

## **TITLE IX: GENERAL REGULATIONS**

Chapter

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## CHAPTER 90: ANIMALS

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### § 90.01 DEFINITIONS.

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

**OWNER.** Any person having the right of property in or custody of an animal.  
(Ord. 1995-9, passed 5-4-1995)

### § 90.02 CRUELTY.

No person shall beat, cruelly treat, neglect, torment, overload, overwork, or otherwise abuse any animal, except that reasonable force may be employed to drive off vicious or trespassing animals or to protect human life, or to secure obedience.

(Ord. 1995-9, passed 5-4-1995) Penalty, see § 90.99



**§ 90.03 RESTRAINT.**

Any animal on the premises of the owner or elsewhere shall be accompanied by a responsible person and under that person's control, so as to prohibit the animal from becoming a nuisance. (Ord. 1995-9, passed 5-4-1995)

**§ 90.04 NUISANCE.**

It shall be a violation of this chapter for any animal owner to fail to restrain an animal to prevent it from becoming a public nuisance. A nuisance may include, but is not limited to molesting passers-by or those upon the owner's premises by invitation, express or implied, chasing vehicles, habitually attacking other domestic animals, trespassing upon public or private property, or the accumulation of animal excrement on the owner's or neighbor's property to the extent the amount of excrement is unreasonable.

(Ord. 1995-9, passed 5-4-1995) Penalty, see § 90.99

**§ 90.05 NOISES.**

It shall be unlawful for any person to own, keep, or harbor any animal which, by frequent or habitual howling, yelping, barking, or other noise, shall cause unreasonable annoyance or disturbance to any family other than that of the owner.

(Ord. 1995-9, passed 5-4-1995) Penalty, see § 90.99

**§ 90.06 ANIMAL BITE.**

(A) The owner of any animal which has bitten a person or other animal shall immediately report the same to the City Police Department.

(B) The City Police Department shall follow state law or county ordinance in handling these cases.

(C) In the event an animal is suspected to be rabid, no person other than an authorized county or state official, or the City Police Department shall kill or cause to be killed that animal except for immediate self-protection or the protection of others. In the event a suspected rabid animal is killed by any person, that person shall preserve the body of the animal and immediately notify the City Police Department. The City Police Department shall notify the Spencer County Health Department of all animal bites involving humans.

(Ord. 1995-9, passed 5-4-1995)

(D) The City Police Department shall ascertain the ownership of the animal if possible, shall contact the County Health Department for assistance, and cause the animal to be placed in quarantine for a period of 10 days. The quarantine shall be carried out at a licensed veterinary clinic. All costs involved in the quarantine are to be borne by the animal's owner.

(E) In the case of stray animals for whom an owner cannot be identified, the animal shall be turned over to a licensed veterinarian where the animal shall be humanely destroyed and the head sent to the Indiana State Department of Health Laboratory for rabies testing. The expense shall be borne by the County Health Department.

(F) In the case of bites caused by wild animals, the County Health Department shall be contacted for guidance as to the proper procedure for the animal species involved.

(Am. Ord. 1995-11, passed 6-15-1995)

**§ 90.07 STRAY ANIMALS.**

(A) *Detention.* If an animal has strayed into the city, or if it is owned by a city resident and it has strayed beyond the premises of its owners, then the animal may be picked up and detained by a city police officer or employee, and at the officer's or employee's discretion either returned to the owner or taken to the City Maintenance Area at the sewage treatment plant, Center and Third Streets, or other location, as designated by the Council from time to time for such purposes.

(B) *Release.* When applicable, the animal shall be released to the owner by a city police officer upon presentation of a copy of the signed receipt showing payment of the applicable penalties set out in § 90.99(B).

(C) *Destruction.* Any animal not released from detention as provided for herein within 5 working days after the animal is taken to the City Maintenance Area or other location shall be destroyed; provided, however, that destruction of the animal shall not release the owner from the penalties provided for in this chapter.

(Ord. 1995-9, passed 5-4-1995; Am. Ord. 1995-11, passed 6-15-1995)

**§ 90.08 CITATION FOR VIOLATION.**

All violations of this chapter shall be issued in writing upon the owner on an official citation form in essential conformity with the form attached to Ord. 1995-9 as Appendix A. A copy of the citation shall be filed with the city's Ordinance Violations Clerk.

(Ord. 1995-9, passed 5-4-1995)





**§ 90.09 PAYMENT TO ORDINANCE VIOLATIONS CLERK.**

The monies shall be paid to the city's Ordinance Violations Clerk at the City Hall, who shall issue a receipt in duplicate to the owner.

(Ord. 1995-9, passed 5-4-1995)

**§ 90.10 NO RELEASE OR WAIVER OF PENALTIES.**

Nothing contained in this chapter shall be construed as a release or waiver of any penalties which may be imposed as a result of a violation of state law.

(Ord. 1995-9, passed 5-4-1995)

**§ 90.11 RECOVERY OF EXPENSES.**

The city may collect, in addition to any monies owed to the city pursuant to ordinance, all costs and attorney fees incurred to enforce this chapter or to defend the city regarding any suits brought against the city in connection with action taken by the city pursuant thereto.

(Ord. 1995-9, passed 5-4-1995)

**§ 90.99 PENALTY.**

(A) *General.* Any person in violation of any provision of this chapter other than the stray animal provisions shall be required to pay the sum of \$25 to the Ordinance Violations Clerk.

(B) *Stray animal provisions.* The owner of a stray animal shall be required to pay the sum of \$25 for a violation of this chapter. The owner of a stray animal shall be required to pay the sum of \$50 for a second or subsequent violation of this chapter occurring within 1 year of the previous violation. Additionally, the owner of a stray animal taken to City Maintenance Area at the sewage treatment plant, Center and Third Streets, or other location and detained shall pay an additional sum of \$5 for each 24-hour period or fraction thereof when the animal is held.

(Ord. 1995-9, passed 5-4-1995)

## CHAPTER 91: FAIR HOUSING

### Section

- 91.01 Policy
- 91.02 Definitions
- 91.03 Unlawful practice
- 91.04 Discrimination in the sale or rental of housing
- 91.05 Discrimination in residential real estate-related transactions
- 91.06 Discrimination in the provision of brokerage services
- 91.07 Interference, coercion, or intimidation
- 91.08 Prevention of intimidation
- 91.09 Exemptions
- 91.10 Administrative enforcement
  
- 91.99 Penalty

### § 91.01 POLICY.

It shall be the policy of the city to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 *et seq.* (Ord. 1994-12, passed 10-20-1994)

### § 91.02 DEFINITIONS.

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

***AGGRIEVED PERSON.*** Includes any person who, per I.C. 22-9.5-2-2:

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

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**COMMISSION.** Per I.C. 22-9.5-2-3, means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 *et seq.*

**COMPLAINANT.** Per I.C. 22-9.5-2-4, means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

**DISABILITY.**

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits 1 or more of the person's major life activities;

(b) A record of having such an impairment;

(c) Being regarded as having such an impairment;

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

(e) Any other impairment defined under I.C. 22-9.5-2-10.

(2) The term **DISABILITY** shall not include current illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802 (I.C. 22-9.5-2-10(b)); nor does the term **DISABILITY** include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 91.04 through 91.08 of this chapter or I.C. 22-9.5-5.

**DWELLING.** Any building, structure, or part of a building or structure that is occupied, or designed or intended for occupancy as a residence by 1 or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied, designed, or intended for occupancy as a residence by 1 or more families (I.C. 22-9.5-2-8).

**FAMILIAL STATUS.**

Discrimination on the basis of *FAMILIAL STATUS* means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 years of age in regard to whom the person is (a) the parent or legal custodian or (b) has the written permission of the parent or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

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

**PERSON.** Per I.C. 22-9.5-2-11, includes 1 or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, nonincorporated organizations, trustees, trustees in cases under Title 11 of the U.S.C., receivers, and fiduciaries.

**TO RENT.** Per I.C. 22-9.5-2-13, includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant.  
(Ord. 1994-12, passed 10-20-1994)

**Editor's Note:**

*I.C. 22-9.5-2-10 repealed pursuant to P.L. 99-2007, § 224.*

**§ 91.03 UNLAWFUL PRACTICE.**

Subject to the provisions of division (B) of this section, § 91.09, and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 91.04 shall apply to:

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

(B) Other than the provisions of division (C) of this section, nothing in § 91.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than 3 single-family houses at any 1 time; provided that in the sale of the single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to 1 such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than 3 single-family houses at any 1 time. The sale or rental of any such single-family house shall be excepted from application of this section only if the house is sold or rented:

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

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 91.04(C) of this chapter; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer this title.

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(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than 4 families living independently of each other, if the owner actually maintains and occupies 1 of the living quarters as his or her residence.

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

(1) He or she has, within the preceding 12 months, participated as principal in 3 or more transactions involving the sale or rental of any dwelling or any interest therein;

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

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, 5 or more families.

(Ord. 1994-12, passed 10-20-1994) Penalty, see 91.99

**§ 91.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by § 91.03 and except as exempted by §§ 91.03(B) and 91.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, or national origin;

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

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

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

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

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

(a) That buyer or renter;

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

(c) Any person associated with that person.

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

(a) That person;

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

(c) Any person associated with that person.

(3) For purposes of this division, *DISCRIMINATION* includes:

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

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

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that:

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

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

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

- a. An accessible route into and through the dwelling;
  - b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
  - c. Reinforcements in bathroom walls to allow later installation of grab bars;
- and
- d. Usable kitchens and bathrooms, such that an individual in a wheelchair can maneuver about the space.

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

(5) Nothing in this division requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.  
(Ord. 1994-12, passed 10-20-1994) Penalty, see § 91.99

### § 91.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

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

(B) As used in this section the term ***RESIDENTIAL REAL ESTATE-RELATED TRANSACTION*** means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:

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

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

(Ord. 1994-12, passed 10-20-1994) Penalty, see § 91.99

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

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

(Ord. 1994-12, passed 10-20-1994) Penalty, see § 91.99

**§ 91.07 INTERFERENCE, COERCION, OR INTIMIDATION.**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by §§ 91.03 through 91.06.

(Ord. 1994-12, passed 10-20-1994) Penalty, see § 91.99

**§ 91.08 PREVENTION OF INTIMIDATION.**

(A) No person, whether or not acting under color of law, by force or threat of force willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with:

(1) Any person because of his or her race, color, religion, sex, disability, familial status, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings;

(2) Any person because he or she is or has been, or in order to intimidate the person or any

other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations, or facilities described in these provisions; or

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



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(3) Any person because he or she is or has been, or in order to discourage that citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations, or facilities described in division (A)(1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate.

(B) If bodily injury results from the actions of division (A), the person shall be subject to the provisions of § 91.99(C).

(Ord. 1994-12, passed 10-20-1994) Penalty, see § 91.99

**§ 91.09 EXEMPTIONS.**

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

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

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

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

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

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

(c) Intended and operated for occupancy by at least 1 person 55 years of age or older per unit.

(Ord. 1994-12, passed 10-20-1994)

**§ 91.10 ADMINISTRATIVE ENFORCEMENT.**

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

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

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

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

(Ord. 1994-12, passed 10-20-1994)

**§ 91.99 PENALTY.**

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Any person who violates the provisions of § 91.08(A) shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(C) For any person who violates the provisions of § 91.08(B), the person shall be fined not more than \$10,000, or imprisoned for not more than 10 years, or both; and if death results, shall be subject to imprisonment for any term of years or for life.

