

TITLE XIII: GENERAL OFFENSES

Chapter

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CHAPTER 130: OFFENSES AGAINST PERSONS

EDITOR'S NOTE:

This chapter contains references to those sections of state law which prohibit the most common offenses against persons. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

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CHAPTER 131: FAMILY OFFENSES

EDITOR=S NOTE:

This chapter contains references to those sections of state law which prohibit the most common family offenses. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

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CHAPTER 132: OFFENSES AGAINST PROPERTY

Section

132.01 Damaging/defacing property

132.99 Penalty

EDITOR'S NOTE:

This chapter contains references to those sections of state law which prohibit the most common offenses against property. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

<u>OFFENSE</u>	<u>IC SECTION</u>
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<u>OFFENSE</u>	<u>IC SECTION</u>
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132.01 DAMAGING/DEFACING PROPERTY.

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

DAMAGE. Damage, deface, deform, mar, disfigure, displace, tamper with, mark, paint or injure.

DEFACE. Deform, mar, disfigure, displace, tamper with, mark, paint, injure or damage.

LEGAL GUARDIAN. A person appointed personal guardian by order of a court of competent jurisdiction, or a person awarded legal custody of a minor child by a court of competent jurisdiction.

PARENT. The natural mother or father of a minor child under the age of 18 years; the adoptive mother or father of a minor child under the age of 18 years; the step-mother or step-father of a minor child under the age of 18 years; a person acting in loco parentis for a child under the age of 18 years; or a legal guardian appointed by a court of competent jurisdiction for a minor child under the age of 19 years.

PERSON. Any natural person.

PROPERTY. Real estate, including any and all improvements thereon; the term shall further mean and include tangible personal property and public art, without regard to whether the property is public or privately owned.

PUBLIC ART. Any authorized image, impression, statue, display, or exhibit which may be displayed, placed, presented or erected on any public way or property in the town which is intended to be art, or to promote or evoke and present a feeling, idea, promotion or the like.

TOWN. The Town of Cedar Lake, Lake County, Indiana.

(B) Prohibition. No person may damage and/or deface any property, including public art, within the municipal corporate boundaries of the town.

(C) Contractors and authorized agents - exceptions. This section shall not apply to persons, agents, contractors or others hired or duly authorized by the lawful owner of property to perform work thereon.

(D) Nuisance. Any person who violates division (B) of this section shall be deemed and identified as maintainer of a public nuisance, and all remedies, under applicable law, whether statutory or otherwise, may be exercised and utilized by the town in enforcement hereof.

(Ord. 944, passed 2-21-06) Penalty, see ' 132.99

' 132.99 PENALTY.

(A) Fine.

(1) Any person who shall violate any provisions of ' 132.01(D) shall be liable for a fine as set forth in division (2) below. It is specifically provided that the act of damaging and/or defacing property, including public art, at different locations on the same day, or the act of damaging and/or defacing different items of property at the same location on the same day, shall constitute separate and distinct violations of ' 132.01(B). Each such separate act shall be deemed a separate offense and violation.

(2) (a) First violation shall be a minimum fine not less than \$500.

(b) Second violation shall be a minimum fine not less than \$100.

(c) Third and subsequent violation shall be a minimum fine not less than \$2,000.

(B) Parents and legal guardians. The parent, parents or legal guardians of a person who violates ' 132.01(B) and who is less than 18 years of age at the time of a violation or violations, shall be deemed to have violated ' 132.01(B) and, if made a party defendant to any enforcement action taken pursuant to ' 132.01, shall be jointly and severally liable for any penalties which may be imposed therein for violation thereof.

(Ord. 944, passed 2-21-06; Am. Ord. 986, passed 3-6-07)

Section

Lewd Businesses and Publications

- 133.01 Definitions
- 133.02 Lewd films, theaters
- 133.03 Lewd publications, businesses
- 133.04 Knowledge of nuisance presumed
- 133.05 Action by Board of Trustees
- 133.06 Action to be taken by Town Attorney
- 133.07 Forfeiture of consideration; cost of abatement;
collection

LEWD BUSINESSES AND PUBLICATIONS

' 133.01 DEFINITIONS.

