

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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§ 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 voluntarily relinquish possession of an animal with the intention to terminate ownership of the animal without transferring its ownership to any other person.

ANIMAL. Any live, non-human, vertebrate creature.

ANIMAL CONTROL OFFICER. Any person employed by Jennings County, Indiana, authorized to perform the duties required by this chapter and any other applicable law.

ANIMAL SHELTER. Any facility operated by or operating under contract to the county, a humane society, or a municipal corporation for the purpose of impounding or caring for animals held pursuant to this chapter, a court order, or any other applicable law. The term shall also include any agent or employee of such a facility.

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AT LARGE ANIMAL. Any domestic animal not on the premises of its owner or not under the reasonable control of a person. The term shall not include any dog engaged in lawful hunting activities in the company of its owner or custodian.

DOMESTIC ANIMAL or ***PET.*** Any animal kept for a non-commercial purpose. The term does not include domestic livestock, or wild or exotic animals.

DOMESTIC LIVESTOCK. Any animal kept for a commercial purpose. The term does not include domestic pets, or wild or exotic animals.

EXOTIC ANIMAL. Any animal not otherwise defined in this chapter. The term includes animals not commonly kept as domestic pets or livestock and not native to the North American continent.

HARBOR. To permit to remain at large, to keep, to feed, to shelter, or to care for an animal within or upon a person's property or property under a person's control. An animal that is fed or sheltered for three consecutive days by a person within or upon his or her home, enclosure, yard, or place of business, or upon any premises under a person's control, is presumed to be ***HARBORED*** by that person.

KENNEL.

(1) Property or a facility in which a person:

(a) Owns, keeps, boards, or harbors six or more dogs, 12 weeks of age or older;

(b) Produces two or more litters per year issuing from dogs owned, kept, or harbored therein; or

(c) Offers for sale dogs from two litters or more issuing from dogs owned, kept, or harbored therein.

(2) The term does not include animal shelters, veterinary hospitals not engaged in commercial boarding or breeding, and groomers not engaged in commercial boarding or breeding.

NEGLECT. The failure of a person to provide an animal owned or harbored by that person with sufficient and wholesome food, water, shelter, and reasonable care, including veterinary treatment, necessary to prevent suffering by the animal.

OWNER. Any person owning, possessing, keeping, or harboring an animal.

PERSON. Any human being, firm, association, cooperative, partnership, company, or corporation.

POULTRY. Any domesticated bird kept for eggs or meat.

PUBLIC NUISANCE. Any animal, other than domestic livestock, that molests, harasses, or threatens persons or vehicles, attacks persons or animals, damages public or private property, causes significant discomfort to or an unacceptable health condition upon the public, or, due to sound or odor, causes unreasonable and excessive annoyance to persons to the extent it interferes with their peaceable enjoyment of private or public property. The term includes a dog that barks, whines, or howls excessively, unless engaged in hunting, so as to disrupt the peace and quiet of the public.

VICIOUS DOG. Any dog that by its behavior or history presents an apparent or an immediate threat of bodily harm to a person or an animal.

WILD ANIMAL. Any animal whose species usually lives in the wild or is not domesticated.
(Ord. 931, passed 7-8-2013)

§ 90.02 ANIMAL CONTROL SUPERVISION.

(A) *Generally.*

(1) The Animal Control Board shall consist of five members to be appointed as follows: one member to be appointed by the County Council, one member to be appointed by the City Council, one member to be appointed by the City Mayor, and two members to be appointed by the County Commissioners. It shall not be required that a licensed veterinarian serve on the Animal Control Board. The Animal Control Board shall have direct supervision of the Animal Control Officer, staff, building, facilities, and treatment of the animals.

(2) The Animal Control Board shall have broad authority and shall:

(a) Report to the County Commissioners as necessary and as requested by the County Commissioners;

(b) Formulate policies, principles, standards, and regulations for the control and humane treatment of all animals within the county;

(c) Meet on a monthly basis;

(d) Supervise the enforcement of the terms of this chapter and to make recommendations to the Commissioners and City/County Councils as to the ordinances necessary for the care and treatment of all animals within the county;

(e) Review the decisions and actions of the Animal Control staff in any matter related to the enforcement of this chapter. Upon the written request for a hearing concerning the enforcement of this chapter, the Board shall meet in a timely fashion to hear the complaint. All complaints must be filed in writing;

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(f) Discipline employees consistent with the County Personnel Policies. All disciplinary actions taken by the Animal Control Board shall be reviewed and finalized by the County Commissioners;

(g) Oversee the budget approved by the County Commissioners for Animal Control, with said duties including, but not limited to:

1. Approve any and all monies spent or funding dispensed by the Animal Control Board or Animal Control Officers or employees in excess of \$500, excluding animal food purchases;

2. If it is necessary for the Animal Control Officer or an Animal Control employee to make a purchase in excess of \$500, prior to the next monthly meeting of the Animal Control Board, then the Officer or employee shall obtain approval from the sitting County Commissioner president prior to said purchase; and

3. Approve any and all claims for monies or funding prior to any disbursements being made.

(h) Have the authority to enter and inspect the Animal Control Shelter at any time without prior permission or consent from any Animal Control Officer or employee.

(B) Supervision of the Animal Control Officer, powers, duties, and responsibilities of Animal Control Officer.

(1) The Animal Control Officer shall be under the direct supervision of the County Animal Control Board, the Animal Control Officer shall:

- (a) Report to County Commissioners as necessary and upon request of the County Commissioners;

- (b) Report to the Animal Control Board as necessary and upon request of the Animal Control Board;

- (c) Attend all Animal Control Board meetings;

- (d) Be dispatched and clocked in and out by the County Sheriff's Department;

- (e) Be paid by salary to be determined by the County Commissioners and shall have overtime and compensatory time paid in accordance with the County Policies and Procedures Manual.

1. Overtime must be recorded by the Animal Control Officer on a county employee timesheet with said log detailing when, where, and how much overtime was worked.

2. Compensatory time must be recorded by the Animal Control Officer on a county employee timesheet with said log detailing when and where the compensatory time was earned and how much compensatory time was used.

3. Overtime and compensatory time must coordinate. Failure of Animal Control Officer to be able to coordinate overtime and compensatory time may result in disciplinary action by the Animal Control Board and/or the County Commissioners.

(f) Keep a gas log in the Animal Control vehicle, which shall document the mileage of the vehicle and how much gas (gallons and cost) was deposited in the vehicle every time the vehicle is filled. Failure of Animal Control Officer to accurately record gas fill ups on the gas log may result in disciplinary action by the Animal Control Board and/or the County Commissioners;

(2) The Animal Control Officer shall have the following powers, duties, and responsibilities:

(a) Formulate policies, principles, standards, and regulations for the control and humane treatment of all animals within the county of in accordance with the Animal Control Board and the County Commissioners;

(b) Supervise the enforcement of the terms of this chapter and to make recommendations to the Commissioners and City/County Councils in accordance with the Animal Control Board as to the ordinances necessary for the care and treatment of all animals within the county;

(c) Review the decisions and actions of the Animal Control staff in any matter related to the enforcement of this chapter in accordance with the Animal Control Board. Upon the written request for a hearing concerning the enforcement of this chapter, the Board shall meet in a timely fashion to hear the complaint. All complaints must be filed in writing; and

(d) In the execution of his or her duties, the Animal Control Officer and staff shall have the power to enter real property in immediate pursuit of an animal reasonably believed to be in violation of this chapter, a state or federal statute or rule, or a court order, however, an Animal Control Officer shall not enter a dwelling or the curtilage thereto without the consent of a person who resides therein unless accompanied by a uniformed law enforcement officer with a search or arrest warrant. This division (B)(2) shall not be construed to prohibit the Animal Control Officer from approaching a dwelling and knocking on the door to make contact or speak with a resident.

(3) The County Sheriff shall:

(a) Report to County Commissioners as necessary and upon request of the County Commissioners;

(b) Monitor hours of the Animal Control Officer and other full-time employees, including hours worked, vacation, overtime, and compensatory time earned;

(c) Provide dispatch services for Animal Control; and

(d) Shall have authority over Animal Control only to the extent of dispatching Animal Control as needed and tracking and reporting the Animal Control Officer's time worked.

(C) *All other Animal Control employees.*

(1) All other Animal Control employees shall be under the direct supervision of the Animal Control Board and Animal Control Officer.

(2) Said employees shall:

(a) Report to County Commissioners as necessary and at the request of the County Commissioners;

(b) Formulate policies, principles, standards and regulations for the control and humane treatment of all animals within the county in accordance with the Animal Control Officer, the Animal Control Board, and the County Commissioners;

(c) Supervise the enforcement of the terms of this chapter and to make recommendations to the Commissioners and City/County Councils in accordance with the Animal Control Office and the Animal Control Board as to the ordinances necessary for the care and treatment of all animals within the county;

(d) In the execution of his or her duties, an Animal Control employee shall have the power to enter real property in immediate pursuit of an animal reasonably believed to be in violation of this chapter, a state or federal statute or rule, or a court order; however, an Animal Control Officer shall not enter a dwelling or the curtilage thereto without the consent of a person who resides therein, unless accompanied by a uniformed law enforcement officer with a search or arrest warrant. This division (C)(2)(d) shall not be construed to prohibit the Animal Control Officer from approaching a dwelling and knocking on the door to make contact or speak with a resident;

(e) Shall keep track of overtime and compensatory time in the manner described in this division (B)(1)(e). Failure of an employee to comply with said procedure may result in disciplinary action by the Animal Control Board and/or the County Commissioners;

(f) Shall keep a gas log in the Animal Control vehicle in the manner described in this division (B)(1)(f). Failure of an employee to comply with said procedure may result in disciplinary action by the Animal Control Board and/or the County Commissioners; and

(g) Any part-time employees of Animal Control shall keep track of time worked, including vacation, overtime, and compensatory time earned manually. The Animal Control Board shall be responsible for submitting part-time employees' time worked to the County Auditor.

(Ord. 931, passed 7-8-2013)

§ 90.03 ANIMAL CONTROL FACILITY.

(A) Hours of operation.

(1) The Animal Control facility shall have hours of operation on Monday through Friday from 8:00 a.m. to 4:00 p.m.

(2) Evening and weekend hours may be adopted at the discretion of the Animal Control Board in order to allow for animal adoptions.

(3) During hours of operation, the Animal Control Shelter shall be open to the public, including members of the Animal Control Board.

(B) Volunteers at Animal Control facility.

(1) Non-Animal Control employees and members of the public shall be able to volunteer time and/or resources to the Animal Control Shelter.

(2) Said volunteers shall be required to complete and sign a liability waiver acknowledging neither Animal Control or the county may be held liable for any injury or loss a volunteer may incur during the course of volunteering. This waiver must be on file at the Animal Control Shelter prior to any volunteer duties being performed.

(3) Said volunteers may be subject to a criminal background check at the discretion of the Animal Control Officer and/or the Animal Control Board.

(Ord. 931, passed 7-8-2013)

§ 90.04 DOG TAX AND IMMUNIZATION.

(A) It is unlawful to harbor a dog, cat, or ferret over the age of six months which is not immunized against rabies.

(B) The Animal Control Officer shall have the authority to cite and report, if necessary, any person who owns or harbors a non-immunized dog to the appropriate law enforcement agency for prosecution.

(C) The County Health Administrator may order the destruction, quarantine, or impoundment of a domestic animal that has bitten a person, or the destruction, quarantine, or impoundment of any domestic animal bitten by a rabid animal, pursuant to state law.

(Ord. 931, passed 7-8-2013) Penalty, see § 90.99

§ 90.05 RESTRAINT, CONTROL, AND CONFINEMENT.*(A) At large animals.*

(1) It shall be unlawful for an owner or person having custody or control of an animal to allow such animal to run at large so as to create a public nuisance.

(2) An owner or person having custody or control of an animal shall not allow such animal to stray beyond his or her premises unless under the reasonable control of some person.

(3) Working farm dogs used for tending purposes or dogs engaged in lawful hunting, trials, or dog show activities, while accompanied by the owner or custodian, are excepted from this chapter.

(4) In addition to any fines specified in this chapter, any person who allows or causes any animals to stray onto, or to be found upon, a public highway or other public property, shall be liable for the costs of removal and storage of said animals and notification to the owner.

(B) Female dog in heat. Any female dog in heat shall be confined in a building or some enclosure in such a manner that the female dog in heat cannot come into contact with a male dog, except for planned breeding.

(C) At large dogs. An owner or person having custody or control of a dog shall not allow such dog to stray beyond his or her premises.

(D) At large livestock. An owner shall not allow his or her livestock to stray beyond his or her premises.

(E) At large wild or exotic animals. An owner of a wild or exotic animal shall not allow the animal to stray beyond his or her premises.

(Ord. 931, passed 7-8-2013) Penalty, see § 90.99

§ 90.06 VICIOUS ANIMALS, PUBLIC NUISANCE, AND IMPOUNDMENT.*(A) Vicious dog.*

(1) A vicious dog shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of the owner or person having custody or control of such dog. Such confinement and restraint shall be sufficient to ensure that persons and property will not suffer harm from such dog.

(2) An Animal Control Officer may seize and impound any vicious dog, and if such dog is seized and impounded, the owner or person having custody or control of such dog shall be responsible for payment of all expenses arising from or related to the seizure and impoundment.

(B) *Public nuisance.* An owner or person having custody or control of an animal shall exercise due care and control of such animal so as to prevent the animal from becoming a public nuisance.

(C) *Impoundment; alternative penalty.*

(1) Any at large animal, unlicensed dog, vicious dog, female dog in heat that is not confined, or neglected animal, may be taken by law enforcement officers or by an Animal Control Officer and impounded in the Animal Shelter or impounded at suitable alternative facilities approved by the Commission.

(2) If the owner of an impounded animal can be identified by a license tag or other reasonable means, the Animal Control Officer shall immediately upon impoundment notify such owner by telephone or mail of the impoundment.

(3) For the purpose of notifying owners whose identities cannot reasonably be determined that missing animals may have been impounded pursuant to this chapter, notice shall be placed weekly in a newspaper of general circulation within the county to that effect. The published notice shall contain the name, address, telephone number, and hours of operation of the facility in which the animals are impounded to enable owners to locate and retrieve the animals. Notices individually describing impounded animals are not required.

