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**CHAPTER 90: ANIMALS**

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**Statutory reference:**

*Authority to license and regulate, see I.C. 36-8-2-6*

**GENERAL PROVISIONS**

**§ 90.01 KEEPING ANIMALS, FOWL, OR BEES.**

(A) It is a nuisance and shall be unlawful for any person to keep poultry or pigeons, or maintain any place where poultry or pigeons are kept, within 200 feet of the dwelling house of any person other than the keeper or owner of the poultry or pigeons. This section does not apply to duly licensed poultry dealers under and pursuant to the laws of the state.

(B) It is a nuisance and shall be unlawful for any person to keep any animal of the horse, cattle, goat, sheep, or swine within 200 feet of the dwelling house of any person other than the keeper or owner of these animals. However, in territories annexed to the city after July 1, 1956, this section does not apply to properties which kept such animals prior to passage of the annexation ordinance, as long as the animals are continuously maintained on the property. If the animals are not maintained on the property for a period of 30 days, the animals may no longer be allowed on the property.

(C) (1) *Where permitted.* Beekeeping is allowed as an accessory use on lot occupied by a single-family residence. Beekeeping for educational or research purposes by an institution such as a college, high school or agricultural extension office is allowed in all other zones, subject to the requirements of this division.

(2) *Standards applicable to beekeeping.* Beekeeping is subject to the following standards:

(a) Location, density and maintenance of colonies.

1. The number of colonies is limited to one colony per 4,350 square feet of lot area, up to a maximum of eight colonies regardless of lot size; and

2. Colonies shall be set back a minimum of 25 feet of any property line, except that a colony may be situated within ten feet of a side lot line or rear lot line provided the following provisions are met:

a. The beekeeper establishes and maintains a flyway barrier at least six feet in height consisting of a solid wall, solid fencing material, dense vegetation or combination thereof that is parallel to the property line and extends ten feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six feet above ground level over the property lines in the vicinity of the colony; or

b. The colony is situated ten feet or more above the grade of the nearest adjoining property line.

(b) Colonies shall be maintained in movable-frame hives with adequate space and management techniques to prevent overcrowding and swarming.

(c) In any instance in which a colony exhibits aggressive or swarming behavior, the beekeeper must ensure that the colony is re-queened. Aggressive behavior is any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs.

(d) Every beekeeper shall maintain an adequate supply of water for the bees located close to each hive.

(e) Registrations and training.

1. All colonies shall be registered with the Indiana Department of Natural Resources Division of Entomology and Plant Pathology prior to April 1 of each year.

2. The beekeeper shall have successfully completed The Indiana State Beekeepers Association (ISBA) beekeeping school.

(D) It shall be unlawful for any household or noncommercial establishment to keep, harbor, or maintain more than four animals of the same kind without the proper license or kennel designation.

(‘81 Code, § 90.01) (Ord. 1855, passed 5-19-86; Am. Ord. 95-2180, passed 8-7-95; Am. Ord. 09-2631, passed 8-3-09) Penalty, see § 10.99

## **§ 90.02 ANIMAL CARE AND TREATMENT.**

(A) Every person keeping an animal in the city shall see that such animal:

(1) Is kept in a clean, sanitary and healthy manner and is not confined as to be forced to stand, sit or lie in its own excrement. The person(s) responsible for animal(s) shall regularly and as often as necessary to prevent odor or health and sanitation problems maintain all animal areas or areas of animal contact;

(2) Has food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water where appropriate, shelter and ventilation, including quarters that are protected from excessive heat and cold and are of sufficient size to permit the animal to move about freely;

(3) Shall not be tethered by use of a choke collar, or on any collar too small for the size and age of the animal, nor by any rope, chain or cord directly attached to the animal's neck, nor by a leash less than 12 feet in length or of such unreasonable weight as to prevent the animal from moving about freely;

(4) Is protected against abuse, cruelty, neglect, torment, overload, overwork or any other mistreatment;

(5) Shall provide the reasonably necessary medical care, in addition to the required rabies vaccination as set forth in § 90.25, which shall include recommended vaccinations as required by accepted veterinary standards and if diseased or injured or exhibiting symptoms of disease, receives proper care and is segregated from other animals so as to prevent transmittal of the disease; and

(6) Is maintained in compliance with all applicable federal, state and local laws and all regulations respecting animal care and control as are adopted by the city Department of Public Safety and in effect from time to time.

(B) It shall be unlawful for a person to beat, starve or otherwise mistreat any animal in the city, or to fail to comply with any requirement of division (A) of this section.

(C) In the discretion of the Animal Control Officer, a person who violates any provision of this section for the first time may be given written notice of the practices or conditions which constitute the violation and the enforcement authority shall in such instance direct remedies to such person where appropriate and provide a time period of no longer than 30 days within which to correct the violation(s). Failure of the person to correct the violations within the specified time period shall constitute evidence of a prima facie violation of this section.

(‘81 Code, § 90.02) (Ord. 1855, passed 5-19-86; Am. Ord. 2049, passed 1-20-92; Am. Ord. 04-2512, passed 10-4-04) Penalty, see § 10.99

## **§ 90.03 SALE OF ANIMALS AS NOVELTY.**

It shall be unlawful for any person to sell, offer for sale, barter, or give away chicks, goslings, ducklings, or other fowl as pets or novelties. This section shall not be construed to prohibit the sale or display of natural chicks or ducklings in proper brooder facilities by hatcheries or stores engaged in the business of selling them to be raised for commercial purposes.

(`81 Code, § 90.03) (Ord. 1855, passed 5-19-86; Am. Ord. 95-2180, passed 8-7-95) Penalty, see § 10.99

#### **§ 90.04 TRAPPING WILD ANIMALS.**

It shall be unlawful for any person to trap, catch, or kill any wild animal within the city or upon or around any stream within the city. This section shall not prevent any person from trapping or killing rats or any other vermin which are not classed as wild animals, or from trapping or killing any wild animals which are found to be injuring or destroying property.

(`81 Code, § 90.04) (Ord. 1855, passed 5-19-86) Penalty, see § 10.99

#### **§ 90.05 DISPOSAL OF DEAD ANIMALS.**

(A) It shall be unlawful for any person to dispose of or throw away any carcass, animal, animal blood, or parts of any carcass upon any street, alley, public place, or lot within the city.

(B) It shall be the duty of the person owning or having charge of any dead animal not intended for human food within the city to notify the Street Commissioner of the death of the animal within six hours thereafter.

(`81 Code, § 90.05) (Ord. 1855, passed 5-19-86) Penalty, see § 10.99

#### **§ 90.06 KEEPING DANGEROUS REPTILES AND ANIMALS.**

(A) It shall be unlawful for any person to keep, maintain, or have in his or her possession, or under his or her control within the city, any such "dangerous reptiles and animals," unless:

(1) Such dangerous reptiles and animals are registered with the Police Department of the city;

(2) Should any ownership information provided on such registration form change due to relocation of owner, death, sale or transfer of ownership of such dangerous reptiles and animals, the owner shall be responsible for providing such updated information to the Police Department;

(3) In the event of the death of such dangerous reptiles and animals, owner must contact the Police Department of the city in order that the carcass of such reptile or animal can be examined and witnessed by such Department;

(4) As a provision of the ownership and registration of such dangerous reptiles and animals, the owner must provide the city with a rough map drawing of the floor plan of the residence and exact location in the residence in which the dangerous reptiles and animals shall be kept;

(5) Such dangerous reptiles and animals are kept in a shatter proof cage complete with a locking mechanism that would prevent any such dangerous reptiles and animals from escaping;

(6) Every pet shop owner shall keep a book in which shall be fairly and plainly written, in ink and in the English language, at the time of the purchase or receipt of any such dangerous reptiles and animals an accurate account and description of such dangerous reptiles and animals purchased or received; the name, age, residence and brief description of the person selling or delivering the dangerous reptiles and animals; the price paid therefor; and the date and the hour of the transaction. All entries shall be made at the time of the purchase or delivery. No entry book shall be erased, obliterated, or defaced;

(7) The book required to be kept by division (6) above, as well as all such dangerous reptiles and animals purchased or received, shall at all reasonable times be open to inspection by any member of the Police and/or Fire Department.

(B) It shall be unlawful for any person to display or walk about with any type snake or dangerous reptiles and animals in a public place.

(C) The provisions of this section shall not apply to the zoological parks and circuses, if:

(1) Their location conforms to the provisions of the zoning and licensing chapters of the city;

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors; and

(3) Animals are maintained in quarters so constructed as to prevent their escape and protect the public from coming in direct contact with them.

('81 Code, § 90.06) (Ord. 94-2142, passed 6-20-94)

## **§ 90.07 ANIMAL WASTE.**

(A) It shall be unlawful for any owner or any person exerting control of any animal to permit such animal to defecate or leave its waste on any public or private property other than the private property of its owner.

(B) Any person who permits any animal to defecate or leave its waste upon an unauthorized place shall be required to immediately remove such excrement.

(Ord. 04-2513, passed 10-4-04) Penalty, see § 10.99

## **CONTROL OF DOGS, CATS, OR OTHER ANIMALS**

### **§ 90.10 DEFINITIONS.**

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

**AT LARGE.** Off the premises of the owner and not under the control of the owner or a member of his or her immediate family, either by leash, cord, chain, or otherwise.

**BEE.** Any stage of development of the common domestic honeybee, *Apis mellifera* species.

**BEEKEEPER.** A person owning, possessing or controlling one or more colonies of bees.

**CAT.** Both male and female cats.

**COLONY.** A hive and its equipment and appurtenances, including one queen, bees, comb, honey, pollen and brood.

**DOG.** Both male and female dogs.

**HARBOR.** To suffer or permit any dog or cat to frequent or remain on or within a house, building, premises, or enclosure.

**HIVE.** Any Langstroth type structure with movable-frames intended for the housing of a bee colony. A hive typically consists of a cover, honey supers, brood chambers and a bottom board.

**KENNEL.** Any facility wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats; or any household or noncommercial animal establishment harboring four or more animals.

**OWNER.** Any person keeping or harboring a dog or cat.

('81 Code, § 90.10) (Ord. 1855, passed 5-19-86; Am. Ord. 09-2631, passed 8-3-09)

### **§ 90.11 RUNNING AT LARGE PROHIBITED.**

(A) It is unlawful for any person to permit animals or fowl kept, possessed, or owned by the person to run at large upon any street, alley, or public place within the city.

(B) No owner or keeper of any dog or cat shall permit the dog or cat to run at large within the city.

(‘81 Code, § 90.11) (Ord. 1855, passed 5-19-86) Penalty, see § 10.99

### **§ 90.12 VICIOUS OR FEROCIOUS ANIMALS.**

It is unlawful to harbor or keep any vicious or ferocious animal or fowl within the city.

(‘81 Code, § 90.12) (Ord. 1855, passed 5-19-86; Am. Ord. 95-2172, passed 6-19-95) Penalty, see § 10.99

### **§ 90.13 NOISY ANIMALS OR FOWL.**

(A) It shall be unlawful for any person to keep any animal, bird, or fowl which, by odor or frequent or continued noises, shall disturb the comfort or repose of persons in any dwelling or apartment house or residence.

(B) It shall be unlawful for any person to own, keep or harbor any dog or cat which by loud and frequent barking, howling or yelping shall cause annoyance or disturbance to any of the citizens of the city.

(‘81 Code, § 90.13) (Ord. 1855, passed 5-19-86) Penalty, see § 10.99

### **§ 90.14 USE OF SIDEWALKS.**

Pedestrians shall have the right-of-way in the use of sidewalks, and the preference shall be granted them by owners or keepers of the dogs or cats on leashes.

(‘81 Code, § 90.14) (Ord. 1855, passed 5-19-86) Penalty, see § 10.99

### **§ 90.15 INJURY TO DOGS OR CATS PROHIBITED.**

It shall be unlawful for any person to maliciously or mischievously injure or kill any dog or cat by administering poison, by means of a deadly weapon, or in any other manner.

(‘81 Code, § 90.15) (Ord. 1855, passed 5-19-86) Penalty, see § 10.99

### **§ 90.16 CLASSIFICATION AS KENNEL; LICENSE REQUIRED.**

It shall be unlawful for any person to keep or maintain a kennel within the residential areas, as defined by the city's master plan.

(‘81 Code, § 90.16) (Ord. 1855, passed 5-19-86) Penalty, see § 10.99

### **§ 90.17 IMPOUNDMENT.**

(A) Any animal or fowl found running at large or determined to be vicious by the Animal Control Officer within the city in violation of the provisions of §§ 90.11 or 90.12 may be impounded by any police officer, the Animal Control Officer, or authorized person.

(B) The owners of the animal shall be notified to be present at a hearing before the Board of Public Works and Safety at their next regular meeting. After hearing the evidence, the Board may:

- (1) Release the animal on terms and conditions set out by the Board;
- (2) Further impound the animal for a specified or unspecified period of time, at the cost of the owners; or,
- (3) The Board may order that the animal be destroyed.

(C) In the event of impoundment, the owner or keeper of the animal or fowl impounded shall, in order to redeem the animal or fowl, pay those fees and charges established by the Board of Public Works and Safety, in addition to any penalty imposed for the violation of § 90.11.

(D) If any animal or fowl that is licensed is not redeemed within six days, it may be destroyed or otherwise disposed of. If any animal or fowl is not licensed, identified, or redeemed within 72 hours, it may be destroyed or otherwise disposed of. The Animal Control Officer may immediately dispose of an unlicensed animal that is sick or injured.

(`81 Code, § 90.17) (Ord. 1617, passed 5-3-76; Am. Ord. 1855, passed 5-19-86; Am. Ord. 95-2172, passed 6-19-95) Penalty, see § 10.99

### **§ 90.18 ANIMAL SHELTER.**

There shall be a public shelter in or near the city, located in the place designated by the Board of Public Works and Safety. The city, by and through its Board of Public Works and Safety, shall have exclusive control over all matters and property relating to the animal shelter, subject to any and all interlocal agreements.

(`81 Code, § 90.18) (Ord. 1855, passed 5-19-86; Am. Ord. 04-2490, passed 3-1-04) Penalty, see § 10.99

### **§ 90.19 ANIMAL SHELTER COMMISSION.**

(A) An Animal Shelter Commission is established (as of January 1, 1987, effective date) which shall consist of the following six members, or their respective designees:

- (1) The Mayor of the city;
- (2) One member of the City Council;
- (3) One Shelby County Commissioner;
- (4) One member of the Shelby County Council;
- (5) The Chief of Police; and
- (6) The Shelby County Sheriff.

(B) The Chief of Police, or his or her designee, shall be responsible for the hiring, employment, and discipline of all Animal Shelter Department employees. The hiring of Animal Shelter Department employees shall be subject to budgetary approval by the City Council.

(`81 Code, § 90.19) (Ord. 1855, passed 5-19-86; Am. Ord. 04-2490, passed 3-1-04; Am. Ord. 06-2581, passed 11-20-06)

### **§ 90.20 ANIMAL SHELTER COMMISSION OFFICERS AND MEETINGS.**

The Animal Shelter Commission shall elect their own officers and shall enact rules as they may need to operate. The Animal Shelter Commission shall meet once every quarter, or more often if the Commission decides the meetings are necessary.

(`81 Code, § 90.20) (Ord. 1855, passed 5-19-86; Am. Ord. 04-2490, passed 3-1-04)

### **§ 90.21 DUTIES OF ANIMAL SHELTER COMMISSION.**

The Animal Shelter Commission's duties shall include, but not be limited to the following.

- (A) Maintenance of the animal shelter;
- (B) Preparing and submitting a yearly budget to the Mayor for approval by the City Council;
- (C) Making recommendations to the Board of Public Works and Safety for the creation and elimination of employment positions within the Animal Shelter Department;
- (D) Establishment and amendment, when necessary, of the rules and regulations for the care and control of animals within the scope of this chapter;

(E) Making an annual report to the Board of Public Works and Safety and Council concerning the animal control and adoption program within the city and county;

(F) Recruiting of membership and scheduling events for a volunteer program; and

(G) Authorization of fund-raising events, only when such events will be financed by restricted funds.

(`81 Code, § 90.21) (Ord. 1855, passed 5-19-86; Am. Ord. 04-2490, passed 3-1-04)

## **§ 90.22 IMPOUNDMENT RECORDS.**

Any dog or cat found running at large contrary to the provisions of § 90.11 may be impounded in an animal shelter or in some other suitable place. The person in charge of the shelter upon receiving any dog or cat, shall make a complete registry, entering the breed, color, and sex of the dog or cat and whether licensed. If licensed, the name and address of the owner and the number of the license tag shall be entered in the registry.

(`81 Code, § 90.22) (Ord. 1855, passed 5-19-86) Penalty, see § 10.99

## **§ 90.23 NOTICE TO OWNER; REDEMPTION.**

(A) The owner of a licensed or tagged dog or cat shall be notified on the same day that the dog or cat has been impounded, if possible. In the event it is not possible to notify the owner on the same day, the owner shall be notified as soon as possible. In the event a dog or cat cannot be identified either by a license tag or by the owner's name on a collar, no notice shall be necessary.

(B) The owner of any impounded dog or cat may reclaim the dog or cat upon payment of the license fee, if unpaid, proof of current rabies vaccination, and the costs and charges incurred by the city for the impounding and maintaining of the dog or cat. All of the above shall be accomplished before the dog or cat can be released. The following costs and charges shall be paid to the animal shelter for impounding and maintaining a dog or cat:

(1) For a dog or cat voluntarily impounded by an owner for adoption, the cost to the owner shall be \$5.

(2) For a dog or cat impounded by an Animal Control Officer or another individual who is not the owner of the animal, the cost to the owner shall be \$10 for the first day, and \$3 for each additional day that the dog or cat is housed at the animal shelter.

(3) For a dog or cat that is voluntarily impounded by an owner for euthanasia, the following shall be paid:

(a) All cats: \$20;

(b) Dogs 0-15 lbs.: \$20;

(c) Dogs 15-40 lbs.: \$30;

(d) Dogs 40+ lbs.: \$40.

(`81 Code, § 90.23) (Ord. 1555, passed 4-10-72; Am. Ord. 1617, passed 5-3-76; Am. Ord. 1855, passed 5-19-86; Am. Ord. 00-2364, passed 7-3-00) Penalty, see § 10.99

## **§ 90.24 ADOPTION OF IMPOUNDED ANIMALS.**

(A) The Animal Shelter Commission shall recommend, and the Board of Public Works and Safety shall institute a procedure for adopting animals from the shelter, and a procedure for disposing of deceased animals from the county or the shelter.

(B) The following requirements shall be a part of the procedure, if instituted.

(1) The city shall contract with a local veterinarian to spay or neuter any animal to be adopted. The veterinarian shall also certify that the animal is fit for adoption. Fees for this service shall be set by the Board of Public Works and Safety and shall be collected from any person or persons desiring to adopt an animal.

(2) No animal can be adopted until all requirements of division (B)(1) above are completed.



(3) An adoption agreement prescribed by the Board of Works shall be signed and agreed to by anyone desiring to adopt an animal. This agreement shall include the following:

- (a) A release, waiver, and disclosure.
- (b) A description of the animal.
- (c) A receipt for the animal.
- (d) The right to check on the animal's welfare.
- (e) That the animal will not be used for any medical or experimental purposes.

(’81 Code, § 90.24) (Ord. 1855, passed 5-19-86)

### **§ 90.25 RABIES CONTROL; VACCINATION.**

(A) When it becomes necessary to safeguard the public from the dangers of hydrophobia, the County Health Officer, if he or she deems it necessary, shall issue a proclamation ordering every person owning or keeping a dog or cat to confine it securely on his or her premises. These proclamations shall remain effective until revoked by the County Health Officer.

(B) If a dog or cat is believed to have rabies, or has been bitten by the dog or cat suspected of having rabies, the dog or cat shall be confined under observation of a veterinarian at the expense of the owner for a period of ten days, and if necessary may be thereafter destroyed.

(1) The owner shall notify the Animal Control Officer of the fact that his or her dog or cat has been exposed to rabies, and at his or her discretion the Animal Control Officer is empowered to have the dog or cat removed from the owner's premises to a veterinary hospital and there placed under observation for a period of ten days at the expense of the owner.

(2) It shall be unlawful for any person knowing or suspecting a dog or cat of having rabies to allow the dog or cat to be removed from the city, without the written permission of the Animal Control Officer.

(3) Every owner or other person, upon ascertaining a dog or cat is rabid, shall immediately notify the Animal Control Officer or a police officer.

(C) All dogs and cats must be vaccinated against rabies by the age of six months. The rabies vaccination of a dog or cat shall be maintained by ongoing revaccination of the animal as follows:

(1) Dogs and cats that are vaccinated with a rabies vaccine whose label recommends annual boosters shall be revaccinated within 12 months of the prior vaccination.

(2) Dogs and cats that are vaccinated with a rabies vaccine whose label recommends a booster one year later and triennially thereafter shall be revaccinated within 12 months of the first vaccination and shall be revaccinated within 36 months of each vaccination thereafter.

(3) Dogs and cats that are vaccinated with a rabies vaccine whose label recommends a booster triennially shall be revaccinated within 36 months of the prior vaccination.

(D) The owner of the animal is responsible for procuring the vaccinations required by this section.

(’81 Code, § 90.25) (Ord. 1855, passed 5-19-86; Am. Ord. 04-2504, passed 7-19-04) Penalty, see § 10.99

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

*Rabies control, see I.C. 15-2.1-6-1 et seq.*

### **§ 90.26 ANIMAL SHELTER CITIZEN ADVISORY COMMITTEE.**

(A) *Created.* There is hereby created the Animal Shelter Citizen Advisory Committee, an advisory committee of the city.

(B) *Membership.* The committee shall consist of five members, to be appointed by the Mayor with the approval of the Animal Shelter Commission. Members shall serve for three years each, provided that the members first appointed shall be appointed two for

one year, two for two years and one for three years so they will serve staggered terms.

(C) *Compensation and expenses.* The members of the Animal Shelter Citizen Advisory Committee shall serve without pay, provided that members may be reimbursed for the actual expenses incurred in attending meetings and seminars. No member shall be reimbursed for attending any meeting or seminar unless the Animal Shelter Commission approves such reimbursement.

(D) *City facilities.* The city may, at the discretion of the Board of Public Works and Safety, make office space or certain clerical services available to the Animal Shelter Citizen Advisory Committee, and it may provide the technical assistance of its city officers and employees upon request. Additional assistance may be authorized from time to time by the Common Council.

(E) *Duties.* The Animal Shelter Citizen Advisory Committee shall make studies and recommendations for effective regulations and effective action relating to the following subjects:

- (1) Animal welfare;
- (2) Animal adoption;
- (3) Effectiveness of the Shelbyville-Shelby County Animal Shelter animal care and control;
- (4) Controlling animal populations within Shelby County;
- (5) Promoting public awareness of animal welfare issues; and
- (6) Such other related matters as the committee deems relevant to the foregoing matters.

(F) *Actions to be considered.* The Animal Shelter Citizen Advisory Committee may recommend the passing of ordinances, public or private voluntary action, long range planning, or any other action designed to achieve the purposes set out in division (E).

(G) *Expending funds.* No city funds shall be spent by the Animal Shelter Citizen Advisory Committee unless specifically authorized by the Common Council.

(H) *Adviser.* The Animal Shelter Director shall act as adviser to the Animal Shelter Citizen Advisory Committee.

(Ord. 07-2584, passed 3-5-07)

**§ 90.99 PENALTY.**

(A) Whoever violates any provision of this chapter for which another penalty is not provided shall be fined not less than \$100 for the first offense, \$250 for second offense, and \$500 for each offense thereafter.