For the purpose of ' ' 133.02 through 133.07 the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AKNOWLEDGE or AKNOWLEDGE OF SUCH NUISANCE. Having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter.

ALEWD MATTER.

(1) Any matter which:

(a) The average person, applying contemporary community standards, finds, when considered as a whole, appeals to the prurient interest; and

(b) Depicts or describes patently offensive representations or descriptions of:

- 1. Ultimate sexual acts, normal or perverted, actual or simulated; or
- 2. Masturbation, excretory functions, or exhibition of the genitals or genital area.

(2) Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context of which it is used, possesses serious literary, artistic, political, or scientific value.

AMATTER. A motion picture film or a publication or both.

AMOTION PICTURE FILM. Any:

(1) Film or plate negative;

- (2) Film or plate positive;
 - (3) Film designed to be projected on a screen for exhibition;
 - (4) Films, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;
- or
- (5) Videotape or any other medium used to electronically reproduce images on a screen.

APERSON. Any individual, partnership, firm, association, corporation, or other legal entity.

APLACE. Any building, structure, or place, or any separate part or portion thereof whether permanent or not, or the ground itself.

APUBLICATION. Any books, magazine, article, pamphlet, writing, painting, illustration, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.

ASALE. A passing of title or right of possession from a seller to a buyer for valuable consideration and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein, and whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter.

(>82 Code, ' 21-100(1)-(8))

' 133.02 LEWD FILMS, THEATERS.

(A) Any and every place in the town where:

- (1) Lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition, or
- (2) A lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition, is a public nuisance.

(B) Any and every lewd film which is publicly exhibited or possessed for such purpose at a place which is a public nuisance under division (A) above, is a public nuisance per se.

(>82 Code, ' 21-200)

' 133.03 LEWD PUBLICATIONS, BUSINESSES.

(A) Any and every place of business in the town in which lewd publications constitute all or a principal part of the stock in trade is a public nuisance.

(B) Any and every lewd publication possessed at a place which is a public nuisance under division (A) above, is a public nuisance per se.

(>82 Code, ' 21-210)

' 133.04 KNOWLEDGE OF NUISANCE PRESUMED.

Upon and after receiving notice through service of a certified copy hereof and certified copy of the resolution and order of summary abatement provided for herein, any and every person who shall own, legally or equitably, lease, maintain, manage, conduct, or operate a place in the town which is declared to be a public nuisance as set forth and stated in ' ' 133.02 and 133.03 of this chapter, is deemed to be a person who has knowledge of such nuisance for the purpose of this code, and is, thereafter, responsible for its maintenance and shall be liable thereafter.

(>82 Code, ' 21-220)

' 133.05 ACTION BY BOARD OF TRUSTEES.

(A) Upon investigation by the Board of Trustees or upon receipt of information from any other person as to possible violations of this chapter, the Board of Trustees shall refer the matter to the Town Attorney, who shall investigate and report back to the Board as to whether it is his opinion that a violation of this chapter has occurred. Upon receipt of this report, the Board of Trustees shall make any independent investigation it deems necessary and appropriate.

(B) Upon determination that a public nuisance, as defined in ' 133.02 or ' 133.03 of this chapter, exists in the town, the Board of Trustees, in applying the provisions hereof to such nuisance, shall provide for the following by resolution:

(1) Declare the fact that such a nuisance exists;

(2) Set forth the description or legal description of the street address of the place which constitutes the nuisance;

(3) Set forth a statement of facts upon which the Board of Trustees' declaration of nuisance is based;

(4) Order all persons described in ' 133.04 hereof to voluntarily abate such nuisance immediately, by terminating the exhibition, sale, or possession for sale of such lewd subject matter or by terminating the use of the premises for lewdness, and to supply the persons with a certified copy of the resolution.

(5) Order the Town Attorney to commence suit forthwith in a court of competent jurisdiction to abate the nuisance.

