

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

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§ 130.01 LOITERING.

(A) *Certain disorderly conduct prohibited.*

(1) A person shall not do any of the following so as to obstruct the passage of others: lie, lounge, or sit (either directly or on a chair, box, or other object) on any street, alley, sidewalk, curb, gutter, any public right-of-way, or in any driveway open to the public; or in any doorway, entranceway, or passageway affording entrance or exit by the public into or from any building, regardless of whether the building, or any establishment therein, is open for business or not. No person shall congregate with others in these places so as to physically obstruct, by his or her actions or behavior, presence, or location, unimpeded passage by others.

(2) A person shall not sit, stand, lie or lounge upon, or hang upon or from the exterior of any automobile, motorcycle, bus, truck, motor vehicle, or vehicular trailer, while the vehicle is stopped or parked, in a manner so as to physically obstruct, by his or her actions or behavior, presence, or location, unimpeded passage by others.

(1991 Code, § 130.01)

(B) *Exceptions.*

(1) *Parades and/or celebrations.* The prohibition, in division (A) above, against sitting on the sidewalk curbs shall not apply during or immediately prior to any public parade or other public celebration at the site of the parade or the celebration for which parade or celebration the proper governmental agency has granted permission.

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(2) *Sidewalk sale.* The prohibitions contained in this section shall not apply to personnel of business establishments who, during the sidewalk sale for which a proper permit has been granted by the town or for which permission has been granted by proper governmental agency for the town, may sit on chairs or benches or the sidewalk adjacent to the establishments during the sale.

(3) *Public events.* The Town Council is empowered to suspend the provisions of this section, or particular prohibitions hereof, generally or in certain areas only when, in connection with carnivals, public activities, and other public events, the suspension is warranted in the opinion and discretion of the Council.

(1991 Code, § 130.02)

(C) *Enforcement.* Each and every town police officer is authorized to enforce the prohibitions of this section by issuing a traffic summons to any offender seen by the officer to be in violation of this section, provided, however, that a violator not a resident of the State of Indiana may be required to post bond, not to exceed \$25, notwithstanding his or her written promise to pay the fine.

(1991 Code, § 130.03) (Ord. 88-7, passed 8-1-1988) Penalty, see § 130.99

§ 130.02 DAM-RELATED PROHIBITIONS.

(A) It shall be unlawful for any person to ride or drive upon or over, with any type of motorized vehicle, including, but not limited to, automobile, motorcycle, dune buggy, snowmobile, or minibike, any dam or earth levee which is under the control of the district; except for the purpose of passing over the same at a public or private crossing, or upon the parts as may be or may become part of a public highway, or for the purpose of inspection or repair.

(B) It shall be unlawful for any person to damage, destroy, desecrate, or in any manner vandalize or cast litter upon any dam, earth levee, flood wall sign, gate, fence, pumping plant, right-of-way, or any other item which is under the control of the district.

(C) Any person, firm, partnership, or corporation who violates the provisions of this section, in addition to any fines or damages which may be assessed as a result of violations of this section, shall be subject to having any vehicle which is involved in a violation of this section being towed to an area designated by the Marshal, at the owner's expense, and the owner shall also be required to pay any and all storage fees resulting from this action.

(D) Any person, firm, partnership, or corporation who violates the provisions of this section shall be charged in the court of appropriate jurisdiction and, upon the appropriate finding and upon conviction, shall be fined in any sum not less than \$1 nor more than \$2,500. In addition, the court may, upon the conviction of a violator of this section, require the violator to pay all actual damages suffered by the district, and these damages shall be paid directly to the district.

(Ord. 96-01, passed 2-12-1996)

§ 130.03 DISCHARGE OF FIREARMS; DETONATION OF EXPLOSIVES.

(A) It shall be unlawful for any person, corporation, or other entity to discharge a firearm, a BB gun, a pellet gun, a paint ball gun, or cannon; to detonate an explosive or fireworks within the corporate limits of the Town of Rome City; or to assist any person or persons to engage in any discharging or detonation; unless the person, entity, or corporation has been granted special permission in advance by the Rome City Police Department of the Town of Rome City, Indiana.

(B) This section shall not apply to any of the following activities:

(1) Any law enforcement officer who shall discharge a firearm in the lawful performance of his or her duty;

(2) Any person who shall discharge a firearm in the protection of life or property when the surrounding facts and circumstances justify the action; or

(3) Any person who shall, in connection with an athletic event, discharge a blank cartridge.

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

FIREARM.

(a) Any weapon that is capable or designed to, or that may readily be converted to, expel a projectile by means of an explosion; and/or

(b) An explosive mixture that is commonly used or intended for the purpose of producing an explosion; or contains any oxidizing and combustive units or other ingredients in the proportions, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

(D) Any person who violates the provisions of this section shall be charged in the court of appropriate jurisdiction and, upon the appropriate finding, shall be deemed to have committed a Class C infraction and fined accordingly.

