

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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MARKET CATTLE TESTING PROGRAM

§ 90.01 TITLE.

This subchapter shall be known as the “Market Cattle Testing Program”.
(Prior Code, § 15-2.1-7-1) (Ord. 70-6, passed 8-3-1970; Ord. 71-5, passed 7-19-1971)

§ 90.02 PURPOSE.

(A) The purpose of this subchapter is to facilitate the cooperation needed to make the Market Cattle Testing Program (MCT) effective. The MCT Program shall replace the Brucellosis and Tuberculosis Control Program, which was paid for by tax funds and which consisted of testing all eligible cattle in the county once every six years.

(B) The MCT Program provides for the collection of blood for tests and the examination of the carcasses of all slaughtered animals for evidence of Brucellosis or Tuberculosis. Infected animals can be traced to the herd of origin by identification through backtags. The entire herd can then be tested. Negative animals shall be credited to the county of origin, until the entire state has qualified as a “Certified Brucellosis Free Area” and as an “Accredited Tuberculosis Free Area”.
(Prior Code, § 15-2.1-7-1) (Ord. 70-6, passed 8-3-1970; Ord. 71-5, passed 7-19-1971)

§ 90.03 AREA OF RESPONSIBILITY.

(A) Every herd owner and livestock dealer shall allow an official backtag to be applied to all female bovine animals two years of age and over, any heifer showing udder development and all bulls over six months of age that are going to slaughter.

(B) (1) Any public livestock marketing facility within the county shall identify and apply official tags to all bovine animals as described in division (A) above.

(2) Identifying backtags shall be supplied free of charge to the auction markets to identify all species of animals for their convenience.

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(C) (1) Every slaughtering establishment within the county which buys identified animals from a market or direct or untagged animals shall collect and identify all blood samples from those animals as described in division (A) above and send them to the Purdue Diagnostic Laboratory for testing.

(2) The county shall supply all necessary equipment and postage.

(D) (1) Any livestock dealer purchasing untagged livestock within the county shall identify and apply official tags to all animals described in division (A) above unless a public livestock marketing facility agrees to provide that service to the dealer.

(2) The dealer shall identify the source of each animal presented at the market.

(E) All persons required to identify animals in accordance with this section shall file reports of that identification on forms supplied by the State Board of Animal Health.

(F) If the Market Cattle Test discloses any reactor animal, the herd of origin shall be tested within 15 days under supervision of the State Board of Animal Health.

(G) If the owner fails to comply, a quarantine shall be enforced with attending restrictions and penalties.

(Prior Code, § 15-2.1-7-1) (Ord. 70-6, passed 8-3-1970; Ord. 71-5, passed 7-19-1971) Penalty, see § 10.99

GENERAL PROVISIONS

§ 90.15 DEFINITIONS.

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

ABANDONMENT. If a person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal and includes equine, bovine, swine, fowl, or any and all sentient beings at a location without providing adequate care.

AGGRESSIVE (VICIOUS) CANINE. Any canine that has been determined, without provocation:

(1) Has attacked and injured other domestic animals, without provocation, provided, however that basic interaction and play among animals of the same species does not constitute an "attack" for purpose of this provision; or

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(2) Has bitten one or more persons who are lawfully inside the animal's enclosure; or

(3) Has attempted to climb over, dig under, chew through, break, or otherwise escape from its enclosure in an attempt to attack, chase, or harass a person or another domestic animal as observed by a person charged with enforcing this subchapter.

ANIMAL. Any living non-human, warm or cold blooded, vertebrate creature or reptile, domestic or wild.

ANIMAL CONTROL OFFICER. Those persons designated by Marion Animal Care and Control to enforce state statues and this subchapter as defined.

ANIMAL FIGHTING (I.C. 35-46-3-4.3). Refers to paraphernalia equipment used to train or condition animals for participation in an animal fighting contest.

ANIMAL SHELTER. Any premises designated as a site for impounding and caring for animals, confined under this subchapter. Shall refer to Marion Animal Care and Control, currently located at 1021 East State Rd 18, Marion, IN and Marion Grant County Humane Society currently located at 505 S. Miller Ave, Marion, IN.

BOAH. Indiana State Board of Animal Health, Discovery Hall, Suite 100, 1202 East 38th Street, Indianapolis, IN 46205.

BREEDER. Any persons who intentionally or unintentionally causes or allow their animal(s) to breed.

CANINE HOUSE. Housing that is specifically made for housing of a canine with an opening on one side for the animal to enter and exit with a roof. An "igloo" style construction is acceptable.

COUNTY. The unincorporated areas of Grant County, Indiana.

ENCLOSURE. See **KENNEL**.

HUMANE TRAP. Any device used for capturing an animal without inflicting injury, pain or suffering and which provides adequate ventilation for the trapped animal. Snares, leg traps, or similar devices are considered inhumane.

IDENTIFICATION. Bearing either a microchip, rabies tag, tattoo, or tag bearing the owner's name, address, and/or phone number.

IMPOUNDMENT. The act of taking physical possession and control of an animal by an animal control officer or other officer empowered to act by law and transporting it to an animal control facility.

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KENNEL. A facility, which is ascribed to it in the City of Marion Zoning Code, as revised from time to time, operated commercially and principally for the purpose of boarding, housing, grooming, breeding, or training dogs or cats, or both.

LIVESTOCK.

(1) Except as provided in division (2), ***LIVESTOCK*** means domestic animals, except the following:

- (a) Aquatic animals;
- (b) Fish;
- (c) Dogs;
- (d) Cats;
- (e) Poultry and other birds; however, the term includes ratites that are domestic animals.

(2) ***LIVESTOCK***, for purposes of I.C. 15-17-5, means the following, whether live or dead:

- (a) Cattle;
- (b) Sheep;
- (c) Swine;
- (d) Goats;
- (e) Bison;
- (f) Farm raised cervidae;
- (g) Ratitae; and
- (h) Horses, mules, or other equines.

MARION ANIMAL CARE AND CONTROL. Currently located at 1021 State Road IN-18, Marion, IN 46952, is the entity that oversees animal welfare and is the legal authority to administer this subchapter.

MARION GRANT COUNTY HUMANE SOCIETY. Currently located at 505 S. Miller Ave., Marion, IN 46953 is a not for profit organization committed to the welfare of animals.

OWNER/CAREGIVERS. Any person who owns, harbors, keeps, feeds, maintains, has lawful possession of, or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his/her care or who permits an animal to remain on or about his/her premises; provided this shall not include a person hired or acting as custodian of the animal for its owner.

RESTRAINT. Confinement to the premises of the owner/caregiver, while on or being outside those premises while accompanied by a responsible person keeping control of the animal, being on a leash, chain, or confinement in a fenced area.

STRAY/AT LARGE ANIMAL. Any animal not under the immediate control, not on a leash, not at heel, not beside a competent person, not in a vehicle driven or parked, or not confined within the property limits of his/her owner.

UNALTERED/INTACT. An animal that has not been spayed or neutered.
(Ord. 14-2019, passed 10-21-2019)

§ 90.16 APPLICATION.

(A) This subchapter explicitly applies to the unincorporated areas of Grant County, Indiana. It is understood that these same circumstances exist in the incorporated areas of Marion, Gas City, Swayzee, Fairmount, Fowlerton, Upland, Landess, Jalapa, Sims, Sweetser, Jonesboro, Van Buren, Matthews and Point Isabel. Each of these incorporated areas can be within the dominion of this subchapter if approved by their governing body and with modifications and adjustments to their specific region.

(B) Marion Animal Care and Control collects and retains the violation fines and permit fees to compensate for their service to the county's unincorporated areas and the towns and incorporated areas that implement this subchapter with modifications and adjustments to their specific region.
(Ord. 14-2019, passed 10-21-2019)

§ 90.17 RABIES VACCINATION.

(A) It shall be unlawful to keep a canine or feline and ferrets over the age of three months unless such feline or canine or ferrets are immunized against rabies by a vaccination performed by a veterinarian, and the period of immunization specified by the veterinarian performing the vaccination has not expired. Each owner of a canine or feline or ferret older than three months of age must procure a rabies vaccination for the animal. The rabies vaccination must be administered by a licensed veterinarian. The rabies vaccination must be obtained annually unless three-year vaccination is administered. The animal must wear the rabies vaccination tag when applicable at all times. Any person who is found to have violated this section shall pay a fine of not less than \$35 for the first offense, \$75 for the second offense and \$125 for the third offense.

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(B) However, if the unvaccinated animal causes bodily injury to another person or animal, the fine will be not less than \$125, and the court shall conduct an aggressive (vicious) canine hearing relating to the animal.

(C) Pursuant to I.C. 35-46-3-1(1), a person who knowingly or intentionally harbors a dog that is over the age of three months and not immunized against rabies commits harboring a non-immunized dog, a Class C infraction. However, the offense is a Class B misdemeanor if the dog causes bodily injury by biting a person.

(D) Whenever Marion Animal Care and Control has reasonable cause to suspect that an animal has been exposed to rabies, or bitten or exposed through non-bite exposure a person to rabies, such animal shall be surrendered by its owner for quarantine and observation, at the owner's expense, promptly upon demand by Marion Animal Care and Control. Such quarantine and observation shall be at the animal owner's expense.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.18 FINDING OF RABIES; GENERAL QUARANTINE.

(A) When an animal quarantined has been found rabid or is suspected of being rabid by a veterinarian and dies while under observation, Marion Animal Care and Control shall take such action as is specified in such cases by the State Board of Animal Health and shall notify the proper public health officials of reports of human contacts made by, and the diagnosis made of, the animal.

(B) When a rabies report is made under this section, Marion Animal Care and Control shall recommend to the enforcement authority of City of Marion and Grant County, a general quarantine for a period of 30 days. Upon invocation of the general quarantine by the Commissioner, any animal found at large may be destroyed without being impounded. During the quarantine period, every animal bitten or exposed through non-bite exposure by an animal adjudged to be rabid shall be confined, at its owner's expense, or destroyed as specified by the enforcement authority.

(C) During a general quarantine declared by the Commissioner under this section, an animal's owner or keeper who resists the quarantining authority acting under this chapter, or who permits an animal owned or kept by that person to be at large, shall be punishable by a fine not to exceed \$500, and any animal which is suspected of being rabid or is in violation of the general quarantine shall be impounded immediately.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.19 ANIMALS UNDER RESTRAINT AT ALL TIMES.

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

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(B) Any animal with sufficient size, capable of causing severe bodily injury to another person or animal, shall adhere to the following:

(1) Be securely confined indoors, or confined in a securely and totally enclosed and locked pen, with either a top and with all four sides at least six feet high.

(a) A fenced in yard may be suitable for confinement if fence is at least six feet high with a minimum of ten gauge wires. All gates or access to fenced area must be securely locked at all times and all areas of fencing must be secure to maintain the animal inside the fenced area.

(b) An electric fence may be a suitable form of containment.