(>82 Code, ' 21-230)

¶ 133.06 ACTION TO BE TAKEN BY TOWN ATTORNEY.

Upon a specific finding by the Board of Trustees of the fact that a public nuisance exists at a particular location, the Town Attorney shall:

(A) Serve a certified copy hereof, and the resolution, as provided in ¶ 133.05 above; and

(B) Forthwith commence legal proceedings by filing a civil action seeking the following relief:

(1) A declaratory judgment that the matter found to be lewd is or are public nuisances per se under this subchapter and such resolution;

(2) A declaratory judgment that the matter named by the Board of Trustees is lewd as defined herein;

(3) A declaratory judgment that each place named by the Board of Trustees is a public nuisance under this subchapter and such resolution;

(4) An accounting of all moneys paid as admission price to or for the exhibition or exhibitions of such lewd motion picture films, and valuable consideration received for the sale of lewd publications from and after the time the persons maintaining the nuisance received a copy of the resolution of the Board of Trustees that the public nuisance exists, and a judgment that such moneys or valuable consideration are a public nuisance under this subchapter;

(5) An order that all admission price moneys or valuable consideration received and enumerated in the court-ordered accounting be forfeited as contraband to the general fund of the town or as property belonging to the town;

(6) An injunction enjoining and restraining all persons responsible for maintaining the nuisance from possessing or publicly exhibiting the lewd motion picture films, or from selling and for sale the lewd publications at any time in the future in the town, and such other injunctive relief as the court may order;

(7) An order that all positive prints of the named lewd film and all lewd publications or copies or reproductions thereof be forfeited as contraband under this subchapter;

(8) Judgment for the town for all costs therein expended, including investigative costs, court costs, reasonable attorney's fees, and such other expenses as are provided for herein;

(9) All other relief as the court may deem proper.

(>82 Code, ¶ 21-240)

' 133.07 FORFEITURE OF CONSIDERATION; COST OF ABATEMENT; COLLECTION.

(A) Upon judgment for the town in legal proceedings brought pursuant to this subchapter, an accounting shall be made by such defendant of all moneys or valuable consideration received by them which have been declared to be a public nuisance under this subchapter. Such moneys or their equivalent and any other valuable consideration received shall be forfeited to the general fund of the town or to the town as property of the town if any valuable consideration received not be money.

(B) The cost of abatement shall include the following:

(1) Investigative costs;

(2) Court costs;

(3) Reasonable attorney=s fees arising out of the preparation for, and trial of the cause, and appeals therefrom, and other costs allowed on appeal.

(C) Upon obtaining judgment in a civil action pursuant to this subchapter, the costs of abatement shall, by special ordinance, be made a lien against such property and a personal obligation against the theater operator and property owner and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws, applicable to the levy, collection, and enforcement of municipal taxes, shall be applicable to such special assessment.

(>82 Code, ' 21-250)

EDITOR=S NOTE:

This chapter contains references to those sections of state law which prohibit the most common offenses against public morals. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

OFFENSE IC SECTION

ACTIVITIES RELATED TO OBSCENE PERFORMANCE 35-49-3-2

IMPORTATION OR DISTRIBUTION OF OBSCENE MATTER 35-49-3-1

PROVIDING OBSCENE MATTER AND PERFORMANCES BEFORE MINORS 35-49-3-3

OFFENSE IC SECTION

PROSTITUTION OFFENSES

Patronizing prostitute 35-45-4-3

Promoting prostitution 35-45-4-4

Prostitution 35-45-4-2

VOYEURISM 35-45-4-5

CHAPTER 134: GAMBLING OFFENSES

EDITOR'S NOTE:

This chapter contains references to those sections of state law which prohibit the most common gambling offenses. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

OFFENSE IC SECTION

PROFESSIONAL GAMBLING 35-45-5-3

PROMOTING PROFESSIONAL GAMBLING 35-45-5-4

UNLAWFUL GAMBLING 35-45-5-2

CHAPTER 135: OFFENSES AGAINST PUBLIC ADMINISTRATION
AND JUSTICE

Section

135.01 Interference with officials

1 135.01 INTERFERENCE WITH OFFICIALS.

