1) A regular member of the Indiana State Police;
- (2) A regular member of a city or town police department;
- (3) A town marshal or town marshal deputy;
- (4) A regular member of the county police force; or

(5) An individual of an agency designated by ordinance of the fiscal body.

**OWNER.** The last known record titleholder of a vehicle according to the records of the Bureau under I.C. 9-13-2-121.

**PARTS.** All components of a vehicle that, as assembled, do not constitute a complete vehicle.

**PERSON.** Individual, firm, corporation, association, fiduciary, or governmental entity.

**PRIVATE PROPERTY.** All property other than public property.

**PUBLIC AGENCY.** The Bureau or the Town Police Department.

**PUBLIC PROPERTY.** A public right-of-way, street, highway, alley, park, or other state, county, or municipal property.

**TOWING SERVICE.** A business that engages in moving or removing disabled vehicles and, once removed, to store or impound vehicles.

**VEHICLE.** An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, or motorized bicycle.  
(1981 Code, § 4.602) (Ord. 5-1982, passed 6-7-1982)

### **§ 95.03 RESPONSIBILITY OF OWNER.**

The owner of an abandoned vehicle is responsible for the abandonment and is liable, to the extent of the market value of the vehicle, for all of the costs incidental to the removal, storage, and disposal of the vehicle or the parts.

(1981 Code, § 4.603) (Ord. 5-1982, passed 6-7-1982)

### **§ 95.04 TAKING AND STORAGE OF VEHICLE; DECLARATION OF ABANDONMENT; RELEASE TO OWNER OR LIENHOLDER; DISPOSAL.**

(A) When an officer discovers a vehicle in the possession of a person other than the owner and the person cannot establish his or her right to the possession of that vehicle, the vehicle shall be taken to and stored in a suitable place. The Bureau shall be notified within 72 hours of the location and description of the vehicle. Upon receipt of notification, the Bureau shall cause a search to be made to determine and notify the owner.

(B) If the owner of the vehicle cannot be determined, the Bureau shall declare the vehicle abandoned and provide for its disposal.

(C) If the properly identified owner or lienholder appears at the site of storage before disposal of the vehicle or parts and pays all proper costs incurred against it at that time, then the vehicle or parts shall be released. A copy of the release of all vehicles or parts shall be sent to the Bureau. The release must contain the owner or lienholder's signature, name, address, vehicle or parts description, costs, and date of release.

(D) If the vehicle is not released to the owner or lienholder, the Bureau shall declare the vehicle abandoned and provide for disposal.

(1981 Code, § 4.604) (Ord. 5-1982, passed 6-7-1982)

**§ 95.05 NOTICE TAG; PREPARATION OF REPORT; DISPOSITION OF VEHICLE OF LESS THAN \$100 IN VALUE; DISPOSITION OF VEHICLE OF \$100 IN VALUE OR MORE.**

(A) An officer who finds a vehicle or parts believed to be abandoned shall attach, in a prominent place, a notice tag containing the following information:

- (1) The date, time, officer's name, public agency, and address and telephone number to contact for information;
- (2) The vehicle or parts are considered abandoned;
- (3) The vehicle or parts will be removed after 72 hours;
- (4) The owner will be held responsible for all costs incidental to the removal, storage, and disposal and, if not paid, the owner's registration privileges will be suspended on that car; and
- (5) The owner may avoid costs by removal of the vehicle or parts within 72 hours.

(B) If the tagged vehicle or parts are not removed within that 72-hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate that the market value is less than \$100. Photographs shall be taken to describe the condition of the vehicle or parts.

(C) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is less than \$100, the officer shall immediately dispose of the vehicle to an automobile scrap yard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the Bureau. The Police Department disposing of the vehicle shall retain the original records and photographs for at least two years.

(D) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is \$100 or more, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the owner or person who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage area.

(1981 Code, § 4.605) (Ord. 5-1982, passed 6-7-1982)

#### **§ 95.06 ABANDONED VEHICLE REPORT; FORWARDING TO BUREAU.**

(A) Within 72 hours after removal of an abandoned vehicle to a storage area under § 95.05, the officer shall prepare and forward to the Bureau an abandoned vehicle report containing a description of the vehicle, including the make, model, engine number, if any, identification number, and the number of the license plate, and request that the Bureau advise the Police Department of the name and most recent mailing address of the owner and any lienholder.