(2) At any time that the animal is not confined as required in division (B)(1) above, the animal shall be muzzled in such a manner as to prevent it from biting or injuring any person or animal, and kept on a leash, no longer than six feet, with the owner or custodian in attendance. In order to protect the public and to afford relief from the severe harm and injury which could occur, every owner of an animal with sufficient size, shall maintain and be able to provide evidence of the owner's financial ability to respond in damages up to and including the amount of \$50,000 for bodily injury to or death of any person or animal or damage to property which may result from the ownership, keeping, or maintenance of the animal. Any person or persons found to be in violation of this division shall be fined no more than \$150 per animal and \$25 per day for every day of the violation. Upon second violation, owners shall be fined no more than \$200 per animal and \$50 per day for every day of the violation. Upon third violation, all animals will be removed by Marion Animal Care and Control and a recommendation will be given to the court requesting owners not be allowed to own or harbor animals of this nature for a period of one year. At this time owners shall be fined no less than \$300 per animal. (Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.20 UNRESTRAINED ANIMALS IMPOUNDED.

Unrestrained animals may be taken to the Marion Animal Care and Control or the Marion Grant County Humane Society facility and impounded in their shelter and confined in a humane manner. Impounded animals shall be kept for not less than 72 hours unless reclaimed by their owners. Animals not reclaimed by their owners within 72 hours may become the property of the Marion Animal Care and Control or the Marion Grant County Humane Society. All cost incurred for the impounding of these animals will be the responsibility of the owner for payment.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.21 ANIMALS BECOMING A NUISANCE.

(A) It shall be unlawful for a person to own or keep any animal which by frequent or habitual howling, yelping, barking, screeching, or other vocalization, chase vehicles, habitually attack other

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animals, trespassing on school grounds, or trespassing or damaging private property, or otherwise shall cause serious annoyance or disturbance to persons in the vicinity.

(B) A person who violates any provision of this section shall be punishable by a fine imposed for the first such violation shall not be less than \$25; subsequent or continued violations may also subject the owner to impoundment of the animal by Marion Animal Care and Control.
(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.22 ANIMAL BITES.

(A) The person responsible for any animal which has bitten a person or another animal must report the incident to the Marion Animal Care and Control or local law enforcement. Upon receiving the report of a bite, Marion Animal Care and Control will quarantine the animal for ten days with the place of confinement to be at the discretion of the Marion Animal Care and Control.

(1) During quarantine, if the animal is confined by Marion Animal Care and Control, a charge equal to the actual cost of housing the animal, not to exceed \$50 per day, shall be paid to Marion Animal Care and Control by the owners of said animal.

(2) Additionally, during the quarantine period, the owner must provide a current rabies vaccination certificate for his or her feline or canine that is being quarantined. If proof of vaccination cannot be provided, the animal will be vaccinated by a veterinarian at the owner's expense. Said animal will not be released until payment is received.

(B) Upon release of his/her animal(s) they must be spayed or neutered by a veterinarian at the owner's expense. This procedure must be complied with prior to release.

(C) Upon receiving information about any animal which has bitten a person or which has possibly been exposed to rabies, the law enforcement agency shall notify Marion Animal Care and Control. If a veterinarian determines that an animal in quarantine is a possible rabies carrier, the County Health Office shall be notified. Any necessary action shall be to confirm the diagnosis and disposal of the animal.

(D) Every case of a human bitten by a domestic or wild animal shall be reported promptly to Marion Animal Care and Control or the local law enforcement agency. It is the duty of the person bitten or the parent/guardian to make the report in conformance with 410 I.A.C. 1-2.3-52. Law enforcement K9's are exempted from this section.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.23 TREATMENT AND CARE OF ANIMALS.

This section applies to the care of domestic animals.

(A) No owner shall recklessly fail to provide animals with sufficient good and wholesome food and water. Food must be appropriate for the species.

(B) No owner shall recklessly fail to provide animals with proper shelter.

(C) (1) No owner shall leave an animal outside and exposed to the elements for any amount of time that said exposure would become dangerous to the animal's health, without providing proper shelter for said animals.

(2) Proper shelter shall mean a structure of at least three sides and a roof within which an animal can seek refuge from the sun, wind, and precipitation. The shelter is to be located on dry ground that is mud free and which shelter is maintained in a sanitary condition to prevent odor and health problems for the animal.

(3) Every owner/caregiver of a domestic animal(s) that is confined outside shall be brought into a temperature controlled facility/shelter when the temperature is at or below 32°F or at or above 85°F or when a heat advisory, wind chill warning, or a tornado warning has been issued by local, state, or national authority. Exception to the listed above is when the animal(s) are in direct visual range/site of a owner/caregiver.

(D) (1) No person shall recklessly fail to provide veterinary care for animals. As used in this section, **VETERINARY CARE** means proper grooming, medical treatment, and vaccinations against rabies.

(2) Tail docking, ear cropping, or spay/neutering, when done by an individual who is not a licensed veterinarian, is a violation of this section.

(E) No person shall recklessly beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse any animal.

(F) No owner shall abandon any animal.

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

(H) It shall be unlawful for a person to incite, train to fight, or set any animal to fighting another animal or to incite combat between animals and humans. An exception to this division is a crime prevention dog.

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(1) No person shall build, make, maintain, possess animal fighting paraphernalia or keep a fighting facility on his or her premises.

(2) No person shall in any manner encourage, instigate, promote, or assist in an exhibition of animal fighting or intentional combat between animals.

(3) No person shall assist, participate, be present, or charge admission to any exhibition of an animal fight or combat.

(I) No person shall violate the provisions of I.C. 35-46-3. Violations of that chapter shall be prosecuted in accordance with the provisions of state law as contained therein. If a person is found guilty of this division the fine shall be not less than \$100 for the first offense, \$200 for the second offense, and \$300 for the third offense.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.24 CARE OF LIVESTOCK.

(A) No owner shall fail to provide animals with sufficient wholesome food and clean or fresh water. Food must be appropriate for the species.

(B) No owner shall fail to provide animals with proper shelter.

(1) Proper shelter shall mean a structure of at least three sides and a roof within which an animal can seek refuge from the sun, wind, and precipitation, which shelter is located on dry ground.

(2) Shelter shall be well ventilated and provide adequate protection from weather.

(3) Shelter shall be kept clean and in good repair.

(4) No owner shall leave an animal(s) outside and exposed to the elements that would become dangerous to the animal's health, without providing proper shelter for said animal(s).

(C) No person shall fail to provide veterinary care for animals. As used in this section, **VETERINARY CARE** means proper grooming and medical treatment.

(D) No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse any animal.

(E) No owner shall abandon any animal(s).

(F) Animal(s) shall be kept in a clean, sanitary, and healthy manner; the person(s) responsible for the care of said animal(s) shall regularly check and maintain their condition to prevent odor or health issues.

(G) It shall be unlawful for an owner/caregiver of any livestock to willfully and carelessly allow livestock to roam off their property.

(H) No person shall violate the provisions of I.C. 35-46-3. Violations of that chapter shall be prosecuted in accordance with the provisions of state law as contained therein. If a person is found guilty of this division the fine shall be not less than \$100 for the first offense, \$200 for the second offense, and \$300 for the third offense.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.25 USE OF ROPES, CHAINS, OR CORDS PROHIBITED.

(A) No animal shall be tied or fastened by any rope, chain, or cord except under the direct supervision of the animal's owner/caregiver. Restrained animals must wear a properly fitted collar or harness made of leather or nylon, not of the choker type. This is not to prohibit the proper use of choker collars in the training of animals. The tying device shall be attached to the animal's collar or harness. If a chain is used, such chain shall not have a total weight of more than one-eighth of the restrained animal's body weight.

(B) Under the direct supervision of the animal's owner/caregiver the animal will not be tied or fastened by any rope, chain, or cord with no relief from environment and climate hazards while causing possible harmful and cruel physical and mental impairment to the animal.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.26 MISTREATED ANIMALS IMPOUNDED.

(A) Animals found in cruel, abusive, neglectful situations, or abandoned as defined in the subchapter, shall be promptly impounded. If no immediate contact with a responsible person can be made, Marion Animal Care and Control Officer(s) will leave a written notice on the door of the residence explaining to the owner the reason for impoundment.

(B) Impounded animal(s) will be in the care of Marion Animal Care and Control until such time as the violator is in compliance with this subchapter. If no contact is made within three business days, said animal(s) shall become the property of Marion Animal Care and Control. An extension shall be granted if court proceedings are necessary.

(C) In the case of animals impounded for quarantine at Marion Animal Care and Control, if there is no contact from the owner within 11 days, the animal becomes the property of Marion Animal Care and Control. All bills and charges for the care and treatment of the animal(s) will be assessed to the owner for payment.

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(D) Animals impounded for reasons beyond the control of the owner, such as, but not limited to, house fires, death of the owner, or other similar situations will be held for seven days during which time a reasonable effort will be made to contact the owner and/or their representative. After the seventh day of impoundment, the animal will become the property of Marion Animal Care and Control.

(E) An animal awaiting disposition by a court order shall remain in the custody of Marion Animal Care and Control. All bills and charges for the care and treatment of said animal(s) will be assessed to the owner for payment.

(F) Animals removed shall be seen by a licensed veterinarian for examination and/or treatment. If, in the opinion of the veterinarian, the animal must be destroyed, euthanasia will be performed within 24 hours. Cost of treatment, euthanasia, and care shall be the responsibility of the owner/agent. (Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.27 ANIMALS IN ENCLOSURES.

(A) Domestic animals.

(1) All domestic animals kept inside, in a pen, leashed, enclosed by a fence or electric fence, shall be kept in a sanitary manner. No animal shall be kept in feces, mud, water, or with any debris. The owner or person(s) responsible for the animals shall regularly maintain all areas within the confinement. It is unlawful for an owner or person in control of an animal not to provide an adequate enclosure, which complies with all of the requirements of this section.

(a) *Housing facilities.* Indoor and outdoor housing facilities for animals shall be maintained so as to contain the animal on the property at all times and to protect the animal from injury.

(b) *Storage of food.* Supplies of food shall be stored in sealed containers or other containers which protect the food against insect and vermin infestation and contamination. Refrigeration shall be provided where necessary to prevent the spoiling of food.

(c) *Ventilation.* Indoor housing facilities for animals shall be ventilated with fresh air by means of windows, doors, vents, fans, or air conditioning to provide for the animals' health, comfort, and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ambient temperature in an indoor housing facility shall be maintained between 50°F and 85°F.

(d) *Primary enclosures.* All primary enclosures for animals shall conform to the following minimum requirements, except where identified otherwise in writing by a licensed veterinarian for medical reasons.

1. Primary enclosures shall be structurally sound and constructed so as to permit the animal within them to remain dry.

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2. The floors of the primary enclosure that are not a solid surface shall be of an open-weave construction, where the openings are smaller than the size of the flattened foot of the animal contained inside. The solid surface of the mesh which the floor is made shall be not less than one-fourth-inch wide in diameter.

