

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: STREETS AND SIDEWALKS

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GENERAL PROVISIONS

§ 90.01 OBSTRUCTION OF STREETS AND SIDEWALKS PROHIBITED.

No person, firm, company, or corporation shall obstruct streets, alleys, sidewalks, real estate dedicated to the public, or public grounds by placing merchandise, equipment, buildings, vehicles, trash burners, signs, shrubs, cables, posts, or other obstruction thereon.
(Ord. 1961-1, passed 3-20-61) Penalty, see § 10.99

§ 90.02 TEMPORARY OBSTRUCTION; PERMIT REQUIRED.

Any person, firm, company, or corporation must apply to the City Council for a permit to temporarily obstruct any street, alley, sidewalk, real estate dedicated to the public, or public grounds, setting forth the nature, extent, and duration of the obstruction; and the City Council shall have full and complete authority to determine the nature, extent, and duration of the temporary permit.
(Ord. 1961-1, passed 3-20-61) Penalty, see § 10.99

§ 90.03 PLACEMENT OF YARD WASTE UPON TRAVELED PORTION OF ANY CITY STREET PROHIBITED.

(A) It is unlawful for any landowner or tenant of premises within the city to place **YARD WASTE** (tree limbs and branches, grass and/or shrub clippings) upon the traveled portion of any city street because it inhibits the efficiency of city storm sewers.

(B) The Police Department shall issue citations to violators of this section. Violations of this section shall include civil penalties of:

- (1) First offense\$25 fine.
- (2) Second offense.....\$50 fine.
- (3) Third offense.....\$100 fine,

with ban of future yard waste pickup for one year from and after date of judgment.
(Ord. 2010-4, passed 7-19-10)

STREETS; MINIMUM STANDARDS

§ 90.15 DEVELOPMENT PLAN.

(A) A development plan shall be submitted to the City Council for its approval prior to construction of any street in the city.

(B) The development plan shall show existing street center line and proposed center line grades. A typical street cross-section to a scale of one inch equals five feet shall be shown with street profiles.

(1) The typical street cross-section should be shown from property line to property line, including the intended width of roadway, the location and width of sidewalks, if proposed, and the proposed type of street construction, including materials and dimensions.

(2) Where grading lines deviate from the typical cross-section, elevations at the right-of-way line should be shown in addition to the center line profile.

(C) All underground services shall be located in the easement area adjacent to the street surface. The location of these services shall be shown on the development plan.
(Ord. 79-3, passed 5-7-79; Am. Ord. passed - -)

§ 90.16 DEAD-END STREETS PROHIBITED.

Dead-end streets are not permitted. If, because of peculiar arrangement of topography, continuous streets are impossible, cul-de-sacs shall be constructed.

(Ord. 79-3, passed 5-7-79)

§ 90.17 DIMENSIONS; MINIMUM WIDTH.

(A) Cul-de-sacs shall be terminated with a vehicular turnaround, completely surfaced, and having a minimum radius of 50 feet and a minimum roadway radius of 39 feet from the center to the back of the curb. The minimum allowable width of the right-of-way leading to the turnaround is 52 feet and the roadway shall be 30 feet back to back of curb.

(B) Residential streets shall have a minimum right-of-way width of 52 feet. The minimum roadway width shall be 30 feet back to back of curb.

(Ord. 79-3, passed 5-7-79; Am. Ord. passed - -)

§ 90.18 GRADES.

(A) Minimum grades for all streets shall be 0.5% for drainage purposes.

(B) Maximum grades shall be 7.0%.

(Ord. 79-3, passed 5-7-79)

§ 90.19 INTERSECTIONS.

At the intersection of two streets, the edge of the roadway and property line corners shall be rounded by a curve having a tangent distance of at least 25 feet.

(Ord. 79-3, passed 5-7-79)

§ 90.20 CURB AND GUTTER.

(A) Curb and gutter shall be required. All curbs, gutters, or combination curb and gutter shall be constructed of Portland Cement concrete.

(B) The mix design for curb and gutter shall be the same as the specification for a concrete street except that a 5½-bag mix design is acceptable.

(Ord. 79-3, passed 5-7-79; Am. Ord. passed - -)

§ 90.21 STREET CONSTRUCTION; MATERIALS AND SPECIFICATIONS.

The minimum requirements for acceptable street construction shall be one of the following:

(A) A ten-inch compacted gravel base course with a three-inch bituminous concrete surface course;

(B) Five-inch Portland Cement concrete with transverse sawed joints or zip strips at 20-foot intervals. Concrete must contain $6\% \pm 1\%$ of entrained air by volume. It must be a six bag or equivalent mix design and have a maximum slump of five inches. This specification must be met in its entirety if not included in division (C) below;

(C) Construction of improvements shall conform to the required specifications of the Indiana Department of Transportation, together with all subsequent revisions and supplements. For copies of these standard specifications, contact: Contract Engineer; Indiana Department of Transportation located at 100 North Senate Avenue, Room N730, Indianapolis, IN 46204; or

(D) A more durable type of pavement may be required on major streets, in which case specifications will be either furnished or approved by the City Engineer.
(Ord. 79-3, passed 5-7-79; Am. Ord. passed - -)

§ 90.22 ANNEXATION; SPECIFICATION COMPLIANCE REQUIRED.

No subdivision or streets shall be annexed to the city until they meet the requirements of these street specifications. The city will have up to one year after the time of presentment of annexation plans to review any completed street's resilience to freezing and thawing weather before it must act on the annexation of that street.

(Ord. 79-3, passed 5-7-79)

§ 90.23 EVIDENCE OF COMPLIANCE REQUIRED FOR PLAT APPROVAL.

Before a final plat can be approved by the City Council and the dedication of the streets and easements accepted and the plat recorded, the applicant must submit to the City Council evidence that all the required improvements have been completed in accordance with the approved plans and specifications.

(Ord. 79-3, passed 5-7-79; Am. Ord. passed - -)

§ 90.24 COMPLETED IMPROVEMENTS; CERTIFICATION REQUIRED.

Evidence of the completion of the improvements shall be made by the certification by the City Engineer that all improvements for the subdivision have been constructed in accordance with approved plans and specifications therefor, and with the requirements of this street subchapter; provided that before the City Engineer makes the certification, the applicant shall deliver to him or her a certificate by the registered professional engineer responsible for the development stating that the improvements for the subdivision have been constructed in accordance with the approved plans and specifications therefor, and with the requirements of this subchapter.

(Ord. 79-3, passed 5-7-79)

§ 90.25 UTILITY HOOK-UPS.

No utility hook-ups will be allowed until the street specification is met. The exception to this is a hook-up for construction.