(Ord. 1994-12, passed 10-20-1994)



## CHAPTER 92: NUISANCES

### Section

#### *Demolition Derby Vehicles*

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- 92.02 Requirement to cover vehicle
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***Cross-reference:***

*Public nuisance procedures for trees, see §§ 96.60 et seq*

***DEMOLITION DERBY VEHICLES***

**§ 92.01 RESTRICTIONS ON REPAIRS.**

No repairing, modifying, or dismantling, unless within fully enclosed buildings and which will not constitute a nuisance to adjoining property owners or occupants, shall be allowed upon any recreational vehicle used for demolition derbies or similar events between the hours of 9:00 p.m. and 9:00 a.m.

(Ord. 2003-5, passed 9-3-2003) Penalty, see § 92.99

**§ 92.02 REQUIREMENT TO COVER VEHICLE.**

Any vehicles within the city and not located in a fully enclosed building, used for demolition derbies or similar recreational purposes, shall be fully covered by a suitable tarpaulin after 3 days of their initial presence on any private property within the city.

(Ord. 2003-5, passed 9-3-2003) Penalty, see § 92.99

**§ 92.03 REMEDIES CUMULATIVE.**

The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(Ord. 2003-5, passed 9-3-2003)

***ILLEGAL AND NUISANCE BURNING***

**§ 92.15 STATE REQUIREMENTS.**

State statutes regulating burning must be adhered to by city residents.



(Res. 1993-8, passed 10-7-1993)

**§ 92.16 INVESTIGATION.**

All complaints of illegal or nuisance burning will be investigated by the City Police Department.  
(Res. 1993-8, passed 10-7-1993)

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**§ 92.17 CITATION.**

Reported violations of state statutes that are found to be valid will be acted on by issuing a citation to the offending party.

(Res. 1993-8, passed 10-7-1993)

**§ 92.18 EXTINGUISHMENT OF FIRES.**

Fires violating state statutes will be extinguished.

(Res. 1993-8, passed 10-7-1993)

**§ 92.19 BURNING OF LEAVES.**

Burning of leaves on city streets is a violation of Ord. 243 which establishes a fine of \$1 to \$25 per infraction. Burning on streets causes extensive damage to the pavement; therefore, violators of that ordinance will be issued a citation.

(Res. 1993-8, passed 10-7-1993)

**§ 92.20 LEAF PICKUP.**

Leaf pickup will be provided at no charge to residents. Leaves will be collected weekly by the City Street Department. Leaves must be in bags for pickup.

(Res. 1993-8, passed 10-7-1993)

***MAINTENANCE OF HEALTHFUL AND SANITARY CONDITIONS***

**§ 92.35 RANK AND NOXIOUS WEEDS.**

It shall be unlawful for any landowner, person, business or other entity, or agent thereof to allow the growth or spread of rank or noxious weeds or vegetation upon any grounds or premises within the corporate limits of the city. The existence of these rank and/or noxious weeds or vegetation is hereby declared to be a nuisance to public health and safety.

(Ord. 390, passed 10-16-1975) Penalty, see § 92.99

**§ 92.36 GARBAGE AND OTHER NOXIOUS SUBSTANCES.**

It shall be unlawful for any landowner, person, business or other entity, or agent thereof to throw, deposit, or suffer to be thrown or deposited any rubbish, filthy, noxious or unwholesome liquid or slop,

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garbage, or offal in or upon any street, lane, alley, sidewalk, gutter, crossing, or public ground; and it shall further be unlawful to allow any such rubbish, filthy, noxious or unwholesome liquid or slop, garbage, or offal to exist or accumulate upon any grounds or premises within the corporate limits of the city; the existence or accumulation thereof is hereby declared to be a nuisance to public health and safety.

(Ord. 390, passed 10-16-1975) Penalty, see § 92.99

### **§ 92.37 ABATEMENT.**

(A) Any health or sanitation official of the city or any member of the city police shall have the authority to enter into or upon any grounds or premises within the corporate limits of the city for the purpose of making a sanitary survey thereof. If a nuisance, as defined in §§ 92.35 and 92.36, is found to exist, the offender shall be notified in writing and shall be given notice to remove or abate the nuisance within a reasonable time to be stated in the notice; however, if the nuisance constitutes an immediate danger to public health and safety, notice may be given verbally to the offender for immediate removal or abatement.

(B) If the offender fails to abate or remove the nuisance within the time specified, the city may proceed to cause the nuisance to be removed or abated. The expense thereof shall be paid from the City Treasury, and the expense shall be a lien on the property on which the nuisance is found and shall be collected as taxes are collected and returned to the Clerk-Treasurer.

(Ord. 390, passed 10-16-1975)

## ***USE OF REAL ESTATE***

### **§ 92.50 UNLAWFUL ACTS; SALVAGE YARD; BURNING.**

It shall be unlawful for any person, firm, or corporation to own, maintain, or operate what is commonly known as an automobile salvage yard or junkyard within the corporate limits of the city, upon which premises abandoned or dilapidated motor vehicles or other vehicles are kept, parked, stored, or maintained, for the purposes of salvaging the same or parts therefrom; it shall further be unlawful hereafter for any person, firm, or corporation to burn or cause to be burned, to destroy by burning, or to otherwise destroy any automobile tires, rubber tires of any kind, or any abandoned or dilapidated motor vehicles or other vehicles within the corporate limits of the city.

(Ord. 304, passed 12-6-1961) Penalty, see § 92.99

**§ 92.51 DEFINITIONS.**

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

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**ABANDONED or DILAPIDATED MOTOR VEHICLES OR OTHER VEHICLES.** Any and all motor vehicles or other vehicles of any kind or character which are, for any reason, no longer used or useful upon the public highways in the manner for which the vehicle or vehicles were originally manufactured or designed.

**JUNK.** Old or discarded scrap copper, brass, iron, steel, or other metal, or materials including, but not limited to: tires, household appliances, furniture, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, plastic debris, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof.

**JUNKYARD.** Any place of outdoor storage or deposit which is maintained, operated, or used in connection with a business for storing, keeping, processing, buying or selling junk; any place of outdoor storage or deposit which is maintained or used for storing or keeping 4 or more junk motor vehicles that are visible from any portion of a public street.

(Ord. 304, passed 12-6-1961; Am. Ord 2005-5, passed 6-9-2005)

**§ 92.52 JUNKYARD FENCING REQUIREMENTS.**

(A) All junkyards and places of outdoor storage of junk shall be effectively screened from public view by a fence or vegetation at least 8 feet in height.

(B) Any fence shall be of sound construction and solid vertical board or stockade-type construction, and shall be neatly maintained and in good repair. Such a fence shall not be used for advertising signs or other displays that are visible from the main traveled way of a highway.

(C) Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view.

(D) Failure to provide screening as required herein shall be considered a violation.

(Ord. 2005-5, passed 6-9-2005) Penalty, see § 92.99

**§ 92.53 VIOLATION.**

Any violation of this subchapter is hereby declared and shall constitute a public nuisance.

(Ord. 304, passed 12-6-1961) Penalty, see § 92.99

**§ 92.54 LIABILITY.**

Any person violating any provision hereof shall be liable for any losses or damages occasioned to any property owner or the city.

(Ord. 304, passed 12-6-1961)

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***REGULATION OF CONSUMER FIREWORKS*****§ 92.60 DEFINITION.**

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

***CONSUMER FIREWORKS.*** Shall refer to those fireworks as defined by I.C. 22-11-14-1. (Ord. 2007-7, passed 7-25-2007)

**§ 92.61 DAYS AND HOURS OF USE.**

The use of consumer fireworks shall be restricted to the following times:

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

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

(C) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1. (Ord. 2007-7, passed 7-25-2007) Penalty, see § 92.99

**§ 92.99 PENALTY.**

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Any person, firm, or corporation, whether a principal, agent, employee, or otherwise, who violates any provisions of §§ 92.01 through 92.03, shall be guilty of an infraction and, upon conviction, shall be fined \$25 for a first offense and \$50 for any subsequent offense, such fine to inure to the city. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.



(C) Any person who violates any provision of § 92.52 shall be assessed a fine of \$25 for an initial violation, and \$50 for any subsequent violations. Upon notification of a violation by certified letter, the owner of record of the property shall have 30 days to bring the property into compliance before being assessed a penalty.

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(D) The use, ignition or discharge of consumer fireworks other than during the time periods designated in § 92.61 shall constitute an infraction and shall be subject to a fine of \$100 per offense. (Ord. 2003-5, passed 9-3-2003; Am. Ord. 2005-5, passed 6-9-2005; Am. Ord. 2007-7, passed 7-25-2007)

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## **CHAPTER 93: STREETS AND SIDEWALKS; PARKING FACILITIES**

### Section

- 93.01 Stopping or driving on off-street parking or vacant lot
- 93.02 Remaining on off-street parking or vacant lot
- 93.03 Authorization
- 93.04 Consumption of alcohol on streets or sidewalks
  
- 93.99 Penalty

### **§ 93.01 STOPPING OR DRIVING ON OFF-STREET PARKING OR VACANT LOT.**

It shall be unlawful for any person, whether acting individually or in concert with a group of persons, to gather on, park on, stop on, or drive across any off-street parking facility or vacant lot offered for public use, whether publicly or privately owned, for any of the following purposes:

(A) For any purpose or reason other than for the intended purpose and reason for which the off-street parking facility or vacant lot exists, provided that the intended purpose or reason is specifically permitted or is clearly set out on signs, approved by the city or the person or persons in possession and control of the off-street parking facility or vacant lot, and posted at each entrance and exit to the off-street parking facility or vacant lot; or

(B) For the purpose of resting, talking, or engaging in recreation or any other activity, including the consumption of alcoholic beverages, unless that activity is specifically permitted or clearly set out on signs, approved by the city or the person or persons in possession and control of the off-street parking facility or vacant lot, and posted at each entrance and exit to the off-street parking facility or vacant lot.

(Ord. 418, passed 4-19-1979) Penalty, see § 93.99

### **§ 93.02 REMAINING ON OFF-STREET PARKING OR VACANT LOT.**

No person, having lawfully entered any off-street parking facility or vacant lot and upon having completed the lawful purpose for which he or she entered thereon, shall remain on that facility for the purpose of any social gathering, resting, talking, or engaging in recreation inconsistent with the stated purpose for which the off-street parking facility or vacant lot exists.

(Ord. 418, passed 4-19-1979) Penalty, see § 93.99

**§ 93.03 AUTHORIZATION.**

It shall not be a violation of this chapter for any person to perform any of the acts prohibited by the foregoing, if the person has been given written authorization from the person or persons in possession and control of the off-street parking or vacant lot or the city to so use or park his or her motor vehicle on the facility or lot.

(Ord. 418, passed 4-19-1979)

**§ 93.04 CONSUMPTION OF ALCOHOL ON STREETS OR SIDEWALKS.**

It shall be unlawful for any person to consume alcoholic beverage or beverages upon the public streets or sidewalks of the city, unless the person is in a vehicle and not otherwise violating the laws of this city, county, or state.

(Ord. 418, passed 4-19-1979) Penalty, see § 93.99

**§ 93.99 PENALTY.**

Any violation of this chapter for which there is not already a penalty shall be subject to the terms of § 10.99.

## CHAPTER 94: ABANDONED VEHICLES

### Section

- 94.01 Definitions
- 94.02 Designated public agency
- 94.03 Abandoned vehicle account
- 94.04 Disposal of vehicle without identified owner
- 94.05 Disposal of vehicles otherwise
- 94.06 Manner of disposal
  
- 94.98 Violation

### § 94.01 DEFINITIONS.

An *ABANDONED VEHICLE* is defined by I.C. 9-13-2-1 and those definitions are incorporated herein by reference.

