

TITLE IX: GENERAL REGULATIONS

Chapter

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CHAPTER 90: ANIMAL CONTROL AND LICENSING

Editor=s note:

The town has adopted the animal control and licensing provisions of St. Joseph County. This chapter

contains the county=s provisions with additional amendments passed by the town.

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ANIMAL CARE RULES AND REGULATIONS

' 90.01 DEFINITIONS.

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

ABANDON. To deposit, leave, drop off or otherwise dispose of any live animal on public or private property without providing the requisite care prescribed under ' 90.02.

A.D.B.A. The American Dog Breeders Association

AGENT(S). Person(s) 18 years or older authorized by an owner to act on the owner=s behalf.

A.K.C. The American Kennel Club

ALTERED ANIMAL. Any animal that has been operated on or has been given medication to prevent it from procreating.

ANIMAL. Any live non-human vertebrate or invertebrate creature domestic, wild or exotic.

AMERICAN PIT BULL TERRIER.

(1) Any dog or crossbreed of dog registered and described by the U.K.C., A.K.C. and A.D.B.A. which exhibits those distinguishing characteristics which:

(a) Substantially conform to the standards established by the A.K.C. for American Staffordshire terriers or Staffordshire bull terriers; or

(b) Substantially conform to the standards established by the U.K.C. for ***AMERICAN PIT BULL TERRIERS.***

(2) Technical deficiencies in the dog=s conformation to the standards established by the A.K.C. for American Staffordshire terriers or Staffordshire bull terriers and the standards established by the U.K.C. for **AMERICAN PIT BULL TERRIERS** shall not be construed so that the subject dog is not considered a pit bull terrier.

ANIMAL CONTROL AGENCY. Any governmental or private entity charged with, or contracted with and given authority for the enforcement of the provisions of this chapter for and on behalf of St. Joseph County (hereinafter referred to as Acounty@).

ANIMAL CONTROL COMMISSION. The governing board established by '90.08 of this chapter.

ANIMAL CONTROL OFFICER. A person authorized and empowered to carry out the provisions of this chapter as appointed by the county contracted agency.

ANIMAL PERFORMANCE OR EXHIBITION. Any spectacle, performance display, act, exhibition or event in which an animal or animals are used.

ANIMAL SHELTER. A facility or vehicle operated by a government or private entity for the purpose of providing or promoting animal welfare and the humane treatment of animals.

AT LARGE. Any animal that is:

- (1) Not on a leash and is off the property of its owner, its owner=s agent or its keeper;
- (2) On a leash that does not adequately confine the animal to the property of its owner, its owner=s agent or its keeper; or
- (3) On a leash that is not otherwise under the immediate control of a person physically capable of restraining the animal.

ATTACK DOG. Any dog that is trained to attack upon command or those that do attack or have attacked another animal or human being without provocation. This definition excludes K-9 Dog Corps in use by law enforcement agencies.

AUCTION. Any place, facility or group where animals are bought, sold or traded by any means except for those facilities otherwise defined in this chapter or by federal, state, laws, regulations or rules or by county ordinance. This definition shall also include groups that sponsor sales. Adoption facilities holding a not-for-profit status are exempt from this definition.

BEE. Any of several winged, hairy-bodied, usually stinging insects of the superfamily Apoidea in the order Hymenoptera, including both solitary and social species and characterized by sucking and chewing mouthparts for gathering nectar and pollen:

- (1) A bumblebee; and

- (2) A honeybee.

BITE. To seize, tear, wound or cut with teeth, resulting in a break in the skin.

BREEDER. Any person, for-profit business or corporation that harbors or keeps animals, (i.e., cats, dogs, minks, chinchillas and ferrets) with the exception of livestock, that is permitted by zoning laws, and allows or causes these animals to procreate for the purpose and intent of selling said animals.

CATTERY. Any person or group of persons, partnerships or corporations engaged in keeping more than three unaltered cats.

CIRCUS/RODEO. Any performance, which is given for a fee, by traveling companies using animals, and which possesses valid licenses and permits as required by federal and state law and county ordinance.

CONTROLLED ANIMAL. Any animal not defined as a domestic animal in this chapter with the exception of small, non-poisonous reptiles, small cage birds or psittacine. Such **CONTROLLED ANIMALS** shall include any animal for which the possession or ownership is controlled or regulated by federal or state law or county ordinance or regulations concerning licensing or the issuance of permits. Such **CONTROLLED ANIMALS** shall include, but not be limited to, the following:

- (1) All poisonous animals by genetic disposition including insects, reptiles, amphibians, invertebrates and rear-fang snakes;
- (2) Apes: chimpanzees (Pan), gibbons (Hylobates), gorillas (Gorilla), orangutans (Pongo) and siamangs (Symphalangy);
- (3) Baboons (Papoe, Mandrilluis);
- (4) Bears and bear-like mammals;
- (5) Non-domestic canines, including wolves, coyotes, wild dogs and hybrids;
- (6) Carnivores, all that might be considered dangerous;
- (7) Crocodilians (Crocodilia);
- (8) Constrictor snakes, including, but not limited to, boa, python and anaconda;
- (9) Elephants (Elephas and Loxodonta);
- (10) Endangered species, any animal considered to be protected by any endangered species act;
- (11) Non-domestic felines;
- (12) Fur bearing animals raised to provide products for the fur trade;

- (13) Game cocks and other fighting birds;
- (14) Hippopotami (Hippopotamidae);
- (15) Hyenas (Hyaenidae);
- (16) Komodo dragons;
- (17) Monitor lizards over six feet in length;
- (18) Monkeys, old and new world;
- (19) Piranha fish (Characidae);
- (20) Rhinoceroses (Rhinocerotidae);
- (21) Sharks (class Chondrichthyes);
- (22) Snow leopards (Panthera uncia);
- (23) Spiders and insects which are poisonous; and
- (24) Walking catfish.

COUNTY. Geographically means all unincorporated areas of St. Joseph County, Indiana.

CRIMINAL TRESPASS. The meaning as set forth in the Indiana Code.

DANGEROUS ANIMAL.

- (1) Any animal:
 - (a) Which has, off its owner=s property, attacked another animal or livestock;
 - (b) Which has attacked or which has attempted to attack, unprovoked, any human being, whether on or off the owner=s property;
 - (c) Which has bitten or attacked a person, causing wounds or injuries creating a potential danger to the health and life of the victim;

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(d) Which has been found to be at large and been documented to be at large by an Animal Control Officer, police officer or any county official or designee and at any time has been documented to show potentially aggressive behavior;

(e) That could be deemed dangerous which has violated three or more times the public nuisance provision, at the Animal Control Commission's discretion;

(f) With the exception of those animals which cause injury or damage to a person when while that person is:

1. Committing or attempting to commit a criminal offense against the owner or agent of the owner;
2. Committing a criminal trespass upon the premises occupied by the owner, agent or keeper of the animal: or
3. Teasing, tormenting, abusing or assaulting the animal.

(g) Has been determined to be an American pit bull terrier.

(2) This definition also excludes K-9 Corps dogs in use by law enforcement agencies, trail sponsored field exercises and hunting dogs.

DESIGNEE. A person, organization or entity selected, appointed or nominated for a particular purpose or duty.

DOMESTIC ANIMAL. Any animal that is a member of the following species:

- (1) Dog (Canis Familiaris);
- (2) Cat (Felis Cattus or Felis Domesticus);
- (3) Cattle (Bos Domesticus or Bos Taurus or Indicus);
- (4) Horse (Equus Caballus);
- (5) Donkey (Equus Asinus);
- (6) Sheep (Ovis Aries);
- (7) Goat (Capra Hircus);
- (8) Rabbit (Oryctolagus Cuniculus);

- (9) Mouse (Mus Musculus);
- (10) Rat (Rattus Rattus);
- (11) Guinea Pig (Cavis Procellus);
- (12) Hamster (Mesocricetus Gerbillus);
- (13) Gerbil (Gerbillus Gerbillus);
- (14) Cow or ox (Bovine);
- (15) Pigeon, homing or racing;
- (16) Chicken, turkey, goose, duck;
- (17) Llama;
- (18) Pig;
- (19) Bison (Bison);
- (20) Chinchilla;
- (21) Mink; and
- (22) Ferret.

ESCAPE PROOF ENCLOSURE. A secured facility by latch, bolt or lock and is a contained enclosure by wire (minimum of 11 gauge) kennel, six-sided, of which one can be concrete or brick floor, and either wood or wire of the same gauge roof and constructed so that an animal can not escape without opening a lock, bolt and the like.

EXOTIC ANIMAL. Any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska and Hawaii, except fish and fur bearing animals commercially bred for the furrier trade and birds protected under federal laws and regulations.

EXPOSED TO RABIES. Any human or non-human, warm blooded mammal that has been bitten or in contact with any other animal known or reasonably suspected to have been infected with rabies.

EXTERMINATOR. Any person or company who receives payment for the removal of animals from commercial or private property.

FARMER. A person who garners income from raising crops or livestock.

FIGHT. A conflict between two or more animals that is intentionally organized for such a purpose.

FOR-PROFIT. All other types of businesses, associations or entities, which do not meet the definition of not-for-profit under this '90.01, excluding 4-H clubs, Future Farmers of America and religious or charitable organizations.

FOSTER ANIMAL. Any animal, other than wildlife, that is being harbored for the purpose of permanent adoption placement. All individuals with **FOSTER ANIMALS** in the county must work with an established agency and adhere to this chapter and all of its chapters and zoning laws.

FOSTER HOME. A place where foster animals are being kept until permanent adoption placement. All individuals with foster animals in the county must work with an established agency and adhere to this chapter and all of its chapters and zoning laws.

FOWL. Any kind of wild or domestic bird, excluding homing or racing pigeons, canaries, parrots or similar types of birds normally kept in cages.

GUARD DOG. A dog used in a commercial business, protection trained, or by a municipal or police department for the purpose of patrol or protection.

HARBORING. The actions of any person that permit any animal habitually to remain or lodge or to be fed within his or her home, store, enclosure, yard, place of business or any premises on which such person resides or controls. An animal shall be presumed **HARBORED** if it is fed or sheltered for three consecutive days or more.

HEALTH CARE PROVIDER. Any clinician, physician, veterinarian, nurse, E.M.T., paramedic, first responder, hospital, emergency room, urgent care clinic, veterinary clinic or hospital.

HUMANE OFFICER(S). Any person(s) and/or agency designated by the state or the county as a person(s) who is qualified to perform the duties required by county and state law regarding animals.

KEEPER. Any person, other than the owner, who has actual or constructive possession of an animal for the purpose of managing, controlling or caring for such animal. A person shall be construed as a **KEEPER** of an animal even if he or she does not have the owner's permission.

KENNEL. Any premises wherein any person engages in the primary business of boarding, breeding, buying, letting or keeping dogs for the purpose of hire, training for fee or sale.

LEASH. A cord, chain, rope, strap or other such physical restraint.

NOT-FOR-PROFIT. A business, association or entity established as a **NOT-FOR-PROFIT CORPORATION** under state law or recognized as a **NOT-FOR-PROFIT CORPORATION** by the Internal Revenue Service or the Indiana Department of Revenue.

MICROCHIP. A computer chip, implanted underneath the skin of an animal (in the universal position between the scapulas), which contains information relating to that animal. The **MICROCHIP** that will be used is a 125 kHz chip.

MUZZLE. A device constructed of a strong, soft material or metal, designed to fasten over the mouth of an animal, without interfering with its vision or respiration or causing injury to the animal, to prevent the animal from biting any person or other animal.

NIP. To pinch or squeeze with the teeth, not necessarily breaking the skin or damaging any tissue or to scratch, claw or rub the skin not necessarily breaking the skin.

OFF PROPERTY. Beyond the legal boundaries of the real property on which the owner, agent or keeper resides.

OWNER. Any person age 18 years or older or a partnership or corporation or any entity owning, keeping or harboring one or more animals.

PET. Any animal owned or harbored for pleasure and companionship.

PET SHOP/GROOMING SHOP. Any person, group of persons, entity, partnership or corporation, whether operated separately or in connection with another business enterprise, engaged in the care, bathing, clipping or plucking and/or possession of animals for display and sale of pets.

POLICE DOGS or K-9 PATROL DOGS. A professionally trained dog used by public safety officers for law enforcement or investigative purposes and activities.

PROVOKED. To deliberately arouse, incite or excite.

PUBLIC NUISANCE. Any animal or animals which:

- (1) Interferes with passers-by or passing vehicles;
- (2) Has been found to be at large and documented to be at large three or more times in a 12-month period;
- (3) Damages private or public property;
- (4) Causes frequent or long continued loud noises or other sounds common to its species which disturb the comfort or repose of any person in the immediate neighborhood of any residential area, but not to include operations of boarding kennels, kennels, training facilities or the practice of animal husbandry;
- (5) Is at large or on a public park, playground, swimming pool or school yard, unless the animal is authorized by school officials;
- (6) Is in estrus that is not confined or restrained so as to prevent attraction or contact with other animals; or
- (7) Damages, soils, defiles or defecates on any public right-of-way.

RABIES VACCINATION. The injection by a licensed veterinarian of a dog or other animal with a rabies vaccine licensed by the USDA and approved by the Indiana State Board of Health according to the *Compendium for Rabies* published yearly.

REHABILITATION. Any person(s) preparing an animal for the release into its natural habitat.

RESTRAINT. The securing of an animal by adequate leash or lead or confining it within the real property limits of its owner or owner=s agent.

SERVICE ANIMAL. Any animal that is trained to assist a disabled person.

SHELTER. A facility used to provide humane care and shelter for stray or owner relinquished animals.

STATE. The State of Indiana.

STRAY. Any animal that is not within the real property limits of its owner and is not under restraint or is unattended.

U.K.C. The United Kennel Club.

VETERINARIAN. Any person licensed and accredited to practice veterinary medicine in the state.

WILD ANIMAL. Any animal, non-domestic or exotic animal, with the exception of small, non-poisonous aquatic or amphibious animals and small cage birds, which are normally found in the wild state.

ZOOLOGICAL PARK. Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animals operated by a person, partnership, corporation or governmental agency or other entity that is established for educational purposes and is properly zoned for such use and which possesses valid licenses and permits as required under federal and state law and county ordinance.

(Co. Ord. 10-07, passed 1-9-2007; Ord. 02-2010, passed 5-13-2010)

' 90.02 GENERAL ANIMAL CARE REQUIREMENTS.

