City of East Chicago

Indiana

Code of Ordinances

2011

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Updated 2011

Version Title	*Version Number*	*DATE*	*Edited By*	*Summary of Edits*
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CITY OF
EAST CHICAGO, INDIANA
MUNICIPAL CODE OF ORDINANCES
TABLE OF CONTENTS

Chapter

TITLE I: GENERAL PROVISIONS

10. General Code Construction; General Penalty
11. City Standards
12. Councilmanic Districts.

TITLE III: ADMINISTRATION

30. General Provisions
31. City Officials
32. City Departments, Commissions and Boards
33. Board of Public Works and Safety
34. Police Department
35. Fire Department
36. City Court
37. Civil Defense and Emergencies
38. Office Hours
39. City Contracts
40. Human Rights
41. Personnel Rules and Practices
42. City Policies
43. Financial Policies-Funds
44. East Chicago Port Authority

TITLE V: PUBLIC WORKS

50. Public Utilities
51. Wastewater Discharge Regulations
52. Water System
53. Cross Connection Control
54. Stormwater Management
55. Garbage

TITLE VII: TRAFFIC CODE

70. General Provisions
71. Traffic Regulations
72. Parking Regulations
73. Parking Meters
74. Pedestrians
75. Bicycles
76. Handicapped Parking
77. Railroads

TITLE IX: GENERAL REGULATIONS

90. Animals
91. Health and Sanitation
92. Fire Prevention
93. Nuisances
94. Uniform Alarm System
95. Dangerous, Hazardous or Toxic Substances
96. New or Used Tire Storage
97. Streets and Public Places
98. Sidewalks and Curbs
99. Trees, Plants and Shrubs
100. Parks
101. Harbors
102. Air Pollution
103. Junked or Abandoned Vehicles

TITLE XI: BUSINESS REGULATIONS

110. Business Licenses Generally
111. Amusements Generally
112. Aluminum Purchase Recordation
113. Auctions
114. Beverage Delivery and Manufacture; Food Markets and Food Service Establishments; Wholesale Itinerant Produce Dealers
115. Building Contractors and Movers; Catch basin and Sewer Cleaners; Lumber Yards and Storehouses; Sidewalk Contractors
116. Entertainments and Solicitations; Coin-Operated Devices; Night Clubs, Dance Halls and Skating Rinks
117. Coal or Coke Dealers
118. Gasoline Service Stations and Motor Vehicle Dealers
119. Hotels
120. Junk Dealers and Junk Peddlers; Pawnbrokers; Peddlers; Secondhand Dealers; Solicitors and Canvassers; Transient and Itinerant Merchants; Scrap Metal Merchants
121. Pool Rooms and Bowling Alleys
122. Public Movers
123. Rental Housing
124. Retail Establishments Selling Items Commonly Used as Drug Paraphernalia
125. Self Service Laundries
126. Shooting Galleries and Gun Clubs
127. Sign Erectors
128. Taxicabs
129. Coin-Operated Telephones

TITLE XIII: GENERAL OFFENSES

130. Offenses Against Public Officers and Government
131. Offenses Against Public Peace
132. Offenses Against Public Decency
133. Offenses Against Public Property
134. Offenses Against People
135. Offenses Involving Minors
136. Weapons
137. United States Flag

TITLE XV: LAND USAGE

150. Building Code
151. Building and Structure Wrecking
152. Housing Standards
153. Construction Contract Wage Scales
154. Flood Hazard Areas
155. Subdivision Regulations
156. Zoning

TABLE OF SPECIAL ORDINANCES

[Reserved]

PARALLEL REFERENCES

References to Indiana Code
References to 1995 Code
References to Ordinances

INDEX

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY

11. CITY STANDARDS

12. COUNCILMANIC DISTRICTS

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

Section

10.01 Title of Code
10.02 Interpretation
10.03 Application to future ordinances
10.04 Construction of code
10.05 Rules of interpretation; definitions
10.06 Severability
10.07 Reference to other sections
10.08 Reference to offices; name designations
10.09 Errors and omissions
10.10 Reasonable time
10.11 Repeal or modification of code section
10.12 Limitation periods
10.13 Ordinances unaffected
10.14 Ordinances which amend or supplement code
10.15 Section histories; statutory references
10.16 Preservation of penalties, offenses, rights and liabilities
10.17 Catch lines of sections

10.99 General penalty

§ 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the "East Chicago City Code", for which designation "code of ordinances", "codified ordinances", or "code" may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code. (1995 Code, § 1.01.010)

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of TITLE I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CONSTRUCTION OF CODE.

(A) This code is a codification of previously existing laws, amendments thereto, and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in

operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided. (I.C. 1-1-1-5)

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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

CITY. The City of East Chicago, Lake County, Indiana.

CLERK. The Clerk of the City Council.

COMPUTATION OF TIME. The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a Sunday, it shall be excluded.

COUNCIL. The Common Council of the City of East Chicago.

COUNTY. The County of Lake, State of Indiana.

GENDER. Words used in the masculine gender shall include feminine and neuter.

HIGHWAY. Includes bridges, roads and streets, unless otherwise expressly provided.

JOINT AUTHORITY. All words giving a joint authority to three of more persons or officers shall be construed as giving authority to a majority of persons or officers.

MONTH. One calendar month.

NUMBER. Words used in the singular include the plural and the plural includes the singular number.

OATH. Shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words ***SWEAR*** and ***SWORN*** shall be equivalent to the words ***AFFIRM*** and ***AFFIRMED***.

OWNER. Applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of the building or land.

PERSON. Extends to and includes person, persons, firm, corporation, co-partnership, trustee, lessee, receiver and bodies politic. Whenever used in any clause prescribing and imposing a penalty, the terms ***PERSON*** or ***WHOEVER*** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PERSONAL PROPERTY. Includes every species of property except real property, as herein defined.

PRECEDING and ***FOLLOWING.*** When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

PROPERTY. Includes real and personal property.

PUBLIC PLACE. Any street or highway, sidewalk, park, cemetery, school yard or open space adjacent thereto and any lake or stream.

PUBLIC WAY. Any sidewalk, street, alley, highway or other public thoroughfare.

REAL PROPERTY. Includes, lands, tenements and hereditaments.

REASONABLE TIME. In all cases where any provision shall require any act to be done in a ***REASONABLE TIME*** or ***REASONABLE NOTICE*** to be given to any person, a reasonable time or notice shall be deemed to mean the time only as may be necessary in the prompt execution of a duty or compliance with notice.

SHALL or ***MAY. SHALL*** is mandatory; ***MAY*** is permissive.

SIDEWALK. Any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

SIGNATURE or ***SUBSCRIPTION.*** Includes a mark when the person cannot write.

SINGULAR or ***PLURAL.*** Whenever any words in any part of this code import the singular number, the plural shall be deemed to be included, and whenever the plural number shall be used, it shall be deemed to include the singular.

STATE. The words ***THE STATE*** or ***THIS STATE*** shall mean the State of Indiana.

STATE LAW REFERENCES. Whenever reference is made to I.C., it shall be construed to refer to the Indiana Code of 1971 or to any subsequent amendment.

STREET. Shall be construed to embrace streets, avenues, boulevards, roads, alleys, viaducts and all other public highways in the city.

TENANT. The words ***TENANT*** or ***OCCUPANT*** applied to a building or land shall include any person holding a written or oral lease of, or who occupies the whole or part of the building or land, either alone or with others.

TIME. Words used in the past or present tense include the future as well as the past and present.

WRITTEN and ***IN WRITING***. Include printing, lithographing or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.
(I.C. 1-1-4-5) (1995 Code, § 1.01.020)

§ 10.06 SEVERABILITY.

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.
(I.C. 1-1-1-8) (1995 Code, § 1.01.040)

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

(A) Reference to offices. Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this municipality exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) Name designations. Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority or instrumentality of any government, and that name designation is incorrectly stated; or at the time of the effective date of that ordinance or subsequent thereto, the rights, powers, duties or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity or the entity to which the duties, liabilities, powers and rights were transferred. (I.C. 1-1-6-1)

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday or a state holiday, it shall be excluded.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section, unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability. (I.C. 1-1-5-1) (1995 Code, § 1.01.070)

§ 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and reenactment; but all suits, proceedings and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.
Statutory reference: *Periods of limitation, see I. C. 1-1-1-7*

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to an indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance. (1995 Code, § 1.01.060)

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (I.C. 36-5-2-2)

(2) If a statutory cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.
Statutory reference: Inspection of public records, see I. C. 5-14-3-I et seq.

(C) If a section of this code is derived from the previous code of ordinances of the city published in 1995 and subsequently amended, the previous code section number shall be indicated in the history by "(1995 Code,§_)".
(1995 Code, § 1.01.050)

§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.17 CATCHLINES OF SECTIONS.

The black letter headings of the sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of the sections; nor as any part of the section nor, unless expressly so provided, shall they be so deemed when any of the sections, including the black letter headings are amended or reenacted.
(1995 Code, § 1.01.030)

§ 10.99 GENERAL PENALTY.

(A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to the following:

(1) A fine not exceeding $2,500 for the first violation; and

(2) A fine not exceeding $7,500 for second and subsequent violations, except for violations of ordinances regulating traffic and parking. (1995 Code, § 1.12.010)

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues. (1995 Code, § 1.12.020) (Ord. 0-06-0048, passed 11-13-2006)
Statutory reference: *Authority, see I.C. 36-1-3-B(a)(10)*

CHAPTER 11: CITY STANDARDS

Section

City Seal

11.01 Custodial and usage authority designation
11.02 Unlawful usage

CITY SEAL

§ 11.01 CUSTODIAL AND USAGE AUTHORITY DESIGNATION.

The City Clerk shall be custodian of the corporate seal and shall affix the same to all documents and papers that are required to bear the official seal of the city. (1995 Code, § 1.08.010)

§ 11.02 UNLAWFUL USAGE.

It is unlawful for any person to forge, corrupt or counterfeit the seal of the city; nor shall any person other than the duly authorized public official make use of the seal.
(1995 Code, § 1.08.020) Penalty, see § 10.99

CHAPTER 12: COUNCILMANIC DISTRICTS

§ 12.01 DISTRICT DESCRIPTIONS

The city is divided into six Councilmanic districts, numbered one through six as described in this section, and as set forth on the map designated as Exhibit A attached to the ordinance codified in this chapter, which is made a part hereof as though set forth in full, and found on file in the office of the City Clerk.

(A) *First District.*

Beginning at the intersection of the northeast corner of White Oak and 148th north to the U.S. Waterway, also known as the west branch of the Indiana Harbor Ship Canal; thence easterly along said waterway to the fork and to the south branch along to Columbus Drive; thence westerly to Railroad Avenue; thence west to Tod Avenue; thence south to 148th Street; thence west along 148th to the point of beginning at 148th and White Oak.

(B) *Second District.*

Beginning at the northwest corner of 148th and Olcott; thence south on Olcott to 150th Street; thence easterly on 150th to Tod; thence southerly on Tod to 151st Street; thence easterly along 151st Street to the south branch of the U.S. Waterway; thence south on the waterway to the Grand Calumet River following in a southeasterly meander line of the river to Kennedy Avenue in a southeast direction; thence south on Kennedy to Carroll Street; thence Carroll Street westerly to White Oak; thence northerly to 148th Street; thence easterly to the point of beginning at Olcott and 148th Street.

(C) *Third District.*

Beginning at the southwest corner of Euclid Avenue and 140th Street; thence west on 140th Street; thence west on 140th Street to Cary; thence south on Cary to Columbus Avenue; thence westerly on Columbus to Railroad Avenue; thence south on Railroad to Chicago; thence west on Chicago to Tod; thence south on Tod to 148th; thence west on 148th to Olcott; thence south on Olcott to 150th Street; thence east on 150th Street to Tod; thence south on Tod to 151st Street; thence east on 151st Street to the Waterway; thence south on the Waterway to the Grand Calumet River and southeasterly following the meander of the river to Kennedy Avenue; thence north on Kennedy Avenue to the Indiana Harbor Belt Railroad which leads in a northeasterly direction to Drummond Street; thence north on Drummond to Chicago Avenue; thence east to Euclid Avenue; thence north to the beginning at Euclid and 140th Street.

(D) *Fourth District.*

Beginning at the southeast corner of Euclid Avenue and Columbus Drive; thence east to Parrish Avenue; thence north on Parrish Avenue to 140th Street; thence east on 140th Street to Hemlock; thence north on Hemlock to 139th Street; thence east on 139th Street to Alder; thence south on Alder to 140th; thence east on 140th Street to Deal; thence southeast on Deal to 141st Street; thence west on 141st Street to Dearborn; thence southeast on Dearborn to Hawthorne; thence north on Hawthorne to Deal; thence east on Deal to the Cline Avenue service road; thence south to the Grand Calumet River; following the meander line of the river to Kennedy Avenue; thence north on Kennedy Avenue to Indiana Harbor Belt

railroad track to Drummond and the intersection of 150th Street; thence north on Drummond to Chicago Avenue; thence east on Chicago Avenue to Euclid; thence north on Euclid to the point of beginning which is the southeast corner of Euclid and Columbus Drive.

(E) *Fifth District.*

Starting at the northwest corner of Elm and 139th Street; thence west on 139th Street to Hemlock; thence south on Hemlock to 140th Street; thence west on 140th Street to Parrish Avenue; thence south on Parrish Avenue to Columbus Drive; thence west on Columbus Drive to Euclid; thence north on Euclid to 140th Street to Cary; thence south on Cary to Columbus; west on Columbus Drive to the U.S. Waterway; thence north on the Waterway to the fork; thence west on the west waterway to the western boundary; thence northerly along the western city boundary; thence following the western of the city limits of East Chicago to the northern boundary of East Chicago; thence easterly along the northern city limits to the city line's westerly boundary; thence north on said westerly line to the northerly line of the city limits; thence following the northern boundary of the city eastward to the boundary line between the Indiana House of Representative Districts 2 and 12; thence following that line in a generally southwestern direction to the U.S. Waterway; thence following along the southeast line of the waterway and thence turning along the southeast line of the waterway and thence turning southwesterly to Dickey Road; thence southeast to Michigan Street; northeast on Michigan Street to Fir; thence south on Fir to 135th Street; thence east along 135th to Deodar Street; thence south on Deodar Street to Broadway; thence west on Broadway to Elm Street; thence south on Elm Street to 139th Street to the point of beginning.

(F) *Sixth District.*

Beginning at the northwest corner of 139th Street and Elm; thence north on Elm to Broadway; thence east on Broadway to Deodar; thence north on Deodar to 135th Street; thence west on 135th Street to Fir; thence north on Fir to Michigan; thence southwest on Michigan to Dickey (State Road 912); thence northwest on Dickey Road to the Indiana Harbor Ship Canal; thence northeasterly along said waterway to the boundary line between Indiana House of Representatives 2 and 12 ; thence following that line in a generally northeasterly direction to the northeast perimeter to the city limits; thence curving into a southwest direction along Lake Michigan to Cline Avenue; thence south on Cline to Deal Street; thence west on Deal to Hawthorne Street; thence south on Hawthorne to Dearborn; thence westerly and northwesterly on Dearborn to 141st Street; thence easterly on 141st Street to Deal; thence northwest on Deal to 140th Street; thence easterly on 140th to Alder; thence north on Alder to 139th Street; thence west on 139th to Elm to the point of beginning. (1995 Code, § 1.10.010) (Ord. 0-02-0001, passed 1-18-2002)

TITLE III: ADMINISTRATION

Chapter

30. GENERAL PROVISIONS

31. CITY OFFICIALS

32. CITY DEPARTMENTS, COMMISSIONS AND BOARDS

33. BOARD OF PUBLIC WORKS AND SAFETY

34. POLICE DEPARTMENT

35. FIRE DEPARTMENT

36. CITY COURT

37. CIVIL DEFENSE AND EMERGENCIES

38. OFFICE HOURS

39. CITY CONTRACTS

40. HUMAN RIGHTS

41. PERSONNEL RULES AND PRACTICES

42. CITY POLICIES

43. FINANCIAL POLICIES-FUNDS

44. EAST CHICAGO PORT AUTHORITY

CHAPTER 30: GENERAL PROVISIONS

Section

Council Meetings

30.01 Regular meetings-adjourned meetings
30.02 Special meetings
30.03 Attendance of members at meetings
30.04 Quorum
30.05 Application of Robert's Rules of Order
30.06 Suspension of rules generally
30.07 Order of business
30.08 Priority of business to be decided without debate
30.09 Ordinances-general and emergency introductions
30.10 Ordinances-readings and passage
30.11 Referrals of questions, resolutions and the like to committees-procedure
30.12 Reports by committees
30.13 Motions generally
30.14 Amendments to be germane
30.15 Previous question generally
30.16 Questions of privilege
30.17 Reconsideration of decided questions
30.18 Voting procedure
30.19 Voting on postponed matters
30.20 Speeches before Council
30.21 Council member decorum

COUNCIL MEETINGS

§ 30.01 REGULAR MEETINGS-ADJOURNED MEETINGS.

(A) Regular meetings of the Common Council shall be held on the second and fourth Mondays of each month during the year at a place designated by 3 the Council President and regular meetings may be adjourned at the pleasure of a majority vote of the members of the Common Council.

(B) The meetings of the Common Council shall begin at 6:00 p.m. When any day fixed for the meeting of the Common Council shall fall upon a day designated by law as a legal or national holiday, the meetings shall be held on the day succeeding the holiday. (1995 Code, § 2.02.090) (Ord. 0-99-0024, passed 12-3-1999; Ord. 0-04-0050, passed 12-13-2004; Ord. 0-06-0005, passed 3-13-2006)

§ 30.02 SPECIAL MEETINGS.

The Mayor or the Council President may call special meetings of the Common Council whenever, in his or her opinion, the public business may require it. The Mayor or the Council President shall call special meetings upon the express written request of any five members. Whenever a special meeting shall be called, a summons or a notice in writing signed by the Mayor or the President of the Common Council shall be served upon each member of the Council either in person or by notice left at his or her place of residence. (1995 Code, § 2.02.100) (Ord. 0-99-0024, passed 12-3-1999)

§ 30.03 ATTENDANCE OF MEMBERS AT MEETINGS.

Members shall be required to attend meetings of the Common Council. (1995 Code, § 2.02.110)

§ 30.04 QUORUM.

A majority of the members-elect shall constitute a quorum of the Common Council. (1995 Code, § 2.02.120)

§ 30.05 APPLICATION OF ROBERT'S RULES OF ORDER.

The general rules of parliamentary law, as defined by *Robert's Rules of Order Revised*, so far as applicable, shall be considered the rules of the Common Council, unless they conflict with any of the special rules prescribed in this chapter. (1995 Code, § 2.02.130)

§ 30.06 SUSPENSION OF RULES GENERALLY.

No rule shall be suspended except upon motion and unanimous consent, and then only in case there are present and voting at least two-thirds of all the members-elect. (1995 Code, § 2.02.140)

§ 30.07 ORDER OF BUSINESS.

(A) Each Council meeting agenda shall contain the following order of business:

(1) Roll call for attendance;

(2) Public hearings;

(3) Approval of minutes of preceding meeting;

(4) Communications from the Mayor;

(5) Communications from department heads and others;

(6) Ordinances introduced and first reading;

(7) Ordinances on second reading;

(8) Ordinances on third reading;

(9) Resolutions;

(10) Reports of regular and special committees;

(11) Unfinished business;

(12) New business; and

(13) Adjournment.

(B) The Council President may order a return to any order of business after the call of the regular order of business.

(1995 Code, § 2.02.150) (Ord. 0-99-0024, passed 12-3-1999; Ord. 0-06-0005, passed 3-13-2006)

§ 30.08 PRIORITY OF BUSINESS TO BE DECIDED WITHOUT DEBATE.

All questions relating to priority of business in the Common Council shall be decided without debate. (1995 Code, § 2.02.160)

§ 30.09 ORDINANCES-GENERAL AND EMERGENCY INTRODUCTIONS.

(A) All ordinances and resolutions shall be introduced by a member of the Common Council, by a committee of the Council or by the Mayor. The name of the sponsor(s) who introduces an ordinance or resolution shall be printed at the upper right hand corner of the first page of the ordinance or resolution.

(B) No ordinance or resolution shall be introduced at a meeting of the Common Council unless a copy of the ordinance or resolution shall have made available, as provided herein, to all members of the Common Council and the City Clerk at least 48 hours preceding the meeting at which introduction to the Common Council is made; provided, that any member of the Common Council may move for the immediate introduction of a resolution or ordinance due to any emergency. The issue of whether to permit introduction of an emergency resolution or ordinance shall be determined by a majority vote of those Council members present.

(C) Agenda items and other materials to be considered by the Council at regular meetings shall be made available to Council members by Thursday noon preceding a regularly scheduled Monday meeting as follows:

(1) By placing the materials in the Council member's mailbox at City Hall; and

(2) Made available for pick-up at the central police station. Members of the Council shall indicate, from time to time, his or her preferred method for receiving the meeting materials.

(D) In the case of emergency meetings, materials to be considered shall be personally delivered to Council members by members of the City Police Department. (1995 Code, § 2.02.170) (Ord. 3309, passed--1982; Ord. 0-99-0024, passed 12-3-1999; Ord. 0-06-0005, passed 3-13-2006)

§ 30.10 ORDINANCES-READINGS AND PASSAGE.

Every ordinance shall receive three separate readings prior to its passage and resolutions shall receive one reading. The readings of all ordinances and resolutions shall be by title only. Any Council member may request to have an ordinance or resolution read in its entirety. No ordinance shall be passed or receive its third reading on the same day or at the same meeting at which it is introduced except by a suspension of rules by the unanimous consent of the Council, and then only in case there are present and voting unanimously, at least two-thirds of all of the members-elect of the Council. (1995 Code, § 2.02.180) (Ord. 3390, passed--1985; Ord. 0-95-0016, passed --1995; Ord. 0-99-0024, passed 12-3-1999)

§ 30.11 REFERRALS OF QUESTIONS, RESOLUTIONS AND THE LIKE TO COMMITTEES-PROCEDURE.

When it is moved to commit any question, subject or resolution to a committee of the Common Council and different committees are proposed, the question shall be taken in the following order. First, to a standing committee to which the matters properly belong; second, to select a committee.

(1995 Code, § 2.02.190)

§ 30.12 REPORTS BY COMMITTEES.

Whenever a question, resolution or ordinance is referred to a committee, the question shall not be in order unless the committee referred to has had 30 days to make its report; except, that in matters concerning special appropriations, reports shall be due in 14 days. Whenever a committee fails to make a report within the required time on any question committed, any five members of the Common Council may demand action on the question, resolution or ordinance. (1995 Code, § 2.02.200)

§ 30.13 MOTIONS GENERALLY.

(A) *Statement-reading of written resolution and the like.* When any question or resolution is moved and seconded, it shall be stated by the presiding officer of the Common Council before debate. If any question or resolution is in writing, it shall be handed to the Clerk, who shall read it aloud before debate.

(B) *Oral-written-generally.* Ordinary motions before the Common Council may be oral; however, upon demand of any member, any motion may be required to be reduced to writing, except a motion to do the following:

(1) Adjourn;

(2) Adjourn to a day or time certain;

(3) Postpone indefinitely;

(4) Commit;

(5) Amend;

(6) Suspend the rules; and/or

(7) Concur.

(C) *Withdrawal.* After a motion is stated by the presiding officer, it shall be deemed to be in the possession of the Council, but may be withdrawn by the mover thereof at any time before the decision or amendment.

(D) *When question pending.* When any question before the Common Council is pending or under debate, no motion shall be in order except the following, which shall have precedence in the order enumerated:

(1) To adjourn;

(2) To lay on the table;

(3) Previous question;

(4) To commit; and

(5) To amend.

(E) *Motion to adjourn generally.* A motion to adjourn a meeting of the Common Council shall always be in order, except when a motion to adjourn has been decided in the negative. It shall not be in order to entertain or repeat another motion to adjourn then, until some other business has intervened.

(F) *Debate.* At meetings of the Common Council, all motions to adjourn, to lay on the table and for the previous question shall be decided without debate.

(G) *Reconsideration of tabled motion.* Any matter laid upon the table may be taken up by a vote of the Council at any time; provided, that a motion to reconsider, once laid upon the table, cannot again be considered. (1995 Code, § 2.02.210)

§ 30.14 AMENDMENTS TO BE GERMANE.

No matter or proposition on a subject different from that under consideration by the Common Council shall be admitted under color of an amendment. (1995 Code, § 2.02.220)

§ 30.15 PREVIOUS QUESTION GENERALLY.

The previous question shall be put in this form: "Shall the main question now be put?" The previous question shall only be admitted when demanded by a majority of the Council members present, and until decided, the previous question shall preclude all other amendments or motions, except a motion to adjourn. If decided in the affirmative, the Chair shall put the question first upon the pending amendments in their order, if there by any, and then upon the main question. (1995 Code, § 2.02.230)

§ 30.16 QUESTIONS OF PRIVILEGE.

Questions of privilege in the Common Council shall be as follows:

(A) A motion to reconsider and to adjourn to meet on a certain day, both of which are not debatable; and

(B) Any business which by law or necessity must or should be transacted within or by a certain time. (1995 Code, § 2.02.240)

§ 30.17 RECONSIDERATION OF DECIDED QUESTIONS.

When any question has once been decided, any member may have a reconsideration thereof at the same or next subsequent regular meeting. These decided questions shall be as follows:

(A) Resolutions adopted may be rescinded by subsequent resolutions;

(B) Ordinances passed may be repealed by subsequent ordinances;

(C) Resolutions or ordinances may be suspended for a time definitely stated by subsequent resolutions and ordinances; and

(D) Resolutions, reports and all other papers and documents properly before the Council may be committed and recommitted at the pleasure of the Council. (1995 Code, § 2.02.250)

§ 30.18 VOTING PROCEDURE.

(A) Every vote of the Common Council shall be taken by roll call and a record made and preserved of each vote. Every member who shall be present when a question is stated by the Chair shall, unless the Council for good reason excuses him or her, announce his or her vote when in the affirmative by saying "Aye" or when in the negative by saying "No" upon roll call by the Clerk.

(B) Any member may change his or her vote before the announcement of the result by the Chair. (1995 Code, § 2.02.260)

§ 30.19 VOTING ON POSTPONED MATTERS.

When any matter in a common meeting is indefinitely postponed, it shall not thereafter be voted on again for one month. (1995 Code, § 2.02.270)

§ 30.20 SPEECHES BEFORE COUNCIL.

(A) Only members of the Common Council shall be permitted to address the Council, except on petition, unless permitted by the consent of the majority of the Common Council; provided, that the Mayor may address the Common Council at any time; provided further, that any city officer may, when called upon, make a verbal report.

(B) When any member is about to speak or deliver any matter to the Common Council, he or she shall rise from his or her desk and respectfully address the presiding officer and upon being recognized, he or she may address the Council. He or she shall not proceed until he or she is recognized by the Chair. He or she shall confine himself or herself to the question before the Council and shall avoid personalities. The President shall not recognize any member as in order unless he or she shall be at his or her proper desk.

(C) When two or more members of the Common Council rise at or about the same time, the presiding officer shall decide which shall speak first.

(D) No member of the Common Council shall speak more than once on the same question until every member has had an opportunity to speak on the question. No member shall speak more than twice on the same question except by consent of the Council. All speeches shall be limited to five minutes unless further time is granted by the Council. Time consumed in answering questions shall not be considered as a part of the speaker's time.

(E) Subject to the same restrictions and limitations prescribed for other members of the Council, the Council President shall be allowed to move for or second motions for the passage or adoption of ordinances and resolutions and shall also be allowed to participate in debate on all matters coming before the Council The President shall, however, defer his or her participation in debate until all other members of the Council have first had opportunity to speak on the issue being debated.
(1995 Code, § 2.02.280) (Ord. 0-99-0024, passed 12-3-1999; Ord. 0-06-0005, passed 3-13-2006)

§ 30.21 COUNCIL MEMBER DECORUM.

(A) While the presiding officer is putting a question, or when any member is speaking, or when a vote is being taken, no member shall engage in private discourse or walk out of or across the room unnecessarily.

(B) If any member in any way transgresses the rules of the Council, any member may call him or her to order. (1995 Code, § 2.02.290)

CHAPTER 31: CITY OFFICIALS

Section

Common Council

31.001 Composition-election
31.002 Legislative authority
31.003 Authority to allow and approve claims
31.004 President-election
31.005 President-duties
31.006 Vice-President
31.007 Sergeant - at -arms
31.008 Clerk of Council

Mayor

31.020 Election
31.021 Powers and duties
31.022 Mayor's Secretary

City Clerk

31.035 Election-term of office
31.036 Duties generally
31.037 Compensation and fees
31.038 Deputy City Clerks
31.039 Assistants

City Controller

31.050 Appointment-head of Department of Finance
31.051 Duties and powers
31.052 Controller's Chief Clerk
31.053 Additional assistants and clerks

City Attorney

31.065 Appointment-head of Department of Law
31.066 Duties
31.067 Secretary and other special assistants
31.068 Composition of Department of Law

City Engineer

31.080 Appointment- assistants
31.081 Duties
31.082 Assistant City Engineer
31.083 Funding of assistants

Harbor Master

31.095 Position created- appointment
31.096 Office
31.097 Authority and duties generally
31.098 Records of accidents and damages
31.099 Police powers
31.100 Custody of city property
31.101 Power to compel assistance
31.102 Control of bridges

COMMON COUNCIL

§ 31.001 COMPOSITION-ELECTION.

The number of members of the Common Council of the city shall be nine. There shall be elected in each of the Councilmanic districts of the city one Council member and, in addition, the whole city shall elect three Council members-at-large. (1995 Code, § 2.02.020)

§ 31.002 LEGISLATIVE AUTHORITY.

The legislative authority of the city shall be vested in the Common Council. (1995 Code, § 2.02.030)

§ 31.003 AUTHORITY TO ALLOW AND APPROVE CLAIMS.

(A) Pursuant to I.C. 36 and specifically I.C. 36-4-8, the Common Council shall have exclusive authority to allow claims and order the issuance of warrants for payment of money by the city.

(B) The Board of Public Works and Safety shall have no power to allow a claim or order the payment of money by the city, the authority being hereby vested in the Common Council. (Ord. 0-04-0047, passed 12-13-2004; Ord. 0-05-0025, passed 8-8-2005; Ord. 0-10-0026, passed 12-27-2010)

§ 31.004 PRESIDENT -ELECTION.

The presiding officer of the Common Council shall be the President who shall be elected annually at the first meeting in January of each year, by the members, from their ranks. He or she shall assume the Chair of the presiding officer immediately after his or her election. (1995 Code, § 2.02.040)

§ 31.005 PRESIDENT -DUTIES.

The President of the Common Council shall preserve strict order and decorum. He or she shall decide all questions of order, and his or her decisions shall be final unless appeals are taken to the Council. He or she shall vote on all questions, his or her name being called last. He or she shall appoint all standing and special committees which may be ordered by the Common Council. All standing

committees shall serve during the term of the appointing President. He or she shall sign all ordinances and resolutions adopted by the Common Council during his or her presence. (1995 Code, § 2.02.050)

§ 31.006 VICE-PRESIDENT.

The Vice-President of the Common Council shall be elected at the first meeting in January of each year. He or she shall preside at meetings when necessary and sign ordinances or resolutions adopted in the absence of the President. (1995 Code, § 2.02.060)

§ 31.007 SERGEANT-AT-ARMS.

The Chief of Police shall detail and assign a police officer of the rank of sergeant or higher to act as sergeant-at-arms at Common Council meetings. The sergeant-at-arms shall preserve order in and about the Council chamber. He or she shall act as messenger for the Council and shall act under the direction of the Council or the President and shall obey the orders of the Council. (1995 Code, § 2.02.070)

§ 31.008 CLERK OF COUNCIL.

It shall be the duty of the City Clerk to act as Clerk of the Common Council and to keep an accurate journal of the proceedings. (1995 Code, § 2.02.080)

MAYOR

§ 31.020 ELECTION.

The Mayor of the city shall be elected by the legal voters of the city for a term provided by law and shall serve until his or her successor is elected and qualified. His or her term shall begin at 12:00 p.m. noon on January 1 following his or her election. (1995 Code, § 2.04.010)
Cross-reference: *Office of the Mayor, see § 32.003*

§ 31.021 POWERS AND DUTIES.

(A) (1) The Mayor shall be the chief executive officer of the city and shall make all appointments to all officers and positions of employment authorized by law, except where other provisions have been made by the general assembly of the state. He or she shall approve or disapprove in writing all ordinances of the Common Council and shall also perform the duties required by law.

(2) The Mayor shall fix the compensation of all officers and employees of the city unless otherwise provided by the general assembly of the state.

(3) All officers and employees of the city, unless otherwise provided by laws of the state, shall serve at the pleasure of the Mayor, who may terminate their office or employment at any time.

(4) The Mayor shall supervise the conduct of all officers and employees of the city, except where otherwise provided by law, and shall investigate all reasonable complaints made against any officer or employee of the city and shall take appropriate action.

(B) The Mayor shall have the authority to act or to designate the officer or employee who shall act in the enforcement of any section of this code on all occasions where the code fails to specify or designate the person who shall be charged with the duty of enforcement.

(C) The Mayor's signature shall appear on all licenses and permits granted by the city, except as otherwise provided by law or provisions of this code. The Mayor shall have the power to revoke or suspend any license granted by the city, whenever any licensee has violated the terms or conditions of the license or the law, this code or ordinance under which it has been granted.

(D) The Mayor may order any theater, music hall or other public building closed, when it is made to appear to him or her that the public building is, by reason of its construction or management, unsafe to the people therein congregated or to persons adjacent thereto, or that it is not constructed and maintained as required by law or this code.

(E) The Mayor shall have the power and authority to cause the display of flags or other decorations in or about the City Hall or other public buildings belonging to the city on those occasions as he or she may deem proper. The Mayor shall have the power to determine the manner of observance of legal or national holidays by officers and departments of the city. The Mayor may issue proclamations from time to time which he or she deems proper. The Mayor shall have power to administer oaths within the city and to solemnize marriages within the county. (1995 Code, § 2.04.020)

§ 31.022 MAYOR'S SECRETARY.

The Mayor may appoint a Secretary whose duty shall be to attend the Mayor's office during usual office hours and to perform other secretarial duties as may be required by the Mayor.
(1995 Code, § 2.04.030)

CITY CLERK

§ 31.035 ELECTION-TERM OF OFFICE.

The City Clerk shall be elected for a term of four years by the legal voters of the city at the time and in the same manner as other city officers are elected and shall serve until his or her successor is elected and qualified. His or her term shall begin at 12:00 p.m. noon on January 1 following his or her election. He or she shall be a member of the executive or administrative branch of the city government.
(1995 Code, § 2.06.010)

§ 31.036 DUTIES GENERALLY.

The City Clerk shall perform or cause to be performed the following duties:

(A) Be Clerk of the Common Council; keep the files and papers and make and keep an accurate minute and journal or record of the proceedings of the Council and enter the ayes and noes on the vote of every ordinance or resolution and on all other matters; have charge of all the papers relating to the business of the Common Council;

(B) Immediately upon the passage and enrollment of an ordinance by the Common Council, present it to the presiding officer, attest and sign it as Clerk, present it to the Mayor and record the time of the presentation to the Mayor, present to the Common Council, at its next meeting, ordinances not approved by the Mayor;

(C) Prepare and keep an ordinance book for all ordinances passed and maintain correct copies of this code;

(D) Have charge of all books and documents required to be kept by the City Clerk by provisions of law or this code;

(E) Keep the city seal;

(F) Administer, without charge, oaths on claims against the city which require verification;

(G) Prepare notices of all calls for special meetings of the Common Council and cause the same to be promptly served;

(H) Keep a record of and inform the City Attorney of all notices of claims against the city for tort served upon him or her as Clerk;

(I) Be Clerk of the City Court and have power to administer oaths, issue all process, affix the seal of the Court and attest the same; keep a complete record and docket in all cases and collect all fees, fines, penalties and forfeitures, as provided by law or the provisions of this code;

(J) Perform the duties as Clerk of the City Court in the same manner and form as similar duties are performed by the Clerks of the County Circuit Court in relation to acting as ex officio Clerks in the County Superior and Criminal Courts, insofar as the same is consistent with laws of the state or the provisions of this code;

(K) Be in charge of the Traffic Violations Division of the City Court, to be known as a Cafeteria Court;

(L) Prepare all copies of ordinances and proposed ordinances; and

(M) Perform all other duties required by this code, law or which are incident to his or her office.
(1995 Code, § 2.06.020)

§ 31.037 COMPENSATION AND FEES.

(A) The City Clerk shall not, in addition to his or her appropriated and lawfully provided salary, receive any other compensation, fees or perquisites whatever, except as may be provided otherwise by law.

(B) For furnishings certified copies of the records, pleadings or instruments in his or her possession, which copies shall be received as evidence in any court or proceeding, the Clerk shall receive fees equal to those paid for similar service performed by the Clerk of the County Circuit Court. These fees shall be reported and paid to the City Controller for the General Fund of the city.
(1995 Code, § 2.06.030)

§ 31.038 DEPUTY CITY CLERKS.

(A) There shall be Deputy City Clerks in accordance with the number to be provided in the annual budget ordinance.

(B) The Deputy City Clerks shall be skilled in the art of shorthand and typing and shall have the ability to receive, take down and transcribe shorthand notes.

(C) The Deputy City Clerks shall serve under the direction and supervision of the City Clerk and may be assigned by him or her to act as Clerk of the City Court. When a deputy has been assigned by the City Clerk to serve as Clerk of the City Court, the Clerk shall assist the judge and bailiff in conducting the business and affairs of the Court under the direction of the City Judge. All acts done and performed by the Deputy Clerks shall be done and performed in the name of the City Clerk and in the manner and form prescribed by law. (1995 Code, § 2.06.040)

§ 31.039 ASSISTANTS.

All other persons employed to assist in the office of the City Clerk, in a number not to exceed that for which appropriations have been made by the Common Council and approved by the Mayor, shall be appointed by and serve at the pleasure of the Mayor and under the supervision of the City Clerk.
(1995 Code, § 2.06.050)

CITY CONTROLLER

§ 31.050 APPOINTMENT-HEAD OF DEPARTMENT OF FINANCE.

The City Controller shall be appointed by and serve at the pleasure of the Mayor. He or she shall be head of the Department of Finance. (1995 Code, § 2.08.010)
Cross-reference: *Office of City Controller, see § 32.004*

§ 31.051 DUTIES AND POWERS.

(A) The City Controller is hereby authorized to make claim payments in advance of Common Council allowance of claims for the following kinds of expenses:

(1) Property or services purchased or leased from the United States government, its agencies or its political subdivision;

(2) License or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced;

(6) Grants of state funds authorized by statute;

(7) Maintenance or service agreements;

(8) Leases or rental agreements;

(9) Bond or coupon payments;

(10) Payroll;

(11) State, federal or county taxes;

(12) Expenses that must be paid because of emergency circumstances; and

(13) Expenses described in an ordinance.

(B) Each payment for these foregoing expenses must be supported by a fully itemized invoice or bill and certification by the City Controller.

(C) The Common Council shall review and allow all claims paid in this manner at its next regular or special meeting following the pre-approved payment of the expense.
(1995 Code, § 2.08.020) (Ord. 0-05-0003, passed 1-24-2005)

§ 31.052 CONTROLLER'S CHIEF CLERK.

There is created the position of Controller's Chief Clerk, who shall have and exercise the powers and duties assigned to him or her by the City Controller, unless otherwise provided by law or by this code. (1995 Code, § 2.08.030)

§ 31.053 ADDITIONAL ASSISTANTS AND CLERKS.

The City Controller is authorized, subject to the approval of the Mayor, to employ further assistants and clerks which the business of the Department of Finance may require. The number and the salary of the employees in the Department of Finance shall be fixed by the Mayor and be provided by the Common Council in the annual budget and salary ordinance in the manner provided by law.
(1995 Code, § 2.08.040)

CITY ATTORNEY

§ 31.065 APPOINTMENT-HEAD OF DEPARTMENT OF LAW.

The City Attorney shall be appointed by the Mayor and shall be the head of the Department of Law. (1995 Code, § 2.10.010)

§ 31.066 DUTIES.

(A) The City Attorney shall be the attorney and counsel of the city. He or she shall have the management, charge and control of the law business of the city and for each branch of its government and shall be the legal advisor of all its departments and officers.

(B) The City Attorney with his or her assistants shall:

(1) Conduct all legal proceedings and appeals of every nature authorized by law;

(2) Draw up ordinances, leases, deeds, contracts or other legal papers for the city in its various departments when requested to do so by the proper officer;

(3) Appear for and protect the rights and interests of the city in all actions and proceedings brought by or against it, or against any officer or head of any city board or department in his or her official capacity;

(4) When requested by the Mayor or the Common Council, furnish opinions upon law subjects connected with the city;

(5) Exercise supervision of the revisions of ordinances and insertion of general ordinances in this code and the preparation of supplements to this code;

(6) Make and effect settlements of law suits and claims for and against the city as he or she may deem to the best interests of the city, subject to the approval of the Mayor;

(7) Prosecute violators of this code or city ordinances;

(8) Assist in the prosecution or defense in the city of any matter involving the Public Service Commission, when called upon by the Attorney General;

(9) Report to the Department of Finance all judgments against the city; and

(10) Examine all quotations or digests of this code or of laws to be announced or circulated by any officer or employee of this city in connection with any municipal matter.

(1995 Code, § 2.10.020)

§ 31.067 SECRETARY AND OTHER SPECIAL ASSISTANTS.

(A) The Secretary to the City Attorney shall be appointed by the City Attorney subject to the approval of the Mayor.

(B) The City Attorney may appoint or employ special assistants or special counsel, subject to the approval of the Mayor, for which funds have been provided in the manner provided by law.

(1995 Code, § 2.10.030)

§ 31.068 COMPOSITION OF DEPARTMENT OF LAW.

The Department of Law shall be composed of the City Attorney, Secretary to the City Attorney, Assistant City Attorney and any other assistants and clerks as may be provided for in the annual budget appropriation ordinance or in the manner provided by law. (1995 Code, § 2.10.040)

Cross-reference: *Department of Law, see § 32.005*

CITY ENGINEER

§ 31.080 APPOINTMENT-ASSISTANTS.

(A) The City Engineer shall be appointed by and serve at the pleasure of the Mayor and shall be subject to the direction of the Board of Public Works and Safety.

(B) Necessary assistants to the City Engineer shall be appointed by and serve at the pleasure of the Mayor. (1995 Code, § 2.12.010)

§ 31.081 DUTIES.

The City Engineer shall:

(A) Keep accurate records of grades, lines of sewers, pipe lines of private and public corporations permitted under franchises or contract;

(B) Design the repairing or building of any public property unless otherwise provided;

(C) Plat all streets, alleys and public places in the city and preserve a record thereof;

(D) Design the construction, alteration and maintenance of all public ways or sewers within the city;

(E) Design any bridgeway or viaduct for the city;

(F) Make and keep a map record of all sewers, gas, water, electric, wire, heat and other pipe and conduits both public and private showing the size, depth, inclination, location, date of construction of the same and record every change which may be made in the same with all new connections and improvements;

(G) Keep a record of the grades of all streets, alleys, sidewalks and other public ways;

(H) Have charge of all the engineering matters within the city and within the jurisdiction of the Department of Public Works;

(I) Have charge of all construction work on improvements, the construction and repair of all bridges and viaducts, the construction and repair of other work in the harbor and the construction or maintenance of all city waterworks, including the laying of all mains and water supply pipes;

(J) Be the traffic engineer for the city and have supervision of the streets and conduct studies of street traffic accidents, congestion and other conditions affecting safe and convenient use of the streets;

(K) Collect facts regarding the control of street traffic;

(L) Plan and direct the methods and operation of traffic signs and signals, loading platforms and other street traffic marking and control;

(M) Assist the City Plan Commission and assist in the proper enforcement of the zoning regulations of the city;

(N) Prepare all necessary charts, blue prints, drawings and specifications for the Board of Public Works and Safety; and

(O) Perform other matters as may be required by law, by the duties of his or her office or by the Board of Public Works and Safety. (1995 Code, § 2.12.020)

§ 31.082 ASSISTANT CITY ENGINEER.

There is created the position of Assistant City Engineer. The Assistant City Engineer shall perform the duties assigned to him or her by the City Engineer. (1995 Code, § 2.12.030)

§ 31.083 FUNDING OF ASSISTANTS.

The number and salaries of other assistants to the City Engineer shall be fixed and determined in the annual budget, which is adopted in the manner provided by law. (1995 Code, § 2.12.040)

HARBOR MASTER

§ 31.095 POSITION CREATEDAPPOINTMENT.

There is created the position of Harbor Master. The Harbor Master shall be appointed by the Mayor and serve at his or her pleasure. (1995 Code, § 2.14.010)

§ 31.096 OFFICE.

It shall be the duty of the Harbor Master to keep an office in a place as the Board of Public Works and Safety shall designate, where at all times during the season of navigation he or she can be found, or where orders can be left and receive prompt attention. (1995 Code, § 2.14.020)

§ 31.097 AUTHORITY AND DUTIES GENERALLY.

(A) The Harbor Master shall serve under the direction of the Board of Public Works and Safety and shall perform duties as may be prescribed for him or her by the Board and the provisions of this code or law.

(B) The Harbor Master shall have jurisdiction and authority over all vessels, crafts or floats moored or navigating in the harbor, which authority does not conflict with the authority exercised by the government of the United States. (1995 Code, § 2.14.030)

§ 31.098 RECORDS OF ACCIDENTS AND DAMAGES.

(A) The Harbor Master shall keep an accurate account and record of each case of damage to bridges, docks and all other city property pertaining to the harbor, which occur by any violation of the provisions of this code or law by any person, vessel, craft or float, which record shall include the name of the vessel, craft or float and the owners, master or consignee thereof. The Harbor Master shall gather all evidence and information, in his or her power, concerning any violation; and shall also keep an accurate

record of the amount of the damage, when, to whom and how paid; and shall keep an account of all claims the city made by vessel owners or persons navigating the harbor for damages sustained in the harbor to vessels or other craft and shall make a detailed report thereof to the Board of Public Works and Safety.

(B) Bridge tenders shall make a report of all accidents and damages at their respective bridges, copies of which shall be sent to the Harbor Master, the Board of Public Works and Safety and the City Engineer. (1995 Code, § 2.14.040)

§ 31.099 POLICE POWERS.

The Harbor Master shall be sworn in as a special police officer by the Board of Public Works and Safety, for the purpose of carrying more readily into effect the police regulations of the city concerning the harbor under his or her charge and to preserve the public peace and quiet in and about the harbor and, for the purposes, shall have all the power and authority of police officers under the laws of the state and the provisions of this code. (1995 Code, § 2.14.050)

§ 31.100 CUSTODY OF CITY PROPERTY.

The Harbor Master shall have charge of and be responsible for the safe keeping of any city property which may be placed in his or her charge by the city. (1995 Code, § 2.14.060)

§ 31.101 POWER TO COMPEL ASSISTANCE.

If any vessel, craft or float, either by winding or other cause, shall run afoul and obstruct the navigation or passage of other boats or crafts, the Harbor Master shall have power and is hereby authorized to order to his or her assistance people and tackle from any boat or craft. The Harbor Master shall have the power and is authorized to order to his or her assistance any tug, boat or crew that may be in the vicinity or passing at the time, to assist him or her in the removal of vessels in the performance of any of his or her duties. Every master or officer of a boat, craft or tug shall render the assistance so ordered and any steamboat, vessel or other craft or float receiving assistance shall pay to the person rendering the same the cost or expense of the assistance, the amount thereof to be fixed by the Harbor Master. (1995 Code, § 2.14.070)

§ 31.102 CONTROL OF BRIDGES.

(A) All bridges crossing the Grand Calumet River and the Indiana Harbor Ship Canal or any of its branches within the harbor of the city, including railroad bridges, shall be under the control of the Harbor Master, except where jurisdiction is assumed by the State Highway Commission. The Harbor Master shall have power to order the opening and closing of the same at any time, in his or her judgment, it is necessary to carry out the provisions of this subchapter.

(B) In all matters pertaining to the opening and closing of bridges, the Harbor Master shall conform to all provisions of this code or law regulating the opening and closing of bridges.
(1995 Code, § 2.14.080)

CHAPTER 32: CITY DEPARTMENTS, COMMISSIONS AND BOARDS

Section

City Departments

32.001 Departments of the City
32.002 Department Directors
32.003 Office of the Mayor
32.004 Office of City Controller
32.005 Department of Law
32.006 Department of Personnel
32.007 Data Processing Department
32.008 Department of Water Works
32.009 Engineering Department
32.010 Maintenance Services Department
32.011 Solid Waste Division of the Sanitary District
32.012 Wastewater Department of the Sanitary District
32.013 Utilities Administrative Services Division
32.014 Police Department
32.015 Fire Department
32.016 Department of Hazardous Materials Response
32.017 Department of Emergency Management and Communications
32.018 Department of Public Information
32.019 Office of Special Events
32.020 Department of Public Access Cable Service
32.021 Building Department
32.022 Department of Economic and Business Development
32.023 Department of Planning
32.024 Department of Redevelopment
32.025 Housing Authority
32.026 Department of Public and Environmental Health
32.027 Department of Environmental Management
32.028 Department of Emergency Medical Services
32.029 Department of Human Rights
32.030 Department of Public Transportation
32.031 Department of Parks and Recreation
32.032 Port Authority (Marina Facility)
32.033 Office of Inquiries and Complaints
32.034 Other municipal functions
32.035 Previous powers and authorities

Health Department

32.050 Created
32.051 Clerk of Department
32.052 Clerk-Interpreter
32.053 Health Officer
32.054 Health Officer-powers and duties
32.055 Insignia and police powers of Health Officers, Inspectors and the like

32.056 Inspection powers and right of entry
32.057 Chief Health Inspector and Health Inspector
32.058 Public health nurses
32.059 Baby clinic doctor
32.060 Venereal disease doctor
32.061 Authorized assistants, employees and public health personnel
32.062 City chemist
32.063 Chemical and bacteriological laboratory-procedure upon discovery by laboratory of violation of code and the like
32.064 Board of Health-appointment, qualifications and terms of office of members
32.065 Board of Health-election of officers-meetings-rules and regulations
32.066 Board of Health-powers and duties

Department of Parks and Recreation

32.080 Created- composition
32.081 Application of state law
32.082 Composition- members
32.083 Powers
32.084 Special nonreverting capital fund
32.085 Special nonreverting capital fund- withdrawal of funds

Department of Public Sanitation

32.100 Created
32.101 Appointment of personnel
32.102 Powers and duties
32.103 Wastewater Division and Solids Waste Division
32.104 Composition and appointment of Board of Sanitary Commissioners

Redevelopment Department and Board of Trustees

32.115 Department of Redevelopment
32.116 Created-composition
32.117 Appointment and terms of office of members

Economic Development Commission

32.130 Created- composition
32.131 Appointment
32.132 Terms of office, successors and compensation of members
32.133 Qualifications of members
32.134 Bond issuance- cost of operation- fee limit
32.135 Commission levy authority- amount to be paid
32.136 Fee issuance limitation
32.137 Collection- fund established
32.138 Funds appropriated not to exceed funds received as proceeds
32.139 Revolving fund designation
32.140 Executive Director

City Plan Commission

32.155 Establishment and continuation
32.156 Composition-qualifications, appointment and terms of office of members
32.157 Election of officers-office space-records-annual reports-meetings
32.158 Powers and duties
32.159 Requests for information
32.160 Board of Zoning Appeals
32.161 Employees
32.162 Expenses-vouchers

Emergency Medical Service

32.176 Health Department Division
32.177 Fee schedule for ambulance service

Public Transportation Corporation

32.190 Created
32.191 Jurisdictional boundaries
32.192 Board of Directors-composition appointment of members
32.193 Board of Directors-terms of office of members
32.194 Board of Directors-election of Chairperson and Secretary-meetings
32.195 State law to govern operations generally

Data System (Repeal pending/Removal pending from Code Book)

32.210 Created
32.211 Data System Board-appointment-term
32.212 Data System Board-compensation
32.213 Data System Board-management authority
32.214 Rate adjustment authority
32.215 Rate applicability-when
32.216 Funds-management authority
32.217 Data System Revolving Fund-created
32.218 Data System Revolving Fund- source of funds
32.219 Data Processing Department to remain independent of data system
32.220 Data System users

Referral Job Bank Commission (Section is deleted from this draft of code book)

32.255 Created
32.256 Members- appointment
32.257 Members- duties

Women's Commission

32.270 Purpose

32.271 Definitions
32.272 Creation- membership and staff
32.273 Powers and duties

Cable Communications Advisory Board

32.285 Created
32.286 Term
32.287 Conflict of interest
32.288 Meetings
32.289 Quorum
32.290 Advisory relationship
32.291 Powers and duties
32.292 Expenses
32.293 Legal counsel
32.294 Written report
32.295 Stipend

Code Enforcement Department

32.315 Created
32.316 Duties

City Inspections Department

32.330 Establishment
32.331 Powers and duties

CITY DEPARTMENTS

§ 32.001 DEPARTMENTS OF THE CITY.

(A) The following departments and offices are hereby established

(1) The Office of the Mayor;

(2) The Office of City Controller;

(3) The Department of Law;

(4) The Personnel Department;

(5) The Data Processing Department;

(6) The Department of Water Works;

(7) The Engineering Department;

(8) The Maintenance Services Department;

(9) The Solid Waste Division (of the Sanitary District);

(10) The Wastewater Division (of the Sanitary District);

(11) The Utilities Administrative Services Division;

(12) The Police Department;

(13) The Fire Department;

(14) The Department of Hazardous Materials Response;

(15) The Department of Emergency Management and Communications;

(16) The Department of Public Information;

(17) The Office of Special Events;

(18) The Department of Public Access Cable Service;

(19) The Building Department;

(20) The Department of Economic and Business Development;

(21) The Department of Planning and Development;

(22) The Department of Redevelopment;

(23) The Department of Public and Environmental Health;

(24) The Department of Environmental Management;

(25) The Department of Emergency Medical Services;

(26) The Department of Human Rights;

(27) The Department of Public Transportation;

(28) The Department of Parks and Recreation;

(29) The Office of Inquiries and Complaints;

(30) The Housing Authority; and

(31) Port Authority (Marina facility).

(B) The Mayor may establish and organize the divisions within the departments and offices as necessary.

(C) Each of the aforesaid departments and offices shall have the authority, duties and responsibilities assigned thereto by this subchapter, by the applicable statutes of the state, or by the Mayor. (Ord. 0-00-0003, passed 2-18-2000; Ord. 0-01-0023, passed 9-10-2001)

§ 32.002 DEPARTMENT DIRECTORS.

(A) *Generally.* Each of the departments and offices established by § 32.001 shall be directed and managed by a chief administrative officer who shall be designated as the director of the department or office. The director of each department or office shall be appointed and serve at the pleasure of the Mayor, except as otherwise provided by law, and shall be subject to the jurisdiction of the Mayor and shall function in accordance with administrative rules, policies and directives promulgated by the Mayor.

(B) *General powers and duties of departments.*

(1) The director of each department shall have the responsibility to conduct and coordinate the administration and functions of the various duties and responsibilities hereinafter specifically assigned to the general executive department. The director of each of the general executive departments shall have the power to prescribe rules and regulations not inconsistent with the city personnel policy, any statute, rule or regulation promulgated by the Mayor for the government of the department, regulating the conduct of its officers, clerks and employees, the distribution and performance of its business and the preservation of its records, papers and properties. All official business of the departments shall be transacted at the offices thereof. The director of each general executive department shall have the power to appoint and remove, subject to the approval of the Director of Personnel, any of its clerks, assistants or employees, each of whom shall serve at the pleasure of the Mayor and department director, consistent with the city personnel policy, state statute and federal law.

(2) Each department and office shall have the responsibility and authority to conduct and coordinate the administration and function of the city services, functions and duties designated herein whether now performed by separate governmental units or not, provided that the responsibility and authority granted herein is exercised in a manner not inconsistent with state law.

(3) Each department and office shall conduct business and personnel matters in accordance with the general city personnel policies promulgated under the authority of the Mayor by the Department of Personnel of the city. The policies shall have precedence over any policies and procedures of the individual department or office. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.003 OFFICE OF THE MAYOR.

The Office of the Mayor shall include all functions assigned to the Mayor who shall act as the Chief Executive of the city. The Mayor shall have all power and authority assigned to the Office by the statutes of the state (I. C. 36-4-5-3). The Mayor shall ensure the efficient operation of the city and enforce the ordinances of the city and the statutes of the state. The Mayor shall appoint personnel and assign duties as are necessary to conduct the business of his or her office. (Ord. 0-00-0003, passed 2-18-2000)
Cross-reference: *Mayor, see §§ 31.020 through 31.022*

§ 32.004 OFFICE OF CITY CONTROLLER.

(A) The Office of the City Controller shall administer the finances of the city. The City Controller shall be the Chief Fiscal and Financial Officer of the city and shall perform duties and have responsibility and authority as assigned by the statutes of the state.

(B) The Mayor may appoint a Deputy Controller who shall have duties and authority as assigned by the Controller or provided by law. (Ord. 0-00-0003, passed 2-18-2000)
Cross-reference: *City Controller, see §§ 31.050 through 31.053*

§ 32.005 DEPARTMENT OF LAW.

(A) Generally. The Department of Law shall consist of the Corporation Counsel, who shall be the head of the department. The Corporation Counsel's first deputy shall be the City Attorney. The Corporation Counsel shall appoint Assistant City Attorneys as are necessary to conduct the legal affairs of the city.

(B) Responsibilities and duties. The Department of Law shall have duties and responsibilities as assigned by the statutes of the state, which shall include the following:

(1) Manage all legal affairs of the city;

(2) Prosecute violators of city ordinances;

(3) Provide legal advice to officers, department, boards, commissions and other agencies of the city;

(4) Prepare legal documents for the city and its departments, boards commissions and agencies when so requested;

(5) Conduct all legal proceedings and appeals of every nature authorized by law;

(6) Represent the city in all legal matters including the negotiation relating to resolution of legal matters, in matters the Department is fully empowered to act on behalf of the city; and

(7) Have all duties and powers prescribed by the Indiana Code.

(Ord. 0-00-0003, passed 2-18-2000)

Cross-reference: *Composition of Department of Law, see § 31.068*

§ 32.006 DEPARTMENT OF PERSONNEL.

(A) *Generally.* The Department of Personnel shall be responsible for the development of uniform administration of personnel policies for the city.

(B) *Responsibilities and duties.* Responsibilities and authorities assigned to this Department shall include, but not be limited to the following:

(1) Develop and promulgate, subject to adoption by the Common Council, one citywide personnel policy, and other regulations and procedures as necessary for all departments and offices of the city;

(2) Develop and provide Personnel Manual and Handbook for employees of the city;

(3) Provide and administer a system of uniform wages, salaries and group health and life benefits for employees of the city;

(4) Ensure equal employment opportunities for employment with the city;

(5) Conduct substance abuse testing as required by applicable ordinances and regulations of the city;

(6) Provide uniform practices for hiring of city employees;

(7) Provide other services and perform duties as may be assigned by the Mayor; and

(8) Comply with any local, state or federal requirements relating to employment and employment practices.

(C) *Employment practices.* To ensure compliance with state and federal laws and the equal employment opportunity requirements of the city, no person shall be employed by the city or its departments, agencies, boards, commissions or subunits unless the individual has complied with any and all requirements of the Department of Personnel. The City Controller shall pay no person until all requirements have been met. Further, the Personnel Department is hereby authorized and empowered to issue regulations to ensure compliance with position descriptions and the salary and wage ordinance submitted annually by the Mayor and adopted by the Common Council.

(Ord. 0-00-0003, passed 2-18-2000)

§ 32.007-DATA PROCESSING DEPARTMENT.

The Data Processing Department shall provide computer applications and services that are necessary for the various departments to conduct the business of the city. The Department shall also be

responsible for the acquisition and maintenance of any and all computer equipment, software and associated devices owned and operated by the city. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.008 DEPARTMENT OF WATER WORKS.

The Department of Water Works shall operate as a municipal utility and perform functions as assigned in I. C. 8-1.5-1 *et seq.* , the applicable sections of the Indiana Administrative Code and the rules and regulations as adopted by the Board of Trustees of the Department of Water Works.

(Ord. 0-00-0003, passed 2-18-2000)

Cross-reference: *Department of Water Works, see §§ 52.15 through 52.19*

§ 32.009 ENGINEERING DEPARTMENT.

(A) *Generally.* The Engineering Department shall provide technical engineering services for the city and shall be managed by the City Engineer who shall be the Director of this Department. The Department shall perform duties and have responsibilities and authority as granted or required by state law.

(B) *Responsibilities and duties.* The Department shall also have the following duties, responsibilities and authority:

(1) Maintain a system of records of all public buildings and public properties, including all streets, alleyways, sidewalks and other properties;

(2) Represent the Department in all engineering matters to the Board of Public Works and Safety;

(3) Review and approve all construction and modification of any building, structure or property of the city and its agencies, departments, commissions, boards and subunits;

(4) Coordinate all engineering services provided by the city and its agencies, departments, commissions, boards and subunits;

(5) Supervise traffic and traffic engineering for the city;

(6) Establish and maintain a system of automated records in a geographic information system that shall be available to all city agencies, departments, commissions, boards and subunits; and

(7) Perform other duties as assigned by the Mayor of the city.

(Ord. 0-00-0003, passed 2-18-2000)

§ 32.010 MAINTENANCE SERVICES DEPARTMENT.

The Maintenance Services Department shall be responsible for the maintenance of city streets, sidewalks, alleyways and other public properties of the civil city. The streets, sidewalks and alleyways shall be maintained in a clean and safe condition at all times. The Department shall also provide maintenance services and repair of all buildings and structures owned by the civil city. The Department will provide for the proper maintenance and repair of all vehicles, trucks and other heavy equipment owned by this city. The Department shall other have duties and authority prescribed by ordinance or statute, include all functions previously assigned to the Street Department and General Services

Department of the city. The Department shall also receive motor vehicle highway funds in accordance with and under the supervision of the City Controller. The Director of this Department shall have all powers and duties assigned to the Street Commissioner under previous ordinance and state statute.

(Ord. 0-00-0003, passed 2-18-2000)

§ 32.011 SOLID WASTE DIVISION OF THE SANITARY DISTRICT.

(A) Generally. The Solid Waste Division of the City Sanitary District is hereby established as an executive department of the city organized under I. C. 36-9-25 *et seq.* and any resolutions and regulations adopted by the Board of Sanitary Commissioners.

(B) Responsibilities and duties. Responsibilities and authorities assigned to this Department shall include, but not be limited to the following:

(1) Provide for the collection and disposal of solid waste within the city;

(2) Provide equipment and facilities necessary for the collection and disposal of solid waste;

(3) Provide for the collection and disposal of discarded items such as used domestic appliances that have been discarded in the city;

(4) Provide waste resource recovery service, including but not limited to recycling of paper, cardboard, glass, plastics and ferrous and non-ferrous metals;

(5) Take actions necessary to maintain clean streets and alleys within the city;

(6) Provide and maintain facilities for the maintenance and housing of equipment owned by the Sanitary District and the city;

(7) Provide any other services as directed by the Mayor or the Board of Sanitary Commissioners in accordance with applicable law; and

(8) Perform duties and have authority as assigned by I.C. 36-9-25.

(C) *Provisions of this section to be considered supplemental.* The provisions contained herein are supplemental to any ordinance of this Council or any resolution of the Board of Sanitary Commissioners not repealed by this ordinance. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.012 WASTEWATER DEPARTMENT OF THE SANITARY DISTRICT.

(A) *Generally.* The Wastewater Division of the City Sanitary District is hereby established as an executive department of the city organized under I. C. 36-9-25 *et seq.* and any resolutions and regulations adopted by the Board of Sanitary Commissioners.

(B) *Responsibilities and duties.* Responsibilities and authorities assigned to this Department shall include, but not be limited to the following:

(1) Provide for the collection and treatment of sewage, wastewater and stormwater drainage within the city;

(2) Provide for the operation and maintenance of a wastewater treatment plant and other plants and equipment necessary to accomplish the requirements of division (B)(1) above of this section;

(3) Provide for the treatment and disposal of sludge, grit and other materials generated by the requirements of this section;

(4) Provide and operate a system of stormwater drains and drainage in streets, alleys and thoroughfares within the city;

(5) Own, operate and maintain equipment necessary to maintain clean sewers and streets free of materials and grit that would be detrimental to the treatment of wastewater and stormwater within the city;

(6) Regulate the discharge of wastewater into the system of sewers owned and operated by the city;

(7) Provide a system of fees for the use of and discharge of wastewater into the sewers owned and operated by the city;

(8) Provide any other services as directed by the Mayor or the Board of Sanitary Commissioners in accordance with applicable law; and

(9) Perform duties and have authority as assigned by I.C. 36-9-25.

(C) *Provisions of this section to be considered supplemental.* The provisions contained herein are supplemental to any ordinance of this Council or any resolution of the Board of Sanitary Commissioners not repealed by this subchapter. (Ord. 0-00·0003, passed 2-18-2000)

§ 32.013 UTILITIES ADMINISTRATIVE SERVICES DIVISION.

The Utilities Administrative Services Division is hereby confirmed as a city agency. The Utilities Administrative Services Division shall be organized and administered in accordance with resolutions adopted by the Board of Sanitary Commissioners and the Board of Trustees of the Water Works.
(Ord. 0-00-0003, passed 2-18-2000)

§ 32.014 POLICE DEPARTMENT.

The Police Department shall have powers and authorities as vested in the Department by the statutes of the state in accordance with policies and procedures adopted by the City Board of Public Works and Safety. (Ord. 0-00-0003, passed 2-18-2000)
Cross-reference: *Police Department, see Ch. 34*

§ 32.015 FIRE DEPARTMENT.

The Fire Department shall have powers and authorities as vested in the Department by the statutes of the state in accordance with policies and procedures adopted by the City Board of Public Works and Safety and the Fire Civil Service Commission. (Ord. 0-00-0003, passed 2-18-2000)
Cross-reference: *Fire Department, see Ch. 35*

§ 32.016 DEPARTMENT OF HAZARDOUS MATERIALS RESPONSE.

The Department of Hazardous Material Response (also known as HazMat) shall be responsible for the management of hazardous material spills, discharge and other incidents involving hazardous materials that represent a danger to persons or properties within the city. The Department shall operate all facilities and equipment necessary to effective manage hazardous material events. The Department shall also provide continuing training and education for persons employed in these activities and shall establish and maintain a training facility to provide training and education. The Department shall coordinate its activities with the Fire Department, Police Department and the Department of Emergency Management and Communications. The Department shall have additional authority and responsibility as assigned by the Mayor. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.017 DEPARTMENT OF EMERGENCY MANAGEMENT AND COMMUNICATIONS.

(A) The Department of Emergency Management and Communications shall be managed by a Director of Emergency Management who shall be appointed by and serve at the pleasure of the Mayor. The Department shall develop and maintain an Emergency Management Plan for the city. The Department shall be vested will all authority necessary for emergency management, subject to direction of the Mayor. The Director shall administer and operate the Emergency Communication Center for the city and shall supervise all employees and staff assigned thereto. The Emergency Communication Center shall be operated in accordance with policies and procedures approved by a management committee consisting of the following: the Chief of Police, the Fire Chief, the Director of Emergency Medical Services, the Director (Chief) of Hazardous Material Response, the City Controller and a Chairperson appointed by the Mayor.

(B) The Emergency Management Plan of the city shall be developed in cooperation with the Police Department, the Fire Department, Emergency Medical Services, the Health Department, Hazardous Materials Response Department and other appropriate departments of the city.
(Ord. 0-00-0003, passed 2-18-2000)

§ 32.018 DEPARTMENT OF PUBLIC INFORMATION.

The Department shall be managed by the Director of Public Information and shall employ persons as are necessary to disseminate public information. The Department shall produce newsletters, newspapers and other media to inform citizens of city activities, programs and events. The Department shall serve as the spokesperson to the news media for all city departments, agencies, commissions and subunits. The Director shall develop and administer city policies regarding the public access statutes and regulations. The Director shall also be responsible for the oversight of the Department of Public Access Cable Service. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.019 OFFICE OF SPECIAL EVENTS.

The Director of Special Events shall:

(A) Serve to coordinate all special events sponsored in whole or in part by the city and its departments, offices, agencies and political subdivisions;

(B) Establish a master calendar of events;

(C) Manage the scheduling of special events and use of city facilities, equipment and personnel;

(D) Represent the city in special events matters; and

(E) Communicate the scheduling of special events to the Public Information Department.
(Ord. 0-00-0003, passed 2-18-2000)

§ 32.020 DEPARTMENT OF PUBLIC ACCESS CABLE SERVICE.

The Department of Public Access Cable Service is hereby established for the city. The Department shall endeavor to enhance communication to the citizens of the city through the use of cable television technologies. The Department shall work with federal, local and state agencies to provide public information in accordance with state and federal guidelines. The Department shall be supervised by a Board appointed in accordance with ordinances adopted by this Common Council.
(Ord. 0-00-0003, passed 2-18-2000)

§ 32.021 BUILDING DEPARTMENT.

The Building Department shall be under the direction of the Building Commissioner and shall be responsible for enforcement of the building, housing standards and property maintenance codes of the city. The Department shall license contractors, review plans, issue building permits and inspect the construction of buildings and other structures within the city. The Department shall take other actions and have powers as are necessary to enforce the codes. The Department shall have additional duties, responsibilities and powers as assigned by state statute or city ordinance.
(Ord. 0-00-0003, passed 2-18-2000)

§ 32.022 DEPARTMENT OF ECONOMIC AND BUSINESS DEVELOPMENT.

The Department of Economic and Business Development shall be responsible for assisting industrial and commercial business within the city by providing financial incentives, information and other economic development resources. The Department shall function in support of the Economic Development Commission in accordance with statutes and ordinances applicable thereto. The Department shall have other powers and duties as prescribed by ordinance or statute and shall provide other duties as assigned by the Mayor. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.023 DEPARTMENT OF PLANNING.

The Planning Department shall be responsible for the development of a comprehensive land use plan and for the development and enforcement of zoning ordinances and regulations relating thereto. The plans and ordinances shall protect the character and stability of residential, commercial and industrial areas within the city and shall promote the orderly and beneficial development of areas. The Department shall function in support of the Plan Commission and Board of Zoning Appeals in accordance with statutes and ordinances applicable thereto. The Department shall have other powers and duties as prescribed by ordinance or statute and shall provide other duties as assigned by the Mayor.
(Ord. 0-00-0003, passed 2-18-2000)

§ 32.024 DEPARTMENT OF REDEVELOPMENT.

The Department of Redevelopment shall have duties, responsibilities and authority prescribed by applicable state and federal statutes and the applicable ordinances adopted by the Common Council and resolutions, policies and actions of the Board of Redevelopment Commissioners.
(Ord. 0-00-0003, passed 2-18-2000)

§ 32.025 HOUSING AUTHORITY.

The Housing Authority shall have powers and duties as authorized by applicable state and federal statutes and the applicable ordinances adopted by the Common Council and resolutions, policies and actions of the Board of Directors of the City Housing Authority. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.026 DEPARTMENT OF PUBLIC AND ENVIRONMENTAL HEALTH.

(A) The Department of Public and Environmental Health, acting by and through the Health Officer, shall have powers and duties as defined by the statutes of the state and in accordance with resolutions, policies and procedures adopted by the City Board of Public Health. The Health Commissioner and Department shall be responsible for protecting the health of the citizens and shall have powers and authority necessary to protect the health of the citizens of the city.

(B) In addition to duties and responsibilities assigned by statute the Department shall be responsible for animal control within the city and employ the animal warden as are necessary and if necessary operate and maintain an animal facility to contain and dispose of stray animals. The animal control program shall be in accordance with the applicable ordinances of this Council and resolutions of the Board of Public Health. Pursuant to the authority granted by the statutes of the state, the authority of the Health Officer to fix fees for vital records is hereby confirmed. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.027 DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

The Department of Environmental Management shall be responsible for the protection of the environment and shall have duties and responsibilities as assigned by the Mayor and assigned by ordinance adopted by this Common Council. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.028 DEPARTMENT OF EMERGENCY MEDICAL SERVICES.

The Department of Emergency Medical Services shall provide emergency medical services to the citizens of the city. The Department shall operate vehicles, facilities and equipment as necessary and to employ personnel to provide services. The persons so employed shall have any required certifications and licenses necessary to provide service. The Department shall comply with all applicable local, federal laws and statutes and administrative code requirements of the state and shall comply with any requirements set forth by the Health Officer and Corporation Counsel. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.029 DEPARTMENT OF HUMAN RIGHTS.

The Department of Human Rights shall be organized and have powers and authority as conveyed by ordinance adopted by the Common Council under Ordinance 0-01-0030. The ordinance shall remain in full force and effect. (Ord. 0-00·0003, passed 2-18-2000)

§ 32.030 DEPARTMENT OF PUBLIC TRANSPORTATION.

The Department shall have power and authority as authorized by the applicable statutes of state. The Department shall provide public transportation services for the citizens of the city and is hereby authorized to enter into agreements with other municipal corporations and/or governmental or quasi-governmental agencies to provide services. The Department is also authorized to apply for and receive state and federal assistance, subject to authorization by the Board of Public Works and Safety.

(Ord. 0-00-0003, passed 2-18-2000)

§ 32.031 DEPARTMENT OF PARKS AND RECREATION.

The Department of Parks and Recreation shall have powers, duties and responsibilities as set forth by the I.C. 36-10-3 *et seq.* and any resolutions adopted by the Board of Park and Recreation Commissioners. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.032 PORT AUTHORITY (MARINA FACILITY).

The City Port Authority shall be organized and have powers and authority as conveyed by ordinance adopted by this Common Council under Ordinance 0-99-0027. The ordinance shall remain in full force and effect. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.033 OFFICE OF INQUIRIES AND COMPLAINTS.

The Office of Inquiries and Complaints shall be responsible for receiving and recording all citizen inquiries and complaints relating to services or functions of the city. The Office shall communicate requests for service or complaints to the appropriate city department or agency. The Office shall also establish a system to verify that the city department to which the request was assigned satisfies each request for service. The Office shall also promptly investigate and attempt to resolve all citizen complaints and inquiries and report same to the Office of the Mayor. The office shall provide a quarterly report regarding citizen requests and complaints to the Office of the Mayor. (Ord. 0-00-0003, passed 2-18-2000)

§ 32.034 OTHER MUNICIPAL FUNCTIONS.

Pursuant to I.C. 36-4-4-3 any executive or administrative function not assigned by this subchapter shall be assigned by the Mayor to the proper department, agency or officer. The authorities conveyed by previous ordinance and statute to the Board of Public Works and Safety, the Park Board, the Board of Sanitary Commissioners and various other Boards and Commissions shall be unchanged by this ordinance. The Board of Public Works and Safety shall be the legal contracting authority for the city.
(Ord. 0-00-0003, passed 2-18-2000)

§ 32.035 PREVIOUS POWERS AND AUTHORITIES.

Any power or authority previously granted by ordinance or resolution shall remain in full force and effect unless specifically modified by provisions contained herein. All obligations, contracts, agreements and actions taken under any ordinance or resolution modified or repealed by this subchapter shall remain in full force and effect and shall remain legally binding. (Ord. 0-00-0003, passed 2-18-2000)

HEALTH DEPARTMENT

§ 32.050 CREATED.

The city shall have a full-time Health Department under the charge of the Board of Health.
(1995 Code, § 2.26.010)

§ 32.051 CLERK OF DEPARTMENT.

There is created the position of Clerk of the Department of Health. The Clerk shall be appointed by the City Health Officer, subject to confirmation by the Board. The Clerk shall prepare the clerical work of the Board of Health and shall perform other duties which may be assigned by the City Health Officer. (1995 Code, § 2.26.020)

§ 32.052 CLERK-INTERPRETER.

The position of Clerk-Interpreter is created in the Health Department in the city. (1995 Code, § 2.26.030)

§ 32.053 HEALTH OFFICER.

(A) It shall be the duty of the City Board of Health, with the approval of the State Board of Health, to appoint a full-time City Health Officer who meets the minimum qualifications of the State Board. He or she shall be a citizen of the United States and shall hold an unlimited license to practice medicine in the state. The City Health Officer shall devote full time to the duties of his or her office and shall not engage in private medical practice, nor engage actively in any business. The Health Officer shall be appointed for a term of four years, unless sooner removed for cause in the manner provided by law.

(B) The City Health Officer may be a member of and in the employ of the Board of Health. The City Health Officer shall give bond in the sum as the Board of Health shall determine upon and require. (1995 Code, § 2.26.040)

§ 32.054 HEALTH OFFICER-POWERS AND DUTIES.

The City Health Officer shall:

(A) Serve as the Secretary of the City Board of Health when it is in session and as the executive officer of the Board of Health when it is not in session;

(B) Exercise all the powers provided by law and enforce all the rules and regulations of the City Board of Health, the State Board of Health and the provisions of this code;

(C) Provide for the proper registration of births and deaths and other vital statistics which this code, the law, the City Board of Health and the State Board of Health may require; and issue certified copies of birth and death certificates to proper persons subject to the required conditions;

(D) Make or order all necessary sanitary surveys and inspections;

(E) Appoint and employ professional, clerical and other employees as may be necessary and reasonable to carry out and perform the duties of the Health Department;

(F) Administer and enforce provisions of this code relating to sanitation of all buildings both public and private, affecting the community, except the matters as are required to be administered and enforced by others;

(G) Cause all nuisances affecting the health of the public to be abated with all reasonable promptness;

(H) Establish quarantines and, in connection therewith, order what is reasonable and necessary for prevention and suppression of disease;

(I) Close churches and schools and forbid public gatherings in order to prevent and stop epidemics and act in all reasonable and necessary ways to protect the public health;

(J) Keep minutes of all Board meetings and all the records of the Board in his or her office at the City Hall, including full and permanent records of his or her public health work which may be required by law, including monthly reports to the City Board which shall be subsequently permanently recorded and shall keep and transmit all other records required by the city, state and the United States public health services;

(K) Equip and maintain suitable offices, laboratory, facilities and appliances in the City Hall; and

(L) Report all important or material matters requiring their respective attention to the Board of Health, the Mayor and the Common Council. (1995 Code, § 2.26.050)

§ 32.055 INSIGNIA AND POLICE POWERS OF HEALTH OFFICERS, INSPECTORS AND THE LIKE.

The City Health Officer, city chemist and Inspectors of Health may, when on duty outside their respective offices, carry a metallic star, inscribed with suitable words, which shall be supplied by and be the property of the city. They shall each have power, on demand therefor, to require the aid, assistance or presence of any police officer in the performance of any duty required by the provisions of this code, by law or by rules of the Boards of Health and shall have full power to perform all the duties and have all the powers of special police officers for enforcing health regulations and may arrest, with or without warrant, any person they find violating any of the health provisions of this code. (1995 Code, § 2.26.060)

§ 32.056 INSPECTION POWERS AND RIGHT OF ENTRY.

(A) The City Health Officer or his or her Inspectors, assistants or deputies shall have full power, at all times, to enter every building, factory or portion thereof occupied, used or suspected of being occupied or used for the production for sale, manufacture and sale, processing, storage, sale, disposition or transportation of food; and to inspect the premises and all utensils, fixtures, furniture and machinery used therein. If violations of law or this code are found they shall report the violation to the Prosecuting Attorney or the City Attorney.

(B) The City Health Officer and any persons acting to enter into and examine at any proper time, after due notice, all buildings, lots and places of all descriptions, either public or private, within the city for the purpose of ascertaining the condition thereof for the possible presence, source and cause of disease, so far as the public health may be thereby affected, whenever in their judgment they shall deem it necessary.

(C) No person, shall either by himself, herself or by an agent, prevent or hinder the City Health Officer or anyone acting under him or her from carrying out the provisions of this section.
(1995 Code, § 2.26.070)

§ 32.057 CHIEF HEALTH INSPECTOR AND HEALTH INSPECTOR.

There are created the positions of Chief Health Inspector and Health Inspector. The Chief Health Inspector shall be a person who shall have had at least five years' experience in handling animals, meats,

game, fish, poultry, milk and other food and dairy products. The Health Inspectors shall be appointed by the City Health Officer subject to confirmation by the Board of Health. The Inspectors shall devote their full time to the work of the Department. The Chief and other City Health Inspectors under him or her shall be under the general supervision and orders of the City Health Officer and in addition shall perform the following duties:

(A) Take frequent and careful samples of milk and dairy products, and of the city water supply and water from the swimming pools and beaches and deliver them to the city chemist for tests;

(B) Make careful examinations of all places and utensils where foods, liquors and beverages are sold including hotels, inns, taverns, restaurants, soda fountains, stores and other places where food, liquors and beverages are sold or served;

(C) Inspect all streets, alleys, vacant lots, yards and outbuildings and other public places in matters concerning their sanitary condition;

(D) Inspect all public buildings as to their ventilation, plumbing and general sanitary conditions;

(E) Enter markets, stores, packing houses or any place where food products are stored, held for sale or offered for sale and inspect any vehicle transporting meat, fish, game or poultry from one point to another or through the city;

(F) Enter and examine ice houses and refrigerators in hotels, restaurants and boarding houses; and

(G) Enter and examine, under the orders of the City Health Officer, any dairy farm or milk products plant. (1995 Code, § 2.26.080)

§ 32.058 PUBLIC HEALTH NURSES.

(A) There is created the position of full-time city public health nurse. The city public health nurses shall be persons of vigorous health, of high ideals, legally qualified and suitably trained in sanitary science, and their qualifications shall be satisfactory to the state Board of Health.

(B) There shall be appointed by the City Health Officer subject to confirmation by the City Board of Health.

(C) City public health nurses shall devote their entire time to the duties of their positions in protecting and supervising the general health and sanitation of the city and they shall perform duties in relation thereto as may be prescribed by law, by this chapter, the City Health Officer and the rules and regulations of the City and State Boards of Health. (1995 Code, § 2.26.090)

§ 32.059 BABY CLINIC DOCTOR.

(A) There is created the position of baby clinic doctor. The baby clinic doctor shall be a physician duly licensed to practice medicine in the state with qualifications satisfactory to the State Board of Health. He or she shall be appointed by the City Health Officer subject to confirmation by the City Board of Health.

(B) He or she shall perform duties in relation to his or her position which are assigned by the City Health Officer, by law or this chapter or by the rules and regulations of the Boards of Health. He or she

shall also study all conditions which affect infant and child life in the city from both a sociological and public health point of view and shall make recommendations to the Board of Health.
(1995 Code, § 2.26.100)

§ 32.060 VENEREAL DISEASE DOCTOR.

(A) There is created the position of venereal clinic doctor.

(B) The venereal clinic doctor shall be a physician duly licensed to practice medicine in the state with qualifications satisfactory to the State Board of Health. He or she shall be appointed by the Health Officer subject to confirmation by the State Board of Health.

(C) He or she shall perform duties in relation to his or her position which are assigned by the City Health Officer, by law, by this code or by the rules and regulations of the Boards of Health.
(1995 Code, § 2.26.110)

§ 32.061 AUTHORIZED ASSISTANTS, EMPLOYEES AND PUBLIC HEALTH PERSONNEL.

(A) All assistants, employees and other public health personnel authorized by the Board of Health shall meet the minimum qualifications provided by the State Board of Health, shall be appointed by the City Health Officer subject to confirmation by the Board of Health and their compensation shall be fixed by the Board of Health and shall be provided in the annual budget.

(B) Public health personnel shall devote their full time to the duties of their respective positions in protecting and supervising the general health and sanitation and in performing their prescribed duties.
(1995 Code, § 2.26.120)

§ 32.062 CITY CHEMIST.

(A) There is created the position of city chemist. The city chemist shall be appointed by the City Health Officer, subject to confirmation by the Board. The city chemist shall be a person skilled in the science of analytical chemistry and bacteriology.

(B) The city chemist shall devote his or her entire time to the work of the Board of Health, shall be in charge of the bacteriological laboratory of the city and shall perform other duties which the City Health Officer shall, from time to time, prescribe. (1995 Code, § 2.26.130)

§ 32.063 CHEMICAL AND BACTERIOLOGICAL LABORATORY-PROCEDURE UPON DISCOVERY BY LADORATORY OF VIOLATION OF CODE AND THE LIKE.

(A) The Board of Health shall provide for, establish and maintain a city chemical and bacteriological laboratory. The laboratory shall be used for the protection of public health and the suppression of disease, the analyses of the water and milk supplies of the city, the analyses of meat, foods, drugs, utensils, ice, beverages, the water at the beaches and swimming pools and other matters affecting the public health which the City Health Officer may deem necessary. A record shall be kept of analyses made.

(B) Whenever tests indicate that there have been violations of this code, of rules or regulations of the Board of Health or of law or that the public health is endangered, the necessary steps shall be taken for prosecution for violations. (1995 Code, § 2.26.140)

§ 32.064 BOARD OF HEALTHAPPOINTMENT, QUALIFICATIONS AND TERMS OF OFFICE OF MEMBERS.

The Board of Health shall be composed of seven members who shall be appointed by the Mayor. Not less than three members shall be physicians holding an unlimited license to practice medicine in the state. After the first appointees, the terms of the members shall be for four years as provided by law.
(1995 Code, § 2.26.150)

§ 32.065 BOARD OF HEALTH-ELECTION OF OFFICERS-MEETINGS-RULES AND REGULATIONS.

The City Board of Health shall elect a Chairperson and Vice-Chairperson in October of each year and shall hold regular meetings at least quarterly, in January, April, July and October and special meetings on written requests of three members or on request of the Health Officer and may adopt its own rules with regard to meetings and other matters, which shall not be contrary to any provisions of law or of this chapter. (1995 Code, § 2.26.160)

§ 32.066 BOARD OF HEALTH-POWERS AND DUTIES.

(A) The Board of Health shall direct and prescribe the duties and fix the compensation of the City Health Officer and other employees of the Health Department and shall approve the legal and proper claims of the Health Department.

(B) The City Board of Health is authorized and directed to take action, issue regulations and enforce the same as, in its judgment, may be necessary or proper to carry out its duties as provided by law, the rules and regulations of the State Board of Health and of this code. The Board shall have power to adopt measures and rules or regulations which may be necessary or advisable for the conservation of the public health of the inhabitants of the city or in relation of the sanitary conditions of the city and for the prevention and suppression of disease, which are not inconsistent with the regulations of the State Board of Health.

(C) The Board, with a view toward preservation of the public health, shall give to the Mayor and other city officials all public professional advice and information as the officials may require.

(D) The Board shall publish an annual report, as provided by this section and other law and, with the approval of the Mayor, may publish the statistical information concerning its work relating to the health of the community or methods and means of preventing and curing disease as it shall deem proper for publication.

(E) The Board shall investigate the existence of and enforce the laws and regulations necessary to prevent and control the spread of communicable or infectious diseases which are dangerous to public health and shall make all necessary sanitary and health investigations and inspections and shall act to conserve the public health whenever a public emergency exists.

(F) The Board shall appoint a full-time City Health Officer, subject to approval of the State Board of Health.

(G) The Board shall confirm the appointment of the professional employees who are appointed by the Health Officer and who meet the qualification requirements of the State Board of Health.

(H) The Board shall collect fees which shall be reported weekly, be sent to the City Controller and become part of the General Fund, except as may be otherwise provided.

(I) The Board shall submit, at the time of the preparation of the municipal budget, an annual itemized estimate of the amount of money estimated for expenditures for the Department of Public Health for the following year.

(J) The Board shall request appropriations from the Common Council for venereal disease prevention and control programs.

(K) The Board of Health shall keep a record of all of its transactions, which record shall be kept at its office in the City Hall. (1995 Code, § 2.26.170)

DEPARTMENT OF PARKS AND RECREATION

§ 32.080 CREATED-COMPOSITION.

The Department of Public Parks and the Board of Park Commissioners are abolished and there is created and established in lieu thereof and in their stead a Department of Parks and Recreation, pursuant to the provisions of I. C. 36-10-3. The Department of Parks and Recreation shall be composed of a Board of Parks and Recreation, a Superintendent and other personnel as the Board of Parks and Recreation may determine. (1995 Code, § 2.28.010)

§ 32.081 APPLICATION OF STATE LAW.

The provisions of I.C. 36-10-3, pertaining to Parks and Recreation Boards and Commissions, are declared to be of full force and effect for the city. (1995 Code, § 2.28.020)

§ 32.082 COMPOSITION-MEMBERS.

The Board of Parks and Recreation shall be composed of four members, who shall be appointed by the Mayor, no more than two of the members shall be from the same political party. Upon the establishment of the Board, the terms of the members initially appointed shall be one, two, three and four years, as specified by the Mayor. Thereafter, as a term expires, each new member shall be appointed for a four-year term, except in case of an appointee filling an unexpired term. All terms shall expire on the first Monday in January, but an appointee shall continue in office until his or her successor is appointed.
(1995 Code, § 2.28.030)

§ 32.083 POWERS.

The Board of Parks and Recreation shall have the general and special powers and the administrative authority as set forth and conferred upon it under the provisions of state law.
(1995 Code, § 2.28.040)

§ 32.084 SPECIAL NONREVERTING CAPITAL FUND.

There is created, under the control of the Board of Parks and Recreation, a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements. The Common Council may include, from year to year, in the annual budget of the Department of Parks and Recreation, an item and appropriation for these specific purposes. (1995 Code, § 2.28.050)

§ 32.085 SPECIAL NONREVERTING CAPITAL FUND-WITHDRAWAL OF FUNDS.

Money placed in the nonreverting capital fund shall not be withdrawn except for the purposes for which the fund was created, unless the Common Council shall repeal this provision and abolish the fund.
(1995 Code, § 2.28.060)

DEPARTMENT OF PUBLIC SANITATION

§ 32.100 CREATED.

There is created the Department of Public Sanitation as an executive department of the city pursuant to I.C. 36-4-9-4. (1995 Code, § 2.32.010)

§ 32.101 APPOINTMENT OF PERSONNEL.

The Trustees shall appoint personnel as may be required to accomplish the total objectives of the Department as newly constituted. (1995 Code, § 2.32.020)

§ 32.102 POWERS AND DUTIES.

The Department of Public Sanitation shall have the powers and perform the functions provided by law. Whenever the functions of other departments, divisions or bureaus are assumed by the Department of Public Sanitation because of the operation of a sewage disposal plant, the Department of Public Sanitation shall have the powers now assigned by this code to other departments, divisions or bureaus whose work and duties have been superseded. (1995 Code, § 2.32.030)

§ 32.103 WASTEWATER DIVISION AND SOLIDS WASTE DIVISION.

The Department of Public Sanitation shall consist of two divisions, namely, Waste Water Division and Solids Waste Division. To accomplish this purpose, the department of the city heretofore known as Garbage and Ashes shall be and is transferred to the Department of Sanitation.
(1995 Code, § 2.32.040)

§ 32.104 COMPOSITION AND APPOINTMENT OF BOARD OF SANITARY COMMISSIONERS.

The Department of Public Sanitation shall be under the control of a Board of five members to be known as the Board of Sanitary Commissioners, four of whom shall be appointed by the Mayor in the manner provided by law and fifth shall be the City Civil Engineer, who shall be a member of the Board by virtue of his or her office. All appointments shall be made by the Mayor in the manner provided by statutes of the state. (1995 Code, § 2.32.050)

REDEVELOPMENT DEPARTMENT AND BOARD OF TRUSTEES

§ 32.115 DEPARTMENT OF REDEVELOPMENT.

(A) There is established a Department of Redevelopment as a department of the city pursuant to the laws of the state. The Department shall have all powers and perform all duties assigned and delegated to the Redevelopment Departments by the laws of the state and this code and other ordinances of the city.

(B) The Department shall have a Board of five Commissioners who shall be appointed by the City Redevelopment Trustees in a manner and for a term as prescribed by the laws of the state.
(1995 Code, § 2.34.010)

§ 32.116 CREATED-COMPOSITION.

There is created a Board of five members to be known as the City Redevelopment Trustees. (1995 Code, § 2.34.020)

§ 32.117 APPOINTMENT AND TERMS OF OFFICE OF MEMBERS.

(A) The Mayor is authorized to select two members of the Board of Redevelopment Trustees, one member to serve for a term of three years and one member to serve for a term of four years, the terms to commence with the date of the appointments.

(B) The judge of the Circuit Court of the county is requested and authorized to nominate one member of the Board of Redevelopment Trustees who shall be appointed for a term of two years from the date of the appointment.

(C) The President of the Common Council is authorized to nominate two members of the Board of Redevelopment Trustees: one who shall be appointed for a term of one year and one for a term of four years from the date of the appointments. (1995 Code, § 2.34.030)

ECONOMIC DEVELOPMENT COMMISSION

§ 32.130 CREATED-COMPOSITION.

There is created an Economic Development Commission for the city, to be known as the City Economic Development Commission, which shall consist of and be under the control of a Board of three members. (1995 Code, § 2.36.010)

§ 32.131 APPOINTMENT.

The members of the Economic Development Commission shall be appointed by the Mayor of the city as follows: one of the members so appointed shall be selected by the Mayor, one shall be nominated by the County Council; and one shall be nominated by the Common Council. The nominations made by the County Council and the Common Council shall be transmitted to the Mayor in writing.
(1995 Code, § 2.36.020)

§ 32.132 TERMS OF OFFICE, SUCCESSORS AND COMPENSATION OF MEMBERS.

The Commissioners shall take office upon their appointment and their terms shall run the following number of years from February 1 following the original appointment: the Commissioner nominated by the Common Council, two years; the Commissioner nominated by the County Council, one year; and the Commissioner selected by the Mayor, three years. At the expiration of the respective terms of each of the Commissioners originally appointed, the respective successor shall be selected and nominated in the same manner as the original appointee, each of which nominees shall be appointed by the Mayor within ten days after receiving the nominations and each succeeding member shall serve for a term of four years. In the event any person appointed as Commissioner shall fail to qualify within ten days after the mailing to him or her of the notice of his or her appointment, or if any member after qualifying shall die, resign or vacate the office or be removed, a new member shall be chosen and appointed to fill the vacancy in the same manner as provided for the member in respect to whom the

vacancy occurs, and the member so chosen and appointed shall serve for the remainder of the vacated term. Commissioners shall hold over after the expiration of their terms until their respective successors have been duly appointed and have qualified. The Commissioner shall receive no salary but shall be entitled to reimbursement for any expenses necessarily incurred in the performance of their duties and shall be entitled to a per diem allowance in the amount of $50 for each day that he or she shall attend a Commission meeting.

(1995 Code,§ 2.36.030) (Ord. 3428, passed--1986)

§ 32.133 QUALIFICATIONS OF MEMBERS.

No person shall be appointed as an Economic Development Commissioner who is neither a resident of nor employed in the city nor an owner of a business in the city. If any Commissioner shall cease to qualify in one of the above categories, his or her appointment on the Economic Development Commission shall thereby terminate and his or her office shall become vacant.

(1995 Code, § 2.36.040)

§ 32.134 BOND ISSUANCE-COST OF OPERATION-FEE LIMIT.

Pursuant to I.C. 36-7-12-29, as effective April 9, 1979, a Commission may provide for a maximum fee of 1% of the total amount of a bond issue to be paid ·from the proceeds of the issue to help in covering its cost of operation. However, the fee charged by a Commission to cover the cost of operation may not exceed $5,000 per issue. (1995 Code,§ 2.36.050) (Ord. 3233, passed--1979)

§ 32.135 COMMISSION LEVY AUTHORITYAMOUNT TO BE PAID.

Pursuant to the above authority, the City Economic Development Commission is authorized and directed to levy a commission of one-tenth of 1 % of the total amount of the issue of bonds authorized by the Commission to be paid from the proceeds of the issue to cover cost of operation.

(1995 Code, § 2.36.060) (Ord. 3233, passed--1979)

§ 32.136 FEE ISSUANCE LIMITATION.

The Commission is authorized and directed to limit that amount collected to $5,000 per issue.

(1995 Code, § 2.36.070) (Ord. 3233, passed--1979)

§ 32.137 COLLECTION-FUND ESTABLISHED.

The one-tenth of 1% of the issue, with a maximum of $5,000, shall be collected by the City Controller and placed in a special fund to be established and called the Economic Development Commission Fund. (1995 Code, § 2.36.080) (Ord. 3233, passed--1979; Ord. 3267, passed--1981)

§ 32.138 FUNDS APPROPRIATED NOT TO EXCEED FUNDS RECEIVED AS PROCEEDS.

However, in no event, shall those funds appropriated and spent exceed those funds which are received by the City Controller as proceeds of the bond issues.

(1995 Code, § 2.36.090) (Ord. 3233, passed--1979; Ord. 3267, passed--1981)

§ 32.139 REVOLVING FUND DESIGNATION.

The fund, mentioned in § 32.137 shall be considered a revolving fund and shall not revert to the General Fund at the close of any calendar year. (1995 Code, §2.36.100) (Ord. 3267, passed--1981)

§ 32.140 EXECUTIVE DIRECTOR.

The Business Development Director shall serve as the executive director of the Economic Development Commission at no additional salary.

(1995 Code, § 2.36.110) (Ord. 3233, passed--1979; Ord. 3269, passed--1981)

CITY PLAN COMMISSION

§ 32.155 ESTABLISHMENT AND CONTINUATION.

The city is authorized to continue the City Plan Commission. (1995 Code, § 2.38.010)

§ 32.156 COMPOSITION-QUALIFICATIONS, APPOINTMENT AND TERMS OF OFFICE OF MEMBERS.

(A) The City Plan Commission shall consist of nine members. Five of the members shall be citizens of the city who shall be qualified by knowledge or experience to act in matters pertaining to the development of a city plan, who shall not hold any other office in the city government and who shall be appointed by the Mayor, the remaining four members shall be chosen as follows: one member shall be a member of the Common Council to be selected by it; one member shall be a member of the Board of Parks and Recreation to be selected by the Board; one member shall be the President of the Board of Public Works and Safety; and one member shall be the City Engineer. The terms of the representatives from the Common Council and the Board of Parks and Recreation shall expire with the termination of their respective terms of office.

(B) The citizen members of the City Plan Commission shall hold office for the term provided by law. The expiration date of each appointment shall be shown in the certificate of appointment.

(1995 Code, § 2.38.020)

§ 32.157 ELECTION OF OFFICERS-OFFICE SPACE-RECORDS-ANNUAL REPORTS-MEETINGS.

(A) The City Plan Commission shall choose, annually at its first regular meeting in February, one of its members to act as president of the City Plan Commission, and another of its members as Vice-President during his or her absence or disability. The City Plan Commission shall have a suitable office provided for it by the proper city authorities, where it may hold its meetings and where its maps, plans, documents and accounts shall be kept subject to public inspection at all reasonable times. On or before the February 1 of each year, the City Plan Commission shall make a report to the Mayor of its proceedings with a full statement of its receipts, disbursements and the progress of its work for the preceding calendar year. A majority of the members shall constitute a quorum, but no action of the City Plan Commission shall be binding unless authorized by a majority of the City Plan Commission at a regular or duly called special meeting thereof. The City Plan Commission shall fix a time for holding regular meetings thereof, but a special meeting may be called at any time by the President or by two members upon written request to the Secretary. Written notices shall be mailed by the Secretary to all members at least two days before a special meeting advising them of the time of the meeting; provided, that if the time of a special meeting shall have been fixed at a regular meeting, or if all members of the City Plan Commission are present at a special meeting, then notice shall not be required.

