

## **TITLE IX: GENERAL REGULATIONS**

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## **CHAPTER 90: ABANDONED VEHICLES**

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### **§ 90.01 ADOPTION OF INDIANA ABANDONED MOTOR VEHICLE LAW.**

The Common Council of the city now hereby adopts the provisions of the Indiana Abandoned Motor Vehicle Law (I.C. 9-22-1-1 through 32) and does hereby pursuant to the provisions of I.C. 36-1-5-4 incorporate the provisions of said statute by reference into this chapter.  
(Ord. 914, passed 11-10-97)

### **§ 90.02 MARKET VALUE; NOTICE OF REMOVAL.**

Pursuant to the provisions of I.C. 9-22-1-13(b), the Common Council of the city now establishes the market value of \$100 or less for determining which abandoned vehicle or parts may be disposed of by the enforcement authority without tagging the motor vehicle and giving 72-hour notice of its proposed removal to the title owner of record.  
(Ord. 914, passed 11-10-97)

### **§ 90.03 DISPOSAL OF ABANDONED MOTOR VEHICLES.**

As the city is a third class city as defined by state statute, abandoned motor vehicles which are not redeemed by the owner or a lienholder pursuant to the Indiana Abandoned Motor Vehicle Law shall be disposed of by the Indiana Bureau of Motor Vehicles pursuant to the provisions of I.C. 9-22-1-20 and I.C. 9-22-1-22.  
(Ord. 914, passed 11-10-97)

### **§ 90.04 TOWING FEES AND STORAGE CHARGES.**

Any towing contractor with which the city has made a contract for the removal, storage and disposition of abandoned vehicles and parts pursuant to the provisions of I.C. 9-22-1-31 shall be

entitled to charge towing charges and storage fees in amounts not exceeding the maximum towing and storage charges established by 140 IAC 5-1-2(b) and (c) which are incorporated by reference into this chapter pursuant to the provisions of I.C. 36-1-5-4.  
(Ord. 914, passed 11-10-97)

**§ 90.05 ABANDONED MOTOR VEHICLE FUND.**

An Abandoned Motor Vehicle Fund is hereby established for the purposes of implementing this chapter. The Common Council shall annually appropriate sufficient money to the fund to carry out this chapter. Any money remaining in the fund at the end of the year remains in the fund and does not revert to the General Fund.  
(Ord. 914, passed 11-10-97)

## CHAPTER 91: ANIMALS

### Section

- 91.01 Definitions
- 91.02 Animal licenses
- 91.03 Restraint
- 91.04 Dangerous animals
- 91.05 Impoundment
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- 91.14 Prohibited animals
- 91.15 Water, food and housing requirements
- 91.16 Cremations
  
- 91.99 Penalty

#### ***Cross-reference:***

*Animal Shelter Non-reverting Fund, see §§ 33.001 through 33.004*  
*Dogs in Crown Hill Cemetery, see § 93.03*

#### ***Statutory reference:***

*Animals; capture and destruction; shelters, see IC 36-8-2-6*

### **§ 91.01 DEFINITIONS.**

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

(1) ***ABANDONMENT.*** The leaving of an animal on any premises without the consent of the owner, occupant or tenant and without the making of any agreement providing for the care of the animal. Abandonment of an animal shall include the act of leaving the animal at the Salem Animal Shelter without notification to the ACO of the ownership of the animal or of the purpose for the delivery of the animal to the animal shelter.

(2) ***ANIMAL.*** Any living non-human creature, domestic or wild, including livestock and poultry.

(3) **OWNER.** Any person owning, harboring or keeping any animal.

(4) **RESTRAINT.** Confinement to the premises of the owner, being outside the premises of the owner while on a leash not more than eight feet in length, being outside the premises of the owner while under voice control in the presence of a competent person, being outside the premises of the owner while within a vehicle being driven or parked or being upon the premises of another person with the consent of that person. The construction and maintenance of an electric or radio fence, also know as an “invisible fence,” shall not be deemed to constitute confinement or restraint.

(B) The Animal Control Officer shall be referred to as ACO, and the Salem Department of Animal Control shall be referred to as SDAC.

('86 Code, § 36-8-2-6(a)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91; Am. Ord. 1147, passed 7-13-04)

## § 91.02 ANIMAL LICENSES.

(A) All dogs, cats or any other animals subject to licensing kept in the city shall be registered. The animal must wear its license tag at all times unless a signed written statement from a licensed veterinarian is on file with the Salem Department of Animal Control stating that it is physically or medically impossible for the animal to wear any collar, harness or other apparatus with a tag on it.

(B) The owner shall supply the City Animal Control Officer with information concerning the species, sex, breed, description, age, rabies shot information, spay or neuter information and call name of the animal; the name, address, and phone number (or the best method of contacting if no telephone) of the owner; and the name and best method of contacting other persons that may be able to handle the animal in the case of an emergency and the owner cannot be contacted.

(C) (1) Any person owning an animal subject to licensing within the city is responsible for the registering of the animal and purchasing of a license tag for it from the City Animal Control Officer or his representative within ten days of obtaining the animal or it becoming of age for licensing.

(a) For each altered dog or cat: \$2.00

(b) For each nonaltered dog or cat: \$6.00

(2) Any animal is subject to licensing when it reaches the age of three months or is separated from its mother and/or siblings, whichever happens first.

(3) A license may be purchased, but will not be valid, until animals requiring rabies shots according to the current Compendium of Animal Rabies Control have obtained such shots and the same information is on file with Salem Department of Animal Control.

(4) A license cannot be transferred to another animal or owner. If a license tag is lost, it can be replaced one time at no cost. If the second tag is lost, there will be a \$2 fee to replace it.

(D) *Multiple-Animal License.*

(1) All kennels, pet shops or other facilities, whether operated by for profit or non-profit organizations, shall pay an annual licensing fee of \$30. Such fees are due and payable during the month of January of each calendar year.

(2) A multiple-animal license at the cost of \$50 per animal is required if six or more animals subject to licensing are kept on premises pursuant to § 91.09. If more than one animal owner resides on such premises, the title-owner(s) of the premises shall be responsible for paying the multiple-animal license. If the premises are rented, the leaseholder(s) shall be responsible for paying the multiple-animal license. The licensing fees shall be due within ten days of obtaining the animal or its becoming of age for licensing.

('86 Code, § 36-8-2-6(b)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91; Am. Ord. 960, passed 12-14-98; Am. Ord. 1147, passed 7-13-04; Am. Ord. 1248, passed 3-13-07) Penalty, see § 91.99

**Statutory reference:**

*Dog tax and tags, see I.C. 15-5-9-1*

**§ 91.03 RESTRAINT.**

(A) No owner shall fail to keep any of his or her animals under restraint at all times.

(B) Every female dog or cat in heat shall be confined in a building or a secure enclosure in such a manner that such a female dog or cat cannot make contact with another animal except for planned breeding.

(C) If an animal is restrained by tethering, the tether must be of reasonable length for the animal's comfort and fastened in a manner so that the animal cannot become entangled in the tether. Any tether used for the restraint of animals must also not be of excessive length so that the animal is able to enter onto the property of adjoining owners or public rights-of-way while tethered.

('86 Code, § 36-8-2-6(c)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91; Am. Ord. 1213, passed 1-10-06) Penalty, see § 91.99

**§ 91.04 DANGEROUS ANIMALS.**

(A) An animal which poses a clear and present danger to persons, property or other animals shall be considered a dangerous animal. The City ACO or any city police officer may destroy any dangerous animal.

(B) Any unrestrained animal that is injured or diseased to the extent that any reasonable veterinary care would not restore the animal to a normal state of health may be destroyed by the ACO.

(C) Any animal delivered to the ACO which is considered unadoptable by its owner, may be destroyed by the ACO if the owner signs a relinquishment of all ownership rights and requests the destruction in writing.

('86 Code, § 36-8-2-6(d)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91)

#### **§ 91.05 IMPOUNDMENT.**

(A) Unrestrained animals may be taken by the City Police Department or ACO, and impounded in an animal shelter, and there confined in a humane manner. The ACO shall record all impoundments under this section. That record shall be kept in a book maintained for that purpose and shall be entered immediately following the impoundment. The record shall state the date of the impoundment, a description of the animal, whether any license required under this code section has been obtained and whether any dog tax due to the appropriate township assessor has been paid.

(B) Whenever any dog or cat running at large is not catchable and the owners of the dog or cat cannot be identified or located, the dog or cat shall be destroyed by the ACO or city police officer. If the owner of the dog or cat is identified and located, the owner shall immediately take control of the dog or cat, or assist in the seizure of the same. In either instance, the owner shall be considered in violation of this chapter and subject to penalties for such violation.

(C) The ACO shall give public notice of the impoundment by posting one copy of a document stating the date of impoundment and containing a description of the animal. This document shall be posted on the bulletin board in the city hall lobby.

(D) The ACO shall also notify the owner of any animal licensed under this section if that animal is impounded. Sufficient notice shall be constituted by notice with ordinary mail to the last known address or by verbal notice to owner or by written notice at the door of owner's residence.

(E) The owner of any impounded animal may reclaim it by paying all costs and charges incurred by the city prior to redemption. The owner must also produce adequate proof that the animal has obtained all required licenses and any dog tax due has been paid to the appropriate township assessor.

(F) The city shall charge a fee of \$10, plus \$2 for each day of impoundment, with a maximum fee of \$50. Any animal impounded by the ACO that must be isolated for any reason, such as for rabies or other disease, shall be subject to the normal impoundment fee of \$10, plus a daily fee of \$4 per day. There shall be no maximum impoundment fee for an animal requiring isolation. The owner shall also be liable for the cost of any inoculation or other veterinary service deemed necessary by the City ACO, during the impoundment.

(G) If any impounded animal with ownership identification is not reclaimed within 5 days following the posting of the public notice required under this chapter, the ACO shall humanely destroy that animal



pursuant to the provisions of division (H) of this section. Any animal without any ownership identification that is not reclaimed within three days following the posting of the public notice required under this chapter will be classed as unwanted strays and shall be disposed of by the Animal Control Officer according to the provisions of division (H) of this section.

(H) Any animal becoming the property of the Salem Department of Animal Control by being impounded and not being reclaimed as set out in § 91.05(G) or becoming the property of the Salem Department of Animal Control by its owner signing a release of ownership or by virtue of its being born in the Salem Animal Shelter, may be disposed of at the discretion of the Salem Animal Control Officer through adoption by any responsible person, may be humanely destroyed or may be transferred to another governmental agency, Humane Society or recognized organization that provides helper animals, provided that the regulations for disposition of any such agency or society are equivalent to or in excess of the regulations of the city regarding neutering, rabies shots and humane care for the animal.

(I) No unspayed or unneutered dog or cat or any dangerous animal shall be eligible to be released to any responsible person other than its owner. No animal that was considered a dangerous animal at the time of its impoundment by the ACO shall be released to its owner if it is still considered to be a dangerous animal by the ACO. If such an animal is no longer considered to be a dangerous animal by the ACO, the animal shall be released to its owner if all impoundment fees are paid, if the animal had a rabies vaccination within the previous calendar year and if the owner signs a statement indemnifying the city and its officers, employees and agents from all liability which may arise from the actions of the animal.

('86 Code, § 36-8-2-6(e)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91; Am. Ord. 746, passed 7-13-92; Am. Ord. 956, passed 10-13-98; Am. Ord. 969, passed 2-8-99)

**§ 91.06 ABANDONMENT OF AN ANIMAL.**

No owner shall abandon an animal in the city. Such abandonment shall be a violation of this chapter and shall be subject to the fines and penalties set out herein.