(4) Any animal that is not claimed by the owner whose identity is determined within five days of notification shall become the property of the county and may be placed for adoption or humanely euthanized.

(5) An owner claiming an impounded animal shall pay all costs associated with the seizure and the impoundment of such animal, including all necessary treatment costs, expenses of notification, expenses associated with any legal proceedings regarding such animal, transportation fees, board fees, and any daily fees established by the county or any alternative facility approved by the Commission and used to impound such animal.

(6) In addition to or in lieu of impounding an animal, a law enforcement officer or an Animal Control Officer may issue to a person violating any provision of this chapter a notice of ordinance violation. If the person has not paid the fine and all associated expenses within two weeks of receiving such notice, the Animal Control Officer may refer the violation to the County Attorney for further action, which may include prosecution of the violation in court.

(7) All dogs impounded under this division (C) and not registered, licensed, tagged, and redeemed shall be placed for adoption or disposed of in a humane manner after the expiration of the following time periods:

(a) Five days after notice is given to the owner;

(b) Five days after impoundment when the owner is unknown; or

(c) At a time fixed by the court or by law.

(8) Notwithstanding any other language in this chapter, under no circumstances may a vicious dog be placed for adoption.

(D) *Impoundment for animal bite.* If an animal has bitten a person, it shall be impounded in the Animal Shelter or a veterinary hospital or kennel acceptable to the Animal Control Officer, at the owner's choice and expense, for a period of ten days in order to determine whether or not the animal has rabies. If the animal dies during the period, it shall, at the owner's expense, be sent to the proper authorities to determine whether or not it was rabid.

(Ord. 931, passed 7-8-2013) Penalty, see § 90.99

§ 90.07 ANIMAL CARE.

(A) *Generally.*

(1) Every owner of an animal shall see that his or her animal has proper and adequate food, water, shelter, protection from the weather, and medical care, and that his or her animal 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.

(2) No person shall abandon or neglect a vertebrate animal.

(B) *Torture or abuse of an animal.*

(1) No person shall torture, beat, mutilate, cruelly treat, torment, overload, overwork, or otherwise abuse an animal; or cause, instigate or permit a dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(2) A dog may be chained or tethered only subject to the following conditions.

(a) The chain or tether must be no shorter than five times the length of the dog, as the dog is measured from the tip of its nose to the base of its tail or 15 feet, whichever is less.

(b) In addition to the length prescribed by division (B)(2)(a) above, if the chain or tether is attached to an overhead trolley, pulley, or running line, the chain or tether must include a length at least equal to the height of the highest point on the overhead trolley, pulley, or running line.

(c) The chain or tether shall not weigh in excess of one-eighth of the dog's weight.

(d) The chain or tether shall have a swivel at both ends.

(e) For the purpose of this division (B), **CHAINING OR TETHERING** shall mean to restrain a dog by tying or attaching it to any stationary object by any means, including, but not limited to, a chain, rope, cord, leash, pulley, or running line, however, it shall not be construed to mean restraint of a dog by a human being when the human being is the only thing to which the dog is attached by a chain, rope, cord or leash.

(f) The chaining and tethering restrictions contained herein shall not apply to dogs while being shown or competing in dog shows, agility trials, county fairs, and like activities. Nor shall they apply to dogs while engaged with human beings in hunting activities.

(3) An animal Control Officer shall report any person who violates any of the provisions of I.C. 35-46-3 (Offenses Relating to Animals, as existing January 1, 2001, or its equivalent should the legislature amend, restate, or recodify said offenses), to the appropriate law enforcement agency.

(C) Animal Management Fund.

(1) All fines, fees, costs, and penalties collected pursuant to this chapter shall be deposited into a dedicated, non-reverting fund to be known as the Animal Management Fund.

(2) Monies in the Fund may be spent only after approval by the County Board of Commissioners.

(3) This Fund shall continue until such time as it is rescinded by action of the Board of Commissioners, in which event, any monies left in the Fund shall revert to the County General Fund.

(D) Procedure for euthanizing animals.

(1) An animal brought to the Animal Control Shelter shall be euthanized if and only if:

(a) The animal has been at the shelter in excess of ten days, i.e., an animal shall be euthanized on its eleventh day at the shelter;

(b) The animal is vicious and presents a serious risk of harm to other animals in the shelter and/or Animal Control employees or volunteers; and/or

(c) The animal is critically injured or critically ill and proper treatment is beyond the scope of care of Animal Control.

(2) An Animal Control employee shall euthanize animals in compliance with this section. Failure of an Animal Control employee to follow the outlined procedures shall result in disciplinary action by the Animal Control Board and/or the County Commissioners.

(E) *Designated area for aggressive animals.*

(1) If an animal being kept at the Animal Control Shelter is particularly aggressive, posing a risk of harm to other animals, Animal Control Shelter employees, or volunteers, and it is not or has yet to be euthanized, then said animal shall be kept in a designated area only for aggressive animals.

(2) Said designated area shall be clearly marked as an area for aggressive animals.

(3) Animal control volunteers shall not be permitted to work in the area for aggressive animals and shall not be permitted to work with the aggressive animals in any manner.

(Ord. 931, passed 7-8-2013)

§ 90.08 KENNELS AND COMMERCIAL DOG BREEDING.

(A) *Licenses.*

(1) A license is required to operate as a commercial kennel. Each kennel operated shall be considered a separate enterprise and each enterprise shall have a kennel license.

(2) A license shall be issued when the applicant complies with all laws and regulations pertaining to the issuance of licenses and pays the required kennel licensing fee. No license shall issue to any kennel unless it is in compliance with all applicable zoning requirements.

(3) A license is valid for 12 months from the date of issuance and may be renewed in accordance with division (A)(2) above.

(4) The license shall be prominently displayed on the premises of the licensed kennel.

(5) The application for a kennel license must contain a statement that the applicant agrees to comply with standards set forth herein, agrees to allow inspections by Animal Control Officers of animals and premises, and whether or not the applicant has ever been found to have committed any offense related to animals.

(6) No license to operate a kennel shall be issued to anyone who has been convicted of cruelty to animals.

(7) Licenses issued on the basis of false information supplied by the applicant shall be revoked and operation of the subject kennel shall be terminated upon revocation of the license.

(8) The Animal Control Officer, or such other agency or person it may designate, shall be the agency to issue, or cause to be issued, licenses, maintain records, and conduct and enforce the provisions of this chapter.

(9) All notices to the public, including, but not limited to, classified advertisements, fliers, posters, and all other media, of animals for sale shall contain the license number of the kennel license required and issued under this chapter.

(10) All records of sale shall show the kennel license number of the seller.

(11) Kennel fees shall be paid through the County Animal Control Office, which must approve the establishment and operation of kennels pursuant to county ordinance. Payment shall be tendered to the Animal Control Officer at the time application is made to the Animal Control Office for establishment or operation of a kennel, and upon its approval to establish or operate, the Animal Control Officer shall deposit the kennel fees in the Animal Management Fund. If establishment or operation of a kennel is not approved by the Animal Control Office, the tendered payment shall be returned to the applicant.

(B) *Fees.* Annual fees for kennels shall be as follows.

<i>Number of Dogs</i>	<i>Fee</i>
6-9 dogs	\$50
10-25 dogs	\$125
26-50 dogs	\$250
51-100 dogs	\$500
101 or more dogs	\$1,000

(C) *Exemptions.*

(1) The County Animal Shelter shall be exempt from all kennel fees.

(2) Veterinary hospitals shall be exempt from all kennel license fees unless engaged in commercial boarding, excluding that incident to hospitalization, or breeding.

(3) Groomers shall be exempt from kennel license fees unless engaged in commercial boarding or breeding.

(D) *Standards for facilities.*

(1) For the regulation of kennels, the county hereby adopts the U.S. Department of Agriculture standards for the humane handling, care, and treatment of dogs. Copies of those standards may be obtained from the County Animal Control Officer.

(2) To be eligible for a permit, a kennel must meet the standards set forth by the U.S. Department of Agriculture for the humane handling, care and treatment of dogs.

(E) *Inspection of animals and premises.*

(1) As a condition of obtaining or keeping a permit to operate a kennel, the licensee shall allow any Animal Control Officer, without prior notice, to inspect all facilities and animals therein at any time during the business hours of the kennel.

(2) The licensee or his or her agents and employees shall render such reasonable assistance to the Animal Control Officer engaged in such inspection as may be required to enable the officer to perform his or her duties. The licensee shall furnish the facilities and assistance necessary to restrain domestic animals in order that the inspection may be accomplished. The licensee shall furnish the facilities necessary to allow the officer to conduct any necessary tests and fill out all papers and forms required in the discharge of his or her duties.

(3) Refusal to permit such an inspection or interference with such an inspection shall result in the immediate revocation of all licenses to operate a kennel held by the licensee.

(F) *Selling/transfer of animals.*

(1) It is the duty of the seller to ensure that all animals sold or otherwise transferred are healthy, parasite free, and current with regard to vaccinations at the time of sale or transfer. No animal with disease, injury, or lacking required vaccinations will be sold or transferred without full disclosure to the buyer.

(2) No dog under the age of eight weeks shall be sold or transferred, unless sold with its dam.

(3) Records of all sales or adoptions of animals shall be maintained by the person selling or allowing the adoption for a period of two years. Records shall include the date of the transaction; species and breed; date of birth, sex, color, and description of the animal; and the name, address, and telephone number of the purchaser or adopter. Records shall be available to any Animal Control Officer upon his or her request.

(G) *Commercial dog breeding.*

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

ANIMAL RESCUE OPERATION.

1. A person or organization that:
 - a. Accepts within one year:
 - b. One more than 12 dogs; or

c. More than nine dogs and more than three unweaned litters of puppies.

2. Are available for adoption for human companionship as pets or as companion animals in permanent adoptive homes and that are maintained in a private residential dwelling;

3. Uses a system of private residential dwellings as foster homes for the dogs; and

4. The term does not include a person or organization that breeds dogs.

COMMERCIAL DOG BREEDER. A person who keeps, harbors, or maintains within Jennings County, Indiana, 20 or more unaltered female dogs that are at least 12 months of age.

HOBBY BREEDER. A person who maintains fewer than 20 unaltered female dogs that are at least 12 months of age.

UNALTERED. Capable of bearing puppies.

VETERINARIAN. An individual licensed as a veterinarian by the State of Indiana.

(2) No person shall keep, harbor, or maintain within the county more than 20 unaltered female dogs that are at least 12 months of age.

(3) Any person keeping, harboring, or maintaining within the county 20 unaltered female dogs that are at least 12 months of age shall comply with all applicable requirements of I.C. Title 15, Art. 21 and with all applicable requirements contained in the ordinances of the county, including, but not limited to, this chapter and all planning and zoning ordinances.

(4) This section shall not apply to the following:

(a) The County Animal Shelter;

(b) The County Humane Society;

(c) Animal rescue operations;

(d) Hobby breeders; or

(e) Veterinarians and veterinary hospitals for boarding incident to treatment or hospitalization.

(5) Notwithstanding their exemption from the application of I.C. Title 15, Art. 21, this chapter shall apply to the following:

(a) A person who breeds at least 75% of the person's dogs as sport dogs for hunting purposes; or

(b) A person who breeds at least 75% of the person's dogs as service dogs or as dogs for use by the police or the armed forces.

(6) This section may be enforced by a County Animal Control Officer or any law enforcement officer, who may issue to any person violating any provision of this chapter a notice of ordinance violation. If the person has not paid the fine and all associated expenses of the violation within two weeks of receiving such notice, the Animal Control Officer or law enforcement officer may refer the violation to the County Attorney for further action, which may include prosecution of the violation in court.

(7) Violation of any provision of this section is hereby declared a public nuisance, and the county may maintain an action in court to abate said nuisance.

(8) In addition, a person who violates this section may be subject to any other penalties, judgments and liabilities authorized by an ordinance of the county, a statute of the state, or both.

(9) A person who violates this section shall be responsible for payment of all costs and expenses associated with its enforcement, including, but not limited to, court costs, any expenses of investigation, attorney's fees, any expenses incurred in the seizure, impoundment and care of any animal, and the cost of any veterinary or medical treatment.

(10) All fines, fees, costs, and penalties collected pursuant to this section shall be deposited into the Animal Management Fund.
(Ord. 931, passed 7-8-2013)

§ 90.09 APPEALS PROCEDURE.

(A) A person who is fined or issued a citation in violation of this chapter shall have the option of appealing said fine or citation, in the following manner.

(1) A person must appear at the next County Commissioner's meeting in order to appeal the fine or citation to the County Commissioners. The County Commissioners meet on the second and fourth Thursday of every month.

(2) After a person appeals to the County Commissioners, it will then be left to the discretion of the County Commissioners to determine whether the fine or citation issued shall be upheld or overturned.

(3) If a person who appeals his or her citation to the County Commissioners wishes to appeal the decision of the County Commissioners, he or she must then appeal to the County Superior Court on the next date that Animal Control hearings are held. A person should contact the County Attorney to determine when the next day Animal Control hearings will be held.

(B) Regardless of whether a person wishes to appeal to the County Commissioners, he or she must still appear at the court date listed on his or her fine or citation. At said court date, a person may inform the court and County Attorney that he or she wishes to appeal the fine or citation to the County Commissioners.

(Ord. 931, passed 7-8-2013)

§ 90.10 COST AND EXPENSES.

A person who violates this chapter shall be responsible for payment of all costs and expenses associated with its enforcement, including, but not limited to, court costs, any expenses of investigation, attorney's fees, any expenses incurred in the seizure, impoundment, and care of any animal, and the cost of any veterinary or medical treatment.

(Ord. 931, passed 7-8-2013)

§ 90.11 VENUE, CONFLICTS, AND THE LIKE.

(A) *Venue.*

(1) Proper venue for the enforcement of this chapter shall be in a court of competent jurisdiction of the county.

(2) The provisions of this chapter shall be construed using the laws of the state.

