

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ABANDONED VEHICLES; JUNK

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§ 90.01 DEFINITIONS.

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

ABANDONED VEHICLE.

- (1) A vehicle located on public property illegally;
- (2) A vehicle left on public property without being moved for three days;

(3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;

(4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours;

(5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property;

(6) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or an ordinance if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days after the vehicle's removal; or

(7) A vehicle that is at least three model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days. (IC 9-13-2-1)

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

BUREAU. The Bureau of Motor Vehicles.

JUNK. Any worn out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use and any unwholesome or combustible substance or material which creates an obnoxious condition and is injurious to the health or general welfare of the citizens of this town. Portions of junk cars, including, but not limited to, hoods, fenders, radiators, rims, motor parts, not being

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utilized for the repair of a motor vehicle, shall be considered junk. Any appliance that is inoperative shall be considered junk. Anything which is or may create a fire hazard shall also be considered junk. Any article or material or vehicle which, unaltered or unchanged, and without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk.

JUNK VEHICLES. A vehicle which meets any one of the following conditions:

(1) Any vehicle that is not properly registered or which does not carry valid state license plates.

(2) Any motor vehicle or trailer that cannot be safely operated under its own power, towed or transported without endangering the safety or property of others.

(3) Any motor vehicle or trailer that has one or more missing or inoperable front lights, rear lights, brake lights, turn signals, no or improper illumination of the license plates, or broken or cracked front, rear or side windows that obstructs the driver's visual ability to safely operate the vehicle.

OWNER. The last known record titleholder of a vehicle according to the records of the Bureau.

PART. All components on a vehicle that as assembled do not constitute a complete vehicle.

PERSON. Individual, firm, corporation, association, fiduciary, or governmental entity.

PRIVATE PROPERTY. All property other than public property.

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

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

VEHICLE. An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, or motorized bicycle. ('80 Code, § 10.36.020) (Ord. 7-88, passed 2-8-88; Am. Ord. 2008-12, passed 6-9-08)

§ 90.02 DECLARATION OF NUISANCE.

Except as otherwise provided, the deposit, storage, maintenance, and/or collection of junk, as defined herein, outside of a residence or a building is hereby declared to be a public nuisance and offensive to the public health, welfare, and safety of the residents of the town.

('80 Code, § 10.36.010) (Ord. 7-88, passed 2-8-88)

Cross-reference:

Nuisance, see Ch. 96

§ 90.03 ABANDONING VEHICLES PROHIBITED.

(A) It is unlawful for any person to abandon a vehicle on any public or private property without permission of the person having right to possession of the property upon which the vehicle was left; or otherwise leave or maintain an abandoned vehicle in violation of the provisions of this chapter.

(B) The person who owns an abandoned vehicle or parts is:

(1) Responsible for the abandonment; and

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

('80 Code, § 10.36.030) (Ord. 7-88, passed 2-8-88) Penalty, see § 90.99

Statutory reference:

Similar state provisions, see IC 9-22-1-4

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§ 90.04 PRIMA FACIE PRESUMPTION; LIABILITY OF OWNER FOR COSTS.

There shall be a prima facie presumption that the owner of an abandoned vehicle is responsible for the abandonment and is thereby liable, to the extent of the market value of the vehicle, for all costs incidental to the removal, storage and disposal of such vehicle or the parts.

('80 Code, § 10.36.040) (Ord. 7-88, passed 2-8-88)

§ 90.05 NOTICE TAG; PREPARATION OF REPORT; DISPOSAL PROCEDURE.

(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, 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.

(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 vehicle.

(5) The owner may avoid costs by removal of the vehicle or parts within 72 hours.

(B) If the tagged vehicle or parts are not removed within that 72-hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts including information on the condition, missing parts, and other facts that might substantiate that the market value is less than an amount set by Town Council and subject to amendment by Council from time to time. The current amount is available for public inspection in the

town offices during normal business hours. Photographs shall be taken to describe the condition of the vehicle or parts.

(C) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is less than an amount set by Town Council and subject to amendment by Council from time to time. The current amount is available for public inspection in the town offices during normal business hours, 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 disposing of the vehicle shall retain the original records and photographs for at least two years.

(D) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is an amount set by Town Council and subject to amendment by Council from time to time. The current amount is available for public inspection in the town offices during normal business hours or more, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the owner or person who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage area, at a cost to the owner of an amount set by Town Council and subject to amendment by Council from time to time for the towing. The current amount is available for public inspection in the town offices during normal business hours. A fee of an amount set by Town Council and subject to amendment by Council from time to time, per day will be charged for all vehicles stored on town property. The current amount is available for public inspection in the town offices during normal business hours.

('80 Code, § 10.36.050) (Ord. 7-88, passed 2-8-88; Am. Ord. 1988-19, passed 8-8-88) Penalty, see § 90.99

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§ 90.06 IMPOUNDMENT PROCEDURE; SALE OF VEHICLE.

Within 72 hours after removal of an abandoned vehicle to a storage area pursuant to § 90.05, the Police Department shall:

(A) Prepare and forward to the State Bureau of Motor Vehicles, an abandoned vehicle report containing a description of the vehicle including the make, model, engine number, if any, identification number and the number of any license plates affixed thereto and request that the Bureau advise the Police Department of the name and most recent mailing address of the owner and any lienholder or furnish an abstract of title to such vehicle.

(B) Upon receipt of the information requested from the Bureau, the Police Department shall cause to be mailed by certified mail, a written notice to the owner with a copy to any lienholder that the vehicle has been impounded and must be removed within 15 days of the date of mailing the notice, and advising that the vehicle will be disposed of after that time, and further advising the owner that all costs incurred in removing and storing such vehicle are his legal responsibilities, listing all costs and anticipated costs thereof.

(C) If the owner or lienholder appears prior to disposal of the vehicle and pays all cost incurred against it at that time, then he shall be entitled to the return of the vehicle. If the owner cannot be located and neither he nor any lienholder appears, the Police Department shall sell the vehicle or parts to the highest bidder at public sale. Notice of the sale shall be given as provided under IC 5-3-1, except that only one newspaper insertion shall be required. The purchaser at public sale shall be furnished a bill of sale by the Police Department for each abandoned vehicle sold.

(D) If the vehicle or parts are in such condition that the vehicle identification numbers or other means of identification are not available to determine the owner of record with the Bureau, the vehicle may be disposed of without notice.

('80 Code, § 10.36.060) (Ord. 7-88, passed 2-8-88)

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§ 90.07 COMPLAINT OF PRIVATE PROPERTY OWNERS.

Upon complaint of any 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 thereof, an officer shall follow the procedures set forth in § 90.05.

('80 Code, § 10.36.070) (Ord. 7-88, passed 2-8-88)

§ 90.08 DAMAGE TO VEHICLE DURING REMOVAL; LIABILITY EXEMPTIONS.

Neither the owner, lessee, or occupant of the premise from which any abandoned vehicle or parts are removed nor the town, towing service, or any automobile scrapyard shall be liable for any loss or damage to the vehicle or parts occurring during its removal or while in possession of the town or an agent of the town.

('80 Code, § 10.36.080) (Ord. 7-88, passed 2-8-88)

§ 90.09 DISPOSITION OF SALE PROCEEDS; ABANDONED VEHICLE ACCOUNT.

The proceeds of the sale of an abandoned vehicle in accordance with this chapter shall be credited as against all costs incidental to the removal, storage and disposal of such vehicle. All surplus proceeds over and above costs shall go to the Clerk-Treasurer and be placed in the revolving fund to be known as the "Abandoned Vehicle Account." The Town Council may annually appropriate sufficient tax monies to such account in order to provide an adequate fund to be used for the purposes set forth herein. All monies remaining in the account at the end of each year shall remain in such account and not revert to the general fund. All monies paid to the town by owners for the cost of removal, storage and disposal of abandoned vehicles shall be placed in the abandoned vehicle account.

('80 Code, § 10.36.010) (Ord. 7-88, passed 2-8-88)

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§ 90.10 EXEMPTIONS.

The following shall not be considered abandoned vehicles:

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

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

(C) Any vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility.

(D) Any vehicle located upon property duly licensed or zoned an automobile scrapyard.

(E) Any motor vehicle registered and licensed under IC 9-18-12 as an antique vehicle.
(’80 Code, § 10.36.100) (Ord. 7-88, passed 2-8-88)

§ 90.11 NOTICE TO REMOVE JUNK.

(A) It shall be unlawful for any person in charge of or in control of any premises within the town, whether as owner, tenant, lessee, occupant, or otherwise, to allow any junk as defined herein, to remain upon such premises longer than seven days after receipt of written notice to remove said junk from the premises. The written notice shall be issued by the Chief of Police of the town.

(B) Such written notice shall be personally served upon the person, either in person or by leaving said notice at his usual place of residence, or by certified mail addressed to his last known place of residence.

(C) If the party in charge is a firm or corporation, such written notice may be served personally upon the person in charge at the premises, or by leaving the notice at the place of business of the party, or by certified mail addressed to the place of business.

Penalty, see § 90.99
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§ 90.99 PENALTY.

(A) If any provision of this chapter is not observed within the time fixed, the person in charge of or in control of the junk and the person in charge of or in control of any premises within the town, whether as owner, tenant, lessee, occupant, or otherwise, upon which junk is found shall each, upon conviction, be punished as provided in § 10.99 of this code.

(B) Any junk vehicle cited under this chapter may be impounded and held by the Police Department or at a tow service lot authorized by the Police Department until the owner makes the necessary repairs or fulfils all requirements of the bureau of motor vehicles in regards to proper registration. The owner of a junk vehicle impounded under this chapter will be responsible for all towing and storage charges and may reclaim the junk vehicle upon payment of these charges.
(’80 Code, § 10.36.110) (Ord. 7-88, passed 2-8-88; Am. Ord. 2008-12, passed 6-9-08)

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CHAPTER 91: ALARM SYSTEMS

Section

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GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

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

ALARM EQUIPMENT SUPPLIER. Any person, firm, or corporation that sells, leases or installs automatic protection devices or signaling devices which transmit alarms upon receipt of a stimulus from a detection apparatus or a manually-operated system.

ALARM CONDITIONS. Alarms activated by unlawful violation of a user's property or other violations that the systems were designed to protect against acts of God, other violent conditions or by outside agencies or external forces not under the control of the owner, lessee or his employee or agent.

ALARM USER. Any person on whose residence, commercial property, or other premises an alarm system is maintained in the town, except for alarm systems on motor vehicles. Also included are those systems which employ an audible signal emitting sounds or a flashing light or beacon designed to alert signal persons outside the premises.

ALARM SYSTEM. An assembly of equipment and devices such as solid waste unit, arranged to signal the presence of a hazard requiring urgent attention and to which Police or Fire Departments are expected to respond.

CENTRAL STATION. A facility whose prime purpose is to monitor incoming alarm signals 24 hours a day and relay the signal information to the appropriate authorities.

DIRECT LINE. A telephone line leading directly into the communications center of the Police Department that is for use only to report signals on a person-to-person basis.

FALSE ALARM. The activation of an alarm system caused by improper operation, negligence, equipment malfunction, or intentional act by an unauthorized individual such as results in the dispatch of a police officer and/or Fire Department personnel, unnecessarily.

LOCAL ALARM. A signaling system which, when activated, causes an audible and/or visual

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signaling device to be activated in or on the premises within which the system is installed.

PERSON. Any individual, partnership, corporation, association, or society, but such term does not include the town.

POLICE CHIEF. The Chief of the Police Department of the town or his authorized representative.

PUBLIC TRUNKLINE. A telephone line leading into the communications center of the Police Department that is for the purpose of handling emergency and administrative calls on a person-to-person basis.

SIGNAL DEVICE. An electrically-operated instrument which automatically sends visual and/or audible signals to be registered by indicators at a monitor panel at the receiving terminal or central station.

('80 Code, § 9.20.010)

§ 91.02 PERMITTED DEVICES.

(A) No person shall use or cause or permit to be used, an alarm system utilizing signaling devices that automatically select a public trunkline of the Police Department of the town and then reproduce any prerecorded message to report any robbery, burglary, fire, or other emergency.

(B) With the exception of local alarms, only signaling devices shall be permitted to be installed in the town for the purpose of reporting any robbery, burglary, fire, or other emergency to the Police Department of the town.

('80 Code, § 9.20.020) Penalty, see § 10.99

§ 91.03 MONITORING SYSTEM.

The Police Commission of the town is authorized to regulate the installation and operation of a uniform monitoring system to receive visual and audible signals over direct lines.

('80 Code, § 9.20.030)

§ 91.04 PERMIT REQUIRED.

(A) No alarm user shall install, operate, or maintain an alarm system in the town without first obtaining a permit as required below.

(B) Any alarm user who operates an alarm system without first obtaining authorization as required by this section, or who, after having an authorization revoked, fails to disconnect his alarm system, shall be in violation of this chapter.

('80 Code, § 9.20.040) Penalty, see § 10.99

§ 91.05 APPLICATION FOR PERMIT; CONFIDENTIAL CONFIRMATION.

(A) Applications for permits to install, maintain, and operate an alarm system shall be filed with the Town Clerk-Treasurer with an application fee of \$25 for single family residential use and \$50 for multi-family, commercial, or industrial use, for alarm systems to be installed, maintained, and operated for residential uses, by merchants, and businesses, for commercial and industrial uses. On or before January 15th of each subsequent calendar year, each permittee shall pay a renewal fee of \$20 for each permit. The alarm user applying for the authorization required shall state on the application form the following:

(1) His name.