(B) The Plan Commission shall keep and maintain all records, including all first flood elevation certificates, plans and other materials associated with any permit or variance issued in a Floodway District, Floodway Fringe District or Floodplain District.

(C) The Plan Commission shall notify the FIA of all permits issued in the floodway district concerning watercourse alteration. In addition to forwarding a copy of all permits to FIA, it shall require that maintenance is provided within the altered or relocated portion of the watercourse, so that the flood carrying capacity is not diminished.

(1995 Code,§ 2.38.030) (Ord. 3241, passed--1979; Ord. 3256, passed--1980)

§ 32.158 POWERS AND DUTIES.

(A) The City Plan Commission shall maintain maps, plans and charts and shall keep records of its proceedings which shall be open to the public. The Commission shall have full and exclusive power to make rules and regulations for the proper management and government of the City Plan Commission, subject to limitations provided by law.

(B) The City Plan Commission shall also have full power and authority to make or cause to be made the recommendations, surveys, studies, maps, plans or charts of the whole or any part of the city, including streets, alleys, viaducts, wharves, parks, parkways, public buildings or the routing of transit lines and other related matters.

(C) The City Plan Commission shall have power to prepare and submit to the Common Council a zoning ordinance to make the investigations, studies and reports to the Common Council on housing conditions in the city as it may, from time to time, deem necessary, and to accompany its report with recommendations and to perform other duties as may be delegated to or required of it by this code or ordinances of the Common Council with reference to enforcement thereof.

(D) The City Plan Commission shall consider and report its decisions regarding requested changes in the zoning regulations. (1995 Code, § 2.38.040)

§ 32.159 REQUESTS FOR INFORMATION.

All city officers shall, when requested by the Mayor or the City Plan Commission, cooperate and furnish pertinent ordinances, plans, maps and other pertinent information. (1995 Code, § 2.38.050)

§ 32.160 BOARD OF ZONING APPEALS.

The City Plan Commission shall act as, shall be and shall have all rights, powers and duties of the Board of Zoning Appeals, as provided by law or this code. Any reference to the Board of Zoning Appeals shall be considered as having been made to the City Plan Commission. (1995 Code, § 2.38.060)

§ 32.161 EMPLOYEES.

(A) The City Plan Commission may recommend the hiring of suggested employees to the Mayor. The Mayor shall have exclusive power to employ assistants who shall serve at the pleasure of the Mayor, but under the direction of the City Plan Commission.

(B) No person shall be employed for the Commission unless provision has been made for compensation. (1995 Code, § 2.38.070)

§ 32.162 EXPENSES-VOUCHERS.

The Common Council shall in the annual budget appropriate from the General Fund of the city for the payment of the expenses of the City Plan Commission. All vouchers of the City Plan Commission shall be signed by the President or Vice-President and Secretary. (1995 Code, § 2.38.080)

EMERGENCY MEDICAL SERVICE

§ 32.176 HEALTH DEPARTMENT DIVISION. See 32.175

~~The City Emergency Medical Service shall be a division of the City Health Department. (1995 Code, § 2.42.020) (Ord. 3225, passed - 1979)~~

§ 32.177 FEE SCHEDULE FOR AMBULANCE SERVICE.

The following schedule for ambulance user fees is hereby established.

(A) *Fees.*

(1) The fee for basic life support (BLS) ambulance service (BLS) shall be $500.

(2) The fee for advance life support (ALS) ambulance service shall be $750.

(3) A nonresident fee of $100 shall be assessed when applicable.

(4) A nontransport fee shall be assessed in the amount of $100 for all calls for ambulance service where:

(a) The City Fire Department provides any type of medical treatment; and

(b) The patient declines transportation thereafter.

(5) A mileage charge shall be assessed for all calls for ambulance service in the amount of $10.00 per patient loaded mile and fraction over one-tenth (1/10) thereof.

(B) *Collection.*

(1) The funds shall be collected at the direction of the Chief Fiscal Officer of the city.

(2) The Law Department is authorized to initiate collection actions for the ambulance fee in the following situations:

(a) The ambulance fee is a covered item under an insurance policy and the insurance company fails to pay the fee; or

(b) The insurance company paid the fee to the insured individual and that individual has not paid the fee to the city.

(3) No collection action is authorized against an individual who is uninsured or against an individual whose insurance company does not pay the entire ambulance fee.

(C) Money so collected shall be allocated to the city's General Fund.

(Ord. 0-07-0030, passed 9-24-2007; Ord. 0-09-0002, passed 2-9-2009)

PUBLIC TRANSPORTATION CORPORATION

§ 32.190 CREATED.

There is created a Public Transportation Corporation. It shall be a distinct municipal corporation to be known as the City Public Transportation Corporation. (1995 Code, § 2.44.010)

§ 32.191 JURISDICTIONAL BOUNDARIES.

The jurisdictional boundaries of the City Public Transportation Corporation shall be coterminous with the boundaries of the city and as much of the suburban area as will be served by the public transportation corporation. (1995 Code, § 2.44.020)

§ 32.192 BOARD OF DIRECTORS-COMPOSITION-APPOINTMENT OF MEMBERS.

The Board of Directors of the City Public Transportation Corporation shall consist of six members, three of whom shall be appointed by the Mayor and three by the Common Council.

(1995 Code, § 2.44.030)

§ 32.193 BOARD OF DIRECTORS-TERMS OF OFFICE OF MEMBERS.

One of the members appointed by the Mayor shall be appointed for a term of one year, one for a term of two years and one for a term of three years. One of the members appointed by the Common Council shall be appointed for a term of two years, one for a term of three years and one for a term of four years. (1995 Code, § 2.44.040)

§ 32.194 BOARD OF DIRECTORS-ELECTION OF CHAIRPERSON AND SECRETARY-MEETINGS.

The election of a Chairperson and Secretary of the Board of Directors and the meetings of the Board of Directors of the City Public Transportation Corporation shall be governed by state law.

(1995 Code, § 2.44.050)

§ 32.195 STATE LAW TO GOVERN OPERATIONS GENERALLY.

The manner of operation of the City Public Transportation Corporation, including as an example and not by way of exclusion, the introduction and adoption of ordinances, the appointment of a Controller for the City Public Transportation Corporation, the powers of the Board of Directors of the City Public Transportation Corporation, the acquisition of funds for the City Public Transportation Corporation and the issuance of bonds for the City Public Transportation Corporation, shall be governed by state law.

(1995 Code, § 2.44.060)

WOMEN'S COMMISSION

§ 32.270 PURPOSE.

The purpose of the Commission shall be to ensure women who are residents of the city the full realization of their rights as citizens. (1995 Code,§ 2.66.010) (Ord. 3538, passed--1991)

§ 32.271 DEFINITIONS.

For the purposes of this subchapter, 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 used in the plural number include the singular number, and words used in the singular number include the plural number. The word ***SHALL*** is always mandatory and not merely directory.

COMMISSION. The City Women's Commission, as created in this subchapter.

COMMISSIONER. Any duly appointed member of the City Women's Commission.

DIRECTOR. The Director of the City Women's Commission.

PERSON. Includes one or more individuals. (1995 Code,§ 2.66.020) (Ord. 3538, passed--1991)

§ 32.272 CREATION-MEMBERSHIP AND STAFF.

(A) There is established in the city the City Women's Commission to carry out the provisions of this subchapter. The Commission shall consist of no less than 15 and no more than 21 members. All the members of the Commission shall be appointed by the Mayor based on the recommendations from the Commission, subject to approval by the Common Council.

(B) All Commissioners appointed under the authority of the Mayor, whose terms have not expired, shall continue to serve for the term of their appointment. Thereafter, the term of service shall be three years. Each member of the Commission shall continue to serve until reappointed or until a successor is appointed.

(C) Failure of any Commissioner to attend three public meetings without a valid excuse in a calendar year period shall constitute an automatic resignation from the Commission. A valid excuse may include: death, illness, vacation, family emergency, infrequent employment related absences and conflicts in class enrollments.

(D) Upon the death or resignation of any Commissioner, a successor shall be appointed by the Mayor based on the recommendation of the Commission, subject to approval by the Common Council, to serve the unexpired term.

(E) Any resignation shall be in writing to the Mayor with a copy to the Chairperson of the Commission.

(F) The members of the Commission shall serve without compensation, however, they may be reimbursed for expenses necessarily incurred in the performance of their duties in accordance with appropriations made by the Common Council.

(G) The Commission shall have the authority to appoint and terminate a director and other staff as may be authorized by the Common Council, subject to approval by the Mayor.

(1995 Code, § 2.66.030) (Ord. 3538, passed--1991)

§ 32.273 POWERS AND DUTIES.

(A) The Commission shall elect one of its members as Chairperson and may elect other officers and appoint committees and advisory committees as it may deem necessary to carry out its responsibilities. The Commission shall meet at least once each month and may hold special meetings as the Chairperson or the Commission deems necessary. A majority of the members of the Commission shall constitute a quorum for the transaction of business. No official action shall be taken by the Commission except by an affirmative vote of a majority of members present.

(B) The Commission shall have the following powers, duties and responsibilities:

(1) Create public awareness and understanding of responsibilities, needs, contributions and the potential of women as homemakers, workers and active participants in community life and of the importance of each of these roles in the changing society; and to combat sex stereotyping in each of these roles;

(2) Act as a central clearing house and coordinating body for governmental and non-governmental activities and information relating to the status of women;

(3) Maintain contracts with the appropriate local, state, federal and international agencies concerned with the status of women;

(4) Cooperate with and encourage participation among the various agencies, organizations, units of government and the community in the programs and conferences of the Commission;

(5) Seek improvement in:

(a) Public and private employment policies and practices within the city in regard to women;

(b) State labor laws pertaining to hours, wages and working conditions of women;

(c) Legal rights of women in regard to political and civic responsibilities, property rights and family relations; and

(d) Policies and practices with respect to education and counseling of women for nonstereotyped roles.

(6) Seek new and expanded services for women as individuals, wives, mothers and workers;

(7) Recommend legislative and administrative action, equal treatment and opportunities for women;

(8) Submit an annual report with recommendations to the Mayor and the Common Council; and

(9) Establish by-laws as the Commission may deem necessary to carry out its powers, duties and responsibilities not inconsistent with this subchapter. The by-laws may include but is not limited to addressing the following:

(a) Rules and procedures of regular and special meetings;

(b) Creation of standing, advisory or other committees;

(c) Rules and procedures for election of officers;

(d) Duties and powers of officers and committees;

(e) Selection criteria and procedures relating to prospective Commission and staff members;

(f) Policy relating to excused absences and leave of absences;

(g) By-law amendment procedure; and

(h) Any other related matters. (1995 Code, § 2.66.040) (Ord. 3538, passed--1991)

CABLE COMMUNICATIONS ADVISORY BOARD

§ 32.285 CREATED.

(A) There is created the City Cable Communications Advisory Board.

(B) The Board shall be comprised of seven members.

(1) The Mayor shall appoint five people to the Board; one appointee shall be the Administration's Public Information Officer who shall serve as Chairperson.

(2) The Common Council members shall appoint one member to the Board.

(3) The School Board shall appoint one member to the Board with the approval of the School Superintendent. (Ord. 0-99-0023, passed 12-1-1999)

§ 32.286 TERM.

Board members shall serve for a term of three years, commencing January 1, 2000. (Ord. 0-99-0023, passed 12-1-1999)

§ 32.287 CONFLICT OF INTEREST.

There shall be no appearance or existence of a conflict of interest with any member of the Board on matters that will come before the Board for action. (Ord. 0-99-0023, passed 12-1-1999)

§ 32.288 MEETINGS.

The Board shall hold one regular meeting at least quarterly. The Board may hold additional meetings, either regular or special, as it may determine necessary or desirable.
(Ord. 0-99-0023, passed 12-1-1999)

§ 32.289 QUORUM.

Four members shall constitute a quorum of the Board. (Ord. 0-99-0023, passed 12-1-1999)

§ 32.290 ADVISORY RELATIONSHIP.

The Board's relationship to the Mayor, City Council and school city shall be advisory.
(Ord. 0-99-0023, passed 12-1-1999)

§ 32.291 POWERS AND DUTIES.

(A) The Board shall make internal rules and procedures to govern the day-to-day operations of the Board.

(B) The Board shall study and advise the Mayor on the need to investigate franchisees in order to compile data and make recommendations to the Mayor, City Council and school city regarding the extent, proper character and quality of cable service to be furnished to the public.

(C) The Board shall study and advise the Mayor of the need to engage the contractual services of specialized consultants to assist the Board in the proper discharge of its responsibilities.

(D) The Board shall study and advise the Mayor of the need for additional regulations regarding the extent, character and quality of cable service.

(E) The Board shall study and advise the Mayor regarding the need to investigate complaints relative to the cable service of any franchise.

(F) The Board shall study and advise the Mayor regarding the need to undertake studies to assess the compliance of franchisees with the terms of their franchises.

(G) The Board shall study and advise the Mayor regarding the need for the development of public, educational and governmental access programming.

(H) The Board shall mediate disputes or disagreements between subscribers, users, potential subscribers and user, and the grantee, but only in the event that the parties are first unable to resolve their disputes and if they agree to mediation by the cable administrator review.

(I) The Board shall study and advise the Mayor, City Council and school city regarding any other matters relating to cable communications as directed by the Mayor. (Ord. 0-99-0023, passed 12-1-1999)

§ 32.292 EXPENSES.

The Board shall not incur expenses, hire or retain employees, nor enter into contracts.
(Ord. 0-99-0023, passed 12-1-1999)

§ 32.293 LEGAL COUNSEL.

The Mayor shall assign legal counsel to the Board. (Ord. 0-99-0023, passed 12-1-1999)

§ 32.294 WRITTEN REPORT.

Upon request, within 45 days after the end of each calendar year, the Board shall prepare a written report to present to the Mayor. (Ord. 0-99-0023, passed 12-1-1999)

§ 32.295 STIPEND.

Each Board member may receive up to $200 a month stipend as appropriated by the City Controller's Office. (Ord. 0-99-0023, passed 12-1-1999)

CODE ENFORCEMENT DEPARTMENT

§ 32.315 CREATED.

A new executive department titled Code Enforcement Department is hereby established. (Ord. 0-08-0001, passed 7-9-2008)

§ 32.316 DUTIES.

The duties assigned to this Department will be the administration and enforcement of I.C. 36-7-9-1 *et seq.* (The Unsafe Building Law) and enforcement of all city ordinances related to maintenance of property. (Ord. 0-08-0001, passed 7-9-2008)

CITY INSPECTIONS DEPARTMENT

§ 32.330 ESTABLISHMENT.

There is hereby established a consolidated City Inspection Department. The Code Enforcement Department, the Building Department, the Health Inspection Department and the Zoning Inspection Department shall be merged and be operated as a single consolidated Inspections Department. (Ord. 0-08-0001, passed 7-9-2008)

§ 32.331 POWERS AND DUTIES.

The duties assigned to this Department will be the administration and enforcement of all ordinances related to the maintenance of property in a safe and healthy manner. This Department will perform all inspections, order repairs and/or demolitions, post uninhabitable designations, issue stop work orders, enforce the Unsafe Building Law, as adopted by this subchapter, and all enforcement of the city zoning regulations, excepting all duties specifically prohibited or delegated elsewhere by state or federal law. (Ord. 0-08-0001, passed 7-9-2008)

CHAPTER 33: BOARDS OF PUBLIC SAFETY AND PUBLIC WORKS

Section

General Provisions

33.001 Employees-compensation
33.002 Meetings
33.003 Records and appointments
33.004 Police powers of certain officials

Department of Public Safety -General Provisions

33.005 Composition-duties
33.006 Divisions created
33.007 Control of divisions

Department of Public Safety -Division of Building Inspections and Permits

33.015 Established-composition
33.016 Bureau of electrical permits created
33.017 Additional employees
33.018 Right of entry to inspect
33.019 Records
33.020 Conflicts of interest
33.021 Police aid in enforcement of code provisions

Building Commissioner

33.035 Established as head of Division of Building Inspection and Permits
33.036 Powers and duties

Department of Public Works-General Provisions

33.050 Composition-duties
33.051 Divisions created
33.052 Supervisor of Public Works

Department of Public Works-Mechanical Division

33.065 Created
33.066 Master mechanic- generally- position created
33.067 Master mechanic- powers and duties
33.068 Additional assistants and employees

Department of Public Work -Electric and Light Division

33.080 Created-jurisdiction
33.081 Duties
33.082 Electrical Inspector-Bureau of Electrical Permits

33.083 City electrician
33.084 Additional assistants and workers
33.085 Public safety

GENERAL PROVISIONS

§ 33.001 EMPLOYEES-COMPENSATION.

(A) Forepersons and other employees of the Board of Public Works and the Board of Public Safety and of their various divisions or bureaus, except police officers and firefighters, shall be appointed by and serve at the pleasure of the Mayor, except when otherwise provided by law; their compensation, unless otherwise determined by law or this code, shall be fixed by the Mayor and appropriations shall be made therefore in the manner provided by law.

(B) All employees of the Police and Fire Departments shall not be considered, necessarily, as members of the police or fire forces. Police officers and firefighters shall be appointed by the Board of Public Safety and shall serve for the period provided by law. Others appointed by the Mayor or the Board, as other than regular members of the police or fire forces, shall be merely temporary employees and shall not be considered as under the Fire or Police Tenure Act.

(1995 Code, § 2.40.010) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.002 MEETINGS.

The Boards of Public Works and Public Safety shall hold public meetings in the office of the Boards in the City Hall at times as the business of the Boards may require. The Clerks of the Boards shall cause entry of the proceedings of all meetings pertaining to the Department and this record shall be open to the public. (1995 Code, § 2.40.020) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.003 RECORDS AND APPOINTMENTS.

(A) The Boards of Public Works and Public Safety shall cause its proceedings to be recorded.

(B) The Mayor is hereby authorized to appoint a Board of Public Works and a Board of Public Safety for the city in accordance with I.C. 36-4-9-5. The Mayor is hereby authorized to appoint a clerk for each Board in accordance with I.C. 36-4-9-6. (1995 Code, § 2.40.030) (Ord. 0-08-0009, passed 4-28-2008; Ord. 0-10-0017, passed 11-22-2010)

§ 33.004 POLICE POWERS OF CERTAIN OFFICIALS.

The Building Commissioner, Electrical Inspector, Plumbing Inspector and his or her duly authorized deputies and assistants shall be sworn, by the Board of Public Safety, as special police officers and, as such, shall have police power to arrest any person who violates any of the provisions of law or this chapter under their respective jurisdictions.

(1995 Code, § 2.40.040) (Ord. 0-10-0017, passed 11-22-2010)

DEPARTMENT OF PUBLIC SAFETY-GENERAL PROVISIONS

§ 33.005 COMPOSITION-DUTIES.

(A) The Department of Public Safety shall be under the charge of the Board of Public Safety, which may be composed of 3 or 5 members, who shall be appointed by the Mayor to serve at his or her pleasure, all subject to the requirements and provisions established by the laws of the State.

(B) The duties of the Board of Public Safety shall be the same as prescribed by the law for Boards of Public Safety. (I.C. 36-4-9-6) (1995 Code, § 2.40.050) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.006 DIVISIONS CREATED.

There is created in the Department of Public Safety, under the Board of Public Safety, the following divisions:

(A) Building Inspection and Permits;

(B) Fire force;

(C) Harbor Master;

(D) Police force;

(E) Bureau of Air Pollution; and

(F) Other divisions which the Board of Public Safety may deem necessary and establish or which are herein placed by law or ordinance.

(1995 Code, § 2.40.060) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.007 CONTROL OF DIVISIONS.

The operation, management and control of the divisions established in § 33.005 shall be under the jurisdiction of the Board of Public Safety except where otherwise provided by law.

(1995 Code, § 2.40.070) (Ord. 0-10-0017, passed 11-22-2010)

DEPARTMENT OF PUBLIC SAFETY-DIVISION OF BUILDING INSPECTIONS AND PERMITS

§ 33.015 ESTABLISHED-COMPOSITION.

There is established the Division of Building Inspection and Permits, which shall include the Bureaus of Electrical Permits, Plumbing Permits, Bureau of Air Pollution and other bureaus, officers or employees herein placed. (1995 Code, § 2.40.080)

§ 33.016 BUREAU OF ELECTRICAL PERMITS CREATED.

There is created the Bureau of Electrical Permits in the Division of Building Inspection and Permits. (1995 Code, § 2.40.110)

§ 33.017 ADDITIONAL EMPLOYEES.

There may be other employees or positions in the Division of Building Inspection and Permits for which the Common Council may, from time to time, appropriate wages or salaries, in the manner provided by law. (1995 Code, § 2.40.120)

§ 33.018 RIGHT OF ENTRY TO INSPECT.

The Building Commissioner, the Electrical Inspector, the Plumbing Inspector and his or her duly authorized deputies or assistants shall have the right, during reasonable hours, upon presentation of proper credentials, to enter any building, premises or structure in the discharge of his or her official duties or for the purpose of making an inspection or test of the building, structure, premises, electrical wiring, materials, electrical or plumbing equipment, including the installation. (1995 Code, § 2.40.130)

§ 33.019 RECORDS.

The Division of Building Inspection and Permits shall keep records of all matters pertaining to the Division, including applications filed, permits issued or rejected and other official work performed.
(1995 Code, § 2.40.140)

§ 33.020 CONFLICTS OF INTEREST.

Neither the Building Commissioner, nor any of the Inspectors as employees in the Division of Building Inspection and Permits shall be employed by any private contractor nor engaged or interested, directly or indirectly, in any contract in connection with the furnishing of any material or the repair or erection of any building or part thereof within the city.
(1995 Code, § 2.40.150)

§ 33.021 POLICE AID IN ENFORCEMENT OF CODE PROVISIONS.

Whenever in the opinion of the Building Commissioner, Electrical or Plumbing Inspectors, Police Assistance is necessary in enforcing any provisions of this code, governing the work of the Divisions of Building Inspection and Permits, he or she shall be given aid by the Police Department.
(1995 Code, § 2.40.160)

BUILDING COMMISSIONER

§ 33.035 ESTABLISHED AS HEAD OF DIVISION OF BUILDING INSPECTION AND PERMITS.

(A) There is continued in the city the position of Building Commissioner of the city. The Building Commissioner shall be appointed by and serve at the pleasure of the Mayor.

(B) The Building Commissioner shall have at least five years of practical experience in the design, construction and superintendence of buildings; provided, that the time spent in the study of architecture or engineering at a college or university of recognized standing shall, to the extent thereof, be credited as experience.

(C) He or she shall be under the supervision, direction and control of the Board of Public Safety, except when otherwise expressly ordered by the Mayor. He or she shall be head of the Division of Building Inspection and Permits and shall be in charge of its several bureaus, members and employees.

(1995 Code, § 2.40.090) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.036 POWERS AND DUTIES.

It shall be the duty of the Building Commissioner to:

(A) Examine and approve or reject all building permits in accordance with the provisions of law and this code;

(B) Have charge of and enforce laws and all provisions pertaining to the building and zoning titles and to the erection, construction, alteration, repair or removal of buildings or other structures;

(C) Perform other duties as may be imposed upon him or her by law, the provisions of this code or the orders of the Mayor and Board of Public Safety;

(D) Cooperate at all times with the Department of Public Health and charities and other departments, divisions or bureaus of the city;

(E) Keep a careful record of all permits approved and rejected by him or her for the erection or repair of any building or other structure and also keep a record of all actions of his or her office and make reports covering the work of the Department to the Mayor and Board of Public Safety when requested, but not less than once a year. He or she shall incorporate in the reports a summary of his or her recommendations as to desirable amendments to this code;

(F) Examine all buildings and structures in the course of erection, alteration or repair throughout the city, as often as practicable and see that there has been compliance with this code and other laws;

(G) Examine all public school buildings, public halls and churches, theaters, business houses and all buildings used for manufacturing or commercial purposes, at least, once each year for the purpose of determining the safety of the building and structures, facilities for egress in case of fire and the overloading of floors;

(H) Issue orders to repair or wreck, under penalty of condemnation, in the manner provided by law, all buildings and structures or parts thereof which for want of repairs or by reason of their age or their dilapidated conditions are unsafe and endanger life or property;

(I) Pass upon any question arising under any of the provisions relating to buildings contained in this code, subject to the conditions, modifications and limitations contained in this code;

(J) Determine the value or valuation under any provisions of the code and for a purpose he or she shall be guided by approved estimated practices;

(K) Attend the meetings of and assist the City Plan Commission and Board of Zoning Appeals;

(L) Recommend any necessary changes in the building code;

(M) Perform all other unspecified duties which fall within the scope and sphere of his or her activities;

(N) Review all applications for improvement location permits for new construction or additions to existing construction to ascertain as to whether the proposed construction lies in a flood hazard area as defined elsewhere by ordinance. If the proposed construction or addition is found in such an area, the Building Commissioner may require modifications to design and materials as a Building Commissioner may deem appropriate to prevent flotation, collapse or lateral movement of the structure and minimize potential future flood damage; and

(O) Review proposed development to assure that all necessary permits have been received from those governmental agencies which approval is required by any and all federal and/or state law including but not limited to § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 *et seq.* (1995 Code, § 2.40.100) (Ord. 3241, passed--1979; Ord. 3256, passed--1980; Ord. 0-10-0017, passed 11-22-2010)

DEPARTMENT OF PUBLIC WORKS-GENERAL PROVISIONS

§ 33.050 COMPOSITION-DUTIES.

(A) The Department of Public Works shall be under the charge of a Board of Public Works which may be composed of 3 or 5 members who shall be appointed by the Mayor to serve at his or her pleasure, all subject to the requirements and provisions established by the laws of the State.

(B) The duties of the Board of Public Works shall be the same as presented by law for Boards of Public Works. (I.C. 36-4-9-6) (1995 Code, § 2.40.170) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.051 DIVISIONS CREATED.

There is created in the Department of Public Works, under the Board of Public Works, the following divisions:

(A) City Buildings and Bridges;

(B) City Engineer;

(C) Mechanical;

(D) Electric and Lights;

(E) Streets and Alleys; and

(F) Other divisions which the Board of Public Works may deem necessary and establish or which are herein placed by law or ordinance. (1995 Code, § 2.40.180) (Ord. 0-10-0016, passed 11-22-2010; Ord. 0-10-0017, passed 11-22-2010)

§ 33.052 SUPERVISOR OF PUBLIC WORKS.

(A) (1) There is created, in the Department of Public Works the position of Supervisor of Public Works. The Supervisor of Public Works shall be appointed by and serve at the pleasure of the Mayor.

(2) He or she shall serve under the direction of the Board of Public Works and the City Engineer and shall be in charge of the Divisions of Streets and Alleys and Buildings and Bridges.

(B) It shall be the duty of the Supervisor of Public Works, subject to the provisions of this code, where not otherwise provided, to:

(1) Take charge and superintendence of the following public property:

(a) Bridges, viaducts and public grounds; and

(b) All public buildings in the city belonging to the civil city.

(2) Repair, construct, improve and maintain the public ways of the city, except state highways;

(3) Superintend the cleaning, sweeping and sprinkling of public ways;

(4) Have charge of all personal and real property belonging to the city, unless otherwise provided, and carefully keep, maintain and preserve the same;

(5) Have control and supervision of all matters relating to the breaking of pavement, curbs or the constructing of driveways and related matters incident;

(6) Remove all obstructions in public ways in the city;

(7) Assist the City Health Officer in all matters pertaining to health when related to the general scope of his or her work;

(8) Carry out other orders and perform duties and regulations which the Board of Public Works and Safety designates;

(9) Plan and present programs to the Board of Public Works for public works; constantly work for the improvement and efficiency in the public works of the city; and

(10) Make requested reports and serve required notices.

(C) The Supervisor of Public Works shall keep records of all matters pertaining to work under his or her jurisdiction. (1995 Code, § 2.40.190) (Ord. 0-10-0017, passed 11-22-2010)

DEPARTMENT OF PUBLIC WORKS-MECHANICAL DIVISION

§ 33.065 CREATED.

There shall be a division of the Department of Public Works known as the Mechanical Division. (1995 Code, § 2.40.200)

§ 33.066 MASTER MECHANIC -GENERALLY-POSITION CREATED.

(A) There is created the position of master mechanic. The master mechanic shall be appointed by and serve at the pleasure of the Mayor.

(B) The master mechanic shall be a skilled machinist and skilled in the operation of pumping stations, repair of pumps, motors, motor vehicles, motorized equipment and in the operation and maintenance of garages and repair shops. (1995 Code, § 2.40.210)

§ 33.067 MASTER MECHANIC-POWERS AND DUTIES.

(A) The master mechanic shall serve under the direction of the Board of Public Works and shall be in direct charge of the Mechanical Division.

(B) The master mechanic shall be in charge of the Bureau of Pumping Stations and of all equipment assigned to the Mechanical Division and shall be responsible for its custody, supervision, repair, alteration and maintenance in good condition and shall have supervision, control, custody and management over all municipal garages and all motor vehicles assigned to the Mechanical Division by the Board of Public Works.

(C) In addition to his or her other duties, the master mechanic shall have charge of the machine shop and the mechanical operation of the pumping stations.

(D) The master mechanic shall, when requested, study and approve or reject all specifications for the purchase of necessary equipment and for repair of parts, supplies and motor vehicles.

(E) The master mechanic shall keep records and provide for a monthly charge to each division or bureau covering the cost of service furnished to the division or bureau.
(1995 Code, § 2.40.220) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.068 ADDITIONAL ASSISTANTS AND EMPLOYEES.

Other assistants and employees in the Mechanical Division shall be appointed by and serve at the pleasure of the Mayor in a number and classification provided in the annual budget.
(1995 Code, § 2.40.230)

DEPARTMENT OF PUBLIC WORKS-ELECTRIC AND LIGHT DIVISION

§ 33.080 CREATED-JURISDICTION.

There is created, in the Department of Public Works, the Electric and Light Division which shall be under the jurisdiction of the Board of Public Works.

(1995 Code, § 2.40.240) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.081 DUTIES.

It shall be the duty of the Electric and Light Division, under the direct charge of the City Electrician, to supervise the maintenance, management and improvement of the street lighting system, the fire and police alarm and telephone systems, the electric systems of all city buildings, structures, traffic controls and city electrical apparatus. The division shall purchase electric light bulbs for the use of the various departments of the city. The division shall recommend changes or improvements where artificial lighting is inadequate or inefficient and shall prepare specifications, subject to approval of the City Engineer, for the purchase or leasing of any electrical material or apparatus for the city. It shall be the further duty of the division to perform and supervise all other kindred electrical services for the city.

(1995 Code, § 2.40.250)

§ .33.082 ELECTRICAL INSPECTOR -BUREAU OF ELECTRICAL- PERMITS.

(A) There is created the position of Electrical Inspector. The Electrical Inspector shall be appointed by and serve at the pleasure of the Mayor. To be eligible for the appointment, the Inspector shall be highly qualified for the position and shall have five years practical experience. He or she shall be in charge of the Bureau of Electrical Permits.

(B) It shall be the duty of the Bureau of Electrical Permits, under the direct charge of the Electrical Inspector, to inspect for approval or rejection all plans and drawings for the installation or alteration of electrical connections or equipment and to further inspect the electrical work in all buildings, structures and things in the city required to be inspected by the provisions of this code or by law. The Electrical Inspector shall have the right, when necessary, to remove any existing obstructions such as laths, plastering, boarding or partitions, which may prevent a complete inspection of electrical equipment.

(1995 Code, § 2.40.260)

§ 33.083 CITY ELECTRICIAN.

There is created the position of City Electrician. The City Electrician shall be appointed by and serve at the pleasure of the Mayor, shall be in charge of the Electric and Light Division and shall be a qualified, experienced and competent electrician. (1995 Code, § 2.40.270)

§ 33.084 ADDITIONAL ASSISTANTS AND WORKERS.

(A) The Electric and Light Division shall have other necessary assistants and workers in a number and at salaries and wages provided in the annual budget.

(B) The powers of the City Electrician may be delegated to others temporarily by the Board of Public Works because of illness, absence or other causes.

(1995 Code, § 2.40.280) (Ord. 0-10-0017, passed 11-22-2010)

§ 33.085 PUBLIC SAFETY.

The public safety shall, at all times, be the paramount consideration in the work of the Electric and Light Division. (1995 Code, § 2.40.290)

CHAPTER 34: POLICE DEPARTMENT

Section

General Provisions

34.001 Composition
34.002 Supervision and control
34.003 Organization and structure
34.004 Impersonation of police officer prohibited

Chief of Police

34.015 Appointment -qualifications
34.016 Powers and duties
34.017 Employees and assistants

Police Force

34.030 Cooperation with Department of Law
34.031 Appointment-promotion, demotion and the like
34.032 Number
34.033 Powers and duties generally
34.034 Conduct
34.035 Resignations-reappointments
34.036 Reporting and attending fires

Uniforms and Equipment

34.050 Uniforms and equipment-furnished by city
34.051 Ammunition for Police Department firearms-furnished by city
34.052 Style and design of uniforms-badges generally

Police Department Death Benefits

34.065 Generally
34.066 Funeral benefits
34.067 Payments to surviving spouse
34.068 Payments to surviving children
34.069 Other benefits provided by law

Police Merit Commission

34.080 Definitions
34.081 Establishment and composition of Commission
34.082 Commissioners-terms-tenure
34.083 Elections-meetings-notice
34.084 Rules governing Commission-transaction of business-selection of officers-records-budget
34.085 Rules-adoption-notice and hearing

34.086 Department members-tenure-Chief -appointment and qualifications
34.087 Department members-appointment qualifications-applications-general aptitude test-ratings-eligibility list-vacancies-physical agility test-probation
34.088 Promotions-rules-requisites eligibility list
34.089 Promotions-competitive
34.090 Performance ratings-rules-appeal
34.091 Promotions-certification of eligible members-probation-procedures
34.092 Disciplinary actions-grounds hearing-notice-requisites procedures-appeals
34.093 Appeal to Court-suspension or dismissal-precedence
34.094 Summary disciplinary actions-reprimand or suspension
34.095 Retirement age
34.096 Temporary leave of absence-seniority-reinstatement
34.097 Rules- printing- copies to Department member
34.098 Offense- furnishing information to applications
34.099 Prior ranks and grades undisturbed

Cross-reference: *Police department, see § 32.014*

GENERAL PROVISIONS

§ 34.001 COMPOSITION.

The police force of the city shall be a separate division of the Department of Public Safety and it shall be referred to and named as the Police Department. It shall consist of a Chief of Police and other positions, ranks and divisions as may be provided for from time to time by the Board of Public Works and Safety. (1995 Code, § 2.30.010)

§ 34.002 SUPERVISION AND CONTROL.

The Board of Public Works and Safety shall have jurisdiction and control over all matters and property relating to or connected with the Police Department, except as to those matters committed to the jurisdiction of the Police Merit Commission under §§ 34.080 through 34.099, or as otherwise provided in this chapter. (1995 Code, § 2.30.020) (Ord. 0-03-0031, passed --2003)

§ 34.003 ORGANIZATION AND STRUCTURE.

The organization and structure of the Police Department shall be prescribed by and governed by rules and regulations adopted and published by the Board of Public Works and Safety except as to those matters committed to the rule-making jurisdiction of the Police Merit Commission under §§ 34.080 through 34.099. The rules and regulations of the Board shall establish ranks of command and classifications of service and shall, upon adoption and publication, have the same effect as if specifically set out in this chapter. (1995 Code, § 2.30.030) (Ord. 0-03-0031, passed --2003)

§ 34.004 IMPERSONATION OF POLICE OFFICER PROHIBITED.

It is unlawful for any person, excepting a police officer or other authorized official of the city: to wear in public the uniform adopted as the police uniform resembling it, with or without the regular device; to represent himself or herself falsely to be a police officer or member of the police force of the city; to use or imitate any of the signs, signals or devices used by the police force or wear any star of badge with intent to deceive; to use or operate upon the public streets any motor vehicles which have

signs or devices which resemble or simulate official city police vehicles. (1995 Code,§ 2.30.170) Penalty, see § 10.99

CHIEF OF POLICE

§ 34.015 APPOINTMENT -QUALIFICATIONS.

The Chief of Police shall be appointed by and serve at the pleasure of the Mayor in the manner provided by law. He or she shall meet the eligibility requirements provided by law.
(1995 Code, § 2.30.040)

§ 34.016 POWERS AND DUTIES.

(A) The Chief of Police shall, in accordance with the provisions of this code and law, have the management, control and supervision of the Police Department, its officers, members and assistants. He or she shall have custody and control of the offices, stations, equipment, books, records and other property belonging to the Department. He or she shall preserve the peace and secure good order and cleanliness within the city and to that end shall enforce this code, all laws and ordinances of the city and the orders of the Mayor and the Board of Public Works and Safety.

(B) The Chief of Police shall also:

(1) Cause a record to be made and kept of the proceedings, which he or she may deem necessary, and make a report, at least, annually to the Mayor and to the Board of Public Works and Safety;

(2) Recommend to the Board of Public Works and Safety members as candidates to the National Police Academy in the various other traffic or police schools;

(3) Be responsible for the efficiency, general good conduct and improvement of the police force;

(4) Keep exact lists of the personnel of the police force, specifying the time of admission, discharge and the age of each member, which he or she shall file with the Board of Public Works and Safety in an annual report to be furnished by him or her;

(5) Cause order to be preserved at meetings of the Common Council or Board of Public Works and Safety; and

(6) Perform other duties and functions consistent with his or her position which may be required of him or her. (1995 Code, § 2.30.050)

§ 34.017 EMPLOYEES AND ASSISTANTS.

At the request of the Board of Public Works and Safety, the Mayor and the Common Council may in the manner provided by law provide the positions and wages of other employees assigned to work with the Police Department. If not otherwise provided by law, the Mayor and the Board of Public Works and Safety may appoint or employ other employees and assistants to the Police Department who may assist, but who shall not be members of the police force. (1995 Code, § 2.30.060)

POLICE FORCE

§ 34.030 COOPERATION WITH DEPARTMENT OF LAW.

It shall be the duty of every police officer to cooperate with the Department of Law in investigating all actions or claims for or against the city. (1995 Code, § 2.30.070)

§ 34.031 APPOINTMENT-PROMOTION, DEMOTION AND THE LIKE.

Members of the police force shall be appointed by the Board of Public Works and Safety in accordance with the eligibility list compiled and adopted by the Police Merit Commission pursuant to §§ 34.080 through 34.099. Except as to those cases within the jurisdiction of the Police Merit Commission, the Board of Public Works and Safety shall have the power to promote, demote, remove, bind, suspend of penalize them in the manner provided by law. (1995 Code, § 2.30.080) (Ord. 0-03-0031, passed --2003)

§ 34.032 NUMBER.

The police force of the city shall consist of the Chief of Police and all other members in a number as the Board of Public Works and Safety shall appoint in the manner provided by law within the limits which the Common Council shall, from time to time, fix and provide. (1995 Code, § 2.30.090)

§ 34.033 POWERS AND DUTIES GENERALLY.

(A) It shall be the duty of the police force and the members thereof are at all times within the city specially empowered to suppress riots, mobs and insurrections; disburse unlawful and dangerous assemblages and assemblages which obstruct the free passage of public streets, sidewalks, parks and places; protect the rights of persons and property; guard the public health; preserve order at elections and public meetings; direct the movement of traffic; administer traffic rules; conduct investigations and make reports; remove all nuisances in public streets, sidewalks, parks or highways; arrest all street beggars and vagrants; provide proper police assistance at fires; assist, advise and protect strangers and travelers in public streets or at railroad stations; carefully observe and inspect dance houses, resorts and all places of business under license or required to have the same; suppress and restrain all houses of ill fame or prostitution and houses where common prostitutes resort or reside, all lottery or policy shops, all gambling houses, cockpits and all unlawful or disorderly conduct or practice; and enforce and prevent the violation of laws, the provisions of this code and the ordinances in force in the city.

(B) The members of the police force shall report immediately all dangerous public places and all cases of street light outages to the officer in charge of the station, who shall report the matter, in turn, to the Electric and Light Division; report to the station all defects in sidewalks, which shall, in turn, be reported through the Chief to the Supervisor of Public Works, and in cases of accident shall in the same manner cause them to be reported to the City Attorney together with the names and statements of witnesses of the accidents; and on observing or being informed of any opening or excavation in any public way, to require the persons making the opening or excavation or working therein to exhibit the authority or permission for the work. If none has been given by the proper authority, police officers shall without delay report the same to the station to be reported through the Chief to the Supervisor of Public Works. (1995 Code, § 2.30.100)

§ 34.034 CONDUCT.

(A) The Board of Public Works and Safety of the city shall adopt and publish rules and regulations for the conduct of all officers of the Department of Police, the rules and regulations having been adopted and published and, as shall be amended, shall have the same force and effect as if specifically included in this chapter.

(B) All complaints of citizens regarding officers and members of the police force shall be investigated promptly and thoroughly. The substance of all oral complaints and copies of written complaints received at the police stations and by the various bureaus, branches and sections of the service shall be forwarded promptly to the Chief of Police.

(C) For highly meritorious conduct approved by the Board of Public Works and Safety, members of the Police Department may be entitled to extra furloughs which shall be counted as time served on the force.

(D) Each police officer shall keep in good physical condition at all times and shall be available for emergency service at any time.

(E) The highest moral and exemplary conduct shall be required of all members of the police force, whether on active duty or not. (1995 Code, § 2.30.110)

§ 34.035 RESIGNATIONS-REAPPOINTMENTS.

No member of the police force shall, under penalty of forfeiting the pay which may be due him or her, withdraw or resign from the police force without sufficient cause, of which the Board of Public Works and Safety shall be the judge, unless he or she shall give ten days notice thereof to the Board. No person who shall have been removed for cause from the police force shall be reappointed to any position in the police force. (1995 Code, § 2.30.120)

§ 34.036 REPORTING AND ATTENDING FIRES.

It shall be the duty of any member of the police force who shall discover any fire consuming any building or in dangerous proximity thereto to give the fire alarm immediately and, afterward during the progress of any fire, to be present and assist in preserving order and in enforcing any orders of the Chief of the fire force. (1995 Code, § 2.30.130)

UNIFORMS AND EQUIPMENT

§ 34.050 UNIFORMS AND EQUIPMENT-FURNISHED BY CITY.

The city shall furnish uniforms and equipment for police officers as may be required by law. (1995 Code, § 2.30.140)

§ 34.051 AMMUNITION FOR POLICE DEPARTMENT FIREARMS-FURNISHED BY CITY.

Ammunition for all firearms to be used in the Police Department shall be furnished by the city without expense to the members of the police force. (1995 Code, § 2.30.150)

§ 34.052 STYLE AND DESIGN OF UNIFORMS-BADGES GENERALLY.

The style and design of the official police uniform and badge shall be prescribed by the Chief of Police and approved by the Board of Public Works and Safety. The badge shall be furnished by the city. All members upon suspension or upon leaving the force shall immediately deliver their badge to the Chief. No member shall transfer possession of his or her badge without proper authority. Any police officer who shall lose or destroy his or her badge shall be required to pay the cost of replacement.

(1995 Code, § 2.30.160)

POLICE DEPARTMENT DEATH BENEFITS

§ 34.065 GENERALLY.

The East Chicago Pension Fund created pursuant to the Police Pension Fund Act of 1925 shall pay benefits subject to the limitations provided by law, as set forth in this subchapter.

(1995 Code, § 2.31.010) (Ord. 0-95-0004, passed --1995)

§ 34.066 FUNERAL BENEFITS.

Funeral benefits are paid to the heirs or estate of an active or retired member of the City Police Department who has died from any cause, in the sum of $ 6,000.

(1995 Code, § 2.31.020) (Ord. 0-95-0004, passed --1995)

§ 34.067 PAYMENTS TO SURVIVING SPOUSE.

Payments to the surviving spouse of a deceased member of the City Police Department shall be as follows:

(A) To the surviving spouse of a member who dies before January 1, 1989, an amount equal to 50% of the monthly pay of a first class patrol officer per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983;

(B) To the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of:

(1) Fifty percent of the monthly pay of a first class patrol officer; or

(2) Fifty-five percent of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

(1995 Code, § 2.31.030) (Ord. 0-95-0004, passed --1995)

§ 34.068 PAYMENTS TO SURVIVING CHILDREN.

Payment shall be made to each child of a deceased member under the age of 18 years equal to 20% of the monthly pay of a first class patrol officer per month to each child:

(A) Until the child reaches the age of 18;

(B) Until the child reaches 23 years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(C) During the entire period of the child's physical or mental disability; whichever period is longer. (1995 Code, § 2.31.040) (Ord. 0-95-0004, passed --1995)

§ 34.069 OTHER BENEFITS PROVIDED BY LAW.

All other death benefits payable to a deceased member's estate, surviving spouse or dependents, including dependent parents, shall be made from the fund as provided by applicable law.
(1995 Code, § 2.31.050) (Ord. 0-95-0004, passed --1995)

POLICE MERIT COMMISSION

§ 34.080 DEFINITIONS.

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

COMMISSION. The merit commission for a merit system established under this subchapter.

DEPARTMENT. The Police Department of the city.
(I.C. 36-8-3.5-2) (Ord. 0-03-0031, passed--2003)

§ 34.081 ESTABLISHMENT AND COMPOSITION OF COMMISSION.

(A) (1) A Merit Commission consisting of five Commissioners is established for the Police Department. The Commissioners are:

(a) Two persons, who must be of different political parties, appointed by the city executive;

(b) One person appointed by the city legislative body; and

(c) Two persons, who must be of different political parties, elected by the active members of the Department.

(2) Notwithstanding I.C. 36-1-8-10, political affiliation shall be determined through the voters' registration records of the three most recent primary elections.

(B) Each Commissioner must have been a legal resident of the city for three consecutive years immediately preceding the Commissioner's term and must be a person of good moral character. The legislative body may, upon the recommendation of the Board of Public Works and Safety, determine a per diem to be paid to each Commissioner for each day of actual service for the Commission. A Commissioner must be at least 21 years of age. A Commissioner may not be an active member of a Police or Fire Department or city agency and not more than two of the Commissioners may be past members of a Police or Fire Department or city agency. In addition, a person may not serve on the Commission if the person receives any remuneration as salary from the city.

(C) Each Commissioner shall take an oath of office to conscientiously discharge the Commissioner's duties. A signed copy of the oath shall be filed with the Board of Public Works and Safety. (I.C. 36-8-3.5-6) (Ord. 0-03-0031, passed--2003)

§ 34.082 COMMISSIONERS-TERMS-TENURE.

(A) The term of a Commissioner is four years. However, one of the executive's initial selections and one of the Department's initial selections are for terms of two years.

(B) A vacancy on the Commission shall be filled within 30 days by the appointing or electing authority. The selection is for the remainder of the unexpired term.

(C) A Commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. In the case of a Commissioner elected by the Department, the Board of Public Works and Safety shall call a meeting of the active members of the Department under the procedures specified in division (D) below of this section if a recall petition signed by a majority of the active members is submitted to the Board.

(D) The Board of Public Works and Safety of the city shall give at least three weeks' notice to all active members of the Department that a meeting will be held to approve or reject the recall petition. The notice shall be given by posting it in prominent places in all stations of the Department. The notice must designate the time, place and purpose of the meeting. A copy of the petition shall be distributed to each active member of the Department at least one week before the date of the meeting. Only active members of the Department may attend the meeting, and at the meeting one of them shall be selected as Chairperson. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the Board of Public Works and Safety and shall be posted in the same manner as the notice of the meeting.
(I. C. 36-8-3. 5-7) (Ord. 0-03-0031 , passed --2003)

§ 34.083 ELECTIONS-MEETINGS-NOTICE.

(A) An election to be made by the active members of the Department shall be made at a meeting called specifically for that purpose by the Board of Public Works and Safety. The Board shall give at least three weeks' notice of the meeting to all active members of the Department by posting the notice in prominent locations in stations of the Department. The notice shall also be read during shift roll calls. The notice must designate the time, place and purpose of the meeting.

(B) Only active members of the Department may attend the meeting, and at the meeting one of them shall be selected as Chairperson. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the Board of Public Works and Safety and shall be posted in accordance with division (A) above.
(I.C. 36-8-3.5-8) (Ord. 0-03-0031, passed--2003)

§ 34.084 RULES GOVERNING COMMISSION-TRANSACTION OF BUSINESS-SELECTION OF OFFICERS-RECORDS-BUDGET.

(A) Within 30 days after the Commission is selected, the Commission shall adopt rules to govern the Commission, including the time and place of regular monthly meetings and special meetings that are necessary to transact the business of the Commission. A majority of the Commissioners constitutes a quorum, and a majority vote of all the Commissioners is necessary to transact the business of the

Commission. Each year the Commissioners shall select from among their number a President, Vice-President and Secretary. The Commission shall keep a permanent record of its proceedings.

(B) The Commission shall submit a proposed annual budget to the city as other budgets of the city are submitted. The legislative body shall include in its budget an amount sufficient for the necessary expenses of the Commission.

(I.C. 36-8-3.5-9) (Ord. 0-03-0031, passed--2003)

§ 34.085 RULES-ADOPTION-NOTICE AND HEARING.

(A) Within 90 days after the Commission is selected, the Commission shall adopt rules governing:

(1) The selection and appointment of persons to be employed as members of the Department, subject to applicable pension statutes;

(2) Promotions and demotions of members of the Department; and

(3) Disciplinary action or dismissal of members of the Department.

(B) Before the rules required by this subchapter are adopted by the Commission, the Commission must hold a public hearing to consider the adoption of the proposed rules. At least ten days before the public hearing, the Commission must have a notice of the hearing published in accordance with I.C. 5-3-1. The notice must state the time and place of the hearing and give briefly the subject matter of the proposed rules.

(C) At least ten days before the hearing, one copy of the proposed rules must be placed on file in the office of the City Clerk for inspection by residents of the city.

(D) At least ten days before the hearing, three copies of the proposed rules must be forwarded to the Chief of the Department and retained on file in his or her office for inspection at all times by members of the Department.

(E) At the hearing any interested person of the city and any member of the Department must be afforded an opportunity to present both oral and written evidence on any matter relating to the adoption of the proposed rules. The Commission shall give due consideration to this evidence in making its final decision concerning the adoption of the proposed rules.

(I.C. 36-8-3.5-10) (Ord. 0-03-0031, passed--2003)

§ 34.086 DEPARTMENT MEMBERS-TENURE-CHIEF-APPOINTMENT AND QUALIFICATIONS.

(A) The Commission may appoint and remove members of the Department, except for a member in an upper level policymaking position. The executive of the city shall appoint and may remove a member in an upper level policymaking position.

(B) To be appointed Chief or Deputy Chief of the Police Department, an applicant must meet the qualifications in I. C. 36-8-4-6. 5.

(C) The removal of a member from an upper level policymaking position is removal from rank only and not from the Department. When the member is removed, he or she shall be appointed by the

Commission to the rank in the Department that he or she held at the time of his or her upper level appointment or to any rank to which he or she had been promoted during his or her tenure in the upper level position. If a rank is not open in either case, the member is entitled to the pay of that rank and shall be promoted to that rank as soon as an opening is available.

(I.C. 36-8-3.5-11) (Ord. 0-03-0031, passed--2003)

§ 34.087 DEPARTMENT MEMBERS-APPOINTMENT-QUALIFICATIONS-APPLICATIONS-GENERAL APTITUDE TEST-RATINGS-ELIGIBILITY LIST-VACANCIES-PHYSICAL AGILITY TEST-PROBATION.

(A) (1) To be appointed to the Department, an applicant must be:

(a) A citizen of the United States;

(b) A high school graduate or equivalent; and

(c) At least 21 years of age, but under 36 years of age.

(2) However, the age requirements do not apply to a person who has been previously employed as a member of the Department.

(B) A person may not be appointed, reappointed or reinstated if he or she has a felony conviction on his or her record.

(C) Applications for appointment or reappointment to the Department must be filed with the Commission. The applicant must produce satisfactory proof of the date and place of his or her birth.

(D) (1) Applicants for appointment or reappointment to the Department must pass the general aptitude test required under I. C. 36-8-3.2-3 or 36-8-3.2-3.5. The general aptitude test shall:

(a) Reflect the essential functions of the job;

(b) Be conducted according to procedures adopted by the Commission; and

(c) Be administered in a manner that reasonably accommodates the needs of disabled applicants.

(2) The results of the general aptitude test shall be filed with the Commission. If the Commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(E) The applicants shall then be rated on the selection criteria and testing methods adopted by the Commission, which may include mental alertness, character, habits and reputation. The Commission shall adopt rules for grading the applicants, including the establishment of a passing score. The Commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the Board of Public Works and Safety.

(F) If an applicant for original appointment reaches his or her thirty-sixth birthday, his or her name shall be removed from the eligibility list. Applicants remain on the list for two years from the date of certification. After two years, a person may reapply as an applicant.

(G) When a vacancy occurs in the Department, the Commission, upon a written request of the Chief of the Department, shall administer the physical agility test under I.C. 36-8-3.2-3 or 36-8-3.2-3.5 to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member of the Department to fill the vacancy if:

(1) The applicant is still of good character; and

(2) The applicant passes the required examinations identified in I.C. 36-8-3.2-6 and 36-8-8-19.

(H) All appointments are probationary for a period not to exceed one year. If the Commission finds, upon the recommendation of the Department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the Commission shall notify him or her in writing that he or she is being reprimanded, that he or she is being suspended, or that he or she will not receive a permanent appointment. If a member is notified that he or she will not receive a permanent appointment, his or her employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

(I.C. 36-8-3.5-12) (Ord. 0-03-0031, passed--2003)

§ 34.088 PROMOTIONS-RULES-REQUISITES-ELIGIBILITY LIST.

(A) (1) Rules governing promotions must provide that the following factors be considered in rating a member of the Department for a promotion:

(a) The score received by the member on a written competitive examination;

(b) The score received by the member on an oral competitive interview;

(c) The performance record of the member in the Department; and

(d) The member's length of service.

(2) The Commission shall determine the weight to be given to each of the factors. However, neither a member's length of service nor the score received on the oral interview may comprise more than 20% each of the rating.

(B) Promotions to a rank must be from the next lower rank. In addition, the member being promoted must have served at the lower rank for a period determined by the Commission.

(C) Only members who are qualified in rank and length of service may be given the competitive examinations and placed on an eligibility list. The eligibility list for a position consists of members who have been placed on the list in order of their cumulative score on all rating factors. The eligibility list shall be maintained for two years from the date of certification, after which time the list shall be retired and a new list established. The retired list shall be kept for five years and then destroyed.

(I.C. 36-8-3.5-13) (Ord. 0-03-0031, passed--2003)

§ 34.089 PROMOTIONS-COMPETITIVE EXAMINATIONS-PROCEDURES.

(A) Before a written competitive examination may be held to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from

which the questions will be taken. The Commission may employ instructors, purchase materials and make other expenditures to provide information for applicants for promotion examinations.

(B) The identity of a member taking the written examination shall be withheld from the person or persons grading the examination and all written examinations are confidential. The Commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

(C) The examination papers shall be kept under the Commission's supervision. A member who is aggrieved with the score received on the written examination may appeal to the Commission for review of the score. The appeal must be filed within ten days after notice of the score has been sent to him or her. He or she may review the questions incorrectly answered by him or her and challenge the answer considered correct by the examiner. The Commission shall either affirm the score or correct the score according to the findings of a review. The examination papers shall be retired after the two year period during which the eligibility list is valid. The retired papers shall be kept for five years and then destroyed.
(I.C. 36-8-3.5-14) (Ord. 0-03-0031, passed--2003)

§ 34.090 PERFORMANCE RATINGS-RULES-APPEAL.

(A) The Commission shall adopt rules for determining a performance rating. The rules must require that a performance rating be made at least once every six months for each member of the Department, including probationary members. The rating shall be made by one or more of the member's superiors, as defined in the Commission's rules. Probationary members shall be rated in the same manner as other members of the Department. The ratings shall be submitted to the Chief of the Department and kept on file in his or her office under his or her supervision. The Chief shall notify each member in writing of the rating that the member received.

(B) A member who is aggrieved with the performance rating given to him or her by his or her superior may appeal to the Commission for a review of the rating. The appeal must be filed within ten days after notice of the rating has been sent to him or her. The Commission shall either affirm or correct the rating. (I.C. 36-8-3.5-15) (Ord. 0-03-0031, passed--2003)

§ 34.091 PROMOTIONS-CERTIFICATION OF ELIGIBLE MEMBERS-PROBATION-PROCEDURES.

(A) When a vacancy in rank occurs, the Commission shall certify to the Chief of the Department the three members with the highest scores on the eligibility list for that particular rank. Within six months the Commission, upon the recommendation of the Chief, shall promote one of those members to fill the vacant position.

(B) All promotions are probationary for a period not to exceed one year. At the end of the period, a probationary member's superior shall review the member's performance and recommend to the Commission that:

(1) The promotion be made permanent; or

(2) The promotion be revoked.

(C) The Commission shall prepare a rating chart for the superior's use in making the report. The Commission shall review the report and decide what action should be taken. The probationary member is

entitled to appear before the Commission and be heard on any matter detrimental to him or her in his or her superior's report. He or she is also entitled to be represented by counsel or another representative of his or her choice. If the promotion is finally revoked the member may not be returned to a rank lower than that he or she held before the probationary promotion.

(D) Actions by the Commission other than making the promotion permanent may be appealed within 30 days to the Circuit or Superior Court of the county, with the city being named as the sole defendant. (I.C. 36-8-3.5-16) (Ord. 0-03-0031, passed--2003)

§ 34.092 DISCIPLINARY ACTIONS-GROUNDS-HEARING-NOTICE-REQUISITES-PROCEDURES-APPEALS.

(A) (1) The Commission may take the following disciplinary actions against a regular member of the Department:

(a) Suspension with or without pay;

(b) Demotion; or

(c) Dismissal.

(2) If a member is suspended under this division, the member is entitled to the member's remuneration and allowances for insurance benefits to which the member was entitled before the suspension. In addition, the city may provide the member's allowances for any other fringe benefits to which the member was entitled before the suspension. The Commission shall determine if a member of the Department who is suspended in excess of five days shall continue to receive the member's salary during suspension.

(B) A member may be disciplined by the Commission if:

(1) The member is convicted of a crime; or

(2) The Commission finds the member guilty of a breach of discipline, including:

(a) Neglect of duty;

(b) Violation of Commission rules;

(c) Neglect or disobedience of orders;

(d) Continuing incapacity;

(e) Absence without leave;

(f) Immoral conduct;

(g) Conduct injurious to the public peace or welfare;

(h) Conduct unbecoming a member; or

(i) Furnishing information to an applicant for appointment or promotion that gives that person an advantage over another applicant.

(C) If the Chief of the Department, after an investigation within the Department, prefers charges against a member of the Department for an alleged breach of discipline under division (B) above, including any civilian complaint of an alleged breach of discipline under division (B)(2)(f), (B)(2)(g) or (B)(2)(h) above, a hearing shall be conducted upon the request of the member. If a hearing is requested within five days of the Chief preferring charges, the parties may by agreement designate a hearing officer who is qualified by education, training or experience. If the parties do not agree within this five-day period, the Commission may hold the hearing or designate a person or Board to conduct the hearing, as provided in the Commission's rules. The designated person or Board must be qualified by education, training or experience to conduct a hearing and may not hold an upper level policy making position. The hearing conducted under this division shall be held within 30 days after it is requested by the member.

(D) Written notice of the hearing shall be served upon the accused member in person or by a copy left at the member's last and usual place of residence at least 14 days before the date set for the hearing. The notice must state:

(1) The time and place of the hearing;

(2) The charges against the member;

(3) The specific conduct that comprises the charges;

(4) The member is entitled to be represented by counsel or another representative of the member's choice;

(5) The member is entitled to call and cross-examine witnesses;

(6) The member is entitled to require the production of evidence; and

(7) The member is entitled to have subpoenas issued, served and executed.

(E) The Commission may:

(1) Compel the attendance of witnesses by issuing subpoenas;

(2) Examine witnesses under oath; and

(3) Order the production of books, papers and other evidence by issuing subpoenas.

(F) If a witness refuses to appear at a hearing of the Commission after having received written notice requiring the witness's attendance, or refuses to produce evidence that the Commission requests by written notice, the Commission may file an affidavit in the Circuit Court of the county setting forth the facts of the refusal. Upon the filing of the affidavit, a summons shall be issued from the Circuit Court and served by the Sheriff of the county requiring the appearance of the witness or the production of information or evidence to the Commission.

(G) Disobedience of a summons constitutes contempt of the Circuit Court from which the summons has been issued. Expenses related to the filing of an affidavit and the issuance and service of a summons shall be charged to the witness against whom the summons has been issued, unless the Circuit

Court finds that the action of the witness was taken in good faith and with reasonable cause. In that case, and in any case in which an affidavit has been filed without the issuance of a summons, the expenses shall be charged to the Commission.

(H) A decision to discipline a member may be made only if the preponderance of the evidence presented at the hearing indicates that course of action.

(I) A member who is aggrieved by the decision of a person or Board designated to conduct a disciplinary hearing under division (C) above may appeal to the Commission within ten days of the decision. The Commission shall on appeal review the record and either affirm, modify or reverse the decision on the basis of the record and oral or written testimony that the Commission determines, including additional or newly discovered evidence.

(J) The Commission, or the designated person or Board, shall keep a record of the proceedings in cases of suspension, demotion or dismissal. The Commission shall give a free copy of the transcript to the member upon request if an appeal is filed.
(I.C. 36-8-3.5-17) (Ord. 0-03-0031, passed--2003)

§ 34.093 APPEAL TO COURT-SUSPENSION OR DISMISSAL-PRECEDENCE.

(A) A member who is aggrieved by a decision of the Commission to suspend him or her for a period greater than ten calendar days, demote him or her, or dismiss him or her may appeal to the Circuit or Superior Court of the county in which the unit is located.

(B) The appeal shall be made according to the state rules of trial procedure with the following exceptions:

(1) The verified appeal must be filed within 30 days after the date of the Board's decision;

(2) The city shall be named as the sole defendant;

(3) The city is assumed to have denied the allegations without filing a responsive pleading;

(4) The plaintiff must file a bond at the time of filing the complaint conditioned on the plaintiff prosecuting the appeal to a final determination and paying the court costs incurred in the appeal; and

(5) Within 30 days after the service of summons the Commission shall file in court a complete transcript of all papers, entries and other parts of the record relating to the case.

(C) The appeal takes precedence over other litigation pending before the court.
(I.C. 36-8-3.5-18) (Ord. 0-03-0031, passed--2003)

§ 34.094 SUMMARY DISCIPLINARY ACTIONS-REPRIMAND OR SUSPENSION.

(A) In addition to the disciplinary powers of the Commission, the Chief of the Department, may, without a hearing, reprimand or suspend without pay a member, including a police radio or signal alarm operator or a fire alarm operator, for a maximum of five working days.

(B) If a Chief reprimands a member in writing or suspends a member, he or she shall, within 48 hours, notify the Commission in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within 48 hours after receiving notice of the reprimand or suspension, request in writing that the Commission review the reprimand or suspension and either uphold or reverse the Chiefs decision. At its discretion, the Commission may hold a hearing during this review. If the Board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least 14 days before the date set for the hearing. The notice must contain the information listed under § 34.092(0) of this subchapter. If the decision is reversed, the individual who was suspended is entitled to any wages withheld as a result of the suspension.

(I.C. 36-8-3.5-19) (Ord. 0-03-0031, passed--2003)

§ 34.095 RETIREMENT AGE.

A member of the Department shall retire from the Department when he or she reaches his or her seventieth birthday. However, a member of the Department who is 70 years of age or older at the time the subchapter establishing the merit system takes effect may serve until the end of the calendar year.

(I.C. 36-8-3.5-20) (Ord. 0-03-0031, passed--2003)

§ 34.096 TEMPORARY LEAVE OF ABSENCE-SENIORITY-REINSTATEMENT.

(A) If it is necessary for the Board of Public Works and Safety to reduce the number of members of the Department, the reduction shall be made by granting a temporary leave of absence, without pay or financial obligation to the city, to the appropriate number of members. The last member appointed shall be put on leave first, with other members also put on leave in reverse hiring order, until the desired level is achieved.

(B) If the Department is increased in number again, the members of the Department who have been granted leaves of absence under this section shall be reinstated before an applicant on the eligibility list is appointed to the Department. The reinstatements begin with the last member granted a leave.

(C) A member on leave of absence shall keep the Commission advised of his or her current address. A member shall be informed of his or her reinstatement by written notice. Within ten calendar days after a member receives notice of reinstatement, he or she must advise the Commission that he or she accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon his or her failure to accept reinstatement within that period. (I.C. 36-8-3.5-21) (Ord. 0-03-0031, passed--2003)

§ 34.097 RULES-PRINTING-COPIES TO DEPARTMENT MEMBER.

The Department shall print all rules of the Commission and furnish a copy to each member of the Department. Amendments to the rules take effect 30 days after their adoption if copies have been furnished to all members of the Department within that period. Otherwise, they do not take effect until copies are furnished to all members of the Department. (I.C. 36-8-3.5-22) (Ord. 0-03-0031, passed--2003)

§ 34.098 OFFENSE-FURNISHING INFORMATION TO APPLICANTS.

A Commissioner who knowingly furnishes information to an applicant for original appointment or to a member eligible for promotion that gives that person an advantage over another person commits a Class D felony. (I.C. 36-8-3.5-23) (Ord. 0-03-0031, passed--2003)

§ 34.099 PRIOR RANKS AND GRADES UNDISTURBED.

All members of the Department are entitled to the same ranks and pay grades the members held under the prior system in effect as of the effective date of the merit system prescribed herein, subject to changes made in accordance with this subchapter. (I.C. 36-8-3.5-1(d)) (Ord. 0-03-0031, passed--2003)

CHAPTER 35: FIRE DEPARTMENT

Section

General Provisions

35.001 Jurisdiction and control
35.002 Division of Department of Public Safety- composition
35.003 Secretary to Fire Department
35.004 Employees, assistants- generally
35.005 Commanding officers

Chief

35.020 Appointment- qualifications
35.021 Powers and duties

Firefighters

35.035 Duties
35.036 Appointment, demotion, resignation
35.037 Fire force- training
35.038 Fire force- residency requirements for members
35.039 Fire force- ranks
35.040 Fire force- outside interests
35.041 Officer absence or disability- assumption of duties
35.042 Standards of conduct for members of fire force
35.043 Uniforms- equipment
35.044 Efficiency ratings and merit roll- rewards for meritorious service
35.045 Firefighters' Pension Fund
35.046 Vacations
35.047 Work schedules- working during emergencies
35.048 Sleeping hours when on duty- exceptions
35.049 False reports regarding members of fire force

Equipment

35.060 Returning equipment of other fire companies
35.061 Care of fire hose
35.062 Care of city property
35.063 Obstruction to fire hydrants

Requests for Assistance

35.075 Requests for assistance generally
35.076 Police assistance
35.077 Assisting police upon request

Fire Prevention Bureau

35.090 Established- supervision- purpose

35.091 Chief of Fire Prevention Bureau
35.092 Records
35.093 Inspections
35.094 Duties of fire inspector
35.095 Report of structural instabilities of buildings
35.096 Notice of hazards to owner, occupant and the like- compliance with order to remedy violations
35.097 Investigations

Fire Station

35.110 Person allowed to occupy fire stations
35.111 Gambling prohibited
35.112 Sanitary conditions required
35.113 Disturbances, noise prohibited

Creation and Reimbursement of Hazardous Materials (Haz-Mat) Response Team

35.125 Created
35.126 Haz-Mat Team response- reimbursement responsibility
35.127 Clean- up contractors- reimbursement responsibility
35.128 Billing responsibility

Civil Service Commission- Fire Department

35.130 Jurisdiction
35.131 Membership
35.132 Duties
35.133 Existing rank- promotion
35.134 Investigations
35.135 Roster
35.136 Meetings
35.137 Lawsuits
35.138 Chief Examiner

Personnel

35.150 Fire Chief
35.151 Assistant Fire Chief
35.152 Fire Prevention Bureau
35.153 District Chiefs
35.154 Captains
35.155 Chauffeurs
35.156 Temporary vacancies
35.157 Firefighters
35.158 Job description- firefighter

General Rules

35.170 Jurisdiction
35.171 Members shall become familiar with all laws, ordinances, etc.

35.172 Prohibited while in uniform
35.173 Members conduct- duties and orders
35.174 Members conduct with fellow members
35.175 Promptly respond
35.176 Uniform- days off, under suspension and leave of absence
35.177 Responding to alarms with regulation clothing
35.178 Change of contact information
35.179 Report loss of badge, book, or equipment
35.180 Replacing loss of badge
35.181 Responsible for safe keeping and care of department property
35.182 Notification of damaged or misused hydrants and alarm boxes
35.183 Drugs and narcotics
35.184 Reporting to Fire Prevention Bureau
35.185 Permission to be absent
35.186 Relating information to outside persons
35.187 Prohibit damaging of department property
35.188 Temporary and temporary permanent fill-ins
35.189 Responsibility of turn to upkeep hose at designated time
35.190 Prohibit lending of badges
35.191 Statements concerning accidents or collisions
35.192 Uniform- public transportation
35.193 Department public address system for department use only
35.194 Non-use of beds before designated time
35.195 Prohibit toll calls from department telephone
35.196 Upkeep of beds
35.197 Department business directed to Fire Chief or secretary to the Fire Chief
35.198 Training held and attended in prescribed locations
35.199 When reporting for tour of duty
35.200 Nondiscrimination policy
35.201 Members shall not belong to groups that divide loyalty or seek to subvert city, state, federal government, etc.
35.202 Subject to service in and outside of the city
35.203 Prohibit use of fire department name for personal gain
35.204 Prohibit receiving accepting gifts for services
35.205 Smoking
35.206 Prohibit gambling
35.207 Tardiness- present until relieved
35.208 Shall not be unnecessarily disturbed while sleeping
35.209 Prohibit horseplay
35.210 Trading days
35.211 Visitation
35.212 Rules and regulations governing one station govern companies filling-in at station
35.213 Uniform- public gathering
35.214 Unofficial activities or representation
35.215 Condemned clothing
35.216 Use of showers
35.217 Annual hose test
35.218 Uniform- dress coats
35.219 Uniform- name affixed
35.220 Removing of department, equipment, tools, etc.

35.221 Tampering or adjustments on precision equipment
35.222 Relieve assigned partner at designated time
35.223 Uniform- National Colors and Anthem
35.224 Unlawful orders
35.225 Unlawful order procedures

Uniforms

35.240 Uniforms- members of the active force
35.241 Uniforms- regulation attire- inspection- replacement
35.242 Regulation buttons, badges, etc.
35.243 Insignia denoting rank
35.244 Prescribed attire
35.245 In uniform to and from work
35.246 Uniform- through the year
35.247 Work clothes
35.248 Firefighting clothing
35.249 Prescribed attire directed by Fire Chief
35.250 Hid feet- Physician's written note to wear socks
35.251 Uniforms damaged in the line of duty
35.252 Full dress inspections

Personal Appearance

35.265 Firefighter's personal appearance at all times
35.266 Maintain high standard of personal hygiene

Special Rules

35.275 Report inability to report for duty
35.276 Procedures to report off
35.277 Funeral leave
35.278 Officers of the Union excused to attend meetings, etc.

Penalty

35.290 Suspension without pay
35.291 Rule- time limitation on charges

GENERAL PROVISIONS

§ 35.001 JURISDICTION AND CONTROL.

(A) The Board of Public Works and Safety shall have jurisdiction and control over all matters and property relating to or connected with the Fire Department.

(B) The Board of Public Works and Safety shall adopt and pass additional and supplemental rules and regulations as may be necessary from time to time for the efficient management and control of the Fire Department. (1995 Code, § 2.20.010)

§ 35.002 DIVISION OF DEPARTMENT OF PUBLIC SAFETY-COMPOSITION.

The fire force of the city shall be a separate division of the Department of Public Safety under the jurisdiction of the Board of Public Works and Safety. It shall not be a separate executive department, but for historical and practical reasons shall continue to be referred to and be named as the Fire Department. The Fire Department shall consist of a Chief of the Fire Department and other offices, positions, ranks and bureaus enumerated in this chapter of which may be authorized, from time to time, by the Board of Public Works and Safety or the Common Council. (1995 Code, § 2.20.020)

§ 35.003 SECRETARY TO FIRE DEPARTMENT.

There shall be a Secretary of the Fire Department who shall preserve and keep all books, records and papers belonging to the Department in a manner that they may be open to inspection of the Board of Public Works and Safety, the proper committee of the Common Council or the Mayor. The Secretary shall perform other duties for the division which are assigned to him or her by the Chief.
(1995 Code, § 2.20.030)

§ 35.004 EMPLOYEES, ASSISTANTS-GENERALLY.

At the request of the Board of Public Works and Safety, the Mayor and the Common Council may, in the manner provided by law, provide the positions and wages of other employees assigned to work with the Fire Department such as clerks, stenographers, mechanics, operators and others. If not otherwise provided by law, the Mayor may employ other employees and assistants to the Fire Department, who may assist but shall not be members of the fire force. (1995 Code, § 2.20.040)

§ 35.005 COMMANDING OFFICERS.

There shall be an Assistant Chief, Captains, Lieutenants and Inspectors in numbers provided by this code or other ordinance of the city. When not otherwise provided by this chapter, the duties of the commanding officers shall be governed by the rules of the Fire Department as adopted and published by the Board of Public Works and Safety. The rules may also establish ranks based upon qualification and length of service. Requirements of law, if any, shall be followed in making promotions.
(1995 Code, § 2.20.050)

CHIEF

§ 35.020 APPOINTMENT -QUALIFICATIONS.

The Chief of the fire force shall be appointed by the Mayor and shall serve at his or her pleasure. He or she shall meet the eligibility requirements provided by law. (1995 Code, § 2.20.060)

§ 35.021 POWERS AND DUTIES.

The Chief of the Fire Department shall have the management, command, direction and control of the Fire Department and emergency medical services, and control over all matters relating thereto, subject to the rules and regulations of the city, the provisions of law and this chapter. The Chief shall also:

(A) Have the sole command at fires over all other persons, and shall take all proper measures for the prevention or extinguishment of fires, the protection of life and property, the preservation of order and shall cause the provisions of law, of this chapter and regulations of the Fire Department to be observed;

(B) Examine the condition of all fire stations, engines and other apparatus belonging to the city and used for the purposes of the fire force and report thereon annually or as often as circumstances render it expedient or when directed by the Mayor, Board of Public Works and Safety or the Common Council;

(C) Report to the Board of Public Works and Safety whenever any of the buildings, apparatus or alarms used for the purposes of the fire force require any alterations, additions, repairs or replacements;

(D) Keep exact lists of his or her personnel and respective companies specifying the time of admission and discharge, the age and full status of each member, which he or she shall report to the Board and in an annual report to be published in a manner as the Common Council may direct or request;

(E) Report all accidents by fire which may happen within the city, with the cause thereof as well as can be ascertained and the number and description of buildings destroyed or injured, together with the names of the owners or occupants;

(F) Require strict training and schooling of the members of the force in firefighting, fire prevention, first aid, lifesaving and other relevant subjects;

(G) Keep abreast of the times and be conversant with the newest and most modem scientific methods of fire prevention, fire extinguishment and lifesaving; and make necessary plans and suggestions for the constant improvement of the fire force for the protection of lives and property in the city; and

(H) Require persons in charge of public, private and parochial schools and educational institutions to have regular fire drills. (1995 Code, § 2.20.070) (Ord. 0-06-0011, passed 6-12-2006)

FIREFIGHTERS

§ 35.035 DUTIES.

(A) It shall be the duty of the firefighters of the several companies to see that the machines and equipment committed to their charge, and the buildings in which they are deposited and all things in and belonging to the same are kept neat and clean and in order for immediate use. It shall be their duty to preserve order and discipline at all times in their respective companies, and to require and enforce strict compliance with this chapter and the rules and regulations of the Board of Public Works and Safety concerning the Fire Department.

(B) At all times when on duty, whether at their stations or at fires, all members of the several companies shall remain near the apparatus to which they are respectively assigned unless they shall be otherwise engaged or are specially excused by a superior officer.

(C) It shall be the duties of the officers and members of the several companies whenever a fire shall break out in the city to go forthwith to their respective fire apparatus and convey them to the place of the fire as speedily and in as orderly a manner as possible and in conformity with the directions of the Chief or other officers in command, to exert themselves in the most orderly manner possible in working and managing the engines, hose, hook and ladder and other apparatus belonging to each company,

respectively, and in performing any duty they may be called upon to do by the Chief of his or her assistants. Upon permission of the Chief or other commanding officers, each company shall, in an orderly and quiet manner, return the machinery and other apparatus to their respective stations; provided, that in the absence of the Chief or his or her assistant, the Mayor, if present, may designate one of the Captains to act as Chief for the time being. (1995 Code, § 2.20.080)

§ 35.036 APPOINTMENT, DEMOTION, RESIGNATION.

(A) Members of the Fire Department shall be appointed exclusively by the Board of Public Works and Safety. Applicants for membership in the city fire force shall have reached their twenty-first birthday. The Board shall also have exclusive power to promote and demote members of the fire force and to remove, fine, suspend or penalize them in the manner provided by law.

(B) No member of the Fire Department, under penalty of forfeiture of the salary or wages which may be due him or her, shall withdraw or resign from the Department without sufficient cause, of which the Board of Public Works and Safety shall be the judge, unless give ten days' notice thereof to the Board and no person who shall have been removed for cause from the fire force shall be reappointed to any position in the fire force.

(C) Whenever any member shall be permanently separated from the fire force, he or she shall immediately deliver his or her badge and all other city property in his or her possession to the proper officer. (1995 Code, § 2.20.090) (Ord. 3183, passed--1978)

§ 35.037-FIRE FORCE-TRAINING.

The members of the fire force shall attend school and be instructed in firefighting, first aid and fire prevention for periods in each year which, in the judgment of the Chief, may be necessary for the proper training of the fire force. (1995 Code, § 2.20.100)

§ 35.038 FIRE FORCE-RESIDENCY REQUIREMENTS FOR MEMBERS.

Members of the fire force shall reside within the city, unless otherwise expressly permitted by law. If law permits a member of the fire force to reside outside the city, he or she shall hold no rank higher than that of a firefighter first class while he or she remains a nonresident. (1995 Code, § 2.20.110)

§ 35.039 FIRE FORCE-RANKS.

(A) *First class firefighter.* From and after January 8, 1974, the rank of firefighter on the city fire force shall be designated as first class firefighter.

(B) *Master firefighter.* There is created the rank of master firefighter on the city fire force. Master firefighters shall be appointed by the Board of Public Works and Safety upon the recommendation of the Chief of the fire force. A master firefighter shall be any first class firefighter who has successfully met the following requirements:

(1) He or she has more than three years service with the city fire force, including any probationary period;

(2) He or she has successfully completed instructions in basic firefighting techniques under the supervision of the drill master;

(3) He or she has passed an oral examination testing his or her proficiency and knowledge of firefighting techniques conducted by the Chief, drill master and a captain; and

(4) He or she has not been disciplined for a violation of the rules and regulations for the past year.

(C) *Order of ranks.* The rank of master firefighter shall be the next higher rank above first class firefighter and the next lower rank before chauffeur. (1995 Code, § 2.20.120)

§ 35.040 FIRE FORCE-OUTSIDE INTERESTS.

(A) Every member of the fire force shall devote his or her entire time to the business of the fire force, and no regular, temporary or special member of the fire force shall engage in or be engaged or interested in, directly or indirectly, any other business, enterprise, profession or occupation.

(B) This provision, considered highly essential to the best public interest, shall be strictly complied with and shall be rigidly enforced. Any regular, temporary or special member of the fire force who shall violate any provision of this section shall be liable to removal in the manner provided by law. (1995 Code, § 2.20.130)

§ 35.041 OFFICER ABSENCE OR DISABILITY-ASSUMPTION OF DUTIES.

In case of absence or disability of any officer of the fire force, all the power and authority of the officer shall devolve upon the officer next in rank, unless the vacancy shall be filled by direct or temporary appointment. (1995 Code, § 2.20.140)

§ 35.042 STANDARDS OF CONDUCT FOR MEMBERS OF FIRE FORCE.

(A) All members of the fire force shall always be on duty for the purpose of discipline and they shall not enter places where intoxicating liquors are sold while dressed in Fire Department uniform. No member of the Fire Department shall loiter about taverns or clubs or drink parlors or other places where intoxicating liquors are kept. No member shall bring or drink intoxicating liquors of any kind in the quarters or on the premises or be a party to any proceeding or be under the influence of liquor while on duty. Each member of the fire force shall keep in good physical condition at all times and shall be available for emergency service at any time.

(B) The highest moral and exemplary conduct shall be required of all members of the fire force whether on active duty or not. No member of the fire force shall be guilty of improper conduct at any time.

(C) Members of the fire force shall conform to and promptly and cheerfully obey all laws, rules and regulations and orders, whether general or special, for the government of the fire force or Fire Department. Obedience to the orders of a superior in rank must be faithfully observed and any member offending in this regard will be held strictly accountable where the superior officer had the right to give the order, unless the same has been countermanded by the Chief or his or her assistant. (1995 Code, § 2.20.150)

§ 35.043 UNIFORMS-EQUIPMENT.

Every member of the Fire Department, while on duty, shall wear the prescribed uniform of the force in a clean and neat condition. Every member, while on duty, shall wear a suitable helmet and badge and insignia of office upon his or her uniform, which badge and the like, shall be furnished by the city and prescribed by the Chief and approved by the Board of Public Works and Safety and shall wear no other badge, device, button or insignia on any part of the uniform save and except when authorized by the Board of Public Works and Safety. Every member shall while in the street in uniform keep his or her coat buttoned up all times and his or her shoes cleaned and polished. Any member who loses, damages or destroys his or her badge shall be required to pay the cost of replacement. (1995 Code, § 2.20.160)

§ 35.044 EFFICIENCY RATINGS AND MERIT ROLL-REWARDS FOR MERITORIOUS SERVICE.

(A) The Fire Chief, subject to the approval of the Board of Public Works and Safety, shall establish and maintain a uniform system for ascertaining and recording the individual efficiency of each member of the uniformed service. The system shall be as nearly automatic as possible and its application shall be uniform throughout the force. Efficiency reports of members of the uniformed service of the fire force shall be submitted to the Board not later than December 15 of each year.

(B) It shall be the duty of the Fire Chief to cause a record to be kept, to be known as the merit roll, upon which shall be entered the names of all the members of the fire force who shall have performed any distinguishing acts of bravery in the protection of life or property or any exceptionally meritorious work. The record shall specify the details and circumstances of the acts, the names of witnesses, if any, and all corroborating facts.

(C) The Chief, for meritorious service rendered by any member of the fire force in the discharge of his or her duty, may permit, in writing, the member to retain for his or her own benefit any reward or present tendered him or her upon being notified prior to its receipt. It shall be cause for removal for any member to receive any reward or present in this respect without notice to the Fire Chief and without his or her written permission. (1995 Code, § 2.20.170)

§ 35.045 FIREFIGHTERS' PENSION FUND.

(A) There is established a Board of Trustees of the Firefighters' Pension Fund and a Firefighters' Pension Fund under the provisions of I.C. 36-8-7.

(B) No member of the fire force who is on the pension roll or who is receiving any benefit from the Pension Fund by reason of any disability or injury shall be entitled to receive any part of his or her salary during the time as he or she shall remain on the pension roll or receives any benefit therefrom.
(1995 Code, § 2.20.180)

§ 35.046 VACATIONS.

The Chief of the Fire Department shall have authority and it shall be his or her duty to grant a vacation of 15 days in each year with full pay to all officers, members and employees in the uniformed service, unless withdrawn by orders of the Board of Public Works and Safety for infractions, who have served one year or more therein, and to fix the time when vacation shall be given in each case; provided, that in the computation of the total time of service of any member of the fire force, vacations or leaves of absence for over one month shall be excluded from the total time of service of the member of the fire force; provided further, that all members and employees of the fire force shall, in addition to the vacations above provided for, have a vacation of one day in seven days of each week with full pay.

(1995 Code, § 2.20.190)

§ 35.047 WORK SCHEDULES-WORKING DURING EMERGENCIES.

The Chief of the Fire Department shall, subject to the approval of the Board of Public Works and Safety, arrange the working hours of the members of the fire force in a manner that no member shall be required to be on duty more than 24 hours in any consecutive 48 hours; provided, that no member of the fire force shall be required to work more than an average of 72 hours per week; provided further, that the Chief or any of his or her subordinate officers acting in his or her official capacity may, in case of serious conflagration or other emergency, require the members assigned to the Fire Department to be on duty or to continue on duty during the period of the emergency. (1995 Code, § 2.20.200)

§ 35.048 SLEEPING HOURS WHEN ON DUTY-EXCEPTIONS.

No member of the Fire Department shall be permitted to occupy his or her bed in any of the Department houses between the hours of 7:00 a.m. and 8:00 p.m., except in case of sickness or fatigue from duty the night or day previous or upon special permission. (1995 Code, § 2.20.210)

§ 35.049 FALSE REPORTS REGARDING MEMBERS OF FIRE FORCE.

No member of the Fire Department shall wantonly or maliciously make any false reports regarding any other member, either as to any offense or as to the business of the force, calculated to create disturbances or to bring any member of the force into discredit. (1995 Code, § 2.20.220)

EQUIPMENT

§ 35.060 RETURNING EQUIPMENT OF OTHER FIRE COMPANIES.

Any company of the Fire Department on return from a fire, finding that it has a hose or any other article belonging to another company, shall report the same to its superior officer who shall see that the property is returned to the company to which it belongs. (1995 Code, § 2.20.230)

§ 35.061 CARE OF FIRE HOSE.

The fire hose of any fire company shall not be taken off the reel for drying or draining purposes unless a special permit is first granted by the Chief or his or her assistant. The Captain of each hose company shall see that the couplings are well secured against leaking and that each male coupling will fit well in the branch pipe. He or she shall also see that his or her firefighters reel up all hose belonging to his or her company after service, unless otherwise ordered by competent authority. (1995 Code, § 2.20.240)

§ 35.062 CARE OF CITY PROPERTY.

The officers of the Fire Department shall have full charge of all the property of the city belonging to the Fire Department under the direction of the Chief and his or her assistant. (1995 Code, § 2.20.250)

§ 35.063 OBSTRUCTION TO FIRE HYDRANTS.

The fire force may, at the risk, cost and expense of the owner or claimant thereof, remove any obstructions to fire hydrants existing contrary to public safety or the provisions of this code.

(1995 Code, § 2.20.260)

REQUESTS FOR ASSISTANCE

§ 35.075 REQUESTS FOR ASSISTANCE GENERALLY.

(A) It is lawful for any member in charge of fire apparatus to require the aid of any motor vehicle or other source of power in drawing or conveying fire apparatus to the scene of a fire or other emergency. It is unlawful for persons to refuse or neglect to assist the fire apparatus as required in this section.

(B) All persons in the vicinity of a fire or other emergency shall be subject to the orders of the Chief or other members of the fire force in charge; provided, that a person who is not a member of the fire division shall not be bound to obey any member of the fire force in charge at fires or other emergency unless the member shall wear an insignia indicating his or her status or shall make known the status to the person charged with obedience of orders as herein specified. The Chief or other members of the fire force in charge shall have power to arrest any person refusing to obey lawful orders issued in accordance with this section. (1995 Code, § 2.20.270)

§ 35.076 POLICE ASSISTANCE.

(A) The Fire Chief or other commanding officers of the Fire Department shall have the authority to call upon the Police Department for aid and enforcement of any fire regulations of the fire prevention code, this chapter or any other ordinance of the city.

(B) It shall be the duty of the Chief of Police, when so called upon by the Fire Chief or his or her duly authorized agents to act according to the instructions of and to perform duties as may be required of him or her in order to enforce or put into effect the fire regulations. (1995 Code, § 2.20.280)

§ 35.077 ASSISTING POLICE UPON REQUEST.

It shall be the duty of every member of the fire force to assist police officers in making arrests or quelling disturbances when called upon to do so when away from company quarters. Whenever word is sent to any fire station asking for assistance to the police, it shall be the duty of the commanding officer of the station to detail as many members to assist the police as may be necessary for the occasion; provided, that not less than the minimum number of members required by rules of the fire force remain in the quarters for duty in case of fire. (1995 Code, § 2.20.290)

FIRE PREVENTION BUREAU

§ 35.090 ESTABLISHED-SUPERVISION-PURPOSE.

There is established a Fire Prevention Bureau in the Fire Department, which shall be under the immediate direction and supervision of a Fire Inspector and other members of the fire force assigned thereto by the Chief. Since timely prevention of fires is preferable to extinguishment, the scope of the work and the activity of this Bureau shall be enlarged, as required, to meet changing conditions.

(1995 Code, § 2.20.300)

§ 35.091 CHIEF OF FIRE PREVENTION BUREAU.

The Chief in charge of the Fire Prevention Bureau shall be appointed by the Mayor and the Board of Public Works and Safety of the city. His or her appointment shall continue during good behavior and satisfactory service and he or she shall not be removed from office except for cause after public trial.

(1995 Code, § 2.20.310)

§ 35.092 RECORDS.

(A) The Fire Prevention Bureau shall maintain the records of all inspections including dates, summary of violations, if any, which are found to exist, the date of serving of notice of violations, as required by this subchapter, together with memorandum of the final disposition of all violations found to exist and all other records and transactions of the Bureau, including facts concerning fires and pertinent statistics.

(B) The records of the Fire Prevention Bureau shall be open, at all times, to the inspection of the Mayor, Commissioners of Public Safety and members of the Common Council. The Fire Prevention Bureau shall maintain records of all orders and notices issued. (1995 Code, § 2.20.320)

§ 35.093 INSPECTIONS.

(A) Regular inspections shall be made of all buildings, structures or places used either for manufacturing or commercial purposes or occupied or frequented by large numbers of people and of all school buildings, public halls, churches, institutional buildings, theaters, multiple dwellings and all places of amusement, recreation or employment in order to:

(1) Determine the safety of the occupants of the buildings, structures or places in the event of fire panic;

(2) Examine the working order and repair of all doors, fire escapes, firefighting appliances; the condition and maintenance of exits, corridors, aisles, stairways and fire escapes and their approaches with regard to obstructions; the disposition, quantity, arrangement and protection of stock, combustible material and rubbish, heating devices and ovens, flammable liquids and explosives with regard to safety from fire; the protection of hazardous machinery, appliances and apparatus; and

(3) Ascertain whether there has been compliance with the fire regulations.

(B) It shall be the duty of the Fire Prevention Bureau to cause an examination of any building, structure or place when any citizen reports that any of the fire regulations are being violated or that division (A) above of this section is being or will be violated or that conditions maintained in a manner as to be a fire menace or dangerous in case of fire, panic or accident. If the representation is found to be true, the Inspector shall give the notice required.

(C) The Fire Prevention Bureau shall cease examinations to be made, whether on complaint or not, of all other buildings and premises within the city for the purpose of ascertaining or causing to be corrected any conditions liable to cause fire or the violations of any fire regulations. Whenever the Inspector shall find any building or other structure which, for want of repairs, lack of sufficient fire escapes or fire extinguishing equipment or by reason of age or dilapidated condition or from any other cause, is especially liable to fire, and which is so situated as to endanger other property or the occupants thereof, and whenever he or she shall find in any building, combustible or explosive matter or flammable conditions dangerous to the safety of the building or the occupants thereof, he or she shall order the dangerous conditions or materials to be removed or remedied. (1995 Code, § 2.20.330)

§ 35.094 DUTIES OF FIRE INSPECTOR.

(A) The Fire Inspector shall investigate the cause, origin and circumstances of fires and shall enforce this chapter and all ordinances and laws covering the prevention of fires; the storage and use of explosives and flammables; the installation and maintenance of automatic and other private fire alarm systems and fire extinguishing equipment; the maintenance and regulation of fire escapes; the means and adequacy of exits in case of fire or panic places where numbers of persons work, live or congregate, from time to time, for any purpose.

(B) The Fire Inspector shall interpret the fire regulations of this chapter and harmonize them with the building code and shall make no requirements which are contrary to and inconsistent with the building code, except temporarily during periods of extreme emergency and shall have power to pass upon questions arising under the fire regulations of this chapter subject to the conditions and regulations contained in this chapter. If a difference of opinion arises between the Inspector and the Building Commissioner or the head of any other bureau, division or part of the city as to the correct interpretation of any of the provisions of this chapter, the question shall be submitted to the City Attorney, who shall present his or her opinion as soon as possible. Whenever the decision of the Inspector concerning the safety of the occupancy of any building or place or part thereof is made in a case which is so urgent that the failure to carry out his or her orders properly to make any building, place or part thereof comply with the applicable fire regulations may endanger life and limb, the decision or order of the Inspector shall be final, unless modified by the Chief.

(C) The Inspector shall enter an building, structure or premises, whether completed or in the course of construction, for the purpose of determining whether they are being constructed or maintained in accordance with the applicable fire regulations. It shall be unlawful to exclude him or her from any building, structure or premises. (1995 Code, § 2.20.340)

§ 35.095 REPORT OF STRUCTURAL INSTABILITIES OF BUILDINGS.

The Fire Inspector shall report to the Mayor, Board of Public Works and Safety and Building Commissioner regarding the structural instability of any building or structure. (1995 Code, § 2.20.350)

§ 35.096 NOTICE OF HAZARDS TO OWNER, OCCUPANT AND THE LIKE-COMPLIANCE WITH ORDER TO REMEDY VIOLATIONS.

(A) In case it is found by the Fire Prevention Bureau or the Fire Inspector that any fire regulations are being violated or that any building, structure or place or its contents or any appliance or equipment thereof is in a condition as to be the probable cause of fire or is likely to endanger life or safety in case of fire, panic or other accident, the Inspector shall give notice, in writing, to the owner, occupant, lessee or person in possession, charge or control of the building, structure or place to make the changes, alterations or repairs or to perform the work or to take action as the safety of persons in or about the places may require within a time as shall be designated by the Inspector. In case the changes, alterations, repairs or requirements ordered by notices of the Fire Prevention Bureau are not made or performed to the satisfaction of the Inspector within the time specified in the notice, he or she shall make returns of the violations or of any default of the notice to the City Attorney for action or prosecution.

(B) The notice may be made upon the occupant of the premises to whom it is directed, either by delivering a copy to the occupant personally or by delivering and leaving it with any person in charge of the premises. In case no such person is found upon the premises, the notice may be affixed in a conspicuous place on the door to the entrance of the premises.

(C) Whenever it may be necessary to serve a notice or order upon the owner of the premises, the notice or order may be served either by delivering to and leaving with the owner a copy of the order or, if the owner is absent from the city, the Inspector may mail a copy to the owner's last known post office address.

(D) The order stated in the notice shall forthwith be complied with by the owner or occupant or person in possession or control of the building, premises or structure, unless a different or extended period of time is specified in the notice; provided, that any person upon whom a notice has been served may petition the Chief of the fire force or Board of Public Works and Safety or both to investigate the order. It shall be the duty of the Chief or Board to hear the same and to make an order as justice may require.

(E) It shall be the duty of all persons to comply with lawful orders of the Fire Prevention Bureau. (1995 Code, § 2.20.360)

§ 35.097 INVESTIGATIONS.

The Fire Prevention Bureau shall investigate the cause, origin and circumstances of every fire occurring in the city by which property has been destroyed or damaged and of every person injury that has sustained and, so far as possible, shall determine whether the fire is the result of carelessness or design. The investigations shall be begun by the Fire Inspector immediately upon the occurrence of a fire. If it appears that the fire is of a suspicious origin, the Chief shall be notified immediately of the facts and he or she shall take immediate charge of the physical evidence and shall notify the proper authorities to pursue the investigation of those matters and shall further cooperate with the authorities in the collection of evidence and with the prosecution of the case. Every fire shall be reported in writing to the Fire Prevention Bureau within two days after the occurrence by the officer in charge at the fire. The report shall be in a form as shall be prescribed by the Chief and shall contain a statement of all facts relating to the cause, origin and circumstances of the fire, the extent of the damage or injuries sustained, the insurance upon the property and other information as may be required. (1995 Code, § 2.20.370)

FIRE STATION

§ 35.110 PERSONS ALLOWED TO OCCUPY FIRE STATION.

Only fully accredited members of the fire force shall occupy any part of the fire station. No person whose status as a firefighter is in question by the Board of Public Works and Safety shall be entitled to occupy any part of a fire station until his or her status has been determined.

(1995 Code, § 2.20.380)

§ 35.111 GAMBLING PROHIBITED.

Gambling in any form shall not be permitted in any fire station. (1995 Code, § 2.20.390)

§ 35.112 SANITARY CONDITIONS REQUIRED.

Fire stations shall at all times be kept in a clean and sanitary condition; snow and ice shall be cleaned from sidewalks and to the center of the street where necessary; floors shall be kept clean and rubbish and refuse promptly removed. (1995 Code, § 2.20.400)

§ 35.113 DISTURBANCES, NOISE PROHIBITED.

Members of the Fire Department, when asleep in the sleeping rooms at proper times, shall not be unnecessarily disturbed. Officers and firefighters of companies are instructed to prevent loud and boisterous talking, laughing and other noise about their respective stations. (1995 Code, § 2.20.410)

CREATION AND REIMBURSEMENT OF HAZARDOUS MATERIALS (HAZ-MAT) RESPONSE TEAM

§ 35.125 CREATED.

There is created within the City Fire Department a Team of specially trained firefighters to deal with spills or leaks of hazardous or toxic materials and other potentially dangerous situations involving hazardous or toxic materials with the city, which Team shall be known as the City Haz-Mat Team. This Haz-Mat Team is an emergency effort to immediately respond to the hazardous wastes and toxic problems and to contain, if possible, the spillages, leaks or other conditions which have created a hazardous situation until the time as the responsible parties and/or other agencies have taken responsibility of the situation and the emergency condition no longer exists. The ultimate responsibility for clean-up, transportation and disposal of hazardous wastes caused by spillage leaks or other causes rests with the owner and/ or custodian of the hazardous wastes and they are also responsible for damages caused to human life, real or personal property as a result of spillages, leaks or other causes.

(1995 Code, § 2.24.010) (Ord. 3501, passed--1989)

§ 35.126 HAZ-MAT TEAM RESPONSE-REIMBURSEMENT RESPONSIBILITY.