(B) The Bureau shall:

(1) Conduct a reasonable search through the National Automobile Theft Bureau and the Indiana State Police Department to determine whether the vehicle or parts have been reported as stolen;

(2) Conduct a reasonable search of Bureau records to determine the owner of the vehicle or parts of lienholder of record; and

(3) If a reasonable search discloses the name and address of the owner or lienholder, mail a written notice, by first-class mail, to:

(a) The owner, with a copy to any lienholder if the Bureau disposes of the vehicle; or

(b) The public agency, if the public agency disposes of the vehicle, indicating that the vehicle or parts have been impounded at a certain location and must be removed within 15 days of the date of mailing of the notice and advising that the vehicle or parts will be disposed of after that time.

(C) The Bureau shall further advise the owner or any lienholder that all costs incurred in removing and storing the vehicle or parts are his or her legal responsibility.

(1981 Code, § 4.606) (Ord. 5-1982, passed 6-7-1982)

#### **§ 95.07 DISPOSAL OF VEHICLE WITHOUT NOTICE; FAILURE OF APPEARANCE OF OWNER OR LIENHOLDER; PUBLIC SALE.**

(A) If the vehicle or parts are in such condition that vehicle identification numbers or other means of identification are not available to determine the owner or lienholder, the vehicle may be disposed of without notice.

(B) If the owner or lienholder does not appear within 15 days after the mailing of notice, the Bureau shall sell the vehicle or parts to the highest bidder at a public sale conducted after notice under I.C. 5-3-1.

(1981 Code, § 4.607) (Ord. 5-1982, passed 6-7-1982)

#### **§ 95.08 REMOVAL OF ABANDONED VEHICLES.**

In order to facilitate the removal of abandoned vehicles or parts, the Police Department may enter into towing contracts with a local towing service as necessary for the purpose of removal and storage of abandoned vehicles and parts. The charges for towing shall not exceed \$25 and the charge for storage shall not exceed \$5 per day.

(1981 Code, § 4.608) (Ord. 5-1982, passed 6-7-1982)

#### **§ 95.09 COMPLAINT OF PROPERTY OWNERS.**

Upon complaint of a private property owner or person in control of the property that a vehicle has been left on the property for 48 hours or more without the consent of the owner or person in control, an officer shall follow the procedures set forth in § 95.05.

(1981 Code, § 4.609) (Ord. 5-1982, passed 6-7-1982)

#### **§ 95.10 EXEMPT FROM LIABILITY.**

Neither the owner, lessee, or occupant of the property from which an abandoned vehicle or parts are removed, nor a public agency, towing service, or automobile scrap yard, is liable for loss or damage to the vehicle or parts occurring during its removal, storage, or disposition.

(1981 Code, § 4.610) (Ord. 5-1982, passed 6-7-1982)

#### **§ 95.11 COSTS CHARGED TO ABANDONED VEHICLE ACCOUNT.**

The costs for removal and storage of an abandoned vehicle or parts not claimed by the owner or lienholder shall be paid from the Abandoned Vehicle Account. The charge payable by the owner or lienholder for towing, storing, or removing an abandoned vehicle or parts may not exceed the limits established in § 95.08.

(1981 Code, § 4.611) (Ord. 5-1982, passed 6-7-1982)



**§ 95.12 DISPOSITION OF PROCEEDS OF SALE.**

The proceeds of sale of an abandoned vehicle or parts in accordance with § 95.07 shall be credited against all costs incident to the removal, storage, and disposal of the vehicle.  
(1981 Code, § 4.612) (Ord. 5-1982, passed 6-7-1982)

**§ 95.13 DEPOSIT OF PROCEEDS FROM SALE OF ABANDONED VEHICLES IN ABANDONED VEHICLE ACCOUNT; APPROPRIATIONS; REVERSION TO GENERAL FUND.**