(B) Violators, upon conviction, may be given the opportunity to work in a community service program such as a humane society or participate in a humane education program, if so recommended by the Board of Public Works and Safety.

(81 Code, § 90.99) (Ord. 94-2142, passed 6-20-94)

**CHAPTER 91: FIRE PREVENTION**

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

*Fire Department regulations, see Chapter 30*

## **GENERAL PROVISIONS**

### **§ 91.01 FIRE LIMITS.**

The fire limits of the city are as follows:

Beginning at the intersection of East Mechanic Street and Noble Street; then running south on Noble Street to the intersection of Noble Street and South Street; then west on South Street to the intersection of South Street and Tompkins Street; then north on Tompkins Street to the intersection of Tompkins Street and Mechanic Street; then east on Mechanic Street to the place of beginning.

('81 Code, § 91.01) Penalty, see § 91.99

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

## **§ 91.02 FIREWORKS.**

(A) Every fireworks display shall be handled by a qualified operator to be approved by the Chief of the Fire Department of the city in which the display is to be held and shall be so located, discharged, or fired as, in the opinion of the Chief of the Fire Department, after proper inspection, is not hazardous to property or person. Applications for permits must be made in writing at least 15 days in advance of the date of display. A permit granted under this section is not transferable.

(I.C. 22-11-14-2)

(B) The City Council shall require a certificate of insurance conditioned for the payment of all damages which may be caused either to a person or persons in an amount of not less than \$10,000 and to property in an amount of not less than \$10,000, by reason of the licensed display, and arising from any acts of the licensee, his or her agents, employees, or subcontractors. However, the City Council may in its discretion require additional amounts of insurance coverage not to exceed \$100,000 for damages caused to a person or persons, or \$100,000 for damage to property.

(I.C. 22-11-14-3(a)) ('81 Code, § 91.02) Penalty, see § 91.99

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

*Fireworks control, see I.C. 22-11-14-1 through 22-11-14-6*

## **§ 91.03 BURNING OF MATERIALS.**

(A) *Outside fires.* It is unlawful for any person to kindle or maintain an outdoor fire, bonfire, leaves, or rubbish fire or authorize such a fire to be kindled or maintained on private property, a street or alley, or elsewhere in the city.

(1) These provisions shall not apply to fires used solely for the purpose of outdoor cooking, school pep rallies and scouting activities, provided an adult attendant is present at the location at all times during the burning until the fire is extinguished.

(2) The provisions of this division notwithstanding, the Chief of the Fire Department or, in his or her absence, the acting chief, may prohibit any outdoor fires when atmospheric conditions or local circumstances make fires hazardous.

(B) *Commercial or industrial burning.* No person shall burn any waste or refuse materials in connection with commercial or industrial enterprises except under boilers, in furnaces, incinerators, or refuse burners safely constructed and located. These must be equipped with effective spark arrestors or other means of arresting sparks and shall have flues or stacks which shall extend to a height greater than that of any building within 500 feet.

(C) Fires for demolition or razing of buildings or structures. No person shall ignite anywhere or permit to be ignited upon his or her premises if within the city, any fire in connection with the demolition or razing of a building or structure, whether the fire is for the purpose of destroying the building or structure, destroying refuse or waste, or in any other connection, unless written permission to do so is first obtained from the Chief of the Fire Department or, in his or her absence, the acting chief.

(1) Fires shall be attended by one or more adult persons at all times, and the Chief or acting chief of the Fire Department shall have the authority to specify the number of attendants.

(2) All fires shall be subject to any other restrictions or conditions specified by the Chief or acting chief of the Fire Department, if deemed necessary for the protection of lives and property within the city or for the prevention of any hazardous conditions which may endanger the lives or property of others.

('81 Code, § 91.03) (Ord. 1358, passed 6-15-64; Am. Ord. 1512, passed 11-2-70; Am. Ord. 93-2121, passed 9-7-93) Penalty, see § 91.99

## **§ 91.04 HAZARDOUS OR DANGEROUS MATERIALS.**

(A) *Accumulations of waste materials.* Accumulations of waste paper, hay, grass, straw, weeds, litter, or combustible or flammable waste or rubbish of any kind shall not be permitted to remain upon any roof or in any court, yard, vacant lot, or open space. All weeds, grass, vines, or other growth which endanger property or are liable to be fired, shall be cut down and removed by the owner

or occupant of the property.

(B) *Hot ashes.* No person shall dispense hot ashes or cinders, smoldering coals, or greasy or oily substances liable to spontaneous ignition into any combustible receptacle, or place the same within ten feet of any combustible materials, except in metal or other noncombustible receptacles. These receptacles, unless resting on a noncombustible floor or on the ground outside the building, shall be placed on noncombustible stands, and in every case shall be kept at least two feet away from any combustible wall, partition, or exterior window-opening.

(C) *Decoration of electrical light bulbs.* Electrical light bulbs in mercantile and institutional occupancies shall not be decorated with paper or other combustible materials unless these materials have been rendered flameproof.

(D) *Buildings containing waste and combustible materials.* If the Chief of the Fire Department on inspection of any premises, building, or structure finds any rubbish, debris, waste, or inflammable or combustible materials, and the materials are not so arranged or disposed as to afford reasonable safeguard against the dangers of fire; or the articles, materials, goods, wares, and merchandise on or in the premises, building, or structure are so arranged and disposed that the occupants or persons rightfully on or in the premises would not, because of the arrangement and disposition be afforded reasonable access to the exits of the premises, building, or structure in case of fire; or by reason of the arrangement or disposition of rubbish or debris, the Fire Department members would unnecessarily and unreasonably be interfered with, in the exercise of their duties in and about the premises, building, or structure in case of fire, the Chief may:

(1) Order in writing the removal of the rubbish, debris, waste, or inflammable or combustible materials from the premises, building, or structure.

(2) Order the disposing and arranging of the same on or in the premises, building, or structure in a manner that will remove the danger from fire.

(3) Also order in writing that the articles, materials, goods, wares, or merchandise be arranged and disposed on or in the premises, building, or structure so that the occupants or the persons rightfully on or in the same, will be afforded all reasonable access to the exits in case of fire, and the members of the Fire Department will be afforded all reasonable facilities for the discharge of their duties in and about the premises, building, or structure in case of fire.

(‘81 Code, § 91.04) (Ord. 1358, passed 6-15-64) Penalty, see § 91.99

## **§ 91.05 NATIONAL FIRE CODES ADOPTED.**

The construction of buildings or other structures and the use, handling, and storage of flammable materials, liquids, or gases within the territorial jurisdiction of the city shall be regulated and governed by the rules and regulations adopted by the National Fire Protection Association in the publication designated National Fire Codes, 1975, as these rules and regulations are amended from time to time.

(‘81 Code, § 91.05) (Ord. 1718, passed 6-11-80) Penalty, see § 91.99

## **FIRE APPARATUS**

### **§ 91.10 MINIMUM SIZE OF WATER MAINS.**

All water mains installed in or adjacent to the city with respect to which fire protection shall be requested for the benefit of owners of property adjoining or served from these mains, shall be made with pipe of not less than six inches inside diameter.

(‘81 Code, § 91.10) Penalty, see § 91.99

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

*Adjusted rates for water used for fire protection, see § 50.33*

### **§ 91.11 OBSTRUCTION OF FIRE HYDRANTS.**

It is unlawful for a person to permit an obstruction to be and remain within 15 feet of any fire hydrant in the city or in any way to obstruct the free access to a fire hydrant at any time.

(`81 Code, § 91.11) (Ord. 1358, passed 6-15-64) Penalty, see § 91.99

***Cross-reference:***

*Stopping, standing, parking near hydrant, see § 72.10*

**§ 91.12 RIDING ON FIRE APPARATUS.**

It is unlawful for any person other than members of the Fire Department of the city to ride or hang upon any engine, hook and ladder, truck, hose carriage, or other fire apparatus while going to or returning from any fire or fire alarm.

(`81 Code, § 91.12) Penalty, see § 91.99

**§ 91.13 DAMAGING FIRE APPARATUS.**

Should any person injure, deface, or in any manner destroy any city fire apparatus; hinder or obstruct any city fire company, hook and ladder company, or any member thereof from freely passing along the streets of the city to or from a fire; or in any manner hinder or prevent any of these companies, or any member, from operating at any fire, the person so hindering, preventing, or obstructing shall be punished as provided in § 91.99

(`81 Code, § 91.13) Penalty, see § 91.99

**§ 91.14 FIRE HYDRANTS.**

It is unlawful for any person, other than members of the Fire Department of the city or other organized firefighting forces in the city, or authorized employees of the Street Department or water utility, for the purpose of fighting fires, to turn on, open, or use any fire hydrant maintained by the city.

(`81 Code, § 91.14) Penalty, see § 91.99

**§ 91.15 FALSE FIRE ALARMS.**

It is unlawful for any person knowingly to give or cause to be given any false alarm of fire by any means.

(`81 Code, § 91.15) (Am. Ord. 93-2105, passed 5-3-93) Penalty, see § 91.99

***Cross-reference:***

*False alarms responded to by Police Department, see § 130.07*

**§ 91.16 FALSE ALARMS FOR FIRE ALARM SYSTEM.**

A service charge shall be paid for false alarms.

(A) A maximum of three false alarms shall be allowed to a fire alarm system owner in any calendar year. False alarms instigated by vandals shall not be considered.

(B) A service charge of \$100 shall be paid by the alarm system owner for each false alarm in excess of three, but less than six during any calendar year. For each false alarm in excess of six during any calendar year, the alarm system owner shall pay a service charge of \$125.

(C) Each January, the Fire Department shall bill alarm system owners for false alarm runs in the preceding year.

(D) Money collected for false alarm runs shall be deposited in the Fire/EMS Training account.

## ROOF COVERINGS

### § 91.20 FIRE-RESISTANT ROOFING REQUIRED.

All buildings shall have a roof covering of approved standard quality such as brick, concrete, tile, slate, metal, asbestos shingles or built-up asbestos roofing, or other fire-resistive roofing. This section shall apply to all buildings, large or small, and every type of building within the city.

(‘81 Code, § 91.20) Penalty, see § 91.99

### § 91.21 WOODEN PLANKING AND SHEATHING.

The wooden planking and sheathing of roofs shall not in any case be extended across side or party walls.

(‘81 Code, § 91.21) Penalty, see § 91.99

### § 91.22 FLASHINGS.

All flashings shall be of metal or other fire-resistive material incorporated with the roofing material.

(‘81 Code, § 91.22) Penalty, see § 91.99

### § 91.23 DORMER WINDOWS.

The top and sides of dormer windows shall be protected in the same manner as the roof.

(‘81 Code, § 91.23) Penalty, see § 91.99

### § 91.24 WHEN ROOF-REPAIR REQUIRED.

When more than 50% in area of an existing wooden roof upon any building in the city is damaged or destroyed by fire, wind, or natural wear, the roof, if repaired, shall be repaired with one of the kinds of fire-resistive materials specified in § 91.20.

(‘81 Code, § 91.24) Penalty, see § 91.99

## SMOKE DETECTORS

### § 91.35 DEFINITIONS.

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

**ALARM SIGNAL.** An audible signal indicating the detection of visible or invisible particles or products of combustion other than heat.

**AUTHORITY HAVING JURISDICTION.** The City Fire Department and the office of the Building Commissioner of the city, which have enforcement responsibilities for this subchapter.

**DWELLING UNIT.** Any structure, building, area, room or combination of rooms occupied by persons for sleeping or living, including privately- owned and occupied single-family dwellings.

**OWNER.** Any person who, alone, jointly or severally with other persons, has legal title to any premises; any person who has the charge, care or control over any premises as an agent, officer, fiduciary or employee of the owner; the legal guardian of an owner who is non compos mentis, a minor or otherwise under a disability; a trustee, elected or appointed, or a person required by law to execute a trust other than a trustee under a deed of trust to secure the payment of money; or an executor, administrator, receiver, fiduciary, officer appointed by any court, or other similar representative of the owner or his or her estate.

**SLEEPING AREA.** A bedroom or room intended for sleeping, or a combination of bedrooms or rooms intended for sleeping within a dwelling unit, which are located on the same floor and are not separated by another habitable room, such as a living room, dining room, or kitchen, but not a bathroom, hallway or closet. A family living unit may have more than one sleeping area.

**SMOKE DETECTOR.** A device which detects visible or invisible particles or products of combustion other than heat, as approved by Underwriters Laboratories, Inc., or Factory Mutual. The smoke detector shall be equipped with a test button, and it shall produce an alarm signal upon detection of any visible or invisible particles or products of combustion. It may be either battery-powered with a minimum of nine volts, or it may be powered by a 110-volt alternating current.

(`81 Code, § 91.35) (Ord. 1951, passed 3-20-89)

### **§ 91.36 GENERAL REQUIREMENTS.**

The owner of an existing dwelling unit shall install smoke detectors as required by this subchapter. In regards to any dwelling unit which is constructed or substantially rehabilitated under a building permit issued after September 1, 1988, the owner shall install smoke detectors as required in this subchapter at the time of such construction or substantial rehabilitation. The owner of any other dwelling unit shall install smoke detectors as required by this subchapter within 180 days from the effective date of this subchapter. Owners unable to financially afford a smoke detector at the time of passage of this subchapter shall notify the City Fire Department within 30 days, and efforts will be taken to get donations for them.

(`81 Code, § 91.36) (Ord. 1951, passed 3-20-89) Penalty, see § 91.99

### **§ 91.37 LOCATION OF DETECTOR.**

(A) A dwelling must have at least one functional smoke detector installed as follows:

- (1) According to the manufacturer's instructions.
- (2) Outside of each sleeping area in the immediate vicinity of the bedrooms.
- (3) On the ceiling or a wall not less than four inches nor more than 12 inches from the ceiling. However, a smoke detector may not be recessed into a ceiling.
- (4) On each additional story of the dwelling, including basements, cellars, and habitable attics. Unless there is a door between levels in dwellings with split levels, a smoke detector must be installed only on the upper level if the lower level is less than one full story below the upper level.

(B) All smoke detectors must be:

- (1) Battery-operated, or hard-wired into the dwelling's electrical system;
- (2) Accessible for servicing and testing; and
- (3) Maintained, and at least one time every six months tested, by the occupant to ensure that the smoke detector is in operational condition.

(`81 Code, § 91.37) (Ord. 1951, passed 3-20-89; Am. Ord. 2023, passed 6-24-91) Penalty, see § 91.99

### **§ 91.38 DUTY OF PROPERTY OWNER, MANAGER OR RENTAL AGENT AND TENANT.**

Every owner, or the manager or rental agent of such owner, of any such residential dwelling unit shall be responsible for the installation at the commencement of a leasehold of all smoke detectors in good working order. Such installation shall include an initial operating battery in battery-operated smoke detectors. It is the responsibility of the tenant to thereafter maintain all such smoke



detectors provided by the owner in good working order until such tenant vacates the premises. If such smoke detector requires AC power supply, the responsibility for maintaining such smoke detectors, aside from the payment of light and power utility charges, shall be that of the owner, manager or rental agent of the property.

(`81 Code, § 91.38) (Ord. 1951, passed 3-20-89) Penalty, see § 91.99

### **§ 91.39 TAMPERING PROHIBITED.**

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

(`81 Code, § 91.39) (Ord. 1951, passed 3-20-89) Penalty, see § 91.99

### **§ 91.40 SMOKE DETECTORS REQUIRED IN RESIDENTIAL PROPERTY TO BE SOLD.**

(A) No residential property may be sold or traded in the city unless and until the seller installs or provides for the installation of smoke detectors in accordance with § 91.36 as applicable. This requirement may be met by the seller placing into an escrow account for the use of the buyers sufficient funds to pay for the installation.

(B) The seller of any residential property shall file notice of compliance with the City Fire Department certifying that the dwelling in question contains such smoke detectors. This notice shall be on a form provided by the City Fire Department, shall be filed not less than 48 hours prior to closing, and shall certify that the smoke detectors were operational as of a date not more than 30 days prior to closing. The City Fire Department and the Building Commissioner shall have the right to inspect any such residences after the filing of the notice and prior to the closing of the transaction to assure the correctness of the notices filed.

(`81 Code, § 91.40) (Ord. 1951, passed 3-20-89) Penalty, see § 91.99

### **§ 91.41 ENFORCEMENT OF PROVISIONS.**

The City Fire Department and the City Building Commissioner shall be charged with the duty of enforcing the terms of this subchapter.

(`81 Code, § 91.41) (Ord. 1951, passed 3-20-89)

### **§ 91.98 VIOLATIONS.**

For any person, firm or corporation which is deemed by the authority having jurisdiction to have committed a first violation of §§ 91.36 through 91.40, a warning shall be issued instead of a citation. After such issuance of a warning, the person, firm or corporation shall within 30 days bring themselves in compliance with the pertinent provisions of §§ 91.36 through 91.40, or else be deemed to be in continuing violation of these sections and subject to the fine provided in § 91.99.

(`81 Code, § 91.98) (Ord. 1951, passed 3-20-89)

### **§ 91.99 PENALTY.**

(A) Whoever violates any provision of this chapter for which another penalty is not specifically provided, shall be punished as subject to § 10.99.

(B) Any person, firm or corporation violating §§ 91.36 through 91.40, or who shall fail to comply with any order made hereunder issued by the authority having jurisdiction enforcing §§ 91.36 through 91.40, shall be subject to a fine of \$50. Each day such violation is permitted to continue may be deemed to constitute a separate offense.

(`81 Code, § 91.99) (Ord. 1951, passed 3-20-89)

## Section

***Sanitation Regulations***

- 92.01 Depositing certain substances in public places
- 92.02 Filthy liquids

***Refuse and Garbage***

- 92.10 Garbage defined
- 92.11 Depositing refuse, garbage in public places
- 92.12 Garbage receptacles
- 92.13 Bringing garbage into city
- 92.14 Disposal of manure
- 92.15 Garbage from business establishments
- 92.16 Dumping garbage in streams or sewers
- 92.17 Hauling garbage

***Collection and Disposal of Garbage; Recyclables***

- 92.25 Supervision and control
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***Private Collectors***

- 92.40 License
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***Use of Groundwater***

- 92.50 Title
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- 92.55 Establishment of new potable water supply wells
  
- 92.99 Penalty

## SANITATION REGULATIONS

### § 92.01 DEPOSITING CERTAIN SUBSTANCES IN PUBLIC PLACES.

It is unlawful for any person to spit, expectorate, slobber, or otherwise eject from the mouth any saliva, spittle, phlegm, mucus, gum, fruit or food, tobacco quids or juice, or any other partly chewed or masticated substance, or to drop, throw, sweep, or cause to fall, any part of an orange, banana, apple, or other fruit or the peeling thereof, or the shell from any peanut, walnut, or any other kind of nut, or any pastry or other food or confectionery, cigar or cigarette stubs, or any other noxious or unwholesome substances upon any of the streets, sidewalks, crosswalks, or approaches thereto, or upon or against any entrance, stairway, hallway, sides of buildings, steps, areaway, or platform or any other public place intended for the use of or used by the general public, or upon or against the floor or walls of any bus, theater, depot, or depot platform.

(‘81 Code, § 92.01) Penalty, see § 92.99

### § 92.02 FILTHY LIQUIDS.

It is unlawful for any person to cause or permit the flow or stagnation of any filthy or noisome liquid or substance upon any street, alley, or other public place, or into any stream.

(‘81 Code, § 92.02) Penalty, see § 92.99

## REFUSE AND GARBAGE

### § 92.10 GARBAGE DEFINED.

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

**GARBAGE** includes every fruit, vegetable, and all animal or refuse matter that is incident to, attends, or arises from the preparation, use, cooking, dealing in, transporting, selling, buying, or storing of meat, eggs, fish, fowl, fruit, or vegetables.

(‘81 Code, § 92.05)

### § 92.11 DEPOSITING REFUSE, GARBAGE IN PUBLIC PLACES.

It is unlawful for any person to deposit, throw, or place, or to cause, suffer, or permit to be deposited, thrown, or placed in or upon the surface of any street, avenue, alley, gutter, or sidewalk within the city any garbage, offal, dead animals, manure, rags, straw, grass, paper, dirt, swill, decayed vegetables, tin cans, crockery, glassware, bottles, wire, or any rubbish or refuse matter whether offensive or not to the public health, or any seepage or water from any manure bin, box, or other receptacle.

(‘81 Code, § 92.06) Penalty, see § 92.99

### § 92.12 GARBAGE RECEPTACLES.

(A) It shall be the duty of every property owner and/or occupant of any premises within the jurisdictional area of the city to provide, keep, and maintain a watertight receptacle as specified by the Shelbyville Street and Sanitation Department. Every garbage receptacle shall be provided with a secure and tight-fitting lid or cover of the kind and character that the contents will be inaccessible to dogs, cats, and other domestic animals or fowls, and so as to exclude flies. The lid or cover shall at all times, when the receptacle is out of doors, be securely kept and maintained thereon, except when the receptacle is being necessarily used for depositing or removing garbage.

(B) Every property owner and/or occupant shall deposit and keep all garbage which accumulates on the premises, in a garbage receptacle and not elsewhere.

(C) All surface water shall be drained off garbage as nearly as possible before the garbage is placed in the garbage can or receptacle.

(D) Garbage receptacles upon any premises within the city shall be placed upon the premises as near an alley or street as is practicable and where it is easily accessible to the garbage collectors of the city. In no event shall any garbage receptacle be placed, kept, or maintained in any public street, avenue, or alley within the city. In addition, trash and refuse shall not block any street, sidewalk or other public way.

(E) Any newly constructed residence within the city and its jurisdictional limits shall use a garbage receptacle as provided by the city's Street and Sanitation Department, at the expense of the property owner and/or occupant.

(F) There shall be a limit of ten bags of garbage for each residential dwelling within the city and its jurisdictional area placed at an approved location for pick up by the City of Shelbyville Street and Sanitation Department. Each individual bag shall not exceed 40 pounds in weight. Any additional bags in excess of the aforementioned limit shall be disposed of by the property owner and/or occupant.

(G) All trash and refuse shall be placed in an appropriate bag, not to exceed the weight limit established in this section. This includes trash and refuse placed in any approved receptacle.

(81 Code, § 92.07) (Am. Ord. 05-2539, passed 8-15-05; Am. Ord. 09-2632, passed 8-3-09) Penalty, see § 92.99

### **§ 92.13 BRINGING GARBAGE INTO CITY.**

It is unlawful for any person outside the corporate limits of the city, and within the radius of 2,500 feet from the limits, to bring upon or permit to be brought upon any premises within this territory any slops, garbage, or unwholesome materials, to permit the same to accumulate on the premises, or to remove slops, garbage, or unwholesome materials from any other premises to the premises within this territory.

(81 Code, § 92.08) Penalty, see § 92.99

### **§ 92.14 DISPOSAL OF MANURE.**

It is unlawful for any person to place, use, keep, build, construct, or maintain upon any lot or premises, or in any alley, street, or avenue within the city any box, bin, or other receptacle for the deposit or reception of animal manure, unless the box or receptacle has a suitable and proper lid or covering. The lid or covering shall be used and operated so as to exclude all flies at all times. All manure so deposited shall be removed at the expense of the owner at least once every two weeks.

(81 Code, § 92.09) Penalty, see § 92.99

### **§ 92.15 GARBAGE FROM BUSINESS ESTABLISHMENTS.**

All garbage from stores, groceries, slaughterhouses, fruit and vegetable establishments, railroad cars, factories, and other business establishments shall be removed at least once a week at the cost of the person causing, suffering, or permitting the garbage to accumulate.