Every owner and/or agent within the county shall see that each of his or her animal or animals:

(A) Is kept in a clean, sanitary and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement, except for the normal husbandry practice of confined feeding;

(B) Has sufficient and wholesome food and water, which is proper and nutritional for that species of animal, at all times;

(C) Has a proper and adequate shelter provided that will protect the animal from all elements of the weather and will allow that animal to stand, sit and lie down without restriction, and is kept in a sanitary manner;

(D) If ill, diseased or injured, receives proper veterinary care as necessary to promote the good health of the animal and prevent the transmittal of disease to other animals or human beings;

(E) Is not beaten, cruelly ill-treated, overloaded, overworked, tormented or otherwise abused;

(F) Is not subjected to any dogfight, cockfight, bullfight or other combat between animals or between animals and humans;

(G) Is not physically altered in any manner by anyone other than a veterinarian or by accepted veterinary procedures and/or accepted animal husbandry procedures with the exception of tattooing for identification purposes and grooming;

(H) Is not abandoned, neglected or tortured;

(I) Does not become a public nuisance;

(J) Does not become a dangerous animal;

(K) In the case of a dog, cat or ferret over the age of 12 weeks, is properly vaccinated against rabies by a licensed veterinarian annually, or upon such frequency as may be specified by the Indiana Board of Animal Health;

(L) Is properly restrained, which means no animal shall be hitched, tied or fastened by any rope, chain or cord that is directly attached to the animal's neck. Animals that are tied, hitched or fastened to restrain them must wear a properly fitted collar or harness made of leather or nylon, not a choke chain. This is not to prohibit the proper use of choker collars in the training of animals. The tying device shall be attached to the animal's harness and shall be at least six feet long;

(M) In mating season, shall be kept in a secure enclosure in such a manner that it cannot come into contact with another animal of the same species for unplanned breeding;

(N) Is not used in an unnatural way including, but not limited to, bestiality, pushing a chicken out of a mail box or a greased pig contest;

(O) Is not left unattended for long periods of time where water and food are not replenished and animal conditions are not monitored;

(P) Is not subject to any poisonous substance or bait that is deemed harmful to any domestic animal or person, except for the standard control of common rodents. Controlled programs under the County Board of Health are excluded, as are licensed extermination services;

(Q) Any puppy or kitten that is under the age of eight weeks shall not be offered for sale, traded or

given for free except a puppy or kitten that may be relinquished to the designated animal control facility;

(R) In the case of chickens, ducks, turkeys or other domestic fowl and poultry, shall not be confined less than 50 feet from any neighboring dwelling;

(S) No person or group of persons or any for-profit or not-for-profit organization, whether for pay or other compensation or promotional purposes, shall conduct or allow any event involving contests between animals or persons using animals in any form except those events reviewed and approved for the safety, well-being and comfort of the animals involved by the Humane Society, acting as a designee of the county;

(T) No person shall cause, instigate, permit or conduct any dogfight, cockfight or other combat between animals or animals and humans; and/or

(U) Is not tethered on a chain rope or like device longer than three hours at a time and no more than three times within any 24-hour period.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.03 MICROCHIP READING.

All animals shall be read with a microchip reader upon entering a shelter, rescue facility or any facility that accepts animals to be resold or used for any reason before that animal is sold or euthanized. It shall be unlawful to tamper with a microchip including its removal from an animal.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.04 LOST OR STRAY ANIMALS.

(A) Persons who take possession of a stray animal are to notify the animal control agency within 48 hours. At the discretion of the animal control agency, the finder may keep the animal until the owner can be found or the animal can be placed in a permanent home.

(B) A found report shall be left with the agency, to enable the finder an opportunity to return the animal to its rightful owner.

(1) Upon demand by the animal control agency, any found animal shall be surrendered to said agency.

(2) Persons finding an animal are obligated to comply with all the rules in this chapter pertaining to humane care and treatment of animals while said animal is in their custody awaiting return to the actual owner.

(Co. Ord. 10-07, passed 1-9-2007)

' 90.05 SALE OF ANIMALS AS NOVELTIES OR USE AS PRIZE PROHIBITED; EXCEPTION.

(A) No person shall display, sell and offer for sale, barter or give away any live animal, reptile, fish or bird as a novelty prize or as an advertising device.

(B) No live rabbit, chick, gosling, duckling, turkey or other fowl may be dyed or otherwise colored artificially nor be sold, offered for sale, displayed, used as barter or given away.

(C) This section shall not be construed to prohibit the sale or display of natural chicks, ducklings, goslings, turkeys or other domestic fowl in proper breeder facilities by hatcheries, licensed sale barns or stores engaged in the business of sale to be raised for commercial purposes. Nor shall this section prohibit a pet shop holding a valid permit under this chapter, or a legitimate humane society or animal shelter, from humanely caring for, adopting out or selling animals as pets.

(D) All auction facilities, trading meets and/or individual vendors that publicly sell, trade and/or barter animals must be properly licensed at least ten business days prior to each event.
(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.06 MOTOR VEHICLE ACCIDENTS INVOLVING ANIMALS.

Any person operating a motor vehicle, who knowingly hits, runs over or causes injury to a domestic animal or wildlife whose remains would pose a danger to other motorists, shall immediately notify the County Police Department.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.07 ANIMALS IN MOTOR VEHICLES.

No animal shall be left in a motor vehicle when the conditions in that vehicle would constitute a health hazard to that animal, or when the weather would constitute a health hazard to such animal confined in said motor vehicle. Any animal transported on a public right-of-way, in the open bed of a truck (weather permitting) shall be tethered to two sides of the vehicle while in motion or placed in a safe contained travel carrier as to prevent injury or danger to the animal. At the request of the humane officer, a law enforcement officer may act to remedy a hazard by any lawful means, including gaining immediate vehicle entry to impound the animal.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.08 ANIMAL CONTROL COMMISSION.

(A) *Established; duties.* The Animal Control Commission is established and shall have the following duties:

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- (1) To report and be responsible to the County Commissioners;
- (2) To recommend proposed policies, principles, standards and regulations for the control and humane treatment of all animals and for the provision of a safe, nuisance free environment for people residing in the county;
- (3) To review and make recommendations to the County Commissioners on improving the enforcement of the terms of this chapter and other ordinances necessary for the care and treatment of all animals under this chapter;
- (4) To review the performance of any county agencies or agencies hired by the county in matters relating to this chapter;
- (5) To receive reports involving animal control from the County Police Department or other agencies authorized to carry out the provisions of this chapter;
- (6) To submit to the County Commissioners written reports of its activities and recommendations;
- (7) To receive complaints regarding alleged animal control violations;
- (8) To hear appeals, in a timely manner after an appeal has been filed, to determine the following;
 - (a) Whether an animal is a dangerous animal, as defined herein;
 - (b) Whether a person has provoked an animal, which has resulted in a violation of this chapter;
 - (c) Whether an animal is to be placed on probation for a period of time;
 - (d) Whether the animal is a nuisance animal; such determinations shall be in writing with the original copy being maintained by the animal control agency, and copies being sent to the animal=s owner and the County Commissioners;
 - (e) Whether to call meetings or hearings to discuss any animal issues; and
 - (f) Whether to make determination following any meeting or hearings that it feels are in the best interest of the animals and citizens of the county.

(B) *Membership and quorum of Commission.*

- (1) The Animal Control Commission shall be composed of three members and one alternate member. The appointments shall be as follows: two by the County Council; one by the County Commissioners; and one alternate by the County Commissioners. The presence of three members or two members and one alternate shall be necessary to constitute a quorum.

(2) One member shall be a licensed veterinarian appointed by the County Council.

(3) One member shall be an owner, operator or employee of a kennel, cattery, zoological park, farmer or commercial animal establishment, appointed by the County Council.

(4) One member shall be an employee from the Police Department K-9 Corps, appointed by the County Commissioners.

(5) One alternate member shall be appointed by the County Commissioners, and shall be an active member of an animal welfare organization including, but not limited to, any humane group or shall have qualifications set forth in divisions (B)(2), (B)(3) or (B)(4) above.

(C) *Terms of members.* The members of the Commission shall serve at the pleasure of the appointing authority and each member shall serve until a qualified successor is duly appointed. All appointments shall be made for three-year terms, however the initial appointments shall serve as follows: the member appointed pursuant to division (B)(2) above shall serve for one year; the member pursuant to division (B)(3) above shall serve for two years; and the member and alternate member appointed pursuant to divisions (B)(4) and (B)(5) above shall serve for three years.

(D) *Meetings, agenda and minutes of the Commission.*

(1) The Commission shall meet at least once each calendar year. At such annual meeting it shall elect a Chairperson and other officers deemed necessary. The Chairperson or Vice-Chairperson may also call emergency meetings at any time, with proper notice being provided as required by applicable state law.

(2) Copies of all Commission agendas shall be sent to the President of the Board of Commissioners and the County Council upon the call of a Commission meeting.

(3) Minutes of all Commission meetings shall be maintained and copies of minutes shall be sent, within ten days following each meeting, to the President of the Board of Commissioners and the County Council.

(4) The County Attorney or his or her designee shall attend all Commission meetings.

(E) *Decisions.* The Commission may uphold or reverse a decision made by the animal control agency declaring that an animal is a public nuisance or dangerous animals as defined by this chapter.

(1) If such a decision is upheld, the Commission may place the owner of the animal(s) on probation for a period of time determined by the Commission which is deemed in the best interest of the animal and the community.

(2) The Commission may place restrictions on the owner during the period of probation that are deemed in the best interest of the animal and the community.

(F) *Appeals.* Any and all appeals for permits or revocation of permits within this chapter shall come before the Commission for hearing.

(G) *Voluntary advisory board.* The Commission shall have the authority to appoint citizens to a voluntary advisory board when it deems such action necessary.
(Co. Ord. 10-07, passed 1-9-2007)

' 90.09 ACREAGE AND ZONING.

Any person desiring to keep any domestic animals or fowl in the county must have the appropriate zoning of land upon which the animals would be kept. The maximum number of such animals that may be maintained on such property shall be determined in light of current animal husbandry and veterinary standards. No shelter or feeding station for domestic animals or fowl closer than 50 feet to the adjoining property line shall be constructed after the date this chapter is in effect. Nothing in this section shall be deemed or construed to prohibit the keeping of bees in a hive, stand or box located or kept within a zoological park, school or in a university building for the purpose of study or observation as long as public safety is ensured.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.10 WILD ANIMALS AND EXOTIC ANIMALS.

No wild or exotic animal shall be kept in the county without the required county, state and federal permits. A county permit shall be issued for each such animal.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.11 TRAINING METHODS.

No animal may be induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a situation which will cause or is likely to cause excessive physical injury or suffering.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.12 DESTRUCTION OF ANIMALS.

(A) No person other than a duly authorized agent of the animal control shelter may destroy any domestic animal.

(B) However, this provision shall not apply to the following:

(1) A licensed veterinarian;

(2) Those persons acting in immediate self-protection or protection of their livestock from

immediate danger; and

(3) Law enforcement officers, firefighters and other safety personnel acting to prevent undue suffering of the animal.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.13 OWNERS OR AGENTS RESPONSIBLE FOR REMOVING ANIMAL WASTES AND DEAD ANIMALS.

(A) Within any residential area, any owner or his or her agent taking the owner=s animal(s) outside of owner=s real property limits must immediately remove any excrement deposited by the animal(s) on any such public or private property, except in the case of a guide dog for a blind person or service dog for deaf or physically disabled person or any animal utilized for law enforcement purposes.

(B) The owner of any dead animal shall remove and properly dispose of the animal within 24 hours after its death. The real property owner or lessee is responsible for removal of any wild or stray animal carcass on such real property.

(C) No animal shall be abandoned on public or private property anywhere in the county.
(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.14 ANIMAL BITES, REPORTS AND QUARANTINE.

(A) If any animal sustains an animal bite, any witness, owner of the animal or owner=s representative shall immediately notify the county animal control agency and County Health Department of the incident and provide a description of the animal and the identification of the owner.

(B) When an animal is determined to have bitten a person, the animal shall be confined in quarantine for a period of not less than ten days pursuant to rules adopted by the Indiana Board of Animal Health.

(C) If the owner of an animal which has bitten a person has proof of current rabies inoculations, the animal may be left in the charge of the owner, under quarantine, unless, in the judgment of the humane officer, and based upon considerations of public safety, the humane officer determines it should be removed to an animal shelter or veterinary hospital for the period of observation.

(D) In addition to any legal obligations prescribed by law, the owner shall be liable for all costs incurred in the quarantine of the animal including the veterinary services.

(E) If the ownership of the biting animal cannot be determined, or if the owner does not furnish proof of current rabies inoculation, the animal shall be impounded under the authority and discretion of the county animal control agency and confined in the county=s animal control facility or approved animal care facility for the period of observation of not less than ten days.

(F) Humane officers shall be empowered to enter onto private property for the purpose of impounding animal(s) which are known to have bitten a person and shall obtain legal process to do so if necessary.

(G) Unless otherwise provided, the county and any of its agents shall comply with the standards set forth in according to state laws, rules and regulations (reference the *Rabies Compendium* used by the BOAH, IVMA and ISDH).

(H) All health care providers are required to report all animal bites to the County Health Department and the county animal control agency on the official state bite report form.

(I) The animal control agency shall quarantine the animal for ten days with the place of confinement at the discretion of the animal control agency. During the quarantine period, the animal is to be securely confined and kept out of contact with any other animal or person except animal control personnel. Prior to the quarantine period, the owner must provide a current proof of rabies vaccination or the animal will be vaccinated by a licensed veterinarian in the following manner:

(1) The owner will prepay a rabies vaccination at the veterinarian of his or her choice prior to the release of the animal;

(2) When the animal is released it shall be taken immediately to the veterinarian and the injection of rabies given, the owner shall then return to the shelter to obtain a license when proof of vaccination is provided. The animal quarantined shall be microchipped at the owner=s expense during the quarantine period before release;

(3) If the animal is quarantined at an off-site location the owner shall pay the expense to have the shelter officer come to the location and inject the official microchip into the animal;

(4) The microchip, used for these quarantine provisions, shall be numbered. This number will provide entry into a database that contains the animal=s bite history. AAvid@ microchip is the chip of choice; and

(5) All impounded and quarantined dogs and cats claimed by their owners shall be permanently microchipped for identification purposes at the owner=s expense

(J) Violations of these quarantine provisions shall constitute a class A civil infraction. (Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.15 RABIES VACCINATION OF DOGS, CATS AND FERRETS REQUIRED.

(A) No animal owner or his or her agent shall keep or harbor a dog, cat or ferret over the age of 12 weeks unless it has been vaccinated by a licensed veterinarian with anti-rabies vaccine as required by state law.

(B) Proof of vaccination shall be maintained by the owner for inspection if requested by the county or its designee.

(C) Failure to comply with the provisions of this section shall subject the owner of said unvaccinated dog, cat or ferret to citation for violations of this chapter and subject to the penalty as set forth in ' 90.99.

(D) Evidence of such rabies inoculation shall be entered on a certificate approved by the Animal Control Commission. Veterinarians who inoculate an animal for rabies shall procure from the animal control agency serially numbered tags, one to be issued with each rabies inoculation. Only one animal shall be included on each certificate and receive a tag to match the certificate.

(E) Upon change of ownership, the new owner shall apply for an inoculation certificate.

(F) With the exception of an animal that has been microchipped, such tags shall be attached to the collar or harness worn by the animal for which the tag has been issued when the animal is off of the owner=s property.