It shall be unlawful for any person to intentionally impede or interfere, or attempt to impede or interfere with any policeman, fireman, or any other town official in the performance of his duty or emergency functions as a fireman, policeman, or town official. A violation of this section shall be deemed a Class B infraction.

(>82 Code, 1 21-340) Penalty, see 1 10.99

EDITOR=S NOTE:

The list below contains references to those sections of state law which prohibit the most common offenses against public administration and justice. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

<u>OFFENSE</u>		<u>IC SECTION</u>
ASSISTING A CRIMINAL	35-44-3-2	
DISCRIMINATION IN JURY SELECTION	35-46-2-2	
ESCAPE		35-44-3-5
FAILURE TO APPEAR	35-44-3-6	
FAILURE TO RESPOND TO SUMMONS	35-44-3-6.5	
INTERFERENCE WITH WITNESS SERVICE	35-44-3-11.1	
JURY SERVICE		
Dismissal by employer	35-44-3-10	
Intimidation	35-44-3-10	
OBSTRUCTING EMERGENCY MEDICAL PERSON	35-44-3-9	

<u>OFFENSE</u>	<u>IC SECTION</u>
OBSTRUCTING FIREMAN	35-44-3-8
OBSTRUCTING JUSTICE	35-44-3-4
POSSESSION OF PORTABLE POLICE RADIO	35-44-3-12
REFUSAL TO AID OFFICER	35-44-3-7
RESISTING LAW ENFORCEMENT	35-44-3-3
TAMPERING	35-44-3-4
TRAFFICKING WITH INMATE	35-44-3-9

CHAPTER 136: OFFENSES AGAINST PUBLIC ORDER

Section

- 136.01 Disturbing the peace
- 136.02 Congregating in public places
- 136.03 Disturbing place of worship or meeting

Curfew

- 136.10 Definition
- 136.11 Minor curfew
- 136.12 Curfew on town property

' 136.01 DISTURBING THE PEACE.

It is unlawful for any person to disturb the peace and quiet of the town or of its inhabitants by loud talking or by the making of unusual noises, or by the crying of any alarm without good cause, or by threatening any person or challenging him to fight or menacing him with physical injury or pecuniary loss, or by accosting or approaching any person of the opposite sex unknown to such person and by word, sign, or gesture attempting to speak to or become acquainted with such person against his will, except in the transaction of legitimate business. A violation of this section shall be deemed a Class B infraction.

(>82 Code, ' 21-300) Penalty, see ' 10.99

' 136.02 CONGREGATING IN PUBLIC PLACES.

It is unlawful for any person to congregate or cause to be congregated a crowd of three or more persons upon any public street, alley, sidewalk, parking lot, school, or school grounds, building, or any other public place within the town to obstruct the same, or so as to hinder or annoy passers-by or occupants of adjacent premises, or so as to interfere with the activities normally carried on on the premises. A violation of this section shall be deemed a Class C infraction.

(>82 Code, ' 21-310) Penalty, see ' 10.99

' 136.03 DISTURBING PLACE OF WORSHIP OR MEETING.

It shall be unlawful for any person within the town, by any loud or unnecessary talking or shouting or by any threatening, abusive, profane, or obscene language or violent action, or by any other rude behavior, to interrupt, molest, annoy, or disturb any group of persons convened for the purpose of worship, or in like manner to interrupt, molest, annoy, or disturb any meeting of persons met together for any lawful purpose. A violation of this section shall be deemed a Class B infraction.

(>82 Code, ' 21-320) Penalty, see ' 10.99

CURFEW

§ 136.10 DEFINITION.

For the purpose of § 136.11 and 136.12 the following definition shall apply unless the context clearly indicates or requires a different meaning.