(81 Code, § 92.10) Penalty, see § 92.99

### **§ 92.16 DUMPING GARBAGE IN STREAMS OR SEWERS.**

It is unlawful for any person to dump garbage on the banks or into a stream, open public drain, storm sewer, or within three miles of the corporate limits of the city.

(81 Code, § 92.11) Penalty, see § 92.99

## **§ 92.17 HAULING GARBAGE.**

All persons gathering garbage or causing it to be gathered, shall provide themselves with covered vehicles or airtight, watertight receptacles so as to prevent spilling or seepage.

(81 Code, § 92.12) Penalty, see § 92.99

## **COLLECTION AND DISPOSAL OF GARBAGE; RECYCLABLES**

### **§ 92.25 SUPERVISION AND CONTROL.**

All garbage conveniently placed for removal in proper containers, as required by § 92.12, shall be collected and removed by employees of the city, under the direction and control of the Board of Public Works and Safety and the City Sanitary Inspector.

(81 Code, § 92.15) Penalty, see § 92.99

### **§ 92.26 COLLECTION CONTRACTS.**

(A) The Board of Public Works and Safety shall let no contract to any person for the collection or disposal of garbage, except temporarily in an emergency when it may be necessary to do so for a limited time.

(B) The Board of Public Works and Safety shall have the right to enter into a contract, either with or without competitive bids, for the sale of the garbage to be collected and removed by employees of the city, with any responsible person desiring to purchase the garbage.

(81 Code, § 92.16) Penalty, see § 92.99

### **§ 92.27 GARBAGE SOLD BY CITY.**

All garbage sold by the city under the provisions of § 92.26 (B), shall be removed to a point at least one mile from the corporate limits of the city.

(81 Code, § 92.17) Penalty, see § 92.99

### **§ 92.28 YARD WASTE AND VEGETATIVE MATTER.**

(A) Yard waste and vegetative matter shall be placed in paper yard waste bags, or in garbage cans marked "YARD WASTE" in a minimum letter size of two inches. Larger limbs, trimmings, and leaves shall be placed between the curb and sidewalk, and off the street.

(B) It shall be unlawful to place yard waste or vegetative matter in front or behind another person's property.

(C) Anyone violating this section on the first offense shall receive a written warning attached to their front door by the Sanitation Department. The second offense will result in a certified letter sent to the occupant of the home from the City Attorney. Subsequent offenses will result in the cessation of trash and yard waste pick up at the address involved, and charges filed against the occupant by the City Attorney.

(81 Code, § 92.18) (Ord. 94-2131, passed 1-18-94) Penalty, see § 92.99

## **PRIVATE COLLECTORS**

### **§ 92.40 LICENSE.**

(A) It is unlawful for any person to collect or haul garbage within the city without securing a license from the Clerk-Treasurer, to be approved by the Sanitary Inspector of the city.

(B) The applicant for a license shall pay to the Clerk-Treasurer on making his or her application for the license the sum of \$3. On receipt of this sum, the Clerk-Treasurer shall issue a license entitling the applicant to collect and haul garbage within the city for a period of one year. The license shall be valid only when approved under the signature of the Sanitary Inspector.

(`81 Code, § 92.20) Penalty, see § 92.99

***Cross-reference:***

*General license requirements, see Chapter 110*

**§ 92.41 EQUIPMENT AND CONDUCT.**

(A) The Board of Public Works and Safety has the power to establish and formulate rules and regulations for the collection and hauling of garbage, as well as specifications for the equipment used, not inconsistent with this chapter.

(B) These rules, regulations, and specifications, when made and published, and when two copies are filed in the office of the Clerk-Treasurer for public inspection, shall become a part of this chapter, and any person violating the rules and regulations or failing to comply with the specifications shall be punished as provided in § 10.99.

(`81 Code, § 92.21) Penalty, see § 92.99

**§ 92.42 REVOCATION OF LICENSE.**

(A) No license required by § 92.40 shall be approved by the City Sanitary Inspector until the licensee has conformed with the rules, regulations, and specifications formulated under the provisions of § 92.41.

(B) The City Sanitary Inspector shall revoke any license after its issuance upon the violation by the licensee of any of the rules, regulations, and specifications mentioned in § 92.41.

(`81 Code, § 92.22) Penalty, see § 92.99

**§ 92.43 CITY COLLECTION NOT INCLUDED.**

This subchapter shall not affect the provisions of this chapter establishing a system whereby the city, by and through its employees, engages in collecting and hauling garbage. Those persons employed by the city to collect garbage are not to be construed as engaged in the business of collecting and hauling garbage under the licensing provisions of this subchapter.

(`81 Code, § 92.23) Penalty, see § 92.99

**USE OF GROUNDWATER**

**§ 92.50 TITLE.**

This subchapter shall be referred to as the Groundwater Ordinance.

(`81 Code, § 92.30) (Ord. 99-2328, passed 12-6-99)

**§ 92.51 PURPOSE.**

The purpose of this subchapter is to inform the residents of the city of the potential hazards of using groundwater for human consumption which may be contaminated with potentially harmful substances.

(81 Code, § 92.31) (Ord. 99-2328, passed 12-6-99)

## **§ 92.52 DEFINITIONS.**

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

**CITY.** The City of Shelbyville.

**COUNCIL.** The City Council of the city.

(81 Code, § 92.32) (Ord. 99-2328, passed 12-6-99)

## **§ 92.53 APPLICABILITY.**

This subchapter applies within the corporate limits of the city.

(81 Code, § 92.33) (Ord. 99-2328, passed 12-6-99)

## **§ 92.54 ESTABLISHMENT OF NEW GROUNDWATER WELLS.**

Any new groundwater wells constructed within the corporate limits of the city for drinking water use should be tested for Total Toxic Organics (TTO).

(81 Code, § 92.34) (Ord. 99-2328, passed 12-6-99)

## **§ 92.55 ESTABLISHMENT OF NEW POTABLE WATER SUPPLY WELLS.**

(A) The use and the installation of new potable water supply wells within city limits is prohibited.

(B) Any person violating the provisions of this section shall be subject to a fine of up to \$100 for each violation. Each day a person is in non-compliance with this section shall be a separate offense.

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

**PERSON.** An individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision including the City of Shelbyville or any other legal entity of their legal representatives, agents or assigns.

**POTABLE WATER.** Any water used for human or domestic consumption including but not limited to water used for drinking, bathing, swimming, washing dishes or preparing foods.

(Ord. 04-2524, passed 12-6-04) Penalty, see § 92.99

## **§ 92.99 PENALTY.**

(A) Whoever violates any provision of this chapter for which another penalty is not specifically provided shall be punished as subject to § 10.99.

(B) All violations of § 92.12 will result in a fine of no less than \$25.

(C) Certain sections of this chapter, specifically §§ 92.12 through 92.17 and § 92.28, may be enforced through a proceeding before the Board of Public Works and Safety, and at the discretion of the City Attorney.

(81 Code, § 92.99) (Ord. 95-2183, passed 10-16-95; Am. Ord. 05-2549, passed 12-5-05)

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**Cross-reference:**

*Keeping animals, fowl, or bees, see § 90.01*

*Unauthorized signs, signals, or markings, see § 70.30*

*Obstruction at street intersections, see § 70.38*

## UNSANITARY CONDITIONS

### § 93.01 DEFINITIONS.

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

**NUISANCE.** Any condition or thing existing or allowed to exist that:

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

(2) Offends the decency of any person or the community;

(3) Is offensive to the senses;

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

(5) Essentially interferes with the comfortable enjoyment of life and/or property, or tends to depreciate the value of other's property.

The Office of the Plan Commission shall have the authority to determine violations under this chapter. The Board of Public Works and Safety shall be empowered to order the abatement of a nuisance, and to issue orders and fines as designated.

(81 Code, § 93.01) (Ord. 98-2319, passed 12-21-98)

### § 93.02 UNSANITARY CONDITIONS.

(A) It shall be unlawful for any person owning property, or in control or possession of property, within the jurisdictional area of the city, to permit any real or personal property or any part of any property to become filthy, unwholesome, unsanitary, or in an obnoxious condition, or a nuisance to the public or any person within the city.

(B) The following are examples of unsanitary conditions not allowed within the jurisdictional area of the city, however this list shall not be deemed or construed to be conclusive, limiting or restrictive:

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

(2) Any condition which provides harborage for rats, mice, snakes and other vermin.

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

(4) All unnecessary or unauthorized noises and annoying vibrations, including noises.

(5) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which gives rise to the emission or generation of such odors and stenches.

(6) The carcasses of animals or fowl not disposed of within a reasonable amount of time after death.

(7) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

(‘81 Code, § 93.015) (Am. Ord. 98-2319, passed 12-21-98) Penalty, see § 10.99

***Statutory reference:***

*Preservation of health, sanitation, and public welfare, see I.C. 36-8-2-4*

**§ 93.03 NOTICE TO OWNER TO ABATE.**

(A) If any building, property, part of any property or premises becomes filthy, unwholesome, unsanitary, obnoxious or a nuisance in violation of § 93.01, the city through the Office of the Plan Commission or any other designated agent shall notify all persons holding a substantial interest in the property pursuant to I.C. 36-1-6-2 and/or the person in control or possession of the property to remove or abate the nuisance within five days from the date of notice. It shall be the duty of all persons having a substantial interest in property within the jurisdictional area of the city to ensure accurate records are maintained at the offices of the Addison Township Assessor, the Shelby County Auditor, Treasurer and Recorder, as well as other offices maintaining similar property owner information. Notice shall be served upon the listed owner as recorded by or in the offices listed above and upon the occupant by posting a copy upon the premises or by mailing the notice by registered mail through the United States Postal Service. The notice shall describe the nature and location of the nuisance, and further state that if the nuisance is not abated within the time specified in the notice, the city will then abate the nuisance.

(B) In all cases where the property owner and/or person in control or possession of nuisance property as designated through the office of the Plan Commission, the Board of Public Works and Safety shall have the authority to issue all orders necessary, including but not limited to orders to appear before the Board and to levy fines not to exceed \$300 per day that a nuisance condition remains unabated. Cases in which the owner and/or person in control of nuisance property will be presented to the Board of Public Works and Safety by a representative of the Plan Commission or other designated agent of the city after due notice has been given.

(C) All persons having substantial interest in property and/or in control of property having been deemed a nuisance property under this section shall have the right to appear before the Board of Public Works and Safety. The Board shall afford such persons the right to appeal any fines or orders imposed due the condition of the property and the failure of the owner to abate said nuisance condition.

(‘81 Code, § 93.02) (Am. Ord. 98-2319, passed 12-21-98) Penalty, see § 10.99

**§ 93.04 ABATEMENT BY CITY; LIEN.**

(A) All expenses incurred by the city in abating the nuisance shall become a lien on the property as afforded by I.C. 36-1-6-2. The lien shall be placed and recorded on the property tax duplicate and collected from the owner of the premises as taxes are collected.

(B) A charge of not less than \$25 shall be assessed to the owner of property involved in nuisance abatement if and when the owner fails to abate the nuisance condition in a timely manner, necessitating the presentation of the property to the Board of Public Works and Safety for action. This charge shall be placed as a lien on the property tax duplicate and collected from the owner of the premises as taxes are collected.

(C) All monies collected through the enforcement of Chapter 93 shall be placed in the Non- Reverting Nuisance Fund in the form of an appropriation from the general fund pursuant to I.C. 36-7-10.1-4 and 36-7-10.1-5 and shall be dispersed through the office of the Plan Commission for the enforcement of this chapter.

(‘81 Code, § 93.03) (Am. Ord. 98-2319, passed 12-21-98) Penalty, see § 10.99

**§ 93.05 RIGHT OF ENTRY.**

The city, through any of its officers or agents, is granted full authority to enter upon and inspect any premises, buildings, or property within the city and within three miles of the boundary lines of the city at reasonable times for the purpose of carrying out the provisions of §§ 93.01 through 93.04. It shall be unlawful for any person to interfere with or hinder any officer or agent of the city while he is carrying out this duty.

(‘81 Code, § 93.04) Penalty, see § 10.99

## STRUCTURES PARTIALLY DESTROYED

### § 93.10 STRUCTURES TO BE REMOVED OR REPAIRED.

Any building, shed, outhouse, or structure of any kind within the city that is partially destroyed by fire or any other cause, and that becomes filthy and unwholesome by reason of the partial destruction, or because of offal, dirt, debris, paper, or a part of the structure becomes loose and is blown or wafted by the winds upon the streets, sidewalks, and public places of the city and is permitted by the owner to remain in this condition for 30 days after being notified by the Board of Public Works and Safety to remove, repair, or rebuild the same, shall constitute a nuisance.

(‘81 Code, § 93.10) Penalty, see § 10.99

#### *Statutory reference:*

*Preservation of health, sanitation, and public welfare, see I.C. 36-8-2-4*

### § 93.11 NOTICE TO ABATE REQUIRED; FINE.

The Office of the Plan Commission or any agent of the city shall, on the order of the Board of Public Works and Safety, and under the provisions § 93.10, notify all persons having substantial interest in property and/or possession of property by written notice to abate the nuisance by removal of the entire building or that part that remains unconsumed, together with all offal, dirt or debris within 30 days from the date notice is given. The Board of Public Works and Safety may issue a fine of not more than \$300 per day to the owner of property when the owner fails to abate said nuisance condition.

(‘81 Code, § 93.11) (Ord. 98-2319, passed 12-21-98) Penalty, see § 10.99

### § 93.12 ABATEMENT BY CITY; LIEN.

(A) At the expiration of the time provided in § 93.11, if the owner or occupant has not abated the nuisance, the Board of Public Works and Safety shall cause it to be abated.

(B) The city shall keep an account of all expenses of the removal of rubbish and other material and the cleaning up of premises under the provisions of §§ 93.10 through 93.12(A), and when the work is completed assess the expense of the work and the removal against the owner. The Clerk-Treasurer shall assess the cost and place this assessment on the tax duplicate against the real estate, to be collected in the same manner and at the same time taxes are collected. The amount of the assessment so certified and placed on the tax duplicate is declared a lien upon and against the real estate.

(‘81 Code, § 93.12) Penalty, see § 10.99

## ABANDONED VEHICLES

### § 93.15 PURPOSE.

The City Council finds that abandoned vehicles are a nuisance and a safety and health hazard. The Police Department is given the responsibility for removal, storage, and disposal of abandoned vehicles.

(‘81 Code, § 93.15) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01)

### § 93.16 DEFINITIONS.

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

#### ***ABANDONED VEHICLE.***

- (1) A vehicle located on public property illegally.
- (2) A vehicle left on public property continuously without being moved for 72 hours.
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way.
- (4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.
- (5) A vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperable and left on public property.
- (6) A vehicle that has been removed by an authorized towing service upon request of an officer enforcing a statute or ordinance other than this subchapter if the vehicle once impounded is not claimed or redeemed by the owner or his or her agent within 20 days of its removal.
- (7) A vehicle that is three or more model years old and mechanically inoperable, and is left on private property for more than 20 days.
- (8) Inoperative automobiles or trailers of any kind or type without current license plates shall not be parked or stored on any residential zoned property other than in completely enclosed buildings where the vehicle is out of public view (for the purposes of subsections (8) and (9), automobile covers are not sufficient).

(9) Vehicles such as demolition derby vehicles or vehicles that are not street legal, except those constructed for operation on privately-owned raceways shall not be parked or stored within the city limits except in an enclosed building out of public view.

**AUTHORIZED TOWING SERVICE.** A business that engages in moving or removing disabled vehicles, and, once removed, to store or impound vehicles, and that has been requested by the Police Department to tow vehicles.

**AUTOMOBILE SCRAPYARD.** A business organized for the purpose of scrap metal processing, automobile wrecking, or operating a junkyard.

**BUREAU.** The Bureau of Motor Vehicles.

**OFFICER.** A member of the city Police Department.

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

**PARTS.** All components of a vehicle that as assembled do not constitute a complete vehicle.

**PRIVATE PROPERTY.** All property other than public property.

**PUBLIC PROPERTY.** A public right-of-way, street, highway, alley, park, or other state, county, or municipal property.

**VEHICLE.** An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, or motorized bicycle.

(‘81 Code, § 93.16) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01)

## **§ 93.17 EXCEPTIONS.**

This subchapter does not apply to the following.

- (A) A vehicle in operable condition specifically adapted or constructed for operation on privately- owned raceways.
- (B) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.
- (C) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility.
- (D) A vehicle located upon property licensed or zoned as an automobile scrapyard.
- (E) A vehicle registered and licensed under I.C. 9-18-12 as an antique vehicle.

(‘81 Code, § 93.17) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01)

### **§ 93.18 RESPONSIBILITY OF OWNER.**

The owner of an abandoned vehicle is responsible for the abandonment and is liable, to the extent of the market value of the vehicle, for all of the costs incidental to the removal, storage, and disposal of the vehicle or its parts.

(`81 Code, § 93.18) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01)

### **§ 93.19 VEHICLES IN POSSESSION OF PERSON OTHER THAN OWNER.**

(A) When an officer discovers a vehicle in the possession of a person other than the owner and the person cannot establish his or her right to the possession of that vehicle, the vehicle shall be taken to and stored in a suitable place. The Bureau of Motor Vehicles shall be notified within 72 hours of the location and description of the vehicle. Upon receipt of notification, the Bureau shall cause a search to be made to determine and notify the owner.

(B) If the owner of the vehicle cannot be determined, the Bureau shall declare the vehicle abandoned and provide for its disposal in accordance with this chapter.

(C) If the properly identified owner or lienholder appears at the site of storage before disposal of the vehicle or parts and pays all proper costs incurred against it at that time, then the vehicle or parts shall be released. A copy of the release of all vehicle or parts shall be sent to the Bureau. The release must contain the owner or lienholder's signature, name, address, vehicle or parts description, costs, and date of release.

(D) If the vehicle is not released to the owner or lienholder, the Bureau shall declare the vehicle abandoned and provide for disposal.

(`81 Code, § 93.19) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01)

### **§ 93.20 REMOVAL OF ABANDONED VEHICLES.**

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

- (1) The date, time, officer's name, city police department, and address and telephone number to contact for information.
- (2) That the vehicle or parts are considered abandoned.
- (3) That the vehicle or parts will be removed after 72 hours.
- (4) That the owner will be held responsible for all costs incidental to the removal, storage, and disposal, and if not paid the owner's registration privileges will be suspended on that car.
- (5) That the owner may avoid costs by removal of the vehicle or parts within 72 hours.

(B) If the tagged vehicle or parts are not removed within that 72-hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts including information on the condition, missing parts, and other facts that might substantiate that the market value is less than \$500. Photographs shall be taken to describe the condition of the vehicle or parts.

(C) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is less than \$500, the officer shall immediately dispose of the vehicle to an automobile scrapyards. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the Bureau of Motor Vehicles. The Police Department shall retain the original records and photographs for at least two years.

(D) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is \$500 or more, the officer, after placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the owner or person who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage area.

(`81 Code, § 93.20) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01)

### **§ 93.21 DISPOSAL OF ABANDONED VEHICLES.**

(A) Within 72 hours after removal of an abandoned vehicle to a storage area under this subchapter, the Police Department shall prepare and forward to the Bureau of Motor Vehicles an abandoned vehicle report containing a description of the vehicle including the make, model, engine number, if any, identification number, and the number of the license plate, and request that the bureau advise the Police Department of the name and most recent mailing address of the owner and any lienholder.

(B) The Bureau shall dispose of the vehicle in accordance with I.C. 9-22-1-22.

(81 Code, § 93.21) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01)

### **§ 93.22 MAXIMUM TOWING AND STORAGE CHARGES.**

The maximum amount that an authorized towing service may charge for towing or removing a vehicle, at the direction of the Police Department, shall not exceed \$90, except where special equipment is required. The maximum amount that may be charged for storage shall not exceed \$25 per day.

(81 Code, § 93.22) (Ord. 1761, passed 8-2-82; Am. Ord. 93-2095, passed 1-18-93; Am. Ord. 01-2401, passed 6-18-01; Am. Ord. 02-2449, passed 12-2-02; Am. Ord. 04-2498, passed 6-9-04; Am. Ord. 05-2544, passed 9-19-05; Am. Ord. 12-2706, passed 12-3-12)

### **§ 93.23 TOWING CONTRACTS.**

To facilitate the removal of abandoned vehicles or parts of vehicles for any legal reason, the Police Department may enter into towing contracts or agreements for the removal and storage of abandoned vehicles and parts.

(81 Code, § 93.23) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01; Am. Ord. 12-2706, passed 12-3-12)

### **§ 93.24 LIABILITY FOR LOSS OR DAMAGE.**

Neither the owner, lessee, or occupant of the property from which an abandoned vehicle or parts are removed nor the Police Department, authorized towing service, or automobile scrapyard is liable for loss or damage to the vehicle or parts occurring during its removal, storage, or disposition.

(81 Code, § 93.24) (Ord. 1761, passed 8-2-82; Am. Ord. 01-2401, passed 6-18-01)

### **§ 93.25 DISPOSAL OF TIRES.**

(A) All unused tires within the jurisdictional areas of the city shall be disposed of in a proper manner consistent with the rules and regulations set forth for such disposal as required by I.C. 13-20-14.

(B) Further, any tire that has been improperly disposed of or is not in a condition such that it may be used for its intended purpose or may present a health hazard by being a habitat for nuisance insects and animals may be disposed of, at the expense of the owner of said tire, by the Shelbyville Street Department after proper notice has been made in accordance with the requirements for abatement of nuisances in this chapter. Fines and costs associated with the removal of any tires shall be assessed to the responsible party as determined by the Board of Public Works and Safety.

(Ord. 04-2503, passed 7-19-04) Penalty, see § 10.99

## **WEEDS**

### **§ 93.30 WEEDS TO BE REMOVED.**

(A) Every person owning property in the city who suffers or permits weeds or other rank vegetation to grow thereon, and who fails or refuses to cut and remove them, shall be guilty of maintaining a public nuisance.

(B) The owner or person in control of property within the jurisdictional area of the city shall cut and remove and keep cut and

removed all weeds and rank vegetation that are at least ten inches in height.

(C) **WEEDS** shall mean any plant at least ten inches in height. Trees, shrubberies, flowers, ornamental grasses, and agricultural crops, including hay and pasture, are not considered to be weeds or rank vegetation.

(D) **RANK VEGETATION** shall include the following weeds:

- (1) Canada thistle (*Cirsium arvense*).
- (2) Johnson grass and *Sorghum album* (*Sorghum halepense*).
- (3) Bur cucumber (*Sicyos angulatus*).
- (4) Shattercane (*Sorghum bicolor* (L.) Moench spp. *drummondii* (Seud.) de Wet.
- (5) Poison ivy.
- (6) Poison sumac.
- (7) Poison oak.
- (8) Quackgrass (*Elytrigia repens*).
- (9) Carolina horsenettle (*Soianum carolinense*).
- (10) Cocklebur (*Xanthium strumarium*).
- (11) Wild Mustard (*Brassica kaber* var, *pinnatifida*).

(E) The city may enforce this section in accordance with I.C. 36-7-10.1 by following the procedures in §§ 93.31 and 93.32, or alternatively by any other legal or equitable means.