Owners and custodians (including shippers and users) who cause or suffer spillage, leaks or other potentially dangerous situations involving hazardous or toxic materials within the city to which the City Haz-Mat Team responds, shall reimburse the city within 30 days of billing for the Team's equipment, whether used and returned, used and discarded, damaged, lost, spent, destroyed or rendered irreparable. The city will provide a detailed itemized bill of all items and will also include any telephone calls of long

distance nature made during the course of the operation. The city shall also be reimbursed for the total hours involved in the response and will furnish a complete itemized statement of the hours worked and the rates of pay. (1995 Code, § 2.24.020) (Ord. 3501, passed--1989)

§ 35.127 CLEAN-UP CONTRACTORS-REIMBURSEMENT RESPONSIBILITY.

Owners and custodians (including shippers and users) who caused or suffered leaks or spills of potentially dangerous conditions involving hazardous or toxic materials within the city, for the cleanup of which outside clean-up contractors must be called in, in the determination of the chief officer or designee, shall assume and bear full responsibility for the payment for the clean-up and expenses directly to the clean-up contractors. (1995 Code, § 2.24.030) (Ord. 3501, passed--1989)

§ 35.128 BILLING RESPONSIBILITY.

The City Fire Department shall be responsible for billing any charges due the city for services rendered under this subchapter. Owners and custodians (shippers and owners) who fail to reimburse the city within 30 days after receiving an itemized bill has been rendered and payment demanded on this account stated shall be charged at a rate of interest of 8 % per annum until paid.
(1995 Code, § 2.24.040) (Ord. 3501, passed--1989)

CIVIL SERVICE SYSTEM-FIRE DEPARTMENT

§ 35.125 ADOPTED BY REFERENCE.

Ordinance 3339, retaining the Civil Service System for the City Fire Department, was adopted December 30, 1982. That ordinance, as well as any subsequent amending ordinances, can be found on file in the Office of the City Clerk. (1995 Code, Ch. 2.22) (Ord. 0-02-0010, passed 5-13-2002)

CIVIL SERVICE COMMISSION- FIRE DEPARTMENT

§ 35.130 JURISDICTION.

The Commission is responsible, and has full authority over all fully paid employees of the Fire Department of the City of East Chicago, Lake County, Indiana who are members of the Firemen's Pension Fund. (Ord. 3339, passed 12-30-1982)

§ 35.131 MEMBERSHIP.

(A) The Civil Service Commission shall be composed of three (3) persons, one to be appointed by the Mayor with the approval of the Common Council for the term of three (3) years; one to be elected by the active members of the Fire Department for the term of three (3) years; and the third member shall be chosen by the above two (2) members for a term of three (3) years.

(B) The Commission shall give notice, by posting the same in each fire station, sixty (60) days in advance of the expiration of any Commission member's term in office.

(C) When notice is given by the Commission that the member elected by all active members of the Fire Department term in office is expiring, an election will be held in the following manner:

That within sixty (60) days, immediately preceding the expiration of that Commissioner's term in office, the members of each fire station in the City shall elect on (1) delegate who shall meet with the other delegates within three (3) days to nominate not less than two (2) candidates to be placed on a ballot for an election to be held not later than thirty (30) days after the report of the Nominations Committee. The vote on such question shall be canvassed by a Board, composed of the Chief of the Fire Department, the City Clerk and the delegates of the nomination committee. The candidate receiving the majority of the votes cast shall be declared elected; and if no candidate receives the majority, then the two highest candidates shall be chosen and placed on another ballot and another election shall be held forthwith. The candidate receiving the majority of votes cast shall take office as a Commissioner on the first day of January, following his election.

(D) Any member of the Commission may be removed from office for incompetence, dereliction of duty, misfeasance in office or other good cause by the Mayor with the consent of the Common Council, provided, that no member of the Commission shall be removed until the charges, with due notice, have been preferred in writing, and a full hearing had before the Mayor. Provided, further, that the member of the Commission so removed shall have the right of appeal to the Circuit or Superior Courts of Lake County, which court shall thereupon proceed to hear and determine such appeal in a summary manner.

(E) Two (2) members of the Commission shall constitute a quorum and the votes of any two (2) members of such Commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided by the commission.

(F) In January of each year, the Commission shall re-organize by electing one of its members chairman, who will preside over all Commission meetings, and who shall act as Hearing Officer on all hearings held before the Commission.

(G) The Commission shall appoint a Secretary and Chief Examiner, who shall keep the records of the Commission, preserve all reports made by it, superintend and keep a record of all examinations held under its direction, and perform such other duties and tasks as the Commission may prescribe.

(H) It shall be the duty of all officials and employees of the City of East Chicago, Indiana, to aid the Commission in all proper ways in carrying out the duties of the Commission and such rules and regulations as may, from time to time, be prescribed by the Commission and to afford the Commission, its members and employees, all reasonable facilities and assistance in inspecting all books, papers, documents, and accounts applying or in anyway pertaining to any and all offices, places, positions, and employment of the East Chicago Fire Department, and also such officials and employees of the City of East Chicago shall produce said books, papers, documents, and accounts, and attend and testify, whenever required to do so by the Commission or any Commissioner.

(I) The Commission may employ such person or persons as may be necessary for the Commission to carry out the duties and responsibilities prescribed by law.

(Ord. 3339, passed 12-30-1982)

§ 35.132 DUTIES.

(A) The Commission shall have full responsibility and authority over the East Chicago Fire Department. All appointments to and promotions within said department shall be made solely on merit, efficiency and fitness.

(B) The Chief of the Fire Department shall be appointed by the Mayor of the City of East Chicago from the ranks of the officers of the Fire Department force; and, in the event of removal or demotion of said Chief, he shall not be demoted to a rank lower than that which he has achieved through Civil Service Examination.

(C) The Commission shall have full authority to reinstate, suspend or discharge any full-paid employee of the Fire Department from any position, place or employment.

(D) Appointments:

(1) The Commission shall accept written applications for employment from any person who seeks employment for any class or position within the East Chicago Fire Department.

(2) The Commission will hold competitive tests to determine the relative qualifications of persons who have made written application for employment whenever an eligibility list expires or whenever the Commission deems it necessary, as long as the manpower shortage exists.

(3) (a) All tests shall be practical and shall consist only of subjects which will fairly determine the capabilities of persons examined to perform the duties of the position to which appointments are to be made, and may include tests of physical fitness and/or manual skills.

(b) The Commission will provide for a credit of ten (10%) in favor of all applicants for employment who have obtained a passing score of (70%) seventy percent and above first, and have served in the Armed Forces of the United States and who have been honorably discharged from said Armed Forces, the credit of (10%) will then be applied to their passing score.

(4) The Commission shall notify all persons who have made written application for employment to the Fire Department during the preceding forty-eight (48) months. And, all persons who participated in the last previous competitive examination who have not been appointed to the Fire Department and did reach a passing score as to the date and place of the next competitive examination. Notification shall be given to such person thirty (30) days in advance of the scheduled competitive examination.

(5) Any applicant on the entrance eligibility list once informed, that he is to report for this physical examination, has fifteen (15) days in which to so report, and once started must complete physicals as scheduled by the examining physicians. Failure to do so will eliminate him from that physical testing, and he will remain on that list for future physicals. After each competitive test, and after such other competitive examinations including those examinations for physical fitness and/or manual skills, the Commission shall formulate and establish an eligible list of persons for each class or position within the Fire Department for appointment who have scored the highest on such examinations. In the event of a tie score on the eligibility list, the tie will be broken by lottery. Such eligibility list will remain in full force and effect until the formulation of a succeeding eligibility list, as provided herein.

(6) When a vacant position exists and is to be filled, the Commission shall certify to the appointing authority, upon the written request by the appointing authority, the names of the persons highest on the eligibility list for the class or position to be filled. When a provisional or temporary position or rank is to be filled within the department, the appointment shall be made from an eligibility

list prepared and submitted by the Commission. Any such temporary appointment shall be terminated whenever the first person becomes available for appointment from a regular list.

(7) *Appointment Eligibility List.* Within a reasonable time after the completion of the administration of entrance examinations, physical agility tests and any other evaluations of applicants permitted by law, the Commission shall arrange the names of applicants in the order of their composite score and, at a public meeting of the Commission, shall certify that said list is the true, accurate and complete list of all applicants of the Fire Service standing in the order of their composite scores. Said certification shall not be deemed to be a final determination of qualification for appointment, said determination to be made, as necessary, if and when the appointing authority appoints any one or more than one persons from said list. The said list so certified shall remain in effect for a period of four (4) years from and after the date of certification or until the date of the certification of the next succeeding list, whichever period is shorter. The conducting of competitive eligibility tests for Fire Department applicants every four (4) years is "desirable to further carry out the general purposes of the ordinance and in the interests of good personnel administration." (Ord. 3339, passed 12-30-1982)

§ 35.133 EXISTING RANK- PROMOTION.

(A) Any officer of the Fire Department who has held such position or rank twenty-four (24) months prior to the adoption of these Rules and Regulations shall be deemed permanent in such position or rank.

(B) Competitive examination for promotion within the Fire Department will be held every two (2) years during the month of October, the list will stand for two (2) years or until said eligibility list is depleted. All promotions shall be made pursuant to written and oral examination and based upon seniority. Seniority shall count for sixty (60%) percent of the eligibility for promotion.

One-quarter (¼) of a point shall be given for each month of service including probationary, up to a maximum of sixty (60) points, the written examination for thirty (30%), the oral examination for ten (10%) percent, provided, however, that no candidate for promotion shall be considered who fails to achieve a passing score on the written examination.

(C) All promotions to any rank shall be from the next immediate lower position, meeting the following time in-grade requirements:

To Test For Chauffeur:

A firefighter must be a "Master Firefighter" and have completed three (3) full years on the East Chicago Fire Department.

To Test For Captain:

A firefighter must meet either of the two (2) following options:

(1) Hold the permanent position of Chauffeur for a period of one (1) or more years, or

(2) Have completed one (1) year as a Master Firefighter and four (4) complete years as a Firefighter on the East Chicago Fire Department and have successfully passed the written Chauffeur's Civil Service Examination. For purposes of examination, both Chauffeur's and

Captain's written examination may be administered at the same sitting, however, the Firefighter to be eligible for promotion to Captain must successfully pass both Chauffeur and Captain examinations.

To Test For District Chief:

A firefighter must hold the permanent rank of Captain for two (2) complete years and have eight (8) years on the East Chicago Fire Department.

To Test For Assistant Chief:

A firefighter must hold the permanent rank of District Chief for one (1) complete year and have twelve (12) years on the East Chicago Fire Department. To achieve permanent rank or position all Firefighters must successfully complete a probationary period of six (6) months in that position or rank and be permanently approved for the position or rank by the Board of Public Safety of the City of East Chicago, Indiana, with the exception of combined Chauffeur/Captain where probationary period of Chauffeur will be waived after one (1) full day of holding the rank of Chauffeur.

(D) All applicants for promotion shall be given an identical examination in the presence of each other, which promotional examination shall be entirely in writing, and all the questions asked therein shall be prepared and comprised in such a manner that the grading of the examination papers can be promptly completed immediately after holding the examination. When one of the applicants taking an examination for promotion has completed his answers, the grading of such examination shall begin, and all of the examination papers shall be graded as they are completed, at the place where the examination is given and in the presence of each applicant, who wishes to remain during the grading.

Such applicant shall have the opportunity to explain his examination and his answers thereto together with the grading thereof and if dissatisfied, shall, within (5) five days, appeal to the Commission for review.

(E) After each completed examination, the Commission shall formulate and establish an eligibility list for promotions in each position so tested. Such eligibility list shall remain in full force and effect until depleted or void or until the formulation of a succeeding eligibility list. (Ord. 3339, passed 12-30-1982)

§ 35.134 INVESTIGATIONS.

(A) The Commission shall make semi-annual investigations of all institutions, departments, offices, places, positions and employments affected by the Civil Service Commission in order to ascertain whether the law, and such rules and regulations of the Commission are being obeyed. Such investigations shall be made by the Commission or by any Commissioner designated by the Commission for that purpose. Such investigations shall be conducted by the Commission and at such other times as the Commission deems appropriate.

(B) The Commission shall make an investigation on petitions of citizens, duly verified, stating that irregularities or abuses exist or setting forth in concise language, in writing, the necessity for such an investigation.

(C) In the course of any investigation by the Commission or designated Commissioner, or Chief Examiner, such person shall have the power to administer oaths, subpoena and require the attendance of

witnesses and the production of them, of books, papers, documents, and accounts pertaining to the investigation and also to cause the deposition of witnesses residing within the State to be taken in a manner prescribed by law for like depositions in civil actions. The oaths administered and the subpoenas issued hereunder shall have the same force and effect as oaths administered by a Circuit Judge in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with such subpoena shall be deemed a misdemeanor and punished as such.

(D) Commission shall investigate the removal, suspension, demotion or discharge of any full-paid firefighter when written demand for such investigation is made by said firefighter. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made in good faith or cause. After such investigation, the Commission may, if in its determination the evidence is conclusive, affirm the removal, or if they find that the removal, suspension or demotion wad not made in good faith or cause, shall order immediate reinstatement or re-employment of such person in the office, place, position or employment from which such person was removed, suspended, demoted, transferred, or discharged, which reinstatement shall, if the Commission so provides in its discretion, be retro-active and entitling such person to receive compensation from the time of such removal, suspension, demotion or discharge. The Commission upon such investigation, in lieu or re-affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge. The finding of the Commission shall be certified, in writing, to the appointing power and shall be forthwith enforced by such official.

(E) The Commission may institute any investigation of any fully-paid employee of the Fire Department for alleged violations of the rules and regulations of the Commission, by directing the Chief Examiner to conduct such investigation, and if found appropriate by such Chief Examiner, make written charges which the Chief of the Fire Department must act upon.

(F) The Commission shall hear and determine appeals concerning discipline or complaints respecting the administrative work of the Fire Department or the personnel department; appeals from the allocation of the positions within the Fire Department the rejection of an examination, and any other matters as may be referred to the Commission for determination.

(G) All hearings and investigations before the Commission, or Chief Examiner shall be governed by the Rules of the Civil Procedure and any full-paid employee of the department charged with violation, upon his request, shall be given a public hearing. Such employee shall have the right to call witnesses, question his accuser under oath and employ counsel. In all hearings wherein the firefighter may be discharged, demoted, or suspended for a period in excess of fifteen (15) calendar days, the Commission shall cause the evidence to be taken by a court reporter, whose transcript shall form a part of their records of said proceedings. A copy of said transcript shall be furnished to said fully paid employee, free of charge for use on appeal at the request of said fully paid employee. (Ord. 3339, passed 12-30-1982)

§ 35.135 ROSTER.

The Commission shall maintain in card form a roster of officers and employees of the Fire Department. On such card will be a brief history of such officer and employee. The roster of officers and employees so maintained is open to public inspection.

(Ord. 3339, passed 12-30-1982)

§ 35.136 MEETINGS.

(A) *Public Meetings.*

The Commission shall hold regular monthly meetings, open to the public. These meetings are scheduled for the second Wednesday of each month in the Fire Station, located at 3901 Indianapolis Boulevard, East Chicago, Lake County, Indiana.

(B) *Special Meetings.*

The Commission shall meet in special sessions for any limited purposes as may be necessary. Those officers and employees requested to attend such special meeting shall be present. (Ord. 3339, passed 12-30-1982)

§ 35.137 LAWSUITS.

The Commission shall begin and conduct all civil suits, which may be necessary for the proper enforcement of the Civil Service law, and for the proper enforcement of the rules and regulations promulgated by the Commission. The Commission shall defend any officer or employee sued as a result of his employment with the Fire Department. The Commission shall be represented in such suits by the East Chicago City Attorney, or by such counsel as the Commission may appoint. (Ord. 3339, passed 12-30-1982)

§ 35.138 CHIEF EXAMINER.

(A) The Chief Examiner shall be appointed by the Commission and shall be governed by Public Law # 4, Indiana Acts, 1972, and the Rules and Regulations of the Commission.

(B) The Chief Examiner shall be appointed as a result of competitive examinations limited to those persons already in the service of the East Chicago Fire Department, and such appointment shall be made pursuant to written and oral examinations and based upon seniority.

Seniority shall count for sixty (60 %) of the eligibility for appointment. One quarter (¼) of a point shall be given for each month of service, including probationary, up to the maximum of sixty (60) points, the written examination for thirty percent (30 %), the oral examination for ten percent (10 %), provided, however, that no candidate for appointment shall be considered who fails to achieve a passing score on the written examination.

(C) The Chief Examiner shall enforce the Rules & Regulations of the Commission. The term of office of the Chief Examiner will be two (2) years from the time of appointment, at the end of each term said examiner may be reappointed.

(D) The Chief Examiner when directed by the Commission shall investigate the removal, suspension, demotion, transfer or discharge of any employee covered under the provisions of the Civil Service Act, to determine if such removal, suspension, demotion, transfer, or discharge was or was not made in good faith or cause, and shall present his findings to the Commission.

(E) The Chief Examiner when directed by the Commission shall make investigation of all institutions, departments, officers, places, positions and employment affected by the Civil Service Commission in order to ascertain whether the Civil Service Act and all such Rules and Regulations are being obeyed, and shall present his findings to the Commission.

(F) The Chief Examiner when directed by the Commission to conduct an investigation on petition of a citizen duly verified stating that irregularities exist, and shall present his findings to the Commission.

(G) The Chief Examiner when directed by the Commission to conduct an investigation, shall be furnished unrestricted entry and usage of Fire Department property, and further shall be furnished unrestricted access to all papers, documents, records, transactions, files, purchase orders, and any other books and records as the Chief Examiner may deem necessary and proper to conduct his investigation, or investigations.

(H) The Chief Examiner shall attend all public meetings of the Commission. The Chief Examiner shall attend all such other meetings or sessions at the request of the Commission.

(Ord. 3339, passed 12-30-1982)

PERSONNEL

§ 35.150 FIRE CHIEF.

(A) The Fire Chief shall be the commanding officer of the Fire Department, and shall be governed by Public Law # 4, Indiana Acts, 1972, and all of the rules and regulations adopted by the Commission.

(B) At fires, the Fire Chief is in full command. He shall have total authority and full responsibility of command. He may call upon other city departments or agencies to render such assistance at fires as may be necessary.

(C) The Fire Chief shall assign personnel to such duties as he may determine necessary for the efficiency of the Fire Department subject to final approval by the Commission.

(D) The Fire Chief shall enforce the written rules and regulations of the Commission. The Fire Chief shall discipline any employee of the Department found to be in violation of such rules and regulations. The Fire Chief, when presented with charges that an employee of the Department has violated any of the written rules or regulations of the Commission, shall summon such employee to his office, and at such time, present that employee with a written copy of the offense, conduct a hearing to determine the validity of such charge; and if such charge is true, prescribe disciplinary penalty as is provided in Section Six of Public Law # 4, Indiana Acts, 1972, or such penalties as may be set forth in the rules and regulations of the Commission. However, nothing in this section shall be deemed to relieve the Fire Chief of responsibility from initiating charges for violation of the rules and regulations of the Commission. Any charge made against an employee of the Department, a hearing report, and/or the prescribed discipline shall immediately be forward by the Fire Chief to the Commission.

(E) The Fire Chief shall report to the Commission any employee, who, by reason of age, disease, accident, or other incompetence, cannot in his opinion, perform the duties of the position to which he may be assigned.

(F) The Fire Chief shall be the custodian of all property of the Department. He shall see that the companies are at all times, fully equipped and ready for efficient service. The Fire Chief shall immediately report any adverse condition of any property to the Commission.

(G) Leave of absence may be granted the Fire Chief by the Commission upon written application. When approved by the Commission the Fire Chief shall notify the Assistant Chiefs as to his expected absence and the length of time he intends to be absent. In the absence of the Fire Chief of the Fire Department, the Senior Assistant Chief on staff shall be assigned the role of temporary Fire Chief, to be held until return of the Fire Chief.

(H) The Fire Chief shall keep a full and complete record of all transactions of the Department, personnel records, files, purchase orders, a complete inventory of all property, apparatus, equipment, and such other books and records as may be necessary in the day-to-day operation of the Fire Department.

(I) The Fire Chief shall furnish the Commission an annual report of all fires occurring in the City during the preceding calendar year, giving the cause thereof as far as can be ascertained, the classification and number of buildings involved, and other pertinent data.

(J) The Fire Chief shall submit to the Commission all information regarding proposed regulatory requirements when he is in receipt, of same, whether the same be proposed by the federal government, state government, or local authorities.

(K) The Fire Chief shall ensure that no personal information on ECFD personnel, civilian or firefighter, released to outside parties without the permission of said personnel. The only exception will be legal request properly submitted to department and reviewed by legal department, and unless otherwise prohibited personnel involved shall be informed of situation.

(L) The Fire Chief shall ensure that individual fire department personnel, civilian or firefighter, are not solicited for funds or services, any such request must be submitted to the Fire Chief's office in writing. The letter shall list all details of request and contact numbers, copies of request will then be posted in stations for personnel who wish to respond, may do so. At no time are Fire Department Personnel to solicit, or be solicited, for funds or services from other department personnel, all requests must follow above instructions. Only exception will be requests from registered charitable, nonprofit organizations, however request must still be preceded by written notice and posting notice before any individuals are approached. (Must include registration information in request.) (Ord. 3339, passed 12-30-1982)

§ 35.151 ASSISTANT FIRE CHIEF.

(A) The Assistant Fire Chief shall be in command of a turn, or such other designation given to the Fire Department Personnel as may by applicable, and shall be second in command to the Fire Chief and shall be governed by Public Law # 4, Indiana Acts, 1972, and all the rules and regulations adopted by the Commission.

(B) An Assistant Fire Chief shall, be designated to take command of the Fire Department in the absence of the Fire Chief, shall act in his stead, and while so acting, shall have all the powers and discharge all the duties vested in the Fire Chief by law, ordinance or commission rules and regulations.

(C) The Assistant Fire Chief shall be in full command at fires until the arrival of the Fire Chief. While acting in command, he shall have total authority to call upon other city departments or agencies to render such assistance at fires as may be necessary.

(D) The Assistant Fire Chief shall respond to all fires and alarms occurring while he is on duty. He shall see to the proper action of his subordinate officers, and make every effort to see that fires are extinguished with the least possible amount of damage by fire or water.

(E) The Assistant Fire Chief shall cause the prompt return to quarters of all companies not needed at fires or alarms.

(F) When a fire has occurred in a building protected by automatic sprinkler systems operating sprinkler heads, the assistant Fire Chief shall notify proper persons to see that the system is put back into proper working order.

(G) The Assistant Fire Chief shall cause the arrest of any persons or persons transmitting false alarms.

(H) The Assistant Fire Chief, in the case of suspected arson, shall immediately notify the head of the Inspection Bureau, the Police Department Detective Bureau, and shall follow the action with a written report to the Fire Chief, giving all information concerning his inspection and investigation.

(I) The Assistant Fire Chief shall cause the guarding of any building made dangerous by fire and shall report promptly to the Fire Chief and the Chief of the Fire Prevention Bureau that such building has been made dangerous.

(J) The Assistant Fire Chief, prior to going off duty, shall consult with the relieving Assistant Fire Chief concerning the events occurring during the passed tour of duty, status of all apparatus and equipment, and all other pertinent information in the possession of the Assistant Fire Chief being relieved, which might contribute to the efficiency of the Department.

(K) The Assistant Fire Chief shall make adjustments of personnel and equipment as may be necessary for the safe and proper operation of the Fire Department during his tour of duty.

(L) The Assistant Fire Chief shall visit each company every work day for the following purpose, inspecting apparatus, tools, implements, personnel and everything in and about the company headquarters to include:

(1) To pick up all daily paperwork generated by their own turn to include:

(a) Chauffeur daily reports

(b) Work orders

(c) Supply order forms

(d) Training forms (to include exercise forms)

(e) Injury reports

(f) Accident/damage reports

(g) Fire reports

(2) To take ECFD paperwork to his officers and ensure all personnel on his turn have an understanding of it.

(3) Discuss line-up (daily) paperwork for next day with all station officers.

(4) Station officers will deliver their paperwork only to their own A.C.

Paperwork not picked up due to an emergency incident or extreme lateness of an incident will be secured and held over by that turn's station officer to turn over to their own turn assistant chief their next work day.

The only exception will be paperwork that must be turned in the next day. To include the following:

(a) Incident/fire reports concerning an incident where death, injury, crime or property damage has occurred.

(b) Injury reports (which must be turned in to city within 24 hrs.) On job.

In this case, station officers under instructions from their A.C. will pass on this paperwork to their relieving officers for pick-up by next turn's A.C. for delivery to central station for processing.

(M) The Assistant Fire Chief, upon being informed or becoming cognizant of an unsafe or improper condition in apparatus, equipment or personal, shall take immediate action that will remedy the unsafe or improper condition.

(1) In the event that an apparatus is rendered unsafe or inoperable, the Assistant Fire Chief shall immediately notify the Department Mechanic and cause said mechanic to effect the necessary repairs or adjustments to make said apparatus safe and operational. Such apparatus or equipment shall not be operated until such time as said apparatus or equipment in safe and operational

(2) The Assistant Fire Chief shall cause the repair of any equipment in disrepair. Whenever any equipment is damaged beyond repair or lost, the Assistant Fire Chief shall requisition a replacement from the Fire Chief.

(3) Whenever the Assistant Fire Chief deems that the effectiveness, safety, and proper operation of any apparatus or equipment is greatly curtailed due to lack of proper personnel, he may take such apparatus or equipment off line service and allot the remaining personnel as he deems most efficient. In the event of such occurrence, the Assistant Fire Chief shall notify the Fire Chief to the reason for such action, for review by the Fire Chief. If the Fire Chief countermands the action taken by the Assistant Fire Chief, he shall notify the Commission in writing of such countermand.

(N) The Assistant Fire Chief shall be responsible for the loaning of Fire Department property.

(O) Assistant Fire Chief and the Training Officer shall plan and implement a course of drill and instruction designated to acquaint all personnel under his command with all tools, implements, equipment and apparatus of the Department.

(P) The Assistant Chief shall attend, participate and observe all drill and instruction sessions conducted on their tour of duty and may not absence themselves except to respond to alarms, other emergencies or special duties assigned to them by the Fire Chief. For any absence, except for the above mentioned, the Assistant Fire Chief shall make a written report to the Commission, stating the reason for such absence.

(Q) Once each year, the Assistant Fire Chiefs shall cause an inventory of all Fire Department property, to be made, and a record of such inventory shall be maintained.

(R) Once a year, the Assistant Fire Chiefs shall cause a fire hose test. Such test shall be conducted using procedures recommended by the N.F.P.A., and a record of all such testing shall be maintained.

(S) The Assistant Fire Chiefs may grant to personnel, whenever the efficiency of their command is not affected, a temporary leave of absence. The Assistant Fire Chief shall maintain a record of such temporary leaves of absence.

(T) The Assistant Fire Chief has command and authority over the shifts to which they are assigned. In an emergency, he has authority over other sections and divisions of the Fire Department. At all other times, the Assistant Fire Chief shall exercise no authority, which is in conflict with the regular duties of other sections and divisions.

(U) All Assistant Fire Chiefs shall familiarize themselves with all laws and ordinances enacted for the prevention of fires, the safety of occupants or buildings and other law and ordinances affecting the Fire Department, including the rules and regulations of this Commission.

(V) Said member designated to perform temporarily the duties of a higher rank whether temporary or temporary permanent (due to a long term absence) shall be accorded the same respect and authority as a permanent officer, with one exception, a temporary/temporary permanent fill in officer will not be allowed to move up to the higher ranks of District Chief or Assistant Chief. These positions will be required to be filled, in the event of an absence, by a permanent officer on turn according to next in rank by time in rank of permanent position and then by department seniority if tied. Any member who refuses to obey a lawful order given by any superior officer or temporary designated officer or his order, whether in or out of his presence is also insubordination. (Ord. 3339, passed 12-30-1982)

§ 35.152 FIRE PREVENTION BUREAU.

(A) The Fire Prevention Bureau shall include a Chief Inspector who shall be in charge of the Fire Prevention Bureau, and have under his command three (3) subordinate Inspector Captains and one civilian inspection/prevention secretary. Public Law # 4, Indiana Acts, 1972, and all of the rules and regulations adopted by the commission shall govern the chief inspector and all subordinate inspector captains and civilian personnel.

(B) The office hours of the Fire Prevention Bureau shall be from 8:00 a.m. to 4:00 p.m. (or a similar 8-hour day period designated by the Chief Inspector), Monday through Friday, and said office shall be kept and maintained at a location designated by the Fire Chief.

(C) The Chief Inspector and civilian prevention bureau personnel shall maintain themselves at the office of the Fire Prevention Bureau, and shall keep said office open to the public 8:00 a.m. to 4:00 p.m. (or a similar 8-hour day period designated by the Chief Inspector), Monday through Friday.

(D) The three subordinate Inspector Captains shall each be assigned to work a 24-hour on 48 hour off schedule, and shall respond to the scene of any fire or other emergency during their tour of duty upon request. One Inspector Captain shall be assigned as support to each firefighting line turn, in accordance to their duties as Fire Inspector Captains.

(E) During the hours of 8:00 a.m. to 4:00 p.m. the Chief Inspector shall respond to all fire alarms or investigations as requested. The Chief Inspector shall ensure records and plans of fire department inspections, emergency calls/incidents; pre-plans, respond plans etc., are properly formulated, recorded, filed, and stored for official use.

(F) Inspector Captains shall report directly to the Chief Inspector, verbally, and in written report, all matters of concern to the Fire Prevention Inspection Bureau that occurred during their 24 hour tour of duty. In addition, Inspector Chief shall respond to request from line assistant for assistance, in accordance to their duties as Fire Inspector Captains, at emergency situations (fire or other emergency).

(G) The Chief Inspector when informed of a non-response, a violation, documentation, etc., concerning a member of the Fire Prevention/Inspection Bureau shall summon the subordinate to his office, and there shall ascertain the reason for the action concerning the subordinate, and shall forward a report of his findings and recommendations to the Fire Chief. All documentation must be in written form.

(H) The Fire Prevention Bureau shall wear and maintain the uniform attire as prescribed for all personnel of the fire department. However the Chief Inspector shall prescribe and approve the uniform of the day or tour of duty, and may prescribe such other clothing or equipment consistent with department regulations, and suitable to the activities of the Fire Prevention/Inspection Bureau.

(I) The Chief Inspector shall institute in cooperation with the training officer, programs to familiarize department personnel, with current fire prevention practices, inspection practices, preservation of evidence, recognition of suspicious causes of fire and other pertinent features.

(J) The Chief Inspector shall cause the fire prevention code to be enforced, and shall assume all such other duties pursuant to sections 14-55 through 14-62 of the municipal code, and all such other sections related thereto. Provided, however, that nothing in this section shall be deemed as having relieved the Fire Prevention Bureau, the Chief Inspector, or inspection, or inspection personnel from the jurisdiction and control of the Commission.

(K) The Chief Inspector and line assistant turn chiefs shall cooperate with each other, to ensure prevention/inspection captains function within their designated roles/duties in relation to the duties of the line fire fighting personnel.

(L) Vacancies for the positions of staff Fire Chief Inspector, and the three Inspector Captains shall be filled by ECFD personnel meeting ECFD Civil Service requirements for the positions, to include testing (written and oral). In the event of a vacancy, the new appointee shall be chosen from the highest scoring ECFD candidate on the Fire Civil Service certified promotional list for the particular inspection opening. A vacancy shall be defined as an opening due to retirement or disciplinary action.

(M) The Chief Inspector shall have the authority to formulate plans, and policy to ensure the proper functioning of the Fire Prevention Bureau. (Ord. 3339, passed 12-30-1982)

§ 35.153 DISTRICT CHIEFS.

(A) The District Chief shall be in charge of the station in which they are assigned. Their authority shall extend over all Company Officers in the District in which they are positioned. The District Chiefs shall be governed by Public Law # 4, Indiana Acts, 1972, and all of the Rules and Regulations adopted by the Commission.

(B) The District Chiefs shall be so assigned as to be equal on each of the three turns, and further that there shall be an equal number assigned to each of the Two Truck Companies Districts.

(C) The District Chiefs shall be assigned to a Truck Company.

"Truck Company" used here shall mean: Arial Ladder, Elevated Platform (snorkel).

(D) In the event of a temporary vacancy of an Assistant Fire Chief and there is no eligibility list the District Chief of that turn, having the greater department seniority shall be the Acting Assistant Fire Chief, and shall act in his stead, until such time as the Assistant Fire Chief returns to duty.

(E) A vacancy due to a temporary absence of a District Chief and there is no list, shall be filled by offering the position to the Captain with the greatest seniority and each succeeding captain, when a vacancy occurs if no promotion list is available, until the position is filled.

However, the Captain accepting the position must be assigned in like manner as the District Chief, and the Assistant Chief shall cause a transfer to be made to accomplish this end.

"Temporary vacancy" as used here and paragraph D shall have like meaning as stated in the paragraph G.

(F) The District Chief shall be informed of the disposition of equipment and manpower in his district on the morning of each day.

(G) Temporary vacancy and vacation fill-ins: Defined in Article II Personnel Section 12

(H) Said member designated to perform temporarily the duties of a higher rank whether temporary or temporary permanent (due to a long term absence) shall be accorded the same respect and authority as a permanent officer, with one exception, a temporary/temporary permanent fill in officer will not be allowed to move up to the higher ranks of District Chief or Assistant Chief. These positions will be required to be filled, in the event of an absence, by a permanent officer of turn according to next in rank by time in rank of permanent position and then by department seniority if tied. Any member who refuses to obey a lawful order given by any superior officer or temporary designated officer or his order, whether in or out of his presence is also insubordination. (Ord. 3339, passed 12-30-1982)

§ 35.154 CAPTAINS.

(A) All Captains shall assume such administrative duties may be necessary for efficient operations of the stations to which the Captains are assigned. Line Captains shall direct the actions of the firefighting unit. All Captains shall be governed by Public Law # 4, Indiana Acts, 1972, and all of the Rules and Regulations adopted by the Commission.

(B) The Line Captain's authority shall extend over all personnel of a lesser rank, and their line ranking shall be senior to other personnel with similar rank, or personnel with like compensation, which are not designated as Line.

(C) The Captains shall maintain the station to which they are assigned, and shall supervise the maintenance of the quarters, apparatus and equipment. The captain shall see that all articles supplied for maintenance are used with careful management.

(D) The Captain shall, with the approval of their respective Assistant Fire Chiefs establish and supervise a plan to maintain the station to which they are assigned, which plan shall include, but not be limited to: (1) daily maintenance, (2) weekly maintenance, (3) periodic maintenance, and (4) apparatus maintenance. Such plan shall be coordinated in a manner, which will not be in conflict between the turns.

(E) Reports.

(1) The Captains shall keep and maintain a company log, and shall enter all pertinent data pertaining to their daily operation.

(2) The Captains shall report every fire in writing to the Fire Prevention Bureau prior to going off shift. Such reports shall be in a form as prescribed by the Chief Inspector, and shall contain such facts relating to the cause, origin, and circumstances of the fire, factors contributing to the spread of the fire, injury to the persons, and the extent of damage thereof, and such other information as may be required.

(F) The Captains shall be responsible for gasoline and oil maintenance and supplies, which responsibility shall include: (1) maintaining a record for gasoline, oil, and other supplies received and expended, (2) supervising the filling of fuel supply tanks, properly forwarding receipts through regular channel, and taking a meter reading from the fuel pump meter on the morning of each day, (3) entering the meter reading in the appropriate log and comparing that reading to any amounts withdrawn, (4) reporting to the Assistant Chief any unaccounted withdrawals of fuel.

(G) The Captains shall see that the Rules and Regulations of the Commission are adhered to. When the Captain observed a violation of the Rules and Regulations, or becomes cognizant the same has occurred, and after substantiating that such a violation exists, the Captain shall immediately report such violation to the Assistant Fire Chief, and such offender shall be subject to the Assistant Fire Chief disciplinary power.

(H) The Captain, who is first to arrive at the scene of an alarm, shall be the officer in charge until relieved by a District Chief.

(I) Each Captain shall familiarize himself with the district in which he is assigned, and shall possess such knowledge of all fire pre-plans, of the district in order to promptly direct the personnel of his unit in firefighting operations.

(J) The Captain shall see that all personnel assigned to him report for duty at the time prescribed, in the proper uniform, and physically able to perform the duties assigned by said Captain.

(K) The Captain shall coordinate and participate in programs prescribed by the Training Officer for the training of personnel assigned to him.

(L) The Captain may permit short leaves from duty to personnel assigned to him, if the same does not adversely affect their unit.

(M) The Captain shall, at the time of the morning report, notify the Assistant Fire Chief and District Chief of their district: (1) of any shortage in the personnel, (2) loss or damage to equipment, (3) malfunction or needed repairs to apparatus.

(N) The Captain shall see that the dormitory and beds are kept neat and well aired. The beds shall not be used before 8:00 p.m. unless in the case of illness, fatigue, or designated rest periods.

(O) The Captains will preserve order and discipline in and about company quarters and at all fires and shall not allow firemen personnel to leave same without permission.

(P) The Captains shall designate duties to newly appointed members of his company.

(Q) The Captains shall see that the American Flag is properly displayed every day, unless otherwise instructed.

(R) The Captain shall require all members to familiarize themselves with the Rules and Regulations of the Commission, as well as all general and special orders.

(S) The Captains shall be just, dignified, and firm in their dealings with subordinates. They shall abstain from abusive and immoderate language in giving orders or in conversations with the personnel.

(T) The Captains shall prohibit members of the firefighting force or visitors from speaking disrespectfully of superiors.

(U) The Captains shall not allow gambling of any kind in and about the quarters.

(V) The Captains shall send, or cause to be sent, all official communications through the regular channels. A communication from a superior to a subordinate shall pass through the immediate officer in the same manner.

(W) When designated to act as Assistant Chief, the Captain shall, at the proper time, turn over the command of the company to the acting Captain, and shall assume command of the shift and perform all duties of the Assistant Chief until the latter returns to duty, and shall be obeyed and respected accordingly.

(X) The Captain shall see that all members of this company report to his apparatus at the sound of an alarm, in readiness for immediate response to call. Unnecessary noise during transmission of an alarm is strictly prohibited.

(Y) The Captains shall see that their respective companies respond to all dispatching of alarms, to which they are assigned, or may be called to with the least possible delay. Upon arrival, the Captains shall report to the officer in charge, or assume command when they are the first to arrive, and shall use their best judgment and skill retaining command until the arrival of a superior officer.

(Z) The Captains shall see that the red signal and stop signs at crossing are observed when answering alarms, that apparatus is slowed down if necessary, brought to a stop, proceeding when cross traffic will permit. That when returning from fires, all traffic regulations are obeyed. The Captain shall, when responding to alarms, direct the drivers, or chauffeurs, if necessary, as to the route to be taken and shall not permit them to drive in a manner deemed unsafe according to law.

(AA) When answering alarms, the Captains shall see tat sirens are sounded at short intervals when approaching street crossings, but that no unnecessary noise is made when passing hospitals. The siren shall be sounded when leaving quarters.

(BB) The Captains shall properly report by transmission on radio or telephone, to the alarm dispatcher, Assistant Chief, any accident or collision involving property damage or injury to persons, and shall follow this action with a written report to the Fire Chief's office, giving full information regarding same. In answering alarms, in case of an accident not involving damage to apparatus, one man from the apparatus shall be left at the scene and the apparatus shall proceed to the fire. No admissions are to be made by any member of the department concerning such accident.

(CC) The Captains shall immediately notify the alarm dispatcher if they are, for any reason, prevented from reaching a fire.

(DD) When first to arrive at the location of an emergency to which dispatched, and finding no emergency, the Captain shall make an investigation and immediately report the findings to the alarm dispatch. In responding to an investigation, the Captain shall see that proper precautions are taken to secure hydrant and prepare to lay hose for immediate use.

(EE) The Captains shall see that designated duties are performed immediately after returning to the station and ascertain that everything is in readiness for immediate service.

(FF) The Captains shall not absent themselves from their companies or station without permission of their superior officer, except in extreme emergencies.

(GG) The Captains shall report immediately to the Assistant Chief, and/or dispatcher, any inability to report at time required, stating the reason.

(HH) In the event of any incomplete, incoherent, or failure of radio equipment and/or radio transmissions, the Captain in charge of any apparatus in which such radio equipment is housed, or in apparatus as such incomplete or incoherent transmission is received, shall make an immediate inquiry into the cause of such incompleteness, incoherency, and/or failure and shall make a written report to the Communications Officer. (Ord. 3339, passed 12-30-1982)

§ 35.155 CHAUFFEURS.

(A) Chauffeurs shall be under the direction of a Company Officer. The Chauffeurs shall be governed by Public Law # 4, Indiana Acts, 1972, and the Rules and Regulations of the Commission.

(B) Chauffeurs shall be assigned to a motorized fire department apparatus, have the care and management of, and be responsible for the prescribed maintenance routines, and the reporting to his Company Officer, the results of his inspections.

(C) Chauffeurs shall commence to inspect and perform such maintenance to their respective motorized equipment immediately following the morning radio test.

(D) Chauffeurs first duties shall be:

(1) Check crankcase oil, and keep oil at proper level.

(2) Maintain water in radiator at proper level.

(3) Check all batteries, and maintain proper water and charge levels.

(4) Check all visible and audible warning signals.

(5) Check fuel tanks.

(6) Check each tire for cuts, breaks and inflation.

(7) Pressure test brakes.

(8) Clean apparatus body/

(E) Chauffeurs shall perform the following minimum weekly maintenance:

(1) Check fan and generator belts.

(2) Check battery terminal and cables.

(3) Check valves in cooling systems.

(4) Check hose and drain connections.

(5) Start motor and observe oil pressure and idling speed.

(6) Clean all motors and underneath chassis.

(7) Check all loose nuts, studs and pins.

(8) Check the fire pump in accordance with procedure outlined in fire apparatus manual.

(F) Chauffeurs shall at the time prescribed by Company Officers, inspect and perform such equipment maintenances as, may be assigned to the apparatus, and have said equipment appropriately prepared for immediate service.

Equipment as used here means those items carried on fire apparatus that are not permanently mounted on the apparatus.

Daily Maintenance:

(1) Check all portable extinguishers for service.

(2) Check all hose loads for service.

(3) Check all ladders for service.
(4) Check all nozzles and appliances for service.

(5) Check air or oxygen pressure in protective breathing equipment.

(6) Check all handlights and flashlights.

Weekly Maintenance:

(1) Remove all appliances from apparatus, and clean.

(2) Start all motor driven equipment, and permit them to warm up.

Periodic Maintenance:

(1) Remove all ladders from their racks and clean.

(2) Lubricate all motor driven or hand operated appliances according to specifications. (Portable pumps, portable generators, gear driven or movable master stream devices, and booster reels)

(3) Flush the pump and booster tank. (The Company Officer shall assign such assistance to the Chauffeur as may be necessary to accomplish the foregoing routines.)

(G) Chauffeurs while performing or about to perform maintenance duties, may be temporarily assigned other duties by the Company Officer or a Chief Officer. However, Chauffeurs shall at first, opportunity resume maintenance duties.

(H) Chauffeurs shall thoroughly familiarize and be conversant in fire pump operation and pumping procedures, aerial ladder, and elevated platform operations and procedures, and shall be qualified to operate any of the several apparatus of the Fire Department.

(I) Chauffeurs shall thoroughly familiarize and be conversant with the territories of prime response.

Inclusive of but, not confined to:

(1) Critical exposures.

(2) Hydrant locations.

(3) Water systems.

(4) Pre-planned locations.

(5) Alarm box locations.

(J) Chauffeurs shall at the time prescribed drain, and keep free of water, fire pumps, lines and connections, and prevent his apparatus from becoming inoperable due to freezing or icing.

(K) Chauffeurs after any alarm where equipment from his apparatus was used, shall conduct an immediate inventory to ascertain if all equipment has been returned. Any missing or damaged equipment shall be immediately reported to the Company Officer. The Chauffeurs shall service all such used equipment, and make it ready for re-use.

(L) Chauffeurs shall at all times possess a current and valid driver's license of type, and classification required and issued by the State of Indiana.

(M) Chauffeurs when responding to alarms shall have charge of their respective apparatus, and shall be responsible for traveling in the most direct route, at a rate of speed consistent with road and traffic conditions, and shall exercise such caution as may be necessary to insure the safety of Fire Department personnel, the public and the apparatus, and may only be relieved of such responsibilities when directly ordered to do so by his Company Officer.

(N) Chauffeurs when returning to quarters from alarms shall travel in the most direct route and shall conform with all State and Local Regulations.

(O) Chauffeurs shall not use, or allow any fire apparatus to be used for any purpose other bonafide fire department purposes.

(P) Chauffeurs shall prior to going off duty, consult with the relieving Chauffeurs who shall report for duty allowing for sufficient time to receive all pertinent information such as; any usage of

apparatus or equipment, any maintenance or repairs scheduled to take place during the tour of the relieving Chauffeur, and any such other pertinent information necessary for relieving Chauffeur to know.

(Q) However, if conditions are such that said consultation cannot be held, then all such information shall be in writing, and deposited in a place previously agreed upon.
(Ord. 3339, passed 12-30-1982)

§ 35.156 TEMPORARY VACANCIES.

(A) All appointments to temporary vacancies within the Fire Suppression and Inspection Bureau Classifications hereunder shall be by certification of the person standing highest on the Promotional Eligibility List for the class in which such vacancy position exists.

(B) The term "temporary vacancy" or "temporary vacancies" in these Rules means: Absence of a member of the Fire Department governed by these Rules due to illness, leave of absence for any reason or special assignment (including, without limitation, the performance of military service obligations, for a period of ten (10) consecutive working days, or thirty (3) calendar days, which ever shall first occur. Said term does not include vacations, compensatory time, "Garcia" or "K" Days.

(C) Openings in the Fire Service due to vacation, compensatory time, "Garcia" or "K" Days or for other reasons not amounting to temporary vacancy shall be filled by advancing the most senior qualified firefighter in the immediate lower rank of turn for Assistant Fire Chief; of turn and station for District Chief, Captain and Chauffeur wherein the opening occurs for the duration of he opening. (Ord. 3339, passed 12-30-1982)

§ 35.157 FIREFIGHTERS.

(A) Firefighters shall be governed by Public Law # 4, Indiana Acts, 1972, and the Rules and Regulations of the Commission.

(B) Firefighters may be assigned to any of the several companies of the Fire Department.

(C) Firefighters shall be under the direction of a Company Officer, and subject to the orders of all Superior Officers.

Firefighters as used here shall include all fully paid employees who are members of the Pension Fund, and who are below the rank of Chauffeur. (Ord. 3339, passed 12-30-1982)

§ 35.158 JOB DESCRIPTION-FIREFIGHTER.

Definition of Class

This is non-supervisory firefighter work in the protection of lives and property through the prevention and extinguishment of fires.

Employees in this class are responsible for performing fire suppression, fire prevention and rescue work as a member of a fire company. Work is performed in accordance with departmental procedures and specific instructions. Work is performed under the direct supervision of a superior officer. Work requires performance of hazardous tasks under emergency conditions; work may involve extreme exertion for usually short periods of time under such handicaps as smoke, heat and cramped surroundings. Work also involves inspection and maintaining firefighter equipment, maintaining quarters, making

inspections of premises and performing supervised training. Work is reviewed and evaluated by direct observation at the fire grounds and in the firehouse and by the review of reports. The consequence of error or mistakes in the work can be injury of death to other firefighters of citizens or increased loss of property.

Duties

(A) *Protection exposures.* This duty involves protection property, buildings and persons in exposures, that is, buildings to which the fire is in danger of spreading. Specific tasks involved in this duty include recognizing possible avenues of fire spread, applying water to protect firefighters by applying streams to cool areas in which they are working, laying hose lines to protect exposures and evacuating persons from exposures.

(B) *Ventilating in fire-involved structures.* This duty involves ventilating the fire-involved structure as the first step in extinguishing the fire and preventing hazardous conditions developing. Specific tasks performed in this duty include: using tools to break openings in roofs and false ceilings and breaking or opening doors, windows and other natural openings to accomplish ventilation, determining the need and most appropriate location for smoke ejectors, setting up portable generators to power smoke ejectors and applying streams to aid ventilation.

(C) *Forcibly entering buildings at a fire scene.* This duty involves achieving the necessary entry into the fire-involved building to permit fire extinguishment to proceed. Specific tasks involved in this duty include checking doors and windows to see if they are locked before forcing them, determining the appropriate tools to use in actually forcing open doors and windows, battering down walls or doors, cutting cables, bolts, wire, etc., using hydraulic equipment to spread metal doors, disassembling machinery and construction to facilitate entry and cutting holes in floors or wood or concrete construction.

(D) *Using ladders.* This duty involves all of the various uses of ladders to obtain access to buildings, to conduct rescues and to put hose streams in place. Specific tasks performed in this duty involve selecting appropriate ladders, carrying, raising and lowering ladders, spotting and raising ladders, pompier ladders and other kinds of ladders, climbing ladders with charged or uncharged hose lines using ladders to bridge from building to building, roof to roof, etc.

(E) *Applying water to extinguish fires.* This duty involves the actual extinguishment of fires by the use of fog, broken or direct streams. Specific tasks performed in this duty include removing hose from apparatus, coupling and coupling hose, determining the manner in which the stream should be played on the fire, determining proper hose appliances, attaching nozzles, wyes, Siamese and other appliances, advancing dry and charged lines over level ground, up stairs and ladders, repairing or replacing damaged hose, hoisting hose up the outside of buildings, shutting down hose lines, tying off hose for the nozzle man, manipulating ladder pipe deck guns, monitors and other master streams, draining hose after fire and reloading hose.

(F) *Applying extinguishing agents other than water.* This duty involves the use of extinguishing agents where water would be inappropriate or dangerous. The specific tasks performed in this duty include the deciding on the appropriate type of fire extinguisher or include extinguishing agent applying the fire extinguisher or extinguishing agent recognizing unusual hazards and taking special safety precautions.

(G) *Performing Rescue.* This duty involves rescuing persons and bodies from fire-involved buildings. Specific tasks performed in this duty include: deciding on the best method of rescue, guiding or

carrying victims down a ladder from danger, hoisting or lowering unconscious or injured victims, setting up and holding life nets for victims to jump into, digging out or otherwise extricating victims, putting on and using various kinds of protective breathing equipment, using testing equipment to determine the presence of poisonous or explosive gases, lack of sufficient oxygen to support life and other dangerous conditions.

(H) *Conduction over haul operations.* This duty involves overhauling, the fire-involved building after the fire is believed to be extinguished to determine the possibility of and prevent rekindle. Specific tasks performed in this duty includes searching out and extinguishing hidden fires in ceilings partitions, cocklofts, etc., searching out and extinguishing smoldering fires in mattresses, upholstery, etc., noticing reporting and preserving evidence of suspicious fire origin or arson, determining the point or origin and cause of the fire, protecting fire scene after the fires, checking the building to determine if it is structurally sound, collection, removing and extinguishing fires in debris, replacing sprinkler heads, shutting off utilities and shutting off open sprinkler heads or closing sprinkler system.

(I) *Conducting salvage operations.* This duty involves protecting property from further damage. Specific tasks performed in this duty include stacking or gathering property to be protected by tarpaulins, spreading tarpaulins over property, recognizing the need to remove excess water, using equipment, catch alls, basins and water shoots, inspecting the contents to determine the extent of salvage-ability, covering roof and window openings, folding salvage covers and using portable pumps to pump out excess water.

(J) *Maintaining fire service apparatus and equipment.* This duty involves routine maintenance and inspection of fire apparatus and equipment and specific clean up and, cleaning, reloading and maintenance of equipment after a fire. Specific tasks performed in this duty include inventory equipment, checking on condition of apparatus, flushing and filling booster tanks, performing minor maintenance work, doing mechanical or electrical repairs on the apparatus, checking condition reports on the apparatus, washing down the apparatus, checking condition reports on electrical, mechanical and non-mechanical equipment and tools, reversing hose sequence, reloading hose, checking conditions of turn out gear, washing and drying, inspecting and testing hose, inspecting and maintaining hose couplings, inspecting, testing, repairing and refinishing ladders, inspecting and maintaining protective breathing equipment, refilling tanks, cleaning, inspecting and testing salvage covers, inspecting hydrants to insure they are operable and making flow pressure tests of hydrants.

(K) *Maintaining station house.* This duty involves cleaning and maintaining the firehouse. Specific tasks performed in this duty include cleaning and maintaining indoor station house facilities, checking, reporting on and maintaining record of all equipment assigned to the stations, maintaining lawn and shrubbery and inventory station house supplies.

(L) *Participating in fire service training.* This duty involves participating in regular on-the-job and classroom training and occasionally conducting specific parts of courses. Specific tasks performed include participating in practice drills and classroom discussions at the station house or training ground, explaining or demonstrating the proper use of equipment, participating in postmortem reviews of firefighting activities at major fires and participating in fire pre-planning sessions for target hazards.

(M) *Performing emergency medical care.* This duty involves providing emergency medical care to fire victims and other citizens until professional medical care can be provided. Specific tasks performed include mouth-to-mouth and cardiopulmonary resuscitation, first aid for burns, shock, heavy bleeding, fractures, heart attack or other heart emergencies, administering oxygen, using resuscitator, inhalator and similar first aid equipment.

(N) *Inspecting structures.* This duty involves inspecting premises to locate and eliminate fire hazards and to facilitate fire extinguishment. Specific tasks performed involve inspection commercial and industrial establishments, schools, hospitals, nursing homes and other target hazards to locate shut-off valves and to facilitate pre-fire planning, inspecting residences for fire hazards, reporting fire hazards, conducting follow-up inspections and preparing reports, maps and drawings on areas inspected.

(O) *Engaging in fire prevention.* This duty involves activities other than inspection, which contribute to fire prevention. Specific tasks include giving lectures and demonstrations on fie prevention for school students and others, preparing exhibits, conducting fire drills, and assisting in the training of industrial fire brigades, and all other duties to minor or numerous to mention.

(P) *Shutting off utilities.* This duty involves the shutting off of utilities, specifically electrical and natural gas supply to the fire involved structure or other emergency situation. Specific tasks include the locating of gas valves and electrical switches and the use of tools required to shut off same. Notifying superior officer that utilities have been terminated.

(Ord. 3339, passed 12-30-1982)

GENERAL RULES

§ 35.170 JURISDICTION.

All rules shall apply to all members of the East Chicago, Indiana Fire Department, who are members of the East Chicago Firemen's Pension Fund. (Ord. 3339, passed 12-30-1982)

§ 35.171 MEMBERS SHALL BECOME FAMILIAR WITH ALL LAWS, ORDINANCES, ETC.

Members of the Fire Department shall, become familiar with all the laws, ordinances, rules and regulations, and benefits relating to this department. (Ord. 3339, passed 12-30-1982)

§ 35.172 PROHIBITED WHILE IN UNIFORM.

No member of this department shall, while in uniform, frequent any place, which operates contrary to the laws of the State of Indiana, and the ordinances of the City of East Chicago, Indiana. (Ord. 3339, passed 12-30-1982)

§ 35.173 MEMBERS CONDUCT- DUTIES AND ORDERS.

Said members shall avoid any conduct of speech which is subversive to good or discipline. Disagreeable duties must be performed and unpopular orders obeyed with cheerful willingness. Grouchiness, sarcasm, wise cracks, flares of temper, etc., shall be avoided.

(Ord. 3339, passed 12-30-1982)

§ 35.174 MEMBERS CONDUCT WITH FELLOW MEMBERS.

Members shall treat superior officers, subordinates and associates with respect, they shall be courteous and civil at all times in their relationships and with one another: when on duty and particularly in the presence of other members, or the public, officers should be referred to by rank. (Ord. 3339, passed 12-30-1982)

§ 35.175 PROMPTLY RESPOND.

Alarms of fire and other emergencies must be promptly responded irrespective of any other duty or obligation, unless otherwise designated by the Fire Chief or Assistant Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.176 UNIFORM- DAYS OFF, UNDER SUSPENSION AND LEAVE OF ABSENCE.

It shall be the duty of said members of the department to lay aside prescribed uniform when on regular days off, or while under suspension or leave of absence.
(Ord. 3339, passed 12-30-1982)

§ 35.177 RESPONDING TO ALARMS WITH REGULATION CLOTHING.

On responding to alarms, no members of the company shall respond or appear at a fire without the regulation firefighting clothing as prescribed. (Ord. 3339, passed 12-30-1982)

§ 35.178 CHANGE OF CONTACT INFORMATION.

Prompt notification to his superiors of any change of address or telephone number is the duty of every member of the department. (Ord. 3339, passed 12-30-1982)

§ 35.179 REPORT LOSS OF BADGE, BOOK, OR EQUIPMENT.

Said member shall promptly report the loss of any badge, book or equipment.
(Ord. 3339, passed 12-30-1982)

§ 35.180 REPLACING LOSS OF BADGE.

Any member who loses his badge will be required to replace same at his own expense. (Ord. 3339, passed 12-30-1982)

§ 35.181 RESPONSIBLE FOR SAFE KEEPING AND CARE OF DEPARTMENT PROPERTY.

Said members shall be held responsible for the safe keeping and care of department property. (Ord. 3339, passed 12-30-1982)

§ 35.182 NOTIFICATION OF DAMAGED OR MISUSED HYDRANTS AND ALARM BOXES.

Said member shall properly notify the Alarm Dispatchers when they find hydrants, or alarm boxes damaged or being used unlawfully. (Ord. 3339, passed 12-30-1982)

§ 35.183 DRUGS AND NARCOTICS.

Said member shall not indulge in the use of drugs, narcotics, except upon the advised and authority of the department physician, or family physician. (Ord. 3339, passed 12-30-1982)

§ 35.184 REPORTING TO FIRE PREVENTION BUREAU.

Members of the Fire Department, when assisting the Fire Prevention bureau, shall be courteous; they shall observe and report in writing, to the Bureau, any infractions of the ordinances. (Ord. 3339, passed 12-30-1982)

§ 35.185 PERMISSION TO BE ABSENT.

Said members shall not absent themselves from quarters, fires or any duties, without permission of the Officer in charge. (Ord. 3339, passed 12-30-1982)

§ 35.186 RELATING INFORMATION TO OUTSIDE PERSONS.

Said members shall not furnish persons not connected with the department with any information relating to its business, except as may be authorized by the Fire Chief. This does not prohibit the explanation of ordinary department routine to visitors.
(Ord. 3339, passed 12-30-1982)

§ 35.187 PROHIBIT DAMAGING OF DEPARTMENT PROPERTY.

Said members shall not maliciously damage department property.
(Ord. 3339, passed 12-30-1982)

§ 35.188 TEMPORARY AND TEMPORARY PERMANENT FILL-INS.

Said member designated to perform temporarily the duties of a higher rank whether temporary or temporary permanent (due to a long term absence) shall be accorded the same respect and authority as a permanent officer, with one exception, a temporary/temporary permanent fill in officer will not be allowed to move up to the higher ranks of District Chief or Assistant Chief. These positions will be required to be filled, in the event of an absence, by a permanent officer on turn according to next in rank by time in rank of permanent position and then by department seniority if tied. Any member who refuses to obey a lawful order given by any superior officer or temporary designated officer or his order, whether in or out of his presence is also insubordination. (Ord. 3339, passed 12-30-1982)

§ 35.189 RESPONSIBILITY OF TURN TO UPKEEP HOSE AT DESIGNATED TIME.

It shall be the responsibility of the turn that has the fire to take the hose down, clean it, and store it properly within the prescribed time as designated by the Fire Chief.
(Ord. 3339, passed 12-30-1982)

§ 35.190 PROHIBIT LENDING OF BADGES.

Said member of the department, are prohibited from lending their badges to persons or members of the fire department for any purpose. (Ord. 3339, passed 12-30-1982)

§ 35.191 STATEMENTS CONCERNING ACCIDENTS OR COLLISIONS.

Said member shall not make statements concerning accidents or collisions to any persons except to a superior officer, police officer, member of the Board of Public Safety and the Civil Service Commission or member of the City's Legal Staff. (Ord. 3339, passed 12-30-1982)

§ 35.192 UNIFORM- PUBLIC TRANSPORTATION.

When in uniform, said members shall not occupy any seat to the exclusion of other passengers or willfully violate the rules of public transportation. (Ord. 3339, passed 12-30-1982)

§ 35.193 DEPARTMENT PUBLIC ADDRESS SYSTEM FOR DEPARTMENT USE ONLY.

The department public address system shall be used only to transmit pertaining to the department business. (Ord. 3339, passed 12-30-1982)

§ 35.194 NON-USE OF BEDS BEFORE DESIGNATED TIME.

The beds shall not be used before 8:00 in the evening, by all said members with the exception of a rest period designated by the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.195 PROHIBIT TOLL CALLS FROM DEPARTMENT TELEPHONE.

No person or member will be allowed to use any department telephone for toll calls. (Ord. 3339, passed 12-30-1982)

§ 35.196 UPKEEP OF BEDS.

The beds are to be aired on Saturday by each shift coming on duty. Every member's linen is to be changed at least every seventh (7^{th}) working day. (Ord. 3339, passed 12-30-1982)

§ 35.197 DEPARTMENT BUSINESS DIRECTED TO FIRE CHIEF OR SECRETARY TO THE FIRE CHIEF.

All calls for department business shall be directed to the Fire Chief's office or to the office of the secretary to the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.198 TRAINING HELD AND ATTENDED IN PRESCRIBED LOCATIONS.

Training shall be held and attended in the respective companies as prescribed; schools shall be attended as prescribed. (Ord. 3339, passed 12-30-1982)

§ 35.199 WHEN REPORTING FOR TOUR OF DUTY.

When reporting in Class "A" uniform all members of the department shall, upon arrival for their tour duty, change into fatigue clothes. They shall be assigned general cleaning of quarters, equipment, repair hose or any other regular work while in this attire.
(Ord. 3339, passed 12-30-1982)

§ 35.200 NONDISCRIMINATION POLICY.

No member shall be discriminated against by any other member on the basis of race, color, national origin or religious creed. No member shall be discriminated against by any other member because of compliance with this rule or because of any other policy or order of the Civil Service Commission, or any order of the Fire Chief directed toward eliminating any segregation of members on the basis of race, color, national origin or religious creed. In the occupation or use of any property of facilities of the department, there shall be no activity by any member, group of members or any group organization, club or society which discriminates against any member of the Department. Any violation of this rule shall be reported directly in writing by the member affected to the Civil Service Commission,

through channels, and such complain shall be prepared in triplicate and copies shall be filled with the Civil Service Commission through the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.201 MEMBERS SHALL NOT BELONG TO GROUPS THAT DIVIDE LOYALTY OR SEEK TO SUBVERT CITY, STATE, FEDERAL GOVERNMENT, ETC.

Members shall not belong to any organization, association, or society which will in any way or manner divide their loyalty to the department, the City of East Chicago, and the United States of America or which seeks to subvert any municipal, state or federal law, rule or regulations of the department or directives of the Civil Service Commission.

(Ord. 3339, passed 12-30-1982)

§ 35.202 SUBJECT TO SERVICE IN AND OUTSIDE OF THE CITY.

Because members of the Fire Department are employed and trained to perform emergency service involving protection of lives and property they are subject to being called for such services at any time, to any place within the City of East Chicago or outside the City under laws of the State of Indiana or the United States. All members shall leave a phone number where they can be reached in case of an emergency. (Ord. 3339, passed 12-30-1982)

§ 35.203 PROHIBIT USE OF FIRE DEPARTMENT NAME FOR PERSONAL GAIN.

No member shall use the name of the Fire Department for personal gain.

(Ord. 3339, passed 12-30-1982)

§ 35.204 PROHIBIT RECEIVING OR ACCEPTING GIFTS FOR SERVICES.

No member shall receive or accept a regard, fee or valuable gift from any person for services incidental to the performance of duty. (Ord. 3339, passed 12-30-1982)

§ 35.205 SMOKING.

Smoking by members will not be permitted at any time or place where smoking is prohibited by law; and violations of this will be subject to the Department discipline.

(Ord. 3339, passed 12-30-1982)

§ 35.206 PROHIBIT GAMBLING.

Members shall not gamble in quarters, on details or while on duty. This covers all types of gambling including placing of bets with bookmakers by personal contact or by telephone. Use of telephones for this purpose is illegal use. Access to stations by bookmakers will be prohibited by officers, who will be held responsible. (Ord. 3339, passed 12-30-1982)

§ 35.207 TARDINESS- PRESENT UNTIL RELIEVED.

Punctuality is required of all members. No member shall leave his duty station without his assigned relief being present. Failure to report to duty or place of assignment at the time specified will be considered cause for disciplinary action. Tardiness shall be reported to the officer in charge. (Ord. 3339, passed 12-30-1982)

§ 35.208 SHALL NOT BE UNNECESSARILY DISTURBED WHILE SLEEPING.

Personnel in the dormitories shall not be unnecessarily disturbed while sleeping.
(Ord. 3339, passed 12-30-1982)

§ 35.209 PROHIBIT HORSEPLAY.

Members are expressly forbidden to engage in boisterous conduct "horseplay" or similar activities not occasioned by the requirements of their duty and which may result in injury or illness to anyone. (Ord. 3339, passed 12-30-1982)

§ 35.210 TRADING DAYS.

(A) "Trading days" is defined as the practice whereby a firefighter, scheduled to work on a given date, obtains another qualified firefighter to substitute for him for all or a portion of said date. In such case, the firefighter procuring the trade thereafter "owes" or makes up the trade by working for the other firefighter.

(B) All trading days in the East Chicago Fire Department shall be under the provisions of this section without exception.

(C) Each and every trade shall be reported in writing upon a form to be adopted by the Fire Chief and kept in each fire station for this purpose. Said form shall contain, in addition to the names of the firefighters involved, the precise dates and times the trade will be carried out and must be signed by both trading firefighters. Said form shall be provided to the Assistant Chief in command of the turn who must approve or disapprove such trade within seventy-two (72) hours. The Assistant Chief may withdraw or disapprove such approval upon his determination that circumstances have changed since approval that disqualify the trade under subsections C, D or E of this section.

(D) The Assistant Chief may approve a trade only if the following are met:

(1) The Firefighter applying for the trade has obtained a qualified substitute with which to trade who is capable by rank, experience and capacity to perform in place of the scheduled firefighter. In determining whether a substitute is qualified, the following rules shall apply:

(a) Only an Assistant Chief or District Chief who is not on probation may trade with an Assistant Chief;

(b) Only another District Chief, Assistant Chief or Captain who is not on probation may trade with a District Chief;

(c) Only a District Chief, Captain, Chauffeur or Master Firefighter who has completed four years of service may trade with a Captain;

(d) Only Qualified firefighters with over three complete years of service on the East Chicago Fire Department may trade with a Chauffeur;

(e) Only a Captain, Chauffeur, Master Firefighter, First Class or Second Class Firefighter may work for a Master Fighter.

(f) Only probationary firefighters may trade with other probationary firefighters. At no time will a probationary or other firefighter with less than four years of completed service on the East Chicago Fire Department be allowed to trade with an officer.

(2) The firefighters involved in the trade have not exceeded the limits prescribed in subsection G.

(3) The form has been properly filled out and signed by the trading firefighters and copies delivered to the Assistant Chief of the turn and to each of the trading firefighters; and

(4) The Assistant Chief finds reasonable grounds to believe that the efficiency of the fire force under command on his turn will not be impaired if the trade is carried out. Impairment may be found if the quality, number or type of manpower available is insufficient to perform the duties anticipated during the turn or where scheduled significant training will be interrupted or will not be available to one or both of the trading firefighters. The Assistant Chief may not allow a trade if there is an absence of other regularly scheduled officers whose positions are being filled by lower ranks so that there is not available sufficient number of experienced officers to properly perform the duties required during the tern of service.

(E) Switching of vacation periods between two firefighters without respect to rank does not constitute trading under this rule and regulations.

(F) A firefighter denied a trade by his Assistant Chief may appeal to the Fire Chief or Acting Fire Chief in his absence.

(G) No Firefighter shall trade more than three (3) weekdays (Monday through Friday) between the hours of 7:30 a.m. to 3:30 p.m. during any twenty-eight (28) day work cycle. The number of said weekday trades allowed for each firefighter shall be reduced for any twenty-eight (28) day work cycle by the number of sick days taken by that firefighter during that cycle.

(H) It is the responsibility of firefighters who engage in trading to insure the scheduled repayment of time traded.

(I) The Assistant Chief of the working turn may authorize and recognize a trade under emergency conditions for a period of less than one hour. Said trades shall be documented after their completion in the same manner as any other trade. (Ord. 3339, passed 12-30-1982)

§ 35.211 VISITATION.

No persons will be allowed to loiter about premises (fire department stations and grounds). Persons wishing to visit with fire department personnel will be permitted to do so at the public authorized common areas of fire department quarters/property, under the following conditions:

(1) Visits to fire department stations and grounds by public shall require informing commanding officer and station’s personnel of visitor’s presence in station.

(2) Only exception to informing a commanding officer of a visitor’s presence at a fire station will be short-term visits of less than 10 minutes, before 2000 hours. (Example: a visit by a family member to drop off an item to a firefighter on duty.)

(3) All visits after 2000 hours shall require notifying commanding officer of visit and nature of visit.

(4) Other than on a sanctioned tour, no unauthorized persons shall be allowed in dorms (sleeping areas), or unauthorized area of a fire station. Authorized areas are as follows:

(a) Apparatus floor,

(b) Kitchen area,

(c) Dining area,

(d) Living room (TV room) and,

(e) Outside public areas.

(5) All firefighters shall always maintain a professional manner (demeanor) in accordance with requirements of an on duty firefighter in regards to relations with persons visiting fire department stations and grounds.

§ 35.212 RULES AND REGULATIONS GOVERNING ONE STATION GOVERN COMPANIES FILLING IN AT STATION.

The rules and regulations that govern companies of one station will apply to any other company filing in at that station, and the same routine of house duties shall be followed. The company record book shall be kept in like manner. (Ord. 3339, passed 12-30-1982)

§ 35.213 UNIFORM- PUBLIC GATHERING.

Any member attending a public gathering in uniform or detail or otherwise, will be on duty and shall report to the Commanding Officer and be subject to his orders.
(Ord. 3339, passed 12-30-1982)

§ 35.214 UNOFFICIAL ACTIVITIES OR REPRESENTATION.

Unofficial activities: No member of the department shall represent the department at any social or public gathering without the permission of the Fire Chief.
(Ord. 3339, passed 12-30-1982)

§ 35.215 CONDEMNED CLOTHING.

Condemned clothing: Members will not be permitted to wear condemned clothing after replacements are procured.

§ 35.216 USE OF SHOWERS.

Use of showers: shower baths shall not be used for any other purpose but that for which they have been designed for. The placing in or washing or pails, or anything stored in showers is strictly prohibited. (Ord. 3339, passed 12-30-1982)

§ 35.217 ANNUAL HOSE TEST.

Annual hose test: All hose in service shall be tested annually at company quarters under supervision of company officers, at a time to be determined by the Fire Chief. Upon completing the hose test, company officers shall submit a complete report listing all hose in order to the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.218 UNIFORM- DRESS COATS.

Dispatching with dress coats; during the period of May 1st to October 1st when outdoor temperatures reach 70 degrees or higher members of uniform forces will not be required to wear dress coats. When uniforms coats are no worn, uniform belts must be worn, and the badge shall be affixed to the dress shirts, or work uniform and dress hat must be worn with the work uniform at the discretion of the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.219 UNIFORM- NAME AFFIXED.

Every member shall be required to affix his name, on his firefighting equipment, which shall be of uniform size and color prescribed by the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.220 REMOVING OF DEPARTMENT EQUIPMENT, TOOLS, ETC.

Any member removing any materials, tools, equipment, supplies or other diverse property to the Fire Department, without specified permission, or proper authorization, will be charged with pilfering. (Ord. 3339, passed 12-30-1982)

§ 35.221 TAMPERING OR ADJUSTMENTS ON PRECISION EQUIPMENT.

Any unauthorized member tampering or making adjustments on precision equipment without specified permission will be subject to disciplinary action.
(Ord. 3339, passed 12-30-1982)

§ 35.222 RELIEVE ASSIGNED PARTNER AT DESIGNATED TIME.

All on-coming personnel shall relieve their assigned partner at the time designated by the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.223 UNIFORM- NATIONAL COLORS AND ANTHEM.

Uniformed members will render full military honors to the National Colors and Anthem at appropriate times. Members in civilian dress shall render proper civilian honors to the National Colors and Anthem at appropriate times. (Ord. 3339, passed 12-30-1982)

§ 35.224 UNLAWFUL ORDERS.

Obedience to an unlawful order is never a defense for an unlawful action; therefore, no member is required to obey any order, which is contrary to Federal or State Law or local ordinance. Responsibility for refusal to obey rests with the member; he shall be required to justify his action. (Ord. 3339, passed 12-30-1982)

§ 35.225 UNLAWFUL ORDER PROCEDURES.

Members who are given orders they feel are unjust or contrary to the rules and regulations, must first obey the order to the best of their ability, and then may proceed to appeal as provided below:

(1) Upon receipt of an order conflicting with any previous order or instruction, the member affected will advise the person issuing the second order to this fact. Responsibility for countermanding the original instruction rests with the individual issuing the second order. If so directed the latter command shall be first obeyed. Orders will be countermanded, or conflicting orders will be issued only when responsibility necessary for the good of the department.

(2) A member receiving an unlawful, unjust or improper order, shall at first opportunity, report in writing to the Fire Chief through official channels. This report shall contain the facts of the incident and the action taken. Appeals for the relief from such orders may be made at the same time. Extra departmental action regarding such an appeal shall be conducted through the office of the Fire Chief.

(3) Members knowing of other members violating laws, ordinances, rules of the department, or disobeying orders, shall report such in writing to the office of the Fire Chief via official channels.

(4) If the member believes the information is of such gravity that it must be brought to the immediate personal attention of the Fire Chief, official channels may be by-passed. (Ord. 3339, passed 12-30-1982)

UNIFORMS

§ 35.240 UNIFORMS- MEMEBERS OF THE ACTIVE FORCE.

All members of the active force of all ranks provide themselves with full uniform, work clothing and firefighting apparel, as prescribed by the Chief of the Fire Department.
(Ord. 3339, passed 12-30-1982)

§ 35.241 UNIFORMS- REGULATION ATTIRE- INSPECTION- REPLACEMENT.

To conform to specifications, all uniforms, garments, helmets, caps, etc., worn by members of the Department shall be of such design and made in accordance with such specifications as may be adapted as regulation attire by the Chief of the Fire Department. All uniform clothing and equipment shall be the subject to inspection by the on duty Assistant Chief, and any member who receives an order to replace an item of apparel must do so as soon as possible, and will be required, as evidence of compliance with the order, to produce a copy of sale order within thirty (30) days after inspection. (Ord. 3339, passed 12-30-1982)

§ 35.242 REGULATION BUTTONS, BADEGES, ETC.

All members will be required to wear the regulation buttons, badges, etc., on uniforms as prescribed by the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.243 INSIGNIA DENOTING RANK.

All officers will wear insignia denoting rank on their dress uniform, as prescribed by the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.244 PRESCRIBED ATTIRE.

All members prescribed attire: Regulation uniforms, cap, black, navy shoes, white shirts with collar; black tie. (Ord. 3339, passed 12-30-1982)

§ 35.245 IN UNIFORM TO AND FROM WORK.

Members must be in complete uniform while in route to and from work. (The prescribed uniform shall be worn for not more than two (2) hours prior to reporting to duty and not more than two (2) hours after release from duty (amended 9-11-80).) The uniform will be prescribed according to the seasons of the year. No clothing, except those prescribed, will be tolerated.
(Ord. 3339, passed 12-30-1982)

§ 35.246 UNIFORM- THROUGH THE YEAR.

(A) Topcoat in winter.

(B) Blouse in spring and fall.

(C) Short sleeve shirts in summer, navy blue serge uniform pants.

(D) Black ties and belt, black and/or navy blue socks, navy tie shoes, hat and badge.

(E) Badge shall be affixed to blouse, or shirt according to season.

(F) Above applies to all department members unless otherwise directed by the Fire Chief.
(Ord. 3339, passed 12-30-1982)

§ 35.247 WORK CLOTHES.

(A) Regulation work clothes will consist of grey or blue shirts, navy blue pants, black belt; blue, white or black work socks, black shoes.

(B) When work clothes are worn to and from work, badge shall be affixed to shirt or regulation jacket. (Ord. 3339, passed 12-30-1982)

§ 35.248 FIREFIGHTING CLOTHING.

Firefighting clothing shall consist of:

(1) Helmet with liner or skullcap.

(2) Bunker coat, with liner, and reflector tape trim.

(3) Day boots with steel insole.

(4) Bunker boots with steel insole.

(5) Bunker pants with suspenders and liner. (Ord. 3339, passed 12-30-1982)

§ 35.249 PRESCRIBED ATTIRE DIRECTED BY FIRE CHIEF.

All prescribed attire, including any future prescribed attire will be of color as directed by the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.250 HID FEET- PHYSICIAN'S WRITTEN NOTE TO WEAR SOCKS.

In the event that a member has a medical problem with hid feet and upon the advice of a physician, he will be allowed to wear socks as prescribed by the physician, a written doctors statement must presented to the Fire Chief's office. (Ord. 3339, passed 12-30-1982)

§ 35.251 UNIFORMS DAMAGED IN THE LINE OF DUTY.

Members shall not seek in any way nor shall they accept from any persons money or other compensation for damages to uniform or equipment sustained on expenses incurred by them in the line of duty without first notifying the Fire Chief in writing.
(Ord. 3339, passed 12-30-1982)

§ 35.252 FULL DRESS INSPECTIONS.

From time to time, the Fire Chief may call for full dress inspections of the department or any part thereof. Members directed to attend such inspections shall report in the uniform prescribed, carry the equipment specified. Unauthorized absence from such inspection is chargeable as "absence without leave." (Ord. 3339, passed 12-30-1982)

PERSONAL APPEARANCE

§ 35.265 FIREFIGTHER'S PERSONAL APPEARANCE AT ALL TIMES.

Every firefighter shall look his best at all times. His hair shall be cut. Said member shall be clean-shaven at all times. A mustache is permitted, provided it is neat and trimmed. No beard in any shape or form shall be permitted. Members shall keep hair at a minimum length to insure maximum safety and efficient use of firefighting equipment. (Ord. 3339, passed 12-30-1982)

§ 35.266 MAINTAIN HIGH STANDARD OF PERSONAL HYGIENE.

All said members, due to direct contact with the public and fellow firefighters, shall be required to maintain a high standard of personal hygiene. (Ord. 3339, passed 12-30-1982)

SPECIAL RULES

§ 35.275 REPORT INABILITY TO REPORT FOR DUTY.

It shall be the duty of the Fire Department personnel to report to headquarters any inability to report for duty at the time specified by the Fire Chief, if not at residence, report location where visitation can be made.

In the event that such occasions of such inability arises, personnel are required to report the circumstances of any such inability as soon as possible, as this rule and regulation will deem any such personnel as being absent from duty without official permission.

(Ord. 3339, passed 12-30-1982)

§ 35.276 PROCEDURES TO REPORT OFF.

It shall be the duty of said personnel to contact headquarters, to report off, no later than 06:30 A.M. and to report any injury or illness, which prevents him from report for duty as scheduled.

The following procedures and requirements are hereby instituted and shall be strictly adhered to:

(A) Said personnel shall report to the dispatcher and give a general description of his inability to report for duty.

(B) Dispatcher shall forward the report to the Fire Chief's office in writing stating:

(1) Name

(2) General description of inability

(3) Time of call in

(4) Name of person calling in if other than employee

(C) An officer of any such other person as may be designated by the Fire Chief, shall at the convenience of the department make a visit to said personnel's residence and such officer or such other designated person shall make a written report of his visit.

(1) Time of visit

(2) General description of ill or injured person

(3) Verification of report by signature of ill or injured person

(4) If for any reason this report cannot be verified by ill or injured person, report may be signed by spouse or responsible person. (Father, mother, attending physician if on premises).

(D) The above mentioned report shall be turned in to the Fire Chief's office by officer or other designated person prior to going off shift.

(E) If for any reason paragraphs C and D cannot be fulfilled a report stating reason why the provisions could not be fulfilled shall be made to the Civil Service Commission as soon as possible, but no later than their next regularly scheduled meeting.

(F) The Fire Chief may report such absences due to illness or injury to the City Nurse. However, all sections and subsections of subchapter SPECIAL RULES, § 35.276, shall remain in full force and shall be in all instances adhered to. Upon the publishing of these rules and regulations, it shall be deemed, that all fire department personnel are acquainted with the specifics of SPECIAL RULES, § 35.276 and with the mandatory requirements therein contained. Therefore, it shall be the duty of all fire department personnel to treat any officer or designated person acting for the Fire Chief, with courtesy and respect. It shall further be the duty of said personnel to remove or restrain any obstacle, which may prevent such a visit to his residence.

Vicious dogs in particular.

Refusal to admit, discourtesy or disrespect to, or failure to remove or bring under control, animals, shall be deemed a breach of this rule and regulation and shall subject such offender to disciplinary action.

(G) Personnel inured or ill shall not absent themselves from their place of residence without permission.

(1) If a visit to a physician is necessary, permission must be received from headquarters, (Assistant Chief or District Chief) however, if the proper authorized person is not readily available, personnel will be deemed in compliance by recording their absence with the dispatcher. Upon return from the physician, said personnel shall report their return, to headquarters.

(2) A written record shall be kept of all such occurrences: Time of leaving residence, Reason for leaving residence, and Time of return to residence.

(H) If a visit to a pharmacy is necessary, then the same procedure shall be followed as applies to a visit to a physician.

(I) Subsection G and H shall be strictly adhered to, and any injured or ill personnel found to be absent from his residence without official permission to so absent himself, shall be deemed in violation of this rule and regulation and shall be disciplined with suspension with loss of pay for a period of not less than three (3) calendar days. The Fire Chief after personnel's hearing may modify the above suspension.

(J) Fire Department Personnel will be granted 4 (four) sick days at the beginning of every year (1st day of January).

Fire Department Personnel reporting off, using a sick day are not required to submit proof of visit to a physician to the Civil Service Commission office prior to said personnel's return to duty,

Unless:

(1) Sick day is taken on a holiday, to include Christmas Eve and New Year's Eve.

(2) Sick day is attached to a vacation or reduction day.

(3) Sick days are combined together (more than one).

East Chicago Fire Department personnel must still report off to Communications no later than 6:30 a.m., of the day they are to work and must report back on for duty to Communications before 6:30 a.m., of the day are scheduled to work.)

Persons reporting off under these three conditions are required and shall submit proof of visit to a physician for treatment to the Civil Service Commission officer prior to said personnel's return to duty, at which time said personnel may be issued a certificate to return to his regular assigned station for duty (see example 1.)

Company officers shall not allow said personnel to resume their duties unless said certificate is presented at time of return. Provided, however that personnel applying to the Commission for certificate of return to duty is prevented from making such application due to the fact that the Commission officer is closed (weekend, holiday, etc.). In this event the Company Officer may grant the necessary permission which shall be valid for the day only, upon being shown said personnel's physicians' statement. Provided further that, said personnel shall again apply to the Commissions office for certificate of return, before returning to duty on the next regularly scheduled day (see example 2.)

EXAMPLE 1.

Personnel reports off Monday. Said personnel must come in to the Commission office with physician's statement on Tuesday or Wednesday to obtain certificate of permission to return to duty on Thursday.

EXAMPLE 2. Personnel reports off on Friday, however Commission officer is closed on Saturday and Sunday therefore, personnel obtains permission to return to duty on Monday by showing his Company Officer his physicians statement. On Tuesday or Wednesday said personnel presents himself at the Commission office to obtain a said certificate for return to duty on Thursday.

SAMPLE:

Civil Service Commission East Chicago, Indiana Fire Department
CERTIFICATE FOR THE RETURN TO DUTY

To_____, be advised that
Company Officer
Has appeared at the office of the Civil Service Commission and is in compliance with Commission penal Rules. You are authorized to accept his return to city on _____

_____
Month Day Year

Signed_____.
Authorized Agent of the Commission

(K) In the event of an extended absence from duty, (more than two (2) work days will be considered as an extended absence) it shall be the duty of said personnel upon request of the Fire Chief to furnish a periodic report from said personnel's physician stating:

(1) Current condition

(2) Approximate time of return

However, this shall not preclude that right of the Commission to order a visit on each succeeding day, as said personnel would be regularly scheduled for duty. The Commission may order sections G, H and I to apply.

(L) A rubber stamped signature shall not constitute compliance. Personnel are hereby required to submit physician's statement which has hand written signature.

The signature of any person duly authorized by the physician to so sign such statements may be accepted. However, be it understood that the Fire Chief's office may call upon such physician or his authorized agent, for direct verification of statement and signature.

(M) Any person who fails to submit a proper statement as is required by this and regulation shall not be allowed to return to duty and all such time as it may take for said personnel to return with proper statement and which may include all such time which was taken as a result of illness or injury may be considered as an unauthorized leave and the total of any salary which may have been forthcoming during such absence, any be deducted from said personnel in any pay period in which the Civil Service Commission may so order.

These become effective on December 1, 1975, by order of the East Chicago Fire Civil Service Commission. (Ord. 3339, passed 12-30-1982)

§ 35.277 FUNERAL LEAVE.

Funeral leaves: In case of death of a wife, child, parent, brother, sister, mother-in-law or father-in-law, or grandparents, leaves of absence, for a reasonable time may be granted by the Fire Chief.

Death of other relatives provided that in such cases the leave shall not be for more than (½) one-half day to permit attendance at the funeral of said person, exceptions may be granted by the Fire Chief. (Ord. 3339, passed 12-30-1982)

§ 35.278 OFFICERS OF THE UNION EXCUSED TO ATTEND MEETINGS, ETC.

(A) The principal officers of Local Union # 365 East Chicago Firefighters AFL-CIO, the current elected members of the Board of Directors of the Union and others delegated by the President, if scheduled for a tour of duty, shall be excused to attend locally held meetings or conferences which are of mutual interest, or concern to the Fire Department and the Union.

(B) The President or another officer delegated by him shall notify the Assistant Fire Chief at least twenty four (24) hours in advance of the date requested in order that any problem of personnel requirements may be resolved in advance.

(C) Members concerned shall be excused to leave to attend the following meetings or conferences:

(1) Meeting of mutual benefit or interest to the Fire Department and the Union with Officials of the City of East Chicago or the State of Indiana;

(2) Board of Directors of the Union;

(3) Membership Union Meetings;

(4) Lake County Council-Central Labor Meeting AFL-CIO

(5) Executive Board meetings.

(D) This section shall have the same application to the Firemen's Pension Fund and it's Trustees. Elected and appointed.

(E) All duly authorized Pension Trustees delegates and alternate Delegates Trustees to the IAFF, State Pension conventions also Union and Pension Seminars shall be granted annual leave to whatever extent necessary for their travel to, attendance at, return from the site of the convention, or seminar.

(F) Any deviation from the above shall have the prior approval of the Assistant Fire Chief or Officer in charge.

(G) Bulletin Boards to be furnished by the Union shall be permitted in each firehouse, division and section for the exclusive use of Local Union # 365. The Union shall agree on the prominent place for the Bulletin Boards. These Bulletin Boards shall only be used for the posting of such material that is directly related to the activities or interest of the Union.

(H) The Union and the Pension Trustees are granted permission for the use of suitable space for meetings.

(I) The Union and The Pension Trustees are granted permission for the use of suitable space for meetings. (Ord. 3339, passed 12-30-1982)

PENALTY

§ 35.290 SUSPENSION WITHOUT PAY.

Any fireman may be suspended without pay not to exceed thirty (30) days, demoted or reduced in rank, or fined not exceeding fifty dollars ($50.00) for the violation of the written rules and regulation of the Commission. Any fine so levied shall be paid into the Firemen's Pension Fund.

(1) A firemen may be suspended for more than thirty (30) days or may be removed for the willful and repeated violations of the rules and regulations adopted by the Commission. Provided, however that repeated violations shall be the conviction of more than two (2) violations in any one (1) year.

(2) A verbal reprimand may be given by a Company Officer to any subordinate under his command for minor infractions of the company or station rules, but shall not be applicable to any infraction of the written rules and regulations.

(3) Where a reprimand is considered as being proper and sufficient for the minor infraction of the written rules and regulations, such reprimand will be in writing- three (3) copies, one (1) copy to the Fire Chief, one (1) copy to the Civil Service Commission and one (1) for the insertion into offenders service jacket.

(4) Such proceedings for written reprimands may be instituted by any officer or subordinate. Provided, however that such written reprimand may only be issued by the Chief Officers for the record. (Ord. 3339, passed 12-30-1982)

§ 35.291 RULE- TIME LIMITATION ON CHARGES.

Anyone bringing charges against another individual shall put in writing the charge within four (4) calendar days of the possible violation and shall deliver said charge to his superior officer.

The Assistant Chief or Acting Assistant Chief or that turn shall deliver that charge in a sealed envelope to the Administrative Office. In the event the Administrative Office is closed, the Assistant Chief or Acting Assistant Chief shall attach the sealed envelope to other documents pertaining to his turn. (Ord. 3339, passed 12-30-1982)

CHAPTER 36: CITY COURT

Section

General Provisions

36.001 Judicial power-court of record
36.002 Name and seal
36.003 Jurisdiction generally
36.004 Traffic Violations Division
36.005 When sessions of Court to be held
36.006 Personal fees of certain officers

Appeals

36.020 Civil actions
36.021 Criminal actions

City Judge

36.035 Election-term of office
36.036 Powers and duties

Bailiffs

36.050 Appointment-salary
36.051 Powers and duties

Probation Officer

36.065 Appointment-compensation qualifications
36.066 Powers and duties

City Court Reporter

36.075 City court reporter
36.076 Compensation
36.077 Qualifications
36.078 Duties
36.079 Administering oaths
36.080 Furnishing transcripts

Cross-reference: *Department of Law, see § 32.005*

GENERAL PROVISIONS

§ 36.001 JUDICIAL POWER-COURT OF RECORD.

The judicial power of the city shall be vested in the City Court, which shall be a court of record. (1995 Code, § 2.16.010)

§ 36.002 NAME AND SEAL.

The name and style of the Court shall be: "The City Court of the City of East Chicago" and the seal shall contain the words "City Court of East Chicago, Indiana." (1995 Code, § 2.16.020)

§ 36.003 JURISDICTION GENERALLY.

(A) *Code and city ordinances.* The City Court shall have exclusive original jurisdiction of all violations of this code and city ordinances.

(B) *Criminal.*

(1) The City Court shall exercise within the county the powers and jurisdiction of a justice of the peace in all cases of crime or misdemeanor, except when otherwise provided by law.

(2) The City Court shall have exclusive jurisdiction of the trial of all misdemeanors constituting violations of the motor vehicles and traffic code and highway traffic ordinances of the city and laws of the state, subject to right of appeal.

(3) The City Court shall have original concurrent jurisdiction with the circuit or criminal court in all cases of petit larceny and all other violations of state law where the penalty provided therefor cannot exceed a fine of $1,000 and imprisonment in the jail or workhouse not exceeding one year or either or both; provided, that the City Judge, in a criminal case before him or her, if he or she is of the opinion that the maximum penalty which he or she is authorized to assess is not adequate may so find and hold the prisoner to bail for his or her appearance before the proper court or commit him or her to jail in default of bail.

(C) *Civil.* The City Court shall have jurisdiction of civil cases as provided by state law. The Court shall have the powers and duties as specified in state law. (1995 Code, § 2.16.030)

§ 36.004 TRAFFIC VIOLATIONS DIVISION.

The City Judge shall establish a Traffic Violations Division as a part of the City Court to assist the Court with the clerical work of traffic cases. The Traffic Violations Division shall be in the charge of the City Clerk and shall be open at a times and hours as are recommended by the Clerk and approved by the City Judge. (1995 Code, § 2.16.040)

§ 36.005 WHEN SESSIONS OF COURT TO BE HELD.

The City Judge shall hold sessions of Court as he or she may deem necessary. (1995 Code, § 2.16.050)

§ 36.006 PERSONAL FEES OF CERTAIN OFFICERS.

The City Judge, Clerk of the City Court and bailiffs or probation officer shall not receive any personal fees or compensation whatever, other than their respective salaries. (1995 Code, § 2.16.080)

APPEALS

§ 36.020 CIVIL ACTIONS.

Appeals from City Court in civil actions shall be taken to the Circuit or Superior Court in the manner provided by law. (1995 Code, § 2.16.060)

§ 36.021 CRIMINAL ACTIONS.

In criminal actions appeal may be taken from the judgment of the City Court to the Criminal Court of the county in the same manner as provided by law for appeals from a justice of the peace. (1995 Code, § 2.16.070)

CITY JUDGE

§ 36.035 ELECTION-TERM OF OFFICE.

The presiding officer of the City Court shall be the City Judge who shall be elected by the legal voters of the city at the time and in the same manner as other city officers are elected for a term of four years and shall serve until his or her successor is elected and qualified. His or her term shall begin at 12:00 p.m. noon on January 1, following his or her election. (1995 Code, § 2.16.090)

§ 36.036 POWERS AND DUTIES.

(A) The City Judge shall have power to assess a fine in a sum not exceeding $1,000 for the violation of any law. He or she may, in addition, order imprisonment, as a part of the sentence, for any period not exceeding six months in the county jail.

(B) The City Judge shall have power to suspend or withhold judgment in any case where any person shall have been convicted or shall have entered a plea of guilty, as now provided by law for circuit and criminal courts.

(C) The City Judge shall have power and authority to make and adopt rules of Court not repugnant to the laws of the state. He or she shall have all powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and enforcing its orders. He or she shall have full authority to administer oaths and to authenticate records of the Court.

(D) In case of a temporary absence or inability of the regular City Judge to act, he or she shall appoint any practicing and reputable attorney to preside in his or her absence, who shall receive compensation allowed special judges in the Circuit Court, to be paid out of the city treasury on the certificate of the regular judge and the warrant of the City Controller. (1995 Code, § 2.16.100)

BAILIFFS

§ 36.050 APPOINTMENT -SALARY.

Bailiffs of the City Court shall be appointed by and serve as provided by state law and they shall serve and execute all processes issued by the Court and shall receive a salary, in full for all services rendered therein, in an amount to be fixed by the Common Council. The number of bailiffs shall be determined by the Common Council, upon the recommendation of the City Judge, in the annual budget.
(1995 Code, § 2.16.110)

§ 36.051 POWERS AND DUTIES.

Bailiffs shall be present at all sessions of the City Court, maintain order therein and perform all other duties subject to the order of the Court. He or she shall have and exercise powers and duties of a constable, as prescribed by law, shall take charge of all executions issued by the City Court and see to the collection of the same, except as otherwise provided. He or she shall keep, in books to be approved by the City Controller, an accurate account and docket of all executions which may come into his or her hands showing the names of the defendants, date and number of the execution, amount of fines, fees or penalties imposed and the disposition of the execution. He or she shall make out and deliver written reports to the Clerk of the City Court on Tuesday of each week, showing all monies collected by him or her during the previous week, giving the names of the defendants, number of executions, amount of fines, fees or penalties collected and forthwith pay the monies to the Clerk and take the Clerk's receipt therefor.
(1995 Code,§ 2.16.120)

PROBATION OFFICER

§ 36.065 APPOINTMENT-COMPENSATION-QUALIFICATIONS.

(A) The City Judge may appoint a probation officer to serve in the City Court by making the appointment in writing and by entering it upon the court records. The probation officer shall serve at the pleasure of the City Judge at an annual salary to be fixed by the City Judge at an amount not exceeding that permitted by law.

(B) To be eligible for appointment as a probation officer, persons must be certified by the Probation Department of the state as being qualified by having passed a competitive examination or must be eligible in any other manner provided by law. (1995 Code, § 2.16.130)

§ 36.066 POWERS AND DUTIES.

(A) The probation officer shall investigate all cases referred to him or her and shall report thereon to the City Judge. He or she shall furnish to each person released on probation under his or her supervision a written statement of the conditions of probation and shall instruct him or her regarding them. He or she shall keep informed concerning the conduct and condition of each person on probation under his or her supervision by visiting, by requiring reports, and in other ways and shall report thereon at least monthly to the Court. He or she shall use all suitable methods, not inconsistent with the conditions imposed by the Court, to aid and encourage persons on probation to bring about improvement in their conduct and condition.

(B) The probation officer, with the approval of the appointing judge, may act as parole officer over persons released from any correctional institution, upon the request or with the consent of the authority thereof.

(C) The probation officer shall keep a detailed record of his or her work and accurate and complete accounts of all money collected from persons under his or her supervision. He or she shall give receipts therefor and shall report to the Court thereon, and shall perform other duties as the Court may require.

(D) The probation officer shall have, in the execution of his or her duties, the powers of a constable or County Sheriff, insofar as the powers may be necessary to carry out the provisions of I.C. 35-71-1 *et seq.* (1995 Code, § 2.16.140)

CITY COURT REPORTER

§ 36.080 CITY COURT REPORTER.

There is created the position of City Court reporter. The City Court reporter shall be appointed by the City Judge if the Common Council first fixes a salary and appropriates funds therefor, subject to approval by resolution of at least two-thirds of the members-elect of the Common Council. He or she shall serve at the pleasure of the City Judge and shall be under his or her general jurisdiction.
(1995 Code, § 2.16.150)

§ 36.081 COMPENSATION.

The court reporter shall receive the annual salary provided in the annual budget.
(1995 Code, § 2.16.160)

§ 36.082 QUALIFICATIONS.

The person appointed as City Court reporter shall be highly qualified and capable of transcribing and taking down, in shorthand or stenotype, the evidence given in a cause and shall perform other kindred functions of a competent court reporter. (1995 Code, § 2.16.170)

§ 36.083 DUTIES.

(A) Whenever requested by the Judge, the City Court reporter shall be present in Court, shall take down in shorthand or stenotype the oral evidence given in all causes, including both questions and answers, shall note all rulings of the Judge in respect to the admission or rejection of evidence and the objections thereto, and shall write out the instructions of the Court in jury trials.

(B) When requested by resolution of the Common Council or the Board of Public Works and Safety, the City Court reporter shall report special matters of the bodies. (1995 Code, § 2.16.180)

§ 36.084 ADMINISTERING OATHS.

Unless otherwise provided by law, the City Court reporter is authorized and empowered to administer oaths generally and to take and certify affidavits, examinations and depositions. In the event the acts are not permitted by law, the City Court reporter shall, before performing any acts or duties, obtain a commission as a notary public. (1995 Code, § 2.16.190)

§ 36.085 FURNISIDNG TRANSCRIPTS.

(A) Whenever, in any cause, the City Court reporter shall be requested to furnish either party a transcript of all or any part of the proceedings required by him or her to be taken, including all documentary evidence, it shall be his or her duty to furnish the same in typewriting as soon after being requested to do so as practicable, and he or she shall certify the same and state whether the transcript contains all or part of the evidence given.

(B) The City Court reporter may require payment for transcript requested by either party to a cause or may require satisfactory security before he or she commences the preparation of the transcript.