(G) The cost of tags shall be \$5 per year or \$10 for three years. The tag fees shall be paid to the County Auditor and used only to support and fund animal control in the county. The veterinarian may retain \$1 for each certificate issued as administrative cost. The county=s cost of purchasing said tags shall be paid from the funds generated by this section.

(H) Veterinarians shall keep records of the renewal dates for rabies vaccinations of each animal inoculated and shall send to the animal control agency copies of the rabies certificates of each animal inoculated with rabies vaccine by the thirtieth day of each month following the month of inoculation.

(I) Vaccination certificates must be retained in the files of the veterinarian hospital for four years after the date of inoculation.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.16 INTERFERENCE OF HUMANE OFFICER PROHIBITED.

No person shall interfere with or impede a humane officer or any other authorized agent in the performance of his or her duties as set forth in this chapter.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.17 SPAYING, NEUTERING AND MICROCHIPPING OF ADOPTED ANIMALS.

(A) Any dog or cat adopted from a local humane society or animal care facility or animal adoption agency shall be spayed or neutered by a licensed veterinarian within 60 days of adoption if the dog or cat is over three months of age.

(B) Upon reaching the age of six months an exception can be made only if a licensed veterinarian

certifies that said animal is physically unable to undergo such an operation within the time limitations. The individual adopting the dog or cat must sign a written agreement with the adopting facility guaranteeing that such animal shall be neutered or spayed within the time limitations specified in this section.

(C) Any dog or cat adopted from a local humane society or animal care facility shall be microchipped by a licensed veterinarian, or person supervised by a licensed veterinarian, before leaving the animal shelter, including impounded adoptive animals. The cost of such microchipping procedure shall be borne by the animal's owner.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.18 EXCLUSION OF SERVICE ANIMALS PROHIBITED.

It shall be unlawful for any person owning, operating or maintaining any public place of business or conveyance into which the general public is invited for any business purpose to bar or exclude any animal which has been trained to assist the blind, the hearing impaired or physically challenged. However, the animal must be in the company of disabled person for whom it was trained to assist or a service animal trainer in compliance with state and federal law.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.19 CONFINEMENT BY OTHER THAN COUNTY OFFICIALS OR AGENTS; NOTICE REQUIRED.

No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he or she is not the owner for more than 24 hours without first reporting the possession of the animal to the animal control agency giving his or her name, address, a description of the animal, a true and complete statement of the circumstances under which he or she took possession of the animal, and the precise location where said animal is confined.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.20 TRAPS AND TRAPPING.

(A) It shall be unlawful and is hereby declared to be a public nuisance for any person to use, place, set or cause to be set within the lands owned or leased by the county any traps except cage-type live traps approved by the Animal Control Commission for the control of nuisance animals. This prohibition shall not apply to any trap specifically designed to kill rats, mice or gophers as long as the owner is aware of the location where the trap(s) are set and monitored at least once every 24 hours.

(B) Traps discovered by the animal control agency to have been unlawfully set on county property shall be forfeited to and disposed of by the animal control agency.

(C) Persons shall not use on public or private property traps designated as inhumane such as, but not limited to, the following: conabear, leg hold, snare or any trap that is not monitored.

(D) There shall be from time to time specific need to protect public health and safety as to when trapping shall be specified by the Animal Control Agency.
(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.21 DANGEROUS, POISONOUS ANIMALS.

It shall be unlawful for any person to harbor or possess within the county any poisonous animal, reptile, amphibian, fish or insect, any dangerous animal not in compliance with ' 90.35 or any animal that poses a threat to public health and safety. The same animal may be impounded by the animal control agency immediately and disposed of in the best interest of the animal and to protect the safety of the public and humane officers.
(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.22 POISONING OF ANIMALS.

(A) No person shall deposit, dispose or place any poisonous substance on public or private property in the county, if a domestic animal or human is reasonably likely to consume or come in contact with such substance.

(B) A person shall not be liable under division (A) above for leaving common rat or mouse poisons or insecticides on his or her property if the person exercises reasonable care in restricting a domestic animal=s access to such poisons and only the targeted rodents or insects are exposed to said poisons.
(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.23 IMPOUNDING PROCEDURES.

(A) An animal control officer, humane officer or police officer may immediately seize, impound or confine any of the following animals:

- (1) Any animal without a valid license or permit as required by this chapter;
- (2) Any animal running at large;
- (3) Any animal constituting a public nuisance;
- (4) Any unattended animal that is ill, injured or otherwise in need of care;
- (5) Any unattended animal that is reasonably believed to have been abused or neglected;
- (6) Any animal that is reasonably suspected of having rabies;

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(7) Any animal charged with being dangerous or determined to be dangerous by the animal control agency;

(8) Any animal that is considered unattended or abandoned, including, but not limited to, situations where the owner is deceased, has been arrested or evicted from his or her regular place of residence; and/or

(9) Any animal unattended showing vicious and dangerous behavior while not sufficiently confined on its owner=s property.

(B) If any dangerous, ferocious or vicious animal is found at large and cannot be safely taken up and impounded, the animal may be tranquilized, slain or humanely euthanized to prevent undue suffering, by a police officer, his or her designee or a humane officer.

(C) Impounded dogs and cats not wearing county tags (licenses) or a microchip ID must be kept for no fewer than three business days before being adopted out or humanely euthanized.

(D) If dogs wearing county tags (licenses) or a microchip ID are impounded by the animal control agency, an attempt shall be made by the humane officer to return said animal to the owner, as indicated on the records of the animal control agency, as soon as is practical after the time of impoundment. If said attempt to return said animal is impossible or without success, the animal control agency shall send a written notice to the owner at the address indicated in the records of the animal control agency, that said agency has in its possession said animal and that unless said animal is claimed by the owner within ten days from the date of said impoundment, said animal may be placed for adoption, or humanely euthanized. This process shall be followed for the first offense only. On second and subsequent offenses, the impounded dog wearing county tags (licenses) or a microchip ID shall be kept for no fewer than five days to permit its owners to claim it. After the fifth day of said second or subsequent violation, such dogs may be placed for adoption or humanely euthanized if their owners have not claimed them and paid the required fees.

(E) All other impounded animals (except dogs and cats specifically covered herein) shall be kept under the authority of the humane officer. The animals shall be held at least five days, after which time the animal shelter shall have the authority to take whatever action is necessary with regard to adoption or euthanasia of such animals.

(F) An owner reclaiming an impounded animal shall pay to the county animal control agency the current redemption fee plus total daily boarding, any veterinary bills and the fee for microchipping as set by the Animal Control Commission.

(G) No unlicensed dog, cat or ferret shall be released from an animal shelter without a license being issued in accordance with this chapter. A dog, cat or ferret less than 12 weeks old is exempt. All other animals must have proof of current effective rabies vaccination. If the shelter does not have a licensed veterinarian on site to administer such required rabies vaccination, the animals may be released upon presentation by the animal owner of a receipt showing prepayment of a licensed veterinarian's charges for such vaccination. The animal must be vaccinated for rabies by a licensed veterinarian within 48 hours after such release and the owner shall supply proof of the same to said county animal control agency and to obtain the license required by this chapter.

(Co. Ord. 10-07, passed 1-9-2007)

REGISTRATION AND COMMERCIAL PERMITS

' 90.35 PERMITS.

(A) *Controlled animal permit.* No person shall harbor, hold for sale, sell, keep or maintain in the county any controlled animals, however a controlled animal permit may be issued by the Animal Control Commission when in the judgment of the Commission a compelling reason for the harboring of such animals can be given. A \$500 non-refundable application must be submitted to the Animal Control Commission to apply for this permit.

(1) It shall be unlawful for any person to possess within the county any controlled animal or controlled animals as defined herein unless the owner of said animal or animals possesses proper county, state and/or federal permits as required for said animal or animals.

(2) It shall be unlawful for any person to possess within the county any protected or endangered species as may be listed or published from time to time by any department or agency of the federal or state government, unless the owner of said animal possesses proper state and/or federal permits and county licenses.

(3) It shall be unlawful for any person to possess within the county any wild animal indigenous to the state unless said owner possesses proper state and/or federal permits and county licenses.

(4) It shall be unlawful for any person to possess within the county any non-domestic animal unless said owner possesses proper state and/or federal permits and a valid county license as required for said animal.

(5) The owner of any controlled animal must present an annual state veterinary health certificate defining state of health/shelter/diet/environment/vaccinations when applicable from a veterinarian licensed to practice in the state.

(6) This section shall not be deemed to prevent the importation, possession, purchase or sale of any species by any institute of higher learning, zoological park holding valid state or federal permits or to any person or organization licensed to present a circus or carnival pursuant to this chapter.

(7) The care and feeding of the impounded animal shall be paid by the owner and any transportation fees to allow the animal to be placed in a satisfactory environment will also be paid by the owner.

(B) *Pet shop permit.*

(1) No person, partnership or corporation shall operate a pet shop in the county, without first obtaining from the county animal control agency a pet shop permit. The cost of the annual permit shall be \$100. Any person holding a pet shop permit shall furnish to each customer purchasing a dog or cat a written statement at the time of sale containing the following information:

(a) Date of sale;

(b) Name, address and telephone number of purchaser and permit holder;

(c) Permit number of permit holder;

(d) Species, breed, description, age and sex of the dog or cat sold;

(e) Vaccination and parasite medication(s) administered to said animal and date(s) administered and name of veterinarian or person who administered the same; and

(f) Guarantee of good health for a period of not less than one week with a recommendation that the new owner have the animal examined by a licensed veterinarian within 48 hours.

(2) The permit holder shall retain a copy of said written statement for a period of 12 months from the date of sale and provide a duplicate copy to the licensing authority if the purchaser resides within the county. The permit holder shall also deliver to the purchaser at the time of sale, a written statement of registration and licensing requirements under this chapter applicable to the purchase of the animal. Such statement shall be prepared and provided by the animal control agency.

(3) The purchaser shall have the right to return the animal to the permit holder within 48 hours of the purchase if the animal has a pre-existing condition as diagnosed by a veterinarian including, but not limited to, parvo virus, distemper and bronchitis. Upon return of such animal the permit holder shall refund the full amount of the purchase price of the animal to the purchaser, plus any veterinarian fees incurred by the purchaser for the diagnosis of the animal.

(4) All pet shops shall take care to house animals in a sanitary manner, provide appropriate veterinary services, humane care, exercise and housing shall be provided according to the needs of individual species. All permit holders shall house and care for the animals as required in the animal care requirements in '90.02.

(5) In addition to the permit requirements of this chapter, the permit holder shall obtain any and all other permits as required by state and federal governmental entities.

(C) *Dangerous animal permit.*

(1) No person shall harbor, hold for sale, sell, keep or maintain in the county any dangerous animal, unless:

(a) Such person or entity shall first submit a written application for and obtain from the county animal control agency a dangerous animal permit application, and written proof of liability insurance in the minimum sum of \$300,000;

(b) The dangerous animal owner at all times maintains liability insurance covering possible injury or damages caused by such dangerous animal in the minimum amount of \$300,000. The animal control agency will be notified within 24 hours, excluding Sundays and holidays, in the event that such insurance coverage is cancelled or discontinued;

(c) The dangerous animal is at all times confined in a six-sided escape-proof kennel (with a minimum required fencing of 11 gauge wire and can have either a cement floor or brick floor, with a wood roof or wire roof, with a lock, bolt, which must be opened to remove the animal) for the protection of the public. When outside and not in its kennel, the dangerous animal must be muzzled and tethered to its owner or a person 18 years or over who is authorized by the owner to so control the dangerous animal. When the dangerous animal is housed in any dwelling or structure the owner shall take all necessary precautions to prevent and avoid the escape of the dangerous animal from such building, dwelling or structure;

(d) The dangerous animal, at all times, wears the registration tag issued by the county designating said animal as a registered dangerous animal/attack dog. Such a dangerous animal shall be microchipped by a licensed veterinarian or his or her designee and registered with the animal control agency;

(e) If, in the event that the dangerous animal is lost or escapes, the same will be immediately reported by the animal owner to the County Police and to the county's animal control agency;

(f) The real property on which the dangerous animal is kept shall be posted with signs clearly visible from the closest roadway or public access way warning the general public that a dangerous animal is on the premises. The form and content of such warning signs shall be determined by the Animal Control Commission;

(g) The building which houses the dangerous animal shall also be posted with a sign, or signs, clearly warning all persons that a dangerous animal is housed in that building. The form and content of such warning signs shall be determined by the Animal Control Commission;

(h) The application shall be accompanied by the following:

1. A valid driver=s license or state issued pictured identification, showing the owner=s name and current address. Each applicant shall consent, in writing, to a personal criminal history search by a law enforcement agency and furnish all information required to commence such search;

2. Proof that the applicant is 18 years old or older with no prior felony convictions;

3. Four photographs of said animal from four different sides, not taken more than one month prior to the date of application; and

4. A current immunization and health record or said animal showing the animal received a current rabies vaccine by a licensed veterinarian.

(i) No person shall be issued a dangerous animal permit if they have been convicted of a felony involving violence, drugs, animal cruelty or animal fighting;

(j) A duly authorized member of the police or other law enforcement departments, including, but not limited to, game wardens, conservation officers and other law enforcement officers, shall be exempt from the provisions of this section in the performance of their law enforcement duties; and

(k) Must be spayed or neutered within 30 days of being deemed a dangerous animal.

(2) Upon being approved for a dangerous animal permit, the owner shall pay \$100 for this permit Any violation of any part of this chapter would be cause to have this permit revoked.

(3) No person shall own, harbor, possess or have on his or her premises more than one animal that has been deemed dangerous according to this chapter.

(D) *Public nuisance animal permit.* No person shall own, harbor, possess or keep an animal deemed a public nuisance unless the owner of said animal possesses a public nuisance permit. Each permit shall be \$100 annually or until the animal is no longer deemed a public nuisance. An animal will be no longer by deemed a public nuisance when, after two years, it ceases to meet the definition of public nuisance.

(E) *Animal performance permit, including exhibition/petting zoo/swap meet/carnival.*

(1) No person or entity shall operate or maintain for profit an animal performance or exhibition without first having obtained a permit from the county animal control agency. The cost of this permit is \$100 per day.

(2) The application for such permit shall describe the proposed location, the purposes for which it is maintained and that dates and hours of such performances or exhibitions. The proposed event must be in compliance with local, state and federal laws regarding the humane care and treatment of such animals, and a copy of said application shall be filed with the county animal control agency no later than ten days prior to the first date of the proposed performance or exhibition.

(3) The applicant shall provide written proof of insurance in the limits of liability not less than \$300,000 for injury to or death of one person in any one occurrence.

(4) Any permit issued under the provisions of this section may be revoked by the county animal control agency by reasonable notice or hearing. The above fee may be waived by the Animal Control Commission.

(5) The permit holder shall be responsible for maintaining the animal care requirements in ' 90.02 as the standard of care for all animals involved.