(2) The address of the residence, or business or businesses in or upon which the alarm system has been or will be installed, also telephone number.

(3) The type of alarm system (e.g., local, burglar signaling device, holdup signaling device, fire signaling device).

(4) The alarm equipment supplier selling, installing, monitoring, inspecting, responding to and/or maintaining the alarm system.

(5) The name and telephone number of at least two other persons (in case of a corporate alarm user applicant) and at least three persons who can be reached at any time, day or night, and who can open the premises in which the system is installed.

(6) The alarm user shall provide updates when changes occur in the contact persons.

(B) The information contained in an alarm user authorization application required by this section and other information received by the Police Chief through correspondence or communications with an alarm user shall be securely maintained and restricted to inspection only by the Police Chief or town employees specifically assigned the responsibility for handling and processing alarm user authorizations in the town. Town officials and employees assigned the foregoing duties shall not knowingly or willfully reveal the information contained in an alarm user authorization application or in correspondence or communications with an alarm user to any other person for any purpose not related to this chapter or official law enforcement matters without the express written consent of the alarm user supplying such information. The Clerk-Treasurer and Police Chief shall approve such application if they find that the applicant has provided the information required in this section. The Police Department shall certify that the foregoing requirements are met and shall supply this certification to the Town Clerk-Treasurer. ('80 Code, § 9.20.050) (Am. Ord. 1998-30, passed 12-14-98)

§ 91.06 LOCAL ALARM; AUTOMATIC CUTOFF.

Local alarms with any externally audible alert shall not make a sound similar to that of any emergency warning systems and such alarms in residential districts must have an automatic cutoff after 15 minutes of sounding. ('80 Code, § 9.20.060)

§ 91.07 TESTING OR REPAIRING EQUIPMENT.

No alarm system designed to transmit alarm conditions directly to the Police Department shall be tested or demonstrated without first obtaining permission from the Police Department. Permission is not required to list or demonstrate alarm devices not transmitting alarm conditions directly to the

Police Department unless the alarm conditions are to be relayed to the Police Department. Failure to notify the Police Department prior to testing or conducting repairs on an alarm system shall constitute a false alarm. Responsibility for notification lies with the alarm holder.

('80 Code, § 9.20.070) Penalty, see § 10.99

§ 91.08 APPLICABLE FINES FOR FALSE ALARMS.

Applicable fines as follows:

(A) Any alarm user having false alarms on more than four dates in any 90-day period shall pay a fine in the sum of an amount set by Town Council and subject to amendment by Council from time to time, for each additional false alarm beyond the four dates. The current fine is available for public inspection at the town offices during normal business hours. All fines shall be paid to the Clerk-Treasurer within ten days after receipt of notice of the violation and the Clerk-Treasurer shall deposit same in the general fund.

(B) Any alarm user who does not pay the above fine within the time prescribed shall be subject to having the permit revoked pursuant to § 91.09 of this chapter. ('80 Code, § 9.20.080)

§ 91.09 REVOCATION OF PERMIT; REVIEW OF POLICE CHIEF'S DECISION.

(A) False alarms on more than ten dates in one year from any alarm system for which alarm user authorization has been obtained or failure to pay fine pursuant to § 91.08 of this chapter may constitute grounds for revocation of the permit granted subject to provisions of this chapter.

(B) (1) After the Police Department has recorded false alarms on four dates in any 90-day consecutive period from any authorized user, it shall notify the authorized alarm user (with a copy to the alarm equipment supplier), specifically those persons authorized to deal with police, and inform them of the facts and ask that they, within 15 days, submit a

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written report describing efforts to discover and eliminate the cause or causes of the false alarms.

(2) If the authorized alarm user fails to submit a report within 15 days or such longer period as the Chief of Police may reasonably grant, or if by the report the alarm user fails to show that he has taken or will take reasonable steps to eliminate or reduce false alarm, the Chief of Police may revoke the alarm user's authorization.

(C) When alarm conditions are received by the Police Department that evidence a failure to comply with the requirements of this chapter, the Police Chief is authorized to demand that the owner or lessee of such device, or his representative, disconnect such device until it is made to comply with the requirements of this chapter.

(D) The Chief of Police may revoke or suspend any permit issued pursuant to the provisions of this chapter after giving written notice to the alarm user and an opportunity for the alarm user to effect compliance within ten days if the Police Chief determines that the alarm system under permit has been installed, maintained or operated in violation of this chapter or if any term or condition of the permit or if any fine is unpaid.

(E) (1) An alarm system user whose authorization has been revoked is not precluded under this section from applying for a new authorization pursuant to § 91.05 of this chapter. However, before a new permit is issued, the Clerk-Treasurer shall have a report from the Police Chief as hereinafter defined and in addition, all fines due must be paid and the system corrected from any deficiencies. Before the Clerk-Treasurer shall issue a new permit, the Police Chief shall make reasonable efforts to determine that the alarm user's system has been properly serviced and its deficiency corrected. The Police Chief shall notify the Clerk-Treasurer that the alarm system has been corrected from its previous deficiencies and upon all fines paid, the Clerk-Treasurer shall then issue a new permit provided all requirements of § 91.05 of this chapter are complied with.

(2) Any person affected by the Police Chief's order to disconnect or by the Police Chief's refusal to certify to the Clerk-Treasurer that the system currently meets all requirements shall have the right to request the Police Commission of the town to review the decision or action by the Police Chief within ten days after any decision has been made by the Police Chief. The Police Commission is given the authority to either affirm, modify, or reverse any decision made by the Police Chief.

('80 Code, § 9.20.090)

FIRE ALARM SYSTEMS

§ 91.20 TAMPERING WITH FIRE ALARM SYSTEM PROHIBITED.

No person shall injure, break or cause to be injured or broken or disconnected, or in any way molest any of the fire alarm boxes, generators, wires or other parts of the fire alarm system of the town. ('80 Code, § 9.04.010) Penalty, see § 10.99

§ 91.21 OPENING FIRE ALARM BOXES; FALSE ALARMS.

No person shall, except in case of fire, or when giving the alarm of fire, open, break into, or ring any of the fire alarms. However, the provisions of this section shall not in any way apply to any member of the Fire Department whose duty it is to open or ring the fire alarm boxes, or otherwise, in case he or they are instructed to do so for the purpose of altering or repairing the same.

('80 Code, § 9.20.020) Penalty, see § 10.99

CHAPTER 92: ANIMALS

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DOGS

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Cross-reference:

Animals other than household pets declared a nuisance, see § 96.01

§ 92.01 DEFINITIONS.

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

ANIMAL. Any living vertebrate, domestic or wild, not including man.

AT LARGE. Off the premises of the owner and not under the control of the owner or a member of his immediate family either by leash, cord, chain or otherwise. ('80 Code, § 6.04.010)

CAT. Includes all animals, male and female, of *Felis catus*, properly called cats, and all other animals of the cat kind.

DANGEROUS OR VICIOUS ANIMAL. Any animal that constitutes a physical threat to human beings or other animals, or any animal which is known to have attacked or injured a person or other animal on a previous occasion, or any animal which has known vicious propensities.

DOG. Includes all animals, male and female, properly called dogs and all other animals of the dog kind. ('80 Code, § 6.04.020)

DOMESTIC ANIMAL. Any animal which has been domesticated by man so as to live and breed in a tame condition, and which is customarily regarded for human companionship, such as a dog or cat.

FARM ANIMALS. Includes cattle, horses, sheep, swine, lambs, goats, poultry, rabbits, and any other animals generally considered as indigenous to agriculture.

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HARBOR. To suffer or permit any dog to frequent or remain on or within one's house, building, enclosure or premises, and to feed, lodge or otherwise care for such dog. ('80 Code, § 6.04.030)

KENNEL. Any person, group of persons or corporation engaged in the commercial business of breeding, buying, selling or boarding dogs. ('80 Code, § 6.04.040)

OWNER. Any person owning, keeping, harboring or having possession, care or custody of a dog or other animal. ('80 Code, § 6.04.050)

STRAY ANIMAL. Any animal not secured by a leash or lead and under the immediate control of its owner or a responsible person, and for which after a reasonable search, no owner can be ascertained. (Ord. 10-1974, passed -74; Am. Ord. 1996-18, passed 8-26-96; Am. Ord. 2008-11, passed 6-9-08)

§ 92.02 LICENSE REQUIRED; EXEMPTIONS.

(A) It is unlawful for any person to own, keep or harbor, have in their possession or have the care and custody of any dog over the age of six months within the corporate limits of the town unless a license is procured and kept current for each such dog as provided in this chapter.

(B) All dog licenses and kennel licenses shall be issued and valid for one-year beginning on January 1 of the same year the application is filed. Applications made on or before January 31 of each calendar year, or within 30 days after a dog attains six months of age during any calendar year, shall be without penalty. If application is not made by January 31 of each calendar year, or within 30 days of the date the dog attains the age of six months during any calendar year, the applicant shall be assessed a penalty of \$5 in addition to the regular license fee, which amount shall be added to and collected with the regular license fee. Application shall be made to the Clerk-Treasurer on a form to be furnished by the town for the registration and licensing of the dog or dogs of such owner, and such owner shall pay the Clerk-Treasurer the license fees prescribed by § 92.03.

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(C) The provisions of this section are not intended to apply to the following:

(1) Dogs whose owners are nonresidents temporarily in the town;

(2) Dogs brought into the town for the purpose of participating in any dog show;

(3) "Seeing-eye" dogs properly trained to assist blind persons when such dogs are actually used by blind persons for the purpose of aiding them in going from place to place.

('80 Code, § 6.08.010) (Ord. 10-1974, passed -74; Am. Ord. 1991-10, passed 6-14-91; Am. Ord. 1993-9, passed 2-8-93; Am. Ord. 2004-14, passed 6-14-04)

Statutory reference:

Taxation and licensing of dogs, see IC 15-5-9-1 et seq. and 15-5-10-2

§ 92.03 LICENSE FEES.

(A) The annual fee charged for each dog license shall be as follows:

(1) \$5 for applications made on or before January 31 of any calendar year, or within 30 days of the date of dog attains the age of six months, or within 30 days of proof on ownership of a dog;

(2) \$10 for each application that is not filed before January 31 of any calendar year, or within 30 days of a dog attaining the age of six months, or after 30 days of ownership of a dog.

(3) \$2.50 for each duplicate license issued by the Clerk-Treasurer.

(B) Every person, group of persons or corporation engaged in the commercial business of buying, selling or breeding and who owns, harbors or keeps five or more dogs in a kennel shall pay an annual license fee of \$25; provided, however, that any

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persons operating such kennel may elect to license each individual dog as provided in division (A) of this section in lieu of paying an annual kennel fee.

('80 Code, § 6.08.020) (Ord. 10-1974, passed - -74; Am. Ord. 1982-28, passed 12-28-82; Am. Ord. 2004-14, passed 6-14-04; Am. Ord. 2005-22, passed 6-27-05)

Cross-reference:

Fee schedule, see § 11.092

§ 92.04 ISSUANCE OF LICENSE TAG; DUPLICATES.

(A) Any person required in this chapter to register and procure a license for any dog shall apply therefore to the Clerk-Treasurer on the form supplied by the Clerk-Treasurer and shall pay the required fee as prescribed in § 92.03. Upon giving of all of the information called for by the form and upon payment of the required fee, the Clerk-Treasurer shall issue to the applicant a tag of metal or suitable substance, the style of which shall be changed every year, on which shall be stamped the license number issued for such dogs. However, no such license number shall be issued to any applicant unless and until such applicant produces sufficient documentary proof that such animal sought to be licensed has been inoculated for hydrophobia [i.e., rabies]. It shall be the duty of the Clerk-Treasurer to have in his or her possession a dog license register in which shall be set forth for each dog for which a license has been issued the following information:

- (1) The number of the license issued;
- (2) The name and address of the owner of the dog;
- (3) A brief description of the dog, showing sex, color, breed and name;
- (4) The date of the issuing of the license and date of expiration.

(B) Each license shall be valid only for the calendar year in which it is issued and shall expire on

the last day of such year. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and the owner shall see that the collar and tag are constantly worn. In case a license tag is lost or destroyed, a duplicate may be issued by the Clerk-Treasurer upon satisfactory proof, under oath, of such loss or destruction and proof of the payment of the license fee for the current year, together with the payment of a fee as established by Council for such duplicate. Each license fee shall cover only one animal. License tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of the death of the dog or other owner leaving the town before the expiration of the license period.

('80 Code, § 6.08.030) (Ord. 10-1974, passed - -74)

§ 92.05 REMOVAL OF COLLAR OR LICENSE TAG PROHIBITED.

It is unlawful for any person or persons to remove either the collar or the license tag from any licensed dog, except with the consent of or upon the order of the owner of such dog or the party to whom the license was issued.

('80 Code, § 6.08.040) (Ord. 10-1974, passed - -74)
Penalty, see § 10.99

§ 92.06 HYDROPHOBIA PROCLAMATION; AUTHORITY OF POLICE.

(A) Whenever the Town Council determines that there is danger of the existence or spread of hydrophobia [i.e., rabies] within or near the town, they shall, by resolution, direct the President of the Council to issue a proclamation ordering and requiring all persons owning, possessing, harboring or having the care or custody of any dog or dogs within the limits of the town either to confine or, in the alternative, to confine or to muzzle the same by good and substantial means, in and upon the premises where such persons may reside or in any other suitable place, for a period of time not less than 30 days nor more than 180 days following the date of such proclamation.