(<sup>81</sup> Code, § 93.30) (Am. Ord. 98-2319, passed 12-21-98; Am. Ord. 11-2668, passed 2-7-11; Am. Ord. 12-2698, passed 7-2-12) Penalty, see § 10.99

### **§ 93.31 NOTICE TO ABATE REQUIRED.**

(A) The city, through the office of the Plan Commission or its designated agent, is responsible for the administration of § 93.30. When real property is found to be in violation of § 93.30, the city shall issue notice to the owner of record of real property with a single owner, or at least one of the owners of real property with multiple owners, at the last address of the owner for the property as indicated in the records of the Shelby County Auditor on the date of the notice. The notice must be sent by first class mail or an equivalent service permitted under I.C. 1-1-7-1.

(B) The owner may appeal the notice of violation within ten days of its issuance, by filing a written request for a hearing with the Board of Public Works and Safety. At the hearing, the city must prove by a preponderance of the evidence that the real property is in violation of § 93.30.

(<sup>81</sup> Code, § 93.31) (Ord. 98-2319, passed 12-21-98; Am. Ord. 12-2698, passed 7-2-12; Am. Ord. 13-2719, passed 7-1-13) Penalty, see § 10.99

### **§ 93.32 ABATEMENT BY CITY; LIEN.**

(A) If the violation is not abated within ten days of the sending of the notice under § 93.31, the city or its contractor may enter the real property and abate the violation. At the time of the abatement, the city may post a continuous abatement notice at the property, giving the owner notice that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the city or its contractors.

(B) If the city abates the violation, the city shall issue a bill to the owner of real property for the costs incurred by the city in abating the violation, including administrative costs, removal costs, and the cost of sending notice. If the owner of real property fails to pay a bill issued under this section within 14 days of its issuance, the city shall certify to the Shelby County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The Auditor shall place the total amount certified on the tax

duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the city.

(C) All monies collected through the enforcement of Chapter 93 shall be placed in the Non- Reverting Nuisance Fund in the form of an appropriation from the general fund pursuant to I.C. 36-7-10.1-4 and I.C. 36-7-10.1-5 and shall be dispersed through the office of the Plan Commission for the enforcement of this chapter.

(D) The owner may appeal a bill issued under this section within 14 days of its issuance, by filing a written request for a hearing with the Board of Public Works and Safety.

(81 Code, § 93.32) (Ord. 98-2319, passed 12-21-98; Am. Ord. 12-2698, passed 7-2-12) Penalty, see § 10.99

## **GRAFFITI**

### **§ 93.40 DEFINITIONS.**

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

**GRAFFITI.** Any inscription, word, figure, design, painting, writing, drawing or carving that is marked, etched, scratched, drawn, painted, or otherwise applied to property without the prior authorization of the owner of the property regardless of the graffiti content, or nature of the material used in the commission of the act, or the material of the property.

**GRAFFITI NUISANCE PROPERTY.** Property to which graffiti has been applied, if the graffiti is visible from any public right of way, from any other public or private property or from any premises open to the public, and if the graffiti has not been abated within the time provided in a notice provided by the City directing the property owner to remedy said violation.

(Ord. 10-2664, passed 11-1-10)

### **§ 93.41 PROHIBITED GRAFFITI.**

(A) It shall be unlawful for any person to apply graffiti.

(B) It shall be unlawful for any person to solicit or command another person to apply graffiti.

(C) It shall be unlawful for any person to aid or abet or agree to aid or abet another person to plan to apply or apply graffiti.

(Ord. 10-2664, passed 11-1-10) Penalty, see § 10.99

### **§ 93.42 GRAFFITI NUISANCE PROPERTY.**

(A) It is hereby found and declared that graffiti creates a visual blight and property damage. When graffiti is allowed to remain on property and is not promptly removed, it invites additional graffiti and criminal activity and constitutes a nuisance.

(B) Any property within the jurisdictional limits of the city which becomes a graffiti nuisance property is in violation of this chapter and subject to its remedies.

(C) Any owner of property who permits the property to be a graffiti nuisance property shall be in violation of this chapter and subject to its remedies.

(Ord. 10-2664, passed 11-1-10) Penalty, see § 10.99

### **§ 93.43 ENFORCEMENT.**

The city hereby declares graffiti as defined in § 93.40 to be a nuisance, and as a nuisance, subject to abatement as provided herein.

(Ord. 10-2664, passed 11-1-10)



### **§ 93.44 NOTIFICATION BY THE CITY.**

The city shall notify the property owner of the violation that graffiti has been placed upon their property, located within the jurisdictional limits of the city, and that the graffiti shall be removed within ten days from the date of notification to the land owner.

(Ord. 10-2664, passed 11-1-10)

### **§ 93.45 ACT OF REMOVAL.**

Upon written notification by the city, the owner of the property upon which the graffiti has been illegally placed, shall remove the graffiti within ten days from the date of notice. If property owner does not remove the graffiti within the time specified, the city, through its Board of Public Works and Safety, is authorized to enter upon the property of the owner and remove the graffiti, and the owner shall be subject to the reasonable costs and any associated fines of removal of the graffiti by the city. If these reasonable costs and fines are not paid within two weeks of the receipt of the bill, a lien will be recorded with the Shelby County Auditor against the property upon which such structure is located.

(Ord. 10-2664, passed 11-1-10) Penalty, see § 10.99

### **§ 93.46 EXTENSION OF TIME.**

An extension of ten additional days in which graffiti must be removed may be granted by the Shelbyville Board of Public Works and Safety, at the Board's discretion, upon request of the property owner. The request shall be made by the owner of the subject property in a Board of Public Works and Safety meeting.

(Ord. 10-2664, passed 11-1-10)

## **CHAPTER 94: PARKS AND PLAYGROUNDS**

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Section

### ***Department of Parks and Recreation***

- 94.01 Department of Parks and Recreation; Parks and Recreation Board
- 94.02 Nonreverting capital fund created
- 94.03 Members of Board
- 94.04 Meetings
- 94.05 Quorum
- 94.06 Officers
- 94.07 Powers and duties
- 94.08 Board to assume management of City Civic Center

### ***Rules and Regulations***

- 94.15 Self-propelled vehicles
- 94.16 Park curfew
- 94.17 Reserved
- 94.18 Civil conduct in city parks

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

*Speed limit for vehicles in city parks, see § 71.01*

***Statutory reference:***

*Parks and Recreation Law, see I.C. 36-10-3-1 et seq.*

**DEPARTMENT OF PARKS AND RECREATION**

**§ 94.01 DEPARTMENT OF PARKS AND RECREATION; PARKS AND RECREATION BOARD.**

There is reestablished a Department of Parks and Recreation and a Parks and Recreation Board pursuant to I.C. 36-10-3.

(’81 Code, § 94.01) (Ord. 1432, passed 3-13-67; Am. Ord. 1842, passed 10-8-85)

***Statutory reference:***

*Establishment, membership of Parks and*

*Recreation Department, see I.C. 36-10-3-3.*

**§ 94.02 NONREVERTING CAPITAL FUND CREATED.**

Pursuant to the Parks and Recreation Law (I.C. 36-10-3) and pursuant to the request of the Board of Parks and Recreation of the city, there is hereby created a special nonreverting capital fund for the purpose of acquiring additional land to be used for park and recreational purposes by the Department of Parks and Recreation of the city. The fund shall be a cumulative fund; all of the money deposited shall be appropriated and used solely for this purpose and none of the money shall revert to the general fund or be used for any other purposes without additional ordinance of the City Council. All grant money received by the Parks and Recreation Department for capital projects must be deposited in the Non- Reverting Park Development Fund, #451-105-001.

(’81 Code, § 94.02) (Ord. 1502, passed 9-27-70; Am. Ord. 97-2248, passed 5-19-97)

**§ 94.03 MEMBERS OF BOARD.**

(A) The Board of Parks and Recreation shall be composed of four members who shall be residents of the city, appointed by the Mayor and selected on the basis of their interest in and knowledge of parks and recreation; not more than two members shall be of the same political party.

(B) The Mayor shall appoint one member of the Board whose term shall expire on the first Monday in January of 1968, one member whose term shall expire on the first Monday in January of 1969, one member whose term shall expire on the first Monday in January of 1970, and one member whose term shall expire on the first Monday in January of 1971; thereafter, as a term expires, each new appointment shall be for a four-year term, all serving until the first Monday in January or until a successor is appointed.

(C) There shall be no ex officio members of the Board of Parks and Recreation.

(D) If a vacancy occurs on the Board, the Mayor shall appoint a new member for the unexpired term.

(E) The members of the Board shall receive no salary unless provided for by salary ordinance of the City Council.

(’81 Code, § 94.03) (Ord. 1432, passed 3-13-67)

**§ 94.04 MEETINGS.**

(A) The meetings of the Board of Parks and Recreation shall be public; the Board shall fix the time and place of its meetings, but it shall meet at least quarterly.

(B) Special meetings of the Board shall be public and may be called by the President or the Superintendent, or by written request to the Secretary by any two members. The Secretary shall send to all members, at least two days in advance of a special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice of a special meeting is not required if the time of a

special meeting is fixed at a regular meeting or if all members are present at the special meeting.

(`81 Code, § 94.04) (Ord. 1432, passed 3-13-67)

#### **§ 94.05 QUORUM.**

Three members of the Board of Parks and Recreation shall constitute a quorum and action of the Board is not official unless authorized by at least three members present and active.

(`81 Code, § 94.05) (Ord. 1432, passed 3-13-67)

#### **§ 94.06 OFFICERS.**

At its first regular meeting in each year, the Board of Parks and Recreation shall elect a President and Vice President. The Vice President shall have authority to act as the President of the Board during the absence or disability of the President. The Board may select a Secretary either from within or without its own membership.

(`81 Code, § 94.06) (Ord. 1432, passed 3-13-67)

#### **§ 94.07 POWERS AND DUTIES.**

The Board of Parks and Recreation and its officers and employees shall have all other powers and duties provided by the Parks and Recreation Law (I.C. 36-10-3) as amended.

(`81 Code, § 94.07) (Ord. 1432, passed 3-13-67)

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

*Powers and duties of Parks and Recreation Boards, see I.C. 36-10-3-10 and 36-10-3-11*

#### **§ 94.08 BOARD TO ASSUME MANAGEMENT OF CITY CIVIC CENTER.**

(A) The Board of Parks and Recreation shall assume all powers and duties with respect to the management of the City Civic Center.

(B) The budget for the Civic Center shall be expended upon proper authorization by the Board of Parks and Recreation.

(C) An additional compensation for the added responsibility taken on by the Board of Parks and Recreation, the Civic Center Commission budget for compensation of its members shall be added as additional compensation for the additional duties of the Board of Parks and Recreation for calendar years 1988 and 1989. The Parks and Recreation budget for the calendar year 1990 shall completely integrate the Civic Center budget into the Parks and Recreation budget.

(`81 Code, § 94.08) (Ord. 1948, passed 12-19-88)

### **RULES AND REGULATIONS**

#### **§ 94.15 SELF-PROPELLED VEHICLES.**

It shall be unlawful for any person to drive or operate any self-propelled vehicle within the confines of any park in the city, except on paved streets situated therein.

(`81 Code, § 94.10) (Ord. 1667, passed 9-5-78) Penalty, see § 10.99

#### **§ 94.16 PARK CURFEW.**

It shall be unlawful for any person to be found walking, standing, sleeping, parking, riding, or lying in, any public park or drive in a public park area, buildings, trees, or other natural or manmade structure owned by the city between the hours of 12:00 p.m. and dawn without having the permission of the Park and Recreation Department.

(81 Code, § 94.11) (Ord. 1819, passed 1-7-85) Penalty, see § 10.99

## § 94.17 RESERVED.

## § 94.18 CIVIL CONDUCT IN CITY PARKS.

(A) *Purpose.* The purpose of this ordinance is to promote the general welfare and protect the general public through the reduction of nuisance behavior within the city parks; to protect both real and personal property within the city parks from continuing mischief activity; to promote the safety and well-being of the city's park visitors; and to promote responsible and civil behavior in and around the city park facilities.

(B) *Definitions.* For the purposes of this section, an **AUTHORIZED PARK STAFF MEMBER** shall be defined as a full-time employee of the City Parks Department, and approved for ordinance enforcement by the Chief of Police.

(C) *Offenses.* It shall be unlawful for any person, firm or corporation using city parks to either perform or permit to be performed any of the following acts:

(1) Disobey an order of a police officer or any park employee designated by the Parks Board to give orders, or disobey or disregard the notices, prohibitions, instructions, or directions on any park sign;

(2) Willfully mark, deface, injure, tamper with, displace or remove any building, bridges, stables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities or parts or appurtenances thereof; signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers; or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;

(3) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters;

(4) Haul in, dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash;

(5) Disturb the peace, or use any profane, obscene or blasphemous language;

(6) Endanger the safety of any person by any conduct or act;

(7) Commit any assault, battery or engage in fighting or tumultuous conduct;

(8) Violate any rules for the use of the park, including closing hours as posted in the park; the rules being made or approved by the City Parks and Recreation Board;

(9) Prevent any person from using any park or any of its facilities, or interfere with the use in compliance with this section and the rules applicable to use;

(10) Swim, bathe or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefore, and in compliance with the regulations as are herein set forth or may be hereafter adopted;

(11) Ignite or maintain open fires in a city park without a permit issued by the Parks Department;

(12) Smoke in areas where smoking is prohibited and/or aid, abet, encourage, or engage in underage smoking;

(13) Loiter in the area surrounding a city park facility or field after 30 minutes following its closure.

(D) *Enforcement.*

(1) Before taking any enforcement action hereunder, a law enforcement officer or an authorized park staff member shall make an immediate investigation for the purpose of ascertaining whether or not an act was committed in violation of the provisions set forth herein.

(2) If such investigation reveals that a violation has occurred, then the law enforcement officer or authorized park staff member shall issue a written citation to the minor or offender, charging him or her with violation of this section. The citing officer shall provide a copy of the same to the City Attorney and the City Attorney may consider further civil prosecution.

(3) Further, as soon as practicable, the citing officer shall advise an offending minor's parent or guardian of the alleged violation. If a parent or guardian is not immediately available, the citing officer shall issue a written advisement by mail.

(E) *Penalty.* The minimum penalty for a violation of this section shall be a fine in accordance with § 34.03.

(Ord. 02-2450, passed 12-2-02; Am. Ord. 2678, passed 10-3-11)

## **CHAPTER 95: STREETS AND SIDEWALKS**

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Section

### *General Provisions*

- 95.01 Mixing mortar on pavement
- 95.02 Oils on asphalt pavement
- 95.03 Oil delivery vehicles
- 95.04 Throwing materials on streets
- 95.05 Sharp objects in streets
- 95.06 Vehicles with lugs or spikes
- 95.07 Flower pots in windows
- 95.08 Cellar doors to be closed
- 95.09 Trees along streets
- 95.10 Numbering houses and buildings

### *Obstruction of Public Ways*

- 95.15 Permit required for building materials on streets
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- 95.25 Private construction permit; bond
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- 95.35 Registration required
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- 95.41 Completion of work
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- 95.43 Violations

## **GENERAL PROVISIONS**

### **§ 95.01 MIXING MORTAR ON PAVEMENT.**

It is unlawful for any person to mix mortar or any other substance upon the pavement or sidewalk in any street, unless the mixture is confined in a good, watertight box or other vessel, thereby preventing the mixture or any part thereof from coming in contact with the pavement.

(‘81 Code, § 95.01) Penalty, see § 10.99

### **§ 95.02 OILS ON ASPHALT PAVEMENT.**

No person shall pour, spill, or permit to drip upon any asphalt pavement laid on any street, alley, or other public place in the city, any kerosene, gasoline, benzine, or other similar oil or oily substance or liquid.

(‘81 Code, § 95.02) Penalty, see § 10.99

### **§ 95.03 OIL DELIVERY VEHICLES.**

All oil delivery vehicles or tanks shall have securely fastened under the attached taps or faucets an absolutely oiltight or watertight zinc-lined box or tray. In filling a measure or other vessel from the taps or faucets, the measure or other vessel shall be held so that any drip or overflow shall fall into the box or tray, and in removing the vessel or measure from over the asphalt pavement, no drip or overflow shall be permitted to fall upon the pavement. No receptacle for holding oil shall be placed on any asphalt pavement.

(‘81 Code, § 95.03) Penalty, see § 10.99

### **§ 95.04 THROWING MATERIALS ON STREETS.**

It is unlawful for any person to throw, hurl, or cast any hard or heavy material or object on the paved surface of any street, sidewalk, or public place in the city in such a manner as to injure the paved surface.

(‘81 Code, § 95.04) Penalty, see § 10.99

### **§ 95.05 SHARP OBJECTS IN STREETS.**

It is unlawful for any person to deposit, place, or leave any glass or other sharp substance or fragment of metal in any street, sidewalk, parkway, park, or other public place within the city. Any person who does so, whether accidentally or not, shall be deemed

to have violated this section.

(‘81 Code, § 95.05) Penalty, see § 10.99

### **§ 95.06 VEHICLES WITH LUGS OR SPIKES.**

It is unlawful for any person to cause to traverse the streets of the city any heavy machinery or vehicle having lugs or spikes on the wheels which shall in any manner injure the surface of the street.

(‘81 Code, § 95.06) Penalty, see § 10.99

### **§ 95.07 FLOWER POTS IN WINDOWS.**

It is unlawful for any person to place or keep, or allow to be placed or kept, any pot, jar, or box plants or flowers in the window sill of any building touching or coming near to the street line of any public street in the city above the first story without having the pots, jars, or boxes protected from falling upon the sidewalks of the streets by strong wire or iron guards, securely fastened to the outer casing of the windows.

(‘81 Code, § 95.07) Penalty, see § 10.99

### **§ 95.08 CELLAR DOORS TO BE CLOSED.**

It is unlawful for any person to keep or leave open the cellar door or grating of any vault on a street or sidewalk, or to allow such door or grating to be left or kept open.

(‘81 Code, § 95.08) Penalty, see § 10.99

### **§ 95.09 TREES ALONG STREETS.**

(A) It is unlawful for the owner or occupant of any lot or parcel of land situated within the city to permit a dead or decayed tree to remain standing along the street or sidewalk in front of the lot or parcel of land, or to permit any dead limb or branch on a tree so located to remain. The owner or occupant is required to cut down and remove the trees, limbs, and branches.

(B) If the owner or occupant should fail, neglect, or refuse to cut down and remove the tree, limb, or branch within 15 days after receiving notice from the city to do so, then the city may cause this to be done and the cost may be recovered from the owner or occupant by suit instituted by the city for that purpose.

(C) All owners of lots or parcels of land situated within the city are required to cause the limbs or branches of all shade trees, five inches or more in diameter, located along the street or sidewalk in front of their respective lots or parcels of land and forming an obstruction to the free use of the sidewalk or street, to be trimmed and removed so that the lowest limbs or branches on the trees shall not be nearer than ten feet to the surface of the street or sidewalk. The limbs or branches of all shade trees so located, which are less than five inches in diameter are to be trimmed and removed so that the lowest limbs or branches shall not be nearer than seven feet to the surface of the street or sidewalk. In case any owner should fail, neglect, or refuse to trim and remove the limbs or branches within 15 days after receiving notice from the city to do so, then the city may cause this to be done and the costs may be recovered from the owner in an action instituted for that purpose.

(D) The agents and employees of the City Street Department are authorized to trim all trees which overhang city streets so as to be a hindrance and detriment to the use of the street or sidewalk. All limbs on trees extending beyond the curb line of the city streets shall be trimmed to a height of no less than 13 feet six inches above the surface of the street.

(‘81 Code, § 95.09) (Ord. 1330, passed - - ; Am. Ord. 09-2643, passed 12-21-09) Penalty, see § 10.99

### **§ 95.10 NUMBERING HOUSES AND BUILDINGS.**

(A) The system of numbering houses and buildings within the city is established as follows.

(1) In the establishment and maintenance of this system, Harrison Street shall constitute the meridian line from which all houses and buildings on streets and avenues running east and west shall be numbered each way, on the basis of 100 numbers to each square.

(a) The first number of each square shall begin with the first number of the number of hundreds its relative position from the meridian line shall indicate, one number being allotted to each 20 feet of ground facing the street or avenue.

(b) All even numbers are to be placed on the north side of the streets or avenues and all odd numbers are to be placed on the south side of the streets or avenues.

(2) Washington Street shall constitute the base line from which all houses and buildings on the streets and avenues running north and south shall be numbered each way, upon the basis of 100 numbers to each square.

(a) The first number of each square shall begin with the first number of hundreds its relative position from the base line shall indicate, one number being allotted to each 20 feet of ground facing the street or avenue.

(b) All even numbers are to be placed on the east side of the streets or avenues, and all odd numbers are to be on the west side of the streets or avenues.

(B) Upon the erection or construction of any new house or building within the city, it shall be the duty of the owner to apply to the office of the Plan Commission for the assignment of a number to the house or building. The number assigned to all houses or buildings (existing or new construction) shall be placed upon or fastened to the house or building by the owner and shall be placed in a position that is plainly legible and visible from the street or road fronting the property. All numbers used for the display of the address shall be no less than four inches in height, and shall be of a color contrasting with the exterior of the house or building on which they are affixed.

(C) It shall be unlawful for any property owner to maintain any number other than the one assigned by the city upon his or her house or building.

(81 Code, § 95.10) (Ord. 98-2279, passed 1-15-98; Am. Ord. 01-2410, passed 9-17-01; Am. Ord. 09-2636, passed 10-5-09) Penalty, see § 10.99

## **OBSTRUCTION OF PUBLIC WAYS**

### **§ 95.15 PERMIT REQUIRED FOR BUILDING MATERIALS ON STREETS.**

(A) Before any contractor or builder proceeds to erect or repair any building in the city, when the estimated cost of the improvement is more than \$200, and where it becomes necessary to use and occupy any portion of the streets, alleys, sidewalks, or driveways by depositing thereon any stone, sand, gravel, brick, lumber, or other building material, he shall apply to the Clerk-Treasurer for a permit to do so.

(B) The Clerk-Treasurer shall, upon being furnished with a bond by the applicant for a permit, in the sum fixed by the Board of Public Works and Safety and subject to the approval of the Board, and upon the payment to the Clerk-Treasurer of a fee of \$10 for the use of the city, issue a permit to the applicant.

(1) The permit shall set forth a brief description of the lot or tract of ground upon which the proposed improvement is to be made, the name of the owner thereof, the estimated cost of the improvement, the portion of the street, alley, sidewalk, or driveway which may be used for building purposes, and the length of time for which the permit may extend.

(2) No permit shall be issued until the bond specified and required above is presented to the Clerk-Treasurer, properly approved.

(3) In no case shall the permit authorize the use of more than one-third of the street, alley, or driveway, or more than one-half of the sidewalk adjoining the place of building, for the building material.

(4) No permit granted by the city under this section shall authorize any person to obstruct the streets, alleys, sidewalks, or driveways of the city and allow the obstructions to remain overnight without taking proper safety precautions.

(5) No provision of this section or other provisions of this code shall be so construed as to permit the obstruction of the free flow of water along the side gutters of any street of the city.

(81 Code, § 95.15) Penalty, see § 10.99



## **§ 95.16 STREET AND SIDEWALK OBSTRUCTIONS.**

(A) It is unlawful for a person to encumber any of the streets or sidewalks of the city with any buildings, fences or other structures, vehicles, horses, or any substance or material whatever so as to interfere with the free use of the street or sidewalk. The provisions of this section shall not apply to any person in the use of a part of the streets or sidewalks under a permit issued by the city.

(B) No person shall place or cause to be placed any dumpster or other type of trash receptacle in the right-of-way area of any city street, except upon having obtained a dumpster permit to be issued by the Street Department. This section does not prohibit the placing of garbage on the sidewalk at the curb on garbage day.