(F) *Minor breeder permit.*

(1) Any owner or person having custody of a dog or cat that has delivered a litter, who chooses not to relinquish the animal to the animal control agency and does not choose to have the animal neutered or spayed, shall be required to purchase a minor breeder permit for the sum of \$50 plus any applicable kennel/cattery permit fees. The minor breeder permit is valid for the cat or dog for 12 months from the time the litter is born providing no other litters are born within a 12-month period of time. The permit is only applicable to owners who own one cat or one dog which are able to procreate.

(2) All applicants must be in compliance with all local zoning ordinances, state and federal rules.

(G) *Major breeder permit.*

(1) Any owner or person having custody of a dog or cat that has delivered more than one litter in 12 months time, who chooses not to have the animal neutered or spayed, will be required to purchase a major breeder permit.

(2) The fee of \$100 shall be paid, plus any applicable kennel or cattery permit fees.

(3) Any owner or person who has custody of multiple dogs or cats that have delivered more than one litter and prefers to breed intentionally or accidentally said animals the following shall prevail; provided they are zoned appropriately according to county zoning laws. Proof of vaccination for rabies given by a licensed veterinarian must be provided in order to obtain a permit.

(4) They must adhere to the animal care requirements in ' 90.02.

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(5) All applicants must be in compliance with all local zoning ordinances state and federal rules.

(H) *Kennel/cattery permit.*

(1) Anyone maintaining a kennel and/or cattery as defined in ' 90.01 shall be required to obtain a kennel or cattery permit. The permit fees as set forth below pertain to the total number of cats and/or dogs that will be housed on the property where the kennel and/or cattery is/are located.

<i>Number of Animals</i>	<i>Fee</i>
4C15 dogs/cats	\$50 annually
16C25 dogs/cats	\$75 annually
26 or more dogs/cats	\$100 annually

(2) Proof of vaccination for rabies given by a licensed veterinarian must be provided for each animal in order to obtain a permit.

(3) They must adhere to the animal care requirements in ' 90.02.

(4) All applicants must be in compliance with all local zoning ordinances and state and federal rules.

(I) *Omnibus permit.*

(1) The omnibus permit shall allow the holder of such permit to operate a kennel or cattery and to be a major or minor breeder.

(2) The yearly fee for the omnibus permit shall be \$150.

(3) The omnibus permit holder does not need to obtain individual permits in the aforementioned divisions (E), (F), (G) and (H) above, but all requirements for each of the aforementioned permits shall be met before the omnibus permit may be obtained.

(4) All applicants must be in compliance with all local zoning ordinances and state and federal rules.

(J) *Rehabilitation permit.* Anyone seeking to obtain a rehabilitation permit shall:

(1) Show proof of the appropriate permits from the state and federal authorities;

(2) Show proof that he or she is preparing the animal to go back to its natural habitat;

- (3) Follow the animal care requirements in ' 90.02;
- (4) Be under preview of the Animal Control Commission; and
- (5) Not be required to pay a fee for this permit.

(K) *Foster home permit.* Any person maintaining a foster home as defined as in ' 90.01 is required to obtain a yearly foster home permit.

(L) *Shelter permit.* Anyone maintaining a shelter as defined in ' 90.01 shall be required to obtain an annual permit. The fee for such permit shall be \$100. Shelters maintained by 501(c)(3) organizations or municipality ownership shall be exempt from the fee only.

(M) *Exterminator permit.* No person, partnership or corporation shall operate an exterminator service in the county, without first obtaining from the county animal control agency an exterminator permit. The cost of the annual permit shall be \$50.
(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.36 FEES.

(A) In addition to all other fees required to be paid by state or local laws or ordinances, the following fees shall be paid to and retained by the county animal control agency:

<i>Permit</i>	<i>Code Section</i>	<i>Fee</i>
Animal performance permit	' 90.35(E)	\$100 per day
County controlled animal permit	' 90.35(A)	\$500 non-refundable application fee and \$100 annual fee per animal
Dangerous animal permit	' 90.35(C)	\$100 annual fee per animal
Exterminator permit	' 90.35(M)	\$50 annual fee
Foster home permit	' 90.35(K)	No annual fee
Pet shop permit	' 90.35(B)	\$100 annual fee
Rehabilitation permit	' 90.35(J)	No annual fee
Shelter permit	' 90.35(L)	\$100 annual fee

<i>First Redemption*</i>	<i>Second Redemption*</i>	<i>Third Redemption*</i>	<i>Fourth and Subsequent Redemptions**</i>
\$25 first day	\$50 first day	\$75 first day and dangerous dog license or nuisance	\$250 fine for dangerous dog license or nuisance license

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<i>First Redemption*</i>	<i>Second Redemption*</i>	<i>Third Redemption*</i>	<i>Fourth and Subsequent Redemptions**</i>
		license	
\$10 per additional day	\$10 per additional day	\$10 per additional day	\$20 per additional day
Microchip fee as applicable	Microchip fee as applicable	Microchip fee as applicable	Microchip fee as applicable
Licensing fee	Licensing fee	Licensing fee	Licensing fee
Veterinary fees**	Veterinary fees**	Veterinary fees**	Veterinary fees**
* In a 12-month period			
** Based on the discretion and findings of the animal control agency and collection of veterinary fees			

(B) The animal control agency shall collect all such licensing and fines for the county. Fees collected shall be used for animal control, the health and welfare of the animals and education of the public.

(C) The county animal control agency shall have authority to take whatever action is reasonably necessary, including humane euthanasia, to deal with a sick or injured animal, for the welfare of the animal and for the safety of humane officers and the public.

(D) In the event that an animal is retained at the impoundment facility because its owner has been in violation of this chapter, the owner shall be responsible to pay the redemption fee and any and all veterinary bills incurred, for routine vaccinations for the animal(s) if necessary, veterinary services, boarding fees, all pertinent expenses and all applicable permit and/owner licensing fees reasonably necessary and incurred for the benefit of the animal.

(E) Any animal impounded in an animal control facility, if not reclaimed by its owner within three days of its impoundment, shall thereby become the property of the animal control agency and, if not adopted out, may be humanely euthanized.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.37 EXCEPTIONS.

No permits shall be required of the county animal control agency, veterinary hospitals or clinics and county owned or leased facilities. There shall be no fees for training facilities that train animals specifically to assist their handicapped owner or any not-for-profit organizations, as defined in ' 90.01. However, all animal care provisions of this chapter shall apply to such exempt persons or entities.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.38 ISSUANCE OF PERMITS.

(A) Applications for permits shall be made to the county animal control agency on the forms providing for the particular permit and shall include the name, address and telephone number of the applicant, type of permit applied for, number and description(s) of animal(s), proof of valid rabies vaccination when required by law, information and proof of sterilization and the appropriate fee. Appropriate state and federal permit numbers must be provided in cases that involve wildlife or federally protected animals, or any animal that requires any state or federal permit.

(B) All applicants must be in compliance with all of their applicable state, local or federal laws germane to this chapter, and the applicant shall not have been convicted of any cruelty to animal offenses as set forth by federal or state statutes.

(C) Applicants for permits must agree in writing to on-site inspections by the county animal control agency prior to the issuance of any permit or at any time during the valid term of such permit, upon reasonable advance notice.

(D) The county animal control agency shall have the authority and discretion to issue or deny permits provided herein subject to the following criteria:

(1) No person shall be issued a permit if he or she has been convicted of a criminal act involving cruelty to animals;

(2) Applicants must have proper facilities per ' 90.02 in place appropriate for such species of animal before permits shall be issued;

(3) Applicants shall exhibit sufficient knowledge or proof of previous experience in handling and keeping of such species of animal; and

(4) Applicants shall have no previous record of providing inadequate or improper care for animals.

(E) Permits are to be issued for a term of one year except where state statutes, laws, regulations for issuance of said permits require otherwise.

(F) Upon approval of the application for the permit, the county animal control agency shall issue a permit in written form which includes the permit number, type of permit and all pertinent information as required by this chapter. In addition, for each permit, the county animal control agency shall issue a durable tag stamped with the permit number and year of issuance for each said permit.

(G) The county animal control agency shall maintain records of the money collected for the issued permits for seven years after issuance.

(H) All fees shall be paid at the time of application for a permit and are not refundable.

(I) No person may use any permit, license or tag for any animal other than the animal for which it was issued.

(J) It shall be unlawful for any person to manufacture, to cause to be manufactured or to have in his or her possession a stolen, counterfeit or forged animal permit, license or tag, rabies or neutering certificate, or other form of licensing or documentation required by this chapter.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.39 LICENSES.

(A) All dogs, cats and ferrets owned by residents of the unincorporated portions of the county shall be required to be licensed. The purpose of such licensing is for identification and enforcement of required rabies vaccination. If the animal does not have an applicable county tag within 30 days from the time that the tag becomes invalid then there will be a \$50 fine. When the tag is issued for a period of one year, the date will coincide with the rabies vaccination certificate and become invalid in one year and one day. When the tag is issued for a period of three years, the date will coincide with the rabies vaccination certificate and become invalid in three years and one day.

(B) The owner must show proof of a current vaccination for rabies for each animal. The county animal control agency shall order, process and collect fees for the issuance of tags which will be affixed to the animal=s collar and/or kept for proof that the animal has been vaccinated for rabies by a licensed and accredited veterinarian.

(C) Animals who qualify for the \$5 one-year county tag must be altered, microchipped and vaccinated with a one year rabies vaccine administered by a licensed veterinarian. Animals who qualify for the three-year \$10 county tag must be altered, microchipped and vaccinated with a three year rabies vaccine administered by a licensed veterinarian.

(D) The one year county tags shall be sold to veterinarians who will collect the following for one-year tags representing animals vaccinated for rabies by a licensed veterinarian and:

	<i>Fee</i>
Altered and microchipped	\$5 yearly
Altered and non-microchipped	\$10 yearly
Non-altered and microchipped	\$15 yearly
Unaltered and non-microchipped	\$25 yearly

(E) Animals that cannot be vaccinated due to health issues must have a letter from their veterinarian as to the cause, but must still have a tag and pay for that fee.

(F) The three year county tags shall be sold to veterinarians who will collect \$10 fee per tag for animals that have received a three year rabies vaccination, that are neutered or spayed and microchipped and keep \$2 for the processing thereof.

(G) The county animal control agency shall then keep \$1 for one-year tags and \$2 for three-year tags. The agency shall forward to the county all remaining monies minus above mentioned fees and actual cost, procuring and processing of tags.

(H) Veterinarians will send the animal control facility a copy of the yearly or three year rabies vaccination certificates and tag receipts within 30 days of the month that the vaccination was given.

(I) The county animal control agency shall collect all such license fees for the county and shall account to the County Auditor the same at the end of each month following the transaction.

(J) Applications for licenses or permits may be made at the animal control agency in person, by mail or by electronic mail, but must include the name, address of applicant, type of permit applied for, number and description of animal(s), proof of rabies, vaccination information regarding sterilization and the appropriate fee.

(K) Licenses are to be issued for a term of one year or three years commencing on the date of issuance.

(L) Permits are to be issued for a term of one year beginning on January 1 and ending on December 31. Permits need to be secured by January 31 of the year for which they are applicable except in those instances where the individual is not engaged in the activity requiring such permit at the beginning of the year. In these instances, the individual needs to secure the permit prior to commencing the activity for which the permit is required.

(M) Those persons or organizations not securing permits as required in this chapter are subject to fines and penalties stipulated in ' 90.99.

(N) Microchip implants are registered for the life of the animal with the animal control agency. (Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.40 PERMIT REVOCATION.

Any permit provided for herein may be revoked after notice, upon a finding that the animal owner/permit holder has failed to comply with any requirement of this chapter. The owner may appeal to the Animal Control Commission within ten business days of the revocation. (Co. Ord. 10-07, passed 1-9-2007)

' 90.41 INSPECTION.

(A) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter, or when there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this chapter or state law, a humane officer, health officer, police officer or duly authorized agent of the County Sheriff is authorized at all reasonable times to inspect the same for compliance with the provisions of this chapter or any state law, provided that:

(1) If the property is occupied, the officer or agent shall first present proper credentials to the occupant and request entry, explaining the reasons therefor; and

(2) If the property is unoccupied, the officer or agent shall first make a reasonable effort to locate the owner or other persons having control of the premises and request entry, explaining the reasons therefor.

(B) In the event the officer or agent has reasonable cause to believe that the keeping or maintaining of an animal(s) is so hazardous, unsafe, dangerous or constitutes a public nuisance as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefor. If entry is refused or cannot be obtained, the officer or agent shall have recourse to secure lawful entry and inspection of the premises.

(C) If the authorized official is refused entry onto the premises, such authorized official may seek the issuance of a search warrant or court order issued by a judge of the County Circuit Court or Superior Court authorizing entry into such building, structure or premises at all reasonable times to perform any duty imposed upon the authorized official by this chapter.

(D) Any owner or occupant of any building, structure or premises within the boundaries of the county shall have the right to refuse entry thereto to any official of the county requesting entry thereto for purposes of inspection unless such official has first obtained a search warranty or court order issued by a judge of the County Circuit Court or Superior Court authorizing such entry for purposes specified therein.

(E) For purposes of this chapter, any authorized official of the county charged with the duty of enforcing this chapter of the county shall have the authority to seek, in the name of the county, the issuance of a search warrant or court order authorizing the entry into any building, structure or premises within the county for the purpose of inspecting the same. Such authority shall be granted only upon a showing of probable cause to believe that there exists a violation of this chapter within or upon such building, structure or premises, a showing that entry thereto has previously been denied by the owner or occupant of such building, structure or premises or in the alternative, a showing that an emergency exists within the building, structure or premises for which entry is sought which will, unless immediately corrected, constitute a clear and present danger to the citizens of the county or any one of them or to any animal.

(F) Except when consent of the owner or occupant has been otherwise obtained or in the event of an emergency situation, any authorized official of the county seeking entry into a building structure or premises within the boundaries of the county for the purpose of inspecting the same shall give the owner or occupant of such building, structure or premises, if such owner or occupant can be located with reasonable effort, 24-hours= written notice of such representative=s intention to inspect the building, structure or premises. The notice shall state that the property owner has the right to refuse entry, and that upon such refusal, inspection may be made only upon the issuance of a search warrant or court order by a judge of the County Circuit Court or Superior Court authorizing such entry for purposes stated therein. (Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.42 WARNING NOTICES.

Persons who violate any provisions of this chapter or whose animals violate any provisions of this chapter or who fail to comply with the registration and permit sections of this chapter may, for the first offense, be served with a warning notice requesting immediate compliance, except in the case that the health and safety of human beings or other animals are endangered, the offending animal may be immediately impounded or may be humanely slain by a police officer, or his or her designee, if such impoundment is not feasible.

(Co. Ord. 10-07, passed 1-9-2007) Penalty, see ' 90.99

' 90.43 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after its passage by the County Council of St. Joseph County, and its approval by the County Commissioners and such publications as required by law, but no sooner than April 1, 2007.

(Co. Ord. 10-07, passed 1-9-2007)

' 90.99 PENALTY.