(C) The City Court reporter may charge as fees $0.10 per folio of 100 words, for making and furnishing transcripts, to be paid by the party requiring the transcript. The reporter shall not charge in excess of the fees herein permitted, under penalty of immediate removal from his or her position and under further penalties provided for violations of this chapter.

(D) The Department of Law shall not be required to pay the fees for the preparation of a transcript in any cause in which the city shall be interested and in which the City Court reporter shall have taken down the evidence, nor shall any charge be made for transcripts for the Board of Public Works and Safety or the Common Council.

(E) Any indigent person desiring to appeal to the Circuit or Superior Court from a decision of the City Court or the Judge thereof, who upon filing an affidavit setting forth facts showing his or her inability to pay for or to secure the payment of the transcript of evidence taken in shorthand, may be provided with a transcript upon written order of the Judge to the reporter. (1995 Code, § 2.16.200)

CHAPTER 37: CIVIL DEFENSE AND EMERGENCIES

Section

General Provisions

37.01 Definitions

Proclamation of Emergency

37.15 Authority of Mayor
37.16 Effective date
37.17 Termination-extensions
37.18 Compliance

Procedures

37.30 Powers of Mayor
37.31 Civil Defense Council
37.32 Civil defense plan
37.33 Mutual aid agreements
37.34 Enforcement of orders of Governor or Mayor
37.35 Mobile reserve battalions
37.36 Special police
37.37 Utilization of municipal services, facilities
37.38 Federal and private aid
37.39 Expenditures of funds
37.40 Liability for death, personal injury or property damage
37.41 False air raid signals
37.42 Lights displayed contrary to chapter

GENERAL PROVISIONS

§ 37.01 DEFINITIONS.

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

CIVIL DEFENSE. The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, the minimizing and repairing of injury and damage resulting from disaster caused by enemy attack, sabotage or other hostile action or by fire, flood, earthquake or other natural causes. These functions shall include, without limitations, firefighting services, police services, medical and health services, rescue, engineering, air raid warning, communications and radiological services, excavation of persons from stricken areas, emergency welfare services, civilian war aid, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

MOBILE RESERVE BATTALION. An organization for civil defense, created in accordance with the provisions of law, to be dispatched by the Governor to supplement local organizations for civil defense in a stricken area. (1995 Code, § 2.50.010)

PROCLAMATION OF EMERGENCY

§ 37.15 AUTHORITY OF MAYOR.

Whenever, in the judgment of the Mayor, or, in the event of his or her inability to act, the President of the Common Council, it is determined that an emergency exists as a result of mob action or other civil disobedience causing danger of injury to or damages to persons or property, the Mayor shall have power to impose by proclamation any or all of the following regulations necessary to preserve the peace and order of the city:

(A) To impose a curfew upon all or any portion of the city, thereby requiring all persons in designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places; provided, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firemen and city authorized or requested law enforcement officers and personnel may be exempted from the curfew;

(B) To order the closing of any business establishments anywhere within the city for the period of the emergency, the businesses to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms;

(C) To designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic; and

(D) To call upon regular and auxiliary law enforcement agencies and organizations within or without the city to assist in preserving and keeping the peace within the city. (1995 Code, § 2.50.020)

§ 37.16 EFFECTIVE DATE.

The proclamation of emergency provided in § 37.15 shall become effective upon its issuance and

dissemination to the public by appropriate news media. (1995 Code, § 2.50.030)

§ 37.17 TERMINATION-EXTENSIONS.

Any emergency proclaimed in accordance with the provisions of § 37.15 shall terminate after 48 hours from the issuance thereof or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided, that the emergency may be extended for additional periods of time as may be determined necessary by the Mayor or, in his or her inability to act, the President of the Common Council. (1995 Code, § 2.50.040)

§ 37.18 COMPLIANCE.

Any person who shall willfully fail or refuse to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized in § 37.15 shall be deemed guilty of a misdemeanor.
(1995 Code, § 2.50.050) Penalty, see § 10.99

PROCEDURES

§ 37.30 POWERS OF MAYOR.

(A) The Mayor shall have power to determine upon a system of signals and warnings to the city reasonably calculated to cause notice of emergency or threatened emergency requiring civil defense.

(B) The Mayor, for the same purpose, shall have power to require the extinguishment or controlling of lights visible in the city, to prescribe rules and regulations for the cessation or the movement of traffic and, in general, to require conduct necessary for proper civil defense and to prohibit conduct which is inimical to the public safety. The Mayor shall, whenever possible, promulgate and make available the rules and regulations so that disobedience to them may be avoided. (1995 Code, § 2.50.060)

§ 37.31 CIVIL DEFENSE COUNCIL.

(A) There is created the City Civil Defense Council which shall perform civil defense functions primarily within the city and secondarily within the territorial limits of the county; provided, that the jurisdiction of the City Civil Defense Council may be further extended in the manner provided by law.

(B) The Mayor shall serve as Chairperson of the City Civil Defense Council and shall appoint a Director of Civil Defense who shall be responsible for the efficient organization, administration and operation of the City Civil Defense Council, subject to the control of the Mayor and the Governor.

(C) The Mayor shall also appoint city officials and employees who shall serve the City Civil Defense Council without additional compensation. Clerical, stenographic, administrative and other assistance shall be performed by city employees without additional compensation whenever possible. The Mayor shall also appoint a co-director, legal counsel, deputy directors, advisory council and other assistants, departmental heads and employees as may be necessary to meet operational requirements necessary to carry out the civil defense program. Membership in the City Civil Defense Council shall not be limited to municipal personnel and volunteer civil defense workers shall be encouraged. All members of the City Civil Defense Council shall be appointed by the Mayor and shall serve at his or her pleasure.
(1995 Code, § 2.50.070)

§ 37.32 CIVIL DEFENSE PLAN.

The Director and the City Civil Defense Council shall prepare and provide a detailed plan for as nearly adequate civil defense for the city that they may possibly make. They shall make all necessary surveys and suggest necessary legislation whenever they find that there is inadequate enabling authority. The civil defense personnel shall be fully trained and the plan shall be fully developed and practiced for emergencies. (1995 Code, § 2.50.080)

§ 37.33 MUTUAL AID AGREEMENTS.

(A) The Director of the City Civil Defense Council shall, in collaboration with the federal unit defense agency and neighboring local agencies, develop or cause to be developed mutual aid arrangements for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted. The arrangements shall be consistent with the state civil defense program and shall be subject to approval by the Governor and the Mayor. In emergencies, it shall be the duty of the City Civil Defense Council to render assistance in accordance with the provisions of the mutual aid arrangements.

(B) The Director may, subject to approval of the Governor, enter into mutual aid arrangements with civil defense agencies in the state for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted. (1995 Code, § 2.50.090)

§ 37.34 ENFORCEMENT OF ORDERS OF GOVERNOR OR MAYOR.

It shall be the duty of the City Civil Defense Council and its officers and employees to execute and enforce the orders, rules and regulations made by the Mayor and the Governor under authority of law; and the orders, rules and regulations shall be made available to the City Civil Defense Council and to its officers and employees. (1995 Code, § 2.50.100)

§ 37.35 MOBILE RESERVE BATTALIONS.

It shall be the duty of the Fire and Police Departments to cooperate and to assign personnel from their respective departments to the mobile reserve battalion for and pursuant to law upon orders of the Governor. While in service, the personnel of the Police and Fire Departments, whether serving within or without the city limits, shall have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment. The Governor may, at his or her discretion, declare that a state of emergency exists within any given area within this state and the declaration shall authorize the sending of any mobile reserve battalion or municipal employees and municipally owned equipment into the emergency area to render aid as may be needed. (1995 Code, § 2.50.110)

§ 37.36 SPECIAL POLICE.

The Mayor may appoint for a specified time as many special police, without pay, from among residents of the city as may be deemed advisable for service in connection with civil defense. The special police must wear an identifying emblem as may be prescribed by the Mayor. It is unlawful for any special police to attempt to carry out any order, rule or regulation promulgated under the authority conferred by this chapter when he or she is not wearing the identifying emblem. (1995 Code, § 2.50.120)

§ 37.37 UTILIZATION OF MUNICIPAL SERVICES, FACILITIES.

In carrying out civil defense, the Mayor is directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the city to the maximum extent practicable, and the officers and personnel of all departments, offices and agencies are directed to cooperate with and extend the facilities to the Governor and to the civil defense organizations of the state upon request.

(1995 Code, § 2.50.130)

§ 37.38 FEDERAL AND PRIVATE AID.

(A) Whenever the federal government shall offer to the city services, equipment, supplies, materials or funds by way of gifts, grant or loan for purposes of civil defense, the city, with the consent of the Governor and through the Mayor or Common Council, may accept the offer and, upon the acceptance, the Mayor or Common Council may authorize any officer of the city to receive the services, equipment, supplies, materials or funds on behalf of the city and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(B) Whenever any person shall offer to the city services, equipment, supplies, materials or funds by way of gift, grant or loan for purposes of civil defense, the city, with the consent of the Governor and through the Mayor or Common Council, may accept the offer and, upon the acceptance, the Mayor or Common Council may authorize any officer of the city to receive the services, equipment, supplies, materials or funds on behalf of the city and subject to the terms of the offer. (1995 Code, § 2.50.140)

§ 37.39 EXPENDITURES OF FUNDS.

The Mayor shall be authorized to expend and required to account for, in the manner now provided by law, money which has been appropriated by the Common Council, whether received by gift or otherwise, for necessary civil defense purposes. All money so expended shall be paid out of the treasury only upon presentation of claim vouchers executed upon forms approved by the State Board of Accounts. (1995 Code, § 2.50.150)

§ 37.40 LIABILITY FOR DEATH, PERSONAL INJURY OR PROPERTY DAMAGE.

Neither the city, its agents, employees or representatives when engaged in any civil defense activities while complying with or attempting to comply with civil defense laws or provisions of this chapter or any lawful rule or regulation thereunder shall be liable for the death of or any injury to any person or damage to property as a result of the activity. This shall not affect the right of any person to receive benefits under the worker's compensation law or any pension law. (1995 Code, § 2.50.160)

§ 37.41 FALSE AIR RAID SIGNALS.

It is unlawful to order, utter, publish, sound or otherwise simulate or cause to be ordered, uttered, published, sounded or otherwise simulated any air raid warning signal, unless ordered or authorized to do so by the Mayor. (1995 Code, § 2.50.170) Penalty, see § 10.99

§ 37.42 LIGHTS DISPLAYED CONTRARY TO CHAPTER.

Any light displayed contrary to the provisions of this chapter or contrary to any order, rule or regulation promulgated pursuant hereto shall constitute a public nuisance and in the public interest may be abated summarily as such. (1995 Code,§ 2.50.180) Penalty, see § 10.99

CHAPTER 38: OFFICE HOURS

Section

38.01 Office hours

§ 38.01 OFFICE HOURS.

(A) The several department heads shall have the power to require any office in the executive departments to remain open or closed, when they think the public interest requires it, subject to the approval of the Mayor.

(B) Municipal activities requiring continuous service, such as police and fire forces, waterworks and pumping stations, shall not be interrupted. (1995 Code, § 2.52.010)

CHAPTER 39: CITY CONTRACTS

Section

City Contracts

39.01 Construction contracts to provide for resident employment
39.02 Actual residents defined
39.03 Minimum percentage
39.04 Compliance
39.05 Contracts-local hiring ordinance to be included-compliance required
39.06 Affidavit of East Chicago Residency Hiring
39.07 Contracts-forms-drafting authority
39.08 Monetary damages

Equal Employment Opportunity

39.20 Equal employment opportunity goals
39.21 Employment of formula
39.22 Goals to apply to projects funded entirely by the city
39.23 Formula
39.24 Goals to apply to projects subsidized by federal revenues
39.25 Deductions
39.26 Contractor's submissions
39.27 Prevailing wage range
39.28 Use of monetary damages

Project Labor Agreements

39.40 Policy
39.41 Language required for all solicitations for bids
39.42 Language required for any instructions to bidders
39.43 Enforcement
39.44 Additional provisions

CITY CONTRACTS

§ 39.01 CONSTRUCTION CONTRACTS TO PROVIDE FOR RESIDENT EMPLOYMENT.

For all non-specialized construction contracts and nonexempt specialized contracts, as determined by the Board of Public Works and Safety, having an estimated contract value of $100,000 or more, and where not otherwise prohibited by federal, state or local law the total hours worked by persons relative to the project by employees of the contractor and its subcontractors shall be performed at least 50% by actual residents of the city. Henceforth, the total workforce hours of all employees hired by the contractor and its subcontractors in the categories of skilled and non-skilled jobs, or any combination thereof, for all

non-specialized construction contracts and nonexempt specialized contracts, as determined by the Board of Public Works and Safety, shall be performed by at least 50 % actual residents of the city.

(1995 Code, § 2.54.010) (Ord. 0-04-0005, passed 2-20-2004; Ord. 0-05-0020, passed 6-13-2005)

§ 39.02 ACTUAL RESIDENTS DEFINED.

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

ACTUAL RESIDENTS OF THE CITY. Persons domiciled within the city. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

(1995 Code, § 2.54.020) (Ord. 0-04-0005, passed 2-20-2004; Ord. 0-05-0020, passed 6-13-2005)

§ 39.03 MINIMUM PERCENTAGE.

This minimal percentage of East Chicagoans shall not be understood as limiting or deterring the fuller utilization of East Chicagoans beyond this level, but is intended instead as minimum requirements unless the city grants a waiver based upon demonstration by the contractor of impracticability or excessive cost of complying with the specified percentages. A waiver or reduction shall be deemed appropriate if the contractor and/or its subcontractor has unsuccessfully solicited a sufficient number of residents of the city to perform the work and has documented the effort to the satisfaction of the city. In addition, the contractor and/or its subcontractor seeking a waiver or reduction shall provide timely notice of the need for qualified residents of the city to an appropriate source of referrals, which source shall be entitled to comment on any waiver or reduction application.

(Ord. 0-04-0005, passed 2-20-2004; Ord. 0-05-0020, passed 6-13-2005)

§ 39.04 COMPLIANCE.

The contractor and its subcontractors that perform work on all non-specialized construction contracts and nonexempt specialized contracts as determined by the Board of Public Works and Safety shall comply with the minimum percentage of total worker hours performed by actual residents of the city as specified in this subchapter. (Ord. 0-04-0005, passed 2-20-2004; Ord. 0-05-0020, passed 6-13-2005)

§ 39.05 CONTRACTS-LOCAL HIRING ORDINANCE TO BE INCLUDED-COMPLIANCE REQUIRED.

The City's local hiring ordinance shall be included in all non-specialized construction contracts and nonexempt specialized contracts as determined by the Board of Public Works and Safety and let by the city. The compliance, enforcement and sanctions of this subchapter shall be governed by the individual terms of each contract awarded. Any contractor entering into a public contract with the city, political subdivision of the city or any department of the city by acceptance of the contract, agrees to comply with and be bound by the terms of the local hiring ordinance.

(1995 Code, § 2.54.030) (Ord. 0-04-0005, passed 2-20-2004; Ord. 0-05-0020, passed 6-13-2005)

§ 39.06 AFFIDAVIT OF EAST CHICAGO RESIDENCY HIRING.

The contractor shall submit with its bid solicitation and/or contract document the affidavit of East Chicago residency hiring attached hereto, a copy of which is available in the office of the City Clerk.

(Ord. 0-04-0005, passed 2-20-2004; Ord. 0-05-0020, passed 6-13-2005)

§ 39.07 CONTRACTS-FORMS-DRAFTING AUTHORITY.

All contracts awarded by the city, a political subdivision of the city or any department of the city shall be on forms prescribed and approved by the City Council and by the Law Department of the city.

(A) The forms shall include the following but not limited to language which shall govern the local hiring provision:

(1) Contractors shall comply with the 50 % local hiring requirement on contracts as designated by the city; and

(2) Monitoring of compliance with the local hiring ordinance will be done by a compliance officer from the Human Rights Commission and/or designated representative.

(B) *Compliance and reporting.*

(1) The contractor shall provide for the maintenance of adequate employee residency records to ensure that actual city residents are employed on the designated construction project. The contractor and its subcontractors shall maintain copies of personnel documents supportive of every city employee's record of actual residence. The documentation may include but not be limited to the following items: a copy of the employee driver's license; a valid state ID, a copy of a current utility bill; and/or a copy of the individual voter's registration card.

(2) The contractor shall submit and shall ensure that all of its subcontractors working on the site submit two copies of certified payrolls for the payment period to the city or its designated representative every week (U.S. Department of Labor Form WH-347 and/or an equivalent: i.e. electronic format, as determined by the city). In addition, the contractor and all of its subcontractors shall identify clearly the actual residence of every employee on each submitted certified payroll, the first time that an employee's name appears on a payroll, the date that the company hired the employee should be written in after the employee's name. Whereby contractor has identified an employee as a city resident the following but not be limited to documentation shall accompany the certified payroll whereby the employee's name first occurs: a copy of the employee driver's license; a valid state ID, a copy of a current utility bill; and/or a copy of the individual voter's registration card. All payrolls must be identified with the contractor and/or subcontractor's name and contract name and number, and must be sequentially numbered. The contractor shall ensure that its payrolls and its subcontractors payrolls are submitted until all work by the contractor and/or subcontractor is completed. If there are periods of no work by the contractor and/or subcontractor, a payroll labeled "NO WORK" shall be submitted. The final payroll shall be labeled "FINAL." Certified payrolls are required to assure workforce hiring compliance as well as wage compliance. Race, ethnicity, worker classification, Social Security number and gender must be clearly marked for each employee on the certified payroll along with all additional information required by the city. An employee's address should appear every time his or her name appears on the payroll. The contractor must submit the certified payrolls and additional information regarding workforce hiring and wage compliance by providing a payroll summary report in the form required by the city. The payroll summary report form required by the city and the U.S. Department of Labor must be submitted by contractor and each subcontractor, reflecting fully the periods of work covered by the partial payment request.

(3) Full access to the contractor and its subcontractors' employment records shall be granted to the city, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant personnel data for a period of at least three years after final acceptance of the work.

(4) At the direction of the city, affidavits and other supporting documentation will be required of the contractor to verify or clarify an employee's actual address or change of actual address when doubt or lack of clarity has arisen.

(C) *Noncompliance.*

(1) Good faith efforts on the part of the contractor to provide utilization of actual city residents shall not suffice to replace the actual, verified achievement of the requirement concerning the worker hours performed by actual city residents.

(2) The city may impose the following remedies if the contractor is found to be in noncompliance in achieving the workforce-hiring requirement as cited in this subchapter:

(a) Stop work on contract until compliance is reached;

(b) Suspension of payments; and

(c) Termination of the contract.

(3) If the contractor is permitted to complete the work and when work is completed, and the city has determined that the contractor failed to ensure the fulfillment of the requirement of this subchapter concerning the worker hours performed by actual city residents, or has failed to report in the manner indicated above under division (B) above, the city will thereby be damaged in the failure to provide the benefit of demonstrable employment to city residents to the degree stipulated in this supplementary condition. Therefore, in that case of noncompliance it is agreed that one-tenth of 1%, of the adjusted contract price (approved contract value) shall be withheld by the city in payment for each full one percentage of shortfall toward the stipulated residency requirements. Failure to report the residency and hours of all employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no city residents were employed. The formula shall be calculated as such:

.0010 x Adjusted Base Amount = Sum x Net Deficiency = Potential Damage Amount

(4) The willful falsification of statements and the certification of payroll data may subject the contractor, subcontractors or employee to prosecution.

(5) Liquidated damages, if any, will be calculated on completion of the work and submission of the contractor's final pay request together with all attendant certified payrolls, schedules of values, lien releases and other required documentation of workforce hiring.

(6) Nothing herein provided shall be construed to be a limitation upon the Human Rights Commission or other affirmative action requirements under the regulations promulgated by applicable federal, state or local authorities.

(7) The monetary damages stipulated in division (B) above may be adjusted by the city to represent a larger fraction of the adjusted contract price, if the city determines after a review of contractor's compliance with this section that the damages are insufficient to secure compliance herewith. In no event may damages be adjusted to a lower fraction. In addition to assessing the monetary damages stipulated in division (B) above, the city may, in lieu of declaring the

contractor to be a non-responsible bidder, require the contractor to post a surety bond or other appropriate security in an amount representing 10 % of the contract price for subsequent contracts on which the contractor bids, which the contractor shall agree to forfeit in its entirety in the event that full compliance with the requirements of this section is not achieved during the performance of any future contract that the contractor enters with the city. (1995 Code, § 2.54.040) (Ord. 0-04-0005, passed 2-20-2004; Ord. 0-05-0020, passed 6-13-2005)

§ 39.08 MONETARY DAMAGES.

The monetary damages as stipulated above in § 39.07 shall be utilized for establishing worker training related programs for the city. (Ord. 0-05-0020, passed 6-13-2005)

EQUAL EMPLOYMENT OPPORTUNITY

§ 39.20 EQUAL EMPLOYMENT OPPORTUNITY GOALS.

For all non-specialized construction contracts and nonexempt specialized contracts, as determined by the Board of Public Works and Safety, having an estimated contract value of $100,000 or more, and where not otherwise prohibited by federal, state or local law effective the date this subchapter is approved, the city shall have as its yearly equal employment opportunity goals the following percentages of construction aggregated work hours in each of the categories of construction:

Journeyworker and apprentice
At least 15 % by minorities
At least 2 % by women
Laborers
At least 30 % by minorities
At least 5 % by women

(Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

§ 39.21 EMPLOYMENT OF FORMULA.

In order to effectuate the achievement of these goals, the Director of the Board of Public Works and Safety shall employ the canvassing formula described in § 39.23 of this subchapter in the bidding for and in the awarding of all non-specialized construction contracts and nonexempt specialized contracts, as determined by the Board of Public Works and Safety, having an estimated contract value of $100,000 or more and which are let by the city.

(Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

§ 39.22 GOALS TO APPLY TO PROJECTS FUNDED ENTIRELY BY THE CITY.

These goals shall also apply to construction projects which are funded entirely by the city, a political subdivision of the city or any department of the city with its own revenues subsidized in part with federal revenues pursuant to congressionally created grant programs which are intended to encourage economic revitalization including improved opportunities for the poor, minorities and

unemployed within the municipality to which the grant was given (including, without limitation, Community Development Block Grants, Urban Development Action Grants and Economic Development Administration Grants). (Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

§ 39.23 FORMULA.

In accordance with this subchapter, and in order to promote equality of opportunity for minority and female personnel the city has established the following canvassing formula (hereafter award criteria formula) for the purpose of evaluating proposals and awarding non-specialized construction contracts and nonexempt specialized contracts.

(A) Lines 2, 4 and 6 in the formula shall not be greater than 50% in each category for purposes of award criteria only. Similarly, lines 8, 10 and 12 shall not be greater than 10% in each category for the purpose of award criteria only. The 50% and 10% goals are not intended to restrict the total number of minority and female employees to be used on the project, but only to establish limiting figures for use in the formula. Journeyworkers includes but is not limited to: truck drivers, tile setters, finishers, electrical grounds workers and elevator construction helpers, workers from the major trades listed herein and the Teamsters.

Line 1	Base bid, in figures	
Line 2	Percentage of the total journeyworkers hours that the contractor proposes to be worked by minority journeyworkers during construction of the project; (maximum figure 0.50)	
Line 3	Multiply Line 2 by Line 1 by 0.04	
Line 4	Percentage of the total apprentice hours that the contractor proposes to be worked by minority apprentices during construction of the project; (maximum figure 0.50)	
Line 5	Multiply Line 4 by Line 1 by 0.03	
Line 6	Percentage of the total laborer hours that the contractor proposes to be worked by minority laborers during construction of the project; (maximum figure 0.50)	
Line 7	Multiply Line 6 by Line 1 by 0.01	
Line 8	Percentage of the total journeyworkers hours that the contractors proposes to be worked by female journeyworkers during construction of the project; (maximum figure 0.10)	
Line 9	Multiply Line 8 by Line 1 by 0.04	
Line 10	Percentage of total apprentice hours that the contractor proposes to be worked by female apprentices during construction of the project; (maximum figure 0.10)	
Line 11	Multiply Line 10 by Line 1 by 0.03	

Line 12	Percentage of the total laborer hours that the contractor proposes to be worked by female laborers during the construction of the project; (maximum figure 0.10)	
Line 13	Multiply Line 12 by Line 1 by 0.01	
Line 14	Summation of Lines 3,5,7,9,11 and 13	
Line 15	Subtract Line 14 from Line 1 (= award criteria figure)	

(B) The contractor shall complete in its entirety the award criteria formula and transfer the final award criteria figure (Line 15) to the space provided on the itemized proposal sheet. Failure to complete the formula may be cause for rejection of the contractor's proposal. The contractor will be held responsible for adhering to the figures submitted in Lines 1, 2, 4, 6, 8, 10 and 12 during construction of the project. Hence if no hours are achieved in the categories whereby the contractor has committed a percentage the contractor will still be held to the percentages committed in Lines 2, 4, 6, 8, 10 and 12 given that the award criteria figure will be considered upon determining the lowest responsible contractor.

(C) Actual amounts of minority female work will be measured from the total hours of construction workers employed on the project within each of the categories of journeyworkers, apprentices and laborers by the contractor and all of the worksite subcontractors. Individual workers who are both minority and female will have their hours counted as both a minority goal and a female goal.

(D) Hours, which have been identified for apprentices on the project, will be counted toward the commitment only upon our receipt of the U.S. Department of Labor apprentice certification for each apprentice identified. (Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

§ 39.24 GOALS TO APPLY TO PROJECTS SUBSIDIZED BY FEDERAL REVENUES.

These goals shall also apply to construction projects subsidized in part with federal revenues pursuant to congressionally created grant programs which are intended to encourage economic revitalization including improved opportunities for the poor, minorities and unemployed within the municipality to which the grant was given (including, without limitation, Community Development Block Grants, Urban Development Action Grants and Economic Development Administration Grants).
(Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

§ 39.25 DEDUCTIONS.

The contractor shall consent and agree that, in the event that it fails to comply with each of the minimum commitments submitted with the bid submittal on Lines 2, 4, 6, 8, 10 and 12 of the award criteria formula, covering minority and female journeyworkers, apprentices and laborers respectively, for any net deficiency in each category, the following amounts shall be deducted as liquidated damages from monies due the contractor and the contract sum modified accordingly:

(A) (1) For each full 1% deficiency of minority journeyworkers not utilized (Line 2) $0.04 per each $100 of the base bid and/or adjusted contract amount whichever is less, calculated as follows:

$$\frac{\text{Line 1 x 0.04}}{100}$$

(2) Each full 1% deficiency toward the goal for female journeyworkers (Line 8) shall be calculated in the same way.

(B) (1) For each full 1 % deficiency of minority apprentices not utilized (Line 4) $0.03 per $100 of the base bid and/or adjusted contract amount whichever is less, calculated as follows:

$$\frac{\text{Line 1 x 0.03}}{100}$$

(2) Each full 1% deficiency toward the goal for each female apprentice (Line 10) shall be calculated in the same way.

(C) (1) For each full 1% deficiency of minority laborers not utilized (Line 6) $0.01 per each $100 of the base bid and/or adjusted contract amount whichever is less, calculated as follows:

$$\frac{\text{Line 1 x 0.01}}{100}$$

(2) Each full 1% deficiency toward the goal for female laborers (Line 12) shall be calculated in the same way.

(D) Liquidated damages, if any, will be calculated on completion of the work and submission of the contractor's final pay request together with all attendant certified payrolls and other required documentation of minority and women employment.

(Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

§ 39.26 CONTRACTOR'S SUBMISSIONS.

(A) In accordance with this commitment, the contractor must submit both the contractor's payroll record form and the contractor's workforce hiring of minority and female worker hours and percentages form on a monthly basis. The contractor shall submit to the city no later than once monthly, a completed weekly-certified payroll with the Social Security number, address, trade classification, race, ethnicity and gender of employees clearly named or coded for each week. In the weekly payroll report, the following categories should be used to indicate minority personnel for purposes of the award criteria figure:

(1) The classification "White" includes persons of Indo-European descent;

(2) The classification of "Black" or "African-American" includes persons having origins in any of the black racial groups of Africa;

(3) The classification "Hispanic" includes persons whose origins are from Mexico, Puerto Rico, Cuba, Central or South America, the Caribbean Islands or other Spanish culture or origin, regardless of race;

(4) The classification "Native American" includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

(5) The classification "Asian Indians" includes persons whose origins are from India, Pakistan or Bangladesh;

(6) The classification “Asian Pacific” includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam and the U.S. Territories of the Pacific or the Northern Marianas; and

(7) The classification “Other” includes qualified individuals with disabilities who meet legitimate skill, experience, education or other requirements of employment positions held or sought and who perform the essential function with or without reasonable accommodation and other groups or other individuals found by the city to be socially and economically disadvantaged and to have suffered actual race or ethnic discrimination and decreased opportunities to compete in the city area market.

(B) The selected bidder shall submit and shall ensure that all of its subcontractors working on the site submit two copies of certified payrolls for the payment period to the city or its designated representative every week (U.S. Department of Labor Form WH-347 and/or an equivalent: i.e. electronic format, as determined by the city). The selected bidder and all of its subcontractors shall identify clearly the actual residence of every employee on each submitted certified payroll, the first time that an employee’s name appears on a payroll, the date that the company hired the employee should be written in after the employee’s name. All payrolls must be identified with the selected bidder or subcontractor’s name and contract name and number, and must be sequentially numbered. The payroll shall be submitted by the selected bidder and all of its subcontractors until all work by the selected bidder and/or all of its subcontractors are completed. If there are periods of no work by the selected bidder and/or its subcontractor(s), a payroll labeled “NO WORK” shall be submitted. The final payroll shall be labeled “FINAL.” Certified payrolls are required to assure workforce-hiring compliance as well as wage compliance. Race, ethnicity, worker classification, social security number and gender must be clearly marked for each employee on the certified payroll along with all additional information required by the city. An employee’s address should appear every time his or her name appears on the payroll. The selected bidder and all of its subcontractors must submit the certified payrolls and additional information regarding workforce hiring and wage compliance by providing a payroll summary report in the form required by the city. The workforce hiring report form required by the city and the U.S. Department of Labor must be submitted by selected bidder and each subcontractor, reflecting fully the periods of work covered by the partial payment request.

(Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

§ 39.27 PREVAILING WAGE RANGE.

The contractor covenants and agrees to pay and to contractually obligate and cause each subcontractor to pay the prevailing wage rate as ascertained by the State Department of Labor. The rates as provided by the State Department of Labor for the county, as may be revised from time to time.

(Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

§ 39.28 USE OF MONETARY DAMAGES.

The monetary damages as stipulated above in § 39.25 shall be utilized for establishing worker training related programs for the city.

(Ord. 0-04-0004, passed 2-20-2004; Ord. 0-05-0019, passed 6-13-2005)

PROJECT LABOR AGREEMENTS

§ 39.40 POLICY.

It is the policy, as expressed herein, of the city to provide for the negotiation of mutually acceptable project labor agreements with local labor unions representing experienced and skilled construction workers covering the construction, alteration or repair work.

(Ord. 0-06-0018, passed 5-8-2006)

§ 39.41 LANGUAGE REQUIRED FOR ALL SOLICITATIONS FOR BIDS.

All solicitations for bids issued by the Common Council of the city (or a corporation created to benefit the city in construction, alteration or repair) shall, except as otherwise provided herein, include the following language:

> Each successful bidder and any and all levels of subcontractors, regardless of tier as a condition of being awarded a contract or subcontract, will agree to abide by the provisions of the (insert names of project) project labor agreement as executed and effective 20 _. By and between the project manager and/or construction manager authorized to negotiate and enter into a project labor agreement on behalf of the City of East Chicago (or a corporation created to benefit the entity in construction, alteration or repair) and the local labor unions representing experienced and skilled construction workers and will be bound by the provisions of that agreement in the same manner as any other provision of the contract.
>
> (Ord. 0-06-0018, passed 5-8-2006)

§ 39.42 LANGUAGE REQUIRED FOR ANY INSTRUCTIONS TO BIDDERS.

Any instructions to bidders or like document issued for a public works project by the city shall, except as otherwise provided herein, include the following language:

> The general contract (and all independent subcontracts, i.e. subcontracts not included within a general contract and regardless of tier) will be awarded to the lowest responsible and responsive bidder complying with the conditions and requirements provided in these instructions, the bid forms and the other bid documents. A responsible and responsive bidder is a bidder demonstrably possessing the skill, ability and integrity necessary to faithfully perform the work called for by the contract, based upon a determination of competent workmanship and financial soundness in accordance with I.C. 36-1-9.5 or any successor statute. An eligible bidder is a bidder who is not debarred from bidding under any applicable law, and which shall certify that it is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the project. In the interests of harmony, the long-term supply of skilled labor, and to provide a legally enforceable means of assuring labor stability and labor peace over the life of the project, each successful bidder and any and all levels of subcontractors, regardless of tier, as a condition of being awarded a contractor subcontract, shall be required to enter into a project labor agreement for the (insert name or project) project with local labor unions representing experienced and skilled construction workers for the development and construction of the project, and will be bound by the provisions of that project labor agreement in the same manner as any other provision of the contract.
>
> (Ord. 0-06-0018, passed 5-8-2006)

§ 39.43 ENFORCEMENT.

The Common Council of the city retains its inherent authority to adopt means to enforce compliance by any contractor or subcontractor, regardless of tier, with the provisions of any project labor agreement entered into on behalf of the city (or lessee or the beneficiary of a separate corporation created to benefit the city in construction, alteration or repair). (Ord. 0-06-0018, passed 5-8-2006)

§ 39.44 ADDITIONAL PROVISIONS.

The city's project labor agreement contain the additional provisions:

(A) Public works projects costing less than $75,000 be exempt from the requirements of this subchapter; and

(B) Northwest Indiana Building and Construction Trade Council, on behalf of its affiliated local unions, shall do the following:

(1) Use best efforts to recruit city residents to fulfill the manpower requirements of the contractors covered hereunder, which are required to have 50% of city residents in each job classification covered by this subchapter;

(2) Work with persons designated by the city to hold and sponsor two job fairs each year and to provide materials on job training; and

(3) To use best efforts to place city residents in apprentice and journeyworkers non-public construction jobs in the city. (Ord. 0-06-0018, passed 5-8-2006)

CHAPTER 40: HUMAN RIGHTS

Section

40.01 Adopted by reference

§ 40.01 ADOPTED BY REFERENCE.

The revised comprehensive human rights regulations, copies of which are on file in the office of the City Clerk, are adopted and incorporated as part of this code of ordinances as fully as if set out at length herein. (Ord. 0-01-0030, passed 11-27-2001; Ord. 0-11-0021, passed 9-26-2011)

CHAPTER 41: PERSONNEL RULES AND PRACTICES

Section

Officers and Employees Generally

41.001 Qualifications
41.002 Appointment and terms
41.003 Oath of office
41.004 Performance of duties
41.005 Records- furnishing information upon request
41.006 Financial accounts
41.007 Financial reports
41.008 Submitting estimates for budget
41.009 Compensation
41.010 Surrendering office materials to successor
41.011 Bonds- generally
41.012 Bonds- qualifications of sureties
41.013 Bonds- approval- filing
41.014 Bonds- costs
41.015 Bonds- effect- termination or cancellation

Trial and Removal of Officers

41.030 Grounds for trial by council
41.031 Filing of charges
41.032 Committee examination of charges and report- formal charges
41.033 Summons
41.034 Trial- commencement- evidence and proceedings- rights of accused
41.035 Trial- adjournment and continuances
41.036 Accused councilmember excluded from vote
41.037 Findings and sentence

Residency Requirements

41.050 Generally
41.051 Current non-residing employees- compliance- when
41.052 Exceptions
41.053 Department heads' domicile- enforce compliance
41.054 Violations
41.055 Public safety employees

Fire and Police Department Work Periods and Compensation Time

41.075 Fire department
41.076 Police department
41.077 Compensation time
41.078 Compensation time funds
41.079 Department chiefs exempted

Deferred Compensation Plan

41.090 Established
41.091 Execution and administration

Personnel Policies and Administrative Practices

41.105 Work week
41.106 Scheduled work hours- salaried employees
41.107 Offices to remain open- lunch breaks
41.108 Scheduled work hours- hourly employees
41.109 City employees serving on governmental boards or agencies.
41.110 Pay periods
41.111 Meal breaks
41.112 Meal time- compensation time
41.113 Break time
41.114 Absenteeism- tardiness
41.115 Absentee and tardiness reports
41.116 Compensatory time- defined
41.117 Compensatory time- when used
41.118 Compensatory time- accrual- payment when
41.119 Compensatory time- times off- when
41.120 Compensatory time- other uses with approval
41.121 Compensatory time- reporting- certification
41.122 Compensatory time- how accumulated
41.123 Compensatory time fund
41.124 Department heads excluded from compensation time provisions
41.125 Bereavement
41.126 Jury duty
41.127 Applicability to union employees
41.128 Applicability to separate taxing authorities or autonomous entities
41.129 Holidays
41.130 Annual leave
41.131 Sick leave
41.132 Extended sick leave for police officers and firefighters
41.133 Travel
41.134 Injuries and accidents
41.135 Employee conduct
41.136 Disciplinary action
41.137 Indemnify city employees and elected officials

Substance Abuse Policy

41.150 Public policy and purpose of drug and alcohol testing program
41.151 Scope of testing
41.152 Compliance
41.153 Standards for testing
41.154 Notice and training
41.155 Rights and responsibilities
41.156 Effect and implementation

41.157 Acknowledgement form

Employee Travel

41.170 Definitions
41.171 General conditions
41.172 Requirement of receipts
41.173 Subsistence allowance
41.174 Lodging reimbursement
41.175 Transportation reimbursement
41.176 Other reimbursement
41.177 Meeting attendance
41.178 Procedures for reimbursement
41.179 Per Diem travel payment for elected officials

Operation of Motor Vehicles Owned or Leased by City

41.190 Vehicle use permitted by employees only
41.191 Vehicle use permitted for official business only
41.192 Violations- penalties

City Employees Called to Active Duty in the Armed Forces or National Guard

41.205 City Employees Called to Active Duty in the Armed Forces or National Guard

OFFICERS AND EMPLOYEES GENERALLY

§ 41.001 QUALIFICATIONS.

(A) No person shall be eligible for any city office unless he shall have been an actual resident in good faith of this city for at least one year immediately prior to his election of appointment, unless otherwise provided by law.

(B) No person shall be eligible for the office of councilman to represent any district unless for the last six months of his residence in the city he shall have been a resident in good faith of such district.

(C) Should any city officer cease to be a resident of the city, or any councilman representing a district cease to be a resident of such district, during his term, such office shall thereby become vacant at once.

(D) No property qualifications shall be necessary to render any citizens eligible to hold any office in the city. (1995 Code, § 2.58.005)

§ 41.002 APPOINTMENT AND TERMS.

All appointive officers, deputies, employees, assistants and departmental and institutional heads, members of boards, commissions, institutions and utilities maintained by the city shall be appointed or employed by and serve at the pleasure of the mayor, unless otherwise provided by law.
(1995 Code, § 2.58.010)

§ 41.003 OATH OF OFFICE.

Every officer and head of a department, before entering upon the duties of his office, shall take and subscribe an oath, to be endorsed upon his certificate of election or appointment, before the city clerk or some officer authorized to administer oaths, that he will support the Constitution of the United States and the Constitution of the state, and that he will faithfully discharge all his official duties; which oath shall also be filed with the city clerk within ten days after the beginning of the term for which he shall have been elected or appointed under penalty of forfeiture of office, as provided by law.

(1995 Code, § 2.58.015)

§ 41.004 PEFORMANCE OF DUTIES.

All officers and employees of the city shall perform for the city such duties, outside of those prescribed by law and this code, which the rules of the department may provide and the head thereof may direct. (1995 Code, § 2.58.020)

§ 41.005 RECORDS- FURNISHING INFORMATION UPON REQUEST.

Every head of a department shall keep or require to be kept a record of the affairs of such department and its divisions or bureaus, and the heads of such departments shall promptly furnish to the mayor or common council information which may be called for in relation to its affairs.

(1995 Code, § 2.58.025)

§ 41.006 FINANCIAL ACCOUNTS.

It shall be the duty of all officers, employees or agents of the city, who shall receive any funds, money or other things of value or personal fees by virtue of their offices or positions, to keep an account of all such receipts by entries on written or printed forms prescribed by the stat board of accounts.

(1995 Code, § 2.58.030)

§ 41.007 FINANCIAL REPORTS.

All departments, divisions, bureaus, boards or persons connected with the city government are required to make such financial reports as may be ordered by the city controller, mayor or the common council. (1995 Code, § 2.58.035)

§ 41.008 SUBMITTING ESTIMATES FOR BUDGET.

Every department head shall submit, at the time required and in the manner provided by law, an estimate of the amount of money required for his department for the ensuing fiscal year.

(1995 Code, § 2.58.040)

§ 41.009 COMPENSATION.

The salaries and wages of all officers and employees shall be fixed by the mayor as provided in CHAPTER 31 when not otherwise provided by law. The money to pay such officers and employees shall be appropriated in the annual budget by the common council in the manner provided by law.

Nothing contained in this code shall be construed to prevent payment of additional salaries or parts of salaries to certain officers from city owned utilities in the manner provided by law.

(1995 Code, § 2.58.045)

§ 41.010 SURRENDERING OFFICE MATERIALS TO SUCCESSOR.

Every officer and employee of the city, whose appointment or employment is terminated for any cause, shall forthwith deliver to his successor in office or to the head of the department in which he is employed all property, books and effects in his possession belonging to the city or pertaining to his office, before such officer or employee shall be paid the final compensation due him from the city.

(1995 Code, § 2.58.050)

§ 41.011 BONDS- GENERALLY.

Each officer, head of department, member of board or commission, deputy, clerk or employee who is required by law or this code to give bond before entering upon the duties of his office, appointment or employment shall execute a bond payable to the city, unless otherwise provided, in such penal sum as is required by law or this code, with good and sufficient sureties.

All bonds shall be conditioned for the faithful performance of the duties of the office or position, and for the payment to the proper persons of money and the delivery of all properties received by such officer, appointee or employee to the proper persons.

All bonds for municipal officers, deputies or employees shall be recorded by and filed with the county recorder if provided by law. If no such requirement is required by law, then all such bonds shall be filed with the city controller. (1995 Code, § 2.58.055)

§ 41.012 BONDS- QUALIFICATIONS OF SURETIES.

No official bond shall be accepted of approved if executed by a surety company unless such surety shall be authorized to transact business, as such, in the state.

When an accredited surety company executes any such bond, only one surety shall be required; but no surety company shall be accepted as the sole surety on any bond, the penalty of which exceeds ten percent of the capital and surplus of the surety. In all cases, the bond shall be executed in such a way and by such number of surety companies as will keep the total liability of each of the sureties within ten percent of the capital and surplus of each of such sureties.

All sureties shall justify under oath that they are respectively worth the sums stated in such justifications, over and above all debts and liabilities. (1995 Code, § 2.58.060)

§ 41.013 BONDS- APPROVAL- FILING.

All bond, unless otherwise provided, after certification by the city controller of the financial responsibility of the sureties, shall be approved by the mayor. The mayor's approval shall be written upon the bond, which shall be filed with the county recorder if so required by law; provided, that the city controller shall approve the bond of the mayor. (1995 Code, § 2.58.065)

§ 41.014 BONDS- COSTS.

The cost of obtaining all bonds of officers or employees payable to the city shall be paid out of the general funds of the city in the same manner as office expenses or the cost of the bond shall be paid out of the operating or maintenance fund being administered by such officers or employees.

(1995 Code, § 2.58.070)

§ 41.015 BONDS- EFFECT- TERMINATION OR CANCELLATION.

All bonds of officers and employees shall be continuing in effect so long as the officers and employees named therein shall continue in office or in their position and until payment is made by such officers and employees of all money and the delivery of all property received by them; provided, that liability under such bond may be terminated in respect of any act of the principal taken or occurring after thirty days written notice to the city of the termination or cancellation of such bond by the surety. Upon the termination of cancellation of an official bond during the continuance in office or employment of any person required to give such bond, such person shall execute a new bond in conformity with this code or law before continuing in the performance of the duties of his office, appointment or employment.

(1995 Code, § 2.58.075)

TRIAL AND REMOVAL OF OFFICERS

§ 41.030 GROUNDS FOR TRIAL BY COUNCIL.

Any member of the common council or person holding office in the city, who willfully neglects the performance of any duty pertaining to his office, or shall be guilty of habitual drunkenness, or any crime or misdemeanor, or who shall, in the opinion of the common council, be in any way disqualified for the performance of the duties of his office, may be tried by the common council on charges filed.

(1995 Code, § 2.58.080)

§ 41.031 FILING OF CHARGES.

Any member of the common council may prefer charges against any officer thereof. The charges shall be in writing, shall specify the grounds and shall be filed with the city clerk, who shall lay them before the council at its next regular meeting. Such charges shall be signed and sworn to by the person making them, and no such charges shall be received or filed by the city clerk unless the same shall be signed in his presence or the person making the same shall acknowledge before the clerk his signature thereto. (1995 Code, § 2.58.085)

§ 41.032 COMMITTEE EXAMINATION OF CHARGES AND REPORT- FORMAL CHARGES.

(A) Upon the laying of charges before the common council by the clerk of the city, as provided in § 41.030, the same shall be referred to three members of the council, who shall examine into them and report in writing at the next regular meeting of the council whether, in their opinion, there are good grounds for the accusations therein contained.

(B) If the committee referred to in subsection A of this section reports that there are good grounds for such accusations, the council shall at once refer such charges to the city attorney, who shall redraft and present in due form, numbering each specific charge, the same forthwith to the council or at the next meeting thereof, at the option of the council; and the same shall be marked “filed” by the clerk. But if such committee reports that there are no good grounds for such accusations, then no further steps shall be

taken, unless the council refuses to accept such report and refers such charges to the city attorney for presentation in due form, as stated in this subsection. (1995 Code, § 2.58.090)

§ 41.033 SUMMONS.

When formal charges shall have been filed with the city clerk by the city attorney, the mayor shall issue a summons to the chief of police, which summons shall require the accused to appear before the common council at a certain hour named, to answer such accusations, on a day therein named, which day shall be not less than five days nor more than ten days from the date of issuing the summons. The chief of police shall serve such summons upon the accused by reading the same to him or by leaving a copy thereof at his last and usual place of residence. The accused shall be entitled to a written copy of the charges against him at least five days before trial. (1995 Code, § 2.58.095)

§ 41.034 TRIAL- COMMENCEMENT- EVIDENCE AND PROCEEDINGS- RIGHTS OF ACCUSED.

At the hour set for trial, the council, if not in regular session, shall be called together in special session, either by the mayor or five councilmen, as a trial court. Evidence shall be taken in such cause, the attendance of witness enforced by subpoena or attachment and all proceedings generally shall be the same as in actions or suits at law. The accused shall be required to answer such charges and shall have the right to call witnesses, produce evidence and be heard, either in person or by counsel. (1995 Code, § 2.58.100)

§ 41.035 TRIAL- ADJOURNMENT AND CONTINUANCES.

During the trial, the council may adjourn from day to day or from one day over until any other, until such trial is completed. (1995 Code, § 2.58.105)

§ 41.036 ACCUSED COUNCILMEMBER EXCLUDED FROM VOTE.

When a charge is preferred against a member of the council, he shall have no vote in any of the proceeding instituted against him. (1995 Code, § 2.58.110)

§ 41.037 FINDINGS AND SENTENCE.

At the conclusion of the evidence and argument, a vote viva voce shall be taken on each separate charge. Two-thirds of the whole number of the councilmen elected shall be necessary to make a finding of guilty. If found guilty, the rights of the accused shall be determined by state law. (1995 Code, § 2.58.115)

RESIDENCY REQUIREMENTS

§ 41.050 GENERALLY.

All employees of the City of East Chicago shall be domiciled in East Chicago at the time of their initial employment by the City and shall maintain said domicile throughout the period of their employment by the City.

(1995 Code, § 2.58.120) (Ord. 3135, passed - -1976; Ord. 0-04-0052, passed 12-16-2004)

§ 41.051 CURRENT NONRESIDING EMPLOYEES- COMPLIANCE- WHEN.

All current employees of the City of East Chicago who are not presently domiciled in East Chicago shall become so domiciled within six months of the passage of this section.
(1995 Code, § 2.58.125) (Ord. 3135, passed - -1976; Ord. 0-04-0052, passed 12-16-2004)

§ 41.052 EXCEPTIONS.

This Chapter shall not apply to employees whose residence requirements are governed by State or Federal statutes. (1995 Code, § 2.58.130) (Ord. 3135, passed - -1976)

§ 41.053 DEPARTMENT HEADS' DOMICILE - ENFORCE COMPLIANCE.

All Civil City Department Heads are required to reside and be domiciled in the City of East Chicago and are responsible for enforcing this Chapter in their respective departments.
(1995 Code, § 2.58.135) (Ord. 3135, passed - -1976; Ord. 0-04-0052, passed 12-16-2004)

§ 41.054 VIOLATION.

Violation of this Chapter is cause for employee discipline, up to and including immediate termination. (Ord. 0-04-0052, passed 12-16-2004)

§ 41.055 PUBLIC SAFETY EMPLOYEES.

Under Public Safety, which would include Police and Fire, it would be a condition of employment that you must live in the City of East Chicago for one (1) year, including Probationary Period, after you are hired as a Police Officer or Firefighter.
(Ord. 0-04-0052, passed 12-16-2004)

FIRE AND POLICE DEPARTMENT
WORK PERIODS AND COMPENSATION TIME

§ 41.075 FIRE DEPARTMENT.

(A) The fire department shall work a twenty-eight consecutive day schedule with three turns.

(B) A turn shall not work more than a two hundred sixteen hour shift during said twenty-eight day schedule, except during an emergency.

(C) If during the twenty-eight day cycle a fireman shall be projected to have a ten day twenty-four hour shift he/she will have a Fair Labor Standards Act day off, unless he/she is off for any other reason. (Vacation, sick day, etc.)

(D) Any hours worked in excess of a two hundred twelve day period will be credited to compensation time (comp. time) at a rate of one and one-half hours for each hour worked. (e.g. four hours equals six hours.) (1995 Code, § 2.58.140) (Ord. 3433, passed - -1986)

§ 41.076 POLICE DEPARTMENT.

(A) The police department shall work a fourteen hour consecutive day schedule with three turns.

(B) A turn shall not work more than eighty-six hours during said fourteen day period except during an emergency.

(C) Work after his/her regular shift shall get time and one-half pay for all consecutive hours worked following such regular shift. Such premium pay shall be paid without regard to the number of hours such police officer has worked in the pay period prior to working such overtime.

(1995 Code, § 2.58.145) (Ord. 3433, passed - -1986; Ord. 0-03-0035, passed - -2003)

§ 41.077 COMPENSATION TIME.

(A) Compensation time (hereinafter "comp. time") is time off in lieu of a cash payment, which is a legal liability of the city.

(B) Compensation time is to give time off for overtime worked because of emergency situations or requirements of the Federal Fair Labor Standards Act instead of overtime pay.

(C) Each police or fire department employee can accumulate up to four hundred eighty hours of comp. time. Any comp. time acquired after four hundred eighty hours must be paid to the employee in cash. Accrued balance of comp. time at termination of employment must be paid at the rate prescribed by the Federal Labor Standards Act.

(D) Any employee who has accumulated comp. time may request time off and must be given it within a reasonable time so long as it does not unduly disrupt the operations of his or her department. The payment of comp. time of less than four hundred eighty hours is left to the discretion of the chiefs of the fire and police departments with the approval of the board of public works.

(E) Comp. time may be used for absences such as sick leave, tardiness, personal business and the like with the approval of the board of public works.

(F) Comp. time must be reported to the controller's office within seven days after the end of the twenty-eight or fourteen day consecutive work period. Said report shall contain the following:

(1) Consecutive work period;

(2) Comp. time earned;

(3) Comp. time spent;

(4) Comp. time balance;

(5) Under comp. time earned, said report shall state how earned, for example, emergency or excess hours over F.L.S.A. guidelines or other;

(6) Under comp. time spent, days off, tardiness, charged or other;

(7) Said report will be certified by the chief (or in his/her absence by a duly authorized acting chief). (1995 Code, § 2.58.150) (Ord. 3433, passed - -1986)

§ 41.078 COMPENSATION TIME FUNDS.

There is created a non-reverting fund designated as the compensation time ("comp. time fund") fund from which payment can be made for overtime pay. Said funds cannot be transferred until such time as the comp. time is abolished. (1995 Code, § 2.58.155) (Ord. 3433, passed - -1986)

§ 41.079 DEPARTMENT CHIEFS EXEMPTED.

The chiefs of the police and fire departments are declared exempted from the provisions of this chapter. (1995 Code, § 2.58.160) (Ord. 3433, passed - -1986; Ord. 3459, passed - -1987)

DEFERRED COMPENSATION PLAN

§ 41.090 ESTABLISHED.

The common council establishes the deferred compensation plan for the voluntarily participation of all eligible city employees, elected officials and independent contractors.

(1995 Code, § 2.58.165) (Ord. 3257, passed - -1980)

§ 41.091 EXECUTION AND ADMINISTRATION.

The mayor or his designee is authorized to execute for the city individual participation agreements with each said employee requesting same, and to act as the "administrator" of a plan representing the city, and to execute such agreements and contracts as there are necessary to implement the program. It is implicitly understood that other than incidental expenses of collecting and disbursing the employees' deferrals and other minor administrative matters, that there is to be no cost to the city or contribution by the city of this program. (1995 Code, § 2.58.170) (Ord. 3257, passed - -1980)

PERSONNEL POLICIES AND ADMINISTRATIVE PRACTICES

§ 41.105 WORK WEEK.

The basic work week consists of forty hours, made up of five days of eight hours each. In the case of computing overtime pay or compensation (comp. time), the employees' salary per hour shall be computed as follows: forty hours times fifty-two weeks in the year equals two thousand eighty. This is divided into their salary. For example, ten thousand dollars and that would equal four dollars and eighty-one cents per hour. Most of the salaried employees do not work forty hours in one week, however, overtime shall computed on the basis of every hour past forty hours work and overtime or compensation time shall be computed on the basis that their salary is on a forty hour week.

(1995 Code, § 2.58.175) (Ord. 3434, passed - -1986)

§ 41.106 SCHEDULED WORK HOURS- SALARIED EMPLOYEES.

The normally scheduled hours for salaried employees shall be from eight-thirty a.m. to four-thirty p.m. local time, which shall include a one hour lunch period.

(1995 Code, § 2.58.180) (Ord. 3434, passed - -1986)

§ 41.107 OFFICES TO REMAIN OPEN- LUNCH BREAKS.

All municipal offices shall remain open at all times during the working days. Lunch breaks are to be staggered, except in the case of one man or one woman offices, among employees in order to accomplish this. (1995 Code, § 2.58.185) (Ord. 3434, passed - -1986)

§ 41.108 SCHEDULED WORK HOURS- HOURLY EMPLOYEES.

The regularly scheduled working hours for hourly employees shall be established by the department head. Uniformity among all city departments is encouraged where feasible.
(1995 Code, § 2.58.190) (Ord. 3434, passed - -1986)

§ 41.109 CITY EMPLOYEES SERVING ON GOVERNMENTAL BOARDS OR AGENCIES.

Any municipal employee who is elected or appointed to serve on any legislative body, public or quasi-public agency or board, of any governmental unit, municipality, political subdivision or school board in the State of Indiana shall be authorized and entitled to attend meetings, proceedings and functions of such bodies or agencies during such employee's regular work day and shall be paid his/her regular compensation without reduction, when traveling to, from, and attending such functions.
(Ord. 0-04-0003, passed 2-9-2004)

§ 41.110 PAY PERIODS.

Pay periods will be bi-weekly. (1995 Code, § 2.58.195) (Ord. 3434, passed - -1986)

§ 41.111 MEAL BREAKS.

Meal breaks for all employees will consist of one hour, time of leaving work site to return to work site inclusive. (1995 Code, § 2.58.200) (Ord. 3434, passed - -1986)

§ 41.112 MEAL TIME- COMPENSATION TIME.

When it is necessary for an employee to work through the meal time, or not have a mealtime break, the city will allow compensation time for the period when said employee is working.
(1995 Code, § 2.58.205) (Ord. 3434, passed - -1986)

§ 41.113 BREAK TIME.

There is no break time for coffee or otherwise. Employees are urged to use a working rest break. In other words, to have their coffee or whatever during working hours.
(1995 Code, § 2.58.210) (Ord. 3434, passed - -1986)

§ 41.114 ABSENTEEISM- TARDINESS.

Unexcused absenteeism and tardiness shall be punished as set forth further in these regulations. All absences shall be reported prior to the start of the working period. All tardiness shall be reported as soon as the employee comes to work. (1995 Code, § 2.58.215) (Ord. 3434, passed - -1986)

§ 41.115 ABSENTEE AND TARDINESS REPORTS.

Each department head shall keep track of absences and tardiness and report the same to the controller's office each time that the payroll is submitted so that Federal Labor Standards Act provisions

can be complied with. When reporting off for duty, the employee must state his/her name, name of supervisor, date of absence, and anticipated duration of absence. If an employee knows that the absence will last more than one day, it will not be necessary to call each working day. However, employees are expected to keep their supervisor informed their intentions concerning return to work.

(1995 Code, § 2.58.220) (Ord. 3434, passed - -1986)

§ 41.116 COMPENSATORY TIME- DEFINED.

Compensatory time (comp. time) is time off in lieu of a cash payment which is a legal liability of the city. (1995 Code, § 2.58.225) (Ord. 3434, passed - -1986)

§ 41.117 COMPENSATORY TIME- WHEN USED.

Compensatory time is to give time off for overtime work because of emergency situations or requirements of the Federal Fair Labor Standards Act instead of overtime pay.

(1995 Code, § 2.58.230) (Ord. 3434, passed - -1986)

§ 41.118 COMPENSATORY TIME- ACCRUAL- PAYMENT WHEN.

Each employee of the city can accrue up to a maximum of two hundred forty hours of comp. time. And comp. time acquired after two hundred forty hours must be paid to the employee in cash. Accrued balance of comp. time at termination of employment must be paid at the rate prescribed by the Federal Fair Labor Standards Act. (1995 Code, § 2.58.235) (Ord. 3434, passed - -1986)

§ 41.119 COMPENSATORY TIME- TIME OFF- WHEN.

Any employee who has accumulated comp. time may request time off and must be given it within a reasonable time so long as it does not unduly disrupt the operations of his or her department. The payment of comp. time of less than two hundred forty hours is left to the discretion of the department head. (1995 Code, § 2.58.240) (Ord. 3434, passed - -1986)

§ 41.120 COMPENSATORY TIME- OTHER USES WITH APPROVAL.

Comp. time may be used for absences such as sick leave, tardiness, personal business and the like with the approval of the department head. (1995 Code, § 2.58.245) (Ord. 3434, passed - -1986)

§ 41.121 COMPENSATORY TIME- REPORTING- CERITFICATION.

Comp. time must be reported to the controller’s office either on the payroll time sheet or separately, along with the payroll. Said report shall contain the following:

(A) Consecutive work period;

(B) Comp. time earned;

(C) Comp. time spent;

(D) Comp. time balance;

(E) Under comp. time earned, said report shall state how earned, for example, emergency or excess hours over F.L.S.A. guidelines or other;

(F) Under comp. time spent; days off, tardiness charged or other;

(G) Said report will be certified by the department head or in his absence, an authorized acting department head. (1995 Code, § 2.58.250) (Ord. 3434, passed - -1986)

§ 41.122 COMPENSATORY TIME- HOW ACCUMULATED.

Comp. time is accumulated by giving time and one-half for all hours in excess of forty worked in a week. (1995 Code, § 2.58.255) (Ord. 3434, passed - -1986)

§ 41.123 COMPENSATORY TIME FUND.

There is created, a non-reverting fund designated as the compensation time ("comp. time") fund from which payment can be made for overtime pay. Said funds cannot be transferred until such time as the comp. time is abolished. (1995 Code, § 2.58.260) (Ord. 3434, passed - -1986)

§ 41.124 DEPARTMENT HEADS EXCLUDED FROM COMPENSATION TIME PROVISIONS.

Department heads of the city are excluded and exempted from the compensation time provisions.
(1995 Code, § 2.58.265) (Ord. 3434, passed - -1986)

§ 41.125 BEREAVEMENT.

In the event of a death in the immediate family of an employee requiring his/her absence from work, that employee will be allowed three days off without loss of pay for the regular work days on which he/she would have worked. "Immediate family" means spouse, son daughter, sister, brother, mother or father, mother or father of spouse, brother or sister of spouse.
(1995 Code, § 2.58.270) (Ord. 3434, passed - -1986)

§ 41.126 JURY DUTY.

If an employee is called for jury duty or as a witness, no less of pay or the benefits will be incurred. All compensation received by the employee for serving on a jury or as a witness shall be deducted from the employee's pay during his absence.
(1995 Code, § 2.58.275) (Ord. 3434, passed - -1986)

§ 41.127 APPLICABILITY TO UNION EMPLOYEES.

It is understood that the provisions of this article shall not apply to those employees covered by union agreements in force at the time adoption of the ordinance codified in this article.
(1995 Code, § 2.58.280) (Ord. 3434, passed - -1986)

§ 41.128 APPLICABILITY TO SEPARATE TAXING AUTHORITIES OR AUTONOMOUS ENTITIES.

It is further understood that the provisions of this policy shall not apply to those separate taxing authorities or autonomous entities within the city, such as the sanitary district, water department, redevelopment commission, housing authority and park and recreation department.
(1995 Code, § 2.58.285) (Ord. 3434, passed - -1986)

§ 41.129 HOLIDAYS.

(A) The following holidays with pay shall be observed:

New Year's Day

Dr. Martin Luther King Jr.'s Birthday

Memorial Day

Independence Day

Labor Day

Veteran's Day

Thanksgiving Day

Christmas Eve Day

Christmas Day

(B) In order to receive these paid holidays, employees must be at work the day before and/or the day after said holiday, unless they are on regularly scheduled leave. In addition, the city will designate by December 31st of each year, which days will be the actual dates of holiday observation for that year.

(1995 Code, § 2.58.290) (Ord. 3434, passed - -1986)

§ 41.130 ANNUAL LEAVE.

(A) Permanent full-time employees of the city will receive vacation leave after one year's according to the following schedule:

(1) Less than three years of service, twelve days annually accrued at the rate of one day per month;

(2) More than three years, but less than fifteen years of service, eighteen days annually accrued at the rate of one and one-half days per month;

(3) Fifteen years of service or more, twenty-four days annually accrued at the rate of two days per month.

(B) Cumulative maximum carryover of unused leave at the beginning of any leave year may not exceed one year's vacation accrual.

(C) Payment for unused vacation leave on separation of an employee will be based on the amount of leave carried over at the beginning of the current year plus the amount of vacation leave earned and unused during the current year to the date of separation.

(1995 Code, § 2.58.295) (Ord. 3434, passed - -1986)

§ 41.131 SICK LEAVE.

(A) Permanent full-time employees will accrue sick leave at the rate of one day per month.

(B) Sick leave will be taken only when an employee is unable to work because of sickness or because of necessary doctor or dentist appointments.

(C) Sick leave may not be used in lieu of vacation or personal leave.

(D) Sixty days of sick leave may be accumulated by an employee.

(E) No payments shall be made in lieu of unused sick leave.

(F) The reporting of sickness by the employees:

(1) If an employee is unable to report for work because of illness and had not made satisfactory arrangements previously, the employee or a member of his family must notify his supervisor by telephone within an hour of his starting time.

(2) If the employee is absent without proper authorization, deduction shall be made from his pay for the period of absence.

(3) Absence without proper authorization or approval may be considered sufficient cause for suspension or dismissal of the employee at the discretion of the department head. It is understood, however, that the employee may be unable, because of sickness, to report. In this case, it will be up to the discretion of the department head.

(G) Leave without pay not to exceed three months, may be granted to an employee by the department head. No vacation leave or sick leave shall be earned by an employee while on leave without pay.

(H) Administrative leave with pay may be taken for purposes of attendance at professional meetings or comparable activities; provided, that prior approval of the department head is obtained. Such meetings should be related to the work of the department and are expected to contribute to the background and understanding of the department staff. Any travel expense incurred during such leave is to be done by the employee within limits of the travel policy.
(1995 Code, § 2.58.300) (Ord. 3434, passed - -1986)

§ 41.132 EXTENDED SICK LEAVE FOR POLICE OFFICERS AND FIREFIGHTERS.

(A) In addition to the forgoing, members of the police and fire departments who sustain a significant injury or illness for which they are hospitalized for no less than 24 hours may apply to their respective department for an extended sick leave.

(B) The extended sick leave shall consist of up to 180 calendar days in any one year period. During such extended sick leave the officer shall be paid at their usual weekly pay rate. Such leave includes hospitalization time and recuperation. Any unused portion of the six month extended sick leave time can be used if the officer suffers a relapse of substantially the same illness or condition during the one year period beginning from the time extended leave began.

(C) Officers applying for extended sick leave will be required to provide documentation of their medical condition in the form of doctor's reports and/or medical records. Such documentation shall be reviewed by the City Health Officer who shall make a recommendation to the Chief with regards to the

request. An officer on extended sick leave will be required to submit a monthly progress report from the officers' physician. Such report shall be submitted to the City Health officer who shall review such report on behalf of the department and who shall monitor the officers condition during the time the officer is on extended sick leave. Further, at the sole discretion of the Health Officer, officers seeking extended sick leave or on extended sick leave, shall submit to physical examinations and diagnostics tests by health care providers selected by the Health Officer who shall report such results to the Chief.

(D) Officers on extended sick leave may be assigned to light duty if, in the opinion of the Health Officer, the officers, medical condition has sufficiently improved so as to allow performance of a light duty assignment. Disputes concerning an officer's initial entitlement to extended sick leave, his/her remaining on extended sick leave status, or his/her assignment to light duty shall be determined by the chief whose decision is reviewable by the Board of Safety.

(E) In no event shall an officer's extended sick leave be extended beyond six months in any twelve month period. Any officer unable to return to active duty after being placed on extended sick leave and using all accumulated sick days may be required to apply to his/her respective pension board disability status. (Ord. 0-02-0023, passed - -2002; Ord. 0-02-0026, passed - -2002; Ord. 0-03-0014, passed 3-10-2003; Ord. 0-03-0021, passed - -2003)

§ 41.133 TRAVEL.

(A) Travel costs and subsistence allowance for attendance at conferences, conventions, etc., which have a broad interest in municipal government may be reimbursed when such travel is authorized and if budgetary limitations are not exceeded.

(B) Reimbursement for official travel expenses shall be made in accordance with the following schedule:

(1) Mileage as allowed by law will be paid to employees for use of privately owned vehicles in official travel. Claims for reimbursement on a mileage basis must be supported by detailed mileage records.

(2) For travel outside the city limits, reimbursement will be paid to city employees for reasonable actual hotel expenses supported by receipts and a meal allowance of up to Fifty ($50) Dollars per day. There shall be no reimbursement for expenditure on alcoholic beverages. Meal allowance requests must be supported by receipts. Taxicab or other transportation costs will be reimbursed for actual expenses supported by receipts. Notwithstanding the forgoing, Department Heads may, at their option, be reimbursed for meals expenses without receipts at the per diem rate of $80 per day. (1995 Code, § 2.58.305) (Ord. 3434, passed - -1986; Ord. 0-06-0005, passed 3-13-2006; Ord. 0-08-0013, passed 5-12-2008)

(3) The employee shall submit a purchase order covering transportation, lodging and subsistence expense.

(4) Upon return from business travel, all original paid bills or receipts must be submitted with the purchase order claim.

(5) When authorized, prepayment of certain travel expenses will be made.

(6) All bills submitted for payment must include date, name of provider and the location of provider.

(C) The members of the common council, the city judge and the city clerk may, at their option, be reimbursed for their expenses either by reimbursement, as provided above for other employees, or by per diem rate as follows:

(1) One hundred dollars per day for meals.

(2) Lodging at the prevailing rate of a hotel or motel for single occupancy rooms.

(3) Reimbursement for travel expenses.

The appropriation for council members' travel expenses adopted by the common council shall be equally divided among the members of the common council for the travel expenses authorized herein. Council members shall submit a purchase order covering any allowable travel expense. Upon the exhaustion of a council member's share of his/her travel expense appropriation in any calendar year, no further claims for travel expenses will be allowed in such calendar year without the adoption of a resolution by the council approving such additional travel expense. (Ord. 0-99-0024, passed 13-3-1999)

§ 41.134 INJURIES AND ACCIDENTS.

(A) Work related injuries that are not life-threatening must be treated either by the employee's family physician or by the city's health department doctor. Life-threatening or serious injuries must be taken to the emergency room of a hospital or be attended on site by emergency medical personnel. Emergency ambulance service is contracted by telephoning 911. All work related injuries must be reported as soon as possible but no later than twenty-four hours to the department head. The city is self-insured in regard to workmen's compensation must be reported to the legal department.

(B) All vehicle accidents involving the city vehicles must be reported to the police, telephone 911, and also in the event someone is using their private vehicle on city business, this also must be reported to the police. It is important that no employee leave the scene of the accident until released by the police officer. If you are driving a city vehicle, it is especially important that you report to the law department with a copy of the police report so that an Indiana form SR-21 can be filed with the state. If you do not do so, your license will be suspended.

(C) All emergencies of any kind shall be reported to your department head or his designated superior. (1995 Code, § 2.58.310) (Ord. 3434, passed - -1986)

§ 41.135 EMPLOYEE CONDUCT.

(A) Employees of the city are expected to conduct themselves in an adult-like manner. The following actions are considered unacceptable on-the-job behavior and are subject to dismissal or other disciplinary action:

(1) Theft or intentional damage of company property;

(2) Theft of another employee's property;

(3) Fighting on company premises or at the job site;

(4) Practical joking or "horse play" on company premises or at job site;

(5) Unauthorized operation of machinery, elevators, trucks, vehicles, or equipment;

(6) Sleeping on the job;

(7) Unauthorized absence from the job site;

(8) Reckless driving with city or private vehicles during working hours or while on city property or at job site.

(B) The city is an equal opportunity employer and will not tolerate discrimination on the basis of race, color, religion, national origin, sex or age. Any employee who feels that they are discriminated against are encouraged to contact their department head, the mayor's office, or law department promptly. All discussions will be held in strictest confidence, but will be investigated thoroughly with proper and just disciplinary action taken against the guilty perpetrator. No charges will be considered that are more than one hundred eighty days old.

(C) The ethnic, racial and sexual composition of employees varies as to individual personal likes and dislikes. The ability to understand other persons' viewpoints and respect differences is an asset in employee relations. There is often a problem of employees patronizing or harassing fellow employees because of ethnic, racial and sexual composition. This is often due to long ingrained prejudices and should be eradicated.

(D) Employees are expected to conduct themselves in a dignified manner by doing the work that is assigned to them and by following instructions. If an employee has a complaint, he/she should bring it to the attention of his/her supervisor or follow grievance procedures.

The following are considered to be insubordinate acts:

(1) Refusal to obey just orders by a supervisor;

(2) Refusal of failure to carry out a regular work assignment;

(3) Refusal or failure to do work that is not normally assigned, or additional work;

(4) Interference with a supervisor's duties, challenging the reasonableness of any order, or expressing reluctance to obey instructions;

(5) Making false, vicious, or malicious statements concerning any supervisor;

Insubordinate acts are subject to immediate disciplinary actions.

(E) The use of abusive or profane language, threatening, bullying, or interfering with a supervisor or fellow employee's rights (including ethnic, racial or sexual abuse) in any way will result in immediate disciplinary action.

(F) Gambling of any type is completely prohibited in all forms on city property and during work hours.

(G) Any employee reporting to work under the influence of alcohol or drugs will not be permitted. Possession or consumption of any such alcohol or drugs on city property or during work hours is prohibited. If the employee shall contest the question of alcohol or drug consumption, the city will

request that the employee take a test to be administered by qualified medical personnel. The cost of said test will be borne by the city. The employee has the right to have anyone else present at the testing. Failure to submit to testing will result in disciplinary action. The city is willing to provide assistance to employees with an alcohol or drug problem, however, an employee who does nothing about his/her alcohol or drug problem and continues to violate city policy is subject to disciplinary action to and including termination.

(H) Possession of firearms or explosive devices, during working hours or on the job site, is strictly prohibited unless required by formal job description. Failure to comply with this provision will result in immediate disciplinary action.

(I) Under city policy, employees should neither give money or major personal gifts nor accept them from suppliers, other associates, employees or anyone.

(1995 Code, § 2.58.315) (Ord. 3434, passed - -1986)

§ 41.136 DISCIPLINARY ACTION.

The following guidelines describe the appropriate disciplinary action for unacceptable conduct or behavior.

Conduct/Behavior	***First Offense***	***Second Offense***	***Third Offense***	***Fourth Offense***	***Fifth Offense***
Tardiness or absenteeism	Verbal	Written	1 day	3 days	5 days + *CEO
Failure to call in, absent without leave	Written	3 day	5 day + CEO		
Alteration, damage, destroying time card	5 day + CEO				
Unauthorized alteration, repair, destruction of property	Written	3 day	5 day + CEO		
Unauthorized removal of city property	3 day	5 day + CEO			
Theft, intentional or deliberate destruction or damage to city property	5 day + CEO				
Theft, misuse, damage or destruction of another's property	5 day + CEO				
Retaliation against another employee	5 day + CEO				
Fighting on the job site during working hours	5 day + CEO				

Practical joking, "horse-play" on the job site or during working hours	Written	3 day	5 day + CEO		
Driving a city vehicle without a valid license	3 day	5 day + CEO			
Entry into confined space without proper safety precautions	3 day	5 day + CEO			
Unauthorized operation of city equipment	Written	3 day	5 day + CEO		
Sleeping on the job	3 day	5 day + CEO			
Unauthorized absence from job site	3 day	5 day + CEO			
Insubordinate acts	3 day	5 day + CEO			
Discriminatory acts as defined in § 41.133	3 day	5 day + CEO			
Threatening, bullying, interfering with another employee	5 day + CEO				
Spreading rumors	Verbal	Written	1 day	3 day	5 day + CEO
Unacceptable personal appearance	Verbal	Written	1 day	3 day	5 day + CEO
Abusive personal telephone use	Verbal	Written	1 day	3 day	5 day + CEO
Abusive solicitation during working hours	Verbal	Written	1 day	3 day	5 day + CEO
Gambling during working hours	Verbal	Written	1 day	3 day	5 day + CEO
Reporting to work under the influence, possession or consumption of alcohol or drugs during work hours	Written + Consult	Recommend rehab. If refuses. 1 day	Require rehab. If refuses. 3 day	5 day + CEO	
Possession of firearms or explosive devices	5 day + CEO				
Accepting gratuities	3 day	5 day + CEO			

Negligent acts	3 day	5 day + CEO			
Poor performance of job tasks	Verbal	Written	1 day	3 day	5 day + CEO
Failure to report an emergency situation	1 day	3 day	5 day +		
For the above guidelines "verbal" will mean a verbal warning, "written" will mean a written reprimand to be placed in the employees permanent personnel file, "1 day" will mean one day off without pay, "3 day" will mean three days off without pay, "5 day + CEO" will mean a five day suspension and conference with the executive officer (department head) relative to termination or other penalties.					

(1995 Code, § 2.58.320)

§ 41.137 INDEMNIFY CITY EMPLOYEES AND ELECTED OFFICIALS.

(A) The City of East Chicago shall pay any judgment, compromise or settlement of any claim or suit including claims of a violation of civil rights of the United States and the State of Indiana against an elected official, member of an appointed board or commission or administrative personnel of the City when the act or omission causing the loss and forming the basis of the claim or suit was within the scope of his/her employment, regardless of whether the elected official, member of an appointed board or commission or administrative personnel of the City can or cannot be held personally liable for the loss.

(B) The right to compromise or settle any such claim or suit including claims of a violation of civil rights of the United States and the State of Indiana against such elected official, member of an appointed board or commission or administrative personnel of the City is reserved by the City of East Chicago. In the event such elected official, member of an appointed board or commission or administrative personnel of the City will not join in a compromise or a settlement which would hold the elected official, member of an appointed board or commission or administrative personnel of the City harmless from any liability arising out of said claim or suit, the City of East Chicago shall not be obligated to pay any subsequent judgment, compromise or settlement on behalf of said elected official, member of an appointed board or commission or administrative personnel of the City.

(C) The City of East Chicago shall provide legal counsel for and/or pay all legal costs and fees incurred by or on behalf of any elected official, member of an appointed board or commission or administrative personnel of the City in defense of a claim or suit including claims of a violation of civil rights of the United States and the State of Indiana for a loss occurring because of alleged acts or omissions within the scope of his/her employment, regardless of whether they can or cannot be held personally liable for the loss. This obligation to provide legal counsel shall be conditioned upon the continued cooperation of the elected official, member of an appointed board or commission or administrative personnel of the City in the defense of such claim or suit. Further, in the event that such elected official, member of an appointed board or commission or administrative personnel of the City will not join in a compromise or settlement which would hold the elected official, member of an appointed board or commission or administrative personnel of the City harmless from any liability arising out of said claim, the City of East Chicago shall have the right to withdraw its defense for said elected official, member of an appointed board or commission or administrative personnel of the City and shall not be obligated to pay any subsequent judgment, compromise or settlement on behalf of said person.

(D) The City of East Chicago acting through its Board of Public Works may pay for or reimburse the reasonable legal expenses incurred by an elected official, member of an appointed board or commission or administrative personnel of the City arising from a criminal investigation of or a criminal proceeding against such person for actions performed within the scope of his/her employment under the following conditions:

(1) The City of East Chicago receives a written affirmation from the elected official, member of an appointed board or commission or administrative personnel of the City seeking reimbursement or advancement of legal expenses stating that the individual had reasonable cause to believe that his or her conduct was lawful or no reasonable cause to believe that his or her conduct was unlawful and that at all times such person believed that he/she was acting in good faith and in the best interests of the City; and

(2) A written undertaking to repay the amount advanced if it is ultimately determined that the elected official, member of an appointed board or commission or administrative personnel of the City obtaining advancement of legal expenses did meet the foregoing standard of conduct; however

(3) A plea of guilty to, or a finding of guilty of any crime or misdemeanor committed by the elected official, member of an appointed board or commission or administrative personnel of the City relating to the performance of his or her duties shall be evidence that the foregoing standard of conduct was not met; and furthermore

(4) A finding of not guilty or a determination of the investigating enforcement authority not to institute criminal proceedings against the elected official, member of an appointed board or commission or administrative personnel of the City shall be evidence that the individual did meet the foregoing standard of conduct, however, the City of East Chicago may nonetheless decline indemnification or obtain reimbursement of costs and fees advanced if it determines that doing so would be in the best interests of the City of East Chicago.
(Ord. 0-02-0011, passed - -2002)

SUBSTANCE ABUSE POLICY

§ 41.150 PUBLIC POLICY AND PURPOSE OF DRUG AND ALCOHOL TESTING PROGRAM.

(A) *Use of controlled substances prohibited.*

(1) The unlawful, possession, distribution, dispensation, or manufacture of controlled substances by City of East Chicago employees or others in the workplace is prohibited. The illegal use, consumption, possession, manufacturing, distribution, or dispensing of drugs and controlled substances by employees reduces efficiency in government, endangers the safety of City employees as well as the citizenry in general, is contrary to public policy, and a violation of State and Federal Laws, the City Code and the City employee manual.

(2) An employee who consumes or works under the influence of alcohol or other intoxicants reduces efficiency in government, endangers the safety of other City employees as well as the citizenry in general, and is contrary to public policy. The operation of an automobile or other motor vehicle in the performance of job duties by a City employee while under the

influence of alcohol or other intoxicants is a threat to public safety, is a violation of this policy, and additionally, may be a violation of State and Federal Laws.

(B) *Prospective employees and the use of controlled substances.* Persons who illegally use drugs or controlled substances are hereby declared to be unsuitable for employment by the City. Persons who demonstrate evidence of the consumption of drugs for which they do not possess a current, valid lawful prescription present in bodily fluids or hair samples during the employment evaluation process, are not suitable for employment by the City. Persons who are found to have alcohol present in bodily fluids during the employment evaluation process are not suitable for employment by the City.

(C) *Consumption and use of alcohol by employees prohibited.* The consumption of alcohol by employees while on duty or employees having a Blood Alcohol Concentration ("BAC") of 0.02% or greater in during working hours reduces efficiency in government, endangers the safety of City employees as well as the citizenry in general, and is contrary to the public purpose. Persons who are intoxicated during working hours are hereby declared to be unsuitable for employment by the City. The consumption of alcohol by employees, or evidence of the employees having BAC levels 0.02% or greater is hereby determined to constitute a violation of the City Code and personnel regulations of the City.

(D) *Continuing authorization of the drug and alcohol testing program.* To insure compliance with policies set forth in this policy manual, the continuation of the substance abuse testing program is hereby authorized.

(E) *Possession of drugs or alcohol on city property.* Possession of illegal drugs or other intoxicants in the workplace is explicitly prohibited. Possession of illegal drugs on City property, or while on duty with the City is a crime which shall be reported to law enforcement and shall be grounds for immediate dismissal from employment with the City of East Chicago.

(F) *Effect of this policy on departments with more stringent requirements.* This policy and the procedures outlined herein are generally applicable to all City of East Chicago employees, but it shall not supersede more restrictive testing requirements mandated by Federal requirements for certain city departments of job classifications. Specifically, the provisions of this policy shall not supersede more stringent federally-mandated testing requirements for East Chicago Bus Transit, or other specific requirements mandated by State or Federal law or grant requirements.

(Ord. 0-11-0023, passed 9-26-2011)

§ 41.151 SCOPE OF TESTING.

(A) *Substances to be tested.*

Whenever substance abuse testing is administered pursuant to this or any other City policy or ordinance, the urine, blood, hair and/or breath test results will be reviewed by the City Medical Review Officer (MRO) to detect the presence of the following drug groups and substances:

(1) Alcohol (ethyl)

(2) Amphetamines (e.g., speed)

(3) Cocaine

(4) Opiates (e.g. Codeine, Heroin, Morphine, Hydromorphone, Hydrocodone)

(5) Phencyclidine (PCP)

(6) Marijuana (THC)

(7) Additionally, the MRO may order tests for substances classified under the Indiana Code as follows:

(a) Schedule I, II, III, IV and V drugs under Indiana Code 35-38-2.

(b) Non-schedule prescription drugs

(c) Designer drugs and defined and regulated by the Federal Government

The MRO shall consult federal guidelines in determining what quantities or levels of tested substances shall constitute a positive drug test.

(B) *Categories of testing.*

Under this section the following types of drug testing shall be performed:

(1) ***Pre-employment Testing***.

Persons under consideration for employment by the City shall be required to undergo a drug and alcohol test. This test is to be administered upon the City's tendering of a contingent offer of employment to the applicant, and shall be administered before a final offer of employment can be made. Prospective employees shall be informed of the City Substance Abuse Testing Policy and shall be advised that they are required to sign a consent form permitting the drug and alcohol test as required under this Chapter.

All offers of employment made by the City shall be contingent upon the applicant's successful completion of a drug and alcohol test and a determination by the MRO that the test result was negative. Positive, inconclusive or invalid tests shall be a bar to employment with the City, and any offer of employment shall be withdrawn upon the MRO's determination that the applicant's test results are not negative.

An applicant receiving a positive, inconclusive or invalid test result shall be barred from employment with the City for a period of three (3) years.

The City shall bear the cost of any pre-employment screening. Such results are confidential, and are for the exclusive use of the City of East Chicago to use as part of its employment process.

(a) *Pre-employment Testing procedures*. Human Resources will explain testing procedures, location, timeline, and consent requirements to prospective employees. The prospective employee shall sign the acknowledgement and consent to testing and will then be assigned a timeline to report for testing by Human Resources. The prospective employee shall report to the designated test facility within thirty (30) minutes of signing the acknowledgement and consent.

Any person who refuses to undergo testing, or comply with testing requirements at the testing facility shall be ineligible for employment for a period of three (3) years

from the date of refusal. Any such person subsequently employed by the City shall be required as a condition of employment to undergo random, Follow-up and Compliance Testing, as specified in this Chapter.

(b) *Results Required before Employment*. All offers of employment with the City are contingent upon the determination by the MRO that the applicant's Pre-Employment Test results are negative. Before any person begins employment with the City and/or is entered into the payroll system, the MRO shall provide the Human Resources Department written certification of the test results. No department or agency head shall cause any person to become an employee until written certification has been received from the MRO.

(2) ***Random Testing***.

All employees of the City of East Chicago shall be eligible for random drug and alcohol testing, and shall be selected for such testing utilizing a random software program suitable for such purpose, which uses payroll numbers or other unique identifier other than employee name for covered employees and other persons subject to the program.

(a) *Eligibility for Random Testing.* All employees of the City of East Chicago are eligible for random drug and alcohol testing. This shall include every employee for whom a payroll warrant is processed through the City of East Chicago Controller's office. Employees reporting to any work site, taxing district of the City, or other division of government (judicial, legislative, or executive), and paid by the civil City are not exempted from this policy.

(b) *Testing of Supervisory Personnel.* Department Heads, Supervisors, Managers, Foremen and others employed by the City in positions of leadership shall be subject to this policy. When Department Heads or Supervisors are selected for random or other testing, the MRO shall designate a person or persons responsible for accompanying the Department Head or Supervisor to the testing facility. The same procedures which apply to rank and file employees shall apply to Supervisors, Foremen and Department Heads with regard to this policy.

(c) *Exclusion of Elected Officials.* Elected officials are exempted from inclusion in the City's drug and alcohol testing program in their capacity as an elected official, but may opt to voluntarily participate in the program. However, an elected official who is also employed by the City of East Chicago is not exempted in his or her status as employee, thus is not excluded from selection for testing as an employee.

(d) *Random Testing Dates and Time.* Testing may be performed on more than one date each month, and dates may be selected randomly or may be otherwise chosen by the MRO or the MRO's designee at his or her discretion. Each month, not less than ten (10%) of eligible employees shall be selected for such random testing. The selection process shall be overseen by two (2) persons not otherwise involved in the testing process.

The selection method for employees to be tested shall be such that each workday shall present each employee with a new opportunity to be selected for testing, except employees who are randomly selected and successfully undergo testing with a negative test result shall be exempted from testing and removed from the random test for ninety

(90) days after a successful test. After ninety days, such persons shall be returned to the random test pool.

An employee selected for random testing shall report to the designated test facility within one (1) hour of being notified of his or her selection for testing.

(e) *Certification of List of Employees to be Randomly Tested.* The City Controller's Office and Information Technology Department shall work with Human Resources to ensure that the employee payroll number (or other unique identifier) of every employee eligible for testing under this policy is included in the list used for selection for random testing. Said list shall be certified by the City Controller's office within fifteen (15) days of the adoption of this Chapter and shall be updated whenever any employee is reassigned, transferred or otherwise experiences a change in job status. Said list shall be re-certified annually by the City Controller's Office.

The absence of an employee's identifier from such a list shall not invalidate an otherwise proper alcohol or drug test administered to an employee, provided that the employee was properly within the class of employees required to undergo random or reasonable suspicion testing under this Chapter.

(3) ***Departmental Testing***.

The MRO or the MRO's designee may order all of the members of a City department who are otherwise subject to random testing under this Chapter to be tested at one time. Such tests shall be categorized and treated as random tests within the meaning and intent of this Policy.

(4) ***Reasonable Suspicion Testing***.

(a) Any employee may be required to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol while on duty. "Reasonable suspicion" shall exist when a reasonable person would suspect, based on specific and articulable facts, taken together with rational inferences from those facts, that an employee is under the influence of drugs or alcohol.

(b) Circumstances which may form a basis for determining "reasonable suspicion" may include, but are not limited to:

1. A pattern of abnormal or erratic behavior, including violent behavior or language directed at co-workers, Supervisors or public, including the communication of threats.

2. A work-related accident.

3. Direct observation of drug or alcohol use, or presence of physical symptoms of drug or alcohol use, including but not limited to alcohol odor on breath, slurred speech, and poor coordination and/or reflexes.

4. Possession of alcohol or illegal drugs in the workplace.

5. Behavior or actions to avoid or invalidate testing.

(c) Supervisors are required to document the specific facts, symptoms or observations which formed the basis for their determination that reasonable suspicion exists to warrant the testing of an employee.

(d) Supervisors shall immediately notify the Department Head of the existence of reasonable suspicion, who in turn shall notify Human Resources. Human Resources shall consider the available facts and information, determine if a test is warranted and if warranted, cause the employee to immediately undergo testing. If the Supervisor, Department Head or Director of Human Resources is not available, the most senior person with knowledge of the situation shall make the determination, based on the available facts and information, and cause the employee to immediately undergo testing if a reasonable suspicion exists. In all cases, reasonable suspicion testing shall take place within one (1) hour of the time that the suspicion becomes known.

(e) A Department Head or Supervisor's knowing failure to report an employee who is reasonably suspected of being intoxicated, under the influence of drugs or otherwise in violation of this policy shall itself constitute a violation for which the Department Head or Supervisor shall be accountable.

(f) An employee calls off or leaves the workplace after becoming aware of his or her selection for reasonable suspicion or other test under this policy, shall be treated as a refusal.

(e) *Reasonable Suspicion Testing Procedures and Location.*

1. An employee selected for Reasonable Suspicion Testing shall immediately report to the designated facility, escorted by the employee's Supervisor, Department Head or other person designated by the MRO.

2. When Department Heads or Supervisors are selected for testing, the MRO shall designate a person or persons responsible for accompanying the Department Head or Supervisor to the testing facility within the timeline outline herein. The same procedures which apply to rank and file employees shall apply to Supervisors, Foremen and Department Heads with regard to this policy.

3. In all cases, reasonable suspicion testing shall take place within one (1) hour of the time that the suspicion becomes known. If the test is not preformed within one (1) hour, the Department Head or Supervisor shall prepare a report stating the reason(s) why the test was not timely administered. The MRO of the MRO's designee will consider any delay in the timing of the test when interpreting test results. If the test is not timely administered, the Department Head and/or Supervisor may be subject to disciplinary action, in addition to any penalty imposed on the employee.

4. Failure to undergo the required testing within the above specified time periods shall be considered a refusal, unless the MRO determines that such delay was not deliberate, or was caused by circumstances beyond the control of the employee.

(5) ***Post Accident Testing***. Any employee involved in an accident during working hours, operating any City-owned vehicle, or riding as a passenger in any City-owned vehicle involved in

an accident shall immediately notify his or her Supervisor within thirty (30) minutes of the accident. If the Supervisor is unavailable, the employee shall notify the Department Head within the same time frame. If the Police Department, 219.391.8268 or 219.391.8267, or the East Chicago Health Department Emergency Communications Center, 219.391.8467 and notify the appropriate individual or authority immediately after an accident and must comply with the time limits set forth herein in the section entitled "Time Limits for Post-Accident Testing".

Post-accident drug and alcohol tests shall be performed immediately upon the occurrence of any the following:

(a) *An employs is involved in a motor vehicle accident while operating a city owned vehicle or any motor vehicle during work hours, where such accident:*

1. Results in a fatality, or bodily injury to any party which requires immediate medical treatment; or

2. Results in any damage to a city vehicle or any motor vehicle; or

3. Results in property damage as a result of a city employee operating a vehicle or other equipment.

(b) *An employee sustains a work related injury requiring medical evaluation or treatment.*

An employee who is involved in a motor vehicle accident or work related accident as described in this section shall immediately notify his/her Supervisor and the MRO or the MRO's designee. If the accident occurs during non-regular working hours the employee shall notify the designated representative of the MRO by contacting the East Chicago Health Department Emergency Communications Center, 219.391.8467, or the East Chicago Police Department, 219.391.8268. Employees are required to notify the appropriate individual or authority immediately after an accident and must comply with time limits set forth herein in the section entitled "Time Limits for Post-Accident Testing".

(i) Failure to comply with the notification requirements of this section shall be considered a refusal to undergo drug and alcohol testing as required by the Chapter. An employee who is subject to post-accident testing shall remain readily available for and submit to such testing; otherwise, the employee may be deemed to have refused to submit to the required testing.

(ii) A urine, blood, hair, and/or breath test for controlled substances conducted by any federal, state or local law enforcement official having independent authority for such test shall be considered to meet the requirements of this section, provided the results of such test are made available to the Director of Human Resources, the MRO or the MRO's designee. An employee who knowingly seeks to prevent the MRO, the MRO's designee or Director of Human Resources from receiving the post-accident drug or alcohol test results shall be deemed to have refused post-accident testing within the meaning of this policy.

(c) *Time Limits for Post-Accident Testing.*

1. An alcohol or drug test required under this section shall be administered within one (1) hour following the accident. If the test is not performed within one (1) hour the Department Head or Supervisor shall prepare a report stating the reason(s) why the test was not timely administered.

2. In all cases, the test shall be administered as soon as practicable. The MRO or the MRO's designee will consider any the timing of the test when interpreting test results. If the test is not timely administered, the Department Head and/or Supervisor may be subject to disciplinary action, in addition to any penalty imposed on the employee.

3. Failure to undergo the required testing within the above specified periods following an accident shall be considered a refusal unless the MRO determines that such delay was not deliberate, or was caused by circumstances beyond the control of the employee.

(6) ***Return to Work Testing.***

(a) *Prerequisite Return to Work After a Positive Alcohol Test.* Any employee who is determined to have a positive test for alcohol and subsequently participates in and completes the Substance Abuse Referral Program, hereafter (SARP) shall have an alcohol and drug test performed before they are permitted to return to work. The test shall be performed on a date selected by the Director of Human Resources and may be in addition to any required by the SARP. A second positive alcohol test within 5 years of the initial positive will result in immediate termination.

(b) *Return from Leave.* An employee absent from work for 30 days or more due to a leave of absence, FMLA, other medical leave or worker's compensation related leave shall undergo testing upon his or her return to work.

(7) ***Follow-up and Compliance Testing.*** Any employee who is determined to have a positive test for alcohol who participates in the SARP, and is subsequently certified to return to work shall be subject to follow-up testing. Such follow-up testing shall be performed on a random basis and shall be conducted a minimum of six (6) times during the twelve-month period. If the MRO determines that the frequency of testing does not comply with the requirements of this or any other section of this Chapter, the MRO or the MRO's designee may order additional testing to meet the requirements of this Chapter. The provisions of this section shall apply to any employee who is required to undergo follow-up testing under any section of this Chapter.

(C) *Testing Procedures and Location.*

(1) The City's MRO or the MRO's designee will contact the Supervisor of the randomly selected employees, in writing, to inform the Supervisor that their employees have been randomly selected. The Supervisor shall sign the written notification acknowledging receipt of the notification, keep a department copy, send the original to the MRO, and forward a copy to the City's Human Resources Department (Human Resources).

(2) Supervisors (or other persons designated by the MRO) are responsible for accompanying selected employees to the test facility designated by the MRO or the MRO's designee within the time specified by the MRO or designee, and in all cases within one hour of the time employee is notified of his or her selection for testing. When Department Heads or Supervisors are selected for testing, the MRO shall designate a person or persons responsible for accompanying the Supervisor or Department Head to the testing facility within the timeline outline above. The same procedures which apply to rank and file employees shall apply to Supervisors, Foremen and Department Heads with regard to this policy.
(Ord. 0-11-0023, passed 9-26-2011)

§ 41.152 COMPLIANCE.

(A) *Refusal to Undergo Required Testing.*

An employee or prospective employee who refuses to undergo a drug and alcohol test required by this Chapter shall be considered to have a positive drug test and shall be subject to the provisions relating thereto. For purposes of this Chapter the following shall be considered as a refusal:

(1) Failure to present to the designated testing facility within one (1) hour after notification of the requirement to undergo testing.

(2) Failure to consent to testing upon presentation to the facility or failure or refusal to comply with testing procedural requirements.

(3) Failure to provide a specimen or sample required for test procedure without a genuine inability to provide a specimen or sample (as determined by a medical examination).

(4) Failure to provide the test facility with proof of identity satisfactory to meet the requirements of the testing facility.

(5) Engaging in conduct that obstructs the testing process including, but not limited to, tampering with a specimen or sample in order to prevent a valid test through substitution, dilution; or adulteration of a specimen.

(6) Failure to comply with the accident notification requirements of this Chapter or failure to be tested within the time limits relating thereto.

(7) A Department Head or Supervisor's failure to report an employee's apparent violation of the City's substance abuse policy shall itself constitute a violation of this policy for which the Department Head or Supervisor shall be held accountable.

(B) *Consequences of a Positive Test or Refusal.*

An individual who has a verified positive test result or who refuses to undergo testing as described above shall be subject the following:

(1) ***Positive Pre-Employment Test shall be a disqualification from employment:*** If the test is positive for an individual seeking employment, the person shall not be employed by the City and shall not be eligible for employment for a period of three (3) years from the date of the positive test. Should such person subsequently be employed, as a condition of employment he/she

shall be required to undergo random, follow-up testing as described herein in the section entitled "Follow-up and Compliance Testing".

(2) ***Termination of Employment as a Result of a Positive Drug Test.*** Any employee who has a positive test result for any of the controlled substances listed herein under "Substances to be Tested" shall be terminated from employment with the City without further notice.

(a) A current, valid, legal prescription issued in the name of the employee may be a defense to a positive test for the same drug or metabolite thereof. It shall be the responsibility of the employee to supply the MRO or the MRO's designee with a copy of said prescription issued prior to the test, or sign releases enabling the MRO or the MRO's designee to obtain copies of said prescription within one business day of MRO's determination of a positive test.

(b) The MRO, in his or her sole discretion, shall determine if the positive test result is the result of the employee's legal use of a prescription drug and deem that the employee has passed the drug and alcohol test.

(3) ***Employment Termination as a Result of an Alcohol Test under Certain Circumstances.*** Any employee with a positive alcohol test result shall be terminated without further notice under the following conditions:

(a) A positive alcohol test result and refusal to participate in the Substance Abuse Referral Program.

(b) Failure to complete or failure to comply with any requirements of the SARP where such participation is the result of a positive alcohol test.

(c) An employee has two positive test results within a five-year period shall be terminated as a result of the second positive test.

(d) An employee has submitted a specimen or sample which is not his own or which yields test results showing the presence of one or more adulterants or contaminants added to the specimen or sample to interfere with the detection of substances controlled under this Chapter.

(4) ***Mandatory Employee Participation in Substance Abuse Referral Program as a result of a Positive Test for Alcohol.***

(a) If the alcohol test result is reported positive for an employee, he or she shall be subject to immediate termination unless he or she agrees to participate in an Substance Abuse Referral Program (SARP).

(b) Should an employee with a positive alcohol test desire to participate in said program he or she must notify the Director of Human Resources that he or she wishes to participate in such SARP.

