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CHAPTER 90: ABANDONED VEHICLES

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GENERAL PROVISIONS

§ 90.01 SHORT TITLE.

This chapter shall hereafter be known and cited as the "Abandoned Vehicle Ordinance."

§ 90.02 DEFINITIONS.

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

ABANDONED. When used in conjunction with the term vehicle, means:

(1) Any vehicle located on public premises which does not have lawfully affixed thereto or displayed thereon a valid unexpired license plate and inspection sticker permitting its operation upon the highways of this state.

(2) Any vehicle which is left on public premises continuously without being moved for a period of seven days.

(3) Any vehicle located on public premises illegally or in such manner as to constitute a hazard or unreasonable obstruction to the movement of pedestrian or other vehicle traffic on a public right-of-way, street or highway.

(4) Any vehicle that has remained on private premises without the consent of the owner or person in control of such premises, for more than 48 hours.

(5) Any vehicle from which there has been removed the engine or transmission or differential or which is otherwise partially dismantled or inoperable and left on public premises.

(6) Any vehicle from which there has been removed the engine or transmission or differential or which is otherwise partially dismantled or inoperable and left unattended for more than 180 days on private premises in a location visible from public premises and/or private premises at ground level.

(7) Any vehicle which has been removed by a towing service or a public agency upon request of an officer enforcing a provision of this code, statute or ordinance of the city other than this chapter, the violation of which may require the removal and impoundment of such motor vehicle and which motor vehicle once impounded is not claimed or redeemed by the owner or his agent within 30 days of its removal.

(8) A vehicle that is mechanically inoperable and is left on private property continuously in a location or locations visible from public property for more than 30 days.

AUTOMOBILE WRECKER. An automobile wrecking and parts business.

BUREAU. The Bureau of Motor Vehicles of the state.

COMMISSIONER. The Commissioner of the Bureau.

DISPOSAL AGENT. Any firm or individual engaged in business as a scrap metal processor or automobile wrecker.

OFFICER. A regular member of the Indiana State Police, a regular member of a city or town police department, a town marshal or town marshal deputy, a regular member of the county police force, or an individual of an agency designated by ordinance of the fiscal body.

OWNER. The last known record title holder to a vehicle according to the records of the Bureau under the provisions of I.C. 9-17.

PARTS. All component parts of a vehicle which are in a state of disassembly, or are assembled with other vehicle component parts, but which, in their state of assembly, do not constitute a complete vehicle.

PRIVATE PREMISES. All privately owned property which is not classified within the definition of public premises.

PUBLIC PREMISES. Any public right-of-way, street, highway, alley, park or other state, county or municipally owned property.

SCRAP METAL PROCESSOR. An establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and scrap steel or nonferrous scrap for sale.

TOWING SERVICE. A business organized for the purpose of moving or removing disabled motor vehicles, and, once removed, to store or impound such motor vehicles.

VEHICLE. Any motor vehicle, automobile, motorcycle, truck, trailer, semitrailer, truck tractor, bus, school bus, house car or motor bicycle.

(Ord. 1813, passed 8-8-95; Am. Ord. 1945, passed 6-5-2000)

§ 90.03 DECLARATION OF NUISANCE.

It shall be unlawful and is hereby declared a nuisance for any person to keep, park, store or permit to be kept, parked or stored an abandoned vehicle, as the same is hereinabove defined within the city limits.

§ 90.04 EXEMPTIONS.

The provisions of this chapter shall not apply to:

(A) Any vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;

(B) Any vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;

(C) Any vehicle located on a vehicle sale lot, at a commercial vehicle servicing facility;

(D) A vehicle located upon property licensed or zoned as an automobile scrap yard.

(E) Any motor vehicle eligible for registration and licensing under I.C. 9-18-12-1 through 9-18-12-6 as an antique vehicle.

§ 90.05 RESPONSIBILITY AND LIABILITY OF OWNER OF ABANDONED VEHICLE OR PARTS.

The person who owns an abandoned vehicle or parts is:

(A) Responsible for the abandonment; and

(B) Liable for all of the costs incidental to the removal, storage, and disposal of the vehicle or the parts under this chapter.

*ADMINISTRATIVE PROCEDURES***§ 90.15 DISCOVERY OF POSSESSION BY PERSON OTHER THAN VEHICLE OWNER.**

When an officer discovers a vehicle in the possession of a person other than the person who owns the vehicle and the person cannot establish the right to possession of the vehicle, the vehicle shall be taken to and stored in a suitable place.

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

§ 90.16 NOTICE TO BUREAU OF VEHICLE DISCOVERED IN POSSESSION OF PERSON OTHER THAN OWNER; SEARCH; NOTICE TO BUYER.

The Bureau shall be notified within 72 hours of the location and description of a vehicle described in § 90.15.

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

§ 90.17 FAILURE OF OWNER OR LIENHOLDER TO APPEAR; INABILITY TO DETERMINE OWNERSHIP; DECLARING VEHICLE ABANDONED.

If the person who owns or holds a lien under § 90.18 does not appear and pay all costs, or if the person who owns a vehicle cannot be determined by a search conducted under § 90.29, the vehicle is considered abandoned and must be disposed of under this chapter.

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

§ 90.18 RELEASE TO OWNER OR LIENHOLDER OF STORED VEHICLE.

If the properly identified person who owns or holds a lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays all costs incurred against the vehicle or parts at that time, the vehicle or parts shall be released.

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

§ 90.19 RELEASE; CONTENTS; NOTICE BY TOWING OPERATORS.

The release must state the name, signature, and address of the person who owns or holds a lien on the vehicle, a description of the vehicle or parts, costs, and date of release. A towing service shall notify the appropriate public agency of all releases under § 90.18.

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

§ 90.20 {RESERVED}.

§ 90.21 TAGGING ABANDONED VEHICLE OR PARTS.

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

(A) The date, time, officer's name, public agency, and address and telephone number to contact for information.

(B) That the vehicle or parts are considered abandoned.

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

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

(2) Seventy two hours, for any other vehicle.

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

(E) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours.

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

(2) Seventy two hours, for any other vehicle.

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

§ 90.22 OFFICER'S ABANDONED VEHICLE REPORT; PHOTOGRAPHS.

If a vehicle or a part tagged under § 90.21 is not removed within the applicable period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

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

§ 90.23 VEHICLE OR PARTS VALUED AT LESS THAN FIVE HUNDRED DOLLARS; DISPOSAL; RETENTION BY BUREAU OF REPORT AND PHOTOGRAPHS.