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(B) Upon the issuance of the proclamation, it shall be the duty of any or all persons owning, possessing, harboring or having the care or custody of any dog or dogs to confine the same securely and by substantial means upon his or her premises so as to prevent the dog or dogs from running-at-large or biting or being bitten by other animals; or it shall be the duty of such persons to cause the dog to be securely and carefully muzzled by a good and sufficient muzzle during such periods. No muzzle shall be deemed sufficient unless it is of such size and strength and fastened in such manner as will effectually prevent such animal from biting any person or persons or any other animal or animals.

(C) During the period of time any such proclamation by its terms is in effect, any dog found running-at-large within the town is a nuisance. ('80 Code, § 6.12.010)

(D) Upon the issuance of any proclamation as provided for in divisions (A) through (C) of this section, it is lawful for the Police Department to dispose of any dog found running-at-large within the limits of the town during any time the proclamation is in effect. ('80 Code, § 6.12.020) (Ord. 10-1974, passed - -74) Penalty, see § 10.99

Statutory reference:

Authority of town to restrain animals to prevent them from running-at-large, see IC 36-8-2-6

§ 92.07 EXPOSURE TO RABIES; NOTIFICATION OF POLICE DEPARTMENT.

(A) If a dog is believed to have rabies, or has been bitten by a dog suspected of having rabies, such dog shall be confined by a leash or a chain on the premises of the owner and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two weeks. The owner shall immediately notify the police department of the fact that the dog has been exposed to rabies, and the Police Department is empowered to remove the dog from the

premises of the owner to a veterinary hospital, and there placed under observation for a period of two weeks at the expense of the owner or keeper.

(B) Every owner, upon ascertaining that the dog is rabid, shall immediately notify the Police Department, such shall either remove the dog to the pound or summarily destroy it. ('80 Code, § 6.12.030) (Ord. 10-1974, passed - -74) Penalty, see § 10.99

§ 92.08 RUNNING-AT-LARGE PROHIBITED; NOTICE AND RECORD OF VIOLATION.

(A) It is unlawful for the owner of any dog to suffer or permit such animal to run at large at any time. The issuance of a license shall be on the condition that the dog for which the license is issued shall not be allowed to run at large. All dogs shall be confined to the owner's property except at such time when under the proper and personal supervision of the owner, a member of his family, or person delegated by him. (This division has been revised to apply to all dogs within the corporate boundaries rather than only those with licenses.) ('80 Code, § 6.16.010) (Ord. 1982-28, passed 12-28-92)

(B) In every case in which it is brought to the attention of the Police Department that any licensed dog is running-at-large, it shall be the Department's duty to investigate the matter and obtain all pertinent information including names and addresses of witnesses, if any. The Police Department shall then record, in a registry book kept for such purpose, the license tag number, the name, breed and sex of the dog, the name and address of the owner, the date, and a brief statement of the pertinent information disclosed by the Department's investigation. The Police Department shall thereupon notify the owner thereof of the fact that his dog was at large. ('80 Code, § 6.16.020) (Ord. 10-1974, passed - -74) Penalty, see § 10.99

Statutory reference:

Authority of town to restrain animals to prevent them from running-at-large, see IC 36-8-2-6

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§ 92.09 NOTICE TO OWNER OF IMPOUNDED DOG.

When any licensed dog is impounded, notice thereof shall be given forthwith by the Police Department to the Clerk-Treasurer, and the Clerk-Treasurer forthwith by mail to the owner thereof, as shown by the dog license register in possession of the Clerk-Treasurer, of the impounding of such dog and that if not redeemed within three days of the date of the mailing of such notice, such dog shall be otherwise disposed of.
(’80 Code, § 6.16.030) (Ord. 10-1974, passed - -74)

§ 92.10 REDEMPTION OF IMPOUNDED DOG.

(A) *Licensed dog.* When any licensed dog is impounded, there shall be paid to the Police Department for the use of the town, by any person entitled to redeem such dog, an amount established by Council for impounding and for each day or fraction thereof for the keeping of such dog in the pound. No dog shall be released without sufficient documentary proof that the dog has been inoculated for rabies within the past 12 months from the day of impoundment.

(B) *Unlicensed dogs.* For every unlicensed dog taken up and impounded, there shall be paid by any person desiring to redeem such dog the same fees as those provided in division (A) of this section. However, no dog for which a license is required may be redeemed unless the current license tag has been procured and shown to the Police Department or any member thereof.
(’80 Code, § 6.16.040) (Ord. 10-1974, passed - -74)
Penalty, see § 10.99

§ 92.11 DISPOSAL OF UNCLAIMED DOG.

It shall be the duty of the Police Department to keep all dogs so impounded for a period of at least three days. If, at the expiration of three days from the day of notice to the owner in the case of a licensed dog found wearing the license tags attached to its

collar, and if, at the expiration of three days from the date of its impounding in the case of any other dog, such dog is not claimed and redeemed, such dog may be disposed of, but without unnecessary cruelty.
(’80 Code, § 6.16.050) (Ord. 10-1974, passed - -74)

§ 92.12 DISPOSAL OF VICIOUS DOG.

If any dangerous, fierce or vicious dog, whether licensed or not, is found at large and cannot be taken up and impounded without danger or bodily injury to the Police Department or any member thereof, such dog may be destroyed forthwith by the Police Department or any member thereof. The power and authority given by this section shall be exercised only after all effort of persuasion and enticement and other means of capturing the dog have failed.
(’80 Code, § 6.16.060) (Ord. 10-1974, passed - -74)

§ 92.13 NOISE DISTURBANCE.

Any dog which causes a serious annoyance or disturbance to the neighborhood or any of the residents therein by its loud, frequent, habitual or continued barking, howling or yelping is a nuisance.
(’80 Code, § 6.20.010) (Ord. 10-1974, passed - -74)

Cross-reference:

Noise, see Ch. 95

Statutory provision:

Authority of the Town Council to declare, abate and remove nuisances, see IC 36-8-2-8

§ 92.14 INSPECTION OF DOG LICENSE; RIGHT OF ENTRY.

For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, any police officer town is empowered to enter upon any premises in which a dog is kept or harbored and to demand the exhibition by the owner of such dog of the license of such dog.
(’80 Code, § 6.24.010) (Ord. 10-1974, passed - -74)

Cross-reference:

Right of entry for inspection, see § 33.01

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§ 92.15 INTERFERENCE WITH POLICE DEPARTMENT.

No person shall interfere with, hinder or molest any member of the Police Department in the performance of his duty, or seek to release any animal in the custody of the Police Department of the town.

('80 Code, § 6.24.020) (Ord. 10-1974, passed - -74)
Penalty, see § 10.99

§ 92.16 REGULATION OF CATS.

Any and all regulations pertaining to dogs in this chapter shall also apply to cats.
(Ord. 1996-18, passed 8-26-96)

§ 92.17 ANIMAL CARE.

(A) No owner shall fail to provide his or her animal with sufficient wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(B) No person shall beat, torment, overload, overwork, or otherwise abuse an animal.

(C) Any person who, as an operator of a motor vehicle, strikes a domestic animal, shall immediately stop and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. If the owner cannot be ascertained or located such operator shall at once report the accident to the Police Department.

(D) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal; provided that it shall not be unlawful for a person to expose to his or her own property common rat or mice poison.

(E) No person shall allow animal feces to accumulate in any yard, pen or premises in or upon

which such animal shall be confined or kept, so that it becomes offensive to those residing in the vicinity.

(F) The owner shall confine any female dog in heat within a building or other secure enclosure, in such a manner that the dog will not be accessible to other dogs except for planned breeding, and will not attract other male dogs.

(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

§ 92.18 MAXIMUM NUMBER OF ANIMALS.

No person shall keep in excess of four animals more than six months of age, in any household.

(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

§ 92.19 ANIMAL BITES.

(A) It shall be unlawful for anyone knowing that a person or animal has been bitten by another animal to fail to immediately notify the Police Department of such bite.

(B) It shall be the duty and responsibility of the owner of any animal which has bitten any other animal or person to immediately notify the Police Department of such bite, and to immediately confine such animal.

(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

§ 92.20 ANIMALS CREATING A NUISANCE.

(A) It shall be unlawful for any owner to allow his or her dog or animal to become a public nuisance.

(B) A dog or animal is hereby declared to be a public nuisance if it:

(1) Frequently or continuously causes noise or odor which disturbs the comfort or repose of persons in any dwelling, apartment house, or residence.

(2) Molests or chases passers-by or passing vehicles;

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- (3) Is repeatedly at large;
- (4) Attacks other persons or animals;
- (5) Damages private or public property;

or

(6) Deposits animal waste on public or private property other than that of the owner.
(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

§ 92.21 ANIMAL WASTE.

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

(B) Any person who permits any animal to defecate or leave its waste upon an unauthorized place shall be required to immediately remove such excrement.
(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

§ 92.22 LOST OR STRAY ANIMALS.

(A) A person finding a stray animal shall notify the Police Department within 48 hours. At the sole discretion of the Police Department, the animal may be kept by the finder and a "found" report left with the Police Department to enable the finder and the Police Department an opportunity to return the animal to its rightful owner. Upon demand by the Police Department any found animal shall be surrendered to the Police Department and held for three working days before a disposition is made.

(B) A person finding an animal shall comply with all rules and regulations of this chapter pertaining to humane care and treatment of animals while the animal is in his or her custody awaiting return to its actual owner.
(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

§ 92.23 CUSTODY AND DISPOSITION OF DEAD ANIMAL.

A person shall not allow the body, or any part thereof, of a dead animal to be kept, held or disposed of in violation of this chapter as follows:

(A) No public or private carrier shall either transport any dead animal through or into the town or allow it to remain in or on any of its cars, vehicles, tracks or places controlled by it, in either instance longer than five hours.

(B) A person who operates a slaughterhouse, butcher shop or other place in the town shall not permit any parts of a dead animal that are not fit and intended for use as food to accumulate or be kept on such premises over 24 hours after being received, or after the death of such animal.

(C) A person shall not skin, dismember, dissect, cut up or dispose of the body of a dead animal, or any parts thereof, in the town unless the person is regularly engaged in such business of killing and disposing of such animals for food or otherwise, and is so authorized by law, or does so for the person's own use.

(D) A person shall not possess, keep, use or dispose in the town a dead animal, or parts thereof, or offal of a live animal in any manner creating an offensive odor or sight, or constituting a public nuisance affecting health and comfort in any respect.
(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

§ 92.24 ANIMAL TRAPS.

(A) A person shall not use, place or set or cause to be used, placed or set a leg-hold trap, snare, net or other device upon any land or waters.

(B) This section shall not apply to a leg-hold trap, snare, net or other device placed on private property where such leg-hold trap, snare, net or other device is placed and maintained by the owner or his or her agent and said owner or agent knows the

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placement of the leg-hold trap, snare, net or other device, and is not in violation of another section of this chapter.

(C) A person placing, setting or causing to be used, placed or set a leg-hold trap, snare, net or other device shall inspect and empty the leg-hold trap, snare, net or other device at least once every 24 hours.

(D) This section shall not pertain to cage-type, live traps or to traps each designed specifically for rats, moles or gophers, so long as the owner of the property is aware of the location of the traps.
(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

§ 92.25 PRIMARY ENCLOSURE REQUIREMENTS FOR ANIMALS HOUSED OUTDOORS.

(A) Primary enclosures shall be structurally sound and maintained in good repair so as to:

- (1) Contain the animal;
- (2) Protect the animal from injury;
- (3) Keep predators out;
- (4) Ensure the animal remains dry, clean and protected from the weather;
- (5) Permit the animal convenient access to food and water as required by this chapter;
- (6) Provide such convenient space for the animal to turn about freely and to stand, sit, and lie in a comfortable, normal position; and
- (7) Have no sharp edges accessible to the animal that could cause injury.

(B) Each dog in a primary enclosure shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip

of its nose to the base of its tail, plus six inches, expressed in square feet. An animal housed in an accessory building, including but not limited to a garage or shed, shall have access to an outside kennel run.

(C) Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

(1) A female should not be housed in a primary enclosure with an unaltered male, except for breeding purposes.

(2) An animal exhibiting a vicious disposition shall be housed individually in a primary enclosure.

(3) An immature animal shall not be housed in the same primary enclosure with an adult, other than its mother, except when permanently maintained in breeding colonies.

(4) Animals of different species shall not be housed in the same primary enclosure.

(D) The floors of a primary enclosure shall be constructed so as to protect the animal's feet and legs from injury. Enclosures may have grid type flooring, provided the grid material is of adequate gauge to prevent sagging under the weight of the animal and the mesh is small enough to prevent its feet from passing through or to cause cutting injuries to the foot pad.

(E) An adult dog confined in a cage less than double the minimum standard size as stated in division (B), above, shall be exercised in runs at least twice daily or walked on a leash for at least 20 minutes a day.

(F) An animal shall not be tied to a fence, cage or other structure in lieu of being housed.

(G) An animal shall not be housed in a vehicle in lieu of being kept in a suitable primary enclosure.
(Ord. 2008-11, passed 6-9-08) Penalty, see § 10.99

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§ 92.26 PENALTIES.

(A) Each day the terms of this chapter are violated shall constitute a distinct and separate offense.

(B) A person found to be violating any provision of this chapter may be, but is not required to be, first served by a police officer with a written notice stating the nature of the violation and providing a time limit for satisfactory correction

thereof.