(A) Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter of the county are guilty of an ordinance violation. Except in such cases where different or additional punishment is prescribed in this chapter or by any ordinance of the county or by statute of the state, any person found violating the ordinances of the county shall be punished by a fine of not less than \$50, and not to exceed \$2,500 on the first offense and \$7,500 on the second or subsequent offenses.

(B) In the event that an ordinance of the county or state laws, rules or regulations shall prescribe a penalty different or in addition to that prescribed by this section, the provisions of such other ordinances, laws, rules or regulations of the county or the state shall control.

(C) Any person violating any of the provisions of or failing to comply with any of the requirements of this chapter is in violation of a separate offense for each such violation. If any violation is continuing,

each day=s violation shall be deemed as a separate violation.

(D) The county may bring a civil action to enjoin any person from engaging in conduct without a license as required under the terms and conditions of the ordinance or for any other violation of the terms of this chapter.

(E) Upon the failure of any person who violates any provision of this chapter to pay the penalty as provided herein, the Office of County Attorney or its designated agent shall issue appropriate summons and complaint charging said party with an ordinance violation, which summons and complaint shall be promptly filed with the appropriate court of competent jurisdiction. Said court shall have the power to enter a civil judgment according to the provisions of this chapter and applicable state law.

(F) Failure to inoculate as required by '90.15 shall subject the owner to a penalty of \$75 enforceable by the animal control agency.
(Co. Ord. 10-07, passed 1-9-2007)

CHAPTER 91: PARKS AND RECREATION

Section

General Provisions

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Department of Parks and Recreation

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91.44 Traffic control
91.45 Restrictions on vehicles
91.46 Driving off pavement
91.47 Curfew

91.99 Penalty

Appendix A: Statement of Responsibility

GENERAL PROVISIONS

' 91.01 AUTHORITY TO OPERATE.

The town may establish, aid, maintain and operate public parks, playgrounds and recreation facilities and programs.

(1989 Code, ' 5-1)

Statutory reference:

General powers concerning recreation, culture and community facilities, see I.C. 36-10-2-1 et seq.

DEPARTMENT OF PARKS AND RECREATION

' 91.15 DEPARTMENT CREATED.

Under the provisions of I.C. 36-10-3, there is created a Department of Parks and Recreation.

(1989 Code, ' 5-5) (Ord. 170-90, passed 8-27-1990)

' 91.16 APPOINTMENTS TO BOARD.

The Parks and Recreation Board shall be composed of four members appointed by the President of the Town Council on the basis of their interest in and knowledge of parks and recreation. No more than two members shall be of the same political party.

(1989 Code, ' 5-6) (Ord. 170-90, passed 8-27-1990)

Statutory reference:

Membership and appointment procedures for the Board of Parks and Recreation, see I.C. 36-10-3-4

' 91.17 TERMS.

(A) Upon establishment of a Board, the terms initially appointed shall be:

- (1) One member for a term of one year;
- (2) One member for a term of two years;
- (3) One member for a term of three years; and
- (4) One member for a term of four years.

(B) As a term expires, each new appointment shall be made by the President of the Town Council for a term of four years. All terms expire on the first Monday in January, but a member shall continue in office until his or her successor is appointed. If an appointment for a new term is not made by the Town Council President by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the executive shall appoint a new member for the remainder of the unexpired term.
(1989 Code, ' 5-7) (Ord. 170-90, passed 8-27-1990)

' 91.18 MEETINGS AND OFFICERS OF THE BOARD.

At its first regular meeting in each year, the Board shall elect a President and a Vice-President. The Vice-President shall have authority to act as the President of the Board during the absence or disability of the President. The Board may select a secretary from within or without its own membership.
(1989 Code, ' 5-8) (Ord. 170-90, passed 8-27-1990)

Statutory reference:

Meetings of the Board, officers and quorum procedures, see I.C. 36-10-3-8

' 91.19 POWERS AND DUTIES OF THE BOARD.

The Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions. In addition, the Board shall have the powers I.C. 36-10-3 et seq.
(1989 Code, ' 5-9) (Ord. 170-90, passed 8-27-1990)

' 91.20 ADVISORY COUNCIL AND SPECIAL COMMITTEES.

The Board may create an advisory council and special committees composed of citizens interested in the problem of parks and recreation in accordance with the Parks and Recreation Law, I.C. 36-10-3-17.
(1989 Code, ' 5-10) (Ord. 170-90, passed 8-27-1990)

' 91.21 BUDGET.

(A) The Board shall prepare and submit an annual budget in the same manner as other departments of city government as prescribed by the State Board of Accounts.

(B) The Board may accept gifts, donations and subsidies for park and recreation purposes.
(1989 Code, ' 5-11) (Ord. 170-90, passed 8-27-1990)

' 91.22 EFFECT OF CONFLICTING ORDINANCES.

All other ordinances, resolutions or parts thereof in conflict with the provisions and intent of this chapter are repealed.

(1989 Code, ' 5-12) (Ord. 170-90, passed 8-27-1990)

PARK RULES AND REGULATIONS**' 91.35 EVENT DAY PERMIT REQUIRED.**

Unless otherwise provided, special permission may be obtained through the Park Board and a permit may be obtained from the Town Hall during regular business hours for activities regulated by this subchapter.

(1989 Code, ' 5-15)

' 91.36 TREES, SHRUBS AND GRASS.

No person shall, in any park or park street, destroy, cut, break, deface, mutilate, injure, disturb, sever from the ground or remove any growing thing, including, but not limited to, any plant, flower, flower bed, shrub, tree, growth or any branch, stem, fruit or leaf thereof; or to set fire to any timber, tree, shrubs, plants, flowers, grass or plant growth or suffer any fire upon other land to extend into park land; or hitch any horse or other animal to, or leave the same standing near enough to injure any tree, shrub, lawn or grass plot.

(1989 Code, ' 5-16) Penalty, see ' 91.99

' 91.37 LITTERING, RUBBISH, REFUSE AND POLLUTION.

(A) *Littering, rubbish and refuse.* No person shall take into, carry through, leave in or throw, cast, lay, drop or discharge into or on, or suffer or permit any agent, employee, person or animal in his or her charge to take into, carry through, leave in, throw, cast, lay, drop or discharge into or on any park or park street any rubbish of any sort. The leaving, except in receptacles provided for refuse, or the leaving or littering of newspapers, or other paper, in a park is prohibited. No person shall throw, cast, lay or deposit any bottle or piece of crockery or any glass or glassware or any part thereof, or metallic or other substance with sharp edges or projections in any part.

(B) *Pollution of waters.* No person shall throw, cast, lay, drop or discharge into or leave in the waters used for swimming or waters in any park or in any storm sewer, or drain flowing into said waters, any substance, matter or thing, liquid or solid, which may or shall result in the pollution of said waters. (1989 Code, ' 5-17) Penalty, see ' 91.99

' 91.38 DISORDERLY CONDUCT.

No person shall do the following in any park or park street:

- (A) Use threatening, abusive or insulting language;
- (B) Do, engage in or aid or abet any obscene or indecent act;
- (C) Throw, cast or propel stones or other missiles with intent to cause injury or destruction;
- (D) Solicit alms, subscriptions or contributions for any purpose;
- (E) Molest or annoy any persons;
- (F) Interfere with, encumber, obstruct or render dangerous any part of a park or park street;
- (G) Do any act tending to or amounting to a breach of peace;
- (H) Enter or leave any park except at established entrance ways or exits at established times;
- (I) Engage in, instigate or encourage a contention or fight;

(J) Do, aid, abet or assist in doing any act injurious to any person, animal or property within any park or park street;

(K) Dress or undress behind shrubs or other structures or in any place not designated by the Board for such purposes; and/or

(L) Appear in or upon any park or park street while intoxicated or under the influence of intoxicating liquor or narcotics.

(1989 Code, ' 5-18) Penalty, see ' 91.99

' 91.39 EXPLOSIVES, FIREARMS, WEAPONS AND MISSILES.

(A) No person shall bring into or have in his or her possession in any park or park street any firearms, slingshots, firecrackers, torpedoes, fireworks or other missile propelling instruments or explosives without permission from the Park Board.

(B) Shooting or propulsion of any missile, pellet, shot, arrow, dart or other thing by means of any firearm compressed air or gas propulsion device, bow, slingshot or propelling device of any kind, nature or description, into, upon, across, through or against any lands, the air above same or the waters or any ways, walks, buildings, structure, swimming pools or the interior of any structures, shelters, buildings or facilities, owned or under the control, operation, supervision or management of said Board within a regularly conducted event authorized by or conducted by said Board.

(1989 Code, ' 5-19) Penalty, see ' 91.99

' 91.40 CAMPING.

No person shall tent or maintain a tent, shelter or camp in any park without a permit from said Board or its duly authorized agents.

(1989 Code, ' 5-20) Penalty, see ' 91.99

' 91.41 PROTECTION OF ANIMALS.

No person shall within any park, molest, kill, wound, trap, hunt, take, chase, shoot or throw missiles at, remove or have in his or her possession any animal, bird, bird=s nest or squirrel=s nest or remove the young of any such animal or the eggs or young of any such bird.

(1989 Code, ' 5-21) Penalty, see ' 91.99

' 91.42 ANIMALS AT LARGE.

(A) No person owning or being custodian or having control of any animal shall cause or permit such animal to go at large in any park or park street, provided that such dog is continuously restrained by a leash not exceeding six feet in length. Any animal found at large may be seized and impounded or disposed of pursuant to the laws or ordinances of the state or of the town in relation to the disposal of stray animals on the highways or other public places.

(B) Animals must be under control of owner at all times.

(C) All unrestrained animals shall be owner=s responsibility.

(1989 Code, ' 5-22) Penalty, see ' 91.99

' 91.43 ALCOHOLIC BEVERAGES AND DANGEROUS DRUGS.

No person shall bring dangerous drugs or alcoholic beverages as defined in I.C. 7-1-1-3-5, excepting beer and ale which must have the appropriate permit or written permission from the town, into any park, or consume, have in possession, sell, give away or handle dangerous drugs or alcoholic beverages in any park or park street.

(1989 Code, ' 5-23) Penalty, see ' 91.99

' 91.44 TRAFFIC CONTROL.

All persons shall at all times heed and comply with directions of the police officers indicated by gesture or otherwise in using parks or park streets, and shall further comply with speed limits and directions on traffic signs along the routes in the parks and along park streets. Directions on such traffic signs may be disregarded only on an order of a police officer.

(1989 Code, ' 5-24) Penalty, see ' 91.99

' 91.45 RESTRICTIONS ON VEHICLES.

(A) *Commercial vehicles.* Vehicles constructed or adapted for or engaged in the carrying of merchandise and trucks and trailers are prohibited from using any park except where necessary to make deliveries in such park.

(B) *Motorcycles, motor bikes, mini bikes, snowmobiles or any other motor-powered bike or vehicles.* Motorcycles, motor bikes, mini bikes, snowmobiles or any other motor-powered bike or vehicles are prohibited in any area under the control of the Board, except areas that may be designated by the Board for such use.

(1989 Code, ' 5-25) Penalty, see ' 91.99

' 91.46 DRIVING OFF PAVEMENT.

No vehicles shall be operated or driven off the improved or paved roadways of any park. Disabled vehicles may be driven off the roadway so as to prevent obstruction of traffic, but no disabled vehicle shall be permitted to remain in a park for a longer period than two hours, except in designated parking areas.

(1989 Code, ' 5-26) Penalty, see ' 91.99

' 91.47 CURFEW.

It shall be unlawful for any person to remain in any park, parking lot, playground, picnic or pavilion, either on foot or in vehicles of any type, between 11:00 p.m. and 6:00 a.m., unless otherwise posted or if a proper permit has been obtained.

(1989 Code, ' 5-27) Penalty, see ' 91.99

' 91.48 STATEMENT OF RESPONSIBILITY.

Attached at the end of this chapter, appendix a, is the statement of responsibility for use of the premises.

' 91.99 PENALTY.

(A) Any violation of any of the provisions of this chapter shall be punishable by a fine of not more than \$100.

(B) Penalties and permit fees shall be deposited in the Park Fund only.
(1989 Code, ' 5-28)

Roseland - General Regulations**APPENDIX A: STATEMENT OF RESPONSIBILITY**

Town of Roseland

Roseland Park Pavilion
200 (+) W. Cripe St.
Roseland

I, _____, representing
, do hereby, by my signature affixed hereinafter, on this date, do commit myself personally and my organization to the Town of Roseland in return for the use of the premises owned by the aforesaid municipality at 200 (+) W. Cripe Street, Roseland Park, as follows:

1. To be responsible for any and all damages to buildings located on said premises.
2. To be responsible for any and all damages to trees, shrubs, and other nursery stock pertaining to the real estate encompassing such premises.
3. To insure that the building, including restrooms, are clean and in presentable condition.
4. To insure that the building and surrounding area is left in the same condition as when initially rented.
5. To be responsible for the conduct and safety of participants if alcohol is being served. WE STRONGLY SUGGEST A DESIGNATED DRIVER.
6. To be responsible for any and all court costs and attorney fees and any other litigation expenses incurred by the Town of Roseland in any collection efforts, claims or lawsuits for payment of damages.
7. To present to the. Town Clerk-Treasurer a Liquor Liability Certificate, if alcohol is being served.

RELEASE AND INDEMNIFICATION AGREEMENT

For and in consideration of the Town of Roseland's allowing the undersigned to use the facility listed above, the undersigned, my executors, administrators, heirs and assigns, hereby releases and agrees to indemnify, and hold harmless the Town of Roseland, the Roseland Park Board Members, the Roseland Town Council, their agents and employees, from any and all action, causes of action, claim damages, demands, judgements, executions, cost expenses, including attorney fees, and all other claims for damages whatsoever which may hereafter be made, instituted, filed, or recovered against the Town of Roseland, Roseland Council Members, Roseland Park Board Members, Clerk-Treasurer, their agents and employees, by the undersigned and any other persons as the result of the use of the above named facility for any activity or event located on the premises. The Town of Roseland, Roseland Council Members, Roseland Clerk-Treasurer, Roseland Park Board Members, their agents and employees are relying on said release, indemnification and hold harmless agreement on the part of the undersigned in allowing and permitting the undersigned to use the facilities mentioned above.

Authorized Signature _____

Print or Type Name _____

Address _____

City/State/Zip _____

Telephone Number _____

Date of Payment _____

A Security Deposit, as listed on the Park Pavilion Rules & Regulations, is required. The deposit is refundable if no damage has occurred to the building, its contents, or the surrounding premises, and the key is returned within three days of the event at the pick up point.