(B) *Conflicts.*

(1) The provisions of this chapter are intended to be supplemental to the laws of the state, and to the extent that they may conflict with, said laws, the laws of the state shall control.

(2) To the extent that the provisions of this chapter conflict with any previous ordinance enacted for the care and control of animals in the county, the provisions of this chapter shall control.

(3) Upon the Animal Control ordinance of the county taking effect, the originally enacted County Ord. 1-97 and City Ord. 764, as amended, shall be repealed but pending enforcement actions may be maintained under the ordinance as it existed at the time of violations.

(C) *Application.*

(1) This chapter shall apply throughout the county; provided, however, that absent an agreement duly entered between the county and any city, town, or village within the county which by law has been given the express authority to regulate and license animals, this chapter shall not apply within the corporate limits of any such city, town, or village.

(2) Should any city, town, or village within the county which by law has been given the express authority to regulate and license animals determine that it wishes this chapter to apply within its corporate limits and enter into an agreement with the county so providing, this chapter shall then apply and be enforced within those corporate limits.

(Ord. 931, passed 7-8-2013)

§ 90.99 PENALTY.

(A) (1) The following schedule of penalties shall apply for violations of this chapter:

- (a) Class A violation: a fine of up to \$500;
- (b) Class B violation: a fine of up to \$100; and
- (c) Class C violation: a fine of \$25.

(2) In addition to the forgoing fines, a person who violates this chapter may be subject to any other penalties, judgments, and liabilities authorized by an ordinance of the county, a statute of the state, or both.

(B) Any person who violates § 90.04 commits a Class C ordinance violation.

(C) (1) An owner or person having custody or control of an animal in violation of § 90.05(A) commits a Class C ordinance violation, however, if said at large animal also creates a public nuisance, the violation is a Class B ordinance violation.

(2) Pursuant to § 90.05(B), notwithstanding § 90.05(A), an owner or person having custody or control of any female dog not so confined commits a Class B ordinance violation; provided, that if the animal is an at large dog which has not been spayed and is over the age of six months, the violation is a Class A ordinance violation; provided further, that if, within 30 days of the commission of a Class A ordinance violation pursuant to § 90.05(B), the owner or person having custody or control of the dog submits to a County Animal Control Officer a receipt or a verified statement from a licensed veterinarian that the dog has been spayed, the violation will be reduced to a Class B ordinance violation.

(3) Notwithstanding § 90.05(A), a person who violates § 90.05(C) commits a Class B ordinance violation; provided, that if the animal is an at large dog which has not been spayed or neutered and is over the age of six months, the violation is a Class A ordinance violation; provided further, that if, within 30 days of the commission of a Class A ordinance violation pursuant to § 90.05(C), the owner or person having custody or control of the dog submits to a County Animal Control Officer a receipt or a verified statement from a licensed veterinarian that the dog has been spayed or neutered, the violation will be reduced to a Class B ordinance violation.

(4) Notwithstanding § 90.05(A), a person who violates § 90.05(D) commits a Class B ordinance violation.

(5) Notwithstanding § 90.05(A), a person who violates § 90.05(E) commits a Class A ordinance violation.

(D) (1) Pursuant to § 90.06(A), the owner or person having custody or control of a vicious dog not so confined, muzzled, or caged commits a Class B ordinance violation for the first offense and a Class A ordinance violation for any subsequent offense. If the vicious dog not so confined, muzzled, or caged causes any bodily injury to a person, the offense is a Class A ordinance violation, regardless of whether there have been any prior offenses.

(2) Pursuant to § 90.06(B), an owner or person having custody or control of an animal who permits such animal to become a public nuisance commits a Class C ordinance violation for the first offense and a Class B ordinance violation for any subsequent offense.

(3) Pursuant to § 90.06(C), an owner who fails to impound an animal after receiving notification to do so by an officer of the Animal Control Commission or the County Health Department commits a Class B ordinance violation. Each day that the owner fails to impound the animal constitutes a separate violation.

(E) (1) (a) Any person who violates § 90.07(A) commits a Class B ordinance violation.

(b) Any person who violates any portion of § 90.07(A), not preempted by state law, commits a Class A ordinance violation.

(2) Any person who violates any portion of § 90.07(B)(1), not preempted by state law, shall first be issued a written warning, be informed of what steps are necessary to correct the violation, and be given sufficient time to correct it. Any violation of § 90.07(B)(2) committed after the violator has received the initial written warning, corrective information and time for correction, shall be a Class B ordinance violation for the first offense and a Class A ordinance violation for any such violation committed after the being cited for a Class 3 violation.

(F) (1) Any violation of § 90.08(D) constitutes a Class B ordinance violation, and each day the violation continues shall constitute a separate violation. Violations may also result in suspension or revocation of the license to operate a kennel.

(2) A violation of § 90.08(F) constitutes a Class B ordinance violation. A violation of § 90.08(F) may also result in the loss of kennel license for an indefinite period of time.

(3) Violation of any of the provisions of § 90.08(G) shall constitute a Class A violation as defined in this chapter, which may be enforced by imposition of a civil penalty or fine of \$50 for each violation.

(Ord. 931, passed 7-8-2013)

CHAPTER 91: STREETS, SIDEWALKS, AND RIGHTS-OF-WAY

Section

General Provisions

- 91.01 Prohibition of obstructions of rights-of-way, streets, and alleys
- 91.02 Prohibiting parking on sidewalks
- 91.03 Street cutting
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GENERAL PROVISIONS**§ 91.01 PROHIBITION OF OBSTRUCTIONS OF RIGHTS-OF-WAY, STREETS, AND ALLEYS.**

(A) It shall be unlawful for any person to obstruct or hinder the free passage of any public street, alley, or right-of-way by placing thereon or allowing to remain on property under his or her control any object or objects which may hinder the free flow of traffic, obscure the vision of the traveling public, or constitute a nuisance to surrounding property owners, including, but not limited to, the following: basketball goals; fences; yard sculptures or ornaments; landscaping which obstructs the view of the traveling public; temporary structures; permanent structures; building materials; boxes; barrels; furniture; piles of wood; refuse; and debris.

(B) The City Police Department shall provide a written notice to any person deemed to have violated this section, which notice shall describe the item or items obstructing the public way. The recipient of the notice shall be given 30 days from the date of the notice to remove the obstruction described in the notice.

(C) Failure to remove the obstruction within the 30-day period shall constitute an infraction. The city shall also have the right to pursue legal action against all responsible parties to enforce the removal of the obstruction. If such legal action is instituted, the city shall also have the right to recover its reasonable attorney's fees and litigation expenses related to the enforcement of this section as well as the cost to the city of removing the obstruction.

(D) The city shall also have the right, pursuant to I.C. 36-1-6-2, and any successor statute, to impose a lien against the fee simple interest in the property in the event if city enters upon the property and takes appropriate action to bring it into compliance with this section.

(Ord. 768, passed 6-22-1997) Penalty, see § 91.99

§ 91.02 PROHIBITING PARKING ON SIDEWALKS.

(A) It is hereby determined and designated to be necessary and conducive to the public health, safety, and welfare that parking should be prohibited at all times on all of the public sidewalks in the city.

(B) The Chief of Police of the city is hereby directed and authorized to enforce this section as he or she shall deem reasonably necessary.

(Ord. 424, passed 4-27-1971)

§ 91.03 STREET CUTTING.

(A) (1) No person, individual, or firm shall cut into the streets or alleys of the city without first obtaining a permit from the City Street Commissioner and making a deposit of the sum of \$100 in cash with the Clerk-Treasurer for the satisfactory repair of the street or alley in accordance with the specifications outlined in division (C) below.

(2) If the cut in any street or alley exceeds 25 feet in length, an additional cash deposit of the sum of \$4 per foot for the amount of footage in excess of 25 feet shall be made with the Clerk-Treasurer for the satisfactory repair of the street or alley in accordance with division (C) below.

(3) A contract and performance of completion bond for the same amount of money as required in this section as guaranteeing the city that the street or alley will be satisfactorily repaired in accordance with the specifications in division (C) below may be deposited with the Clerk-Treasurer instead of cash.

(B) At the end of 90 days from the time of said deposit, if the street or alley is satisfactorily repaired in division (C) below, said deposit shall be returned if it is cash and any bond shall be null and void and the surety thereon released from his or her obligation, but if the street or alley is not satisfactorily repaired, the deposit shall go into the Street or Alley Fund of the city if cash has been deposited and any bond shall be declared forfeited and the surety shall be immediately liable to the city for the full amount of the bond.

(C) Said specifications for the repair of cuts are as follows.

(1) The open cut shall be backfilled with either stone (sizes No. 8 or No. 9) or sand and compacted with a suitable mechanical roller or hand tamp, depending upon the area involved.

(2) (a) The stone or sand shall be placed up to the bottom of the existing surface.

(b) From the bottom of the existing surface to the top of the existing surface, the material used shall be of the same nature and depth as is already in place.

(c) This material shall be placed in accordance with acceptable construction methods.

(3) All excess materials from the cut shall be loaded and hauled away by the party cutting into the street or alley.

(4) In some cases where a pipe is to be placed in the cut, it may become necessary to backfill over the pipe with dirt to a depth of six inches. After this is done, the above mentioned methods shall be used.

(Ord. 348, passed 3-10-1964; Ord. 350, passed 4-28-1964) Penalty, see § 91.99

§ 91.04 SNOW ON SIDEWALKS.

If any such person, firm, or corporation, being first thereunto notified by the Marshal of said city, shall not, within 24 hours, remove such snow or ice, the same may be removed under the direction of the Marshal, who shall certify the cost thereof to the Clerk-Treasurer, and such cost shall be paid out of the Treasury of said city upon the verified claim of the Marshal, and said expense shall be a lien upon against the said real estate, and together with interest at the rate of 6% per annum, shall be collected by law and turned into the City Treasury.

(Ord. 52, passed 1-8-1932) Penalty, see § 91.99

§ 91.05 ACCUMULATION OF WATER UPON SIDEWALKS.

It shall be unlawful for any person to cause or permit any water flow upon any sidewalk in said city from any ditch tile or opening of any kind, from any lot or premises belonging to or occupied by him or her, or to permit any earth from such lot or premises to remain or accumulate upon any sidewalk.

(Ord. passed 1-14-1899) Penalty, see § 91.99

§ 91.06 CHARACTER OF, AND SPECIFICATIONS FOR, STANDARD STREET CROSSINGS.

(A) The stone shall be 16 inches wide, not less than three feet, nor more than six feet long, and not less than six inches thick with the edges cut or driven into straight lines parallel to each other; and upper side smooth and free from rough places or bumps. These stones shall be laid in two parallel lines, the space between them to be 16 inches and be paved with good shaped rock, suitable for such purpose. The depth of the crossing stone top surface of which shall be smooth and even, no crevices shall be left to be filled with smalls, but all spaces shall be filled with sand and gravel. Crossing stone shall be joined to gutter stone with a smooth, connecting stone four feet long two feet wide, and not less than six inches thick. All to be laid on not less than four inches of sand thoroughly tamped, at right angles to the pavement lines and to the proper surface of the street grade.

(B) Bids for standard street crossings per lineal foot shall be understood to be for the street crossings complete as above specified.

(Ord. passed 11-8-1895) Penalty, see § 91.99

§ 91.07 REGULATING THE BUILDING OF WAGON BRIDGES.

It shall be unlawful for any individual or corporation to build a wagon bridge over or across any railway track where said track crosses any street or highway in said city, without good and sufficient passageways on each side of the wagon or driveway on said bridge for the use of foot passengers on said street or highway and all such bridges so erected shall have good and sufficient stone support at the ends

thereof. Said central wagon or driveway shall not be less than 18 feet in width, and said passageways at the sides, for the use of foot passengers as above mentioned, shall not be less than four feet in width and be protected on the outer sides by good substantial railings.

(Ord. passed 4-25-1890) Penalty, see § 91.99

§ 91.08 IMPROVEMENT OF STREETS.

(A) All street grading in said city shall conform to such grade as the City Council may establish as the permanent grade of such streets, except when grades are already established in which case it shall conform to such established grade.

(B) All sidewalks along the streets of said city, measuring from the true property line towards the middle of the street to the outer edge of the curb stone, shall be one-sixth of the whole width of said street, and every sidewalk already paved, shall, when repaved, be made to conform to the widths in this section established; provided, that when railroads abut upon one side of a street for more than four squares continuously, no sidewalk shall be laid upon the side of such street next to such railroad.

(C) The width of the pavement on the sidewalks in the resident portion of said city shall not be less than four and one-half feet, and may be laid so as to leave a space for shade trees two and one-half feet wide between the pavement and the curb-stone.

(D) The provisions of division (C) above shall not disturb the location of any shade trees already planted and growing but every such tree hereafter planted shall be placed with its boxing not more than one and one-half feet from the curbing of said street.

(E) In business portions of the city, the pavement of the sidewalks may cover the whole width of the sidewalk between the true property line and the curb-stone. The pavements on all sidewalks hereafter laid shall descend one inch in 30 toward the gutter or middle of the street.

(Ord. passed 10-8-1889) Penalty, see § 91.99

§ 91.09 REGULATING GRADING AND PLANKING OF STREETS, AND SIDEWALKS.

It shall be the duty of each and all railroad companies where their tracks intersect, cross, or run alongside of and adjoining any street alley or sidewalk in said city; to grade and plank said street, alley, or sidewalk at such crossing or intersection and to grade and level up the ground along their said tracks where the same run along and adjoining such street, alley, or sidewalk as hereinafter provided the following.

(A) (1) At the point where such track or tracks intersect or cross any street, alley, or sidewalk, it shall be the duty of the railroad company owning or maintaining the same to make the grade thereof conform to the established grade of such street, alley, or sidewalk to lay down securely strong and substantial plank between and on either side of such track or tracks for a distance of not less than two

feet and as far on either side as is necessary to make the crossing of street safely and conveniently passable, and in such manner that such plank may extend the entire width of such street, alley, or sidewalk, and where such track or tracks extend along and adjoining any street, alley, or sidewalk, the ground between the ends of the crossties of said track or tracks, and said adjoining street, alley, or sidewalk shall be made level and so as to conform to the established grade of the adjoining street, alley, or sidewalk and where ditches exist or have been made alongside of said track or tracks and between the same and the street, alley, or sidewalk adjoining, said ditches shall be covered so that the surface may conform to the established grade of said adjoining street, alley, or sidewalk and so as to form as far as possible a smooth and level surface between said track or tracks and said street, alley, or sidewalk.