(C) Except as otherwise provided in this chapter, any person who shall continue any violation of this chapter beyond the time limit provided for in such written notice or any person violating any provision of this chapter shall, upon conviction thereof, be fined as provided for in § 10.99 of the town code of ordinances.

(Ord. 2008-11, passed 6-9-08)

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CHAPTER 93: FIRE PREVENTION CODE

Section

		93.057	Installation; location
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93.040	Fire lanes established		
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93.042	Buildings without fire lanes declared nuisance; abatement; suit		§ 93.001 TITLE.
93.043	Lanes to be kept open and marked		This chapter, and all ordinances supplementary or amendatory hereto, shall be known as the "Fire Prevention Code of the Town of Lowell, Indiana", may be cited as such, and will be referred to herein as the "code." (Ord. 2005-04, passed 5-23-05)
	<i>Smoke Detectors</i>		
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FIRE PREVENTION PROVISIONS

§ 93.001 TITLE.

This chapter, and all ordinances supplementary or amendatory hereto, shall be known as the "Fire Prevention Code of the Town of Lowell, Indiana", may be cited as such, and will be referred to herein as the "code."
(Ord. 2005-04, passed 5-23-05)

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§ 93.002 PURPOSE.

The purpose and the intent of this chapter is:

(A) To prescribe minimum requirements and controls to safeguard life, property or public welfare from the hazards of fire and explosion arising from the storage, handling or use of substances, materials or devices and from conditions hazardous to life, property or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots or premises.

(B) To prescribe a course of action to be taken to gain compliance with the state and local codes, ordinances and regulations for fire prevention.

(C) Nothing contained in this chapter is intended to grant any power to any local government unit, agency, department or commission, or to regulate any activity, which grant of power or regulation of activity is not authorized or permitted by state law.

(Ord. 2005-04, passed 5-23-05)

§ 93.003 APPLICABILITY.

(A) The provisions of this chapter and the fire safety rules of the Indiana Fire Prevention and Building Safety Commission shall apply to existing buildings and conditions. Exceptions:

(1) Existing conditions which do not constitute a distinct hazard to life or property.

(2) The transportation of any articles or substances under the jurisdiction of and in compliance with the regulations prescribed by the armed forces of the United States.

(B) Nothing in this chapter shall be construed, interpreted or applied to abrogate, nullify or abolish any law, ordinance or code adopted by the town governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings specifically provided herein. When any provision of this chapter is found to be in conflict with any building, zoning, safety, health, or other applicable law, ordinance or code of

the town or rules of the Fire Prevention Building Safety Commission existing on the effective date of this code or hereafter adopted, except as provided for by 675 IAC 12, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.

(C) The planning, design and construction of new buildings and structures to provide egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the building rules of the Indiana Fire Prevention and Building Safety Commission; and any alterations, additions or changes in buildings required by the provisions of this chapter which are within the scope of those building rules shall be made in accordance herewith.

(D) Buildings built under and in full compliance with the building and fire safety laws and rules in force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted, shall be exempt from the requirements of this chapter pertaining to any of the following matters:

(1) Fire protection of structural elements;

(2) Exits required, except as provided for existing buildings under this code; or

(3) Isolation of hazardous operations and mixed uses; provided, however, that the Fire Chief shall require the installation of fire safety devices or systems (fire extinguishers, fire alarms, fire detection devices, or similar systems) where they are necessary to provide safety to life. In lieu of requiring the installation of safety devices or systems or when necessary to secure safety in addition thereto, the Fire Chief shall prescribe limitations on the handling and storage of materials or substances or upon operations that are liable to cause fire, contribute to the spread of fire, or endanger life or property. Any orders issued by the Fire Chief to obtain compliance with this division (D)(3) shall be governed by the provision of IC 36-8-17-10.

(Ord. 2005-04, passed 5-23-05)

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§ 93.004 ADOPTION.

(A) The following fire safety rules of the Indiana Fire Prevention and Building Safety Commission as set out in Article 22 of Title 675 of the Indiana Administrative Code are hereby incorporated by reference into this code, and shall include later amendments to that Article as the same are published in the Indiana Register or the Indiana Administrative Code with the effective dates as fixes therein: Article 22 - Fire Prevention Codes; Indiana Fire Code, including Appendices I-A, I-B, I-C.

(B) Copies of all above referenced fire safety rules, codes and standards shall be kept on file and open for public inspection in the office of the Lowell Fire Department.

(Ord. 2005-04, passed 5-23-05)

§ 93.005 ADMINISTRATION.

(A) The Chief of the Lowell Fire Department may assign such members of the Fire Department as fire inspectors as shall from time to time be necessary. Inspectors shall be assigned to the Code Enforcement Division.

(B) A report of the Fire Department Code Enforcement Division shall be made annually and transmitted to the chief executive offices of the municipality; it shall contain all proceedings under this chapter, with such statistics as the Chief of the Fire Department may wish to include therein. The Chief of the Fire Department shall recommend any amendments to the chapter which, in his or her judgement, shall be desirable.

(Ord. 2005-04, passed 5-23-05)

§ 93.006 ENFORCEMENT AUTHORITY.

(A) It shall be the duty and responsibility of the Fire Chief or such officer of the Department or designee which is an ex officio assistant to the State Fire Marshal under IC 36-8-17-5 to enforce the provisions of this code. The designated enforcement officer of this code is herein referred to as the Fire Chief.

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(B) The Code Enforcement Division shall be responsible for the enforcement of this code and regulations for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosion and from conditions hazardous to life and property in the use or occupancy of buildings or premises and their contents.

(C) It is the intent of the Fire Department to achieve compliance by traditional mean of inspection, violation notification, granting or reasonable time to comply and reinspection. A citation may be used after reasonable means to gain compliance have failed or, with proper justification, at the discretion of the Fire Chief.

(D) The personnel regularly assigned to the Code Enforcement Division shall be commissioned as special police officers under IC 36-8-3-7 and IC 36-8-9-6 through the Police Commission and shall have all rights, duties and authorities for the enforcement of this code and any state and local laws as they relate to their assignment. Only those members of the Fire Department specifically designated by the Fire Chief may be so appointed or issue citations under this code.

(E) The Chief of the Lowell Police Department upon request of the Fire Chief shall assign such law enforcement officers as may be necessary to assist in the enforcement of this chapter.

(Ord. 2005-04, passed 5-23-05)

§ 93.007 INSPECTIONS.

(A) The Fire Chief shall cause to be inspected all structures and premises except the interiors of private single-family dwellings, and multi-family dwellings for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life or any violations of the provisions or intent of this code affecting fire safety pursuant to IC 36-8-17-8.

(B) Whenever an inspector from any agency or department observes any apparent or actual violation of any provision of any law, ordinance of code of the

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town not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction (i.e. Building Code, Police, Building Department, Board of Health, and the like). (Ord. 2005-04, passed 5-23-05)

Cross reference:

Inspection fees, see § 11.095

§ 93.008 RIGHT OF ENTRY.

(A) Whenever necessary for the purpose of enforcing the provisions of this code, or whenever there exists in any structure or upon any premises, any condition which the Fire Chief or authorized representative believes makes such structure or premises unsafe, the Fire Chief or authorized representative shall be permitted to enter the structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Fire Chief by this code or state regulations.

(B) The Fire Chief or his or her authorized representative may be required by the owner or occupant to present proper credentials as proof of his or her authority.

(C) If such entry is refused or hindered, the Fire Chief may apply to a court of competent jurisdiction for an order compelling such inspection, which order such court shall have authority hereunder to grant pursuant to IC 22-14-2-4.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.009 VIOLATIONS; ORDERS TO CORRECT.

(A) Whenever the Fire Chief or his or her designee observes an apparent or actual violation of a provision of this code or other ordinances under the Fire Chief's jurisdiction, the Fire Chief shall prepare a written notice of violation and order describing the condition deemed unsafe and specifying a reasonable time for the required repairs or improvements to be made to correct such violation, and:

(1) The written notice of violation of this code shall be served upon the owner, a duly

authorized agent, land contract holder, or upon the occupant or other person responsible for the conditions under violation.

(2) The notice of violation shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivered in person, or by delivering it to and leaving it in the possession of any person in charge of the premises or in the case such person is not found upon the premises, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent of personal notice.

(B) The failure of any Code Enforcement Inspector to inspect or issue a violation notice in accordance with this section shall not constitute or be approval of any violation or noncompliance with this chapter.

(C) When, in the opinion of the Fire Chief, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gasses or materials, the Fire Chief may order immediate evacuation of the building, structure or premises. All of the occupants so notified shall immediately leave the building, structure or premises and persons shall not enter or reenter until authorized to do so by the Fire Chief.

(D) Any person who shall refuse to leave, attempt to enter the building, or who interferes with the evacuation of other occupants or continues any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed in violation of this code and IC 35-44-4.

(E) Temporary or emergency order issued by the Fire Chief, pursuant to IC 36-8-17-9 shall first be approved, either orally or in writing by the state Fire Marshal.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

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§ 93.010 ADMINISTRATIVE APPEALS.

(A) An owner or occupant who is aggrieved by a violation notice issued pursuant to § 93.009 of this code may appeal the violation notice in writing to the Chief of the Code Enforcement Division within seven calendar days of the issuance of the violation notice. The Chief of Code Enforcement shall within three working days following the receipt of the written appeal either affirm, modify or reverse the order. The written decision shall be sent first class mail to the appellant.

(B) An owner or occupant may appeal the decision of the Chief of Code Enforcement. Such an appeal shall be made in writing to the Fire Chief no later than seven calendar days following the receipt of a decision issued pursuant to division (A) above. The Fire Chief shall within three working days following the receipt of the written appeal either affirm, modify or reverse the order by written decision which shall be sent first class mail to the appellant.

(C) An order issued pursuant to § 93.009 of this code, and the matter involving a rule of the Indiana Fire Prevention and Building Safety Commission may be appealed to the Indiana Fire Prevention and Building Safety Commission pursuant to IC 4-21.5-3-7.

(Ord. 2005-04, passed 5-23-05)

§ 93.011 REMEDIES.

(A) If the owner, operator, or agent fails to correct a cited violation of the Indiana Fire Prevention Code or a section in this chapter, the violation shall be a Class A infraction and subject to an ordinance violation citation notice. The citation notice may be issued, in accordance to IC 34-28-5, by the inspection officer for each violation cited. Each day the violation remains uncorrected shall be a separate violation and subject to a citation with penalties as listed in § 93.999.

(B) If the notice of violation and order is not completed within the time specified on the violation notice, and no review of such order has been initiated

pursuant to § 93.010, the Fire Chief may request the Town Attorney to institute for the town the appropriate legal proceedings to restrain, correct or abate the violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this code or of any order or direction made pursuant thereto. In addition, any such action for mandatory or injunctive relief may be joined with an action to recover the civil forfeitures provided for in § 93.999.

(Ord. 2005-04, passed 5-23-05)

§ 93.012 INVESTIGATIONS.

(A) The Fire Chief, or his or her designees, shall investigate fires, environmental crimes and other Fire Department related incidents to determine origin, cause and circumstance which involve loss of life, serious injury, or damage to property or the environment.

(B) The personnel regularly assigned to those investigations shall be commissioned as special police officers through the Police Commission or other local authority and have all rights, duties and authorities for the enforcement of this code, and state and local laws as they relate to their assignment.

(Ord. 2005-04, passed 5-23-05)

§ 93.013 REVIEW AND FINAL INSPECTION OF SITE PLANS.

(A) Except as otherwise determined by the Fire Chief, the site plans submitted to the Building Department in support of an application for a building permit to construct any building shall be submitted to the Fire Chief for review.

(1) When any plans are submitted, the Fire Chief shall cause a review of them and determine whether any building or structure on the land to be developed is, or will by virtue of the development, become in excess of the requirements of § 93.025 for fire hydrants and fire apparatus access roads.

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(2) If, on review, it is determined either that the fire protection facilities or access roads are not required or that they are adequately provided for in the plans, the Fire Chief or his or her designee shall endorse his approval thereon. If adequate provision for such facilities or roads is not made, the Fire Chief or his or her designee shall either disapprove the plans and indicate to the town Planning Department in writing wherein they are deficient or approve the plans subject to conditions.

(B) No final inspection under the municipal code as to all or any portion of the development shall be deemed completed unless and until the installation of the prescribed facilities and access ways has been completed and the final approval thereof of the Fire Chief is given as provided therein. The final inspection shall be conducted solely to implement the enforcement of the provisions of this section and shall in no manner be deemed an assurance on the part of the town that these facilities and access ways are or will continue to be in good working order.
(Ord. 2005-04, passed 5-23-05)

§ 93.014 REVIEW OF BUILDING PLANS AND CERTIFICATE OF OCCUPANCY.

(A) Except as otherwise determined by the Fire Chief, the plans submitted to the Building Department in support of an application for a building permit to construct any building shall also be submitted to the Fire Department for review.

(B) When any plans are submitted under division (A) above, the Fire Chief shall cause a review of them and determine whether such plans conform to the rules and regulations of the State of Indiana Fire Prevention and Building Safety Commission and the Lowell Fire Prevention Code, listed in this chapter. The review process shall not be construed as an approval of any violation of the provisions of this chapter, of other ordinances of the town, or of rules and regulations of the State of Indiana Fire Prevention and Building Safety Commission.

(C) *Certificate of occupancy.* A certificate of occupancy must be obtained from the Building

Department. This certificate must be signed by both the Building Department and the Fire Chief, after a final inspection of the building or structure is made. Issuance of a certificate of occupancy shall not be construed as an approval of any violation of the provisions of this code or of other ordinances of the town or of rules and regulations of the State of Indiana Fire Prevention and Building Safety Commission.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

ON-SITE FIRE PROTECTION

§ 93.025 PLANS AND CONNECTIONS.