(Ord. 452, passed 11-15-1990)

### § 94.02 DESIGNATED PUBLIC AGENCY.

The Chief of Police of the city, and his or her deputies, are the public agency of the city vested with the responsibility to remove, store, and dispose of abandoned vehicles.

(Ord. 452, passed 11-15-1990)

### § 94.03 ABANDONED VEHICLE ACCOUNT.

(A) All money received by the Chief of Police as a result of his or her disposal of an abandoned vehicle as provided in § 94.04 shall be deposited to the Abandoned Vehicle Account.

(B) All charges for towing, storing, or removing the abandoned vehicle, incurred under § 94.04,

shall be paid from the Abandoned Vehicle Account.  
(Ord. 452, passed 11-15-1990)



**§ 94.04 DISPOSAL OF VEHICLE WITHOUT IDENTIFIED OWNER.**

If a vehicle or parts of a vehicle are in such condition that a vehicle identification number or other means of identification is not available to identify the owner or lienholder, and the identity of such is not known, the Chief of Police shall dispose of the vehicle without notice, if the value of the same is less than \$100.

(Ord. 452, passed 11-15-1990)

**§ 94.05 DISPOSAL OF VEHICLES OTHERWISE.**

In all cases other than as set out in § 94.04, the Chief of Police shall comply with the provisions of I.C. 9-22-1, and the regulations of the Indiana Bureau of Motor Vehicles implementing that statute, relating to the disposal and removal of the abandoned vehicles.

(Ord. 452, passed 11-15-1990)

**§ 94.06 MANNER OF DISPOSAL.**

(A) The manner, method, and means of disposing of an abandoned vehicle under § 94.04 shall be at the discretion of the Chief of Police.

(B) The manner, method, and means of disposing of an abandoned vehicle under § 94.05 shall be as required by the Indiana Bureau of Motor Vehicles, except that the charge for towing the vehicle shall not exceed \$35, and the charge for storage shall not exceed \$5 per day.

(Ord. 452, passed 11-15-1990)

**§ 94.98 VIOLATION.**

In addition to the remedies provided for in this chapter and the provisions of I.C. 9-22-1, violation of this chapter shall constitute a Class C infraction for each day of violation.

(Ord. 452, passed 11-15-1990)

## **CHAPTER 95: FIRE PREVENTION**

### Section

- 95.01 Adoption of Fire Prevention Code
- 95.02 Inspection unit
- 95.03 Definitions
- 95.04 Storage of explosives and blasting agents
- 95.05 Storage of flammable liquids
- 95.06 Storage of liquefied petroleum gases
- 95.07 Modifications
- 95.08 Appeals
- 95.09 New materials, processes, or occupancies; permits
  
- 95.99 Penalty

### **§ 95.01 ADOPTION OF FIRE PREVENTION CODE.**

There is hereby adopted by the Common Council of the city for the purpose of prescribing the regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code recommended by the American Insurance Association, being particularly the 1965 edition thereof and the whole thereof, of which code not less than 2 copies have been and now are filed in the office of the Clerk-Treasurer of the city; and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect, the provisions thereof shall be controlling within the limits of the city.

(Ord. 336, passed - -)

### **§ 95.02 INSPECTION UNIT.**

The Fire Prevention Code shall be enforced by the Fire Prevention Inspection Unit in the Fire Department of the city and under the charge of the Chief Fire Prevention Inspector, under the supervision of the Chief of the Fire Department.

(Ord. 336, passed - -)

**§ 95.03 DEFINITIONS.**

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

***BUREAU OF FIRE PREVENTION.*** The Fire Prevention Inspection Unit of the Fire Department.

***CORPORATION COUNSEL.*** The attorney for the city.

***MUNICIPALITY.*** The City of Rockport, Indiana.  
(Ord. 336, passed - -)

**§ 95.04 STORAGE OF EXPLOSIVES AND BLASTING AGENTS.**

The limits referred to in § 12.5(b) of the Fire Prevention Code, in which storage of explosives and blasting agents is prohibited, will be established by the Board of Public Safety, and a copy of the limits filed in the office of the Clerk-Treasurer of the city, together with the copies of this code.

(Ord. 336, passed - -)

**§ 95.05 STORAGE OF FLAMMABLE LIQUIDS.**

(A) The limits referred to in § 16.22(a) of the Fire Prevention Code, in which storage of flammable liquids in outside above-ground tanks is prohibited, will be established by the Board of Public Safety, and a copy of those limits filed in the office of the Clerk-Treasurer of the city, together with the copies of this code.

(B) The limits referred to in § 16.51 of the Fire Prevention Code, in which new bulk plants for flammable or combustible liquids are prohibited, will be established by the Board of Public Safety, and a copy of those limits filed in the office of the Clerk-Treasurer of the city, together with the copies of this code.

(Ord. 336, passed - -)

**§ 95.06 STORAGE OF LIQUEFIED PETROLEUM GASES.**

The limits referred to in § 21.6(a) of the Fire Prevention Code, in which bulk storage of liquefied petroleum gas is restricted, will be established by the Board of Public Safety, and a copy of those limits filed in the office of the Clerk-Treasurer of the city, together with the copies of this code.

(Ord. 336, passed - -)

**§ 95.07 MODIFICATIONS.**

(A) The Chief of the Fire Department shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of this modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the Department, and a signed copy shall be furnished the applicant.

(B) The powers conferred upon the Chief of the Fire Department under this section may be delegated by the Chief of the Fire Department to the Chief Fire Prevention Inspector.

(Ord. 336, passed - -)

**§ 95.08 APPEALS.**

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of this code do not apply or that the true intent and meaning of the code has been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Board of Public Safety within 30 days from the date of the decision appealed.

(Ord. 336, passed - -)

**§ 95.09 NEW MATERIALS, PROCESSES, OR OCCUPANCIES; PERMITS.**

The Board of Public Safety shall determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies, which shall require permits, in addition to those now enumerated in the code. The Chief of the Fire Department shall post the list in a conspicuous place in his or her office, and he or she shall further deliver to the Clerk-Treasurer of the city 2 copies of the list to be filed with the copies of this code provided for in § 95.01.

(Ord. 336, passed - -)

**§ 95.99 PENALTY.**

Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.





## CHAPTER 96: TREES

### Section

#### *General Provisions*

- 96.01 Short title
- 96.02 Purpose and intent
- 96.03 Applicability
- 96.04 Definitions

#### *City Tree Board*

- 96.10 Creation and establishment
- 96.11 Composition
- 96.12 Terms of office
- 96.13 Officers
- 96.14 Duties
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#### *Tree Planting and Trimming*

- 96.25 Tree species recommended for planting
- 96.26 Tree spacing
- 96.27 Distance from curb, curb lines and sidewalk
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- 96.29 Street, sidewalk or corner clearance
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- 96.31 Distance from traffic regulatory signals and signs
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#### *Public Tree Care*

- 96.40 Public tree care by the city

- 96.41 Tree pruning
- 96.42 Tree topping
- 96.43 Public utility company work standards
- 96.44 Tree and shrub removal

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- 96.45 Stump removal
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#### ***Public Nuisance Procedures***

- 96.60 Private trees
- 96.61 Public nuisance notification.
- 96.62 Immediate threat by a public nuisance
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#### ***Tree Protection***

- 96.70 Tree protection
- 96.71 Written approval
- 96.72 General contractor's license required

#### ***Administration and Enforcement***

- 96.80 Interference
- 96.81 Enforcement
- 96.82 Appeal to the Board of Public Works and Safety
  
- 96.99 Penalty

## ***GENERAL PROVISIONS***

### **§ 96.01 SHORT TITLE.**

This chapter shall be known and may be cited as the “Rockport Municipal Tree Ordinance.”  
(Ord. 2005-3, passed 3-23-2005)

### **§ 96.02 PURPOSE AND INTENT.**

(A) It is the purpose of this chapter to promote and protect the public health, safety, and general welfare of the city by regulation of the planting, maintenance, and removal of trees or shrubs.

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(B) It is the intent of the Common Council that the terms of this chapter shall be construed so as to promote:

(1) The planting, maintenance and survival of desirable trees within the city; and

(2) The protection of community residents from personal injury and property damage, and the protection of the city from property damage, caused or threatened by the improper planting, maintenance or removal of trees within the city.

(Ord. 2005-3, passed 3-23-2005)

### **§ 96.03 APPLICABILITY.**

This chapter provides full power and authority over all trees, shrubs and other plants located within rights-of-way, public parks, and other public places of the city; and over trees and shrubs located on private property that constitute a hazard or threat to the public health and/or safety.

(Ord. 2005-3, passed 3-23-2005)

## § 96.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word “shall” is mandatory and not merely directory.

***ADJACENT LANDOWNER.*** Any private property owner whose land abuts a public right-of-way or any publicly owned land.

***LARGE TREES.*** Trees attaining a mature height of 45 feet or more.

***MEDIUM TREES.*** Trees attaining a mature height of 30 to 45 feet.

***PARK TREE I.*** A tree located in any public park.

***PARKWAY.*** That part of a right-of-way between the curb and the sidewalk usually used for utility services, tree plantings, and the like (also known as a “treelawn”).

***PRIVATE TREE.*** Any tree or shrub growing on private property.

***PROPERTY OWNER.*** The person owning such property as shown by the County Recorder's records for Lake County, Indiana.

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***PUBLIC NUISANCE.*** With respect to trees or shrubs, any tree or shrub with an infectious disease or insect problem; dead or dying tree or shrub; any tree, tree limb, shrub or shrub limb that obstructs street regulatory signals, traffic regulatory signs, or the free passage of pedestrians or vehicles; and any tree or shrub that poses a threat to the general health and safety of the public. The following may be declared as ***PUBLIC NUISANCES*** pursuant to this chapter:

- (1) Any dead or dying tree or shrub, whether located on public or private property;

(2) Any otherwise healthy tree or shrub harboring insects or diseases that reasonably may be expected to injure or harm any tree or shrub, whether located on public or private property;

(3) Any tree or shrub, or portion thereof, that, by reason of location or condition, constitutes an imminent danger to the health, safety or welfare of the general public, whether located on public or private property;

(4) Any tree or shrub, or portion thereof, that obstructs the free passage of pedestrian or vehicular traffic, or obstructs a street traffic regulatory signal or sign, whether located on public or private property; and

(5) Any tree or shrub, or portion thereof, that dangerously obstructs the view in the visibility triangle, as determined by Police Traffic Captain, whether located on public or private property, pursuant to this chapter.

**PUBLIC PARK or PARK.** Shall include all parks and open spaces having individual names that come under the jurisdiction of the Board of Public Works and Safety, the Park Board, or the Parks and Recreation Department.

**PUBLIC PROPERTY.** Shall include all property owned by the city.

**PUBLIC TREES.** Shall include all shade and ornamental trees now or hereafter growing on public property.

**RIGHT-OF-WAY.** The strip of land, acquired by reservation or dedication, in which is intended to be occupied by a street, crosswalk, public way for use by the public for vehicular and/or pedestrian traffic.

**SIDEWALK PARKWAY or SIDEWALK TREELAWN.** The area between the curb and a property line that includes the sidewalk and open sections of sidewalk for public trees.

**SMALL TREES.** Trees attaining a mature height of 20 to 30 feet.

**STREET.** The entire width of every public way or right-of-way when any part thereof is open to the public, as a matter of right-of-way, for vehicular and/or pedestrian traffic.

***STREET TREES.*** All trees and shrubs located within the parkways, treelawns, sidewalk parkways or sidewalk treelawns within the city.

***TRAFFIC REGULATORY SIGN.*** Any metal regulatory sign attached to a post or pole for the purpose of regulating the flow and circulation vehicular traffic.