3. Primary enclosures shall be maintained in good repair and shall not have sharp points or edges that could injure an animal.

4. *Separation.* The following restrictions apply to primary enclosures that house multiple canines and felines.

a. Intact females in estrus shall not be housed in the same primary enclosure with adult canines or felines other than their dams or surrogate dams.

b. Puppies or kittens shall not be housed in the same primary enclosure with adult canines or felines other than their dams or surrogate dams.

c. Canines shall not be housed in the same primary enclosure with felines, nor shall canines or felines be housed in the same primary enclosure with any other species of animal.

5. *Sanitation.* Housing facilities shall be cleaned and disinfected as needed. Primary enclosures, including top, sides, floor, grate, and door shall be cleaned with soap and disinfectant as needed.

6. *Quarantine.* Animals under quarantine or treatment for communicable disease shall be housed according to generally accepted veterinary medical requirements.

7. *Records and medical release forms.* For all animals currently on the premises, records identifying the animal, including all license tag information with the owner's name, address, and emergency telephone number shall be maintained. Any person found guilty of this provision shall pay a fine not less than \$50 for the first offense, \$100 for the second offense, and \$225 for the third offense.

(e) For canines, enclosures shall have an outside-perimeter barrier that is a minimum height of 48 inches when measured from the ground, or an electric fence. Any portion of a building that is intended to form part of an enclosure must have a continuous wall (inclusive of windows and doors) that meets the applicable height requirement.

(f) All non-building portions of an enclosure, including gates, shall be constructed of chain link, welded wire, wrought iron, brick, mortared stone, concrete block, wood stockade, or other similar fencing-type material approved by Marion Animal Care and Control.

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(g) Where a building forms a part of an enclosure, there shall be a minimal separation between the building and the remaining parts of the enclosure to prevent escape of the animal or animals intended to be contained.

(h) An enclosure shall be designed, erected, and maintained in accordance with all applicable zoning and building regulations of this code.

(i) Broken or damaged portions of an enclosure shall be repaired with like material and provide a seamless barrier that reasonably inhibits or prevents escape.

(j) For aggressive canines, an enclosure shall have an outside perimeter barrier that is a minimum height of 72 inches when measured from the ground.

1. Kennel enclosure for aggressive canines must be six sided, which means there must be four sides, top and bottom to the enclosure area.

2. A property housing an aggressive canine must post on all four sides of the property a "Beware of Dog" sign, that is clearly visible from the outside of the property lines.

3. Onsite inspections shall be performed by a Marion Animal Care and Control officer(s) prior to releasing an aggressive animal to its owner.

(2) An owner commits an offense if he/she fails to comply with this section. If said owner fails to comply with this section with respect to more than one canine, the person's conduct with respect to each canine constitutes a separate offense. An offense under this section is punishable by a fine not to exceed \$2,000.

(B) *Livestock.*

(1) All livestock animals shall be kept in a sanitary manner. The owner or person(s) responsible for the animals shall regularly maintain all areas of the animal's confinement.

(a) *Housing facilities.* Indoor and outdoor housing facilities for animals shall be maintained at all times to protect the animal.

(b) *Storage of food.* Supplies of food shall be stored in a way which is protected from insects, vermin infestation, and contamination.

(c) *Ventilation.* Indoor housing facilities for livestock shall be ventilated with fresh air by means of windows, doors, vents, fans, or air conditioning to provide for the animals health, comfort, and well-being.

(d) *Primary enclosures.* All primary enclosures for animals shall conform to following minimum requirements, except where identified otherwise in writing by a licensed veterinarian for medical reasons.

1. Primary enclosures shall be structurally sound and constructed so as to permit the animal(s) within to remain dry.

2. Primary enclosures shall be maintained in good repair at all times.

3. *Quarantine.* Animals under quarantine or treatment for communicable disease shall be housed according to generally accepted veterinary medical requirements.

(2) Any person found guilty of this provision shall pay a fine not less than \$50 for the first offense, \$100 for the second offense, and \$225 for the third offense.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.28 REMOVAL OF EXCREMENT.

(A) This section applies to domestic animals. It is deemed in the best interest of the health, safety, and welfare of the citizens and visitors of the county, that all necessary precautions be implemented to prevent cutaneous larva migrans (a frequently severe skin disorder caused by the infective larvae of a canine hookworm which is transmitted by the contact of the human skin with soil contaminated by canine feces), and visceral larva migrans (a disease caused by the ingestion of larvae canine roundworms which commonly occurs when young children swallow dirt.)

(B) It is unlawful for a responsible party to allow, whether willfully or through failure to exercise due care or control, any canine or feline to leave excrement in any public area. Persons responsible for an animal, except visually impaired persons working with service canines, shall immediately remove the animal's excrement from public lands, sidewalks, and rights-of-way (property between sidewalks and streets), or from the property of another.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.29 INJURY/DEATH FROM MOTOR VEHICLES.

Any person operating a motor vehicle who causes injury or death to an animal shall stop at once, assess the extent of injury, together with a description of the animal struck, the location of the striking, and an estimate as to the condition of the animal along with the rabies tag number if it can safely be ascertained. One or more of the following shall be contacted:

(A) Owner of animal;

Animals

(B) Local law enforcement; and/or

(C) Marion Animal Care and Control.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.30 ANIMALS NOT TO BE LEFT UNATTENDED IN VEHICLES.

(A) No animals shall be left unattended in a vehicle in excessive heat of 80°F or above unless the vehicle is running with the air conditioning on. No animal shall be left unattended in a vehicle in excessive cold, 30°F or below unless the vehicle is running with the heater on, or when the conditions in that vehicle would constitute a health hazard to the animal.

(B) It shall be unlawful for an owner or person in control of an animal to carry or transport the animal on any public roadway in an unenclosed vehicle such as, but not limited to, a pick-up, flatbed truck, jeep, or similar vehicle, unless the animal is:

(1) Contained in a closed, vented animal carrier that is secured in such a manner as prevent the carrier from being thrown from the vehicle in the event of a collision; or

(2) Secured by a leash or other device that is cross-connected to prevent the animal from falling, jumping, or being thrown from the vehicle and from strangling on a single lead.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.31 AGGRESSIVE (VICIOUS) ANIMALS.

(A) This section shall apply to aggressive animals. *AGGRESSIVE (VICIOUS) ANIMALS* include:

(1) Any animal which, according to the record of the appropriate authority provided. This section shall not apply to animals under the control of a law enforcement or military agency;

(2) An animal shall be deemed aggressive if:

(a) Did bite or attack once, causing wounds or injuries creating a potential danger to the health or life of a human being without provocation in a public or private place where the person was conducting himself or herself peacefully and lawfully;

(b) Required defensive action by any person to prevent physical injury or property damage, where the animal has acted without provocation, in a public or private place where the person was conducting himself or herself peacefully and lawfully;

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(c) Could not be controlled or restrained at the time of a bite or attack upon an animal or person;

(d) Any animal owned, harbored, or trained primarily or in part for the purpose of animal fighting.

(B) An animal shall be declared aggressive/vicious only after Marion Animal Care and Control Service has received an affidavit of complaint by an individual under oath, stating all pertinent facts to support the allegation that the animal is aggressive/vicious. If Marion Animal Care and Control determines the complaint is valid, Marion Animal Care and Control shall file a complaint in court. The court, after hearing all the evidence, shall make the final determination as to whether the animal qualifies as an aggressive/vicious animal.

(C) Any owner of an animal which qualifies under this section as an aggressive (vicious) animal must:

(1) Register the animal with Marion Animal Care and Control within ten days of the effective date of the subchapter. Registration shall include name, address, and telephone number of the animal's owner, the address where the animal is to be harbored if different from the owner's address, a complete identification of the animal including the animal's sex, color, and any other distinguishing characteristics, two color photographs of the animal, a description of the method of compliance with the confinement requirements, \$50,000 proof of liability insurance or other evidence of financial responsibility, and a registration fee of \$100 per year.

(2) Notify the Marion Animal Care and Control immediately if the animal is given or sold to a new owner, providing Marion Animal Care and Control with the new owner's name, address, and telephone number. If the animal is moved to another address, Marion Animal Care and Control shall make an onsite inspection making sure this section is complied with. Registration will continue, but the new owner must comply with the other provisions of this subchapter.

(3) Notify the Marion Animal Care and Control immediately if the animal becomes loose or unconfined, attacks livestock, another domestic animal, or human being, or inflicts any property damage.

(4) Notify Marion Animal Care and Control of the death of the animal within ten days of the death.

(5) Confine the animal in a humane way inside or outside of the owner's property, in a secure enclosure so that it cannot escape of its own volition. The owner's property must contain a sign easily readable to the public saying "Beware of Canine" or "Aggressive Animal", posted on all four sides of the property.

Animals

(6) Allow the animal to go off the owner's premises only when it is muzzled and kept on a leash or restraint, no more than six feet long, under the control of a responsible person. The animal must be tattooed or have a microchip placed in the animal. Appointments must be made within 24 hours after the animal is released from the care of Marion Animal Care and Control to the owner.

(7) The owner must provide proof of rabies vaccination before the animal is to be released. If proof cannot be shown then an appointment with a licensed veterinarian for rabies vaccination must be made within 24 hours after being released from the care of Marion Animal Care and Control to owner.

(8) Upon the release of said animals they must be spayed or neutered at the owner's expense within 24 hours.

(9) Upon a second unrelated bite conviction, the animal will immediately become the property of Marion Animal Care and Control by order of the court to be humanely euthanized. A violation of this section shall be subject to the penalties described in all other sections of this subchapter. In addition, the court in its discretion can order the animal impounded by Marion Animal Care and Control at the owner's expense, until the owner complies with the terms of this section, or order the animal to be humanely euthanized when necessary, to preserve the public health, safety, and the welfare of the community.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.32 TRAPS AS A NUISANCE OR ASSISTANCE.

(A) A hunting or trapping license or nuisance wild animal control permit is required to take wild animals on land that you do not own or rent. Within 24 hours of capture, the person who takes the animal must release it or euthanize it. Animals that are released must be released on land in the county where it was captured. Furthermore, the landowner or property manager must give permission for the release. These nuisance animals cannot be possessed for more than 24 hours and cannot be sold, traded, bartered, or gifted.

(B) Trapping as a nuisance permit shall not apply to any trap specifically designed to kill rats, mice, gophers, or moles so long as the owner of the property is aware of the location where the trap(s) are set and monitors said trap(s) at least once every 24 hours.

(C) It shall be unlawful to use poisons, poisoned or stupefying substances in a trap.

(D) It shall be unlawful for a person to remove an animal from any trap not on the person's property, unless such person has the express permission of the property's owner to do so.