If in the opinion of the officer, the market value of an abandoned vehicle or parts determined in accordance with § 90.22 is less than \$500, the officer shall immediately dispose of the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the Bureau. A towing service may dispose of an abandoned vehicle not less than 30 days after the date on which the towing service removed the abandoned vehicle. A city, county or town that operates a storage yard under I.C. 36-9-30-3, may dispose of an abandoned vehicle to an automobile scrap yard or an automotive salvage recycler upon removal of the abandoned vehicle. The public agency disposing of the vehicle shall retain the original records and photographs for at least two years.

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

§ 90.24 VEHICLE OR PARTS VALUED AT FIVE HUNDRED DOLLARS OR MORE; DUTIES OF TAGGING OFFICER; TOW AND STORAGE OF VEHICLE OR PARTS.

If in the opinion of the officer the market value of the abandoned vehicle or parts determined in accordance with § 90.22 is at least \$500, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service.

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

§ 90.25 DISCOVERY OF VEHICLE ABANDONED ON RENTAL PROPERTY.

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

- (1) Obtain the assistance of an officer under § 90.28 to have the vehicle removed; or
- (2) Personally arrange for the removal of the vehicle by complying with § 90.26(B).

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

- (1) The date, time, name, and address of the person who owns or controls the private property and a telephone number to contact for information.
- (2) That the vehicle is considered abandoned.

(3) That the vehicle will be removed after 72 hours.

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

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours.

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

§ 90.26 TOWING VEHICLE FROM RENTAL PROPERTY.

(A) If after 72 hours the person who owns a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, has not removed the vehicle from the private property, the person who owns or controls the private property may have the vehicle towed from the private property.

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

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

§ 90.27 NOTICE TO BUREAU GIVEN BY OPERATOR TOWING VEHICLE FROM RENTAL PROPERTY.

A towing service that tows a vehicle under § 90.15 or § 90.26 shall give notice to the public agency that the abandoned vehicle is in the possession of the towing service.

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

§ 90.28 COMPLAINT BY PERSON OWNING OR CONTROLLING PRIVATE PROPERTY.

Under complaint of a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in §§ 90.21 through 90.24.

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

§ 90.29 ABANDONED VEHICLE REPORT; DESCRIPTION AND INFORMATION; NAME AND ADDRESS OF OWNER OR LIENHOLDER.

(A) Within 72 hours after removal of a vehicle to a storage yard or towing service under §§ 90.15, 90.23, 90.24 or 90.26, the public agency or towing service shall do the following:

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

- (a) The make.
- (b) The model.
- (c) The identification number.
- (d) The number of the license plate.

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

(B) Notwithstanding the provisions of § 90.05, if the public agency or towing service fails to notify the Bureau of the removal of an abandoned vehicle within 72 hours after the vehicle is removed as required by division (A) above, the public agency or towing service:

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

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

(C) If the public agency or towing service obtains the name and address of the person who owns or holds a lien on a vehicle under division (A)(2) above, within 72 hours after obtaining the name and address, the public agency or towing service shall, by certified mail, notify the person who owns or holds a lien on the vehicle of the:

- (1) Name;
- (2) Address; and
- (3) Telephone number;

of the public agency or towing service. Notwithstanding § 90.05 and division (B)(2) above, a public agency or towing service that fails to notify a person who owns or holds a lien on the vehicle as set forth in this section may not collect additional storage costs incurred after the date of receipt of the name and address obtained under division (A)(2) above.

(D) A towing service may not collect reimbursement under both divisions (B) and (C) above for the storage costs incurred during a particular period for one vehicle.

(I.C. 9-22-1-19)

§ 90.30 [RESERVED].

§ 90.31 MEANS OF VEHICLE IDENTIFICATION NOT AVAILABLE; DISPOSAL WITHOUT NOTICE.

If a vehicle or parts are in such a condition that vehicle identification numbers or other means of identification are not available to determine the person who owns or holds a lien on the vehicle, the vehicle may be disposed of without notice.

(I.C. 9-22-1-21)

§ 90.32 PUBLIC SALE BY BUREAU; NOTICE.

(A) This section applies to a city, town, or county.

(B) Except as provided in I.C. 9-22-1-23(c), if the person who owns or holds a lien upon a vehicle does not appear within 20 days after the mailing of a notice under § 90.29, the city may sell the vehicle or parts by either of the following methods.

(1) The city may sell the vehicle or parts to the highest bidder at a public sale. Notice of the sale shall be given under I.C. 5-3-1, except that only one newspaper insertion one week before the public sale is required.

(2) The city may sell the vehicle or part as unclaimed property under I.C. 36-1-11. The 20 day period for the property to remain unclaimed is sufficient for a sale under this division.

(I.C. 9-22-1-23(a) and (b))

§ 90.33 PURCHASERS AT PUBLIC SALES; BILL OF SALE; FEES; ROADWORTHINESS OF VEHICLE.

A person who purchases a vehicle under § 90.32 shall be furnished a bill of sale for each abandoned vehicle sold by the public agency upon paying the fee for a bill of sale under I.C. 9-29-7. A person who purchases a vehicle under § 90.32 must:

(A) Present evidence from a law enforcement agency that the vehicle purchased is roadworthy, if applicable; and

(B) Pay the appropriate title fee under I.C. 9-29-4;

to obtain a certificate of title under I.C. 9-17 for the vehicle.

(I.C. 9-22-1-24)

§ 90.34 PAYMENT OF REMOVAL, STORAGE AND DISPOSITION COSTS; COST LIMITS.

The costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on a vehicle shall be paid from the abandoned vehicle account established under § 90.37. The charge payable by the person who owns or holds a lien on a vehicle for towing, storing, or removing an abandoned vehicle or parts may not exceed the limits established by ordinance adopted under § 90.37.

(I.C. 9-22-1-25)

§ 90.35 SALE PROCEEDS CREDITED AGAINST REMOVAL, STORAGE AND DISPOSITION COSTS.

The proceeds of sale of an abandoned vehicle or parts under § 90.32 shall be credited against the costs of the removal, storage, and disposal of the vehicle.

(I.C. 9-22-1-26)

§ 90.36 SALES BY LOCAL UNITS; DEPOSIT OF PROCEEDS; PAYMENT OF PUBLIC AGENCY COSTS; APPROPRIATIONS.

(A) This section applies to sales of abandoned vehicles or parts by a city, county or town.

(B) The proceeds from the sale of abandoned vehicles or parts, including:

(1) Charges for bills of sale; and

(2) Money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles;

shall be deposited in the city's Abandoned Vehicle Fund by the fiscal officer of the city.

(C) The costs incurred by a public agency in administering this chapter shall be paid from the Abandoned Vehicle Fund.

(D) The fiscal body shall annually appropriate sufficient money to the fund to carry out this chapter. Money remaining in the fund at the end of a year remains in the fund and does not revert to the general fund.

(E) Notwithstanding division (D), the fiscal body of a consolidated city may transfer money from the fund.