(Ord. 685, passed 4-8-91) Penalty, see § 91.99

**§ 91.07 NUISANCES.**

No owner shall allow his or her animals to become a public nuisance. Animals who engage in excessive, continuous or untimely barking, molesting persons, chasing vehicles, or habitually attacking other animals shall be deemed a public nuisance, and shall be impounded, and/or the owner cited.

('86 Code, § 36-8-2-6(f)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91) Penalty, see § 91.99

**§ 91.08 IDENTIFICATION.**

The ACO may mark (tattoo) any impounded animal with an ID number in an inconspicuous spot. (Ord. 685, passed 4-8-91)

**§ 91.09 MULTIPLE ANIMALS.**

(A) All kennels, pet shops or other facilities, whether operated by for-profit or non-profit organizations, are subject to inspection by the ACO or the Humane Officer (city or county) upon his or her request and during reasonable hours. The owner must certify that all local, state, and federal laws are met and that the animals are being cared for in a reasonable and humane manner.

(B) No person, other than one operating a kennel, pet shop or veterinary practice, shall keep more than a total of five dogs or cats over the age of three months per household within the city limits. These restrictions mean a total of five animals per household; for example, one dog and four cats, three cats and two dogs, three dogs and two cats, and the like.

(C) The restriction on dogs and cats shall not apply to property which has at least one-third of an acre (14,520 square feet). However, any person owning more than five such animals must comply with division (D).

(D) Persons desiring to have more than five such animals must have a minimum of 1,000 additional square feet of lot area for each additional animal. Persons desiring to have more than five animals must pay an additional licensing fee as set out in § 91.02(D). (Ord. 685, passed 4-8-91; Am. Ord. 1147, passed 7-13-04)

**§ 91.10 ENFORCEMENT.**

(A) The ACO is authorized to enforce this section, all federal and state laws by impounding animals, issuing citations, and receiving fees and impoundment notices and warning violations as provided by law.

(B) The ACO is further authorized to conduct an investigation and make complaints to the office of the Prosecuting Attorney of Washington County, Indiana, for violation of any state or federal statute regarding the protection or keeping of animals including IC 35-46-3-1 through 35-46-3-12 and any statutes amendatory thereof or supplemental thereto.

(C) The ACO is authorized to enforce all provisions of IC 15-2.1-6-1 through 15-2.1-6-13 in regard to the control and prevention of rabies.

(D) The ACO and the city shall not be responsible to control, regulate, capture or impound any wild animal under the jurisdiction of the Indiana Department of Natural Resources unless specific authority is delegated to the ACO by an officer or agent of the Indiana Department of Natural Resources.

(E) No person shall, in any manner, resist or obstruct any ACO, police officer, or any individual authorized to enforce the provisions of this chapter.

('86 Code, § 36-8-2-6(i)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91) Penalty, see § 91.99

**§ 91.11 FINES.**

The collection of fines under this chapter shall be subject to proceedings of the Salem Violations Bureau as established by § 35.01.

('86 Code, § 36-8-2-6(j)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91)

**§ 91.12 RILEY'S PLACE.**

(A) The presence of pets or other animals in the possession of persons using the facilities at Riley's Place in Depauw Park is prohibited.

(B) Any person possessing or having under his or her control a pet within the stone wall perimeter of Riley's Place at Depauw Park shall be subject to a penalty as set forth in § 91.99.

(Ord. 1069, passed 2-12-02) Penalty, see § 91.99

**§ 91.13 DOMESTIC ANIMALS.**

No domestic animals are allowed within the city limits unless such animals are located on a tract of real estate of no less than two acres and are housed in structures no closer than 50 feet to the nearest residential property line. Domestic animals consist of the following:

(A) Cow, ox, cattle, calves or other livestock;

(B) Donkey, ass, burro, mule;

(C) Sheep;

(D) Goats of all sizes;

(E) Chickens, roosters, geese, turkeys, ducks or other fowl;

(F) Horse;

(G) Bison;

(H) Llamas and alpacas;

(I) Ostrich, emu and other ratites; and

(J) Swine of all kinds.

(Ord. 1147, passed 7-13-04)

#### **§ 91.14 PROHIBITED ANIMALS.**

Maintenance of the following animals is prohibited, except by special application to the Board of Public Works and Safety for scientific or educational programs:

(A) Mammals.

(1) Any North American non-domesticated mammals.

(2) Any exotic mammals, including but not limited to, all species of monkeys, marmosets, and similar animals; all species of wild felines, canines, bears, and similar animals; and hoofed mammals such as antelope and similar animals.

(B) Birds. All birds, except those species identified in § 91.13 and division (F)(2) of this section or those maintained under federal or state permit.

(C) Reptiles and amphibians.

(1) All exotic reptiles and amphibians, including but not limited to, boa constrictors, pythons, iguana lizards, tegu lizards, South American Caiman (alligators), and crocodiles.

(2) All venomous reptiles and amphibians.

(D) Invertebrates. All venomous invertebrates, including but not limited to, black widow spiders, scorpions, and similar animals.

(E) Apiaries. Apiaries shall not be kept or maintained within the city limits.

(F) The following animals may be maintained without a license, pursuant to division (A)(1) above. Nothing contained herein, however, shall be construed to allow an establishment to maintain such animals without a permit.

(1) Mammals:

- (a) Hamsters;
- (b) Mice;
- (c) Rats;
- (d) Gerbils; or
- (e) Guinea Pigs.

(2) Birds:

- (a) Parrots;
- (b) Parakeets;
- (c) Cockatiels;
- (d) Myna Birds;
- (e) Finches;
- (f) Canaries; or
- (g) Pigeons and Doves.

(3) Reptiles and amphibians:

- (a) Non-poisonous snakes;
- (b) Non-poisonous lizards;
- (c) Turtles;
- (d) Salamanders; or
- (e) Frogs and toads.

(Ord. 1147, passed 7-13-04)

**§ 91.15 WATER, FOOD AND HOUSING REQUIREMENTS.**

(A) All live animals shall be offered potable water at least every 12 hours. Those animals which, by common accepted practices, require watering more frequently, shall be so watered.

(B) Each live animal shall be fed at least once in each 24-hour period, except as directed by veterinary treatment. Those live animals which, by common accepted practices, require feeding more frequently, shall be so fed.

(C) Outdoor housing facilities.

(1) *Restrictions.*

(a) The following categories of dogs or cats must not be kept in outdoor facilities, unless that practice is specifically approved by the attending veterinarian:

1. Dogs or cats that are not acclimated to the temperatures prevalent in the area or region where they are maintained;
2. Breeds of dogs or cats that cannot tolerate the temperatures prevalent in the area or region where they are maintained; and
3. Sick, infirm, aged or young dogs or cats.

(b) When their acclimation status is unknown, dogs and cats must not be kept in outdoor facilities when the ambient temperature is less than 50°F (10°C).

(2) *Shelter from the elements.* Outdoor facilities for dogs or cats must include one or more shelter structures that are accessible to each animal in each outdoor facility and that are large enough to allow each animal in the shelter structure to sit, stand, and lie in a normal manner and to turn about freely. In addition to the shelter structures, one or more separate outside areas of shade must be provided, large enough to contain all the animals at onetime and protect them from the direct rays of the sun. Shelters in outdoor facilities for dogs or cats must contain a roof, four sides, and a floor, and must:

- (a) Provide the dogs and cats with adequate protection and shelter from the cold and heat;
- (b) Provide the dogs and cats with protection from the direct rays of the sun and the direct effect of the wind, rain, or snow;
- (c) Be provided with a wind break and rain break at the entrance; and
- (d) Contain clean, dry bedding material if the ambient temperature is below 50°F (10°C). Additional clean, dry bedding is required when the temperature is 35°F (1.7°C) or lower.

(3) *Construction.* Building surfaces in contact with animals in outdoor housing facilities must be impervious to moisture. Metal barrels, cars, refrigerators or freezers and the like must not be used as shelter structures. All surfaces must be maintained on a regular basis. Surfaces of outdoor housing facilities (including houses, dens, and the like) that cannot be readily cleaned and sanitized, must be replaced when worn or soiled.

(Ord. 1213, passed 1-10-06) Penalty, see § 91.99

**§ 91.16 CREMATIONS.**

(A) The Animal Control Officer may cremate deceased pets at the request of the owner, a veterinarian, or at the discretion of the Animal Control Officer. This service is provided for dogs, cats, and similar domestic pets only.

(B) The Animal Control Officer may refuse to cremate an animal due to excessive size or weight.

(C) The fee for this service is established at \$50 per animal.

(D) Cremation fees shall be deposited in the city's general fund.

(Ord. 1533, passed 10-12-15)

**§ 91.99 PENALTY.**

Any person who violates any provision of this chapter shall be deemed guilty of violation and, upon conviction, shall be fined not more than \$200 and not less than \$50, plus court costs. Each day any violation continues or occurs can be deemed a separate offense.

('86 Code, § 36-8-2-6(j)) (Ord. 397, passed 3-2-81; Am. Ord. 503, passed 10-8-84; Am. Ord. 685, passed 4-8-91; Am. Ord. 1249, passed 4-10-07)





## CHAPTER 92: BOATS AND WATERWAYS

### Section

92.01 Water recreation rules

92.02 Licenses

92.03 Enforcement

92.99 Penalty

### *Statutory reference:*

*Recreational use of watercourse, see IC 36-10-2-3*

### § 92.01 WATER RECREATION RULES.

The city hereby establishes the following rules and regulations on the premises of Lake Salinda and Lake John Hay:

(A) No gasoline power boat shall be operated on the lake.

(B) No swimming or wading.

(C) Properly licensed hand propelled boats or boats with electric trolling motors may be operated on the lake.

(D) No person shall possess, display or operate any firearms on the premises including the real estate owned by the Salem Waterworks surrounding the lakes in question.

(E) No livestock, dogs, cats or other pets may be possessed or transported on the premises.

(F) No overnight camping shall be permitted on the premises.

(G) No open fires shall be lit and maintained on the premises.

(H) No waste or refuse shall be deposited or dumped into the lake or onto the premises surrounding the lakes.

(I) No fishing shall be permitted within 500 feet of the intake structure of each lake.

(J) No person engaging in fishing shall use trout lines, throw lines, jugs, or any kind of float or buoyed container, nor shall anyone use carp or goldfish minnows as bait. Further, no person shall be allowed to possess or use a fish spear, frog gig, gaff stick, bow fishing equipment, crossbow, grab hook, spear gun, club, or snag hook on or near the city's waters. The use of any type of spear or any type of bow and arrow to take any live animal including fish, reptile, amphibian, or bird, shall be prohibited.

(K) No person shall consume alcoholic beverages on the premises.

(L) No person shall engage in any type of hunting on the premises.

(M) No person shall enter upon the premises between the hours of sunset and sunrise.

(N) All boats used on either lake shall be properly licensed pursuant to § 92.02, and shall be stored or harbored only in designated docking or storage areas.

(O) No operating of any motor vehicles on the premises other than on public access roadways, parking lots, boat launching ramps or designated picnic areas.