(2) Such planking, grading, or repairs to be done and maintained in good order to the satisfaction of the City Engineer, by and with the advice and consent of the City Council.

(B) It shall be the duty of the Marshal of said city, when so directed by the City Council, to give such railroad companies notice of the requirements of this section which notice shall consist of a certified copy of this section to be served in the same manner as a summons and returned in like manner to the City Clerk-Treasurer to be filed by him or her and preserved with the files of said city.

(Ord. passed 7-26-1889)

§ 91.10 PROVIDING CARE IN RECEIVING STREET IMPROVEMENTS.

(A) Before any improvement on any street, sidewalk, or alley is received by the City Council as completed, the City Civil Engineer shall first examine the work and report in writing to the City Council that the same has been completed according to plans and specifications. Afterwards, the City Council as a body shall view such improvement to ascertain whether such work is in all respects as required by the contract.

(B) Under no circumstances shall any such improvement of street, sidewalk, or alley be accepted by the City Council or any action be taken to receive pay for the same until the provisions of this section have been fully complied with.

(Ord. passed 12-27-1898)

§ 91.11 SIDEWALK REPAIR.

(A) Whenever, in the opinion of the City Council, a necessity exists for repairing the sidewalks on any street or alley or any part thereof in said city, the Street Commissioner shall be directed to notify the owner or owners of the real estate abutting on the sidewalk or part thereof desired to be repaired, to repair the same as directed in said notice within ten days from the date of the receipt thereof.

(B) It shall be the duty of the Street Commissioner, when so directed, to give such owner or owners of abutting property written notice to make the required repairs, specifying in said notice the character

of the repairs to said sidewalk or part thereof requested made, giving the location of said sidewalk or part thereof, and describing the lot, parcel, or tract of land, abutting thereon owned by the person so notified.

(C) In case such owner when so notified shall fail to make such repairs for the period of ten days, from the date of receiving such notice, it shall be the duty of the Street Commissioner to make a written report of such fact to the City Council at its next regular meeting, and on receipt of such report, the City Council shall pass an ordinance providing for the repair of such sidewalk or part thereof, by the City Street Commissioner, at the cost of such owner or owners, providing how and in what manner the repairs shall be made and in what manner the cost shall be assessed and collected, and the method in which the lien of the city for the expense incurred may be enforced against the real estate liable therefor. (Ord. passed 11-26-1897)

RIGHTS-OF-WAY

§ 91.25 APPLICATION.

(A) Within the city limits, no one shall cut, jack, bore, place utility lines, place drainage structures, place a driveway, or block a city right-of-way without first obtaining a permit from the Street Commissioner, and posting a bond sufficient to cover the costs of repair. The amount of the bond shall be determined as based upon the extent of the cut, and in no case shall it be less than \$500 for each and every cut, jack, bore, blockade, or drive. If the cut in any way street or alley is planned to exceed or does exceed 25 feet in length, an additional deposit of the sum of \$20 per foot for the amount of footage of the cut in excess of 25 feet shall be made with the Clerk-Treasurer of the city for the satisfactory repair of the street or alley in accordance with the specifications as outlined in the following sections of this subchapter.

(B) The form of such permit shall be determined by the Street Commissioner. Forms shall be available at both the Street Department and the Clerk-Treasurer's office.

(C) Applicants for a permit for any work in a right-of-way shall submit a sketch or drawing or otherwise clearly communicate the location and design, and the traffic-control plan, and the proposed restoration for the proposed cut in a manner satisfactory to and approved by the Street Commissioner. In cases where an entire street is needing to be closed between intersections, then the applicant shall also submit a detour plan, and make allowance for local access to affected properties. All signage and traffic control shall meet INDOT standards.

(D) (1) In the case of any planned operation, the applicant shall submit his or her application for the necessary permit to the Street Commissioner at least seven working days prior to beginning construction. Written authorization, with or without conditions or denial with reasons for said denial, shall be issued by the Street Commissioner.

(2) The applicant is responsible for forwarding a copy of the final permit before any work begins to the 9-1-1 Dispatch Center, the Police Department, the Fire Department, and the School System.

(E) This application time period need not apply to emergency conditions wherein a public utility must open cut a street to repair or replace a failed or ruptured main or service connection, but the utility shall immediately notify the Street Commissioner, as well as the 9-1-1 Dispatch Center, the Police Department, the Fire Department, and the School System. Within three calendar days after beginning the emergency repair, the application shall be submitted along with the other detailed information.

(F) Permits issued shall be valid for a period of no more than 90 days until work commences, and all work shall be performed within an additional 90-day period.
(Ord. 792, passed 12-21-1998)

§ 91.26 NO CUT STREETS.

(A) The following streets are considered “no cut” streets, and this subchapter shall apply to the existing utility mains and service lines, and any new utility connections. All attempts shall be made to bore or jack under these streets so as not to impede traffic.

(B) In no instance will total closure of any of these streets be allowed. Open cuts will be allowed in the instance where the existing main is in the street and no other method appears available for making a connection other than an open cut, but no work shall proceed without first obtaining the approval and written permission of the Street Commissioner of the city for such open cut.

- (1) Madison Avenue from Second to State Road 3;
- (2) Rodgers Park Drive;
- (3) 4th Street from Hoosier to the City Cemetery;
- (4) Gum Street from U.S. 50 to Base Road;
- (5) Norris Avenue from U.S. 50 to Base Road;
- (6) Middle School Road;
- (7) County Road 200N from State Street to the west city limits;
- (8) FDR Drive;
- (9) JFK Drive;

- (10) Hoosier from Madison to Second;
- (11) Hayden Pike;
- (12) Greenburg Street;
- (13) Vernon Street;
- (14) Lincoln Street;
- (15) College Street;
- (16) Long Street;
- (17) Henry Street from State Street to Veterans Drive;
- (18) Veterans Drive from Henry Street to County Road 200N;
- (19) O & M Avenue from State Street to the west city limits; and
- (20) O&M Avenue from 4th Street to 5th Street.

(C) Applicants for a permit for any construction on these streets shall submit a sketch or drawing or otherwise clearly communicate the location and design, and the traffic-control plan in a manner satisfactory to and approved by the Street Commissioner. These streets shall remain open to traffic, and remain completely open and accessible through the life of the construction project. The permit holder will be allowed to close one lane at a time, provided, proper warning devices and flaggers are utilized and conform to current INDOT specifications. All necessary warning devices and signs shall be utilized by the permit holder. The minimum bond for these streets shall be \$2,000, cash or approved surety bond.

(Ord. 792, passed 12-21-1998) Penalty, see § 91.99

§ 91.27 OPEN CUT SPECIFICATIONS.

Said specifications for the repair of cuts are as follows.

(A) Before the hole caused by the cut is to be filled, the existing surface shall be cut or sawed to a smooth edge, six inches deep, at a minimum of six inches wider than each side of the trench. The open cut to a depth of eight inches below finished grade, shall be backfilled with either stone (Sizes No. 5 or No. 63) or sand and compacted with a suitable mechanical roller or hand tamp, depending upon the area involved. Existing asphalt streets shall be replaced by two layers of full depth asphalt at least six inches in total depth, the top surface of which shall be two inches below the top surface of the street grade, and

two inches of hot asphalt topping mix shall be placed atop the base layers and compacted with a suitable mechanical roller or hand tamp, depending upon the area involved. In the case of existing concrete streets six inches of 4,000 psi reinforced concrete, broom finished, shall be placed.

(B) In special approved cases, wherein bituminous materials may not be readily available, the cut may be filled with six inches Class A Concrete to a point two inches below finished grade. The final two inches hot asphalt surface then may be placed at a later date.

(C) In special approved cases, the stone or sand may be placed up to the top of the existing surface and may be kept in place for a period of 30 days after which time such material shall be dug out to a depth of at least eight inches below the top surface of the street grade and finished as stated in division (A) above.

(D) All excess materials from the cut shall be loaded and hauled away by the persons, firm, or corporation or the agents thereof cutting into the street or alley.
(Ord. 792, passed 12-21-1998)

§ 91.28 DRIVEWAY CONDITIONS.

(A) In the city, no one shall:

- (1) Alter a street curb by cutting the curb or otherwise demolishing the curb;
- (2) Alter or block the city street gutter;
- (3) Alter a sidewalk; or

(4) Construct a new driveway for the purpose of driving on and off a city street, without first obtaining the approval and written permission of the Street Commissioner of the city for such driveway. The minimum bond for residential drives shall be \$500. The minimum bond for commercial drives shall be \$1,000.

(B) The following specifications apply to all that portion of the driveway which falls within the right-of-way of the city street.

(C) All efforts shall be made to locate all driveways of local streets, rather than arterial or collector streets. No driveway shall be placed within 50 feet of an intersection public street. No driveway shall be placed closer than ten feet to another driveway as measured at the right-of-way line. All driveways shall be perpendicular to the street they are connecting to from the connection point to the right-of-way line.

(D) All new residential driveways shall meet the street with a minimum radius of ten feet. The minimum radius for driveways intended for commercial traffic or high volumes of vehicle traffic shall be 25 feet. That portion of the driveway which falls within the right-of-way of the city street shall have a minimum width of ten feet as measured at the right-of-way for residential driveways, or a minimum width of 20 feet as measured at the right-of-way for commercial or high traffic driveways.

(E) If the new driveway is to cross a drainage or roadside ditch, or for any other reason, it is deemed necessary that a culvert is required to be placed in the public right-of-way; such culvert shall be no less than 12 inches in diameter and 20 feet in length. Larger diameter and length culverts may be required by the Street Commissioner, if drainage conditions so warrant. In order to prevent impeding normal drainage, culverts for new driveways are never in any case to be smaller than the closest upstream culvert.

(F) In the construction of the new driveway, the portion of the driveway which falls inside the city street right-of-way is to be composed of hard surface material of the same character as the material of the connecting street.

(G) City sidewalks are not to be used as driveways, nor are they to be driven upon. Existing city sidewalks are not to be used as portions of the new driveway. In the construction of the new driveway, the existing city sidewalk is not to be covered over or crossed by the new driveway material; but must be removed and the new driveway surface material must be placed flush with the remaining sidewalk surface, or, if not placed flush with the sidewalk surface, then sloping ramps must be placed in the sidewalk on each side of the drive so that there is a smooth continuation from sidewalk to driveway to sidewalk which is accessible to the disabled.

(H) This subchapter shall apply to any widening or reconstruction of any existing drive. This subchapter shall not apply to the surfacing or resurfacing of existing driveways.
(Ord. 792, passed 12-21-1998) Penalty, see § 91.99

§ 91.29 WARRANTY.

(A) The applicant shall be entitled to a return of his, her, or its cash bond or the release of his, her, or its surety bond once the Street Commissioner has determined that the work done as contemplated by the permit has been satisfactorily completed and the applicant has complied with all the terms and conditions of this subchapter. If no such determination is made within 90 days of the date the bond is submitted to the city, any cash bond shall be forfeited and paid into the Street and Alley Fund of the city and/or the city shall take appropriate action to collect any surety bond whose proceeds shall be paid into the same fund.

(B) Any person, firm, or corporation obtaining a permit to cut into a city street or alley thereby warrants the repair of the cut to be made in accordance with the specifications of this subchapter and to be free from defects in material and workmanship for a period of one year after the date the asphalt topping required by this subchapter is placed in the cut.
(Ord. 792, passed 12-21-1998)

§ 91.30 ENFORCEMENT.

The City Street Commissioner is hereby directed to draft or cause to be drafted the necessary written forms requiring such information as is reasonably related to the purposes of this subchapter to be used in the implementation of this subchapter.

(Ord. 792, passed 12-21-1998) Penalty, see § 91.99

§ 91.31 BONDS.

(A) No person, firm, public utility, or corporation or the agents thereof, shall cut into the streets or alleys or cause to perform permanent work in the rights-of-way, without first making application for and obtaining a permit to do so from the City Street Commissioner, and by making a minimum deposit of the sum of \$500 in cash or approved surety bond with the Clerk-Treasurer of the city for the satisfactory repair and performance of the work in the street or alley in accordance with the specifications outlined in the following sections of this subchapter.

(B) Persons, firms, public utilities, and corporations or their agents thereof will be allowed to post a standing bond, in the minimum amount of \$5,000, by surety bond only, valid from January 1 to December 31 of a calendar year, to cover multiple cuts or large projects. Application for each individual cut or project shall still be required, and the applicant shall note on the application that they have a standing bond. In the instance that it appears that the minimum bond will not cover all of the proposed or outstanding work, then the city may ask that the bond amount be increased in increments of \$5,000 to cover the satisfactory performance of the work.

(C) The City Wastewater Department and the City Water Department shall be obligated to comply with all of the terms and conditions of this subchapter in connection with work done by, or on behalf of, the city, except that the bond requirements shall not apply to said public entities when performing the work themselves. The bond requirements shall apply to any and all independent contractors performing work at the request of the City Wastewater Department and/or the City Water Department.

(Ord. 792, passed 12-21-1998)

§ 91.99 PENALTY.

(A) 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) Pursuant to § 91.01(C), a fine of up to \$25 per day may be imposed for each and every day that the obstruction is not removed after the expiration of the 30-day period.

(C) As penalty for violation of § 91.02, a fine not to exceed \$25 shall be assessed.

(D) Pursuant to § 91.04, any person, firm, or corporation, being the owner or tenant of any lot, part-lot, or tract of real estate abutting upon any street within the corporate limits of said city, in front of which lot, part-lot, or tract of real estate there is a sidewalk, who shall allow, suffer, or permit snow or ice to be and remain upon over and along such sidewalk where the same abuts upon or passes in front of such lot, part-lot, or tract of real estate, for a period of time exceeding 12 hours, shall, upon conviction thereof, be fined in any sum not less than \$2, nor more than \$10.