(I.C. 9-22-1-27)

§ 90.37 FISCAL BODY PROCEDURES ESTABLISHED BY ORDINANCE; ABANDONED VEHICLE FUND.

(A) The fiscal body shall, by ordinance, establish procedures to carry out this chapter, including the following:

(1) The charges allowed for towing and storage of abandoned vehicles, which shall be filed with the Bureau.

(2) The means of disposition of vehicles.

(B) The fiscal body shall establish an abandoned vehicle fund for the purposes of this chapter.
(I.C. 9-22-1-30)

§ 90.38 PUBLIC AGENCIES; PERSONNEL, PROPERTY AND TOWING CONTRACTS; FISCAL BODY ORDINANCES.

To facilitate the removal of abandoned vehicles or parts, a public agency may:

(A) employ personnel;

(B) Acquire equipment, property, and facilities; and

(C) Enter into towing contracts;

for the removal, storage, and disposition of abandoned vehicles and parts. The fiscal body may, by ordinance, establish procedures to carry out this section.

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

§ 90.39 LIABILITY FOR LOSS OR DAMAGE TO VEHICLE OR VEHICLE PARTS.

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

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

(B) A public agency.

(C) A towing service.

(D) An automobile scrap yard.

(E) A storage yard.

(I.C. 9-22-1-32)

CHAPTER 91: ANIMALS

Section

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GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

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

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

ANIMAL SHELTER. The premises owned by the city for the purpose of caring for animals which are at large, lost or otherwise homeless.

AT LARGE. Any animal shall be deemed *AT LARGE* when it is not under restraint.

ATTACK. Any behavior by an animal that constitutes an immediate and serious physical threat to human beings or other animals, whether or not such behavior results in injury to such human beings or other animals. This behavior includes, but is not limited to, snapping at, lunging at, and/or attempting to bite human beings or animals.

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

HUMANE SOCIETY. Any organization for the prevention of cruelty to animals incorporated under the laws of the state.

KENNEL. An establishment or residence wherein any person engages in boarding, breeding, buying, letting for hire, training for a fee or selling more than two dogs and/or cats. Anyone keeping three or more dogs and/or cats four months of age or older shall be deemed a *KENNEL* operator.

OWNER. Any person, partnership or corporation owning, keeping or harboring one or more animals. An *OWNER* must provide shelter from weather for dogs or cats.

PERSON. Any individual, firm, association, joint stock company, syndicate, partnership or corporation.

PET. Any animal kept for pleasure rather than utility.

PUBLIC NUISANCE. Any animal(s) which:

- (1) Molests passers-by or passing vehicles;
- (2) Attacks other animals;
- (3) Is repeatedly at large;
- (4) Damages public or private property; or
- (5) Barks, whines or howls in an excessive or continuous fashion.

RESTRAINT. Any animal secured by a leash and lead within the real property limits of its owner. Any animal not physically confined to the owner's property shall be presumed not to be under **RESTRAINT**.

SENIOR HUMANE OFFICER. The person employed by the city whose duties shall include, among others, the enforcement of the provisions included in this chapter.

STRAY. Any animal which doesn't appear, upon reasonable inquiry, to have an owner.

VETERINARY HOSPITAL. Any establishment maintained and operated by a veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

VICIOUS ANIMALS. Any animal that, by its behavior, constitutes an immediate and serious physical threat to human beings or animals.

WILD ANIMALS. Any animal not a domestic animal, with the exception of small, non-poisonous aquatic or amphibious animals and small cage birds.

TIME LIMIT WITH DOG POUND.

(1) Dogs or cats without tags will be kept at the dog pound for three days.

(2) Dogs or cats with tags will be kept five days. Every effort to contact the owner will be made. When a humane officer is called to pick up dogs or cats on private property, the property owner must sign a release form to have the animal picked up.

('66 Code, § 4-10-1-1) (Ord. 1400, passed 11-13-95; Am. Ord. 1400, passed 4-6-09)

§ 91.02 HUMANE OFFICER; ENFORCEMENT.

(A) The office of Senior Humane Officer is herewith created. The Senior Humane Officer shall be appointed by the Mayor and shall carry out and supervise the enforcement of this chapter. The office shall be within the Elwood Police Department, and the salary shall be fixed by the Mayor and approved by the Common Council. ('66 Code, § 4-10-1-2)

(B) The provisions of this chapter shall be enforced by the Senior Humane Officer and appropriate law enforcement agencies. ('66 Code, § 4-10-1-21)
(Ord. 1400, passed 11-13-95)

§ 91.03 LICENSING REQUIREMENTS.

(A) Any person owning, keeping, harboring or having custody of any dog or cat over six months of age within the municipality must obtain a license as herein provided. ('66 Code, § 4-10-1-3)

(B) Applications for a license shall be made to the Senior Humane Officer. The application, one per animal, shall include the name and address of the applicant(s), a description of the animal, the appropriate fee, a rabies certificate and a leptospirosis certificate issued from a veterinarian. Application for a license must be made when the animal reaches the age of six months. The license must be applied for within 20 days of acquisition. If not revoked, licenses for the keeping of all animals shall be for one year and must be purchased on or before May 30 of each year. License fees shall not be required for seeing-eye dogs. ('66 Code, § 4-10-1-4)

(Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.04 LICENSING FEES.

(A) A license shall be issued only after payment of the applicable fees and the receipt of all application materials. Fees shall be as follows:

Type of animal	License fee per animal
Un-neutered male dog	\$5
Un-neutered male cat	\$3
Un-spayed female dog	\$5
Un-spayed female cat	\$3
Neutered male dog	\$1
Neutered male cat	\$1
Spayed female dog	\$1
Spayed female cat	\$1

(B) A duplicate license may be obtained for a fee of \$1. If an animal is neutered or spayed after the license fee has been paid, a refund of 75% of the original license fee can be obtained from the Senior Humane Officer upon presentation of a veterinarian's written statement. The owner of any animal deemed by a veterinarian to be unfit to undergo a spaying or neutering operation shall be, upon presentation of a written statement by the veterinarian, charged the fee for spayed or neutered animals. No person shall use any license for any animal other than the animal for which it was issued.

('66 Code, § 4-10-1-6) (Ord. 1400, passed 11-13-95)

§ 91.05 TAGS AND IDENTIFICATION COLLARS.

Upon acceptance of the license application and fee, the Senior Humane Officer shall issue durable tags or identification collars, stamped with an identifying number and the date of issuance. Animals must wear tags at all times when off the premises of the owner. The licensing agent shall maintain a record of the identifying number of all tags issued.

('66 Code, § 4-10-1-5) (Ord. 1400, passed 11-13-95)

§ 91.06 REVOCATION OF LICENSE.