All proceeds from the sale of abandoned vehicles or parts that are sold by local units, including charges for bills of sale, and all monies received from owners or lienholders for the cost of removal or storage of vehicles shall be deposited with the Town Clerk-Treasurer and placed by him or her in the unit's Abandoned Vehicle Account. All costs incurred by a public agency in administering this chapter shall be paid from the Abandoned Vehicle Account. The fiscal body shall annually appropriate sufficient monies to that Account for the purposes of this chapter. All monies remaining in the Account at the end of each year remain in the Account and do not revert to the General Fund.  
(1981 Code, § 4.613) (Ord. 5-1982, passed 6-7-1982)

**§ 95.14 INAPPLICABILITY OF CHAPTER.**

This chapter does not apply to:

(A) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;

(B) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;

(C) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility;

(D) A vehicle located upon property licensed or zoned as an automobile scrap yard; or

(E) A vehicle registered and licensed under I.C. 9-18-12 as an antique vehicle.  
(1981 Code, § 4.614) (Ord. 5-1982, passed 6-7-1982)

**§ 95.15 ADOPTION OF RULES.**

The Bureau by rule shall establish the guidelines for determining the estimated value of the vehicles.  
(1981 Code, § 4.615) (Ord. 5-1982, passed 6-7-1982)

**§ 95.16 ASSESSMENT OF COSTS OF REMOVING, STORING, AND DISPOSING OF ABANDONED VEHICLES.**

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

**OCCUPANT.** Any individual(s) who resides upon the property with 30 days either before or after the time that the vehicle was removed from the property.

**THE OWNER.** The **OWNER** of the property shall be any person(s) who is shown to be the owner of the property by the records of the County Auditor for a period of within 30 days prior to or following the time of removal of the vehicle from the property.

(B) When a vehicle is removed and disposed of pursuant to this section and the vehicle is either not disposed of at sale or the proceeds are insufficient to cover the removal, storage, and disposal, the costs may be assessed against the following:

- (1) The registered owner of the vehicle, if known;
- (2) The occupant of the property from which the vehicle was removed; and/or
- (3) The owner of the property from which the vehicle was removed.

(C) Assessment will include:

- (1) The cost of towing or otherwise removing the vehicle from the property in question;
- (2) The cost of storage of the vehicle by any individual or company with which the town may contract to store the vehicle, or in the event the town sees fit to store the vehicle upon its property, the town shall be entitled to charge per day for storing the vehicle; and
- (3) The disposal cost shall include any cost incurred by the town by its employees, which shall be measured at the hourly rate paid to each employee for the time expended in the disposition and the cost of mailing and serving any notices or communications required in the disposal of the vehicle and for attorneys fees or court costs incurred in the disposal of the vehicle.

(D) The Clerk-Treasurer will prepare a certificate, including all the costs involved in the removal, storage, and disposal of the motor vehicle within 30 days of the sale, or attempted sale, of the vehicle. In the event that the proceeds from the sale of the vehicle are insufficient to cover the costs of the removal, storage, or disposal, the Clerk-Treasurer shall issue a notice by certified mail, return receipt requested, or notice by personal service by any representative of the town, to all persons who may be obligated for the costs under this section. If the obligation is not paid within 30 days of service or receipt of the notice, the town may file suit in any court having jurisdiction over this type of claim in the county. The town may be entitled to request attorneys fees for the cost incurred in settling any suit.

(E) This section shall be in full force and effect from and after its adoption and publication, as required by law.

(Ord. 1992-2, passed 2- -1992)



## CHAPTER 96: STREETS AND SIDEWALKS

### Section

#### *Excavations and Construction*

- 96.01 Opening permit required
- 96.02 Application and cash deposit
- 96.03 Restoration of pavement
- 96.04 Barriers around excavations
- 96.05 Warning lights
- 96.06 Sidewalk construction

#### *Obstructions*

- 96.20 Unloading on street or sidewalk
- 96.21 Street and sidewalk obstruction
- 96.22 Materials on street or sidewalk

### **EXCAVATIONS AND CONSTRUCTION**

#### **§ 96.01 OPENING PERMIT REQUIRED.**

It shall be unlawful for any person, other than an authorized town official, to make any opening in any street, alley, sidewalk, or public way of the town unless a permit to make the opening has been obtained prior to commencement of the work.