(P) All fishing rules and regulations of the state apply as to the possession of a fishing license, size of fish and number of fish caught per day. ('86 Code, § 36-10-2-3(a), (b)) (Ord. 120, passed 8-7-50; Am. Ord. 277, passed 4-1-68; Am. Ord. 396, passed 6-2-80; Am. Ord. 579, passed 5-4-87; Am. Ord. 2016-1550, passed 6-17-16) Penalty, see § 92.99

## § 92.02 LICENSES.

The Common Council establishes and levies an annual boat license fee as follows:

(A) For residents of the city and Washington County, Indiana, the amount of \$15 for the use of any boat or watercraft upon Lake Salinda and Lake John Hay. A single license purchased from the office of the Clerk-Treasurer of the city, shall permit an individual to launch or maintain a boat on either Lake Salinda or Lake John Hay. A boat license fee valid for one day only may be obtained from the Office of the Clerk-Treasurer of the city for a fee of \$5. A boat license fee valid for one day only that is purchased at Lake Salinda may be obtained from an employee or agent of the city for a fee of \$7.

(B) For residents of the State of Indiana living outside Washington County, Indiana, the amount of \$20 for the use of any boat or watercraft upon Lake Salinda and Lake John Hay. A single license purchased from the office of the Clerk-Treasurer of the city, shall permit an individual to launch or maintain a boat on either Lake Salinda or Lake John Hay. A boat license fee valid for one day only may be obtained from the Office of the Clerk-Treasurer of the city for a fee of \$5. A boat license fee valid for one day only that is purchased at Lake Salinda may be obtained from an employee or agent of the city for a fee of \$7.

(C) For persons who are not residents of the State of Indiana, the amount of \$25 for the use of any boat or watercraft upon Lake Salinda and Lake John Hay. A single license purchased from the office of the Clerk-Treasurer of the city, shall permit an individual to launch or maintain a boat on either Lake Salinda or Lake John Hay. A boat license fee valid for one day only may be obtained from the Office of the Clerk-Treasurer of the city for a fee of \$10. A boat license fee valid for one day only that is purchased at Lake Salinda may be obtained from an employee or agent of the city for a fee of \$15.

(D) Organizations sponsoring a fishing tournament on the waters of either Lake Salinda or Lake John Hay shall obtain an event license from the Office of the Clerk-Treasurer for a fee of \$25. The Mayor may waive this event fee for fishing tournaments sponsored by charitable organizations recognized by the Internal Revenue Service. Individual participants in any such fishing tournament shall be subject to the individual boat licensing requirements of this section.

('86 Code, § 36-10-2-3(c)) (Ord. 120, passed 8-7-50; Am. Ord. 277, passed 4-1-68; Am. Ord. 396, passed 6-2-80; Am. Ord. 579, passed 5-4-87; Am. Ord. 1295, passed 6-9-08; Am. Ord. 1297, passed 7-14-08; Am. Ord. 1418, passed 5-14-12)

***Cross-reference:***

*Schedule of boat licensing fees, see § 33.325*

**§ 92.03 ENFORCEMENT.**

If any person places any boat in either lake without a license, that boat shall be subject to removal by the city and shall stand good for the cost of removal. If the cost of removing that boat is not paid within 30 days from the time of removal, the boat may be sold by the city to pay the cost and the license fee. The balance of the sale price, if any, shall be paid to the owner upon the application of that person. If the owner does not apply for the payment of the money within 90 days after the sale of that boat, the money shall be deposited in a non-reverting operating fund established for the maintenance of recreational facilities at Lake John Hay and Lake Salinda.

('86 Code, § 36-10-2-3(d)) (Ord. 120, passed 8-7-50; Am. Ord. 277, passed 4-1-68; Am. Ord. 396, passed 6-2-80; Am. Ord. 579, passed 5-4-87)

**§ 92.99 PENALTY.**

Any person who violates any provision of this chapter shall be deemed to have committed an ordinance violation and, upon conviction, shall be fined not more than \$500 for violations of § 92.01. Each day a violation occurs or continues constitutes a separate offense.

('86 Code, § 36-10-2-3(e)) (Ord. 120, passed 8-7-50; Am. Ord. 277, passed 4-1-68; Am. Ord. 396, passed 6-2-80; Ord. 579, passed 5-4-87)



**CHAPTER 93: CEMETERY FEES**

Section

- 93.01 Cemetery fees
- 93.02 Foundations to be erected by city or its employees
- 93.03 Placement of private mausoleums in Crown Hill Cemetery
- 93.04 Dogs in Crown Hill Cemetery
- 93.05 Memorial Park
- 93.06 Permanent Maintenance Fund
- 93.07 Motor vehicle traffic and parking
- 93.08 Pauper burials
- 93.09 Sunday burials
- 93.10 Burials and internments
  
- 93.99 Penalty

**§ 93.01 CEMETERY FEES.**

(A) (1) The following schedule of cemetery fees are hereby declared:

<i>Lot Purchases (Except 11th, 12th and 13th Additions)</i>	
Eight-grave lot	\$3,600
Four-grave lot	\$1,800
Double-crypt mausoleum	\$1,800
Two-grave lot	\$900
Single-grave lot	\$450
<i>Grave Openings</i>	
Grave opening (weekdays)	\$550
Grave opening (Saturdays and holidays) No Christmas or Thanksgiving services	\$775
Pauper-grave opening (weekdays only)	\$225

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<b><i>Lot Purchases</i></b>	
<b><i>Grave Openings</i></b>	
Infant-grave opening (weekdays)	\$300
Infant grave opening (Saturdays and holidays) No Christmas or Thanksgiving services	\$350
<b><i>Cremation Urn Burial</i></b>	
Cremation urn burial (weekdays)	\$300
Cremation urn burial (Saturdays and holidays) No Christmas or Thanksgiving services	\$350
<b><i>Extra Charges</i></b>	
Monument foundations	\$0.32 per square inch of concrete poured

(2) The cemetery lot purchase prices set out above apply during the year 2012. The per-grave lot purchase price of \$450 shall increase annually in the amount of \$50 per year beginning on each January 1 until the year 2017, at which time the per-grave lot purchase price will be \$700.

(3) All municipally owned cemeteries will observe the same annual holiday schedule that is recognized by the city.

(B) (1) Lot purchases (Eleventh Addition):

<b><i>Lot Purchases</i></b>	
Eight-grave lot	\$4,000
Four-grave lot	\$2,000
Two-grave lot	\$1,000
Single-grave lot	\$500

(2) The per-grave lot purchase price in the Eleventh Addition shall increase as follows:

<i>Effective Date</i>	<i>Eleventh Addition Per-Grave Lot Price</i>
January 1, 2013	\$500
January 1, 2014	\$650
January 1, 2015	\$700
January 1, 2016 and beyond	To be determined

(C) (1) Lot purchases (Twelfth Addition):

<i>Lot Purchases</i>	
Eight-grave lot	\$4,800
Four-grave lot	\$2,400
Two-grave lot	\$1,200
Single-grave lot	\$600

(2) The per-grave lot purchase price in the Twelfth Addition shall increase as follows:

<i>Effective Date</i>	<i>Twelfth Addition Per-Grave Lot Price</i>
January 1, 2013	\$650
January 1, 2014	\$700
January 1, 2015 and beyond	To be determined

(D) Lot purchases (Thirteenth Addition):

<i>Lot Purchases</i>	
Eight-grave lot	\$5,600
Four-grave lot	\$2,800
Two-grave lot	\$1,400
Single-grave lot	\$700

(E) Persons purchasing cemetery lots in Crown Hill Cemetery from the city shall be issued a deed as required by IC 23-14-65-16. The office of Clerk-Treasurer shall have each cemetery deed issued recorded in the Office of the Recorder of Washington County, Indiana. At the time of the sale of the cemetery lot(s) in Crown Hill Cemetery, the Clerk-Treasurer shall collect from the cemetery lot purchaser the current recording fee charged by the Office of the Recorder of Washington County, Indiana, for the recording of such deed.

('86 Code, § 23-14-24-2) (Ord. 56, passed 6-5-44; Am. Ord. 519, passed 5-6-85; Am. Ord. 624, passed 9-6-88; Am. Ord. 742, passed 4-13-92; Am. Ord. 876, passed 12-9-96; Am. Ord. 972, passed 4-12-99; Am. Ord. 1005, passed 8-8-00; Am. Ord. 1100, passed 1-14-03; Am. Ord. 1211, passed 12-13-05; Am. Ord. 1320, passed 4-13-09; Am. Ord. 1324, passed 5-11-09; Am. Ord. 1414, passed 3-12-12; Am. Ord. 1449, passed 1-14-13; Am. Ord. 1512, passed 11-10-14; Am. Ord. 2019-15, passed 10-15-19)

### **§ 93.02 FOUNDATIONS TO BE ERECTED BY CITY OR ITS EMPLOYEES.**

(A) All foundations for monuments to be erected on cemetery lots in Crown Hill Cemetery shall be constructed and installed by the city or its employees, agents or independent contractors.

(B) The installation and construction of monument foundations shall be at the rates set out in § 93.01 which may be modified by the Common Council from time to time. All revenue collected from the installation of the monument foundations on grave lots shall be deposited into the Cemetery Operating Fund.

(Ord. 972, passed 4-12-99; Am. Ord. 1014, passed 8-8-00)

### **§ 93.03 PLACEMENT OF PRIVATE MAUSOLEUMS IN CROWN HILL CEMETERY.**

(A) The following cemetery lots in Crown Hill Cemetery are exclusively reserved for the placement of private mausoleums:

(1) Lot Nos. 163, 164, 165, 166, 167, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 266, 267, 268, 269, 270, Third Addition to Crown Hill Cemetery (Sinclair Mausoleum);

(2) Lot No. 370 and Lot 490, Fourth Addition to Crown Hill Cemetery;

(3) Lots 1M-35M and Lots 151M-167M, Sixth Addition to Crown Hill Cemetery;

(4) Lot 13M, Seventh Addition to Crown Hill Cemetery;

(5) Lots M1204-M153, Ninth Addition to Crown Hill Cemetery; and



(6) Lots 8, 9 and 10, 10th Addition, Part 1, to the Crown Hill Cemetery.

(B) The placement of private mausoleums on any other lots in Crown Hill Cemetery is not authorized.

(C) Multiple level private mausoleums may only be located in the row of grave lots described in division (A) above that are the farthest from the public access road serving that particular addition.

(D) Private mausoleums shall be located on grave lots in a staggered manner so as to enhance the visibility of each private mausoleum from public access roads. The Sexton of Crown Hill Cemetery shall designate the location of each private mausoleum on the grave lots purchased for the purpose of implementing this provision.

(E) Each private mausoleum shall require the purchase of the following minimum number of grave sites:

(1) *Single crypt mausoleum.* A mausoleum with a single crypt on ground level shall require the purchase of at least a two grave site lot.

(2) *Double crypt mausoleum.* A private mausoleum with two crypts on ground level shall require the purchase of at least a four grave site lot.

(F) All private mausoleums to be located in Crown Hill Cemetery shall be constructed of granite with a minimum thickness of four inches. All top pieces and all wall pieces shall be constructed of one piece of granite and shall be constructed with appropriate ventilation and drainage features. All foundations shall be of poured concrete, poured to a depth of either 24 inches or to bedrock, whichever is the least depth, and shall be no less than 12 inches wide and shall contain 80 feet of ½-inch steel reinforcing bars. Foundations shall be filled with six inches of either Number 5, 6 or 11 gravel to provide a proper drainage base.

(G) The fees for the placement of a burial in a mausoleum once erected shall be the same as charged for an infant burial or the burial of a cremation urn.

(Ord. 663, passed 11-6-89; Am. Ord. 713 passed 12-21-90; Am. Ord. 922, passed 11-10-97; Am. Ord. 972, passed 4-12-99)

#### **§ 93.04 DOGS IN CROWN HILL CEMETERY.**

(A) Any unrestrained dog found on the premises of Crown Hill Cemetery shall be considered an unrestrained animal under the provisions of §§ 91.02 and 91.05.