(A) The Senior Humane Officer may revoke any license if the person holding a license refuses or fails to comply with any part of this chapter. The Senior Humane Officer shall provide a ten-day notice to the owner prior to revoking the license, after which time the license shall be revoked and the animal(s) owned, kept or harbored by a person shall be humanely disposed of by either the person himself or the Senior Humane Officer, and no part of the license fee shall be refunded.

(B) If the person refuses to dispose of the animal(s), the Senior Humane Officer shall do so and the cost of disposal shall be borne by the person in offense. If the applicant has withheld or falsified any information on the application, the Senior Humane Officer shall refuse to issue a license. No person who has been convicted of cruelty to animals shall be issued a license without review by the Senior Humane Officer and approval of the Common Council.

('66 Code, § 4-10-1-7) (Ord. 1400, passed 11-13-95)

§ 91.07 RABID ANIMALS; VACCINATION AND OTHER REQUIREMENTS.

(A) In the case of a dog, I.C. 35-46-3-1 shall be incorporated and enforced by appropriate state action. In the case of a cat, it shall be unlawful to own or harbor a cat over the age of six months without a valid rabies vaccination. ('66 Code, § 4-10-1-12)

(B) If an animal has bitten a person, the animal shall be impounded in the City Animal Shelter at the expense of the owner for a period determined by the Senior Humane Officer 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. ('66 Code, § 4-10-1-13)

(C) Any animal which has been bitten by an animal known to have rabies shall be confined for a period of six months at the owner's expense or be destroyed. ('66 Code, § 4-10-1-14)

(D) It is unlawful for any owner knowing or suspecting an animal to have rabies or leptospirosis to allow an animal to leave his premises, except to be taken to the City Animal Shelter. Every owner, upon ascertaining an animal is rabid, shall immediately notify the Senior Humane Officer. ('66 Code, § 4-10-1-15)

(F) It is unlawful for a person to knowingly or intentionally harbor a dog or cat that is over the age of six months and is not immunized against rabies. (I.C. 35-46-3-1).

(Ord. 1400, passed 11-13-95; Am. Ord. 1400, passed 4-6-09) Penalty, see § 91.99

§ 91.08 LIVESTOCK AND EXOTIC ANIMALS.

(A) No person shall have or keep any goat, sheep, pig, hog or other swine, horse, mule, pony, cattle, rabbit, chicken, duck, goose, turkey, guinea, or any other species of livestock, farm animal or fowl, including but not limited to any llama or ostrich, within the city limits. No person shall present or have in a public place or a place of public resort, any reptile or amphibian unless securely contained in a cage or similar device.

(B) Any poisonous or venomous animal, reptile or insect must be registered with the Elwood City Police Department. No fee is required. A penalty of \$25 per animal per incident will be assessed for non-compliance or failure to register the animal, reptile or insect. An owner or occupant of the premises where a poisonous or venomous animal, reptile or insect is kept shall post a sign on the front door which shall be provided upon registration and shall state "Warning: Poisonous or venomous animal, reptile or insect".

(Ord. 1400, passed 11-13-95; Am. Ord. 1400, passed 8-6-07) Penalty, see § 91.99

§ 91.09 RESTRAINING ANIMALS; IMPOUNDMENT PROCEDURES.

All animals shall be kept under restraint. No owner shall fail to exercise due care and control of his or her animals to prevent them from becoming a public nuisance. Every female animal in heat shall be confined in a building or secured enclosure in a manner that the female animals cannot come into contact with another animal of the same species except for planned breeding. Every vicious animal, as determined by the Senior Humane Officer, shall be confined by the owner within a building or secured enclosure and shall be securely muzzled or caged whenever off the premises of the owner. Unrestrained and nuisance animals shall be taken by the police or Senior Humane Officer and impounded in the City Animal Shelter, and there confined in a humane manner. If by a license tag or other means, the owner of an impounded animal can be identified, the Senior Humane Officer shall immediately, upon impoundment, notify the owner by telephone or mail. An owner re-claiming an impounded dog or cat shall pay a \$10.00 per day boarding fee for each day the animal was impounded, plus a fine of \$12.50 for the first offense, \$25.00 for the second offense, \$50.00 for the third offense (plus a citation for public nuisance) and the fourth offense will result in surrender of the animal to the city and placement for adoption. Any animal not re-claimed by its owner within five working days shall become the property of the local government authority and shall be placed for adoption in a suitable home or humane euthanasia. An owner may surrender an animal to the city for a fee of \$20.00.

('66 Code, § 4-10-1-8) (Ord. 1400, passed 3-1-76; Am. Ord. passed 6-1-92; Am. Ord. passed 11-13-95; Am. Ord. passed 8-6-07; Am. Ord. passed 12-3-07; Am. Ord. 1400, passed 5-8-08) Penalty, see § 91.99

§ 91.10 POISONING ANIMALS.

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by an animal, provided that it shall not be unlawful for a person to expose on his own property, common rat or mouse poison mixed only with vegetable substances or unmixed.

('66 Code, § 4-10-1-11) (Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.11 GIVING ANIMALS AS PRIZES.

No person shall give away any live animal, fish, reptile or bird as a prize for, as an inducement to enter any contest, game or other competition, as an inducement to enter a place of amusement or offer the vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

('66 Code, § 4-10-1-9) (Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.12 MOTOR VEHICLES ACCIDENTS INVOLVING ANIMALS.

Any person who, as the operator of a motor vehicle, strikes an animal shall stop at once and immediately report the injury or death to the animal's owner. In the event the owner cannot be ascertained or located, the operator shall at once report the accident to the appropriate law enforcement agency or to the Senior Humane Officer.

('66 Code, § 4-10-1-10) (Ord. 1400, passed 11-13-95)

§ 91.13 ADOPTION OF ANIMALS.

The Senior Humane Officer, with the approval of the Common Council, may promulgate policies and regulations for the adoption of animals from the City Animal Shelter.

('66 Code, § 4-10-1-16) (Ord. 1400, passed 11-13-95)

§ 91.14 DISPOSITION OF FUNDS.

All fees or monies collected shall be paid to the Clerk-Treasurer or Senior Humane Officer. Money so paid shall be transmitted to the Clerk-Treasurer, shall be placed in a special fund and shall be used in carrying out the provisions of this chapter.

('66 Code, § 4-10-1-20) (Ord. 1400, passed 11-13-95)

§ 91.15 OWNER RESPONSIBILITY FOR ANIMAL ATTACKS.

(A) It shall be unlawful for an owner or keeper of an animal to allow that animal to attack or injure a person who did not provoke the animal prior to the attack.

(B) Owners of rental property may be responsible for any animal harbored on their property. In the event a problem arises with a tenant in the enforcement of this section, the owner of the rental property shall assist the city in the enforcement. If the property owner fails to assist with the enforcement of this section, the property owner may become responsible and cited into court in accordance with the provisions of this section.