(E) Any person who shall violate this § 91.05 for more than five days after being notified by the Mayor or Marshal of said city to stop such flow of water, or remove such earth, shall be guilty of a misdemeanor and, upon conviction, shall be fined \$1 for each day such misdemeanor shall continue.

(F) Any individual or corporation violating any of the provisions of § 91.07 shall, on conviction, be fined not less than \$10, nor more than \$50 for each day the wagon bridge erected by such individual or corporation in violation of the provisions of division § 91.07(A) shall stand and remain in such condition.

(G) If any railroad company shall fail, refuse, or neglect to comply with the requirements of § 91.09 30 days after receiving the notice designated in the § 91.09(C), it shall be deemed guilty of a violation thereof, and for each day after the expiration of the said 30 days it fails, neglects, or refuses to comply with the requirements of § 91.09 as aforesaid, it shall be liable to a penalty of \$10 for every such day it so fails, neglects, or refuses. Such penalty shall be collected by civil action instituted by the City Attorney before the Mayor of said city in the corporate name of said city.

(H) Pursuant to §§ 91.25 to 91.31, anyone found in violation of these conditions or found performing work in the right-of-way without a valid permit, shall be subject to a fine of not to exceed \$2,500, along with being responsible for the cost of any and all repairs and the liability thereof, court costs, and attorney's fees. Each day the applicant does not obtain the necessary permit may also be treated as a separate violation. Each and every occurrence may be treated as a separate violation. (Ord. passed 4-25-1890; Ord. passed 12-27-1898; Ord. passed 7-26-1889; Ord. passed 1-14-1899; Ord. passed 10-8-1899; Ord. 52, passed 1-8-1932; Ord. 424 passed 4-27-1971; Ord. 792, passed 12-21-1998)

CHAPTER 92: HEALTH AND SAFETY

Section

General Provisions

- 92.01 Grass and weeds
- 92.02 Unlawful noise
- 92.03 Burning trash, refuse, and leaves
- 92.04 Air show restrictions
- 92.05 Slaughterhouses
- 92.06 Tree limb trimming across electrical wiring

Trains

- 92.20 Regulating trains for safety and security or citizens
- 92.21 Running of trains across streets

- 92.99 Penalty

GENERAL PROVISIONS

§ 92.01 GRASS AND WEEDS.

(A) It is hereby declared illegal to permit grass and or weeds to grow over a 12 feet in height upon any land within the limits of the city.

(B) The Street Commissioner shall, upon learning of the existence of any such grass and or weeds, notify the owner, lessee, or occupant of the land upon which it is growing, in writing, to cut said grass and weeds within five days of the date of the notification.

(Ord. 936, passed 4-28-2014) Penalty, see § 92.99

§ 92.02 UNLAWFUL NOISE.

(A) *Purpose.* It is hereby declared, as a matter of public policy of the city, that:

(1) The making, creation, or maintenance of noise of various kinds and by various means that is unreasonably loud, injurious to health, indecent, offensive, or an obstruction to the free use of property within the corporate limits of the city has so increased as to constitute a public nuisance;

(2) The making, creation, or maintenance of noise of various kinds and by various means that is unreasonably loud, injurious to health, indecent, offensive, or an obstruction to the free use of property and is prolonged in its time, place, and use, adversely affects and is a detriment to the comfort, repose, health, peace, and safety of the residents of and visitors to the city;

(3) The necessity, in the public interest, for the declaration of this public policy as set forth in the provisions of this section is declared as a matter of legislative determination and is designed to secure and promote the comfort, repose, health, peace, and safety of the residents of and visitors to the city; and

(4) The sole intent of the provisions of this section is to secure and promote the health, safety, welfare, prosperity, comfort, and repose of persons in this city by reducing unreasonable noise, and a determination of violation of this section may not be based on the content of any message conveyed during the creation of any noise or the identity of any person responsible for or associated with the creation of any noise.

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

BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind or nature.

PRIVATE LOCATION. A building, structure, lot, yard, or driveway owned by an individual. Access to a private location is limited to the individual or guest that have specific permission to be at the location. ***PRIVATE LOCATIONS*** are generally defined as a person's home and surrounding curtilage.

PUBLIC LOCATION. A building, structure, lot, yard, or driveway owned by an individual, cooperation, company, government entity, or other like group or individual. ***PUBLIC LOCATIONS*** are generally defined as a park, restaurant, club, retail business, movie theater, street, parking lot, and other like locations.

STRUCTURE. Anything constructed or erected, the use of which requires location on or in the ground, or attachment to something having a fixed location on or in the ground. ***STRUCTURES*** include buildings, mobile homes, walls, parking areas, and public and private infrastructure.

(C) *Unlawful noise.*

(1) *Generally.* Except as otherwise provided in this section, it shall be unlawful for any person to make, create, or maintain any noise that is:

(a) Unreasonably loud, injurious to health, indecent, offensive, or an obstruction to the free use of property within the city;

(b) Adversely or substantially affects, annoys, disturbs, injures, or endangers the comfort, repose, health, and peace and safety of others within the city; or

(c) Of a volume, frequency, or pattern that prohibits, disrupts, injures or endangers the health, safety, welfare, prosperity, comfort, or repose of a reasonable person of ordinary sensitivities within the city, given the time of day and the environment in which the sound is made.

(2) *Unlawful noises.* Accordingly, the following acts, among others, are declared to be unlawful noises in violation of this section.

(a) *Construction or repair of buildings or structures.* The erection, demolition, alteration, or repair of any building, or the excavation therefor, at any times other than between the hours of 5:00 a.m. and 11:00 p.m. There shall be an exception to this constituting unlawful noise in the case of an emergency or urgent necessity in the interest of public health and safety, but then only with a permit from the City Clerk-Treasurer. The emergency permit may be granted for a period not to exceed three days while the emergency or urgent necessity continues and which permit may be renewed for an additional period up to three additional days while the emergency or urgent necessity continues.

(b) *Music and electronic devices.* Playing, using, or operating, or permitting to be played, used, or operated, any radio or television receiving set, musical instrument, or other machine or electronic device for producing or reproducing sound in such a manner as to make, create, or maintain an unlawful noise, or at any time with volume louder than is necessary for convenient hearing of the person or persons who are in the room, vehicle, or chamber in which such machine or electronic device is operated. The operation of such set, instrument, machine, or electronic device between the hours of 11:00 p.m. and 5:00 a.m. (local time) in such a manner as to be plainly audible in the immediate vicinity of the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this division (C)(2).

1. *Private location.* Noise described in this section shall be contained within the property boundaries of the private location.

2. *Public location.* It shall be unlawful for any noise to be heard at a distance of:

a. Seventy-five feet from its source, when the sound producing device is in an open air public location; or

b. Fifty feet from the nearest property boundary if the sound is produced inside of a fixed structure.

(c) *Non-amplified vocal noise.* Yelling, shouting, hooting, whistling, or singing in a public street or public place of the city, in a manner that makes unreasonable noise and continuing to do so after being asked to stop.

(d) *Exhaust.* The discharge into the open air of any unlawful noise created by the exhaust of any internal combustion engine, or any type of engine or power unit on a motorcycle or other motor vehicle or craft of any kind, except through a muffler or other device that will effectively reduce and prevent unlawful noise therefrom. A motor vehicle must be equipped with a muffler or other noise dissipation device that is in good working order and is in constant operation to prevent unlawful noise.

(D) *Unlawful noise from a building or structure.* It shall be unlawful for any person to permit persons creating unlawful noise in any building or structure owned, occupied, or controlled by him or her. A person who recklessly, knowingly, or intentionally engages in conduct which makes unlawful noise and continues to do so after being directed or requested to stop commits disorderly conduct.

(E) *Exemptions.* The following are exempted from the provisions of this section:

(1) Noise or sounds emitted from any authorized emergency vehicle;

(2) Parades, festivals, carnivals, fairs, celebrations, concerts, artistic performances, or any other event specifically authorized by the city;

(3) Noise arising from or created by athletic or sporting practices or events;

(4) Sounds associated with the normal conduct of legally established non-transient businesses when such sounds are customary and within the normal range appropriate for such use and do not constitute unlawful noise; and

(5) Noise associated with any organized police training event. This will most often apply to firearms training.

(F) *Entry onto private property.*

(1) Any duly authorized city officers or representatives in the course of their duties in enforcing this section shall have the right to enter onto private property, by conventional means; provided, that they have probable cause that a violation of this section is occurring or has occurred, but they shall not enter into any structure or building without permission or legal authority to do so.

(2) For the purpose of determining compliance with the provisions of this section, the Police Department or its authorized representatives are hereby authorized to make inspections of all sources of noise whenever necessary to determine the quantity and character of such noise. If any person refuses

or restricts entry and free access to any part of a building or structure, or refuses inspection of any activity, device, facility, motor vehicle, or process where inspection is sought, such officer of the city or his or her authorized representatives may seek from a magistrate a warrant for inspection requiring that such person permit entry and free access without interference, restriction, or obstruction, at a reasonable time, for the purpose of inspecting, testing, or measuring noise.
(Ord. 919, passed 4-27-2012) Penalty, see § 92.99

§ 92.03 BURNING TRASH, REFUSE, AND LEAVES.

(A) It is hereby determined and designated to be necessary and conducive to the public health, safety, and welfare that the burning of trash, refuse, leaves, and other unwanted or unusable objects and materials shall be prohibited at all times.

(B) The Chief of Police of the city is hereby directed and authorized to enforce this section as he or she shall deem reasonably necessary and the City Police Department is hereby directed and authorized to issue citations for the violations hereof.
(Ord. 723, passed 12-19-1994; Ord. 723, passed 9-8-1998) Penalty, see § 92.99

§ 92.04 AIR SHOW RESTRICTIONS.

(A) It is in the best interest of the public safety and welfare that air shows, parachuting, and fly-ins, and other special events, not a part of the normal activities of the airport, unless they have the expressed written approval of the City Aviation Commission, is from this day forward in violation of law.

(B) It is in the best interest of the public safety and welfare that during any hazardous activity at any of these events, the City Airport shall be closed.

(C) The Manager of the City Airport is hereby directed to erect or cause to be erected appropriate signs and other notices, where necessary, to inform the public that air shows, parachuting, and fly-ins on and around the City Airport, without written consent, is in violation of law; and, that a copy of this section shall be posted in the Airport Office.
(Ord. 459, passed 7-22-1975) Penalty, see § 92.99

§ 92.05 SLAUGHTERHOUSES.

It shall be unlawful for any person or persons to carry on, keep, or maintain any structure or building for the purpose of a slaughterhouse within the corporate limits of the city, or within 100 yards of any inhabited dwelling there.
(Ord. passed 7-22-1892) Penalty, see § 92.99

§ 92.06 TREE LIMB TRIMMING ACROSS ELECTRICAL WIRING.

(A) All trees in said city the limbs of which interfere with the free passage of electric light wires on and along streets where it is necessary to stretch such wires, shall be trimmed and such limbs as interfere, removed so far as may be necessary to the proper stretching, placing, and operation of said wires.

(B) Said trees shall be trimmed and said limbs removed by the Street Commissioner under the direction of the Committee on Electric Light, as the same may be required from time to time to permit the stretching and placing of said wires.

(Ord. passed 6-11-1897) Penalty, see § 92.99

TRAINS**§ 92.20 REGULATING TRAINS FOR SAFETY AND SECURITY OR CITIZENS.**

(A) It shall be unlawful for any engineer, firefighter, conductor, or other person managing, or running any locomotive engine, car, or train to run the same or cause the same to be run backward in or through said city, without having a watchperson or other person on the rear end thereof to prevent accidents; and in case said locomotive engine, car, or train shall be run backwards as aforesaid in the nighttime, said watchperson or other person, so required to be on the rear end thereof shall be provided with a lantern or other good and sufficient light, while on the rear of said engine, car, or train while the same is so moving backwards.

(B) It shall be unlawful for any person or corporation having the management of trains or engines of any railway running through or within the corporate limits of said city to run or cause to be run through or within the corporate limits of said city any locomotive engine, car, or train, at a greater rate of speed than six mph.

(C) It shall be the duty of any railroad company whose railway track crosses or intersects Fifth Street in said city, where the same crosses railroad avenue in said city, or that crosses or intersects State street in said city between Walnut and Chestnut Streets or that crosses or intersects Madison Street in said city, where the same crosses Railroad Avenue or that crosses or intersects Hoosier Street in said city between Fourth Street and Madison Street, or that crosses or intersects Hoosier Street where the same crosses Madison Street, to provide and maintain a flagger at such point or points to warn travelers and citizens of danger from passing trains.

(Ord. passed 12-9-1898) Penalty, see § 92.99

§ 92.21 RUNNING OF TRAINS ACROSS STREETS.

Where two or more adjacent and parallel railway tracks cross any street in said city, it shall be unlawful for any engineer, firefighter, conductor, switchperson, or other person in charge of any locomotive or train of cars to run or operate any locomotive or train of cars across such street at any time while another locomotive or train of cars is passing in the same or opposite direction on another of such tracks across such street or until such street is cleared of all moving trains a distance of 50 feet.

(Ord. passed 4-14-1911) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) 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) (1) Pursuant to § 92.02, if any duly authorized city officer or representative has probable cause that a violation of § 92.02 is occurring or has occurred, the city officer or representative shall first give a verbal warning to the person believed to be violating § 92.02. After issuance of the verbal warning from the city officer or representative, the city officer or representative may write a ticket for a subsequent or continuing violation of the provisions of § 92.02. A person violating the provisions of § 92.02 or an order issued under authority of § 92.02 after receipt of a verbal warning shall, upon conviction or guilty plea, be guilty of a violation.

(2) The following fee schedule will apply for all subsequent ordinance violations identified within 180 days from the initial warning:

- (a) Verbal warning: no fee;
- (b) Written warning: no fee;
- (c) Citation for violation of ordinance - first offense: \$25 fee;
- (d) Citation for violation of ordinance - second offense: \$50 fee;
- (e) Citation for violation of ordinance - third offense: \$100 fee; and
- (f) Citation for violation of ordinance - fourth and subsequent offenses: \$250 fee.

(C) As penalty for violation of § 92.03, a fine not to exceed \$500 shall be assessed.