Penalty, see § 10.99

#### **§ 96.02 APPLICATION AND CASH DEPOSIT.**

Each permit for making an opening shall be confined to a single project and shall be issued by the authorized town official. Application shall be made on a form prescribed by the Town Council, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the authorized town official, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

**§ 96.03 RESTORATION OF PAVEMENT.**

(A) The opening and restoration of a pavement or other surface shall be performed under the direction and to the satisfaction of the authorized town official, and in accordance with rules, regulations, and specifications approved by the Town Council.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the town may proceed without notice to make the fill and restoration, and the deposit referred to in § 96.02 shall be forfeited. Thereupon, the deposit shall be paid into the appropriate town fund, except the part demanded and paid to the permittee as the difference between the deposit and the charges of the town for restoration services performed by it. If the amount of the services performed by the town should exceed the amount of the deposit, the Clerk-Treasurer or other proper administrative officer shall proceed to collect the remainder due from the permittee.

**§ 96.04 BARRIERS AROUND EXCAVATIONS.**

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley, or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

Penalty, see § 10.99

**§ 96.05 WARNING LIGHTS.**

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley, or other public way, at all times during the night season shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at, or near each end of the obstruction or excavation, and if the space involved exceeds 50 feet in extent, at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed.

Penalty, see § 10.99

**§ 96.06 SIDEWALK CONSTRUCTION.**

It shall be the duty of the authorized town official to supervise construction or repair of sidewalks within the town. He or she shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the specifications to the Town Council for approval. When the specifications are approved, the Town Council shall advertise for proposals to do all the work which may be ordered by the town in construction and repair of sidewalks, and shall authorize the President of the

Town Council to contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall give bond for the faithful performance of the work. The President of the Town Council, if authorized by Town Council, may make separate contracts for the different kinds of work with different parties.

### ***OBSTRUCTIONS***

#### **§ 96.20 UNLOADING ON STREET OR SIDEWALK.**

No person shall unload any heavy material in the streets of the town by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 10.99

#### **§ 96.21 STREET AND SIDEWALK OBSTRUCTION.**

No person shall obstruct any street, alley, sidewalk, or other public way within the town by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see § 10.99

#### **§ 96.22 MATERIALS ON STREET OR SIDEWALK.**

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind so as to interfere with the free and unobstructed use thereof.

Penalty, see § 10.99





## CHAPTER 97: CURFEW

### Section

97.01	Curfew Regulations
97.02	Defenses
97.03	Law Enforcement
97.04	Penalties

### TOWN OF MILTON, INDIANA

#### AN ORDINANCE REGULATING THE CURFEW OF CHILDREN LESS THAN EIGHTEEN YEARS OF AGE

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**WHEREAS**, the Town Council ("Council") as the legislative body for the Town of Milton, Indiana, has the power and authority to regulate the use of public land, including its streets and roads, for the public health, protection and safety of its citizens; and

**WHEREAS**, The State of Indiana has, by way of Ind. Code § 31-37-3-2, et. seq., placed limitations on the whereabouts of children less than eighteen years of age on public property subsequent to certain times of each day; and pursuant to said statutory authority, the Town of Milton, Indiana recognizes an interest in enforcing equal regulations by way of Ordinance;

**WHEREAS**, The Town Council of the Town of Milton, Indiana, has recognized the need to regulate the whereabouts of children less than eighteen years of age during the hours set forth below so as to promote their health safety and welfare within the Town of Milton, Indiana; and

**NOW THEREFORE, BE IT ORDAINED** by the Town Council for the Town of Milton, Indiana, that the following regulations concerning curfews for children less than eighteen years of age be enacted:

#### **Section 97.01: Curfew Regulations**

- (a) It is a curfew violation for a child fifteen (15), sixteen (16), or seventeen (17) years of age to be in a public place: (1) between 1 a.m. and 5 a.m. on Saturday or Sunday; (2) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or (3) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.
- (b) It is a curfew violation for a child less than fifteen (15) years of age to be in a public place after 11 p.m. or before 5 a.m. on any day.