***TRAFFIC REGULATORY SIGNAL.*** Any lighted, flashing or electronic traffic signal that regulates the flow and circulation of vehicular traffic.

***TREE TOPPING.*** The severe cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and to disfigure a tree's shape.

***TREELAWN.*** That part of a right-of-way between the curb and the sidewalk usually used for utility services, tree plantings, and the like (also known as a “parkway”).

***TREES AND SHRUBS.*** All vegetation, woody or otherwise, except lawn grass and flowers less than 24 inches in height.  
(Ord. 2005-3, passed 3-23-2005)

## ***CITY TREE BOARD***

### **§ 96.10 CREATION AND ESTABLISHMENT.**

(A) There is hereby created and established a Tree Board for the city, with its functions and duties limited to those set forth in this chapter.

(B) The Board shall be known officially as the “Rockport Tree Board”, and hereafter may be referred to as the “Board”.

(Ord. 2005-3, passed 3-23-2005)

### **§ 96.11 COMPOSITION.**

(A) The Tree Board shall consist of 5 members, all of whom must be citizens and residents of the city.

(B) The Tree Board membership shall be appointed as follows:

(1) One member shall be appointed by the chief executive of the municipality (the Mayor), other than a member appointed by the Common Council and the Park Board;

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(2) One member shall be appointed by the Common Council, other than a member appointed by the chief executive of the municipality and the Park Board; and

(3) One member shall be appointed by the Park Board, other than a member appointed by the chief executive of the municipality and the Common Council.

(C) In addition to the 3 appointed Board members, the Board shall consist of the Parks and Recreation Superintendent and the Street Commissioner as ex-officio members.

(D) Upon the approval of the entire Board, ex-officio members of the Board may appoint a qualified member of their staff as their alternate to the Board to represent them in their absence. (Ord. 2005-3, passed 3-23-2005)

#### **§ 96.12 TERMS OF OFFICE.**

(A) Upon the establishment of the Tree Board, the Board members, excluding ex-officio members, shall be appointed initially for the following terms of office:

(1) One of the 3 appointed Board members shall serve for a term of 1 year;

(2) One of the 3 appointed Board members shall serve for a term of 2 years;

(3) One of the 3 appointed Board members shall serve for a term of 3 years.

(B) The terms of Board members shall start on a common date.

(1) However, each Board member's term expires on the first Monday of January of the first,

second, and third years, respectively, after the year of the Board member's respective appointment.

(2) When an initial term of office expires, each new Board appointment is for a term of 3 years.

(C) (1) A member of the Board shall serve until a successor is appointed and qualified (*QUALIFIED* meaning to accept the appointment).

(2) A member is eligible for reappointment at the conclusion of his or her Board term.

(D) Within 30 days following the expiration of the term of any appointed Board member, a successor shall be appointed by the appropriate appointing authority.

(1) The appointed successor shall serve for a term of 3 years.



(2) Should a Board member resign or be removed from the Board, a successor shall be appointed by the appropriate appointing authority and shall serve for the remainder of the unexpired term.

(E) The Board members appointed shall serve at the pleasure of the appointing authority.  
(Ord. 2005-3, passed 3-23-2005)

**§ 96.13 OFFICERS.**

At the initial meeting of the Board or at the first meeting of each calendar year, the Board shall elect a Chairperson, a Vice-Chairperson and a Secretary from the Board membership.  
(Ord. 2005-3, passed 3-23-2005)

**§ 96.14 DUTIES.**

The Board shall perform and be responsible for the following duties.

(A) Within a reasonable time after the appointment of the Board, the Secretary shall call a meeting to adopt rules of procedure for all regular and special meetings to fulfill the duties pursuant to this chapter.

(B) The Board shall advise and consult the Common Council on any matter pertaining to this Municipal Tree Ordinance and its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, any of the following:

- (1) Amendments to the Municipal Tree Ordinance;
- (2) The development of an “Official Comprehensive City Tree Plan”;
- (3) Development of policies and procedures regarding the care, preservation, selection, planting, transplanting, pruning, maintenance and removal of trees or shrubs within the city.
- (4) Establishment of educational and informational programs; and
- (5) Expenditure of Board funds as appropriated by the Common Council.

(C) The Board shall hold regular meetings at which the subject of trees, insofar as it relates to the city, may be discussed by its Board members, its officers, and all other interested parties.

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(D) (1) It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, selection, planting, transplanting, pruning, maintenance and removal of trees or shrubs within the city.

(2) The acceptance and approval of the plan by both the Tree Board and the Board of Public Works and Safety shall constitute it as the “Official Comprehensive City Tree Plan” for the city. (Ord. 2005-3, passed 3-23-2005)

#### **§ 96.15 COMPENSATION.**

The 5 members of the Tree Board shall serve their respective appointed terms without compensation.

(Ord. 2005-3, passed 3-23-2005)

#### **§ 96.16 OPERATION AND BUSINESS.**

(A) The Board shall adopt a set of administrative rules and procedures so that it may effectively and efficiently conduct Board business.

(1) The Board's administrative rules and procedures should include sections on officers, Board meetings, order of business, committees, and any other sections deemed necessary by the Board.

(2) The Board shall adopt a set of administrative rules and procedures at its initial or first meeting.

(B) The Board shall review its administrative rules and procedures as needed or on an annual basis for any additions, deletions, amendments or revisions.  
(Ord. 2005-3, passed 3-23-2005)

***TREE PLANTING AND TRIMMING***

**§ 96.25 TREE SPECIES RECOMMENDED FOR PLANTING.**

(A) The Board shall develop and maintain a list of desirable small, medium and large trees for planting on public property.

(B) In addition, the Board shall develop, maintain and enforce a list of trees not desirable or suitable for planting on public property.  
(Ord. 2005-3, passed 3-23-2005)

**§ 96.26 TREE SPACING.**

(A) The spacing of public trees will be in accordance with the 3 species size classes listed in § 96.25 of this chapter.

(B) Public trees may not be planted closer to one another than the following spacing limits: small trees, 15 feet; medium trees, 20 feet; and large trees, 25 feet.

(C) Per the Tree Board, exceptions to street tree spacing standards may be allowed in special plantings approved by the Tree Board and the Board of Public Works and Safety.  
(Ord. 2005-3, passed 3-23-2005)

**§ 96.27 DISTANCE FROM CURB, CURB LINES AND SIDEWALK.**

(A) The distance street trees may be planted from curbs or curb lines and sidewalks will be in accordance with 3 species size classes listed in § 96.25 of this chapter.

(B) A street tree may not be planted closer to any curb, curb line or sidewalk than the following distance limits: small and medium trees, 2 feet; and large trees, 3 feet.

(C) Per the Tree Board, exceptions to planting distance from curb, curb line or sidewalk standards may be allowed in special plantings approved by the Tree Board and the Board of Public Works and Safety.  
(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

**§ 96.28 DISTANCE FROM STREET CORNERS.**

A public tree shall not be planted within 20 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines.  
(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

**§ 96.29 STREET, SIDEWALK OR CORNER CLEARANCE.**

(A) There shall be a public tree clearance area standard of 13 feet above any street surface, and 8

feet above any sidewalk surface.

(B) (1) Private trees overhanging the right-of-way within the city shall be properly pruned so that their branches shall not severely obstruct the light from any street lamp, or obstruct the view of any street intersection.

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(2) The owners of trees on private property shall remove, or cause to have removed, all dead, diseased or dangerous trees, or broken or decayed limbs that constitute a hazard to the safety to the public.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

### **§ 96.30 DISTANCE FROM FIREPLUGS.**

To allow for adequate spacing and clearance in cases of emergency, a public tree shall not be planted within 10 feet of any fireplug.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

### **§ 96.31 DISTANCE FROM TRAFFIC REGULATORY SIGNALS AND SIGNS.**

To allow for the necessary line of sight or vision of the traffic regulatory signal or sign, a public tree shall not be planted within 15 feet of any traffic regulatory signal or sign.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

### **§ 96.32 UTILITY OVERHEAD OR UNDERGROUND CLEARANCE.**

Large trees may not be planted under or within 10 lateral feet of any overhead utility wire or line, or over or within 3-1/2 lateral feet of any underground water line, sewer line, transmission line or other utility line or wire.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

***PUBLIC TREE CARE***

**§ 96.40 PUBLIC TREE CARE BY THE CITY.**

The city shall have the right to cut, trim, prune, spray, remove or otherwise treat any public trees as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public places and grounds.

(Ord. 2005-3, passed 3-23-2005)

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**§ 96.41 TREE PRUNING.**

(A) The city shall have the right to prune any public tree or shrub located on public property, including trees growing in rights-of-way, public parks, parkways, treelawns, sidewalk parkways and sidewalk treelawns.

(B) The city shall have the right to prune any tree, shrub or plant located on private property when it interferes with the proper spread of light along the street from a street light, or when it interferes with the proper visibility of any traffic regulatory signal or sign or sight triangle at any intersection.

(Ord. 2005-3, passed 3-23-2005)

**§ 96.42 TREE TOPPING.**

(A) It shall be unlawful for any person, firm, or city department to top any public tree.

(B) Public trees severely damaged by storms, other natural causes, acts of God, or certain trees

under utility wires, lines or other obstructions, where other pruning practices are impractical, may be exempt from this section for a temporary period, and shall be removed at the earliest available time. (Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

**§ 96.43 PUBLIC UTILITY COMPANY WORK STANDARDS.**

(A) Prior to any trimming within the city by a public utility company, its tree trimming policy must be reviewed by the Board.

(B) Tree limbs that grow near high voltage electric conductors or any other utility lines shall be maintained clear of such corridors by the public utility company.

(C) All public utility companies shall notify the Tree Board, in writing, a minimum of 30 days prior to any activities related to any work or acts related to the cutting, trimming, pruning, spraying, removing or otherwise treating public trees for the purpose of maintaining safe line clearance.

(D) The public utility company shall carry out all such related work activities in accordance with its accepted tree trimming policy, the Tree Board’s standards, and this chapter. (Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

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**§ 96.44 TREE AND SHRUB REMOVAL.**

(A) The city shall have the right to remove any dead, dying, diseased or hazardous public tree or shrub located on public property, including trees and shrubs growing in rights-of-way, public parks, parkways, treelawns, sidewalk parkways and sidewalk treelawns.

(B) The city shall have the right to remove any dead, dying, diseased, or hazardous tree or shrub

located on private property when deemed to be a public nuisance in accordance with this chapter.

(C) The Tree Board shall have the authority to recommend in writing to the Board of Public Works and Safety the removal of any tree, or part thereof, on public or private property that, by reason of its nature, is injurious to sewer lines, utility or other public improvements, or that is affected with any injurious fungus, insect or other pest.

(Ord. 2005-3, passed 3-23-2005)

#### **§ 96.45 STUMP REMOVAL.**

If a public tree is removed, the stumps shall also be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground or the average grade level.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

#### **§ 96.46 LANDSCAPING.**

(A) In any new industrial, commercial, residential subdivision or public property development, the Board shall review any and all landscaping plans.

(B) The Board may require public trees to be planted in any of the public parks, parkways, treelawns, sidewalk parkways and sidewalk treelawns, parking lots, or other public places abutting lands henceforth developed and/or subdivided.

(C) (1) The Board may require the owner or developer of such property to be developed to replace, in kind, any and all trees, shrubs or other plants removed due to any new development.

(2) Those trees replaced by the owner or developer of such property to be developed shall be in accordance with the Board's list of desirable trees for planting within the city.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99



**§ 96.47 ADJACENT LANDOWNER RESPONSIBILITY.**

(A) No person shall plant or remove a tree in a public place, including public parks, parkways, treelawns, sidewalk parkways and sidewalk treelawns or other public places, without first receiving written approval from the Tree Board.