Rental Date _____ Rental Fee _____ Security Deposit _

CHAPTER 92: PUBLIC HEALTH AND SAFETY; NUISANCES

Section

Burning Regulations

- 92.001 Definitions
- 92.002 Securing permission to burn
- 92.003 Control of commercial and industrial fires
- 92.004 General provisions and restrictions for control of all fires
- 92.005 Unauthorized accumulation and storing of combustibles
- 92.006 Consistency with county laws

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- 92.035 Discharge of guns unlawful

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- 92.065 Storage of junk prohibited
- 92.066 Garbage receptacles
- 92.067 Zoning Commissioner to enforce
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- 92.069 Enforcement
- 92.070 Town Council members action required if property owner or occupant

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- 92.085 Purpose

- 92.086 Definitions
- 92.087 Exceptions
- 92.088 Responsibility of owner
- 92.089 Vehicles in possession of person other than owner
- 92.090 Private or rental property
- 92.091 Removal of abandoned vehicles
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Weeds and Rank Vegetation

- 92.105 Definitions; exclusions
- 92.106 Owners responsible for trimming, removal and the like
- 92.107 Filing complaint
- 92.108 Notice of violations
- 92.109 Appeals
- 92.110 Abatement by town
- 92.111 Liability

- 92.999 Penalty

Statutory reference:

Removal of weeds and rank vegetation, see I.C. 36-7-10.1

BURNING REGULATIONS

' 92.001 DEFINITIONS.

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

COMMERCIAL OR INDUSTRIAL FIRE. The burning of any debris or material upon and within the real property boundary of a parcel or parcels of land which a building or structure exists, not utilized as a single-family dwelling, for the primary purpose of purchasing, planning, designing, manufacturing, demonstrating, selling, renting or other distribution of any product, tangible or intangible, or other goods on a regular or frequent basis, whether or not for profit, or where activities or services are carried on or performed which are of a business nature and intended for profits.

DOMESTIC FIRE. The burning of any material, other than building or building structures, upon and within the real property boundaries upon which is designed, constructed and engineered for, and actually being used as a residence, living quarters or sleeping place for one or more human beings but not more than a single family. The only fires permitted hereunder shall be emergency fires or recreational camp fires.

OPEN FIRE. The burning of any debris or material when such burning is not done or contained within any fireproof container having a spark arrestor not larger than three-quarters of an inch, or not wholly within a furnace or incinerator constituting a permanent part of any building or structure.

PERSON. Any individual, firm, partnership, association or corporation.
(1989 Code, ' 6-30) (Ord. 101, passed 11-13-1980)

' 92.002 SECURING PERMISSION TO BURN.

(A) No fires, as defined in ' 92.001, with the exception of recreational camp fires, shall be allowed except under exceptional circumstances and only after permission is secured from the County Health Department or the Township Fire Chief.

(B) No person shall, within the limits of the town, set, start or cause to be set or started or attempt to set or start, at any time, except as hereinabove provided, any open fire without first obtaining and having in his or her possession written permission of the County Health Department or Township Fire Department, which said written permission shall be upon a form to be supplied by the Chief of said Fire Department, or his or her duly authorized representative.
(1989 Code, ' 6-31) (Ord. 101, passed 11-13-1980) Penalty, see ' 92.999

' 92.003 CONTROL OF COMMERCIAL AND INDUSTRIAL FIRES.

(A) No commercial or industrial fires are authorized.

(B) No open fires for the burning of any debris or material are authorized.
(1989 Code, ' 6-32) (Ord. 101, passed 11-13-1980) Penalty, see ' 92.999

' 92.004 GENERAL PROVISIONS AND RESTRICTIONS FOR CONTROL OF ALL FIRES.

(A) No person shall leave or permit any fire, unless said fire is wholly contained within a furnace or incinerator permanently installed in any building or structure.

(B) No person shall cause or permit any fire to burn upon any public street, alley, roadway or thoroughfare within the town.

(C) No person shall set or start, or attempt to set or start any open fire in violation of this subchapter, or without fully complying with the provisions of this subchapter.
(1989 Code, ' 6-33) (Ord. 101, passed 11-13-1980) Penalty, see ' 92.999

' 92.005 UNAUTHORIZED ACCUMULATION AND STORING OF COMBUSTIBLES.

No person shall permit the unreasonable accumulation of storing of combustible or inflammable materials upon his or her property so as to endanger the health of any person or property, and the Chief of the Township Fire Department or the Town Council may order the removal, destruction or other disposition of said materials, in any case where the Fire Chief or the Town Council shall determine that such accumulation of stored materials are hazardous to human life or property from fire or explosives; provided as soon as reasonably possible after such order has been issued to the property owner involved for the removal, destruction or other disposition of said materials, and in no case later than 30 days thereafter, every person shall comply with such order or he or she shall be subject to the penalties and enforcement procedures provided in this chapter; provided further, however, any person may at the first regular meeting of the Town Council appear for the purpose of obtaining a suspension, modification or rescission of such order.

(1989 Code, ' 6-34) (Ord. 101, passed 11-13-1980) Penalty, see ' 92.999

' 92.006 CONSISTENCY WITH COUNTY LAWS.

This subchapter shall be known, cited and referred to as the ATown of Roseland Burning Ordinance,@ and shall coincide with Ordinance 94-79, as amended, passed and adopted by the St. Joseph County Council, August 22, 1978.

(1989 Code, ' 6-36) (Ord. 101, passed 11-13-1980)

NOISE REGULATIONS

' 92.020 NEED FOR REGULATIONS.

(A) The making and creation of loud, unnecessary or unusual noises within the limits of the town is a condition which has existed for some time and the extent and volume of such noises is increasing.

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

(C) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the town and its inhabitants.

(1989 Code, ' 6-39) (Ord. 55, passed 6-11-1970)

Statutory reference:

Authorizing the regulation of air and sound, see I.C. 36-8-2-8

' 92.021 LOUD, UNNECESSARY NOISE UNLAWFUL.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the town.

(1989 Code, ' 6-40) (Ord. 55, passed 6-11-1970) Penalty, see ' 92.999

' 92.022 ACTS WHICH CONSTITUTE LOUD, UNNECESSARY NOISE.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this subchapter, but said enumeration shall not be deemed to be exclusive, namely:

(A) *Horns, signaling devices and the like.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the town, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up;

(B) *Radios, phonographs and the like.* The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section;

(C) *Loud speakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure;

(D) *Yelling, shouting and the like.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any person in the vicinity;

(E) *Animals, birds and the like.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity;

(F) *Steam whistles.* The blowing of any locomotive steam whistles or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, as a warning of fire or danger, or upon request of proper city authorities;

(G) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud explosives noises therefrom;

(H) *Defect in vehicle or load and use of vehicles.*

(1) The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise; and

(2) The creation of grating, screeching, grinding, squeaking, loud reports or shots, or other noises in the use of automobiles, motorcycles or other vehicles or appurtenances attached thereto.

(I) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers;

(J) *Construction or repairing of building.*

(1) The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for period of three days or less while the emergency continues; and

(2) If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m. and if he or she shall further determine that loss or inconvenience would result to any party in interest, he or she may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(K) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street;

(L) *Hawkers, peddlers.* The shouting of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood;

(M) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale;

(N) *Metal rails, pillars and columns, transportation thereof.* The transportation of rails, pillars of columns of iron, steel or other material, over and along streets and other places upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places;

(O) *Pile drivers, hammers and the like.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise; and/or

(P) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(1989 Code, ' 6-41) (Ord. 55, passed 6-11-1970) Penalty, see ' 92.999

GUN CONTROL REGULATIONS

' 92.035 DISCHARGE OF GUNS UNLAWFUL.

(A) No person shall shoot within the town any revolver, pistol, shotgun, rifle or any instrument made for the purpose of exploding missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth above or by any other name.

(B) This section shall not apply to any legally appointed officer in the discharge of his or her duties. (1989 Code, ' 6-47) (Ord. 51, passed 7-11-1966) Penalty, see ' 92.999

Statutory reference:

1968 Gun Control Act, see 18 U.S.C. Ch. 44.

Handgun regulations, see I.C. 35-47-2-1 et seq.

Prohibited instruments of violence, see I.C. 35-47-5-2 through 35-47-5-13

SNOW REMOVAL REGULATIONS

' 92.050 SIDEWALK TO BE CLEAR OF ICE AND SNOW.

It shall be the duty of every person who owns or occupies land across which runs any sidewalk within the town to keep said sidewalk clear and clean of ice and snow.
(1989 Code, ' 6-53) (Ord. 69, passed 5-17-1973) Penalty, see ' 92.999

' 92.051 DEPOSITING OF SNOW ON SIDEWALK UNLAWFUL.

It shall be unlawful for any person to deposit any unnatural accumulations of snow or ice upon any sidewalk within the town.
(1989 Code, ' 6-54) (Ord. 69, passed 5-17-1973) Penalty, see ' 92.999

' 92.052 BLOCKING OF SIDEWALK UNLAWFUL.

It shall be unlawful for any owner or occupier of real estate across which runs any public sidewalk to permit such sidewalk to be blocked and access across said sidewalk to be impeded in any manner.
(1989 Code, ' 6-55) (Ord. 69, passed 5-17-1973) Penalty, see ' 92.999

JUNK AND ABANDONED PERSONAL PROPERTY

' 92.065 STORAGE OF JUNK PROHIBITED.

It shall be unlawful to store or permit to be stored any junk or abandoned vehicle, boat, boat trailer or motorcycle part, freezer, refrigerator, stove, water heater, television set, bicycle, wagon, fencing, garbage or other household appliance or furnishing or a household appliance which is incapable of being used or operated, or any other personal property, buildings, building materials or building parts of any nature which the Zoning Commissioner in good faith determines to be junk on private property, visible from public property, within the town.
(1989 Code, ' 6-60) (Ord. 189-93, passed 8-12-1993) Penalty, see ' 92.999

Statutory reference:

*Regulation of conduct and property for reasons of public health, safety and welfare, see
I.C. 36-8-2-4*

' 92.066 GARBAGE RECEPTACLES.

(A) It shall be the duty of every person who is the owner or occupant of any premises within the corporate limits to provide a suitable and sufficient garbage container or containers upon the premises.

(B) Said garbage receptacles shall be placed within the lot lines and in the rear of the premises. All receptacles shall be kept clean and in a sanitary condition. The container must have lids which fit tightly and all containers must be kept closed at all times.

(C) Receptacles shall not be placed on street/lot lines over 36 hours prior to pick-up/removal.

(D) All owners or occupants shall have sufficient number of garbage and trash receptacles to accommodate two weeks accumulation.

(1989 Code, ' 6-61) (Ord. 189-93, passed 8-12-1993) Penalty, see ' 92.999

' 92.067 ZONING COMMISSIONER TO ENFORCE.

(A) The owner or occupant of any property on which any abandoned or junk household appliance or furnishings set forth in ' 92.065 is stored or located, on receipt of written notice from the Zoning Commissioner of the town, shall within the time stated in such notice, remove such vehicle, boat, boat trailer or motorcycle parts or household appliance or furnishings or correct the conditions stated in such notice. The written notice shall be served upon the property owner or occupant at least five days before the date of a regularly scheduled meeting of the Council members of the town.

(B) The notice shall state the date of the next regularly scheduled meeting of the Town Council and shall also allow the property owner or occupant until at least the day following the next regularly scheduled meeting to remove the junked item(s) or to correct the condition. Should the owner or occupant, after such service and the lapse of time stated, fail or refuse or neglect to remove said vehicle, boat, boat trailer or motorcycle part, or household appliance or furnishing, or correct such condition, the Zoning Commissioner of the town shall cause such work to be done as may be required for the preservation of the life, health, comfort and property of the public.

(1989 Code, ' 6-62) (Ord. 189-93, passed 8-12-1993) Penalty, see ' 92.999

' 92.068 EXCEPTIONS.

Sections 92.065, 92.066 and 92.067 shall not apply to vehicle, boat, boat trailer, motorcycle parts or appliances or furnishings undergoing repair at commercial garages, licensed appliance dealers or repair shops, or properly authorized junk yards. Sections 92.065, 92.066 and 92.067 shall also not apply to any materials which are being used or planned to be used in construction on buildings on the property on which the materials are located unless the materials have been allowed to remain on the property without any meaningful progress toward the planned construction for a period of at least 60 days.

(1989 Code, ' 6-63) (Ord. 189-93, passed 8-12-1993) Penalty, see ' 92.999

' 92.069 ENFORCEMENT.

Should the property owner or occupant fail to appear at the regular meeting date stated on the notice or fail to protest the proposed cleanup action required by the notice, said failure to attend or to protest shall be deemed consent of the property owner or occupant to the town=s taking whatever actions are necessary to correct the problem at the owner=s expense.

(1998 Code, ' 6-64a) (Ord. 189-93, passed 8-12-1993)

' 92.070 TOWN COUNCIL MEMBERS ACTION REQUIRED IF PROPERTY OWNER OR OCCUPANT.

(A) Should the property owner or occupant appear at the next regularly scheduled meeting and protest the proposed cleanup action required on the notice, then the Council members shall consider the property owner=s or occupant=s statements and shall take such actions as it deems appropriate under the circumstances including, but not limited to, allowing the property owner or occupant additional time to correct the problem with the owner=s or occupant=s own effort and expense. Should the Council members agree to an extension of time for a completion of the cleanup action required, and should the property owner or occupant fail to complete the cleanup by the time agreed to, written notice shall be given to the property owner or occupant, by the Town Council, then said failure to complete the required cleanup action within the prescribed time shall be deemed consent of the property owner or occupant to the town=s taking whatever actions are necessary to correct the problem at the owner=s or occupant=s expense.

(B) Should the town be required to incur labor or expenses in performing the required cleanup following the notice and opportunity to be heard as described hereinabove, the town shall be allowed to file a lawsuit for the recovery of any amounts, including attorney fees, expended to perform the cleanup or remedy the problem or seek injunctive or declaratory relief through the Courts.

(1998 Code, ' 6-64b) (Ord. 189-93, passed 8-12-1993) Penalty, see ' 92.999

ABANDONED VEHICLES**' 92.085 PURPOSE.**

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

' 92.086 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly

indicates or requires a different meaning:

ABANDONED VEHICLE.

- (1) A vehicle located on public property illegally;
- (2) A vehicle left on public property without being moved for 24 hours;
- (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 from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property;
- (5) 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;
- (6) A vehicle that has been removed by a towing service or the town upon request of an officer enforcing a statute or ordinance other than this chapter, if the impounded vehicle is not claimed or redeemed by the owner or the owner=s agent within 20 days of the vehicle=s removal; and
- (7) A vehicle that is at least three model years old, mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days. For purposes of this division (7), a vehicle covered by a tarpaulin or other plastic, vinyl, rubber cloth, or textile covering is considered to be visible.
(I.C. 9-13-2-1)

AUTOMOBILE SCRAPYARD. A business organized for the purpose of scrap metal processing, automobile wrecking, or operating a junkyard.
(I.C. 9-13-2-8)

BUREAU. The State Bureau of Motor Vehicles.
(I.C. 9-13-2-16)

FISCAL BODY. The Town Council.
(I.C. 9-13-2-63)

OFFICER. The Town Marshal, his or her designee, or a member of the Town Police Department.
(I.C. 9-22-1-2)

OWNER. The last known record titleholder of a vehicle, according to the records of the State Bureau under I.C. 9-17.
(I.C. 9-13-2-121(c))

PARTS. All components of a vehicle that, as assembled, do not constitute a complete vehicle.
(I.C. 9-13-2-122)

PRIVATE PROPERTY. All property other than public property.
(I.C. 9-13-2-136)

PUBLIC PROPERTY. A public right-of-way, street, highway, alley, park, or other state, county, or municipal property.
(I.C. 9-13-2-144)

TOWING SERVICE. A person who engages in moving or removing abandoned or disabled vehicles and, once the vehicles are moved or removed, stores or impounds the vehicles.
(I.C. 9-13-2-179)

VEHICLE. An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, trailer or semitrailer used in the transportation of watercraft, or motorized bicycle.
(I.C. 9-13-2-196(d))

' 92.087 EXCEPTIONS.