(B) No person shall take, control or possess any dog taken onto or on the premises of Crown Hill Cemetery at any time except for those persons who are visually impaired and have a trained “seeing eye” dog.

(Ord. 709, passed 1-14-91; Am. Ord. 972, passed 4-12-99) Penalty, see § 93.99

***Cross-reference:***

*Animals, see Chapter 91*

**§ 93.05 MEMORIAL PARK.**

(A) The following described real estate located in the 8th Addition, Part 1, of Crown Hill Cemetery is hereby dedicated as a memorial park:

A part of the northeast quarter of Section 19, Township 2 North, Range 4 East, described as follows: Beginning at the northeast corner of said Section 19 at a stone; thence north 89 degrees 10 minutes west a distance of 335 feet to a set pin and cap; thence south 0 degrees 54 minutes west a distance of 110.5 feet, more or less; thence west to the northeast corner of Lot 154B in the Eighth Addition (Part 1) to Crown Hill Cemetery as recorded in Cemetery Book 4, page 206, on June 11, 1992, in the Office of the Recorder of Washington County, Indiana; thence west along a line passing through the north lines of Lots 154B, 153B, 152B, 151B, 150B, 149B and 148B to a point on the northwest corner of Lot 148B in the aforesaid Eighth Addition (Part 1); thence continue west a distance of 9 feet to a point; thence north a distance of 110.5 feet, more or less, along the west line of real estate described in Deed Book F-5, page 159, to a point on the north line of said quarter section; thence south 89 degrees 10 minutes east along the north line of said quarter section a distance of 129 feet, more or less, to the PLACE OF BEGINNING, containing .327 acres, more or less.

(B) The gift of a limestone statue of a mother and child created by sculptor Tim Doyle is hereby accepted by the Common Council of the City of Salem, Indiana subject to the following conditions:

(1) That the statue be installed by the city on that part of the 8th Addition, Part 1, as described above.

(2) That this section of the 8th Addition, Part 1, be dedicated as a memorial park in Crown Hill Cemetery and be appropriately landscaped and maintained by the city.

(3) That the real estate described above not be used by the city for the use of burial lots or for the location for private mausoleums.

(4) That upon the installation of the statue on this memorial park not be removed so long as Crown Hill Cemetery is operated and maintained by the city or its successor in interest.

(5) That if any of these conditions are violated by the city or its successor in interest, then any nonprofit corporation organized for an appropriate purpose shall have standing to petition a trial court of competent jurisdiction for the conveyance to it of the above described real estate and statue upon carrying this burden of proof that the above conditions have been violated.

(C) The Common Council of the city shall convey to itself by corporate warranty deed the real estate described in division (A) of this section with said conveyance being subject to the restrictions set out in division (B) of this section.

(Ord. 888, passed 4-14-97; Am. Ord. 972, passed 4-12-99)

**§ 93.06 PERMANENT MAINTENANCE FUND.**

(A) The establishment of the Crown Hill Cemetery Permanent Maintenance Fund which has been in existence for many years is hereby ratified and confirmed.

(B) Fifteen percent of the proceeds from the sale of cemetery lots shall be transferred to the Permanent Maintenance Fund. Such transfers shall be performed on at least a quarterly basis by the Office of the Clerk-Treasurer.

(C) The income from the Permanent Maintenance Fund shall remain in the fund except that income derived from this fund and its accretions may be used, in whole or in part, as part of the Cemetery Operating Fund if the revenue from the sale of lots and other income from the Crown Hill Cemetery becomes insufficient to meet the expenses of maintaining the cemetery.

(D) Undesignated gifts, donations, bequests or devises of money or of real or personal property made by individuals to the city for use in maintaining and operating Crown Hill Cemetery shall be placed in the Permanent Maintenance Fund.

(E) Any gift, donation, bequest or devise of money or of real or personal property given to the city, or for the purpose of maintaining a particular lot or plot of ground and any income therefrom shall be used only for the upkeep and maintenance of that particular cemetery lot or plot of ground.

(Ord. 1005, passed 8-8-00)

**§ 93.07 MOTOR VEHICLE TRAFFIC AND PARKING.**

(A) Speed of vehicles. It shall be unlawful for any person to drive any motor vehicle in Crown Hill Cemetery faster than 15 miles per hour.

(B) Operation of vehicles and parking.

(1) No person shall drive or move any motor vehicle within Crown Hill Cemetery except over roadways open and designated for vehicular traffic or shall obstruct any path or driveway within the cemetery open to vehicle traffic. No person shall use the premise of Crown Hill Cemetery or any driveway therein as a public thoroughfare or drive any vehicle through said grounds except for the purpose of making deliveries in the cemetery, attending a graveside service or burial service, or visiting any gravesite.

(2) It shall be the duty of the cemetery sexton and his staff to direct all vehicular traffic, and the sexton is authorized to direct the parking or standing of all vehicles in said cemetery. No person shall disobey or disregard the directions of the sexton relating to the movement or standing of all vehicles within Crown Hill Cemetery.

(C) Any person who violates the motor vehicle regulation set out in this chapter shall be deemed guilty of a violation and shall be subject to a civil penalty of not less than \$25 nor more than \$2,500 plus court costs.

(Ord. 1134, passed 2-10-04)

### § 93.08 PAUPER BURIALS.

(A) *Eligibility.*

(1) Individuals dying while residing in Washington County without leaving: money, real or personal property, other assets that may be liquidated, other means necessary to defray funeral expenses, or without a child with the means or assets to provide financial support for the individual's burial pursuant to the provisions of IC 31-16-17-1(2), shall be eligible for pauper burial in Crown Hill Cemetery.

(2) The nearest family member or personal representative of the estate of the decedent is obligated to file written proof of inability to pay for burial space with the office of the Clerk-Treasurer of the city within 30 days of interment.

(3) The city reserves the right to either open a decedent's estate pursuant to the provisions of IC 29-1-7-4, or any statute amendatory thereof or supplemental thereto, for the purpose of filing a claim against the estate of the decedent should it be determined that the decedent had sufficient assets to pay for the burial space or should proof of inability to pay for the burial space not be filed in a timely manner.

(B) *Burial location.* The following described real estate is hereby reserved for the future interment of pauper burials:

(1) Beginning at the northwest corner of the 1st Addition Section B; thence south to the south line of the 88th (Public) Addition; thence east along the south line of the 88th Addition, a distance of 14 feet, more or less, which is the TRUE PLACE OF BEGINNING of this description; thence south 4 feet; thence east parallel to the south line of the original 88th Addition, a distance of 70 feet, more or less, to a point 4 feet south of said south line; thence south 33 feet 4 inches to a point; thence west 70 feet to a point; thence north to the PLACE OF BEGINNING, containing 2331 square feet.

(2) Within the above-described real estate, 20 lots consisting of 40 burial sites are hereby designated as follows: Section 88-B, Lots 361N through 380S. Lot 361N is located at the northeast corner of the above-described real estate. Lot 364S is located at the southeast corner of the above-described real estate. Lot 377N is located at the northwest corner of the above-described real estate. Lot 380S is located at the southwest corner of the above-described real estate.

(3) Pauper burials shall occur in sequential and adjacent interments beginning with Section 88-B, Lot 361N.

(C) *Fees.* The fees for pauper burials shall be as set out in § 93.01(A) of the city code. Pauper grave openings shall be scheduled during regular weekdays with no grave openings on weekends or holidays.

(Ord. 1320, passed 4-13-09)

### § 93.09 SUNDAY BURIALS.

No burials shall occur on Sunday.

(Ord. 1449, passed 1-14-13)

### § 93.10 BURIALS AND INTERMENTS.

(A) *Number of burials per grave.* Each grave in Crown Hill Cemetery is designed to accommodate a standard adult burial vault. Multiple burials are permitted per grave; provided, only that they meet one of the following criteria:

- (1) One full-body and one cremated remains interment.
- (2) Up to four cremated remains interments.
- (3) Two infant interments.
- (4) One cremated remains and one infant interment.

(B) *Burial vault.* In all interments, the casket shall be enclosed in a burial vault constructed of concrete, metal, fiberglass or other suitable material. No burial vault shall be constructed of wood or other similar destructible material. This requirement may be waived if the decedent is a member of a religious organization that has an established and recognized prohibition against the use of such a protective burial practice.

(Ord. 1496, passed 7-14-14; Am. Ord. 2018-27, passed 2-12-18)

**§ 93.99 PENALTY.**

Any person violating any provision of § 93.03 shall be subject to a civil judgment in an amount not to exceed \$5 plus court costs for a first offense and in an amount not to exceed \$10 plus court costs for each individual subsequent offense.

(Ord. 709, passed 1-14-93)

## 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 services
- 94.07 Interference, coercion, or intimidation
- 94.08 Prevention of intimidation in fair housing cases
- 94.09 Equal access to housing in HUD Programs
- 94.10 Exemption
- 94.11 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 IC 22-9.5-1 *et. seq.* (Ord. 762, passed 1-11-93; Am. Ord. 2017-14, passed 8-14-17)

### § 94.02 DEFINITIONS.

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

***AN AGGRIEVED PERSON.*** Includes any person who (see IC 22-9.5-2-2):

- (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.

***COMMISSION.*** The Indiana Civil Rights Commission created pursuant to IC 22-9-1-4, *et. seq.* (see IC 22-9.5-2-3).

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

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 94.04, 94.05, 94.06, 94.07, or 94.08 or IC 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 (see IC 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 the definition of familial status in this section (see IC 22-9.5-2-9).

**HANDICAP.**

(1) With respect to a person:

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

(b) A record of having such an impairment; or

(c) Being regarded as having such an impairment;

(d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.

(e) Any other impairment defined in 910 IAC 2-3.

(2) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in U.S.C. Title 21, § 802 of Title 21 (see 910 IAC 2-3-2(14)); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite (see 910 IAC 2-3-2(14)).



**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 U.S.C. Title 11, receivers, and fiduciaries (see IC 22-9.5-2-11).

**TO RENT.** Includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant (see IC 22-9.5-2-13). (Ord. 762, passed 1-11-93; Am. Ord. 994, passed 2-8-00; Am. Ord. 1451, passed 3-11-13; Am. Ord. 2017-14, passed 8-14-17)

### § 94.03 UNLAWFUL PRACTICE.

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

(A) All dwellings except as exempted by division (B) and IC 22-9.5-3.

(B) Other than the provisions of division (C) of this section, 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 exempted 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), 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.

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

(1) They have, 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) They have, 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) They are the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 762, passed 1-11-93; Am. Ord. 2017-14, passed 8-14-17)

#### **§ 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 or 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 induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.

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

(1) That buyer or renter;

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

(3) Any person associated with that person.

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

(1) That person; or

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

(3) Any person associated with that person.

(H) For purposes of this division, discrimination includes:

(1) 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;

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

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

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

(b) 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

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

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

(I) Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility an usability for physically handicapped people (commonly cited as ANSI A117.1") suffices to satisfy the requirements of division (H)(3)(c)3.