(E) Traps discovered by Marion Animal Care and Control to be unlawful shall be seized and used as prima facie evidence that a violation has been committed. Upon conviction, said trap(s) shall be forfeited and disposed of by Marion Animal Care and Control.
(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.33 REMOVAL OF DEAD ANIMALS.

(A) *Domestic*. Any person who shall become apprised of the death of any animal owned, shall, within 24 hours thereafter, cause the animal to be removed from the premises and taken to the Marion Animal Care and Control, a veterinarian, cemetery or other locations approved for disposal.

(B) *Livestock (I.C. 15-17-11-20)*. A person who owns or cares for an animal that has died from any cause shall dispose of the animal's body not later than 24 hours after knowledge of death so as not to produce a nuisance, the disposal of the animal's body must be by one of the following methods:

(1) At an approved disposal plant;

(2) Burial upon the owner's premises to such a depth that every part of the animal's body is at least four feet below the natural surface of the ground and every part of the animal's body is covered with at least four feet of earth in addition to any other material that may be used as cover.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.34 UNLAWFUL USE OF AN ANIMAL.

(A) It shall be unlawful for a person to make use of an animal in the commission or furtherance of any criminal act.

(B) A person who violates this section shall be punished by a fine imposed for any such violation. This fine shall not exceed \$200. Further, upon a finding of violation, the court upon request shall order the animal surrendered to Marion Animal Care and Control.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.35 LOST OR STRAY DOMESTIC ANIMALS.

(A) Owners of animals must notify Marion Animal Care and Control of missing animals within 48 hours of the animal becoming lost/stolen.

(B) (1) Owners of missing animals must make reasonable effort to locate the missing animal. Examples of a reasonable effort include:

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- (a) Notify local veterinarian offices and humane society;
- (b) Post flyers;
- (c) Publish in local media; and
- (d) Publish on local social media sights.

(2) Owners of missing animals who fail to make an effort to locate their animals shall be fined no less than \$25 for the first offense and no less than \$50 for the second offense.

(C) Persons finding a stray animal are to notify Marion Animal Care and Control within 48 hours. At the discretion of the division, the animal may be kept by the finder and a found report left with the division, to enable the finder an opportunity to return the animal to its rightful owner.

(D) Upon demand by Marion Animal Care and Control, any found animal will be taken to the Marion Animal Care and Control facility, veterinarian office, or Marion Grant County Humane Society and scanned for an identifying microchip.

(E) Persons finding an animal are obligated to comply with all the rules and regulations of this chapter pertaining to humane care and treatment of animals, while said animal is in their custody awaiting return to its actual owner. The finder will be considered the "found animal's owner" for purposes of this subchapter only after the animal is in the finder's custody for 30 continuous days. (Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.36 ANIMAL CONTROL OFFICER.

The Marion Animal Care and Control Officer(s) shall have powers in the enforcement of this subchapter. It shall be unlawful to interfere with any Marion Animal Control and Control Officer(s), to take or attempt to take any animal from the animal control vehicle used to transport the animals, or to take or attempt to take any animal from the Marion Animal Care and Control facility, Marion Grant County Humane Society, or impounding area. It shall be unlawful to hinder, molest, abuse, or fail to provide identification to the Marion Animal Care and Control Officer(s) in the exercise of these powers.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.37 IMPOUNDMENT FEE.

An owner reclaiming an impounded animal shall pay a fee to Marion Animal Care and Control. That fee shall be equal to the actual cost of housing the animal, not to exceed \$50 per day. Any animal

found to be stray and impounded by Marion Grant County Humane Society shall be reclaimed from Marion Grant County Humane Society by the owner at a fee equal to the actual cost of housing the animal, not to exceed \$50 per day. If those fees are not paid and animal reclaimed within 72 hours, the impounding facility shall become the owner of said animal.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.38 GROUNDS FOR IMPOUNDMENT.

(A) An animal found at large in violation of this chapter shall be captured and impounded by Marion Animal Care and Control or Marion Grant County Humane Society.

(B) An animal found confined or abandoned on private property in violation of this subchapter of this code shall be impounded by Marion Animal Care and Control.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.39 NOTICE TO OWNER.

(A) Upon the impoundment of an animal, a reasonable attempt shall be made to notify and inform the owner of the animal of the requirements of this subchapter for regaining the custody of the animal.

(B) Such attempt shall include, but not necessarily be limited to, the following:

(1) In the instance of an impounded canine or feline, contact with the owner identified by the microchip or other permanent means of identification, if any, borne by the canine or feline;

(2) In the instance of an impounded canine or feline not bearing a permanent means of identification, contact with the veterinarian facility listed on the animal's vaccination tag; and

(3) Cooperation of effort with other governmental and private agencies, such as the Marion Animal Care and Control or other humane and/or breed rescue organizations recognized by the animal care and control division.

(4) *Report of impoundment.* A person who confines an animal found by that person to be at large shall notify Marion Animal Care and Control or one of its agents within 48 hours thereafter.

(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.40 RETURN OF IMPOUNDED ANIMAL TO OWNER.

An animal impounded under this subchapter, if claimed by its owner, shall be returned to its owner subject to, and upon compliance:

Animals

(A) The owner of an impounded animal may obtain the return of such animal upon compliance with any applicable provisions and the payment of the appropriate impoundment and kennel fees, and any other applicable fees and fines.

(B) Prior to the return to its owner of an impounded canine or feline which at the time of impoundment did not bear a permanent means of identification as required, the Animal Control shall cause a microchip with a registered identification number to be implanted in the animal. The fee for such service shall be paid by the owner at the time of the microchip placing.

(C) If an animal(s) has been picked up by Animal Control for the third time the animal is required to be spayed/neutered by a veterinarian at owner's expense.
(Ord. 14-2019, passed 10-21-2019) Penalty, see § 90.99

§ 90.41 HABITUAL OFFENDER.

(A) A person shall be declared a habitual offender only after Marion Animal Care and Control has filed a complaint in the Municipal Court. The City Judge, after hearing all the evidence, shall make a final determination as to whether the person qualifies as a habitual offender.

(B) A person shall be declared a habitual offender if:

(1) Offender has been found guilty of three or more of the same provisions in the last five years;

(2) Offender has been found guilty of five or more of any combination of the provisions in the last three years;

(3) Offender has been found guilty of a provision of this subchapter which designates the offender as a habitual offender; or

(4) Offender has been found guilty of any section of I.C. 35-46-3-7 through 35-46-3-13.

(C) Any person found guilty of being a habitual offender shall not own, have possession of, or harbor any animals for a minimum of one year, but not more than five years as determined by the court. Any animals owned or in the possession of the habitual offender at the time of judgment shall be surrendered to Marion Animal Care and Control Service and become the property of the Marion Animal Care and Control Service.

(D) Any person, after being found guilty of a habitual offender, who continues to own, harbor, or have possession of an animal in violation of an order entered pursuant to division (C) of this section, shall pay a fine of \$2,500 plus be subject to a court hearing for being in contempt of court.
(Ord. 14-2019, passed 10-21-2019)

§ 90.99 PENALTY.

Any person who violates any provision of §§ 90.15 through 90.41 shall be deemed guilty of an ordinance violation and upon conviction shall be fined not less than \$25 for the first offense, \$75 for the second offense, and \$125 for the third offense, unless any provision of this chapter declares otherwise. The maximum fine for any offense shall be \$2,500. Each day any violation continues or occurs shall be deemed a separate offense.

(Ord. 14-2019, passed 10-21-2019)

CHAPTER 91: FAIR HOUSING

Section

General Provisions

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GENERAL PROVISIONS

§ 91.01 POLICY STATEMENT.

It shall be the policy of the county to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, being 42 U.S.C. §§ 2000e *et seq.*, as amended, the Federal Housing and Community Development Act of 1974, being 42 U.S.C. §§ 5301 *et seq.*, as amended, and I.C. 22-9.5-1 *et seq.* (Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020)

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

COMMISSION. The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 *et seq.*

COMPLAINANT. A person, including the Commission, who files a complaint under this chapter.

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 91.16, 91.17, 91.18, 91.19 or 91.20.

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.

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

FAMILY. An individual (I.C. 22-9.5-2-9) or individuals having familial status as that term is defined in this section.

HANDICAP.

- (1) With respect to a person:
 - (a) A physical or mental impairment which substantially limits one or more of a person's major life activities;
 - (b) A record of having such an impairment;

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(c) Being regarded as having such an impairment;

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

(e) Any other impairment defined in 910 I.A.C. 2-3.

(2) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code 910 I.A.C. 2-3-2(14); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite 910 I.A.C. 2-3-2(14).

PERSON. Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, nonincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers and fiduciaries.

TO RENT. To lease, to sublease, to let and otherwise to grant, for a consideration, the right to occupy the premises not owned by the occupant.

(Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020)

Statutory reference:

For similar state definitions, see I.C. 22-9.5-2-2, 22-9.5-2-3, 22-9.5-2-4, 22-9.5-2-8, 22-9.5-2-11, and 22-9.5-2-13

UNLAWFUL PRACTICES

§ 91.15 GENERAL.

(A) Subject to the provisions of division (B) below, § 91.35 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 § 91.16 shall apply to all dwellings, except as exempted by division (B) below and I.C. 22-9.5-3.

(B) Other than the provisions of division (C) below, nothing in § 91.16 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three single-family houses at any one time; provided that, in the sale of the single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one sale within any 24-month period. The private individual owner may not own any interest in, nor have owned

or reserved on his 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 single-family houses at any one time. The sale or rental of any single-family house shall be exempted from application of this section only if the house is sold or rented:

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

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 91.16, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other professional assistance as necessary to perfect or transfer this title.

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

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

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

(2) They have, within the preceding 12 months, participated as agent, other than in the sale of his 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) They are the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020) Penalty, see § 10.99

§ 91.16 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 91.15 and except as exempted by §§ 91.15(B) and 91.21, 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;

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

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

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

(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) The buyer or renter;

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

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

(a) The person;

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

(c) Any person associated with that person.

(3) For purposes of this division (F), **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 the person if the modifications may be necessary to afford the person full enjoyment of the premises; except that, in the case of a rental, the landlord may,

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where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the 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 3-13-2001, a failure to design and construct those dwellings in a manner that:

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

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

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

a. An accessible route into and through the dwelling;

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

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

(4) Compliance with the appropriate requirements of Americans With Disabilities Act of 1990, being 42 U.S.C. 12101 *et seq.*, 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 division (F)(3)(c)3. above.

(5) Nothing in this division (F) requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020) Penalty, see § 10.99

§ 91.17 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 a

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transaction, or in the terms or conditions of 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.

(Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020) Penalty, see § 10.99

§ 91.18 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 the access, membership or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

(Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020) Penalty, see § 10.99

§ 91.19 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 §§ 91.15, 91.16, 91.17 or 91.18.

(Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020) Penalty, see § 10.99

§ 91.20 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

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

(A) Any person because of his 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 described in division (A); or

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

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

(Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020) Penalty, see § 10.99

§ 91.21 EQUAL ACCESS TO HOUSING IN HUD PROGRAMS.