(D) Pursuant to § 92.04, any person participating in such events not sanctioned by such Board shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not to exceed \$25 for each violation.

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(E) Any person violating the provisions of § 92.05 shall, on conviction thereon, be fined not less than \$10, nor more than \$20 for each offense so committed.

(F) Any person who shall interfere with or try to obstruct, impede, or prevent the trimming of trees or removal of limbs of trees as provided by § 92.06 shall, on conviction, be fined not less than \$10, nor more than \$10 for each offense so committed.

(G) (1) Pursuant to § 92.20, it shall be unlawful for any person running or controlling any locomotive engine to sound the whistle thereof, unnecessarily, within the limits of said city and any person so doing shall, on conviction, be fined not less than \$5, nor more than \$10.

(2) Pursuant to § 92.20, it shall be the duty of every railroad engineer, firefighter or other person engaged in the running of any locomotive engine, while the same is moving or being run in or through said city to ring the bell attached to such locomotive engine and on failure so to do such engineer, firefighter, or other person shall, on conviction, be fined not less than \$5, nor more than \$10.

(3) Any person violating the provisions of § 92.20(B) shall, on conviction, be fined not less than \$10, nor more than \$25.

(4) Any person or corporation violating the provisions § 92.20(C) shall, on conviction, be fined not less than \$10, nor more than \$25.

(5) Any railway company found guilty of violating the § 92.20(D) or any of them shall, on conviction, be fined \$5 for each day it so fails to comply with the requirements thereof.

(Ord. passed 7-22-1892; Ord. passed 6-11-1897; Ord. passed 12-9-1898; Ord. passed 4-14-1911; Ord. 459, passed 7-22-1975; Ord. 723, passed 12-19-1994; Ord. 723, passed 9-8-2008; Ord. 919, passed 4-27-2012)

CHAPTER 93: FIRE

Section

- 93.01 Fire prevention; smoke detectors
- 93.02 Tapping fire hydrants
- 93.03 Protection of fire hoses

- 93.99 Penalty

§ 93.01 FIRE PREVENTION; SMOKE DETECTORS.

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

APARTMENT HOUSE. Any building or portion thereof which contains three or more dwellings and includes residential condominiums.

DWELLING. Any building or portion thereof which contains not more than two units.

DWELLING UNIT. Any building or mobile home unit or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one family.

LANDLORD. The owner, lessor, or sub-lessor of the rental dwelling unit or guest room in the building of which it is a part.

LODGING HOUSE. Any building or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor, or otherwise.

MOBILE HOME RENTAL. A mobile home or trailer occupied by or offered for occupancy to an individual as a residence on a rental basis.

SMOKE DETECTOR. A device which detects particles or products of combustion other than heat, approved by Underwriters Laboratories, Inc. or factory mutual. The ***SMOKE DETECTOR*** device shall be equipped with a test button. The ***SMOKE DETECTOR*** device may be battery powered with a minimum nine volt.

TENANT. A person entitled to occupy a dwelling unit on a rental or lease basis.

(B) *General requirements.* Smoke detectors required in certain structures:

(1) Every dwelling unit, dwelling, apartment house, lodging house, or mobile home rental shall contain an approved and properly functioning smoke detector installed in accordance with division (C) below.

(2) The owner of each dwelling unit, dwelling, apartment house, lodging house, or mobile home rental shall install smoke detectors as required by this section within 90 days from the effective date of this section.

(C) *Location; installation.* Smoke detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to the rooms used for sleeping purposes. Where a common hallway is used, smoke detectors shall be spaced not more than 25 feet apart in the hallway. All smoke detectors shall be located either on the ceiling at a minimum of six to 12 inches from the wall, or on a wall at a minimum of six to 12 inches from the ceiling, or as per manufacturer guidelines, and within 15 feet of all rooms used for sleeping purposes. No detector shall be recessed into the ceiling.

(D) *Maintenance.*

(1) It shall be unlawful for any person to tamper with or remove any working smoke detector except when it is necessary for maintenance or inspection purposes. Any smoke detector removed for repair or replacement shall be reinstalled or replaced so that it is in placed during normal sleeping hours.

(2) At every change of tenant in every rental dwelling unit, smoke detectors shall be tested to see that they are in operable condition. The ongoing maintenance of the smoke detectors shall be the responsibility of the tenant.

(E) *Duty of property owner, manager, or agent.* Every owner, manager, or agent of any rental dwelling unit shall be responsible for the installation and replacement of defective smoke detectors at anytime. This requirement applies to smoke detectors required by any state or federal law as well as by this section.

(F) *Certificates of compliance.*

(1) Each owner, manager, or agent of any rental dwelling unit in which a smoke detector has been installed shall provide documentation upon request to the City Fire Department that the required installation has been performed in the owner's units, and that the detectors are in good working condition.

(2) Each owner, manager, or agent, shall certify to each new occupant of any rental dwelling unit covered by this chapter that all smoke detectors required have been installed and are in proper working condition.

(G) *Lack of properly operating smoke detector, complaint, investigation by fire official.*

(1) (a) If a rental dwelling unit is not equipped with the required smoke detector at the time a new occupant moves into the unit, occupancy shall not be allowed.

(b) If required smoke detectors do not exist, the tenant should give written notice to the City Clerk-Treasurer stating such deficiency.

(2) (a) Upon receipt of a complaint filed, the City Council shall cause the City Fire Department to investigate the alleged violation.

(b) If the Fire Department finds that the owner or owner's authorized agent has failed to install a properly operating smoke detector in the unit under investigation, the Fire Department may cause the City Police Department to issue a citation.

(3) (a) In the absence of a complaint from the tenant, the Fire Department may also investigate the alleged violation. If the Fire Department finds that the owner or the owner's authorized agent has failed to install a properly operating smoke detector in the unit under investigation, the City Fire Department and City Police Department may initiate the citation process by presenting the owner with a written notice of the deficiency specifying five calendar days for compliance.

(b) If the Fire Department finds that the owner or owner's authorized agent has complied with divisions (D) and (E) above, but that the tenant has failed to maintain such smoke detector in properly working condition, the Departments may initiate the citation process.

(c) The tenant shall be given written notice of the deficiency and shall have five calendar days to comply. If the tenant fails to comply, the City Police Department may issue a citation.

(H) *Transfer of dwelling unit without smoke detector prohibited.* No person shall convey fee title to any real property which includes a dwelling unit, or transfer possession of any dwelling unit pursuant to a land sale contract, unless there is installed in the dwelling unit an approved smoke detector installed in accordance with this section.

(I) *Certain persons not liable for damages resulting from mechanical failure of smoke detector.* The owner, owner's authorized agent, or tenant of a dwelling unit shall not be held liable in any civil action for damages for death or injury to persons or property resulting from the mechanical failure of a smoke detector required under this chapter.

(Ord. 661, passed 11-13-1989) Penalty, see § 93.99

§ 93.02 TAPPING FIRE HYDRANTS.

It shall be unlawful for any person except a member of the City Fire Department or an employee or officer of said city or of the City Water Department to turn on, tap to, connect with, or make any alterations or attachments to any fire hydrant in said city.

(Ord. 440, passed 4-10-1973) Penalty, see § 93.99

§ 93.03 PROTECTION OF FIRE HOSES.

During the prevalence or continuance of any fire or fires in said city, it shall be unlawful for any person or corporation to run or drive any wagon, buggy, cart, engine, or cars upon, across or over any fire hose belonging to said city that may be stretched, laid, or extended upon or along any street or alley, or across any railway track in said city.

(Ord. passed 3-22-1895) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) 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) Any owner of a dwelling unit, dwelling, apartment house, lodging house, or mobile home rental found to be in violation of § 93.01 may be fined in a sum not less than \$10, nor more than \$50.

(C) Any person found guilty of violating § 93.02 shall, on conviction, be fined not less than \$25, nor more than \$250 for each offense.

(D) Any person violating the provisions of § 93.04 shall be fined, on conviction thereof, not less than five, nor more than \$5 for each offense so committed.

(Ord. passed 3-22-1895; Ord. 440, passed 4-10-1973; Ord. 661, passed 11-13-1989)

CHAPTER 94: PUBLIC PROPERTY

Section

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- 94.15 Definitions
- 94.16 Construction and scope of subchapter
- 94.17 Property, drives, bridges, and equipment
- 94.18 Trees, shrubs, and grass
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- 94.27 Picnics and outings
- 94.28 Peddling and sales; concession streets
- 94.29 Protection of animals
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- 94.60 Nighttime use of City Cemetery
- 94.61 Rules and regulations for the management and control of the City Cemetery
- 94.62 Grade and corner posts and curbs and burial lots in the City Cemetery
- 94.63 Care and improvement of the City Cemetery

- 94.99 Penalty

GENERAL PROVISIONS

§ 94.01 SWIMMING AND BOATING.

(A) It shall be unlawful for any person or persons to operate any motor boat in or upon the City Reservoir.

(B) It shall be unlawful for any person or persons to operate any row boat or canoe within 800 feet above the city dam.

(C) It shall be unlawful for any person or persons to swim in or wade in any part of the City Reservoir.

(Ord. 313, passed 8-9-1960) Penalty, see § 94.99

CITY PARKS

§ 94.15 DEFINITIONS.

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

BOARD. The Park Board of the City of North Vernon.

CITY. The City of North Vernon, Indiana.

CONTROLLED SUBSTANCE. Has the same meaning as set forth in I.C. 35-48-1-9, as amended from time to time.

DEPARTMENT OF PUBLIC PARKS OR PARK DEPARTMENT. Includes the City Department of Public Parks, or such department of said city as may now or hereafter be under the jurisdiction of said Board.

OWNER. Any person owning, operating or having the use and control of a vehicle, animal, thing, or other property under a lease or otherwise.

PARK. Unless specifically limited, shall be deemed to include all parks, playgrounds, athletic field, tennis courts, swimming pools, parking areas, and other recreation areas, places, roads, and also entrances and approaches thereto, leasing to, or connecting such other rights and appurtenances as the Board shall utilize whether the same be now or hereafter owned or acquired by the city in fee or otherwise, including all land under and above the ground.

PARKWAYS. Includes any street, road, or entrance that is under the jurisdiction and authority of the Board.

PERMIT. Includes and written authorization issued by or under the authority of the Board for a specified park privilege, activity or event, or permitting the performance of a specified act or acts in any park.

PERSON. Includes any natural person, corporation, society, organization or persons, company, association, joint stock association, firm, or co-partnership.

PLAYGROUND AREA. Includes any area maintained or designated as a playground area, including all territory under the jurisdiction of the Board.

POLICE OFFICER. Includes any member of the Police Department of the city, or police officer assigned to the Board, or appointed by the Board, as a park police officer, or any other city employee sworn in as a police officer by said city or said Board, pursuant to law.

UNNECESSARY STOPPING. Bringing a vehicle to a complete stop on a road in a park other than at a parking place, or other than in conformity with traffic regulations or other than because of an emergency.

VEHICLE. Includes any device, conveyance, or combination of conveyances, wheeled or without wheels, propelled, towed or unpropelled, that in, around, or on which a person or thing is or may be carried; any moving support or container for the conveyance of persons, animals, or bulky objects on land of water or in the air.

WALKING AREA. Includes any area, or combination of areas that have been assigned walking only by the Board.

(Ord. 878, passed 10-22-2007)

§ 94.16 CONSTRUCTION AND SCOPE OF SUBCHAPTER.

(A) *Construction.* In the interpretation of this subchapter affecting parks, its provision shall be constructed as follows:

(1) Any term in the singular shall include the plural;

(2) Any term in the masculine shall include the feminine and neuter;

(3) Any requirement or provision of this subchapter relating to any act shall respectively extend to and include the causing, procuring, aiding or abetting, directly or indirectly, of such act; or the permitting or the allowing of any minor in the custody of any persons doing any act prohibited by any provision hereof;

(4) No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the Department or Parks and Recreation in line of duty or work as such, or by any person, his or her agents, or employees, in the proper and necessary execution of the terms of any agreement with the Board;

(5) Any act otherwise prohibited by this subchapter, provided, it is not otherwise prohibited by law or local ordinance, shall be lawful if performed under, by virtue of, and strictly in compliance with, the provisions of a permit and to the extent authorized thereby; and

(6) This subchapter is in addition to and supplemental to all municipal, state, and federal laws and ordinances.

(B) *Territorial scope.* This subchapter shall be effective within and upon all areas under the jurisdiction of the Board, and shall regulate the use thereof by all persons.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.17 PROPERTY, DRIVES, BRIDGES, AND EQUIPMENT.

No person shall injure, deface, displace, remove, fill in, raise, destroy, or tamper with any drive, path, walk, bridge, or approach thereto; take up, remove, or carry away and asphalt, curb, rock, stone, gravel, sand, clay, or earth; or make any excavation of any kind, name, or nature; or cut, injure, mutilate, deface, displace, remove, or destroy any fence, shelter, seat, monument, or other structure, building, post, railing, bench, tree guard, telephone, pipe, or main for conducting gas, water or wires, fuses, fuse box, or switch boxes, or any hydrant, sewer, drain, pipe, main, receiving basis, covering,

manhole, or vent forming a part thereof or any appurtenance or appendage conforming therewith; or injure, or deface, or destroy, or mutilate, or remove, or carry away, or displace, or tamper with any property or equipment, real or personal, owned by the city under the jurisdiction, control, or supervision or the Board, or appertaining to the creation, control government, use, or maintenance of any park; or injure, deface, displace, remove, or destroy any sign, notice, inspection, post, or monument, erected or marked for any purpose, or any milestone, danger sign, or signal, guide sign, or post, or any signaling device, sanctioned, installed, or placed by the said Board or by the Police Department of the city within any park for the purpose of directing, restricting, or regulating traffic, establishing zones of giving information or directions to the public, or interfere with any lamp, lamppost, gas or electric light apparatus, or light or extinguish the light therein, or attach, string, adjust, or suspend any wires or similar object in, on or over any part of any park.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.18 TREES, SHRUBS, AND GRASS.