(Am. Ord. passed - -)

SIDEWALKS; REPAIRS, CONSTRUCTION, AND MAINTENANCE

§ 90.35 PURPOSE.

The city intends to provide safe pedestrian walkways throughout the community and, in particular, to provide safe pedestrian traffic to and from schools and school bus stops, and other services in the neighborhood community.

(Ord. 98-5, passed 4-20-98; Am. Ord. 2017-8, passed 10-2-17)

§ 90.36 PROCEDURE FOR SIDEWALK REPLACEMENT.

Any owner of real estate within the city limits may file a written request with the City Building requesting replacement sidewalks upon their real estate and, if approved by the Common Council, the following procedure shall be implemented by the parties:

(A) The city will be responsible to remove the existing sidewalk and dispose of the same.

(B) The landowner will retain a private contractor to pour the concrete sidewalk subject to the approval of the City Street Superintendent. Any underlay fill material will be provided by the city, if needed.

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(C) Upon completion of the concrete pour, the city will provide fill dirt for sidewalk edges.

(D) All approved projects must be completed within 90 days of the project's approval by the Common Council.

(Ord. 2017-8, passed 10-2-17)

[Text continues on page 13.]

CHAPTER 91: HEALTH AND SANITATION; NUISANCES

Section

Nuisances

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- 91.02 Public nuisances affecting health
- 91.03 Abatement actions; penalty not affected
- 91.04 Abatement by City Council; procedures
- 91.05 Enforcement procedures
- 91.06 Noise restrictions
- 91.07 Mowing real estate constituting a health hazard

Dwellings Unfit for Human Habitation

- 91.20 Title
- 91.21 Definition
- 91.22 Notification
- 91.23 Costs and expenses
- 91.24 Violations

NUISANCES

§ 91.01 DEFINITION.

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

NUISANCE. A thing, act, occupation, or use of property which:

- (1) Shall annoy, injure, or endanger the safety, health, comfort, or repose of the public;
- (2) Shall offend public decency;
- (3) Shall unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage a lake, navigable river, bay, stream, canal, or basin, or a public park, square, street, alley, or highway; or

(4) Shall in any way render the public insecure in life, health, or use of property.
(Ord. 94-1, passed 2-22-94) Penalty, see § 10.99

§ 91.02 PUBLIC NUISANCES AFFECTING HEALTH.

(A) The following are hereby declared to be nuisances affecting health:

- (1) All decayed or unwholesome food offered for sale to the public;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;
- (5) Accumulations of manure, garbage, rubbish, or trash;
- (6) Privy, vaults, and garbage cans which are not fly-tight;
- (7) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, industrial wastes, or other substances;
- (8) All noxious weeds and other rank growths upon public or private property;
- (9) Dense smoke, noxious fumes, gas, and soot or cinders in unreasonable quantities;
- (10) Offensive trades and businesses as defined by statute and any business operated in violation of any zoning ordinance;
- (11) Any building or structure that has become unsafe for occupancy or dangerous or detrimental to life, health, and safety; or
- (12) Any portion of any structure burned, dilapidated, destroyed, or abandoned, or any rubble or debris remaining after any demolition, burning, destruction, or damage of any structure accumulating or remaining on any property for more than 30 days after the event which caused the burn, destruction, demolition, or the like.

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

DEBRIS and **RUBBLE**. Any accumulation of building materials accumulated or resting in any manner which would prevent mowing or trimming vegetation on the lot or parcel in manner and form as consistent with custom and habit in the adjacent and nearby lots or parcels.

(C) (1) Impossibility of performance because of any natural condition, disaster, or weather event shall be a defense to any action hereunder. After any natural disaster or weather event which leaves any debris, destroys structures, or otherwise causes any property or person to be in violation of this ordinance is a mitigating circumstance.

(2) Impossibility, however, is not a defense to any condition caused by the property owner, or agents thereof.

(Ord. 94-1, passed 2-22-94) Penalty, see § 10.99

§ 91.03 ABATEMENT ACTIONS; PENALTY NOT AFFECTED.

The action against any person to enforce a penalty shall constitute a separate and additional legal remedy, and the fact that any proceeding by way of an injunction, or for the abatement of any given nuisance, has been or may be instituted by the city and be pending or concluded, shall not affect this subchapter, or be considered in any way as a defense to any action to the penalty herein provided.

(Ord. 94-1, passed 2-22-94) Penalty, see § 10.99

§ 91.04 ABATEMENT BY CITY COUNCIL; PROCEDURES.

(A) In all cases where any public nuisance may be found or caused, the City Council shall cause written notice to be served upon the owner or occupant of the premises, or other person, so causing the nuisance, requiring the owner, occupant, or person to abate the nuisance within a reasonable time. If the owner or occupant of the premises, or other person, so causing the nuisance, cannot be found, the notice shall be posted upon the premises.

(B) It shall not be necessary for the Council to designate in the notice the manner in which the nuisance shall be abated, unless the Council shall deem it advisable to do so.

(C) If the owner or occupant of the premises, or other person so causing the nuisance, shall refuse or neglect to abate the nuisance within the time designated after notice is given, the person so violating this subchapter, upon conviction, shall be fined.

(D) In addition, the City Council may cause the nuisance to be abated either summarily, or in any manner authorized by law, and to assess the expenses of its removal against the person violating this subchapter and cause them to be placed on the tax duplicate of those persons or entity.

(E) The City Council may further recover the expenses incurred in the removal of the nuisance by the institution, in the name of the city, against the owner or occupant of the premises, or other person, of an action therefor, and for recovery of the amount of expense of the abatement. (Ord. 94-1, passed 2-22-94) Penalty, see § 10.99

§ 91.05 ENFORCEMENT PROCEDURES.

(A) All complaints alleging the existence of a violation of this subchapter shall be filed with the Clerk-Treasurer.

(B) The Clerk-Treasurer or the Street Superintendent shall promptly inspect the premises and shall make a written report of the findings of the inspection to the Clerk-Treasurer of the city. Whenever practical, photographs of the premises shall be attached to the written report.

(C) The Clerk-Treasurer shall keep all written reports on file. The Clerk-Treasurer shall report all incidents and all reports received hereunder to the Board of Public Works.

(D) If the Board of Public Works determines preliminarily that a violation of this subchapter exists, the Board of Public Works shall cause the Clerk-Treasurer to notify the owner of the property at the address to which tax statements are mailed, and a copy to the occupant if the premises is clearly occupied by a person other than the owner. Under any circumstances, it shall be sufficient if the notice is sent certified mail to the address used for tax purposes.