Pursuant to 24 C.F.R. Part 5.403 and 24 C.F.R. Part 574.3 the definition of **FAMILY** is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

(Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020) Penalty, see § 10.99

§ 91.22 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.

Fair Housing

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

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

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

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

(Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020)

ADMINISTRATION AND ENFORCEMENT

§ 91.35 GENERAL.

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

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the county, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the chapter, herein elects to refer all formal complaints of violation of this chapter by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the Chief Elected Official of the Town of Americana, Indiana, shall refer all said 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.

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

(D) The Chief Elected Official of the county, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting the information.

(Council Ord. 2-2000, passed 6-12-2000; Ord. 3-2015, passed 10-6-2015; Ord. 10-2020, passed 8-3-2020)

[Next printed page is p. 27.]

CHAPTER 92: PUBLIC WELFARE

Section

- 92.01 Food stamp distribution
- 92.02 Walnut Creek Manor

§ 92.01 FOOD STAMP DISTRIBUTION.

(A) The County Welfare Department shall distribute food stamps to those persons entitled to receive the stamps from that Department. Each Township Trustee shall distribute food stamps to those persons entitled to receive the stamps from that Trustee.

(B) The Board shall designate the financial institutions or banks which shall redeem food stamps issued in the county.

(Prior Code, § 12-2-1-35) (Order passed 8-3-1970; Order passed 3-1-1971)

§ 92.02 WALNUT CREEK MANOR.

(A) The Board hereby establishes and organizes an asylum for the poor to be known as the “Walnut Creek Manor”.

(B) (1) The Board shall employ humane and responsible persons to serve as Superintendent and Matron of that facility. They shall administer Walnut Creek Manor upon terms and under restrictions as the Board deems in the interest of the county.

(2) The Superintendent, the Matron and all other employees of that facility shall be subject to the personnel policy set forth in this code of ordinances, except that in cases where any employee is required to work on a legal holiday celebrated by the county, that employee shall be entitled to a substitute day off from work without loss of compensation.

(3) The Superintendent shall determine when an employee may take a substitute day off so that the operation of the facility is not disrupted.

(C) The staff of Walnut Creek Manor shall not permit residents of that facility to leave the grounds before daylight or after nightfall unless the Superintendent approves their departure.

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(D) No person shall be admitted to Walnut Creek Manor until he or she has received a physical examination by a licensed physician.

(Prior Code, § 12-4-1-1) (Order passed 6-6-1865; Order passed 4-30-1887; Order passed 2-6-1888; Order passed 9-20-1943; Order passed 4-21-1947; Order passed 6-9-1948; Order passed 6-16-1958; Order passed 7-7-1958; Order passed 4-20-1959; Order passed 7-3-1961; Order passed 7-1-1963; Order passed 12-2-1963; Order passed 11-22-1965; Order passed 1-21-1966; Order passed 7-1-1974)

Statutory reference:

County home name, see I.C. 12-30-1

Establishment of county home for the poor, see I.C. 12-30-3-2

CHAPTER 93: STREETS AND SIDEWALKS

Section

General Provisions

- 93.01 County Arterial Highway System
- 93.02 Bridge maintenance

County Highway Department

- 93.15 Superintendent
- 93.16 Nonpartisan employment
- 93.17 General personnel policies

Road Cutting Permits

- 93.30 Definitions
- 93.31 Permits
- 93.32 Purposes
- 93.33 Liability
- 93.34 Private ditching

Digging or Trenching in County Property

- 93.40 Definitions
- 93.41 Requirements
- 93.42 Inspections
- 93.43 Indemnity
- 93.44 Enforcement

- 93.99 Penalty

Appendix A: Grant County Thoroughfare Plan

Cross-reference:

Street Building Standards, see §§ 150.15 through 150.20

Statutory reference:

Administration of county highway departments, see I.C. 8-17-3-1 et seq.

GENERAL PROVISIONS**§ 93.01 COUNTY ARTERIAL HIGHWAY SYSTEM.**

(A) The Board hereby selects and designates certain county roads as the County Arterial Highway System.

(B) The roads in the System are depicted on a map captioned “County Arterial Highway System”.

(C) A copy of the map is attached at the end of this chapter and is designated as Appendix A. (Prior Code, § 8-11-2-5) (Order passed 7-19-1948; Order passed 2-6-1956; Order passed 11-18-1957; Order passed 11-3-1958; Order passed 1-2-1959; Order passed 1-6-1960)

Statutory reference:

Incorporation by reference, see I.C. 36-1-5-4

§ 93.02 BRIDGE MAINTENANCE.

(A) The county shall construct, maintain, repair and replace all bridges located within the county whether or not those bridges are located within any city or town.

(B) The county shall not construct, maintain, repair or replace the approach section or deck wearing surface of any bridge located within any city or town, except for the deck wearing surfaces of all bridges spanning the Mississinewa River.

(C) All persons submitting bid specifications on any bridge or on any other project let out for bids shall spell out, in detail, the entire amount of the work and the materials to be used.

(Prior Code, § 8-16-3-1) (Res. passed 8-6-1963; Order passed 12-5-1966)

Statutory reference:

Cumulative bridge fund, see I.C. 8-16-3-1

Gasoline tax limit on county taxation powers, see I.C. 6-6-1.1

COUNTY HIGHWAY DEPARTMENT**§ 93.15 SUPERINTENDENT.**

The County Highway Department shall be headed by the County Highway Superintendent. (Prior Code, § 8-17-3-4) (Order passed 1-20-1933; Order passed 1-1-1954; Order passed 1-16-1956; Order passed 1-1-1957; Order passed 1-1-1958; Order passed 1-1-1959; Order passed 6-1-1959; Order passed 1-1-1960; Order passed 1-1-1961; Order passed 10-30-1961; Res. passed 7-3-1967)

Streets and Sidewalks

§ 93.16 NONPARTISAN EMPLOYMENT.

The county and the County Highway Department shall not discriminate against any employee or applicant for employment at the County Highway Department due to the political affiliation of that individual. This policy extends to all phases of employment and shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-off

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or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. All County Highway Department employees shall be selected and employed by the Superintendent, with the approval of the Board, based on their ability, experience and skill. All County Highway Department employees shall be encouraged to remain with the Department for long tenures and shall be secure in their employment so long as they perform their work with skill and ability. (Prior Code, § 8-17-3-4) (Order passed 1-20-1933; Order passed 1-1-1954; Order passed 1-16-1956; Order passed 1-1-1957; Order passed 1-1-1958; Order passed 1-1-1959; Order passed 6-1-1959; Order passed 1-1-1960; Order passed 1-1-1961; Order passed 10-30-1961; Res. passed 7-3-1967)

§ 93.17 GENERAL PERSONNEL POLICIES.

Personnel policies are adopted by reference and incorporated herein as if set out in full. (Prior Code, § 8-17-3-4) (Order passed 1-20-1933; Order passed 1-1-1954; Order passed 1-16-1956; Order passed 1-1-1957; Order passed 1-1-1958; Order passed 1-1-1959; Order passed 6-1-1959; Order passed 1-1-1960; Order passed 1-1-1961; Order passed 10-30-1961; Res. passed 7-3-1967)

ROAD CUTTING PERMITS

§ 93.30 DEFINITIONS.

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

HIGHWAY. Any highway, road or street accepted or maintained by the county.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, public or private utility, city or town or his, her or its legal representatives or agents. For the purpose of making application for a utility installation permit, the ***CONTRACTOR*** is considered to be an agent for the pertinent utility.

(Prior Code, § 8-13-4-3) (Res. passed 3-2-1959; Res. passed 2-1-1960; Order passed 11-18-1963; Order passed 4-4-1966; Ord. 1968-7, passed 2-19-1968; Ord. passed 1-19-1970; Ord. 10-1987, passed 9-14-1987)

§ 93.31 PERMITS.

(A) No person shall cut, open or obstruct any county highway, street or road, except in compliance with this section.

Grant County - General Regulations

(B) Any person wishing to do so shall:

(1) Apply for and obtain a permit from the Board. The application shall state the purpose and date of the proposed activity, a description of any material sizes to be installed and the location of the proposed cut, opening or obstruction given in road coordinates. Pay a permit fee of \$50. Pay an inspection fee of \$25 per day or part of a day of work activity. All permits shall require a minimum of one inspection. Days of work shall include each day when open excavations are present or traffic-control measures are necessary to safeguard the public. It shall be the responsibility of the permit applicant to accurately define the period of work activity by specifying start and completion dates on the application. If the actual duration of work activity exceeds that specified in the application, the permit holder shall be responsible for the additional inspection fee and shall acquire a permit for the additional time. If it is determined that the number of units of repair necessary to complete the work activity exceeds that specified in the application, the permit holder shall be responsible for the additional bond to cover additional units and shall acquire a permit for the additional units;

(2) Submit a bond to the Board prior to obtaining the permit. If the permit applicant is a private or public utility, the bond shall be in an amount equal to \$5 per square foot of open paved surface and \$2 per square foot of unpaved surface. All other permit applicants shall submit a bond in the amount of \$1,000 minimum. All bonds submitted by private or public utilities shall be released to the permit holder two years after the Board accepts the completed installation. All other bonds shall be released to the permit holder after the County Highway Superintendent approves the condition of the completed highway;

(3) If not a private or public utility, notify the Board immediately prior to and immediately upon the completion of any cutting;

(4) Install all materials in conformance with A.S.T.M. designations stipulating H-20 loadings according to minimum A.A.S.H.D. standards;

(5) "Plowing" or "knifing" in cables or lines outside paved areas with special conditions listed below:

(a) Inspection fee shall be \$25 based on one final inspection, upon notification by utility that work is complete; and

(b) Bond shall be in the amount of \$50,000 and is to be continuous and perpetual so long as the cables or lines remain in the right-of-way.

(6) Perform the cut or opening in the following manner:

(a) Tunneling, with the use of liner plate approved by the County Highway Superintendent;

(b) Jacking;

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(c) Boring; and

(d) Open cutting, if:

1. The trench width is at least eight inches in excess of the OD of the installed material;
2. The bedding is Class "A", with the material laid true to the line and grade;
3. All subsurface joints are sealed; and
4. All paving is sawed to a depth of at least three inches to provide an even and true edge for final pavement replacement. The edge shall lie behind the perpendicular walls of the trench.