No person shall, in any park, 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, nut, or leaf thereof; or bring into have in his or her possession in any park any garden or agricultural implements or tools which could be used for the removal thereof; or pile or maintain any material or debris of any kind against or upon the same; or attach any rope, cable, or other contrivance thereto; or set fire to any timber, tree, shrub, plant, flower, 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 grassplot; or go upon any lawn, grassplot, or planted area, except at such times when permission to do so shall have been given by the Board to the public. No person shall bring into of have in his or her possession in any park any tree, shrub, or other plant, or any branch, stem, flower, or leaf thereof, without permission from the Board.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.19 PROHIBITED ACTS.

(A) *Littering rubbish, refuse.* No person shall take into, carry through, leave in, or throw, cast, lay, or dispose of any harmful wastes, chemicals, contaminants, brush, appliances, tires, and/or such waste on park grounds. No home or business waste shall be disposed of in park trash cans and or dumpsters. No person shall throw rubbish, trash, or other litter on any roadway or any public park or into any park area. The grounds must be cleaned after use and put in their original condition or better before leaving.

(B) *Spitting.* No person shall, in any park, spit upon any walk, crossing, structure, bridge, platform, stairway, or floor of any building.

(C) *Discharging certain substances into drains and sewers.* No person shall discharge, directly or indirectly, into any opening, or into any gutter leading into any sewer, receiving basin or drain in or leading into any park, any gas or vapor, or any substance which may form a deposit tending to choke same, or any volatile liquid which will emit an inflammable vapor, or any steam or hot water about 100°F.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.20 ADVERTISING.

No person, without written permission from the Board, shall distribute or display any flag, banner, sign, or other matter for advertising purposes within any park. No person shall display by means of aircraft, kite, balloon, or any other device, any flag, banner, sign, or any other matter for advertising purposes above the surface of any park. No person shall operate any musical instrument, or drum, or loudspeaker, amplifier or siren, or cause any noise to be made within any park for advertising purposes or for the purpose of attracting to any exhibition, performance, show, or other spectacle.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.21 DISORDERLY CONDUCT.

(A) No person shall, in any park:

(1) Disobey an order of a police officer or any park employee designated by the Board to give orders, or disobey or disregard the notices, prohibitions, instructions, or directions to say sign, including the rules and regulations of swimming pools, playground areas, recreation areas, shelter houses, quad-plex, skate park, and or any other posted on grounds or buildings or structures connected with or used for any purpose under the jurisdiction, control, operation, or supervision of said Board;

(2) Use threatening, insulting, or abusive language;

(3) Do, engage in, or aid or abet any obscene or indecent act;

(4) Throw, cast, or propel stones or other missiles;

(5) Solicit alms, subscriptions, or contributions for any purpose;

(6) Molest or annoy any persons;

(7) Interfere with, encumber, obstruct, or render dangerous any part of a park;

(8) Climb or lie upon any wall, fence, shelter, seat, or other structure;

(9) Do any act tending to or amounting to a breach of peace;

(10) Use any sound amplification device audible more than 20 feet from the device without specific written permission for the Board;

(11) Enter or leave any park, except at established entrance ways or exits;

(12) Engage in, instigate, or encourage a contention or fight;

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

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

(15) Act as a crier, or advertiser, through the media of voice, public address system, amplifier, loudspeaker, or other mechanical device in parks; or

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

(B) No person shall engage in conduct or activities dangerous to himself or herself or others, or use the facilities and structures of the parks for purposes other than those for which they were intended. Such prohibited activities include, but are not limited to: hang gliding; rappelling from structures; and/or skating on picnic tables.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.22 GAMBLING.

No person shall play games or chance, sell fortunes, or futures, participate in the conduct of a lottery or use any slot machine, gaming table or instrument, or bring into any park or have in his or her possession while there any implements or devices commonly used, or intended to be used, for gambling purposes.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.23 EXPLOSIVES, FIREARMS, WEAPONS, AND MISSILES.

(A) No person shall bring into or have in his or her possession in any park any firecrackers, fireworks or other missile-propelling or explosive devices, harmful solid, liquid, aqueous, effervescent, gaseous substance, or other dangerous substance while on or within a city park, except by specific permission of the Board.

(B) Shooting or propulsion of any 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 lands below

same, or any ways, walks, buildings, structures, swimming pools, or the interior of any structures, shelters, buildings or facilities, owned or under the control, operation, supervision, or management of said Board, is prohibited, unless done under the control, operation, supervision, or management of said Board, is prohibited, unless done under a permit granted by said Board or within a regularly conducted event authorized by, or conducted by, said Board or the Director of Parks and Recreation of the city. (Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.24 AVIATION.

No person, without permission of the Board, shall voluntarily bring, land, or cause to descend or alight within or upon any park, any airplane, flying machine, balloon, parachute, or other apparatus for aviation. *VOLUNTARILY*, in this connection, shall mean anything other than a forced landing. Any landing other than one caused by mechanical or structural failure of the aircraft or any of its parts shall be deemed to have been made voluntarily, and this shall include landings by error or oversight, negligence, or failure to comply with any Civil Aeronautics Authority regulations or rulings. (Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.25 CAMPING.

(A) No person shall establish or maintain any camp or other temporary lodging place, including a tent, vehicle, or other artificial shelter, within the park without a permit from the Board or its duly authorized officer and payment fee which, if any, may be set by the Board. Such permit must be conspicuously posted at the campsite.

(B) All campers and/or visitors shall abide by the parks rules authorized and restrictions set forth by the Board as required conditions of the area use. (Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.26 MEETINGS, EXHIBITIONS, PARADES, RACING, AND THE LIKE.

(A) No person shall erect any structure, stand, or platform, or exhibit any dramatic performance, or the performance in whole or in part of any interlude, tragedy, comedy, opera, ballet, play, farce, minstrelsy, dancing, rock festival, musical concert, entertainment, motion picture, public fair, circus, juggling, ropewalking, or any other acrobatics, or show of any kind or nature, or parade, drill, or maneuver of any kind, or run or race any horse or other animal, being in or on or (attached) to a vehicle, or race with another vehicle or horse whether such race is founded on any stake, bet, or otherwise, or hold any athletic contest, in any park or upon any park street except by permit.

(B) The Board shall issue such permit, upon application, when it is consistent with the proper use and protection of the park property as set forth below; and refuse same when inconsistent with the proper use and protection of the park property.

(C) No person shall erect any structure, stand, or platform, hold any meeting, perform any ceremony, make a speech, address, or oration, or exhibit or distribute any sign, placard, notice, declaration, or appear of any kind or description, in any park or upon any park street except by permit of said Board.

(D) Upon application such permit shall be issued unless:

(1) The use for which the permit is sought is of a commercial nature;

(2) The location selected is not suitable because it is inconsistent with one of the specialized park use areas such as ball diamonds, picnicking areas, athletic fields, landscaped areas, or limited use areas, swimming pools or recreational areas, or will unreasonably cause safety, crowd congestion, noise, or traffic flow problems; or

(3) The date and time requested has previously been allocated by permit, or would obstruct and interfere substantially with park use and enjoyment by the public; provided, however, that no permit shall be issued for any unlawful purpose.

(E) Whenever a permit is denied because of a reason set forth in divisions (D)(2) or (D)(3) above, alternative suitable locations or dates shall be offered to the applicant.
(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.27 PICNICS AND OUTINGS.

All persons conducting organized picnics or outings shall obtain permits for the use of said park facilities in the parks designated for such purposes.
(Ord. 878, passed 10-22-2007)

§ 94.28 PEDDLING AND SALES; CONCESSION STREETS.

(A) No person shall in any park or park street or to any person in any park, exhibit, sell, or offer for sale, hire, lease, or let out any object or merchandise, or any thing whatsoever, whether corporeal or incorporeal, tickets for entertainments, or other affairs of any description included, except under a permit, or for advertising or commercial purpose take moving pictures or photographs within the limits of any park, or buy or sell or publish the negatives thereof or the prints therefrom or exhibit such negative or prints in public, or use pictures or photographs of any park, park street, or park structure, perform any personal service for hire in any park or park street except under a permit, or otherwise than in accordance with the terms of such permit.

(B) Possession of objects or merchandise in quantities, packages, or containers customarily associated with peddling shall be deemed to be prima facie evidence of exhibiting or offering for sale. Nothing contained herein shall forbid or prevent said Board in its discretion, granting concession

contracts and privileges to any concessionaire or permittee on such terms and condition as the Board may determine.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.29 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 feral animal, reptile, bird, bird's nest or squirrel's nest, or remove the young of any such animal or the eggs or young of any such reptile or bird, or knowingly buy, receive, have in his or her possession, sell or give away any such animal, reptile, bird, or egg so killed or taken.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.30 FIRES; DISCARDING LIGHTED CIGARS.

No person shall kindle, build, maintain, or use a fire except under special permit. Any fire allowed under special permit shall be continuously under the care and direction of a competent person over 21 years of age from the time it is kindled until it is extinguished, and no fire shall be built within ten feet of any tree or building, or beneath the branches of any trees or in any underbrush. No person shall throw away or discard any lighted match, cigar, or cigarette in any park.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.31 REMOTE CONTROL AUTOMOBILING.

No person shall, in any park, engage in remote control automobiling except at places designated or maintained therefor.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.32 GAMES.

No person shall, in any park, throw, cast, catch, kick, or strike any baseball; swing or make use of any golf club; play golf; hit tennis balls, footballs, or basketballs; skate; ride any bike, board; or engage in any sport, game, or competition, except in places designated or maintained therefor.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.33 ANIMALS.

(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. A dog or other pet may be brought into a park; provided, that such animal is continuously restrained by a leash, not exceeding six feet in length. No pets, except seeing-eye dogs and hearing-guide dogs, are allowed in, upon or on buildings, playgrounds, swimming pools, stands, concert areas, areas where food is purveyed, kept or prepared, in the quad-plex, or other areas designated by signs as prohibited areas as determined by the Board.

(B) No person having the care of any dog or other animal shall permit such animal to enter or drink the water of any drinking fountain or swimming pool in any park.

(C) Any animal found at large may be seized and impounded or disposed of pursuant to the laws and ordinances of the state or city concerning the disposal of stray animals on the highways or other public places.

(D) Any person owning or being custodian or having control of any animal shall be required to pick up fecal matter after your pet.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.34 HORSES.

No person shall use, ride, or drive a horse in any park unless authorized to do so by the Board.
(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.35 ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES.

(A) It shall be unlawful for any person, while within any city park, to:

- (1) Consume or possess any alcoholic beverage;
- (2) Sell, barter, trade, or exchange an alcoholic beverage;
- (3) Possess a controlled substance; and/or
- (4) Be under the influence of alcohol or a controlled substance.

(B) It shall be unlawful for any person to possess, or to be under the influence of, an alcoholic beverage or controlled substance while operating, or a passenger in a motor vehicle.

(C) Employees and agents of the Board shall, while in the performance to their duties, be authorized and empowered to deny entrance to any city park; or refuse to rent to or to allow the use of any park property by, and physically remove from, any city park any person whom such employee, agent, or official believes to be under the influence of alcoholic beverages of controlled substances.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.36 CONSTRUCTION WORK.

No person or agency shall perform construction work of any kind or work incidental thereto in any park without a permit or under a contract with the Board.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.37 TRAFFIC CONTROL AND SPEED LIMITATIONS.

(A) It shall be unlawful for any person to operate a vehicle in excess of five mph.

(B) When using parks or park streets, all persons and vehicles shall heed and comply with directions of any police officer and, unless otherwise directed by a police officer, shall further comply with directions on traffic signs along all routes and trails.

(C) Upon the Board's designation of a space for disabled parking, a sign shall installed bearing the words: "Disabled Parking Only" or similar language consistent with the state manual and specifications for uniform system of traffic-control devices, and the official international wheelchair symbol or a reasonable facsimile thereof.

(D) With respect to areas designated by the Board as parking areas, all persons and vehicles shall comply with all directions and/or regulations posted within such areas, including, but not limited to, those concerning time limitations, use by mobility disabled persons, and the like, and with the directions of any park employee.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.38 VEHICLE USE RESTRICTIONS.

(A) The laws of the state regulation equipment on vehicles and vehicle operation shall apply to vehicles within any city park.

(B) No vehicle shall be operated within any park under the jurisdiction, control, or supervision of the Board, except on roadways or areas expressly designated by the Board for vehicular traffic.

(C) Mopeds, dirt bikes, all-terrain vehicles, or any other mechanically driven vehicles are prohibited in any area under the control of the Board, except those areas that have been designated by the Board for such usage.

(D) Vehicles constructed for or engaged in the carrying of merchandise and trucks and trailers are prohibited from using any park, except under permit where necessary to make deliveries in such park.

(E) No vehicle shall enter or leave any park except at established entranceways or exits.
(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.39 CAREFUL DRIVING.

No person shall, in any park, operate, drive, or propel, or cause or permit to be operated, driven, or propelled, any vehicle recklessly or negligently or at a speed or in such a manner as to endanger the life, limb, safety, comfort, or property of any person or persons.
(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.40 RESTRICTED AREAS.

(A) *Parking or operating certain vehicles.* No person shall, in any park, drive or operate a vehicle, ride a bicycle or motor-powered cycle, blade, skate, skateboard, or ride any such other apparatus within or upon a “walking area”, but persons may push such non-vehicle machines through areas in a single file to and from such places.

(B) *Parking vehicles.* The parking of vehicles in any park area not designated for parking is prohibited.

(C) *Use of tobacco products.* No person shall, in any park, be permitted to use tobacco products in areas designated as tobacco free, or in any park building or structure. All tobacco product remains must be extinguished and properly disposed of in a refuse container.
(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.41 OBSTRUCTING TRAFFIC.

No person shall cause or permit any vehicle to obstruct traffic in any park, or to stop such vehicle except at those places specifically designated or maintained for the purpose of stopping or parking, except in cases of emergency.
(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.42 DRIVING OFF PAVEMENT.

No vehicle 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 longer than 24 hours.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.43 WORKING ON VEHICLES.

No person shall, in any park, clean, polish, grease, lubricate, change oil, or make repairs to any vehicle except those of a minor nature and then only in cases of emergency.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.44 EQUIPMENT ON VEHICLES.