(c) As a condition of continued employment with the City, the employee shall consent to and undergo evaluation by a Substance Abuse Professional (hereafter "SAP"), and if recommended by the SAP, rehabilitation, and further agree to follow-up testing as required in the section of this policy entitled "Substance Abuse Referral Program". The

employee must complete the requirements of SARP as set forth herein unless the SAP treating the employee recommends return by the employee to work while completing the SARP and such return is approved by the MRO. The employee is subject to retest for alcohol or drugs before he or she is permitted to return to work.

(d) The employee must give the Substance Abuse Professional permission to release any treatment information and status reports to the Director of Human Resources. The employee is responsible for ensuring that any changes in the employee's status or participation level in the SARP is reported to the Director of Human Resources within one week.

(e) An employee who elects to participate in the SARP but fails to complete the SARP will be terminated. In the event the employee is allowed to return to work while completing any of the elements of the SARP, the SAP shall make such evaluations and reports upon the progress of the employee.

(C) *Inconclusive, Invalid or Adulterated Tests.*

(1) An inconclusive or invalid test shall not be deemed to be a successful test, and an employee determined by the MRO to have had an inclusive test shall not be exempt from further testing.

(2) In the case of an inconclusive or invalid test, the MRO shall determine if the sample shall be re-tested, or a new test shall be administered to the employee. The MRO shall review and consider the employee's valid, legal prescriptions when a positive, inconclusive or invalid test could have resulted from legally prescribed medication.

(3) A test determined by the MRO to have been adulterated shall be deemed a positive, failed test.

(D) *Substance Abuse Referral Program.* The MRO shall establish a Substance Abuse Referral Program ("SARP). The SARP shall include programs to assist employees who have a positive alcohol test and abstain from further use of prohibited substances.

(1) Employees who participate in a SARP as a result of a positive alcohol test shall be evaluated first by a SAP to determine the appropriate interventions. The SAP shall evaluate the employee, and upon finding that the employee requires assistance with an alcohol problem shall refer the employee to the treatment program designated by the MRO providing such services or interventions. Upon successful completion of such program and/or interventions, the SAP shall re-evaluate the employee. If the SAP determines that additional treatment is necessary the employee shall not be permitted to return to work until such additional treatment is successfully completed. If, during participation in a treatment program, the employee is released to return to work, the program shall notify the employee's SAP, who shall then evaluate the employee, along with any information provided by the treatment program, and determine if the employee shall be permitted to return to work. The SAP may recommend that the employee undergo follow-up testing or a specific monitoring protocol as a condition for returning to work, but in no event shall such follow-up testing requirement be less frequent than that specified elsewhere in this Chapter.

(2) The SAP shall not refer an employee to the SAP's private practice or to a person or organization from which the SAP receives remuneration or in which the SAP has a financial

interest. In all cases the program must be approved and/or certified by the appropriate agency of the State of Indiana or the United States Department of Health and Human Services.

(3) Upon completion of the initial evaluation and the development of a treatment plan (including referral) the SAP shall provide the Human Resources Department with a report of the evaluation, the treatment plan and the referral. The treatment program shall also provide timely reports of an employee's progress, changes in status of participation level of completion of the program to the SAP and the Human Resources Department. Prior to permitting the employee to return to work, the SAP shall prepare a follow-up report to the Human Resources Department. The report shall summarize the employee's treatment, the dates of the program participation, the clinical characterization of the employee's participation, and shall include a statement that the employee has successfully completed all recommendations of the SAP and is released to return to work. The SAP may also recommend specific additional follow-up testing beyond that required by this Chapter.

(4) An employee who participates in the SARP must consent to the release of information by the SAP and the treatment program to the Director of Human Resources as a condition of his or her continued employment with the City. If consent is not given, the employee shall be terminated from employment with the City. Further, if any employee refuses to participate in the recommended treatment plan or does not complete the treatment plan, the employee shall be subject to immediate termination. The treatment plan and all program requirements, including scheduled outpatient sessions or treatment, must be successfully completed, without interruption, in order for the employee to be permitted to continue employment with the City.
(Ord. 0-11-0023, passed 9-26-2011)

§ 41.153 STANDARDS FOR TESTING.

(A) *Screening and Confirmatory Testing.*

(1) A screening analysis shall be conducted for the presence of substances listed under the section of this Chapter entitled "Substances to be Tested". The screening testing shall be conducted in accordance with the guidelines of the Department of Health and Human Services. If the screening test is positive for any of the listed substances a second analysis shall be conducted on the specimen. The second, or confirmatory analysis, shall utilize a gas chromatograph-mass spectrophotometry technique to detect the presence and concentration of the listed substances. The confirmatory test results shall be reported to the MRO if the analysis yields results in excess of the threshold values set forth the section of this Chapter entitled "Positive Test Threshold Levels".

(2) The MRO may order the testing laboratory to perform a routine test of any specimen or groups of specimens for the purpose of detecting the presence of contaminants or substances added to the specimen to adulterate it or to interfere with laboratory testing or detection of controlled substances. Upon receiving laboratory results showing an adulterating compound or interfering substance to be present in any specimen, the MRO may disqualify the test and the tested individual will be deemed to have refused to undergo a test required by the Chapter.

(B) *Preservation of Samples by the Laboratory.* The laboratory shall maintain a long-term storage of all specimens that are found to be positive. Said specimens shall be maintained in long-term frozen storage for a minimum period of five (5) years. If there is any disputed matter relating to a test or any pending or threatened litigation relating to the test or action relating thereto, then the specimen shall be preserved until all such matters are fully resolved.

(C) *Positive Test Threshold Levels.*

(1) ***Drug Thresholds***.

(a) Screening tests shall be conducted in accord with the guidelines of the United States Department of Health and Human Services or such supplemental regulations, if any, issued in accordance with the provision of this Chapter for the substances listed in this Chapter in the section entitled "Substances to be Tested". A positive result upon screening test performed in conformance with said guidelines or regulations shall require a confirmatory test of the same specimen.

(b) A confirmatory test shall be positive at the levels prescribed by the United States Department of Health and Human Services Guidelines appearing at 49 CFR § 40.87 (or in any subsequently enacted Federal Regulation superseding such Section) for the substances listed in the section of this policy entitled "Substances to be Tested" of this policy. Unless otherwise stated in said regulation, a confirmatory test shall be deemed to be positive at the following levels:

1. Marijuana 15 nanograms per milliliter (ng/ml)'

2. Cocaine 150 ng/ml;

3. Opiates 300 nanograms per milliliter (See Note 1);

4. Phencyclidine 25 ng/ml; and

5. Amphetamines 500 ng/ml.

6. For Schedule I, II and III drugs under Indiana Code 35-48-2, the level for a positive test shall be determined by the MRO or otherwise established under Indiana Law.

(c) The testing thresholds prescribed by this subsection shall be deemed amended by reference whenever the above-referenced regulations of the United States Department of Health and Human Services, the supplemental regulations of the City of East Chicago, or the regulations of the United States Department of Transportation which specify applicable testing shall not amended and made effective.

(d) A positive screening test shall not be deemed to be negative by reason of the fact that the level of the controlled substance found to exceed the threshold for a positive confirmatory test is less than the threshold level of sensitivity in the corresponding screening test for the substance.

(2) ***Alcohol Thresholds.***

(a) A breath or blood alcohol test yielding a result of 0.02 BAC shall be considered a positive result for purposes of this Chapter.

(b) If a screening test is performed and the reported value is 0.02 or greater, a confirmatory test shall then be performed utilizing an evidential-grade breath analysis device. A confirmatory test of 0.02 or greater shall be reported as positive.

(D) *Specimen Collection; Transportation of Employees.*

(1) Unless otherwise specified in this Chapter, collection of specimen shall comply with the procedures established by the United States Department of Transportation and the United States Department of Health and Human Services set forth in 73 FR § 71858 "Mandatory Guidelines for Federal Workplace Drug Testing Programs" available at http://edocket.access.gpo.gov/2008/pdf/e8-26726.pdf or such future regulation which may supplant or replace such procedures.

(2) Specimens shall be collected at a collection site designated and approved by the MRO. All employees who undergo testing under the provision of this Chapter shall be transported to the specimen collection site by the employee's Department Head or by a Supervisor designated by the employee's Department Head.

(3) An otherwise valid test result shall not be deemed to be invalid in the event an employee is transported to the collection site by someone other than the personnel outlined in the above paragraph.

(E) *Specimen Integrity.* The specimen shall not be considered valid if the temperature of the specimen is outside the range set forth in 42 CFR 40 [see http://www.gpoaccess.gov/cfr/]. In this event, a second specimen shall be obtained as soon as possible, and in every case within two business days under the direct observation of a collection site staff person of same gender as the employee being tested.

Whenever collection site personnel or the MRO have reason to believe that a specimen has been substituted or otherwise altered or adulterated, a second specimen will be obtained under observation as soon as possible at the collection site, and in every case within two business days of the determination that the original sample has been substituted, altered or adulterated.

(F) *Adulteration or Tampering with Specimen.* When a specimen is reported to contain a substance which may interfere with the laboratory analysis for a prohibited substance, or other foreign substance, the MRO shall review the laboratory results determine the nature of the foreign substance. The MRO or the MRO's designee shall investigate to determine if the foreign or interfering substance could be a result of medical therapy, a physiologic abnormality or a deliberate adulteration of the specimen. If the foreign or interfering substance is judged by the MRO to be an attempted at deliberate adulteration the MRO shall report the specimen to be adulterated. This shall be considered a refusal by the employee or applicant to undergo the required test as defined in the section of this Chapter entitled "Refusal to Undergo Required Testing".

(G) *Privacy in Drug Testing.* Employees and applicants subject to drug and alcohol testing in accordance with this Chapter shall be afforded reasonable privacy in the specimen collection process.

(H) *Medical Review and Medical Review Officer.* The City of East Chicago Health Officer, a Physician licensed to practice in the State of Indiana and thus qualified to receive and interpret confidential medical records and to administer this policy, shall serve as the Medical Review Officer.

(1) The Medical Review Officer (MRO) shall receive all drug test results. The MRO shall review and interpret confirmed positive test results reported by the laboratory. In performing this

review the MRO shall examine alternate medical explanations for any positive test. This may include conducting a medical interview, a review of the individual's medical history or a review of any other relevant biomedical factors. The MRO shall review and consider any valid, legal prescription when a positive test could have resulted from legally prescribed medication.

(2) The MRO shall provide the employee an opportunity to discuss the test results before a final determination is made by the MRO. A medically licensed person under the direction of the MRO may make initial contact with the employee and may gather information from the employee and explain the requirements of this Chapter.

(3) Additionally, the MRO, after review of reports, specimen documentation, chain of possession documentation, quality control data, multiple samples and/or tests, and other relevant data, may determine that the result is scientifically insufficient for further action and classify the result as negative, or may direct the Director of Human Resources to have the individual retested.

(4) The MRO shall work with the Human Resources Department to develop training programs or materials necessary for the implementation of this policy.

(5) The MRO may designate a medically licensed individual to act as his or her designee for the ordering of tests, selection of employees to be tested, and receipt of test results, or other duties specified under this policy. This person must act under supervision of, and report data, test results received, decisions made or other pertinent information to the MRO. The MRO shall be the final authority with regard to any determination made under this section.
(Ord. 0-11-0023, passed 9-26-2011)

§ 41.154 NOTICE AND TRAINING.

(A) *Supervisor Training.* The MRO and Human Resources Department shall develop a training program to assist Supervisory personnel in identifying drug and alcohol abuse among employees on a compliance with the procedures outlined in this policy. Such training will be directed toward helping Supervisors recognize the conduct and behavior that gives rise to a reasonable suspicion of drug or alcohol use, properly inform employees of the requirements and procedures relating to the Drug Testing Program, and help Supervisory personnel understand their responsibilities in implementing this policy.

(B) *Coordination of Testing.* The MRO and the MRO's designee are hereby directed and authorized to administer the testing of persons for drugs and alcohol as required herein and shall assist in the training of Supervisors as required herein. All matters relating to personnel administration shall be the responsibility of the Director of Human Resources. Implementation of the technical aspects of drug and alcohol testing shall be under the supervision and direction of the MRO and MRO's designee.

(C) *Notice to Employees.* The Human Resources Department shall provide written notice of all drug and alcohol policies, including this testing policy, to all employees. The notices shall contain, as a minimum, the following:

(1) The City policy regarding drug and alcohol abuse and drug free workplace;

(2) The need for drug and alcohol testing;

(3) The circumstances under which testing may be required;

(4) The procedure for confirming an initial positive drug test result;

(5) The consequence of a confirmed positive test result;

(6) The consequence of refusing to undergo a drug and alcohol test;

(7) The right to explain a positive test result and the appeal procedures available; and

(8) The availability of Substance Abuse Referral Program.

Delivery of a complete copy of this Chapter to employees shall be deemed sufficient to comply with this section. Copies shall also be kept on file in the Human Resources Department and made available to employees upon request.

(D) Reporting of Confirmed Positive Test Results. The MRO or the MRO's designee shall report all results to the Director of Human Resources, who shall then institute such action as may be required by this Chapter. Results of positive tests for Police Department personnel and Fire Department personnel shall be communicated to the Chief of the respective department. The Chief shall then institute such actions as are required by this Chapter.

(Ord. 0-11-0023, passed 9-26-2011)

§ 41.155 RIGHTS AND RESPONSIBILITIES.

(A) *Right to have Specimen Retested.* An employee or applicant whose confirmatory test as described herein is reported as positive may, at the employee's or applicant's own expense, have an additional independent test conducted on a portion of the same sample at a laboratory certified by the United States Department of Transportation of the United States Department of Health and Human Services to perform such drug analysis. The results of such analysis shall be forwarded directly to the MRO or the MRO's designee who, after reviewing same, shall report the results to the Human Resources Department. The Human Resources Director shall then determine the appropriate course of action to be taken as a result of said retesting.

(B) *Right of Appeal of Actions taken under this Chapter.*

(1) If an employee (who is not a police officer or firefighter) is reported to have a positive test result and personnel action as described herein has been taken, the employee may request a hearing within ten (10) days of notification of such action. Such request shall be made in writing to the Board of Public Safety, who shall hear such appeal and make a final determination in the matter in keeping with this Chapter and applicable City of East Chicago, State and Federal Law. The Board shall deliver written notice of the hearing to the employee in person or by a certified letter sent to his or her last known address. Said notice of hearing shall be delivered to the employee within thirty (30) days of receipt of the written request for hearing. The notice shall inform the employee of the place, date and time of such hearing and shall inform the employee of the hearing procedure and his or her rights in such procedure, including the right to be represented by legal counsel.

(2) The hearing shall be conducted based upon the guidelines set forth in the Indiana Code or provided by the City Corporation Counsel. Within thirty (30) days following the close of the hearing, the Board shall issue a written decision and a brief summary of the facts and evidence supporting that decision.

(C) *Right of Appeal for Police Officers and Fire Fighters.* Actions taken under this Chapter may be appealed by police officers to the Board of Safety and by firefighters to the Fire Civil Service Commission. Such appeal shall be made in accordance with the policies and procedures established by the Board of Safety and Fire Civil Service Commission.

(D) *Preservation of Information and Records.* All laboratory test results and reports of both positive and negative tests shall remain in the possession of the MRO or the MRO's designee, who shall retain them for a minimum period of ten (10) years. Upon request from the Director of Human Resources the Laboratory test results, along with all information obtained by the MRO or designee in determining if an individual test is reported as positive shall be made available for inspection by the Director of Human Resources.

(E) *Confidentiality Requirements.* All information relating to an employee's or applicant's drug and alcohol test is confidential. All records, reported test results and other information relating to drug and alcohol testing shall be kept in locked file cabinets located in secure area with access limited to personnel involved in the administration of this Chapter. Disclosure of the test results to any person, agency or organization other than the appropriate city official or state or federal agency having appropriate jurisdiction, is prohibited unless specific written authorization is obtained from the employee or applicant. Any employee of the City who violates this section or any provisions of HIPAA by disclosing test results or other information relating thereto, shall be subject to immediate termination.

(F) *Responsibility of Department Heads and Supervisors.* Department Heads and Supervisors are responsible for abiding by the confidentiality requirements, time limits, reporting requirements, and other responsibilities outlined in this Chapter as well as following the direction of the MRO, Director of Human Resources. A Department Head or Supervisor's knowing failure to assist in the implementation and enforcement of this Chapter including the failure to report an employee who is reasonably suspected of being in violation of this Chapter shall itself constitute a violation for which the Department Head or Supervisor shall be held accountable.

(G) *Indemnification and Defense of Actions.* The City shall defend and indemnify the MRO and his or her designee, the Director of Human Resources and his or her designee, personnel under supervision of the MRO or Human Resources Director, city officials, or city employees involved in the administration of this Chapter in any litigation or administrative proceeding resulting from or relating to the administrative proceedings undertaken pursuant to this Chapter.

(H) *Monitoring of Testing Frequency.* The Medical Review Officer shall monitor the frequency of testing and the testing of individuals required by this Chapter. If at any time the MRO determines that additional testing is necessary to comply with the requirements or intent of this Chapter the MRO or the MRO's designee shall initiate such additional testing. Such additional testing shall be ordered by the MRO in an unbiased and impartial manner.

(Ord. 0-11-0023, passed 9-26-2011)

§ 41.156 EFFECT AND IMPLEMENTATION.

(A) *Repeal of Previous Policies and Procedures.* All previous policies and procedures relating to drug and alcohol testing in conflict with any provision of this Chapter are hereby repealed.

(B) *Severability.* In the event that any court or other entity having jurisdiction determines any provision of this Chapter to be void or invalid, such determination shall not affect all other provisions of this Chapter, which shall remain in full force and effect.

(C) *Section Titles and Headings.* Section titles and other headings are included in this Chapter for reference purposes only and are not to be considered as a legal or binding component of this Chapter.

(D) *Promulgation of Procedures, Rules and Regulations.* The Director of Human Resources or Medical Review Offices may propose rules and regulations that are necessary for the implementation of this Chapter. Such proposed rules and regulations may be considered by the executive of the City and those found not be in conflict with this Chapter may be issued as an Executive Order signed by the Mayor. Once signed by the Mayor, said rules shall be binding upon the employees of the City.

(E) *Effective Date.* This Chapter shall take effect fifteen (15) days after passage by the Common Council of the City of East Chicago and approval by the Mayor of the City of East Chicago. During this fifteen (15) days period the Director of Human Resources shall distribute this Chapter and related information to all employees of the City of East Chicago and its department, agencies and political subdivisions who are subject to the provisions of this Chapter.

(F) *Important Contact Information.*

(1) For information related to the Substance Abuse Policy, testing, or to report reasonable suspicion of a violation of this Chapter or a work-related vehicle or other accident:

Human Resources: (219) 391-8479
East Chicago Health Department: (219) 391-8258
East Chicago Health Department Communications Center: (219) 391-8467

(2) Numbers to call in case of an accident involving a city-owned vehicle or other vehicle during work hours (addition to the numbers listed above and the Department Head or Supervisor):

Emergencies: Call 911 or
East Chicago Emergency Communications Center: (219) 391-8268

Non-Emergency:
East Chicago Police Department: (219) 391-8400 or (219) 391-8268.

Note that the phone numbers listed above are subject to change.
(Ord. 0-11-0023, passed 9-26-2011)

§ 41.157 ACKNOWLEDGEMENT FORM.

City of East Chicago, Indiana

Substance Abuse Policy

Employee Handbook

Acknowledgement Form

I hereby acknowledge that I have received a copy of the City of East Chicago Substance Abuse Policy Manual, passed into law as East Chicago City Ordinance 11-0023. I understand and acknowledge that this policy is the law of the City, and applies to me during my term of employment with the City of East Chicago.

I understand that the purpose of this Policy is to protect the health and safety of the public and City employees, including myself.

I understand that it is my responsibility to familiarize myself with the information contained in the Substance Abuse Policy Manual. I understand that I am obligated to comply with the policies, procedures and rules detailed in the Substance Abuse Policy Manual. I understand that this policy replaces all pervious City-wide Substance Abuse Policies, but that it does not supersede more stringent policies in effect in certain City departments (such as U.S. Department of Transportation regulations, which apply to East Chicago Bus Transit).

I understand that this policy applies to all employees regardless of whether of this acknowledgement is signed by any individual employee or kept on file by the City.

_____
Employee Name (Please Print)

_____ _____
Employee Signature Date

_____ _____
Department Head/Supervisor Title

_____ _____
Human Resources Date Received

(Ord. 0-11-0023, passed 9-26-2011)

EMPLOYEE TRAVEL

§ 41.170 DEFINITIONS.

For the purpose of this chapter, the words set forth in this section shall have the following meanings:

AUTHORIZED STAY. Means a period of time that an employee partakes in official business while attending seminars, conferences, conventions, etc.

CITY. Refers to the civil city of East Chicago and its political subdivisions, departments and agencies.

EMPLOYEE. Means a person working for city including elected officials.

LODGING ALLOWANCE. Includes charges for all hotel or motel rooms and local phone calls.

LONG DISTANCE PHONE CALLS. Means calls made to areas outside the local area of lodging.

RECEIPT. Means written acknowledgement issued for the payment of money.

SUBSISTENCE ALLOWANCE. Includes charges for all meals including trips.

TRAVEL ALLOWANCE. Includes charges for the following modes of transportation: air, bus, train, private vehicle, taxi. (1995 Code, § 2.58.325) (Ord. 3542, passed - -1991)

§ 41.171 GENERAL CONDITIONS.

(A) All travel of employees must be authorized by their department heads and approved by the city controller.

(B) All travel of department heads must be authorized by the mayor, or the city controller.

(C) All travel expenses for employees of the city court, city council, and city clerk must be authorized by the elected officials under whom they serve.

(D) All elected officials, including the mayor, the city clerk, the city judge, the city controller and the members of the common council may authorize their own travel.

(E) The following must be approved by the mayor, city controller, or other elected officials as set forth in subsection D of this section:

(1) Travel in excess of twelve hundred miles one way;

(2) Travel outside the continental U.S.A.;

(3) Travel by three or more people from the same department to the same out-of-state location.

(F) An employee is in travel status from the time he or she leaves his or her work location to the time of his or her return. When a trip includes both business and personal travel, employees are advised that business expenses only are reimbursable.

(G) All requests for reimbursement must be submitted on forms provided by the city and approved by the State Board of Accounts.

(H) Transportation expenses will be honored for a business trip that might also include personal activities. However, meals, lodging, and miscellaneous expenses of actual dates of business will only be accepted. (1995 Code, § 2.58.330) (Ord. 3542, passed - -1991)

§ 41.172 REQUIREMENT OF RECEIPTS.

(A) All claims must be accompanied by original receipts (no duplicates or copies) showing the actual cost.

(B) Receipts lost for any reason may be substituted by the following:

(1) Airfare: documentation from the airline or travel agent.

(2) Lodging: statement from provider.

(C) Other expenses that are reimbursable include parking, tolls, cab fare to and from airport, train station, or bus depot. Baggage handling expenses at transportation and lodging facilities are not reimbursable. (1995 Code, § 2.58.335) (Ord. 3542, passed - -1991)

§ 41.173 SUBSISTENCE ALLOWANCE.

(A) An employee in travel status is entitled to a subsistence allowance as follows:

Hours in Travel Status	Amount of Reimbursement
4 to 8 hours	$ 25.00 per day
8 to 24 hours	$ 50.00 per day

(B) If an employee receives any meals that are included in the payment of seminars, conferences, conventions, etc., these meals are not reimbursable. However, if an employee is attending the above said activity and extends through one or more meal period, these meals are reimbursable.

(C) No subsistence allowance will be paid for travel consisting of four hours or less.

(D) Subsistence will not be allowed for expenses incurred for personal portions of any travel.
(1995 Code, § 2.58.340) (Ord. 3542, passed - -1991)

§ 41.174 LODGING REIMBURSEMENT.

(A) An employee in travel status may only claim the single occupancy room charge, including taxes.

(B) If two or more employees in travel status share a room, they must request separate receipts.

(C) An employee may not claim reimbursement for lodging when such lodging was provided by a person not in the business of providing lodging.

(D) Whenever possible, employees should stay in hotels which offer government rates. Accommodations selected by employees that are deluxe or luxury will be reimbursed at the standard rate.
(1995 Code, § 2.58.345) (Ord. 3542, passed - -1991)

§ 41.175 TRANSPORTATION REIMBURSEMENT.

(A) An employee traveling in his/her own vehicle will be reimbursed at the prevailing mileage rate of twenty-five cents per mile for actual distance traveled. If mileage submitted is questionable, reimbursement will be made on reasonable acceptable mileage. Travel within a city of town must be listed separately from travel between cities or towns.

(B) An employee in travel status will be reimbursed for the cost of parking and tolls whether using a personal vehicle or city vehicle. Original receipts for such claims must be presented for payment.

(C) When traveling by air, reimbursement will be made for coach or tourist class accommodations only. Employees are cautioned to investigate the qualifications associated with "Super Saver" or discounted fare.

(D) Employees traveling by railroad or bus will be fully reimbursed.

(E) Costs incurred in travel between an employee's home or work station and a transportation facility are reimbursable as follows:

(1) Cost of taxi or limousine;

(2) Mileage for use or personal vehicle;

(3) Cost of terminal parking at long-term rate;

(4) Reimbursement will be made for transportation costs between terminals/stations and lodging facilities.

(F) Automobile rental expense is reimbursable only when approved by the mayor, the city controller, or other elected officials.

(G) Employees choosing to drive long distances rather than fly are in travel status for a maximum of two full days of driving (forty-eight hours). However, mileage allowance shall not exceed airfare to the same location. (1995 Code, § 2.58.350) (Ord. 3542, passed - -1991)

§ 41.176 OTHER REIMBURSEMENT.

(A) Reimbursement for costs of seminars, conferences, schools, workshops, and conventions shall be made upon submission of proper documentation.

(B) Local telephone calls from authorized lodging shall be reimbursed.

(C) Bills for gasoline or for city vehicles used out of town, and, emergency repair bills when properly documented shall be reimbursed. (1995 Code, § 2.58.355) (Ord. 3542, passed - -1991)

§ 41.177 MEETING ATTENDANCE.

(A) The cost of enrollment fees and other related costs for attendance of meetings relating to city business or for education relating to an employee's job or administrative function, shall be paid by the city, provided such education fees or meeting attendance fees are authorized by the department head or respective elected official.

(B) Elected officials may authorize their own attendance at meetings relating to city business and members of the common council may attend seminars, professional meetings, educational seminars or other similar related events relating to matters of business of the common council or business or matters of various committees of the common council of which the council person is a member.

(C) Common council members shall receive a per diem allowance of one hundred dollars for each common council meeting and a per diem allowance of seventy-five dollars for attendance at each meeting of a committee of which he or she is a member. The council may authorize the per diem fee to be paid for a member representing the council on a specific council assignment of meetings of other city boards and

commissions. Per diem allowances are not to exceed twenty-one regular and/or special council meetings and forty-one committee meetings per year. Chairpersons of each committee shall receive seven hundred dollars for the term of their chairmanship. In addition to their regular salaries the president of the common council shall receive one thousand eight hundred dollars and the vice-president shall receive one thousand two hundred dollars for the duration of their terms. Said authorization shall be made by the president of the common council or other council members so authorized by resolution of the common council. The per diem allowance established herein shall be in addition to the annual salary established by ordinance of the common council. Payment of the per diem allowance as established herein shall be made from salary and wage appropriations of the common council. The per diem allowance shall be paid on a bi-weekly basis as other payroll disbursements are made in accordance with a payroll calendar established by the city controller. Payment for travel and other reimbursement expenses authorized herein, shall be made upon vouchers and claims as prescribed by the Indiana State Board of Accounts and in accordance with the procedures for reimbursement set forth in § 41.153.

(D) Payment shall be made upon vouchers and claims as prescribed by the Indiana State Board of Accounts and shall be paid in accordance with procedures prescribed herein.
(1995 Code, § 2.58.360) (Ord. 3542, passed - -1991)

§ 41.178 PROCEDURES FOR REIMBURSEMENT.

Procedures for reimbursement include the following:

(A) Submit purchase order covering transportation, lodging, and subsistence expenses;

(B) Upon return from business travel, all original paid bills or receipts must be submitted with purchase order claim;

(C) When authorized, prepayment of certain travel expense will be made;

(D) All bills submitted for payment must include date, name of provider, location of provider, number of persons partaking, actual cost. Any bills that are altered for any reason will not be reimbursed;

(E) An itemized list must be submitted listing all travel segments, i.e., transportation, lodging, subsistence and other expenses. (1995 Code, § 2.58.365) (Ord. 3542, passed - -1991)

§ 41.179 PER DIEM TRAVEL PAYMENT FOR ELECTED OFFICIALS.

The mayor, the clerk, the judge, and the members of the common council may, at their option, be reimbursed for their expenses either by reimbursement, as provided above for other employees, or by a per diem rate as follows:

(A) Eighty dollars per day for meals;

(B) Lodging at the prevailing rate of a hotel or motel for single occupancy rooms; and

(C) Reimbursement for travel expenses.
(1995 Code, § 2.58.370) (Ord. 3542, passed - -1991)

OPERATION OF MOTOR VEHICLES OWNED OR LEASED BY CITY

§ 41.190 VEHICLE USE PERMITTED BY EMPLOYEES ONLY.

No motor vehicle owned or leased by the city or any of its executive departments shall be driven by anyone who is not an employee of the city or any of its executive departments.

(1995 Code, § 2.58.375) (Ord. 3255, passed - -1980)

§ 41.191 VEHICLE USE PERMITTED FOR OFFICIAL BUSINESS ONLY.

No employee of the city or any of its executive departments shall operate a motor vehicle owned or leased by the city or any of its executive departments except on official business of the said city or department thereof. (1995 Code, § 2.58.380) (Ord. 3255, passed - -1980)

§41.192 VIOLATIONS- PENALTIES.

Any employee of the city or its executive departments who shall violate the provisions of the chapter shall:

(A) On the first violation be prohibited from operation a motor vehicle of the city for a period of one month;

(B) For a second violation be prohibited from operating a motor vehicle of the city;

(C) For any subsequent violation the employee shall be terminated from his or her employment with the city. (1995 Code, § 2.58.385) (Ord. 3255, passed - -1980)

CITY EMPLOYEES CALLED TO ACTIVE DUTY IN THE ARMED FORCES OR NATIONAL GUARD.

§ 41.205 CITY EMPLOYEES CALLED TO ACTIVE DUTY IN THE ARMED FORCES OR NATIONAL GUARD.

(A) In the event any city employee, being a member of the armed forces reserves or state national guard, or otherwise, is called upon to serve in active duty, such employee shall continue to receive all employee benefits including group medical insurance coverage during the period of such military service.

(B) Further, time served in such military service shall be counted as time employed with the city for purpose of determining longevity, seniority, etc.

(C) Further, during such military service, such employee shall continue to receive his/her regular employee compensation. It is the intent of this ordinance that the incomes of city employees who are called to active military duty during time of war or national emergency remain constant while serving in active military duty or called out by the state national guard.

(Ord. 0-01-0032, passed 11-27-2001)

CHAPTER 42: CITY POLICIES

Section

General Provisions

42.01 Disposal of city property
42.02 Records and reports
42.03 Credit cards used for official city business

Smoke-Free Environment on or in Municipal Property

42.15 Definitions
42.16 Prohibition of smoking in public buildings and city vehicles
42.17 Posting of signs
42.18 Non-retaliation clause
42.19 More restrictive actions

42.99 Penalty

GENERAL PROVISIONS

§ 42.01 DISPOSAL OF CITY PROPERTY.

No real or personal property owned by or in the name of the city or any department or agency thereof may be sold, exchanged, transferred or leased until the sale, exchange, transfer or lease has been approved by the Common Council. The approval shall be set forth in a resolution duly adopted by the Common Council at a regular or special meeting. The approval required herein is in addition to the approval of the Common Council required by I.C. 36-1-11-3(c).

(1995 Code, § 2.68.010) (Ord. 3563, passed - - 1992) Penalty, see § 42.99

§ 42.02 RECORDS AND REPORTS.

(A) (1) A fee schedule for the certification, copying or facsimile transmission of documents defined by I.C. 5-14-3-8 is established.

(2) The fee for copying those records shall be $0.10 per page.

(B) If a person is entitled to a copy of a public record under this section and the department in the city which is in possession of the record has reasonable access to machine capable of reproducing the record; then the city department must provide at least one copy of the public record to the person. However, if the city department does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use enhanced access under I.C. 5-14-3-3.5, the person is only entitled to inspect and manually transcribe the record. A city department may require that the payment of copying fees be made in advance.

(C) In providing a duplicate of a computer tape, computer disk, microfilm or similar analogous record system containing information owned by the city department or entrusted to it, the city department may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

(1) The city department's direct cost of supplying the information in that form; or

(2) The standard cost for selling the same information to the public in the form of a publication if the department has published the information and made the publication available for sale.

(D) (1) The following fee schedule is established to provide duplicate reports and/or documents.

Police Department	
Crash reports	$ 7.00
Incident reports	$ 3.00 ($ 5.00 nonresident)
Arrest reports	$ 3.00 ($ 5.00 nonresident)
Supplement reports	$ 3.00 ($ 5.00 nonresident)
Criminal history	$ 20.00
Archived reports	$ 7.00
Tow release	$ 5.00
Fingerprinting (nonresident)	$ 10.00
VIN check (nonresident)	$ 5.00
Citywide copy fee	$ 0.15

License Type	***Local Fee***	***State Fee***
Four year hunting and target	$ 10 / $ 5 refundable*	$ 30
Four year personal protection	$ 10 / $ 5 refundable*	$ 30
Lifetime hunting and target/current valid license		
No current license	$ 50 / $ 30 refundable*	$ 25
Lifetime hunting and target/current valid license	$ 40 / $ 30 refundable*	$ 20
Lifetime personal protection/no current license	$ 50 / $ 30 refundable*	$ 75
Lifetime personal protection/current valid license	$ 40 / $ 30 refundable*	$ 60
* A portion of the local fee is refundable if a license is not issued. The entire state is refundable if no license if issued.		

(2) The foregoing fees so collected shall be remitted to the City Controller no less frequently than once each week for deposit into the appropriate fund. (Ord. 0-00-0017, passed 6-15-2000; Ord. 0-05-0030, passed 9-26-2005; Ord. 0-06-0038, passed 9-25-2006) Penalty, see § 42.99

§ 42.03 CREDIT CARDS USED FOR OFFICIAL CITY BUSINESS.

(A) The use of credit cards by city personnel is hereby authorized, provided the use is in accordance with the provisions set forth herein.

(B) The City Controller is hereby authorized to obtain credit cards in the name of the city for use by the Mayor for expenses relating to official city business.

(C) The City Controller is hereby authorized obtain or authorize the obtaining of credit cards bearing the name of the city for use by city officials designated by the Mayor. Credit cards authorized by this section shall be obtained in the name of the individual city official who shall be financially responsible for all credit card charges. The credit card charges shall not be a liability of the city. The credit cards shall be provided to obtain government discounts when used on city business.

(D) The City Controller is hereby authorized credit cards where credit cards will expedite or facilitate the conducting of city business. Credit cards obtained under this section shall be under the control of the Office of City Controller and may be used by city employees for city business. The City Controller or his or her designee shall maintain a log of credit card use which shall include the name of individuals using the card, their position, the estimated amounts to be charged, fund and account numbers to be charged, the date the card is issued and returned and other information deemed necessary to properly account for credit card use. When the purpose for which the credit card has been issued has been accomplished the card must be returned to the City Controller or his or her designee.

(E) The credit cards authorized by this section shall be used for:

(1) Travel on matters of city business;

(2) For allowable expenses incurred by the Mayor for the promotion of the city;

(3) For making of telephone calls by city officials for official city business;

(4) For purposes of obtaining materials, parts, supplies or services that must be obtained on an immediate or emergency basis; or

(5) Other matters relating to city business authorized by the Mayor.

(F) Credit cards authorized by this section shall not be used to bypass or circumvent the purchase order system. Whenever possible a purchase order shall be used for public purchases and credit cards authorized by this section shall be used only when the issuance of a purchase order is not reasonably possible.

(G) When credit cards authorized by division (C) above this section are used for reimbursable expenses, payment shall not be made on the basis of only a credit card statement or credit card slip. Supporting documentation such as paid bills and receipts must be submitted in support for the claim for payment. Pursuant to the State Board of Accounts requirements, claims for reimbursement for meals and

expenses for individuals must have specific detailed information of the names of all individuals for which amounts are claimed, including the nature, name and purpose of business meeting or expense. Payments which do not have the proper itemization may be the personal obligation of the responsible official or employee for whom the claim is made.

(H) The City Controller is hereby authorized to obtain credit cards authorized by this section. The City Controller is hereby authorized to sign and execute in the name of the city any documents or agreements necessary to obtain the credit cards and is authorized to pay any fees or other expenses necessary to obtain or use the credit cards.

(I) The City Controller is hereby authorized to promulgate and impose any additional regulations or controls regarding the use of credit cards authorized herein under where regulations or controls are necessary or required by law or are necessary for the proper and efficient financial management of the city. (Ord. 0-01-0044, passed 12-10-2001)

SMOKE-FREE ENVIRONMENT ON OR IN MUNICIPAL PROPERTY

§ 42.15 DEFINITIONS.

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

CITY. The City of East Chicago, Indiana.

CITY VEHICLES. Any municipally owned or leased device designed for the purpose of carrying passengers, goods or equipment (such as cars, trucks, vans, buses and the like).

PUBLIC BUILDING. An enclosed structure or part of an enclosed structure that is owned, leased or occupied by the city or any of its agencies.

SMOKING. The carrying or holding of a lighted cigarette, cigar, pipe or any other lighted smoking equipment, or the inhalation or exhalation of smoke from any lighted environment.
(Ord. 0-05-0013, passed 7-25-2005)

§ 42.16 PROHIBITION OF SMOKING IN PUBLIC BUILDINGS AND CITY VEHICLES.

Smoking shall be prohibited in all public buildings. Smoking shall be prohibited in all city vehicles (whether owned or leased), simultaneously occupied by two or more persons. This subchapter shall apply to all areas in those buildings and vehicles, whether used place of employment or as a place for the conduct of public business. (Ord. 0-05-0013, passed 7-25-2005) Penalty, see § 42.99

§ 42.17 POSTING OF SIGNS.

(A) (1) The City Engineer shall clearly post conspicuous signs at all entrances to each public building that read:

SMOKING IN THIS BUILDING IS PROHIBITED
by Indiana State Law 16-41-37 and City of
East Chicago Ordinance 05-0012

(2) The international "NO SMOKING" symbol shall also be affixed atop each sign and lettering for the aforementioned signs shall be at least one-half inch in height.

(B) (1) Where indicated, the Vehicle Maintenance Director shall clearly post conspicuous signs in all city vehicles that read:

SMOKING IN THIS VEHICLE IS PROHIBITED
by Indiana State Law 16-41-37 and City of
East Chicago Ordinance 05-0012

(2) The international "NO SMOKING" symbol shall also be affixed atop each sign and lettering for these signs must be at least one-half inch in height.

(C) As part of this section, all ashtrays and other smoking paraphernalia shall be removed from any area in a public building where smoking is prohibited by this subchapter, and appropriate smoking receptacles shall be placed outdoors to accommodate those employees and members of the public who wish to smoke. (Ord. 0-05-0013, passed 7-25-2005) Penalty, see § 42.99

§ 42.18 NONRETALIATION CLAUSE.

No person shall discharge, or in any manner retaliate against an employee because that employee exercised his or her proper rights in accordance with the terms of this subchapter.
(Ord. 0-05-0013, passed 7-25-2005) Penalty, see § 42.99

§ 42.19 MORE RESTRICTIVE ACTIONS.

This subchapter does not prohibit any municipal department from adopting any action that is more restrictive than the terms set out in this subchapter. (Ord. 0-05-0013, passed 7-25-2005)

§ 42.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Smoke-free environment on or in municipal property.*

(1) The official in charge of a public building in the city (or his or her designee), shall request persons who are smoking in violation of §§ 42.15 through 42.19 to stop smoking and may remove a person who fails to stop smoking after being requested to do so. Failure of an official in charge of a public building (or his or her designee), to request a person to stop smoking shall constitute a similar violation, as will unauthorized removal of posted signs.

(2) Any person who smokes in a public building or vehicle according to the terms in§ 42.16, shall commit an infraction. The penalty for an infraction shall be trebled where the same individual has at least three previous related judgments that are accrued for violating this section within the 12 months immediately preceding the violation.

(3) Each day on which a violation of §§ 42.15 through 42.19 occurs shall be considered a separate and distinct violation and a financial penalty of $25 shall be levied for each finding of guilt except wherein noted above.

(4) Periodic inspections of facilities and vehicles are to be performed by the Police Department, Fire Department, Building Department, Health Department and Occupational Safety Department representatives from any one of the aforementioned departments may request persons who are smoking in violation of §§ 42.15 through 42.19 to stop smoking and may have removed, a person who fails to stop smoking after being requested to do so.

(Ord. 0-05-0013, passed 7-25-2005)

CHAPTER 43: FINANCIAL POLICIES- FUNDS

Section

General Provisions

43.001 Board of Finance
43.002 Use of certain fees for General Fund
43.003 Nonreverting funds
43.004 Program for expenditures of economic development contributions received from gaming revenues

Cumulative Capital Improvement Fund

43.015 Cumulative Capital Improvement Fund

Sinking Fund

43.030 Created- purpose
43.031 Commissioners

Cumulative Fire Department Fund

43.045 Created- purpose
43.046 Expenditures
43.047 Tax levy- amount
43.048 Tax levy- when levied
43.049 Tax levy- advertisement- reduction, rescission
43.050 Tax levy- deposit- additional purposes

Cumulative Firefighting Building and Equipment Fund

43.065 Established
43.066 Tax levy
43.067 Maximum rate of tax levy
43.068 Established for certain year
43.069 Designated uses

Nonreverting Fire Department Capital Fund

43.080 Established
43.081 Deposits
43.082 Designated uses
43.083 Perpetual

Gasoline Fund

43.095 Created

City Property Damage Fund

43.110 Created

Data Processing Revolving Fund

43.125 Created

Communications Revolving Fund

43.140 Created

Park and Recreation Revolving Fund

43.155 Created

Cash Reserve Fund

43.170 Created

Cumulative Capital Development Fund

43.185 Re-established
43.186 Tax levy
43.187 Maximum rate of tax levy
43.188 Reestablished for certain years
43.189 Designated uses
43.190 Other uses

General Adult Probation Services Fund

43.205 Created

City Council Promotional Fund

43.220 Created
43.221 Expenditures
43.222 Expense authorization required

City Council Office Expense Fund

43.235 Creation

Special Nonreverting Operating Fund for Park and Recreational Purposes

43.250 Created
43.251 Monies received
43.252 Expenditures

Department of Public and Environmental Health-Petty Cash Fund

43.265 Created

43.266 Purpose

Department of Public and Environmental Health-Change Fund

43.280 Created
43.281 Purpose

Nonreverting Immunization Fund

43.295 Created
43.296 Deposits
43.297 Expenditures
43.298 Termination of Fund

Nonreverting Community Development Debt Service Reserve Fund

43.310 Created
43.311 Deposits
43.312 Expenditures
43.313 Termination of Fund

Government Services Cooperative Fund

43.325 Established
43.326 Deposits
43.327 Expenditures
43.328 Termination of Fund

Nonreverting Grant Fund

43.340 Established
43.341 Deposits
43.342 Expenditures
43.343 Termination of Fund

DARE Fund

43.355 Established
43.356 Deposits
43.357 Expenditures
43.358 Termination of Fund

Water Tank Refurbishment Fund

43.370 Established
43.371 Deposits
43.372 Expenditures
43.373 Termination of Fund

Diabetes Awareness Fund

43.385 Established
43.386 Deposits
43.387 Expenditures
43.388 Termination of Fund

Court Driving School Fund

43.400 Established
43.401 Deposits
43.402 Expenditures
43.403 Termination of Fund

Railroad Relocation Fund

43.415 Established
43.416 Deposits
43.417 Expenditures
43.418 Termination of Fund

Alcohol and Drug Program Users Fee Fund

43.430 Established
43.431 Deposits
43.432 Expenditures
43.433 Termination of Fund

Unsafe Building Fund

43.445 Established
43.446 Deposits
43.447 Expenditures
43.448 Termination of Fund

Stormwater Management Fund

43.460 Established
43.461 Expenditures
43.462 Termination of Fund
43.463 Disbursements

Building Department-Change Fund

43.475 Established
43.476 Fund limit
43.477 Initial deposit
43.478 Termination of Fund

City Court-First Offender's Fund

43.490 Established
43.491 Cost

43.492 Deposits
43.493 Expenditures
43.494 Termination of Fund

City Court-Public Defender Fund

43.505 Established
43.506 Cost
43.507 Deposits
43.508 Expenditures
43.509 Termination of Fund

Major Moves Construction Fund 450

43.520 Established
43.521 Uses

Property Tax Credit Fund

43.535 Established
43.536 Uses

Clerk's Record Perpetuation Fund

43.550 Clerk's Record Perpetuation Fund

Local Law Enforcement Grants Fund 0276

43.565 Established
43.566 Deposits
43.567 Expenditures
43.568 Termination of fund

US Gypsum TIF Fund 0288

43.580 Established
43.581 Deposits
43.582 Expenditures
43.583 Termination of fund

Riley Plaza TIF Fund 0289

43.595 Established
43.596 Deposits
43.597 Expenditures
43.598 Termination of fund

Water Utility Meter Deposit Fund 0604

43.610 Established
43.611 Deposits

43.612 Expenditures
43.613 Termination of fund

Water Utility Construction Fund 0605

43.625 Established
43.626 Deposits
43.627 Expenditures
43.628 Termination of fund

Water Utility Grants Fund 0650

43.640 Established
43.641 Deposits
43.642 Expenditures
43.643 Termination of fund

Civil City Levy Excess Fund 0710

43.655 Established
43.656 Deposits
43.657 Expenditures
43.658 Termination of fund

Sanitary Levy Excess Fund 0721

43.670 Established
43.671 Deposits
43.672 Expenditures
43.673 Termination of fund

Local Development Agreement Fund

43.685 Established
43.686 Deposits
43.687 Expenditures

GENERAL PROVISIONS

§ 43.001 BOARD OF FINANCE.

The Mayor, City Controller and members of the Common Council shall constitute the Board of Finance of the city. The City Controller shall act as Secretary. The Board of Finance shall have supervision over all public funds of the city and of the safekeeping and deposit thereof and shall have the rights and powers and exercise the duties provided by law. (1995 Code, § 3.04.010)

§ 43.002 USE OF CERTAIN FEES FOR GENERAL FUND.

All fees and money received for licenses, permits, payments or reimbursement shall be paid to the Treasurer for the use and benefit of the General Fund of the city, unless otherwise required by law or unless otherwise expressly and specifically provided by this code. (1995 Code, § 3.04.020)

§ 43.003 NONREVERTING FUNDS.

All of the Funds created in §§ 43.095, 43.110, 43.125, 43.140, 43.155 and 43.170 shall be non-reverting funds and shall be administered by the City Controller all pursuant to the laws of the state. (1995 Code, § 3.04.180)

§ 43.004 PROGRAM FOR EXPENDITURES OF ECONOMIC DEVELOPMENT CONTRIBUTIONS RECEIVED FROM GAMING REVENUES.

(A) *Purpose.* The city will employ all gaming revenues received from all sources consistent with the following principles:

(1) All gaming revenue directed for economic development, educational enhancement or other improvements in the city from any source now in existence, or otherwise, shall be paid to the city, including, but not limited to, the total 3.75 % of adjusted gross receipts now being distributed to the city, the Twin City Education Foundation, Inc., the East Chicago Community Foundation, Inc. and Second Century;

(2) All money received from gaming revenue shall be considered to be public funds for the public good of all citizens of the city;

(3) All financial reports and other documentation detailing revenue received, expenditure of funds, payment of expenses and payment of administrative costs shall be open to inspection by the public;

(4) All accounts receiving gaming revenues shall be available for inspection by the public and shall be subject to audit by any governmental authority;

(5) All persons who exercise stewardship of gaming revenues shall do so with full appreciation that these funds belong to the public at-large and are not funds for use in the promotion of the political or personal agendas of any government official or other person; and

(6) The city will oppose any use of gaming revenue by any entity inconsistent with the above-noted principles.

(B) *Goals.* The goals to be achieved through the use of gaming revenues by the city, are as follows:

(1) To enhance the quality of life and encourage the well-being of all citizens, businesses and visitors of the city by assisting economic development, the statutorily stated intent for the use of gaming revenues; (I.C. 4-33-1-2)

(2) To assist economic development in the city, through the employment of a wide-ranging methodology supporting reform, modernization and improvement of current and future

industrial and commercial enterprises, including the creation of a comprehensive development plan;

(3) To assist economic development in the city by establishing and improving the housing stock in the city, including encouraging individually owned and self-financed residential units;

(4) To assist economic development in the city through the creation of funding mechanisms for use by commercial and industrial enterprises in financing, quality development and uniform improvements;

(5) To assist economic development in the city by supporting imaginative programs encouraging new business, industrial expansion, job development and modernization;

(6) To assist economic development in the city by improving and enhancing existing port facilities with a general view toward recognizing and promoting the city's centralized geographic location and inherent, immediate potential as a transportation hub with intermodal truck, train and port facilities and related warehousing;

(7) To assist economic development in the city by supporting and training a quality work force;

(8) To assist economic development in the city by encouraging the citizens, businesses and industries of the city and the general public to offer new goals and projects consistent with this development plan; and

(9) To assist economic development in the city by protecting the integrity of the funds, maintaining transparent accounting and management procedures, and resisting all efforts to direct gaming revenues toward entities which do not adhere to the same practices.

(C) *Organization.* All expenditures of gaming revenues shall be consistent with the principles and goals outlined above. The Mayor shall appoint two advisory boards as set forth below to assist in the performance of these duties.

(1) *Economic Advisory Board.*

(a) The Mayor shall appoint an Economic Advisory Board consisting of no more than ten individuals to review, prioritize and give advice on economic projects funded by gaming revenues. The members of the Economic Advisory Board shall include at least two members of the Common Council, the City Planner, the Housing Director, the Redevelopment Director and Corporation Council. The members shall serve at the pleasure of the Mayor and will not be compensated for service on the Board. The Board shall consider public comment and expert opinions, as appropriate, when accomplishing its duty.

(b) Staffing functions for the Economic Advisory Board shall be performed by office of the Mayor and all records shall be maintained in the office of the Mayor. The Board shall be permitted to reasonably compensate nongovernmental staff persons for services performed on behalf of the Board and reimburse members of the Board for actual expenses incurred.

(2) *Education/Training Advisory Board.*

(a) The Mayor shall appoint an Education/Training Advisory Board consisting of no more than seven individuals to review, prioritize and give advice on educational and training projects funded by gaming revenues. The members of the Education/Training Advisory Board shall include at least two members of the Common Council. The members shall serve at the pleasure of the Mayor and will not be compensated for service on the Board. The Board shall consider public comment and expert opinions, as appropriate, when accomplishing its duty.

(b) Staffing functions for the Education/Training Advisory Board shall be performed by the office of the Mayor and all records shall be maintained in the office of the Mayor. The Board shall be permitted to reasonably compensate nongovernmental staff persons for services performed on behalf of the Board and reimburse members of the Board for actual expenses incurred.

(3) *Function of Boards.* The Boards shall periodically report to the Mayor on projects and funding. The Mayor shall execute the projects consistent with the recommendation of the Boards and the principles and guidelines set forth above.

(D) *Use of revenue.* As a general rule, 20 % of gaming revenues received will be dedicated to educational and training projects. The remainder of gaming revenues received will be directed to economic development projects. No gaming revenues will be used to fund regular expenses of the city. All funds received will be placed in nonreverting accounts which bear interest as permitted by law.

(E) *Projects.* The advisory boards appointed under this program shall review on-going projects and investigate new possibilities which meet the goals as set forth above. The city shall post these current and potential projects and the citizens of the city are encouraged to offer their comments and recommendations. (Ord. 0-05-0006, passed 3-21-2005)

CUMULATIVE CAPITAL IMPROVEMENT FUND

§ 43.015 CUMULATIVE CAPITAL IMPROVEMENT FUND.

(A) In accordance with the requirements of I.C. 6-7-1-31.1, there is created a special fund into which the cigarette taxes allotted to the city by reason of I.C. 6-7-1-30.1 shall be deposited. The fund shall be a cumulative fund and all of the money deposited into the Fund shall be appropriated and used solely for capital improvements, as hereinafter defined, and none of the money shall revert to the General Fund or be used for any purposes other than capital improvements.

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

CAPITAL IMPROVEMENTS. The construction or improvement of any property owned by the city, including but not limited to streets, thoroughfares and sewers and the retirement of general obligation bonds of the city issued, and the proceeds of which shall be used for the purpose of constructing capital improvements. The term ***CAPITAL IMPROVEMENT*** shall not include salaries of any public officials or employees except those which are directly chargeable to a capital improvement. (1995 Code, § 3.04.030)

SINKING FUND

§ 43.030 CREATED-PURPOSE.

For the purpose of creating or continuing a sinking fund for the gradual extinguishment of the bonded indebtedness of the city, there is hereby created or continued the establishment of a Sinking Fund as provided by I.C. 36-9-16. (1995 Code, § 3.04.040)

§ 43.031 COMMISSIONERS.

(A) The Sinking Fund shall be under the control of three Commissioners to be known as the Board of Sinking Fund Commissioners, of whom the City Controller shall be one. Two others shall be appointed by the Mayor for the terms of and in the manner provided by law.

(B) The Commissioners shall serve without compensation, pay or other remuneration for their services and the Controller shall act as Secretary of the Commission without additional fee or salary. (1995 Code, § 3.04.050)

CUMULATIVE FIRE DEPARTMENT FUND

§ 43.045 CREATED-PURPOSE.

(A) There is adopted by the city a cumulative fund for the needs and use of the City Fire Department.

(B) The Cumulative Fund shall be for the purpose of raising funds for the erection of fire stations and the erection of additions to and the remodeling of the present buildings used to house firefighting equipment and for the purchase of firefighting equipment or to make the required payments under a lease rental with option to purchase agreement made to acquire equipment. (1995 Code, § 3.04.060)

§ 43.046 EXPENDITURES.

No expenditures shall be made from the Cumulative Fund except after an appropriation therefor has been made in the manner provided by law for making other appropriation. (1995 Code, § 3.04.070)

§ 43.047 TAX LEVY -AMOUNT.

To provide funds for the cumulative building, remodeling or equipment fund, a tax levy on all taxable property within the city limits is adopted not to exceed $0.10 on the $100 of assessed valuation of the property located within the limits of the city taxing district. (1995 Code, § 3.04.080)

§ 43.048 TAX LEVY -WHEN LEVIED.

The cumulative fund tax may be levied annually beginning with the first annual tax levy after adoption by the Common Council and approval by the State Board of Tax Commissioners. (1995 Code, § 3.04.090)

§ 43.049 TAX LEVY-ADVERTISEMENT-REDUCTION, RESCISSION.

The cumulative fund tax levy shall be advertised as other tax levies annually, beginning with the first annual tax levy; provided, that if the Common Council deem it advisable to do so, after the levy has been approved, it may reduce or rescind the annual levy or ten or more taxpayers of the city who will be affected by the tax, may file with the County Auditor not later than August 1 of any year, a petition for reduction or revision of the levy setting forth their objections to the levy. The petition shall be certified to the State Board of Tax Commissioners and the same procedure for notice and hearing shall be followed as provided for by law. (1995 Code, § 3.04.100)

§ 43.050 TAX LEVY-DEPOSIT-ADDITIONAL PURPOSES.

As the tax is collected, it shall be deposited in a qualified public depository or depositories and shall be held in a special fund known as the Building and/or Remodeling Firefighting Fund. The funds shall not be used for any other purpose than the purpose for which it was raised. (1995 Code, § 3.04.110)

CUMULATIVE FIREFIGHTING BUILDING AND EQUIPMENT FUND

§ 43.065 ESTABLISHED.

There is established a Cumulative Firefighting Building and Equipment Fund.
(1995 Code, § 3.08.010) (Ord. 0-94-0015, passed --1994; Ord. 0-95-0009, passed--1995)

§ 43.066 TAX LEVY.

A property tax levy will be imposed and the revenues from the levy will be deposited and held in a special fund to be known as the Building or Remodeling, Firefighting and Police Radio Equipment Fund. (1995 Code, § 3.08.020) (Ord. 0-94-0015, passed --1994; Ord. 0-95-0009, passed--1995)

§ 43.067 MAXIMUM RATE OF TAX LEVY.

The maximum rate of levy under § 43.066 will not exceed $0.04 per $100 of assessed valuation of property. (1995 Code, § 3.08.030) (Ord. 0-94-0015, passed --1994; Ord. 0-95-0009, passed--1995)

§ 43.068 ESTABLISHED FOR CERTAIN YEAR.

The Cumulative Firefighting Building and Equipment Fund is established for 1996.
(1995 Code, § 3.08.040) (Ord. 0-94-0015, passed --1994; Ord. 0-95-0009, passed--1995)

§ 43.069 DESIGNATED USES.

The funds accumulated in the Cumulative Firefighting Building and Equipment Fund will be used for:

(A) The purchase, construction, renovation or addition to buildings used by the Fire Department;

(B) The purchase of firefighting equipment for use of the Fire Department, including making the required payments under a lease rental with option to purchase agreement made to acquire the equipment;

(C) The purpose of police radio equipment; and

(D) The purchase, construction, renovation or addition to a building, or the purchase of equipment, for use of a provider of emergency medical services under I.C. 16-31-5.

(1995 Code, § 3.08.050) (Ord. 0-94-0015, passed --1994; Ord. 0-95-0009, passed--1995)

NONREVERTING FIRE DEPARTMENT CAPITAL FUND

§ 43.080 ESTABLISHED.

There is hereby established a Nonreverting Fire Department Capital Fund for purchases of Fire Department equipment and other capital matters. (Ord. 0-00-0019, passed 9-11-2000)

§ 43.081 DEPOSITS.

(A) There is to be deposited into the Nonreverting Fire Department Capital Fund fees collected or grants received by the Department and any other lawful funds which may be used for similar purposes.

(B) Monies deposited in the Nonreverting Fire Department Capital Fund shall be used only for the purchase of Fire Department equipment and other capital projects.

(Ord. 0-00-0019, passed 9-11-2000)

§ 43.082 DESIGNATED USES.

Monies from the Nonreverting Fire Department Capital Fund may be expended by appropriation of the Common Council and may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-00-0019, passed 9-11-2000)

§ 43.083 PERPETUAL.

The Nonreverting Fire Department Capital Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be transferred to the city's General Fund. (Ord. 0-00-0019, passed 9-11-2000)

GASOLINE FUND

§ 43.095 CREATED.

To ensure the cheapest possible cost of gasoline and motor fuel and the control of the use thereof, there is created a revolving fund to be known as the City Gasoline Fund for the receipt and disbursement of all monies of all executive departments of the city for gasoline and fuel oil.

(1995 Code, § 3.04.120) (Ord. 3254, passed - -1980)

CITY PROPERTY DAMAGE FUND

§ 43.110 CREATED.

To ensure the maximum efficiency in the collection of monies due the city for all damage to city property belonging to each and every executive department of the city there is created a revolving fund to be known as the Damage to City Property Fund for the receipt and disbursement of all funds concerned with damage to city property. (1995 Code, § 3.04.130) (Ord. 3254, passed - -1980)

DATA PROCESSING REVOLVING FUND

§ 43.125 CREATED.

To ensure the maximum utilization of the Data Processing Department and its equipment at the least possible cost to the city there is created the Data Processing Revolving Fund for the receipt and disbursement of all funds related to data processing. (1995 Code, § 3.04.140) (Ord. 3254, passed - -1980)

COMMUNICATIONS REVOLVING FUND

§ 43.140 CREATED.

To ensure the most efficient communication for all city departments at the least possible cost there is created the Communications Revolving Fund for the receipt and disbursement of all funds concerned with communication. (1995 Code, § 3.04.150) (Ord. 3254, passed - -1980)

PARK AND RECREATION REVOLVING FUND

§ 43.155 CREATED.

To ensure the maximum utilization of the park and recreation facilities at the least possible cost to city there is created the Park and Recreation Revolving Fund for the receipt and disbursement of all funds in connection with Park and Recreation Department activities.
(1995 Code,§ 3.04.160) (Ord. 3254, passed - -1980)

CASH RESERVE FUND

§ 43.170 CREATED.

To ensure the receipt by the city of all allowable reimbursements there is created the Cash Reserve Fund for the purpose of receiving and disbursing funds and transfers from other agencies in lieu of taxes. (1995 Code, § 3.04.170) (Ord. 3254, passed - -1980)

CUMULATIVE CAPITAL DEVELOPMENT FUND

§ 43.185 RE-ESTABLISHED.

There is re-established a Cumulative Capital Development Fund.
(1995 Code,§ 3.04.190) (Ord. 3382, passed - -1984; Ord. 0-93-0011, passed - -1993)

§ 43.186 TAX LEVY.

An ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the Cumulative Capital Development Fund. (1995 Code, § 3.04.192) (Ord. 0-93-0011, passed - -1993)

§ 43.187 MAXIMUM RATE OF TAX LEVY.

The maximum rate of levy under§ 43.186 will not exceed:

(A) Twelve cents per $100 assessed valuation for 1994;

(B) Twelve cents per $100 assessed valuation for 1995;

(C) Twelve cents per $100 assessed valuation for 1996.
(1995 Code, § 3.04.194) (Ord. 0-93-0011, passed - -1993)

§ 43.188 REESTABLISHED FOR CERTAIN YEARS.

The Cumulative Capital Development Fund is reestablished for the years 1994, 1995 and 1996.
(1995 Code, § 3.04.196) (Ord. 0-93-0011, passed - -1993)

§ 43.189 DESIGNATED USES.

(A) The funds accumulated in the Cumulative Capital Development Fund will be used for:

(1) Cumulative firefighting building, equipment;

(2) Police Radio and Motor Fund;

(3) Cumulative Transportation Fund-buses;

(4) Cumulative Building Fund;

(5) Cumulative Capital Improvement Fund;

(6) Cumulative Street Fund;

(7) General Improvement Fund;

(8) Cumulative Building Fund-sewers;

(9) Cumulative Drainage Fund;

(10) Cumulative Building Fund-parks; and

(11) Cumulative Sinking and Building Fund-parks.

(B) These funds are authorized under the authority of:

(1) I.C. 8-16-3;

(2) I.C. 8-22-3-25;

(3) I.C. 13-2-31-26;

(4) I.C. 13-3-3-89;

(5) I.C. 16-12.2-5-32;

(6) I.C. 36-8-14;

(7) I.C. 36-9-4-48;

(8) I.C. 36-9-16-2;

(9) I.C. 36-9-16-3;

(10) I.C. 36-9-16.5;

(11) I.C. 36-9-17;

(12) I.C. 36-9-26;

(13) I.C. 36-9-27-100;

(14) I.C. 36-10-3-21; and

(15) I.C. 36-10-4-36.
(1995 Code, § 3.04.200) (Ord. 3382, passed - -1984; Ord. 0-93-0011, passed - -1993)

§ 43.190 OTHER USES.

Notwithstanding § 43.189, funds accumulated in the City Cumulative Capital Development Fund may be spent for purposes other than the purposes stated in § 43.189, if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Mayor issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the Fund.
(1995 Code, § 3.04.210) (Ord. 3382, passed - -1984; Ord. 0-93-0011, passed - -1993)

GENERAL ADULT PROBATION SERVICES FUND

§ 43.205 CREATED.

(A) There is created a General Adult Probation Services Fund in which the City Clerk shall deposit the initial probation user's fee and any monthly probation user's fee.

(B) Money deposited in the Fund is appropriated to the City Court Adult Probation Services Program. (1995 Code, § 3.04.220) (Ord. 3409, passed - -1985)

CITY COUNCIL PROMOTIONAL FUND

§ 43.220 CREATED.

The City Promotional Fund is established. The Common Council is authorized to budget and appropriate funds from the General Fund or from other funds to pay the expenses incurred in promoting the betterment of the municipality. (1995 Code, § 3.04.230) (Ord. 3509, passed - -1989; Ord. 0-99-0024, passed 12-3-1999; Ord. 0-06-0005, passed 3-13-2006)

§ 43.221 EXPENDITURES.

Expenditures from this Fund may include, but are not necessarily limited to the following:

(A) Membership dues in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of municipal operations;

(B) Direct expenses for travel, meals and lodging in conjunction with municipal business or meetings or organizations to which the municipality belongs;

(C) Expenses incurred in the promotion of economic, industrial and civic development for the municipality, including meeting room rental, decorations, parades, floats, nominal gifts, meals and travel;

(D) Commemorative plaques, certificates or objects such as commemorative keys;

(E) Other purposes which are deemed by the Mayor and/or the Common Council to directly relate to promotion or betterment of the city; and

(F) Donations to not-for-profit organizations, church sponsored secular, civic or social activity or other civic or fraternal organizations, where the donation is deemed to be of benefit to the citizens of the city. (1995 Code, § 3.04.240) (Ord. 3509, passed - -1989; Ord. 0-99-0024, passed 12-3-1999; Ord. 0-06-0005, passed 3-13-2006)

§ 43.222 EXPENSE AUTHORIZATION REQUIRED.

No expenses shall be allowed from this Fund without prior authorization and approval by the Common Council and/or the Council President. Claims for expenses under this section all will be allowed

as prescribed by law. (1995 Code, § 3.04.250) (Ord. 3509, passed --1989; Ord. 0-99-0024, passed 12-3-1999; Ord. 0-06-0005, passed 3-13-2006)

CITY COUNCIL OFFICE EXPENSE FUND

§ 43.235 CREATION.

The Council is authorized to establish as a line item in the budget and may appropriate funds from the General Fund of the city to pay general expenses of Common Council members for expenses including but not limited to office supplies, equipment, phones and pagers and continuing education. The appropriation adopted by the Common Council shall be equally divided among the members of the Common Council for the expenses authorized herein. The amount herein authorized shall be paid in equal monthly amounts to each member of the Council. The payments shall be used for meeting expenses set forth herein and no additional claims for councilmanic expenses shall be submitted to or honored by the City Controller. (Ord. 0-99-0024, passed 12-3-1999)

SPECIAL NONREVERTING OPERATING FUND FOR PARK AND RECREATIONAL PURPOSES

§ 43.250 CREATED.

There is hereby established a Special Nonreverting Operating Fund for city park and recreational purposes. (Ord. 0-99-0002, passed 2-8-1999)

§ 43.251 MONIES RECEIVED.

(A) There is to be deposited into the Special Nonreverting Operating Fund fees received from all recreational programs.

(B) Monies deposited in the Special Nonreverting Operating Fund shall be used only for the programs generating the funds. (Ord. 0-99-0002, passed 2-8-1999; Ord. 0-11-0013, passed 7-25-2011)

§ 43.252 EXPENDITURES.

Money from the Special Nonreverting Operating Fund hereby created may be expended by appropriation of the City Park and Recreation Board and may be disbursed only on approved claims allowed and signed by the President and Secretary of the Board. (Ord. 0-99-0002, passed 2-8-1999)

DEPARTMENT OF PUBLIC AND ENVIRONMENTAL HEALTH-PETTY CASH FUND

§ 43.265 CREATED.

There is hereby established a nonreverting Petty Cash Fund for the city's Department of Public and Environmental Health only for emergency purchases necessary to protect the health of the community or individual citizens. (Ord. 0-99-0029, passed 12-30-1999)

§ 43.266 PURPOSE.

(A) The Petty Cash Fund shall not exceed $1,000.

(B) There is to be deposited in the Petty Cash Fund an initial $1,000 deposit from the city's General Fund and replenishment of the Fund as necessary by approved claims allowed by the Board of Public Works and Safety.

(C) This Fund shall continue in perpetuity, however, should the Fund terminate for any lawful reason any balance shall be transferred to the city's General Fund. (Ord. 0-99-0029, passed 12-30-1999)

DEPARTMENT OF PUBLIC AND ENVIRONMENTAL HEALTH-CHANGE FUND

§ 43.280 CREATED.

There is hereby established a nonreverting Change Fund for the Department of Public and Environmental Health Division of Nursing for the purpose of making change when collection of funds from the public for services or records is necessary. (Ord. 0-99-0029, passed 12-30-1999)

§ 43.281 PURPOSE.

(A) The Change Fund shall not exceed $200.

(B) There is to be deposited in the Change Fund an initial $200 deposit from the city's General Fund.

(C) This Fund shall continue in perpetuity, however, should the Fund terminate for any lawful reason any balance shall be transferred to the city's General Fund. (Ord. 0-99-0029, passed 12-30-1999)

NONREVERTING IMMUNIZATION FUND

§ 43.295 CREATED.

There is hereby established a Nonreverting Immunization Fund for management and maintenance of the city's immunization program. (Ord. 0-99-0030, passed 12-30-1999)

§ 43.296 DEPOSITS.

(A) There is to be deposited into the Nonreverting Immunization Fund fees collected or grants received by this program and any other lawful funds which may be used for the immunization program purposes.

(B) Monies deposited in the Nonreverting Immunization Fund shall be used only for the management and maintenance of the city's immunization program. (Ord. 0-99-0030, passed 12-30-1999)

§ 43.297 EXPENDITURES.

Monies from the Nonreverting Immunization Fund may be expended by appropriation of the Common Council and may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-99-0030, passed 12-30-1999)

§ 43.298 TERMINATION OF FUND.

The Nonreverting Immunization Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason any balance in the Fund shall be transferred to the city's General Fund.
(Ord. 0-99-0030, passed 12-30-1999)

NONREVERTING COMMUNITY DEVELOPMENT DEBT SERVICE RESERVE FUND

§ 43.310 CREATED.

There is hereby established a Nonreverting Community Development Debt Service Reserve Fund for debt service purposes. (Ord. 0-99-0031, passed 12-30-1999)

§ 43.311 DEPOSITS.

(A) There is to be deposited into the Nonreverting Community Development Debt Service Reserve Fund property taxes and any other lawful funds which may be used for community development debt service purposes.

(B) Monies deposited in the Nonreverting Community Development Debt Service Reserve Fund shall be used only for the retirement of community development debt.
(Ord. 0-99-0031, passed 12-30-1999)

§ 43.312 EXPENDITURES.

Monies from the Nonreverting Community Development Debt Service Reserve Fund may be expended by appropriation of the Common Council and may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-99-0031, passed 12-30-1999)

§ 43.313 TERMINATION OF FUND.

The Nonreverting Community Development Debt Service Reserve Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be transferred to the city's General Fund. (Ord. 0-99-0031, passed 12-30-1999)

GOVERNMENT SERVICES COOPERATIVE FUND

§ 43.325 ESTABLISHED.

There is hereby established a Government Services Cooperative Fund for the purpose of accounting for the operations of the Government Services Cooperative.
(Ord. 0-01-0005, passed 3-1-2001)

§ 43.326 DEPOSITS.

Monies deposited in the Fund shall be used for the operations of the Government Services Cooperative. (Ord. 0-01-0005, passed 3-1-2001)

§ 43.327 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Governmental Services Cooperative Board of Directors. (Ord. 0-01-0005, passed 3-1-2001)

§ 43.328 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed in accordance with a mutual agreement between the civil city, school city and the public library. (Ord. 0-01-0005, passed 3-1-2001)

NONREVERTING GRANT FUND

§ 43.340 ESTABLISHED.

There is hereby established a Nonreverting Grant Fund for the purpose of accounting for the operations of the grant programs. (Ord. 0-01-0008, passed 4-11-2001)

§ 43.341 DEPOSITS.

Monies deposited in the Fund shall be used for the operations of grant programs.
(Ord. 0-01-0008, passed 4-11-2001)

§ 43.342 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-01-0008, passed 4-11-2001)

§ 43.343 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed to civil city's General Fund.
(Ord. 0-01-0008, passed 4-11-2001)

DARE FUND

§ 43.355 ESTABLISHED.

There is hereby established a DARE Fund for the purpose of accounting for the operations of the city's DARE program. (Ord. 0-01-0009, passed 4-11-2001)

§ 43.356 DEPOSITS.

Monies deposited in the Fund shall be used for the operations of the city's DARE program.
(Ord. 0-01-0009, passed 4-11-2001)

§ 43.357 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-01-0009, passed 4-11-2001)

§ 43.358 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed to civil city's General Fund.
(Ord. 0-01-0009, passed 4-11-2001)

WATER TANK REFURBISHMENT FUND

§ 43.370 ESTABLISHED.

There is hereby established a Water Tank Refurbishment Fund for the purpose of accounting for the operations of the water tank refurbishment program. (Ord. 0-01-0010, passed 4-11-2001)

§ 43.371 DEPOSITS.

Monies deposited in the Fund shall be used for the operations of the water tank refurbishment program. (Ord. 0-01-0010, passed 4-11-2001)

§ 43.372 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the City Water Board. (Ord. 0-01-0010, passed 4-11-2001)

§ 43.373 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed to the City Water Department.

(Ord. 0-01-0010, passed 4-11-2001)

DIABETES AWARENESS FUND

§ 43.385 ESTABLISHED.

There is hereby established a Diabetes Awareness Fund for the purpose of accounting for the operations of the city diabetes awareness program. (Ord. 0-01-0011, passed 4-11-2001)

§ 43.386 DEPOSITS.

Monies deposited in the Fund shall be used for the operations of the city diabetes awareness program. (Ord. 0-01-0011, passed 4-11-2001)

§ 43.387 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-01-0011, passed 4-11-2001)

§ 43.388 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed to civil city's General Fund.

(Ord. 0-01-0011, passed 4-11-2001)

COURT DRIVING SCHOOL FUND

§ 43.400 ESTABLISHED.

There is hereby established a Court Defensive Program Fund for the purpose of accounting for the operations of the Court defensive program. (Ord. 0-01-0041, passed 12-10-2001)

§ 43.401 DEPOSITS.

Monies deposited in the Fund shall be used for the operations of the City Court.

(Ord. 0-01-0041, passed 12-10-2001)

§ 43.402 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-01-0041, passed 12-10-2001)

§ 43.403 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed to the civil city's General Fund.
(Ord. 0-01-0041, passed 12-10-2001)

RAILROAD RELOCATION FUND

§ 43.415 ESTABLISHED.

There is hereby established a Railroad Relocation Fund for the purpose of accounting for the operations of the relocation of railroads and related activities. (Ord. 0-01-0050, passed 12-28-2001)

§ 43.416 DEPOSITS.

Monies deposited in the Fund shall be used for the operations of the relocation of railroads and related activities. (Ord. 0-01-0050, passed 12-28-2001)

§ 43.417 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-01-0050, passed 12-28-2001)

§ 43.418 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed to the General Fund. (Ord. 0-01-0050, passed 12-28-2001)

ALCOHOL AND DRUG PROGRAM USERS FEE FUND

§ 43.430 ESTABLISHED.

There is hereby established an Alcohol and Drug Program Users Fee Fund.
(Ord. 0-02-0014, passed --2002)

§ 43.431 DEPOSITS.

Monies deposited in the Fund shall be used to supplement the operations of the adult Drug Court program. (Ord. 0-02-0014, passed--2002)

§ 43.432 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-02-0014, passed --2002)

§ 43.433 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate any balance of the Fund shall be disbursed to the civil city's General Fund. (Ord. 0-02-0014, passed--2002)

UNSAFE BUILDING FUND

§ 43.445 ESTABLISHED.

There is hereby established an Unsafe Building Fund for the purpose of accounting for the receipts and disbursements of the Fund. (Ord. 0-02-0043, passed 12-12-2002)

§ 43.446 DEPOSITS.

Monies deposited in the Fund shall be used for the demolition of unsafe buildings.
(Ord. 0-02-0043, passed 12-12-2002)

§ 43.447 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Board of Public Works and Safety. (Ord. 0-02-0043, passed 12-12-2002)

§ 43.448 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed to the General Fund of the city.
(Ord. 0-02-0043, passed 12-12-2002)

STORMWATER MANAGEMENT FUND

§ 43.460 ESTABLISHED.

There is hereby established a Stormwater Management Fund for the purpose of accounting for the receipts and disbursements of the city's stormwater management activities. No stormwater customer fees are established by this subchapter. No stormwater user fees shall be deposited into this Fund.
(Ord. 0-05-0010, passed 4-25-2005)

§ **43.461 EXPENDITURES.**

Expenditures from the Fund shall be used for the study of all stormwater management issues and for the construction and maintenance of facilities and public works necessary for the management of stormwater. (Ord. 0-05-0010, passed 4-25-2005)

§ 43.462 TERMINATION OF FUND.

The Fund so created shall be nonreverting and the Fund shall exist until terminated by the enactment of a subsequent ordinance. (Ord. 0-05-0010, passed 4-25-2005)

§ 43.463 DISBURSEMENTS.

Disbursements from the Fund shall be made upon certification by the City Controller and the approval of claims by the Storm Management Board. (Ord. 0-05-0010, passed 4-25-2005)

BUILDING DEPARTMENT-CHANGE FUND

§ 43.475 ESTABLISHED.

There is hereby established a nonreverting Change Fund for the Building Department for the purpose of making change when collection of funds from the public for services or records is necessary. (Ord. 0-05-0022, passed 7-11-2005)

§ 43.476 FUND LIMIT.

The Change Fund shall not exceed $200. (Ord. 0-05-0022, passed 7-11-2005)

§ 43.477 INITIAL DEPOSIT.

There is to be deposited in the Change Fund an initial $200 deposit from the city's General Fund. (Ord. 0-05-0022, passed 7-11-2005)

§ 43.478 TERMINATION OF FUND.

This Fund shall continue in perpetuity, however, should the Fund terminate for any lawful reason any balance shall be transferred to the city's General Fund. (Ord. 0-05-0022, passed 7-11-2005)

CITY COURT-FIRST OFFENDER'S FUND

§ 43.490 ESTABLISHED.

There is hereby established a Conditional Discharge for First Offender's Fund for the City Court. (Ord. 0-06-0016, passed 5-8-2006)

§ 43.491 COST.

The Court shall assess a cost for the Fund, a fee of $220. (Ord. 0-06-0016, passed 5-8-2006)

§ 43.492 DEPOSITS.

The funds generated shall be deposited with the Controller's office and a quietus shall be delivered to the Court. (Ord. 0-06-0016, passed 5-8-2006)

§ 43.493 EXPENDITURES.

Expenditures from the Fund shall be used in order to implement programs of the City Court necessary to establish, implement and operate the first offenders program.
(Ord. 0-06-0016, passed 5-8-2006)

§ 43.494 TERMINATION OF FUND.

(A) The funds are nonreverting and the life of the Fund is perpetual until terminated by a subsequent ordinance enacted by this Council.

(B) In the event of the closure of the City Court, the remaining funds shall become part of the General Fund of the city. (Ord. 0-06-0016, passed 5-8-2006)

CITY COURT-PUBLIC DEFENDER FUND

§ 43.505 ESTABLISHED.

There is hereby established a Public Defender Fund for the City Court.
(Ord. 0-06-0017, passed 5-8-2006)

§ 43.506 COST.

The Court shall assess a cost for misdemeanor actions a fee of $50.
(Ord. 0-06-0017, passed 5-8-2006)

§ 43.507 DEPOSITS.

The funds generated shall be deposited with the Controller's office and a quietus shall be delivered to the Court. (Ord. 0-06-0017, passed 5-8-2006)

§ 43.508 EXPENDITURES.

Funds generated by the Court's Public Defender Fund shall be used in order to further develop programming for the Court, to enhance community programming and for all other Court activity as assessed and deemed necessary for the smooth efficient operation of the City Court.
(Ord. 0-06-0017, passed 5-8-2006)

§ 43.509 TERMINATION OF FUND.

(A) The funds are nonreverting and the life of the Fund is perpetual until terminated by a subsequent ordinance enacted by this Council.

(B) In the event of the closure of the City Court, the remaining funds shall become part of the General Fund of the city. (Ord. 0-06-0017, passed 5-8-2006)

MAJOR MOVES CONSTRUCTION FUND 450

§ 43.520 ESTABLISHED.

There is hereby created a nonreverting Major Moves Construction Fund 450 for the receipt of the city's portion of the Major Moves Construction Fund proceeds. (Ord. 0-06-0043, passed 10-10-2006)

§ 43.521 USES.

The permissible uses of those funds, as established by I.C. 8-14-16-5 are:

(A) Construction of highways, roads and bridges;

(B) Any purpose for which the Regional Development Authority may expend money under I.C. 36-7.5;

(C) Provide funding for economic development projects as defined in I.C. 6-3.5-7-13.1(c)(1) or 6-3.5-7-13.1(c)(2)(A) through 6-3.5-7-13.1(c)(2)(K);

(D) Provide matching funds for federal grants for any of these permissible uses of Major Moves Construction Fund money; and

(E) Provide funding for interlocal agreements under I.C. 36-1-7 for any of these permissible uses of Major Moves Construction Fund money. (Ord. 0-06-0043, passed 10-10-2006)

PROPERTY TAX CREDIT FUND

§ 43.535 ESTABLISHED.

There is hereby created a nonreverting Property Tax Credit Fund for the receipt of the property tax credit monies as determined by the County Auditor's office. (Ord. 0-07-0003, passed 2-26-2007)

§ 43.536 USES.

The permissible uses of those funds, as established by Ordinance No.0-06-0042 are:

(A) Issue refunds to eligible property owners who had paid their tax bill prior to the adoption of Ordinance No. 06-0042;

(B) Apply the tax credit to current property tax bill for eligible property tax owners electing to do so; and

(C) Pursuant to I.C. 36-1-8-5, upon fulfillment of the purposes of the Fund, any unused and unencumbered remaining balance shall be transferred to the Fund upon which funding was originally drawn. (Ord. 0-07-0003, passed 2-26-2007)

CLERK'S RECORD PERPETUATION FUND

§ 43.550 CLERK'S RECORD PERPETUATION FUND.

Pursuant to Indiana Code 33-37-5-2, there is hereby established a Clerk's Record Perpetuation Fund.

(A) The Clerk shall deposit in the Fund;

(1) Revenue received by the Clerk for the transmitting of documents by facsimile machine to a person under I.C. 5-14-3;

(2) Document storage fees required under I.C. 33-37-5-20

(B) Fees shall be remitted by the Clerk to the City (Controller) fiscal officer at the end of each month to be deposited into the Clerk's Record Perpetuation Fund.

(C) The City Clerk may use the Fund for the preservation of records and the improvement of record keeping systems and equipment. (Ord. 0-10-0014, passed 10-12-2010)

LOCAL LAW ENFORCEMENT GRANTS FUND 0276

§ 43.565 ESTABLISHED.

There is hereby established a Local Law Enforcement Grants Fund 0276 for the purpose of accounting for the receipts and disbursements of the City's Local Law Enforcement grants.
(Ord. 0-11-0014, passed 7-25-11)

§ 43.566 DEPOSITS.

Monies deposited in the Fund shall be used in accordance with the grant agreement.
(Ord. 0-11-0014, passed 7-25-11)

§ 43.567 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Common Council. (Ord. 0-11-0014, passed 7-25-11)

§ 43.568 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance of the Fund shall be disbursed in accordance with the grant agreement.
(Ord. 0-11-0014, passed 7-25-11)

US GYPSUM TIF FUND 0288

§ 43.580 ESTABLISHED.

There is hereby established a US Gypsum TIF Fund 0288 for the purpose of accounting for the receipts and disbursements of the City's USG TIF activities. (Ord. 0-11-0014, passed 7-25-11)

§ 43.581 DEPOSITS.

Monies deposited in the Fund shall be used for the payment of the EC Redevelopment Commission TIF Bonds 1999A (USG). (Ord. 0-11-0014, passed 7-25-11)

§ 43.582 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Common Council. (Ord. 0-11-0014, passed 7-25-11)

§ 43.583 TERMINATION OF FUND.

Upon Fund purpose fulfillment, any balance of said fund shall be transferred to the City's General Fund. (Ord. 0-11-0014, passed 7-25-11)

RILEY PLAZA TIF FUND 0289

§ 43.595 ESTABLISHED.

There is herby established a Riley Plaza TIF Fund 0289 for the purpose of accounting for the receipts and disbursements of the City's Riley Plaza TIF activities. (Ord. 0-11-0014, passed 7-25-11)

§ 43.596 DEPOSITS.

Monies deposited in the Fund shall be used for the payment of the Taxable Economic Development Revenue Bonds 2007A (Riley Plaza Project). (Ord. 0-11-0014, passed 7-25-11)

§ 43.597 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Common Council. (Ord. 0-11-0014, passed 7-25-11)

§ 43.598 TERMINATION OF FUND.

Upon Fund purpose fulfillment, any balance of the Fund shall be transferred to the City's General Fund. (Ord. 0-11-0014, passed 7-25-11)

WATER UTILITY METER DEPOSIT FUND 0604

§ 43.610 ESTABLISHED.

There is hereby established a Water Utility Meter Deposit Fund 0604 for the purpose of accounting for the receipts and disbursements of the Water Utility customer deposit activities.
(Ord. 0-11-0014, passed 7-25-11)

§ 43.611 DEPOSITS.

Water Utility customer deposits shall be deposited in the Fund and shall be used for customer deposit refunds. (Ord. 0-11-0014, passed 7-25-11)

§ 43.612 EXPENDITURES.

Disbursements from the Fund shall be made upon certification by the City Controller and the approval of claims by the EC Water Utility Board of Trustees. (Ord. 0-11-0014, passed 7-25-11)

§ 43.613 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance of the Fund shall be transferred to the Water Utility Fund 0601.
(Ord. 0-11-0014, passed 7-25-11)

WATER UTILITY CONSTRUCTION FUND 0605

§ 43.625 ESTABLISHED.

There is hereby established a Water Utility Construction Fund 0605 for the purpose of accounting for the receipts and disbursements of the Water Utility construction projects.
(Ord. 0-11-0014, passed 7-25-11)

§ 43.626 DEPOSITS.

Monies deposited in the Fund shall be for payment of Water Utility construction projects.
(Ord. 0-11-0014, passed 7-25-11)

§ 43.627 EXPENDITURES.

Disbursements from the Fund shall be made upon certification by the City Controller and the approval of claims by the EC Water Utility Board of Trustees. (Ord. 0-11-0014, passed 7-25-11)

§ 43.628 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance of the Fund shall be disbursed as determined by the project agreement.
(Ord. 0-11-0014, passed 7-25-11)

WATER UTILITY GRANTS FUND 0650

§ 43.640 ESTABLISHED.

There is hereby established a Water Utility Grants Fund 0650 for the purpose of accounting for the receipts and disbursements of Water Utility grants. (Ord. 0-11-0014, passed 7-25-11)

§ 43.641 DEPOSITS.

Monies deposited in the Fund shall be for the payments in accordance with the grant agreement. (Ord. 0-11-0014, passed 7-25-11)

§ 43.642 EXPENDITURES.

Disbursements from the Fund shall be made upon certification by the City Controller and the approval of claims by the EC Water Utility Board of Trustees. (Ord. 0-11-0014, passed 7-25-11)

§ 43.643 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance of the Fund shall be disbursed in accordance with the grant agreement.
(Ord. 0-11-0014, passed 7-25-11)

CIVIL CITY LEVY EXCESS FUND 0710

§ 43.655 ESTABLISHED.

Pursuant to I.C. 6-1.1-18.5-17, there is hereby established a Civil City Levy Excess Fund 0710 for the purpose of accounting for the receipts and disbursements of the property taxes received which exceeds 100% of the taxing unit's ad valorem property tax levy. (Ord. 0-11-0014, passed 7-25-11)

§ 43.656 DEPOSITS.

Monies deposited in the Fund shall be used as provided by the Department of Local Government Finance approval of the taxing unit's budget. (Ord. 0-11-0014, passed 7-25-11)

§ 43.657 EXPENDITURES.

Monies from the Fund may be disbursed only on approved claims allowed by the Common Council. (Ord. 0-11-0014, passed 7-25-11)

§ 43.658 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed as determined by the Department of Local Government Finance. (Ord. 0-11-0014, passed 7-25-11)

SANITARY LEVY EXCESS FUND 0721

§ 43.670 ESTABLISHED.

Pursuant to I.C. 6-1.1-18.5-17, there is hereby established a Sanitary Levy Excess Fund 0721 for the purpose or accounting for the receipts and disbursements of the property taxes received which exceeds 100% of the taxing unit's ad valorem property tax levy. (Ord. 0-11-0014, passed 7-25-11)

§ 43.671 DEPOSITS.

Monies deposited in the Fund shall be used as provided by the Department of Local Government Finance approval of the taxing unit's budget. (Ord. 0-11-0014, passed 7-25-11)

§ 43.672 EXPENDITURES.

Disbursements from the Fund shall be made upon certification by the City Controller and the approval of claims by the EC Sanitary District Board of Commissioners.
(Ord. 0-11-0014, passed 7-25-11)

§ 43.673 TERMINATION OF FUND.

The Fund shall be perpetual in nature; however, should the Fund terminate for any lawful reason, any balance in the Fund shall be disbursed as determined by the Department of Local Government Finance. (Ord. 0-11-0014, passed 7-25-11)

LOCAL DEVELOPMENT AGREEMENT FUND

§ 43.685 ESTABLISHED.

Pursuant to Senate Enrolled Act No. 325, there is hereby established a Local Development Agreement (LDA) Fund for the purpose of accounting for the receipts and disbursements of money received from a "Development Provider" being the City's gaming licensee.
(Ord. 0-11-0014, passed 7-25-11)

§ 43.686 DEPOSITS.

Monies contained in the Fund shall be deposited into a separate bank account in an FDIC insured Indiana back within 5 days after it's receipt from the Development Provider.
(Ord. 0-11-0014, passed 7-25-11)

§ 43.687 EXPENDITURES.

The Fund will allow only expenditures according to the terms of the Local Development Agreement, approved by the Indiana Gaming Commission, which specifies the kind and type of expenditures that may be made from this fund. (Ord. 0-11-0014, passed 7-25-11)

CHAPTER 44: EAST CHICAGO PORT AUTHORITY

Section

44.01 Definitions
44.02 Creation
44.03 Purposes
44.04 Jurisdiction
44.05 Board of Directors
44.06 Powers and duties
44.07 Officers and employees
44.08 Advisory Council
44.09 Annual budget
44.10 Development plan
44.11 Intergovernmental contracts acquisition of land
44.12 Railroad rights-of-way-powers
44.13 Rules and regulations
44.14 Provisions governing participation by private enterprise-construction and operation of facilities
44.15 Cumulative Channel Maintenance Fund
44.16 Depositories-disbursement of funds
44.17 Revenue bonds
44.18 Annual fee on watercraft
44.19 Miscellaneous provisions
44.20 Transfer and savings clause

§ 44.01 DEFINITIONS.

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

GOVERNING BODY. The Common Council of the city as the legislative authority of the city establishing the Port Authority under the provisions of this chapter.

PORT or ***HARBOR.*** May be used interchangeably and when used in this chapter shall mean any area used for servicing, storing, protecting, mooring, loading or unloading, or repairing any watercraft, on or adjacent to any body of water which may be wholly or partially within, or wholly or partially adjacent to the state and the city.

PORT AUTHORITY. The Port Authority created pursuant to the authority of this chapter.

PUBLICATION. Publication once per week for two consecutive weeks in a newspaper of general circulation in the city, county or counties wherein the publication is required to be made.

WATERCRAFT. Any vessel, barge, boat, ship, tug, sailing craft, skiff, raft, inboard or outboard propelled boat, or any contrivance now known or hereafter invented, used or designed for navigation of or use upon water, including a vessel permanently anchored in a port. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.02 CREATION.

(A) There is hereby created a Port Authority of the city which shall be a body corporate and politic. The Port Authority may sue and be sued, plead and be impleaded, and shall have the powers and

jurisdiction enumerated in this chapter and granted under the laws of the state. The exercise by the Port Authority of the powers conferred upon it shall be deemed to be an essential governmental function of the state and the city, but the Port Authority shall not be immune from liability by reason thereof.

(B) In the exercise of the powers and authorities herein granted, the Port Authority shall have power to make and enter into any and all contracts in the name of the governmental unit creating the authority, and the contracts as may be necessary to effectuate the purposes of this chapter and which are not otherwise expressly provided for shall be made without ratification thereof by any other board, body or officer. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.03 PURPOSES.

The Port Authority of the city is hereby organized for the purposes of discharging those powers and duties granted to same under the laws of the state, including, without limitation, the power to manage, establish, construct, purchase or develop any and all facilities necessary to maintain, enhance and promote the shoreline, lakefront, rivers, streams, marinas and other water resources within, bordering or adjacent to the city and to develop, maintain, purchase, construct, plan for, and otherwise manage all facilities, railroads, streets and other public facilities, including utilities to the extent permitted by law, for the purpose of developing, maintaining, managing and enhancing the recreational, commercial and industrial opportunities of residents and businesses of the city. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.04 JURISDICTION.

(A) *Limits.* The area of jurisdiction of the Port Authority created hereunder shall include all of the territory of the city and the streams, lakes or any tributaries thereof, to the extent permitted by law, adjacent and bordering, excepting that territory of the city (including the Indiana Harbor and canal) lying within the jurisdiction of the City Waterway Management District as provided by I. C. 8-10-9-3 or any subsequent enactment of the State General Assembly. In addition, jurisdiction is hereby conferred, to the extent not otherwise limited herein, over the Robert A. Pastrick Marina, and the other transportation, dock, wharf, pier, port, terminal or transportation facilities in, around or adjacent thereto, or which may be established in, around or adjacent thereto and to any of the lakefront, or other tributaries or rivers lying within the area of jurisdiction, but not including the beach, bathhouse and concession stand in Jeorse Park, jurisdiction over which shall remain in the City Department of Parks and Recreation.

(B) *Expansion.* The Port Authority of the city created hereunder may expand its jurisdiction to include any other unit (as defined in I.C. 36-1-2-23) of local government that desires to join the expanded Authority. The legislative body (as defined in I.C. 36-1-2-9) of each unit of local government that is in the Authority shall by chapter determine the number of Directors on the Board of the expanded Authority and any other terms of the expansion that it considers appropriate. The Common Council of the city, together with the legislative body of each unit that desires to join the Authority, shall by ordinance agree to join the Authority and accept the terms of this chapter or any other ordinance that provides for the expansion of the Port Authority. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.05 BOARD OF DIRECTORS.

The Port Authority created by this chapter shall be governed by a Board of Directors. The Board of Directors shall be established in accordance with the following provisions.

(A) *Number, composition and qualifications.* The Board of Directors shall consist of five members, each of whom shall be a resident of the city prior to the date of the member's appointment; and,

at the time of appointment and service on the Board, shall not hold any elected or appointive office of the city.

(B) *Appointment.* Members of the Board of Directors of the Port Authority shall be appointed by the Mayor of the city with the advice and consent of the Common Council.

(C) *Terms.* The Directors of the Port Authority first appointed shall serve staggered terms so that two of the Directors first appointed shall serve for a term of four years, one Director for a term of three years, one Director for a term of two years and one Director for a term of one year. Thereafter, each succeeding Director shall serve for a term of four years. Vacancies among the members of the Board of Directors shall be filled by appointment of the Mayor with the advice and consent of the Common Council only for the unexpired term of the vacating Director.

(D) *Officers.* Within 45 days of their appointment, the Directors shall meet and elect one of their members as Chairperson, and another as Vice-Chairperson, and shall designate their terms of office. The Board shall also appoint a Secretary, who need not be a Director. The officers of the Board of Directors shall give bond for the faithful performance of their duties in an amount which shall be prescribed from time to time by the Board, the expense of same being paid out of the funds of the Port Authority. Directors shall be eligible for reappointment without limitation.

(E) *Quorum.* A majority of the Board of Directors shall constitute a quorum, the affirmative vote of which shall be necessary for any action taken by the Port Authority. No vacancy in the membership of the Board shall impair the rights of a quorum to exercise all of the rights and perform all of the duties of the Port Authority.

(F) *Compensation.* Directors of the Port Authority shall be entitled to receive as compensation a sum of money as the Board may, from time to time, determine. In addition, Directors shall be entitled to receive reimbursement for any and all reasonable out-of-pocket expenses incurred in the performance of the Directors' duties. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.06 POWERS AND DUTIES.

The Port Authority created hereunder shall have full power and authority to:

(A) Purchase, construct, sell, lease and operate docks, wharves, warehouses, piers and other port, terminal, or transportation facilities within its jurisdiction consistent with the purposes of the Port Authority and to make charges for the use thereof;

(B) (1) Straighten, deepen and improve any channel, river, stream or other water course or way which may be necessary or proper in the development of the facilities of the Port;

(2) Establish dock lines, piers and other facilities necessary to the conduct of pleasure boating within the territory under the jurisdiction, of the Port Authority; and

(3) Regulate and enforce the regulation of all uses and activities related to the port in the area under the jurisdiction of the Port Authority and to determine the use of land adjacent to waters under the jurisdiction of the Port Authority within a reasonable distance from the shorelines of the waters. However, the Port Authority shall not assess a charge or fee from the passage of a watercraft through the navigable waters of the state.

(C) Acquire, own, hold, sell, lease or operate real or personal property for the authorized purposes of the Port Authority;

(D) (1) The Board of Directors may, by resolution, recommend to the Common Council of the city that the Council authorize general obligation, mortgage or revenue bonds for any one or more than one of the following purposes:

(a) To acquire or improve the port or harbor sites;

(b) To acquire, construct, extend, alter or improve structures, ways, facilities or equipment necessary for the proper operation of the Port Authority or the port or harbor within its jurisdiction; and/or

(c) To refund outstanding bonds and matured interest coupons and issue and sell refunding bonds for that purpose.

(2) Prior to a recommendation authorized by division (D)(1) above, the Board shall give notice of a public hearing at which time the Board shall disclose the purpose for which the bond issue is proposed, the amount of the proposed issue and all other pertinent data. At least ten days prior to the date set for hearing, the Board shall publish in two newspapers of general circulation in the city, a notice of the time, place and purpose of the hearing. If there is only one newspaper, one notice shall be sufficient;

(3) The governing body shall review the proposal of the Board of Directors of the Port Authority and if it approves shall provide for the advertisement and sale of the issue in compliance with I.C. 5-1-11, or future provisions of state law which may be applicable. For purposes of this chapter, I.C. 5-1-11 is intended to apply as fully to mortgage bonds as to general obligation or revenue bonds;

(4) Bonds issued under the authority of this chapter are not subject to limitations on interest rates;

(5) The Common Council shall fix the time and place of payment of principal and interest; but no issue shall have a maturity date in excess of 40 years from the date of issue;

(6) Bonds issued under the provisions of this chapter, together with the interest thereon, shall be tax-exempt as allowed by the laws of the state;

(7) The Common Council shall apply the proceeds from the sale of bonds exclusively to the purposes for which the bonds were issued and only to the extent necessary therefor; any remaining balance shall be placed in a sinking fund for the payment of the bonds and the interest thereon; and

(8) Nothing in this chapter shall affect existing obligations on outstanding bonds. In case the Board of Directors of the Port Authority is discontinued as provided under this chapter or under applicable state law, the primary obligations on its bonds shall remain unaffected; but, in addition, the city shall assume liability for the payment of the bonds according to their terms and in relation to its interest therein.