(J) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health of safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.  
(Ord. 762, passed 1-11-93; Am. Ord. 994, passed 2-8-00; Am. Ord. 2017-14, passed 8-14-17)

### **§ 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 section 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. 762, passed 1-11-93; Am. Ord. 2017-14, passed 8-14-17)

**§ 94.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.**

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him 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. 762, passed 1-11-93; Am. Ord. 2017-14, passed 8-14-17)

**§ 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, 94.04, 94.05, or 94.06.

(Ord. 762, passed 1-11-93; Am. Ord. 2017-14, passed 8-14-17)

**§ 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 attempt 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 division (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 division (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. 2017-14, passed 8-14-17)

#### **§ 94.09 EQUAL ACCESS TO HOUSING IN HUD PROGRAMS.**

Pursuant to 24 CFR Part 5.403 and 24 CFR Part 574.3 the definition of "family" is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

(Ord. 2017-14, passed 8-14-17)

#### **§ 94.10 EXEMPTION.**

(A) Exemptions defined or set forth under IC 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 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) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons. As used in this section, 'housing for older persons' means housing:

(1) 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

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

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

(Ord. 762, passed 1-11-93; Am. Ord. 994, passed 2-8-00; Am. Ord. 2017-14, passed 8-14-17)

**§ 94.11 ADMINISTRATIVE ENFORCEMENT.**

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

(B) Notwithstanding the provisions of IC 22-9.5-4-8, the City of Salem, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the 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 IC 22-9.5-6 and the Chief Elected Official of the City of Salem, Indiana, shall refer all said complaints to the Commission as provided for under division (A) of this section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under IC 22-9.5-6.

(C) All executive departments and agencies of the City of Salem, Indiana 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 Town of Americana, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

('86 Code, § 22-9-1-12.1) (Ord. 762, passed 1-11-93; Am. Ord. 994, passed 2-8-00; Am. Ord. 2017-14, passed 8-14-17)





## CHAPTER 95: FIRE PREVENTION

### Section

95.01 Regulation of open burning within the city

95.99 Penalty

### § 95.01 REGULATION OF OPEN BURNING WITHIN THE CITY.

(A) No person shall conduct any open burning of material within the city limits, except as provided in divisions (B) and (C) of this section.

(B) Persons are permitted to ignite the following types of fires within the city limits, provided that such fires shall be attended at all times until completely extinguished, and that no such burning shall be conducted during unfavorable meteorological conditions such as high winds, temperature inversion or air stagnation:

(1) Fires used for recreational purposes such as camp fires, and for cooking purposes. Any such fire shall be no more than three feet in circumference and shall have been ignited from fire wood or burning material stacked no more than three feet high;

(2) Fires associated with school pep rallies;

(3) Fires associated with scouting activities.

(C) Burning with the prior approval of the Commissioner of the Indiana Department of Environmental Management or his designated agent may be authorized for the following:

(1) Emergency burning of spilled petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire hazard or water pollution problem.

(2) Burning of refuse consisting of material resulting from a natural disaster.

(3) Burning for the purpose of fire training.

(4) Burning of natural growth derived from a clearing operation, that is, removal of natural growth for change in use of the land.

(5) Burning of highly explosive or other dangerous materials for which no alternative disposal method exists or where transportation of such materials is impossible.

(D) Any person who allows the accumulation or existence of combustible material on his or her property except firewood kept for use in the residence which contributes to a fire causing a risk to public safety or air pollution may not refute liability for violations of this section on the basis that the fire was set by vandals, accident or an act of God.

(E) The Chief of the Salem Fire Department and the Mayor of the city may jointly issue an order prohibiting open burning of any type within the city, if such fires are hazardous because of drought. (Ord. 703, passed 10-1-90; Am. Ord. 827, passed 5-30-95) Penalty, see § 95.99

**§ 95.99 PENALTY.**

Any person who violates any provision of this chapter shall have committed an ordinance violation and shall be subject to a judgment in any amount not to exceed \$2,500 plus court costs. (Ord. 703, passed 10-1-90)

## CHAPTER 96: NUISANCES

### Section

#### *Weeds*

- 96.01 Short title
- 96.02 Jurisdiction
- 96.03 Definitions; exclusions
- 96.04 Owners responsible for trimming, removal and the like
- 96.05 Filing complaint
- 96.06 Notice of violations
- 96.07 Appeals
- 96.08 Abatement by city
- 96.09 Liability
- 96.10 Grass clippings

#### *Buildings*

- 96.20 Dangerous buildings
- 96.99 Penalty

#### **WEEDS**

##### **§ 96.01 SHORT TITLE.**

This subchapter shall be cited as the “Weed Ordinance.”

##### **§ 96.02 JURISDICTION.**

(A) The jurisdiction of this subchapter shall be the corporate limits of the city, as presently defined or as may be modified from time to time by annexation or city ordinance.

(B) This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

**§ 96.03 DEFINITIONS; EXCLUSIONS.**

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

***DESTRUCTION ORDER.*** The notice served by the city executives, or Common Council in cases of appeal, on the property owner of the ordinance violation.

***PROPERTY OWNER.*** The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

***WEEDS, GRASSES and RANK VEGETATION.***

(1) Canada thistle, thistles, johnson grass, sorghum[,], alumm [i.e., allium], bur cucumber, and shattercane.

(2) Rank vegetation is the uncontrolled, uncultivated growth of annuals and perennial plants.

(3) ***WEEDS*** do not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

(C) The Indiana Cooperative Extension Service shall be the referenced technical authority for the city executives with respect to the definition of exempt matters, shrubs, trees, cultivated plants and crops.

**§ 96.04 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.**

(A) *General provisions.* All persons (without regard to whether they are owners, lessors, lessees, renters, or otherwise occupy the property) in the care and/or control of any property within the corporate limits of the city shall be required and be financially responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of ten inches in average height, and in no event, exceeds 12 inches (one foot) maximum height on at least 10% of the property.

(B) *Notice required and costs and fee schedule.*

(1) The building department shall be responsible for the administration of this section.

(2) The manner of notice shall be by in person contact when possible and will also include notice by regular first class or certified mail or any equivalent notice as provided by I.C. 1-1-7-1. Such notice is to be given to the owner of record of the real property when single owner or at least one owner

of record when multiple owner. Such notice is to be given to the last address of the owner for the property as indicated in the records of the County Auditor on the date of the notice. Any continuous abatement notice may be made by posting a notice on the property or in the door to any property wherein it is noted that continued violations of this section within the year from the initial notice may be abated by the city without further notice.

(3) Upon 14 days' notice, the Building Department Superintendent may authorize employees of the city or contractor agents of the city to come upon the real property to remedy the violation if not otherwise remedied by the owner prior to the expiration of the 14 days.

(4) The charge for such remediation shall be \$150/hour per employee of the city or agent of the city and \$50/day use of the city's equipment or agent's equipment. Such work shall be a minimum of one hour (including travel). As such, minimum charge of \$200 per remediation event. Thereafter such cost may increase to take into consideration the administration costs of enforcement and collection as prescribed by I.C. 36-7-10.1-4.

(5) The procedure for issuance and collection of such bill shall be the same as set forth in division (B)(2) above.

(6) The procedure for appealing a notice of violation or bill shall be by giving written notice to the City Council and being added to the agenda at the regularly scheduled meetings of the City Council. Any such appeal grounds will be heard at such meeting and due consideration given to such grounds, although the final determination is left with the City Council.

*(C) Assessment and collection of costs.*

(1) If the owner of the real property fails to pay the bill issued under division (B)(4) within the time prescribed by the bill, then the City Council may certify to the City Clerk/Treasurer the amount of the bill, plus any additional administrative costs incurred in the certification. The Clerk/Treasurer may work with the County Auditor to place the total amount certified on the tax duplicate for the real property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be dispersed to the general fund of the city.

(2) It is within the discretion of the city to bring a civil action in Circuit Court or in small claims or otherwise to collect such amounts due under this section and may charge and collect any additional costs of collection including court costs and reasonable attorney's fees as provided by I.C. 36-7-10.1-4(b). Such judgement entered under this provision shall become a lien against all property owned by the offending property owner.  
(Am. Ord. 2016-1565, passed 11-14-16)

**§ 96.05 FILING COMPLAINT.**

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter, shall make a written complaint signed, dated and filed with the City Clerk-Treasurer. If the city makes the complaint, an employee, officer or Councilmember of the city shall file the complaint in all respects as set out above.

**§ 96.06 NOTICE OF VIOLATIONS.**

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, the city Building Inspector shall make an inspection to prepare a written report. The city Building Inspector, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a “destruction order” to the property owner and/or other person occupying the property, as that information is contained within the tax duplicate records of the Washington County Auditor. Such notice shall initially be served in writing by certified mail. The notice shall provide that, within seven days after the receipt of the notice, the designated violation shall be removed by the property owner and/or person occupying the property. A continuous abatement notice may be posted at the property at the time of the first abatement during the calendar year, instead of by certified mail or equivalent service as provided previously herein. A continuous abatement notice serves as notice to the real property owner that each subsequent violation during the same calendar year for which the initial notice of violation is provided may be abated by the municipality or county, or its contractors.

(B) All notices are to be in writing and all proof of mailing of the initial notice during the calendar year should be filed with the City Clerk-Treasurer.

(Am. Ord. 1330, passed 7-13-09; Am. Ord. 1426, passed 6-11-12)

**§ 96.07 APPEALS.**

(A) The property owner may appeal by filing written notice of objections with the executive within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the executives. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the Common Council and shall be decided by a majority vote of the Councilmembers in attendance and such being at a regularly scheduled or special meeting of the Common Council.

**§ 96.08 ABATEMENT BY CITY.**

In the event that the property owner shall fail to comply with the “Destruction Order” within seven calendar days and has not filed a notice within 48 hours to the Clerk-Treasurer of an intent to appeal, the city executives may employ the services of town employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

**§ 96.09 LIABILITY.**

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds, grasses and rank vegetation as defined by this subchapter.

(B) The property owner is responsible for all costs associated with weed destruction, including an administrative cost of \$20 plus the cost of all certified mail notices required by this chapter, plus the cost of removal whether by an outside contractor or by municipal employees. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner under the provisions of this section are to be billed to the property owner by the City Clerk/Treasurer by the issuance of a statement delivered by certified mail to the address of the property owner as shown on the tax duplicates of the Office of the Washington County Auditor. All sums collected by the City Clerk/Treasurer are to be deposited into the general fund as compensation for expenses and costs incurred by the city.

(D) If the property owner fails to pay a bill assessed and issued under this section within 15 days after the receipt thereof, the Clerk/Treasurer shall certify to the Washington County Auditor the amount of the cost associated with the weed destruction including all administrative costs, removal costs and additional administrative costs incurred in the certification. The Washington County Auditor shall then place the total amount certified on the tax duplicate for the property owner affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the city.

(Ord. 854, passed 6-10-96; Am. Ord. 1291, passed 6-9-08)

**§ 96.10 GRASS CLIPPINGS.**

No person shall discharge or permit the discharge of grass clippings upon any public street, alley or any surface water gutter or drain in the city.

(Ord. 2016-1562, passed 10-10-16)

***BUILDINGS*****§ 96.20 DANGEROUS BUILDINGS.**

(A) *Adoption of state law by reference.* The city adopts I.C. 36-7-9-1 through 36-7-9-28 and amendments thereto.

(B) This section incorporates by reference the definition of ***SUBSTANTIAL PROPERTY INTEREST*** as defined in I.C. 36-7-9-2.

(C) *Administration.* The administration of this section shall be by the city Department of Building Inspection.

(Ord. 2016-1569, passed 12-12-16)

***Cross-reference:***

*Unsafe Buildings, see Chapter 155*

**§ 96.99 PENALTY.**

(A) Whoever violates any provision of this chapter for which no other penalty is set forth shall be subject to the penalty provisions set forth in § 10.99 of this code of ordinances.