### **Section 97.02: Defenses**

- (a) It is a defense to a violation of this Ordinance that child was emancipated: (1) under Indiana Code §31-37-19-27 or Indiana Code § 31-6-4-15.7 (before its repeal); (2) by virtue of having married; or (3) in accordance with the laws of another state or jurisdiction at the time that the child engaged in the prohibited conduct.
- (b) It is a defense to a violation under this chapter that the child engaged in the prohibited conduct while: (1) accompanied by the child's parent, guardian, or custodian; (2) accompanied by an adult specified by the child's parent, guardian, or custodian; (3) participating in, going to, or returning from: (A) lawful employment; (B) a school sanctioned activity; (C) a religious event; (D) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage; (E) an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; (F) an activity conducted by a nonprofit or governmental entity that provides recreation, education, training or other care under the supervision of one (1) or more adults; or (5) engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

### **Section 97.03: Law Enforcement**

- (a) Any law enforcement officer enforcing the provisions of this Ordinance shall issue a violation of this Ordinance unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that: (1) the child has violated this Ordinance; and (2) there is no legal defense to the violation.

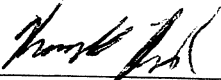
### **Section 97.04: Penalties**

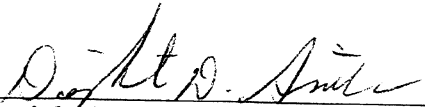
- (a) Should any child be determined to have violated this Ordinance, that child's parents, guardians or custodians shall be assessed a fine in accordance with the Town of Milton, Indiana's "Fee Schedule" Ordinance.

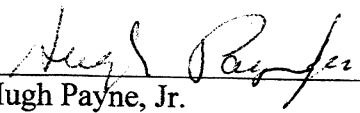
This Ordinance shall be in full force and effect from and after its passage and adoption, and proper publication required by law, whichever is later.

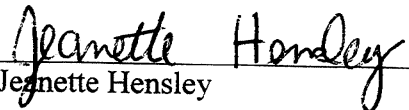
DULY ADOPTED AND ORDAINED this 9<sup>th</sup> day of April 2013.

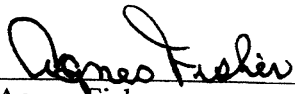
**TOWN OF MILTON, INDIANA**  
By its duly elected Town Council

  
Kenneth Risch, President

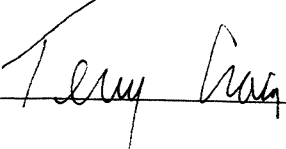
  
Dwight Smith

  
Hugh Payne, Jr.

  
Jeanette Hensley

  
Agnes Fisher

ATTEST:

  
Terry Craig, Clerk-Treasurer



## **CHAPTER 98: GOLF CARTS, MOTORIZED BICYCLES AND ALL-TERRAIN VEHICLES**

### **Section**

98.01	Definitions
98.02	Effect of Chapter
98.03	Application of State Traffic Laws and Obedience to Traffic <u>Devices</u>
98.04	Operation, Passengers, Safety, and Parking
98.05	Registration and Inspection
98.06	Equipment and Proper Identification
98.07	Penalty
98.08	Unconstitutionality Clause

### **TOWN OF MILTON, INDIANA**

#### **AN ORDINANCE AMENDING THE ORDINANCE REGULATING THE USE OF GOLF CARTS, MORTORIZED BICYCLES AND ALL-TERRAIN VEHICLES**

**WHEREAS**, the Town Council ("Council") as the legislative body for the Town of Milton, Indiana, has the power and authority to regulate the use of public land, including its streets and roads, for the public health, protection and safety of its citizens; and

**WHEREAS**, The State of Indiana has, by way of Ind. Code § 9-21-1-3.3, permitted "Golf Carts" to be operated on town streets and across state highways so long as the town at issue has adopted an appropriate Ordinance that does not violate State law;

**WHEREAS**, The Town Council of the Town of Milton, Indiana, has recognized the need to regulate the limited use of golf carts on the streets of the Town of Milton, Indiana; and

**WHEREAS**, it is determined that it is in the best interest of the public safety and welfare that the Ordinance regulating golf carts, as well as motorized bicycles (a/k/a scooters and mopeds), and all-terrain vehicles within the Town of Milton be amended; and