(E) The Port Authority created hereunder, with the approval of the Common Council, may sell, lease or enter into a royalty contract for the natural or mineral resources of land which it owns. Monies received from these sources shall be deposited in the Nonreverting Capital Fund of the Port Authority;

(F) The Port Authority may apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate and maintain foreign trade zones within the limits of the Port Authority and to establish, operate and maintain the foreign trade zones;

(G) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any facility of the Port Authority; and to award damages to land owners for real estate and property rights appropriated and taken or injuriously affected and in case the Board of Directors of the Port Authority cannot agree with the owners, lessees or occupants of any real estate selected by them for the purposes herein set forth, it may proceed to procure the condemnation of the same as hereinafter provided, and in addition thereto, when not in conflict or inconsistent with the express provisions of this chapter, proceed under the general laws of the state governing the condemnation of lands and the rights-of-way for other public purposes which may be in force at the time, the provisions of the laws having been extended by the laws to ports and harbors and to the properties of port authorities. In any proceeding prosecuted by the Board of Directors of the Port Authority to condemn or appropriate any land or the use thereof or any right therein for purposes permitted by this chapter or under state law, the Board and all owners and holders of property or rights therein sought to be taken shall be governed by and have the same rights to as procedure, notices, hearings, assessments of benefits and awards and payments thereof as are now or may hereafter be prescribed by law for the appropriation and condemnation of real estate and the property owners shall have like powers and rights as to remonstrance and of appeals to the Circuit or Superior Courts of the county; provided, that the payment of all damages awarded for all lands and property or interests or rights therein appropriated under the provisions of this chapter shall be paid entirely out of funds under the control of the Port Authority, except that:

(1) Upon written application of any property owner affected, the city, after ten days written notice to the Port Authority and public hearing had thereon, may revoke the right of eminent domain to be exercised by the Port Authority as to any parcel or parcels of land inside its borders within 60 days after the Port Authority has by resolution announced the lands, rights, rights-of-way, franchises, easements or other property to be taken.

(2) Nothing herein contained shall authorize the Port Authority to take or disturb property or facilities belonging to any public corporation, public utility or common carrier, which property or facilities are necessary and convenient in the operation of the public corporation, public utility or common carrier, unless provision is made for the restoration, relocating or duplication of the property or facilities, or upon the election of the public corporation, public utility or common carrier, for the payment of compensation, if any at the sole cost of the Port Authority; provided, that:

(a) If any restoration or duplication proposed to be made hereunder shall involve a relocation of the property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and the relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation; and

(b) Provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the Port Authority.

(H) Accept, receive and receipt for federal monies and other monies, either public or private for the acquisition, construction, enlargement, improvement, maintenance, equipment or operation of a port or harbor or other navigation facilities and sites therefor; and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal monies upon ports and other navigation facilities;

(I) Maintain the funds as it, from time to time, deems necessary;

(J) Direct its agents or employees, when properly identified in writing, and after at least five days written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the Port Authority, without liability to the Port Authority or its agents or employees except for actual damage done;

(K) Sell or lease real or personal property not needed for the operation of the Port Authority and grant easements or rights-of-way over property of the Port Authority;

(L) Promote, advertise and publicize the port and its facilities; provide traffic information and rate information to shippers and shipping interests; appear before rate making authorities to represent and promote the interests of the Port Authority; and

(M) To have and do all other things necessary, convenient and incidental to the execution of the foregoing powers and duties, together with those other powers and duties that may be specified in other sections of this chapter. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.07 OFFICERS AND EMPLOYEES.

(A) The Port Authority of the city is hereby empowered to employ and fix the qualifications, duties and compensation of employees as it may require to conduct the business of the Authority. Any employee may be hired under such terms as the Boards of Directors may prescribe and may be suspended or dismissed at any time by the Port Authority.

(B) In addition, the Port Authority shall employ, retain and engage professional and consulting services as it may require to conduct its business, including, without limitation, competent attorneys admitted to practice in the state to serve as the Authority's legal counsel. Services of professional consultants may be terminated at any time by the Port Authority, or the Authority may, as necessary, contract with professionals for the provision of services on any terms which the Board of Directors of the Authority considers reasonable.

(C) Employment by the Port Authority shall be non-discriminatory, and shall be without regard to the race, color, creed, national origin, religion, sex or physical handicap of any individual.
(Ord. 0-99-0027, passed 12-20-1999)

§ 44.08 ADVISORY COUNCIL.

The Board of Directors of the Port Authority may establish an Advisory Council consisting of not less than seven members appointed by the Mayor with the approval of the Board of Directors which shall be representative of the commercial and industrial community in and around the city and of those persons who utilize, on a regular basis, the recreational, marina and other facilities of the city. The members of the Council shall serve without compensation for terms and under other conditions to be specified by the Board of Directors. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.09 ANNUAL BUDGET.

The Board of Directors of the Port Authority shall annually prepare and adopt a budget for the Port Authority. In preparing the budget, the Board of Directors shall consult with the office of the City Controller. Rents and charges received by the Port Authority shall be used for the general expenses of the Port Authority and to pay interest, amortization and retirement charges on money borrowed, and for any other purpose authorized by the laws of the state. If there remains at the end of any calendar year, a surplus of funds after providing for the above uses, the Board of Directors may pay the surplus into the General Fund of the city or into such nonreverting cumulative funds as the laws of the state may permit. The annual budget shall contain any and all requests for appropriations of the Port Authority to the Common Council of the city, and shall be submitted to the Common Council not later than July 15 of each calendar year. The budget shall contain the specification of any and all salaries and other compensation arrangements for the officers and employees of the Port Authority and the compensation arrangements and salaries shall not be altered more than once yearly.

(Ord. 0-99-0027, passed 12-20-1999)

§ 44.10 DEVELOPMENT PLAN.

(A) The Board of Directors shall prepare or cause to be prepared a plan for the future development, construction and improvement of the port, Robert A. Pastrick Marina, the shore of Lake Michigan within the jurisdiction of the Authority and other facilities and lands adjacent thereto, including maps, profiles and other data and descriptions as may be necessary to set forth the location and character of the work to be undertaken by the Port Authority. Upon the completion of the plan, the Board of Directors shall cause notice by publication as provided in this chapter to be given in the manner required therein and shall likewise cause notice to be served upon the owners of the uplands contiguous to any submerged lands affected by the plan in the manner provided by law for service of notice in the levy of special assessments by municipal corporations, and shall permit the inspection thereof at its office by all persons interested. The notice shall fix the time and place for the hearing of all objections to the plan which time shall not be less than ten days nor more than 30 days from the date of last publication of the notice. Any interested person may file written objections to the plan, provided the objections are filed with the Secretary of the Board of Directors of the Port Authority in its office not less than five days prior to the date fixed for the hearing. After the hearing, the Board of Directors may adopt the plan with any modifications or amendments thereto as the official plan of the Port Authority.

(B) After the adoption of the official plan, the Board of Directors shall, from time to time, have the power to modify, amend or extend the same, provided that any modification, amendment or extension thereof be subjected to hearing and notice as provided in this section for the adoption of a new development plan and that any modification, amendment or extension shall not be adopted by the Board until notice and hearing shall be held as provided herein.

§ 44.11 INTERGOVERNMENTAL CONTRACTS-ACQUISITION OF LAND.

The Board of Directors of the Port Authority of the city may enter into contracts or other arrangements with the United States government, or any department thereof, with persons, railroads or other corporations, with public corporations, and with the state government of this or other states, with counties, municipalities, townships or other governmental agencies created by or under the authority of the laws of the state, including sanitary, sewage, drainage, conservation, conservancy or other improvement districts in this or other states as may be necessary or convenient for the exercise of powers granted by the provisions of this chapter and the laws of the state, including the making of surveys, investigations or reports thereon, provided that the contracts or arrangements shall not be in violation of the laws of the state or of the State Constitution. The Board of Directors may purchase, lease or acquire

land or other property in any county of the state and in adjoining states for the accomplishment of an authorized purpose of the Port Authority, or for the improvement of the harbor and port facilities, including the Robert A. Pastrick Marina over which the Port Authority has jurisdiction:, and may let contracts or spend money for making the improvements or development of port facilities in adjoining states.

(Ord. 0-99-0027, passed 12-20-1999)

§ 44.12 RAILROAD RIGHTS-OF-WAYPOWERS.

In addition to the other powers granted under this chapter and under the laws of the state, the Port Authority of the city may make contract for, accept or otherwise acquire and maintain railroad property and rights-of-way. The Port Authority may accept and expend funding from any source, and may issue revenue bonds for the construction, operation and maintenance of the property and rights-of-way and the lease or purchase of all necessary equipment and the appurtenances to successfully operate a railroad over the rights-of-way. The powers granted under this section and under the corresponding statutes of the state and the procedures provided for therein shall extend to the Port Authority created under this chapter even though the railroad facilities will not serve a port or harbor. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.13 RULES AND REGULATIONS.

The Board of Directors of the Port Authority is hereby authorized to formulate, adopt and promulgate written rules and regulations governing the operation of the Port Authority not otherwise forbidden under the laws of the state. The Board of Directors may adopt rules and regulations on matters such as employment and personnel policies, financial management and controls, management, construction, operation or maintenance of any port facility, or on any other matter within its jurisdiction. Unless otherwise provided by the laws of the state, all rules and regulations shall be first subjected to reasonable notice and public hearing prior to adoption. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.14 PROVISIONS GOVERNING PARTICIPATION BY PRIVATE ENTERPRISE-CONSTRUCTION AND OPERATION OF FACILITIES.

(A) The Port Authority of the city shall foster and encourage the participation of private enterprise in the development of the port, marina and other related facilities within the jurisdiction of the Authority to the fullest extent it deems practicable in the interest of limiting the necessity of construction and operation of the facilities by the Port Authority. In this respect, the Port Authority may, upon its own motion or upon the written request of any other party, advertise and solicit for the construction, operation and/or maintenance of any facility included in the development plan in accordance with plans, specifications and regulations therefor prepared by the Board of Directors.

(B) It is further provided that in the event the Board of Directors deems it advisable and practicable, the Board may cause certain facilities included in the development plan to be installed by private enterprise and leased back to the Port Authority on an installment contract or option to purchase basis. The exercise of any power granted to the Port Authority under the provisions of this section shall be consummated and regulated in accordance with the following provisions:

(1) Contracts for the creation, construction, alteration or repair of any building, structure or other improvement undertaken by a port authority created in accordance with this chapter shall be let in accordance with I.C. 36-1-12 or any equivalent enactment of future legislation by the state;

(2) No lease or sale of any lands or properties shall be made by the Port Authority unless notice calling for bids for the same shall have been given by publication as provided by this chapter or by its enabling legislation of the state. No lease or sale shall be made, except to the highest and best bidder;

(3) In the case of any lease or sale of land by the Port Authority, specifications for the bids for the lease or sale shall be in a form and detail as shall be determined by the Port Authority; and

(4) Leases for buildings, structures or other improvements undertaken by the Port Authority shall be for a reasonable term only, but not for a period in excess of ten years. However, where the lessee proposes to make capital improvements to real estate or facilities of the Port Authority for the purpose of enhancing the facility or services to be provided to industry, commerce or the public, the Board of Directors of the Authority may grant a lease for a longer term as is reasonable to induce the investment. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.15 CUMULATIVE CHANNEL MAINTENANCE FUND.

(A) The Board of Directors of the Port Authority may, by resolution, recommend to the city executive and the Common Council of the city that a Cumulative Channel Maintenance Fund be established to provide funds for dredging channels, cleaning channels and shores of debris and any other pollutants, and the providing and repairing of bulkheads, pilings, docks, and wharves, purchase and development of land adjoining channels within the jurisdiction of the Port Authority, and which land is necessary to the fulfillment of the plan adopted by the Port Authority for the future development, construction and improvement of its facilities; provided the purchased and developed land shall be available to the residents of the city without further charge.

(B) The Common Council may levy a tax in compliance with I. C. 6-1.1-41 not to exceed $0.10 on each $100 on all taxable property within the city for the Cumulative Channel Maintenance Fund until March 1, 2001. After March 1, 2001, the tax shall not exceed $0.0333 on each $100 on all taxable property within the city.

(C) The tax, when collected, shall be held in a special fund to be known as the Cumulative Channel Maintenance Fund. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.16 DEPOSITORIES-DISBURSEMENT OF FUNDS.

Before receiving any monies, the Secretary of the Port Authority shall furnish bond in an amount as shall be determined by the Port Authority, with surety satisfactory to it, and all funds coming into the hands of the Secretary shall be deposited by him or her to the account of the Port Authority in one or more depositories as shall be qualified to receive deposits of funds in the same manner as is done by the city, which deposits shall be secured in the same manner as city funds are required to be secured. No disbursements shall be made from the funds except in accordance with rules and regulations adopted by the Port Authority. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.17 REVENUE BONDS.

(A) Whenever the Port Authority created hereunder has been authorized by the Common Council of the city to issue and sell revenue bonds for the purpose of obtaining funds with which to construct, purchase, lease, operate, maintain or improve facilities included in the development plan or amendment thereof, the revenue bonds shall be issued in the name of the city, shall be executed by the Mayor and the

Chairperson of the Board of Directors of the Port Authority and shall be attested to by the Clerk of the city.

(B) In authorizing revenue bonds and providing for the issuance and sale thereof, the Common Council shall, by chapter, consistent with pertinent statutes, provide all necessary details concerning the form and tenor of the revenue bonds, the amount thereof, the maturity dates, the provision for payment of principal and interest, and negotiability, and all other details, requirements, regulations or specifications necessary to make the revenue bonds acceptable and legal instruments.

(C) The Common Council shall, in the aforesaid § 44.16, make provision for the expenditure of the funds derived from the sale of revenue bonds in accordance with the purposes for which the issuance and sale thereof was authorized. The Common Council shall further and specifically provide for the allocation of income and revenue of the Port Authority into the fund or funds as may be necessary to properly secure the accumulation of money in a separate account or accounts for use in the payment of principal interest of the revenue bonds as they become due and payable.

(Ord. 0-99-0027, passed 12-20-1999)

§ 44.18 ANNUAL FEE ON WATERCRAFT.

The Common Council may impose an annual fee upon each watercraft that is docked for more than 29 days during a year in waters that are under the jurisdiction of the Port Authority under this chapter pursuant to I.C. 8-10-5-22(b). The fee shall amount to not more than $0.75 per foot for watercraft for 30 feet or less, and not more than $1.50 per foot for watercraft over 30 feet. All fees collected under this section shall be deposited in an Accumulative Channel Maintenance Fund established under this chapter and shall be used only to pay for dredging. The fee shall be established only upon petition and recommendation of the Board of Directors of the Port Authority. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.19 MISCELLANEOUS PROVISIONS.

Nothing contained in this chapter shall:

(A) Impair the provisions of law or chapter directing the payment of revenues derived from public property into sinking funds or dedicating the revenues to specific purposes; nor shall any provisions of this chapter impair the obligations on current bonded indebtedness for the Robert A. Pastrick Marina, or of the Department of Parks or Redevelopment Commission of the city incurred in connection with the marina;

(B) Impair the powers of any county, township, municipal corporation or political subdivision to develop or improve port and terminal facilities; or

(C) Impair or interfere with the exercise of any permit for the removal of sand or gravel, or other similar permits issued by this state or the United States, or interfere with the exercise of jurisdiction over interstate commerce and navigable waterways by any agency or subdivision of the United States except as may be authorized by law. By passage of this chapter, it is the intent of the Common Council of the city to assert completely and to the limits available to it by law, subject only to the limitations stated herein, its jurisdiction over coastlines and inland waterways. (Ord. 0-99-0027, passed 12-20-1999)

§ 44.20 TRANSFER AND SAVINGS CLAUSE.

Operation, management and control of the Robert A. Pastrick Marina, all of related appurtenances and facilities and the contiguous park and lakefront facilities of the city (but not including the beach,

bathhouse and concession stand facilities of Jeorse Park) which, prior to the adoption of this chapter, were vested in or controlled by the Department of Parks and Recreation, Department of Redevelopment or any other department or instrumentality of the city are hereby transferred to the sole jurisdiction of the Port Authority created hereunder. Likewise, all employments and employees of the marina and the contiguous or related facilities previously within the jurisdiction of the departments are likewise transferred to the Port Authority provided, however, that the transfer shall have no effect upon the compensation, terms and conditions of the employees' employments, and shall be without prejudice or impairment to any rights or obligations of the city or the employees with respect thereto. (Ord. 0-99-0027, passed 12-20-1999)

TITLE V: PUBLIC WORKS

Chapter

50. PUBLIC UTILITIES

51. WASTEWATER DISCHARGE REGULATIONS

52. WATER SYSTEM

53. CROSS CONNECTION CONTROL

54. STORMW ATER MANAGEMENT

55. GARBAGE

CHAPTER 50: PUBLIC UTILITIES

Section

General Provisions

50.001 Compliance with chapter
50.002 Excavations
50.003 Use of street by utilities
50.004 Repairing existing facilities
50.005 Implied agreements by utilities
50.006 Reservation of power in city
50.007 Inspector's uniform or badge
50.008 Maps and records of locations of facilities

Gas

50.020 Calorific value
50.021 Pressure

Poles and Wires

50.035 Erection of poles
50.036 Supervision of installments
50.037 Placing signs on or damaging poles
50.038 Joint use of poles
50.039 Restoration of streets and sidewalks
50.040 Wires to be securely fastened
50.041 Permission to go upon roofs to string wires
50.042 Removal of wires and poles-moving buildings
50.043 Removal of wires and poles-costs
50.044 Placing wires underground

Connections

50.055 Construction of permanent improvements-requirements
50.056 Inclusion in improvement contract
50.057 Assessment for costs
50.058 Notice of intention by city to install
50.059 Approval of work
50.060 Certificate of occupancy

50.999 Penalty

GENERAL PROVISIONS

§ 50.001 COMPLIANCE WITH CHAPTER.

All public utilities shall comply with the provisions of this chapter unless otherwise provided or required by law. (1995 Code, § 13.04.010)

§ 50.002 EXCAVATIONS.

It is unlawful for any person having any pipes, wires, cables, conduits or arteries used in conveying water, gas, electricity or any other public utility product to the consumers or residents of the city, or other products to others, through the mains, wires, cables, arteries or conduits which are laid in, through or under the streets, alleys or other public ways or places in the city, to dig up or open up or excavate any street, alley or other public way or place where the mains, pipes, wires, cables, arteries or conduits are laid, except to make necessary repairs to the mains, pipes, wires, cables, arteries or conduits; provided, that any person desiring to dig into or excavate in any street, alley or other public way or place in the city shall, before so doing, make application to the Board of Public Works and Safety for a permit to do so; and provided further, that the application shall be in compliance with this code and with §§ 97.075 through 97.083 of this code. (1995 Code, § 13.04.020) Penalty, see § 50.999

§ 50.003 USE OF STREET BY UTILITIES.

(A) It is unlawful for any person to lay or construct or place railroad tracks, gas pipes, conduits, wires, arteries or cables in, over or upon any of the streets, alleys or public ways in the city without first obtaining written permission from the Common Council. A written petition shall be filed with the Common Council requesting permission to do so. This petition shall be accompanied by a plat or map showing the exact location of the proposed installation. In the event permission is granted by the Common Council, a bond shall be required of the petitioner, in compliance with §§ 97.075 through 97.083 of this code. The bond shall be subject to approval by the Board of Public Works and Safety. No work contemplated in this section shall be commenced until the Common Council shall have given its express and specific permission.

(B) It is the intention of this section that only matters concerning the laying, placing or constructing of new work and the extension of existing facilities shall require permission from the Common Council.

(C) No water pipes or mains shall be placed in any public way and no way shall be disturbed by the Water Department without express permission of the Board of Public Works and Safety upon proper petition. This permission shall not require bond. (1995 Code, § 13.04.030) Penalty, see § 50.999

§ 50.004 REPAIRING EXISTING FACILITIES.

A petition for permission to make emergency and minor repairs to existing facilities shall be filed with the Board of Public Works and Safety as provided in this code and the Board of Public Works and Safety shall have authority to grant the permission. (1995 Code, § 13.04.040) Penalty, see § 50.999

§ 50.005 IMPLIED AGREEMENTS BY UTILITIES.

Any utility which requests written or oral permission from the city for the doing of anything shall be bound by changes made in the request or permission if it accepts the benefits or commences work under the permit as changed, whether the utility agrees thereto in writing or not.

(1995 Code, § 13.04.070) Penalty, see § 50.999

§ 50.006 RESERVATION OF POWER IN CITY.

Nothing contained in this code or in any franchise agreement or contract between the city and any person shall be construed to limit the power of the Common Council of the city to enact reasonable ordinances relating to the use of streets, alleys and other public ways or public places within the city, it being intended to reserve to the city the right to pass any ordinance which, under any express or implied police power, it possesses. (1995 Code, § 13.04.080)

§ 50.007 INSPECTOR'S UNIFORM OR BADGE.

Every person furnishing or selling gas, water, electricity or telephone service to persons within the city shall supply or cause to be furnished to every person employed by the person, as inspector, examiner or tester of meters or as an installation or repair man, a uniform or badge showing the nature of employment and the name of the person by whom he or she is employed. No person employed for installing, testing, examining, repairing, inspecting or removing meters or service shall engage in employment unless he or she is wearing a uniform or badge in a manner so that it can readily be perceived. It is unlawful for any person not employed in that capacity to enter or obtain entrance to any house, building or store upon the representation that he or she is thus employed or to wear any uniform or badge showing or representing employment. It is unlawful for any person not an employee of a public utility to wear a badge similar to or to impersonate that provided employees of public utilities.

(1995 Code, § 13.04.090) Penalty, see § 50.999

§ 50.008 MAPS AND RECORDS OF LOCATIONS OF FACILITIES.

All public utilities owning, using or controlling any electric wires, pipes or conduits for the transmission of electricity, water, gas or heat in the city shall be required to file with the Board of Public Works and Safety a map and record of the wires, pipes or conduits, showing the size, depth, inclination, location, date and type of construction and to record every change which may be made in the same, together with all new connections and improvements. Reports and maps of changes or additions made shall be due within 30 days after the completion of the work.

(1995 Code,§ 13.04.100) Penalty, see § 50.999

GAS

§ 50.020 CALORIFIC VALUE.

All gas furnished by any person engaged in the business of furnishing or supplying gas to any customer for heating, power or illuminating purposes in the city shall be and is required to have a calorific value of not less than 1,000 British thermal units gross per cubic foot, as determined by a standard calorimeter measured at 60°F and under a barometric pressure of 30 inches of mercury.

(1995 Code, § 13.04.050) Penalty, see § 50.999

§ 50.021 PRESSURE.

(A) The pressure of all manufactured gas for heating, power or illuminating purposes supplied or furnished to any customer by any person engaged in the business of furnishing or supplying gas within the city shall at no time, at the inlet of the consumer's meter, be less than one and one-half inches of water.

(B) No consumer shall be supplied with gas having more than 100% fluctuation in pressure above the minimum pressure at the inlet of the consumer's meter.

(1995 Code, § 13.04.060) Penalty, see § 50.999

POLES AND WIRES

§ 50.035 ERECTION OF POLES.

It is unlawful for any person to erect or maintain upon any sidewalk, street, alley or other public way or place in the city any pole unless it is absolutely necessary and is used for and as a part of some system of public utility in the city or by persons having a franchise or license therefor. All poles shall be located within and against the curb line or the curbing of the sidewalk. Each pole erected in an alley shall be located against the outside line. When any pole erected in the city ceases to be used for the purpose for which it was erected or for any other approved purpose, it shall be removed at once by the utility which owned or used it. (1995 Code, § 13.04.110) Penalty, see § 50.999

§ 50.036 SUPERVISION OF INSTALLMENTS.

All poles, posts, crossbars, wires and other fixtures placed on or used in any street, alley or public way or place within the city by any telegraph, telephone, electric light or power or any other company shall be placed, owned, used and maintained under the supervision and direction of the Board of Public Works and Safety. The Board of Public Works and Safety shall have the power to fix the size, height and designation of poles and shall have the power to order the location and the change of the location of poles, wires and apparatus whenever the same is necessary for the safety or convenience of the public or for the prevention of danger to life or property; and the owner shall be liable for the cost of the change of location. Poles and wires or other apparatus shall be so located as to cause as little obstruction as possible either to travel on the street or in the use and enjoyment of private property.

(1995 Code,§ 13.04.120) Penalty, see § 50.999

§ 50.037 PLACING SIGNS ON OR DAMAGING POLES.

It is unlawful for any person to cut, damage, disfigure or to post, paste, tack or in any way to attach or affix to any telegraph, telephone, electric light pole, fire or police alarm pole or other pole erected by authority or permission by the city any card, bill, notice, announcement or other advertisement; provided, that this section shall not apply to legal notices posted by persons acting under authority by order of a court or in pursuance of a duty imposed by this code or law.

(1995 Code, § 13.04.130) Penalty, see § 50.999

§ 50.038 JOINT USE OF POLES.

The Board of Public Works and Safety may compel the joint use of poles whenever practicable in order to limit the number of poles on streets, alleys and public ways or places to a minimum, consistent with safety from danger to life and property. On any poles of any electric light or power, telegraph or telephone company used jointly by two or more companies, each company shall be allotted a space zone and shall restrict its wires to that zone. Space shall be measured from the top of the pole down. The upper zone on the pole shall be at all times reserved for the use of the city in stringing its wires for fire alarm and police telegraph communication. (1995 Code,§ 13.04.140) Penalty, see § 50.999

§ 50.039 RESTORATION OF STREETS AND SIDEWALKS.

Any person locating any poles or other appliances in or on any street, alley or other public way or place in the city shall restore, replace and properly relay and repair, to the satisfaction and approval of the Board of Public Works and Safety, any sidewalk, street, pavement or earth which may be displaced, injured or damaged in the location or maintenance of poles or appliances, by complying with the provisions of this code and especially §§ 97.075 through 97.083 of this code.

(1995 Code, § 13.04.150) Penalty, see § 50.999

§ 50.040 WIRES TO BE SECURELY FASTENED.

It is unlawful for any telephone, electric, telegraph or other company or any person to have or maintain on any street, alley or other public place within the city any wire that is not securely fastened or attached to a sufficient number of poles or supports so as to prevent the wire from being or becoming loose. It is unlawful for any person to place or cause to be placed any loose wire upon any street or alley or other public way or place within the city. (1995 Code, § 13.04.160) Penalty, see § 50.999

§ 50.041 PERMISSION TO GO UPON ROOFS TO STRING WIRES.

It is unlawful for any person while engaged in the stringing from pole to pole of electric wires to enter upon the roof of any building within the city without first procuring from the owner or occupant of a building permission and authority in writing to do so. (1995 Code,§ 13.04.170) Penalty, see § 50.999

§ 50.042 REMOVAL OF WIRES AND POLESMOVING BUILDINGS.

(A) When the Board of Public Works and Safety has issued a permit for the moving of a building by a licensed building mover and the moving of the building will bring the same into contact with any wires, poles or lamps of any electric, telephone or telegraph company, public utility or other persons whose wires or poles obstruct or may be affected, the Board of Public Works and Safety shall cause the permittee to serve written notice on each company or person that the permit has been granted and that the moving of the building will necessitate the lowering, raising, cutting or removal of the wires or poles at the specific places named in the notices. Notices shall be served at least 48 hours prior to the time the building is to be moved across or on any street or alley so obstructed or affected.

(B) When notice has been served upon the persons owning or controlling any wires, it shall be their duty, and is unlawful for them to fail or refuse to raise the wires or to cut and remove the wires, if necessary, to permit the passage of the building to allow it to be moved to the point of destination as provided in the permit of the Board of Public Works and Safety.

(1995 Code, § 13.04.180) Penalty, see § 50.999

§ 50.043 REMOVAL OF WIRES AND POLESCOSTS.

(A) The person owning or controlling the wires or poles mentioned in § 50.042, upon notice, shall lower, cut, raise or remove the wires or poles which impede the passage of the building to be moved. If the wires or poles are located more than 25 feet above the surface of the public way upon which the building is to be moved, the costs of lowering, cutting, raising or removing the wires or poles shall be paid by the permittee and the person owning or controlling the wires and poles may, in that case, require the permittee to deposit a reasonable amount in advance to pay for the cost.

(B) It is unlawful for any person to refuse to lower, cut, raise or remove wires or poles, if the action is necessary, to permit the movement of a building for which a permit has been issued, at places which are specified in the notice which has been served upon the persons owning or controlling the wires or poles. (1995 Code, § 13.04.190) Penalty, see § 50.999

§ 50.044 PLACING WIRES UNDERGROUND.

The Board of Public Works and Safety may order any public utility company or person to place its wires, cables, conduits and appliances underground whenever, in the opinion of the Board of Public Works and Safety, public necessity requires the same. All necessary conduits for the wires and appliances and all gas mains shall be constructed and maintained under the control and supervision of the Board of Public Works and Safety. Any damage or injury caused to any street or alley or other public way or place within the city by the construction or maintenance of wires, cables, conduits and appliances and mains shall be repaired by the utility or person constructing or maintaining the same, to the approval and satisfaction of the Board. (1995 Code, § 13.04.200) Penalty, see § 50.999

CONNECTIONS

§ 50.055 CONSTRUCTION OF PERMANENT IMPROVEMENTS-REQUIREMENTS.

It shall be the duty of all owners of lots and lands in the city abutting on a street or public way, which the proper authorities of the city have declared it their intention to improve by permanent improvement resolution, to make private connections from their respective abutting lots or lands with sewer, gas, water and all other like pipes and public conveniences, and to bring all connections inside the curb lines of streets or public ways before the permanent improvement thereof within 30 days after the first publication of notice of adoption of the resolution. (1995 Code, § 13.04.210) Penalty, see § 50.999

§ 50.056 INCLUSION IN IMPROVEMENT CONTRACT.

All plans and specifications adopted for the permanent improvement of streets or public ways shall, in addition to the necessary provisions regarding grading and the construction of the improvement proper, provide for all connections mentioned in § 50.055. All connections not made by owners of abutting lots and lands within the 30-day period shall be and are required to be included in the general contract for the improvement and constructed at the cost of the respective defaulting owners. The cost of the connections so included in the general contract shall be assessed against the abutting property and shall be a lien thereon and collected in the same manner as expenses of other street improvements.
(1995 Code, § 13.04.220) Penalty, see § 50.999

§ 50.057 ASSESSMENT FOR COSTS.

Bidders on the improvement of any street or public way shall state the amount bid per lineal foot on account of each kind of private connection and of bringing the same within the curb line, where not

already done, and the cost of the connections shall be charged by the proper legal authorities to the owner of the property on the assessment roll and the amount thereon shall be a lien on the property, collectible in the same manner as expenses for other street improvements. (1995 Code, § 13.04.230) Penalty, see § 50.999

§ 50.058 NOTICE OF INTENTION BY CITY TO INSTALL.

Whenever the proper authorities of the city shall adopt a resolution for the permanent improvement of the roadway of any street or public way, the authorities shall in the resolution declare their intention of making, by contract and at the abutting owners' expenses, all private connections with sewer, water and other similar pipes and public conveniences, and of bringing the connections inside the curb line of the street or public way where the same has not already been done; and notice of the intention by the authorities shall also be made a part of the notice given concerning the improvement as required by law. (1995 Code, § 13.04.240) Penalty, see § 50.999

§ 50.059 APPROVAL OF WORK.

All work of making a private connection and bringing the same within the curb lines as provided in this subchapter, whether done by the owner or by the contract made by the proper city authorities as provided in this subchapter, shall be done subject to the approval of the City Engineer.

(1995 Code, § 13.04.250) Penalty, see § 50.999

§ 50.060 CERTIFICATE OF OCCUPANCY REQUIRED.

(A) Prior to furnishing any electric and/or gas service to any dwelling unit in the city the public utility shall require that the owner of the unit has complied with the city code. Evidence of compliance with the city code shall be by certificate of occupancy issued by the Director of the Division of Inspections and Permits.

(B) The provisions of this section shall apply to all dwelling units in the city both new and existing. (1995 Code, § 13.04.260) (Ord. 3150, passed - -1977) Penalty, see § 50.999

§ 50.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Certificate of occupancy required.* Violation of the provisions of § 50.060 shall be punished by a fine not exceeding $1,000 or by imprisonment not exceeding six months or by both a fine and imprisonment. (1995 Code, § 13.04.260) (Ord. 3150, passed - -1977)

CHAPTER 51: WASTEWATER DISCHARGE REGULATIONS

Section

General Provisions

51.001 Purpose and policy

Definitions

51.015 Definitions

Regulations

51.030 General discharge prohibitions
51.031 Accidental discharges

Limitations on Wastewater Strength

51.045 National categorical pretreatment standards
51.046 State requirements
51.047 Specific pollutant limitations
51.048 Right of revision
51.049 Dilution

Fees

51.060 Purpose
51.061 Charges and fees
51.062 Permit application fees
51.063 Sewer connection and inspection fees

Wastewater Discharge-Administration

51.075 Monitoring facilities
51.076 Calibration requirements
51.077 Inspection and sampling
51.078 Pretreatment
51.079 Confidential information

Permits

51.090 Required
51.091 New and existing users
51.092 Application
51.093 Modifications
51.094 Conditions
51.095 Duration

51.096 Limitations on permit transfer

Permittee Reporting Requirements

51.110 Compliance date report
51.111 Compliance reports
51.112 Monthly reports
51.113 Baseline reports

Construction Requirements

51.125 Sewer connections

Records Retention

51.140 Records retention

Miscellaneous Provisions

51.155 Removal credits
51.156 Net/gross calculation
51.157 Mass balance considerations

Enforcement

51.170 Emergency suspension of service and discharge permits
51.171 Revocation of permit
51.172 Notification of violation-administrative adjustment
51.173 Show cause hearing
51.174 Judicial proceedings
51.175 Enforcement actions-annual publication
51.176 Right of appeal
51.177 Operating upsets

51.999 Penalty

GENERAL PROVISIONS

§ 51.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for dischargers into the East Chicago Sanitary District wastewater collection and treatment systems, and enables the sanitary district to protect public health in conformity with all applicable local, state and federal laws relating thereto.

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the sanitary district wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;

(2) To prevent the introduction of pollutants into the sanitary district wastewater system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system; and

(3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

(C) This chapter provides for the regulation of discharges into the sanitary district wastewater system through the issuance of permits. This chapter does not provide for the recovery of operations, maintenance or replacement costs of the POTW or the costs associated with the construction of collection and treatment systems used by industrial dischargers, in proportion to their use of the POTW, which are the subject of separate enactments. (1995 Code, § 13.12.010) (Ord. 3512, passed - -1990)

DEFINITIONS

§ 51.015 DEFINITIONS.

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

ACT. The Clean Water Act (33 U.S.C. §§ 1251 *et seq.*), as amended.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER.

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship respectively;

(3) A duly authorized representative of the individual designated above; or

(4) A duly authorized representative of the individual above if the representative is responsible for the overall operation of the facilities from which the discharge originates.

APPLICABLE PRETREATMENT STANDARDS. For any specified pollutant, district prohibitive discharge standards, district's specific limitations on discharge, the state pretreatment standards or the national categorical pretreatment standards, whichever standard is more stringent.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic material under standard laboratory procedure in five days at 20°C expressed in terms of milligrams per liter.

BOARD. The Board of Sanitary Commissioners of the East Chicago Sanitary District.

CATEGORICAL PRETREATMENT STANDARDS. National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into POTW by specific industrial dischargers.

CHEMICAL OXYGEN DEMAND (COD). A measurement of the amount of oxygen required to oxidize organic and oxidizable inorganic compounds of water and wastewater. It shall be expressed as the amount of oxygen consumed, in milligrams per liter, from a chemical oxidant in a specific test, in accordance with the procedure prescribed herein.

DISCHARGER-INDUSTRIAL DISCHARGER. Any nonresidential user who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches and all constructed devices and appliance appurtenant thereto.

EPA-ENVIRONMENTAL PROTECTION AGENCY. The U.S. Environmental Protection Agency or the term ***EPA*** where appropriate may also be used as a designation for the administrator or other duly authorized official of the agency.

INDIRECT DISCHARGE. The discharge or the introduction of non-domestic pollutants from a source regulated under § 307(b) or (c) of the Act, being 33 USC 1317(b) or (c), into a POTW (including holding tank waste discharged into the system).

INDUSTRIAL WASTE. Solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT. A permit to deposit or discharge sewage, industrial wastes and/or other wastes into any sewer as issued by the sanitary district.

INTERFERENCE. The inhabitation or disruption of a POTW's sewer system, treatment processes or operations which may contribute to a violation of any requirement of its NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act, (33 U.S.C. § 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), being 42 USC 6901 *et seq.*, the Clean Air Act, being 42 USC 7401 *et seq.*, the Toxic Substances Control Act; being 15 USC 2601 *et seq.*, or more stringent state criteria applicable to the method of disposal or use employed by the POTW.

MAY. Is permissive.

mg/L. Milligrams per liter.

NEW DISCHARGER. Any building, structure, facility or installation from which there is or may be a discharge, the construction of which commenced:

(1) After promulgation of pretreatment standards under § 307(c) of the Act, being 33 USC 1317(c), which are applicable to the source; or

(2) After proposal of pretreatment standards in accordance with § 307(c), being 33 USC 1317(c), within 120 days of their proposal. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard or the effective date of the ordinance codified in this chapter.

NONCONTRACT COOLING WATER. The water discharged from any air conditioning, cooling or refrigeration during which the only pollutant added to the water is heat.

NPDES. National pollutants discharge elimination system permit which sets the conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States.

O AND M. Operation and maintenance.

OTHER WASTES. Decayed wood, sawdust, shavings, bark, lime, refuse ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

pH. The logarithm (to the base ten) of the reciprocal of the hydrogen ion activity of a solution, expressed in grams per liter of solution.

ppb. Part per billion.

POTW. Any sewage treatment works and sewers and conveyance appurtenances discharging thereto, owned and operated by the district.

PRETREATMENT. The reduction of the mass of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing pollutants into a POTW.

SANITARY DISTRICT. The sanitary district of the city, a municipal corporation, also referred to as ***DISTRICT.***

SEWAGE. Water-cooled human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with groundwater, surface water, storm water and other waters as may be present.

SEWER. Any pipe, conduit, ditch or the above used collect and transport sewage or stormwater from the generating source.

SHALL. Is mandatory.

SLUDGE. Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under §§ 402 and 405 of the Act, being 33 USC 1342 and 1345, and in the applicable requirements under §§ 3001, 3004 and 4004 of the Solid Waste Disposal Act.

SLUGLOAD. Any substance released in a discharge at rate and/ or concentration which causes interference to a POTW or any discharge which exceeds for a period of duration longer than 15 minutes and more than five times the average 24-hour flows during normal operation or more than five times the 24-hour allowable concentration of any substance listed in § 51.04 7, or which causes interference to a POTW.

STANDARD INDUSTRIAL CLASSIFICATION. A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

TOXIC POLLUTANTS. Those substances referred to in § 307(a) of the Act, being 33 USC 1317(a), as well as any other known potential substances capable of producing toxic effects.

TWENTY-FOUR HOUR FLOW. The volume of flow representing a monthly average of 24 hours of flow as measured by flow monitoring equipment which has been approved by the sanitary district.

UPSETS. An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in § 51.047 hereto due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

WASTEWATER. Industrial waste or sewage or any other waste including that which may be combined with any groundwater, surface water or stormwater, that may be discharged to the POTW.

(1995 Code, § 13.12.020) (Ord. 3512, passed --1990)

REGULATIONS

§ 51.030 GENERAL DISCHARGE PROHIBITIONS.

No discharger shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater disposal system or otherwise to the facilities of the district:

(A) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any way to the operation of the POTW;

(B) Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation or the wastewater system;

(C) Any wastewater having a pH less than 5.0 or higher than 10 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system;

(D) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to § 307(a) of the Act, being 33 USC 1317(a);

(E) Any noxious or malodorous liquids, gases or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair;

(F) Any substance which may cause the POTW's effluent or treatment residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act, being 33 USC 1345; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, being 42 USC 6901 *et seq.*, the Clean Air Act, being 42 USC 7401 *et seq.*, the Toxic

Substances Control Act, being 15 USC 2601 *et seq.*, or state standards applicable to the sludge management method being used;

(G) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits;

(H) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(I) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW which exceeds 40°C (100°F);

(J) Any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BOD, COD and the like), released in a single extraordinary discharge episode of a volume or strength as to cause interference to the POTW;

(K) Any unpolluted water including, but not limited to non-contract cooling water;

(L) Any wastewater containing any radioactive wastes or isotopes of a half life or concentration as may exceed limits established by the district in compliance with applicable state or federal regulation; and

(M) Any wastewater which causes a hazard to human life or creates a public nuisance.
(1995 Code, § 13.12.030) (Ord. 3512, passed --1990) Penalty, see § 51.999

§ 51.031 ACCIDENTAL DISCHARGES.

(A) Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the district for review, and shall be approved by the district before construction of the facility. Each existing discharger shall complete its plant and submit same to the district within 90 days of the effective date of this chapter. No discharger who discharges to the POTW after the aforesaid date shall be permitted to introduce pollutants into the system until accidental discharge protection procedures have been approved by the district. Review and approval of the plans and operating procedures by the district shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

(B) Dischargers shall notify the district immediately upon the occurrence of a slug load or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume and corrective actions. A written notification, including the aforementioned items, must be provided to the district within five working days following the incident. Any discharger who discharges a slug load or prohibited materials shall be liable for any expense, loss or damage to the POTW and/ or the conveyance system, in addition to the amount of any fines imposed on the district on account thereof under state or federal law.

(C) Signs shall be permanently posted in conspicuous places on discharger's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all

employees who may cause or discover a discharge with respect to emergency notification procedure. (1995 Code, § 13.12.090) (Ord. 3512, passed --1990) Penalty, see § 51.999

LIMITATIONS ON WASTEWATER STRENGTH

§ 51.045 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

National categorical pretreatment standards as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all dischargers of the regulated industrial categories if they are more stringent than state or local standards. An application for modification of the national categorical pretreatment standards may be considered for submittal to the regional administrator by the district, when the district's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 C.F.R. § 403.7. (1995 Code, § 13.12.040) (Ord. 3512, passed --1990) Penalty, see § 51.999

§ 51.046 STATE REQUIREMENTS.

State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable ordinance.

(1995 Code, § 13.12.050) (Ord. 3512, passed --1990) Penalty, see § 51.999

§ 51.047 SPECIFIC POLLUTANT LIMITATIONS.

No discharger shall discharge wastewater containing in excess of:

Parameter	***Local Limit-New (in mg/l)***
Arsenic	0.5
Cadmium	0.140
Chromium, total	0.282
Copper	0.170
Cyanide	0.003
Lead	0.224
Mercury	0.0002
Molybdenum	0.2
Nickel	0.390
Silver	0.05
Thallium	4.3
Zinc	5.5
Fluoride	2.9
Phenols	0.7
Oil and grease	50

Residual chlorine	0.4
Fluoranthene	0.69
bis (2-ethylhexyl) Phthalate	1.03
Ammonia	77
Phosphorus	5.5

(1995 Code, § 13.12.060) (Ord. 3512, passed - -1990; Ord. 0-07-0007, passed 3-12-2007) Penalty, see § 51.999

§ 51.048 RIGHT OF REVISION.

The district reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in § 51.001. (1995 Code, § 13.12.070) (Ord. 3512, passed --1990)

§ 51.049 DILUTION.

No discharger shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.
(1995 Code, § 13.12.080) (Ord. 3512, passed - -1990) Penalty, see § 51.999

FEES

§ 51.060 PURPOSE.

It is the purpose of this subchapter to provide for the payment of fees from dischargers to the district's wastewater disposal system, to compensate the district for the .cost of administration of the pretreatment program established herein. (1995 Code, § 13.12.100) (Ord. 3512, passed - -1990)

§ 51.061 CHARGES AND FEES.

The city shall adopt charges and fees which may include:

(A) Fees for monitoring, inspections and surveillance procedures;

(B) Fees for permit applications;

(C) Fees for filing appeals; and

(D) Fees for reviewing accidental discharge procedures and construction.
(1995 Code, § 13.12.110) (Ord. 3512, passed - -1990)

§ 51.062 PERMIT APPLICATION FEES.

(A) The permit application fee for existing dischargers will be calculated based upon 1 % of the

monthly average 1984 sewer user billings for each discharge location. A minimum application fee of $10 per discharge location will be assessed. A maximum application fee of $200 per discharge location will be assessed.

(B) New dischargers completing permit applications will be assessed an initial permit application fee of $50. An evaluation of the average of 12 months of sewer user billings reflecting normal operations will be made to determine if an adjustment is warranted.

(1995 Code, § 13.12.120) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.063 SEWER CONNECTION AND INSPECTION FEES.

(A) The following are categories of building sewer permits and corresponding fees to be collected by and paid to the City Sanitary District for connecting to the city sewerage collection system.

(B) The property owner is responsible for paying the tap in fee which is defined as the connection fee and the inspection fee. The property owner is also responsible for acquiring all permits required including permission to cut a public street or alley. The property owner shall also be responsible for making the actual physical connection for the property structure to the city sewer.

(C) If a contractor is installing the sewer line from the property structure to the city sewer, the contractor shall have the responsibility to assure that the property owner has acquired all necessary permits and paid all fees as provided herein.

(D) The citywide tap in fees shall be as follows:

Homes	$ 250
Apartments (over 2 units), nursing home/hospital, schools, libraries	$ 500
Commercial, light industrial (less that 5,000 gal. per day)	$ 500
Industrial	$ 1,000

(Ord. 0-08-0025, passed 10-14-2008) Penalty, see § 51.999

WASTEWATER DISCHARGE-ADMINISTRATION

§ 51.075 MONITORING FACILITIES.

(A) Each discharger shall provide and operate at the discharger's own expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the district. Each monitoring facility shall be situated on the discharger's premises, except where a location would be impractical or cause undue hardship on the discharger, the district may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles.

(B) There shall be ample room in or near the sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained

at all times in a safe and proper operating condition at the expense of the discharger. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within 120 days of receipt of permit by discharger. (1995 Code, § 13.12.240) (Ord. 3512, passed --1990) Penalty, see § 51.999

§ 51.076 CALIBRATION REQUIREMENTS.

Calibration and maintenance must be performed on the approved flow measuring and recording equipment in accordance with the recommendation of the manufacturer, but no less than two times per year. (1995 Code, § 13.12.250) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.077 INSPECTION AND SAMPLING.

The district may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this chapter. The discharger shall allow the district or its representatives, upon presentation of credentials of identification, to enter upon the premises of the discharger at all reasonable hours, for the purposes of inspection, sampling or records examination. The district shall have the right to set up on the discharger's property devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations.

(1995 Code, § 13.12.260) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.078 PRETREATMENT.

Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all categorical pretreatment standards within the time limitations as specified by the federal regulators. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the expense of the discharger. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the district for review and shall be acceptable to the district before construction of the facility. The review of the plans and operating procedures will in no way relieve the discharger from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the district under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the district prior to installation of the changes.

(1995 Code, § 13.12.270) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.079 CONFIDENTIAL INFORMATION.

Information and data furnished to the district with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the district that the release of information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharge. When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that the portions of a report shall be available for use by the state or any state or any state agency in judicial or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the district as confidential, shall not be transmitted to any governmental agency or to the general public by the district

until and unless a ten-day notification is given to the discharger. (1995 Code, § 13.12.280) (Ord. 3512, passed --1990) Penalty, see § 51.999

PERMITS

§ 51.090 REQUIRED.

It is unlawful to discharge sewage, industrial wastes or other wastes without a permit issued by the district to any sewer within the jurisdiction of the district.

(1995 Code, § 13.12.130) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.091 NEW AND EXISTING USERS.

All industrial dischargers proposing to connect to or to discharge sewage, industrial wastes and other wastes to the POTW shall obtain a wastewater discharge permit before connecting to or discharging to the POTW. All existing industrial dischargers connected to or discharging to the POTW shall be issued a wastewater discharge permit within 180 days after the receipt of the permit application.

(1995 Code, § 13.12.140) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.092 APPLICATION.

Industrial dischargers shall complete and file with the district, a permit application therefor in the form prescribed by the district. Existing industrial dischargers shall apply for a wastewater discharge permit within 90 days after the effective date of the ordinance codified in this chapter, and proposed new dischargers shall apply at least 90 days prior to connecting to the POTW. No discharge permit shall be issued unless and until the following conditions have been met:

(A) Disclosure of name, address and location of the discharger;

(B) Disclosure of Standard Industrial Classification (SIC) number according to the *Standard Industrial Classification Manual*, Bureau of the Budget, 1972, as amended;

(C) Disclosure of wastewater constituents and characteristics including but not limited to those mentioned in this chapter as determined by bona fide chemical and biological analysis. Sampling and analysis shall be performed in accordance with procedures established by the U.S. EPA and contained in 40 C.F.R. Pt. 136, as amended;

(D) Disclosure of time and duration of discharge;

(E) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the district due to cost or non-feasibility;

(F) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manhole, sampling chambers and appurtenances by size, location and elevation whose need is determined by the sanitary district;

(G) Description of activities, facilities and plant processes on the premises including all materials which are or may be discharged to the sewers or works of the district;

(H) Disclosure of the nature and concentration of any pollutants or materials prohibited by this chapter in the discharge, together with a statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the discharger to comply with this chapter; and

(I) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide additional pretreatment and/or implementation of additional operational and maintenance activities.

(1) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this chapter including, but not limited to dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and all other acts necessary to achieve compliance with this chapter.

(2) Under no circumstances shall the district permit a time increment for any single step directed toward compliance which exceeds nine months.

(3) Not later than 14 days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the district, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between the progress reports to the district. (1995 Code, § 13.12.150) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.093 MODIFICATIONS.

(A) The district reserves the right to amend any wastewater discharge permit issued hereunder in order to assure compliance by the district with applicable laws and regulation. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of each discharger subject to the standards shall be revised to require compliance with the standards within the time frame prescribed by the standards. All national categorical pretreatment standards adopted after the promulgation of this chapter shall be adopted by the district as part of this chapter. Where a discharger, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by § 51.092, the discharger shall apply for a wastewater discharge permit from the district within 180 days after the promulgation of the applicable national categorical pretreatment standard by the U.S. EPA. In addition, the discharger with an existing wastewater discharge permit shall submit to the district within 180 days after the promulgation of an applicable national categorical pretreatment standard, the information required by § 51. 092(H) and (I).

(B) The discharger shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(1995 Code, § 13.12.160) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.094 CONDITIONS.

Wastewater discharge permits shall specify no less than the following:

(A) Fees and charges to be paid upon initial permit issuance;

(B) An identification number which correlates to the discharge location being regulated by the permit;

(C) Limits on the average and maximum wastewater constituents and characteristics regulated thereby;

(D) Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;

(E) Requirements for installation and maintenance of inspection and sampling facilities;

(F) Special conditions as the district may reasonably require under particular circumstances of a given discharge including sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(G) Compliance schedules; and

(H) Submission of special technical reports or discharge reports where same differ from those prescribed by this chapter when requested by the district.

(1995 Code, § 13.12.170) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.095 DURATION.

All wastewater discharge permits shall be issued for a period of five years, subject to amendment or revocation as provided in this chapter. (1995 Code, § 13.12.180) (Ord. 3512, passed - -1990)

§ 51.096 LIMITATIONS ON PERMIT TRANSFER.

Wastewater discharge permits are issued to a specific discharger for a specific operation and are not assignable to another discharger without the prior written approval of the district, or transferable to any other location. (1995 Code, § 13.12.190) (Ord. 3512, passed --1990) Penalty, see § 51.999

PERMITTEE REPORTING REQUIREMENTS

§ 51.110 COMPLIANCE DATE REPORT.

Within 90 days following the date for final compliance by the discharger with applicable pretreatment standards set forth in this chapter or 90 days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to this chapter shall submit to the district a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O and M and/or pretreatment is necessary to bring the discharger into compliance with the

applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the discharger and certified by a qualified engineer licensed to practice in the state.

(1995 Code, § 13.12.200) (Ord. 3512, passed --1990) Penalty, see § 51.999

§ 51.111 COMPLIANCE REPORTS.

(A) Any discharger subject to a pretreatment standard set forth in this chapter, after the compliance date of the pretreatment standard, or, in the case of a new discharger, after commencement of the discharge to the district, shall submit to the district during the months of June and December, unless required more frequently by the district, a report indicting the nature and concentration, or prohibited or regulated substances in the effluent which are limited by the pretreatment standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period reported in § 51.110. Flows shall be reported on the basis of actual measurement provided however, where cost or feasibility considerations justify, the district may accept reports of average and maximum flows estimated by verifiable techniques. The district, for good cause shown considering factors such as local high or low flow rates, holidays, budget cycles or other extenuating factors may authorize the submission of the reports on months other than those specified above.

(B) (1) Reports of permittees shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the district. The frequency of monitoring by the discharger shall be determined on an individual basis by the district and outlined in the permit. All analyses shall be performed in accordance with 40 C.F.R. Pt. 136 and amendments thereto.

(2) Where 40 C.F.R. Pt. 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the U.S. EPA.

(1995 Code, § 13.12.210) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.112 MONTHLY REPORTS.

Any discharger subject to a pretreatment standard set forth in this chapter, may be subject to the requirements to submit monthly reports to include data on parameters to be determined on an individual basis by the district. (1995 Code, § 13.12.220) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.113 BASELINE REPORTS.

Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made on a category, whichever is later, existing dischargers subject to a categorical pretreatment standards and currently discharging to or scheduled to discharge to the district will be required to submit a report containing the information listed in 40 C.F.R. § 403.12(b).

(1995 Code, § 13.12.230) (Ord. 3512, passed - -1990) Penalty, see § 51.999

CONSTRUCTION REQUIREMENTS

§ 51.125 SEWER CONNECTIONS.

New sewer connections must meet the following requirements at a minimum.

(A) No new combined sewers shall be constructed within the City Sanitary District service area.

(B) All new construction tributary to the existing combined sewer system must be designed to minimize or delay inflow/clear water contribution to the sewer.

(C) Any new building constructed must provide a separate inflow/clear water connection to a combined sewer from the sanitary waste connection to facilitate disconnection of the former if a separate storm sewer becomes available.

(D) The introduction of inflow /clear water to any sanitary sewer is prohibited.
(1995 Code, § 13.12.290) (Ord. 3512, passed - -1990) Penalty, see § 51.999

RECORDS RETENTION

§ 51.140 RECORDS RETENTION.

All dischargers subject to this chapter shall remain and preserve for no less than three years, any records, books, documents, memoranda, reports and correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the district pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.
(1995 Code, § 13.12.300) (Ord. 3512, passed - -1990) Penalty, see § 51.999

MISCELLANEOUS PROVISIONS

§ 51.155 REMOVAL CREDITS.

Where applicable, the district may elect to initiate a program of removal credits as part of this chapter to reflect the POTW's ability to remove pollutants in accordance with 40 C.F.R. § 403.7.
(1995 Code, § 13.12.310) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.156 NET/GROSS CALCULATION.

The district may elect to adjust categorical pretreatment standards to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 C.P.R. § 403.15.
(1995 Code, § 13.12.320) (Ord. 3512, passed --1990) Penalty, see § 51.999

§ 51.157 MASS BALANCE CONSIDERATIONS.

(A) Those industrial users, with multiple discharge locations, will be eligible for mass pretreatment limitations for the entire facility provided that approved, accurate, operational flow measuring devices are present and accessible to district personnel for each location.

(B) In the event that any flow measuring device remains in a state of disrepair for an extended period of time, resulting in the failure to apply mass limitations, the district will revoke the eligibility and apply concentration limits. (1995 Code, § 13.12.330) (Ord. 3512, passed --1990) Penalty, see § 51.999

ENFORCEMENT

§ 51.170 EMERGENCY SUSPENSION OF SERVICE AND DISCHARGE PERMITS.

The district may for good cause shown suspend the wastewater treatment service and the wastewater discharge permit of a discharger when it appears to the district that an actual or threatened discharge presents or threatens an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interfere with the operations of the POTW, violate any pretreatment limits imposed by this chapter or any wastewater discharge permit issued pursuant to this chapter. Any discharger notified of the suspension of the district's wastewater treatment service and/ or the discharger's wastewater discharge permit, shall within a reasonable period of time, as determined by the district, cease all discharges. In the event of failure of the discharger to comply voluntarily with the suspension order within the specified time, the district shall commence judicial proceedings immediately thereafter to compel the discharger's compliance with the order. The district shall reinstate the wastewater discharge permit and/or the wastewater treatment service and terminate judicial proceedings pending proof by the discharger of the elimination of the non-complying discharge or conditions creating the threat of imminent or substantial danger as set forth above.
(1995 Code, § 13.12.340) (Ord. 3512, passed --1990) Penalty, see § 51.999

§ 51.171 REVOCATION OF PERMIT.

The district may revoke the permit of any discharger which:

(A) Fails to factually report the wastewater constituents and characteristics of the discharge;

(B) Fails to factually report changes in wastewater constituents or characteristics which exceed five times the monthly mass average;

(C) Refuse reasonable access to the discharger's premises by representatives of the district for the purpose of inspection or monitoring; or

(D) Violates the conditions of its permit, or this chapter, or any final judicial order entered with respect thereto. (1995 Code, § 13.12.350) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.172 NOTIFICATION OF VIOLATION-ADMINISTRATIVE ADJUSTMENT.

Whenever the district finds that any discharger has engaged in conduct which justifies revocation of a wastewater discharge permit, pursuant to § 51.171, the district shall serve or cause to be served upon the discharger a written notice either personally or by certified or registered mail, return receipt requested,

stating the nature of the alleged violation. Within 15 days of the date of receipt of the notice, the discharger shall respond in writing to the district, advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof.

(1995 Code, § 13.12.360) (Ord. 3512, passed --1990) Penalty, see § 51.999

§ 51.173 SHOW CAUSE HEARING.

Where the violation of § 51.171 is not corrected by timely compliance by means of administrative adjustment, the district may order any discharge which causes or allows conduct prohibited by § 51.171, to show cause before the district or its duly authorized representative, why the proposed permit revocation action should not be taken. A written notice shall be served on the discharger by personal service, certified or registered, return receipt requested, specifying the time and place of hearing to be held by the district or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the discharger to show cause before the district or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer or authorized representative of a discharger. The proceedings at the hearing shall be considered by the district which shall then enter appropriate orders with respect to the alleged improper activities of the discharge. Appeal of the orders may be taken by the discharger in accordance with applicable local or state law.

(1995 Code, § 13.12.370) (Ord. 3512, passed - -1990)

§ 51.174 JUDICIAL PROCEEDINGS.

Following the entry of any order by the district with respect to the conduct of a discharger contrary to the provisions of § 51.171, the attorney for the district may, following the authorization of the action by the district, commence an action for appropriate legal and/or equitable relief in the appropriate local court. (1995 Code, § 13.12.380) (Ord. 3512, passed --1990)

§ 51.175 ENFORCEMENT ACTIONS-ANNUAL PUBLICATION.

A list of all significant dischargers which were the subject of enforcement proceedings pursuant to this subchapter during the 12 previous months, shall be annually published by the district summarizing the enforcement action taken against the dischargers during the same 12 months whose violations remained uncorrected 45 or more days after notification of noncompliance; or which have exhibited a pattern of noncompliance over that 12-month period, or which involve failure to accurately report noncompliance. (1995 Code, § 13.12.390) (Ord. 3512, passed - -1990)

§ 51.176 RIGHT OF APPEAL.

Any discharger or any interested party, shall have the right to request in writing an interpretation or ruling by the district on any matter covered by this chapter and shall be entitled to a prompt written reply. In the event that an inquiry is by a discharger and deals with matters of performance or compliance with this chapter or deals with a wastewater discharge permit issued pursuant hereto for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger’s request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and state law.

(1995 Code, § 13.12.400) (Ord. 3512, passed - -1990)

§ 51.177 OPERATING UPSETS.

(A) Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter or a wastewater discharge permit issued pursuant hereto shall inform the district thereof within 24 hours of first awareness of the commencement of the upset. Where the information is given orally, a written follow-up report thereof shall be filed by the discharger with the district within five days. The report shall specify:

(1) Description of the upset, the cause thereof and the upset's impact on a discharger's compliance status;

(2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur; and

(3) All steps taken or to be taken to reduce, eliminate and prevent recurrence of an upset or other conditions of noncompliance.

(B) A documented and verified bona fide operating upset shall be an affirmative defense to any enforcement action brought by the district against a discharge for any noncompliance with the ordinance codified in this chapter or any wastewater discharge permit issued pursuant hereto, which arises out of the violations alleged to have occurred during the period of the upset.

(1995 Code, § 13.12.410) (Ord. 3512, passed - -1990) Penalty, see § 51.999

§ 51.999 PENALTY.

(A) *Civil penalties.* Any discharger who is found to have violated an order of the district or who has filed to comply with any provision of this chapter, and the regulations, or rules of the district, or orders of any court of competent jurisdiction or permits issued hereunder, shall be subjected to a fine of not less than $500 nor more than $1,000 per occurrence. Each and every day that a violation occurs shall be deemed a separate offense and subject to penalty. (1995 Code, § 13.12.420)

(B) *Recovery of costs incurred by the district.* Any discharger violating any of the provisions of this chapter, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the district's wastewater disposal system shall be liable to the district for any expense, loss or damage caused by the violation or discharge. The district shall bill the discharger for the costs incurred by the district for any cleaning, repair, replacement or other work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of §§ 51.170 through 51.177 of this chapter. (1995 Code, § 13.12.430)

(C) *Falsifying information.* Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction be punished by the imposition of a civil penalty of not more than $100 or by imprisonment for not more than six months or by both. (1995 Code, § 13.12.440) (Ord. 3512, passed--1990)

CHAPTER 52: WATER SYSTEM

Section

General Provisions

52.01 Generally
52.02 Pollution

Department of Water Works

52.15 Continued- Board of Trustees
52.16 Adoption of state law
52.17 Personnel
52.18 Records- supervision
52.19 Notice to Department prior to sale of property

GENERAL PROVISIONS

§ 52.01 GENERALLY.

It is unlawful for any person, without proper authority, to tamper with or open or close any valve or to connect any hose, pipe or tube with or to any part of the waterworks system, operated within the city, without first receiving a permit from the Department of Water Works to do so, or in any other way or manner to injure or interfere with the water source or supply of the city or any apparatus pertaining thereto, or to leave the water supply running when not necessary.

(1995 Code,§ 13.16.010) Penalty, see § 10.99

§ 52.02 POLLUTION.

It is unlawful to put any filth into any cistern, reservoir, trough or other place in which water may be kept which belongs to the city or to any individual therein or in any manner to injure the same.

(1995 Code,§ 13.16.020) Penalty, see § 10.99

DEPARTMENT OF WATER WORKS

§ 52.15 CONTNUED- BOARD OF TRUSTEES.

Since 1921, the Department of Water Works has been operated continuously by the city as a municipal public utility and there is continued the establishment of the Department of Water Works as an executive department of the city. The Department shall be under the jurisdiction, charge, management and control of a Board of Trustees which shall be composed in a manner and shall be appointed in a number and manner as may be provided by law. (1995 Code, § 13.16.030)

§ 52.16 ADOPTION OF STATE LAW.

The Department of Water Works is authorized to accept and to be regulated under the provisions of I.C. 36-9-35. (1995 Code, § 13.16.040)

§ 52.17 PERSONNEL.

The Mayor shall appoint a Superintendent of the Department of Water Works, assistants, forepersons, clerks and other personnel as may be found necessary by the Board of Trustees. All persons shall serve at the pleasure of the Mayor. (1995 Code, § 13.16.050)

§ 52.18 RECORDS-SUPERVISION.

The Department of Water Works shall keep complete and detailed records of its affairs which shall be open to public inspection as required by law. The Department shall be under the jurisdiction of the State Public Service Commission. (1995 Code, § 13.16.060)

§ 52.19 NOTICE TO DEPARTMENT PRIOR TO SALE OF PROPERTY.

Within 20 days of the sale of real property served by the Department, the purchaser and seller of the property shall notify the Department of the pending sale in order to allow a final reading of the seller's meter and calculation of the final charges for water service prior to closing. The obligation to provide notice to the Department shall lie with both the property purchaser and seller. In the event notice is not received by the Department and charges for water service incurred by the seller are unpaid, those unpaid water service charges shall become the obligation of the purchaser of the property.

(1995 Code, § 13.16.070) (Ord. 0-97-0010, passed --1997)

CHAPTER 53: CROSS CONNECTION CONTROL

Section

53.01 Definitions
53.02 Policy
53.03 Regulation
53.04 Inspections
53.05 Access to premises
53.06 Discontinuance of water service
53.07 Typical installations

§ 53.01 DEFINITIONS.

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

AIR GAP. The unobstructed vertical distance through atmosphere between the discharge end of a pipeline supplies from a public water supply, and the overflow rim of the receiving portion of the customer water system.

APPROVED. Accepted by the Department of Public Works as meeting an applicable specification stated or cited in this regulation, or as suitable for the proposed use.

BACKFLOW. The flow of water or other liquids, mixtures, substances or contaminants into the distribution pipes of a potable supply of water from any source or sources other than its intended source.

BACKFLOW PREVENTER. A device or means to prevent backflow.

BACKFLOW PREVENTION DEVICE, APPROVED. Any device or assembly, approved by the Department of Water Works for construction on or installation in water supply piping, which is capable of preventing contaminants from entering the public water supply distribution system.

BACKFLOW PREVENTION DEVICE TESTER, CERTIFIED. A person who has proven competency in accordance with requirements as set forth by the Indiana Department of Environmental Management. Each person who is certified to make tests or to repair, overhaul and make reports on backflow prevention devices shall be completely familiar with applicable laws, rules and regulations.

BACKSIPHONAGE. The flowing back of used, contaminated or polluted water from a plumbing fixture or vessel or other sources into a water supply pipe due to a negative pressure in the pipe, or backflow caused by pressure within the customer's piping system that exceeds the pressure in the utility's system.

CONTAMINATION. An impairment of the quality of the water by sewage, gases or industrial fluids or waste to a degree which may create a hazard to the public health through poisoning or through the spread of disease.

CROSS CONNECTION. Any physical arrangement, including cross connection control devices not in working order, whereby a public water supply distribution system is directly connected, either

continuously or intermittently, with any secondary source of supply, sewer, drain, conduit, pool, piping, storage reservoir, plumbing fixture or other device which contains, or may contain, and is capable of imparting to the public water supply, contaminants, contaminated water, sewage or other waste or liquid of unknown or unsafe quality.

CROSS CONNECTION, POINT OF. The specific point or location in a public or a consumer's potable water system where a cross connection exists.

CUSTOMER. Any person who receives water from a public water supply.

DOUBLE CHECK VALVE ASSEMBLY. An assembly composed of two single, independently acting, approved check valves, including test cocks for testing and tightly closing shut-off valves located at each end of the assembly.

HAZARD, DEGREE OF. The term is derived from an evaluation of the potential risk to public health and the adverse effect upon the potable water system.

HAZARD, HEALTH(CROSS CONNECTION HAZARD). An actual or potential threat of contamination or pollution of a physical or toxic nature to the public potable water system or the consumer's potable water system to a degree of intensity that there would be a danger to health.

HAZARD, PLUMBING. A plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation or other device. Unprotected plumbing type cross connections are considered to be a health hazard. They include, but are not limited to, cross connections to toilets, sinks, lavatories, wash trays, domestic washing machines and lawn sprinkling systems.

HAZARD, POLLUTIONAL. An actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system and which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

HAZARD, SYSTEM. An actual or potential threat of sewer damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

INDUSTRIAL FLUIDS. Any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration as would constitute a health, system, pollution or plumbing hazard if introduced into an approved water supply. This may include, but is not limited to, polluted or contaminated used waters; all types of process waters and "used water" originating from the public potable water system which may deteriorate in the sanitary quality; chemicals in fluid form; plating acids and alkalies; circulated cooling waters connected to an open cooling tower and/or cooling waters that are chemically or biologically treated or stabilized with toxic substances; contaminated natural wastes such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems and the like; oils, gases, glycerine, paraffins, caustic and acid solutions and other liquid and gaseous fluids used in industrial or other processes or for fire fighting purposes.

LABORATORY, APPROVED TESTING. A laboratory acceptable to the Department of Water Works that is properly staffed and equipped with pumps, meters, measuring devices and the like, to fully test and evaluate a backflow prevention device for design, materials, construction and operation. As used herein, the term ***APPROVED TESTING LABORATORY*** is one which is equivalent to the Foundation

for Cross Connection Control Research of the University of Southern California. Other testing laboratories may be approved by the utility's Chief Water Engineer when found to be properly qualified.

PIPING SYSTEM, CONSUMER'S (CUSTOMER WATER SYSTEM). Any system used by the consumer transmission of or to confine or store any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey or store substances which are or may be polluted or contaminated.

POLLUTION. An impairment of the quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect water for domestic use.

REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION DEVICE. A device containing within its structure a minimum of two independently acting, approved check valves, together with an automatically operating pressure differential relief valve located between the two check valves. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging into the atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The unit shall include tightly closing shut-off valves located at each end of the device and each device shall be fitted with properly located test cocks.

SERVICE CONNECTION. The terminal end of a service connection from the public potable water system, i.e., where the utility loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system. If a meter is installed at the end of the service connection, then the ***SERVICE CONNECTION*** shall mean the downstream end of the meter. There should be no unprotected take-offs from the service line ahead of any meter or backflow prevention device located at the point of delivery to the consumer's water system.

UTILITY. The Department of Water Works, and the owner and operator of a public potable water system distributing an approved water supply to the public in the city.

WATER, POTABLE. Water from any source which has been investigated by the health agency having jurisdiction, and which has been approved for human consumption.

WATER SUPPLY, APPROVED. Any potable water supply which has been investigated and approved by the State Board of Health for distribution to the general public for human consumption. The supply shall be periodically tested, as prescribed by the Board of Health, to ensure its continued safety and potability.

WATER SUPPLY, AUXILIARY (SECONDARY SOURCE OF SUPPLY). Any water supply on or available to the premises other than the utility's approved public potable water supply. These auxiliary waters may include water from another utility's public potable water supply or any natural source such as a well, spring, river, stream, harbor and the like, or "used waters" or "industrial fluids". They may be polluted or contaminated or they may be objectionable and constitute an unacceptable water source over which the utility does not have sanitary control. This includes tanks used to store water to be used only for fire fighting, even though the water contained therein is supplied from the public water supply.

WATER SUPPLY, UNAPPROVED. A water supply which has not been approved for human consumption by the health agency having jurisdiction.

WATER SYSTEM(S), CONSUMER'S. Includes any water system located on the consumer's premises whether supplied by a public potable water system or an auxiliary water supply. The system or systems may be either a potable water system or a piping system.

WATER SYSTEM, CONSUMER'S POTABLE. The portion of the privately owned potable water system lying between the point of delivery and point of use. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, store or use potable water.

WATER SYSTEM, PUBLIC POTABLE. Any publicly or privately owned water system operated as a public utility under a valid health permit to supply water for domestic purposes. This system will include all sources, facilities and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, treat or store a potable water for public consumption or use.

WATER, USED. Any water supplied by a utility from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the utility. (1995 Code, § 13.20.010) (Ord. 3487, passed - -1989)

§ 53.02 POLICY.

(A) The policy of the utility is to control by containment all cross connections which shall be found to exist or which may be installed in the future on the utility customer's water piping systems. For the purpose of this regulation the term ***CONTAINMENT*** means the complete isolation of the customer's system which affects or may affect the public distribution system.

(B) Containment shall be achieved by:

(1) Assurance that the customer's system, or any portion thereof, which may create or is creating a backflow problem, is physically disconnected from the utility's distribution system; or

(2) By installing a backflow prevention device approved by the utility at the appropriate location to isolate the customer's system from the utility's distribution system.

(1995 Code, § 13.20.020) (Ord. 3487, passed - -1989) Penalty, see § 10.99

§ 53.03 REGULATION.

(A) All new businesses and industries where it is possible that a pollution, health or system hazard may be created, and/or where materials dangerous to health or toxic substances in toxic concentrations are in tanks, piping systems or other auxiliary water supply on the premises, and/or where the water system is, or may be, cross connected to the owner's private water supply, an approved backflow prevention device will be required at each meter connection on the premises. The backflow preventer must be of the type acceptable to the utility.

(B) (1) For all existing businesses and industries having secondary water supplies within its premises a reduced pressure backflow preventer at all meter connections entering the premises will be required as a condition of service on and after May 1, 1989.

(2) For all others, annual surveys may be made of the consumer's presently installed water system in order to determine the degree of hazard through possible cross connections to the

public potable water system. This survey will be an inspection to establish: the water uses on the premises; the existence or possibility of cross connections; re-pumped water supplies; the use or possible use of pollutants, contaminants, toxic substances, and other liquid, solid or gaseous substances which may be used industrially for stabilization of water supplies and other industrial processes as are necessary by the industry. If violations are found, corrections must be made. Should a subsequent violation be found an approved backflow prevention device is required at each meter connection on the premises. The backflow preventer must be of the type acceptable to the utility.

(C) All high rise structures (buildings over four stories or 40 feet tall) are required, as a condition of providing service, to have an approved reduced pressure backflow device at all meter connections.

(D) Backflow preventers-responsibility for installation and maintenance. Backflow preventive devices required hereunder shall be of a type and manufacture approved by the utility. The devices shall be installed by and at the expense of the customer in an accessible location, without provisions for bypass, and in a manner approved by the utility. The customer shall maintain them in a satisfactory operating condition and shall overhaul or replace the devices if found defective.

(1995 Code, § 13.20.030) (Ord. 3487, passed - -1989) Penalty, see § 10.99

§ 53.04 INSPECTIONS.

It shall be the duty of the Department of Water Works to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards Cross Connection Control involved shall be as established by the City Water Department.

(1995 Code, § 13.20.040) (Ord. 3487, passed - -1989)

§ 53.05 ACCESS TO PREMISES.

Upon presentation of credentials, the representative of the City Water Department shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the city for cross connections. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on the property. The refusal of access or refusal or requested pertinent information shall be deemed evidence of the presence of cross connections.

(1995 Code, § 13.20.050) (Ord. 3487, passed - -1989) Penalty, see § 10.99

§ 53.06 DISCONTINUANCE OF WATER SERVICE.

(A) The Department of Water Works is authorized and directed to discontinue water service to any property wherein any connection in violation of this chapter exists, and to take other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice is served on the owner, lessee or occupants of the property or premises where a violation is found or suspected to exist. Water service to the property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this chapter.

(B) If it is deemed by the Department of Water Works that a cross connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the City Clerk and delivered to the consumer’s premises, service may be immediately

discontinued. The consumer shall have an opportunity for hearing within ten days of the emergency discontinuance. (1995 Code, § 13.20.060) (Ord. 3487, passed - -1989) Penalty, see § 10.99

§ 53.07 TYPICAL INSTALLATIONS.

(A) An approved reduced pressure principle backflow preventer shall be installed at each service connection to any premises where there is an auxiliary water supply unless the auxiliary water supply is accepted as an additional source by the utility, and the source is approved by the State Board of Health. A complete and permanent abandonment of the auxiliary water facility, where possible and practical, will eliminate further application of this requirement.

(B) An approved reduced pressure principle backflow prevention device shall be installed at each service connection to any premises on which industrial fluids are handled in a separate system and there are, or may be, actual or potential cross connections on the premises.

(C) An approved reduced pressure principle backflow prevention device or approved air gap shall be installed at each service connection to any premises on which there is a sewage treatment plan, sewage pumping station, including privately owned sewage pumping plants in buildings, or a stormwater pumping station.

(D) An approved reduced pressure principle backflow prevention device shall be installed at each service connection to a hospital, medical-dental building, mortuary or other similar premises where the water utility determines that an actual or potential hazard exits.

(1995 Code, § 13.20.070) (Ord. 3487, passed - -1989)

CHAPTER 54: STORMWATER MANAGEMENT

Section

General Provisions

54.001 Board of Stormwater Management to operate stormwater system
54.002 Purpose and objective
54.003 Abbreviations and definitions

Construction Site Control

54.015 Purpose and intent
54.016 Applicability and exemptions
54.017 Responsibility for administration
54.018 Determination of land disturbance
54.019 Responsibility for implementation
54.020 General requirements for stormwater quality control

Stormwater Quality Management Control for Post-Construction

54.035 Purpose and intent
54.036 Applicability and exemptions
54.037 Responsibility for implementation
54.038 Calculations, design standards and specifications

Inspection, Maintenance and Reporting

54.050 Inspection, maintenance and reporting

Prohibited Discharges and Connections

54.065 Purpose and intent
54.066 Applicability and exemptions
54.067 Prohibited discharges and connections
54.068 Storage of hazardous or toxic material
54.069 Monitoring of discharges
54.070 Pollutant reduction through the use of best management practices
54.071 Private property maintenance duties
54.072 Spill reporting

Rates, Charges and Billing

54.085 Stormwater service charge
54.086 Stormwater rate establishment procedures
54.087 Rate structure and calculation
54.088 Billings- terms of payment
54.089 Appeals of ERU determination
54.090 Discount and credit and policies and procedures
54.091 Stormwater Fund
54.092 Delinquent fees and penalties as liens- duplicates-collection

54.999 Penalty

GENERAL PROVISIONS

§ 54.001 BOARD OF STORMWATER MANAGEMENT TO OPERATE STORMWATER SYSTEM.

(A) *Adoption of state law.* The provisions of I.C. 8-1.5-5 are hereby adopted in their entirety, and the following entities are established in the city:

(1) A Department of Stormwater Management to be controlled by a Board of Directors; and

(2) A Stormwater Management District, extending to the corporate boundaries of the city is hereby established for the purpose of providing for the collection and disposal of stormwater of the city in a manner which protects the public health and welfare, and for the purpose of assessing fees to pay for the cost of stormwater facilities and services. As the corporate boundaries of the city change, whether through annexation or otherwise, so shall the boundaries of the Stormwater District change.

(B) *Powers of the Board.* The Board of Directors of the Department of Stormwater Management shall have exclusive jurisdiction over the collection and disposal of stormwater within the District, and shall possess all the powers and duties set forth in I.C. 8-1.5-3-4 and 8-1.5-5-6 including but not limited to the power to:

(1) Establish and enforce rules and regulations governing the Department of Stormwater Management;

(2) Hold hearings following public notice;

(3) Make findings and determinations;

(4) Install, maintain and operate a stormwater collection and disposal system;

(5) Make all necessary or desirable improvements of the grounds and premises under its control; and

(6) Subject to the approval of the Common Council, establish, assess and collect user fees from all of the property of the Stormwater District for the operation and maintenance of the stormwater system. The amount of the user fees must be the minimum amount necessary for the operation and maintenance of the stormwater system. (Ord. 0-08-0005, passed 3-24-2008)

§ 54.002 PURPOSE AND OBJECTIVE.

(A) The function of the Department of Stormwater Management is to provide for the safe and efficient capture and conveyance of stormwater runoff; mitigate the damaging effects of stormwater runoff; correct stormwater collection and conveyance problems; and fund the activities of stormwater management including design, planning, regulation, education, coordination, construction, operation,

maintenance, inspection and enforcement activities, all for the protection of the public health, welfare and safety. It is the further function of the Division of Stormwater Management to ensure the city's compliance with its NPDES stormwater discharge permit(s).

(B) It is hereby determined necessary for the protection of public health, safety and welfare and to conform with federal, state and local laws and regulations that a system of charges for stormwater service in the city be established which allocates the cost of providing storm water service to each user in a manner that the charges assessed are proportionate to the cost of providing stormwater service to that user, insofar as those costs can reasonably be determined. (Ord. 0-08-0005, passed 3-24-2008)

§ 54.003 ABBREVIATIONS AND DEFINITIONS.

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

(A) *Abbreviations.*

BMP	Best Management Practice
BSM	East Chicago Board of Stormwater Management
CWA	Clean Water Act
DSM	East Chicago Sanitary District Division of Stormwater Management
USEPA	U.S. Environmental Protection Agency
GIS	Geographic Information System
IDDE	Illicit Discharge Detection & Elimination
IDEM	Indiana Department of Environmental Management
MS4	Municipal Separate Storm Sewer Systems
NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
SWQMP	Stormwater Quality Management Plan
SWPPP	Stormwater Pollution Prevention Plan

(B) *Definitions.*

ABATEMENT. Any action taken to remedy, correct or eliminate a condition within, associated with or impacting a stormwater drainage system.

AGRICULTURAL LAND DISTURBING ACTIVITY. Tillage, planting, cultivation or harvesting operations for the production of agricultural or nursery vegetative crops, pasture establishment

and renovation, the construction of agricultural conservation practices and the installation and maintenance of agricultural drainage tiles.

AGRICULTURAL PROPERTY. A parcel or lot exceeding five acres of land encompassing two or more structures used to support agricultural activities.

APARTMENT/CONDOMINIUM PROPERTY. A lot or parcel of real estate on which is situated a building containing five or greater single-family dwelling units, or on which two or more buildings each containing multiple single-family dwelling units are situated.

APPROVED PLANS. Plans approved by the Division of Stormwater Management according to a permits and plan review which will govern all improvements made within the city that require stormwater facilities or changes or alterations to existing stormwater facilities.

AUTHORIZED ENFORCEMENT AGENCIES. Division of Stormwater Management, Engineering Department, Department of Code Enforcement, City Police and Fire Departments, or its subcontractors shall be the agencies authorized to enforce this chapter of the municipal code.

BEST MANAGEMENT PRACTICE (BMP). Any structural or non-structural control measure used to temporarily store or treat stormwater runoff, to improve its quality and, as appropriate, reduce the quantity of stormwater runoff. Also includes the design, construction and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion and capture pollutants. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques and other management practices.

BOARD. Board of Directors of the Division of Stormwater Management established under § 54.001.

CHANNEL. A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

CODE. East Chicago Code of Ordinances.

COMBINED SEWER. A sewer that is designed, constructed and used to receive and transport combined sewage.

CONTIGUOUS. Abutting or adjoining as in having a common boundary or edge.

CONVEYANCE. Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains and roadways.

COUNTY-REGULATED DRAIN. Part of stormwater conveyance system under the jurisdiction of the Lake County Drainage Board, including certain ditches, tiles and sewers.

DECHLORINATED SWIMMING POOL DISCHARGE. Chlorinated water that has either sat idle for seven days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths milligram per liter) of chlorinated residual.

DETENTION. The temporary storage of stormwater runoff in a basin, pond or other structure to control the peak discharge rates by holding the stormwater for a lengthened period of time and which provides some gravity settling of particulates.

DETENTION BASIN. A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

DETENTION STORAGE. The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

DEVELOPED. The condition of real property altered from its natural state by the addition to or construction on the property of impervious surfaces or physical improvements so that the hydrology of the property or a portion thereof is affected.

DIRECT DISCHARGE. Stormwater runoff from a contiguous property that enters an exempt drain, such as a river, without entering the utility-controlled drainage system.

DIRECTOR. The Director of the City Sanitary District.

DISCHARGE. The flow of any substance into the stormwater system.

DITCH. A manmade, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff or floodwaters flow either continuously or intermittently.

DRAIN. Relative to stormwater drainage, any sewer, tile, ditch, stream or other stormwater runoff conveyance channel or conduit.

DRAINAGE. The conveyance of excess surface water or groundwater from land by means of ditches or subsurface drains.

DSM. City Division of Stormwater Management.

EQUIVALENT UNIT. A unit value, equal to the average residential amount of impervious area of a single (ERU) family residential property within the city, and established at 2,500 square feet of (measured) impervious area. It is also the basis for calculating the proper assessment of stormwater charges to all users of the city stormwater system.

EROSION. The wearing away of the land surface by water, wind, ice, gravity or other geological agents.

EXEMPT DRAIN. A primary line of stormwater conveyance for which primary jurisdiction and maintenance fall to the State Department of Natural Resources, U.S. Army Corps of Engineers and/or the Lake County Drainage Board rather than the city.

FLOATABLE. Any solid waste that will float on the surface of the water. For the purpose of this chapter, the term does not include naturally occurring floatables, such as leaves or tree limbs.

GEOGRAPHIC INFORMATION SYSTEM (GIS). A computer system capable of assembly, storage, manipulation and display of geographically referenced information. This technology can be used for resource management and development planning.

GROUNDWATER. Accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

HYDROLOGY. The science of the behavior of water in the atmosphere, on the surface of the Earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

ILLEGAL CONNECTION. The connection of any discharge to a separate stormwater conveyance that would allow the introduction of material that is not composed entirely of stormwater and naturally occurring floatables into the stormwater conveyance system.

ILLICIT CONNECTION. Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drainage system. This would include, but not be limited to, any conveyance that discharges sanitary sewage, process wastewater or wash water from sources such as indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency. Also, any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE. Any discharge to a conveyance, other than stormwater and naturally occurring floatables, such as leaves or tree limbs. Sources of ***ILLICIT DISCHARGES*** may include sanitary wastewater, septic tank effluent, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage and household hazardous wastes.

INLET. An opening into a stormwater drainage system for the entrance of surface stormwater runoff, more completely described as a storm drain inlet.

IMPERVIOUS SURFACE/AREA. Areas that have been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop and blacktop, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

INDUSTRIAL WASTE. Any solid, liquid or gaseous substance or form of energy discharged, permitted to flow or to escape, or be transported from an industrial, manufacturing, commercial or business operation or process or from the development, recovery or processing of any natural resource carried on by any person.

INFILTRATION. The process of allowing runoff to penetrate the ground surface and flow though the upper soil surface.

LAND DISTURBING ACTIVITY. Any manmade change of the land surface, including removing vegetative cover, that exposes the underlying soil including excavating, filling, transporting and grading.

MANHOLE. Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

MONTH. The period between any two consecutive regular billings by the utility for service rendered to a customer. Billings are scheduled at intervals of approximately 30 days. For purposes of billing, a month is 25 through 35 days. Any bills produced outside the month parameter will be prorated.

MONTHLY. Occurring once in a month. For purposes of billing, bills are issued on a monthly basis or one time per month.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). An MS4 meets the following criteria:

(a) Is a conveyance or system of conveyances owned by the state, county, city, town or other public entity;

(b) Discharges to waters of the United States;

(c) Is designed or used for collecting or conveying stormwater;

(d) Is not a combined sewer; and

(e) Is not part of a publicly owned treatment works (POTW).

NONRESIDENTIAL PROPERTY.

(a) All properties not encompassed by the definition of residential shall be defined as nonresidential.

(b) ***NONRESIDENTIAL PROPERTY*** will include:

1. Agricultural property;

2. Apartment and condominium property;

3. Mobile home parks;

4. Commercial property;

5. Industrial property;

6. Institutional property;

7. Governmental property;

8. Churches;

9. Schools;

10. Federal, state and local property; and

11. Any other property not mentioned in this or the list of residential properties below.

NPDES. National pollutant discharge elimination system. Regulations for stormwater discharges as described in the Federal Register, 40 C.F.R. Pts. 122, 123 and 124.

NPDES PERMIT. Permit issued pursuant to § 402 of the Clean Water Act (CW A).

NONSTORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

OCCUPANT. Any person or entity that lives or does business within a real property, whether with or without any right, title or interest in the property or any person or entity in possession or charge of real estate in the event that the owner resides or is located elsewhere.

ON-SITE STORMWATER CONVEYANCES/CONNECTIONS. Conveyances/ connections located throughout the entire area included in the legal description of the land on which land disturbing activity is to be performed.

OUTFALL. The point, location or structure where a pipe or open drain discharges to a receiving body of water.

OUTLET. An opening through which water is discharged.

PEAK DISCHARGE. The maximum rate of flow of water passing a given point during or after a rainfall event. The term also means the maximum instantaneous flow from a given storm condition at a specific location.

PERMANENT STABILIZATION. The establishment, at a uniform density, of vegetative cover or permanent non-erosive material on a disturbed site that will ensure the resistance of the soil to erosion, sliding or other movement.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the property owner or the owner's agent.

POLLUTING SUBSTANCES. Discharges of untreated wastewater and other substances from municipalities, industries and commercial businesses that cause an imbalance in the chemical, physical and biological integrity of the city's waters.

PRIVATE STORMWATER FACILITIES. Various stormwater and drainage works not under the control or ownership of the city, county, state and/or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

PROJECT SITE OWNER. The person who is required to submit the NOI letter and is required to comply with the terms set forth in 327 I.A.C. 15-5 and 327 I.A.C. 15-13 and this chapter, including either of the following: a developer or a person who has financial and operational control of construction activities and project plans and specifications, including the ability to make modifications to those plans and specifications.

PROPERTY OWNER. The individual, partnership or corporation holding the deed or record title to the property. A contract purchaser is not considered the ***PROPERTY OWNER.***

PUBLIC STORMWATER FACILITIES. The various stormwater and drainage works under the control and/or ownership of the city, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

RIPARIAN ZONE. Of, on or pertaining to the banks of a stream, river or pond.

RESIDENTIAL PROPERTY. For the purpose of this chapter, this definition refers to a lot or parcel of real estate on which a building or mobile home is situated which building contains a group of rooms forming a single inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating. This definition also includes a lot containing one individual building containing four or fewer separate or contiguous single-family dwelling units. Each and every ***RESIDENTIAL PROPERTY*** shall be assigned one ERU.

RETENTION. The holding of stormwater runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

RETROFIT. To install a new BMP or improve an existing BMP.

RUNOFF. The portion of precipitation that flows from a drainage area on the land surface, in open channels or in stormwater conveyance systems.

SEDIMENT. Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice and has come to rest on the earth's surface.

SEDIMENTATION. The process that deposits soils, debris and other unconsolidated materials either on ground surfaces or in bodies of water or watercourses.

SEWAGE. The water-carried wastes from residences, business buildings, institutions and industrial establishments, singularly or in any combination, together with the ground, surface and stormwaters as may be present.

SEWER. May refer to storm, sanitary or combined water conduction facility.

SHEET DRAINAGE. Storm runoff that causes sheet erosion, or the gradual removal of a fairly uniform layer of soil from the land surface.

SQUARE FOOTAGE OF IMPERVIOUS AREA. For the purpose of assigning an appropriate number of ERUs to a parcel of real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard to topographic features of the enclosed surface.

STOP WORK ORDER. An order issued which requires that all construction activity on a site be stopped.

STORM EVENT. An estimate of the expected amount of precipitation within a given period of time. For example, a ten-year frequency, 24-hour duration storm event is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hour period.

STORM SEWER. A sewer designed or intended to convey only stormwater, surface runoff, street wash waters, and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry stormwater only, which begins at the grating or opening where water enters the sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer. Also called a ***STORM DRAIN***.

STORMWATER. Water resulting from rain, melting or melted snow, hail or sleet.

STORMWATER FACILITIES. Various stormwater and drainage works under the control and/or ownership of the city, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP). A plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

STORMWATER QUALITY MANAGEMENT PLAN (SWQMP). A comprehensive written document that addresses stormwater runoff quality.

STORMWATER SERVICE CHARGE. A charge imposed on users of the city's stormwater collection, impounding and transportation system.

STORMWATER SERVICE CUSTOMER/ USER. The owner of a lot or parcel of residential or nonresidential property shall be considered the Division of Stormwater Management customers for the purpose of assessing stormwater service charges.

STORMWATER SYSTEM. All constructed facilities, including combined sewers, structures and natural watercourses used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations.

TRAINED INDIVIDUAL. An individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience or completion of coursework that enables the individual to make judgments regarding stormwater control or treatment and monitoring.

WATER BODY. Any accumulation of water, surface or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

WATER QUALITY. A term used to describe the chemical, physical and biological characteristics of water, usually in respect to its suitability for a particular purpose.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or manmade drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

(Ord. 0-08-0005, passed 3-24-2008)

CONSTRUCTION SITE CONTROL

§ 54.015 PURPOSE AND INTENT.

The purpose of this subchapter is to establish requirements for stormwater discharges from construction activities of one acre or more so that the public health, existing water uses and aquatic biota are protected. This section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process. The objectives of this chapter are:

(A) To regulate construction activities disturbing more than one acre of land as governed by 327 I.A.C. 15-5; and

(B) To require construction site operators to develop and implement a construction plan including a stormwater pollution prevention plan in order to receive a land disturbance permit from the city.

(Ord. 0-08-0005, passed 3-24-2008)

§ 54.016 APPLICABILITY AND EXEMPTIONS.

(A) It shall be required that a notice of intent (NOI) be submitted to the Indiana Department of Environmental Management and to the DSM and that a stormwater pollution prevention plan (SWPPP) be submitted and approved by the DSM for any project located within the City Stormwater Management District that includes clearing, grading, excavation, filling and other land disturbing activities resulting in the following:

(1) The disturbance of one acre or more of total land area as determined in § 54.018; and

(2) Disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land.

(B) The SWPPP must be approved by the DSM prior to the beginning of any land disturbing activities on the site for which the plan is submitted. The SWPPP must comply with the design criteria and technical standards and specifications approved by the BSM.

(C) This chapter does not apply to the following types of activities:

(1) Agricultural land disturbance activities; and

(2) Forest harvesting activities.

(D) This subchapter does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under 329 I.A.C. 10;

(2) Coal mining activities under I. C. 14-34;

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by IDEM under 329 I.A.C. 10 that contains equivalent stormwater requirements, including the

expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary; and

(4) Roadway projects initiated by the State Department of Transportation.

(Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.017 RESPONSIBILITY FOR ADMINISTRATION.

The Board of Stormwater Management of the city shall administer, implement and enforce the provisions of this chapter. (Ord. 0-08-0005, passed 3-24-2008)

§ 54.018 DETERMINATION OF LAND DISTURBANCE.

In calculating the total area of land disturbance, for the purposes of determining applicability of this chapter to the project, the following guidelines should be used.

(A) Off-site construction activities that provide services (for example, road extensions, sewer, water and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.

(B) Strip developments will be considered as one project site and must comply with this chapter unless the total combined disturbance on all individual lots is less than one acre and is not part of a larger common plan of development or sale.

(C) To determine if multi-lot project sites are regulated by this rule, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as roads, utilities or common areas, and the expected total disturbance on each individual lot, as determined by the following:

(1) For a single-family residential project site where the lots are one-half acre or more, one-half acre of land disturbance must be used as the expected lot disturbance;

(2) For a single-family residential project site where the lots are less than one-half acre in size, the total lot must be calculated as being disturbed; and

(3) To calculate lot disturbance on all other types of projects sites, such as industrial and commercial projects project sites, a minimum of one acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one acre in size, in which case the total lot must be calculated as being disturbed.

(D) The calculation methods as well as the type, sizing and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria and the technical standards and specifications approved by the Board of Stormwater Management.

(Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.019 RESPONSIBILITY FOR IMPLEMENTATION.

A project site owner shall be identified for all projects that require the submission of a stormwater pollution prevention plan (SWPPP) and a construction permit per § 54.016(A).

(A) The project site owner has the following responsibilities:

(1) Ensure that a sufficient SWPPP is completed, submitted and approved by the Division of Stormwater Management (DSM);

(2) Complete a sufficient notice of intent (NOI) letter to be submitted to the Indiana Department of Environmental Management (IDEM), with a copy sent to the DSM;

(3) Make application and obtain a land disturbance permit in accordance with procedures established by the DSM;

(4) Ensure compliance with this chapter during:

(a) The construction activity; and

(b) Implementation of the construction plan.

(5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this rule and the approved SWPPP; and

(6) Notify the IDEM with a sufficient notice of termination (NOT) letter with a copy sent to the DSM.

(B) For an individual lot where land disturbance is expected to be one acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:

(1) Ensure that a sufficient stormwater management construction plan has been submitted to and approved by the DSM and a construction permit has been obtained;

(2) The stormwater management plan and construction activity shall comply with the technical standards adopted by the BSM and with all sections of this chapter and be in accordance with the applicable procedures established by the DSM;

(3) Complete his or her own sufficient notice of intent (NOI) letter to be submitted to the Indiana Department of Environmental Management (IDEM), with a copy sent to the DSM; and

(4) Notify the IDEM with a sufficient notice of termination (NOT) letter with a copy sent to the DSM.

(C) For an individual lot where the land disturbance is less than one acre and the lot lies within a project site permitted under this rule, the individual lot operator shall:

(1) Comply with the provisions and requirements of the DSM approved SWPPP and the stormwater construction permit for the overall site, comply with the technical standards adopted by the BSM and comply with this chapter. All work shall be performed in accordance with the applicable procedures established by the DSM.

(2) A NOI is not required. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.020 GENERAL REQUIREMENTS FOR STORMWATER QUALITY CONTROL.

All stormwater quality measures and erosion and sediment controls necessary to comply with this chapter must be implemented in accordance with the stormwater pollution prevention plan and comply with the technical standards adopted by the Board of Stormwater Management. All water quality measures must be sufficient to satisfy the following conditions:

(A) Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fill in areas with steep slopes should be avoided wherever possible and natural contours should be followed as closely as possible;

(B) Existing natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to watercourses and lakes also should be left undisturbed wherever possible. Non-vegetated or vegetated areas with less than 70% cover that are scheduled or likely to be left inactive for 15 days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area;

(C) All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development;

(D) The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet;

(E) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site;

(F) Appropriate measures shall be implemented to prevent wastes or unused building materials, including, garbage, debris, packaging material, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout and other substances from being carried from a project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable state statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures (including having spill response equipment on site) shall be implemented to minimize the potential for pollutants to contaminate surface or groundwater or degrade soil quality;

(G) Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations;

(H) Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner; and

(I) Natural features, including wetlands, shall be protected from pollutants associated with stormwater runoff. All erosion and sediment control measures necessary to comply with this chapter and

with other provisions as outlined in 327 I.A. C. 15-5-7 must be implemented in accordance with the submitted plans. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

STORMWATER QUALITY MANAGEMENT CONTROL FOR POST-CONSTRUCTION

§ 54.035 PURPOSE AND INTENT.

The purpose of this subchapter is to establish requirements for the installation of permanent stormwater quality features designed to intercept and filter pollutants in stormwater discharges from newly developed or redeveloped construction sites of one acre or more. Through the use and installation of stormwater quality BMPs, stormwater runoff from these sites will be filtered and harmful amounts of sediment, nutrients and contaminants will be removed prior to reaching regional creeks, streams and rivers. The control of stormwater quality will be based on the management of total suspended solids (TSS). (Ord. 0-08-0005, passed 3-24-2008)

§ 54.036 APPLICABILITY AND EXEMPTIONS.

(A) It shall be required that a stormwater pollution prevention plan (SWPPP) that addresses post-construction stormwater quality control measures be submitted and approved by the DSM for any project located within the City Stormwater Management District that includes clearing, grading, excavation, filling and other land disturbing activities resulting in the following:

(1) The disturbance of one acre or more of total land area as determined per § 54.018; and

(2) Disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land.