(`81 Code, § 95.16) (Ord. 05-2526, passed 1-3-05) Penalty, see § 10.99

## **§ 95.17 GAMES OR SPORTS IN STREETS.**

It is unlawful for any person to play baseball, polo, tennis, or football on the streets or sidewalks of the city, or to engage in any other games or sports upon the streets or sidewalks to the annoyance of travelers or residents.

(`81 Code, § 95.17) Penalty, see § 10.99

## **§ 95.18 PERMIT FOR PARADES OR PROCESSIONS.**

(A) No parade or procession shall be allowed on any street of the city, nor shall any open-air meeting be held upon any ground abutting any street of the city, until a written permit has been obtained from the Chief of the Police Department and approved by the Mayor.

(B) No person shall march, ride, or in any manner participate in any parade or procession upon the streets of the city or attend any open-air meeting held upon any ground abutting any street of the city for which a written permit has not been first obtained from the Chief of Police, as above provided.

(C) Application to conduct a parade, procession, or open-air meeting shall be made in writing to the Chief of Police by the person in charge or control, or responsible. The application shall set forth the following:

- (1) The route along which the parade or procession is to proceed; or if an open-air meeting, the location of the meeting place.
- (2) The purpose.
- (3) The time of starting and probable duration.
- (4) The name of the person in control or responsible.

(D) Upon application being made, the Chief of Police shall investigate or cause to be investigated the person making the application and the truth of the statements made in the application regarding the purpose or object of the parade, procession, or open-air public meeting.

(E) If the parade, procession, or open-air meeting is not to be held for any unlawful purpose and will not in any manner tend to a breach of peace, or unnecessarily interfere with the public use of the streets of the city or the peace and quiet of the inhabitants, the Chief of Police shall issue the permit to the person making the application, without fee or charge.

(`81 Code, § 95.18) Penalty, see § 10.99

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

*Authority over processions and assemblages, see I.C. 9-21-1-3*

*Authority to preserve peace and regulate public gatherings, see I.C. 36-8-2-2, 36-8-2-9*

## **§ 95.19 LOADING AND UNLOADING MERCHANDISE.**

No person receiving or delivering goods, wares, or merchandise shall place or keep upon, or permit to be placed or kept upon, any sidewalk in the city these goods, wares, or merchandise. However, if the person desires to receive or deliver goods, wares, or

merchandise in any building where, by reason of lack of an alley adjacent to the real estate upon which the building is situated, there is no convenient access other than by passing over the sidewalk, then the person may receive or deliver the goods over and across the sidewalk. The person shall at all times, however, leave a passageway of not less than six feet in width for pedestrians, and shall not allow the goods to be or remain upon the sidewalk for longer than two hours.

(`81 Code, § 95.19) Penalty, see § 10.99

## **SIDEWALKS, CURBS, AND GUTTERS**

### **§ 95.25 PRIVATE CONSTRUCTION PERMIT; BOND.**

(A) No cement sidewalks or curbs and gutters shall be constructed under private contract until a permit has been obtained to do the work from the Engineering Department.

(B) No permit shall be issued to any person doing business as a cement contractor, to do the work under private contract, until he or she has registered with the city as a contractor and has posted a \$10,000 surety bond and a certificate of insurance, showing that he or she has general liability insurance.

(C) The liability of the contractor shall not cease until the City Engineer or his or her designee has inspected and approved the private work performed.

(D) It shall be the contractor's responsibility to get an inspection of the work for which the permit was issued.

(E) The City Engineer's office reserves the right to allow 24 to 48 hours to complete their inspection once a request for an inspection has been made.

(`81 Code, § 95.25) (Am. Ord. 12-2684, passed 5-7-12) Penalty, see § 10.99

### **§ 95.26 DUTY TO KEEP SIDEWALKS CLEAN.**

(A) All owners of real property abutting on any street where there are improved sidewalks, are required to keep the sidewalks in front of their respective properties clean and free from earth, dirt, rubbish, or other obstructions which may accumulate.

(B) If any owner of real property abutting on improved sidewalks in the city fails or refuses to keep the sidewalks clean and free from all earth, dirt, rubbish, or other obstructions that may accumulate, it shall be the duty of the Street Commissioner of the city to serve written notice upon the property owner to remove the obstructions from the sidewalks within 24 hours from the date of the service of the notice.

(1) If the property owner fails or refuses to remove the obstruction within 24 hours, the Street Commissioner is authorized to cause the obstruction to be removed from the sidewalks, and to cause the sidewalks to be kept free of all such obstructions.

(2) The notice herein provided for shall contain a full statement of the provisions of this section.

(C) After the work has been completed by the Street Commissioner, he or she shall report the total cost and expense, together with the name of the property owner failing to comply with the provisions of this section to the Clerk-Treasurer, who shall keep a record thereof. The amount of cost and expense may be recovered from the property owner by the city in an action brought by it for that purpose.

(`81 Code, § 95.26) Penalty, see § 10.99

### **§ 95.27 DRAINPIPES DISCHARGING WATER ON SIDEWALKS.**

(A) The construction or maintenance of any drainpipe, attached to the wall of any building in the city for the purpose of disposing of water falling on the roof of the building and which empties the water upon the surface of the sidewalk in front of the building, is prohibited. The owner of every building to which is attached such a drainpipe is required to remove it and provide other drainage for the roof, or to construct and lay beneath the surface of the sidewalk a proper outlet for each of the drainpipes connected and leading to the gutter in the street in front of the building.

(B) If the owner of any building in the city upon the walls of which are attached and constructed a drainpipe as described in (A) above, fails or refuses to comply with this section for a period of 20 days after being served by the city through its officers or agents with written notice to do so, then the city may cause the pipe to be removed or the outlet therefor to be constructed and may recover the costs, including the cost of any materials used, from the owner of the building by an action instituted by the city for that purpose. The notice herein provided for shall contain a full statement of the provisions of this section.

(‘81 Code, § 95.27) Penalty, see § 10.99

### **§ 95.28 REMOVAL OF SNOW AND ICE.**

(A) It shall be the duty of every owner, lessee, or occupant of any premises abutting or bordering on any street in the city, to remove or cause to be removed all snow and ice from the sidewalk in front of the premises to the full paved width of the sidewalk, within 24 hours after the snow or ice shall have fallen or accumulated.

(B) In the event of the failure of any owner, lessee, or occupant to remove or cause to be removed any snow and ice from any sidewalk within the period of time specified in (A) above, the Board of Public Works and Safety may remove or clean the snow and ice or cause it to be removed or cleaned. The cost of removal or cleaning shall be a lien on the property, which shall be placed on the tax duplicate and collected in the same manner as taxes are collected and turned in to the city treasury.

(‘81 Code, § 95.28) Penalty, see § 10.99

### **§ 95.29 REPAIR OF SIDEWALKS.**

It is unlawful for the owner of any building or lot to permit the sidewalk abutting thereon to become and remain out of repair so as to become dangerous and unsafe for passage.

(‘81 Code, § 95.29) Penalty, see § 10.99

### **§ 95.30 SIGNS BETWEEN PROPERTY AND CURB LINES.**

(A) It shall be unlawful for any person to erect, place, or stand any sign, temporarily or permanently, between the property line and the curb line on any public street. The Board of Public Works and Safety shall cause any unauthorized signs to be removed.

(B) The Board of Public Works and Safety may, in its discretion, permit the erection, placing, or standing of any sign, temporarily or permanently, between the property line and the curb line on any public street upon a finding by the Board that the sign would be in keeping with the character of the neighborhood and would be in the best interests of the growth and development of the city.

(‘81 Code, § 95.30) (Ord. 1716, passed 5-5-80) Penalty, see § 10.99

## **EXCAVATIONS**

### **§ 95.35 REGISTRATION REQUIRED.**

(A) No person shall make any excavation or opening for any purpose whatever in any street, alley, or other public place or right-of-way, or underneath the surface of any street, alley or right-of-way without first obtaining a registration and permit from the City Engineer to do so.

(B) In order to become registered with the city, an application shall be submitted along with a \$10,000 surety bond made payable to the City, a certificate of insurance showing that the applicant has general liability insurance and a \$50 registration fee. The registration, surety bond and certificate of insurance will help to ensure that the right-of-way is restored to its condition prior to any work being performed on the site.

(C) If an emergency arises where an excavation must be made at night or on a holiday or at any time when a permit, as required by § 95.36, cannot be obtained from the City Engineer's office because the office is closed, then the excavation may be made and the proper registration and permit issued the next day that the office is open.

**§ 95.36 APPLICATION AND FEE.**

(A) Any person who desires to make any excavation or opening for any purpose in any street, alley or other right-of-way, or underneath the surface of any street, alley or right-of-way in the city, shall first make application on a right-of-way cut permit application for a permit setting out the location, purpose, length and width of the proposed excavation to the City Engineer's office.

(B) The application shall be accompanied by a fee as set out in the Right-of-Way Fee and Fine Schedule as follows:

Residential driveway	\$50
Commercial and industrial driveway	\$250
Residential sidewalk only	\$25
Commercial and industrial sidewalk only	\$50
Street cuts under 100 sq. ft.	\$150
Street cuts 100-500 sq. ft.	\$300
Street cuts over 500 sq. ft.	\$500 + \$2.00/sq. ft. over 500 sq. ft.
Boring (directional, jack and bore, trenching, etc.) under 100 linear ft.	\$250
Boring over 100 linear ft.	\$250 + \$1.00/linear ft. over 100 linear ft.
Miscellaneous right-of-way work***	\$50 minimum fee per cut
***To be set by City Engineer and/or Board of Public Works and Safety, depending on the scope of work.	

**§ 95.37 BOND REQUIRED.**

(A) Depending on the scope of work, the applicant may be required to provide an additional bond along with his or her right-of-way permit application. The bond shall be conditioned that the obligors will indemnify and save the city harmless from any and all liability and all claims and lawsuits for damages that may result from the excavations or that may arise in any manner, including those that may result or arise from negligence or purported negligence of the employees or officials of the city or from the failure or omission to keep or maintain adequate and proper warning signs, lights or barriers at the site of the excavation. The bond shall be further conditioned that the applicant will fill the excavation up to the surface in accordance with the standards set by the city when the work is completed.

(B) If any applicant for a permit has on file a current, sufficient bond in the City Engineer's office, it shall cover any one or more excavations for which a registration has been issued to the applicant.

(C) If at any time, the City Engineer or the Board of Public Works and Safety shall find that any bond required by this subchapter is insufficient for any reason, they shall notify the principal, who shall furnish a new and proper bond before any further registration or permit shall be issued to that principal.

(‘81 Code, § 95.37) (Am. Ord. 12-2684, passed 4-16-12) Penalty, see § 10.99

### **§ 95.38 ISSUANCE.**

Once the City Engineer finds that the application, registration and bond requirements are sufficient, a permit shall be issued to the applicant by the City Engineer's office, authorizing the holder of the license to make the excavation under proper safeguards as to warning signals, lights, and barriers in order to prevent accidents, injuries and damages to persons and property.

(‘81 Code, § 95.38) (Am. Ord. 12-2684, passed 4-16-12) Penalty, see § 10.99

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

*When Board of Public Works and Safety to approve, see § 95.39*

### **§ 95.39 WHEN BOARD OF PUBLIC WORKS AND SAFETY TO APPROVE.**

(A) If the City Engineer determines that the scope of work warrants approval by the Board of Public Works and Safety, the application, bond and permit fee shall be submitted to the Board of Public Works and Safety for approval prior to the issuance of a right-of-way permit.

(B) Additionally, if the City Engineer determines that the scope of work warrants review by the Technical Review Committee (TRC), the applicant shall submit 14 sets of project plans to the Plan Commission office to be added to the next regularly scheduled Technical Review Committee agenda.

(‘81 Code, § 95.39) (Am. Ord. 12-2684, passed 4-16-12) Penalty, see § 10.99

### **§ 95.40 WARNING BARRIERS, SIGNS, AND LIGHTS.**

(A) Any person making an excavation in or underneath the surface of a street, alley or right-of-way in the city shall erect or place and maintain suitable warning barriers, signs and lights at or near the excavation, in a manner so as to prevent damage to persons and property that might otherwise result from or be caused by the presence of the excavation, and shall also display in a conspicuous place near the excavation an emergency number.

(B) Warning barriers, signs and lights shall comply with the most recent version of the *Manual on Uniform Traffic Control Devices (MUTCD)* and the *Indiana Department of Transportation (INDOT) Work Zone Traffic Control Handbook*.

(‘81 Code, § 95.40) (Am. Ord. 12-2684, passed 4-16-12) Penalty, see § 10.99

### **§ 95.41 COMPLETION OF WORK.**

Immediately upon the completion of work and filling in of an excavation by a contractor, he or she shall contact the City Engineer's office to request a final inspection of the site. The City Engineer's office reserves the right to inspect within 24 to 48 hours of receiving

notice of the need for inspection. The City Engineer or his or her designee shall verify that the site has been restored to the same or better condition than it was prior to the work that was performed.

(`81 Code, § 95.41) (Am. Ord. 12-2684, passed 4-16-12) Penalty, see § 10.99

### **§ 95.42 DISPOSITION OF FEES, FINES, OR PENALTIES.**

All fees received for registrations and permits shall be paid in the City Engineer's office and will be turned over to the Clerk-Treasurer's office for deposit into the General Fund. All fines and penalties associated with right-of-way permits and registrations shall be paid in the City Engineer's office and will be turned over to the Clerk-Treasurer's office for deposit into the General Fund.

(`81 Code, § 95.42) (Am. Ord. 12-2684, passed 4-16-12) Penalty, see § 10.99

### **§ 95.43 VIOLATIONS.**

(A) It shall be the duty of the Street and Police Departments to report all violations of this subchapter and verify any complaints to be filed therefor.

(B) Any person who does any of the following shall be punished as provided in § 10.99 and shall be liable to the city in an action on the bond for any actual loss or damage sustained by the city by reason of any breach of the conditions of the bond or for any violation of this subchapter.

(1) Makes an excavation or opening in or underneath the surface of any street, alley or right-of-way in the city without a proper registration and permit from the city or of larger dimensions than is authorized by the permit.

(2) Fails, neglects, refuses or omits to call the City Engineer's office for a final inspection upon completion of the work for which the permit was obtained.

(3) Fails to erect or maintain suitable warning signs, lights or barriers at or near any excavation in order to prevent damage to persons and/or property.

(4) Fails to display his or her emergency number near the site of the excavation.

(5) Fails to fill in any excavation or opening promptly when the work has been completed.

(6) Fails to apply for or pay for a registration and/or permit after making an emergency excavation.

(7) Fails, neglects, refuses or omits to perform or discharge any other act or duty imposed by this subchapter.

(C) Failure to call for a final inspection can result in a fine as outlined in the Engineering Department Fine Schedule as follows:

Work without permits	\$200 + normal permit fees
Work without permits and contractor registration	\$300 + normal registration and permit fees
Work without permits, second offense	\$400 + normal permit fees
Work without permits	\$500 + normal

and contractor registration, second offense	registration and permit fees
Third offense to any of the above will be turned over to the Board of Public Works and Safety with the possible revocation of registration	
Failure to call for inspection or have a final inspection	\$150
Fines must be paid within five days. After five days, a fee of \$50 per day will be added to the fine until it has been paid.	
All fines must be paid in the City's Engineer's office prior to receiving a final inspection.	

('81 Code, § 95.43) (Am. Ord. 12-2684, passed 4-16-12) Penalty, see § 10.99

**CHAPTER 96: MISCELLANEOUS REGULATIONS**

Section

*High School Public Grounds*

- 96.01 Definitions
- 96.02 Student parking
- 96.03 Parking in excess of one day
- 96.04 Handicapped parking areas
- 96.05 Reasonable safety required
- 96.06 Travel lanes
- 96.07 Pedestrian right-of-way
- 96.08 Speed limits
- 96.09 Enforcement

*Good Will Receptacles*

- 96.15 Depositing articles
  
- 96.99 Penalty

## **§ 96.01 DEFINITIONS.**

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

**HIGH SCHOOL PROPERTY.** All the real estate, including the parking lot, upon which the Shelbyville High School is situated.

**VEHICLES.** Bicycles and all motorized vehicles, including motorcycles, motor bikes, and mopeds.

(`81 Code, § 96.01) (Ord. 1719, passed 7-7-80)

## **§ 96.02 STUDENT PARKING.**

(A) Students shall park only in the designated student parking areas and shall not park in the areas designated for faculty and staff parking, visitor parking, or areas designated as no-parking area.

(B) No student shall park any motor vehicle on high school property without displaying a current and valid school traffic sticker on the motor vehicle, nor shall any student park any vehicle in such a manner as to block the proper flow of traffic or pedestrians.

(`81 Code, § 96.02) (Ord. 1719, passed 7-7-80) Penalty, see § 96.99

## **§ 96.03 PARKING IN EXCESS OF ONE DAY.**

No vehicle shall be parked, left, or abandoned on high school property for a period in excess of 24 consecutive hours without authorization from school officials.

(`81 Code, § 96.03) (Ord. 1719, passed 7-7-80) Penalty, see § 96.99

## **§ 96.04 HANDICAPPED PARKING AREAS.**

No person shall park any motor vehicle in an area designated as a handicapped parking area unless that motor vehicle has just transported or is about to transport immediately thereafter a handicapped person.

(`81 Code, § 96.04) (Ord. 1719, passed 7-7-80) Penalty, see § 96.99

## **§ 96.05 REASONABLE SAFETY REQUIRED.**

No person operating a motor vehicle on high school property shall start a vehicle which is stopped, standing, or parked unless and until the movement can be made with reasonable safety.

(`81 Code, § 96.05) (Ord. 1719, passed 7-7-80) Penalty, see § 96.99

## **§ 96.06 TRAVEL LANES.**

(A) Except when pulling into a parking space, persons operating a motor vehicle on high school property shall operate the motor vehicle only upon travel lanes.

(B) All persons operating motor vehicles on high school property shall stop at the points on the travel lanes where stop signs have been erected.

(`81 Code, § 96.06) (Ord. 1719, passed 7-7-80) Penalty, see § 96.99

## **§ 96.07 PEDESTRIAN RIGHT-OF-WAY.**

All vehicles traveling upon high school property shall yield to pedestrians.



(‘81 Code, § 96.07) (Ord. 1719, passed 7-7-80) Penalty, see § 96.99

**§ 96.08 SPEED LIMITS.**

(A) No vehicle shall be operated on any area of the high school property at a speed in excess of 15 m.p.h.

(B) No person shall operate a motor vehicle on the high school property recklessly, at an unreasonably high rate of speed or in such a manner under the circumstances, as to endanger the safety or property of others.

(‘81 Code, § 96.08) (Ord. 1719, passed 7-7-80) Penalty, see § 96.99

**§ 96.09 ENFORCEMENT.**

The City Police Department is authorized and directed to enforce the provisions of this subchapter.

(‘81 Code, § 96.09) (Ord. 1719, passed 7-7-80) Penalty, see § 96.99

**GOOD WILL RECEPTACLES**

**§ 96.15 DEPOSITING ARTICLES.**

It shall be unlawful for any person to place, abandon, deposit, or leave any article, package, bundle, or thing at or near any Good Will Industries' collection box in the city without placing the article, package, bundle, or thing inside the collection box.

(‘81 Code, § 96.15) (Ord. 1590, passed 10-8-73) Penalty, see § 96.99

**§ 96.99 PENALTY**

(A) Whoever violates any provision of this chapter for which another penalty is not provided shall be subject to § 10.99.

(B) (1) A violation of rules and regulations contained in §§ 96.02 through 96.04 shall be punishable by a fine not to exceed \$5.

(2) A violation of §§ 96.05 through 96.07 shall be punishable by a fine not to exceed \$25.

(3) A violation of § 96.08(A) shall be punishable by a fine not to exceed \$100.

(4) A violation of § 96.08(B) shall be punishable by a fine not to exceed \$300.

(5) Any person who violates the terms of § 96.15 shall be fined in any amount not to exceed \$25.

(‘81 Code, § 96.99) (Ord. 1719, passed 7-7-80)

**CHAPTER 97: FAIR HOUSING**

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Section

97.01 Policy statement

97.02 Definitions

97.03 Unlawful practice

97.04 Discrimination in the sale or rental of housing

97.05 Discrimination in residential real estate-related transactions

97.06 Discrimination in the provision of brokerage services

97.07 Interference, coercion or intimidation

97.08 Prevention of intimidation in fair housing cases

97.09 Exemptions

97.10 Administrative enforcement

## § 97.01 POLICY STATEMENT

It shall be the policy of the city to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1, *et seq.*

(81 Code, § 97.01) (Ord. 93-2096, passed 1-18-93)

## § 97.02 DEFINITIONS.

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

**AGGRIEVED PERSON.** Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

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

**COMMISSION.** The Indiana Civil Rights Commission or a local agency designated by an ordinance adopted under I.C. 22-9.5-4-1.

(I.C. 22-9.5-2-3)

**COMPLAINANT.** A person, including the Commission, who files a complaint under I.C. 22-9.5-6.

(I.C. 22-9.5-2-4)

**DISABLED.** With respect to a person:

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

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 97.04 through 97.08 of this chapter or I.C. 22-9.5-5.

(I.C. 22-9.5-2-7)

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

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

**FAMILY.** A single individual, with the status of such family being further defined in this section.

(I.C. 22-9.5-2-9)

**PERSON.** One or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers and fiduciaries.

(I.C. 22-9.5-2-11)

**TO RENT.** To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.

(I.C. 22-9.5-2-13) ('81 Code, § 97.02) (Ord. 93-2096, passed 1-18-93)

### **§ 97.03 UNLAWFUL PRACTICE.**

Subject to the provisions of division (B) of this section, § 97.09 of this chapter and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 97.04 of this chapter shall apply to the following.

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

(B) Other than the provisions of division (C) of this section, nothing in § 97.04 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 who was not the most recent resident of such house prior to the sale, the exemption shall apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if such house is sold or rented:

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

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 97.04(C) of this chapter, but nothing 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 or her residence.

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

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

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

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

('81 Code, § 97.03) (Ord. 93-2096, passed 1-18-93)

### **§ 97.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by § 97.03 and except as exempted by §§ 97.03(B) and 97.09, 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 dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status or national origin.

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

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

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

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

(a) That person;

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

(c) Any person associated with that person.

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

(a) That person;

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

(c) Any person associated with that person.

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

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

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

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1993, a failure to design and construct those dwellings in such a manner that:

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

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

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

a. An accessible route into and through the dwelling;

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

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

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

(4) Compliance with the appropriate requirements of Americans With Disabilities Act of 1990 and of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI

A117.1") suffices to satisfy the requirements of subdivision (3)(c)3.

(5) Nothing in this subdivision requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or physical damage to the property of others.

(`81 Code, § 97.04) (Ord. 93-2096, passed 1-18-93)

#### **§ 97.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.**

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

(B) As used in this section, the term "residential real estate-related transaction" means any of the following:

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

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

(`81 Code, § 97.05) (Ord. 93-2096, passed 1-18-93)

#### **§ 97.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.**

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

(`81 Code, § 97.06) (Ord. 93-2096, passed 1-18-93)

#### **§ 97.07 INTERFERENCE, COERCION OR INTIMIDATION.**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 97.03 through 97.06 of this chapter.