(E) The notice will describe the violation and shall advise the owner as to the penalties contemplated by this subchapter. The notice shall further state the cost of the violation per day and that unless the violation is abated or removed, that the city will cause it to be abated or removed, and the cost thereof will be charged to the owner or the occupant. The statement shall also contain a notice to the property owner's or occupant's right of appeal. The notice shall further state that the failure of the owner or occupant to abate the violation as required by the notice shall be deemed an implied consent for the city to abate or remove the violation. The notice shall provide for abatement of the nuisance within seven days of the notice being mailed by the Clerk-Treasurer.

(F) In addition to the costs as otherwise provided herein, the Clerk-Treasurer shall assess a fee of \$300 per lot or \$500 per acre to cover the administrative costs, which cost shall be abated only in the event that, upon appeal, it is determined that there is no violation, or that any violation was caused by impossibility of performance as otherwise defined herein.

(G) If the nuisance is not abated or removed after seven days following the notice, then in that event the Board of Public Works may cause abatement or removal of the violation.

(H) The costs and expenses under this subchapter include, but are not limited to, the administrative costs of § 91.07, the actual cost and expenses in the time of city employees or authorized contractors, the materials concerned in the actual actions of abatement, a reasonable fee for any use of municipal equipment, the cost of any non-owned municipal equipment, including transportation to and from the property, title searches, certifications, preparation of lien documents, foreclosure, and other related expenses, including and not limited to, reasonable attorney's fees, court costs, and other expenses of enforcement. For purposes of computing the cost of any city employee, the cost shall be deemed two and one-half times that employee's regular hourly wage, and the time shall be measured portal to portal, from the time the municipal employee leaves the municipal office on this task, until the time that the municipal employee returns.

(Ord. 94-1, passed 2-22-94; Am. Ord. 2009-07, passed 10-5-09) Penalty, see § 10.99

§ 91.06 NOISE RESTRICTIONS.

(A) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, excessive, unnecessary, or unusual noise.

(B) The following acts, among others, are declared to be loud, excessive, unnecessary, or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(1) *Horns, signaling devices, and the like.* The sounding of any horn or signaling device on any automobile, bus, or other vehicle on any street or public place of the county, except as a danger warning; the creation by means of any signaling device of any unreasonably loud or harsh sound; and the sounding of any device for any unnecessary and unreasonable period of time;

(2) *Radios, televisions, phonographs, and the like.* The using, operating, or permitting to be played, used, or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in a manner so as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which the machine or device is operated and who are voluntary listeners thereto. The operation of any set, instrument, phonograph, machine, or device between the hours of 11:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at a distance of 100 feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section;

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

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

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

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

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

(Ord. 58-5, passed - -) Penalty, see § 10.99

§ 91.07 MOWING REAL ESTATE CONSTITUTING A HEALTH HAZARD.

(A) Upon receipt of information from any source, including the Street Superintendent, that any lot or parcel has grass or weeds exceeding five inches in height and may constitute a health hazard, the Clerk-Treasurer of shall:

(1) Mail notice to the record owners of the real estate, as evidenced by records in the offices of the County Recorder and Auditor;

(2) The notice shall be sent by certified mail or hand delivered by the Police Department.

(B) Seven days after delivery of the notice, the Clerk-Treasurer shall direct the Street Superintendent to examine the property or parcel, and he or she shall:

(1) Report to the city that the situation has been resolved and that the lot or parcel no longer contains a health hazard; or

(2) Use city equipment and employees to mow and trim the real estate, and report to the Clerk-Treasurer the number of man hours used for the purpose of transporting equipment to and from the parcel and mowing and trimming the parcel or lot. Such report shall include the hourly rate of employees, including supervisory employees at the job site.

(C) The Clerk-Treasurer shall then assess against the record owner of the real estate a fee computed by multiplying the hourly rate as hereinabove set forth of all the employees involved at the job site by the number of hours they were involved at the job site, which product shall be multiplied by five, which amount shall be an assessment against the real estate. The Clerk-Treasurer shall take all steps necessary to cause the assessment to become a lien against the real estate and collected as taxes are otherwise collected on the property.

(Ord. 2010-02, passed 7-6-10)

DWELLINGS UNFIT FOR HUMAN HABITATION

§ 91.20 TITLE.

This subchapter shall be known as the “Dwellings Unfit for Human Habitation.”
(Ord. 2015-4, passed 9-8-15)

§ 91.21 DEFINITION.

The following definition shall apply to this subchapter unless context indicates or requires a different meaning:

DWELLING UNFIT FOR HUMAN HABITATION. A dwelling is unfit for human habitation when the dwelling is dangerous or detrimental to life or health because of any of the following:

- (1) Want of repair;
 - (2) Defects in the drainage, plumbing, lighting, ventilation, or construction;
 - (3) Infection with contagious disease;
 - (4) The existence on the premises of an unsanitary condition that is likely to cause sickness among occupants of the dwelling; and
 - (5) Water and/or sewer utilities have been shut off to the dwelling for a period of 30 days.
- (Ord. 2015-4, passed 9-8-15)

§ 91.22 NOTIFICATION.

Whenever the city determines that a dwelling is unfit for human habitation, the City Council acting through its Board of Public Works may issue an order requiring all persons living in the dwelling to vacate the dwelling within not less than five days and not more than 15 days. The order must mention at least one of the § 91.21 reasons for the order and one copy of the order shall be provided to the Fountain County, Indiana health officer for enforcement of the order of the Board of Public Works. This subchapter may be enforced by the Indiana State Department of Health, the Fountain County Health Department, and/or Fountain County Health Office.
(Ord. 2015-4, passed 9-8-15)

§ 91.23 COSTS AND EXPENSES.

(A) A person is liable for all costs and expenses paid or incurred by the State Department, a local board of health or the local board of health's authorized agents, and or a local health officer, who:

- (1) Violates this chapter; or
- (2) Fails to comply with an order of:
 - (a) The State Department or the State Department's authorized agents;
 - (b) A local board of health;
 - (c) A county health officer; or
 - (d) City of Covington Board of Public Works.

(B) This amount may be recovered in a civil action brought by the State Department, a local board or health of the local board of health's authorized agents, and or a local health officer, who is entitled to recover reasonable attorney's fees in the enforcement.

(Ord. 2015-4, passed 9-8-15)

§ 91.24 VIOLATIONS.

(A) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter shall be subject to fines of \$250 for each offense.

(B) Each day a violation continues constitutes a separate offense.

(Ord. 2015-4, passed 9-8-15)

CHAPTER 92: BURNING REGULATIONS

Section

92.01 Burning prohibited

92.02 Application

§ 92.01 BURNING PROHIBITED.