(B) The Board shall review and approve all tree planting and removal requests submitted to it in writing.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

**§ 96.48 ABUSE OR MUTILATION OF PUBLIC TREES.**

No person shall damage, cut, carve, transplant or remove any public tree; attach any rope, wire, nail, staple, advertising posters, or other contrivance to any public tree; allow any gaseous liquid or solid substance harmful to a public tree to come in contact with it; or to set fire or permit any fire to burn, when such fire or the heat thereof will injure any portion of a public tree.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

**§ 96.49 PLACING MATERIALS ON PUBLIC PROPERTY.**

(A) No person shall deposit, place, store, or maintain upon any public place, any stone, brick, sand, concrete, or other materials that may impede the free passage of water, air, fertilizer, to the roots of a public tree growing therein.

(B) Per the Tree Board, exceptions to this section may be allowed if approved by the Tree Board and the Board of Public Works and Safety.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

***PUBLIC NUISANCE PROCEDURES***

**§ 96.60 PRIVATE TREES.**

(A) The Tree Board, or a designated arborist representing the Tree Board, shall have the authority to enter onto private property whereon there is located a tree, tree limb, shrub, or shrub limb that is suspected to be a public nuisance.

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(B) The Tree Board shall have the authority to recommend in writing to the Board of Public Works and Safety the removal of any dead or diseased tree, tree limb, shrub, or shrub limb on private property within the city, when it constitutes a hazard or threat to life and property, or harbors insects or disease that constitute a potential threat to other trees within the city.

(C) The Tree Board will notify in writing the Board of Public Works and Safety and the property owner of such a tree, tree limb, shrub, or shrub limb that is suspected to be a public nuisance, all in accordance with § 96.61 of this chapter.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

#### **§ 96.61 PUBLIC NUISANCE NOTIFICATION.**

(A) Any tree or shrub deemed to be public nuisance by the Tree Board pursuant to this chapter, and which is located on private property, shall be cut, trimmed, pruned, sprayed, removed or otherwise treated by the property owner, or his/her agent, in whatever fashion is required to cause the abatement of the nuisance.

(B) A property owner may not be found in violation of this chapter unless and until the following requirements have been satisfied.

(C) The Tree Board shall provide written notice, to be personally serviced or sent by mail, to the property owner of record, which shall include the following information:

(1) Describe the kind of tree, shrub, or other plant or plant part that has been declared to be a public nuisance, its location on the property; and the reason for declaring it a public nuisance, including the section(s) of this chapter the property owner is violating;

(2) Describe by legal description or by street number the location of the premises or the location of the public nuisance;

(3) State the actions that the property owner may undertake to abate the public nuisance; and

(4) Require the elimination of the nuisance no less than 30 days after the notice is delivered or sent to the property owner of record.

(Ord. 2005-3, passed 3-23-2005)

**§ 96.62 IMMEDIATE THREAT BY A PUBLIC NUISANCE.**

(A) The Tree Board shall have the authority to recommend in writing to the Board of Public Works and Safety the immediate abatement of any public or private tree deemed to be a public nuisance,

as defined by this chapter; provided that such public nuisance is determined by the Tree Board, or an agent thereof, to be an immediate threat to person or property.

(B) The Tree Board is hereby empowered to seek from any court of competent jurisdiction an order directing immediate abatement of any public nuisance.

(Ord. 2005-3, passed 3-23-2005)

**§ 96.63 CLAIMS.**

(A) In the event that a public nuisance is not abated by the date specified in the notice, prepared by the Tree Board and mailed to the property owner of record who is in violation of this chapter, the Tree Board has the authority to cause the abatement of the public nuisance.

(B) The reasonable cost of such abatement may be filed as a lien against the property upon which the public nuisance was located.

(C) In addition, the owner of the property upon which the nuisance is located shall be subject to penalties as described in § 96.99 of this chapter.

(Ord. 2005-3, passed 3-23-2005)

***TREE PROTECTION***

**§ 96.70 TREE PROTECTION.**

(A) (1) Upon the discovery of any destructive or communicable disease or other pestilence that endangers the general growth or health of trees, or threatens to spread disease or insect infestations, the Tree Board shall immediately cause written notice to be served to the property owner of record upon which such diseased or infested tree is situated.

(2) The notice shall require the property owner to eradicate, remove, treat or otherwise control such a condition within reasonable time to be specified in accordance with § 96.61 of this chapter.

(B) (1) The Tree Board shall prepare a set of guidelines and standards that address public trees near or adjacent to a construction site or area, and that apply to preserving a specified percentage of forested land, open space, or to paying into a tree planting fund so as to minimize the net loss of tree cover in the city.

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(2) Upon approval by the Common Council, the guidelines and standards shall be known as the “Official Tree Protection Plan”.

(C) The Tree Board, or a designated arborist representing the Tree Board, shall have the authority and responsibility of locating, selecting and identifying any tree that qualifies as a landmark tree.

(1) A public or private tree may qualify as a landmark tree if it meets 1 or more of, but is not limited to, the following criteria: species rarity, age, association with an historical event or person, abnormality, or scenic and/or aesthetic enhancement.

(2) The Tree Board shall determine and approve any tree's status as a landmark tree.  
(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

#### **§ 96.71 WRITTEN APPROVAL.**

(A) A person, firm or business may not perform any work or acts of cutting, trimming, pruning or removing public trees without first obtaining written approval to do so from the Tree Board, for which no fee shall be charged.

(B) Members of the Tree Board, its agents, and tree service firms, businesses and contractors retained by the city to cut, trim, prune, spray, remove or otherwise treat public trees shall be exempt from receiving written approval.

(C) Minor trimming or pruning of mature public trees by adjacent landowners for the specific purposes of maintaining street and sidewalk clearance shall be exempt from requiring written approval

from the Tree Board.

(D) The Tree Board shall issue such written approval at any regular or special meeting.  
(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

### **§ 96.72 GENERAL CONTRACTOR'S LICENSE REQUIRED..**

It shall be unlawful for any firm, business tree service or contractor to plant, cut, trim, prune, spray, remove or otherwise treat public or private trees without first obtaining a general contractor's license from the city.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

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### ***ADMINISTRATION AND ENFORCEMENT***

### **§ 96.80 INTERFERENCE.**

It shall be unlawful for any person to unreasonably prevent, delay or interfere with the Tree Board, the Board of Public Works and Safety, or any of its agents, while cutting, trimming, pruning, spraying, removing or otherwise treating public or private trees pursuant to this chapter.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

### **§ 96.81 ENFORCEMENT.**

The Tree Board, or a designated arborist representing the Tree Board, has the authority and power to promulgate and enforce rules, regulations and specifications concerning the cutting, trimming, pruning, spraying, removing or otherwise treating of public or private trees within the city.

(Ord. 2005-3, passed 3-23-2005) Penalty, see § 96.99

**§ 96.82 APPEAL TO THE BOARD OF PUBLIC WORKS AND SAFETY.**

(A) The Board of Public Works and Safety shall have the right to review the conduct, acts and decisions of the Tree Board.

(B) Any person may appeal any decision or finding of the Tree Board to the Board of Public Works and Safety.

(C) The Board of Public Works may hear the matter and make a final decision at any of its regular meetings.

(Ord. 2005-3, passed 3-23-2005)

**§ 96.99 PENALTY.**

The penalty or penalties for violation of the Municipal Tree Ordinance shall be the same as provided in § 10.99 of this code.

(Ord. 2005-3, passed 3-23-2005)





## **CHAPTER 97: SUNSET HILL CEMETERY**

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## ***GENERAL PROVISIONS***

### **§ 97.001 DEFINITIONS.**

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

***BURIAL SPACE.*** Any space within the Cemetery used or intended to be used for the interment of human remains, including earthen interments.

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**BURIAL SPACE OWNER.** Any person in whose name a burial space is on record as owner in the Office of the Cemetery.

**CEMETERY.** All land and structures comprising Sunset Hill Cemetery and Road D150 South Annex.

**CEMETERY BOARD.** Persons appointed by the Mayor according to I.C. 23-14-65-11. Referred to hereinafter as the “Board”.

**CEMETERY PURPOSES.** Any and all things requisite or necessary for, or incident or convenient to, the establishment, maintenance, management, operation, improvement, and conduct of a cemetery, the preparation for, and the interment of the human dead, and the care, preservation and embellishment of cemetery property.

**COMMON COUNCIL** Persons duly elected and qualified by law to serve as the governing body of the Cemetery. Referred to hereinafter as the “Council”.

**CREMATION.** The incineration of the body of a deceased person.

**HUMAN REMAINS.** The body of a deceased person, including the body in any stage of decomposition and cremated remains.

**INTERMENT.** Any lawful disposition of the remains of a deceased person.  
(Ord. 2005-4, passed 6-22-2005)

**§ 97.002 GENERAL SUPERVISION BY THE CEMETERY BOARD.**

(A) (1) Sunset Hill Cemetery was established in the 1800's.

(2) In 2005, the city by ordinance shifted day-to-day responsibility for Sunset Hill Cemetery to the Cemetery Board.

(B) The Board has exclusive jurisdiction and control of all the property, real and personal, constituting the assets and cemetery, and shall control all expenditures under \$500 made on account thereof.

(1) The Board shall cause such needed repairs and improvements to be made as it may deem necessary.

(2) The Board shall fix from time to time a scale of prices for the sale of burial spaces and other services.

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(3) The Board shall manage, control and invest the funds in its treasury.

(4) The Board shall pursue such other rights as it may have or be granted by law.

(5) The Board shall request permission from the Council for an amount above \$500.

(C) The Board is charged with the duty of enforcing the rules and provisions of this code pertaining to the operations of the City Cemetery, and shall make and enforce such rules and regulations consistent with the code and state laws as may be necessary for the care and management of the Cemetery.

(D) When these rules and regulations contemplate the performance of certain duties by the City Personnel Department, such duties may also be performed by any person or persons so designated by City Personnel or the Board.

(1) This does not relieve the city of these responsibilities, and should be used by the Superintendent as an aide in the performance of her or her duties.

(2) All employees of the cemeteries are under the supervision of their respective superintendents.

(Ord. 2005-4, passed 6-22-2005)

### ***SALES OF BURIAL SPACES/LEGAL DESCENT OF BURIAL SPACES***

**§ 97.010 PAYMENT AND ISSUANCE OF INSTRUMENT OF OWNERSHIP.**

(A) All burial spaces must be paid for in full before any interment will be permitted, with the purchase price to be paid at City Hall.

(B) The purchaser shall receive a receipt for the same, which shall entitle the purchaser to an instrument of ownership executed by the Mayor and acknowledged by the City Clerk.

(C) It is recommended that the purchaser of more than 1 burial space place the instrument of ownership on record with the County Recorder.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.011 ORIGINAL PURCHASER.**

All instruments conveying ownership to burial spaces shall be construed as simply granting the right to use the same for burial purposes, and for the interment of the original purchaser and such other person



as are so designated in writing by the original purchaser, or as provided by law or these rules and regulations.

(Ord. 2005-4, passed 6-22-2005)

#### **§ 97.012 LEGAL DESCENT OF BURIAL SPACE.**

(A) All burial rights in burial spaces granted to individuals shall be the sole and separate property of the person named as the grantee in the instrument of grant; provided, however, that the spouse of the grantee of any such burial space containing more than 1 burial space, if otherwise consistent with the grant shall have a vested right of interment of his or her remains therein, and any person thereafter becoming the spouse of grantee shall have a vested right of interment in such burial spaces, if more than 1 burial space remains unoccupied at the time such person becomes the spouse of such grantee.