(`81 Code, § 97.07) (Ord. 93-2096, passed 1-18-93)

#### **§ 97.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.**

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

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

(1) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities made unlawful by this chapter or any state or federal law; or

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

(C) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, 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 not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

('81 Code, § 97.08) (Ord. 93-2096, passed 1-18-93)

## **§ 97.09 EXEMPTIONS.**

(A) Exemptions defined or set forth under I.C. 22-9.5-3 *et seq.* shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) 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, handicap 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 lodgings to its members or from giving preference to its members.

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

(2) As used in this section, "housing for older persons" means housing:

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

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

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

('81 Code, § 97.09) (Ord. 93-2096, passed 1-18-93)

## **§ 97.10 ADMINISTRATIVE ENFORCEMENT.**

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

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

(C) All executive departments and agencies of the city shall administer their departments, programs and activities relating to Housing and Urban Development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Executive Officer and the Commission to further such purposes.

(D) The Chief Executive Officer of the city or the Chief Executive Officer's designee shall provide information on remedies available to any aggrieved person or complainant requesting such information.

('81 Code, § 97.10) (Ord. 93-2096, passed 1-18-93)

Section

- 98.01 Purpose
- 98.02 Definitions
- 98.03 Signs generally
- 98.04 Prohibited signs
- 98.05 Signs not requiring permits
- 98.06 Permitted permanent signs
- 98.07 Off-premise advertising billboards
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- 98.09 Temporary signs not requiring a permit
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- 98.12 Engineering design standards
- 98.13 Electrical signs
- 98.14 Sign removal or replacement
- 98.15 Board of Zoning Appeals process
- 98.16 Electronic message center
  
- 98.99 Penalty
- Appendix A: Sign standards

**§ 98.01 PURPOSE.**

The purpose of this chapter is to provide minimum standards to safe-guard life, health, property, property values, and public welfare by regulating and controlling the quality of materials, construction, installation, and maintenance of signs, in addition to the number, size, sign type, location, height, design, and type of illumination of all signs and sign structures.

(Ord. 07-2604, passed 1-7-08)

**§ 98.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For sign standards, see Chapter 98, Appendix A.

**ABANDONED SIGN.** Any sign that advertises a business, lessor, owner, product, service or activity that is no longer located on the premises where the sign is displayed.

**ACCESSORY SIGN.** A sign that conveys information (e.g., tenants, their use, and their location), minor business identification or amenities found in an establishment and is designed to be viewed by pedestrians and/or motorists. A sign which is clearly subordinate to a primary sign and which does not provide the principal means of identification of a building, business, occupant, development or premises. The signs are intended to convey additional information about the building, business, occupants or premises. **ACCESSORY SIGNS** shall not contain the logo, trademark or other identifiers that are found in the primary sign.

**ANIMATION.** The use of movement or some element thereof, to depict action or create a special effect or scene.

**ATTACHED SIGN.** Any sign, which is fastened, attached, connected, or supported to a building in a secure and permanent manner.

**ATTENTION ATTRACTING DEVICE.** Any flashing or moving beacon, animation, banner, clock or other object mounted onto or in a sign designed to attract the attention of the public.

**AWNING SIGN.** Any sign copy or logo attached to or painted on an awning.

**BANNER.** Any cloth, bunting, plastic, paper, or similar non rigid material used for advertising purposes attached to any structure, staff, pole, line, framing, or vehicle that is easily detached.

**BILLBOARD.** See **OFF-PREMISE SIGN.**

**BOARD OF ZONING APPEALS.** See §§ 150.155*et seq.*

**CABINET SIGN.** A sign that contains all the text and/or logo symbols within a single enclosed cabinet and may or may not be illuminated.

**CHANNEL LETTERS.** Individually illuminated letters and graphics. In addition, they may be fabricated or formed three-dimensional letters that may accommodate a light source. The use of a raceway must match the color of the facade which the sign is placed.

**CIVIC EVENT SIGN.** A temporary sign, other than a commercial sign, posted to advertise a civic event sponsored by a public agency, school, church, civic/fraternal organization, or similar noncommercial organization.

**COPY.** Words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign.

**DETACHED SIGN.** Any sign not attached to a building.

**DIRECTIONAL SIGN.** A sign which guides or directs pedestrian or vehicular traffic, or a sign in conjunction with a drive-thru window, which may be mounted on the ground, on a building, or in connection with a detached sign.

**DOUBLE-FACED SIGN.** A sign constructed to display its message on the outer surfaces of two identical and opposite parallel planes.

**DOWNTOWN ZONE.** That area which lies within the following boundaries: Blue River as the northern boundary, Colescott Street as the southern boundary, Noble Street as the eastern boundary, and Tompkins Street as the western boundary.

**ELECTRONIC MESSAGE CENTER (EMC).** A sign that utilizes a computer-generated message or some other electronic means of changing the sign copy. These signs include displays using incandescent lamps, LEDs, LCDs or a Riper Matrix.

(1) **LED.** Light emitting diodes are diodes that emit visible light when electricity is applied, much like a lightbulb.

(2) **LCD.** Liquid crystal display.

**FLASHING.** A pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated for the purpose of drawing attention to the sign.

**FRAME EFFECT.** A visual effect on an electronic message center applied to a sign frame to transition from one message to the next.

**FUTURE TENANT IDENTIFICATION SIGN.** A temporary sign that identifies the names of future businesses that will occupy a site or structure.

**FULLY ILLUMINATED SIGN.** Any sign which is illuminated by an internal light source which is visible.

**ILLUMINATED SIGNS.**

(1) **FULLY ILLUMINATED SIGN.** Any sign which is illuminated by an internal light source. **FULLY ILLUMINATED SIGN** does not mean that a sign shall be an electronic message center.

(2) **INDIRECTLY ILLUMINATED SIGN.** Any sign, which is partially or completely illuminated at any time by an external



light source, which is so shielded, as to not be visible at, eye level.

(3) **SEMI-ILLUMINATED SIGN.** Any sign, which is uniformly illuminated internally over its entire area, including the area of the sign, by use of electricity or other artificial light.

**INTERSTATE CORRIDOR.** The area 1000 feet in either direction from Interstate 74.

**MAINTENANCE.** The repair or replacement in kind of individual sign components that may include the repair or replacement of panels; electrical wiring and bulbs; paint, stucco or other exterior finishes. This may also include the repair or replacement of metal or wood cabinets, structural faces, supporting structural mechanisms and poles, or the sign in its entirety.

**MONUMENT SIGN.** An identification sign which rises from the ground and generally has no clearance under it. Also known as ground sign.

**NONCONFORMING SIGN.** An advertising structure or sign which was lawfully erected and maintained prior to the adoption of this sign chapter, and which has subsequently come under the requirements of this sign chapter, but does not now completely comply.

**OFF-PREMISE SIGN.** A sign which directs attention to a business, commodity, service, activity, or product sold, conducted or offered off the premises where such sign is located.

**ON-PREMISE SIGN.** A sign which directs attention to a business, commodity, service, activity, or product sold, conducted or offered on the premises where such sign is located.

**PERMANENT SIGN.** A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

**POLE SIGN.** A sign mounted on a free-standing pole or other support so that the bottom edge of the sign face is eight feet or more above finished grade.

**POLITICAL SIGN.** Any sign bearing a photograph or printed material which promotes a person or issue which will be determined by voters in an election.

**PORTABLE SIGN.** A sign that is not permanently affixed to one location and has the capability of being moved from one site to the next.

**PROJECT SIGN.** A sign that states the name of the developer and contractor(s) working on the site and any related engineering, architectural or financial firms involved with the project.

**PROJECTING SIGN.** Any sign extending more than one foot from the face of the building to which it is attached.

**PROMOTIONAL SIGN.** A sign erected on a temporary basis to promote the sale of new products, new management, new hours of operation, a new service, or to promote a special sale.

**REAL ESTATE SIGN.** A sign indicating that a property or any portion thereof is available for inspection, sale, lease, rent, or directing people to a property, but not including temporary subdivision signs.

**ROOF SIGN.** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the highest point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

**SIGN.** Any words, letters, numbers, figures, devices, designs, or trademarks by which information is made known to the public. (See Figures 1, 4, and 5)

**SIGN AREA.** The area of a sign set out in these regulations shall mean the area encompassed by the perimeter of the sign. The area of the sign shall be computed from the area enclosed by the perimeter upon which the letters, logo, and the like are placed, except that when individual letters or logos are mounted individually and directly upon a building surface without change in the color or appearance of the surface background, the area of the sign shall be deemed to be rectangle or some other geometric form that encompasses the letters, logo, and the like. (See Chapter 98, Appendix A, Figures 2 and 3)

**SIGN PERMIT.** A discretionary written authorization issued through the office of the Plan Commission upon a finding that the proposed activity permitted by such use permit is in conformance with the intent of this code. A use permit may be limited to a specific period of time.

**STREET FRONTAGE.** That building elevation that fronts on a public street where customer access to the building is available.

**SUBDIVISION DEVELOPMENT AMENITY SIGN.** A sign directing traffic to amenities such as a clubhouse or swimming pool within the subdivision.

**SUBDIVISION DEVELOPMENT SIGN.** A detached sign identifying the subdivision, located at one or more of the subdivision entrances.

**TALL SIGN.** A sign located within 1,000 feet of Interstate 74 for the purpose of advertising a commercial establishment to interstate vehicular traffic.

**TEMPORARY SIGN.** A sign of cloth or other combustible material, with or without a frame, which is usually attached to the outside of a building on a wall or store front, for a limited period of time; or a sign which is not permanently attached to the ground, building, or other load bearing structure.

**UNDER CANOPY SIGN.** A display attached to the underside of a marquee or canopy and projecting perpendicular from a structure over public or private sidewalks or right-of-way.

**VARIANCE.** A discretionary authorization issued by the Zoning Administrator/ Board of Zoning Appeals only upon finding, through a public hearing, that the proposed activity permitted by such variance is in conformance with the intent of this code, the general plan and/ or other specified plans or council policies, and will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general and may be limited by specific conditions, restrictions, terms or time periods. This could be in the form of a departure from the literal requirements of the municipal code generally involving dimensional and location provisions, but excluding land use.

**WALL SIGN.** A sign attached to or erected against an exterior wall of a building or structure, which projects not more than 12 inches from a wall and presents only one face with advertising copy to the public and does not extend above the roof line.

**WINDOW SIGN.** Any sign placed on, affixed to, painted on or located within the confines of a window.

**YARD CARD.** A temporary sign used to advertise a special sale, event or occasion.

**ZONING ADMINISTRATOR.** The Plan Commission staff or the Mayor's designee.

(Ord. 07-2604, passed 1-7-08; Am. Ord. 11-2670, passed 5-2-11)

## **§ 98.03 SIGNS GENERALLY.**

(A) *Signs are not to constitute traffic hazards.*

(1) No sign shall encroach into a public right-of-way, except that a projecting sign attached to a building facade may project a maximum of six feet away from the building facade and the lowest part of the sign is at least eight feet above the sidewalk surface.

(2) No sign or other advertising structure, as regulated by this chapter, shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, or at any location where, by reason of the intensity, position, shape, or color, it may interfere with, obstruct the view, or be confused with any traffic sign, signal or device.

(3) No sign, as regulated by this chapter, shall be erected which makes use of the words "Stop," "Look," "Danger," or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic.

(B) *Measurement of sign area.*

(1) Areas refer to the total area of the sign which would customarily be used for presenting information or attracting attention, including any border.

(a) The area of regular geometric shapes, such as cabinet signs, shall be calculated using standard formulas. (See Chapter 98, Appendix A, Figure 2)

(b) Where channel letters or awning signs are used, the area shall be measured as the area of the smallest polygon which will completely enclose all figures, letters, designs and tubing which are part of such sign. (See Chapter 98, Appendix A, Figure 3)

(c) Each side of an awning or canopy shall be considered a separate face, except that the continuous signage on all sides of an

awning shall be considered a single sign.

(d) The area of a spherical, cylindrical and other three-dimensional sign shall be measured by calculating the area of an elevation drawing of the sign.

(e) When two or more separate items in a sign (such as a word and a logo) are separated horizontally or vertically by less than twice the width or height of the largest item, the items shall be considered a single sign, and the area shall be determined by measuring the area enclosed by a perimeter enclosing all of the items. (See Chapter 98, Appendix A, Figure 4)

(f) When two or more separate items (such as a word and a logo) are separated horizontally or vertically by more than twice the width or height of the largest item, the items shall be considered separate signs, and the area of each item shall be determined individually. (See Chapter 98, Appendix A, Figure 5)

(g) Double-faced (back-to-back) signs shall be regarded as a single structure if the distance between each sign face does not exceed two feet at any one point. Only one face of a double-faced sign shall be measured when determining maximum allowable area except for off-site billboards.

(h) Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.

(C) *Measurement of sign height.* The height of a sign shall be measured as the vertical distance from the uppermost point used in measuring the sign to the average grade immediately below and adjoining the sign.

(D) *Sign copy.*

(1) The copy (text of permanent signs) shall relate only to the name and/or nature of the business.

(2) Permanent signs that advertise continuous sales, special prices, etc. shall not be allowed.

(3) No sign shall be allowed which advertises activities that are illegal under federal, state, city or county laws.

(4) With the exception of misleading information and profanity, the city does not intend by any provision of this chapter to regulate the content of any sign.

(E) *Illumination of signs.*

(1) The artificial illumination of signs, either from an internal or external source, shall be designed to eliminate negative impacts on surrounding rights-of-way and properties.

(2) External light sources shall be directed and shielded to limit direct illumination of any object other than the sign.

(3) The light from an illuminated sign shall not be of an intensity or brightness that will create a negative impact on adjoining properties in direct line of sight to the sign.

(4) Signs shall not have blinking, flashing, or fluttering lights, or other illuminating devices that have a changing light intensity, brightness or color.

(5) Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.

(6) Reflective type bulbs and incandescent lamps that exceed 15 watts shall not be used on the exterior surface of signs so that the face of the bulb or lamp is exposed to a public right-of-way or adjacent property.

(F) Any sign that is placed directly under or within ten feet of any power line must be approved by the affected utility in addition to obtaining local approval.

(G) Signs required by law to be a specific size, composition, or location may be permitted by the Zoning Administrator.

(H) *Sign maintenance.*

(1) Signs and supporting hardware, including temporary signs and time/temperature signs, shall be structurally safe, clean, free of visible defects and functioning properly at all times.

(2) Repairs to signs shall be equal to or better in quality of materials and design than the original sign.

(I) Painted wall signs shall be permitted in addition to signs made of brick, metal, or wood. All painted wall signs shall conform to all other requirements of the sign code for wall signs, including, but not limited to size location, illumination, lettering, style, and color.

(J) *Permit fees.* Every applicant, before being granted a permit hereunder said permit, shall pay to the city a fee as set by ordinance.

(K) The zoning administrator has the authority to issue a sign permit so long as the said sign complies with the provisions outlined in this chapter.

(L) The Board of Zoning Appeals shall have the right to grant a variance in the terms of this chapter with regard to size, location, or placement of any sign in any district.

(M) Changeable copy by non-electronic means may be utilized on any permitted sign commonly known as reader or message board.

(Ord. 07-2604, passed 1-7-08; Am. Ord. 11-2670, passed 5-2-11) Penalty, see § 98.99

#### **§ 98.04 PROHIBITED SIGNS.**

Except as otherwise specifically provided in the city code, and by variance procedure, the following provisions apply in all zones for signs.

(A) No sign shall be permitted which may obstruct visibility for the purpose of public safety in any direction at all intersections of streets, alleys, sidewalks, and/or driveways.

(B) No sign shall be allowed which advertises activities that are illegal under federal, state, city or county laws.

(C) No signs shall be painted upon retaining walls, rocks, natural features or vegetation.

(D) Off-site directional signs identifying the way to a private event or establishment.

(E) Signs which advertise goods, product, services or facilities or direct persons to a different location from where the sign is installed. Off-premise signs require a variance from the Board of Zoning Appeals. This does not apply to billboards as defined herein.

(F) Signs not permanently attached to the ground, building, or structures are prohibited, except for temporary signs.

(G) Pole signs are not allowed in any district. This does not apply to legally placed billboards.

(H) Signs generally are prohibited in the public right-of-way or any easement of record.

(I) Attention attracting devices are prohibited. Flashing, rotating, or blinking signs are not permitted.

(J) Banners and temporary signs are not permitted as primary signs.

(K) No sign shall be mounted on the roof of any structure. If a roof is considered a part of the structure, such as a mansard style roof, signs will be reviewed on an individual basis by the Planning Commission Staff for determination of compliance with the intent of this chapter.

(L) No wall sign shall exceed the height of the wall or facade on which they are mounted.

(M) No sign may block or be placed in front of any door, window, fire escape, or opening required for ventilation in any structure.

(N) All signs, including temporary signs, shall not be permitted on any public utility pole, fence post, fence, light pole, tree, or any other public owned structures such as a street or stop sign.

(O) With the exception of misleading information and profanity, the city does not intend by any provision of this chapter to regulate the content of any sign.

(P) Signs which advertise an activity, business, project, or service no longer conducted on the premises upon which the sign is located; otherwise known as an abandoned sign. When a business or tenant vacates a particular site, then the sign shall be removed if the sign is not utilized within 180 days. That includes the structure support of the sign such as the pole and framework which the sign is placed.

(Q) Motor vehicles, trailers and similar vehicles whose sole purpose is for advertising shall not be permitted in any district.

(R) If any provisions of this chapter conflict with any other adopted city code regulating signs, the more restrictive shall govern.

(S) No sign or other advertising device shall use flashing, animation or video effects except as may be allowed as a frame effect under § 98.16(D)(3).

(Ord. 07-2604, passed 1-7-08; Am. Ord. 11-2670, passed 5-23-11) Penalty, see § 98.99

## **§ 98.05 SIGNS NOT REQUIRING PERMITS.**

A permit will not be required for the following listed signs. These exemptions, however, shall apply only to the requirement of the permit and shall not be construed as relieving the owner of the sign from the responsibility for its erection, maintenance and appearance.

### *(A) Real estate signs.*

(1) Agricultural, commercial and industrial acreage that is for sale, for rent, or future tenant identification sign is permitted per street frontage.

(a) The sign must be located on the premises and it must be removed upon completion of the project, sale or letting of the property within ten days.

(b) The sign shall have a maximum size of 32 square feet.

(c) The sign shall not be placed in an area which may constitute a safety hazard or visibility obstruction.

(d) The sign shall not exceed the maximum height of eight feet.

(2) Residential structure for sale or for rent signs shall have a maximum size of six square feet for both sides.

*(B) Developing subdivision directional signs: signs that direct people off-site to the project that is currently under construction for sales.*

(1) Owner or persons wanting to place temporary directional signage must meet with the Planning Commission staff prior to placing said signage.

(2) Signs shall only be placed from Friday through Sunday.

(3) Shall have the maximum size of six square feet on each side.

(4) Shall not be taller than 2-1/2 feet.

(5) Shall have property owners' permission.

(6) Shall only have two directional signs at the each intersection. The Planning Commission staff shall regulate the number of intersections where signage is to be placed.

(7) If signs are in place longer then the time framed allowed, the Plan Commission staff has the authority to remove the signs.

### *(C) Political signs.*

(1) Shall have a maximum size of 32 square feet.

(2) Shall not be placed in an area which may constitute a safety hazard or visibility obstruction.

(3) Shall not apply to legally established billboards off-premise.

(4) The sign shall not exceed the maximum height of eight feet.

*(D) Existing signs that are only having alterations such as change of copy, sign face, color, or supporting structure.*

(1) The dimensions of the sign shall remain the same as the previous sign.

(2) Illumination of signs can be changed as long as it meets the requirements of the sign standards of § 98.06

(3) This provision applies only to conforming signs and legal non-conforming signs on the property.

*(E) Historic place signs.* Historic place signs shall not exceed two square feet and shall be mounted on the building's facade.

(F) *Window signs (example: credit card signs, business hours sign, sale sign, and the like).*

(1) Window signage may be placed applied directly to the window. It shall cover no more than 20% of the window area.

(2) Window signage may be a detached panel that is hung inside the window. Panels shall be made of wood, metal or composite resin materials.

(G) *Under canopy signs.*

(1) The sign shall have a maximum size of six square feet.

(2) This sign may be non-illuminated, semi-illuminated or illuminated.

(3) It shall not project out past the canopy.

(4) It shall have a minimum distance of eight feet from the ground to the bottom of the sign.

(5) It shall be placed only on a ground floor facade.

(H) *Street and address related numbers.*

(I) *Menu type signs.*

(J) *Subdivision development amenity signs.*

(1) Shall have a maximum size of six square feet per face.

(2) Shall be located within the development.

(3) Shall not be placed in an area which may constitute a safety hazard or visibility obstruction.

(K) *Temporary residential garage sale signs.*

(1) Shall have a maximum size of six square feet.

(2) Shall be permitted one per residential premises.

(3) To be located only on the premises having the sale unless another property owner grants permission to use their property to place a sign.

(4) Sign shall be placed on the property for a period not to exceed three consecutive days.

(5) Signs shall not be placed on any public utility pole, fence post, fence, light pole, or tree. (See § 98.04(L)).

(6) Sign shall not be placed on any publicly owned property.

(L) *Directional signs.*

(1) Directional signs may be placed within the development subject to approval of the Zoning Administrator.

(2) Directional signs are allowed only in BH, BN, BP, BG, IL and IG districts.

(3) A total of three directional signs may be placed within a development.

(4) These signs shall be non-illuminated.

(5) They shall have a maximum size of six square feet.

(6) They shall have a maximum height of four feet.

(7) They shall be set back a minimum of five feet from the existing right-of-way.

(8) Directional signs shall not contain advertisement material or advertise any commercial activity.

(9) Any size and height change to a directional sign shall need a variance.

(M) *Parking signs.*

(1) Parking signs shall have a maximum size of six square feet per entrance and shall not exceed two signs at each access.

(2) Signs shall follow the same standards listed in division (L) of this section.

(N) *Off-site directional signs identifying a publicly owned facility.* Signs shall follow the same standards listed in division (L) of this section.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

## **§ 98.06 PERMITTED PERMANENT SIGNS.**

(A) *Zoning districts: Single-family Residential District (R-1), Agriculture (AG) and Agriculture/Rural Residential (AIR).*

(1) *Home occupation.*

(a) Type: wall sign mounted directly on the residence.

(b) Number: one.

(c) Maximum size: two square feet.

(d) Illumination: non-illuminated.

(e) When residence is not visible from the street right-of-way, one detached sign may be substituted for the above residence attached sign. Said detached sign shall not exceed four square feet in area, nor four feet in height and must be set back ten feet from the existing or proposed right-of-way and property lines.

(2) *Agricultural products.*

(a) Type: detached sign, ground.

(b) Number: one.

(c) Information: pertaining to the identification of the premises or the sale of products raised thereon.

(d) Maximum size: 32 square feet.

(e) Maximum height: four feet.

(f) Illumination: non-illuminated.

(g) Setback: ten feet from existing or proposed right-of-way and property lines.

(3) *Subdivisions/development.*

(a) Type: ground monument signs on premise.

(b) Number: two.

(c) Maximum size: 90 square feet per sign.

(d) Maximum height: six feet.

(e) Illumination: non-illuminated or indirectly illuminated.

(f) Setback: ten feet from existing or proposed right-of-way and property lines. Signs that are requesting to be closer than ten feet or in the right-of-way need permission from the Shelbyville Board of Works.

(g) Landscape: Landscaping shall be provided in the form of flowers, shrubs or other plant material for the area immediately adjacent to the sign.

(h) Sign base shall be constructed of brick, block or similar materials associated with the development as determined by the Plan Commission Staff.