(A) All installation of on-site fire protection shall be in accordance to code in effect at the time of construction. A complete set of plans and specifications for fire protection systems, including fire alarm systems, automatic sprinkler systems, standpipe systems and other special types of fire extinguishing systems and appurtenances thereto shall be submitted to the Department for review. The installation shall be at the expense of the owner or developer.

(B) All Fire Department connections to sprinkler systems and stand pipes shall be a five-inch storz connection with 30 degree elbow angled down.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.026 WATER SUPPLY.

All Class 1 buildings (as defined in 675 IAC 12-6) or portions of Class 1 buildings hereafter constructed shall be provided with a water supply capable of providing the required fire flow for fire fighting purposes for a minimum period of two hours. The water supply shall be from a source as set forth in § 903.2 of the IFC (675 IAC 22). In setting the requirements for fire flow, the Code Enforcement Chief may use the IFC (675 IAC 22) Appendix III-A as a guide.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

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§ 93.027 FIRE HYDRANTS.

(A) All private fire hydrants shall be installed and maintained as set forth in the latest edition of NFPA Standard No. 24. In the determination of location and spacing of hydrants the IFC (675 IAC 22) Appendix III-B shall be used as a guide. The proposed location of private fire hydrants to supply the required fire flow (IFC (675 IAC 22)) shall be approved by the Fire Chief.

(B) Whenever the provisions of this section require the installation of a fire hydrant whether on public or private property, such hydrant shall meet the standards established by the Town of Lowell Water Department to insure compatibility.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.028 OBSTRUCTION OF FIRE FIGHTING APPLIANCES.

No owner, occupant, manager or agent shall place or keep any post, fence, wall, trees, plants or any obstruction of any kind near any fire hydrant, Fire Department connection or fire protection control valve that would prevent such equipment from being immediately discernible or in any other manner to deter or hinder the Fire Department from gaining immediate access to the equipment.
(Ord. 2002-13, passed 9-9-02; Am. Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.029 PORTABLE FIRE EXTINGUISHERS.

Portable fire extinguishers shall be installed and maintained in all occupancies, except one and two family dwellings, as set forth in the IFC (675 IAC 22-2.2-3) latest edition of N.F.P.A. Standard 10.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.030 OPERATIONS AT FIRES OR OTHER EMERGENCIES.

(A) The Fire Chief and his or her authorized representatives in charge at the scene of a fire or other emergency involving the protection of life and/or

property or any part thereof, shall have the power and authority to direct such operations as may be necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty.

(B) In the exercise of such power, the Fire Chief may prohibit any person, vehicle, vessel or thing from approaching the scene and may remove or cause to be removed or kept away from the scene any vehicle, vessel or thing which may impede or interfere with the operations of the Fire Department.

(C) The Chief or other officer of the Fire Department in charge at the scene of an emergency shall have the authority to place ropes, guards, barricades or other obstructions across any street, alley, place or private property in the vicinity of such operation so as to prevent accidents or interference with the lawful efforts of the Fire Department to manage and control the situation and to handle fire apparatus.

(D) Any person who obstructs the Fire Department in connection with extinguishing any fire, or other emergency, or disobeys any lawful command of the Fire Chief or officer of the Fire Department who may be in charge at such a scene, or any part thereof, or any police officer assisting the Fire Department, shall be in violation hereof and subject to the penalties provided in IC 35-44-4.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999
Statutory reference:

Interference with a firefighter, see IC 35-44-4

FIRE LANES

§ 93.040 FIRE LANES ESTABLISHED.

(A) The owner, manager or agent of a retail, commercial, industrial or public building, new or existing, having privately owned public parking lots and drives devoted to public use, shall be responsible

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to ensure that fire lanes are maintained and that there are no obstructions to the ingress and egress of Fire Department or other emergency vehicles and personnel for protection of persons and property.

(B) Fire lanes shall be of hard surface concrete or asphalt and shall be established in the driving lane closest to the building. Temporary parallel or perpendicular parking may be permitted next to the building curb provided a fire lane is established in the driving lane adjacent to the parking area. A fire lane must be at least 20 feet in width.

(C) (1) Signs designating the fire lanes shall read, "Fire Lane No Parking" or "No Parking Fire Lane". The signs shall be no higher than seven feet off the ground and positioned at least every 100 feet along the curb or side of building wherein the lanes are established. Signs shall be visible upon approach from each direction.

(2) "Fire Lane No Parking" or "No Parking Fire Lane" shall be painted in yellow on the surface along the fire lane. Lettering shall be no less than 12 inches in height.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.041 OBSTRUCTION OF FIRE LANES.

No vehicle or object, whether attended or unattended, other than an emergency vehicle on an emergency response or vehicles having written permission from the Fire Chief, shall park in or obstruct by any means a fire lane. That vehicle shall be deemed an obstruction and in violation and shall be subject to the same penalties provided for such parking or otherwise obstructing fire lanes on public streets.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.042 BUILDINGS WITHOUT FIRE LANES DECLARED NUISANCE; ABATEMENT; SUIT.

(A) It is declared that any building open to the public which does not have unobstructed access for

fire fighting equipment constitutes a fire hazard and a public nuisance because it endangers the lives of the public.

(B) Upon recommendation of the Fire Chief, the Director of Community Development may require the abatement of the nuisance by ordering the building closed to the public and evacuated, which order shall be enforced by the Police Department.

(C) At the request of the Fire Chief or Director of Community Development, the Town Attorney may file suit in the name of the town for the abatement of the nuisance.

(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

Cross-reference:

Nuisances, see Ch. 96

§ 93.043 LANES TO BE KEPT OPEN AND MARKED.

No building shall constitute a nuisance as defined in § 93.042(A) if the owner and lessee provide adequately marked fire lanes and keep them open at all times for fire fighting equipment.
(Ord. 2005-04, passed 5-23-05)

SMOKE DETECTORS

§ 93.055 DEFINITIONS.

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

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

AUTHORITY HAVING JURISDICTION. The Lowell Fire Chief, Director of Community

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Development, Police Chief and/or their authorized employees or designees which have enforcement responsibility for this chapter.

DWELLING UNIT. Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation.

LABELED. Equipment or materials to which has been attached a label, symbol or other identifying mark of an organization engaged in product evaluation, that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

LISTED. Equipment or materials included in a list published by an organization engaged in product evaluation that maintains periodic inspection of production of listed equipment or materials and whose listings state either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

NFPA 74. Standard 74 of the National Fire Protection Association, which is located in Batterymarch Park, Quincy, MD, 02269.

RENTAL AGENT/LEASING AGENT. Any person, partnership or corporation, who or that rents, subleases, lets or otherwise grants for a consideration the right to occupy premises not owned by the occupant. This term shall not be construed to mean a real estate agent who is employed for the sole purpose of selling residential units.

SHALL. Indicates a mandatory requirement.

SLEEPING AREAS. The area or areas of the dwelling unit in which the bedrooms (or sleeping rooms) separated by other use areas, such as kitchens or living rooms, (but not bathrooms), shall be considered sleeping areas.

SMOKE DETECTOR. A device which senses visible or invisible particles or products of combustion

and conforms to the minimum standards for type, components, and maintenance prescribed by the National Fire Protection Association. The detector shall bear a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly. (Ord. 2005-04, passed 5-23-05)

§ 93.056 BASIC REQUIREMENTS.

(A) All dwelling units within the corporate limits of the town shall be equipped with a minimum of one functional, properly located, labeled and listed, smoke detector, or its equivalent or better, as described in National Fire Protection Association (NFPA) pamphlet 74.

(B) Each additional story of any dwelling, including basements, cellars, and habitable attics, shall be equipped with a functional, properly located, labeled and listed, smoke detector. Unless there is a door between levels in dwellings with split levels, a smoke detector must be installed only on the upper level if the lower level is less than one full story below the upper level. (Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.057 INSTALLATION; LOCATION.

(A) A minimum of one operating smoke detector, or its equivalent or better as described in the NFPA 74, shall be installed in each dwelling unit within the corporate limits of the town.

(B) All smoke detectors must be installed according to the manufacturer's instructions.

(C) The smoke detector shall be installed to protect the sleeping areas and shall be located outside of the bedrooms but in the immediate vicinity of the sleeping areas, within 15 feet of all rooms used for sleeping areas.

(D) The smoke detector shall be installed on the ceiling or a wall, not less than four inches nor more

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than 12 inches from the ceiling, and its installation shall be subject to approval by the authority having jurisdiction. However, a smoke detector may not be recessed into a ceiling.

(E) All smoke detectors shall be accessible for servicing and testing.

(F) If a smoke detector is A.C. powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of A.C. powered detectors shall conform to all electrical standards adopted by the Allen County Building Department. A smoke detector required under this section shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any county electrical standard, the county electrical standard shall take precedence.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.058 MAINTENANCE.

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

(B) *Rental/leased dwelling units.* Each smoke detector should be tested in accordance with manufacturer's recommendations to ensure it is in operable condition. It shall be the responsibility of the tenant to maintain all smoke detectors provided by the owner in good working order unless the smoke detector requires A.C. power supply, then the responsibility for maintaining the smoke detector shall be the responsibility of the owner, manager, or rental agent.

(C) *Owner-occupied dwelling living units.* Each smoke detector should be tested in accordance with manufacturer's recommendations to ensure it is in operable condition. It shall be the responsibility of the owner-occupant to maintain all smoke detectors.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.059 DUTY OF PROPERTY OWNER, MANAGER, OR RENTAL AGENT.

Every owner, or the manager or rental agent of the owner of any dwelling unit shall be responsible for the installation of operable smoke detectors.
(Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

BURNING REGULATIONS

§ 93.070 OPEN BURNING.

(A) This section shall further define Article 11 Chapter 1102 of the Fire Prevention Code as published by the Indiana Fire Prevention and Building Safety Commission.

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

BARBECUE PIT OR GRILL. A stationary or portable device, with either electric, gas or charcoal fuel, used for the preparation of food.

HAZARDOUS CONDITION. A situation where the Fire Department officer in charge determines that the fire may be capable of spreading or damaging other property or that the smoke emissions may be offensive to occupants of surrounding property.

OPEN BURNING OR OPEN FIRE. Any burning of combustible materials out of doors. Excluded is burning in a barbecue pit or grill where the base fuel for heat is charcoal products.

RECREATIONAL OR CAMP FIRE. The burning of wood products other than refuse where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit. A **RECREATIONAL OR CAMP FIRE** shall have a total fuel area no greater than 36 inches in diameter and a fuel load not to exceed two feet in height.

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REFUSE. Garbage, rubbish, paper, leaves, grass, trade waste, trash, plastic or other waste products.

SMOKE NUISANCE. Smoke emissions may be deemed a nuisance when a complaint is received that the smoke emissions are offensive to the complaining party.

WOOD PRODUCTS. Untreated and unpainted lumber or natural wood other than leaves and vines.

(Ord. 2005-04, passed 5-23-05)

Cross-reference:

Nuisances, see Ch. 96

§ 93.071 BURNING PROHIBITED.

(A) No person or business shall kindle or maintain any open burning consisting of a trash fire, leaf fire, bonfire, refuse fire, or other open burning.

(1) *Exemptions.* The following types of fire may be allowed:

(a) Bonfires celebrating school pep rallies.

(b) Recreational camp fires for scouting or family cookout activities.

(2) All exemptions shall be subject to the following:

(a) A garden hose connected to a water supply, buckets, shovel, fire extinguisher or other approved fire-extinguishing equipment shall be readily available at the burn site.

(b) A burn permit shall be obtained from the Fire Chief at least 24 hours in advance of the permitted open burning. The burn permit signed by the Fire Chief or his or her designee shall be on site at the time of the permitted fire. Notwithstanding the foregoing, persons planning on or desiring to undertake recreational campfires for scouting or

family cookout activities as set forth in § 93.071(A)(1)(b) above shall not be required to obtain a burn permit for such activities.

(c) Only wood products shall be burned - no leaves, paper or trash.

(d) A fire shall be attended by a responsible party as listed on the burn permit at all times until completely extinguished.

(e) If open burning creates a smoke nuisance, or a hazardous condition exists, the open burning shall be immediately extinguished.

(f) A fire shall be located at least 25 feet away from any structure, fence or right of way.

(B) Any person who recklessly, knowingly or intentionally kindles, or maintains any open burning consisting of a trash fire, leaf fire, bonfire, refuse fire, or other open burning that damages property of another person or spreads to property of another person may be liable for criminal mischief.

(C) Burning other than mentioned in this section may be permitted provided a variance pursuant to 326 IAC 4-1-1 has been approved and received from the Indiana Department of Environmental Management. Burning must meet the restrictions of the variance. The variance must be registered with the Fire Department and on the burn site for verification.

(D) Penalties for violations of this chapter do not preclude the Department of Environmental Management from seeking legal action for violations of 326 IAC 4-1.

(E) *Liability for fire.* Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire may not refute liability for violation of this chapter on the basis that the fire was set by vandals, accidental or an act of God.

(Am. Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

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INDOOR TIRE STORAGE

§ 93.080 INDOOR TIRE STORAGE PERMIT.

(A) The provisions of this section concerning tire storage apply to all structures where in excess of 100 tires, new, used or waste, are stored inside a structure.