(C) It shall be a defense to prosecution under this section if:

(1) The attack occurred in an enclosure in which the animal was confined without means of escape, there was posted at the main entrance of the enclosure a notice to beware of the animal and the person attacked entered the enclosure without invitation; or

(2) The person was attacked during the commission or attempted commission of a criminal act on the property of the owner or keeper of the animal.

(D) The liability imposed by this section shall not reduce, substitute for or in any manner be deemed to be in derogation of the rights accorded victims of dog bite injury or property damages as provided for in I.C. 15-5-12 *et seq.*, any successor statutes or by common law.

(Ord. 1400 passed 8-6-07; Am. Ord. 1400, passed 12-3-07; Am. Ord. 1400, passed 4-6-09) Penalty, see § 91.99

§ 91.16 FEE FOR SURRENDER OF ANIMAL.

An owner surrendering an animal to the city will be assessed a fee of \$10 per animal surrendered. (Ord. 1400, passed 4-6-09)

§ 91.17 ABANDONED OR NEGLECTED ANIMAL.

It is unlawful for a person who owns a dog or cat to recklessly, knowingly, or intentionally abandon or neglect such animal. (I.C. 35-46-3-7).

(Ord. 1400, passed 4-6-09) Penalty, see § 91.99

*KENNELS***§ 91.25 PERMITS REQUIRED; PROCEDURE.**

(A) No person shall operate a kennel without first obtaining a permit in compliance with this chapter. Each facility regulated by this chapter shall be considered a separate enterprise and shall require an individual permit. ('66 Code, § 4-10-1-17)

(B) The applicant must apply to the Zoning Board of Appeals for a special exception to operate kennels on their property. The applicants must meet all of the requirements for a kennel. Then the applicant must submit a full set of prints showing kennel sites, construction of kennels and location of kennels on site plans for approval of the Zoning Board.

(C) After the kennel is approved by the Zoning Board then the applicant must submit the approved form to the Clerk-Treasurer for the proper kennel license. The licenses are good for the calendar year in which they are written for the person or persons receiving approval and must be renewed by January 31 of the following year. The special exception is good for the person or persons to whom it is written only and change of ownership requires a new kennel license

('66 Code, § 4-10-1-18)

(Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.26 PERMIT FEES.

(A) Kennel permit fees are as follows:

Number of accommodated animals	Fees per permit
For each kennel authorized to accommodate 15 animals	\$100
For each kennel authorized to accommodate 15 to 50 animals	\$150
For each kennel authorized to accommodate more than 50 animals	\$200

(B) No fee shall be required of any veterinary hospital, animal shelter or government-operated zoological park or laboratory.

('66 Code, § 4-10-1-19) (Ord. 1400, passed 11-13-95)

§ 91.27 KENNEL REQUIREMENTS.

(A) All kennels will be kept in a sanitary condition. Dog runs will be hard-surfaced for easy cleaning. All animals will be separated except for mating or tending young.

(B) Kennels with less than 15 animals over the age of four months shall be separated from nearest residence or business by not less than 200 feet.

(C) Kennel with over 15 but less than 50 animals shall be separated from nearest residence or business by not less than 300 feet.

(D) Kennel with over 50 animals shall be separated from nearest residence or business by not less than 400 feet.

(66 Code, § 4-10-1-17) (Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.99 PENALTY.

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

(B) A person who violates any provision of § 91.15 shall be subject to a fine for any such violation of not less than \$500. If the violation results in the animal causing serious bodily injury to any person, the court, upon request, shall order the animal forfeited and/or destroyed.

(Ord. 1400, passed 11-13-95; Am. Ord. 1400 passed 8-6-07; Am. Ord. 1400, passed 12-3-07)

CHAPTER 92: FAIR HOUSING

Section

- 92.01 Policy
- 92.02 Definitions
- 92.03 Unlawful practice
- 92.04 Discrimination in sales or rentals
- 92.05 Discrimination; qualifications and standards
- 92.06 Discrimination in real estate transactions
- 92.07 Discrimination in brokerage services
- 92.08 Interference, coercion and intimidation
- 92.09 Prevention of intimidation; fine
- 92.10 Exemptions
- 92.11 Administrative enforcement

§ 92.01 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. 1777, passed 6-7-93)

§ 92.02 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 the person will be injured by a discriminatory housing practice that is about to occur.

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

COMMISSION. Indiana Civil Rights Commission created pursuant to I.C. 22-9.1-4 *et seq.* (I.C. 22-9.5-2-3)

COMPLAINT. A written grievance filed with the city either by a complainant or another party, which meets all the requirements of § 92.11 (B) and (C).

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

COVERED MULTI-FAMILY DWELLINGS.

- (1) Buildings consisting of four or more units if the buildings have one or more elevators; and
- (2) Ground-floor units in other buildings consisting of four or more units.

DISABILITY.

- (1) With respect to a person:

(a) A physical or mental impairment which substantially limits one or more of the person's major life activities;

(b) A record of having such an impairment;

(c) An impairment described or defined pursuant to the federal *Americans with Disabilities Act of 1990*;

(d) Any other impairment defined under I.C. 29-9.5-2-10.

(2) **DISABILITY** shall not include current illegal use of or addiction to a controlled substance, as defined in Section 802 of USC Title 21 (I.C. 22-9.5-2-10 (b)), or psychoactive substance use disorders resulting from current illegal use of drugs;

- (3) An individual shall not be considered disabled solely on the basis of the following:

(a) Homosexuality;

(b) Bisexuality;

(c) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments or other sexual behavior disorders; or (I.C. 22-9.5-2-10 (c))

(d) Compulsive gambling, kleptomania or pyromania.

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 92.04, 92.05, 92.06, 92.07 and 92.08 of this chapter or I.C. 22-9.5-5.

DWELLING. Any:

(1) 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

(2) 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)

FAMILY. Includes a single individual, with the status of the **FAMILY** being further defined below. (I.C. 22-9.5-2-9)

FAMILIAL STATUS. One or more individuals who have not attained the age of 18 years being domiciled with:

(1) A parent or another person having legal custody of an individual or the written permission of the parent or other person; or

(2) The protection afforded against discrimination on this 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.

OWNER. The person holding legal or equitable title to property or his or her legal representative.

OWNER OCCUPIED. Any individual who:

(1) Is a title holder of record or contract purchaser of the real property in question; and

(2) Continued to occupy and reside in the property as his principal dwelling place at the time the alleged discriminatory act occurs.

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 USC Title 11, 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 right to occupy the premises owned by the occupant. (I.C. 22-9.5-2-13)

(Ord. 1777, passed 6-7-93)

Editor's Note:

I.C. 22-9.5-2-10(b) and I.C. 22-9.5-10(c) are repealed by 2007 Public Law 99, Section 21-

§ 92.03 UNLAWFUL PRACTICE.