(4) *Churches and other institutional uses.*

(a) Type: detached monument signs.

1. Number: one.
2. Maximum size: 125 square feet.
3. Maximum height: six feet.
4. Non-illuminated, semi- illuminated or indirectly illuminated.
5. Information: name(s), activities and services therein.
6. Setback: ten feet from existing or proposed right-of-way and property lines.
7. Landscape: Landscaping shall be provided in the form of flowers, shrubs or other plant material for the area immediately adjacent to the sign.
8. Sign base shall be constructed of the same materials as the primary structure to which the sign is associated.

(b) Type: wall sign.

1. Number: one.
2. Maximum size: 10% of the facade on which it is mounted.

(5) *Other uses as specified as special exception sections of each residential district.*

(a) Signage following under these provisions shall be reviewed by the Board of Zoning Appeals and shall conform to the following criteria:

(b) Type: wall sign.

1. Number: one per facade.
2. Maximum size: 10% of the facade it is mounted on.
3. Maximum height: not to exceed height of the wall.

(c) Type: detached monument sign.

1. Number: one.
2. Maximum size: 32 square feet.
3. Maximum height: four feet.
4. Semi-illuminated or non-illuminated; sign shall not be illuminated at night unless there is a conflict with the times of operation. This is to eliminate light that would affect the residential properties.
5. Setback: ten feet from existing or proposed right-of-way and property lines.
6. The area surrounding the base of the sign shall be maintained.
7. Sign base shall be constructed of the same materials as the primary structure to which the sign is associated.

(d) Directional signs: as needed to safely direct customers, patients, residents, and the like, once on the property.

(B) *Two-Family Residence District (R-2) and Multiple-Family Residence District (RM).*

(1) Type: ground monument signs on premise.

- (a) Number: one.
- (b) Maximum size: 90 square feet per sign.
- (c) Maximum height: six feet.
- (d) Illumination: non-illuminated or indirectly illuminated.
- (e) Setback: ten feet from existing or proposed right-of-way and property lines. Signs that are requesting to be closer than ten



feet or in the right-of-way need permission from the Shelbyville Board of Works.

(f) Landscape: Landscaping shall be provided in the form of flowers, shrubs or other plant material for the area immediately adjacent to the sign.

(g) Sign base shall be constructed of brick, block or similar materials associated with the development as determined by the Plan Commission Staff.

(2) Signs as permitted in divisions (A)(4) and (A)(5) of this section.

(3) A multi-family development shall be permitted one non-illuminated wall sign per building not to exceed 12 square feet in area identifying the building.

(C) *Highway Business District (BH), Neighborhood Business District (BN), Professional Business District (BP), and General Business (BG).*

(1) Type: wall sign - single tenant building.

(a) Number: one per street frontage.

(b) Maximum size: 25% of the facade on which it is place not to exceed 125 square feet.

(c) Illumination: non-illuminated, semi-illuminated, or illuminated.

(2) Type: accessory wall signs - single tenant building.

(a) Number: two.

(b) Information: subordinate to a primary sign.

(c) Maximum size: each shall not exceed 75 square feet. The gross square footage of all wall signs shall not exceed 25% of the facade on which they are place and not to exceed a total of 275 square feet.

(d) Illumination: non-illuminated, semi-illuminated, or illuminated.

(3) Type: wall sign - buildings with more than one tenant.

(a) Number: one.

(b) Maximum size: 25% of the facade that the tenant occupies the building; not to exceed 125 square feet.

(c) Illumination: non-illuminated, semi-illuminated, or illuminated.

(d) Each tenant is permitted one wall sign and no accessory signs. Tenants are allowed one additional sign on the rear of the building if the rear of the building has frontage on a public way or interior drive. The additional sign shall comply with the same size and square footage requirements as set forth in division (C)(5)(c) of this section.

(4) Type: awning sign.

(a) Number: in lieu of a wall sign, one awning sign shall be permitted per street frontage.

(b) Maximum size: 25% of the facade on which it is place and not to exceed 125 square feet.

(c) Illumination: non-illuminated, semi-illuminated, or illuminated.

(d) Clearance: minimum distance of eight feet from the ground to the bottom of the sign and if it shall project over public walk, a maximum of six feet from the building facade.

(e) It shall be placed only on a ground floor facade.

(5) Type: projection sign.

(a) The Zoning Administrator determines that a projecting sign is needed if the wall sign would not be easily seen from the street and there is sufficient area on the site to accommodate such a sign.

(b) Number: in lieu of a wall sign and awning sign, one projecting sign per street frontage.

(c) Maximum size: 20 square feet.

(d) Clearance: minimum distance of eight feet from the ground to the bottom of the sign and if it shall project over public walk, a maximum of six feet from the building facade.

(e) Illumination: non-illuminated, semi-illuminated, or illuminated.

(f) It shall be placed only on a ground floor facade.

(6) Type: monument sign (permitted for single tenant buildings).

(a) Number: one.

(b) Maximum size: 64 square feet.

(c) Maximum height: eight feet.

(d) Setback: ten feet from the existing or proposed right-of-way and property line.

(e) Illumination: non-illuminated, semi-illuminated, or illuminated

(f) Landscaping: Landscaping shall be provided in the form of flowers, shrubs or other plant material for the area immediately adjacent to the sign.

(g) Sign base shall be constructed of the same materials as the primary structure to which the sign is associated.

(7) A shopping center or office park, designed as one entity and consisting of one or more buildings, shall be permitted one detached sign identifying the center. If the center or office park elects not to utilize said sign, individual monument signs for each tenant are prohibited.

(a) Type: one detached sign monument per street frontage.

(b) Maximum size: 125 square feet.

(c) Maximum height: ten feet.

(d) Illumination: non-illuminated, semi-illuminated, or illuminated.

(e) Setback: ten feet from the existing or proposed right-of-way and property line. If any boundaries are next to a residential district, the distance shall be equal to the height of the sign

(f) Landscaping: Landscaping shall be provided in the form of flowers, shrubs or other plant material for the area immediately adjacent to the sign.

(g) Sign base shall be constructed of the same materials as the primary structure to which the sign is associated.

(8) New commercial subdivisions shall provide a master sign plan of the overall area for review during final plat approval.

(9) Tall signs are permitted in the Interstate Corridor.

(a) Tall signs are only allowed by special exceptions through the Board of Zoning appeals.

(b) **INTERSTATE CORRIDOR** is defined as 1,000 feet (right-of-way) from I-74.

(c) Type: tall pole sign intended to be used as interstate signage and visible from the interstate.

(d) Maximum size: 200 square feet.

(e) Maximum height: 100 feet.

(f) Illumination: non-illuminated, semi-illuminated, or illuminated.

(g) Setback: ten feet from the existing or proposed right-of-way and property line. If any boundaries are next to a residential district, the distance shall be equal to the height of the sign.

(h) Must be an on-premise sign.

(i) A shopping center or office park shall be permitted one tall sign for the entire property.

(10) For each business or commercial establishment that is located in either a BN, Neighborhood Business or a BG, Business General zoning district and it is predominately surrounded by any residential use, said business or commercial establishment shall have a sign that is not illuminated at night unless there is a conflict with the times of operation. This is to eliminate light that would affect the residential properties.

(D) *Central Business District (BC).*

(1) Type: wall sign.

- (a) Number: one per street frontage.
- (b) Maximum size: 25% of the facade on which it is placed not to exceed 125 square feet.
- (c) Illumination: non-illuminated or indirectly illuminated. It shall not be internally lit or illuminated.
- (d) The sign shall be placed so that it does not cover any significant feature or overwhelm the building.
- (e) The sign shall be limited to fit within existing features, such as the lintel band or within other natural framing features.
- (f) Materials shall complement the architectural style and features of the building. Wood, metal and composite resin replications are generally acceptable.
- (g) All cabinet signs are prohibited. In addition, upon the cessation of business, any existing cabinet signs that are located upon the facade of the business that is ceasing operation must be removed from the premises. This does not prohibit the use of individual **CHANNEL LETTERS** as defined previously.

(h) Channel letters are allowed. These channel letters can be directly illuminated. Channel letters can be placed on a raceway as long as the color of the raceway structure matches the facade which the sign is placed.

(2) Type: awning sign.

- (a) Number: in lieu of a wall sign, one awning sign shall be permitted per street frontage.
- (b) Maximum size: 25% of the facade on which it is placed not to exceed 125 square feet.
- (c) Maximum height: it shall be placed only on a ground floor facade.
- (d) Illumination: non-illuminated or indirectly illuminated.

(e) Clearance: minimum distance of eight feet from the ground to the bottom of the sign, and if it shall project over public walk, a maximum of six feet from the building facade.

(3) Type: projection sign.

(a) The Zoning Administrator determines that a projecting sign is needed if the wall sign would not be easily seen from the street and there is sufficient area on the site to accommodate such a sign.

- (b) Number: in lieu of a wall sign and awning sign, one projecting sign per street frontage.
- (c) Maximum size: 20 square feet.

(d) Clearance: minimum distance of eight feet from the ground to the bottom of the sign and if it shall project over public walk, a maximum of six feet from the building facade.

- (e) Illumination: non-illuminated or indirectly illuminated.
- (f) It shall be placed only on a ground floor facade.

(g) Materials shall complement the architectural style and features of the building. Wood, metal and composite resin replications are generally acceptable.

(h) Plastic and vinyl signage are not permitted.

(4) Exterior neon signs and lighted marquis signs are generally not permitted, except in historically appropriate cases.

(E) *Light Industry District (IL) and General Industry District (IG) signs.* Shall be permitted as per division (C) with the

following exception:

(1) Type: wall sign - single and multi-tenant buildings.

(a) Number: one per street frontage.

(b) Maximum size: 25% of the facade on which it is placed not to exceed 200 square feet. For multi-tenant buildings, the facade is considered the facade which the tenant occupies.

(c) Illumination: non-illuminated, semi-illuminated, or illuminated.

(2) Identification signs, such as employee entrance, shall be exempt for sign allowance.

(F) *Planned unit development.* Sign standards for this zoning district shall be governed by the Planned Unit Development Ordinance.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

### **§ 98.07 OFF-PREMISE ADVERTISING BILLBOARDS.**

(A) Off-premise signs shall be allowed in the Interstate Corridor areas with zoning classifications of BH, IL, and IG.

(B) The maximum size per face of an off-premise sign shall be 500 square feet, excluding structural supports and trim.

(C) The faces of the sign constructed in the form of a "V" shall not exceed 45 degrees.

(D) The maximum height of an off-site sign shall be limited to the allowable maximum height of the principle structure for the zoning district in which the sign is located.

(E) The sign shall have a minimum clear space of ten feet.

(F) Off-premise signs shall be separated by a distance of 1,000 feet on the same side of the road/street and shall have a 500 foot circumference from any other off-premise sign on the opposite side of the street.

(G) The setback from the street right-of-way shall be equal to the height of the off-premise sign.

(H) The setback from all other property lines shall be a minimum of ten feet.

(I) When a sign is adjacent to a residential area, the sign shall be set back equal to the height of the sign.

(J) The structural support of the off-premise sign shall be constructed on a steel pole(s).

(K) Off-premise signs may be illuminated, subject to the following conditions:

(1) Signs which contain, include or are illuminated by any flashing, intermittent or moving light(s) are prohibited.

(2) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of a street or roadway and which are of such intensity or brilliance as to cause glare and to impair the vision of the driver of any motor vehicle are prohibited.

(3) No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

(L) All off-premise signs shall be maintained in a state of good repair.

(M) Before erecting any off-premise sign, a sign permit, location improvement permit, and a building permit must be obtained through the proper offices.

(N) Whenever it shall appear that any sign has been constructed or is being maintained in violation of this section, such display shall be made to conform with all regulations herein or shall be removed at the expense of the owner within 30 days after written notification by the Zoning Administrator or Building Inspector.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

### **§ 98.08 TEMPORARY SIGNS REQUIRING A PERMIT.**

Temporary signs are only allowed in zoning districts RM, BN, BC, BP, BG, BH, IL, and IG as defined in the zoning code, unless exempt in § 98.05.

(A) A property is permitted one portable sign or one banner sign per street frontage which shall be located on premises.

(1) Type: portable signs.

(a) Number: one per street frontage.

(b) Maximum size: 32 square feet per side.

(c) Setback: ten feet from existing or proposed right-of-way.

(d) These signs shall be placed on private property.

(e) No sign shall be placed between the curb and the sidewalk, nor shall it encroach the street right-of-way.

(f) No sign shall restrict visibility, limit pedestrian movement on the sidewalk or restrict access from the street to the sidewalk.

(g) Time limit: Each property owner shall be afforded the opportunity to place, or cause to be placed by their agent, one temporary sign no more than six times during a calendar year. This type of temporary sign may remain for a maximum of 30 days during any one placement.

(h) A permit must be obtained from the City Plan Commission office and all applicable fees paid prior to displaying this sign.

(2) Type: banner signs.

(a) Signs as permitted in division (G)(2)(a), (b), (c), (d), (e), (f), and (g).

(b) If this sign is to be placed on a building, it shall be placed flat against the facade.

(c) They shall be adequately secured to the building or supporting structure.

(B) *Yard card signs.* A **YARD CARD** is defined by the city as a free standing temporary sign that is rented and placed by a yard card company. If sign is placed that resembles a yard card but its not placed by a yard card company it must follow the standards set forth division (A) of this section.

(1) Permit process: A permit must be obtained from the Planning Department prior to the beginning of the erection of the sign. The permit must state what the yard card is for, the location, and the time frame. The permit must be handed delivered, mailed or faxed to the Planning Department for approval prior to placement of the sign. No fees shall be charged. The permit is only required for the purpose of monitoring the usage of such displays and enforcing regulation that follows in this section.

(2) On-premise yard cards.

(a) On-premise yard cards are allowed in residential districts if the sign is for special events such as birthdays, anniversaries, etc. and/or if the non-for-profit event is located on a property in the residential district. Special events (birthdays, anniversaries, etc) are exempt from the permit process.

(b) This sign shall be located on the property for any public or private event at that location. Any sponsor(s) for said events shall not also be allowed to place a sign at their locations or any other locations they may own.

(c) One sign of this type is allowed per street frontage.

(d) These signs shall be placed on private property.

(e) It shall not exceed 32 square feet in size per side nor eight feet in height.

(f) No sign shall be placed between the curb and the sidewalk, nor shall it encroach the street right-of-way.

(g) No sign shall restrict visibility, limit pedestrian movement on the sidewalk or restrict access from the street to the sidewalk.

(h) This sign shall be set back ten feet from the existing or proposed right-of-way.

(i) Each property owner shall be afforded the opportunity to place, or cause to be placed by their agent, one temporary sign on no more than 12 times during a calendar year. A sign may remain for a maximum of 14 days during any one placement.

(j) In the downtown area:

1. Each downtown merchant shall be afforded the opportunity to place, or cause to be placed by their agent, one temporary sign in the designated downtown area on no more than 24 separate occasions during a calendar year. A sign may remain for a maximum of three days during any one placement.
2. Temporary signs may be placed only in those locations designated by the city so as not to harm the public safety or welfare.
3. No sign shall restrict visibility, pedestrian movement on the sidewalk or access from the street to the sidewalk. A sign can be placed on a public sidewalk as long as a 36-inch wide clearance remains clear for pedestrian movement.
4. No temporary sign shall exceed 32 square feet in size.
5. The merchant placing the temporary sign and/or their agent shall be solely responsible for the care and maintenance of all temporary signs.

(3) Off-premise yard cards.

- (a) A yard card sign may not be used as a means of off-site advertising for business activities in a manner consistent with an off-premise sign. Yard card signs are only allowed to be off-premise if it is for a non-profit service, educational or charitable organization.
- (b) One off-premise sign is allowed per property street frontage.
- (c) No more than four off-premise signs shall be allowed for any one event within the city.
- (d) These signs shall be placed on private property.
- (e) It shall not exceed 32 square feet in size per side or eight feet in height.
- (f) No sign shall be placed between the curb and the sidewalk, nor shall it encroach the street right-of-way.
- (g) No sign shall restrict visibility, limit pedestrian movement on the sidewalk or restrict access from the street to the sidewalk.
- (h) This sign shall be set back ten feet from the existing or proposed right-of-way.
- (i) Each property owner shall be afforded the opportunity to place, or cause to be placed by his or her agent, one temporary sign no more than 12 times during a calendar year. A sign may remain for a maximum of fourteen days during any one placement.
- (j) Must obtain permission of the property owner before the placement of any sign off-premise.
- (k) Off-premise yard cards are not allowed in the R-1, R-2, PK, and BC zoning districts.

(C) All combinations of temporary signs shall not exceed total time frame of 180 days of calendar year at any one property.

(D) *Violation.* If any yard card company or property owner violates this section of sign code, they will meet the same penalties as listed in § 98.99. Violations will be handled by the Board of Public Works and Safety.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

## **§ 98.09 TEMPORARY SIGNS NOT REQUIRING A PERMIT.**

*Future tenant identification sign.* The sign must be replaced by a permanent sign after the tenant opens for business.

- (A) Number: one per street frontage.
- (B) Type: banner or portable sign.
- (C) Maximum size: 32 square feet per side.
- (D) Setback: ten feet from existing or proposed right-of-way.
- (E) These signs shall be placed on private property.

(F) No sign shall be placed between the curb and the sidewalk, nor shall it encroach the street right-of-way.

(G) No sign shall restrict visibility, limit pedestrian movement on the sidewalk or restrict access from the street to the sidewalk.

(H) Time limit: Each property owner shall be afforded the opportunity to place, or cause to be placed by his or her agent, one temporary sign that may remain for a maximum of 30 days during any one placement.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

## **§ 98.10 CONFORMANCE.**

(A) All signs lawfully existing on the effective date of this chapter, or amendment thereto, that do not conform to all the standards and regulations of this chapter, is considered a legal nonconforming sign.

(B) A legal nonconforming sign shall immediately lose its legal nonconforming designation if:

(1) The sign is not kept in good repair and in a safe condition and/or the state of disrepair or unsafe condition continues for six months;

(2) The sign is relocated;

(3) The complete sign and sign structure are replaced;

(4) Adding lights, or altering light intensity;

(5) The sign information is increased or the size of the sign is increased;

(6) The height of the sign is changed;

(7) The sign permit or variance under which the sign was allowed or permitted expires; or

(8) On the happening of any one of the above conditions, the sign shall be immediately brought into conformance with this chapter with a new sign permit secured therefore, or it shall be removed.

(C) No nonconforming sign may be replaced or repaired if said sign is damaged more than 50% of its value unless it is brought into compliance with this chapter.

(D) A nonconforming sign shall be removed or brought into compliance with this chapter by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the Plan Commission shall follow the abandoned sign requirements in § 98.99.

(E) All signs shall be located on private property except if by law a sign is to be in a specific location.

(F) *Right-of-way acquisition.*

(1) Existing conforming signs: In the case of a legally established sign that would become a legal nonconformity due to its setback from the new right-of-way line or position within a redefined sight visibility triangle by virtue of right-of-way acquisition by any government entity, the sign shall be required to be relocated to a position that would bring it into compliance with the sign regulations of this chapter. The cost of such relocation should be factored into the price paid for the additional right-of-way during the condemnation proceedings, and the property owner or lessee shall be responsible for accomplishing the relocation within 90 days of receiving payment for the right-of-way.

(2) Existing legal nonconforming signs: In the case of a legal nonconforming sign for which the nonconformity is increased due to its setback from the new right-of-way line or position within a redefined sight visibility triangle by virtue of right-of-way acquisition by any government entity, the sign shall be required to be relocated to a position that would bring it into compliance with the sign regulations of this chapter. The cost of such relocation should be factored into the price paid for the additional right-of-way during the condemnation proceedings, and the property owner or lessee shall be responsible for accomplishing the relocation within 90 days of receiving payment for the right-of-way.

(3) Existing illegal nonconforming signs: In the case of illegal nonconforming signs that may be discovered during right-of-way acquisition by any government entity, the sign shall be removed at the cost of the property owner or lessee.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

**§ 98.11 PERMIT REQUIREMENTS.**

(A) Every applicant, before being granted a sign permit, shall provide a sketch of the proposed sign.

(1) This drawing shall indicate the sign copy and the design of the sign.

(2) It shall provide the dimensions of the sign.

(3) It shall indicate where the sign will be placed on the property.

(a) If it is a wall sign, the placement of the sign on the wall shall be indicated as well as the dimensions of the wall.

(b) If it is a pole sign, the height of the sign and the distance of the sign from the existing or proposed right-of-way shall be shown (a site plan shall be provided).

(c) If it is a temporary sign, the distance from the right-of-way shall be indicated.

(B) The applicant shall provide the Office of the Plan Commission with a completed sign permit application.

(C) A sign shall be placed within six months (180 days) once a sign permit is issued for that sign(s). The permit shall be invalid if the sign is not in placed within that time and persons shall apply for a new sign permit.

(D) Every applicant before being granted a sign permit, shall pay a fee per sign to the city according to the following schedule:

<i>Permanent Signs</i>	
Residential	\$ 10
Commercial/industrial	\$ 25
Institutional	\$ 10
Billboard	\$100
Right-of-Way Acquisition	Exempt from Fees
<i>Temporary Signs</i>	
Reader Board Signs	\$ 10 per month
Banner Signs	\$ 10 per month

(E) The Zoning Administrator shall have the authority to permit, prohibit or send before the Board of Zoning Appeals all sign permit requests.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

**§ 98.12 ENGINEERING DESIGN STANDARDS.**

All signs shall be built in accordance with the Uniform Sign Code.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

**§ 98.13 ELECTRICAL SIGNS.**

(A) Any electrical work done in connection with the installation of any sign must be done by a licensed electrical contractor and an electrical permit obtained prior to any electrical work being performed.



(B) All electrical signs shall have a disconnect within sight of the sign per the National Electric Code.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

#### **§ 98.14 SIGN REMOVAL OR REPLACEMENT.**

(A) When a sign is removed or replaced, all brackets, poles, and other structural elements that supported the sign shall be removed.

(B) Affected building surfaces shall be restored to match the adjacent portion of the structure.

(C) Such persons or companies requesting issuance of a sign permit shall be required to assume sole responsibility for the restoration of the building facade at the time the existing sign is removed.

(D) Removal of sign shall be governed by the Board of Public Works and Safety as specified below.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

#### **§ 98.15 BOARD OF ZONING APPEALS PROCESS.**

The Board of Zoning Appeals shall have the following authority and responsibilities under this chapter:

(A) The Board of Zoning Appeals may grant a variance from the development standards of this chapter in accordance with this chapter only if the "practical difficulties" are special physical conditions that are due to the exceptional narrowness, shallowness, shape, topography or other unique characteristic of the property that impairs the visibility of the sign from the street or highway or makes compliance with the development standards of this chapter infeasible.

(1) The existence of nonconforming signs in the general area shall not be justification for a variance, because the intent of this chapter is to bring properties into compliance with the provisions of this chapter.

(2) In order to qualify for a variance, the petitioner shall provide the Board with evidence to indicate the minimum relief necessary to preserve the spirit and intent of this chapter. This evidence shall address the peculiarities of the property and shall not be related to the type of business or to the owner.

(B) Whenever the Board grants a conditional use or use variance application, the Board shall determine any limitation on signs necessary to preserve the spirit and intent of this chapter.

(Ord. 07-2604, passed 1-7-08) Penalty, see § 98.99

#### **§ 98.16 ELECTRONIC MESSAGE CENTER.**

(A) *Zoning districts.* Electronic message center, EMC, shall only be allowed in the following zoning districts: BP, Business Professional, BG, Business General, and BH, Business Highway. Non-conforming uses shall obtain approval from the Board of Zoning Appeals (BZA) as they are not automatically granted an EMC due to current building use.