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;

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

(E) A vehicle registered and licensed under I.C. 9-18-12 as an antique vehicle; or

(F) A golf cart.
(I.C. 9-22-1-1)

' 92.088 RESPONSIBILITY OF OWNER.

(A) Except as provided in division (C), the person who owns an abandoned vehicle or parts is responsible for the abandonment and is liable for all of the costs incidental to the removal, storage, and disposal of the vehicle or the parts under this chapter.

(B) The costs for storage of an abandoned vehicle may not exceed \$1,500.

(C) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, the

person who previously owned the vehicle is not responsible for storage fees.

(D) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, and proceeds from the sale of the vehicle covered the removal, towing, and storage expenses, any remaining proceeds from the sale of the vehicle shall be returned to the previous owner of the vehicle if the previous owner is known.

(I.C. 9-22-1-4)

' 92.089 VEHICLES IN POSSESSION OF PERSON OTHER THAN OWNER.

(A) When an officer discovers a vehicle in the possession of a person other than the person who owns the vehicle, and the person cannot establish the right to the possession of the vehicle, the vehicle shall be taken to and stored in a suitable place. The State Bureau of Motor Vehicles shall be notified within 72 hours of the location and description of the vehicle described in I.C. 9-22-1-5.

(I.C. 9-22-1-5 and 9-22-1-6)

(B) If the person who owns or holds a lien under I.C. 9-22-1-8 does not appear and pay all costs, or the person who owns the vehicle cannot be determined by a search conducted under ' 92.092, the vehicle is considered abandoned and must be disposed of in accordance with this chapter.

(I.C. 9-22-1-7)

(C) If the properly identified person who owns or holds a lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays all costs incurred against the vehicle or parts at that time, the vehicle or parts shall be released. The release must state the name, signature, and address of the person who owns or holds a lien on the vehicle, a description of the vehicle or parts, costs, and date of release. A towing service shall notify the appropriate public agency of all releases under this division (C).

(I.C. 9-22-1-8 and 9-22-1-9)

' 92.090 PRIVATE OR RENTAL PROPERTY.

(A) A person who finds a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, may:

(1) Obtain the assistance of an officer under ' 92.091(E) of this chapter to have the vehicle removed; or

(2) Personally arrange for the removal of the vehicle by complying with divisions (B), (C), and (D) of this section.

(B) If the person wishes to personally arrange for the removal of the vehicle, the person shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, name, and address of the person who owns or controls the private property,

and a telephone number to contact for information;

(2) That the vehicle is considered abandoned;

(3) That the vehicle will be removed after 24 hours;

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

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 24 hours.

(I.C. 9-22-1-15)

(C) If, after 24 hours, the person who owns a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, has not removed the vehicle from the private property, the person who owns or controls the private property may have the vehicle towed from the private property.

(I.C. 9-22-1-16(a))

(D) Notwithstanding division (C) of this section, in an emergency situation a vehicle may be removed immediately. As used in this section, ***EMERGENCY SITUATION*** means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

(I.C. 9-22-1-16(b))

(E) A towing service that tows a vehicle under divisions (C) and (D) of this section or I.C. 9-22-1-5 shall give notice to the town that the abandoned vehicle is in the possession of the towing service.

(I.C. 9-22-1-17)

' 92.091 REMOVAL OF ABANDONED VEHICLES.

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

(1) The date, time, officer's name, Town Police Department, and address and telephone number to contact for information;

(2) That the vehicle or parts are considered abandoned;

(3) That the vehicle or parts will be removed after:

(a) Twenty-four hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or

(b) Seventy-two hours, for any other vehicle.

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

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(a) Twenty-four hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or

(b) Seventy-two hours, for any other vehicle.

(I.C. 9-22-1-11)

(B) If a vehicle or a part tagged under division (A) of this section is not removed within the applicable period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

(I.C. 9-22-1-12)

(C) If, in the opinion of the officer, the market value of an abandoned vehicle or parts determined in accordance with division (B) of this section is less than \$500, the officer shall immediately dispose of the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the State Bureau of Motor Vehicles. A towing service may dispose of an abandoned vehicle not less than 30 days after the date on which the towing service removed the abandoned vehicle. A town that operates a storage yard under I.C. 36-9-30-3 may dispose of an abandoned vehicle to an automobile scrapyard or an automotive salvage recycler upon removal of the abandoned vehicle. The Police Department or Town Marshal shall retain the original records and photographs for at least two years.

(I.C. 9-22-1-13)

(D) If, in the opinion of the officer, the market value of the abandoned vehicle or parts determined under division (B) of this section is at least \$500, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service.

(I.C. 9-22-1-14)

(E) Upon complaint of a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in divisions (A) through (D) of this section.

(I.C. 9-22-1-18)

' 92.092 DISPOSAL OF ABANDONED VEHICLES.

(A) (1) Within 72 hours after removal of a vehicle to a storage yard or towing service under " 92.090(C) or (D), 92.091(C) or (D) or I.C. 9-22-1-5, the Police Department, Town Marshal, or towing service shall do the following:

(a) Prepare and forward to the State Bureau of Motor Vehicles a report containing a description of the vehicle, including the following information concerning the vehicle:

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

(b) Conduct a search of national data bases, including a data base of vehicle identification numbers, to attempt to obtain the name and address of the person who owns or holds a lien on the vehicle.

(2) Notwithstanding ' 92.088, if the public agency or towing service fails to notify the Bureau of the removal of an abandoned vehicle within 72 hours after the vehicle is removed as required by division (A)(1) of this section, the public agency or towing service:

(a) May not initially collect more in reimbursement for the costs of storing the vehicle than the cost incurred for storage for 72 hours; and

(b) Subject to division (A)(3) of this section, may collect further reimbursement under this chapter only for additional storage costs incurred after notifying the Bureau of the removal of the abandoned vehicle.

(3) If the public agency or towing service obtains the name and address of the person who owns or holds a lien on a vehicle under division (A)(1)(b), within 72 hours after obtaining the name and address, the public agency or towing service shall, by certified mail, notify the person who owns or holds a lien on the vehicle of the name, address, and telephone number of the public agency or towing service. Notwithstanding I.C. 9-22-1-4 and division (A)(2)(b) above, a public agency or towing service that fails to notify a person who owns or holds a lien on the vehicle as set forth in this section may not collect additional storage costs incurred after the date of receipt of the name and address obtained under division (A)(1)(b) above.

(4) A towing service may not collect reimbursement under both divisions (A)(2) and (3) for storage costs incurred during a particular period for one vehicle.
(I.C. 9-22-1-19)

(B) The Bureau shall dispose of the vehicle in accordance with I.C. 9-22-1-19.

' 92.093 TOWING CONTRACTS.

To facilitate the removal of abandoned vehicles or parts, the town may employ personnel; acquire equipment, property, and facilities; and enter into towing contracts for the removal, storage, and disposition of abandoned vehicles and parts.

(I.C. 9-22-1-31)

' 92.094 LIABILITY FOR LOSS OR DAMAGE.

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

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

(B) The town;

(C) A towing service;

(D) An automobile scrapyard;

(E) A storage yard; and

(F) An agent or a person or entity listed in divisions (A) through (E) above.
(I.C. 9-22-1-32)

WEEDS AND RANK VEGETATION**' 92.105 DEFINITIONS; EXCLUSIONS.**

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

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

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

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person

having control over the property of another, such as a right-of-way, easement, license, or lease.

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

WEEDS, GRASSES. Includes Canada thistle, thistles, Johnson grass, sorghum, alum [i.e., allium], bur cucumber, and shattercane, but shall not include shrubs, trees, cultivated plants, or crops.

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

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

' 92.106 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

All property owners within the corporate limits of the town shall be required and be financially responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property which, at the time of notice, is in excess of 10 inches in average height, and in no event exceeds 15 inches maximum height on at least 20% of the surface area of the property.

Penalty, see ' 92.999

' 92.107 FILING COMPLAINT.

Any person, including the town, who believes there is property located within the corporate limits of the town which has growing plant matter in violation of this subchapter, shall make a written complaint signed, dated, and filed with the Town Clerk-Treasurer. If the town makes the complaint, an employee, officer, or Council member of the town shall file the complaint in all respects as set out above.

' 92.108 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the enforcement authority shall make an inspection and prepare a written report to the enforcement authority regarding the condition. The enforcement authority, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a destruction order to the property owner and/or the person occupying the property as that information is contained within the records of the Town Clerk-Treasurer or any other town agency. This notice shall be served in writing by certified mail. The notice shall provide that, within 7 calendar days after the receipt of the notice, the designated violation shall be removed by the property owner and/or person occupying the property.

(B) (1) All notices are to be in writing, and all filings are to be with the Town Clerk-Treasurer.

(2) Certified mailing to the Town Clerk-Treasurer or others is deemed filed on the date of posting to the United States Postal Service.

' 92.109 APPEALS.

(A) The property owner may appeal by filing written notice of objections with the enforcement authority within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the enforcement authority. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants, or crops, or is not otherwise in violation of this subchapter, and should not be subject to destruction under this subchapter.

(B) An appeal by the property owner shall be brought before the Town Council and shall be decided by a majority vote of the Council members in attendance, being at a regularly scheduled or special meeting of the Town Council.

' 92.110 ABATEMENT BY TOWN.

In the event that the property owner shall fail to comply with the destruction order within seven calendar days and has not filed a notice within 48 hours to the Clerk-Treasurer of an intent to appeal, the enforcement authority may employ the services of town employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

' 92.111 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting, or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorneys' fees, and interest on any unpaid amounts incurred by the town. If the enforcement authority uses municipal employees, the town shall set and assign an appropriate per hour rate for employees, equipment, supplies, and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the Town Clerk-Treasurer and to be deposited in a general fund, as compensation for expenses and costs incurred by the town.

(D) If the property owner fails to pay a bill issued under this chapter within the time specified in this chapter, the town shall certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The Auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the General Fund of the town.

(I.C. 36-7-10.1-4)

' 92.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of ' 10.99.

(B) *Burning regulations.*

(1) Any person who shall violate the terms of " 92.001 through 92.006 shall be guilty of an ordinance violation, punishable by a fine not in excess of \$1,000.

(2) Each instance and/or day of such unlawful activity shall constitute a separate offense.
(1989 Code, ' 6-35)

(C) *Noise regulations.* Any person who violates any foregoing provision of " 92.020 through 92.022 shall be deemed guilty of an ordinance violation and upon conviction thereof shall be punished by a fine not exceeding \$100.
(1989 Code, ' 6-42)

(D) *Gun control regulations.* Any person or persons found guilty of violating any of the terms of ' 92.035 shall be fined in any sum not less than \$10 nor more than \$300.
(1989 Code, ' 6-48)

(E) *Snow removal regulations.* Anyone who violates the terms of " 92.050 through 92.052 shall be guilty of an offense and shall be fined in the sum not less than \$25.
(1989 Code, ' 6-56)

(F) *Junk and abandoned personal property.*

(1) Any person, firm or corporation who shall violate any of the provisions of " 92.065 through 92.070 shall be guilty of and shall be punished by a fine of not more than \$100.

(2) Each day such violation is permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
(1989 Code, ' 6-64c)
(Ord. 51, passed 7-11-1966; Ord. 55, passed 6-11-1970; Ord. 69, passed 5-17-1973; Ord. 101, passed 11-13-1980; Ord. 189-93, passed 8-12-1993)

CHAPTER 93: TREES AND PLANTS

Section

General Provisions

- 93.01 Planting and replanting trees

Tree and Shrub Permits

- 93.15 Purpose and intent
93.16 Policy statement
93.17 Definitions
93.18 Determination of definition
93.19 Permit for removal of trees
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Diseased and Dangerous Plants

- 93.40 Trees, shrubs and other plants on town property
93.41 Trees, shrubs and other plants on private property
93.42 Notice
93.43 Hearing
93.44 Removal
93.45 Cost of removal
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Cross-reference:

General Licensing Provisions, see Chapter 110

Specific Licensing and Permit Regulations, see Chapter 111

GENERAL PROVISIONS**' 93.01 PLANTING AND REPLANTING TREES.**

(A) All trees planted in the public street or sidewalk area and all tree planting spaces required by this chapter shall be located and planted under the supervision of the Town Council member in charge of public works, who shall supervise such planting and locating.

(B) In the performance of such work, consideration shall be given to the following factors, provided that setbacks permit and consideration of safety do not interfere. These factors are determined to be of primary importance in maintaining the town tree cover.

(1) Trees that must be removed shall be replaced by new planting, except in unusual circumstances.

(2) Wherever feasible, trees shall be planted near old and dying ones in anticipation of their removal.

(3) Unnatural regularity of spacing and arrangement shall be avoided, staggered or irregular locations or a simulated forest arrangement being preferred.

(4) The coordinating of tree planting on public ways with required landscaping on private property so as to achieve the above purposes is deemed desirable.

(1989 Code, ' 4-11) (Ord. 61, passed 12-9-1972) Penalty, see ' 10.99

TREE AND SHRUB PERMITS**' 93.15 PURPOSE AND INTENT.**

The Town Council finds that it is necessary to maintain the existing tree cover and urban forest to preserve windbreak protection, abate soil erosion and enhance the natural beauty of the town and adopts this subchapter in the interest of public health and safety.

(1989 Code, ' 4-10a) (Ord. 61, passed 12-9-1972)

' 93.16 POLICY STATEMENT.

(A) It is not the policy of the town to approve requests for tree trimming or tree removal in order to improve the view of any person, including the applicant.

(B) It is the policy of the town, where tree removal is accomplished at the request of a property owner or occupant, to require the planting of another tree in a suitable location whenever good forestry practice so dictates.

(1989 Code, ' 4-10b) (Ord. 61, passed 12-9-1972)

' 93.17 DEFINITIONS.

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

SHRUB. A bushy, woody plant, usually with several permanent stems, and usually not over ten to 15 feet high at maturity.

TREE. A woody perennial plant, usually with one main stem or trunk, and many branched. It may appear to have several stems or trunks as in certain varieties of oak. It is usually over ten feet high at maturity.

(1989 Code, ' 4-10c) (Ord. 61, passed 12-9-1972)

' 93.18 DETERMINATION OF DEFINITION.