(B) The owner, occupant or representative of the business or structure where in excess of 100 tires are stored shall obtain an information permit issued by the Lowell Fire Department for the storage of tires inside a structure. The permit must be made available upon request of a Fire Department official.

(C) The owner, occupant or representative of the business must submit the following information:

- (1) Name of the business;
 - (2) Name, date of birth, and social security number of business owner;
 - (3) Address where the tires are stored;
 - (4) Estimated maximum number of tires stored at the site;
 - (5) Name, date of birth, and social security number of the person responsible for the tires;
 - (6) Address and phone number of person responsible for the tires; and
 - (7) A statement of acknowledgment, with the structure owner's signature, that the structure owner is aware that tires are being stored inside the structure.
- (Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

TEMPORARY PROPANE TANK STORAGE

§ 93.090 TEMPORARY PROPANE TANK STORAGE PERMIT.

(A) The provisions of this section apply to all businesses where temporary propane tanks are used for the purpose of heating roofing materials at a jobsite.

(B) The owner, occupant or representative of the roofing business where temporary propane tanks are used for the purpose of heating roofing materials at a job site shall obtain an information permit issued by the Lowell Fire Chief for the temporary storage of propane tanks near a structure. The permit must be made available upon request of any Fire Department official.

(C) The owner, occupant or representative of the business must submit the following information for each job site having temporary propane storage:

- (1) Name, address and phone number of the roofing company using the propane;
 - (2) Name and phone number of emergency contact person for the roofing company;
 - (3) Business name and address where propane tanks will be temporarily stored; and
 - (4) Estimated number of days propane will be on-site.
- (Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

FIREWORKS AND PYROTECHNICS

§ 93.100 FIREWORKS AND PYROTECHNICS PERMITS.

(A) The owner, occupant, or agent of an organization, business or group that uses any type of fireworks or pyrotechnic special effects materials used in motion pictures, television, and theatrical and group

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entertainment productions, either indoors or outdoors, shall obtain an information permit issued by the Lowell Fire Chief at least seven calendar days prior to the use of the pyrotechnical devices. This permit shall be in addition to any other permits required by federal or state agencies. The permit must be made available upon request of a Fire Department official.

(B) The storage, use and handling of fireworks and pyrotechnics special effects shall be in accordance with IFC(675 IAC 22), Article 78 and IC 22-11-14, and current edition of NFPA standards for fireworks.

(C) The Lowell Fire Department pyrotechnics permit must be signed by the Fire Chief or his or her designee and contain the following information to be valid:

(1) Name, address and phone number of the pyrotechnic company doing the production or display;

(2) Name and qualifications of the pyrotechnic operator doing the production or display;

(3) Contact name, address and phone for whom the production or display is being performed;

(4) A detailed location where the display shall take place;

(5) Date and time of the display;

(6) Estimated number of pyrotechnical devices to be used and length of show; and

(7) A copy of a valid certificate of insurance conditioned for damages and/or injury to persons or property for the event in the amount of not less than \$250,000 shall be attached to and submitted with each application for and shall become part of the permit.

(D) The above fees or requirements may be waived by the Town Council for any public fireworks display sponsored by any state or local government. (Ord. 2005-04, passed 5-23-05) Penalty, see § 93.999

§ 93.101 CONSUMER FIREWORKS.

No person shall ignite, fire or discharge any firecracker or other type of consumer fireworks, as defined by I.C. § 22-11-14, within the town limits or upon any town property or premises except between the hours (local time) of:

(A) 5:00 p.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9;

(B) 10:00 a.m. and 12:00 midnight on July 4; and

(C) 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

(Ord. 2007-13, passed 6-11-07)

ENFORCEMENT

§ 93.110 ENFORCEMENT OF PROVISIONS.

(A) The Lowell Fire Chief, his or her designees and the Lowell Police Department or any code enforcement officer shall be charged with the duty of enforcing the terms of § 93.040 by the issuance of a citation.

(B) Any firefighter or police officer, upon discovering any such vehicle so parked or stopped in violation of § 93.041, may remove the vehicle or cause the same to be removed to any place where so authorized pursuant to contract, where the vehicle shall be impounded, provided the vehicle is causing a hazard or interfering with an emergency operation.

(C) The Lowell Fire Chief, the Director of Community Development, or their authorized designees, shall be charged with the duty of enforcing the terms of §§ 93.060 et seq.

(D) The Fire Chief, Police Department, Director of Community Development or Code Enforcement Officer shall be charged with the duty of enforcing the terms of § 93.071.

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(E) The Fire Chief, his or her designees and the Lowell Fire Department shall be charged with the duty of enforcing the terms of §§ 93.080, 93.090 and 93.100.

(Ord. 2005-04, passed 5-23-05)

§ 93.999 PENALTY.

(A) If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Fire Chief, or shall fail, neglect or refuse to obey any lawful order given by the Fire Chief or any firefighter, in connection with the provisions of this code, for each such violation, failure or refusal, that person, firm or corporation shall be liable to the town for a civil forfeiture in a sum not less than \$50, nor more than \$2,500. Each day of the unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense. In all cases where the same offense may be made punishable, or may be created by different clauses or sections of the ordinances of the town, the Town Attorney may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

(B) There is hereby established the following citation schedule of penalties for violations of the provisions of the Town of Lowell Fire Prevention Code. Penalties shall be paid to the Lowell Ordinance Violations Bureau who shall deposit the 50% of the funds into the Lowell General Fund and 50% of the funds into the Lowell Fire Prevention Non-Reverting Fund, which fund is hereby created and established for the purposes of providing revenues to promote fire safety and for any expenditure related to fire prevention.

(1) If the owner, operator, or agent fails to correct a cited violation of the Indiana Fire Prevention Code as adopted in § 93.004, the penalty shall be \$50 for each violation cited. Each day the violation is permitted to continue may be deemed to constitute a separate offense. If the violator fails to appear in

response to a notice issued to the owner, operator, or agent after 30 calendar days from the date and time shown on the notice issued, the penalty shall be \$100.

(2) If the owner, occupant, manager or other agent obstructs a fire hydrant, Fire Department connection, or fire protection control valve they are in violation of § 93.028 and the penalty shall be \$50. Notice of violation shall be left with the owner, occupant, manager or other agent in charge. If the violator fails to appear in response to a notice issued after 30 calendar days from the date and time shown, the penalty shall be \$100.

(3) If the owner, occupant, manager or other agent fails to install or maintain portable fire extinguishers as required they are in violation of § 93.029. The penalty shall be \$50. Notice of violation shall be left with the owner, occupant, manager or other agent in charge. If the violator fails to appear in response to a notice issued after 30 calendar days from the date and time shown, the penalty shall be \$100.

(4) If the owner, operator, manager or agent of a commercial, industrial, or public building fails to establish and maintain open fire lanes, the owner, operator, manager, or agent shall be in violation of § 93.040. The penalty shall be \$50. Each day the violation is permitted to continue may be deemed to constitute a separate offense. If the violator fails to appear in response to the notice issued after 30 calendar days from the date and time shown on the notice, the penalty shall be \$150.

(5) If a vehicle with or without a licensed driver is parked or obstructs a fire lane in violation of § 93.056, the penalty shall be \$50. If the violator does not appear in response to a notice affixed to the vehicle within a period of 30 calendar days from the date and time shown on the notice, the penalty shall be \$100.

(6) Any person, firm or corporation violating provisions of §§ 93.55 et seq., or who shall fail to comply with an order as affirmed or modified by the authority having jurisdiction, shall be subject to a fine of \$50. Each day the violation is permitted to

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continue may be deemed to constitute a separate offense. The violation and penalty as described in §§ 93.55 et seq. shall not be subject to any other fine or penalty within this chapter.

(7) Any person who maintains burning of combustible materials out of doors or open burning not permitted in § 93.070 shall be in violation of § 93.070. The penalty shall be \$50. If the violator does not appear in response to a notice issued to them or placed in a noticeable location at the place of residence, business, or burn site within a period of 30 calendar days from date and time shown on the notice, the penalty shall be \$100.

(8) If the owner, operator, or representative fails to obtain a tire storage permit as required in § 93.080, the penalty shall be \$50 for each violation cited. Each day the violation is permitted to continue may be deemed to constitute a separate offense. If the violator fails to appear in response to a notice issued to the owner, operator, or representative after 30 calendar days from the date

and time shown on the notice issued, the penalty shall be \$200.

(9) If the owner, operator, or representative fails to obtain a temporary propane tank storage permit as required in § 93.090, the penalty shall be \$50 for each violation cited. Each day the violation is permitted to continue may be deemed a separate offense. If the violator fails to appear in response to a notice issued to the owner, operator or representative after 30 calendar days from the date and time shown on the notice issued, the penalty shall be \$100.

(10) If the owner, operator, or representative fails to obtain a fireworks and pyrotechnics permit as required in § 93.100, the penalty shall be \$100 for each violation cited. Each day the violation is permitted to continue may be deemed a separate offense. If the violator fails to appear in response to a notice issued to the owner, operator, or representative after 30 calendar days from the date and time shown on the notice issued, the penalty shall be \$200.
(Ord. 2005-04, passed 5-23-05)

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CHAPTER 94: LITTERING

Section

82)

94.01 Definition

94.02 Operator responsible for litter from vehicle; prima facie evidence

94.03 Littering prohibited

§ 94.02 OPERATOR RESPONSIBLE FOR LITTER FROM VEHICLE; PRIMA FACIE EVIDENCE.

§ 94.01 DEFINITION.

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

LITTERING. The act of recklessly, knowingly, or intentionally placing or leaving refuse of any kind of description on property of another person or on any public property, except in a container provided for refuse.
(’80 Code, § 8.16.010) (Ord. 1982-28, passed 12-28-

Evidence that littering was committed from a privately-owned moving vehicle shall be prima facie evidence that it was committed by due operator of the vehicle.

(’80 Code, § 8.16.010) (Ord. 1982-28, passed 12-28-82)

§ 94.03 LITTERING PROHIBITED.

It shall be unlawful for any person or persons to litter or cause to be littered any area in the town.
(’80 Code, § 8.16.020) Penalty, see § 10.99

CHAPTER 95: NOISE

Section

- 95.01 Loud and continuing noises prohibited; declaration of nuisance
- 95.02 Unlawful noises enumerated
- 95.03 Sound trucks and other advertising devices restricted; permit required
- 95.04 Loud car stereos prohibited

Cross-reference:

Animals creating noise disturbance, see § 92.13

§ 95.01 LOUD AND CONTINUING NOISES PROHIBITED; DECLARATION OF NUISANCE.

The making or continuing or causing or aiding to be made or continued, any loud, unnecessary or unusual noise or noises whatsoever, which either annoy, injure or endanger the comfort, repose, health or safety of others unless the making or continuing of same be necessary for the protection or preservation of property, or the health, safety or life or limb of some person is declared to be unlawful and a public nuisance. The enumeration of the particular offense, hereinafter defined shall not be construed as limiting the generality of this section or limiting the offense hereunder to the particular offense set forth. ('80 Code, § 8.20.010) (Ord. 1976-12, passed - -76)

Cross-reference:

Nuisances, see Chapter 96

§ 95.02 UNLAWFUL NOISES ENUMERATED.

The following acts constitute a public nuisance:

(A) *Horns, signal devices, and the like.* The sounding of any horn, signal device or attachment on an automobile, motorcycle, bicycle, truck, bus or other vehicle except as a necessary warning of danger to person or property.

(B) *Grating, screeching noises, and the like.* The creation of grating, screeching, grinding,

squeaking, loud reports or shots.

(C) *Radios, television acts, phonographs and similar devices.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, television, phonograph, drum or other machine or device from production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. Provided, however, that this section does not apply to any person who is participating in an authorized parade or public function.

(D) *Animals, birds or fowl.* The keeping of an animal, bird or fowl, and household pets such as dogs, which, by causing frequent or continued noises, shall disturb the comfort or repose of persons in any dwelling or apartment house or residence.

(E) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(F) *Trucks.* The loading of any garbage, trash or compactor truck, or any other truck, whereby the loading, unloading or handling of boxes, crates, equipment or other objects is conducted within a residential district or within 300 feet of any hotel or motel between the hours of 10:00 p.m. and 7:00 a.m.

(G) *Construction.* Engaging in, or causing or permitting a person to be engaged in construction activities in any residential or commercial district between the hours of 9:00 p.m. of one day and 6:00 a.m. of the following day. Provided, however, that this section does not apply to construction activities directly connected with the abatement of an emergency.

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(H) *Any hour.* The creation of noise as hereinabove defined by any radio, phonograph or any musical instrument, or the making of any loud, unnecessary or boisterous noises at any hour whatsoever of the day.

('80 Code, § 8.20.020) Penalty, see § 10.99

§ 95.03 SOUND TRUCKS AND OTHER ADVERTISING DEVICES RESTRICTED; PERMIT REQUIRED.

(A) No person shall create noise by the use of any radio, sound truck, public address system, or other like devices upon the streets or public places of the city, or the use of any such devices or of any window tapping or rattling devices upon or from any building or private property for the purpose of advertising or attracting attention, without first obtaining a permit from the President of the Town Council or his assignee.

(B) Upon the application to the President of the Town Council or his assignee, a permit may be issued to any responsible person or organization to broadcast programs of music, speeches or other general entertainment as part of and in conjunction with any civic enterprise or celebration of a noncommercial character or to use a sound truck or public address system.

(C) The Police Department may use a sound truck or public address system upon the streets and public place for the purpose of directing or educating all vehicular traffic upon the streets and public places.