(E) This section may be enforced by the Town Marshal, all police officers, and any prosecutor or attorney duly appointed, constituted, and acting under the authority of the Town of Rome City, the County of Noble, or the State of Indiana.

(Ord. 96-02, passed 2-12-1996) Penalty, see § 130.99

§ 130.04 CURFEWS.

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

(1) After 11:00 p.m. on a Friday or Saturday and before 5:00 a.m. on the succeeding Saturday or Sunday; and

(2) After 10:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday and before 5:00 a.m. on the succeeding 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 9:00 p.m. or before 5:00 a.m. on any day.

(C) It is a defense to a violation of this section that the child was emancipated:

(1) Under I.C. 31-37-19-27 or I.C. 31-6-4-15.7 (before its repeal);

(2) By virtue of having married; or

(3) In accordance with the laws of another state or jurisdiction;

(D) It is a defense to a violation of this section that the child engaged in the prohibited conduct while:

(1) Accompanied by the child's parent, guardian, or custodian;

(2) Accompanied by an adult specified by the child's parent, guardian, or custodian; and

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

(a) Lawful employment;

(b) A school sanctioned activity;

(c) A religious event;

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

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

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

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

(E) A child and its parents, guardians, or responsible adults violating this section commits a class “B” infraction the first time a violation occurs and a class “A” infraction for each subsequent violation. (Ord. 96-09, passed 10-7-1996; Am. Ord. 04-04, passed 3-8-2004) Penalty, see § 130.99

§ 130.05 USE OF REAL ESTATE FOR ILLICIT DRUG ACTIVITY.

(A) *Purpose.* The Town Council finds it to be in the best interests of the residents of the Town of Rome City and the general public to provide for the regulation of conduct it deems to be offensive; to prevent vice, disorder, and immorality; and to promote public peace, health, and safety; therefore, to this end, the Town Council enacts this section.

(B) *Permitting the use of real estate for illicit drug activity.* No owner of real estate located in the Town of Rome City shall knowingly allow that real estate to be used as a site for any use or sale of illicit narcotics or controlled dangerous substances, after having received written notice pursuant to I.C. 36-7-9-25 from the Marshal’s office of the Town of Rome City that a present occupant or tenant of that property has been using or selling illicit narcotics or controlled dangerous substances, or allowing the using or selling of illicit narcotics or controlled dangerous substances at that property, or has otherwise been engaging in or allowed activity constituting a nuisance pursuant to I.C. 32-30-6-6. A legal or equitable owner of the real estate is deemed to have knowledge of such activity upon receipt of notice set forth in this section. For the purposes of this section, an owner of real estate is defined as any person who, alone, or jointly or severally with others shall have legal or equitable title to any dwelling or dwelling unit.

(C) *Notice.* Notice is deemed to be given to the owner, upon receipt of notice as indicated above, by the owner of record pursuant to the records and files of the Office of the Noble County Assessor’s Office.

(D) *Discrimination forbidden.* Nothing in this section shall be construed to encourage or authorize the discrimination by lessors against any person(s) based upon race, creed, religion, sex, age, or national origin. Rather, it is the intent of this section to hold persons accountable for acquiescing in or participating in the continued use of his or her property as the location of illegal drug activity, after having received notice as set forth in division (C).

(E) *Reports, investigations and notices by the Police Department.*

(1) A complaint or report of suspected illegal activities constituting the use or sale of narcotics or controlled substances, or conduct constituting a nuisance pursuant to I.C. 32-30-6-6, by tenants, occupants and/or their visitors, guests or invitees as observed by the lessor, third persons such as other tenants of the property, or persons residing or working in the vicinity of the property, or town officials, and/or representatives of agencies and/or departments of the town shall be submitted to the office of the Town Marshal and each such report or complaint shall be individually logged in that office.

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(2) Upon receipt of any report or complaint of such suspected illegal activities on real estate premises, a determination shall be made by the town, Town Marshal, and or other law enforcement agencies as to the need and nature of any further investigation including, but not limited to, the necessity for surveillance by the Town Marshal of such real estate premises.

(3) Upon completion of investigation by the Town Marshal revealing that such suspected illegal activity is taking place at a particular premises, a warning letter shall be sent by the Town Marshal to the owner of the real estate and a copy to the tenant/occupant whose premises is the subject of the investigation, by certified mail, return receipt requested, informing the owner of the investigation revealed the suspected illegal activity and the fact that there is an on-going investigation. The warning letter shall inform the owner of his/her choice to take action to abate such suspected illegal activity and of the intent of the Town Marshal, if its on-going investigation indicates such suspected illegal activity has not ceased, to take further legal action.