(B) The SWPPP must be approved by the DSM prior to the beginning of any land disturbing activities on the site for which the plan is submitted. The SWPPP shall include stormwater quality features that shall become permanent features of the site plan and shall remain in place following completion of construction activities. The SWPPP shall comply with the design criteria and technical standards and specifications approved by the BSM.

(C) This chapter does not apply to the following types of activities:

(1) Agricultural land disturbance activities;

(2) Forest harvesting activities;

(3) Construction activities associated with a single-family residential dwelling disturbing less than five acres, when the dwelling is not part of a larger common plan of development or sale;

(4) Single-family residential developments consisting of four or less lots;

(5) A single-family residential strip development that the developer offers for sale or lease without land improvements and which project is not part of a larger common plan of development or sale; and

(6) Individual building lots within a larger permitted project.

(D) This section does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under 329 I.A.C. 10;

(2) Coal mining activities permitted under I.C. 14-34;

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by IDEM under 329 I.A.C. 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary;

(4) Roadway projects initiated by the State Department of Transportation.
(Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.037 RESPONSIBILITY FOR IMPLEMENTATION.

A project site owner shall be identified for all projects that require the submission of a stormwater pollution prevention plan (SWPPP) and a construction permit per § 54.016(A).

(A) The project site owner has the following responsibilities:

(1) Ensure that a sufficient stormwater pollution prevention plan (SWPPP) is completed, submitted and approved by the Division of Stormwater Management (DSM). The approved SWPPP shall include the placement of appropriate best management practices (BMPs), designed, constructed and maintained, from a pre-approved list specified in the *East Chicago Development Criteria/Standards Manual or Stormwater Technical Standards Manual*;

(2) Complete a stormwater permit application,· along with a sufficient construction plan, and submit to the DSM in accordance with §§ 54.015 through 54.020;

(3) With the approved stormwater management permit, ensure proper construction and installation of all stormwater BMPs in compliance with the technical standards adopted by the BSM; and

(4) Notify the Indiana Department of Environmental Management (IDEM) with a notice of termination (NOT) letter upon completion of the project and stabilization of the site. A copy of the notice of termination (NOT) letter must be submitted to the DSM.

(B) The project site owner must submit to the DSM a stormwater pollution prevention plan (SWPPP) that addresses the requirements of 327 I.A.C. 15-5-6. 5(a)(8) and shows the placement of appropriate BMPs from a pre-approved list of BMPs specified in the *East Chicago Development Criteria/Standards Manual* or *Stormwater Technical Standards Manual* developed and approved by the City Board of Stormwater Management. The selected and approved BMPs must be designed, constructed and maintained according to guidelines provided or referenced in the *City of East Chicago Development Criteria/Standards Manual or Stormwater Technical Standards Manual*.

(C) Practices other than those specified in the pre-approved list may be utilized. However, the applicant shall be required to prove, to the satisfaction of the plan review staff employed by the Division of Storm water Management for the city, that the performance and maintenance of the practices will be according to guidelines provided in the *East Chicago Development Criteria/Standards Manual* or *Stormwater Technical Standards Manual*.

(D) It shall be the responsibility of the project site owner to complete a stormwater permit application and to ensure that a sufficient construction plan is completed and submitted to the Division of Stormwater Management in accordance with §§ 54.015 through 54.020 of this subchapter. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMPs in compliance with this subchapter with the design standards adopted by the Board of Stormwater Management for the city, and with the approved stormwater management permit. The project site owner shall notify the Division of Stormwater Management for the city upon completion of the project and stabilization of the site with a sufficient notice of termination letter. However, all owners of property, including stormwater quality facilities, meeting the applicability requirements must comply with the requirements of this chapter. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.038 CALCULATIONS, DESIGN STANDARDS AND SPECIFICATIONS.

(A) Calculation of land disturbance should follow the guidelines discussed in § 54.018 and the *East Chicago Development Criteria/Standards Manual* or *Stormwater Technical Standards Manual* adopted by the Board of Stormwater Management.

(B) The calculation methods as well as the type, sizing and placement of all stormwater quality management measures, or BMPs, shall meet the design criteria, standards and specifications outlined in the *East Chicago Development Criteria/Standards Manual* or *Stormwater Technical Standards Manual* adopted by the City Board of Stormwater Management. The methods and procedures included in these references are in keeping with the above stated policy and meet the requirements of 327 I.A.C. 15-13.
(Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

INSPECTION, MAINTENANCE AND REPORTING

§ 54.050 INSPECTION, MAINTENANCE AND REPORTING.

(A) Upon the approval of the SWPPP and the issuance of all other required permits and approvals by the DSM, the following shall occur during the period of construction activities:

(1) The BSM, or its designee, shall have the authority to conduct inspections of the site to ensure full compliance with the provisions of this chapter, the design standards and technical specifications by the BSM and the terms and conditions of the approved SWPPP;

(2) A self-monitoring program shall be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. The program must include the following:

(a) A trained individual shall perform an inspection and prepare a written evaluation of the project site:

1. By the end of the next business day following each five-tenths inch of rain; and

2. At a minimum of one time per week.

(b) The evaluation must:

1. Address the maintenance of existing stormwater quality measures to ensure they are functioning properly; and

2. Identify additional measures necessary to remain in compliance with all applicable laws and ordinances.

(c) Written evaluation reports must include:

1. The name of the individual performing the evaluation;

2. The date of the evaluation;

3 . Problems identified at the project site; and

4. Details of corrective actions recommended and completed.

(d) All evaluation reports for the project site must be made available to the inspecting authority within 48 hours of a request.

(B) Upon completion of the construction activities the following shall occur perpetually in accordance with the SWPPP regardless of site usage and land ownership:

(1) All constructed stormwater quality facilities shall be maintained by the property owner, or per agreements on file with the DSM, and be in good condition and in accordance with the approved SWPPP operation and maintenance procedures and schedules and the BSM approved technical standards.

(2) The approved stormwater quality facilities shall not be subsequently altered, revised or replaced except in accordance with the approved SWPPP or in accordance with DSM approved amendments or revisions to the SWPPP.

(3) The BSM, or its designee, shall have the authority to conduct inspections of the site and the installed BMPs to ensure full compliance with the provisions of this chapter, the design standards and technical specifications approved by the BSM and terms and conditions of the SWPPP. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

PROHIBITED DISCHARGES AND CONNECTIONS

§ 54.065 PURPOSE AND INTENT.

The purpose of this subchapter is to provide for the health, safety and general welfare of the city through the regulation of non-stormwater discharges to the municipal separate storm sewer system and to

establish the legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter. (Ord. 0-08-0005, passed 3-24-2008)

§ 54.066 APPLICABILITY AND EXEMPTIONS.

(A) This subchapter shall apply to all discharges, including illegal dumping, entering the stormwater drainage system under the control of the Board of Stormwater Management for the city. These discharges include flows from direct connections to the stormwater drainage system, illegal dumping and contaminated runoff.

(B) This section shall not apply to the following categories of non-stormwater discharges or flows which are exempted from the requirements of this chapter per 40 C.P.R. § 122.26(d)(2)(iv)(B)(l) and may be discharged into the separate storm sewer system so long as the appropriate tap, connection or discharge permits have been secured, if needed:

(1) Water line flushing;

(2) Landscape irrigation or lawn watering;

(3) Diverted stream flows;

(4) Rising groundwaters;

(5) Uncontaminated groundwater infiltration;

(6) Uncontaminated pumped groundwater;

(7) Discharges from potable water sources;

(8) Foundation, footing drains or crawl space pump discharge;

(9) Air conditioning condensation;

(10) Irrigation water;

(11) Springs;

(12) Individual residential car washing;

(13) Flows from riparian habitats and wetlands;

(14) Dechlorinated swimming pool discharges-chlorinated water that has either sat idle for seven days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations of chlorinated residual (less than five-hundredths milligram per liter);

(15) Street wash water; and

(16) Discharges from firefighting activities.

(C) Any non-stormwater discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency is also exempted from this chapter, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written acceptance has been granted for the subject discharge to the stormwater drainage system. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.067 PROHIBITED DISCHARGES AND CONNECTIONS.

(A) *Illicit discharges prohibited.* No person shall discharge or cause to be discharged to city's municipal separate storm sewer system, watercourse or water body, directly or indirectly, any discharge that is not composed entirely of stormwater except permitted discharges per 40 C.P.R. § 122.26(b)(2). Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater through the use of best management practices (BMPs). The Division of Stormwater Management of the city is authorized to require dischargers to implement pollution prevention measures, including BMPs, as may be necessary to prevent or reduce the discharge of pollutants into the city's stormwater drainage system.

(B) *Illegal connections prohibited.* The construction, use, maintenance or existence of illegal connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illegal connections made in the past regardless of whether the connection was permissible under law or practices prevailing or applicable at the time of connection and regardless of whether the connection was approved by an authorized enforcement agency at the time of the connection.

(C) *Violation.* It shall be a violation of this chapter to permit, allow or engage in the discharge of any pollutant into any waterway of the United States, including but not limited to, the Grand Calumet River, the Indiana Harbor Ship Channel, any of their tributaries or streams or any streets, storm sewers or drains, ditches or drainage ways leading to any waterway of the United States.
(Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.068 STORAGE OF HAZARDOUS OR TOXIC MATERIAL.

(A) It shall be a violation of this chapter to store polluting substances, as identified by USEPA or IDEM, in a manner that violates any federal, state or local statute, ordinance or regulation relating to the protection of the public health, safety and welfare or environment, when the storage is shown to have the potential of allowing discharge to any waterway of the United States including, but not limited to the Grand Calumet River, the Indiana Harbor Ship Channel, any of their tributaries or streams or any streets, storm sewers or drains, ditches or drainage ways leading to any waterway of the United States.

(B) Storage or stockpiling of hazardous or toxic material on any site must include adequate protection and/or containment so as to prevent any materials from entering any temporary or permanent stormwater conveyance or watercourse. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.069 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have stormwater discharge associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The City Department of Stormwater Management shall have all authority provided by law and pursuant to the terms and conditions of any applicable permit to enter and inspect facilities as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access by properly identified representatives of the Department of Stormwater Management or authorized enforcement agencies.

(2) Facility operators shall allow the Department of Stormwater Management ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept as part of the conditions of an NPDES permit.

(3) The Department of Stormwater Management shall have the right to set up on any permitted facility devices as are necessary in the opinion of the Department or an authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Department of Stormwater Management shall have the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction or condition that would obstruct the safe and easy access to the facility to be sampled or monitored shall be promptly removed by the operator upon the oral or written request of the Department of Stormwater Management and the obstruction shall not be replaced. The costs of clearing the access, if any, shall be borne by the facility.

(6) Unreasonable delays in allowing the Department of Stormwater Management access to a facility regulated under this chapter is a violation of this chapter of the city's municipal code. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies reasonable access by the Department of Stormwater Management or an authorized enforcement agency to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

(7) If the Department of Stormwater Management has been refused access to any part of the premises from which stormwater is discharged, and it can demonstrate probable cause to believe that there may be a violation of this chapter or the municipal code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter of the city's municipal code or any order issued hereunder or to protect the overall public health, safety and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.070 POLLUTANT REDUCTION THROUGH THE USE OF BEST MANAGEMENT PRACTICES.

(A) The Department of Stormwater Management will establish acceptable best management practices (BMPs) for any activity, operation or facility that may cause or contribute to pollution or contamination of storm water, the municipal storm drainage system or the waters of the United States.

(B) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal separate storm sewer system or watercourses, using the city's approved BMPs. Further, any person responsible for a property or premise that is or may be the source of an illicit discharge may be required to implement additional BMPs as required by the Department of Stormwater Management to prevent further discharge of pollutants into the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity to the extent practicable shall be deemed to be compliance with the provisions of this section. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.071 PRIVATE PROPERTY MAINTENANCE DUTIES.

(A) Every person owning property through which a watercourse passes, or the person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that the structures will not become a hazard to the use, function or physical integrity of the watercourse.

(B) Easements intended for periodic or occasional use as conductors for the flow of surface water runoff shall be maintained in an unobstructed condition by the owners of the properties they cross. The utility shall have the right to determine if any obstruction exists and to repair or maintain, or require the repair and maintenance by the property owner, as shall be reasonably necessary to keep the conductors unobstructed.

(C) No property owner or occupant shall change the stormwater runoff pattern of his or her property in a way that neighboring properties or city property is adversely affected. Consideration and provisions must be made for drainage to and from neighboring properties when land use or development is altered.

(D) No property owner or occupant shall direct stormwater runoff from roof drains, sump pump outfalls or other building drains in such a way that neighboring properties or city property is adversely affected. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.072 SPILL REPORTING.

(A) As soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information about any known or suspected release of material that may result in illegal discharges or pollutants entering the storm sewer system or watercourses, the person shall take all necessary steps to ensure the timely discovery, containment and cleanup of the release.

(B) In the event of a release of hazardous material, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

(C) In the event of a release of non-hazardous materials, the person has notify the Department of Stormwater Management or authorized enforcement agency in person or by phone or facsimile no later than the next business day.

(D) If the report is made in person or by phone, the reporting party shall confirm the notice in writing addressed to the DSM within five days. The written report shall specify:

(1) The composition of the discharge and the cause thereof;

(2) The date, time and estimated volume of the discharge;

(3) All measures taken to clean up the accidental discharge and all measures proposed to be taken to prevent any recurrence; and

(4) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

(E) A properly reported accidental discharge shall be an affirmative defense to a civil proceeding brought under this chapter against a discharger for the discharge. The report itself shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section. This requirement does not relieve the discharger from notifying other entities as required by state or federal regulations.

(Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

RATES, CHARGES AND BILLING

§ 54.085 STORMW ATER SERVICE CHARGE.

A stormwater service charge shall be imposed on each and every lot and parcel of land within the city which directly or indirectly contributes to the stormwater system of the city, which charge shall be assessed against the owner thereof, who shall be considered the user for the purposes of this chapter. This charge is deemed reasonable and is necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future city stormwater system and for compliance with the city's NPDES stormwater discharge permit(s). (Ord. 0-08-0005, passed 3-24-2008)

§ 54.086 STORMWATER RATE ESTABLISHMENT PROCEDURES.

(A) (1) The stormwater service rate shall be fixed as provided in I.C. 8-1.5-5.

(2) For the purpose of this chapter, a month shall be considered to be a period of 25 days up through 35 days depending on billing cycles. Any billings for stormwater service outside this time shall be on a per diem basis.

(B) This stormwater rate is designed to recover the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the city's stormwater service charge. This rate is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(C) This rate shall be evaluated annually as to its sufficiency to satisfy the needs of the DSM. (Ord. 0-08-0005, passed 3-24-2008)

§ 54.087 RATE STRUCTURE AND CALCULATION.

(A) For the purposes stated in §§ 54.002 and 54.086, there is hereby assessed a stormwater service charge to each user situated within the corporate limits of the city who contributes directly or indirectly to the stormwater system of the city, in an amount as determined below.

(B) For any property, lot, parcel of land, building or premises which contributes directly or indirectly to the stormwater system of the city, the charge shall be based upon the quantity of impervious area situated thereon.

(C) All properties having impervious area within the city will be assigned an equivalent residential unit (ERU), or multiple thereof, with all properties having impervious area assigned at least one ERU.

(1) *Residential properties.* A monthly flat-rate charge for stormwater service rendered to residential properties shall be charged to each account within the city limits according to the service address. All residential properties are hereby assigned one ERU. This flat fee shall apply to all residential properties as defined herein. Residential properties may apply for credits as outlined at § 54.090. Based on the granting of a credit, a residential property may pay for less than one ERU. However, in no case shall a residential property pay for less than 35% of the gross stormwater bill owed before credits were applied.

(2) *Nonresidential properties.* Nonresidential properties will be assigned an ERU multiple based upon the property's individually measured impervious area (in square feet) divided by 2,500 square feet (one ERU). The division will be calculated to the first decimal place.

(3) *Whole ERUs.* Only whole ERUs shall be used in determining the assignment of gross ERUs to a property. All rounding necessary to reach the appropriate whole ERU shall be done according to mathematical convention (0 -0.4 rounded down to nearest whole ERU; 0.5-0.9 rounded up to nearest whole ERU).

(D) There shall be no exceptions or exemptions from the assignment of gross stormwater ERUs. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.088 BILLINGS-TERMS OF PAYMENT.

(A) *Billings.* All stormwater bills shall be rendered on a monthly basis, along with the user's charges for other city utility services.

(B) *Terms of payment.* The stormwater service charges prescribed in § 54.086 shall be due on the payment date set out on the bill. It shall be a violation of this chapter to fail to pay a stormwater service bill when due. All bills for stormwater services not paid on or before the due date, which due date shall be approximately 15 days after the bill is rendered, shall be subject to a collection or deferred payment charge of 10% on outstanding balance.

(C) *Payment priority.* Stormwater service charges shall take priority over all other charges for city utility services. Partial payments shall first be applied to satisfy the garbage user fee under Chapter 55 and secondly, to these charges.

(D) *Collection.* Delinquent stormwater service charges may be collected in a civil action along with other delinquent city utility charges, reasonable attorney fees and court costs. (Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.089 APPEALS OF ERU DETERMINATION.

(A) If, in the opinion of any user, the ERU multiple assigned to his or her property is inaccurate in light of the amount of impervious area of the property, the user shall have the right to contest the ERU determination and thus the rate assessed in the following manner.

(B) User shall obtain and complete a petition to appeal stormwater rate form (petition) which shall be returned to the DSM with verifiable documentation supporting user's claim.

(C) The DSM shall investigate user's claim and, upon review thereof, shall render a written determination that either the original ERU determination and assessed rate should be affirmed or the user's rate should be adjusted according to the petition.

(D) If user's petition is denied, the opinion shall be forwarded to user by certified mail, return receipt requested. User shall then have seven days from date of receipt to request a reconsideration by the Director. Any additional facts concerning the dispute shall be reduced to writing and submitted, along with a copy of the original petition and supporting documents, to the Director. The DSM shall submit a written report of the determination in the case, along with any documents used in denying the user's claim.

(E) Thereafter, the Director, or his or her designee, shall review all documentation and conduct, as necessary in his or her opinion, an informal hearing to determine and resolve the dispute based on the documentation submitted and any oral testimony. A written opinion shall be rendered within 30 days after the hearing or submission of documentation if no hearing is conducted. The written opinion of the Director of his or her designee shall constitute the final DSM determination, and may be challenged by the user by a written request to the Board for formal consideration within 15 days of the Director's opinion.

(F) The Board shall conduct a hearing and issue a determination which shall be binding on the Department of Stormwater Management. The hearing shall be electronically recorded and a transcript of the hearing provided upon request at a cost per page as determined by the Department of Stormwater Management Accounting Department and amended from time to time.

(G) A party or person aggrieved by the final Board determination shall have the right to judicial review of the determination in accordance with state law.

(H) If the DSM recommends the user's rate be reduced, or reduction is ordered by the Director, Board or court of law, user shall be credited accordingly for any overpayment made from the date of the petition.

(I) Dispute or appeal of an ERU determination for stormwater service rate shall not be a valid reason for non-payment of the originally assessed stormwater service charge by the user.
(Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.090 DISCOUNT AND CREDIT POLICIES AND PROCEDURES.

(A) This section establishes a discount for land and buildings used for various purposes when exempt from property taxation under I. C. 6-1. 1-10-1, 6-1.1-10-2, 6-1.1-10-4, 6-1.1-10-5 and 6-1.1-10-16.

(B) This section also discusses some of the most common credit considerations and requirements but is not intended to be the exclusive authority. The Board, through the rules and regulations of the DSM shall more fully and completely establish the credit policies and procedures for stormwater management.

(1) *Discounts.* The following categories of property exempt from property taxation shall be entitled to a 25% discount off of the gross ERUs assigned for any land or building under § 54.087 where the statutory exemption has been granted and can be confirmed through the records of the County Auditor's office, upon proper application for the discount:

(a) *I. C. 6-1.1-10-1.* Property of the United States and its agencies and instrumentalities;

(b) *I. C. 6-1.1-10-2.* Property owned by the state and any agency thereof or the State Bureau of Motor Vehicles Commission;

(c) *I. C. 6-1.1-10-4.* Property owned by a political subdivision of the state;

(d) *I.C. 6-1.1-10-5.* Property owned by the city which is used to provide a municipal service; and

(e) *I.C. 6-1.1-10-16.* Property owned, occupied and used for educational, literary, scientific, religious or charitable purposes.

(2) *Credit availability.*

(a) *Generally.* Credit will be available to all properties for various forms and levels of abatement.

(b) *Maintenance requirements.* Credit will only be allowed for properties where structural controls are maintained in fully functional condition and according to maintenance criteria and design standards issued by the DSM.

(c) *Existing structure credits.* Credit will be allowed for previously constructed abatement features or stormwater controls. The amount of credit granted will be determined by the methods of design as outlined within the rules and regulations of the DSM.

(d) *Property location.* Credit will be granted on the basis of location of a given property in relation to a major waterway of the United States, if it directly discharges its stormwater to that waterway in conformance with all maintenance criteria and design standards as applicable. The waterways covered by this section shall include the Grand Calumet River and the Indiana Harbor Ship Channel, tributaries and other ditches and drains specified in the rules and regulations of the DSM, and any legal public drains under the control by the county.

(e) *Voluntary controls.* For new developments, credit will be granted where the city requires abatement features or stormwater controls to be constructed and/or maintained, and all city standards and criteria are met. Other voluntary controls or upgrades of existing systems through retrofitting will be granted credits on a case-by-case basis considering the impact of the controls on the city's stormwater system, as determined by the DSM.

(f) *Detention/retention.* Credit will be granted for qualifying detention basins and wet ponds. Credit may be granted for other control devices on a case-by-case basis providing sufficient technical justification is available to make determinations.

(g) *Oversized facilities.* Oversized private stormwater facilities or improvements exceeding standard abatement design criteria and intended to serve an area larger than the immediate project site or designed to handle a larger than specified storm event as required by the DSM shall be considered for additional credit.

(h) *Industrial NPDES permit credits.* No credit shall be allowed for industries in compliance with federal laws and regulations regarding industrial stormwater discharge permits at this time.

(i) *Pollution reduction.* Credit may be granted on a case-by-case basis for efforts to reduce the amount of pollutants in a user's stormwater runoff or for improvements to the quality of a user's stormwater discharge.

(j) *Regional basins.* Credit will not be granted to properties draining into ponds or basins maintained or owned by the city. Credit will be considered for privately owned and maintained regional controls and will be apportioned among owners on a prearranged basis.

(k) *Percent discounted credits for private stormwater facilities.*

1. Discounts and credits shall be computed on an ERU basis. A maximum credit of less than 100% of the gross ERUs originally assigned can be granted for the construction and maintenance of private stormwater facilities considering the potential of each to reduce peak flow and/or volume stormwater flow and direct discharge capabilities. Private stormwater facilities eligible for credits listed above constitute elements of the secondary drainage system. The secondary system is designed to drain a limited area with benefits limited to the owners of the particular property or owners of adjacent properties. As such, secondary elements of the system are not eligible for 100% credit.

2. Further, there are administrative costs involved with operation of the DSM that must be shared by all users, including costs incurred to meet quality-based permit requirements, which provide community-wide benefits, and thus cannot be credited. Discounts and credits shall be cumulative; however, in no case shall the total amount of discounts and credits equal more than 65% of the user's gross stormwater service fee.

3. The formula for determining the applicable credit percentage for individual parcels shall be specifically set out in the rules and regulations of the DSM.

(l) *Federal, state, city and county roadways, publicly-owned airport movement areas.* Publicly-owned streets and roads and highway shall be given 100% credit in reliance on governmental guidance documents which classify them as an integral part of the stormwater conveyance system. Publicly-owned airport movement areas including runways, taxiways, ramps and other areas of an airport which are used for taxiing or hover taxiing, air taxiing, takeoff and landing of aircraft when constructed and maintained similarly to public roadways, shall also qualify for this credit. The surface water control systems incorporated in the design of roadways and airport movement are areas engineered to convey all design runoff without street flooding, and the like associated with frequent, small runoff events up to about five-or ten-year recurrence intervals, and as such, constitute elements of the primary drainage system. Primary elements of the drainage system yield community-wide benefits and are installed to service the general public's interests, conveying runoff from large areas encompassing whole watershed in some cases.

(3) *Procedure.*

(a) *Timing of applications and/or determinations.* Application for credits shall be made on forms provided by Division of Stormwater Management and accompanied by the appropriate application fee. The fee shall be $25 for residential users and $100 for all others. It is the intent of the city that all applications will be reviewed and credits and discounts determined within 30 days after submittal of a complete and correct application package. The credit will be effective on the first billing cycle for that property following completion of construction, or the date of the application. Appeals of credit or discount determinations shall be handled consistent with the procedures set out above for reconsideration of ERU petitions. Appeals of credit or discount decisions will be made initially to the Director, or his or her designee. Should satisfaction not be achieved, an appeal may be lodged with the Board.

(b) *Application for credit or discount, or appeal of determination.* Application for credit or discount, or appeal of determination thereon shall not constitute a valid reason for non-payment of the originally assessed stormwater service charge by the user.

(Ord. 0-08-0005, passed 3-24-2008) Penalty, see § 54.999

§ 54.091 STORMWATER FUND.

All revenues earned and fees collected for stormwater service, including but not limited to, drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds shall be deposited in an account entitled City of East Chicago Stormwater Account. Disbursements from this account will be authorized by the Board and, as required by law, the Common Council. The disbursements will be used exclusively for the operation, maintenance and improvement of the city's stormwater system. Funds from this account shall not revert to any other Department of Stormwater Management or Civil City Fund and may not be transferred for any other purpose, including to avoid a default on bonds or any Department of Stormwater Management fund or the city.

(Ord. 0-08-0005, passed 3-24-2008)

Cross-reference: *Stormwater Management Fund, see§§ 42.460 to 42.463*

§ 54.092 DELINQUENT FEES AND PENALTIES AS LIENS-DUPLICATES-COLLECTION.

Delinquent charges for stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property when the delinquent party is the property owner and may

be collected in accordance with the provisions of I.C. 36-9-23-32 and 36-9-23-33. (Ord. 0-08-0005, passed 3-24-2008)

§ 54.999 PENALTY.

(A) *Enforcement of §§ 54.015, 54.035, 54.050 and 54.065.*

(1) *Enforcement actions generally.* Enforcement of this chapter shall be subject to the severity of the infraction and the responsible party's efforts to comply as determined by the Department of Stormwater Management. The Department shall reserve the right to determine the level of enforcement on a case-by-case basis. Subject to division (A)(7) below, enforcement actions shall be initiated by the serving of a notice of violation and may include any one or more of the following:

(a) Verbal warning to the responsible party/parties to make corrections;

(b) Written warning to the responsible party /parties to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions and the level of effort necessary to correct the problem;

(c) Warning of noncompliance with directions to the responsible party /parties that site conditions require immediate action;

(d) The performance of monitoring, analysis and reporting;

(e) Stop work order;

(f) Suspension of access to the stormwater drainage system; and/or

(g) Civil penalties and fines.

(2) *Restoration and remediation.* If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which the remediation or restoration must be completed. The notice shall further advise that, should the responsible party/parties fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the responsible party/parties.

(3) *Emergency suspensions.* The Department of Stormwater Management may, without prior notice, suspend access to the stormwater drainage system to a person or entity when the suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the stormwater drainage system or waters of the United States. If a responsible party fails to comply with a suspension order issued in an emergency, the Department of Stormwater Management may take steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or waters of the United States, or to minimize danger to persons.

(4) *Suspension of access to the stormwater drainage system due to the detection of illicit discharge.* Any person or entity discharging to the agreed upon by the Board of Stormwater

Management and the violator and that further the goals of the city's approved stormwater quality management plan.

(5) *Civil penalty.* Any person that has violated or continues to violate this chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to $2,500 per violation per day. Each and every day that the violation exists shall constitute a separate offense.

(6) *Fees and costs.* The Department of Stormwater Management may recover all reasonable attorney's fees, court costs, consultant costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses to the extent permitted by law.

(7) *Remedies not exclusive.* The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Department of Stormwater Management to seek cumulative remedies.

(8) *Authorized enforcement agencies.* The Board of Stormwater Management, Water Pollution Control Maintenance Department, Division of Public Works and Department of Stormwater Management, Department of Code Enforcement and Fire Department of the city, or its subcontractors shall be the agencies authorized to enforce this chapter of the municipal code.

(9) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination to the Board of Stormwater Management. The notice of appeal must be received within 30 days from the date of the notice of violation. Hearing on the appeal before the Board or its hearing officer shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the Board or its hearing officer shall be final, subject to any right of a person to seek judicial review in a court of competent jurisdiction.

(B) *Enforcement of other provisions of this chapter.*

(1) Failure to pay a stormwater user fee when due shall constitute a violation of this chapter, which shall be enforced by the Director and deputies as the Director, with the approval of the Board, may appoint for those purposes.

(2) Any nonresidential user charged under division (B)(l) above and found to be in violation shall be subject to a find of up to $2,500 per day and shall be held responsible for the amount of the outstanding bill, in lieu of a collection action and assessment of collection or deferred payment charges set out in § 54.088(B) and (C) or lien procedures under § 54.092.

(Ord. 0-08-0005, passed 3-24-2008)

CHAPTER 55: GARBAGE

Section

Garbage

55.001 Definitions
55.002 Compliance with chapter
55.003 Incinerating and reduction plants
55.004 Mixing garbage with certain large articles
55.005 Sale of garbage
55.006 Hot ashes
55.007 Sharp objects
55.008 Throwing or depositing garbage-nuisance declared
55.009 Unsanitary premises declared unlawful
55.010 Disposal of facial tissues and paper handkerchiefs
55.011 Vacation of premises-garbage removal required

Containers

55.025 Required
55.026 Use generally
55.027 Specifications
55.028 Capacity-number
55.029 Location-removal after collection
55.030 Disturbance unlawful
55.031 Condemnation, confiscation
55.032 Using containers of others declared unlawful
55.033 Street waste containers

Garbage Collection, Removal and Disposal

55.045 Jurisdiction
55.046 Domestic garbage and trash removal-compliance required
55.047 Commercial, industrial, and residential trash collection
55.048 Regulations-designated authority
55.049 Interference with collectors

Dumping

55.060 Generally
55.061 Permit required

City Landfills

55.075 Establishment
55.076 Permit for sorting rags and junk required
55.077 Regulations-supervision and control-promulgation and posting

GARBAGE

§ 55.001 DEFINITIONS.

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

COMMERCIAL GARBAGE OR TRASH. Garbage or trash derived from the operations of business and not resulting from the ordinary operations of private residences or households

DEPOSITOR. Any person who places or directs garbage or trash to be placed in a receptacle in which he or she is entitled to place garbage or trash, as required in this chapter.

GARBAGE. Any rejected or waste food, offal, swill or carrion, including waste paper, rags, 59 sweeping or other small perfectly combustible substances, but excluding noncombustible and heavy trash, such as ashes, tin cans, plaster and similar substances.

MULTIPLE DWELLING. A building or part of a building designed, intended or used as an apartment house, apartment hotel, tenement house or other residential use in which there is more than one dwelling.

OCCUPATIONAL UNIT. A building or part of a building, designed as, intended for or used for any purpose other than a single dwelling or multiple dwelling.

TRASH. All ashes of wood, coal and coke, the residue resulting from the combustion of any material or substance, soot, cinders, slag or charcoal, empty tin cans, empty bottles, empty glass containers, scrap iron wire, metal articles, brickbats, broken stone or cement, broken crockery, broken glass, broken plaster and other noncombustible and heavy refuse.
(1995 Code, § 8.32.010) Penalty, see § 10.99

§ 55.002 COMPLIANCE WITH CHAPTER.

No person shall keep or permit to remain on his or her premises or on any private property or cast upon any private property, vacant land or land belonging to the city or land over which the city has an easement any garbage, trash or other offensive or unwholesome matter other than as permitted in this chapter. (1995 Code, § 8.32.020) Penalty, see § 10.99

§ 55.003 INCINERATING AND REDUCTION PLANTS.

The city shall build, enlarge, maintain and operate incinerating and reduction plants for the sanitary disposition of garbage and filth, to the end that public dumps may be eliminated insofar as possible, so that public health, safety and comfort may be improved and secured. (1995 Code, § 8.32.030)

§ 55.004 MIXING GARBAGE WITH CERTAIN LARGE ARTICLES.

It is unlawful for any person to place or mix with any garbage or other substance to be collected and burned in the city garbage reduction or incinerating plants, articles too large to be burned in the incinerating plant. (1995 Code; § 8.32.040) Penalty, see § 10.99

§ 55.005 SALE OF GARBAGE.

No person shall vend or attempt to vend in the city any garbage or any fruit, vegetable or other article of food that may be decayed or partially rotten or that may have been taken from any barrel, box or other receptacle for the same in any public way of the city. (1995 Code, § 8.32.050) Penalty, see § 10.99

§ 55.006 HOT ASHES.

No hot ashes or ashes containing fire or fire coals shall be placed in any trash container which is not absolutely fireproof. Hot ashes shall not be dumped in contact with or in proximity to any combustible material, article, building or structure. (1995 Code, § 8.32.060) Penalty, see § 10.99

§ 55.007 SHARP OBJECTS.

(A) No person shall throw, drop, place or deposit or cause to be thrown, dropped, placed or deposited in or upon any public way or public bathing beach any glass bottles, glass, nails, tacks, wire, crockery, goods or other sharp or cutting substances injurious or dangerous to the feet of persons or animals or to the tires or wheels of any kind of vehicle including motor vehicle; provided, that where any person has accidentally or by reason of an accident dropped from his or her hand or a vehicle any of the aforementioned substances upon any public way or bathing beach, the penalty herein provided for the infraction shall not be enforced if the person shall immediately make all reasonable efforts to clear the place of the same.

(B) No person shall throw, drop or place upon any baseball park, athletic field, gymnasium, stadium or other place where games are played any bottles or other glass receptacles or any broken bottles or other broken instrument or sharp cutting substances or things.

(1995 Code, § 8.32.070) Penalty, see § 10.99

§ 55.008 THROWING OR DEPOSITING GARBAGE-NUISANCE DECLARED.

(A) It is unlawful for any person to cast, throw, sweep, sift or deposit in any manner in or upon any public way or other public place in the city or in or upon the waters of Lake Michigan or any river, canal, public water, drain, sewer or receiving basin within the jurisdiction of the city any kind of dirt, rubbish, waste, article, thing or substance whatsoever, whether liquid or solid. No person shall cast, throw, sweep, sift or deposit any items anywhere within the jurisdiction of the city in a manner that they may be carried or deposited, in whole or in part, by the action of the sun, wind, rain or snow into any of the places; provided, that this section shall not apply to the deposit of material under a permit authorized by this code or any ordinance of the city or to goods, wares or merchandise deposited upon any public way or other public place temporarily, in the necessary course of trade and removed therefrom within two hours after being so deposited or to articles or things deposited in or conducted into the city sewer system, through lawful drains, in accordance with this code and the ordinances of the city relating thereto or to ordinary sidewalk dust and sweepings.

(B) The throwing or placing of any ashes, cinders, slag and rubbish or trash of any kind whatever upon any street, sidewalk, alley or gutter or upon the lands of another without express written permission or in any manner, except as herein provided in this code, are declared to be nuisances.

(C) No person shall throw, place or cause to be placed into any street, alley, public ground or private lot any putrid or unsound meats, fish, hides, skins of any kind or any filth, offal, dung, dead animals, vegetables, oyster shells, tin cans or rubbish of any kind, or any other deleterious substance or obnoxious matter which is in any way offensive in any manner whatever or which will be likely to

become putrid or offensive; nor shall any person allow any abovementioned offensive matter to be or remain upon their premises or in any outhouse, stable or other place owned or kept by them or in any alley or street or public ground in front of or on either side of the premises.

(D) Whenever any nuisance shall exist the Health Officer shall take action to abate the same.
(1995 Code, § 8.32.080) Penalty, see § 10.99 .

§ 55.009 UNSANITARY PREMISES DECLARED UNLAWFUL.

For the purpose of promoting the health and comfort of the citizens, the cleanliness of the city and preventing noxious and offensive odors therein, or the creation of public nuisances, it is unlawful, except as otherwise provided in this code, for any person to place, deposit, permit or have upon their premises in the city or upon their premises, whether owned or leased by them, any one or more of the following unclean, unsanitary, fly producing, disease causing things or conditions:

(A) Animal manure in any quantity which is not securely protected from flies;

(B) Filthy, littered or trash covered cellars, house yards, barn yards, stable yard, factory yards or vacant lots;

(C) Privies;

(D) Vaults, pits or like places which are not securely protected from flies and rats or which are foul and malodorous;

(E) Garbage in any quantity which is not securely protected from flies in galvanized iron or approved concrete or other approved receptacles; and

(F) Trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, excelsior, packing hay, straw or other packing materials, tin cans, lumber not neatly piled or anything whatsoever in which flies or rats may breed or multiply or which may be a fire danger.
(1995 Code, § 8.32.090) Penalty, see § 10.99

§ 55.010 DISPOSAL OF FACIAL TISSUES AND PAPER HANDKERCHIEFS.

No person shall drop, throw or place any used facial tissue or paper handkerchief upon any public conveyance or upon the floor of any theater, hall, assembly room or public building or upon the surface of any lot or parcel of ground or on the roof of any building or in any light or air shaft court or areaway.
(1995 Code, § 8.32.100) Penalty, see § 10.99

§ 55.011 VACATION OF PREMISES-GARBAGE REMOVAL REQUIRED.

It shall be the duty of every person occupying or controlling any lot, building or structure or any portion thereof to remove or cause to be removed therefrom before vacating the same all garbage, ashes, miscellaneous waste and manure. (1995 Code, § 8.32.110) Penalty, see § 10.99

CONTAINERS

§ 55.025 REQUIRED.

(A) Every householder residing in a single-family dwelling shall provide and at all times maintain adequate containers for garbage and trash in good condition and repair.

(B) Every owner or agent of every multiple dwelling or occupational unit shall provide and at all times maintain in good order and repair proper containers for garbage and trash, sufficient in number to contain the accumulation between dates of regular collections; provided, that the owner or his or her agent may be relieved of this duty, and the lessee or occupant shall be required to perform it, when the owner has expressly contracted in writing with the lessee or occupant that the lessee or occupant shall provide and maintain the containers; provided further, that if the owner is a nonresident of the city, the occupant shall be responsible for the furnishing and maintenance of the containers.

(1995 Code, § 8.32.120) Penalty, see § 10.99

§ 55.026 USE GENERALLY.

(A) Each and every person making or having garbage shall, unless he or she uses other satisfactory means of disposal, cause the garbage from his or her premises to be deposited in garbage containers required for that purpose and shall, before depositing the garbage in containers, drain the garbage of moisture and securely wrap it in paper or other combustible material.

(B) No garbage shall be allowed to remain exposed in any building or on any premises a longer time than shall be reasonably necessary to remove and deposit the same in garbage containers.

(C) No person shall throw, place or deposit garbage in any street or other public place or private property except in garbage containers as provided in this chapter.

(D) No person shall place trash in any public way or other place without placing it in suitable and adequate containers to keep it from being blown and scattered about the public ways or upon other private property. (1995 Code, § 8.32.130) Penalty, see § 10.99

§ 55.027 SPECIFICATIONS.

(A) A container for garbage and trash shall be of sturdy construction, fly proof, watertight, made of galvanized or non-rusting metal or impervious material or suitable substitute, approved by the proper city authority, shall have a close-fitting metal lid or cover, and shall have two suitable handles so that the containers can be handled easily by one person. The container shall be kept in suitable condition and shall be covered at all times except when being filled or emptied.

(B) Concrete containers or immovable containers of acceptable construction, dimensions and type, first approved by the city, may be used. (1995 Code, § 8.32.140) Penalty, see § 10.99

§ 55.028 CAPACITY-NUMBER.

Garbage and trash containers shall have a capacity of not less than 20 gallons nor more than 55 gallons for each separate family, resident upon the premises. The containers for each premises shall be of sufficient number and capacity to contain all garbage and trash which may accumulate on the premises during the usual intervals between collections. (1995 Code, § 8.32.150) Penalty, see § 10.99

§ 55.029 LOCATION-REMOVAL AFTER COLLECTION.

(A) All persons who are required to provide garbage or trash containers shall place them within the private property line at street level in places convenient for collection and shall keep them there so that the city collectors may have ready and reasonable access to containers. Containers may be placed in alleys only when private property is completely occupied or so nearly completely occupied by structures that the containers cannot be placed within private property.

(B) No garbage or trash container shall be placed in a public way in a position directly abutting the property of another without express written permission of the abutting owner. No containers shall be placed on any fire escape, street or sidewalk; provided, that in parts of the city which have no alleys, containers shall be placed on the curb temporarily on collection days only and, in the sections, on the premises or on the sidewalk adjacent thereto. These containers shall be promptly removed after collections have been made.

(C) In any dispute arising between any person and the supervisor of public works or his or her assistants or other city authority as to the convenient placing of garbage and trash containers, the dispute shall be finally settled by the city board having jurisdiction. (1995 Code, § 8.32.160) Penalty, see § 10.99

§ 55.030 DISTURBANCE UNLAWFUL.

(A) (1) It is unlawful for any person, other than the depositor or any city employee while in the course of his or her employment, to pick, assort, take, dump, spill, scatter, remove, disturb or carry away any garbage or table refuse from any garbage container or to place, spill or scatter the containers on any street, alley or public place after garbage has been deposited in any container for collection by the city. The unlawful acts am further declared to constitute and be nuisances.

(2) It is unlawful for any person other than the depositor to employ or induce another, other than a city employee, or for a parent or guardian of any child to cause or knowingly permit any child to pick, assort, dump, spill, scatter, disturb, take or carry away any garbage or table refuse that has been placed in a garbage container for collection by the city.

(B) It is unlawful for any person other than the depositor or owner or the proper city employee to remove, displace, uncover or in any manner disturb garbage or trash containers.

(1995 Code,§ 8.32.170) Penalty, see § 10.99

§ 55.031 CONDEMNATION, CONFISCATION.

The Supervisor of Public Works or other city authority is authorized to condemn, seize, take away and destroy any garbage or trash containers which are in poor repair or which have rough or sharp edges or other serious defects which render them dangerous to handle, or which are so dilapidated that they are unsuitable for holding the materials for which they use was intended; provided, that before taking action, the Supervisor of Public Works shall cause written notice to be given to the person owning or having control of containers stating that the containers are dangerous or unsuitable for use, and that if the containers are not replaced or repaired satisfactorily prior to the next collection following the service of notice, the Supervisor of Public Works or other city authority will condemn, seize, take away and destroy the unsuitable containers. (1995 Code, § 8.32.180)

§ 55.032 USING CONTAINERS OF OTHERS DECLARED UNLAWFUL.

It is unlawful for any person to take, carry away, remove or use the garbage or trash containers of another without express written permission of the owner. (1995 Code, § 8.32.190) Penalty, see § 10.99

§ 55.033 STREET WASTE CONTAINERS.

Waste containers of the city placed on the sidewalks and city streets shall be used only for the waste material as persons may have for disposal while passing along public ways. These containers shall not be used for the disposal of trash or garbage accumulated in residences, places of business or other places. (1995 Code, § 8.32.200) Penalty, see § 10.99

GARBAGE COLLECTION, REMOVAL AND DISPOSAL

§ 55.045 JURISDICTION.

For the purpose of collecting, removing and disposing of all garbage and trash in a systematic and sanitary manner, the Supervisor of Public Works and the Sanitary District, Division of Solid Waste Management, is charged with the duty and empowered to superintend the same. (1995 Code, § 8.36.010)

§ 55.046 DOMESTIC GARBAGE AND TRASH REMOVAL-COMPLIANCE REQUIRED.

The city, having the exclusive right, shall systematically collect, remove and dispose of all domestic garbage and trash of all its citizens, as provided in this chapter, who shall faithfully comply with the provisions of this chapter. (1995 Code; § 8.36.020)

§ 55.047 COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL TRASH COLLECTION.

(A) The City shall not collect garbage or trash generated at industrial or commercial sites or locations in the city.

(B) Apartments buildings, houses or structures which have 3 or more units or apartments that receive trash collection service shall pay a monthly fee in the sum of $10 for each individual dwelling, apartment, or rental unit. For purposes of determining the number of units or apartments, a unit occupied by the building owner and used by that owner as hi permanent residence will not be counted.

(C) The fees so established shall be payable by and be an obligation of the owner of such property, and shall be billed and collected by the East Chicago Department of Waterworks. Revenues collected under this Chapter shall be considered revenues of the City's Department of Solid Waste.

(D) The penalty for violation of this section shall be a fine in an amount not exceeding $2,500. Each day that any person shall violate any of the provisions of this section shall constitute a separate offense and shall be punished as a separate offense.

(E) This ordinance shall be enforced by the East Chicago Code Enforcement Officers pursuant to authority established under Ordinance 08-0001 and Indiana Code 36-7-9-1 *et. seq.*, (The Unsafe Building Law) and other laws and ordinances relating to maintenance of property. (1995 Code, § 8.36.030) (Ord. 0-09-0026, passed 12-28-2009; Ord. 0-10-0018, passed 2-14-2011)

§ 55.048 REGULATIONS-DESIGNATED AUTHORITY.

The Board of Sanitary Commissioners or other proper city authority is authorized to fix the hours and days of the week for collections of garbage and trash; and from time to time to adopt regulations not inconsistent with this chapter, as may be required for collection and disposal of waste materials.

(1995 Code, § 8.36.040)

§ 55.049 INTERFERENCE WITH COLLECTORS.

No person shall obstruct, delay or interfere with the city collectors while they perform their duties. (1995 Code, § 8.36.050) Penalty, see § 10.99

DUMPING

§ 55.060 GENERALLY.

It is unlawful for any person to haul, transport or convey or cause to be hauled, transported or conveyed any garbage, trash or other waste materials; or for any person to place or dump the same upon any public property, street, thoroughfare or upon any privately owned property; provided, that nothing in this chapter shall be construed to prohibit the dumping or depositing of dirt, sand and gravel, free of all trash, rubbish and refuse materials of all kinds upon any lot privately owned, at the request of the owner, for the purpose of properly elevating the grade of the lot or the unimproved part of the lot.

(1995 Code, § 8.36.060) Penalty, see § 10.99

§ 55.061 PERMIT REQUIRED.

No person shall allow the dumping of dirt or refuse, organic or inorganic, of any kind or nature by the public upon any lot or land in his or her possession in the city without first obtaining a written permit from the City Health Officer for those purposes. (1995 Code, § 8.36.070) Penalty, see § 10.99

CITY LANDFILS

§ 55.075 ESTABLISHMENT.

The Board of Public Works and Safety is authorized and empowered to lease and rent, renew East Chicago-Public Works and re-lease, from time to time, real estate within or without the corporate limits of the city suitably and conveniently located for the establishment of public landfills and to make, from time to time, regulations for the control and use of public landfills as may be necessary and proper with due regard for the sightliness and cleanliness of the city, for the regulation and control of landfills not inconsistent, however, with the provisions of this chapter. The City Health Officer shall make the suggestions he or she deems advisable. (1995 Code, § 8.40.010)

§ 55.076 PERMIT FOR SORTING RAGS AND JUNK REQUIRED.

It is unlawful for any person except authorized municipal personnel to go upon any public landfill established and operated under the provisions of this subchapter, for the purpose of sorting rags, tin cans,

paper, junk or other materials or for any other purpose without a written permit from the Health Officer and the Board of Public Works and Safety. (1995 Code, § 8.40.020) Penalty, see § 10.99

§ 55.077 REGULATIONS-SUPERVISION AND CONTROL-PROMULGATION AND POSTING.

The Board of Public Works and Safety or proper city authority shall at all times exercise supervision and control over public landfills as it may establish under the provisions of this chapter, shall fix convenient hours during each week at which the public land fills may be used by the public and shall post conspicuously, at the entrance to each landfill, regulations as the Board of Public Works and Safety may from time to time adopt regulating its use. It is unlawful for any person to violate any regulation of the Board of Public Works and Safety so posted for the regulation and control of landfills.

(1995 Code, § 8.40.030) Penalty, see § 10.99

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. TRAFFIC REGULATIONS

72. PARKING REGULATIONS

73. PARKING METERS

74. PEDESTRIANS

75. BICYCLES

76. HANDICAPPED PARKING

77. RAILROADS

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

70.001 Definitions
70.002 Compliance
70.003 Interpretation and construction
70.004 Applicability

Vehicles and Operation

70.015 Exemptions for authorized emergency vehicles
70.016 Riding on part of vehicle not intended for use of passengers
70.017 Boarding or alighting from vehicles
70.018 Clinging to moving vehicles
70.019 Trees or signs obstructing traffic at street intersections
70.020 Obstruction of streets by railroad trains
70.021 Tractor-trailers
70.022 Street vendors' vehicles
70.023 Permit for moving large equipment required
70.024 Radar detecting devices
70.025 Direction of traffic by police and fire officials
70.026 Intercity bus routes- Operation authority
70.027 Attendant at gasoline or service station
70.028 Offensive or dangerous public garages or other cities declared public nuisance

Parades and Processions

70.040 Parades and Processions
70.041 Identification of funeral processions

Traffic Control Devices

70.055 Temporary regulations-testing traffic-control devices
70.056 Traffic control devices- Damage, destruction or absence reports

Traffic Reports

70.070 Annual traffic report
70.071 Damaged vehicles-reports
70.072 Traffic accidents-procedures and reports

Enforcement-Impounding

70.085 Impounding vehicles-procedures after impoundment
70.086 Traffic violation notices

Traffic Bureau

70.100 Creation
70.101 Records-spot maps
70.102 Powers and duties
70.103 Assistance of City Engineer

Cafeteria Court

70.115 Establishment
70.116 Duties
70.117 Records and reports of notices and arrests
70.118 Procedures
70.119 Election to appear at Cafeteria Court or before City Judge

70.999 Penalty for Title VII

GENERAL PROVISIONS

§ 70.001 DEFINITIONS.

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

ALLEY. Any passage or way for public use which serves rear entrances to real property.

AUTHORIZED EMERGENCY VEHICLE. Vehicles of the police and fire forces, vehicles assigned to or authorized for official use by state and federal peace officers, vehicles of the armed forces of the United States while actually engaged in official business and ambulances and emergency vehicles of the municipal departments of the city, of the United States, of the state, of the county and the repair or service vehicles of any public service corporation while actually engaged in emergency service and which vehicles may be specifically designated or authorized as that by the Board of Public Works and Safety.

AUTOMOBILE TRAILER, TRAILER COACH, TRAILER, CAMPER or ***HOUSE CAR.*** A vehicle or structure so designed and constructed in a manner as will permit occupancy thereof for sleeping quarters for one or more persons, or the conduct of business or profession, occupation or trade (or use as a selling or advertising device), and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power.

BICYCLE. Any foot-propelled vehicle, irrespective of the number of wheels in contact with the ground.

BOARD. Unless otherwise stated, means the Board of Public Works and Safety of the city.

BOAT TRAILER. Every vehicle without motor power designed and including every pole trailer and every two-wheel homemade trailer when used to haul boats.

BUREAU. Unless otherwise stated, means the Traffic Bureau of the Police Department of the city.

BUS. Every motor vehicle designed for carrying passengers for hire and used for the transportation of persons and every motor vehicle other than a taxicab designed and used for the transportation of persons for compensation.

BUSINESS DISTRICT. The territory contiguous to and including a highway when 50% or more of the frontage thereon for a distance of 500 feet or more is occupied by buildings in use for business.

BUS LOADING ZONE. A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

CROSSWALK. The portion of a roadway at an intersection, included within the prolongation or connection of the lateral lines of the sidewalks from the curb to the opposite curbs, when unmarked, also any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

DRIVER. Every person who drives or is in actual physical control of a vehicle.

FAR SIDE BUS STOPS. A bus loading zone established immediately beyond any intersection or established within any block, excepting those immediately preceding any intersection.

FREIGHT CURB LOADING ZONE. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of freight during the times prescribed.

HOLIDAY. January 1, May 30, July 4, the first Monday in September, December 25, the day designated and set aside by the President of the United States as a day of Thanksgiving and the first day of the week, commonly called Sunday.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways, joining at any other angle, may come in conflict.

LANED ROADWAY. A roadway which is divided into three or more clearly marked lanes for vehicular traffic.

LIMITED-ACCESS STREET OR HIGHWAY.
Every highway, street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at points only and in a manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

MOTOR VEHICLE. Every vehicle which is self-propelled, but not operated upon rails or tracks.

MOTORCYCLE. Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

MUNICIPAL PARKING LOT. The area owned, operated or leased for operation by the municipality and used for off-street parking of vehicles.

OFFICIAL TIME STANDARD. Whenever certain hours are named in this title, unless otherwise provided, it shall mean United States Central Standard time or daylight savings time, as may be in current use in the city.

OFFICIAL TRAFFIC-CONTROL DEVICES. All signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of the Board of Public Works and Safety or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

OFFICIAL TRAFFIC-CONTROL SIGNALS. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop slow down or proceed.

OWNER OF VEHICLE. A person who holds the legal title to a vehicle or the conditional vendee or lessee or mortgagor.

PARK or ***PARKING.*** The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading or in obedience to traffic regulations or official traffic signs or signals.

PARKWAY. The portion of a public street or way between the sidewalk and curb or between the sidewalk and roadway where there is no curb.

PEDESTRIAN. Any person afoot.

POLICE OFFICER. Every member of the city police force and any person duly authorized to direct or regulate traffic or make arrests for violations of traffic regulations.

PRIVATE ROAD OR DRIVEWAY. Every way or place in private ownership and used for vehicular travel by the owner or manager and those having express or implied permission from the owner or manager, but not by other persons.

RAILROAD. A carrier of persons or property upon cars operated upon stationary rails.

RAILROAD TRAIN. A steam, electric, oil, motor or otherwise driven or propelled engine or locomotive, with or without cars coupled thereto, operated upon rails.

RESIDENCE DISTRICT. The territory contiguous to and including a highway not comprising a business district, when the property on the highway for a distance of 500 feet or more is in the main improved with residences and buildings in use for business.

RIGHT-OF-WAY. The privilege of the immediate use of the street or highway.

ROADWAY. The portion of a street improved, designed or ordinarily used for vehicular travel.

SAFETY ZONE. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

SIDEWALK. The portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

STOP or ***STOPPING.***

(1) Complete cessation of movement.

(2) When prohibited, ***STOP*** or ***STOPPING*** means any stopping of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal.

STREET or ***HIGHWAY***. The entire width between the boundary lines of every way publicly maintained when any party thereof is open to the use of the public for purposes of vehicular travel.

TAXICAB STAND. A fixed area along the curb, set aside for taxicabs to stand or wait for passengers.

THROUGH STREET OR HIGHWAY. Every street or portion thereof at the entrances to which vehicular traffic from intersecting streets is required by law to stop before entering or crossing the same and where stop signs or traffic control signals are erected as provided in this chapter.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using any street for purposes of travel.

TRAFFIC CODE. This title, together with its schedules and amendments, if any.

TRUCK. Every motor vehicle designed, used or maintained primarily for the transporting of property, including tractors, trailers and commercial vehicles.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks. (1995 Code, § 10.04.010) (Ord. 3092, passed - -1975)

§ 70.002 COMPLIANCE.

It is unlawful for any person to do forbidden acts or fail to perform any act required in this chapter. (1995 Code, § 10.04.020) Penalty, see § 70.999

§ 70.003 INTERPRETATION AND CONSTRUCTION.

This title shall be interpreted and construed in harmony with I.C. 9-13-1 *et seq*. and nothing herein shall be construed or interpreted to be in conflict therewith. (1995 Code, § 10.04.030)

§ 70.004 APPLICABILITY.

(A) Every person propelling any pushcart or riding a bicycle or an animal upon a roadway and every person driving any animal-drawn or other vehicle shall be subject to the provisions of this title applicable to the driver of any vehicle, except those provisions of this title which by their very nature can have no application and except as persons riding bicycles are subject to additional or special rules by law or this code.

(B) The provisions of this title shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county or city and it is unlawful for any driver to violate any of the provisions of this title, except as otherwise permitted by this title or by state law.

(C) The foregoing exemptions shall not, however, protect the driver of any vehicle from the consequences of his or her reckless disregard for the safety of others.
(1995 Code, § 10.04.040) Penalty, see § 70.999

§ 70.015 EXEMPTIONS FOR AUTHORIZED EMERGENCY VEHICLES.

(A) The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles as defined in this chapter except as follows.

(B) A driver when operating any vehicle in an emergency on public business, except when otherwise directed by a police officer, may do any one or all of the following:

(1) Park or stand, notwithstanding the provisions of this title;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the prima facie speed limits so long as he or she does not endanger life or property; and/or

(4) Disregard regulations governing direction of movement or turning in specified directions so long as he or she does not endanger life or property.

(B) Those exemptions granted in reference to the movement of an authorized emergency vehicle shall apply only when the driver of the vehicle sounds a siren, bell or exhaust whistle as may be reasonably necessary and the vehicle displays a lighted red lamp visible from the front as a warning to others. (1995 Code, § 10.04.050)

§ 70.016 RIDING ON PART OF VEHICLE NOT INTENDED FOR USE OF PASSENGERS.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.
(1995 Code, § 10.04.060) Penalty, see § 70.999

§ 70.017 BOARDING OR ALIGHTING FROM VEHICLES.

No person shall board or alight from any vehicle while the vehicle is in motion.
(1995 Code, § 10.04.070) Penalty, see § 70.999

§ 70.018 CLINGING TO MOVING VEHICLES.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall not attach the same or himself or herself to any moving vehicle upon any street.
(1995 Code, § 10.04.080) Penalty, see § 70.999

§ 70.019 TREES OR SIGNS OBSTRUCTING TRAFFIC AT STREET INTERSECTIONS.

(A) No owner, occupant or tenant of any real estate abutting any street intersection shall permit any trees, plants or shrubbery at any intersection or within 20 feet from the intersecting curbs of the

intersection which obstructs or tends to obstruct the view of any operator of a vehicle or of a pedestrian approaching an intersection, nor shall the owner or occupant of the real estate permit any shrubbery, trees or plants within 20 feet of the curb intersection to grow to a height in excess of four feet from the grade of the street at the intersection. Any owner or occupant of any property abutting a street or street intersection who shall fail to comply with this division shall be given notice of the noncompliance by the Police Department which shall leave a copy of the notice with any occupant or owner of the real estate, or shall post the same on the real estate, and failure to comply with the notice within five days shall constitute a violation of this section.

(B) No owner, occupant or tenant of any real estate abutting any street or intersection shall permit any sign or banner of any kind which obstructs or tends to obstruct the view of any operator of a vehicle or of a pedestrian approaching the intersection.

(C) No owner, occupant or tenant of any real estate abutting any street shall permit any sign, reflectors or lights of any description which glare or tend to obstruct or interfere with the vision of motorists upon the public streets.

(D) No person shall permit or maintain any stand or obstruction of any kind upon any sidewalk near an intersection which tends to obstruct the vision of motorists, the view of traffic signals or is hazardous to traffic. (1995 Code, § 10.04.110) Penalty, see § 70.999

§ 70.020 OBSTRUCTION OF STREETS BY RAILROAD TRAINS.

It is unlawful for the directing officer or the operator of any railroad train to violate the provisions of this title or to direct the operation of or to operate the same in a manner as to prevent the use of any street for purposes of travel for a period of time longer than five minutes; provided, that this provision shall not apply to trains or cars in motion other than those engaged in switching.
(1995 Code, § 10.04.120) Penalty, see § 70.999

§ 70.021 TRACTOR-TRAILERS.

(A) No person shall permit any trailer in any public way at any time, whether the tractor is disabled or not, without keeping the tractor attached or in proximity.

(B) Police officers shall have the power to remove the vehicles which obstruct traffic as provided in §§ 70.085, 70.086, 70.100 through 70.103 and 70.115 through 70.119 and § 70.999.
(1995 Code, § 10.04.130) Penalty, see § 70.999

§ 70.022 STREET VENDORS' VEHICLES.

Vehicles used by licensed street vendors when engaged in their licensed business on the city streets or alleys must be kept in motion, except when making sales, and their movements must be timed and executed so as to cause a minimum of interference with traffic.
(1995 Code, § 10.04.140) Penalty, see § 70.999

§ 70.023 PERMIT FOR MOVING LARGE EQUIPMENT REQUIRED.

No person shall move any large equipment, machinery or apparatus over the public streets without first obtaining a special permit from the Chief of Police.
(1995 Code, § 10.04.150) Penalty, see § 70.999

§ 70.024 RADAR DETECTING DEVICES.

No person shall in the city sell or offer for sale or use or have in his or her possession in a motor vehicle any device designed to detect or counteract police radar.

(1995 Code, § 10.04.160) Penalty, see § 70.999

§ 70.025 DIRECTION OF TRAFFIC BY POLICE AND FIRE OFFICIALS.

(A) Officers of the Police Department or officers as are assigned by the Chief of Police are authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, police officers may direct traffic as conditions may require notwithstanding the provisions of the traffic laws and this chapter. Members of the Fire Department, when at the scene of a fire or emergency, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(B) No person shall fail or willfully refuse to comply with any lawful traffic order or direction of a police officer or Fire Department official. (1995 Code, § 10.04.190) Penalty, see § 70.999

§ 70.026 INTERCITY BUS ROUTES-OPERATION AUTHORITY.

No intercity bus company shall be authorized to operate upon any of the streets in this city solely by virtue of any provision of this chapter. The right of the bus company to operate on the public streets shall be first established independently of this chapter by some law or authority. If and when the intercity bus service is duly authorized upon the public streets of this city, the service shall be operated and maintained and service shall be provided only upon the streets provided in a schedule to be adopted by the Common Council. (1995 Code, § 10.04.230) Penalty, see § 70.999

§ 70.027 ATTENDANT AT GASOLINE OR SERVICE STATION.

No person shall maintain, manage or operate any gasoline station or service station, from or by which gasoline is dispensed without the service of an attendant.

(1995 Code, § 10.04.240) Penalty, see § 70.999

§ 70.028 OFFENSIVE OR DANGEROUS PUBLIC GARAGES OR OTHER SITES DECLARED PUBLIC NUISANCE.

Any public garage, used car lot, automobile service station, truck depot or terminal, truck trailer, bus or taxicab stand or stop, garage or lot, parking lot or space which shall become noxious, foul, offensive or dangerous and prejudicial to public health, or which shall seriously or permanently interfere with life or safety by the testing or running of gasoline engines at various speeds, backfire or the emitting of smoke and gases, odors of gasoline or oils or the stirring up of dust and dirt or which shall block access to any sidewalk, street or alley or parkway or which shall cause the accumulation of unsightly automobiles which are unlicensed or unable to operate or both is declared a public nuisance.

(1995 Code, § 10.04.250) Penalty, see § 70.999

PARADES AND PROCESSIONS

§ 70.040 PARADES AND PROCESSIONS.

No procession or parade containing 200 or more persons or 50 or more vehicles, excepting the forces of the United States Army or Navy, the military forces of this state and the forces of the Police and Fire Departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the Chief of Police or the Board of Public Works and Safety and other regulations as are set forth in this title which may apply. (1995 Code, § 10.04.090) Penalty, see § 70.999

§ 70.041 IDENTIFICATION OF FUNERAL PROCESSIONS.

A funeral composed of a procession of vehicles shall be identified as that by the display upon the outside of each vehicle of a pennant or other identifying insignia or by other method as may be determined and designated by the Traffic Bureau. (1995 Code, § 10.04.100) Penalty, see § 70.999

TRAFFIC CONTROL DEVICES

§ 70.055 TEMPORARY REGULATIONS-TESTING TRAFFIC-CONTROL DEVICES.

The Chief of Police is empowered to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No temporary or experimental regulations shall remain in effect for more than 60 days. The Traffic Bureau may test traffic-control devices under actual conditions of traffic. (1995 Code, § 10.04.170)

§ 70.056 TRAFFIC CONTROL DEVICES-DAMAGE, DESTRUCTION OR ABSENCE REPORTS.

It is declared to be the duty of every police officer to report promptly, in writing, to the Chief of Police the absence, destruction or damage to any official traffic-control devices or signals required to be erected or maintained under the provisions of this chapter of which he or she has knowledge. The Chief shall thereupon promptly report or cause the same to be reported to the persons under the jurisdiction of the Board of Public Works and Safety employed for the erection and maintenance of the devices or signals. (1995 Code, § 10.04.200)

TRAFFIC REPORTS

§ 70.070 ANNUAL TRAFFIC REPORT.

The Police Department shall annually prepare a traffic report which shall be filed with the Board and the City Clerk. The report shall include all information pertinent to the number of traffic accidents, accident trends, the number of accidents investigated, arrests made as a result of investigations, the number of moving traffic violation arrests, the number of parking violation arrests and other data on the traffic activities of the Department. The report shall also contain suggestions for improvements in traffic control and regulation. (1995 Code, § 10.04.180)

§ 70.071 DAMAGED VEHICLES-REPORTS.

Every person to whom is brought for repairs or other services, including storage, any motor vehicle which shows evidence of having been involved in an accident or struck by any bullet shall make a report to the police headquarters of this city immediately upon the motor vehicle's being so received. The report shall specify a full and complete description of the vehicle, including the motor number, factory, body number, color, type, model and other marks of identification, the license plate number and the name and address of the owner or operator of the vehicle. (1995 Code, § 10.04.210) Penalty, see § 70.999

§ 70.072 TRAFFIC ACCIDENTS-PROCEDURES AND REPORTS.

(A) The driver of a vehicle involved in an accident in the city resulting in an injury to or death of any person or damage to property shall immediately, by the quickest means of communication, give notice of the accident to the Police Department.

(B) Any police officer who, while in the discharge of his or her duties, goes to the scene of and investigates any accident caused by or resulting from the operation, maintenance or use of any vehicle upon or along any public way in the city and which accident results in bodily injury or death or damage to property or any person shall obtain the following information, if available:

(1) Name and address of the owner and operator of any vehicle involved in the accident, together with a description of all applicable operator's licenses;

(2) The license number and description of any vehicle involved in the accident;

(3) Time and place the accident occurred;

(4) Names and addresses of any person injured or killed in the accident; and

(5) Names and addresses of persons who were witnesses to the accident.

(C) All accident reports shall be for the confidential use of the Police Department, except as hereinafter provided in this title.

(D) In addition to the above, the Police Department shall obtain any other information as may be required for proper investigation.

(E) The Police Department, from information or reports in its files, shall promptly, on demand, furnish to any person who has sustained any loss or damage by reason of the injury or death of any person caused by or resulting from the operation, maintenance or use of any vehicle on any public way of this city and shall promptly, on demand, furnish to any person who has sustained any loss or damage to property as a result of the accident, the information required in division (B) above of this section. Any person so entitled to the information may obtain the same from the Police Department either in person or through his or her duly authorized attorney or agent; provided, that the attorney or agent shall first file with the Police Department a verified written authorization therefor, executed by the person so entitled to the information. If the prosecuting attorney of the county shall advise the Police Department that, in his or her opinion, the information should not be released to any person and shall assign as his or her reason that criminal charges have been filed or are contemplated being filed against any person as a result of the accident, the Police Department shall thereupon withhold information until its release has been approved by the prosecuting attorney.

(F) Nothing in this section shall be construed to be in conflict with state law concerning reports required by persons involved in motor vehicle accidents. (1995 Code, § 10.04.220) Penalty, see § 70.999

ENFORCEMENT-IMPOUNDING

§ 70.085 IMPOUNDING VEHICLES PROCEDURES AFTER IMPOUNDMENT.

(A) Members of the Police Department are authorized to remove a vehicle from a street, sidewalk, alley or other public place to the nearest garage or other place of safety or to a garage designated or maintained by the Police Department or otherwise maintained by this city, under the following circumstances:

(1) When any vehicle is left unattended upon any bridge, viaduct or parkway or where the vehicle constitutes an obstruction to traffic;

(2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to an extent as to be unable to provide for the custody or removal of the vehicle;

(3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic;

(4) When any vehicle is parked illegally on a public street or a public place;

(5) When any vehicle has been apparently abandoned; and

(6) Whenever there is an accumulation of three or more unsatisfied offenses charged to any individual's state license registration number and the motor vehicle bearing the number shall be found upon the streets of the city. The vehicle shall be driven or towed off the street under the direction of the Police Department to a storage site as may be designated by any police officer in charge. Should the owner of the vehicle appear to claim the same, he or she shall be booked for appearance in the City Court on all the aforementioned offenses. The vehicle shall not be returned to the owner until he or she has paid the towing charges, if any. The towing charges shall be set by the Chief of Police not to exceed $10.

(B) Whenever an officer removes a vehicle from a street as authorized in division (A) above of this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the officer shall immediately give or cause to be given notice in writing to the owner. The notice shall state the fact of the removal and the reasons therefor and the place to which the vehicle has been removed. In the event any vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage.

(C) Members of the police force are authorized, for the purpose of this section, to use force as may be necessary to enter any vehicle described in division (A) above of this section and cause any vehicle to be placed in condition to be moved and may employ any reputable person engaged in the business of towing or storing vehicles for the purposes.

(D) Whenever an officer removes a vehicle from a street under division (A) above of this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to

give the notice to the owner, as provided in division (B) above of this section and in the event the vehicle is not returned to the owner within a period of three days, then and in that event the officer shall immediately send or cause to be sent written report of the removal by mail to the Secretary of State, as provided by law for impounding of abandoned motor vehicles.

(1995 Code, § 10.60.050) Penalty, see § 70.999

§ 70.086 TRAFFIC VIOLATION NOTICES.

(A) Whenever a member of the police force of the city shall find that any one or more provisions of this chapter are being or have been violated by the owner or operator of any vehicle and the owner or operator has not thereby caused or is not involved in an accident or collision with any other vehicle or pedestrian, the officer shall give notice to the owner or operator of the vehicle in writing, of the violation. The notice shall be made in triplicate, and shall be serially numbered and shall show the specific violation charged, the state license number and make of the vehicle and the owner's name, if readily available. The notice shall be signed by the officer, who shall state thereon his or her badge number, if any. One copy of the notice shall be presented to the owner or operator of the vehicle. In case the owner or his or her representative shall not be found in possession or in charge of the vehicle, the placing of the notice upon the vehicle shall be deemed a sufficient notice of the violation. It shall be the duty of the officer serving the notice to file one copy thereof in the Office of the Police Traffic Bureau at the close of the day's work and one copy in the Cafeteria Court.

(B) The City Clerk shall provide in triplicate suitable serially numbered forms for notifying violators to appear and answer to charges of violating this chapter or other traffic laws and ordinances. The forms shall be issued to and receipted for by the Chief of Police or other person acting for him or her. The City Clerk shall report each month to the Chief of Police the disposal made by the police of all triplicate forms issued to them. For this purpose, the City Clerk or his or her representative shall have access to the necessary records of the Police Department, the City Traffic Courts and the Cafeteria Court. These reports shall be public records. (1995 Code, § 10.60.060)

TRAFFIC BUREAU

§ 70.100 CREATION.

A Traffic Bureau is created and established in the Police Department which shall be under the control of a commanding officer designated by and directly responsible to the Chief of Police and the Board of Public Works and Safety. The Bureau shall consist of the personnel recommended by the Chief of Police and approved by the Board of Public Works and Safety. Its members shall be especially highly trained in traffic administration, regulation and enforcement. (1995 Code, § 10.60.010)

§ 70.101 RECORDS-SPOT MAPS.

The Traffic Bureau of the Police Department shall maintain a standard system of filing traffic accident reports showing the types and numbers of traffic accidents and arrests and warnings issued to traffic law violators. The Bureau shall also maintain spot maps showing the type and location of traffic accidents. (1995 Code, § 10.60.020)

§ 70.102 POWERS AND DUTIES.

(A) It shall be the duty of the Traffic Bureau and the Police Department to enforce the traffic regulations of this city and all state vehicle laws applicable to street traffic in this city, to make arrests for traffic violations, to investigate all traffic accidents, to assist in prosecution of persons guilty of traffic violations, to cooperate with other offices of the city in the administration of the street traffic laws and in developing ways and means to improve traffic conditions and to carry out those duties specially imposed by this chapter and other traffic ordinances of the city.

(B) (1) The Traffic Bureau of the Police Department shall make frequent studies and analyses of all accident and arrest reports and records and shall utilize the information to work out ways and means for accident prevention.

(2) The Traffic Bureau shall regularly inspect the installation, proper timing and maintenance of traffic control devices and signs, conduct engineering analyses of accidents, devise remedial measures, conduct engineering investigations of traffic conditions and cooperate with proper city authority in the development of ways and means to improve traffic conditions and the enforcement of traffic regulations.

(C) The Traffic Bureau shall investigate matters affected or related to traffic as are referred to it by the Chief of Police or Board of Public Works and Safety and shall, when requested, make its recommendations. The Traffic Bureau shall recommend to the Chief, for action by the Board of Public Works and Safety, play streets, loading zones, parking regulations, cab stands, bus stops and other related matters. The Chief of Police and the Traffic Bureau shall have power to establish temporary zones of quiet and shall also direct the maintenance and placing of traffic signs or devices in the manner authorized. (1995 Code, § 10.60.030)

§ 70.103 ASSISTANCE OF CITY ENGINEER.

The City Engineer and his or her office shall fully assist the Traffic Bureau and shall perform the engineering work for the Bureau when required. (1995 Code, § 10.60.040)

CAFETERIA COURT

§ 70.115 ESTABLISHMENT.

The Judge of the City Court may establish a Cafeteria Court in the office of the City Clerk to assist the Court with the clerical work of traffic cases. The Cafeteria Court shall be in charge of persons as may be appointed therefor by the City Clerk and shall be open at hours as are agreed to between the City Judge and City Clerk. (1995 Code, § 10.60.070)

§ 70.116 DUTIES.

The following duties are imposed upon the Cafeteria Court in reference to traffic offenses:

(A) It shall accept designated fines, issue receipts and represent in Court violators as are permitted and desire to plead guilty, waive Court appearance and give power of attorney;

(B) It shall receive and issue receipts for cash bail from the persons who must or wish to be heard in Court, enter the time of their appearance on the Court docket and notify the arresting officer and witnesses, if any, to be present;

(C) It shall keep a easily accessible record of all violations of which the person has been guilty during the preceding 12 months, whether the guilt was established in Court or in the Cafeteria Court;

(D) It shall file or cause affidavits to be filed charging persons with specific violations who fail to appear in Cafeteria Court when notified, and shall cause warrants to be issued for the arrests of the persons; and

(E) It shall keep accurate public records of the money received and pay the same over to the Treasurer and account for the same to the City Controller in the manner provided by law.

(1995 Code, § 10.60.080)

§ 70.117 RECORDS AND REPORTS OF NOTICES AND ARRESTS.

The Cafeteria Court shall keep records and submit summarized monthly reports to the City Court, the Chief of Police and the City Attorney of all notices issued and arrests made for violations of this chapter or other traffic laws and ordinances in the city, of all the fines collected by the Cafeteria Court and of the final disposition or present status of every case of violation of the provisions of this chapter or laws and ordinances. The records shall be so maintained as to show all types of violations and the totals of each. The records shall be public records. (1995 Code, § 10.60.090)

§ 70.118 PROCEDURES.

The Cafeteria Court shall follow a procedure as may be prescribed by this chapter or the traffic ordinances of this city or as may be required by any laws of this state. (1995 Code, § 10.60.100)

§ 70.119 ELECTION TO APPEAR AT CAFETERIA COURT OR BEFORE CITY JUDGE.

(A) Any person charged with a traffic offense for which payment of a fine may be made to the Cafeteria Court shall have the option of paying the fine in full within the time specified in the notice of arrest at the Cafeteria Court upon entering a plea of guilty and upon waiving appearance in Court; or the person may have the option of depositing the required lawful bail, if required by law, and upon a plea of not guilty shall be entitled to a trial before the Court as authorized by law. If there is a trial before the Court and the person is found guilty, he or she shall be subject to the penalty provided in this chapter.

(B) The payment of a fine to the Cafeteria Court shall be deemed an acknowledgment of conviction of the alleged offense and the Cafeteria Court, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment. (1995 Code, § 10.60.110)

§ 70.999 PENALTY FOR TITLE VII.

(A) *Appearance of violator in Court-payment of fines-fine schedules.* The owner or operator of a vehicle who has been notified of a violation of this chapter, as provided in § 70.086, shall, within 72 hours after having been so notified, appear at the City Court. There, he or she may plead not guilty and demand a trial at a time to be fixed by the Court. If he or she desires to exercise the option of paying to the Cafeteria Court, he or she shall answer to the City Court at the Cafeteria Court and shall, by so doing, plead guilty to the charge of the violation and pay the fine prescribed in this chapter. The acceptance of

the fine and plea shall be deemed complete satisfaction for the violation, and the violator shall be given a receipt which so states; provided, that the prescribed fines upon the pleas of guilty shall be as follows:

(1) (a) If the owner or operator of the motor vehicle shall admit and plead guilty to have violated any provision of any one of the following sections:

1. Section 70.016;
2. Section 70.018;
3. Section 70.022;
4. Section 71.00 1 ;
5. Section 71.017;
6. Section 71.019;
7. Section 71.020(B);
8. Section 71.055;
9. Section 71.056;
10. Section 71.086;
11. Section 71.088(A);
12. Section 72.001;
13. Section 72.003;
14. Section 72.046;
15. Section 72.047;
16. Section 72.049;
17. Section 72.050;
18. Section 72.052;
19. Section 72.055;
20. Section 72.059;
21. Section 72.076;
22. Section 72.077;
23. Section 72.079;
24. Section 72.080;
25. Section 74.02;
26. Section 74.03;
27. Section 74.05;
28. Section 74.06;
29. Section 74.09; and
30. Section 74.11; of this title, he or she shall thereupon pay to the Cafeteria Court a fine of $10 for each nonmoving violations, with the exception of parking meter violations which shall be $6, for each violation plus court costs.

(b) Any fine assessed for a non-moving violation, including parking meter violations, which remains unpaid 30 days from the date the fine is assessed, shall automatically increase to $25 plus court costs.

(2)

(e) Section 71.085;

(f) Section 72.019;

(g) Section 72.046;

(h) Section 72.058;

(i) Section 72.082;

(j) Section 71.1 04;

(k) Section 71.106; and

(i) Section 71.108; of this title, he or she shall pay to the Cafeteria Court a fine of $15 for each violation, plus court costs.

(3) Whenever any person has been issued a notice as provided in this chapter for the violation of any of the sections listed in divisions (A)(1) and (A)(2) of this section and shall fail and refuse to appear in the City Court within 72 hours after issuance of the notice or, when appearing at the Cafeteria Court, shall fail or refuse to plead guilty to the charge and pay the fine prescribed therefor without delay, then it shall be the duty of the City Clerk to file or cause to be filed, in the City Court, an affidavit charging the person with the violation specified in the notice and to cause a warrant to be issued arresting the person and requiring his or her appearance in the City Court to answer the charge and stand trial for the same. It shall be the duty of the officer to be present and to assist in the prosecution of the charge and, upon conviction in the City Court or in any court of competent jurisdiction, the person shall be deemed guilty of the violation of a city ordinance and shall be subject to the penalty provided in this section. (1995 Code, § 10.60.120)

(B) *Disposition of traffic fines and forfeitures.* All fines or forfeitures collected upon conviction, pleas of guilty or upon the forfeiture of bail of any person charged with the violation of any of the provisions of this title shall be paid to and be accounted by the Cafeteria Court as provided by law. (1995 Code, § 10.60.130)

CHAPTER 71: TRAFFIC REGULATIONS

Section

Operation Generally

71.001 One-way streets
71.002 Designation of through or preferential streets
71.003 Slow intersections designated
71.004 Exceptions to state speed laws
71.005 Procedure upon approach of authorized emergency vehicle
71.006 Following fire apparatus-driving into block where fire apparatus has stopped
71.007 Horns or warning devices
71.008 Obstructions to driver's view or driving mechanism
71.009 Driving across fire hose
71.010 Driving through or in safety zones
71.011 Driving through processions
71.012 Driving in processions
71.013 Driving over curbs or within parks or playgrounds
71.014 Operating noisy vehicle
71.015 Operating vehicle emitting smoke or fumes
71.016 Towing vehicles generally
71.017 Backing
71.018 Riding on motorcycles
71.019 Emerging from alley, private driveway or building
71.020 Blocking intersections or crosswalks

Crossing Bridges

71.035 Right-of-way for fire apparatus
71.036 Attempting to cross while opening or shutting-disobeying orders of bridge tender
71.037 Speed limit
71.038 Obstructing bridges or approaches
71.039 Vehicles to keep right
71.040 Breaking into line of traffic- disobeying or resisting officer

Special Uses of Public Ways

71.055 Zones of quiet
71.056 Play streets

Commercial and Heavy Vehicles

71.070 Truck routes
71.071 Trucks passing each other
71.072 Trucks and heavy or slower moving vehicles

Turning Movements

71.085 Method of turning at intersections-generally
71.086 Determination and marking of no turn intersections-prohibition of turns at certain times

71.087 Directional signals, markers or other indications
71.088 Limitations on turning around

Signs, Signals and Markers

71.100 Existing signs and signals
71.101 Designation of crosswalks, safety zones and traffic lanes
71.102 General authority to install and maintain devices
71.103 Manual and specifications
71.104 Obedience generally
71.105 Enforcement-when
71.106 Traffic-control signal legends
71.107 Special pedestrian- control signals
71.108 Flashing signals
71.109 Location of traffic-control signals generally
71.110 Unauthorized display
71.111 Interference with traffic-control devices prohibited

Open Alcoholic Beverage Containers in Passenger Vehicles

71.125 Definitions
71.126 Possession or consumption prohibited
71.127 Operator or owner of motor vehicle in violation
71.128 Signs to be posted

Specific Traffic Regulations

71.140 Stop intersections
71.141 Miscellaneous traffic control signs
71.142 One-way streets
71.143 Two-way streets
71.144 Speed limits-Marktown streets
71.145 Speed limits
71.146 Size and load limits

71.999 Penalty

OPERATION GENERALLY

§ 71.001 ONE-WAY STREETS.

(A) Whenever any provision of this code or other ordinance designates any one-way street or alley, the Chief of Police shall cause signs to be placed and maintained, giving notice thereof and no regulation shall be effective unless the signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(B) Vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite

direction is prohibited upon those streets and parts of streets and in those alleys described in the schedule on file in the City Clerk's office. (1995 Code, § 10.08.040)

§ 71.002 DESIGNATION OF THROUGH OR PREFERENTIAL STREETS.

(A) For the purpose of regulating traffic upon or crossing the same, through or preferential streets are established as designated by City Council from time to time. A schedule of the streets is maintained on file in the City Clerk's office. Every operator of a vehicle, bicycle or other conveyance traveling upon any street intersecting any through street, shall come to a full and complete stop before entering a through street and shall give the right-or-way to vehicles traveling upon the through street and shall not enter or cross the through street in dangerous proximity to any vehicle traveling upon the through street.

(B) As provided in this chapter, vehicles shall stop at stop signs except where otherwise directed by operating traffic-control signals or by a police officer. (1995 Code, § 10.08.050) Penalty, see § 71.999

§ 71.003 SLOW INTERSECTIONS DESIGNATED.

The City Council may from time to time designate certain intersections as slow intersections. A schedule of the intersections is maintained in the City Clerk's office. It shall be illegal for any person to fail to slow his or her motor vehicle at the slow sign before proceeding through the intersection.
(1995 Code, § 10.08.060) Penalty, see § 71.999

§ 71.004 EXCEPTIONS TO STATE SPEED LAWS.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within this city, except as otherwise established by ordinance, as authorized by state law, and if it is determined upon the basis of engineering and traffic investigation that certain other speed regulations shall be applicable upon specified streets or in certain areas. In which event it shall be prima facie unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when signs are in place giving notice thereof. A schedule of the streets is maintained on file in the City Clerk's office.
(1995 Code, § 10.08.070) Penalty, see § 71.999

§ 71.005 PROCEDURE UPON APPROACH OF AUTHORIZED EMERGENCY VEHICLE.

(A) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the driver is giving audible signal by siren, exhaust whistle or bell; the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel and as close as possible to the right-hand edge of curb of the roadway clear of any intersection and shall stop and remain in the position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(B) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.
(1995 Code, § 10.08.080) Penalty, see § 71.999

§ 71.006 FOLLOWING FIRE APPARATUS-DRIVING INTO BLOCK WHERE FIRE APPARATUS HAS STOPPED.

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park the vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(1995 Code, § 10.08.090) Penalty, see § 71.999

§ 71.007 HORNS OR WARNING DEVICES.

Every motor vehicle when operated upon a street shall be equipped with a horn or warning device in good working order. It is unlawful for any person to use or employ a horn or other signal device, motor or musical cut-out or any signal device for any purpose except to ensure the reasonable safe operation of the motor vehicle in traffic or in emergencies. (1995 Code, § 10.08.100) Penalty, see § 71.999

§ 71.008 OBSTRUCTIONS TO DRIVER'S VIEW OR DRIVING MECHANISM.

(A) No person shall drive a vehicle when it is so loaded or when there are in the front seat the number of persons exceeding three as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(B) No passenger in a vehicle shall ride in a position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle.

(1995 Code, § 10.08.110) Penalty, see § 71.999

§ 71.009 DRIVING ACROSS FIRE HOSE.

No vehicle shall be driven over any unprotected hose of the Fire Department, when laid down on any street, private driveway or railroad track, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command. (1995 Code, § 10.08.130) Penalty, see § 71.999

§ 71.010 DRIVING THROUGH OR IN SAFETY ZONES.

No vehicle shall at any time be driven through or within a safety zone.

(1995 Code, § 10.08.140) Penalty, see § 71.999

§ 71.011 DRIVING THROUGH PROCESSIONS.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers. (1995 Code, § 10.08.150) Penalty, see § 71.999

§ 71.012 DRIVING IN PROCESSIONS.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the street as practical and shall follow the vehicle ahead as close as is practical and safe.

(1995 Code, § 10.08.160) Penalty, see § 71.999

§ 71.013 DRIVING OVER CURBS OR WITHIN PARKS OR PLAYGROUNDS.

The operator of a vehicle shall not drive over any curb, nor within any public sidewalk or parking area, except at an authorized permanent or temporary driveway, nor in any park or playground except on roadways specifically provided for that purpose. (1995 Code, § 10.08.170) Penalty, see § 71.999

§ 71.014 OPERATING NOISY VEHICLE.

It is unlawful to operate a vehicle which makes unusually loud or unnecessary noise.
(1995 Code, § 10.08.180) Penalty, see § 71.999

§ 71.015 OPERATING VEHICLE EMITTING SMOKE OR FUMES.

It is unlawful to operate any vehicle which emits excessive smoke or fumes.
(1995 Code, § 10.08.190) Penalty, see § 71.999

§ 71.016 TOWING VEHICLES GENERALLY.

(A) It is unlawful to tow any vehicle upon any street unless the towed vehicle is disabled. In that case the connection must be arranged that the towed and the towing vehicles are separated by not more than eight feet.

(B) Any disabled vehicle being towed from sunset to sunrise shall have a red light attached to the disabled vehicle so that it may be visible to anyone approaching the vehicle from any side of the same. The red light shall be in addition to other required lights.

(C) It is unlawful to tow any disabled vehicle in excess of ten mph, excepting new vehicles in transit.

(D) This section shall not apply to vehicles and equipment used for construction purposes nor to machinery or licensed trailers.

(E) For the purpose of division (F) below of this section, a ***WRECKER*** means a motor vehicle with an apparatus capable of lifting one or more axles of a towed vehicle off the ground for the purpose of transportation.

(F) A person who engages in the operation of towing disabled motor vehicles with a wrecker shall identify each wrecker by painting or permanently affixing identification on both of the wrecker's doors:

(1) The name of the towing service; and

(2) The name of the city where the wrecker is domiciled in a form that may easily be read by a law enforcement officer.
(1995 Code, § 10.08.200) (Ord. 0-93-0013, passed - -1993) Penalty, see § 71.999

§ 71.017 BACKING.

The driver of a vehicle shall not back the same unless the movement can be made with reasonable safety and without interfering with other traffic. (1995 Code, § 10.08.220) Penalty, see § 71.999

§ 71.018 RIDING ON MOTORCYCLES.

A person operating a motorcycle shall not ride other than upon the permanent and regular seat attached thereto or carry any other person; nor shall any other person ride upon the motorcycle other than upon a firmly attached seat to the rear or side of the operator.

(1995 Code, § 10.08.230) Penalty, see § 71.999

§ 71.019 EMERGING FROM ALLEY, PRIVATE DRIVEWAY OR BUILDING.

The driver of a vehicle emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway, yielding the right-of-way to any pedestrian as may be necessary to avoid collision and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

(1995 Code, § 10.08.240) Penalty, see § 71.999

§ 71.020 BLOCKING INTERSECTIONS OR CROSSWALKS.

(A) No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(B) When any street is blocked by trains or traffic is otherwise obstructed, no driver of any vehicle shall block an intersection in a manner as to impede the free movement of traffic on intersecting streets. (1995 Code, § 10.08.250) Penalty, see § 71.999

CROSSING BRIDGES

§ 71.035 RIGHT-OF-WAY FOR FIRE APPARATUS.

Whenever, at any alarm of fire, any fire engine, hose cart or other fire apparatus shall approach any bridge for the purpose of crossing the same toward a fire, the bridge tender shall, if the bridge is open, close the same as soon as practicable; or if closed and after the same is closed, keep it closed until the engine, hose cart or other fire apparatus shall have had an opportunity to pass over the bridge, notwithstanding vessels may thereby be delayed, under penalty of violating the provisions of this subchapter. (1995 Code, § 10.08.260) Penalty, see § 71.999

§ 71.036 ATTEMPTING TO CROSS WIDLE OPENING OR SHUTTING-DISOBEYING ORDERS OF BRIDGE TENDER.

Any person who shall drive or attempt to drive any automobile or other vehicle or animal on or across any bridge in the city while the same is opening or shutting or after the signal has begun, or shall disobey or resist the tender thereof in his or her efforts to keep and promote order and equal convenience among those crossing the bridge shall, for every offense, be deemed guilty of violating the provisions of this chapter. (1995 Code, § 10.08.270) Penalty, see § 71.999

§ 71.037 SPEED LIMIT.

No person shall operate any vehicle across any of the bridges within the city at a faster rate than 30 mph. (1995 Code, § 10.08.280) Penalty, see § 71.999

§ 71.038 OBSTRUCTING BRIDGES OR APPROACHES.

If any person shall unnecessarily or willfully remain or stop with any vehicle or animal upon any of the bridges within the city or in and upon the approaches to any bridge, the person shall be deemed guilty of violating the provisions of this chapter. (1995 Code, § 10.08.290) Penalty, see § 71.999

§ 71.039 VEHICLES TO KEEP RIGHT.

It shall be the duty of all drivers or persons in charge of any wagon, automobile or vehicle of any kind to keep to the right when crossing any bridge in the city.
(1995 Code, § 10.08.300) Penalty, see § 71.999

§ 71.040 BREAKING INTO LINE OF TRAFFIC-DISOBEYING OR RESISTING OFFICER.

No person driving or in charge of any vehicle shall cross or attempt to cross or break into the line of vehicles while crossing or attempting to cross any bridge, nor shall any person disobey or resist any officer in charge of any bridge or crossing within the city. (1995 Code, § 10.08.310) Penalty, see § 71.999

SPECIAL USES OF PUBLIC WAYS

§ 71.055 ZONES OF QUIET.

Whenever authorized signs are erected indicating a zone of quiet, no person operating a motor vehicle within any zone shall sound the horn or other warning device of the vehicle except in an emergency. (1995 Code, § 10.08.010) Penalty, see § 71.999

§ 71.056 PLAY STREETS.

(A) The Board of Public Works and Safety shall have authority to declare any street or part thereof a play street and the Chief of Police shall cause appropriate signs or devices to be placed in the roadway indicating and helping to protect the same.

(B) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any street or portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then any driver shall exercise the greatest care in driving upon any street or portion thereof. (1995 Code, § 10.08.020) Penalty, see § 71.999

COMMERCIAL AND HEAVY VEHICLES

§ 71.070 TRUCK ROUTES.

(A) The City Council may from time to time designate certain streets or portions thereof as truck routes. When the truck routes have been established, no driver of a truck shall proceed except in accordance with instructions given on the signs denoting the truck routes.

(B) A schedule of the streets is maintained in the office of the City Clerk.

(1995 Code, § 10.08.030) (Ord. 0-98-0023, passed 11-30-1998; Ord. 0-06-0037, passed 8-14-2006) Penalty, see § 71.999

§ 71.071 TRUCKS PASSING EACH OTHER.

Trucks shall not pass each other on streets or parts of street when signs prohibiting the same are posted. (1995 Code, § 10.08.120) Penalty, see § 71.999

§ 71.072 TRUCKS AND HEAVY OR SLOWER MOVING VEHICLES.

On all streets, trucks and heavy and slower moving vehicles, so far as conditions will permit, shall keep to the right and as close to the curb as possible. (1995 Code, § 10.08.210) Penalty, see § 71.999

TURNING MOVEMENTS

§ 71.085 METHOD OF TURNING AT INTERSECTIONS-GENERALLY.

The driver of a vehicle intending to turn at an intersection shall do so as follows.

(A) Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the street.

(B) Approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof. After entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.

(C) Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the center line where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the center line of the street being entered upon leaving the intersection.

(D) Where both streets or roadways are one-way, both the approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

(1995 Code, § 10.12.010) Penalty, see § 71.999

§ 71.086 DETERMINATION AND MARKING OFNO TURN INTERSECTIONS-PROHIBITION OF TURNS AT CERTAIN TIMES.

(A) The Board of Public Works and Safety is authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U turn and shall place proper signs at the intersections. The making of turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed which the turns are permitted.

(B) Whenever authorized signs are erected indicating that no right of left or U turn is permitted, no driver of a vehicle shall disobey the directions of the sign.

(1995 Code, § 10.12.020) Penalty, see § 71.999

§ 71.087 DIRECTIONAL SIGNALS, MARKERS OR OTHER INDICATIONS.

(A) The Chief of Police is authorized to cause markers, buttons or signs within or adjacent to intersections to be placed to indicate the course to be traveled by vehicles turning at intersections, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

(B) When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of the indications. (1995 Code,§ 10.12.030) Penalty, see § 71.999

§ 71.088 LIMITATIONS ON TURNING AROUND.

(A) The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless the movement can be made in safety and without interfering with other traffic.

(B) No driver shall make a U turn at any intersection where official traffic-control signs are installed and are in use. (1995 Code, § 10.12.040) Penalty, see § 71.999

SIGNS, SIGNALS AND MARKERS

§ 71.100 EXISTING SIGNS AND SIGNALS.

All traffic-control signals, signs and markings erected or installed prior to the date of adoption of this code are validated and affirmed. (1995 Code, § 10.16.010)

§ 71.101 DESIGNATION OF CROSSWALKS, SAFETY ZONES AND TRAFFIC LANES.

The Chief of Police is authorized:

(A) To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, in his or her opinion, there is particular danger to pedestrians crossing the roadway and at any other places as he or she may deem necessary;

(B) To establish safety zones of a kind and character and at places as he or she may deem necessary for the protection of pedestrians; and

(C) To mark lanes for traffic on street pavements at places as he or she may deem advisable, consistent with this chapter and the traffic ordinances of the city. (1995 Code, § 10.16.020)

§ 71.102 GENERAL AUTHORITY TO INSTALL AND MAINTAIN DEVICES.

The Chief of Police or city electrician, as the case may require, shall cause traffic-control signs, signals and devices to be placed and maintained when and as required to make effective this title and other traffic ordinances of this city; provided, that the work of placing new signals, other than mere maintenance, shall be commenced after resolution of the Board of Public Works and Safety.
(1995 Code, § 10.16.030)

§ 71.103 MANUAL AND SPECIFICATIONS.

All traffic-control signs, signals and devices shall conform to the manual and specifications approved by the State Highway Commission. All signs and signals required under this title for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of state law or this title shall be official traffic-control devices. (1995 Code, § 10.16.040)

§ 71.104 OBEDIENCE GENERALLY.

The driver of every vehicle shall obey the instructions of any official traffic-control device, sign or signal, applicable thereto, placed in accordance with the traffic regulations of this city, unless otherwise ordered by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this title. (1995 Code, § 10.16.050) Penalty, see § 71.999

§ 71.105 ENFORCEMENT-WHEN.

No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this chapter does not state that signs are required, the section shall be effective even though no signs are erected or in place. (1995 Code, § 10.16.060)

§ 71.106 TRAFFIC-CONTROL SIGNAL LEGENDS.

Whenever traffic is controlled by traffic-control signals exhibiting the words “GO”, “CAUTION” or “STOP”, or exhibiting different colored lights successively the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows.

(A) *Green alone or “GO”.*

(1) Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign at a place prohibits either turn. Vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time the signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(B) *Yellow alone or “CAUTION” when shown with or following the green or “GO” signal.*

(1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but, if the stop cannot be made in safety, the vehicle may be driven cautiously through the intersection.

(2) Pedestrians facing the signal are advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(C) *Red alone or "STOP".*

(1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at any other point as may be indicated by a clearly visible line and shall remain standing until green or "GO" is shown alone.

(2) No pedestrian facing the signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(D) *Red with green arrow.* Vehicular traffic facing the signal may cautiously enter the intersection only to make the movement indicated by the arrow, but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic.

(1995 Code, § 10.16.070) Penalty, see § 71.999

§ 71.107 SPECIAL PEDESTRIAN-CONTROL SIGNALS.

Whenever special pedestrian-control signals exhibiting the words "WALK" or "WAIT" are in place, the signals shall indicate as follows.

(A) *Walk.* Pedestrian facing the signal may proceed across the roadway in the direction of the signal and shall, be given the right-of-way by the drivers of all vehicles.

(B) *Wait.* No pedestrian shall start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing. (1995 Code, § 10.16.080) Penalty, see § 71.999

§ 71.108 FLASHING SIGNALS.

Whenever flashing red or yellow signals are used in a traffic sign or signal they shall require obedience by vehicular traffic as follows.

(A) *Flashing red (stop signal).* When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked or, if none, then before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(B) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past the signal only with caution.

(1995 Code, § 10.16.090) Penalty, see § 71.999

§ 71.109 LOCATION OF TRAFFIC-CONTROL SIGNALS GENERALLY.

The City Council may from time to time designate the location of certain traffic-control signals. A schedule of the location of these signals is on file in the City Clerk's office. (1995 Code, § 10.16.100)

§ 71.110 UNAUTHORIZED DISPLAY.

(A) No person shall place, maintain or display upon or in view of any street or highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device of any railroad sign or signal.

(B) No person shall place or maintain nor shall any public authority permit upon any street or highway any traffic sign or signal bearing thereon any commercial advertising.