(B) No transfer or other action of such grantee, without joinder therein or written consent endorsed therein or attached thereto of the spouse of such grantee, shall divest such spouse of such vested right of interment.

(Ord. 2005-4, passed 6-22-2005)

#### **§ 97.013 PURCHASE OF BURIAL SPACES BY 2 OR MORE PERSONS.**

(A) In all grants of burial spaces to 2 or more persons as joint tenants, each joint tenant shall have a vested right of interment of his or her remains in the burial spaces so granted.

(B) Upon the death of a joint tenant, the title to the burial space theretofore held in joint tenancy vests to the survivor or survivors, subject to the vested right of interment for the remains of the deceased joint tenant owner.

(C) Any burial space held in **JOINT TENANCY** is the ownership by 2 or more persons, not husband and wife, with the right of survivorship.

(D) An affidavit by any competent person setting forth the fact of the death of 1 joint tenant and establishing the identity of the surviving joint tenant, named in the instrument or grant of burial space in the Cemetery, when filed with the Cemetery in which such burial space is located, shall be complete authority to the Cemetery to permit the use of the unoccupied burial spaces in accordance with the direction of the surviving joint tenant or his or her successor in interest.

(Ord. 2005-4, passed 6-22-2005)

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**§ 97.014 PURCHASE OF BURIAL SPACE BY HUSBAND AND WIFE.**

(A) When the owners of the burial spaces are husband and wife, the title shall be recognized as **TENANCY BY THE ENTIRETIES**, and right of interment shall be vested and controlled equally by both while living, or the surviving spouse or the immediate next of kin.

(B) A vested right of interment as herein provided may be waived by an instrument in writing, or shall be terminated upon the interment elsewhere of the remains of a person entitled thereto.

(C) No such vested right of interment shall be construed to give to any person the right to have his or her remains interred in any interment space, in which the remains of any deceased person having a prior right of interment therein shall have been deposited, with the effect of having the remains of more than 1 deceased person interred in a single burial space in violation of the rules and regulations of the Cemetery.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.015 DIVORCE.**

In case of divorce of a husband and wife owning burial spaces as tenancy by the entireties who have not both made any written designation of the same, and if not otherwise provided in the final decree of divorce between them, such burial spaces shall then be held by them as **TENANTS IN COMMON**, as with the consent of the Board, either may transfer his or her burial space to the other by an instrument executed under his or her hand, and sealed and duly acknowledged before any officer authorized to take and subsequently place such instrument on file at City Hall.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.016 DEATH OF RECORD OWNER OF BURIAL SPACES.**

(A) Upon the death of the record owner of burial spaces, then, unless such owner shall have disposed of such burial spaces by a specific devise thereof in his or her last will and testament, or by a written designation filed with the Cemetery, such burial spaces shall thereby become inalienable, and such burial spaces shall thereafter be held as the family burial spaces, first for the surviving spouse of the record owner, and in those spaces remaining, if any, the parents and children of the deceased record owner, in order of need, may be interred without the consent of any person claiming any interest therein.

(B) In the event there shall be no parent or child surviving such deceased record owner, the right of interment therein shall go, in order of need, first, to the spouse of any child of the record owner, and second, in order of need, to the heirs at law of the record owner, as specified by the statues of descent or the spouse of any such heir at law.

(Ord. 2005-4, passed 6-22-2005)

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**§ 97.017 WAIVER OF BURIAL RIGHTS.**

(A) Any surviving spouse of any parent, child or heir of such deceased owner, having a right of interment in such burial spaces, may, by written instrument recorded with the Cemetery, waive such right in favor of any other relative or spouse of such relative of such deceased recorded owner.

(B) Upon such written waiver, the body of the person in whose favor the waiver is made may be interred therein.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.018 AFFIDAVIT REQUIRED.**

An affidavit setting forth the fact of the death of the owner and the name(s) of the person(s) entitled to use such burial spaces, in accordance with the provisions hereof, shall be complete authority to the Cemetery to permit the use of the unoccupied burial spaces by the person or person so designated

in the affidavit, to be entitled thereto.  
(Ord. 2005-4, passed 6-22-2005)

**§ 97.019 SELLING BURIAL SPACES TO A THIRD PARTY.**

(A) When a record owner of burial spaces desires to sell and convey such burial spaces to a third party, such conveyance must be by written instrument, the same to be approved by the Board, and filed with the Office of City Hall.

(B) A reasonable fee shall be charged for recording the transfer information.

(C) The Board may repurchase burial spaces on a case-by-case basis.  
(Ord. 2005-4, passed 6-22-2005)

**§ 97.020 RIGHT OF INGRESS AND EGRESS.**

For the purpose of performing necessary cemetery operations and maintenance, the Board reserves a perpetual right of ingress and egress over and across all burial spaces.  
(Ord. 2005-4, passed 6-22-2005)

*INTERMENT AND DISINTERMENT*

**§ 97.030 HUMAN REMAINS ONLY.**

(A) All burial space shall be used only for interment of deceased human beings.

(B) The remains for only 1 person shall be interred in a burial space, except that permission shall be granted when the remains of more than 1 person are desired to be placed in the same burial space. (Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.031 PRIOR NOTICE REQUIRED.**

(A) Interment and/or entombment arrangements are to be made only with the Mayor or appropriate contact during normal business hours.

(B) The Cemetery Board reserves the right to insist upon at least 24 working hours' notice prior to any interment and/or any entombment, and at least 1 week's notice prior to any disinterment and/or removal. (Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.032 TIMES AND CHARGES.**

(A) All interments, disinterment and removals must be made at the time, in the manner, and subject to such charges as are fixed by the Board.

(B) The fee for opening and closing a gravesite under the control of the Cemetery Board shall be:

(1) \$400 on weekdays before 3:00 p.m.; and

(2) \$450 on weekdays after 3:00 p.m., anytime on weekends, and anytime on federal and state holidays.

(Ord. 2005-4, passed 6-22-2005; Am. Ord. 2005-15, passed 11-30-2005) Penalty, see § 97.999

**§ 97.033 OUTER CONTAINER REQUIRED.**

(A) Every adult and junior size earth interment shall be made in an outer container of concrete or steel, of sufficient strength and durability to provide a reasonably permanent support for the weight above such container.

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(B) The firm furnishing such container shall make the actual installation of such.

(C) The Board shall not be responsible for any delay of interment due to an outside container being rendered useless as a result of its being too large for the designated burial space.

(D) In some cases, due to size of outside container, it shall be necessary that 2 burial spaces be utilized for 1 interment.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.034 COMBINATION BABY CASKET/VAULT.**

(A) For stillborn and infant interments, the Board will permit the use of the baby casket/vault combination.

(B) This vault measures 26 inches long, 12 inches wide and 11 inches high, and is made of plastic material.

(Ord. 2005-4, passed 6-22-2005)

#### **§ 97.035 CLOSING OF BURIAL SPACE.**

All human remains interred in the earth shall have a cover of not less than 2 feet of earth at the shallowest point over the outside container in which the remains are deposited.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.036 AUTHORIZATION FOR INTERMENT.**

The Board shall have authority to make an interment of the body of a deceased person, or the cremated remains thereof, upon the receipt of a written authorization of a person representing himself or herself to be the surviving spouse, or surviving child or parent, or next of kin, of such decedent, or person who represents himself or herself as having acquired the right to control the disposition of such body or cremated remains, and any person signing any authorization for the interment of any remains shall be deemed to warrant the truthfulness of any fact set forth in the authorization and the identity of the person whose remains are sought to be interred, and his or her authority to order such interment, and shall be personally and individually liable for all damages, losses and costs to the Cemetery and/or

Board occasioned thereby or resulting therefrom.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

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#### **§ 97.037 BURIAL PERMIT AND INFORMATION.**

(A) The city shall not suffer or permit the remains of any person to be interred, without first receiving from the funeral director in charge of the funeral service, a permit for disposition of human remains issued by the County Department of Health.

(B) Such permit shall form a permanent part of Cemetery records.

(C) Records shall be kept at City Hall of every interment in the Cemetery, showing the name of the deceased, age, marital status, cause of death, last place of residence, date of interment, and the section, lot and burial space number where interment was made.

(D) Any person or persons performing the interment shall first execute a written agreement prepared by the city, and keep the same on file at City Hall.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.038 BURIAL SPACE DESCRIPTIONS.**

(A) Descriptions of lots and burial spaces are in accordance with the Cemetery plats kept on file in the Administration Building.

(B) The Cemetery is platted into sections, which are subdivided into blocks, which are subdivided into rows, with designated lots. For example: Section Old, Block 7, Row 9, Lot 14 100.  
(Ord. 2005-4, passed 6-22-2005)



**§ 97.039 SPECIAL INSTRUCTIONS.**

Should there be any special instruction or wishes in reference to conducting or arrangement of the interment, it shall be the duty of the funeral director or person in charge to make such known to the Superintendent or authorized representative of the Cemetery before the burial service, who shall make reasonable efforts to comply with all such requests, but shall be under no obligation or duty to do so. (Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.040 PROCESSION SUPERVISION.**

Funeral directors are in charge of all funeral processions entering the Cemetery until the burial service is completed and the funeral procession has departed from the Cemetery grounds. (Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

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**§ 97.041 OPENING OF CASKET.**

Once a casket containing a body is within the confines of the Cemetery, no one shall be permitted to open the casket or touch the body without the consent of a member of the family of the deceased, and then only by the funeral director conducting the service. (Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.042 DELAYS IN INTERMENT.**

The city, its officials, agents and employees, shall be in no way liable for any delay in the interment of a body, or for any delay in the fulfillment of any of its contract or legal obligations, including but not limited to, the maintenance, care, memorial work or construction, which may arise from causes beyond its reasonable control, and especially from delays caused by the elements, an act of God, a common enemy, thieves, vandals, strikes, unavoidable accidents, riots, or an order of any military or civil authority. (Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.043 RIGHT TO REMOVE.**

(A) The remains of a deceased person interred in the Cemetery may be removed with consent of the Board and the written consent of the surviving spouse, or if there be no surviving spouse, then of the children, or if there be neither spouse nor children, then of the surviving parents of the deceased, or should there be neither surviving spouse, nor children nor parent, then of the brothers and sisters of the deceased.

(B) If the consent of any such person or of the Board cannot be obtained, then no such removal shall be made without a judgment of the Circuit or Superior Court of Spencer County, State of Indiana; provided, further, that this paragraph shall not apply to the disinterment of remains upon the written order of the County Coroner for an autopsy.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.044 CARE IN REMOVAL.**

The city, its officials, agents and employees, shall exercise all reasonable precautions in making a removal, but will in no way be liable for damage to any casket or burial case or urn incurred in making such removal.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.045 CREMAINS.**

When cremains are to be interred, it is required that the urn containing the ashes be placed in an outer receptacle made of concrete or metal.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.046 RIGHT TO CORRECT ERRORS.**

(A) In the event the Cemetery Board or any city employee should make an error in fulfilling their duties relative to the operation and use of the Cemetery, including but not limited to, interment, disinterment, removal, inaccurately describing or improperly transferring burial space, then the Board reserves the right to take such action as it deems reasonably fair and proper in order to correct any such error.

(B) In the event an error shall involve the interment of the remains of a person in an improper space, such remains may be removed to another space, provided the Board determines that the other space is comparable in value and similar in location.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

***GENERAL AND PERPETUAL CARE***

**§ 97.050 GENERAL CARE.**

(A) *Defined.* The ***GENERAL CARE*** of the Cemetery, as the term implies, means any and all things requisite or necessary for the general upkeep, care and maintenance of the Cemetery grounds and improvements. Included in ***GENERAL CARE***, but not limited thereto, is maintaining and keeping in good working condition all machinery, tools and equipment required for Cemetery operation. It also includes keeping in a good state of repair the drains, water lines, roads, fence, and other Cemetery buildings, structures and property owned by the Cemetery.