(4) Once a search warrant has been obtained to search the real estate premises for narcotics or controlled substances, or for any other evidence related to the suspected illegal activity, a second letter which shall be sent to the owner of the real estate, by certified mail, return receipt requested, shall inform the owner that the warrant was served, that the investigation at the premises is continuing, and that legal proceedings may be commenced pursuant to this section. The letter shall inform the owner of his or her choice to take some form of remedial action. A copy of the letter shall be sent to the Town Marshal, the Town Attorney's office, and to the tenant or occupant of the premises for which a search warrant is obtained.

(5) Upon receipt of a copy of the second letter issued under division (E)(4) of this section, the Town Attorney's office may proceed under I.C. 34-1-52-2(b) to abate or enjoin any suspected illegal activity, as defined herein constituting a nuisance as defined in I.C. 32-30-6-6, and/or to advise the Town Marshal to issue a notice pursuant to divisions (B) and (C) of this section. The notice shall advise that legal proceedings may be instituted against the owner of real estate, pursuant to this section, and shall also inform the owner of his or her choice to commence eviction proceedings pursuant to division (G) of this section.

(F) *Criteria for establishing a violation.* Conviction for a violation of this section will be determined by the appropriate judicial authority and based upon the totality of the circumstances present, including, but not limited to, evidence that the owner has received notices of suspected illegal activity pursuant to divisions (B), (C), and (E) of this section.

(G) *Eviction proceedings as a defense.*

(1) No person shall be charged with the violation of this section if the person:

(a) Has instituted eviction proceedings within 30 days of receipt of the notice of criminal activities, in accordance with division (B) above, against the tenant whose suspected criminal activities would otherwise give rise to potential liability under this section; and

(b) Has completed the eviction proceedings within 30 days of commencement of the proceedings.

(2) If any eviction proceeding is not completed within 30 days by reason of court ordered delays in the proceeding, the person charged with a violation of this section must, nonetheless, move forward expeditiously with any eviction proceeding.

(H) *Multiple unit dwellings.* In the case of a multiple unit dwelling, the only person(s) necessary to name in an eviction proceeding is the tenant or occupant occupying the actual unit involved with the suspected illegal activity described herein.

(I) *Filing of criminal charges.* Charging an owner of real estate with a violation of this section shall be an adjunct to, and not substitution for, any criminal charges filed as a result of investigation by the Town Marshal against occupants or tenants of that owner's real estate premises for use or sale of illicit drugs or controlled dangerous substances, or conduct constituting a nuisance pursuant to I.C. 32-30-6-6, or Chapter 93 of the Municipal Code of the Town of Rome City.

(J) *Assistance by Town Marshal.* The Town Marshal shall use reasonable efforts to train, educate, and assist owners of real estate in avoiding placing tenants or occupants in their real estate who are known violators of illegal activities enumerated herein.

(K) *Limited indemnification of owners of real estate.* The Town of Rome City shall provide a limited indemnification to an owner of real estate located in the Town of Rome City, subject to the following conditions.

(1) The owner of real estate shall have received the written notice required by division (B) of this section from the Town Marshal advising that a present occupant or tenant of the property of that owner of real estate has been using or selling illicit narcotics or controlled dangerous substances, or allowing the using or selling of illicit narcotics or controlled dangerous substances at that property, or has otherwise been engaging in or allowing activity constituting a nuisance pursuant to I.C. 32-30-6-6.

(2) The owner of real estate has instituted eviction proceedings within 30 days of receipt of notice of suspected illegal activities, in accordance with division (B) above, against a tenant whose suspected criminal activities would otherwise give rise to potential liability under this section.

(3) The owner of real estate shall give no less than 30 days notice to the Town Attorney, by certified mail, return-receipt requested, of the trial date for any eviction proceedings and a list containing the names and addresses of all witnesses the owner of real estate intends to call at the hearing.

(4) The Town Attorney, upon receipt of the notice and list of witnesses, shall have the right to provide the owner of real estate with the names and addresses of additional other witnesses, including, but not limited to, witnesses from the Rome City Town Marshal whose presence shall be required at the hearing on the eviction proceedings.

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(5) All witnesses listed by either the owner of real estate and/or the Town Attorney's office shall be subpoenaed by the owner of real estate, in proper and legal fashion, and be allowed to testify.

(6) The tenant involved as a defendant in the eviction proceedings shall prevail on the merits, not by reason of procedural irregularities, by sole reason that a court finds after trial that the illegal activity alleged in the notice the owner of real estate had received, pursuant to division (B) above of this section, did not, in fact, take place.

(7) The tenant institutes legal proceedings against the owner of real estate in the form of a counter claim or separate action and obtains a judgment for damages against the owner of real estate by reason of the tenant having prevailed on the merits in accordance with division (K)(6) above.

(8) The owner of real estate completes whatever steps he or she chooses to undertake to seek review of the judgment by motion to correct errors and/or appeal.