(A) Burning of any kind, including burning of combustible waste materials, is prohibited.

(B) Any person violating this section shall be guilty of a Class C infraction and a fine up to the maximum provided by statute.

(Ord. 85-6, passed 10-21-85; Am. Ord. 2020-3, passed 4-20-20) Penalty, see § 10.99

§ 92.02 APPLICATION.

Persons responsible and to whom this chapter applies are all of those who:

(A) Start a fire; and

(B) Authorize a fire to be commenced on their property, either expressly or implicitly.

(Ord. 85-6, passed 10-21-85)

[Text continues on page 23.]

CHAPTER 93: ANIMALS

Section

Animal Control

- 93.01 Purpose
- 93.02 Definitions
- 93.03 Prohibited conduct
- 93.04 Exemptions
- 93.05 Fees; licensing, violation, and impoundment
- 93.06 Impoundment authorized
- 93.07 Procedures; impoundment and hearing
- 93.08 Disposition of impounded animals
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Livestock Restrictions

- 93.20 Definitions
- 93.21 Keeping of livestock prohibited
- 93.22 Violation; public nuisance
- 93.23 Exceptions
- 93.24 Enforcement

ANIMAL CONTROL

§ 93.01 PURPOSE.

It is the purpose of this subchapter to eliminate vicious animals from the city and to restrict the movement of dangerous animals, abate the nuisance of annoying animals, and destroy vicious animals. (Ord. 99-13, passed 7-6-99)

§ 93.02 DEFINITIONS.

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

ANIMAL CONTROL OFFICER. The municipal dogcatcher, Chief of Police, or other official charged with the duties by the city of controlling animals, shall for the purposes of this subchapter be the ***ANIMAL CONTROL OFFICER.***

ANNOYING ANIMAL. Any animal which:

(1) Is on a premises on which an accumulation of animal food or animal waste products including urine or fecal material, shall have accumulated, the odor of which material is detected by persons of ordinary sensibilities off the property of the premises upon which the animal is caged, tethered, or housed;

(2) Is suffering from an infectious or contagious disease, or is injured; or

(3) Barks without cause of protecting property or persons after 11:00 p.m. and before 6:00 a.m.

AT LARGE. An animal that is off the premises of the owner while not under the control of the owner or other person by leash, cord, chain, or other device of actual physical restraint or under the control of and accompanying the owner or other person who has the ability to control the animal by voice command. A dog which has been trained to work and is working, shall not be ***AT LARGE.***

DANGEROUS ANIMAL.

(1) Any animal which, when either unmuzzled, unleashed, or unattended by its owner or a member of its owner's family, in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon streets, sidewalks, or any public ground or place. Exception: No animal shall be deemed a ***VICIOUS ANIMAL*** or ***DANGEROUS ANIMAL*** if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it or is a professionally trained animal for law enforcement or guard duties being used in the performance of those duties;

(2) Any animal at large in the city; or

(3) Any unlicensed dog in the city.

IMPOUND. Placing an animal in a place of confinement maintained by or for the animal control officer for storage, observation, and safe keeping of the animal.

PREMISES. The property to which a person shall have the right of possession, including fee ownership, leasehold interest, tenant's rights, or that person may be a dependent or guest of a person having interest in the property including adjoining lots and connected parcels.

VICIOUS ANIMAL. Any animal that attacks a human being or domestic animal without provocation or when unprovoked inflicts bites or attacks a human being or other animal on either private or public property.

(1) Wild and undomesticated animals are deemed **VICIOUS ANIMALS**, including all wild snakes, rodents, birds of prey, insects, poisonous spiders, and all other wildlife.

(2) Untagged dogs, such as, any dog found within the city limits not possessing a current city dog license, shall be presumed to be **VICIOUS ANIMALS**.

(3) Any animal found by the animal control officer on a previous event or transaction to be a dangerous animal shall, upon a subsequent finding of being a dangerous animal, be deemed a **VICIOUS ANIMAL**.
(Ord. 99-13, passed 7-6-99)

§ 93.03 PROHIBITED CONDUCT.

(A) No person shall keep any vicious animal, dangerous animal, or annoying animal.

(B) It shall be unlawful to maintain or keep a vicious animal within the city.

(C) No person shall sell or give away any vicious animal except as may be turned over to any appropriate law enforcement agency, the animal control officer herein defined, or to any appropriate veterinarian for the purpose of destroying the animal.

(D) No person shall keep or maintain any animal which has been found to be a dangerous animal unless that animal is at all times kept in an enclosure, except:

(1) To transfer to and from a veterinary office for necessary veterinary care; or

(2) To comply with the order of a court of competent jurisdiction, provided that the dangerous animal is securely muzzled and restrained with a chain having a tensile strength of 300 pounds and not exceeding three feet in length and shall be under direct control and supervision of the owner or keeper of the vicious animal.

(E) Any dangerous animal shall be maintained within an enclosure being a fence or structure at least six feet in height forming or causing an enclosure suitable to prevent the entry of children and to confine the dog onto the premises or property of the owner thereof.

(F) All owners of a dangerous animal shall have posted in clear view at the most conspicuous or prominent point of entry to the premises a sign indicating dangerous animal on premises. This sign shall be at least 8½ inches by 11 inches in size and shall contain in words and pictures a clear indication that a dangerous animal is on the premises.

(G) No person shall harbor any livestock or fowl within the city.
(Ord. 99-13, passed 7-6-99) Penalty, see § 10.99

§ 93.04 EXEMPTIONS.

(A) Guide dogs for the blind, and sentry, guard, or police-owned dogs are exempt from this section and subchapter provided that any attack or injury to a person occurs while the animal is performing duties as expected.

(B) Each exempted animal shall be currently inoculated against rabies and shall bear a current tag or license of the city.
(Ord. 99-13, passed 7-6-99) Penalty, see § 10.99

§ 93.05 FEES; LICENSING, VIOLATION, AND IMPOUNDMENT.

(A) Upon first violation the City Clerk-Treasurer shall give written notice to owner of the animal. There is a fine for subsequent violations. All fines and other costs shall be in addition to annual license costs and in addition to impound fees and any other fees and costs provided herein.

(B) Impound fees shall be an administrative fee of \$10 for processing and \$5 per day or part thereof for impoundment.

(C) All fees are payable at the City Building.