CURFEW. A prohibition against any person walking, running, loitering, standing, or motoring upon any alley, street, highway, public property, or vacant premises within the corporate limits of the town during the hours in which a curfew has been imposed, excepting persons officially designated to duty with reference to the civil emergency.

(>82 Code, § 21-100(10))

§ 136.11 MINOR CURFEW.

(A) It is a curfew violation for a child 15, 16, or 17 years of age to be in a public place:

- (1) Between 12:00 a.m. and 5:00 a.m. on Saturday or Sunday;
- (2) After 10:30 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday; or
- (3) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday or Friday.

(B) It is a curfew violation for a child less than 15 years of age to be in a public place after 10:00 p.m. or before 5:30 a.m. on any day.

(C) Defenses.

(1) It is a defense to a violation under divisions (A) and (B) above that the child, at the time that the child was engaged in the prohibited conduct, was emancipated:

- (a) Under IC 31-37-19-27 or IC 31-6-4-15.7 (before its repeal);
- (b) By virtue of having married; or
- (c) In accordance with the laws of another state or jurisdiction.

(2) It is a defense to a violation under divisions (A) and (B) above that the child engaged in the prohibited conduct while:

(a) Accompanied by the child=s parent, guardian or custodian;

(b) Accompanied by an adult specified by the child=s parent, guardian or custodian;

(c) Participating in, going to, or returning from:

1. Lawful employment;

2. A school sanctioned activity;

3. A religious event;

4. An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

5. An activity involving the exercise of the child=s rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right to assembly; or

6. An activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one or more adults; or

(d) Engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

(D) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

(1) The child has violated this section; and

(2) There is no legal defense to the violation.

(E) Penalty. Violation of this section shall subject the violator to a fine of no less than \$25 and no more than \$2,500 for each violation.

(>82 Code, ' 21-330) (Am. Ord. 826, passed 7-23-02; Am. Ord. 897, passed 5-18-04) Penalty, see ' 10.99

' 136.12 CURFEW ON TOWN PROPERTY.

(A) No person shall enter or remain upon the premises of any public park, grounds, or facilities of the town during the hours from 2004 S-19

10:00 p.m. to 5:00 a.m., prevailing official local standard time, unless prior permission has been obtained from the Park Board of the town, except as hereinafter provided.

(B) No person shall enter or remain upon the premises of the North Park of the town, located at Cline Avenue and Lakeshore Drive, during the hours from 10:00 p.m. to 5:00 a.m. prevailing official local standard time, unless prior permission has been obtained from the town Chamber of Commerce, if the town Chamber of Commerce is the agent under a then-existing lease, or from the Park Board of the town. The Chamber of Commerce, while it remains agent of this property shall be permitted to post signs concerning the curfew regulations described.

(C) Violations of this section shall be punished as all other violations of sections and Town Code provisions. (>82 Code, ' 21-600; Am. Ord. 537, passed 7-24-91) Penalty, see ' 10.99

EDITOR=S NOTE:

This chapter contains references to those sections of state law which prohibit the most common offenses against public order. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

<u>OFFENSE</u>	<u>IC SECTION</u>
DESECRATION OF U.S. FLAG	35-45-1-4
DISORDERLY CONDUCT	35-45-1-3
HARASSMENT	35-45-2-2
INTIMIDATION	35-45-2-1
RIOTING	35-45-1-2
UNLAWFUL DISCLOSURE	35-45-2-4
UNLAWFUL USE OF CITIZENS RADIO SERVICE CHANNEL	35-45-2-3
UNLAWFUL USE OF PARTY LINE	35-45-2-3

CHAPTER 137: SEXUAL OFFENSES

EDITOR'S NOTE:

This chapter contains references to those sections of state law which prohibit the most common sexual offenses. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

<u>OFFENSES</u>	<u>IC SECTION</u>
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CHILD EXPLOITATION	35-42-4-4
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CHILD MOLESTING	35-42-4-3
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PUBLIC INDECENCY	35-45-4-1
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RAPE	35-42-4-1
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Section

138.01 Intoxicating beverages, narcotics, or controlled substances on town property

138.02 Synthetic cannabinoids prohibited

§ 138.01 INTOXICATING BEVERAGES, NARCOTICS, OR CONTROLLED SUBSTANCES ON TOWN PROPERTY.