(7) The backfill is of low void, selected material conforming to I.S.H.D. Grade "B" borrow specifications, or greater, thoroughly compacted to 95% of proctor and installed to within eight inches of the finished surface;

(8) The final eight inches of paved surface shall be constructed in accordance herewith;

(9) Brick roads shall be resurfaced as concrete to within one inch of the final surface. The remaining one inch shall consist of Class "F" bituminous, or emulsified, material; and

(10) The permit holder shall take all suitable provisions for the public safety at all times during the course of activity undertaken under the permit.
(Prior Code, § 8-13-4-3) (Res. passed 3-2-1959; Res. passed 2-1-1960; Order passed 11-18-1963; Order passed 4-4-1966; Ord. 1968-7, passed 2-19-1968; Ord. passed 1-19-1970; Ord. 10-1987, passed 9-14-1987; Ord. 11-1987, passed 9-21-1987; Ord. 10-1988, passed 4-11-1988)

§ 93.32 PURPOSES.

The Board shall issue permits under this section to allow the following activities:

(A) Subsurface drainage installations;

(B) Surface drainage installations;

(C) Sanitary sewer installations, including installations of appurtenances;

(D) Subsurface utility crossings for municipalities or for utilities operating under a franchise granted by the State Public Service Commission;

(E) For any other purpose deemed desirable at the discretion of the Board; and

(F) If, at any time subsequent to installation of a facility in a public right-of-way, the Board should determine that the presence of the facility is detrimental to the proper repair, maintenance or reconstruction of the road, then the Board will give notice to the owner of the facility. Upon receipt of the notice, the owner of the facility shall conform promptly to the requirements of the Board at the owner's own cost without any cost to the county.

(Prior Code, § 8-13-4-3) (Res. passed 3-2-1959; Res. passed 2-1-1960; Order passed 11-18-1963; Order passed 4-4-1966; Ord. 1968-7, passed 2-19-1968; Ord. passed 1-19-1970; Ord. 10-1988, passed 4-11-1988)

§ 93.33 LIABILITY.

The permit holder shall assume full liability for all acts or omissions occurring as part of any activity conducted under the permit and until the Board accepts the completed repairs and releases the bond. The Board of Commissioners assumes no responsibility for damages to facilities in the public right-of-way caused by any construction or maintenance operations on county highways.

(Prior Code, § 8-13-4-3) (Res. passed 3-2-1959; Res. passed 2-1-1960; Order passed 11-18-1963; Order passed 4-4-1966; Ord. 1968-7, passed 2-19-1968; Ord. passed 1-19-1970; Ord. 10-1988, passed 4-11-1988)

§ 93.34 PRIVATE DITCHING.

If the Board determines that the benefits accrued to the county from installation of a drainage ditch across a county road exceeds the damages incurred by the county from the installation by a sufficient amount, then the county will cause fees for permit to be reduced. The County Highway Department will resurface trenches resulting from installation of private drainage ditches.

(Prior Code, § 8-13-4-3) (Res. passed 3-2-1959; Res. passed 2-1-1960; Order passed 11-18-1963; Order passed 4-4-1966; Ord. 1968-7, passed 2-19-1968; Ord. passed 1-19-1970; Ord. 10-1987, passed 9-14-1987)

DIGGING OR TRENCHING IN COUNTY PROPERTY

§ 93.40 DEFINITIONS.

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

Streets and Sidewalks

COUNTY PROPERTY. Any drain (including tile), real property, easement, or right-of-way (excluding road pavement) in which the county owns or possesses an interest, whether by grant or by law.

PERMITTEE. Any person granted a permit to dig or trench in accordance with this subchapter or §§ 93.30 through 93.34 and § 93.99.

PERSON. Includes an individual, firm, corporation, limited liability corporation, partnership, company, association, trust, estate, public or private utility, or city or town.
(Ord. 9-2017, passed 9-18-2017)

§ 93.41 REQUIREMENTS.

(A) It shall be unlawful for any person to cut, jack, bore, or place utility lines (collectively called “digging or trenching” or “dig or trench”) without first obtaining a permit from the County Highway Department (“Highway Department”).

(B) Any person desiring to dig or trench in or upon county property shall make written application to the Highway Department, specifying the location, necessity for, and details of the proposed digging or trenching, together with proof of liability insurance coverage with limits of not less than \$1,000,000, covering the county as an additional insured, and proof of worker’s compensation coverage. All permits issued shall state the time period within which the proposed digging or trenching shall be completed.

(C) All applications for permits shall be submitted to the Highway Department at least 30 calendar days prior to beginning construction. The applicant must also give notice to adjacent landowners of the construction site at least ten days prior to construction.

(D) The application time period need not apply to emergency conditions wherein a public utility must dig or trench county property to replace a failed or ruptured main or service connection, but the utility shall immediately notify the Highway Department. Within three calendar days after beginning the emergency repair the application for a permit shall be submitted along with the other detailed information.

(E) Permits issued shall be valid for a period of no more than 90 days until work commences, and all work shall be performed within an additional 90-day period. If work is not completed within the 180-day time frame, a new permit application must be submitted for review.

(F) It shall be unlawful for any person who digs or trenches in or upon any county property pursuant to a permit obtained under this subchapter to:

(1) Fail to restore the digging or trenching site to the same condition as before the digging or trenching;

(2) Fail to repair at its sole expense any damage to county property which occurs as a result of the digging or trenching; or

(3) Fail to repair at its sole expense any damage to private drains or tiles which occurs as a result of the digging or trenching.

(Ord. 9-2017, passed 9-18-2017) Penalty, see § 93.99

§ 93.42 INSPECTIONS.

The Highway Department shall inspect the progress of any work being done on county property for which a permit has been issued at such times as it deems appropriate.

(Ord. 9-2017, passed 9-18-2017)

§ 93.43 INDEMNITY.

By applying for and obtaining a permit to dig or trench under this subchapter, the permittee agrees to indemnify and hold the county harmless from any loss, damage, claim, or suit (including costs and reasonable attorneys fees) incurred, suffered, or threatened by reason of any activity of the permittee, its agents, employees, contractors, or subcontractors.

(Ord. 9-2017, passed 9-18-2017)

§ 93.44 ENFORCEMENT.

Whenever the Superintendent of the Highway Department shall have reason to believe that any person has violated any provision of this chapter, he or she shall report such violation to the Board. The Board may at any time and within its discretion, institute legal or equitable action against an alleged violator to enforce the provisions of this chapter, by injunction or otherwise, and may in addition or in the alternative, seek the imposition of any and all penalties allowed under the law.

(Ord. 9-2017, passed 9-18-2017)

§ 93.99 PENALTY.

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

(B) (1) Any person who violates any provision of §§ 93.30 through 93.34 shall be deemed to have committed an ordinance violation and, upon conviction, shall be fined not more than \$250. Each day an offense occurs or continues constitutes a separate ordinance violation.

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(2) Nothing in §§ 93.30 through 93.34 shall be deemed to abridge, limit or, in any way, affect the right of the Board to file any civil damage suit or to seek an injunction against any violator.
(Prior Code, § 8-13-4-3)

(C) (1) Anyone found in violation of the conditions stated in §§ 93.40 through 93.44 or found performing work on county property without a valid permit shall be subject to a fine as set under § 10.99 along with being responsible for the cost of any and all repairs and the liability thereof for court costs and attorney's fees.

(a) Each day the applicant does not obtain the necessary permit may also be treated as a separate violation.

(b) Each and every occurrence may be treated as a separate violation.

(2) Nothing in §§ 93.40 through 93.44 shall be construed to abridge, limit, or otherwise impair the right of any person to maintain any action or other appropriate proceedings relating to any digging or trenching which might be subject to this chapter.
(Res. passed 3-2-1959; Res. passed 2-1-1960; Order passed 11-18-1963; Order passed 4-4-1966; Ord. 1968-7, passed 2-19-1968; Ord. passed 1-19-1970; Ord. 9-2017, passed 9-18-2017)

APPENDIX A: GRANT COUNTY THOROUGHFARE PLAN

CHAPTER 94: HEALTH AND SANITATION; NUISANCES

Section

Public Nuisances Generally

- 94.01 Purpose and intent
- 94.02 Definitions
- 94.03 Application
- 94.04 Prohibited activity
- 94.05 Determination of violation; notice of violation
- 94.06 Enforcement
- 94.07 Property owner's right to object to complaint

Noise

- 94.10 Noise regulations

Abandoned Vehicles

- 94.20 Definitions
 - 94.21 General rules
 - 94.22 Enforcement authority
 - 94.23 Identification of abandoned vehicle
 - 94.24 Marking, reporting and possession
 - 94.25 Report to Bureau of Motor Vehicles; tracing of owner
 - 94.26 Disposal of vehicle if owner or lienholder fails to appear
 - 94.27 Responsibility of owner
 - 94.28 Abandoned Vehicle Account
-
- 94.99 Penalty

*PUBLIC NUISANCES GENERALLY***§ 94.01 PURPOSE AND INTENT.**

It is hereby declared to be the purpose of this subchapter to protect the public safety, health, welfare and enhance the environment of the people of the county by making it unlawful for any person to maintain, use, create, cause, place, deposit, leave or permit a nuisance to remain on any property and to promote the health and general welfare of the people of the county by prohibiting the throwing, casting or depositing of litter in or upon any private or public property within the unincorporated county.

(Ord. 13-1998, passed 7-13-1998)

§ 94.02 DEFINITIONS.

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

AUTHORIZED EMPLOYEE. An individual designated to make the necessary inspection or any individual(s) of any governmental department of the county, which department has been designated by the County Commissioners to enforce this subchapter.

COUNTY. The unincorporated Grant County.

GOVERNMENTAL PROPERTY. Real estate within the county which owned, leased, controlled or occupied by the United States, the state or any political subdivision thereof.

OFFICER. An Executive Director of the Area Plan Department or an employee of any other governmental department of the county, so designated by the County Commissioners having law enforcement's powers to issue county ordinance violation summons in order to enforce the provisions of this subchapter.

OWNER. Presumed to be any one or more of the following:

(1) The owner or owners in fee simple of a parcel of real estate including the life tenant, if any;

(2) The record owner or owners as reflected by the most current records in the Township Assessor's office of the township in which the real estate is located; or

(3) The purchaser or purchasers of the real estate under any contract for the conditional sale thereof.

Health and Sanitation; Nuisances

PRIVATE PROPERTY. All real estate within the county, except governmental property.