**NOW THEREFORE, BE IT ORDAINED** by the Town Council for the Town of Milton, Indiana, that the following regulations concerning golf carts, motorized bicycles and all-terrain vehicles be enacted:

#### **Section 98.01: Definitions**

(a) "MOTORIZED BICYCLE" (also known as "mopeds" and "scooters"):

Indiana Code § 9-13-2-109, presently defines "motorized bicycle" as: "A motorized bicycle shall mean any two (2) or three (3) wheeled vehicle that is propelled by an internal combustion engine or a battery powered motor, or by both, and if powered by an internal combustion engine, has the following:

1) An engine rating of not more than two (2) horsepower and a cylinder capacity not exceeding fifty cubic centimeters (50cc);

2) An automatic transmission; and

3) A maximum design speed of no more than twenty-five (25) miles per hour on a flat surface.

The Indiana state definition of "motorized bicycle" as set forth above shall hereafter be incorporated into this Chapter as the definition of "moped" a/k/a "scooter" within this ordinance.

For purposes of clarification, any motorized bicycle which exceeds the above specifications shall be considered a motorcycle required to be registered by a state bureau of motor vehicles.

Neither this definition, nor the next definition for a "golf cart" shall include an electric personal assistive mobility device presently defined in Indiana Code 9-13-2-49.3.

(b) "GOLF CART"

A golf cart is a four (4) wheeled motor vehicle originally and specifically designed and intended to transport one (1) or more individuals and golf clubs for the purpose of playing the game of golf on a golf course. A golf cart also shall be defined as the same type of vehicle as set forth above for a "moped" except for the fact it may have "four" wheels; may run on an electric engine; and may or may not include an automatic transmission. The same exclusions as set forth to the above definition shall also apply herein.

(c) "ALL-TERRAIN VEHICLE"

Indiana Code § 14-8-2-5.7, presently defines "all-terrain vehicle" as: "motorized, off-highway vehicle that: (1) is fifty (50) inches or less in width; (2) has a dry weight of twelve hundred (1,200) pounds or less; (3) is designed for travel on at least three (3) non-highway or off-highway tires; (4) is designed for recreational use by one (1) or more individuals; (5) has a seat or saddle designed to be straddled by the operator; and (6) has handlebars for steering control. The term includes parts, equipment, or attachments sold with the vehicle.

(d) "ROADWAY"

A roadway shall mean any highway, road, public way, street, or alley and shall include any street designated as a parkway, boulevard, place, or avenue.

(e) Other terms used in this Chapter not specifically defined shall have the meanings as set forth in the Uniform Act regulating traffic on highways, Indiana Code, §9-13, et. seq.

**Section 98.02: Effect of Chapter**

(a) It is a violation for any person to do any act forbidden or fail to perform any act required in this Chapter. This Chapter shall apply to Town of Milton residents and shall apply to non-residents who operate golf carts, mopeds or scooters within the Town of Milton corporate limits.

(b) It is a violation of this chapter for the parent or guardian of any child to knowingly permit said child to violate this Chapter.

(c) This Chapter is applicable to golf carts and motorized bicycles a/k/a mopeds and scooters, and all-terrain vehicles, and shall apply whenever such a vehicle is operated on any and all roadways, streets, alleys, sidewalks, and public ways within the Town or on any path set aside for their exclusive use within the Town of Milton subject to those exceptions or prohibitions stated herein.

#### **Section 98.03: Application of State Traffic Laws and Obedience to Traffic Devices**

(a) A golf cart, moped, scooter or all-terrain vehicle may not be operated on a public roadway within the Town of Milton, Indiana:

(1) By a person less than sixteen (16) year of age for purposes of a golf cart & less than fifteen (15) years of age for purposes of the moped/scooter or all-terrain vehicle;

(2) By a person less than sixteen (16) years of age if any passenger on the vehicle is less than sixteen (16) years of age;

(3) By a person who has not obtained a state-issued identification card or motor vehicle operator's license;

(4) On a sidewalk, or third person's private property without their consent; or

(5) At a speed greater than twenty-five (25) miles per hour;

(6) Between the hours of 11:00 pm and 7:00 am

(b) Any person operating a golf cart, moped, scooter, or all-terrain vehicle must obtain and possess proper proof of insurance covering any acts of liability while so operating the vehicle.