No person shall use or possess any intoxicating beverage, controlled substance, or narcotic drug of whatever nature, while upon or otherwise utilizing such public park, grounds, or facilities of the town. A violation of this section shall be deemed a Class B infraction. (>82 Code, § 21-601) Penalty, see § 10.99

§ 138.02 SYNTHETIC CANNABINOIDS PROHIBITED.

(A) It is unlawful for any person to purchase, possess, sell, and offer for sale within the town products containing synthetic cannabinoids or similar products which contain one or more of the following chemical compounds:

- (1) (6aR,10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenso[c]chromen-1-ol, also known as HU-210;
 - (2) 1-Pentyl-3-(1-naphthoyl) indole, also known as JWH-018;
 - (3) 1-Butyl-3-(1-naphthoyl) indole, also known as JWH-073;
 - (4) All parts of the plant not presently classified botanically as *Salvia divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds, or its extracts;
 - (5) TFMPP, a substance also known as 1-#-[trifluoro-methylphenyl] piperazine; or
 - (6) Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl) phenol;
- and
- (7) Any other relevant compound or derivative.

(Hereinafter "products").

(B) It is unlawful for any person to burn, incinerate, or ignite in any public place or on any property owned, leased, or controlled by the town the products or any other product containing synthetic cannabinoids.

(C) It is unlawful for any person, entity, or retail/business establishment to sell, publicly display for sale, or attempt to give, sell, or barter the products or any other synthetic cannabinoids or synthetic equivalents of substances contained in the plant described as *Acannabis* or in the resinous extractives of *Acannabis* or synthetic substances, derivatives, or their isomers with similar chemical structure and pharmacological activity or any substance which claims such properties even if in actuality they do not. Because the nomenclature of these substances and products are not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are similarly prohibited.

(D) Persons violating the provisions of this section 130.01 shall be subject to a fine of not less than \$100 and not more than \$2,500, plus court costs and attorney fees, to the extent permitted by applicable law, associated with the enforcement of this section. Each day of the existence of any violation of this section shall be considered a separate offense.

(E) Entities, including businesses and retail establishments, violating the provisions of this section shall be subject to a fine of not less than \$500 and not more than \$7,500, plus court costs and attorney fees, to the extent permitted by applicable law, associated with the enforcement of this section. Each day of the existence of any violation of this section shall be considered a separate offense. A second conviction under this section shall result in the business license being revoked, in addition to the above-mentioned civil fines.

(F) If any of the aforementioned substances or products are found in the possession of any person or entity, such may be confiscated and destroyed by any law enforcement official as provided by law, and any aforementioned substances or products reasonably suspected to be described herein may be photographed as evidence pending adjudication of the alleged violation.

(G) It is not an offense if an individual or business was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this section prohibiting the aforementioned substance.

(H) This section does not apply to an individual or business who commits any act described in this section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

(l) The Town Attorney shall have the authority to seek an injunction and all appropriate equitable relief to prevent the selling or offering to sell the products prohibited herein in violation of this section by any business which refuses or fails to comply with this section. (Ord. 1110, passed 11-16-10)

EDITOR=S NOTE:

The list below contains references to those sections of state law which prohibit the most common drug offenses. These citations are intended only as convenient references. It is not the intention of the municipality to incorporate such statutory provisions in this code of ordinances, and such provisions are specifically not incorporated by reference.