(A) Subject to the provisions of division (B) below, § 92.10 of this chapter and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in §§ 92.04 and 92.05 of this chapter shall apply to all dwellings except as exempted by division (B) below and I.C. 22-9.5-5.

(B) Other than the provisions of division (C) below, nothing in §§ 92.04 and 92.05 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 single-family houses at any one time, provided that in the sale of a single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one 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 three or more single-family houses at any one time.

(2) The sale or rental of any single-family house shall be excepted from application of this section only if the 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 broker, agent, salesman or person; and

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 92.04 (C) of this chapter. Nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other professional assistance as necessary to perfect or transfer this title.

(3) 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 the living quarters as his residence.

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

(1) He 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 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 transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.
(Ord. 1777, passed 6-7-93)

§ 92.04 DISCRIMINATION IN SALES OR RENTALS.

As made applicable by § 92.03 and except as exempted by §§ 92.03 (B) and 92.10, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, 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, 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 or facilities in connection therewith because of race, color, religion, sex, 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 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 the 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 prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, 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 disability of:

(a) That buyer or renter;

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

(c) Any person 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 the dwelling, because of a disability of:

(a) That buyer or renter;

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

(c) Any person with that person.

(Ord. 1777, passed 6-7-93)

§ 92.05 DISCRIMINATION; QUALIFICATIONS AND STANDARDS.

(A) For purposes of this section, 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 a person if the modifications may be necessary to afford the 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 modification, reasonable wear and tear excepted;

(2) A refusal to make reasonable accommodations in rules, policies, practices or services, when accommodations may be necessary to afford the 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, 1988, a failure to design and construct those dwellings in such a manner that:

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

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

(c) All premises within the 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;

3. Reinforcements in bathroom walls to allow later installation of grab bars; and

4. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(d) Compliance with the appropriate requirements of the *Americans With Disabilities Act of 1990* and of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of division (A)(3)(c).

(B) Nothing in this section 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 or whose tenancy would result in substantial physical damage to the property of others.
(Ord. 1777, passed 6-7-93)

§ 92.06 DISCRIMINATION IN REAL ESTATE 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 a transaction, because of race, color, religion, sex, disability, familial status or national origin.

(B) As used in this section, the phrase "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. 1777, passed 6-7-93)

§ 92.07 DISCRIMINATION IN 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 in the terms or conditions of access, membership, or participation, on account of race, color, religion, sex, disability, familial status or national origin.
(Ord. 1777, passed 6-7-93)

§ 92.08 INTERFERENCE, COERCION AND INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, 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 §§ 92.03, 92.04, 92.05, 92.06 and 92.07.

(Ord. 1777, passed 6-7-93)

§ 92.09 PREVENTION OF INTIMIDATION; FINE.

Whoever, whether or not acting under color of 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, disability, familial status or national origin and because he is or has been selling, purchasing, renting, financing, occupying, contracting or negotiating for the sale, purchase, renting, 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 the person or any other person or class of person 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); or

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

(C) Any citizen, because he is, has been or in order to discourage the 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 division (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000 or if bodily injury results shall be fined not more than \$2,500.

(Ord. 1777, passed 6-7-93)

§ 92.10 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) 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 membership in the religion 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 has an incident to its primary purpose or purposes from limiting the rental or occupancy of the lodgings 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, the phrase "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 persons (as defined in the state or federal program);

(b) Intended for, and solely occupied by, persons 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.

(3) Housing that includes units that are unoccupied or that are occupied by persons who do not meet the age requirement of divisions (B) or (C) does not fail to meet the requirements for housing older persons if:

(a) The unoccupied units are reserved for persons who meet the age requirements of divisions (B) or (C); or

(b) The occupants who do not meet the age requirements of divisions (b) and (c) above have resided in the housing since September 12, 1988, or an earlier date and the persons who become occupants after September 13, 1988, meet the age requirements of divisions (b) and (c) above.

(4) The city shall adopt rules under I.C. 4-22-2 to establish criteria for matching determinations under division (2) above. These rules must include at least the following provisions:

(a) Except as provided in division (b) below, the housing must provide significant facilities and services specifically designed to meet the physical or social needs of older persons.

(b) If the provision of the facilities and services described in division (a) above is not practicable, the housing must be necessary to provide important housing opportunities for older persons.

(c) At least 80% of the units must be occupied by at least one person who is at least 55 years of age.

(d) The owner or manager of the housing must publish and adhere to provide housing for persons who are at least 55 years of age.
(Ord. 1777, passed 6-7-93)

§ 92.11 ADMINISTRATIVE ENFORCEMENT.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Indiana Civil Rights Commission as set forth in division (C) hereof shall be vested in the chief executive officer of the city.

(B) A complaint concerning an alleged discriminatory housing practice must be in writing, under oath and addressed to the Mayor.

(C) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, file a complaint with the Commission (as delineated in division (D) below alleging the discriminatory housing practice.

(D) Notwithstanding the provisions of I.C. 22-9.5-4-8, the city, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the sections of this chapter by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6. The chief elected officer of the city shall refer all the complaints to the Commission, as provided for under division (A) of this section, for purposes of investigation, resolution and appropriate relief as provided for under I.C. 22-9.5-6.

(E) Not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, the Commission may file its own complaint.

(F) A complaint under this section may be amended at any time.

(G) When a complaint is filed under this section, the city shall do the following:

(1) Give the aggrieved person notice that the complaint has been received;

(2) Advise the aggrieved person of the time limit and choice of forums under this section;

(3) The chief executive officer of the city or his or her designee shall provide information on remedies available to any aggrieved person or complainant requesting information;

(4) Not later than 20 days after filing the complaint or identification of an additional respondent, the following shall be served:

(a) A notice identifying the alleged discriminatory practice and advising the respondent of the procedural rights and obligations of a respondent under this section; and

(b) A copy of the original complaint.

(H) 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 executive officer and the Commission to further the purposes.

(Ord. 1777, passed 6-7-93)

CHAPTER 93: FIRE REGULATIONS

Section

General Provisions

- 93.01 Establishment of fire zones

Fire Prevention

- 93.20 Open burning regulations
93.21 Modifications
93.22 Approved devices
93.23 Storage of inflammable liquids
93.24 Storing combustible material
93.25 Burning combustible material

Cross-reference:

Building Regulations, see Chapter 150

GENERAL PROVISIONS

§ 93.01 FIRE ZONES ESTABLISHED.