(c) Any person operating a golf cart, moped, scooter or all-terrain vehicle shall obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer and or the Town Marshall of Milton, Indiana.

(d) Any person disobeying the traffic control devices or signs, or violating Indiana Statutes while operating a moped shall receive a state citation.

#### **Section 98.04: Operation, Passengers, Safety, and Parking**

(a) Every person operating a golf cart, moped, scooter or all-terrain vehicle on a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) No person shall operate a golf cart, moped, scooter or all-terrain vehicle in a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

(c) No golf cart, moped or scooter shall be used to carry more persons at one time than the number for which it is designed and equipped.

(d) No person shall operate a golf cart, moped, scooter or all-terrain vehicle at a speed that is greater than reasonable and prudent under the conditions then existing. In no case shall such operation be at a speed greater than 25 mph. In the event the speed of golf cart, moped, scooter or all-terrain vehicle shall cause excess traffic of two (2) or more vehicles to be backed up, the operator shall pull over and allow the traffic to pass.

#### **Section 98.05: Registration and Inspection**

(a) The financial ability of the operator and/or owner a golf cart, moped, scooter or all-terrain vehicle must be able to show proof of financial responsibility for the golf cart, moped, scooter or all-terrain vehicle when operating a golf cart, moped, scooter or all-terrain vehicle on a public roadway in Milton, Indiana. Written proof of financial responsibility must be carried by the operator at all times while operating a golf cart, moped, scooter or all-terrain vehicle on a public roadway in Milton, Indiana, though it is sufficient that the owner of the a golf cart, moped, scooter or all-terrain vehicle maintains financial responsibility though another operator may be operating the golf cart, moped, scooter or all-terrain vehicle.

#### **Section 98.06: Equipment and Proper Identification**

(a) Every golf cart, moped, scooter or all-terrain vehicle, if in use at night on a public roadway in Milton, Indiana, shall be equipped with sufficient lighting similar to a licensed motor vehicle. In addition, it shall be equipped with sufficient reflectors to be seen by any oncoming traffic or rear approaching vehicles.

(b) Every golf cart, moped, scooter or all-terrain vehicle operated on a public roadway in Milton, Indiana, shall be equipped with a sufficient rear view mirror in order to view any vehicles, persons, or objects to its rear.

(c) A person operating a golf cart, moped, scooter or all-terrain vehicle shall carry the required identification when operating the golf cart, moped, scooter or all-terrain vehicle on a public roadway in Milton, Indiana, and shall, when detained by a police officer, produce said identification to the police officer.

#### **Section 98.07: Penalty**

(a) The penalty for violating this Section shall be the penalty set forth in the Town of Milton, Indiana, Fee Schedule.

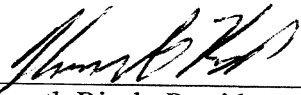


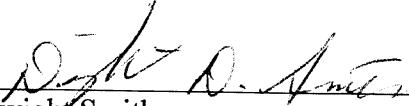
**Section 98.08: Unconstitutionality Clause**

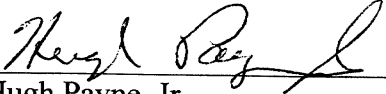
Should any Section, paragraph, sentence, clause or phrase of this Chapter be properly declared unconstitutional or invalid for any reason, the remainder of said Chapter shall not be affected thereby.

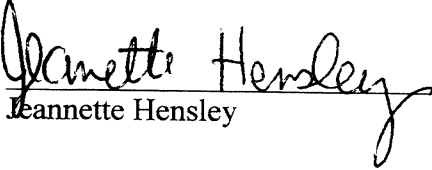
DULY ADOPTED AND ORDAINED this 9<sup>th</sup> day of April 2013.

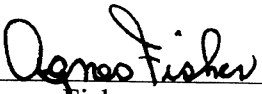
**TOWN OF MILTON, INDIANA**  
By its duly elected Town Council

  
Kenneth Risch, President

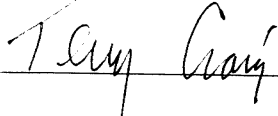
  
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