(B) (1) A person violating provisions of § 96.10 may be served by an authorized enforcement person with a notice of violation. The person upon whom a notice of violation is served may admit liability to the violation and pay a civil penalty of \$25 directly to the city.

(2) If in the opinion of the authorized enforcement person the violation is so substantial as to warrant a more severe penalty, the authorized enforcement person may issue a notice of violation and citation to appear in the county Circuit Court for determination of the alleged violation of this chapter.

(3) The city may also seek an injunction to prevent further violation of § 96.10.

(C) If any person, firm or corporation shall violate any of the provisions of § 96.20 or shall do any act prohibited therein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Inspector, or shall fail, neglect or refuse to obey any lawful order given by the Building Inspector in connection with the provisions of § 96.20 for each violation, failure or refusal, such person, firm or corporation shall be fined in any sum not less than \$100 nor more than \$500. Each day of such unlawful activity shall constitute a separate offense.

(Am. Ord. 2016-1562, passed 10-10-16; Am. Ord. 2016-1569, passed 12-12-16)



## CHAPTER 97: STREETS AND SIDEWALKS

### Section

97.01 Excavation and obstruction of streets and alleys regulated

97.02 Street names

97.03 Parades and public demonstrations

97.99 Penalty

### **§ 97.01 EXCAVATION AND OBSTRUCTION OF STREETS AND ALLEYS REGULATED.**

(A) No opening or excavation may be made in any public way in the city, or in the right-of-way of such public way nor may any structure or obstruction be placed in the right-of-way of any such public way without the issuance of a written permit by the Board of Public Works and Safety.

(B) No public way in the city may be dug up for the laying or placing of any pipe, sewer, wire, conduit, track or railway or for any other purpose, and no trees may be removed from the right-of-way of such public way without issuance of a written permit by the Board of Public Works and Safety.

(C) Any public way so opened, excavated, dug up or damaged in any way by an obstruction shall be restored at the complete expense of the person performing such digging, excavation or obstruction in as good a condition as before the commencement of such activity.

(D) The Board of Public Works and Safety may require, before granting of such a permit, that a sufficient bond be given, or cash deposit made, to ensure the restoration of the public way.

(E) No permit shall be issued by the Board of Public Works and Safety, unless the applicant has either a building permit or occupancy permit issued by the Building Inspector of the city, for the improvements on the real estate for which the proposed digging, excavation, disturbance or obstruction of a public way or a right-of-way of a public way shall provide service.

(F) Verbal permits may be issued by either the department heads of the Salem Waterworks, the Salem Sewage Works, or the Salem Street Department for any opening, excavation or trenching required to make an emergency repair of any underground utility service. Such permit shall be reported to the Board of Public Works and Safety at their first regular meeting after the issuance of such a verbal permit for confirmation and review.

(G) In granting any such permit under the provisions of divisions (A), (B), and (F) of this section, the Board of Public Works and Safety may designate the place in the public way, or right-of-way thereof, where such pipe, sewer, pole, wire, conduit, track, railway or other device or thing may be constructed.

(H) Each permittee herein shall erect and maintain all necessary signs, barricades, detour signs and warning devices required to safely direct traffic over, around or away from that part of the public way where permitted operations are to be done.

(I) Any digging, trenching, excavation or obstruction in a public way or its right-of-way described herein shall include the construction of any private driveways or proposed public streets which would provide access to the public way.

(Ord. 717, passed 3-11-91)

### § 97.02 STREET NAMES.

The City Plan Commission is delegated the authority and duty to name or rename streets within the corporate limits of the city. Streets shall be named or renamed so that their names are easy to understand and so as to avoid duplication or conflict with other street names.

(Ord. 964, passed 12-14-98)

### § 97.03 PARADES AND PUBLIC DEMONSTRATIONS.

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

**PARADE.** A parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or rallies or demonstrations, or any similar display, in or on any street or other outdoor place owned or under control of the city.

(B) *Parade permit required.* When required, except as provided in division (D) of this section, no person shall engage in, participate in, aid, form, or start any parade unless a parade permit has been obtained from the Clerk-Treasurer as provided in this section.

(C) *Exceptions.* The provision of this section do not apply to:

(1) Funeral processions;

(2) Any procession, rally, demonstration or similar activity on the sidewalks that do not violate any other provision of this code or other city ordinances;

(3) A governmental agency acting within the scope of its function.

(D) *Application.* Any person seeking the issuance of a parade permit as required by this section shall file an application therefor with the Clerk-Treasurer on forms provided by his or her office, which application shall be governed by the following provisions:

(1) An application for a parade permit shall be filed with the traffic supervisor not less than seven days before the date on which it is proposed to conduct the parade. The application must be signed by the applicant and notarized.

(2) An application for a parade permit shall set forth the following information:

(a) The name, address, and telephone number of the person seeking to conduct the parade.

(b) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, telephone number of the headquarters of the organization and of the authorized responsible heads of the organization.

(3) No parade permit for any parade involving vehicles or animals shall be issued unless the applicant therefor shall obtain a comprehensive general liability insurance policy issued by an insurance company authorized to do business in the state with coverage that includes the assembly area, the parade route, the disbanding area of the parade, and any other area used by the participants of the parade. The policy limits of the insurance shall not be less than:

(a) Property damage: \$5,000 per occurrence;

(b) Bodily injury or death: \$25,000 per person; \$50,000 per occurrence.

(4) At the time of the application for the parade permit, satisfactory proof that the required insurance has been obtained must be presented to the Chief of Police. The requirement for satisfactory proof may be complied with either by depositing the insurance policy itself or by furnishing a Certificate of Insurance.

(5) An application fee of \$35 shall be paid to the Clerk-Treasurer at the time of the filing of the application.

(E) *Standards for issuance.* The Clerk-Treasurer shall issue a permit as provided by this section when, after investigating the facts set out in the application, he or she shall find that:

(1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

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(2) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the area contiguous thereto as to prevent normal police protection to the city.

(3) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto.

(4) The concentration of persons, animals, and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas.

(5) The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire.

(6) The conduct of the parade is not reasonably likely to cause injury to persons or property.

(7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

(8) The parade is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit. However, the prohibition against advertising any product, goods, or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring floats or transportation for the parade.

(F) *Notice of issuance.* Immediately on the issuance of a parade permit, the Clerk-Treasurer shall send a copy thereof to the following:

- (1) The Office of the Mayor;
- (2) The Superintendent of the Salem Street Department;
- (3) The Chief of Police;
- (4) The Fire Chief; and
- (5) The Indiana Department of Transportation.

(G) *Contents of permit.* Each parade permit shall state the following information:

- (1) The date of the parade;

- (2) The starting time and termination time of the parade;
- (3) The portions of the streets to be traversed that may be occupied by the parade; and
- (4) The estimated number of persons, animals, and motor vehicles that will be in the parade.

(H) *Chairperson to carry permit.* The parade chairperson or other person heading or leading the activity shall carry the parade permit on his or her person during the conduct of the parade.

(I) *Public conduct.*

(1) *Interference.* No persons shall unreasonably hamper, obstruct, impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.

(2) *Driving through parades.* No driver of any vehicle shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.

(3) *Parking on parade routes.* The director shall have authority when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway, or part thereof, constituting a part of the route of a parade. The Chief of Police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(4) *Violations.*

(a) It shall be unlawful for any person to stage, present, or conduct, or attempt to stage, present, or conduct, a parade without first having obtained a permit as provided in this section or which shall otherwise violate any of the provisions of this section.

(b) It shall be unlawful for any person to participate in a parade on the city streets for which a permit has not been granted.

(c) It shall be unlawful for any person to fail to comply with all directions and conditions of the parade permit issued pursuant to this section.

(J) *Signs.* Any placard or sign carried by any person in any parade shall consist of a cardboard sign on a wooden stick in a size not to exceed six square feet. Any placard or sign attached to a vehicle shall not extend beyond the dimensions of the vehicle.

(Ord. 1110, passed 6-10-03; Am. Ord. 1117, passed 8-12-03)

**§ 97.99 PENALTY.**

(A) Any person who digs upon, tears up or otherwise disturbs for any purpose any public way or right-of-way for a public way within the city, without having obtained a written permit under the provisions of § 97.01 commits a violation of § 97.01. Each violation of § 97.01 shall be subject to a civil penalty of \$100 plus court costs, plus the actual cost of repair of the street, alley or right-of-way incurred by the city.

(Ord. 717, passed 3-11-91)

(B) Any person violating the terms and conditions of § 97.03 may be subject to a civil penalty in a sum not to exceed \$1,000, plus court costs.

(Ord. 1110, passed 6-10-03; Am. Ord. 1117, passed 8-12-03)

## CHAPTER 98: TREES

### Section

- 98.01 Definitions
- 98.02 Tree Board
- 98.03 Tree species to be planted
- 98.04 Spacing
- 98.05 Distance from curb and sidewalk
- 98.06 Distance from street corners and fireplugs
- 98.07 Utilities
- 98.08 Public tree care
- 98.09 Treatment of street and park trees
- 98.10 Pruning, corner clearance
- 98.11 Dead or diseased tree removal on private property
- 98.12 Removal of stumps
- 98.13 Interference with Tree Board
- 98.14 Arborists license and bond
- 98.15 Review by Common Council
  
- 98.99 Penalty

### § 98.01 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, unless superseded by a written plan of the Department of Parks and Recreation.

**PERSON.** Any person, firm partnership, association, corporation, company or organization of any kind.

**SHALL.** Always mandatory and not merely suggestive.

**STREET TREES.** Trees, hedges, shrubs or other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.

**TREE.** A perennial plant having a woody supporting main stem or trunk, ordinarily growing to definite heights and usually developing branches at some distance from the ground.

**TREE CARE.** The treating, spraying, removal, pruning and any other tree maintenance or cultural work intended for the enhancement or preservation of trees and the removal and prevention of any and all damages to any street trees caused by tree pests, blights and diseases.

**TOPPING.** The cutting back of the leading shoot or shoots of major limbs which form the natural canopy of the tree so as to disfigure the tree's crown.

(Ord. 848, passed 6-10-96)

## § 98.02 TREE BOARD.

(A) *Creation and establishment.* There is created and established a Tree Board for the city, which shall consist of seven members, each of whom shall reside within the city. These members shall be appointed by the Mayor with the approval of the Common Council. There shall be at least one resident of each City Council District appointed. The Board shall function with the approval and guidance of the Mayor and the Common Council.

(B) *Term of office.* The term of the seven persons to be appointed by the Mayor shall be three years except that the term of one of the members appointed to the first board shall be for only one year and the term of one member of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, the member's successor shall be appointed for the unexpired portion of the term.

(C) *Compensation.* Members of the Tree Board shall serve without compensation.

(D) *Duties and responsibilities.*

(1) 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, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Common Council and upon their acceptance and approval shall constitute the official comprehensive tree plan for the city.

(2) The Board, when requested by the Common Council, shall consider, investigate, make findings, report and recommend upon any special matter coming within the scope of its work.

(E) *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. 848, passed 6-10-96; Am. Ord. 997, passed 3-14-00)



### § 98.03 TREE SPECIES TO BE PLANTED.

The Tree Board develops and maintains a list of desirable trees, street trees and park trees for planting along streets in three size classes based on mature height:

small	under 20 feet
medium	20 - 40 feet
large	over 40 feet

Lists of trees, street trees and park trees prohibited from planting will also be created by the Tree Board. (Ord. 848, passed 6-10-96)

### § 98.04 SPACING.

The spacing of trees, street trees and park trees will be in accordance with the tree species size classes listed in § 98.03 and no trees may be planted closer together than the following:

small trees	30 feet
medium trees	40 feet
large trees	50 feet

except in special plantings designed by a landscape architect and approved by the Tree Board or its representative.