(D) All dogs inside the city shall be licensed by paying an annual fee per calendar year or part thereof, for unsexed animal: \$2 annually; for males: \$2 annually; and for females: \$4 annually. The city shall issue a tag suitable for the dog to wear on a collar marked in a manner so that the city can identify the license number and ownership of the animal. Any dog within the city without this tag shall be considered to be an unlicensed dog. Tags shall expire December 31 of each year.
(Ord. 99-13, passed 7-6-99) Penalty, see § 10.99

§ 93.06 IMPOUNDMENT AUTHORIZED.

(A) The animal control officer shall impound the following animals: Animals which the animal control officer has probable cause to believe are vicious.

(B) The animal control officer may impound the following animals:

- (1) Animals which the animal control officer has probable cause to believe are dangerous;
- (2) Animals which the animal control officer has probable cause to believe annoying; and
- (3) Other animals in violation of this subchapter.

(Ord. 99-13, passed 7-6-99)

§ 93.07 PROCEDURES; IMPOUNDMENT AND HEARING.

(A) The animal control officer shall advise the City Clerk-Treasurer that he or she has a certain animal in his or her possession. The Clerk-Treasurer shall search the records of ownership based upon the license or tag found on the animal's collar and shall notify the owner thereof that his or her animal has been impounded and that a hearing has been assigned for the purpose of determining whether or not the animal is vicious. This notification shall be by telephone or by regular United States mail. The Clerk-Treasurer shall notify the animal control officer that notification has been completed. In no event shall the hearing as contemplated herein be less than 24 hours after notice to the owner is complete.

(B) In the event that the animal is untagged or uncollared, the animal control officer and the City Clerk-Treasurer shall take reasonable steps to determine the ownership thereof and the suspected or probable owner thereof shall be given notice as otherwise contemplated herein as to any hearing.

(C) Upon capture or coming into possession of any animal which the animal control officer believes to be vicious or dangerous, the animal control officer shall assign the matter for hearing no earlier than three days from the capture or coming into possession of that animal.

(D) The hearing shall be before the Board of Public Works. The determination that an animal is dangerous, vicious, or annoying shall be recorded in the minutes of the Board of Public Works.

(E) The owner of any impounded animal may waive hearing, accept the preliminary determination of violation of the animal control officer, and redeem the animal as otherwise provided herein, in which case the waiver and categorization of the animal shall be recorded in the minutes of the Board of Public Works at its next regularly scheduled meeting.

(F) At the hearing, the animal control officer shall hear evidence from any source for the purpose of determining whether or not the animal meets the criteria as provided herein as a vicious animal, dangerous animal, or annoying animal.

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(G) In the event that the animal is found to be a vicious animal, then the animal control officer shall put this finding into writing and shall destroy the animal not sooner than two days after the findings shall have been disclosed to the owner of the animal. In the event that at the hearing the owner is not present having been duly notified or if the owner thereof cannot be ascertained, then, in the event of a determination that the animal is vicious, the animal shall be destroyed any time thereafter as otherwise provided herein.

(H) The animal control officer is not required to make a finding or determination that an animal is a dangerous animal.

(1) If the only violation hereof is the failure of the animal to have a current city license as contemplated by the definition of dangerous animal in § 93.02, destruction of the animal may be waived, provided the owner purchases a current tag and pays impound fees according to the schedule of impound fees then in effect to the City Clerk-Treasurer.

(2) Any delay, waiver, or release from the destruction as contemplated herein shall be conditional upon payment in full of all fees.

(3) If the violation is because an animal is at large, then, in the discretion of the animal control officer, formal determination that the animal is a dangerous animal may be waived if the animal is promptly redeemed and all fees contemplated herein are paid.
(Ord. 99-13, passed 7-6-99)

§ 93.08 DISPOSITION OF IMPOUNDED ANIMALS.

(A) Annoying animals may be redeemed by paying fees provided herein and abating the cause of the violation to the satisfaction of the animal control officer.

(B) Vicious animals shall be destroyed after two days after hearing as provided hereinabove.

(C) (1) Dangerous animals may be redeemed by payment to the City Clerk-Treasurer of fees and costs as provided herein. If not redeemed, they may be disposed of as provided below.

(2) No animal shall be released from impound until all fees, fines, and licenses shall have been paid.

(D) (1) Other animals may be transferred to another animal shelter, humane shelter, adopted to another owner, or destroyed after not less than three days confinement and actual notice to the owner of any licensed animal.

(2) If the animal control officer is informed by a licensed veterinarian that any impounded animal is incurably ill or infected, or is suffering unduly, then the animal may be destroyed and the consent of any owner shall not be required.

(3) An animal appearing to be suffering from rabies, mange, or other infectious disease shall not be released but shall be destroyed unless the condition or disease is abated to the satisfaction of the animal control officer.

(4) A dog suspected of having rabies, or an animal which has bitten a person and has not been immunized for rabies, shall be confined by the animal control officer for not less than 15 days, or until the animal control officer has determined that the animal does or does not have rabies.

(E) Destruction of any animal shall be accomplished by the animal control officer or any other person or entity to whom he or she may delegate that duty, provided that the destruction shall be conducted as humanely as possible.

(Ord. 99-13, passed 7-6-99)

§ 93.09 INJUNCTIVE RELIEF.

This subchapter may be enforced by petition to an appropriate court for judgment as to fines, costs, and injunctive relief to fulfill the purposes hereof.

(Ord. 99-13, passed 7-6-99)

LIVESTOCK RESTRICTIONS

§ 93.20 DEFINITIONS.

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

LIVESTOCK and ***DOMESTIC ANIMAL***. Cattle, calves, horses, mules, sheep, and/or goats, or any animal of the bovine, equine, ovine, or caprine genus.

PERSON. Any individual, partnership, corporation, association, or body politic, and including any trustee, receiver, agent, or representative thereof.

PLACE OF HUMAN HABITATION. Any dwelling, residence, mobile home, building, or structure customarily used or being used as a place of human habitation.

(Ord. 3-64, passed 5-4-64)

§ 93.21 KEEPING OF LIVESTOCK PROHIBITED.

No person shall harbor any livestock or fowl within the city.
(Ord. 99-13, passed 7-6-99) Penalty, see § 10.99

§ 93.22 VIOLATION; PUBLIC NUISANCE.

The keeping, harboring, or maintaining of livestock or domestic animal(s), or a stable, pen, fenced area, or enclosure for the use thereof in violation of the provisions of this subchapter is hereby declared to be a public nuisance.
(Ord. 3-64, passed 5-4-64)

§ 93.23 EXCEPTIONS.

This subchapter shall not apply to livestock or domestic animals temporarily within the corporate limits of the city for the purpose of participating in any fair, parade, carnival, or animal show for a period of time not exceeding the length of the fair, parade, carnival, or animal show, which period shall commence 24 hours before the beginning of that affair and ending 24 hours after the end of the affair.
(Ord. 3-64, passed 5-4-64)

§ 93.24 ENFORCEMENT.