(9) The limited indemnification by the Town of Rome City shall be restricted solely to those damages assessed by judgment against the owner of real estate as set out aforesaid; but shall not, in any event, include any attorney's fees incurred by the owner of real estate in connection with the enforcement of any of the terms of this section; but will include either the reasonable attorney's fees incurred in the defense of legal proceedings brought by a tenant pursuant to division (K)(7) above, regardless of the outcome of the proceedings, or the provision of the legal services by the Town of Rome City, at the town's options.

(L) *List to be kept by Town Marshal.* The Town Marshal shall keep a list of the names and addresses of all tenants or occupants to whom copies of letters were sent pursuant to division (E)(4) above, and shall make the names available to members of the public requesting them in reference to potential renters of real estate in the town.

(Ord. 99-07, passed 12-13-1999) Penalty, see § 130.99

§ 130.06 JUMPING, DIVING, AND SWIMMING OFF OR NEAR CERTAIN BRIDGES PROHIBITED.

(A) It is unlawful to jump or dive from, or swim beneath or within 25 feet of the tunnel beneath the causeway to Kerr Island, the Kelly Street (State Road 9) bridge, and within the safety cables and warning buoys of the Sylvan Lake dam, and that any individual who should so conduct themselves shall commit a Class A infraction, punishable as provided by the laws of the State of Indiana.

(B) The enforcement of this section may be made by any law enforcement officer, local, county, or state, and further, this section may be enforced by the Noble County Prosecutor or by the attorney for the town.

(Ord. 2004-14, passed 11-8-2004)

§ 130.07 SYNTHETIC CANNABINOID.

(A) It is hereby declared to be unlawful for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale, or attempt to sell, give, or barter any one or more of the following chemicals, or any item which alleges to contain, within the boundaries of the Town of Rome City.

(1) 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol {also known as CP 47,497 and its C6, C7, C8, and C9 homologues}

(2) (6aR, 10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c] chromen-1-ol {also known as HU-210}

(3) Naphthalen-1-yl-(1-pentylindol-3-yl) methanone {also known as 1 Pentyl-3-(1-naphthoyl) indole or JWH-018}

(4) Naphthalen-1-yl-(1-butylindol-3-yl) methanone {also known as 1-Butyl-3-(1-naphthoyl) indole or JWH-073}

(B) This section shall be enforced by the Rome City Police Department. If any of the substances listed in division (A) herein are found in the possession of any person, they may be confiscated and destroyed by law enforcement officials.

(C) It is not an offense under division (A) herein if the person was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substance.

(D) This section does not apply to any person 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.

(E) Any business found to be in violation of this section will be subject to a civil fine of \$2,500. Any person found in violation of this section will be guilty of a civil fine not to exceed \$1,000.

(F) The Town Attorney shall have the authority to seek an injunction to close any business which refuses to or fails to comply with this section. This section may be enforced by the Town Marshal, his or her deputy and any other law enforcement officer with arrest powers in the State of Indiana; and prosecuted by the Town Attorney or any prosecutor of the State of Indiana, either designee or deputy.

(G) In addition to the fines imposed as an infraction hereunder, any person deemed violating this section shall be responsible for all attorney fees and other costs incurred by the town in the enforcement and prosecution of this section.

(H) If any provision of this section is held invalid, such invalidity shall not affect the remaining provisions of the section which shall remain effective absent the invalid provision, and to this end, the provisions of the section are declared to be severable.

(Ord. 2010-10, passed 9-13-2010)

§ 130.08 PRODUCTS CONTAINING CBD OIL.

(A) It shall be unlawful to sell any product within the town limits of Rome City, Indiana which contains as one of its ingredients, or its sole ingredients, CBD oil in any shape, form, amount, or nature of content.

(B) Any ingredient with reference to CBD on the label shall be deemed sufficient proof of a violation hereof.

(Ord. 2019-13, passed 12-9-2019) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) A person violating any prohibition of § 130.01 shall be fined in any amount not less than \$25 nor more than \$100.

(1991 Code, § 130.99) (Ord. 88-7, passed 8-1-1988)

(C) The first violation of § 130.04 shall be handled with the return of the child to his or her parent. The parent of any child who violates § 130.04 a second time shall be guilty of a Class B infraction and shall be fined \$50.

(Ord. 96-09, passed 10-7-1996)

(D) Whoever violates any provision of § 130.05 shall, upon conviction thereof, be fined a sum up to \$2,500 plus costs of prosecution. Each day a violation of § 130.05 continues constitutes a separate offense.

(E) If a person is found to have violated § 130.08, they shall receive a fine for a first offense of \$100, and for any second or subsequent offense at any time, the fine shall be the sum of \$500, as well as all costs of collection and attorney's fees.

(Ord. 99-07, passed 12-13-1999; Am. Ord. 2019-13, passed 12-9-2019)