PUBLIC NUISANCE. Whatever is injurious to health, or indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property. The following is a list of **PUBLIC NUISANCES**, but does not limit, the condition constituting a nuisance under this subchapter:

- (1) Accumulations of rubbish, trash, refuse, junk and other abandoned (meaning not orderly, stacked, packed, racked, stored or in containers) materials, metals and lumber;
- (2) Any condition which provides harborage of rats, mice, snakes, insects and other vermin;
- (3) Disagreeable or obnoxious odors and stenches as well as the conditions, substances or other causes which give rise to the emission or generation of those odors and stenches, other than that which originates from customary agricultural or industrial practice;
- (4) Carcasses of animals or fowls, not disposed of within a reasonable amount of time after death;
- (5) Buildings, structures or other places and locations where any violation of federal, state or county law is conducted, maintained or performed;
- (6) Accumulations of stagnant water;
- (7) It shall be a nuisance for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his or her control, in a place accessible to children, any abandoned, unattended or discarded freezer, refrigerator or other container which has an air-tight door or lid, without first removing the door lid from the freezer, refrigerator or container;
- (8) Any building or other structure which is in a dilapidated condition that it is unfit for human habitation, or kept in an unsanitary condition that it is a menace to the health of the people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located, as defined in Chapter 153 of this code of ordinances;
- (9) The unauthorized obstruction of any public street, road, alley, sidewalk or any other public thoroughfare or right-of-way; or vision clearance at an intersection as specified by Chapter 153 of this code of ordinances;
- (10) The pollution of any public well, cistern, stream, lake, canal or body of water by sewage, dead animals, industrial waste or other substances;

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(11) It shall be a nuisance to permit furniture designed for interior use or household furnishings to sit or be placed outside any structure, unless placed for refuse collections;

(12) It shall be a nuisance to maintain a swimming pool 42 inches or more deep without being secured by fences or gates, as defined by Chapter 153 of this code of ordinances; and/or

(13) It shall be a nuisance to fill land with materials other than allowed by Indiana Code.

(14) Excessive noise (refer to § 94.10 in this chapter).
(Ord. 13-1998, passed 7-13-1998; Ord. 2, passed 5-15-2017)

§ 94.03 APPLICATION.

(A) Each department or agency of the United States, the state or any political subdivision thereof shall be required to keep governmental property free from public nuisances.

(B) Any owner of private property shall be required to keep that private property free from public nuisances.
(Ord. 13-1998, passed 7-13-1998)

§ 94.04 PROHIBITED ACTIVITY.

It shall be unlawful for any owner of private property or governmental property to allow a public nuisance to exist on that property.
(Ord. 13-1998, passed 7-13-1998) Penalty, see § 94.99

§ 94.05 DETERMINATION OF VIOLATION; NOTICE OF VIOLATION.

(A) *Assignment of complaint.* The Area Plan Department shall thereafter forward the complaint to the Officer for processing, who in turn, shall visually inspect the property in question. If the Officer determines that a violation exists, he, she or they shall issue a notice of violation as provided below.

(B) *Notice to abate.*

(1) When a complaint addresses private property, the Officer through the Area Plan Department shall cause a written notice to abate to be served upon the owner of the property in question, granting that owner a minimum of ten calendar days in which to remove the public nuisance. This notice shall be served by regular first class United States mail postage prepaid and provided further that any failure to give the written notice shall not constitute a defense to any action to enforce the provisions of § 94.04.

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(2) If the Officer determines that an emergency requires that an action proceed without this notice, the Officer shall follow § 94.06(B). An **EMERGENCY** is defined as a violation that exists and threatens the welfare and safety of the people of the county. In that instance, the Officer may request the County Sheriff to immediately enter upon the premises and remove the public nuisance.

(C) *Inspection.* Following the expiration of the notice to abate, an Officer shall visually inspect the property to determine whether a public nuisance still exists. If a public nuisance exists, action shall be taken to abate that nuisance in accordance with this subchapter.

(D) *Abatement by county on government property of right-of-way.* Where the complaint addresses governmental property and it is determined by the Officer that a violation exists and threatens the health and safety of the people of the county, the Commissioners may direct the county to immediately enter upon the premises and remove the public nuisance.

(Ord. 13-1998, passed 7-13-1998; Ord. 2, passed 5-15-2017)

§ 94.06 ENFORCEMENT.

(A) *Citation for violation.* If the Officer finds that a public nuisance exists on private property and has not been abated as directed in the written notice to abate, that Officer may cause a citation for violation of a county ordinance to be issued to the offending property owner.

(B) *Abatement by county on private property.* In addition to the issuance of a citation for the violation of a county ordinance under division (A) above, the Officer may bring a civil action in the county courts or any court of record and if so ordered by the court, obtain an order allowing the county to abate the public nuisance and recover costs pursuant to this subchapter, which shall include: costs of removal of the public nuisance, administrative fees actually incurred in abating the public nuisance, including costs of collection and attorney fees. In addition, the Officer may seek to enjoin the public nuisance through application to the proper court.

(C) *Responsibility of offender for costs of enforcement.* The Area Plan Department shall make a statement of the costs incurred in eliminating the public nuisance, administrative fees, attorney fees if court ordered enforcement is necessary and all recording fees associated with their collection of the outstanding balances. If the work is performed by contract, the contract amount will be charged and may be paid directly by the offender. The following fees shall be charged if performed by government personnel and equipment.

(1) Administrative fees: \$500. These fees would cover such administrative tasks as inspecting the property to determine the violation, to determine compliance, determining ownership and preparing and mailing notices. Administrative fees are separate from any enforcement violation fees either as cited elsewhere in this chapter or in § 10.99.

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(2) Labor and fees: the following labor fees per person, per hour or fraction thereof, for labor necessary to abate a public nuisance:

- (a) Operator/driver/laborer without CDL: current rate;
- (b) Operator/driver/laborer with CDL: current rate; and
- (c) Supervisor: current rate.

(3) Equipment fees: the following equipment fees per machine, per hour or fraction thereof, for the use of each piece of equipment necessary to abate the public nuisance:

- (a) Pickup truck: current rate;
- (b) Tractor/bush hog: current rate;
- (c) Backhoe: current rate;
- (d) Dump truck: current rate;
- (e) Packer: current rate; and
- (f) Loader: current rate.

(4) Any landfilling fees actually incurred to dispose of litter and waste products removed.

(5) Any other reasonable fees actually incurred in abating a public nuisance. The statement shall be delivered to the property owner by first class mail. The owner shall pay the amount noted to the county within ten days after receipt, which shall be deposited in the Unsafe Building Fund which heretofore shall be called the joint Abatement, Abandoned Vehicle and Unsafe Building Fund and operated in accordance with I.C. 36-7-9-14 and I.C. 9-22-1-27.

(D) *Failure to pay.* If the owner fails to pay the amount within ten days after receiving the statement, the Area Plan Department may institute action necessary to collect the debt. (Ord. 13-1998, passed 7-13-1998; Ord. 2, passed 5-15-2017)

§ 94.07 PROPERTY OWNER'S RIGHT TO OBJECT TO COMPLAINT.

(A) Upon receipt of a notice to abate, the property owner or his, her or their duly authorized representative may notify the Area Plan Department of an intent to object to any notice to abate.

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(B) (1) This correspondence shall be in writing and shall specify the street address involved, as well as the current mailing address and phone number of the property owner or his, her or their representative.

(2) Any correspondence must be received by the Area Plan Department within the amount of time set out in the notice to abate.

(C) (1) Upon receipt of the correspondence, the Area Plan Department shall provide copies of same to the County Attorney and to the Officer involved in the violation, who shall cause the objection to be investigated.

(2) If the Officer determines that the violation has not been corrected, he or she shall file the cause in the county courts or any other court of record.

(3) No other action concerning the property in question shall be pursued against the owner to abate the environmental public nuisance until resolution of the objection thereto.
(Ord. 13-1998, passed 7-13-1998)

NOISE

§ 94.10 NOISE REGULATIONS.

(A) *Citation.* This section may be cited as the “County Sound Regulation Ordinance.”

(B) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this division and are in conformance with applicable portions of the American National Standards Institute (ANSI) standards:

A-WEIGHTED SOUND LEVEL. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB/A.

AMBIENT NOISE LEVEL. The composite of noise from all sources near and far. In this context, the ***AMBIENT NOISE LEVEL*** constitutes the normal or existing level of environmental noise at a given location when sound is not being electronically amplified at a location.

EXCEEDANCE LEVELS L10 AND L1. The A-weighted sound levels which exceed ten percent and one percent, respectively, of the specified measurement period.

INTRUSION NOISE. That noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends on its amplitude, duration, frequency, and time of occurrence and tonal or information content as well as the prevailing ambient noise level, on its amplitude, duration, frequency, and time of occurrence and tonal or information content as well as the prevailing ambient noise level.

NOISE. Any sound which, under the facts and circumstances, disturbs human beings of normal, reasonable, or average sensibility or which causes or tends to cause an adverse psychological or physiological effect on such human beings.

SOUND AMPLIFICATION EQUIPMENT. Any device for the amplification of the human voice, music, instruments, or any other sound associated with mass assemblies.

SOUND LEVEL METER. An instrument, including a microphone, an amplifier, an output meter, or recording device, and frequency weighting network for the measurement of sound level, which satisfies the requirements for type S2A meters, as set forth in the American National Standards Institute specifications for sound level meters, S1.4-1971, or the most recent revision thereof.

(C) *Applicability.* Except as otherwise provided by law, this section applies to all persons and landholders in the county who are within the jurisdiction of the County Area Plan Commission and in jurisdictions which have adopted this county sound regulation ordinance.

(D) *Prohibitions.* It is unlawful for any person or landowner within the part of the county not included within an incorporated city or town to cause or permit any person, machine, electronic device, or any other means of sound to be generated which causes sound levels to exceed the levels prohibited by this section.

(E) *Sound level limits.* No person or landowner shall permit any noise to be generated or produced on his or her property which exceeds 75 dB/A for more than two minutes per hour, measured at a point no closer than one-half mile from the boundary of the property line from which the sound is generated; unless specific approval is obtained from Area Plan or the appropriate municipality of such noise.

(F) *Hours.*

(1) It shall be unlawful for any person or landowner to generate or permit the generation of sound from his or her property through electronic amplification at a level above 25 dB/A above the ambient noise level for more than two minutes per hour at the property line of the landowner, where the sound is generated between the following hours:

- (a) Daily from Sunday evening through Friday morning, 11:00 p.m. to 7:00 a.m.; and
- (b) Daily from Friday evening through Sunday morning, 11:30 p.m. to 9:00 a.m.

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(2) The only exception to this is if specific approval is obtained from Area Plan or the appropriate municipality of such noise.

(G) *Enforcement.* The officer shall be responsible for designating employees of the Area Plan department or request assistance from any appropriate department of the county to make the inspections necessary to determine any violations of this notice.

(H) *Penalties.*

(1) A person who violates this section commits an infraction. The penalties associated with this infraction will be subject to the provisions of § 94.99 of this chapter and as determined by court.

(2) Any fine imposed under this division may be suspended if the court finds that the violation was the result of natural causes or was the result of unforeseen circumstances beyond the control of the person charged with the violation of this section.

(I) *Other remedies.* The rights and remedies provided by this section are in addition to any other rights and remedies:

(1) Provided by any laws of the United States or of this state; or

(2) At common law.