(A) It shall be the duty of the city Health Officer assisted by the city Police Department to enforce the provisions of this subchapter. Upon a violation of this subchapter, the Health Officer and/or Chief of Police shall give notice in writing of the violation to the owner or keeper of the animal and shall order the abatement thereof; and the owner or keeper shall have ten days from the date of the service of notice and order to remove the animal or abate the violation.

(B) Any person failing to remove the animal or abate the violation in compliance with the notice and order shall then be ordered to appear in a court of competent jurisdiction to answer charges of violation of this subchapter.
(Ord. 3-64, passed 5-4-64)

CHAPTER 94: FAIR HOUSING

Section

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

§ 94.01 POLICY.

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, as amended, the federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 *et seq.* (Ord. 2002-1, passed 2-19-02)

§ 94.02 DEFINITIONS.

The definitions set forth in this section shall apply throughout this chapter:

AGGRIEVED PERSON. 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)

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 94.04 through 94.08 of this chapter or I.C. 22-9.5-5.

DWELLING. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one or more families.
(I. C. 22-9.5-2-8)

FAMILIAL STATUS. One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on the basis of **FAMILIAL STATUS** shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

FAMILY. Includes a single individual, with the status of such family being further defined in **FAMILIAL STATUS** in this section.
(I.C. 22-9.5-2-9)

HANDICAP. Means, with respect to a person:

- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such an impairment;
- (4) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990;
- (5) Any other impairment defined under I.C. 22-9.5-2-10.

The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in § 802 of Title 21 of the United States Code; nor does the term **HANDICAP** include an individual solely because that individual is a transvestite.
(I.C. 22-9.5-2-10(b) and I.C. 22-9.5-2-10(c))

PERSON. 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 United States Code, receivers, and fiduciaries.
(I.C. 22-9.5-2-11)

TO RENT. To lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.
(I.C. 22-9.5-2-13) (Ord. 2002-1, passed 2-19-02)

Editor's note:

I.C. 22-9.5-2-10 is repealed by 2007 Public Law 99, § 224.

§ 94.03 UNLAWFUL PRACTICE.

Subject to the provisions of subsection (B) of this section, § 94.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 of and in § 94.04 of this chapter shall apply to:

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

(B) Other than the provisions of subsection (C), nothing in § 94.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of 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 behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if such house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person; and

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 94.04(C) of this chapter, 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, or

(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 residence.

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(C) For the purposes of subsection (B), 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; or

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transaction 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. 2002-1, passed 2-19-02)

§ 94.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

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

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

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

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

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

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

(a) That buyer or renter;

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

(c) Any person associated with that person.

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

(a) That person; or

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

(c) Any person associated with that person.

(3) For purposes of this subsection, discrimination includes:

(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by 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;

(b) 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

(c) 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:

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

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

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

- a. An accessible route into and through the dwelling;
- b. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- c. Reinforcements in 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 and usability for physically handicapped people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of paragraph (F)(3)(C)3.

5. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.
(Ord. 2002-1, passed 2-19-02)

§ 94.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS.

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

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

- (1) The making or purchasing of loans or providing other financial assistance:
 - (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (b) Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.
(Ord. 2002-1, passed 2-19-02)

§ 94.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE.

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 in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.
(Ord. 2002-1, passed 2-19-02)

§ 94.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 94.03 through 94.06 of this chapter.
(Ord. 2002-1, passed 2-19-02)

§ 94.08 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 attempts to injure, intimidate or interfere with:

(A) Any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he 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; or

(B) Any person because he 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, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection 15(A); or

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

(C) Any citizen because he 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, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (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. 2002-1, passed 2-19-02)

§ 94.09 EXEMPTIONS.

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

(B) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to 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) or;

(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. 2002-1, passed 2-19-02)

§ 94.10 ADMINISTRATIVE ENFORCEMENT.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commissioner as set forth in subsection (B) 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, will administer enforcement proceedings and possible civil actions under the chapter, unless it is determined by the chief elected official, or their designee, that the formal complaint(s) of violation should be forwarded to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6. Upon referral by the chief elected official, or their designee, of the city, to the Commission for purposes of investigation, resolution and appropriate relief as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of the 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. 2002-1, passed 2-19-02)

CHAPTER 95: ABANDONED, JUNKED AND UNAUTHORIZED MOTOR VEHICLES

Section

- 95.01 Declared nuisances
- 95.02 Prohibited
- 95.03 Issuance of order to remove from public property
- 95.04 Removal from private property
- 95.05 Licensed, salvage or junk yards or vehicles within a closed structure
- 95.06 Removal of unauthorized vehicles; definition
- 95.07 Unlawful to park vehicle on private property without consent of owner
- 95.08 Procedure for removal
- 95.09 Presumption in reference to parked vehicle
- 95.10 Towing charges of impounded vehicles
- 95.11 Vehicle impound release fee

- 95.99 Penalty

§ 95.01 DECLARED NUISANCES.

Because of the danger to health from vermin and insects and because of the danger to the safety of children attracted to such vehicles, abandoned, stored and junked motor vehicles are declared to be nuisances, except in lawfully operated junk yards and vehicles stored within a closed building.
(Ord. 2008-02, passed 8-4-08)

§ 95.02 PROHIBITED.

It is unlawful for any person to store or allow to remain in the open, on public or private property within the city, any disassembled, inoperable, unlicensed, or any junked, wrecked or abandoned motor vehicle for a period of five or more days on public property, or for a period of 15 or more days on private property, unless it is in connection with an automotive sales or repair business enterprise which operates under a duly issued and exhibited store license and is located in a properly zoned area.
(Ord. 2008-02, passed 8-4-08) Penalty, see § 95.99

§ 95.03 ISSUANCE OF ORDER TO REMOVE FROM PUBLIC PROPERTY.

Whenever the Chief of Police shall find any such vehicle placed or stored in the open upon public property within the city, the official shall issue an order to the owner of the vehicle to remove the vehicle within three days. Notice of the order shall be placed upon the vehicle. If the vehicle is not removed within three days pursuant to the order and notice, the Chief of Police shall cause the vehicle to be removed by a junk or salvage yard or wrecker services, the cost and expense of the removal by the junk or salvage yard or wrecker service to be paid by the owner of the vehicle.

(Ord. 2008-02, passed 8-4-08)

§ 95.04 REMOVAL FROM PRIVATE PROPERTY.