OFFENSE IC SECTION

DEALING

Controlled substance

Schedule I, II, or III 35-48-4-2

Schedule IV 35-48-4-3

Schedule V 35-48-4-4

Counterfeit substance 35-48-4-5

Hashish 35-48-4-10

Hash oil 35-48-4-10

Marijuana 35-48-4-10

Narcotic drug 35-48-4-1

Paraphernalia 35-48-4-8.2

Substance represented to be controlled substance 35-48-4-4.5

MANUFACTURE

Paraphernalia 35-48-4-8.1

POSSESSION

Controlled substance 35-48-4-7

Hashish 35-48-4-11

Hash oil 35-48-4-11

Marijuana 35-48-4-11

Narcotic drug 35-48-4-6

Paraphernalia 35-48-4-8.3

REGISTRATION OFFENSES 35-48-4-14

VISITING COMMON NUISANCE 35-48-4-13

Section

139.01 Fee for handgun license applications

139.02 Weapons use and discharge regulations

139.01 FEE FOR HANDGUN LICENSE APPLICATIONS.

(A) The Metropolitan Police Department shall collect a \$10 fee from the applicant at the time that an application is submitted to the Chief of Police of the Department for a handgun license.

(B) All such fees, except as provided elsewhere herein, shall be deposited in the Metropolitan Police Department's firearms training fund, or other appropriate training activities fund, and shall be used by the Department exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties.

(C) In the event that the handgun license is not issued and the applicant has paid the fee as required hereby, \$5 of such fee shall be refunded to the applicant.

(Ord. 321, passed 10-14-81; Am. Ord. 456, passed 3-28-88)

139.02 WEAPONS USE AND DISCHARGE REGULATIONS.

(A) Discharging firearms. It shall be unlawful for any person to shoot, fire, or discharge any firearm within the town limits, as provided herein. For purposes of this section, FIREARM shall mean any weapon that is capable of expelling, designed to expel or may readily be converted to expel a projectile by means of an explosion. The term FIREARM shall include handguns, machine guns, rifles, shotguns, and all other weapons which fit the definition of firearm as provided herein, as defined by IC 35-47-1 et seq., or any other applicable state or federal laws.

(B) (1) This section shall not prohibit the discharge of firearms by certain exempted persons, namely:

(a) Any legally appointed local or federal law enforcement officer acting within the capacity of his or her authorized duty;

(b) Any person, who is legally authorized and licensed to own and possess a firearm, is acting in self-defense, the defense of their dependents, or the defense of a fellow citizen(s), if the circumstances are such that a reasonable and responsible adult, would determine that discharging the firearm is of absolute and immediate necessity, and that no alternative and less dangerous solution is feasible at the time, and in doing so, does not violate any local, state, or federal laws;

- (c) Any duly licensed hunters, provided all applicable hunting laws and regulations are adhered to; and
- (d) Any person discharging a weapon at lawfully operated shooting range, skeet range, or gun club.

(2) This section shall not be construed to restrict or otherwise prohibit the legal possession, purchase or use of firearms in accordance with applicable Indiana law, the Indiana Constitution or the United States Constitution.

(C) This section only regulates the discharge of firearms within the town municipal corporate boundaries and shall not be construed to regulate or otherwise restrict the following:

- (1) Firearms, ammunition, and firearm accessories;
- (2) The ownership, possession, carrying, transportation, registration, transfer, and storage of firearms, ammunition, and firearm accessories; and
- (3) Commerce in and taxation of firearms, firearm ammunition, and firearm accessories.

(D) (1) Any violations of this section shall result in the following penalties, namely:

- (a) First offense: \$250 fine;
- (b) Second offense: \$750 fine; and
- (c) Third offense and subsequent offenses: \$7,500 fine.

(2) Any second and subsequent offenses shall be determined based upon a calendar year.

(Ord. 1279, passed 12-19-17)

CHAPTER 140: MISCELLANEOUS

Section

140.01 Improper display of flag prohibited

140.99 Penalty

§ 140.01 IMPROPER DISPLAY OF FLAG PROHIBITED.

Any person who shall despoil, abuse, or otherwise display the flag of the United States of America in a manner inconsistent with the manner prescribed by the federal government within the town shall have committed an infraction.

(Ord. 477, passed 4-12-89)

§ 140.99 PENALTY.

The fine for violation of § 140.01 shall be the sum of \$2500.

(Ord. 477, passed 4-12-89)