(B) *Quantity.* Only one EMC shall be permitted per property, the EMC is only allowed in any signs allowed in § 98.06(C).

(C) *Size.*

(1) Single tenant signs EMC signs shall not exceed 32 square feet in size.

(2) Multi-tenant signs EMCs signs shall not exceed 64 square feet in size, (or 50% of the total sign area permitted on this site in article, whichever is the smallest size permitted).

(D) *Message copy.*

(1) All electronic message copy shall be a static image.

(2) The message copy shall not change more than once every 12 seconds.

(3) Frame effects (transitional elements) allowed: fade in, fade out, dissolve, entire frame change. Message copy cannot scroll.

(4) As mentioned in § 98.04, all electronic message copy cannot advertise for goods, products, services, or facilities that are not at the location where the sign is installed.

(E) *Illumination.*

(1) EMC illumination measurement criteria: the luminance of an EMC shall be measured with a luminance meter set to measure foot-candles accurate to at least two decimals. Luminance shall be measured with the EMC off, and again with the EMC displaying a white image for a full color capable EMC, or a solid message for a single color EMC. All measurements shall be taken perpendicular to the face of the EMC at the distance determined by the total square footage of the EMC as set forth in the accompanying Sign Area Versus Measurement Distance Table.

(2) EMC illumination limits: the difference between the off and solid-message measurements using the EMC measurement criteria shall not exceed 0.3 foot-candles.

(3) Dimming capabilities: all permitted EMCs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 foot-candle measurements.

(4) Inspection: all EMCs will be inspected for illumination standards after installation of the sign. Inspection should be done at least one hour after sunset. The Plan Commission shall have the right to inspection illumination thereafter to ensure compliance.

(F) The default setting for all EMCs will be a black screen in the event of a malfunction.

(G) The owner of an EMC shall provide current contact information to the Office of the Plan Commission so that contact can be made as needed in the event of a malfunctioning sign.

(H) Sign area versus measurement distance.

<b><i>Area of Sign</i></b>	<b><i>Measurement Distance (ft.)</i></b>
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77

<b><i>Area of Sign</i></b>	<b><i>Measurement Distance (ft.)</i></b>
65	81
70	84
75	87

(Ord. 11-2670, passed 5-2-11) Penalty, see § 98.99

### § 98.99 PENALTY.

(A) Notwithstanding the authority given to the Board of Zoning Appeals above, this chapter shall be enforced by the Board of Works and Safety, and whatever city department(s), city official(s), or city employee(s) the Board wishes to designate or appoint.

(B) The Board shall approve a set of enforcement procedures that shall govern the enforcement of this chapter. The enforcement procedures shall be published and be made freely available to the public upon request.

(C) All sections of this chapter may be enforced through a proceeding before the Board of Works and Safety, and at the discretion of the City Attorney.

(D) Whoever violates any provision of this chapter for which another penalty is not specifically provided shall be punished as provided under § 10.99.

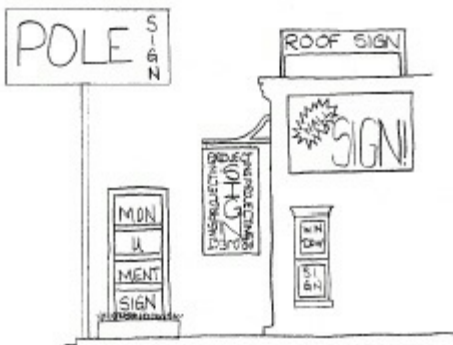
(E) Any person who violates any provision contained in this chapter shall be subject to a penalty for each and every such violation of this chapter, and each day a violation is permitted to continue may constitute a separate offense.

(Ord. 07-2604, passed 1-7-08)

## APPENDIX A: SIGN STANDARDS

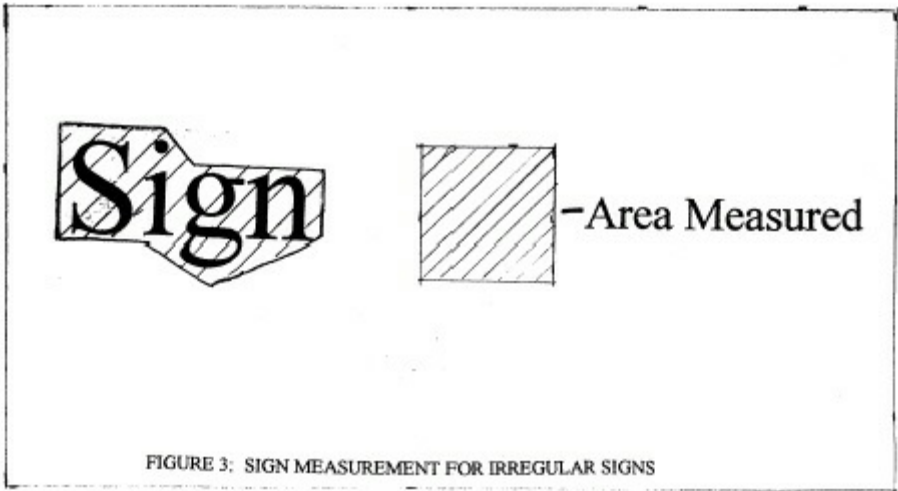
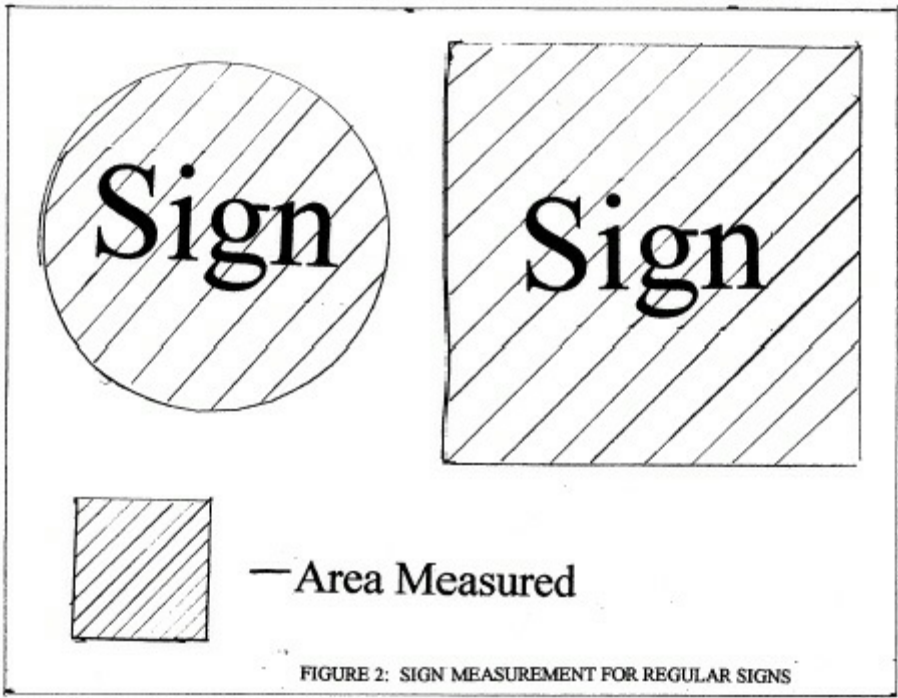
Figure

1. Signs
2. Sign measurement for regular signs
3. Sign measurement for irregular signs
4. Sign with multiple elements, one sign
5. Sign with multiple elements, two signs



**Figure 1: Signs**

(Ord. 07-2604, passed 1-7-08)

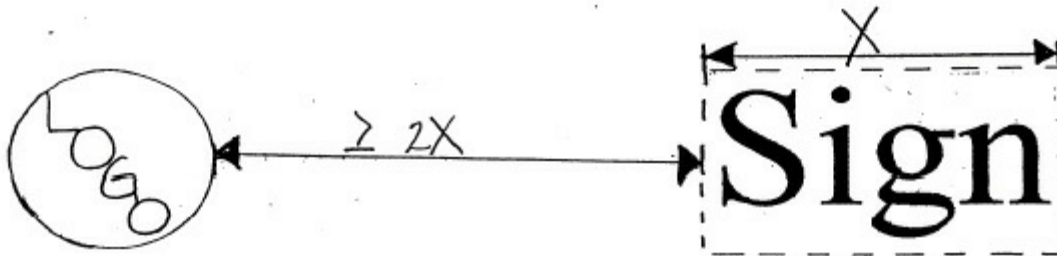


(Ord. 07-2604, passed 1-7-08)



Elements above are considered one sign.

Figure 4: Sign with multiple elements



Elements above are considered two signs.

Figure 5: Sign with multiple elements.

(Ord. 07-2604, passed 1-7-08)

## CHAPTER 99: NONSMOKING AREAS

Section

### *General Provisions*

- 99.01 Definitions
- 99.02 Smoking in public places
- 99.03 Smoking in places of employment

99.04 Exemptions

99.05 Posting of signs and removal of paraphernalia

99.06 Reasonable distance

99.07 Public education

### ***Enforcement and Penalties***

99.98 Enforcement

99.99 Penalties

Exhibit A Smoking violation complaint

Exhibit B Nonsmoking exemption form

## **GENERAL PROVISIONS**

### **§ 99.01 DEFINITIONS.**

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

**BAR(S).** Any business that:

- (1) Holds a beer, liquor and/or wine retailer's permit under the laws of Indiana;
- (2) Allows no customer to enter therein at any time who is under the age of 18;
- (3) Employs no person therein who is under the age of 18; and
- (4) Is not physically located within a business otherwise required to be smoke-free pursuant to this section.

**BUSINESS(ES).** All sole proprietorships, partnerships, joint ventures, corporations, and other business entities, either for-profit or not-for-profit, including, but not limited to, retail establishments where goods or services are provided to the public, and other entities where accounting, counseling, legal, medical, dental, engineering, architectural, or other professional services are delivered.

**EMPLOYEE(S).** All persons who are employed by an employer in consideration for direct or indirect monetary wages or profit, and all persons who volunteer their services.

**EMPLOYER(S).** All persons, businesses, companies, partnerships, associations, municipal corporations, trusts, and not-for-profit entities that employ the services of one or more employees.

**ENCLOSED AREA(S).** All spaces closed in by roofs, ceilings, or other overhead coverings of any material, as well as by walls or other side coverings of any material on at least two sides of same, with appropriate openings for ingress and egress.

**PLACE(S) OF EMPLOYMENT.** All enclosed areas under the control of public or private employers that employees normally frequent during the course of their employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, and vehicles.

**PRIVATE CLUB(S).** Any business that:

- (1) Is exempt from federal income taxation under 26 U.S.C. 501(c);
- (2) Is a "club" as that term is defined in I.C. 7.1-3-20-1, or a "fraternal club" as the term is defined by I.C. 7.1-3-20-7;
- (3) Holds a beer, liquor and/or wine retailer's permit under the laws of Indiana; and
- (4) Provides food or alcoholic beverages only to its bona fide members and their guests.

**PUBLIC PLACE(S).** All enclosed areas, whether owned publicly or privately, to which the public is invited or in which the public is

permitted.

**RESTAURANT(S).** Any business operating as an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which give or offer for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

**SELF-CONTAINED BAR AREA(S).** A designated room or other enclosed area within a restaurant otherwise regulated and where smoking is prohibited, if and only if:

- (1) Such an area is completely enclosed and separate from the remainder of the facility by solid floor to ceiling walls and doors and/or windows which must remain closed except for entry and exit of persons to and from the area, or where a window or door ventilates to the outside of the building;
- (2) The smoke generated within such a designated area does not enter any area or location where smoking is prohibited;
- (3) Alcoholic beverages are served for consumption therein;
- (4) No customer or member of the public who is under the age of 18 is allowed to enter therein at any time; and
- (5) No employee who is under the age of 18 is allowed to enter therein at any time.

**SERVICE LINE(S).** Any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

**SMOKING.** The carrying or holding of a lighted cigarette, cigar, pipe, or any other lighted smoking item or equipment containing tobacco or any other herbaceous material, or the inhalation of exhalation of smoke from the same, but does not include incense or the burning of incense.

**SPORTS ARENA(S).** All sports pavilions, stadiums, athletic fields, gymnasiums, health spas, swimming pools, roller or ice rinks, bowling alleys, and other similar places where members of the public assemble to engage in physical exercise or recreation, participate in athletic competition, or witness sports or other events.

**RETAIL TOBACCO STORE(S).** Any retail store:

- (1) That is utilized primarily for the sale of tobacco and tobacco-related products including, but not limited to, cigarettes, cigars, tobacco, pipes, cigarette paper, and lighters;
- (2) That is not licensed for the consumption of meals or alcoholic beverages on the premises or operated in conjunction with another business that is licensed for the on-premises consumption of meals or alcoholic beverages; and
- (3) In which the sale of tobacco and tobacco-related products accounts for not less than 66% of the gross sales of that business.

(Ord. 06-2564, passed 4-17-06)

## **§ 99.02 SMOKING IN PUBLIC PLACES.**

- (A) Except as provided in this chapter, smoking is prohibited in all public places within the city.
- (B) Public places include, but are not limited to, the following:
  - (1) Elevators;
  - (2) Restrooms, lobbies, reception areas, hallways, and any other common use areas;
  - (3) Buses, taxicabs, and any other means of public transit under the authority of the city, as well as all ticket, boarding, and waiting areas of public transit depots;
  - (4) Service lines;
  - (5) Retail stores;
  - (6) All areas available to and customarily used by the general public in all governmental offices and in all businesses as defined in § 99.01;

- (7) Restaurants;
- (8) Aquariums, galleries, libraries, and museums;
- (9) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital, or other similar performance;
- (10) Sports arenas and convention halls, including, but not limited to, bowling alleys;
- (11) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies or the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
- (12) All offices and institutions providing care for or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions, as well as all waiting rooms, hallways, private rooms, semi-private rooms, and wards within same.
- (13) Private and semi-private rooms in nursing homes and long-term care facilities;
- (14) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
- (15) Polling places;
- (16) Private functions in other public places, including, but not limited to, restaurants, hotels, and motels; and
- (17) Laundromats.

(Ord. 06-2564, passed 4-17-06) Penalty, see § 99.99

### **§ 99.03 SMOKING IN PLACES OF EMPLOYMENT.**

(A) Smoking is prohibited in all places of employment within the city. This smoking prohibition shall be communicated by employers on or before the effective date of this chapter, and to all prospective employees upon their application for employment.

(B) No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, or customer because that employee, applicant, or customer has exercised any right afforded by this chapter or reports or attempts to prosecute any violation of this chapter.

(Ord. 06-2564, passed 4-17-06) Penalty, see § 99.99

### **§ 99.04 EXEMPTIONS.**

(A) The following establishments, areas, and locations shall be exempt from the smoking prohibitions set forth above, provided that no smoke from smoking activities conducted therein or thereon enters any area or location in which smoking is otherwise prohibited by this chapter:

- (1) Private residences, except when used as licensed child care or adult day care facilities, or as health care facilities;
- (2) Private vehicles when not being used in the service of an employer;
- (3) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20% of rooms rented to guests in a hotel or motel may be so designated. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms;
- (4) Bars;
- (5) Self-contained bar areas; and
- (6) Private clubs.



(B) Any business claiming an exemption pursuant to this section shall provide to any city official, within two business days from the date of demand, adequate written proof showing that it qualifies for the exemption claimed. Such written proof shall be certified under the penalties for perjury by an authorized representative of the business.

(C) Any business claiming an exemption as a bar, as a private club, or within a self-contained bar area pursuant to this section must complete a written registration form with the City Attorney, giving notice that it intends to allow smoking and that it meets all of the criteria entitling it to an exemption under this section. No business may effectively claim any exemption under this section as a bar, as a private club, or within a self-contained bar area unless and until it has completed the process of registration with the City Attorney.

(Ord. 06-2564, passed 4-17-06)

### **§ 99.05 POSTING OF SIGNS AND REMOVAL OF PARAPHERNALIA.**

(A) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it) shall be clearly, sufficiently, and conspicuously posted on every building or other area where smoking is prohibited by this chapter, by the owner, operator, manager, or other person having control of such building or area.

(B) Every public place where smoking is prohibited by this chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(C) All ashtrays and other smoking paraphernalia shall be removed from all public places and places of employment where smoking is prohibited by the owner, operator, manager, or other person having control of same.

(Ord. 06-2564, passed 4-17-06)

### **§ 99.06 REASONABLE DISTANCE.**

Smoking may occur at a reasonable distance outside any area where smoking is prohibited to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or any other means. It shall be a violation for smoke to be detected in any area where smoking is prohibited.

(Ord. 06-2564, passed 4-17-06)

### **§ 99.07 PUBLIC EDUCATION.**

The city may engage in programs to explain and clarify the purposes and requirements of this chapter to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. Such programs may include publication of a brochure for affected businesses and individuals.

(Ord. 06-2564, passed 4-17-06)

## **ENFORCEMENT AND PENALTIES**

### **§ 99.98 ENFORCEMENT.**

(A) This chapter shall be enforced by the Shelbyville Board of Public Works and Safety, and whatever city department(s), city official, or city employee the Board wishes to designate or appoint.

(B) Any citizen who desires to register a complaint under this section may file a written complaint with the Office of the City Attorney.

(C) Upon finding that any provision of this chapter has been violated, the enforcement designee(s) shall issue a notice of violation to the person(s) responsible for the violation(s). The notice shall be in writing and shall be served upon the person(s) responsible for the violation by one or more of the following methods: delivery in person or first class mail. The notice shall state:

(1) The location of the violation;

- (2) The nature of the violation;
- (3) The fine assessed for the violation;
- (4) That the fine shall be paid at the Clerk-Treasurer's Office; and
- (5) That the fine may be contested through an administrative hearing before the Shelbyville Board of Public Works and Safety.

(D) Owners, managers, and operators of businesses, public places and/or places of employment regulated by this chapter shall inform all persons located therein whom they observe smoking in violation of any of the provisions of this chapter, and shall ask such persons to refrain from smoking in any area or location in which smoking is prohibited.

(E) It shall be the obligation and duty of the owner, manager, or operator of any bar or tavern that elects to be exempted from the provisions of this chapter pursuant to § 99.04(A)(4) to ensure that no person(s) under the age of 18 are allowed to enter therein in violation of that subsection.

(Ord. 06-2564, passed 4-17-06)

**§ 99.99 PENALTIES.**

(A) Any person who engages in the act of smoking in any public place, place of employment, or in any other establishment, area, or location wherein smoking is prohibited by this chapter shall be subject to a fine of no less than \$50.

(B) It shall be unlawful for any person who owns, manages, operates, or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

(C) It shall be unlawful for any person who owns, manages, operates, or otherwise controls the use of any premises subject to regulation under this chapter to knowingly, willfully, or recklessly allow smoking to occur where prohibited by this chapter. Any person who violates this provision shall be subject to a fine of no less than \$200 for each violation thereof.

(D) Whoever violates any provision of this chapter for which another penalty is not specifically provided shall be punished as subject to § 10.99.

(E) Any person who violates any provision contained in this chapter shall be subject to a penalty for each and every such violation of this chapter; and each day a violation is permitted to continue may constitute a separate offense.

(Ord. 06-2564, passed 4-17-06)

**EXHIBIT A  
SMOKING VIOLATION COMPLAINT**

Office of the City Attorney  
44 West Washington Street  
Shelbyville, Indiana 46176  
Tel: 317-398-6624 Fax: 317-392-5143

Office Use Only  
Rec'd: \_\_\_\_Resp. \_\_\_\_

This form is to be used to report a violation of Chapter 99 of the Shelbyville City Code of Ordinances which regulates smoking in public places and places of employment. Completed forms should be filed with the Office of the City Attorney at the address listed above.

**COMPLAINANT INFORMATION:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

INFORMATION REGARDING ALLEGED OFFENSE:

Location: \_\_\_\_\_

Date of violation: \_\_\_\_\_ Time of violation: \_\_\_\_\_

Person(s) responsible for violation: \_\_\_\_\_

Description of violation: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby give the City permission to contact me regarding the investigation of the offense herein alleged.

I furthermore hereby affirm that all of the information provided herein is, to the best of my knowledge, correct and accurate.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

(Ord. 06-2564, passed 4-17-06)

**EXHIBIT B  
NONSMOKING EXEMPTION FORM**

Office of the City Attorney      Office Use Only  
44 West Washington Street      Rec'd: \_\_\_\_\_ Resp. \_\_\_\_\_  
Shelbyville, Indiana 46176  
Tel: 317-398-6624 Fax: 317-392-5143

<b>BUSINESS INFORMATION</b>
Name of business claiming exemption
Business address
Business telephone number
Owner
Owner's address
Owner's telephone number

<b>ALCOHOL AND TOBACCO COMMISSION PERMIT INFORMATION</b>
Permit Type
Permit Number

**NONSMOKING EXEMPTION**

Type of exemption claimed (circle one):

BAR PRIVATE CLUB SELF-ENCLOSED BAR AREA

Description of facility or area to be exempted

By completing and submitting this registration form to the City Attorney, I hereby give notice that the above-described business qualifies for the exemption claimed herein, as it meets all of the criteria set forth in § 99.04 of the Shelbyville City Code of Ordinances.

I hereby declare that all of the information that has been provided is complete, accurate, and responsive, and fully understand that any inaccuracies in the information herein provided may invalidate any exemption that may be claimed herein.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

(Ord. 06-2564, passed 4-17-06)

## CHAPTER 100: AMERICANS WITH DISABILITIES ACT

Section

100.01 Notice under the Americans with Disabilities Act

100.02 Grievance procedure under the Americans with Disabilities Act

### § 100.01 NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT.

(A) In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the City of Shelbyville, Indiana ("the City") will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

(B) *Employment.* The city does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

(C) *Effective communication.* The city will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the city's programs, services, and activities.

(D) *Modifications to policies and procedures.* The city will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.

(E) Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the city, should contact the office of the City Attorney, 44 West Washington Street, Shelbyville, Indiana 46176; Telephone: (317)-398-6624, as soon as possible, but no later than 48 hours before the scheduled event.

(F) The ADA does not require the city to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

(G) Complaints that a program, service, or activity of the city is not accessible to persons with disabilities should be directed to the City Attorney.

(H) The city will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy.

(Ord. 11-2681, passed 12-5-11)

## **§ 100.02 GRIEVANCE PROCEDURE UNDER THE AMERICANS WITH DISABILITIES ACT.**

(A) This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the city. The city's Personnel Policy governs employment-related complaints of disability discrimination.

(B) The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints will be made available for persons with disabilities upon request.

(C) The complaint should be submitted by the grievant and/or his or her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Shelbyville City Attorney

44 West Washington Street

Shelbyville, Indiana 46176

(D) Within 15 calendar days after receipt of the complaint, the City Attorney or his or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the City Attorney or his or her designee will respond in writing, and where appropriate, in a format accessible to the complainant. The response will explain the position of the city and offer options for substantive resolution of the complaint.

(E) If the response by the City Attorney or his or her designee does not satisfactorily resolve the issue, the complainant and/or his or her designee may appeal the decision within 15 calendar days after receipt of the response to the Mayor or his or her designee.

(F) Within 15 calendar days after receipt of the appeal, the Mayor or his or her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Mayor or his or her designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

(G) All written complaints received by the City Attorney or his or her designee, appeals to the Mayor or his or her designee, and responses from these two offices will be retained by the city for at least three years.

(Ord. 11-2681, passed 12-5-11)