Whenever the Chief of Police shall find any such vehicle placed or stored in the open upon private property within the city, the official shall issue an order to the owner of the vehicle to remove the vehicle within ten days. Notice of the order shall be placed upon the vehicle and copies of the notice shall be served upon any adult occupying the real estate on which the vehicle is located and also upon the owner of the vehicle, if the same's name and whereabouts be known. If no occupant of the real estate or owner of the vehicle can be found, a notice affixed to any building on the real estate shall constitute notice to the owner and occupant of the real estate and to the owner of the vehicle. If there is no building on the real estate, the notice may be affixed elsewhere on the real estate. If the vehicle is not removed within ten days pursuant to the order and notice, and if the order is not stayed by the issuing officer pursuant to a written request showing good cause for a permanent or temporary stay, the Chief of Police shall cause the vehicle to be removed by a junk or salvage yard or wrecker service. The cost and expense of the removal by the junk or salvage yard or the wrecker service shall be paid by the owner of the vehicle.

(Ord. 2008-02, passed 8-4-08)

§ 95.05 LICENSED, SALVAGE OR JUNK YARDS OR VEHICLES WITHIN A CLOSED STRUCTURE.

The provisions of this chapter shall not apply to auto salvage yards or junk yards that are duly operated and licensed pursuant to any other applicable statutes or ordinances of the state or the city. The provisions of this chapter shall not apply to vehicles stored within a closed structure upon private property.

(Ord. 2008-02, passed 8-4-08)

§ 95.06 REMOVAL OF UNAUTHORIZED VEHICLES; DEFINITION.

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

PRIVATE PROPERTY, PRIVATE ROAD, PRIVATE DRIVEWAY or PARKING LOT. Any property, private road, driveway and parking lot not open to the use of the public for purposes of vehicular travel.

(Ord. 2008-02, passed 8-4-08)

§ 95.07 UNLAWFUL TO PARK VEHICLE ON PRIVATE PROPERTY WITHOUT CONSENT OF OWNER.

It is unlawful for any person to park any motor vehicle, house trailer, one, two or three wheel trailers, tractor trailer or any other type of motorized vehicle, on any private property, private road or driveway, and parking lot, without the express or implied consent or authorization of the owner, holder, occupant, lessee, agent or trustee of the property. Complaint for the violation of this section shall be made by the owner, holder, occupant, lessee, agent or trustee of the property to the Police Department.

(Ord. 2008-02, passed 8-4-08) Penalty, see § 95.99

§ 95.08 PROCEDURE FOR REMOVAL.

When a complaint is made to the Police Department regarding unauthorized parking, the investigating officer will complete the complaint form and have it signed by the complainant. The vehicle shall be ticketed for a violation of this chapter or other ordinances of this city. If, in the opinion of the investigating officer, the illegal parking of the vehicle is causing an emergency situation by preventing proper egress or ingress of any foot or vehicular traffic or by preventing free movement of any traffic, the officer may direct the vehicle to be removed by a reputable towing firm to a reputable storage or parking garage. The investigating officer may also direct the removal of the vehicle by a reputable towing firm to a reputable storage or parking garage if the vehicle remains illegally parked on private property for more than four hours after the vehicle was ticketed for unauthorized parking, or if the record shows the car has had many repeated offenses for unauthorized parking so as to be considered a habitual nuisance.

(Ord. 2008-02, passed 8-4-08)

§ 95.09 PRESUMPTION IN REFERENCE TO PARKED VEHICLE.

In any proceeding for violation of this chapter, the registration plate displayed on the motor vehicle shall constitute in evidence a prima facie presumption that the owner of the motor vehicle was the person who parked or placed the motor vehicle at the point where the violation occurred.

(Ord. 2008-02, passed 8-4-08)

§ 95.10 TOWING CHARGES OF IMPOUNDED VEHICLES.

Before the owner or person in charge of any impounded vehicle shall be permitted to remove the same from the custody of the owner, agent, employee or lessee of the parking area or garage where the vehicle has been stored, he or she will pay any and all towing charges plus storage charges. He or she will also read and adhere to the instructions on the violation ticket placed on the vehicle by the investigating police officer.

(Ord. 2008-02, passed 8-4-08)

§ 95.11 VEHICLE IMPOUND RELEASE FEE.

(A) The Common Council has determined that an administrative fee of \$25 should be established for the Police Department to process the required documentation for the release of an impounded vehicle.

(B) The administration fee shall be paid to the Covington Police Department and deposited into the Covington Police Department Special Non-Reverting Operating Fund.

(Ord. 2020-1, passed 1-6-20)

§ 95.99 PENALTY.

Whoever violates any of the provisions of this chapter or who interferes in any way whatsoever with the due process of enforcement of any of the provisions of this chapter or who does not obey within the time fixed any order issued pursuant to this chapter, and who shall be found guilty thereof, shall be fined not more than \$300. Each motor vehicle involved shall constitute a separate offense and a separate offense shall be deemed committed on each day during which a violation occurs or continues.

(Ord. 2008-02, passed 8-4-08)

CHAPTER 96: TREES

Section

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GENERAL PROVISIONS**§ 96.01 DEFINITIONS.**

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

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.
(Ord. 2008-1, passed 6-2-08)

§ 96.02 REVIEW BY CITY COUNCIL.

The City Council shall have the right to review and conduct acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make a final decision.
(Ord. 2008-1, passed 6-2-08)

CITY TREE BOARD**§ 96.15 CREATION AND ESTABLISHMENT.**

There is hereby created and established a City Tree Board for the City of Covington, Indiana which shall consist of five members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the Council.
(Ord. 2008-1, passed 6-2-08)

§ 96.16 TERM OF OFFICE.

The term of the five persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.
(Ord. 2008-1, passed 6-2-08)

§ 96.17 COMPENSATION.

Members of the Board shall serve without compensation.
(Ord. 2008-1, passed 6-2-08)

§ 96.18 DUTIES AND RESPONSIBILITIES.

It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. The plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive City Tree Plan for the City of Covington, State of Indiana. The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.
(Ord. 2008-1, passed 6-2-08)

§ 96.19 OPERATION.

The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.
(Ord. 2008-1, passed 6-2-08)

STREET TREES AND PLANTINGS**§ 96.35 SPECIES TO BE PLANTED.**

The City Tree Board shall confer with the Indiana Department of Natural Resources, Community and Urban Forestry Office to develop a plan for small, medium and large trees to be planted within the City of Covington, Indiana.
(Ord. 2008-1, passed 6-2-08)

§ 96.36 SPACING.