No person shall drive or operate a vehicle in any park not equipped as provided by law or which may not lawfully be operated within the state. Use of any cutout, fitting, apparatus, or device which allows its exhaust gases to escape there from without first passing through a muffler or silencer, or driving a vehicle emitting offensive quantities of smoke, oil, gas, or disagreeable odors, or use of any gong, siren, or whistle on any vehicle not operated by a public authority, is prohibited.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.45 PARKWAYS.

(A) *Rate of speed.* No person operating, driving, or propelling any vehicle shall proceed at a greater than maximum speed of five mph.

(B) *Peddlers, vendors, and the like.* No peddler, vendor, hawker, or huckster shall stop or remain on any part of the right-of-way or service roads or entrances.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

§ 94.46 CURFEW.

It shall be unlawful for any person to remain in any park, playground, picnic area, pavilion, or any property under the jurisdiction of the Park Board, either on foot or in vehicles of any type, later than 11:00 p.m. local time and earlier 5:00 a.m. local time, except by written permit. Any person violating the curfew will be charged with trespassing under I.C. 35-43-2-2.

(Ord. 878, passed 10-22-2007)

§ 94.47 PARK ENTRANCE FEES; PERMITS.

(A) Entrance, vehicle registration, rental and activity fees for the city parks shall be as established by the Board, and shall be levied at those times and for those activities and events as designated by the Board.

(B) All persons who take part in any specialized activities for which there is a fee, rental, or admission and all persons using any park facilities or engaging in any activity in any city park must abide by the posted regulations adopted by the Board governing those activities and/or facilities. No person shall be allowed within the confines of those specialized activities or facilities without having first paid the fee, rental, or admission charge.

(C) A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the written terms and conditions thereof. Any violation of any law, ordinance, or rule or regulation of the Board of any other city department by the holder of any permit or any term or condition thereof shall constitute grounds for revocation by the Board or its authorized representative, whose action therein shall be final.

(D) In the case of revocation of any permit, all monies paid for or on account thereof shall, at the option of the Board, be forfeited to and be retained by the city; and the holder of such permit, together with his or her agents and employees who violated such terms and conditions, shall be jointly and severally liable to the city for all damages and loss suffered by it in excess of money forfeited and retained; but neither such forfeiture and retention by the city of the whole of any part of such monies nor the recovery or collection of such damages, or both, shall in any manner relieve such person or persons from liability to punishment for any violation of any law, ordinance, or rule or regulation of the Board or of any other city department.

(Ord. 878, passed 10-22-2007) Penalty, see § 94.99

CEMETERY

§ 94.60 NIGHTTIME USE OF CITY CEMETERY.

(A) It shall be unlawful for any person to enter the City Cemetery, after dusk, whether on foot or while driving a motor vehicle, unless such person shall have permission from the Trustees to the City Cemetery.

(B) The Trustees to the City Cemetery, are hereby directed to erect a sign posting such notice of the limitation of visiting hours after dusk.

(Ord. 477B, passed 4-15-1977) Penalty, see § 94.99

§ 94.61 RULES AND REGULATIONS FOR THE MANAGEMENT AND CONTROL OF THE CITY CEMETERY.

(A) The name of the city Cemetery shall be and is hereby changed to Hill Crest Cemetery.

(B) The following shall be the rules and regulations of the Hill Crest Cemetery Association of the city.

(1) The name of this Association shall be the Hill Crest Cemetery Association of the city.

(2) All lot owners are members of the Association.

(3) The officers of this Association shall consist of President, Vice-President, Secretary-Treasurer, and a Board of Directors.

(3) The officers of this Association shall be elected at a public meeting on the first Tuesday of April of each year.

(4) The Board of Directors shall consist of six directors. The Clerk-Treasurer and the Chairperson of the Public Property Committee of the City Council shall, by virtue of their offices, be members of the Board of Directors. Four directors shall be elected by the Association, two of whom shall be women. At the meeting in April, 1929, two directors shall be elected to serve one year, and two to serve two years, and thereafter two directors shall be elected each year to serve two years.

(6) The City Clerk-Treasurer shall keep a record of all lots sold; their number, name of owner, and date of sale. He or she shall preserve the plats of all lots now platted and of new additions as the same are, from time to time, acquired and platted.

(7) The Secretary-Treasurer shall receive all monies collected from lot owners in the form of an assessment for the care of cemetery lots and graves, the amount of the assessment to be determined by the Board of Directors, and officers of the Association.

(8) Appropriations shall be made by the City Council at various times for the general improvement and upkeep of the Cemetery. Should there be a tie vote in any business meeting of the Association, the Mayor of the city shall cast the deciding vote.

(9) The President of the Association shall appoint a caretaker and his or her assistants, with the consent of the Board of Directors, who shall also decide the amount of wages to be paid and the number of hours allotted for a days work.

(10) Rules for beautifying lots and grave shall be as follows:

(a) No trees, bushes, or shrubs shall be planted on individual lots;

(b) All curbing about lots is prohibited. Retaining walls may be built only by direction of the Board of Directors;

(c) The grading of all lots shall be under the direction of the Board of Directors; and

(c) Graves are to be sodded all over with sloping sides and ends, all not to exceed four inches in height.

(11) If at any time a lot owner desires to sell his or her lot, or a portion thereof, he or she shall first procure the approval of the Board of Directors and have his or her deed of transfer recorded on the books of the City Clerk-Treasurer.

(12) All deeds hereafter executed by the officials of the city, for lots or parts of lots in the Cemetery, shall include the condition in the body of said deeds: "The grantee shall comply with the rules and regulations of the Hill Crest Cemetery Association".

(13) Contributions to the Association will be accepted from any person whether a member of the Association or not.

(C) (1) Before any person shall dig a grave, he or she must procure a permit from the Clerk-Treasurer and the price of \$7 must be paid to him or her.

(2) This service includes the removal of the surplus dirt to a place designated by the Chairperson of the Public Property Committee or the Board of Directors.

(3) After the above rules have been complied with, then the Clerk-Treasurer shall pay the party who has completed the work above.

(Ord. passed 5-23-1930)

§ 94.62 GRADE AND CORNER POSTS AND CURBS AND BURIAL LOTS IN THE CITY CEMETERY.

(A) It shall be unlawful for any person to change, the grade line or any burial lot in the City Cemetery, after the same has been established by the City Engineer.

(B) It shall be unlawful for any person to build construct or place any curb on or about any burial lot in the City Cemetery.

(C) It shall be unlawful for any person to build, construct, or place upon or about any burial lot in the City Cemetery, any corner stone which extend above the grade line of said lot.

(Ord. passed 1-12-1923) Penalty, see § 94.99

§ 94.63 CARE AND IMPROVEMENT OF THE CITY CEMETERY.

(A) For the purpose of improving, beautifying, caring for, and keeping in order the Cemetery owned by said city, there shall be selected and employed by the City Council one good, steady, and reliable person who shall perform the duties hereinafter mentioned relating to said Cemetery.

(B) Said employee shall keep said Cemetery in good order, free from weeds and briars and in a neat and attractive condition so far as may be possible. He or she shall keep the grass and trees therein properly trimmed keep the outside fences, in order, and thoroughly familiarize himself or herself with the numbers and location of the several lots in said Cemetery.

(C) Said employee shall be under the direction of the Committee on Public Property, and shall receive orders from said Committee and make reports to the Chairperson thereof. He or she shall work when required to work by said Committee and do such work and make such improvements as are mentioned in division (B) above, by its direction, and with its advice and consent.

(D) Said employee shall dig all graves required to be dug in said Cemetery and for digging each grave and filling and rounding up the same he or she shall receive the sum of \$2.50 which shall be paid to him or her by the person or persons, who require such graves to be dug. For all other work performed by said employee, under the direction of the Committee on Public Property, he or she shall receive the sum of \$1 per day of eight hours, or \$1.25 per day of ten hours.

(E) The Committee on Public Property by and with the consent of the City Council shall have control of the work to be done in said Cemetery, and may require such work to be performed as in its judgment may be necessary to keep said Cemetery in a neat, attractive and thrifty condition.
(Ord. passed 9-26-1890)

§ 94.99 PENALTY.

(A) 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) Any person who shall violate the provision of § 94.01 shall, on conviction thereof, be fined not less than \$10, nor more than \$25, to which may be added imprisonment in the County Jail not to exceed 30 days.

(C) (1) Any violation of any of the following sections shall be punishable by a fine of \$50: §§ 94.19; 94.21; 94.22; 94.28; 94.30; 94.35; and 94.37. Any violation of any of the following sections shall be punishable by a fine of \$25: §§ 94.20; 94.24; 94.33; 94.34; 94.41; 94.42; 94.43; and 94.44. Unless otherwise provided in §§ 94.15 through 94.47, any violation of any provision of §§ 94.15 through 94.47 shall be punishable by a minimum fine of \$25 and a maximum fine of \$2,500.

(2) Any person having been found to have committed a violation of § 94.15 through 94.47 may be caused to be removed and prevented from returning to the park grounds. This may be a temporary or permanent restriction. Persons that return to the park after being denied entry are subject to arrest under I.C. 35-43-2.

(3) Pursuant to § 94.37(C), any motor vehicle found parking in areas designated for the exclusive use of mobility disabled persons which does not bear a disabled veteran registration plate or a special registration plate, or display a disabled ped parking permit issued by any state or municipality shall be fined \$50.

(D) Any person who shall violate the provision § 94.60 shall, on conviction thereof, be fined in the sum of \$25, plus costs.

(E) Any person violating either of the foregoing sections of § 94.62 shall, on conviction, be fined not less than \$1 and not more than \$10 for each offense so committed.
(Ord. passed 1-12-1923; Ord. 447B, passed 4-15-1977; Ord. 313, passed 8-9-1960; Ord. 878, passed 10-22-2007)

CHAPTER 94: FAIR HOUSING

Section

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§ 95.01 POLICY STATEMENT.

It shall be the policy of the city to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, being 42 U.S.C. §§ 2000e et seq., as amended, the Federal Housing and Community Development Act of 1974, being 42 U.S.C. §§ 5301 et seq., as amended, and I.C. 22-9.5-1 et seq. (Ord. 926-2012, passed 12-16-2012)

§ 95.02 DEFINITIONS.

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

AGGRIEVED PERSON. Includes any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

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

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

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

DISABLED.

(1) With respect to a person:

(a) Physical or mental impairment which substantially limits one or more of such person's major life activities;

(b) A record of having such an impairment;

(c) Being regarded as having such an impairment;

(d) An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990, being 42 U.S.C. §§ 12101 et seq.; or

(e) Any other impairment defined under I.C. 22-9-5-6.

(2) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in 21 U.S.C. § 802 (I.C. 22-9-5-6(b)); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite.

(I.C. 22-9-5-6(d)(3))

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 95.04 through 94.08 or I.C. 22-9.5-5.

DWELLING. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one or more families.

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

FAMILIAL STATUS. Discrimination on the basis of familial status means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 years of age in regard to whom the person is (a) the parent or legal custodian or (b) has the written permission of the parent

or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

FAMILY. Includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in “familial status” above. Also, pursuant to 24 C.F.R. pt. 5, the definition of **FAMILY** is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

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

TO RENT. Includes to lease, to sublease, to let, and otherwise to grant for a consideration the rights to occupy the premises not owned by the occupant. (I.C. 22-9.5-2-13)
(Ord. 926-2012, passed 12-16-2012)

§ 95.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) below, § 95.08, and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in § 95.04 shall apply to:

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

(B) Other than the provisions of division (C) below, nothing in § 95.04 shall apply to:

(1) (a) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided, that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time.

(b) The sale or rental of any such single-family house shall be exempted from application of this section only if such house is sold or rented:

1. Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent, or salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, or salesperson, or person; or

2. Without the publication, posting, or mailing, after notice of advertisement or written notice in violation of § 95.04(C), but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer this title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

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

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

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

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

(Ord. 926-2012, passed 12-16-2012)

§ 95.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by division (C) below and except as exempted by §§ 95.03(B) and 95.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status, or national origin;

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

(C) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination;

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

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

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

(1) The buyer or renter;

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

(3) Any person associated with that person.

(G) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

(1) The person;

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

(3) Any person associated with that person.

(H) For purposes of this division (H), **DISCRIMINATION** includes:

(1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;

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

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

(a) The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;

(b) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(c) All premises within such dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling;

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

3. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility an usability for physically disabled people (commonly cited as ANSIA117.1) suffices to satisfy the requirements of division (H)(3)(c)3. above.

(5) Nothing in this division (H) requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health of safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.
(Ord. 926-2012, passed 12-16-2012)

§ 95.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin.

(B) As used in this section, the term ***RESIDENTIAL REAL ESTATE-RELATED TRANSACTION*** means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

(a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(b) Secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.

(Ord. 926-2012, passed 12-16-2012)

§ 95.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers', organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, disability, familial status, or national origin.

(Ord. 926-2012, passed 12-16-2012) Penalty, see § 95.99

§ 95.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by § 95.03 through 95.06.

(Ord. 926-2012, passed 12-16-2012) Penalty, see § 95.99

§ 95.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

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

(A) Any person because of his or her race, color, religion, sex, disability, familial status, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting, or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings;

(B) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

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

(2) Affording another person or class of persons opportunity or protection so to participate.
(Ord. 926-2012, passed 12-16-2012)

§ 95.09 EXEMPTIONS.

(A) Exemptions defined or set forth under I.C. 22-9.5-3 et seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) below.

(B) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

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

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

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

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

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

(Ord. 926-2012, passed 12-16-2012)

§ 95.10 ADMINISTRATIVE ENFORCEMENT OF ORDINANCE.

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

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

(C) All executive departments and agencies of the city shall administer their departments, programs, and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Elected Official and the Commission to further such purposes.

(D) The Chief Elected Official of the city, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information. (Ord. 926-2012, passed 12-16-2012)

§ 95.99 PENALTY.

(A) 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) Pursuant to § 95.08, any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations or facilities described in § 95.08(A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate, shall be fined according to local, state, and federal law; and if bodily injury results, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, shall be subject to imprisonment for any term of years or for life. (Ord. 926-2012, passed 12-16-2012)