('80 Code, § 8.20.013) (Ord. 1976-12, passed - -76) Penalty, see § 10.99

§ 95.04 LOUD CAR STEREO PROHIBITED.

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

DEVICE. Any radio, tape recorder/player, compact disc player, stereo system, record player,

television or other electronic device capable of producing or reproducing any sound, noise, musical rhythm or vocal sound.

MOTOR VEHICLE. Any vehicle, such as but not limited to automobiles, trucks, motorcycles or any other vehicle propelled or operated by any mechanical means of power.

PLAINLY AUDIBLE. Any noise, musical sound, musical rhythm, or any other sound that is electronically amplified or broadcast in any manner that can be heard from a distance greater than 20 feet from the source of the sound.

PUBLIC RIGHT-OF-WAY or **PUBLIC PLACE.** Includes, but is not limited to, any avenue, street, road, alleyway, easement, parkway, highway, sidewalk, park or other public place that is owned or controlled by any governmental entity.

(B) *Offense.* It shall be unlawful within the municipal limits of the town for the owner, operator, passenger or other person to play, use, operate or permit to be played used or operated any device located on or within any motor vehicle at such a level so to be plainly audible or distract any person at a distance greater than 20 feet from the motor vehicle.

(C) *Exception.* This section shall not apply to any person or entity participating in any parade or public assembly that has received a permit from the town as provided for in § 95.03.

(D) *Penalty.* Any person violating any provision of this section shall be fined not more than \$2,500 per day for each violation. Each day a violation occurs shall constitute a separate offense of this section. A first violation of this section within any 12 month period shall include a mandatory minimum fine of not less than \$100. Any second violation of this section within any 12 month period shall include a mandatory fine of not less than \$300. Any third or subsequent violation of this section within any 12 month period shall include a mandatory fine of not less than \$1,000. (Ord. 1998-14, passed 5-26-98)

CHAPTER 96: NUISANCES

Section

- 96.01 Certain conditions declared a nuisance
- 96.02 Owner's duty to abate
- 96.03 Abatement procedure; notice;

collection of cost

Cross-reference:

Abandoned vehicles declared a nuisance, see § 90.02

Buildings without fire lanes declared a nuisance, see § 93.43

Loud and continuing noises declared a nuisance, see § 95.01

Open burning creating a smoke nuisance, see §§ 93.070 et seq.

§ 96.01 CERTAIN CONDITIONS DECLARED A NUISANCE.

To the extent not previously declared to be a public nuisance in the code, the following conditions are hereby declared a public nuisance:

(A) Whenever grass, weeds or other vegetation growing on any property within the town corporate limits is eight inches or more in height and/or such growth endangers the health, safety and welfare of the citizens of the town or obstructs any pedestrian's or motorist's vision. The definition of weeds or vegetation under this section shall include, but not be limited to:

- (1) Canada thistle (*Cirsium arvense*).
- (2) Johnson grass and *Sorghum album* (*Sorghum halepense*).
- (3) Bur cucumber (*Sicyos angulatus*).
- (4) Shattercane (*Sorghum bicolor* (L.))

(5) Moench spp. *drummondii* (Steud.) deWet).

(6) Poison ivy.

(7) Poison sumac.

(8) Poison oak.

(9) Quackgrass (*Elytrigia repens*).

(10) Carolina horsenettle (*Solanum carolinense*).

(11) Cocklebur (*Xanthium strumarium*).

(12) Wild mustard (*Brassica kaber* var. *pinnatifida*).

(B) Whenever any grass, weeds or other vegetation is eight inches or more in height on any private property within ten feet of any municipal property or governmental easement or other right-of-way which, because of its size, location or other condition, interferes in any manner with the public safety or lawful use of such property, easement right-of-way.

(C) Whenever any tree, shrub, vine or plant may be standing adjacent to any public street, so as to obstruct thereby the vision of travelers along such street.

(D) Whenever any dead, decayed, broken or dangerous limbs overhang or are close to a public way.

(E) Whenever any tree or other vegetation may overhang the surface of a public way below a clear height or at least eight feet so as to interfere with the passage of light from the street lighting system or pedestrian traffic.

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(F) Whenever a building or premises is not maintained in a clean, orderly or sanitary manner in compliance with any federal, state or local law, or regulation.

(G) Whenever any exterior property area is not maintained in a clean and sanitary condition, free from any accumulation of rubbish or garbage.

(H) Whenever any building or accessory structure is structurally unsound or otherwise unsafe and dangerous to life, limb or property.

(I) Whenever premises shall not be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.

(J) Whenever buildings shall not be kept free from insect and rodent infestations. Where insects and rodents are found, they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(K) Whenever any property is abandoned, neglected, or disregarded so as to permit the same to be cluttered with an accumulation of litter or waste including but not limited to waste paper, rags, cans, bottles, boxes, lumber, metal, garbage, trash, disused or inoperable vehicles, trailers, machinery, appliances, or furniture thereon, unless specifically authorized by law.

(L) Whenever any storage of manure, odor or dust producing materials of any kind is allowed to occur within 50 feet of any adjoining lot line.

(M) Whenever any animal other than a household pet is kept within the city limits, provided, however:

(1) The term "household pet" as used in this chapter shall not include ducks, chickens, rabbits, goats, sheep, swine or other animals not customarily kept as family pets.

(2) One horse or pony may be kept within a private stable if such lot or tract contains at least two acres and one additional horse or pony may be kept for each additional half acre.

(3) Customary farm animals may be kept on a noncommercial basis when adequately housed and fenced on a parcel of land not less than 10,000 square feet in area.

(4) Any area now within the corporate limits or hereafter annexed which is now used as part of a farming operation, saddle club, veterinarian, sale barn, 4-H fairground, and associated activities may continue such usage.

(5) Notwithstanding any of the foregoing exceptions, this ordinance shall not be construed to contravene the Zoning Code set forth in Chapter 155.

(N) Whenever stables and buildings housing other farm animals are located closer than one hundred feet of any lot line.
(‘80 Code, § 8.04.020) (Am. Ord. 1991-9, passed 6-14-91; Am. Ord. 2003-05, passed 6-11-03) Penalty, see § 10.99

§ 96.02 OWNER'S DUTY TO ABATE.

All owners of real estate in the town shall be under a duty to remove or cause to be abated any public nuisance as defined herein. This duty shall also extend to the parkway or other strip of ground lying between private property and the curb or paved portion of the street.

(‘80 Code, § 8.04.010)

§ 96.03 ABATEMENT PROCEDURE; NOTICE; COLLECTION OF COST.

(A) With respect to any of the conditions set forth in § 96.01(A) through (E), the town may, in addition to the other penalties as set forth in this code of ordinances, require the removal of the nuisance.

Specifically, the Clerk-Treasurer must provide a five-day written notice to remove the nuisance to be served by an officer of the Police Department upon the land owner if he is a resident or by registered mail addressed to the last known address if he is a nonresident.

(B) If the land owner fails to abate the nuisance within the time prescribed by the notice, the town may remove or cause to be abated the nuisance. The Clerk-Treasurer must make a certified statement of

the actual costs incurred by the town with said statement being delivered to the property owner in same manner as prescribed above. If the land owner fails to pay the amount specified in this statement, within ten days after receiving statement, a certified copy of statement shall be filed in the office of the County Auditor. The Auditor shall place the amount claimed on the duplicate against the property and the amount shall be collected as taxes are collected and shall be disbursed to the general fund of the town. ('80 Code, § 8.04.030)

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CHAPTER 97: STREETS AND SIDEWALKS

Section

GENERAL PROVISIONS

General Provisions

- 97.01 Removal of snow and rubbish from streets
- 97.02 Obstruction of streets and sidewalks prohibited; exemption
- 97.03 Damaging streets or sidewalks prohibited
- 97.04 Sidewalk obstruction prohibited; variance
- 97.05 Repair and maintenance of sidewalks
- 97.06 Noncompliance; liability for damages
- 97.07 Accumulation of construction wastes prohibited
- 97.08 Deposit of snow from private property onto public streets prohibited

Excavations and Fill

- 97.20 Permit required
- 97.21 Backfilling specifications
- 97.22 Application and inspection fees
- 97.23 Excavation bond

Vacation Procedure

- 97.35 Vacation by individuals; petition; hearing
- 97.36 Vacation by Town Council

Culverts

- 97.50 Culverts required
- 97.51 Blocking ditches prohibited
- 97.52 Proper installation and specifications
- 97.53 Maintenance
- 97.54 Permit required

§ 97.01 REMOVAL OF SNOW AND RUBBISH FROM STREETS.

It shall be unlawful for any person, firm, business or other entity to cause or permit to be placed upon any sidewalk, curb, gutter or roadway an obstruction of any type, kind, sort or nature whereby the free use of the sidewalk or roadway might be obstructed or to deposit or allow to be deposited, any grass clippings or other debris or any matter that may, in any way, restrict or affect, the free flow of storm or surface water or that may obstruct any sewer grate or manhole.

('80 Code, § 12.04.010) (Ord. 11, passed - -03; Am. Ord. 2001-12, passed 10-8-01)

§ 97.02 OBSTRUCTION OF STREETS AND SIDEWALKS PROHIBITED; EXEMPTIONS.

It is unlawful for any person or persons, firm or corporation to obstruct streets, sidewalks, alleys, or other public ways by storing or placing any materials, goods, containers, or any other materials upon the public ways. This section shall not be deemed to prohibit the loading or unloading of vehicles in the normal course of business.

('80 Code, § 12.04.020) (Ord. 1982-28, passed 12-28-82)

§ 97.03 DAMAGING STREETS OR SIDEWALKS PROHIBITED.

It is unlawful for any person to break or otherwise injure or cause damage to any sidewalk or any public street or alley. Any person violating this provision shall be liable to the town for the cost of repair of the damaged area.

('80 Code, § 12.04.040) Penalty, see § 10.99

§ 97.04 SIDEWALK OBSTRUCTION PROHIBITED; VARIANCE.

(A) It is unlawful for any person, firm, or corporation to place upon any sidewalks in the town, an obstruction of any kind, sort, or nature, whereby the free use of the sidewalk might be obstructed.

(B) The Director of Community Development may grant a temporary permit and variance from this provision for a period of time not to exceed 365 consecutive days upon the payment of a permit application fee in the amount of \$15 if it is determined that the intended obstruction will be within 30 inches of the building's exterior wall and not reduce the usable portion of the sidewalk to less than the width required under the Americans with Disabilities Act. Each permittee shall display a copy of said permit in a conspicuous location on their premises during the time said permit is effective.

(C) No permit shall be issued pursuant to this section until the applicant executes an indemnification and hold harmless agreement on behalf of the town.

('80 Code, § 12.04.050) (Am. Ord. 2001-3, passed 2-26-01) Penalty, see § 10.99

Cross-reference:

Fee schedule, see § 11.093

§ 97.05 REPAIR AND MAINTENANCE OF SIDEWALKS.

Each abutting property shall be responsible for the repair, maintenance, and general upkeep of the sidewalk or any other appurtenant public improvements related to the sidewalk adjoining their property.

('80 Code, § 12.04.055)

§ 97.06 NONCOMPLIANCE; LIABILITY FOR DAMAGES.

Each abutting property owner who shall fail to perform the duties set forth in this chapter for sidewalk maintenance shall be liable for any and all injuries and/or damages occasioned by their failure to comply with the provisions of this chapter.

('80 Code, § 12.04.056)

§ 97.07 ACCUMULATION OF CONSTRUCTION WASTE PROHIBITED.

It is unlawful to place, permit or allow to accumulate on any sidewalk, street, public highway, or roadway in the town, any earth, sand, gravel or wastes resulting from any building operations. Any person, firm or corporation which places, permits or allows the accumulation upon any sidewalk, street, alley, public highway, or roadway of the town, any earth, sand, gravel or wastes resulting from building operations shall immediately remove the same or cause it to be removed.

('80 Code, § 12.04.060) (Ord. 1977-39, passed - 77) Penalty, see § 10.99

Cross-reference:

Direct deposit of sump pump discharge on streets and sidewalks prohibited, see § 150.01

§ 97.08 DEPOSIT OF SNOW FROM PRIVATE PROPERTY ON PUBLIC STREETS PROHIBITED.

It is unlawful to place, permit or allow the depositing of snow from private property onto any public street, highway, or roadway in the town. Snow shall not be deposited past the edge of the public pavement abutting the property. Any person, firm, or corporation which places, permits, or allows the depositing of snow upon any public street, highway, or roadway of the town shall immediately remove the same or cause it to be removed.

(Ord. 1994-03, passed 2-14-94) Penalty, see § 10.99

EXCAVATIONS AND FILL

§ 97.20 PERMIT REQUIRED.

It is unlawful for any person, firm or corporation to excavate, or fill for any purpose or to dig for any purpose in any public right-of-way within the corporate limits of the town until such person, firm or corporation has made application to the Building

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Department of the town and the application has been approved and a permit has been issued by the Building Department.

('80 Code, § 12.08.010) (Ord. 4-1961, passed - -61; Am. Ord. 8-1988, passed - -88) Penalty, see § 10.99

§ 97.21 BACKFILLING SPECIFICATIONS.

Any person, firm or corporation granted a permit to excavate or dig on any street or alley of the incorporated town shall, upon the completion of such excavating or digging, repair the excavation by backfilling with sand and covering the top thereof with material of like kind and quality as the surrounding surface to the specification determined by the Building Department. Such person, firm or corporation shall fill the excavation level with the surrounding surface.