(A) *Boundaries.* All that part of the city within the following described zones shall be designated and known as the fire zone of the city. Beginning in the center of South Anderson Street at a point 62 feet south of the south line of the Conrail, formerly Nickel Plate Railroad, running thence east on the line to the northeast corner of Lot No. 12 in Barton's Fifth Addition to the city; thence south to the centerline of South "D" Street, thence east to the centerline of Main Street, thence west to the centerline of North 18th Street, thence north to the centerline of the first alley north of North "A" Street, thence west to the centerline of the first alley east of North Anderson Street, thence north to the centerline of North "C" Street, thence west on North "C" Street to the east line of the Conrail, formerly Nickel Plate Railroad, thence on and along the east line and in a northwesterly direction to the centerline of North "D" Street, thence west on North "D" Street to the centerline of the first alley east of North 12th Street, thence south to the centerline of the first alley north of North "A" Street, thence east to the centerline of North 13th Street, thence south on North 13th Street to the centerline of Main Street, thence east to the center of Duck Creek, thence on and along the center of Duck Creek to the centerline of the first alley south of South "A" Street, thence east to the centerline of the second alley west of South Anderson Street, thence south to the south line of the right of way of the Conrail, formerly Nickel Plate Railroad, thence east on the right-of-way to the centerline of the first alley west of South Anderson Street, thence

south to the centerline of South "D" Street, thence east on South "D" Street to the centerline of South Anderson Street, thence north on South Anderson Street to the place of beginning.
('66 Code, § 4-8-4-1)

(B) *Construction regulations.* No wooden buildings shall be erected or constructed within the fire zone, except as hereinafter permitted. No building shall be erected or constructed within the fire zone unless the same shall be erected or constructed in conformity with the following provisions.

(1) All outside and main partition walls shall be made of stone, brick, concrete block or other fire proof material.

(2) Outside and main partition walls not exceeding 24 feet in height from the top of the sidewalk to the underside of the roof joists or rafters shall be in thickness not less than eight inches if of brick, and not less than 16 inches if of stone, but such walls of stores, mills, warehouses and manufacturing establishments not exceeding 24 feet in height, measuring as aforesaid, shall be in thickness not less than 12 inches, if of brick, and not less than 18 inches if of stone. In any building of whatsoever kind exceeding three stories in height, the walls of the two lower stories shall be in thickness not less than 16 inches if of brick, and not less than 24 inches if of stone; all concrete block walls shall be not less than eight inches thick.

(3) All joists, beams and other timbers in outside and main partition walls shall be separated at least two inches from each other with stone or brick laid in mortar, and all wooden lintels or plate pieces in the front or rear walls shall recede from outside of the wall at least four inches, except that lintels of timber may be used in rear of metal fronts, and plates of wood may be used in cornices; but all cornices shall be securely fastened in the walls of the building with iron rods in such manner as that, in case of fire, they will not fail until burned to pieces.

(4) In all buildings of more than one story there shall not be more than 30 feet of space between the outside and main partition walls, unless the lower story of the building shall be supported by iron or other columns or supports of fireproof material between the walls.

(5) All end and partition walls shall extend above the sheeting of the roof at least seven inches or three courses of brick, and in no case shall planking or sheeting of the roof extend across any partition or end walls, provided that the words "main partition walls," as used by this subchapter, shall be construed to mean the partition walls as shall support joists.

('66 Code, § 4-8-4-2) (Ord. 1172, passed 10-3-66)

FIRE PREVENTION

§ 93.20 OPEN BURNING REGULATIONS.

(A) *General regulations.* No person shall burn or cause to be burned any trash, lumber, leaves,

straw or any other combustible material on any asphaltic or tar street or in a place, amount or manner or under such weather conditions as would endanger surrounding property. ('66 Code, § 4-8-2-1)

(B) *Combustibles.* Ashes, smoldering coals or embers, greasy or oily substances and other combustible receptacles shall not be placed or allowed to remain within eight feet of any combustible materials or construction made up of combustible receptacles. All receptacles containing substances shall be placed on a non-combustible floor or on the ground outside of the building and shall be kept at least two feet away from any combustible wall or partition. ('66 Code, § 4-8-2-2)

(C) *Accumulations.*

(1) No person shall permit to remain upon any roof or in a courtyard, vacant lot or open space, any accumulation of waste paper, hay, straw, grass, weeds, litter or combustible or inflammable waste or rubbish of any kind in a quantity as would constitute a fire hazard.

(2) Suitable presses shall be installed and used as needed in all stores, apartment houses, factories and similar places where waste paper and other combustible material rapidly accumulate. ('66 Code, § 4-8-2-3)
(Ord. 1172, passed 10-3-66)

§ 93.21 MODIFICATIONS.

The Fire Chief shall have power to modify any of the provisions of the city fire regulation relating to inspections upon application in writing by the owner or lessee, or by his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the sections; provided that the spirit of these sections shall be observed, public safety secured, and substantial justice done. The particulars of modification, when granted or allowed, and the decision of the Fire Chief thereon shall be entered upon the records of the Elwood Fire Department and a signed copy furnished the applicant. ('66 Code, § 4-8-2-4) (Ord. 1172, passed 10-3-66)

§ 93.22 APPROVED DEVICES.

As used in this subchapter the word "approved" as applied to devices or materials means acceptable to the Fire Chief by reason of having been tested and examined by him or by some recognized testing laboratory against fire hazard. ('66 Code, § 4-8-2-5) (Ord. 1172, passed 10-3-66)

§ 93.23 STORAGE OF INFLAMMABLE LIQUIDS.

(A) *Storing inflammable liquids.* By reason of the fire hazard and explosive hazard attending the storage of large quantities of inflammable liquids such as gasoline, kerosine, naphtha, benzine and other similar liquids, excepting fuel oil and distillate, located within the city, it is hereby declared unlawful

for any person to store or cause to be stored in tanks or other containers hereafter constructed or installed within the city, or to construct tanks or other containers for the purpose of storing inflammable liquids of combined capacities in excess of 5,000 gallons at any one location within the city. This shall not prohibit the underground storage of inflammables for retail outlets where the storage capacity does not exceed 18,000 gallons. ('66 Code, § 4-8-3-1)

(B) *Storage tank location.* The word "location" shall mean the occupation and use of an area occupied by storage and tankage and the area surrounding within a radius of 150 feet from the tankage or if a public street intervenes within 150 feet, then to the public street. ('66 Code, § 4-8-3-2)

(C) *Existing locations.* This subchapter shall not affect existing locations and uses thereof; provided, however, that in event and at the time of termination of the location now existing and discontinuance of the use for storage purposes now thereof made which would otherwise fall within the terms of these sanctions where the cessation of use shall extend over a period over four months, the reestablishment of which shall be prohibited except as conforming to the sections. ('66 Code, § 4-8-3-3)

(D) *Underground storage.* This subchapter shall not apply to or govern the storage of inflammable liquids upon or under the surface of premises of manufacturing or industrial plants, shops or factories intended for use therein, where liquids are not withdrawn for transportation or use away from the premises and the location of the tankage is in control of the owner of the plant and constitutes a part of the area occupied by the plant, shop or factory. ('66 Code, § 4-8-3-4)
(Ord. 1172, passed 10-3-66) Penalty, see § 10.99

§ 93.24 STORING COMBUSTIBLE MATERIAL.