The spacing of street trees will be in accordance with the three species size classes listed in § 96.35, and no trees may be planted closer together than the following: small trees: 30 feet; medium trees: 40 feet and large trees: 50 feet; except in special plantings designed or approved by a landscape architect.
(Ord. 2008-1, passed 6-2-08) Penalty, see § 10.99

§ 96.37 DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in § 96.35, and no trees may be planted closer to any curb or sidewalk than the following: small trees: two feet; medium trees: three feet and large trees: four feet. (Ord. 2008-1, passed 6-2-08) Penalty, see § 10.99

§ 96.38 DISTANCE FROM STREET CORNERS AND FIREPLUGS.

No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug. (Ord. 2008-1, passed 6-2-08) Penalty, see § 10.99

§ 96.39 UTILITIES.

No street trees other than those species listed as small trees in § 96.35 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility. (Ord. 2008-1, passed 6-2-08) Penalty, see § 10.99

TREE CARE**§ 96.50 PUBLIC TREE CARE.**

(A) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of the public grounds.

(B) The City Tree Board may remove, cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with §§ 96.35 through 96.39. (Ord. 2008-1, passed 6-2-08)

§ 96.51 TREE TOPPING.

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. **TOPPING** is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the City Tree Board.

(Ord. 2008-1, passed 6-2-08) Penalty, see § 10.99

§ 96.52 PRUNING AND/OR CORNER CLEARANCE.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the property spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(Ord. 2008-1, passed 6-2-08)

§ 96.53 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when the trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree Board will notify, in writing, the owners of the trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with the provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owners' property tax notice.

(Ord. 2008-1, passed 6-2-08)

§ 96.54 REMOVAL OF STUMPS.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. 2008-1, passed 6-2-08)

§ 96.55 INTERFERENCE WITH CITY TREE BOARD.

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this chapter. (Ord. 2008-1, passed 6-2-08) Penalty, see § 10.99

§ 96.56 ARBORISTS LICENSE AND BOND.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$25 annually in advance; provided, however, that no license shall be required of any public service company or city employee doing the work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence or possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 for property damage indemnifying the city of any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Ord. 2008-1, passed 6-2-08) Penalty, see § 10.99

CHAPTER 97: PARKS AND RECREATION

Section

- 97.01 Trail rules for the Covington Circle Trail
- 97.02 Pavilions
- 97.03 RV parking/camping
- 97.04 Fourth of July celebration policies
- 97.05 Sports activities

- 97.99 Penalty

§ 97.01 TRAIL RULES FOR THE COVINGTON CIRCLE TRAIL.

(A) It shall be unlawful for any person to operate a motorized vehicle or allow any horse, mule or other animal, excluding cats and/or dogs, upon the trail.

(B) It shall be unlawful to be upon the Covington Circle Trail from sunset to sunrise.

(C) All dogs and cats taken upon the trail shall be upon a leash not to exceed six feet in length. (Ord. 2006-02, passed 6-19-06) Penalty, see § 97.99

§ 97.02 PAVILIONS.

(A) There will be a \$15 reservation fee for all reunions, parties, or gatherings held in the park. Fees are payable upon booking and are non-refundable.

(B) Paid reservations take precedent over non-payer use of park facilities. (Ord. 2017-1, passed 5-15-17) Penalty, see § 97.99

§ 97.03 RV PARKING/CAMPING.

(A) The cost per camper will be \$13 per day or \$75 per week to be paid in advance to the Park Caretaker. This fee includes electricity and water hookup.

(B) Non-profit groups (e.g., Boy Scouts, Girl Scouts) are requested to schedule their outdoor activities or camping in the park with the Park Board and Park Caretaker.

(C) Vehicle registration and driver's license information will be required prior to allowing vehicles to hookup to utilities. All money collected will be promptly given to the City Clerk with a receipt noting what it is for and the name of the person(s).
(Ord. 2017-1, passed 5-15-17) Penalty, see § 97.99

§ 97.04 FOURTH OF JULY CELEBRATION POLICIES.

(A) The Fourth of July Celebration Committee is responsible for contracting carnival.

(B) Non-profit clubs and organizations may set up in the park during the Fourth of July Celebration Week with prior approval of the Covington Celebration Group.

(C) Any damages to the park and/or park structures, whether accidental or intentional, will also be paid.

(D) The Fourth of July Celebration Committee is responsible to pay for the metered electricity used by the carnival campers.

(E) The Committee must file a financial report with the city.
(Ord. 2017-1, passed 5-15-17) Penalty, see § 97.99

§ 97.05 SPORTS ACTIVITIES.

(A) *Tennis courts.* The tennis court lights will be turned on at dusk and off at 11:00 p.m., daily, summer only. No tennis tournaments are to be scheduled without prior approval of the Park Board.

(B) *Soccer tournaments.* No soccer tournaments are to be scheduled without prior approval of the Park Board. Any tournament other than one scheduled by the Covington Youth Soccer Organization will be charged a user's fee of \$100 payable to the Park Caretaker.

(C) *Soccer field usage.* The Covington Youth Soccer League will be responsible for the upkeep and repair of the soccer area. The soccer organization will be responsible for the cleanup of the area during the soccer season. The area is to be cleaned after the last game of the season and will be kept clean at all other times and suitable for mowing. If the Park Caretaker and city are responsible for trash cleanup after games, a \$25 weekly fee will be implemented, throughout the season.

(D) *Utilities and maintenance of the fields.*

(1) The city will bill the Little League Baseball Organization for all utilities used. The Girls Softball League will be responsible for any water or electricity used in the softball diamond area or used in the concession stand.

(2) The Baseball League is responsible for the maintenance of their field(s), including maintaining and installing protection nets. The Softball League is responsible for the maintenance of their field(s), including maintaining and installing protection nets.

(3) Covington Girls Softball, Covington Youth Baseball League and Covington Youth Soccer League are required to file financial reports with the Park Board.

(4) Covington Baseball League and Covington Softball League will cover the cost of dumpsters and be responsible for trash cleanup throughout the ball season, annually. An option exists to share a large dumpster, if agreeable between parties. If grounds are found with debris or trash, post games or tournaments, fees for cleanup will be enforced, under the discretion of the Park Board.

(5) All baseball and softball tournaments charging a fee per team for tournaments will be required to pay a \$100 fee to the city after using the ball diamonds.

(6) Tournament schedule must be pre-approved by the Park Board.
(Ord. 2017-1, passed 5-15-17) Penalty, see § 97.99

§ 97.99 PENALTY.

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

(B) *Trail rules for the Covington Circle Trail.* Violation of the provisions of § 97.01 shall be punishable by a maximum fine of up to \$1,000.
(Ord. 2006-02, passed 6-19-06)