(B) *Not applicable to memorial or burial structures.* In no case, shall ***GENERAL CARE*** be construed as meaning the maintenance, repair or replacement of any memorial, monument, marker or tomb within the confines of the Cemetery. It is required that each burial space owner shall keep in

good repair all stone or monumental work placed upon his or her burial space.  
(Ord. 2005-4, passed 6-22-2005)

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### **§ 97.051 FILLING AND SEEDING BURIAL SPACE.**

The Cemetery Board hereby assumes the responsibility of filling and seeding the burial space.  
(Ord. 2005-4, passed 6-22-2005)

### **§ 97.052 NO FLORAL AGREEMENTS.**

The Cemetery Board reserves the right to refuse perpetual funds conditioned upon purchasing and placing floral decorations upon burial spaces, or which otherwise require the performance of other special services.  
(Ord. 2005-4, passed 6-22-2005)

## ***MARKERS AND MONUMENTS***

### **§ 97.060 COMPLIANCE WITH THE BOARD'S RULES AND REGULATIONS REQUIRED PRIOR TO INSTALLATION.**

(A) Before any owner of burial spaces signs a contract for a marker or monument, it is required that such owner, or his or her contractor, determine whether the desired marker or monument may be installed upon the burial space, and if its size complies with rules and regulations established by the Board.

- (1) Compliance should be confirmed.

(2) If the marker or monument does not comply, the request must be submitted to the Board for approval.

(B) The criteria for the placement of a marker, monument or ledger are that it:

(1) Will in no way block access to, or prevent the utilization of, burial space in the surrounding area; and

(2) Will not hamper any of the landscape maintenance needs of the Cemetery, including but not limited to, grass mowing and trimming.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

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#### **§ 97.061 CONSENT OF OWNER AND FOUNDATION REQUIRED.**

(A) No person will be permitted to erect a marker or monument on a burial space without the written consent of the owner thereof.

(B) No marker or monument shall be erected unless it is firmly placed on a suitable foundation of solid masonry, constructed by the owner's contractor and meeting the specifications listed under §§ 97.063 and 97.064 of this chapter.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.062 QUALITY OF MATERIALS.**

All markers or monuments must be of good quality granite, marble or comparable materials approved by the Cemetery Board.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.063 MAXIMUM SIZES OF MARKERS.**

(A) Markers are to be centered at the head or the foot of the burial space, and in line with the marker row.

(B) The Board recommends the following sizes:

(1) Single burial space: 28 inches x 12 inches. Foundation to be 24 inches deep.

(2) Two burial spaces: 54 inches x 12 inches. Foundation to be 24 inches deep.

(3) Three burial spaces: 60 inches x 12 inches. Foundation to be 24 inches deep.

(4) Babyland: 16 inches x 18 inches x 12 inches in height. Foundation to be 24 inches deep.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.064 MAXIMUM SIZES OF MONUMENTS.**

(A) Within the meaning of these rules and regulations, monuments shall apply to any memorial composed of 2 or more pieces.

(1) Only 1 monument will be permitted on a burial space, regardless of the number of burial spaces composing the lot.

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(2) Monuments can be placed over 1, 2 or 3 graves in a monument row of the lot owner's choice.

(B) Depending upon number of burial spaces in the lot, the following size monuments are recommended:

(1) Single burial space: 28 inches x 12 inches. Foundation must be 24 inches deep.

(2) Two burial spaces: in a consecutive row, 2 burial spaces may have a monument 54 inches x 8 inches x 24 inches. Foundation must be 24 inches deep, and must use 2 steel fence posts and/or steel rebar/posts.

(3) Four burial spaces: in a consecutive row, may have a monument 72 inches x 14 inches. Foundation to be 3 feet deep.

(4) Five or more burial spaces: in a consecutive row, may have a monument 84 inches x 16 inches. Foundation to be at least 3 feet deep.

(C) The monuments listed in division (B) above will be at the expense of the plot owner(s). (Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.065 FOOT STONES.**

(A) Lots having monuments may also have foot stones, which are to be installed in the foot stone row.

(B) Foot stones are not to exceed 24 inches in length, 12 inches in width, and must be flush with sod markers.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.066 INSURANCE AGAINST PERILS.**

It is suggested that owners of markers and/or monuments insure same against such perils as vandalism, storms, lightning, explosion, fire and theft, and the like

(Ord. 2005-4, passed 6-22-2005)

**§ 97.067 VETERAN'S MARKER.**

(A) If, in addition to a monument/marker, a veteran's family wants a VA marker that is not to be mounted to stone, they have to use a flat bronze marker placed at the foot of the grave.

(B) When the family of a deceased veteran desires to remove the bronze marker and replace it with a conventional-type marker, the family must return the VA marker to the Veterans Administration.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.068 VETERAN'S BURIAL SPACE.**

(A) The availability of honorably-discharged veterans' graves for Indiana residents will be reduced by \$50.

(B) A spouse may purchase a grave for the current price.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.069 TYPES OF URNS PERMITTED.**

(A) Metal cups affixed to a monument or marker are permitted where there is ample room for the same on the monument or marker.

(B) Vases will not be allowed to be mounted in the ground or between markers.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999



**§ 97.070 LEDGERS, FENCES, ENCLOSURES AND BENCHES.**

(A) Ledgers are permitted to be installed upon burial spaces.

(B) The installation of fences or enclosures around burial spaces is prohibited.

(C) The placing of benches upon burial spaces is likewise prohibited.

(D) The criteria for ledgers are as follows:

(1) Must be made of granite, minimum 4 inches thick.

(2) Foundation must be the length and width of the ledger and 18 inches deep.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

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**§ 97.071 REMOVAL OF A MARKER OR A MONUMENT.**

(A) Markers or monuments shall not be removed from the Cemetery, except by written authority of the marker or monument owner.

(B) However, in cases where it is necessary for Cemetery personnel to remove a marker and foundation to permit a burial space to be utilized, a charge in addition to the regular opening and closing fee shall be made to cover the cost of the extra labor and material involved in removing and replacing such foundation and marker.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.072 INSPECTION OF MARKERS AND MONUMENTS.**

The Board reserves the right to inspect all markers and monuments placed upon the burial space, and may order the removal of a marker or monument if it is not in compliance with the restrictions

contained herein, or if it does not meet the acceptable standards of good taste and fails to conform with surrounding markers and monuments.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.073 WORKMEN IN CEMETERY.**

(A) Any person, firm, corporation or other organization, who sells, erects, installs or places markers and/or monuments upon burial spaces, shall be considered an independent contractor, and the placement of marker and/or monuments upon burial spaces shall be the sole responsibility of the contractor providing the same.

(B) Workmen employed in placing markers and/or monuments upon burial spaces shall be subject to all rules and regulations of the Board, and when a funeral or interment is being conducted nearby, all work of every description shall cease.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.074 CERTIFICATE OF INSURANCE REQUIRED.**

All persons, firms, corporations, or other organizations bringing equipment into the Cemetery, and performing labor therein, shall have on file in City Hall a current certificate of insurance, as related to workmen's compensation, employers liability, public liability, and manufacturers and contractors liability insurance coverage, and such other insurance coverage as may be reasonably required by the Board.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

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**§ 97.075 OBLIGATION OF BURIAL SPACE OWNER.**

It shall be the obligation and duty of burial space owners to keep all markers and/or monuments in a good state of repair, and upon failure to do so, the Board may notify the owner of needed repairs.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

***BURIAL SPACE DECORATIONS/TREES AND SHRUBS***

**§ 97.085 FUNERAL FLOWERS.**

(A) (1) Within 7 days, funeral designs and cut flowers will be removed from the burial space as soon as the flowers become wilted or unsightly.

(2) Persons wishing to retain any floral design or decoration are urged to remove them immediately following the funeral service.

(B) Beyond accepting such floral pieces for funeral services held in the Cemetery, the Cemetery Board shall not be liable for floral pieces, baskets or frames in which or to which such floral pieces are attached.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.086 ARTIFICIAL FLOWERS.**

(A) Artificial flowers may be placed upon burial spaces beginning November 1, and may remain thereon until the following March 1, after which date all such artificial floral decorations shall be removed.

(B) Persons desiring to keep such decorations for future use must remove them prior to March 1.

(C) Artificial flowers may be placed on the markers, monuments or in hanging baskets from Jacob Hooks, and in vases mounted to monuments year round, as long as they do not interfere with the maintenance of the Cemetery or cause any type of danger to visitors, cemetery workers or equipment.

(D) Any floral arrangements that are deemed dangerous or hamper the maintenance of the Cemetery will be removed.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.087 ARTIFICIAL FLOWER DISPOSAL.**

(A) On or before March 1 of each year, all artificial floral arrangements are to be removed from the ground to accommodate the mowing season.

(B) After such date, the Cemetery will remove all floral arrangements that are not mounted on the markers or monuments or placed in hanging baskets, or that may hamper mowing and maintenance.

(1) The Board will make these items available to a not for profit organization to be used for educational and/or rehabilitation purposes.

(2) If this is not convenient, they will be disposed of.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.088 POTTED PLANTS AND FRESH CUT FLOWERS.**

(A) During the period from March 1 to October 31, potted plants and cut flowers may be used only on the stone, stone base, or shepherd hooks.

(B) The Cemetery assumes no responsibility for the care of such burial space decorations, and upon their becoming wilted or unsightly, they shall be removed without notice to the owner thereof.

(C) No live flowers or plants are allowed in the mausoleums at anytime.

(D) Prior arrangements must be made with the Cemetery Board prior to the planting of any flowers in front of or behind any burial spaces.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.089 ITEMS PROHIBITED.**

(A) The placing of all articles on burial spaces except flowers outside the mowing area is prohibited; no toys, cases, boxes, globes, shells, cans, jugs, bottles and bric-a-brac of any description.

(B) If anything is placed upon any burial space that is deemed offensive, improper or injurious to

person or property, or which violates any rule or regulation, the Superintendent shall have the right and the duty to enter upon the burial space and remove such article or articles therefrom without notice.  
(Ord. 2005-4, passed 6-22-2005)

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#### **§ 97.090 RECEPTACLES FOR WASTE.**

(A) Receptacles for waste material are located at convenient locations in the Cemetery.

(B) The throwing of rubbish on the drives or any part of the grounds is prohibited.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.091 PLANTING OF TREES AND SHRUBS.**

(A) The planting of trees on burial spaces is prohibited.

(B) Shrubs will be permitted under the direction of the Board.

(C) However, if any tree or shrub situated on any burial space shall, by means of its roots or branches, or otherwise become detrimental to the adjacent burial spaces or avenues, or dangerous or inconvenient to passerby, the Superintendent shall have the right and the duty to enter upon such burial space and remove such tree or shrub, or any part thereof, considered dangerous, detrimental or inconvenient.

(D) The planting of cone-bearing evergreens is prohibited without prior written permission of the Cemetery Board.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.092 EXPENSE OF REMOVING TREES AND SHRUBS.**

(A) Plants, trees and shrubs now growing on burial spaces shall be removed by the owner or claimant of such burial spaces on which same are situated.

(B) However, the Cemetery Board shall order the same removed, and the owner or claimant shall receive 90-day notice thereof.

(C) On the failure of such owner or claimant to remove such plant, tree or shrub, the Board may cause the same to be moved at the owner's or claimant's expense, and if necessary, recover the cost of the same in an action at law.