In any case, the Town Forester shall have the right to determine whether any specific woody plant shall be considered a tree or shrub. Such determination shall be final and not subject to appeal.

(1989 Code, ' 4-10d)

' 93.19 PERMIT FOR REMOVAL OF TREES.

(A) Any person desiring to cut down or remove any tree growing in or upon any public street, way, park or place within the town, or any tree on private property when more than one-half of the basal cross-sectional area of such tree is on town property, or when more than one-half of the foliage of such tree overhangs town property, shall file an application therefor with the Town Clerk-Treasurer. Such application shall be accompanied by a deposit of \$10 for each tree to be cut down or removed. Each application shall include a plot plan showing the tree to be cut down or removed. Each application shall include a plot plan showing the location of the tree or trees concerned and shall further include a statement of the reason for the request.

(B) Upon receipt of such application, the Town Clerk-Treasurer shall forward the application to the Town Forester who shall indicate on said application:

- (1) The health or condition of the tree or trees;
- (2) Whether or not such removal is justified by reason of:
 - (a) Good forestry practice;

(b) The poor health or dangerous condition of the tree or trees; and

(c) Construction or other improvement on private property.

(3) Deny the application.

(C) The Town Forester shall then return the application to the Town Clerk-Treasurer. If, in the opinion of the Town Forester, the tree or trees should be removed because of disease, infestation or clear and present danger to persons or property, he or she shall cause the tree or trees to be removed and the Town Clerk-Treasurer shall return the deposit to the applicant. If the application is denied by the Town Forester, the deposit shall be returned to the applicant together with a notice of the action of the Forester.

(D) Any permit granted hereunder is nontransferable and shall expire one year from date of issuance.

(1989 Code, ' 4-10e) (Ord. 61, passed 12-9-1972) Penalty, see ' 10.99

' 93.20 FILING OF APPEALS.

Any appeal from a decision of the Town Forester shall be taken by filing a notice of appeal in writing in the office of the Town Clerk-Treasurer prior to one week following the day of action by said Town Forester. Any notice of appeal shall set forth the specific ground or grounds upon which the appeal is taken. The signature of at least one signer of said appeal shall be verified before a person authorized under the laws of the state to administer oaths.

(1989 Code, ' 4-10f) (Ord. 61, passed 12-9-1972)

' 93.21 DUTIES OF TOWN CLERK-TREASURER.

Upon the filing of such appeal, the Town Clerk-Treasurer shall place the appeal upon the agenda of the next regular meeting of the Town Council, unless the President of the Council authorized placing the matter on the agenda of an earlier meeting.

(1989 Code, ' 4-10g) (Ord. 61, passed 12-9-1972)

' 93.22 DETERMINATION BY TOWN COUNCIL.

At the time set for hearing the appeal, the Town Council shall proceed to hear and determine the same. Said hearing may be continued at the discretion of the Council in order to obtain further facts or hear further witnesses. After initial hearing, the Town Council may set a public hearing prior to making a determination. Any determination of the Town Council shall be final and conclusive and not subject to further appeal.

(1989 Code, ' 4-10h) (Ord. 61, passed 12-9-1972)

' 93.23 PERMIT FOR REMOVAL, IMPROVEMENT OF PRIVATE PROPERTY.

In the event a permit for tree removal is granted, in order to enable the applicant to carry out some project of development or improvement of his or her property, such permit shall be effective only in connection with the actual accomplishment of said project.

(1989 Code, ' 4-10i) (Ord. 61, passed 12-9-1972)

' 93.24 PERMIT FOR TRIMMING OF TREES OR REMOVAL OR TRIMMING OF SHRUBS.

(A) Any person desiring to trim, shape or remove wood or roots from any tree or to trim any shrub growing in or upon any public street, way, park or place within the town, or any tree on private property when more than one-half of the basal cross-sectional area of such tree is on town property, or when more than one-half of the foliage of such tree overhangs town property, shall apply therefore to the Town Forester.

(B) The Town Forester may:

(1) Grant such permission and allow the work to be done by the applicant at his or her own expense;

(2) Approve such request and recommend the work be done by the town, if such removal or trimming would benefit the general public; or

(3) Deny the request.

(1989 Code, ' 4-10j)

' 93.25 EXCLUSIONS.

The provisions of this subchapter shall not apply to the cutting or trimming of trees or shrubs:

(A) When necessary for the construction of streets or buildings on public property;

(B) When determined by the Chief of Police to be necessary for traffic safety;

(C) When covered by the provisions of ' 93.01; and/or

(D) When ordered by the Town Council.

(1989 Code, ' 4-10k)

' 93.26 RESPONSIBILITIES OF TOWN FORESTER.

The Town Forester shall:

(A) Supervise all tree cutting or trimming for which a permit has been granted;

(B) Cause to be removed all dead trees or shrubs from public property; and

(C) Cause to be removed or trimmed any trees or shrubs for which such removal or trimming is ordered by the Town Forester or the Town Council or is required in connection with any public works project ordered by the Town Council.

(1989 Code, ' 4-10l) (Ord. 61, passed 12-9-1972)

' 93.27 REGULATION OF CUTTING BY THE TOWN OF TREES PARTIALLY ON PRIVATE PROPERTY.

When more than one-half of the basal cross-sectional area of such tree is on private property and the remainder on town property, or when more than one-half of the foliage of a tree overhangs private property and the remainder is over town property, the town shall not cut or trim wood, foliage or roots except when:

(A) In the opinion of the Town Forester such cutting would not threaten the survival of the tree nor endanger the health and safety of the property owner; and

(B) Permission has been granted by the property owner concerned.

(1989 Code, ' 4-10m) (Ord. 61, passed 12-9-1972)

DISEASED AND DANGEROUS PLANTS

' 93.40 TREES, SHRUBS AND OTHER PLANTS ON TOWN PROPERTY.

All trees, shrubs and other plants growing on town property, when infested by any insect or infected by an disease threatening the life of the same, or which by reason of such infestation or infection endangers the life or growth or healthful existence of other trees, shrubs or other plants within the town not so infested or infected, or any trees determined by the Town Forester to be a clear and present danger to person or property shall be cut or removed by direction of said Forester as he or she in his or her own judgment shall deem necessary.

(1989 Code, ' 4-12a) (Ord. 61, passed 12-9-1972)

' 93.41 TREES, SHRUBS AND OTHER PLANTS ON PRIVATE PROPERTY.

All trees, shrubs and other plants growing on private property, when infested by any insect or infected by an disease threatening the life of the same, or which by reason of such infestation or infection

endangers the life or growth or healthful existence of other trees, shrubs or other plants within the town not so infested or infected, or any trees determined by the Town Forester to be a clear and present danger to person or property may be declared, by resolution of the Town Council, to be a public nuisance and thereafter abated as provided for in this subchapter.

(1989 Code, ' 4-12b) (Ord. 61, passed 12-9-1972)

' 93.42 NOTICE.

(A) After the passage of such resolution, the Clerk-Treasurer and/or Council President of the town shall cause to be conspicuously posted on the property upon which such public nuisance is alleged to exist, not less than three notices headed A Notice to Abate Public Nuisance, @ such heading to be in letters not less than one inch in height and substantially in the following form:

Notice to Abate Public Nuisance

Notice is hereby given that on the _____ day of _____, 20____, the Town Council of Roseland passed an Ordinance declaring that certain (trees, shrubs or other plants) located upon (description of property) are (infested with insects, infected with disease, or a clear and present danger to persons or property), and that the same constitute a public nuisance which must be abated by the removal of the same, otherwise they will be removed and the nuisance abated by the town, in which case the cost of such removal shall be assessed upon the property from which such (trees, shrubs or other plants) are removed, and such cost will constitute a lien upon such property until paid. Reference is hereby made to said Ordinance for further particulars.

Any person objecting to the proposed removal as aforesaid, is hereby notified to attend the meeting of said Town Council to be held in the Town Hall at (time) on the _____ day of _____, 20____, when such objection will be heard and given due consideration.

Dated this _____ day of _____, 20____.

Clerk-Treasurer and/or Council President

(B) Said notices shall be posted at least five days prior to the time for hearing objections to the abatement of such public nuisance.

(1989 Code, ' 4-12c) (Ord. 61, passed 12-9-1972)

' 93.43 HEARING.

At the time stated in such notices, the Town Council shall hear and consider all objections, if any, to the proposed removal, and may continue the hearing from time to time. Upon the conclusion of such hearing, said Town Council shall, by resolution, allow or overrule any and all objections; whereupon said town shall be deemed to have acquired jurisdiction to proceed and perform the work or removal, and the decision of said Town Council on the matter shall be final and conclusive.

(1989 Code, ' 4-12d) (Ord. 61, passed 12-9-1972)

' 93.44 REMOVAL.

(A) After final action has been taken by the Town Council, or in case no protests or objections have been received, said Town Council shall by resolution order the Clerk-Treasurer and/or Council President to abate said nuisance by having any and all trees, shrubs or other plants infected as aforesaid, removed from the premises in question, and said Clerk-Treasurer and/or Council President, his or her deputies and assistants, are expressly authorized to enter upon private property for such purpose.

(B) Any property owner shall have the right to have any such trees, shrubs or other plants removed at his or her own expense, providing the same is done prior to the arrival of the Clerk-Treasurer and/or Council President or his or her assistants to remove the same.

(1989 Code, ' 4-12e) (Ord. 61, passed 12-9-1972) Penalty, see ' 10.99

' 93.45 COST OF REMOVAL.

The Clerk-Treasurer and/or Council President shall keep an account of the cost of abating such nuisance upon each lot, piece or parcel of land, and shall submit an itemized statement thereof to the Town Council at its next subsequent meeting thereafter, and shall forthwith mail a full and correct copy of such statement to the owner or owners of such premises, if known, to his, her or their last known place of residence. In the event that any such owner is unknown, such statement shall be posted on the bulletin board of Town Hall for one week, giving notice when such statement will be submitted to said Town Council for approval.

(1989 Code, ' 4-12f) (Ord. 61, passed 12-9-1972)

' 93.46 ASSESSMENT.

At the time for receiving and considering such statement, the Town Council shall proceed to consider the same and the objectives thereto, if any, and may raise, lower or modify the amount alleged to be due therein. The determination of the Town Council thereon, as aforesaid, shall be final and conclusive and the amounts of the cost of abating such nuisance upon the various lots or parcels of land mentioned in said statement, shall constitute special assessments against the same, respectively, upon confirmation of such statement, a full and correct copy thereof shall be delivered to the Assessor, and it shall be the duty of said Assessor to add the amounts set forth in such statement and charged against any lot, piece or parcel of land, to the amount assessed against the same for municipal taxes and assessments, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary town taxes are collected, and such special assessments shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency, as provided for ordinary municipal taxes.

(1989 Code, ' 4-12g) (Ord. 61, passed 12-9-1972) Penalty, see ' 10.99

CHAPTER 94: ALARM SYSTEMS

Section

- 94.01 Definitions
- 94.02 Response to alarm: determination of validity
- 94.03 False alarms
- 94.04 Automatic telephone dialing systems prohibited
- 94.05 Alarm silencer required

- 94.99 Penalty

' 94.01 DEFINITIONS.

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

ALARM SYSTEM. Any mechanical equipment or device which is designed or used for the detention of an unauthorized entry into a building, structure, facility or enclosed area for alerting others to the commission of an unlawful act or a fire within a building, structure, facility or enclosed area, or both, and which emits a sound or transmits a signal or message when activated; this definition shall include local alarm systems.

ALARM USER. Any person(s), firm, association, partnership, limited partnership, sole proprietorship, or corporation, which has control of any building, structure or facility wherein an alarm system is installed, operated or maintained.

FALSE ALARM. The activation of an alarm system eliciting a response to actual or threatened danger to persons or damage to property. ***FALSE ALARM*** also means the activation of an alarm system through mechanical failure, malfunction, improper installation or maintenance, or negligence of the alarm user or his or her employees or agents; but does not include alarm activation caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by an alarm user or alarm system installer or servicer.

LOCAL ALARM SYSTEM. A signaling system which when activated causes an audible and/or visible signaling device to be activated only in or on the premises in which the system is installed, operated or maintained.

NOTICE. Written notice either by certified mail return receipt requested, or by personal service

upon the addressee at his or her last known address.
(Ord. 202-96, passed 4-11-1996)

' 94.02 RESPONSE TO ALARM: DETERMINATION OF VALIDITY.

(A) Whenever an alarm system is activated in the town which results in an emergency response to the premises by the Police Department, the officer on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response was required or was a false alarm.

(B) If the officer at the scene of the activated alarm system determines the alarm to be false, the officer shall make a report of the false alarm, notice of which shall be sent to the alarm user at the address of the premises, or at the last known address of the alarm user, if different from the premises address.

(C) The Town Marshal, or his or her designee, shall have the right to inspect the premises to which a response has been made and may cause such an inspection to be made at any reasonable time after the occurrence of a false alarm.
(Ord. 202-96, passed 4-11-1996)

' 94.03 FALSE ALARMS.

The Town Police Department shall maintain appropriate records of all false alarms to which the Police Department responds. After the Police Department has responded to three false alarms at a location within a calendar year, the town shall charge the alarm user a \$100 user fee for each additional false alarm responded to during the balance of that calendar year as reasonable compensation for the cost of the Department=s personnel, equipment and overhead utilized in the response; provided, however, that any residential alarm user aged 65 years or older, shall be exempt from these charges. For the purpose of this section, a calendar year shall be that period commencing on January 1 and ending on December 31 of each year.
(Ord. 202-96, passed 4-11-1996; Ord. passed 2-7-2008) Penalty, see ' 93.99

' 94.04 AUTOMATIC TELEPHONE DIALING SYSTEMS PROHIBITED.

(A) It shall be unlawful for any reason to sell, offer for sale, install, maintain, lease, operate or assist in the operation of an automatic telephone dialing alarm system which utilizes a telephone line or lines used exclusively by the public to call the Town Police Department directly to request emergency service, without first having such a request routed through a third person or organization.

(B) The Town Marshal, or his or her designee, upon receiving knowledge of an automatic telephone dialing system installed or operated in violation of this section shall order in writing the owner, operator or lessee to disconnect and cease operation of the system within 72 hours of receipt of the order.
(Ord. 202-96, passed 4-11-1996) Penalty, see ' 93.99

' 94.05 ALARM SILENCER REQUIRED.

No alarm system shall be installed on any premises in the town which does not have an operable automatic resetting device to silence the audible sounder within 30 minutes after activation.
(Ord. 202-96, passed 4-11-1996) Penalty, see ' 93.99

' 94.99 PENALTY.

Any person who violates or fails to comply with any of the provisions of this chapter shall be deemed guilty of an ordinance violation and shall be punished by a fine in the sum of \$50. Each day that a violation is permitted to continue shall constitute a separate offense. Any alarm system installed, operated or maintained in violation of this chapter is hereby declared to be a nuisance and may be abated in the manner as nuisances are or may be hereafter be abated under existing law. The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.
(Ord. 202-96, passed 4-11-1996)