('80 Code, § 12.08.020) (Ord. 4-1961, passed - -61; Am. Ord. 87-1988, passed - -88)

§ 97.22 APPLICATION AND INSPECTION FEES.

A nonrefundable application fee in an amount set by Council shall be assessed for each permit. A nonrefundable fee in an amount set by Council shall be assessed for each inspection conducted by the Building Department with respect to the enforcement and provisions of this subchapter.

('80 Code, § 12.08.030)

§ 97.23 EXCAVATION BOND.

(A) No permit shall be issued for any excavation or filling under this section until an appropriate cash or approved surety bond, in any amount and in such form as may be approved by the Building Commissioner and Clerk-Treasurer, is posted for the repair, replacement and/or restoration of any sidewalk, curb, road or other public way that may be required as a result of this issuance of said permit.

(B) The repair, replacement and/or restoration of any sidewalk, curb, road or other public way that may

be required as a result of the issuance of said permit, shall be completed to the satisfaction of the Building Commissioner and the Town Engineer within ten days of the completion of the project described in the permit, or the bond shall be applied to cover the costs of completing said repair, replacement and/or restoration.

(C) A maintenance bond shall be posted for all street repairs and shall be valid for a period of two year after the project and all road restorations are completed.

(Ord. 2001-13, passed 10-22-01)

VACATION PROCEDURE

§ 97.35 VACATION BY INDIVIDUALS; PETITION; HEARING.

(A) Any person who owns or is interested in any property located within the town and who desires to have a public way or public place vacated which is contiguous to that property, may file a petition for vacation with the Town Council. The petition must:

- (1) State the circumstances of the case.
- (2) Specifically describe the property proposed to be vacated; and
- (3) State the names and addresses of all owners of land that abut the property proposed to be vacated.

(B) Notice of the petition must be given as prescribed in IC 5-3-1 and by certified mail to each owner of land that abuts the property proposed to be vacated. The Clerk-Treasurer shall give the notice, however, to the petitioner or petitioner must reimburse the Councilmember for all costs of the notice. The Town Council shall hold a hearing on a petition within 30 days after it is received at which time any person aggrieved by the proposed vacation may object to it by filing a remonstrance in writing or presenting an oral remonstrance at the hearing. Grounds for the remonstrance are as follows:

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(1) The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.

(2) The vacation would make access to the lands of the aggrieved person by means of public way impossible.

(3) The vacation would eliminate the public's access to a church, school or other public building or place.

(4) The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

(C) After the hearing on the petition the Town Council may by ordinance vacate the public way or public place. If this is done, the Clerk-Treasurer shall provide a copy of the vacation ordinance to the County Recorder for recording and to the County Auditor. Within 30 days after the adoption of a vacation order, any aggrieved person may appeal the ordinance to the Circuit Court of Lake County. (IC 36-7-3-12, 36-7-3-13) ('80 Code, § 12.12.010) (Ord. 1982-28, passed 12-28-82)

§ 97.36 VACATION BY TOWN COUNCIL.

If the Town Council desires or deems it necessary to vacate any alley, street, public way or public place located within the corporate limits of the town. The Council shall follow the same procedure as set forth in § 97.35. ('80 Code, § 12.12.020) (Ord. 1982-28, passed 12-28-82)

CULVERTS

§ 97.50 CULVERTS REQUIRED.

Where required to facilitate proper roadside drainage, any person firm or corporation installing a driveway entrance shall be required to install and

maintain a 12-inch minimum diameter corrugated metal pipe of galvanized steel (aluminum not permitted) at least 20 feet in length, designed so as not to create a hazard to the under parts of automobiles, at the entrance of each driveway. ('80 Code, § 15.24.010) Penalty, see § 10.99

Cross-reference:

Culvert, see § 154.053

§ 97.51 BLOCKING DITCHES PROHIBITED.

No person, firm, or corporation shall fill or otherwise block roadside drainage ditches. ('80 Code, § 15.24.020) Penalty, see § 10.99

§ 97.52 PROPER INSTALLATION AND SPECIFICATIONS.

(A) It shall be the duty of each installer to insure the culvert or drain is of sufficient capacity and in the proper location. The driveway surface shall be level or slope away from the elevation of the street at the intersection of the driveway with the street to the existing right-of-way line. It is recommended that parties request the advice of the Town Building Department before making said installation and should such facility be inadequate or require replacements it shall be the obligation of the party using the driveway entrance and shall in no way be any liability or an obligation of the town. The replacement of any driveway culverts shall be at the owner's expense, except where replacement shall be at the convenience of the town due to reconstruction of the street.

(B) In addition to the provisions of division (A) above, the following specifications shall apply: It shall be permissible to install Class 3 reinforced concrete pipe, SDR 35 PVC sewer pipe, except under driveways, or other approved pipe having sufficient strength and a smooth interior with a minimum diameter of 12 inches below the surface of the pavement adjacent to the pipe. ('80 Code, § 15.24.030) Penalty, see § 10.99

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§ 97.53 MAINTENANCE.

Culverts shall be maintained by the property owners in such condition as to be free of debris and to allow the free flow of surface water. All pipes installed pursuant to the provisions of this subchapter shall be maintained by the property owner.
(‘80 Code, § 15.24.040)

§ 97.54 PERMIT REQUIRED.

A driveway or road right-of-way cut permit is required prior to the issuance of a building permit. This includes all properties described by metes and bounds description whether residential or commercial and all recorded platted subdivisions, industrial parks, and the like, as each individual lot is developed. No fee will be charged.
(‘80 Code, § 15.24.050)

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CHAPTER 98: FUNERAL PROCESSIONS AND PARADES

Section

98.01	Funeral processions
98.02	Parades
98.03	Parade permit and fee
98.04	Permit application
98.05	Permit standards
98.06	Permit denial and revocation
98.07	Recourse against the town
98.08	Interference with parade or funeral procession
98.99	Penalty

§ 98.01 FUNERAL PROCESSIONS.

(A) A funeral procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or sign of a type approved by the Chief of Police and each vehicle in the procession shall drive with its headlights turned on.

(B) Each driver in a funeral procession shall drive as near to the right-hand edge of the roadway as practicable and safely follow the vehicle ahead as close as practicable.

(C) Each mortician and funeral director shall notify the office of the Chief of Police of the day and the hour of each funeral procession to be had by him/her that will take place in, or travel through, the town together along with the exact route thereof, at least 24 hours prior to the start of each procession.

(IC 9-21-13 et seq.)

(Ord. 2000-5, passed 2-12-01) Penalty, see § 98.99

§ 98.02 PARADES.

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

PARADE. Includes any march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, taking place in or upon any public street, way, easement or other public place.

(B) *Exemptions.* The requirement to obtain a parade permit shall not apply to:

(1) Funeral processions;

(2) Students going to and from school classes or participating in educational activities, providing such conduct is under the direction and supervision of school authorities;

(3) The U.S. Armed Forces or a governmental agency acting within its authority; and

(4) Temporary commercial displays or activities authorized by the building department in a Downtown Business District (D-1) zoning classification pursuant to Ordinance 2001-3. (Ord. 2000-5, passed 2-12-01)

§ 98.03 PARADE PERMIT AND FEE.

(A) *Permit required.* No person shall engage or participate in, aid, form, sponsor or begin any parade without obtaining and possessing a valid parade permit issued by the Chief of Police according to the provisions in this section. (IC 9-21-1)

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(B) *Permit applications.*

(1) *Parade reservation.* The Chief of Police may reserve a specific date, time, location and route for a parade for a period of time not to exceed 14 days upon the filing of a Parade Reservation Application with the Clerk-Treasurer and Chief of Police not less than two months or more than 14 months before the proposed event. However, the grant or denial of a parade reservation by the Chief of Police shall not be considered or deemed as prior approval or denial of a parade permit. Applicant must still meet the requirements of a parade permit upon the application of such permit.

(2) *Parade permit.* Each person requesting issuance of a parade permit shall file an application with the Chief of Police on forms provided by the town not less than 60 nor more than 180 days before the date proposed for the parade.

(3) *Permit fee.* Each applicant for a parade permit shall pay a non-refundable fee of \$25 to the Clerk-Treasurer at the time each parade application is filed to defer the administrative costs and expenses of processing said application.
(Ord. 2000-5, passed 2-12-01)

Cross-reference:

Fee schedule, see § 11.094

§ 98.04 PERMIT APPLICATION.

Each application for a parade permit shall set forth the following information on forms provided by the Chief of Police:

(A) The name, address and telephone number of the person seeking to conduct the parade and the name, address and telephone number of the responsible officers and persons representing any organization, association or other entity sponsoring the event;

(B) The name, address and telephone number of the person who is designated the parade chairman who will be responsible for the parade;

(C) The date and inclusive hours when the parade is to be conducted;

(D) The route to be traveled, including all queuing areas, the starting point and the termination points of the parade;

(E) The name, address and telephone number of each person, group and organizations that will sponsor and be responsible for the parade;

(F) A description of the types and numbers of units, floats and vehicles which will participate in the parade. Parade entries added after the 60 day permit deadline can be accepted by the Chief of Police provided they meet the safety requirements of application;

(G) A statement as to whether the parade will occupy all or only a portion of the width of the street or public ways;

(H) If the applicant is acting as the agent for or representative of any other person or entity, then the applicant shall file with the Clerk-Treasurer a letter or resolution from the parade sponsor acknowledging that the applicant has the prior authority to apply for the permit on their behalf and bind the person or entity to the provision of this chapter;

(I) Any additional information which the Chief of Police shall deem reasonably necessary to a fair determination as to whether a parade permit should be issued.

(Ord. 2000-5, passed 2-12-01)

§ 98.05 PERMIT STANDARDS.

(A) The Chief of Police shall issue or deny a parade permit within 14 days after an application is filed after consideration of the information contained in the application and determining:

(1) Whether or not the parade will substantially interfere with the delivery of emergency services in the community and the safe and orderly movement of vehicular or pedestrian traffic;

(2) Whether or not the parade will unreasonably interfere with the peace and quiet in the community or cause or create a public nuisance.

(3) Whether or not the parade is likely to cause injury to persons or property, will provoke disorderly conduct or create an unreasonable disturbance;

(4) Whether or not the parade is held substantially for the purpose of advertising any product, cause, goods or events and is not designed to be held purely for private profit.

(B) Prior to the final issuance of any permit, each permit applicant and parade sponsor shall execute an agreement, on forms prepared by the town attorney, to indemnify and hold the town and its agents, servants or employees harmless for any and all injuries, damages, claims; costs, or attorney fees that may arise from any property damage, injury or any other claims resulting from, caused or contributed to by the parade or its participants.

(C) The Chief of Police is authorized to impose all reasonable restrictions or conditions on any parade permit that he deems necessary to preserve the public peace and safety.

(D) The Chief of Police is authorized, where good cause is shown, to consider any application filed less than 14 days before the date of the parade.

(E) The Chief of Police shall have the authority to appoint volunteers from the permitted organization or group to assist him with parade control and safety. Such appointment shall be limited to the duration of the event and to matters solely related to the safe operation of the event.
(Ord. 2000-5, passed 2-12-01)

§ 98.06 PERMIT DENIAL AND REVOCATION.

(A) If the Chief of Police denies an application for a parade permit, he shall mail to the applicant, within five business days after making said determination, a notice of denial and describe therein the reasons for his denial. Any applicant who is a
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resident of the Town of Lowell may appeal said denial to the Town Council by filing a written request requesting an appeal with the Clerk-Treasurer's office within 14 days of denial.

(B) *Alternative permit.* The Chief of Police, in denying an application for a parade permit, may issue an alternative permit for the same parade on a date, during times, or over a route different from that contained in the original application. An applicant desiring to accept an alternate permit shall, within five business days after such notice, file a written notice of acceptance with the chief of police and shall conform to all other requirements of this chapter for the issuance of a parade permit.

(C) *Revocation of permit.* The Chief of Police shall have the authority to revoke any parade permit should he determine or discovery that said permit was issued upon any false information or misrepresentation provided by the applicant or for any other reason he may deem necessary to preserve the peace or public safety.
(Ord. 2000-5, passed 2-12-01)

§ 98.07 RECOURSE AGAINST THE TOWN.

A permittee shall have no recourse whatsoever against the town or its officers, boards, commissions, agents or employees for any injury, loss, cost, expense or damage arising from any provision or requirement of a permit issued under this chapter.
(Ord. 2000-5, passed 2-12-01)

§ 98.08 INTERFERENCE WITH PARADE OR FUNERAL PROCESSION.

(A) It shall be unlawful and a violation of this chapter for any person to interfere with or obstruct any parade or funeral procession or to operate a vehicle in such a manner as to interfere with or cross the path or designated route of a parade or funeral procession that is in progress.

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(B) It shall be unlawful and a violation of this chapter for any person to park, or permit or allow to be parked, any type of vehicle on or along a designated parade route within two hours prior to or during any parade.

(C) The police may order any vehicle parked along a parade route in violation of this chapter to be towed or removed. All towing and storage charges incurred for the removal of such vehicles shall be the responsibility of the owner thereof and shall be in addition to, and not in lieu of any other fine or penalty provided for by this section or any other law. The police may attempt to contact the owner of the

vehicle and request its removal from the parade route prior to towing the vehicle.

(Ord. 2000-5, passed 2-12-01) Penalty, see § 98.99

§ 98.99 PENALTY.

Any person, firm, corporation or entity violating any provision of this chapter shall be subject to a fine of not less than \$50 nor more than \$2,500 for each violation.

(Ord. 2000-5, passed 2-12-01)