(D) All such removals must be done under the direction of the Superintendent.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

***GENERAL CEMETERY RULES*****§ 97.100 BUSINESS TRANSACTIONS.**

(A) All business must be transacted at City Hall, including registering complaints.

(B) Lost and found articles should be turned in at the office.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.101 CEMETERY PERSONNEL.**

Employees of the Cemetery are not permitted to do work for burial space owners except upon order of the Superintendent and/or the entire Cemetery Board.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.102 CHILDREN.**

Children under 12 years of age must be accompanied by an adult, who shall be responsible for their conduct.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.103 DISTURBING THE PEACE.**

Any person disturbing the quiet and good order of the Cemetery, either by making a noise or by any boisterous or improper conduct, shall be removed from the confines of the Cemetery by order of the City Police.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.104 FEES AND CHARGES.**

(A) All fees and charges for services are payable at City Hall.

(B) Patrons of the Cemetery are requested not to pay any fee or gratuity to any Cemetery employee.

(C) Patrons shall always receive a receipt for any payments made pursuant to the following schedule:

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(1) \$250 for city residents.

(2) \$300 for residents residing outside the city limits at the time of death.

(3) Less \$50 discount for honorably-discharged veterans and their spouses.

(Ord. 2005-4, passed 6-22-2005)

#### **§ 97.105 FIREARMS.**

Persons bearing firearms (excluding law enforcement officers) have permission to enter the Cemetery only when participating at military funerals or exercises.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.106 HUNTING AND FISHING NOT PERMITTED.**

No person shall hunt, fish, or drive or chase any game or wildlife within the confines of the Cemetery.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

#### **§ 97.107 LOITERING NOT PERMITTED.**

Loitering or loafing within the confines of the Cemetery is prohibited.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999



**§ 97.108 MISCHIEVOUS OR UNLAWFUL CONDUCT.**

(A) No person shall deface, pencil, desecrate or otherwise defile or damage any monument, marker, burial structure or other improvement within the confines of the Cemetery; nor shall any person injure, damage or destroy any tree, shrub or plant therein.

(B) Any person or persons committing such acts shall be subject to arrest and prosecution. (Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.109 ALL TERRAIN VEHICLES.**

All terrain vehicles not owned by the city will not be permitted to enter the Cemetery except by permission of the Board.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

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**§ 97.110 ALCOHOLIC BEVERAGES PROHIBITED.**

The bringing of alcoholic beverages into the Cemetery is prohibited.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.111 REMOVAL OF FLOWERS.**

Permission from City Personnel must be obtained before removing any flower, shrub or plant from the Cemetery.

(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.112 SOLICITING AND ADVERTISING PROHIBITED.**

Soliciting the sale of any commodity or memorial shall be prohibited within the confines of the

Cemetery, and the Board will permit no sign of any advertising nature.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.113 SPEED LIMIT.**

(A) Vehicles of all types must be operated at a speed commensurate with the traffic within the Cemetery.

(B) Ten miles per hour is the posted speed limit.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.114 TRAFFIC IN CEMETERY.**

Vehicles within or leaving the Cemetery shall yield to incoming funeral processions.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.115 ANIMALS.**

Pets are permitted on cemetery grounds only if on a leash and attended to by their owner.  
(Ord. 2005-4, passed 6-22-2005) Penalty, see § 97.999

**§ 97.116 CEMETERY HOURS.**

Cemetery hours are from sunrise to sunset.

(Ord. 2005-4, passed 6-22-2005)

***ADMINISTRATION AND ENFORCEMENT***

**§ 97.125 PROTECTION AGAINST LOSS.**

(A) The Common Council and the Cemetery Board shall take reasonable precaution to protect owners of burial spaces, and their successor or successors to burial spaces, from loss or damage.

(B) However, the Cemetery Board expressly disclaims all responsibility for loss or damage from causes beyond its reasonable control, and especially from damage caused by the elements, an act of God, a common enemy, thieves, vandals, strikes, unavoidable accident, riots, an or order of any military or civic authority, whether the damage is direct or collateral, other than as herein provided.

(C) It is suggested that owners of private mausoleums, markers and/or monuments insure the same against such perils as vandalism, storms, lightning, explosion, fire, theft, aircraft, vehicles and other perils.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.126 EXCEPTIONS.**

(A) Special cases may arise in which the literal enforcement of a rule or regulation may impose unnecessary hardship.

(B) Therefore the Board reserves the right, without notice, to make exceptions, suspensions or modifications to any of these rules and regulations when, in its judgment, the same appears advisable; and taking such action shall in no way be construed as affecting the general application of such rules and regulations.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.127 AMENDMENTS.**

The operation of the Cemetery is under the charge and control of the Common Council, which has the right, hereby expressly reserved, at any time to change, modify or add to these rules and regulations whenever, in its judgment, the best interest of the Cemetery will be served by such action.

(Ord. 2005-4, passed 6-22-2005)

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**§ 97.128 INTERPRETATION.**

In the event of a dispute or controversy arising with regard to the intent and interpretation of any rule or regulation contained herein, the matter shall be referred to the Board, and its decisions in such matters shall be final and conclusive.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.129 SUBJECT TO LAWS.**

The operation and use of the Cemetery shall be subject to all applicable laws, orders and regulations of federal, state, county and municipal authorities, and also subject to the direction of the public officer or officers pursuant to law who shall impose any regulation, order or duty upon the use and operation of the Cemetery.

(Ord. 2005-4, passed 6-22-2005)

**§ 97.999 PENALTY.**

Conviction for any violation of this chapter shall be punishable by a fine of not less than \$25 and not more than \$250.

(Ord. 2005-4, passed 6-22-2005)

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## **CHAPTER 98: IMPOUNDED VEHICLES**

### Section

- 98.01 Authority
- 98.02 Inventory and transportation
- 98.03 Release from custody
- 98.04 Impound fee

### **§ 98.01 AUTHORITY.**

The Police Department may impound vehicles for cause in accordance with Police Department policy, Indiana state laws and local ordinances.  
(Ord. 2005-6, passed 6-22-2005; Am. Ord. 2006-7, passed 5-24-2006)

### **§ 98.02 INVENTORY AND TRANSPORTATION.**

(A) Every vehicle impounded by the Police Department shall be inventoried, and its contents shall be listed on a Police Department impound form in accordance with Police Department policy.

(B) The Police Department may contact a vehicle recovery service to transport the impounded vehicle to the police garage.

(C) The impounding officer shall complete, or cause to be completed, an inventory of the impounded vehicles contents, and provide documentation of the same on approved department forms.

(D) An officer shall have discretion in regards to the transportation of the vehicle, and the location of the inventory of its contents.

(E) Upon completion of its transportation and inventory, the impounded vehicle may, at the officer's discretion, be secured in the Police Department garage.  
(Ord. 2005-6, passed 6-22-2005; Am. Ord. 2006-7, passed 5-24-2006)

**§ 98.03 RELEASE FROM CUSTODY.**

(A) Upon completion of the inventory of an impounded vehicle, the Police Department shall employ a vehicle recovery service to transport and secure an impounded vehicle.

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(B) The registered owner or owner's agent shall ensure compliance with all state and local laws before the vehicle may be released from the Police Department's custody.

(Ord. 2005-6, passed 6-22-2005; Am. Ord. 2006-7, passed 5-24-2006)

**§ 98.04 IMPOUND FEE.**

(A) The owner or owner's agent shall provide payment for the vehicle recovery service charges to the Police Department, at which time a receipt shall be issued.

(1) An impound fee of \$50 shall be assessed to the owner or owner's agent, and shall be paid to the Police Department.

(2) The impound fee shall be paid and a receipt issued at the time the impounded vehicle is released.

(B) The \$50 collected shall be deposited into the Law Enforcement Continuing Education Fund.

(C) The impound fee may be collected by the vehicle recovery service after the impounded vehicle has been released to the recovery service, at which time the vehicle recovery service shall forward the impound fee to the city.

(Ord. 2005-6, passed 6-22-2005; Am. Ord. 2006-7, passed 5-24-2006)

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## **CHAPTER 99: NOISE AND SOUND EMISSION**

### Section

99.01 Prohibition

99.02 Exemptions

99.99 Penalty

### **§ 99.01 PROHIBITION.**

No person shall play, use or operate, or permit to be played, used or operated, any machine or device for producing or reproducing sound, including but not limited to: loudspeakers, radios, CD players, television sets, musical instruments, phonographs, cassette players or any other machine designed or intended to produce or reproduce sound; nor operate, or permit to be operated, any motor vehicle, lawnmower, machinery and/or equipment that contains a modified or defective exhaust



system, if such machine, device or vehicle is located in or around any of the following:

(A) Any public property, including any public right-of-way, highway, road, street, alley, building, sidewalk, parking lot, public space, park, thoroughfare or public transportation area, and the sound generated therefrom is clearly audible by another person at a distance of 50 feet or more from its source; or

(B) Any private property, and the sound generated therefrom is clearly audible by another person at a distance of 50 feet or more outside of the private property line.

(Ord. 2005-16, passed 11-30-2005) Penalty, see § 99.99

## **§ 99.02 EXEMPTIONS.**

The following are exempted from the provisions of this chapter:

(A) Sounds emitted from authorized emergency vehicles;

(B) Lawn mowers, garden tractors, construction equipment, leaf blowers, and power tools, when properly muffled, between the hours of 7:00 a.m. and 9:00 p.m. only;

(C) Burglar alarms and other warning devices, when properly installed; provided the cause for such alarm or warning device sound is investigated, and the alarm turned off within a reasonable period of time;

(D) Parades, festivals, carnivals, fairs, celebrations, concerts, artistic performances and/or other events authorized by the Board of Public Works and Safety, or another appropriate governmental entity;

(E) Attendant noise and sound emission connected with the actual performance of athletic or sporting events, and practices related hereto;

(F) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency work;

(G) Sounds associated with the use of legal fireworks or celebrations of legal holidays;

(H) Sounds associated with the normal conduct of legally established non-transient businesses, when such sounds are customary, incidental and within the normal range appropriate for such use;

(I) Sounds emitted for the performance of emergency work; and

(J) In the case of motor vehicles, where the noise and sound emission is the result of a defective or modified exhaust system, if the cause is repaired or other remedied within 7 calendar days.  
(Ord. 2005-16, passed 11-30-2005)

**§ 99.99 PENALTY.**

(A) Any person who violates the provisions of this chapter shall be subject to the following fines/assessments:

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(B) Each day any violation continues shall constitute a separate offense.

(C) Upon admission of violation of this chapter, the aforementioned fines/assessments shall be paid to the Clerk-Treasurer, at the Rockport City Hall, within 30 days of the date of the offense.

(D) Upon denial of the allegations of violation of this chapter, or upon failure to pay the aforementioned fines/assessments within the time period specified, the Rockland City Court shall be the court of proper venue and jurisdiction for the enforcement of this chapter.

(E) A custodial parent shall be responsible for ensuring that a child under 18 years of age complies with this chapter, and shall be responsible for any fine imposed hereunder.

(F) Citations for violation of this chapter may be issued by any sworn member of the Police Department.

(G) Persons admitting to violation of the terms and provisions of this chapter shall be instructed to tender and pay the appropriate fine, penalty and/or costs to the Clerk-Treasurer.

(H) Persons denying or challenging citations asserting violations of the terms and provisions of this chapter shall be cited into the Rockport City Court for hearing on such violation, and for further proceedings consistent with this chapter and state laws.

(I) The Chief of Police shall have the authority to develop, establish, incorporate, monitor and regulate specific rules and guidelines in furtherance of the intent and objectives of this chapter. (Ord. 2005-16, passed 11-30-2005)

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