(Ord. 848, passed 6-10-96)

### § 98.05 DISTANCE FROM CURB AND SIDEWALK.

The distance trees, street trees and park trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species sizes listed in § 98.03 and no trees may be planted closer to any curb or sidewalk than the following:

small trees	2 feet
medium trees	3 feet
large trees	4 feet

(Ord. 848, passed 6-10-96)

**§ 98.06 DISTANCE FROM STREET CORNERS AND FIREPLUGS.**

No tree, street tree or park tree shall be planted within 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted within 10 feet of any fireplug.

(Ord. 848, passed 6-10-96)

**§ 98.07 UTILITIES.**

No tree, street tree or park tree other than those species listed as small trees in § 98.03 may be planted under or within 10 feet of any overhead utility wire.

(Ord. 848, passed 6-10-96)

**§ 98.08 PUBLIC TREE CARE.**

(A) The city shall have the right to plant, prune, maintain and remove trees, street trees and park 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 public grounds.

(B) The Tree Board may remove or cause or order to be removed, any tree or part thereof which is in 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 infected 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 §§ 98.03 through 98.07 and with approval from the Tree Board as to species and location of the tree.

(Ord. 848, passed 6-10-96)

**§ 98.09 TREATMENT OF STREET AND PARK TREES.**

(A) It shall be unlawful for any person other than a person appointed by the city or the Tree Board to fasten or attach, in any way, to any street tree, park tree or other tree on public property, any rope, wire, sign, poster, handbill or other object. It shall further be unlawful as a normal practice for any person or firm, other than as appointed by the city or the Tree Board, to prune, spray, treat, top or remove any street tree, park tree or other tree on public property.

(B) 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.

(C) 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 Tree Board.

(Ord. 848, passed 6-10-96)

#### **§ 98.10 PRUNING, TREE CLEARANCE.**

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any intersection and so that there shall be a clear space of 13 feet above the street surface or 8 feet above the sidewalk surface. 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 proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign or sight triangle at intersections. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and the Tree Board prior to any trimming by the utility company.

(Ord. 848, passed 6-10-96)

#### **§ 98.11 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 such trees constitute a hazard of life and property on public or adjacent private property or harbor insects or disease which constitute a potential threat to other trees within the city. The Tree Board will notify in writing the owners of such 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 such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

(Ord. 848, passed 6-10-96)

#### **§ 98.12 REMOVAL OF STUMPS.**

All stumps of trees, street trees 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. 848, passed 6-10-96)

**§ 98.13 INTERFERENCE WITH TREE BOARD.**

It shall be unlawful for any person to prevent, delay or interfere with the 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. 848, passed 6-10-96)

**§ 98.14 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, including electric utilities and their agents and contractors or city employees doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$300,000 for bodily injury and \$50,000 for property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. 848, passed 6-10-96)

**§ 98.15 REVIEW BY COMMON COUNCIL.**

The Common Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the Common Council who may hear the matter and make final decisions.

(Ord. 848, passed 6-10-96)

**§ 98.99 PENALTY.**

Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$500.

(Ord. 848, passed 6-10-96)

## CHAPTER 99: NOISE

### Section

- 99.01 Public policy and purpose
- 99.02 Definitions
- 99.03 Sound pressure level or noise measurements
- 99.04 Sound pressure level limits in dB(A) for single noise or sound sources in residential, business and manufacturing zones
- 99.05 Noises prohibited
- 99.06 Exemptions
- 99.07 Special permits
- 99.08 Other noises prohibited; standards for unnecessary noise
- 99.09 Enforcement
- 99.10 Violations, penalties and appeals
- 99.11 Severability

### § 99.01 PUBLIC POLICY AND PURPOSE.

It is declared to be the public policy of the city to prohibit unnecessary, excessive and offensive noise from all sources subject to its police power. Above certain levels noise is detrimental to the health and welfare of the citizenry and in the public interest shall be systematically regulated and proscribed by the city.

(Ord. 1017, passed 9-12-00)

### § 99.02 DEFINITIONS.

(A) As used in this chapter unless context clearly requires otherwise:

**DAYTIME.** For nonstationary sources means 6:00 a.m. to 11:00 p.m. and **NIGHTTIME** for nonstationary sources shall mean 11:00 p.m. to 6:00 a.m. **DAYTIME** for fixed sources shall mean 7:00 a.m. to 9:00 p.m. and **NIGHTTIME** for fixed sources shall mean 9:00 p.m. to 7:00 a.m.

**EMERGENCY WORK.** Work made necessary to restore property to a safe condition following a public calamity, work required to protect persons or property from an imminent exposure to danger, or work by private or public utilities when restoring utility service.

**FIXED SOURCE.** A machine or device capable of creating a noise level at the property upon which it is regularly located, or upon which it is regularly used, which projects into another property; this includes but is not limited to industrial and commercial process machinery and equipment, pumps, fans, air-conditioning apparatus, refrigeration machines, powered lawn mowers, and chain saws.

**HOLIDAYS.** The following six days as observed according to IC 1-1-9-1: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

**MOTOR VEHICLES.** Any and all self-propelled vehicles as defined in IC 9-4-1-2.

**MUFFLER.** Any device used upon a motor vehicle whose purpose is the deadening of combustion noises of any engine thereon, or the deadening of any other motor noises, including but not limited to the noise of exhaust gases, or any other mechanical device for the deadening of the noise and intake gases upon a motor vehicle.

**NOISE.** That sound, sound made by people, or combination of sounds, which exceeds the sound pressure level as established by this chapter for a particular sound-producing object, vehicle, residential zone, hospital zone, church zone, school zone, or any other area limited by this chapter.

**NONSTATIONARY SOURCE.** A machine or device capable of being moved from place to place for occasional or temporary use at a given location including, but not limited to, motor vehicles, pile drivers and bulldozers.

**PERSON.** A person, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.

**PNEUMATIC HAMMERS.** When used in § 99.06 means pneumatic hammers that are driven by compressors with greater than ten horsepower or that use a hose with a diameter greater than three-eighths of an inch.

**SOUND PRESSURE LEVEL.** In decibels, means that level measured by a sound pressure level meter using the A-weighted scale as defined in the American National Standard S-1.4-1971.

**SOUND PRESSURE LEVEL METER.** An instrument including a microphone, an amplifier, an output meter, and frequency weighing networks for the measurement of noise and sound pressure levels in a manner specified by this chapter that the slow meter response of the sound pressure level meter shall be used in order to best determine the average pressure.

(B) Classification of areas into residential, school, hospital, church, commercial manufacturing and/or business zones for purposes of this chapter shall be as defined in the then-existing city zoning ordinance. For purposes of this chapter hospital, school and church zones shall be considered as residential zones.

(Ord. 1017, passed 9-12-00)

**§ 99.03 SOUND PRESSURE LEVEL OR NOISE MEASUREMENTS.**

(A) All sound pressure level or noise measurement shall be made by a designated police officer, or a police officer using a police patrol vehicle equipped for sound pressure level measurements, or a designated civil servant who shall be appointed by the Board of Public Works and Safety, with the approval of the Common Council, whose duties include but are not limited to, investigation, study and/or measurement of sound pressure levels in and for the city. Provided, however, that such police officer(s) or employee(s) of the Board of Public Works and Safety shall be trained in the use of the sound monitoring equipment by the Indiana University Speech and Hearing Department, or any other recognized school, institute or other group which has as a principal part of its function the study, investigation, and measurement of sound.

(B) Measurement of sound or noise shall be made with a sound pressure level meter meeting the standards prescribed by the American Standards Association. The instrument(s) shall be maintained in calibration and good working order. A calibration check shall be made of the system before or after any sound or noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound or noise. A windscreen shall always be used.

(C) Measurement shall be made at any point on the property into which the noise is being transmitted and shall be made at least three feet away from any ground, wall, floor, ceiling, roof, or other plane surface.

(D) In the event of multiple occupancy of a property, the measurement may be made at any point inside the premises to which any complainant has right of legal private occupancy; provided, that the measurement shall be made at least three feet away from any ground, wall, floor, ceiling, roof, or other plane surface.

(E) The average measurement for this chapter shall be the sum of all the readings taken divided by the number of readings.

(F) Measurement of motor vehicles shall be taken at least 50 feet from the center line of travel of the source in areas other than residential. If the noise projects into private residential property, residential property as defined in § 99.02, then measurement for purposes of investigating a complaint made by a citizen on any public street shall be taken at least 20 feet from the center line of travel of the source.

(G) The procedure for measurement of motor vehicles shall be as follows: one measurement is to be made when the vehicle is 110 feet from the point of placement of the sound pressure level meter as measured along the line of travel; a second reading shall be taken when the vehicle is parallel to the point of placement of the sound pressure level meter. The median measurement shall then be recorded as the measurement for that moving vehicle.

(H) If a measurement is taken at the boundary of two zones then the more restrictive zone's standards shall apply.

(Ord. 1017, passed 9-12-00)

**§ 99.04 SOUND PRESSURE LEVEL LIMITS IN DB(A) FOR SINGLE NOISE OR SOUND SOURCES IN RESIDENTIAL, BUSINESS AND MANUFACTURING ZONES.**

(A) For stationary or fixed sources, the required measurement of sound shall consist of readings taken at ten second intervals for three minutes within a one hour period. For non-stationary sources, like motor vehicles, the required measurement shall consist of two readings taken within a one hour period. The average measurement for these sources shall not exceed the sound pressure level limits for the locations and times listed in the chart below.

<i>Zones</i>	<i>2001 to September 1, 2006</i>	
	<i>Daytime</i>	<i>Nighttime</i>
Residential	80	70
Business	80	75
Manufacturing	85	75

(B) Levels for 2006 and after shall be as follows: provided that review and approval of these levels by the Board of Public Works and Safety, or its authorized representative, shall be made within one year prior to September 1, 2006. Such review must take into consideration the existing federal and state standards concerning manufacture and sale of sound producing objects, vehicles, and machinery. The Board of Public Works and Safety, or its authorized representative, shall be empowered to adjust these levels after said review to reflect current manufacturing techniques and/or standards set by the federal or state government:

<i>Zones</i>	<i>After September 1, 2006</i>	
	<i>Daytime</i>	<i>Nighttime</i>
Residential	72	62
Business	78	70
Manufacturing	85	70



(C) Mandatory public review of this chapter shall take place within six months of date of passage and annually thereafter. Reviews shall be conducted under auspices of the Board of Public Works and Safety and must be publicly advertised at least one month prior to being held.  
(Ord. 1017, passed 9-12-00)

#### **§ 99.05 NOISES PROHIBITED.**

(A) It shall be a violation of this chapter for any person to create any unnecessary, loud and disturbing, or offensive noise on any street, sidewalk, or public place adjacent to any school, institution of learning or church while any of the same is in use; or adjacent to any hospital at any time provided conspicuous signs are displayed in such streets, sidewalks or public places indicating the presence of a school, institution of learning, church or hospital.

(B) It shall be a violation of this chapter to operate, or cause to be operated, any non-stationary source or fixed source which emits a noise above the limits set out in § 99.04, except as specifically exempted in § 99.06. Measurement shall be made in accordance with § 99.03(C), (D), (F), or (G).