No person in this city shall have, buy or keep any hay or straw in a stack or pile without having the same enclosed or secured so as to protect it from flying sparks of fire. No person shall keep or permit to be kept in cellars or in the rear portion of storerooms or warehouses any hay, straw or combustible material.

('66 Code, § 4-8-4-6) (Ord. 1172, passed 10-3-66) Penalty, see § 10.99

§ 93.25 BURNING COMBUSTIBLE MATERIAL.

No hay, straw, shavings or other combustible material shall be set fire to or burned within any street, alley or public or private grounds within the fire zones of the city, nor shall any substance be burned in any part of the city outside of the fire zones between sunset of one day and sunrise of the next succeeding day. In all cases, when the Elwood Police Chief shall deem the burning to be dangerous, he shall cause the same to be removed, or extinguished and to arrest the person who caused the burning, if the person shall refuse to obey his order in reference thereto.

('66 Code, § 4-8-4-7) (Ord. 1172, passed 10-3-66)

CHAPTER 94: NUISANCES

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GENERAL PROVISIONS

§ 94.01 DEFINITION.

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

NUISANCE. The doing of an unlawful act, the omitting to perform a duty or the suffering or permitting of any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;

(2) Offends decency;

(3) Is offensive to the senses;

(4) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;

(5) In any way renders other persons insecure in life or the use of property; or

(6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

('66 Code, § 4-9-1-1) (Ord. 1813, passed 8-7-95)

§ 94.02 NUISANCES ENUMERATED.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

(A) Vegetation which has attained a height of eight inches or more and has not been cut, mown or otherwise removed from private property which is abandoned, neglected or disregarded. Vegetation planted for some useful or ornamental purpose is excepted;

(B) Vegetation, trees or woody growth on private property which, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement;

(C) A condition which causes property to become a health or safety hazard, unless specifically authorized under existing laws and regulations;

(D) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things;

(E) Any condition which provides harborage for rats, mice, snakes and other vermin;

(F) Any building or other structure which is in such a dilapidated condition that it is unfit for human use, occupancy, or habitation; kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof; or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;

(G) All unnecessary or unauthorized noises and annoying vibrations, including noises;

(H) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of odors and stenches;

(I) The carcasses of animals or fowl not disposed of within a reasonable time after death;

(J) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances;

(K) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;

(L) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;

(M) Dense smoke, noxious fumes, gas, soot or cinders;

(N) The unauthorized obstruction of any public street, road or sidewalk;

(O) Any abandoned vehicle including but not limited to automobiles, trucks, trailers, campers, boats and recreational vehicles;

(P) Any machinery on any lot which contains any type of residential use, trash, garbage or other waste shall not be kept or stored outside of an enclosed building except in sanitary containers. All incinerators or other equipment for the storage or disposal of material shall be kept in clean and in sanitary condition. The term waste shall include, but not be limited to, all discarded household furniture, appliances, building materials, tools, toys, automotive or other mechanical parts, farm machinery, and other household fixtures and equipment or parts thereof which are not in use within the subject premises. Storage of the items shall be restricted to the area within the principal residential building or to enclosed accessory buildings such as garages, garden sheds, and storage buildings. Exterior storage of items is forbidden is hereby added;

(Q) Any structure not built or manufactured for permanent residence shall not be used as a dwelling; and

(R) Trash and trash receptacles shall not be placed at curbside for pick-up before 6:00 p.m. on the evening proceeding scheduled pick up day. All receptacles shall be removed from curbside by 6:00 p.m. of scheduled pick up day.

(66 Code, § 4-9-1-2) (Ord. 1813, passed 8-7-95; Am. Ord. 1813, passed 6-3-96) Penalty, see § 10.99
Statutory reference:

For provisions on the authority to enter onto real property, correct ordinance violations and obtain lien for same, see I.C. 36-1-6-2.

For provisions on the municipal home rule, see I.C. 36-1-3-1 et seq.

§ 94.03 NUISANCES PROHIBITED.

It shall be unlawful for any property owner, occupant or other person, to allow a nuisance to exist. ('66 Code, § 4-9-1-3) (Ord. 1813, passed 8-7-95) Penalty, see § 10.99

§ 94.04 ABATEMENT AND ENFORCEMENT PROCEDURES.

(A) (1) *Abatement procedures.* The Planning Director also known as Building Inspector, Building Commissioner and Planning Commissioner and law enforcement officers may at any time require the owner and/or occupant of any property upon which a nuisance as herein defined to do all things necessary to remove the nuisance from the property by giving the owner and/or occupant ten days' written notice to the existence of the nuisance. The notice as herein required shall state the nature of the alleged nuisance and the action deemed necessary to correct the condition and shall fix a date not sooner than ten days from the date of the mailing of the notice when the property owner and/or occupant must remove the nuisance. All notices as herein required shall be sent certified mail, no return receipt, or personal service, to the occupant or owner at the address of the property, if it be a dwelling, and to the last known address of the owner as reflected in the tax rolls of the city, township or the county.

(2) Upon the failure of the owner and/or occupant to cause the abatement of the nuisance as required by this section, the Planning Director may proceed at once to cause to be abated the nuisance and charge the cost thereof against the owner and/or occupant of the property. The liability created herein shall be joint and several as to the owners and any occupants or tenants. The charges incurred shall be certified to the Madison County Auditor and shall become a lien on the real estate.

(B) *Enforcement procedures.* In lieu of the abatement procedures set forth in division (A) of this section, the Building Inspector, Building Commissioner, Planning Director, Planning Commissioner, and any law enforcement officer may, in his or her sole discretion, cite a violation of § 94.02(A), (B), (D), (E), (G), (H), (I), (M), (N), or (O) directly into the City Court, or other Court of competent jurisdiction, for enforcement of said violations.

('66 Code, § 4-9-1-4) (Ord. 1813, passed 8-7-95; Am. Ord. 1955, passed 9-5-00; Am. Ord. 1813, passed 8-9-04)

§ 94.05 COLLECTION OF FEES.

The Planning Commission shall, upon completion of all acts necessary to abate the nuisance, send a statement to the owner and/or occupant of the property notifying the owner and/or occupant of the fees and charges owing to the city for its services. Upon the failure of the owner and/or occupant to pay the fees and charges in full within 30 days, the Planning Commission then may cause charges and fees to be placed upon the tax duplicate and collected the same as taxes. The Planning Commission may, in