(Ord. 2, passed 5-15-2017) Penalty, see § 94.99

Statutory reference:

Authority, see I.C. 36-8-2-8

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ABANDONED VEHICLES

§ 94.20 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 located on public property in a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;
- (3) 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;
- (4) A vehicle left on public property continuously without being moved for 72 hours;
- (5) A vehicle that has remained on private property without the consent of the owner, or person in control, of that property, for more than 72 hours; (Nothing in this statute shall prevent a property owner from removing, at any time and in any lawful manner, a vehicle left on his or her own property without his or her consent, except in a case where the owner of the vehicle also resides on the property where the vehicle is left. If the owner requests the county's assistance in removal of the vehicle, however, this statute governs all stages of the removal.)
- (6) A vehicle that does not have a current and valid license plate or an Affidavit of Nonuse - State Form 56164 (a maximum five vehicles per property can be registered with State Form 56164) and/or from which there has been removed the engine, transmission or differential or that is otherwise dismantled or inoperable and is left on private property continuously in a location visible from public property for more than 20 days;
- (7) A vehicle that does not have a current and valid license plate or an Affidavit of Nonuse - State Form 56164 (a maximum five vehicles per property can be registered with State Form 56164) and/or is three or more model years old and mechanically inoperable and is left in a location visible from public property for more than 20 days;
- (8) A vehicle that has been removed by a towing service or a public agency upon request of an Officer enforcing a statute or ordinance of this subchapter if the vehicle once impounded is not claimed or redeemed by the owner or his or her agent within 15 days of its removal; or
- (9) The following described vehicles do not fit within the definition of "abandoned vehicles":

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- (a) Vehicles and attachments specifically designed and owned for agricultural purposes and kept on property used for that purpose;
- (b) A vehicle in operable condition specifically adopted, modified or constructed for operation on privately-owned raceways, to include derby cars;
- (c) A vehicle stored as the property of a member of the Armed Forces of the United States who is on an active duty assignment;
- (d) A vehicle located on a vehicle sale lot or at a commercial servicing facility, operated in accordance with Chapter 153 of this code of ordinances;
- (e) A vehicle located upon property licensed or zoned as an automobile scrapyard;
- (f) A vehicle registered and licensed under I.C. 9-18-12-1 *et seq.* as an antique vehicle;
- (g) A vehicle being dismantled to keep another vehicle in running condition if the owner hauls away the dismantled vehicle after a 60-day period has expired; and
- (h) A vehicle concealed in a garage or other building, with the owner's knowledge and consent.

OWNER. The last record titleholder of a vehicle according to the records of the Bureau of Motor Vehicles under I.C. 9-13-2-121.

PARTS. All components of a vehicle that as assembled do not constitute a complete vehicle and are placed in the same manner as an "abandoned vehicle".

PERSON. Any individual, firm partnership, association, corporation, company, fiduciary, government entity or organization of any kind.

PRIVATE PROPERTY. All property other than public property within the county.

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

TOWING SERVICE. A business that engages in moving or removing disabled vehicles and, once removed, to store or impound vehicles.

VEHICLE. A machine propelled by power other than human power designed to travel along the ground or in the air by use of wheels, treads, runners, slides or similar devices, and transport persons or property, or pull machinery, and includes, but is not limited to, the automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, motorized bicycle, buggy and wagon. (Ord. 14-1998, passed 7-20-1998; Ord. 5-2020, passed 2-3-2020)

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§ 94.21 GENERAL RULES.

No person shall leave an abandoned vehicle, as described above in § 94.20, or parts, as described above in § 94.20, on public or private property in the unincorporated county.
(Ord. 14-1998, passed 7-20-1998) Penalty, see § 94.99

§ 94.22 ENFORCEMENT AUTHORITY.

The Sheriff's Department, Health Officer, employees of the Plan Commission of the county and the Nuisance Abatement Officer of the county (hereafter collectively called "Officer") are hereby authorized to enforce this subchapter in accord with the procedure described below.
(Ord. 14-1998, passed 7-20-1998)

§ 94.23 IDENTIFICATION OF ABANDONED VEHICLE.

Abandoned vehicles shall be identified in the following manner.

(A) If the Officer finds a vehicle he or she believes to be an abandoned vehicle, he or she may immediately follow the procedures set forth below in §§ 94.24 through 94.28.

(B) Upon complaint of a private property owner or person in control of the property that a vehicle has been left on the property for 48 hours or more without the consent of the owner or person in control, an Officer shall follow the procedures set forth in §§ 94.24 through 94.28 (I.C. 9-22-1-18).

(C) (1) 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 the description of the vehicle. Upon receipt of notification, the Bureau shall cause a search to be made to determine and notify the owner in accordance with § 94.27.

(2) 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 subchapter.

(3) 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 vehicles 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.

(4) If the vehicle is not released to the owner or lienholder, the Bureau shall declare the vehicle abandoned and provide for disposal in accordance with this subchapter.
(Ord. 14-1998, passed 7-20-1998)

§ 94.24 MARKING, REPORTING AND POSSESSION.

(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, public agency and address and telephone number to contact for information;

(2) The vehicle or parts are considered abandoned;

(3) The vehicle or parts will be removed after 72 hours or, if the vehicle fits in § 94.20, after 20 days;

(4) 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; and

(5) The owner may avoid costs by removal of the vehicle or parts within 96 hours, or within 20 days if the vehicle fits in § 94.20.

(B) If the tagged vehicle or parts are not removed within that 72-hour period or the 20-day period, if applicable, the Officer or his or her designee under the supervision of the Officer may prepare a citation as specified herein or take action for the removal of the vehicle or parts as specified in § 94.20.

(C) The Officer may cause a citation for violation of a county ordinance to be issued to the offending property owner. The court may order the county to remove the vehicle and parts or may impose an injunction upon the owner of the property. Each day a violation continues after an action has been commenced shall constitute a separate ordinance violation. No additional notice under this subchapter shall be required to initiate these separate actions once an action has been commenced against the person violating this subchapter.

(D) If the Officer is causing removal, he or she or his or her designee, 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.

(E) If, in the opinion of the Officer, the market value of the abandoned vehicle or parts is less than \$500, the Officer, or his or her designee under the supervision of the Officer shall immediately dispose of the vehicle to an automobile scrapyard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the Bureau. The public agency shall retain the original records and photographs for at least two years.

(F) If, in the opinion of the Officer, the market value of the abandoned vehicle or parts is \$500 or more, the Officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to

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ascertain the owner or person who may be in control of the vehicle or parts. After 96 hours, the Officer shall require the vehicle or parts to be towed to a storage area.

(Ord. 14-1998, passed 7-20-1998)

§ 94.25 REPORT TO BUREAU OF MOTOR VEHICLES; TRACING OF OWNER.

(A) Within 72 hours after removal of an abandoned vehicle to a storage area under this subchapter, the Officer, or his or her designee, under the supervision of the Officer, shall prepare and forward to the Bureau 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 office of the name and most recent mailing address of the owner and any leinholder.

(B) The Bureau shall:

(1) Conduct a reasonable search through the National Automobile Theft Bureau and the State Police Department to determine whether the vehicle or parts have been reported as stolen;

(2) Conduct a reasonable search of Bureau records to determine the owner of the vehicle or parts or lienholder of record;

(3) If a reasonable search discloses the name and address of the owner or lienholder, mail a written notice, by first class mail, to:

(a) The owner, with a copy to any lienholder if the Bureau disposes of the vehicle; and

(b) The Officer, indicating that the vehicle or parts have been impounded at a certain location and must be removed within 15 days of the date of mailing of the notice and advising that the vehicle or parts will be disposed of after that time.

(4) The Bureau or the Officer shall further advise the owner or any lienholder that all costs incurred in removing and storing the vehicle or parts are his or her legal responsibility.

(Ord. 14-1998, passed 7-20-1998)

§ 94.26 DISPOSAL OF VEHICLE IF OWNER OR LIENHOLDER FAILS TO APPEAR.

(A) If the vehicle or parts are in a condition that vehicle identification numbers or other means of identification are not available to determine the owner or lienholder, the vehicle may be disposed of without notice by the county.

(B) If the owner or lienholder does not appear within 15 days after mailing of notice, the county shall sell the vehicle or parts to the highest bidder at a public sale conducted after notice under I.C.

5-3-1, except only one newspaper insertion one week before the public sale is required. The county may elect to sell the vehicle or parts as unclaimed property in accordance with I.C. 36-1-11, except that the 15-day period for the property to remain unclaimed is sufficient.

(C) The purchaser shall be furnished a bill of sale for each abandoned vehicle sold by the Bureau or the county. The fee for the bill of sale is \$6. Should the purchaser wish to obtain a title for the vehicle acquired, he or she shall present evidence from a law enforcement agency that the vehicle is roadworthy and pay the appropriate title fee.

(Ord. 14-1998, passed 7-20-1998)

§ 94.27 RESPONSIBILITY OF OWNER.

(A) 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 costs incidental to the removal, storage and disposal of the vehicle or the parts.

(B) Neither the owner, lessee or occupant of the property from which an abandoned vehicle or parts are removed nor a public agency, towing service or automobile scrapyard is liable for loss or damage to the vehicle or parts occurring during its removal, storage or disposition.

(Ord. 14-1998, passed 7-20-1998)

§ 94.28 ABANDONED VEHICLE ACCOUNT.

(A) The county shall keep an Abandoned Vehicle Account to help defray the costs of enforcing this subchapter. To this end, the Unsafe Building Fund, as previously established by Chapter 153 of this code of ordinances, will be used as this Account, and heretofore, shall be called the joint Abatement, Abandoned Vehicle and Unsafe Building Fund and operated in accordance with I.C. 36-7-9-14 and I.C. 9-22-1-27.

(B) The costs of towing, storing and removing and disposing of an abandoned vehicle shall be allocated as follows.

(1) The owner or lienholder shall pay this cost in an amount not in excess of \$150 and in all cases not to exceed the fair market value of the car.

(2) The rest of the cost shall be paid from the Abandoned Vehicles Account.

(3) The owner or lienholder shall be able to reclaim a vehicle in storage only after all costs are paid and a reclamation fee of \$50 is paid to the Abandoned Vehicle Account.

(C) All proceeds from the sale shall be deposited with the County Auditor and placed by him or her in the county's Abandoned Vehicle Account.

(Ord. 14-1998, passed 7-20-1998)

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§ 94.99 PENALTY.

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

(B) Any person who violates §§ 94.01 through 94.07 shall be deemed to have committed an ordinance violation and, upon conviction, shall be fined not less than \$50 and not more than \$2,500. The court may order the county to abate the violation and impose costs as incurred and calculated under § 94.06(C). Each day a violation continues after an action has been commenced to abate the nuisance that nuisance shall constitute a separate ordinance violation. No additional notice under §§ 94.01 through 94.07 shall be required to initiate these separate actions once an action has been commenced against the person violating §§ 94.01 through 94.07.

(C) Any person who violates any provisions of §§ 94.20 through 94.28 shall be deemed to have committed an ordinance violation and, upon conviction, shall be fined not less than \$50 per vehicle and not more than \$2,500 total.
(Ord. 13-1998, passed 7-13-1998; Ord. 14-1998, passed 7-20-1998)