(C) It shall be a violation of this chapter to operate a motor vehicle, or combination of vehicles towed by such motor vehicle which creates noise or sound which exceeds the noise level limits set out in § 99.04.

(D) Every motor vehicle with an internal combustion, steam or air motor shall be equipped with a suitable and efficient muffler. A muffler shall be considered suitable and efficient, for purposes of this chapter, when it does not create excessive noise. Excessive noise shall be determined when any sound created by the motor vehicle at any time and under any condition exceeds the limits set out in § 99.04. Except by specific governmental authorization given by the Police Department or the office of the Mayor, no person while on a public or private highway, street or road shall operate a motor vehicle with the muffler cut out or removed. No cutout shall be so arranged or connected as to permit its operation or control by the driver of any motor vehicle while in position for driving or by a passenger of any motor vehicle.

(Ord. 1017, passed 9-12-00)

#### **§ 99.06 EXEMPTIONS.**

The following uses and activities shall be exempt from noise level regulations:

(A) Nonamplified crowd noises resulting from legal activities, between the hours of 7:00 a.m. and 9:00 p.m.;

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(B) Construction operations for which building permits have been issued or construction operations for which a permit is not required shall be exempt from the noise control ordinance under the following conditions and with the following exceptions:

(1) Such operations that occur after sunrise from the first of May to the first of September and after 6:00 a.m. the rest of the year and before 10:00 p.m. all year round shall be exempt from the noise level regulations, except on Sundays and holidays, during which time such operations are subject to noise level regulations. However, in recognition of the work necessary to prepare and close a site each day, motor vehicles transporting heavy construction equipment or construction materials to and from construction sites at those times shall be exempt from the noise level regulations.

(2) Because of the loud and unusual sounds, and the ground vibrations associated with pile drivers, steam shovels, pneumatic hammers, and steam or diesel gasoline hoists, the operation of this equipment shall be exempt from the noise level regulations only when it occurs between the hours of 7:00 a.m. and 8:00 p.m. or when allowed by special permit.

(3) In order to be exempt from the noise level regulations, all equipment used in such operations shall be operated with the manufacturer's mufflers and noise reducing equipment in use and in proper operating condition.

(C) Noises of safety signals, warning devices, and emergency pressure relief valves;

(D) Noises resulting from any authorized emergency, fire or police vehicle when responding to an emergency call, acting in time of emergency or in connection with official police or fire department business;

(E) Noises resulting from emergency work as defined in § 99.02;

(F) Noises made by churches using bells as part of their religious observance and by persons having obtained a permit to use the streets;

(G) Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control and instructions and pursuant to and within the duly adopted federal air regulations shall be exempt from provisions of § 99.07 as well as other provisions of this chapter. Any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt;

(H) All noises resulting from normal operations of railroad trains are exempt; provided, however, that excessive use of railroad train signaling devices shall be considered violations of this chapter;

(I) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city in accordance with § 99.07. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit or license and contained in § 99.07.

(Ord. 1017, passed 9-12-00)

### **§ 99.07 SPECIAL PERMITS.**

Applications for a permit for relief from the maximum allowable noise level limits designated in this chapter shall be made in writing to the Mayor, or his or her duly authorized representative. Any permit granted by the Mayor or other authorized person must be in writing, with appropriate copies to the police department, city engineer (if any) and Plan Commission and shall contain all conditions upon which said permit shall be effective. The Mayor, or other authorized person may grant the relief as applied for under the following conditions:

(A) The Mayor, or other authorized person, may prescribe any reasonable conditions or requirements he or she deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound attenuating devices.

(B) Except in emergency situations, as determined by the Mayor, or other authorized person, the temporary permit may be issued only for the hours between 7:00 a.m. and 9:00 p.m. and such permit shall not be issued for longer than one week, renewable by further application to the Mayor or other authorized person. Provided, however, that such renewal(s) are not automatic nor be longer than four consecutive weeks.

(C) The mayor, or other authorized person, may issue special permits, that remain in force, for equipment that is maintained in good condition. Reasonable conditions may be placed upon the special permit and the special permit shall be renewed annually.

(D) The mayor may authorize civic event permits. These permits shall be limited to the hours of 7:00 a.m. and 12:00 midnight, shall be issued for not longer than one day, and shall not be renewable. The average noise level allowed under a civic event permit shall not exceed 115 dB(A) for more than three cumulative minutes in any one hour, when measured at a distance of 50 feet from the sound source. (Ord. 1017, passed 9-12-00)

### **§ 99.08 OTHER NOISES PROHIBITED; STANDARDS FOR UNNECESSARY NOISE.**

Some sounds may be such that they are not measurable by the sound pressure level meter or may not exceed the limits set forth in this chapter, but they may be excessive, unnatural, prolonged, unusual or are a detriment to the public health, comfort, convenience, safety and welfare of the residents of the city. Noises prohibited by this section are a violation of this chapter notwithstanding the fact that no

violation of §§ 99.04 or 99.05(B), (C) and (D) is involved. Thus the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

(A) The sounding of any horn or signaling device on any automobile or other vehicle, except as a warning; the creation by means of any signaling device of any unreasonable, loud or harsh sound; the sounding of any signaling device for any unnecessary and unreasonable period of time; the unreasonable use of any signaling device which creates sound; and, the playing of car radios or other sound producing devices at a volume that is clearly audible more than 50 feet from the vehicle. The volume of the device shall not be louder than is necessary for the convenient hearing of persons who are inside the vehicle within which such a device is operated.

(B) (1) The playing, using or operating, or permitting to be played, used or operated, any radio or television receiving set, musical instrument, sound amplifier, phonograph, or other machine or device for producing or reproducing sound in such a manner 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 a room, enclosure, vehicle, or chamber in which such machine or device is operated, and who are voluntary listeners thereto. The operation of any such set, instrument, amplifier, phonograph, or other machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner to be plainly audible at a distance of 100 feet from the building, structure, enclosure, or vehicle in which it is operated, shall be prima facie evidence of a violation of this subsection.

(2) Any person making a complaint under this section shall be required to give the person's name to the enforcement officer upon requesting an investigation. The person shall also be required to sign a complaint after an investigation is made and before any further action under § 99.08 is taken; otherwise no further action will be undertaken.

(Ord. 1017, passed 9-12-00; Am. Ord. 1404, passed 10-10-11)

#### **§ 99.09 ENFORCEMENT.**

This chapter shall be enforced by:

(A) The Mayor, or his or her duly authorized representative, the Police Department and/or civil servant, appointed with the approval of the Common Council, whose duties shall include, but not be limited to, investigation, study and/or measurement of sound pressure levels in and for the city.

(B) Each person charged with enforcement of this chapter shall have the power and authority to issue all orders and give notice of violations as are designated under this chapter. Such person, or persons, shall keep complete and accurate records. For purposes of enforcement, any non-police officer who seeks enforcement of § 99.05(C) must be accompanied by a police officer who shall make all requests to stop of moving vehicles.

(Ord. 1017, passed 9-12-00)

**§ 99.10 VIOLATIONS, PENALTIES AND APPEALS.**

Those charged with violating noise limits in this chapter may, in the discretion of the enforcement officer, be issued an official warning advising them of their violation of the provisions of this chapter. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this chapter's provisions. Any person violating any of the provisions of this chapter shall, upon a written finding of violation signed by the enforcement officer, be subject to a penalty of \$50 for a first violation; \$100 for a second violation within a 12-month period; and 4500 for a third or subsequent violation within a 12-month period.(Ord. 1017, passed 9-12-00; Am. Ord. 1404, passed 10-10-11)

**§ 99.11 SEVERABILITY.**

If any provision, clause, sentence, or paragraph of this chapter, or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this chapter which can be given effect without the invalid provisions or applications, and, to this end, the provisions of this chapter are declared to be severable.  
(Ord. 1017, passed 9-12-00)



## CHAPTER 100: PARKS

### Section

100.01 Park regulations

100.99 Penalty

### § 100.01 PARK REGULATIONS.

(A) The grounds and facilities of DePauw Park as described in Deed Book W-3, Page 138, in the Office of the Recorder of Washington County, Indiana; Community Park as described in Deed Book N-6, Pages 735-739, in the Office of the Recorder of Washington County, Indiana; and Elizabeth Street Park, as described in Deed Book H-6, Pages 660-662, in the Office of the Recorder of Washington County, Indiana, shall not be accessible to the public between the hours of 11:00 p.m. (local time) to 7:00 a.m. (local time) on the following day unless authorized in writing by the Director of the Salem Department of Parks and Recreation.

(B) It shall be unlawful for any person to be present on the park grounds and facilities of DePauw Park, Community Park and Elizabeth Street Park between the hours of 11:00 p.m. (local time) to 7:00 a.m. (local time) on the following day unless authorized in writing by the Director of the Salem Department of Parks and Recreation.

(C) The grounds and facilities of CenterPeace, located in the 100 block of Old State Road 60E as described in Instrument No. 20090970 in the Office of the Recorder of Washington County, Indiana, shall not be accessible to the public between the hours of 11:00 p.m. (local time) to 7:00 a.m. (local time) on the following day unless authorized in writing by the Mayor of the city.

(D) It shall be unlawful for any person to be present on the grounds and facilities of CenterPeace between the hours of 11:00 p.m. (local time) to 7:00 a.m. (local time) on the following day unless authorized in writing by the Mayor of the city.

(Ord. 1199, passed 8-9-05; Am. Ord. 1458, passed 5-13-13)

### § 100.99 PENALTY.

(A) Each violation of this chapter shall be subject to a civil penalty in the amount of \$50 plus applicable court costs.

(B) The city reserves the right to file criminal trespassing charges under the provisions of I.C. 35-43-2-2(a)(1) against those persons committing violations of this chapter.

(C) Violations of this chapter shall be subject to the procedures described in Chapter 35, Ordinance Violations Bureau.  
(Ord. 1199, passed 8-9-05)



## CHAPTER 101: AIRPORT ACCESS CHARGES

### Section

- 101.01 Establishment
- 101.02 Access charges
- 101.03 Deposit of access charges

#### **§ 101.01 ESTABLISHMENT.**

The Board of Aviation Commissioners is hereby authorized and directed to collect access charges from property owners or associations representing property owners gaining access to the Salem Municipal Airport through authorized access points by taxing aircraft from off-airport properties. The access charges authorized herein shall be determined by the Board of Aviation Commissioners from time to time, and authorized access to the Salem Municipal Airport by the aircraft of off-airport property owners shall be documented through appropriate “Through-the-Fence Agreements” meeting the standards of the FAA Modernization and Reform Act of 2012.

(Ord. 1494, passed 6-9-14)

#### **§ 101.02 ACCESS CHARGES.**

(A) The Clerk-Treasurer shall be notified of the access charges determined by the Board of Aviation Commissioners pursuant to the provisions of § 101.01 above.

(B) These access charges shall be collected from each off-airport property owner, once appropriate “Through-the-Fence Agreements” meeting the standards of the FAA Modernization and Reform Act of 2012 are executed, with a copy filed with the Office of Clerk-Treasurer.

(C) The access charges determined herein shall be paid, on a monthly basis to the Office of Clerk-Treasurer, by the property owners having access to the Salem Municipal Airport from their properties adjoining or near the Salem Municipal Airport.

(Ord. 1494, passed 6-9-14)

**§ 101.03 DEPOSIT OF ACCESS CHARGES.**

The Clerk-Treasurer shall deposit access charges collected under the provisions of this chapter into the Airport Operating Fund.  
(Ord. 1494, passed 6-9-14)