(C) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(D) Every prohibited sign, signal or marking is declared to be a public nuisance and the authority having jurisdiction over the highway is empowered to remove the same or cause it to be removed without notice. (1995 Code, § 10.16.110) Penalty, see § 71.999

§ 71.111 INTERFERENCE WITH TRAFFIC-CONTROL DEVICES PROHIBITED.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, interfere with or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any part thereof. (1995 Code, § 10.16.120) Penalty, see § 71.999

OPEN ALCOHOLIC BEVERAGE CONTAINERS IN PASSENGER VEHICLES

§ 71.125 DEFINITIONS.

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

ALCOHOLIC BEVERAGE. Shall have the meaning set forth in I.C. 7.1-1-3-5.

CONTAINER. Shall have the meaning set forth in I.C. 7.1-1-3-13.

MOTOR VEHICLE. Shall have the meaning set forth in I.C. 9-13-2-105, except that ***MOTOR VEHICLE*** as used in this section shall not include recreational vehicles, as defined in I.C. 9-13-2-150 and which is designed to transport more than ten passengers including the operator or any chartered passenger vehicle licensed to operate within the state. (1995 Code,§ 9.40.010) (Ord. 3557, passed--1992)

§ 71.126 POSSESSION OR CONSUMPTION PROHIBITED.

A person who knowingly consumes an alcoholic beverage or possesses a container that has been opened; that has a broken seal; or from which some of the contents have been removed, while in a motor vehicle that is being operated or parked upon a public highway within the city limits, commits a violation of this subchapter. (1995 Code, § 9.40.020) (Ord. 3557, passed - -1992) Penalty, see § 71.999

§ 71.127 OPERATOR OR OWNER OF MOTOR VEHICLE IN VIOLATION.

(A) The operator or owner of a motor vehicle who, while the motor vehicle is in operation or parked upon a public street, knowingly keeps or allows to be kept in an area of the motor vehicle that is accessible to the operator or a passenger, a container that has been opened; that has a broken seal; or from which some of the contents have been removed, commits a violation of this subchapter.

(B) Notwithstanding the definition for motor vehicle in § 71.125, the operator of a recreational vehicle or chartered passenger vehicle who, while the motor vehicle is in operation or parked upon a public street, knowingly keeps or allows to be kept in an area of the recreational vehicle or chartered passenger vehicle that is accessible to the operator a container that has been opened; that has a broken seal; or from which some of the contents have been removed, commits a violation of this chapter.
(1995 Code, § 9.40.030) (Ord. 3557, passed - -1992) Penalty, see § 71.999

§ 71.128 SIGNS TO BE POSTED.

Signs giving notice of this prohibition of open alcoholic beverage containers shall be posted giving notice of the regulation. (1995 Code, § 9.40.040) (Ord. 3557, passed - -1992)

SPECIFIC TRAFFIC REGULATIONS

§ 71.140 STOP INTERSECTIONS.

(A) Four-way stop at 135th and Deodar Streets Park Street traffic to stop for Spruce Street traffic;

(B) Dearborn Street traffic to stop for 141st Street traffic;

(C) Grand Boulevard traffic to stop at 142nd Street for the easterly and westerly traffic;

(D) Two-way stop signs at the intersections of 136th Street and Grand Boulevard;

(E) Stop signs on Dearborn and Grace Streets for traffic traveling west to east and stop signs on Grace and Dearborn for traffic traveling north to south;

(F) 129th Street, Dickey Road and Riley Road are designated preferential streets and all traffic leaving the Marktown Subdivision is to stop prior to entering the streets and yield the right-of-way and stop signs shall be erected to evidence this. Other stop signs:

(1) Broad Street and Spruce Avenue: Broad Street to stop at Spruce Avenue and yield right-of-way;

(2) Prospect Street at Spruce Avenue: Prospect Street to stop and yield right-of-way to Spruce Avenue; and

(3) Prospect Street at Pine Avenue: Prospect Street to stop and yield right-of-way to Pine Avenue.

(G) Spring Street northeast bound and southwest bound traffic to stop and yield right-of-way at Spruce Avenue;

(H) Two-way stop for traffic at the intersection of Spring Street and Pine Avenue;

(I) Liberty Street northeast and southwest bound traffic to stop and yield right-of-way to Spruce Avenue;

(J) Northeast bound traffic on Liberty Street to stop and yield right-of-way to Oak Avenue;

(K) Southwest bound traffic on Liberty Street to stop and yield right-of-way to Pine Avenue;

(L) At the intersection of Park Street and Pine Avenue two-way stop sign;

(M) At the intersection of Park Street and Spruce Avenue three-way stop for vehicles on both streets;

(N) At the intersection of Park Street and Oak Avenue three-way stop for traffic on both streets;

(O) School Street to stop and yield right-of-way to Spruce Avenue;

(P) School Street to stop and yield right-of-way to Oak Avenue;

(Q) Grove Street to stop and yield right-of-way to Pine Avenue;

(R) Grove Street and Spruce Avenue to be a three-way stop;

(S) Grove Street to stop and yield right-of-way to Oak Avenue;

(T) Lilac Street to stop and yield right-of-way to Pine Avenue;

(U) Northeast and southwest bound traffic on Lilac Street to stop and yield right-of-way to Spruce Avenue;

(V) Lilac Street to stop and yield right-of-way to Oak Avenue;

(W) Pine Street to stop and yield right-of-way to Broad Street;

(X) Oak Street to stop and yield right-of-way to Spring Street;

(Y) Two-way stop signs at the intersections of 141st Place and Butternut Street of which 141st Place will be a through street;

(Z) 140th Street to stop for Hemlock Street; Four-way stop signs at the intersection of 138th Street and Grand Boulevard;

(AA) Guadalupe Circle East 2700 to stop for Cardinal Drive 2700;

(BB) Guadalupe Circle West 4300 to stop for Cardinal Drive West 4300;

(CC) Lane of the Roses to stop for Guadalupe Circle 2600;

(DD) Lane of the Roses to stop for Guadalupe Circle West 4365;

(EE) Four-way stop signs at the intersections of 149th Street and Walsh Avenue;

(FF) Three-way stop sign at the intersection of 151st Street and Tod Avenue, 151st Street easterly and westerly traffic to stop for Tod Avenue and southbound traffic on Tod Avenue to stop for 151st Street;

(GG) Two-way stop sign at the intersection of 140th Street and Grand Boulevard, 140th Street to stop for Grand Boulevard and Grand Boulevard to stop for 140th Street;

(HH) Four-way stop sign at the intersection of 142nd Street and Tod Avenue, 142nd to stop for Tod Avenue and Tod to stop for 142nd Street before proceeding;

(II) Four-way stop sign at the intersection of Parrish Avenue and Broadway, Parrish to stop for Broadway and Broadway to stop for Parrish;

(JJ) Three-way stop signs at the intersections of 140th Street and Drummond Street;

(KK) Three-way stop signs at the intersections of 138th Street and Pulaski Street;

(LL) Three-way stop signs at the intersections of Wegg Avenue and Beacon Street;

(MM) Three-way stop signs at the following intersections:

(1) Magoun Avenue and Columbus Drive;

(2) Baring Avenue and Columbus Drive; and

(3) Northcote Avenue and Columbus Drive.

(NN) Portable three-way stop signs at Ivy Street and 144th Street;

(OO) Portable four-way stop signs at Parrish Avenue and 144th Street;

(PP) Portable two-way stop signs at Lincoln Elementary School;

(QQ) Portable two-way stop signs at Franklin Elementary School;

(RR) Deal Street southbound to stop for 140th Street; 140th Street westbound to stop for Deal Street; 140th Street eastbound to stop for Deal Street;

(SS) Four-way stop signs, 141st Place and Butternut Streets;

(TT) One-way stop sign, 141st Place to stop for Dearborn Street;

(UU) Three-way stop sign, Cardinal Drive to stop for E. Guadalupe Circle;

(VV) Three-way stop sign for Butternut Street (also known as N. Cardinal Drive) to stop before entering Cardinal Drive;

(WW) Three-way stop sign, E. Guadalupe Circle before entering Cardinal Drive;

(XX) Three-way stop sign, 141st Place and Dearborn Street;

(YY) Three-way stop sign, at the intersection of Grace and Dearborn;

(ZZ) Two-way stop, Kosciusko and White Oak; Three-way stop signs at the intersection of Elm and Broadway;

(AAA) Four-way stop signs at the intersection of 149th Place and Gladiola Avenue and Jonquil Lane;

(BBB) At the intersection of Hawthorne and Dearborn, southbound Hawthorne, stops for Dearborn;

(CCC) At the intersection of Hawthorne and Deal, northbound Hawthorne, stops for Deal;

(DDD) At the intersection of Lombardy and Deal Street, northbound Lombardy stops for Deal Street;

(FFF) At the intersection of Lombardy and Dearborn, southbound Lombardy stops for Dearborn; Four-way stop signs at the intersection of 144th Street and Parrish Avenue;

(GGG) Three-way stop signs at the intersection of Park Street and Dickey Road;

(HHH) Three-way stop signs at the intersection of the east and west bound Guadalupe Circle and Lane of Roses;

(III) Three-way stop signs at the intersection of the north and south bound Guadalupe Circle and Lane of Roses;

(JJJ) Four-way stop signs at the intersection of 129th Street and Dickey Road;

(KKK) Three-way stop signs, Columbus Drive and Wegg Avenue;

(LLL) Two-way stop signs, Columbus Drive and Homerlee Avenue;

(MMM) Four-way stop signs at the intersection of 151st Street and McCook Avenue, intersection is two-way stop for 151st Street and one-way for McCook Avenue; however the Monarch Steel Company Plant entrance at that intersection is also to stop before entering the intersection;

(NNN) Two-way stop signs at the intersection of Oak and Grove Streets;

(OOO) Two-way stop signs at the intersection of:

(1) 150th Street to stop for Grasselli Street;

(2) 150th Street to stop for Carey Street;

(3) 150th Street to stop for Drummond Street;

(4) 150th Street to stop for Euclid Avenue;

(5) 150th Street to stop for Ivy Street; and

(6) 150th Street to stop for Parrish Avenue.

(PPP) Four-way stop signs at the intersection of 140th Street Place and Deal Street;

(QQQ) Four-way stop signs at the intersection of Butternut Street and 141st Place requiring all north, south, east, west vehicles to stop before entering the intersection;

(RRR) Three-way stop signs at the intersection of 144th Street and Ivy Street, requiring all vehicles to stop before entering the intersection;

(SSS) Three-way stop sign at the intersection of Grace and Deal Street;

(TTT) Two-way stop signs at the intersection of 140th Street and Hemlock;

(UUU) Stop signs to be placed on the northeast and the southwest corner of 144th Street and Grand Boulevard, which will then become a three-way stop intersection;

(VVV) Stop signs to be placed on the northeast corner and the southwest corner of 140th Street and Grace Street, which will then become a four-way stop intersection;

(WWW) Stop signs to be placed on the northeast corner and the southwest corner of 141st Street and Dearborn Street, which will then become a three-way stop intersection;

(XXX) Three-way stop signs at the intersection of 149th Place and McCook Avenue.

(YYY) Stop sign at the entrance of Cardinal Terrace and stop sign at the exit of Cardinal Terrace;

(ZZZ) Three-way stop sign at the intersection of Purdue Drive and Alder Street;

(AAAA) Two-way stop controlling eastbound and westbound on 151st Street at its intersection with Olcott Avenue;

(BBBB) Three-way stop at the intersection of cardinal Drive and Kenny Lofton Lane;

(CCCC) Two-way stop signs on the east and west intersection of 151st Street of Wegg Avenue;

(DDDD) Two-way stop signs on the east and west intersection of 149th Street and Wegg Avenue;

(EEEE) Two-way stop signs on the east and west intersection of 150th Street and reading Avenue;

(FFFF) Four-way stop sign controlling the intersection of Wegg and 142nd Street;

(GGGG) Three-way stop sign controlling the intersection of 150th Street and Grasselli;

(HHHH) Three-way stop sign at the intersection of Hidalgo and Litaunica;

(IIII) Two-way stop sign controlling the eastbound and westbound traffic on 136th Street at its intersection with the parking lot entrance to Lincoln School;

(JJJJ) Four-way stop signs at 140th Place and Catalpa Avenue;

(KKKK) Four-way stop signs at 139th Street and Drummond Avenue;

(LLLL) Three-way stop signs at 138th Street and Drummond Avenue controlling one-way southbound traffic; and

(MMMM) East to west two-way stop signs at 143rd Street and Wegg Avenue.

(NNNN) Stop signs to be placed on Roxana Drive (both directions) at the intersections with Reading Avenue, Homerlee Avenue, and Baring Avenue.

(1995 Code, § 10.32.010) (Ord. 3059, passed --1974; Ord. 3061, passed --1974; Ord. 3077, passed --1975; Ord. 3081, passed --1975; Ord. 3094, passed --1975; Ord. 3107, passed --1976; Ord. 3113, passed --1976; Ord. 3120, passed --1976; Ord. 3121, passed --1976; Ord. 3122, passed --1976; Ord. 3125, passed --1976; Ord. 3126, passed --1976; Ord. 3128, passed --1976; Ord. 3136, passed --1977; Ord. 3153, passed --1977; Ord. 3162, passed --1977; Ord. 3172, passed --1977; Ord. 3194, passed --1978; Ord. 3200, passed --1978; Ord. 3228, passed --1979; Ord. 3229, passed --1979; Ord. 3249, passed --1980; Ord. 3316, passed --1982; Ord. 3334, passed --1982; Ord. 3347, passed --1983; Ord. 3349, passed --1983; Ord. 3373, passed --1984; Ord. 3374, passed --1984; Ord. 3396, passed --1985; Ord. 3413, passed --1985; Ord. 3414, passed --1985; Ord. 3417, passed --1985; Ord. 3422, passed --1988; Ord. 3453, passed --1987; Ord. 3472, passed --1988; Ord. 3473, passed --1988; Ord. 3474, passed --1988; Ord. 3493, passed --1989; Ord. 3532, passed --1990; Ord. 3554, passed --1992; Ord. 3559, passed --1992; Ord. 0-93-0009, passed --1993; Ord. 0-93-0010, passed--1993; Ord. 0-93-0021, passed--1993; Ord. 0-94-0017, passed--1994; Ord. 0-96-0016, passed --1996; Ord. 0-98-0013, passed --1998; Ord. 0-98-0019, passed 10-5-1998; Ord. 0-98-0020, passed 10-5-1998; Ord. 0-98-0022, passed 11-30-1998; Ord. 0-99-0004, passed 6-15-1999; Ord. 0-99-0005, passed 6-15-1999; Ord. 0-01-0014, passed 5-30-2001; Ord. 0-02-0039, passed 11-25-2002; Ord. 04-0011, passed 5-5-2004; Ord. 0-05-0028, passed 8-22-2005; Ord. 0-06-0023, passed 6-12-2006; Ord. 0-06-0033, passed 7-10-2006; Ord. 0-07-0008, passed 4-9-2007; Ord. 0-07-0012, passed 5-29-2007; Ord. 0-10-0007, passed 6-28-2010) Penalty, see § 71.999

§ 71.141 MISCELLANEOUS TRAFFIC CONTROL SIGNS.

Cline Avenue and Pennsylvania Avenue is designated as a slow intersection and the City Traffic Engineer and the Electrical Department are to place a “SLOW FACTORY ENTRANCE AHEAD” sign with warning amber or yellow attachment for traffic on Cline A venue as it approaches the intersection.

(1995 Code, § 10.32.030) Penalty, see § 71.999

§ 71.142 ONE-WAY STREETS.

The following streets are designated one-way streets:

(A) Pine Avenue one-way northwest;

(B) Spruce Avenue one-way southeast;

(C) Oak Avenue one-way northwest;

(D) Broad Street one-way northeast;

(E) Grand Boulevard, from Michigan Avenue to 142nd Street, southbound only;

(F) 143rd Street, from Fir to Elm, westbound;

(G) The alley running north and south between Pulaski Street and Main Street, shall be one-way going north from 138th Street and then easterly to Pulaski Street, northbound;

(H) Traffic on Commonwealth Avenue is to be made one-way in a southbound direction from Michigan Avenue to Huron Court;

(I) Lincoln Street is made one-way northeast bound from Broadway to Guthrie;

(J) One-way traffic from Chicago Avenue to 151st Street as follows:

(1) Alexander Street will be a one-way northbound; and

(2) Melville Avenue will be a one-way southbound.

(K) The alley running north and south parallel with McShane Drive from Columbus Drive, to be one-way only going south;

(L) The alley running north and south in the 4500 block between Indianapolis Boulevard and Magoun Avenue to be one-way only going south;

(M) The 3500 block of Block Avenue to be changed from one-way west to one-way east;

(N) The 3500 block of Pennsylvania Avenue to be changed from one-way east to one-way west;

(O) The 4900 block of McCook Avenue one-way street; and

(P) The alley on the 49th block between McCook and Alexander one-way south.

(1995 Code, § 10.36.010) (Ord. 3107, passed --1976; Ord. 3184, passed --1978; Ord. 3207, passed --1979; Ord. 3248, passed --1980; Ord. 3264, passed --1981; Ord. 3311, passed --1982; Ord. 3360, passed --1983; Ord. 3446, passed --1986; Ord. 3456, passed --1987; Ord. 3491, passed --1989; Ord. 3506, passed --1989; Ord. 0-95-0007, passed--1995; Ord. 0-02-0038, passed --2002; Ord. 0-04-0028, passed 6-28-2004) Penalty, see § 71.999

§ 71.143 TWO-WAY STREETS.

The following streets are designated two-way streets:

(A) McCook Avenue from 151st Street to 149th Street will be a two-way street north and southbound;

(B) 140th Street is designated a two-way street from Carey Street to Hawthorne Street;

(C) Grand Boulevard is designated a two-way street from 140th Street to 144th Street;

(D) 4100 block of Ivy Street be designated a two-way street from Columbus Drive to the alley south of Columbus Drive;

(E) 135th Street is re-established as a two-way street from Michigan Avenue to Grand Boulevard;

(F) Grand Boulevard shall be re-established as a two-way street from Michigan Avenue to 140th Street;

(G) 139th Street is designated a two-way street from Euclid Avenue to Carey Street; and

(H) Magoun Avenue shall be established as a two-way street from Chicago Avenue to the public way. (1995 Code, § 10.36.020) (Ord. 3471, passed --1988; Ord. 3516, passed --1990; Ord. 3553, passed--1992; Ord. 0-93-0012, passed--1994; Ord. 0-94-0001, passed--1994; Ord. 0-95-0007, passed --1995; Ord. 0-97-0013, passed--1997) Penalty, see § 71.999

§ 71.144 SPEED LIMITS-MARKTOWN STREETS.

(A) A speed limit of ten mph is enacted for all Marktown streets, namely:

(1) Pine Avenue;

(2) Spruce Avenue;

(3) Oak Avenue;

(4) Lilac Street;

(5) Grove Street;

(6) School Street;

(7) Park Street;

(8) Liberty Street;

(9) Spring Street;

(10) Prospect Street; and

(11) Broad Street.

(B) Speed limits on 129th Street, Dickey Road and Riley Road are not affected by this section.
(1995 Code, § 10.40.010) (Ord. 3107, passed --1976; Ord. 0-03-0017, passed 3-24-2003) Penalty, see § 71.999

§ 71.145 SPEED LIMITS.

(A) The speed limit on Indianapolis Boulevard from McShane Avenue to 145th Street and from 148th Street to 151st Street shall be reduced to 35 mph during normal driving hours and that during school hours, or when school children are present, the posted speed limit shall be 20 mph.

(B) The speed limit on Main Street shall be reduced to 25 mph during normal driving hours and that during school hours, or when school children are present, at the intersection of 139th and Main Street, the posted speed limit shall be 20 mph.

(Ord. 0-03-0017, passed 3-24-2003; Ord. 0-11-0025, passed 10-11-2011) Penalty, see § 71.999

§ 71.146 SIZE AND LOAD LIMITS.

(A) *Truck operation.* No person shall operate a truck upon the following streets, except when it is necessary to cross the streets at intersections, and to load and unload the vehicles, in which case the vehicles shall not remain upon the streets for a longer time than is necessary to load or unload the contents of the vehicles:

(1) Baring Avenue from Columbus Drive to 151st Street;

(2) Fir Street from Michigan Avenue to 144th Street;

(3) Homerlee Avenue from Columbus Drive to 145th Street;

(4) Magoun Avenue from Columbus Drive to 151st Street;

(5) Northcote Avenue from Columbus Drive to 145th Street;

(6) 135th Street from Hemlock Street to Guthrie Street;

(7) 136th Street from Parrish Avenue to Guthrie Street;

(8) 148th Street from White Oak Avenue to Railroad Avenue;

(9) 149th Street from Railroad Avenue to White Oak Avenue;

(10) 150th Street from Railroad Avenue to White Oak Avenue;

(11) 151st Street from Kennedy Avenue to White Oak Avenue;

(12) Parrish Avenue south from Chicago Avenue to city limits;

(13) Ivy Street from Chicago Avenue south to city limits;

(14) 148th Street from Euclid Avenue east to city limits;

(15) Grand Boulevard from Michigan Avenue to 144th Street;

(16) Euclid Avenue from 144th Street north to Broadway;

(17) 151st Street to 148th Street on Wegg Avenue;

(18) Harrah's Boulevard; and

(19) Kennedy Avenue between 147th Street and 151st Street be designated for no through truck traffic/local delivery only. (1995 Code, § 10.44.010)

(B) *Trucks in excess of five tons.* No person shall operate any truck with a capacity in excess of five tons on Riley Road between Indianapolis Boulevard and Dickey Road except when necessary to load or unload the vehicles, in which case the vehicles shall not remain on the street for a longer time than is necessary to load or unload. (1995 Code, § 10.44.020)

(C) *Trucks in excess of one and one-half tons.* Trucks of more than one and one-half ton capacity except buses are prohibited on Columbus Drive, from Kennedy Avenue to Cline Avenue.
(1995 Code, § 10.44.030)

(D) *Passing trucks.* Trucks shall not pass each other on streets or parts of streets when signs prohibiting the same are posted. (1995 Code, § 10.44.040)

(E) *Truck use on Drummond Street.* Trucks larger than three-quarter-ton are banned from the use of Drummond Street. (1995 Code, § 10.44.060) (Ord. 3090, passed --1975; Ord. 3408, passed--1985; Ord. 0-98-0023, passed 11-30-1998; Ord. 0-00-0011, passed 5-8-2000) Penalty, see § 71.999

§ 71.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 70.999.

(B) *Open alcoholic beverage containers in passenger vehicles.* An officer of the Police Department may issue a ticket or city ordinance violation citation to a person who violates §§ 71.125 through 71.128. Conviction of the citation or ticket issued to an individual shall carry up to a $50 penalty for each offense. (1995 Code, § 9.40.050)

(C) *Stop intersections.*

(1) Violation § 71.140(WWW) shall be punished by a fine not exceeding $50 and costs.

(2) Violation § 71.140(XXX) shall be punished by a fine not exceeding $50 and costs.

(3) Violation § 71.140(CCCC) shall be punished by a fine not exceeding $50 and costs.

(4) Violation § 71.140(DDDD) shall be punished by a fine not exceeding $50 and costs.

(5) Violation § 71.140(EEEE) shall be punished by a fine not exceeding $50 and costs.
(1995 Code, § 10.32.010)

(D) *One-way streets.* Violation of § 71.142(M) and (N) shall be punished by a fine not to exceed $100 and costs. (1995 Code, § 10.36.010)

(E) *Two-way streets.* Violation of § 71.13(E), (F) and (G) shall be punishable by a fine not to exceed $250. (1995 Code, § 10.36.020)

(F) *Size and load limits.*

(1) *Generally.* Every person and/or corporation violating any provision of § 71.146, except, § 71.146(A)(17) and (E), shall, upon conviction thereof, be fined in any sum from $100 to $1,000 to which may be added imprisonment for a term of not more than 180 days.
(1995 Code, § 10.44.050)

(2) *Section 71.146(A)(17).* Violation of § 71. 146(A)(17) shall be punished by a fine not to exceed $100 and costs.

(3) *Section 71.146(E).* Violation of § 71.146(E) shall be punished by a fine not to exceed $100.

(1995 Code, § 10.44.060) (Ord. 3059, passed --1974; Ord. 3061, passed --1974; Ord. 3077, passed --1975; Ord. 3081, passed --1975; Ord. 3090, passed --1975; Ord. 3094, passed --1975; Ord. 3107, passed --1976; Ord. 3113, passed --1976; Ord. 3120, passed --1976; Ord. 3121, passed --1976; Ord. 3122, passed --1976; Ord. 3125, passed --1976; Ord. 3126, passed --1976; Ord. 3128, passed --1976; Ord. 3136, passed --1977; Ord. 3153, passed --1977; Ord. 3162, passed --1977; Ord. 3172, passed --1977; Ord. 3194, passed --1978; Ord. 3200, passed --1978; Ord. 3228, passed --1979; Ord. 3229, passed --1979; Ord. 3249, passed --1980; Ord. 3316, passed --1982; Ord. 3334, passed --1982; Ord. 3347, passed --1983; Ord. 3349, passed --1983; Ord. 3373, passed --1984; Ord. 3374, passed --1984; Ord. 3396, passed --1985; Ord. 3408, passed --1985; Ord. 3413, passed --1985; Ord. 3414, passed --1985; Ord. 3417, passed --1985; Ord. 3422, passed --1988; Ord. 3453, passed --1987; Ord. 3471, passed --1988; Ord. 3472, passed --1988; Ord. 3473, passed --1988; Ord. 3474, passed --1988; Ord. 3493, passed --1989; Ord. 3516, passed --1990; Ord. 3532, passed --1990; Ord. 3553, passed --1992; Ord. 3554, passed --1992; Ord. 3557, passed --1992; Ord. 3559, passed --1992; Ord. 0-93-0009, passed --1993; Ord. 0-93-0010, passed --1993; Ord. 0-93-0012, passed --1994; Ord. 0-93-0021, passed --1993; Ord. 0-94-0001, passed --1994; Ord. 0-94-0017, passed --1994; Ord. 0-95-0007, passed--1995; Ord. 0-96-0016, passed --1996; Ord. 0-97-0013, passed --1997; Ord. 0-98-0013, passed --1998; Ord. 0-98-0019, passed 10-5-1998; Ord. 0-98-0020, passed 10-5-1998; Ord. 0-98-0022, passed 11-30-1998; Ord. 0-98-0023, passed 11-30-1998; Ord. 0-99-0004, passed 6-15-1999; Ord. 0-99-0005, passed 6-15-1999; Ord. 0-00-0011, passed 5-8-2000; Ord. 0-01-0014, passed 5-30-2001; Ord. 0-02-0038, passed --2002; Ord. 0-02-0039, passed 11-25-2002; Ord. 0-04-0011, passed 5-5-2004; Ord. 0-04-0028, passed 6-28-2004; Ord. 0-05-0028, passed 8-22-2005; Ord. 0-06-0023, passed 6-12-2006; Ord. 0-06-0033, passed 7-10-2006; Ord. 0-07-0008, passed 4-9-2007; Ord. 0-07-0012, passed 5-29-2007)

CHAPTER 72: PARKING REGULATIONS

Section

General Provisions

72.001 Places where stopping, standing and parking prohibited
72.002 On parkways or private property
72.003 Near hazardous or congested places generally

Stopping

72.015 Designation of stop intersections
72.016 Hazardous intersections
72.017 At intersection of through street
72.018 Stop sign visibility and location at intersection
72.019 Obedience to stop signs

Unattended Vehicles

72.030 Duties of driver
72.031 Authority of police
72.032 Owner responsibility

Standing and Parking

72.045 Applicability of subchapter
72.046 Standing or parking for certain purposes prohibited
72.047 Manner of parking
72.048 Erection of signs prerequisite to enforcement
72.049 Responsibility of owner of vehicle for violation
72.050 Prohibited or restricted parking areas
72.051 While streets being swept
72.052 On narrow streets
72.053 On one-way streets-generally
72.054 On dual highways
72.055 Adjacent to schools
72.056 Obstructing traffic
72.057 Recreational vehicles, campers and trailers
72.058 Municipal parking lots
72.059 Parking places for city officials and employees at City Hall
72.060 Temporary parking ban for designated snow route streets
72.061 During snow removal
72.062 Lights on parked vehicles
72.063 Alley parking and speed limits

Bus and Taxicab Stands-Loading Zones

72.075 Location of loading zones-generally
72.076 Use of passenger curb loading zones-generally
72.077 Use of freight curb loading zones

72.078 Far side bus stops and taxicab stands
72.079 Use of bus stop or taxicab stand by vehicles other than buses or taxicabs
72.080 Parking or stopping buses or taxicabs
72.081 Manner of loading and unloading buses
72.082 Permits for curb loading zones-generally
72.083 Permits for curb loading zones-application-revocation

Specific Parking Regulations

72.095 No parking signs
72.096 Fifteen minute parking
72.097 One-hour parking
72.098 Two-hour parking
72.099 Angle parking
72.100 Truck parking
72.101 Residential and no parking zones
72.102 Handicapped persons parking spaces
72.103 No parking allowed
72.104 Restricted parking-certain times, certain places

72.999 Penalty

GENERAL PROVISIONS

§ 72.001 PLACES WHERE STOPPING, STANDING AND PARKING PROHIBITED.

(A) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within 15 feet of a fire hydrant;

(5) On a crosswalk;

(6) Within 20 feet of a crosswalk at an intersection;

(7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

(8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority indicates a different length by signs or markings;

(9) Within 50 feet of the nearest rail of a railroad crossing;

(10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance, when properly signposted;

(11) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(14) At any place where official signs prohibit stopping and parking. The City Traffic Engineer and/or the Chief of Police of the city are empowered to designate the places where stopping or parking is prohibited; or

(15) In any alley.

(B) No person shall move a vehicle not owned by the person into any prohibited area or away from a curb the distance as is unlawful.

(1995 Code, § 10.20.010) (Ord. 3144, passed - -1977) Penalty, see § 72.999

§ 72.002 ON PARKWAYS OR PRIVATE PROPERTY.

(A) No person shall stop, stand or park a vehicle upon or within any parkway unless expressly permitted by special resolution of the Board of Public Works and Safety and where the parkway, on which parking is permitted, is clearly marked therefor by official signs.

(B) No person shall stop, stand or park a vehicle or any part thereof on any private property without the express permission of the owner or person in charge.

(1995 Code, § 10.20.020) Penalty, see § 72.999

§ 72.003 NEAR HAZARDOUS OR CONGESTED PLACES GENERALLY.

(A) The Chief of Police is authorized to determine and designate by proper signs not exceeding 100 feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(B) When official signs are erected at hazardous or congested places as authorized in division (A) above of this section, no person shall stop, stand or park a vehicle in any designated place.

(1995 Code, § 10.20.060) Penalty, see § 72.999

STOPPING

§ 72.015 DESIGNATION OF STOP INTERSECTIONS.

The City Council may from time to time designate certain intersections as stop intersections. A schedule of these intersections is maintained in the City Clerk's office. (1995 Code, § 10.20.070)

§ 72.016 HAZARDOUS INTERSECTIONS.

The Chief of Police is authorized to determine and designate intersections where particular hazard exists, upon other than through streets, and to recommend whether vehicles shall stop at one or more entrances to any stop intersection. At every place where a stop is required by this subchapter, the Chief shall cause a stop sign to be erected. When a stop sign is erected pursuant to this subchapter, automobiles and vehicles shall comply by stopping. (1995 Code, § 10.20.080) Penalty, see § 72.999

§ 72.017 AT INTERSECTION OF THROUGH STREET.

Whenever this code or any ordinance of this city designates and describes a through street, it shall be the duty of the Chief of Police to cause a stop sign to be placed and maintained on each and every street intersecting the through street or intersecting that portion thereof described and designated as such.

(1995 Code, § 10.20.090) Penalty, see § 72.999

§ 72.018 STOP SIGN VISIBILITY AND LOCATION AT INTERSECTION.

Every stop sign erected pursuant to this subchapter shall bear the word “Stop” in letters not less than six inches in height. The sign shall at nighttime be rendered luminous by steady or flashing internal illumination or by a fixed floodlight projected on the face of the sign or by efficient reflecting elements on the face of the sign. Every stop sign shall be located as near as practicable at the nearest line of the crosswalk on the near side of the intersection or, if none, at the nearest line of the roadway.

(1995 Code, § 10.20.100) Penalty, see § 72.999

§ 72.019 OBEDIENCE TO STOP SIGNS.

When stop signs are erected as provided in this subchapter at or near the entrance to any intersection, every driver of a vehicle shall stop the vehicle at the sign or at a clearly marked stop line before entering the intersection, except when directed to proceed by a police officer or traffic-control signal. (1995 Code, § 10.20.110) Penalty, see § 72.999

UNATTENDED VEHICLES

§ 72.030 DUTIES OF DRIVER.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the ignition key from the vehicle, effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway. (1995 Code, § 10.20.030) Penalty, see § 72.999

§ 72.031 AUTHORITY OF POLICE.

Whenever any police officer shall find a motor vehicle standing unattended with the ignition key in the vehicle, in violation of § 72.030, the police officer is authorized to remove the key from the vehicle and to deliver the key to his or her commanding officer. (1995 Code, § 10.20.040)

§ 72.032 OWNER RESPONSIBILITY.

The registered owner of a vehicle found in violation of § 72.030 shall be held prima facie responsible for any violation. (1995 Code, § 10.20.050) Penalty, see § 72.999

STANDING AND PARKING

§ 72.045 APPLICABILITY OF SUBCHAPTER.

The provisions of this subchapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times specified or indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device. (1995 Code, § 10.20.120)

§ 72.046 STANDING OR PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall stand or park a vehicle upon any roadway or parkway for the principal purpose of:

(A) Displaying it for sale;

(B) Greasing or changing oil;

(C) Repairing or installing devices on the vehicle, except repairs necessitated by an emergency;

(D) Selling merchandise therefrom; or

(E) Polishing, cleaning or washing any vehicle in any park or on any streets abutting any park. (1995 Code, § 10.20.130) Penalty, see § 72.999

§ 72.047 MANNER OF PARKING.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 12 inches of the curb or edge of the roadway except as follows:

(A) Upon those streets or parts of streets which the Board of Public Works and Safety has resolved to permit angle parking and upon which the Chief of Police has caused marks or signs indicating angle parking, vehicles shall be parked at the angle to the curb indicated by the marks or signs;

(B) Upon those streets which have been marked or signed for parking in the center of the street; or

(C) In places where and the hours when stopping for the loading or unloading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or materials may back into the curb to take on or discharge loads when the owner of the vehicle holds a special permit issued by the Traffic Bureau granting him or her the privilege, and the permits shall be either in the possession of the driver or on the vehicle at the time the vehicle is backed against the curb to take on or discharge a load. It is unlawful for any owner or driver to violate any of the special terms or conditions of the permit.

(1995 Code, § 10.20.140) Penalty, see § 72.999

§ 72.048 ERECTION OF SIGNS PREREQUISITE TO ENFORCEMENT.

Whenever in this chapter or other ordinance of the city, any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the Chief of Police to cause appropriate signs giving notice thereof to be erected and maintained, and no regulations shall be effective unless the signs are erected and in place at the time of any alleged offense. (1995 Code, § 10.20.150)

§ 72.049 RESPONSIBILITY OF OWNER OF VEHICLE FOR VIOLATION.

No person shall allow, permit or suffer any vehicle registered in his or her name to stand or park in any street in this city in violation of any of the provisions of this chapter regulating the standing or parking of vehicles. (1995 Code, § 10.20.160) Penalty, see § 72.999

§ 72.050 PROHIBITED OR RESTRICTED PARKING AREAS.

The City Council may, from time to time, designate certain blocks or portions of blocks as areas where parking is prohibited or restricted as to time. Schedules of these areas are on file in the City Clerk's office. When signs are erected indicating the areas, no vehicle shall stand or be parked in violation thereof. (1995 Code, § 10.20.170) (Ord. 0-02-0029, passed 9-9-2002)

§ 72.051 WHILE STREETS BEING SWEPT.

(A) The Director of Maintenance Services Department is given the power to post temporary signs reading "No Parking -Street Sweeping" along any street which he or she intends to sweep within the succeeding 24 hours. The Director of Maintenance Services Department shall post every street that he or she intends to sweep with the signs prior to 4:00 p.m. of the preceding day.

(B) No person shall park any vehicle on any street which has been posted by the Director of Maintenance Services Department "No Parking Street Sweeping", and any vehicle which is parked at the time of posting signs or is parked after posting signs, but prior to time for sweeping, shall be removed before 7:00 a.m. of the day the street is to be swept. Any vehicle which is illegally parked after 7:00 a.m. of the day the street is to be swept may be towed away in the manner provided in §§ 70.085 through 70.086. (1995 Code, § 10.20.180)

§ 72.052 ON NARROW STREETS.

(A) The Chief of Police is authorized to cause the erection of signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet or upon one side of a street as indicated by signs when the width of the roadway does not exceed 30 feet.

(B) When official signs prohibiting parking are erected upon narrow streets as authorized as authorized in division (A) above of this section, no person shall park a vehicle upon any street in violation of any sign. (1995 Code, § 10.20.190) Penalty, see § 72.999

§ 72.053 ON ONE-WAY STREETS GENERALLY.

(A) The Chief of Police is authorized to cause the erection of signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles.

(B) When the signs are in place, no person shall stand or park a vehicle upon the left-hand side in violation of any sign. (1995 Code, § 10.20.200) Penalty, see § 72.999

§ 72.054 ON DUAL HIGHWAYS.

In the event a highway includes two or more separate roadways and traffic is restricted to one direction upon any roadway, no person shall stand or park a vehicle upon the left-hand side of a one-way roadway unless signs are erected to permit standing or parking. The Traffic Bureau is authorized to determine when standing or parking may be permitted upon the left-hand side of any one-way roadway and to erect signs giving notice thereof. (1995 Code, § 10.20.210) Penalty, see § 72.999

§ 72.055 ADJACENT TO SCHOOLS.

(A) The Traffic Bureau is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when parking would, in the opinion of the Chief of Police, interfere with traffic or create a hazardous situation.

(B) When official signs are erected indicating no parking upon that side of any street adjacent to any school property, no person shall park a vehicle in any designated place.
(1995 Code, § 10.20.220) Penalty, see § 72.999

§ 72.056 OBSTRUCTING TRAFFIC.

No person shall park any vehicle upon a street, other than an alley, in a manner or under conditions as to leave available less than 15 feet of the width of the roadway for free movement of vehicular traffic. (1995 Code, § 10.20.230) Penalty, see § 72.999

§ 72.057 RECREATIONAL VEHICLES, CAMPERS AND TRAILERS.

(A) It is unlawful within the limits of the city for any person to park any trailer, automobile trailer, trailer coach, camper, house car or boat trailer, on any street, alley, within the city, except as provided in this chapter.

(B) Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than one 24-hour period subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or provisions of this code for that street, alley or highway.
(1995 Code, § 10.20.240) (Ord. 3092, passed - -1975) Penalty, see § 72.999

§ 72.058 MUNICIPAL PARKING LOTS.

Municipal parking lots shall be operated and maintained by the Board of Public Works and Safety for the city.
The following regulations shall govern the off-street parking lot on Fir Street:

(A) From 2:00 a.m. to 8:00 a.m. of every day of the week, no person shall park his or her motor vehicle or permit his or her motor vehicle to be parked or to be in a municipal parking space;

(B) No person shall park his or her truck, tractor or trailer or permit any of vehicles to be parked or be in a municipal parking space at any time;

(C) No person shall use a municipal parking space for any purpose other than the parking of passenger motor vehicles; provided, that this provision shall not prohibit emergency repairs;

(D) No person shall tamper with the motor vehicle of any other person while it is lawfully parked in any municipal parking space without express permission of the owner; and

(E) If individual spaces are designated in a municipal parking space, no person shall park in any place other than in a designated parking space. (1995 Code, § 10.20.250) Penalty, see § 72.999

§ 72.059 PARKING PLACES FOR CITY OFFICIALS AND EMPLOYEES AT CITY HALL.

The Board of Public Works and Safety shall cause to be marked and designated places sufficient for the parking of city motor vehicles and motor vehicles of city officials and employees around and about the City Hall. These places shall be plainly marked and signed, and when so done it is unlawful for any other than the designated persons to park any motor vehicle in any marked or designated place.
(1995 Code, § 10.20.260) Penalty, see § 72.999

§ 72.060 TEMPORARY PARKING BAN FOR DESIGNATED SNOW ROUTE STREETS.

(A) Following snowfall resulting in an accumulation exceeding two inches, there shall be a temporary parking ban on streets designated below as the snow route in effect between the hours of 6:00 a.m. and 8:00 a.m. Streets designated below as snow routes shall have appropriate signage posted at suitable intervals.

(B) Cars parked in violation of the temporary parking ban shall be ticketed and towed at the owner's expense.

(C) Vehicles violating this provision shall be subject to a fine not to exceed the sum of $500.

(D) The following streets are designated as the city's snow route:

(1) Broadway St. (both sides) from Guthrie to Indiana Harbor Drive; and

(2) The 3500, 3600, 3700, and 3800 blocks (both sides) of Main Street.
(1995 Code, § 10.20.270) (Ord. 0-08-0032, passed 12-8-2008) Penalty, see § 72.999

§ 72.061 DURING SNOW REMOVAL.

(A) The Director of Maintenance Services Department is given the power to post temporary signs reading "No Parking -Snow Removal" along any street which he or she intends to remove snow from within the succeeding 24 hours. The Director of Maintenance Services Department shall post every street that he or she intends to remove snow from with the signs prior to 4:00 p.m. of the preceding day.

(B) No person shall park any vehicle on any street which has been posted by the Director of Maintenance Services Department "No Parking Snow Removal", and any vehicle which is parked at the time of posting signs or is parked after posting, but prior to time for snow removal, shall be removed before 7:00 a.m. of the day the street is to be cleared of snow.

(C) Any vehicle which is illegally parked after 7:00 a.m. of the day the street is to be cleared of snow may be towed away in the manner provided in §§ 70.085 through 70.086.
(1995 Code, § 10.20.280) Penalty, see § 72.999

§ 72.062 LIGHTS ON PARKED VEHICLES.

Whenever a vehicle is lawfully parked at nighttime upon any street within a business or residence district no lights need be displayed upon the parked vehicle, where there is sufficient light.
(1995 Code, § 10.20.290)

§ 72.063 ALLEY PARKING AND SPEED LIMITS.

(A) No person shall park a vehicle within an alley except temporarily for the purpose of loading or unloading and then only in a manner or under conditions as to leave available not less than ten feet of the width of the roadway for the free movement of vehicular traffic and no person shall stop, stand or park a vehicle within an alley in a position as to block the driveway entrance to any abutting property.

(B) Speed limit in all alleys in the city shall be five mph.

(C) Vehicles illegally parked in alley shall be subject to being towed away and the cost of the towing, and any storage borne by owner of the vehicle.
(1995 Code, § 10.20.300) (Ord. 3481, passed - -1988) Penalty, see § 72.999

BUS AND TAXICAB STANDS-LOADING ZONES

§ 72.075 LOCATION OF LOADING ZONES-GENERALLY.

The Board of Public Works and Safety is authorized to determine the location of passenger and freight curb loading zones and the Chief of Police shall cause appropriate signs to be placed and maintained indicating the same and stating the hours during which the provisions of this section are applicable. All loading zones shall be for passengers unless otherwise marked. (1995 Code, § 10.20.310)

§ 72.076 USE OF PASSENGER CURB LOADING ZONES-GENERALLY.

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to curb loading zone are effective, and then only for a period not to exceed three minutes. (1995 Code, § 10.20.320) Penalty, see § 72.999

§ 72.077 USE OF FREIGHT CURB LOADING ZONES.

No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to the zones are in effect. In no case, without special written permit, shall the stop for loading and unloading of materials exceed 30 minutes.
(1995 Code, § 10.20.330) Penalty, see § 72.999

§ 72.078 FAR SIDE BUS STOPS AND TAXICAB STANDS.

The Board of Public Works and Safety is authorized to establish far side bus stops and taxicab stands for lawful passenger or common-carrier motor vehicles on public streets, in places and in a number

as it shall determine to be of the greatest benefit and convenience to the public. Every bus stop, taxicab stand or other stand shall be designated by appropriate signs. (1995 Code, § 10.20.340)

§ 72.079 USE OF BUS STOP OR TAXICAB STAND BY VEHICLES OTHER THAN BUSES OR TAXICABS.

No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any stop or stand has been officially designated and appropriately signed; except, that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when the stopping does not unduly interfere with any bus or taxicab waiting to enter or about to enter the zone. (1995 Code, § 10.20.350) Penalty, see § 72.999

§ 72.080 PARKING OR STOPPING BUSES OR TAXICABS.

The driver of a bus or taxicab shall not park upon any street in any business district at any place other than at a bus stop or taxicab stand, respectively; except, that this provision shall not prevent the driver of any taxicab, when hired, from waiting for his or her passenger, nor the driver of any vehicle or bus from temporarily stopping in accordance with other stopping or parking regulations at any place, for the purpose of and while actually engaged in loading or unloading passengers.
(1995 Code, § 10.20.360) Penalty, see § 72.999

§ 72.081 MANNER OF LOADING AND UNLOADING BUSES.

No bus shall load or unload any passenger until the bus is parallel to the curb and not more than one foot distance therefrom. If there is no curb, then the loading and unloading shall be done in a manner as to cause no obstruction to the regular flow of traffic. (1995 Code, § 10.20.370) Penalty, see § 72.999

§ 72.082 PERMITS FOR CURB LOADING ZONES-GENERALLY.

The Traffic Bureau is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of the permit. The permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to the person the privileges as therein stated and authorized therein and it shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any permit. (1995 Code, § 10.20.380) Penalty, see § 72.999

§ 72.083 PERMITS FOR CURB LOADING ZONES-APPLICATION-REVOCATION.

The Chief of Police shall not designate or sign any curb loading zone upon special request of any person unless the person shall make application for a permit. Every permit shall be revocable at the discretion of the Board of Public Works and Safety. (1995 Code, § 10.20.390)

SPECIFIC PARKING REGULATIONS

§ 72.095 NO PARKING SIGNS.

No parking on the north side of 139th Street from Pulaski Street to Main Street.
(1995 Code, § 10.32.020) (Ord. 3113, passed - -1976) Penalty, see § 72.999

§ 72.096 FIFTEEN MINUTE PARKING.

(A) Parking is restricted in the 700 block of Exchange Avenue on the north side from its intersection with Indianapolis Boulevard to the public alley east thereof, and on the south side of Exchange Avenue from its intersection with Indianapolis Boulevard east to the private parking lot adjacent to the First National Bank.

(B) Fifteen minute parking shall be established on the north side of the 800 block of Chicago Avenue between Indianapolis Boulevard and Magoun Avenue. Fifteen minute parking is established on the east and west sides of the 4600 block of Magoun Avenue between Chicago Avenue on the south and the B&O CT Railroad Tracks on the north.

(C) Fifteen minute parking is established in front of 4708 Indianapolis Boulevard. This division is in full force and effect between the hours of 8:00 a.m. and 6:00p.m. daily except Sunday.

(D) Fifteen minute parking is established on the southeast corner of 150th and Wegg Avenue south to the alley, and in front of 1219 W. 150th Street.

(1995 Code, § 10.20.400) (Ord. 3406, passed --1985; Ord. 3510, passed--1989; Ord. 0-93-0004, passed --1993; Ord. 0-93-0005, passed --1993) Penalty, see § 72.999

§ 72.097 ONE-HOUR PARKING.

(A) The west side of Fir Street in the 136th block between Broadway and the alley immediately north of Broadway;

(B) North side of Riga Place;

(C) 144th Street from Railroad Avenue to Tod Avenue on both sides of the street;

(D) Tod Avenue from 144th Street to Johnson Street on both sides of the street;

(E) Parking in the 5600 Block of Wegg Avenue, both sides of the street, between Carroll and Shell Streets are restricted to one-hour parking. Parking for residents is unrestricted;

(F) Alder Street from 139th Street, on both sides east and west, and from 140th Street to the alley south one hour parking on both sides east and west, between the hours of 8:00 a.m. and 4:30 p.m. daily except Sunday. Resident parking is not prohibited, provided residents have a resident sticker; and

G) One hour parking on 141st (cul-de-sac) between the hours of 8:00 a.m. and 4:30 p.m. daily except Sunday. Resident parking is not prohibited, provided residents have a resident sticker.

(1995 Code, § 10.20.410) (Ord. 3145, passed --1977; Ord. 3148, passed --1977; Ord. 3449, passed--1987; Ord. 3552, passed--1992) Penalty, see § 72.999

§ 72.098 TWO-HOUR PARKING.

(A) Parking time limited to two hours on the 139th block of Grand Boulevard on both sides;

(B) Parking time limited to two hours on the 139th block of Hemlock Street on both sides;

(C) Parking time limited to two hours on 141st Street between Deal and Grace on both sides; and

(D) Parking in the 2300 block of E. 141st Street, on the south side of the street, is restricted to two hour parking between 8:00 a.m. to 4:00 p.m. Monday through Friday. (1995 Code, § 10.20.420) (Ord. 3119, passed --1976; Ord. 3164, passed --1977; Ord. 3469, passed--1988) Penalty, see § 72.999

§ 72.099 ANGLE PARKING.

(A) On the west side of Fir Street in the 136th block between Broadway and the alley immediately north of Broadway;

(B) On the west side of Fir Street in the 3700 block between Broadway and the alley immediately south of Broadway;

(C) On the east side of Magoun Avenue from 144th Street south to the alley immediately south of 144th Street;

(D) There shall not be any angle parking on Grand Boulevard between Michigan Avenue and Columbus Drive; and

(E) Both sides of the 4000 block of Fir Street between Columbus Drive and the alley immediately north of Columbus Drive.

(1995 Code, § 10.20.430) (Ord. 3145, passed --1977; Ord. 3152, passed --1977; Ord. 3369, passed--1984; Ord. 0-94-0001, passed--1994; Ord. 0-06-0013, passed 3-27-2006) Penalty, see § 72.999

§ 72.100 TRUCK PARKING.

(A) There will be no truck parking on the northwesterly side of Riley Road between Dickey Road and Cline Avenue. This section is in full force and effect seven days a week at all hours of the day.

(B) There will be no truck parking on the south side only of Garfield Street. (1995 Code, § 10.20.440) (Ord. 3515, passed --1990: Ord. 0-02-0027, passed 9-9-2002) Penalty, see § 72.999

§ 72.101 RESIDENTIAL AND NO PARKING ZONES.

The City Clerk's office shall issue residential parking stickers upon resident's proof of residency; the stickers shall be applied to the windshield in the upper center near the rearview mirror. Residential and no parking zones are as follows:

(A) North side of Columbus Drive from Indianapolis Boulevard to Walsh Avenue, no parking from 7:00 a.m. to 4:00 p.m. except Saturday and Sunday;

(B) Parking on the south side of Columbus Drive from Indianapolis Boulevard to Walsh Avenue shall be for residents only;

(C) Parking in the 4100 block of Fir Street on both sides of the street, from the south alley to Columbus Drive is restricted to residential parking;

(D) Parking on the east side of Parrish Avenue from 3801 to and including 3847 shall be for residents only, both sides;

(E) Resident parking only on the west side of Parrish Avenue in the 142nd and 143rd block;

(F) Resident parking on the north and south side of the 1000 east block of 138th Place;

(G) Residential parking only on south side of Cardinal Drive from Guadalupe Circle East and Guadalupe Circle West;

(H) Parking on Columbus Drive between Northcote and Homerlee Avenues, on both sides of the streets, is restricted to one hour parking between 7:00 a.m. and 4:00p.m. Monday through Friday;

(I) Parking on Northcote and Homerlee Avenues, on both sides of the street, in the blocks between Columbus Drive and 142nd Street are restricted to one-hour parking between the hours of 7:00 a.m. and 4:00 p.m. Monday through Friday. Parking for residents of those two blocks is unrestricted;

(J) Residential parking only on the 4800 block of Olcott Avenue on both sides of the street;

(K) Resident parking only on the east side of Private Street and parking is prohibited on the west side of Private Street from Chicago Avenue to the south alley;

(L) Resident parking on the north and south side of Vernon Avenue from Private Street to McCook;

(M) Restricted parking area. Residential parking 142nd and 143rd block of Elm Street. Resident parking only; however, motor vehicles making deliveries are free to deliver or service personnel and visitors to residence;

(N) Resident parking only on the 3700 block of Parrish Avenue;

(O) Resident parking only on the north side of the 600 block of East 139th Street;

(P) Resident parking only on the north side of 139th Street, from Alexander Avenue to McCook Avenue;

(Q) Resident parking only is as follows:

(1) 149th Street, on the north side of the street, from Walsh Avenue to Wegg Avenue;

(2) 149th Street, on the south side of the street, from Walsh Avenue east to the alley;

(3) 149th Street, on the south side of the street, from Reading Avenue east approximately 70 feet;

(4) Reading Avenue, on the west side of the street, from 4908 Reading Avenue to 150th Street; and

(5) 37th Block of Grand Boulevard between Broadway and 138th Street.

(R) Two hundred and ten feet on the west side of the 4300 block of Elm Street, adjacent to the St. Catherine Hospital Emergency Room, as a no parking zone in the city;

(S) The south side of the 500 and 600 blocks of 140th Street; and

(T) Residential parking only on the east side and west side of the 4700 block of Ivy Street.

(U) Residential parking only on the west side of the 4800 block of Magoun Avenue.

(1995 Code, § 10.20.450) (Ord. 3439, passed --1986; Ord. 3452, passed --1987; Ord. 3457, passed --1987; Ord. 3505, passed --1989; Ord. 3514, passed --1990; Ord. 3522, passed --1990; Ord. 3526, passed --1990; Ord. 3555, passed --1992; Ord. 0-94-0018, passed --1994; Ord. 0-98-0003, passed --1997; Ord. 0-98-0004, passed --1998; Ord. 0-00-0001, passed 2-18-2000; Ord. 0-02-0029, passed 9-9-2002; Ord. 0-03-0027, passed --2003; Ord. 0-05-0024, passed 8-8-2005; Ord. 0-07-0014, passed 8-27-2007; Ord. 0-10-0015, passed 10-12-2010; Ord. 0-11-0018, passed 9-12-2011) Penalty, see § 72.999

§ 72.102 HANDICAPPED PERSONS PARKING SPACES.

A parking space adjacent to 814 W. Chicago Avenue is reserved for the use of physically handicapped persons. (1995 Code, § 10.20.460) (Ord. 3265, passed - -1981) Penalty, see § 72.999

§ 72.103 NO PARKING ALLOWED.

(A) Parking is prohibited on the east side of Parrish Avenue from Columbus Drive to 140th Street (in front of the former site of Washington High School);

(B) South side of Riga Place;

(C) 145th Street from Tod Avenue to Railroad Avenue on the south side only;

(D) Parking is prohibited on both the east and west sides of Baring Avenue from Chicago Avenue north to the alley located between Lewis Place and Chicago Avenue;

(E) Watling Street from Callahan Street to Block Avenue;

(F) Block Avenue from Michigan Avenue to Inland Steel Plant #1 Gate on both sides of the street; Parking prohibited on Railroad Avenue from 151st Street to 152nd Street;

(G) Parking is prohibited in the 2400 block of 141st Street, between Alder and Butternut Street, on the south side of the street only;

(H) Parking is prohibited on 151st Street from Indianapolis Boulevard west to its intersection with Magoun Avenue on both sides of the street;

(I) Parking is prohibited on the north and south side of 139th Street, east of the alley, between Hemlock Street and Grand Boulevard;

(J) Parking is prohibited on the east side of Elm Street between Columbus Drive and 75 feet south of Indiana Street and on the west side of Elm Street from Columbus Drive south to the alley; and

(K) Parking is prohibited on the east side of Grand Boulevard from Michigan Avenue south to the alley. (1995 Code, § 10.20.470) (Ord. 3062, passed --1974; Ord. 3148, passed --1977; Ord. 3212, passed - -1979; Ord. 3268, passed --1981; Ord. 3270, passed --1981; Ord. 3284, passed --1981; Ord. 3407, passed --1985; Ord. 3424, passed --1986; Ord. 3558, passed--1992; Ord. 0-93-0020, passed --1993; Ord. 0-93-0024, passed --1993) Penalty, see § 72.999

§ 72.104 RESTRICTED PARKING-CERTAIN TIMES, CERTAIN PLACES.

(A) 145th Street, from Indianapolis Boulevard to Tod Avenue, on the south side only, parking is prohibited at all times Monday through Friday;

(B) Parking is prohibited between the hours of 2:00 a.m. and 6:00 a.m. Monday through Friday on Indianapolis Boulevard south from 145th Street to 148th Street;

(C) Parking is prohibited between the hours of 2:00 a.m. and 6:00 a.m. Monday through Friday on Chicago Avenue east from Railroad Avenue to Baring Avenue;

(D) Parking on 140th Street from Main Street to Deodar Street shall be reserved for those attending church services on Sundays from 8:00a.m. until 2:00 p.m. All other parking on the street shall be prohibited during the aforementioned times;

(E) Parking is limited between the hours of 6:00 a.m. and 6:00 p.m. on Monday through Saturday to two consecutive hours, on both the east and west sides of Indianapolis Boulevard between 145th Street and 148th Street;

(F) Parking is limited, between the hours of 6:00 a.m. and 6:00 p.m. Monday through Saturday, to two consecutive hours on both the north and south side of Chicago Avenue between Railroad Avenue and Baring Avenue;

(G) The City Council designates as a no parking zone the 4200 block and the 4300 block of the east side of Parrish Avenue between the hours of 10:00 p.m. and 6:00 a.m.;

(H) The following areas are designated as restricted parking areas wherein only school buses may park from the hours of 7:00 a.m. to 4:30 p.m. Monday through Friday on all school days:

(1) South side of 140th Street from its intersection with Alexander Avenue to a point 50 feet west of the intersection;

(2) West side of Alexander Avenue from its intersection with 140th Street to a point 50 feet south of the intersection.

(I) Parking is prohibited in the 3600 and 3700 blocks of Main Street between the hours of 9:00 p.m. and 6:00 a.m.;

(J) Certain areas in the Main Street Mall have been designated for parking and parking is restricted to those areas only and for a time period no longer than one hour. There will be no parking in the Main Street Mall between the hours of 9:00 p.m. and 6:00 a.m.;

(K) Parking is prohibited on the south side of Columbus Drive between Homerlee and Wegg Avenues between the hours of 7:00 a.m. and 4:00 p.m. except on Saturday and Sunday;

(L) Parking, except where otherwise prohibited by law, on the east side of the 4200 block of Alder Street between Jeorse Circle and Cardinal Drive is restricted to 15 minute parking between 7:30 a.m. to 4:30p.m. Monday through Friday;

(M) Residential parking in the 4000 block of Alder Street, on the west side only, from the alley to 140th Street; and

(N) Parking is prohibited in the West Calumet Complex on the streets of 150th Street from Gladiola to Aster, 151st from Gladiola to Aster, Aster Street, Gladiola Street, Larkspur Street, Jonquil Street and Magnolia Street from 12:00 a.m. (midnight) to 9:00 a.m.

(1995 Code, § 10.20.480) (Ord. 3212, passed --1979; Ord. 3238, passed --1979; Ord. 3243, passed --1979; Ord. 3250, passed --1980; Ord. 3252, passed --1980; Ord. 3386, passed --1984; Ord. 3398, passed --1985; Ord. 3440, passed --1986; Ord. 3451, passed --1987; Ord. 3507, passed--1989; Ord. 0-92-0008, passed--1992; Ord. 0-99-0019, passed 10-25-1999) Penalty, see § 72.999

§ 72.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 70.999.

(B) *Alley parking and speed limits.* Vehicles violating the provisions of § 72.063 shall be subject to a fine of up to $100 plus costs. (1995 Code, § 10.20.300)

(C) *Fifteen minute parking.*

(1) Violation of § 72.096(C) shall be punishable by a fine not to exceed $50.

(2) Violation of § 72.096(D) shall be punishable by a fine not to exceed $50. (1995 Code, § 10.20.400)

(D) *Angle parking.* Violation of § 72.099(D) shall be punishable by a fine not to exceed $250. (1995 Code, § 10.20.430)

(E) *Truck parking.* Violation of § 72.100(B) shall be punishable by a fine not to exceed $50. (1995 Code, § 10.20.440)

(F) Residential and no parking zones.

(1) Violation of § 72.101(M) shall be punished by a fine not to exceed $100 and costs. (1995 Code, § 10.20.450)

(2) Violation of § 72.101(T) shall be punished by a fine not to exceed $100 and costs.

(G) No parking allowed.

(1) Violation of § 72.103(J) shall be punished by a fine not exceeding $50 and costs. Vehicles will be towed at owners expense

(2) Violation of § 72.103(K) shall be punished by a fine not exceeding $50 and costs. Vehicles will be towed at owners expense. (1995 Code, § 10.20.470)

(H) Restricted parking-certain times, certain places.

(1) Violation of § 72.104(M) shall be punished by a fine not to exceed $100 and costs.

(2) Violation of § 72.104(N) shall be punished by a fine exceeding $100 and court costs. Vehicles will be towed at owner's expense. (1995 Code, § 10.20.480) (Ord. 3062, passed --1974;

Ord. 3145, passed --1977; Ord. 3148, passed --1977; Ord. 3152, passed --1977; Ord. 3212, passed --1979; Ord. 3238, passed --1979; Ord. 3243, passed --1979; Ord. 3250, passed --1980; Ord. 3252, passed --1980; Ord. 3268, passed --1981; Ord. 3270, passed --1981; Ord. 3284, passed --1981; Ord. 3369, passed --1984; Ord. 3386, passed --1984; Ord. 3398, passed --1985; Ord. 3406, passed --1985; Ord. 3407, passed --1985; Ord. 3424, passed --1986; Ord. 3439, passed --1986; Ord. 3440, passed --1986; Ord. 3451 , passed --1987; Ord. 3452, passed --1987; Ord. 3457, passed --1987; Ord. 3481, passed --1988; Ord. 3505, passed --1989; Ord. 3507, passed --1989; Ord. 3510, passed --1989; Ord. 3522, passed --1990; Ord. 3526, passed --1990; Ord. 3555, passed --1992; Ord. 0-92-0008, passed--1992; Ord. 3558, passed--1992; Ord. 0-93-0004, passed--1993; Ord. 0-93-0005, passed--1993 ; Ord. 0-93-0020, passed --1993; Ord. 0-93-0024, passed --1993; Ord. 0-94-0001, passed --1994; Ord. 0-94-0018, passed --1994; Ord. 0-98-0003, passed --1997; Ord. 0-98-0004, passed --1998; Ord. 0-99-0019, passed 10-25-1999; Ord. 0-00-0001, passed2-18-2000; Ord. 0-02-0027, passed 9-9-2002; Ord. 0-02-0029, passed 9-9-2002; Ord. 0-03-0027, passed --2003; Ord. 0-05-0024, passed 8-8-2005; Ord. 0-06-0013, passed 3-27-2006; Ord. 0-07-0014, passed 8-27-2007)

CHAPTER 73: PARKING METERS

Section

General Provisions

73.01 Definitions
73.02 Designation of zones
73.03 Metered space identification-method of parking
73.04 Determination and posting of time limitations
73.05 Parts and installation-acquisition and payment
73.06 Location on curb-design requirements
73.07 Operation
73.08 Deposit of certain coins for certain amounts of time-parking overtime
73.09 Tampering
73.10 Use of slugs
73.11 Collection and disposition of proceeds
73.12 Notices of violations-payment of fine

Use of Space for Residence Parking

73 .25 Registration of owner and vehicle
73.26 Certain violations-voiding of arrest

73.99 Penalty

GENERAL PROVISIONS

§ 73.01 DEFINITIONS.

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

PARKING METER. A mechanical device located upon a public street or sidewalk in a place regularly designated as a parking zone, which device shall record a certain number of minutes by the use of a clock mechanism determining the period of time for which parking privileges may be extended to the person so depositing a coin.

ROADWAY. The portion of a street between the regularly established curb lines.

SIDEWALK. The portion of a street between the curb lines and the adjacent property lines.

STREET. Every way that is set apart for public travel, except alleyways, bridlepaths and footpaths.

VEHICLE. Any device by which any person or property may be transported upon a public highway, except those operated upon rails and permanent tracks. (1995 Code, § 10.24.010)

§ 73.02 DESIGNATION OF ZONES.

The City Council may from time to time designate certain areas as parking meter zones. A schedule of these areas is on file in the City Clerk's office. (1995 Code, § 10.24.020)

§ 73.03 METERED SPACES-IDENTIFICATION-METHOD OF PARKING.

The Board of Public Works and Safety shall have markings painted or placed upon the curb or upon the street adjacent to each parking meter for the purpose of designating the parking space for which the meter is to be used, and each vehicle parking adjacent or next to any parking meter shall park within the lines or markings so established. It is unlawful and a violation of this chapter to park any vehicle across any line or marking or to park a vehicle in a position that the same shall not be entirely within the area so designated by the lines or markings. (1995 Code, § 10.24.030) Penalty, see § 73.99

§ 73.04 DETERMINATION AND POSTING OF TIME LIMITATIONS.

The Board of Public Works and Safety shall fix the time limitations for legal parking in parking meter zones and the hours during the day when the parking meters shall be used and when the time limitations shall be effective, in compliance with the provisions of this chapter, and shall indicate the time limitations by designating the same on the parking meters or by appropriate signs posted in proximity to the meters in the zone. (1995 Code, § 10.24.040)

§ 73.05 PARTS AND INSTALLATION-ACQUISITION AND PAYMENT.

The Board of Public Works and Safety of the city is authorized to carry out the terms of any contracts entered into by the Council of the city for the purchase, leasing, acquiring, installation, operation, maintenance, supervision, regulation and use of the parking meters provided for in this chapter, whether for trial period or otherwise. The payment for parking meters and installation is to be provided for solely from the receipts, funds and revenues obtained from the operation of the parking meters without in any manner obligating the city to pay for the same from any other source. (1995 Code, § 10.24.050)

§ 73.06 LOCATION ON CURB-DESIGN REQUIREMENTS.

The parking meters installed in the parking meter zones, as established and provided for in § 73.02, shall be placed upon the curb immediately adjacent to the individual parking places described in this chapter. Each parking meter shall be placed or set in a manner as to show or display by a signal that the parking space adjacent to the meter is or is not legally in use. Each parking meter installed shall indicate by a proper legend the legal parking time established by the city and, when operated, shall indicate on and by its dial and pointer the duration of the period of legal parking and, on the expiration of the period, shall indicate illegal or over parking. (1995 Code, § 10.24.060) Penalty, see § 73.99

§ 73.07 OPERATION.

When any vehicle shall be parked in any space adjacent to which a parking meter is located in accordance with the provisions of this chapter, the operator of the vehicle shall, upon entering the parking space, immediately deposit or cause to be deposited a five or ten cent coin of the United States in the parking meter and put the meter in operation. Failure to deposit the coin and put the meter in operation shall constitute a violation of this chapter and shall subject the person to the penalty prescribed in this chapter. (1995 Code, § 10.24.070) Penalty, see § 73.99

§ 73.08 DEPOSIT OF CERTAIN COINS FOR CERTAIN AMOUNTS OF TIME-PARKING OVERTIME.

Upon placing a parking meter in operation as required by § 73.07, the parking space may be lawfully occupied by a vehicle for a period of 30 consecutive minutes for each five cent coin of the United States deposited therein up to 120 minutes or for a period of 60 consecutive minutes for each ten cent coin of the United States deposited therein up to 120 minutes and payment of amounts for the above periods shall be made for parking in the areas set forth in this chapter. If any vehicle shall remain parked in any a parking space beyond the parking time limit as fixed by the coins deposited in the meter for the parking space, the parking meter shall by its dial and pointer indicate the illegal parking and, in that event, the vehicle shall be considered parked overtime and beyond the period of legal parking time and shall constitute a violation of this chapter, and the owner or operator thereof shall be punished as set out in this chapter. (1995 Code, § 10.24.080) Penalty, see § 73.99

§ 73.09 TAMPERING.

It is unlawful and a violation of the provisions of this chapter for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this chapter. (1995 Code, § 10.24.090) Penalty, see § 73.99

§ 73.10 USE OF SLUGS.

It is unlawful and a violation of this chapter to deposit or cause to be deposited in any parking meter any slug, device or metallic substitute or any other substitute for a coin of the United States. (1995 Code,§ 10.24.100) Penalty, see § 73.99

§ 73.11 COLLECTION AND DISPOSITION OF PROCEEDS.

(A) The coins required to be deposited in parking meters as provided in this chapter are levied and assessed as fees to provide for the proper regulation and control of traffic vehicles in the parking meter zones created pursuant to this chapter and to cover the cost of the purchasing, leasing, acquiring, installation, operation, maintenance, supervision, regulation and control of the parking meters described in this chapter.

(B) The Board of Public Works and Safety shall, with the ratification of the Common Council, designate collectors and methods as are necessary to properly collect all coins deposited in the meter boxes. The collectors shall be only employees as are duly bonded in a sum not less than $1,000 for the faithful performance of their duties. All money so collected shall be deposited with the controller of the city; provided, that a separate fund or accounting shall be maintained at all times for the money so deposited. The money collected from parking meters shall be used for street repairs.

(C) All penalty fees collected by the Cafeteria Court of the city shall be deposited with the Controller of the city and credited to the General Fund. (1995 Code, § 10.24.110) Penalty, see § 73.99

§ 73.12 NOTICES OF VIOLATIONS-PAYMENT OF FINE.

It shall be the duty of the police officers of the city acting in accordance with the instructions issued by the Board of Public Works and Safety to report:

(A) The number of each parking meter which indicated that the vehicle occupying the parking space adjacent to the parking meter is or has been parking in violation of any of the provisions of this chapter;

(B) The state license number of the vehicle;

(C) The time the vehicle is parking in violation of any of the provisions of this chapter; and

(D) Any other facts or knowledge of which is necessary for a thorough understanding of the circumstances attending the violation. Each police officer shall also attach a notice to any vehicle that has been parked in violation of a provision of this chapter, which notice instructs the vehicle owner or operator to report to the Cafeteria Court of the city in regard to the violation. Each owner or operator may, within 24 hours of the time when the notice was attached to the vehicle, pay to the desk sergeant at the Cafeteria Court as a penalty for and in full satisfaction of the violation the sum of $3. The failure of the owner or operator to make payment within the 24-hour period shall render the owner or operator subject to the penalties provided in this title. (1995 Code, § 10.24.120) Penalty, see § 73.99

USE OF SPACE FOR RESIDENCE PARKING

§ 73.25 REGISTRATION OF OWNER AND VEHICLE.

(A) Persons who reside in the city and have a parking meter located in front of, alongside or in close proximity to their residence may register their name, address, make and year of motor vehicle and state license number with the Clerk of the Cafeteria Court.

(B) Any changes in the address, make and year of motor vehicle or state license number must be reported to the Clerk of the Cafeteria Court by the person lawfully registered with the Clerk as prescribed by division (A) above of this section. The provisions of this chapter will not apply to motor vehicles which are not registered or are improperly registered with the Clerk of the Cafeteria Court. (1995 Code, § 10.24.130)

§ 73.26 CERTAIN VIOLATIONS-VOIDING OF ARREST.

Any notice of a violation of § 73.07, which makes it unlawful to park a motor vehicle in a space adjacent to a parking meter without depositing the required United States coin, or any notice of a violation of§ 73.08, which makes it unlawful for a vehicle to remain in a space adjacent to a parking meter beyond the time limit as fixed by the coin or coins deposited in the meter, may be taken to the Clerk of the Cafeteria Court. The Clerk of the Cafeteria Court is empowered to void any arrest and cancel any fine for the above cited violations, provided, that:

(A) The owner of the motor vehicle receiving the notice of violation is registered in the manner prescribed by § 73.25 before the notice of violation was issued;

(B) The violation occurred within two blocks of the owner's place of residence;

(C) The notice of violation is taken to the Clerk of the Cafeteria Court's office within two weeks of the date of the violation; and

(D) The vehicle which is parked in an unlawful manner is the same vehicle which is registered with the Clerk of the Cafeteria Court. (1995 Code, § 10.24.140)

§ 73.99 PENALTY.

Any person who shall violate any of the provisions of this chapter and any person who aids, abets or assists therein shall, upon conviction thereof by the City Court, be subject to a fine of not to exceed more than $50 for each offense or violation. (1995 Code, § 10.24.150)

CHAPTER 74: PEDESTRIANS

Section

74.01 Rights and restrictions
74.02 Right-of-way in crosswalk
74.03 Use of right half of crosswalks
74.04 Crossing without crosswalk
74.05 Yielding to vehicles
74.06 Prohibited crossing
74.07 Marked crosswalks
74.08 Walking along roadways
74.09 Solicitation of rides
74.10 Exercise of due care by drivers
74.11 Use of roller skates, coasters and toy vehicles

§ 74.01 RIGHTS AND RESTRICTIONS.

Pedestrians shall be subject to the traffic-control signals of this title, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter.

(1995 Code, § 10.28.010)

§ 74.02 RIGHT-OF-WAY IN CROSSWALK.

(A) Where traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle, which is so close that it is impossible for the driver to yield. A pedestrian's right-of-way in a crosswalk is modified under the condition and as stated in § 74.06(B).

(B) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle. (1995 Code, § 10.28.020) Penalty, see § 70.999

§ 74.03 USE OF RIGHT HALF OF CROSSWALKS.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(1995 Code, § 10.28.030) Penalty, see § 70.999

§ 74.04 CROSSING WITHOUT CROSSWALK.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.

(1995 Code, § 10.28.040) Penalty, see § 70.999

§ 74.05 YIELDING TO VEHICLES.

(A) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(B) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(C) The foregoing rules in this section have no application under the conditions stated in § 74.06 when pedestrians are prohibited from crossing at certain designated places.

(1995 Code, § 10.28.050) Penalty, see § 70.999

§ 74.06 PROHIBITED CROSSING.

(A) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

(B) No pedestrian shall cross a street other than in a crosswalk in any business district.

(1995 Code, § 10.28.060) Penalty, see § 70.999

§ 74.07 MARKED CROSSWALKS.

(A) The City Council may from time to time designate locations for marked crosswalks between intersections. A schedule of the crosswalk locations shall be maintained in the office of the City Clerk.

(B) The Common Council designates the following location for placement of a marked crosswalk to be accompanied by the appropriate signage from each direction: on Melville Avenue opposite the entrance to the Martin Luther King Community Center between 118th and 149th Streets.

(Ord. 0-06-0046, passed 11-13-2006) Penalty, see § 70.999

§ 74.08 WALKING ALONG ROADWAYS.

(A) Where sidewalks are provided, it is unlawful for any pedestrian to walk along and upon an adjacent roadway, except when the sidewalk is impassable.

(B) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. (1995 Code, § 10.28.070) Penalty, see § 70.999

§ 74.09 SOLICITATION OF RIDES.

No person shall be in a street or highway for the purpose of soliciting a ride from the driver of any vehicle. (1995 Code, § 10.28.080) Penalty, see § 70.999

§ 74.10 EXERCISE OF DUE CARE BY DRIVERS.

Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any street and shall give a warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a street. (1995 Code, § 10.28.090) Penalty, see § 70.999

§ 74.11 USE OF ROLLER SKATES, COASTERS AND TOY VEHICLES.

No person upon roller skates or riding in or by means of any coaster, sled, toy vehicle or similar devices shall go upon any roadway except while crossing a street on a crosswalk and except upon streets set aside as play streets, when and as authorized and marked by the Board of Public Works and Safety.

(1995 Code, § 10.28.100) Penalty, see § 70.999

CHAPTER 75: BICYCLES

Section

General Provisions

75.01 Bicycle defined
75.02 Rental
75.03 Sales
75.04 Impoundment
75.05 Permitting minor to violate chapter

Licenses

75.20 Required
75.21 Application-fee
75.22 Identification numbers
75.23 Prerequisite inspection-issuance duration
75.24 Renewal
75.25 Revocation or suspension
75.26 Records
75.27 Plates or tags-sale or transfer of bicycle

Traffic Regulations

75.40 Applicability of motor vehicle laws
75.41 Obedience to traffic-control devices
75.42 Method of operation
75.43 Riding on sidewalks
75.44 Riding on roadways
75.45 Speed
75.46 Racing
75.47 Turning
75.48 Yielding right-of-way
75.49 Clinging to vehicles
75.50 Riding abreast
75.51 Carrying packages or other articles
75.52 Parking
75.53 Lamps and reflectors
75.54 Audible warning devices
75.55 Brakes

GENERAL PROVISIONS

§ 75.01 BICYCLE DEFINED.

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

BICYCLE. Every device propelled by human power upon which any person may ride and having two tandem wheels, either of which is over 20 inches in diameter. (1995 Code, § 10.48.010)

§ 75.02 RENTAL.

A rental agency shall not rent or offer any bicycle for rent unless the bicycle is registered and licensed and a license plate is attached thereto, as provided in this chapter, and unless the bicycle is in good mechanical condition and equipped with lamps and other equipment required by law.
(1995 Code, § 10.48.020) Penalty, see § 70.999

§ 75.03 SALES.

(A) Every person engaged in the business of buying or selling new or secondhand bicycles shall make a report to the Chief of Police of every bicycle sold or exchanged by the dealer, and a report of all used or secondhand parts of bicycles bought and shall give the Chief of Police the following information:

(1) The name and address of the person from whom purchased or to whom sold;

(2) Whenever available, the serial, factory and frame numbers;

(3) A full and complete description of the used or secondhand bicycles or bicycle parts;

(4) The color;

(5) The type and model;

(6) The frame and wheel sizes;

(7) The name or make of the bicycle and of the brake;

(8) Other marks of identification; and

(9) The name of the license plate, if any, found thereon.

(B) No person shall purchase any used or secondhand bicycle from a minor under 18 years of age.
(1995 Code, § 10.48.030) Penalty, see § 70.999

§ 75.04 IMPOUNDMENT.

Any police officer shall have the right to seize and hold any bicycle which has been operated contrary to the provisions of this chapter until a time as the penalty provided for the violation shall have been fully paid or replevied. (1995 Code, § 10.48.040) Penalty, see § 70.999

§ 75.05 PERMITTING MINOR TO VIOLATE CHAPTER.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of the provisions of this chapter.
(1995 Code, § 10.48.050) Penalty, see § 70.999

LICENSES

§ 75.20 REQUIRED.

No person who resides within this city shall ride or propel a bicycle on any street or upon any public way within the city unless the bicycle has been registered and licensed and a license plate or tag is attached thereto as provided in this chapter. (1995 Code, § 10.48.060) Penalty, see § 70.999

§ 75.21 APPLICATION-FEE.

(A) Application for a bicycle registration and license and license plate or tag shall be made upon a form provided by the city, shall be made to the police, and shall contain the approval of the Chief of Police.

(B) Application for a bicycle registration and license shall contain the name, address and age of the owner and the name and serial number of the bicycle to be licensed, together with any other descriptive or itemized matter deemed necessary by the Chief of Police.

(C) An annual registration or license fee of $0.25 shall be paid to the city before each license or renewal thereof is granted. (1995 Code, § 10.48.070)

§ 75.22 IDENTIFICATION NUMBERS.

(A) For applicants for license under this subchapter, the police shall stamp numbers on the frames of bicycles on which the serial numbers are insufficient or illegible for identification purposes.

(B) No person other than police officers, as provided in this subchapter shall alter or mutilate a number on the frame of any bicycle which is registered or licensed pursuant to this subchapter.
(1995 Code, § 10.48.080) Penalty, see § 70.999

§ 75.23 PREREQUISITE INSPECTION-ISSUANCE-DURATION.

(A) The Chief of Police shall cause the inspection of each bicycle before approving the licensing of the same and shall refuse to approve a license for any bicycle which he or she determines is in an unsafe mechanical condition.

(B) The Chief of Police, upon receiving proper application, is authorized to issue or to permit the police to issue a bicycle license, which shall be effective until the next succeeding first day of July.

(C) The Chief of Police shall not approve the issuance of a license for any bicycle when he or she knows or has reasonable ground to believe that the applicant is not the owner of or entitled to the possession of the bicycle. (1995 Code, § 10.48.090) Penalty, see § 70.999

§ 75.24 RENEWAL.

Upon the expiration of any bicycle license, the same may be renewed upon application and payment of the same license fee as upon an original application. (1995 Code, § 10.48.100)

§ 75.25 REVOCATION OR SUSPENSION.

The Mayor, upon recommendation of the Chief of Police, may revoke or suspend any license issued pursuant to this subchapter after a hearing had upon seven days notice to the licensee upon proof that the license has been obtained by fraud or misrepresentation or upon proof of repeated violation of this chapter or state laws pertaining to bicycles. (1995 Code, § 10.48.110) Penalty, see § 70.999

§ 75.26 RECORDS.

The Chief of Police shall cause to be kept a record of the number of each registration and license, the date issued, the name of the person to whom issued, the number on the frame of the bicycle for which issued and a record of all bicycle registration or license fees collected by him or her.

(1995 Code, § 10.48.120)

§ 75.27 PLATES OR TAGS-SALE OR TRANSFER OF BICYCLE.

(A) The Chief of Police, upon issuing or causing a bicycle license to be issued, shall also issue a license plate or tag bearing the license number assigned to the bicycle, the name "East Chicago" and the calendar year for which issued.

(B) The license plate or tag shall be firmly attached to the rear mudguard or frame of the bicycle for which issued, and shall be kept in a position as to be plainly visible from the rear. In case of loss or theft of the tag a report shall be made to the Chief of Police who shall, upon payment of the cost of the tag, issue a duplicate tag.

(C) No person shall mutilate or alter a license plate or tag, nor shall any person remove a license plate or tag from a bicycle during the period for which issued except when the bicycle is dismantled and is no longer operated upon any street in this city.

(D) (1) Upon the sale or other transfer of a registered and licensed bicycle, the licensee shall remove the license plate and shall surrender the same to the Chief of Police.

(2) Every person who sells or transfers ownership of any bicycle shall report the sale or transfer to the office of the Chief of Police within seven days of the sale or transfer, together with the name and address of the person to whom the bicycle was sold or transferred.

(1995 Code, § 10.48.130) Penalty, see § 70.999

TRAFFIC REGULATIONS

§ 75.40 APPLICABILITY OF MOTOR VEHICLE LAWS.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the provisions of this title applicable to the driver of a vehicle, except as to special regulations in this chapter. (1995 Code, § 10.48.140)

§ 75.41 OBEDIENCE TO TRAFFIC-CONTROL DEVICES.

(A) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(B) When signs are erected indicating that no person shall ride or operate a bicycle within a public park or any part thereof, no riding or operation shall be permitted.

(1995 Code, § 10.48.150) Penalty, see § 70.999

§ 75.42 METHOD OF OPERATION.

(A) A person operating a bicycle shall not ride other than upon or astride the permanent and regular seat attached thereto, nor carry any other person upon a bicycle other than upon a firmly attached and regular seat thereon, nor shall any person ride upon a bicycle other than as above stated.

(B) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (1995 Code, § 10.48.160) Penalty, see § 70.999

§ 75.43 RIDING ON SIDEWALKS.

(A) No person 16 or more years of age shall ride a bicycle upon any sidewalk.

(B) Whenever any person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.

(1995 Code, § 10.48. 170) Penalty, see § 70.999

§ 75.44 RIDING ON ROADWAYS.

(A) Every person operating a bicycle upon a roadway shall ride as near to the right hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use the path and shall not use the roadway. (1995 Code, § 10.48.180) Penalty, see § 70.999

§ 75.45 SPEED.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. (1995 Code, § 10.48.190) Penalty, see § 70.999

§ 75.46 RACING.

No person operating a bicycle upon a public street shall participate in any race or speed or endurance contest with any other vehicle except upon supervised play streets.

(1995 Code, § 10.48.200) Penalty, see § 70.999

§ 75.47 TURNING.

Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any the sign, except where the person dismounts

from the bicycle to make any turn, in which event the person shall then obey the regulations applicable to pedestrians. (1995 Code, § 10.48.210) Penalty, see § 70.999

§ 75.48 YIELDING RIGHT-OF-WAY.

The operator of a bicycle emerging from an alley, driveway or building, upon approaching a sidewalk or the sidewalk area extending across any alley way, shall yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway. (1995 Code, § 10.48.220) Penalty, see § 70.999

§ 75.49 CLINGING TO VEHICLES.

No person riding upon any bicycle shall attach the same or himself or herself to any other vehicle upon a roadway. (1995 Code, § 10.48.230) Penalty, see § 70.999

§ 75.50 RIDING ABREAST.

Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
(1995 Code, § 10.48.240) Penalty, see § 70.999

§ 75.51 CARRYING PACKAGES OR OTHER ARTICLES.

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars. (1995 Code, § 10.48.250) Penalty, see § 70.999

§ 75.52 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in a manner as to afford the least obstruction to pedestrian traffic. (1995 Code, § 10.48.260) Penalty, see § 70.999

§ 75.53 LAMPS AND REFLECTORS.

Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
(1995 Code, § 10.48.270) Penalty, see § 70.999

§ 75.54 AUDIBLE WARNING DEVICES.

No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet; except, that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle. The bell shall be operated to warn others of the approach of the bicycle to avoid collision. (1995 Code, § 10.48.280) Penalty, see § 70.999

§ 75.55 BRAKES.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement. (1995 Code, § 10.48.290) Penalty, see § 70.999

CHAPTER 76: HANDICAPPED PARKING

Section

76.01 Definition of physically handicapped persons
76.02 Restricted handicapped areas-handicapped individual- residence parking permits
76.03 Criteria for designating a restricted handicapped area
76.04 Public agency parking facilities

76.99 Penalty

§ 76.01 DEFINITION OF PHYSICALLY HANDICAPPED PERSONS.

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

PHYSICALLY HANDICAPPED PERSONS. Persons as defined in I.C. 5-16-9-1 et seq. or I.C. 9-18-22-1 or someone who has been issued a placard or decal from the State Rehabilitation Services Agency or a registration plate by the Bureau of Motor Vehicles.

(1995 Code, § 10.56.010) (Ord. 3392, passed - -1985)

§ 76.02 RESTRICTED HANDICAPPED AREAS-HANDICAPPED INDIVIDUAL-RESIDENCE PARKING PERMITS.

A restricted handicapped area is an area that is so marked by the use of signs, clearly posted, in public parking areas in the city. These parking areas should include municipal, county and governmental buildings, libraries, all shopping areas, schools, hospitals, parks, municipal parking lots and where authorized by the Traffic Engineer. All restricted handicapped areas requiring parking permits on the public street immediately in front of the residence of the handicapped individual or on the public street where necessary shall be approved by the Council member of the district where the handicapped person resides. No parking permits or signs on the public residential street shall be removed without permission of the councilmember. (1995 Code, § 10.56.020) (Ord. 3392, passed - -1985; Ord. 3533, passed - -1990) Penalty, see § 76.99

§ 76.03 CRITERIA FOR DESIGNATING A RESTRICTED HANDICAPPED AREA.

The criteria for designating a restricted handicapped area requiring parking permits on the public street immediately in front of the residence of a handicapped individual shall not include possession of a valid driver's license or ownership of a motor vehicle by the handicapped individual. Rather, it is contemplated and intended that the parking areas may be used by motorists while they are driving or otherwise assisting handicapped individuals.

(1995 Code, § 10.56.025) (Ord. 0-98-0014, passed - -1998) Penalty, see § 76.99

§ 76.04 PUBLIC AGENCY PARKING FACILITIES.

The spaces reserved in public agency parking facilities shall be as required by I.C. 5-16-9-2.

(1995 Code, § 10.56.030) (Ord. 3392, passed - -1985) Penalty, see § 76.99

§ 76.99 PENALTY.

Violation of parking restrictions shall be as set forth in I.C. 5-16-9-5. A person who knowingly parks in a reserved handicapped parking space while displaying a placard to which neither the person nor the person's passenger is entitled commits a Class C infraction. Also, that any person who parks a motor vehicle which does not have displayed a handicapped person's or disabled veteran's placard issued under this chapter or under the laws of another state, or a handicapped or a disabled veteran's registration plate in a parking space reserved under this chapter for a handicapped person's vehicle commits a Class C infraction. Class C infraction is a judgment or fine of from $50 up to $500.

(1995 Code, § 10.56.040) (Ord. 3392, passed --1985; Ord. 3551, passed--1992)

CHAPTER 77: RAILROADS

Section

General Provisions

77.01 Definitions
77.02 Switching at certain hours prohibited
77.03 Reports of accidents
77.04 Reporting ownership or management of tracks
77.05 Grade of tracks
77.06 Use of streets generally
77.07 Change of position or alignment of tracks
77.08 Removal of tracks by city
77.09 Speed of trains
77.10 Unnecessary signals
77.11 Escape of steam
77.12 Smoke emission
77.13 Waiting rooms
77.14 Toilets on trains
77.15 Maintenance of depot grounds and right-of-way

Crossings

77.30 Obstructing-prohibited conduct
77.31 Maintenance
77.32 Compliance with street grade-specifications
77.33 Stopping at certain intersections
77.34 Crossing protection-required
77.35 Crossing protection-interference

Safety Gates

77.50 Generally
77.51 Additional warnings
77.52 Operation

Safety Features

77.65 Safety features- joint operation
77.66 Safety features- supervision of installation
77.67 Single or short-arm gates
77.68 Duties of trainman or watchman
77.69 Types and location of protection devices

77.99 Penalty

§ 77.01 DEFINITIONS.

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

CROSSING LIGHTS. Electric lights of not less than 300 watts which shall be kept lighted daily during the same hours of each day and night that the city street lights are lighted.

ELECTRIC BULL'S EYE SIGNAL LIGHT. An illuminated railroad signal light containing not less than three lights of not less than 25 watts each or their equivalent to be kept lighted daily for 24 hours.

FLASHER LIGHTS.

(1) A "wig-wag" or electric automatic system of warning traffic of the approach of trains by the flashing of signal lights in a manner as to give the proper warning of the approach of railroad cars, locomotives or trains and so contrived, constructed and automatically operated as to cause the lights to flash as a warning upon the approach of any engine, car or train of cars and to continue to flash or "wig-wag" until the engine, car or train of cars shall be passed.

(2) These automatic signals shall be placed on each side of the railroad track and shall flash a danger signal in sufficient time to warn persons and shall remain flashing until the railroad train has passed the intersecting street.

FLOOD LIGHTS. An electric ***FLOOD LIGHT*** of not less than 400 watts, as set out in the schedules, to be kept lighted during the same hours of each day and night that the city street lights are lighted. As an alternative to the installation and maintenance of an electric ***FLOOD LIGHT***, as herein required, there may be installed and erected a mercury vapor light at the option of the railroad company. When a mercury vapor light is erected, maintained, and operated, it shall be of not less than 400 watts capacity.

RAILROAD. A carrier of persons or property upon cars, other than street cars, operated upon stationary rails.

RAILROAD SIGN OR SIGNAL. Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

RAILROAD TRAIN. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

TRAINMAN. A member of the train crew who is required to take a position on the railroad crossing and, by means of red flag or signal by day and by light at night shall warn persons of the approach and crossing of the train.

WATCHMAN. A railroad employee who is stationed at a railroad crossing and who shall have the duty of warning persons, by means of visible signals or by safety gates where gates are required, of the approach and crossing of a train. (1995 Code, § 13.08.010)

§ 77.02 SWITCHING AT CERTAIN HOURS PROHIBITED.

It is unlawful for any person having charge or control of any locomotive, railway freight cars, freight trains or railway switching yards situated in whole or in part of the city, to operate or cause to be operated a locomotive, railway freight cars or freight trains across the streets in the city in making up trains or in the distribution of cars in railroad yards, commonly called "switching," or in drawing trains or cars over spur tracks to and from industrial company property necessitating the crossing of streets, between the hours of 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:30 p.m. of any day.

(1995 Code, § 13.08.020) Penalty, see § 77.99

§ 77.03 REPORTS OF ACCIDENTS.

It shall be the duty of each railroad company, in the event of a collision or accident within the city, between a train and vehicle, or between a train and persons operating or riding in or on vehicles, or between a train and pedestrians, to file or cause to be filed, with the Chief of Police, a written report, within ten days of the collision, setting out the name, place, time, engine number, names of the engineer and person in charge of the train involved in the collision or accident, the name of the railroad company operating the train and the company owning, operating, controlling or maintaining and the right-of-way at the place of the accident. (1995 Code, § 13.08.030) Penalty, see § 77.99

§ 77.04 REPORTING OWNERSHIP OR MANAGEMENT OF TRACKS.

It shall be the duty of all railroad companies or other persons, owning, controlling or managing railroad tracks within the city to register with the City Railroads Engineer the ownership, management, location and control of its tracks in this city showing the complete lines and routes in the city. A map or plat thereof, containing the information concerning the tracks, verified by a person or officer authorized to do so, shall also be filed with the City Engineer. Any changes, transfers or assignments shall also be filed in a similar manner. (1995 Code, § 13.08.040) Penalty, see § 77.99

§ 77.05 GRADE OF TRACKS.

The tracks of all railroad companies, as laid and maintained along or across any of the streets of the city, shall be made to conform to the grade and level fixed by the City Engineer or Board of Public Works and Safety, except, however, that this obligation shall not be applicable in connection with any grade separation project. Whenever in the opinion of the Board of Public Works and Safety it is necessary to regrade, pave, repave or repair any street in which the railroad tracks are laid, the railroad company shall take up and re-lay the tracks or otherwise adjust them to the grade established, within 30 days from receipt of notice therefor from the Board. If the railroad company shall fail or neglect to take up the rails and tracks and re-lay them, the Board may cause the same to be done and charge the cost to the railroad company. In case of failure by the railroad company to pay the cost thereof, the city shall have a cause of action therefor against the railroad company for the cost of the work. Charging the railroad company for the work or paying of the same shall not exclude the railroad from liability for the penalty provided in this code. (1995 Code, § 13.08.050) Penalty, see § 77.99

§ 77.06 USE OF STREETS GENERALLY.

(A) No railroad company or any other person shall be permitted to occupy any street or part thereof or to lay any tracks across or to cross any street, alley or public way or to move any tracks over places in the city without first obtaining written permission from the Board of Public Works and Safety

after written application has been made. This permission may require that the permission granted shall be subject to approval and ratification of the Common Council.

(B) Each day that the tracks shall cross any public street, alley, sidewalk or public way, in violation of this code, may be considered a separate offense.

(1995 Code, § 13.08.060) Penalty, see § 77.99

§ 77.07 CHANGE OF POSITION OR ALIGNMENT OF TRACKS.

No railroad company or any other person, shall be permitted to change the position or alignment of its tracks crossing any public street or to make any addition, or to cross any street in the city hereafter without obtaining the consent of the city as provided in § 77.06.

(1995 Code, § 13.08.070) Penalty, see § 77.99

§ 77.08 REMOVAL OF TRACKS BY CITY.

Upon direction from the Mayor or the Board of Public Works and Safety, the Supervisor of Public Works shall tear out any railroad track laid in violation of the provisions of this chapter, and shall remove the same from any street, alley or public way or place on which they are found or have been laid.

(1995 Code, § 13.08.080) Penalty, see § 77.99

§ 77.09 SPEED OF TRAINS.

It is unlawful for any person to operate or cause to be operated, any locomotive, train or group or cut of cars within the city at a rate of speed exceeding 25 mph.

(1995 Code, § 13.08.090) Penalty, see § 77.99

§ 77.10 UNNECESSARY SIGNALS.

(A) No person owning or operating a railroad, locomotive or train shall cause or allow the whistle of any locomotive engine to be sounded within the city unnecessarily.

(B) No person owning or operating a railroad shall cause or allow the bell of any locomotive engine to be rung unnecessarily or continuously when the locomotive is stationary or when the locomotive or train does not enter or pass over a street intersection. (1995 Code, § 13.08.1 00) Penalty, see § 77.99

§ 77.11 ESCAPE OF STEAM.

It is unlawful to open cylinder cocks on any locomotive to permit the escape of steam while operating upon any track of any railroad within the city in proximity to any street crossing; provided, that when the locomotive has been standing still, the cylinder cock may be opened for a sufficient length of time to permit the escape of condensed steam. (1995 Code, § 13.08.110) Penalty, see § 77.99

§ 77.12 SMOKE EMISSION.

No person owning or operating a locomotive engine shall permit the emission of dense smoke within the city contrary to the provisions of this code. (1995 Code,§ 13.08.120) Penalty, see § 77.99

§ 77.13 WAITING ROOMS.

Any person having and using any depot or waiting room for the purpose of public passenger travel on any railroad line running into or through the city shall provide separate public toilets for men and women for the accommodation of its passengers or for the public using the passenger depot, which toilets shall be maintained in a clean and sanitary manner and any failure to do so is declared to be a nuisance. (1995 Code,§ 13.08.130) Penalty, see § 77.99

§ 77.14 TOILETS ON TRAINS.

Toilets on trains while in the city shall not be flushed. It shall be the duty of persons operating or controlling trains while in or traveling though the city to lock all toilet doors to prevent the use of the toilets. (1995 Code, § 13.08.140) Penalty, see § 77.99

§ 77.15 MAINTENANCE OF DEPOT GROUNDS AND RIGHT-OF-WAY.

It shall be the duty of all persons owning or controlling railroad depots, railroad tracks and railroad rights-of-way within the city, to keep and maintain these places in a clean and sanitary condition and shall, wherever reasonable, plant grass, trees or flowers around the depots. The persons shall have a right to request supervisory cooperation from the Department of Parks.

(1995 Code, § 13.08.150) Penalty, see § 77.99

CROSSINGS

§ 77.30 OBSTRUCTING-PROHIBITED CONDUCT.

It is unlawful for any railroad company or any person operating or having charge or control of any railroad train, railroad car or engine within the city:

(A) To permit, allow or cause any train, railroad car or engine to stand at any intersection of any street, sidewalk or alley, for a period longer than five minutes at any one time, without allowing vehicles and pedestrians to cross the railroad tracks, except when necessary to comply with governmental safety regulations or where the train, railroad car or engine cannot be moved by reason of circumstances over which the railroad company has no control;

(B) To obstruct any intersection of any street, sidewalk or alley for a period longer than five minutes at any one time by switching, without allowing vehicles and pedestrians to cross the railroad tracks over any street, sidewalk or alley, except when necessary to comply with governmental safety regulations or where the train, railroad car or engine cannot be moved by reason of circumstances over which the railroad company has no control;

(C) This section shall not apply to trains, railroad cars or engines in motion, other than those engaged in switching; and

(D) This section is enacted to promote the public interest and welfare of the residents of the city and those using its public streets, sidewalks and alleys, not to control railroad safety, thus its enactment shall not supplant current state law governing “negligence” or the lack thereof by railroads, their employees and/or agents at street, sidewalk and alleyway crossings.

(1995 Code, § 13.08.160) (Ord. 0-99-0028, passed 12-30-1999) Penalty, see § 77.99

§ 77.31 MAINTENANCE.

In order that railroad tracks in the city may be crossed with safety and convenience by the public, it shall be the duty of each railroad company or person, where its tracks intersect or cross any street, sidewalk or alley in this city, to grade and plank, pave and maintain the street, sidewalk or alley at the crossings or intersections in the manner designated in this chapter.

(1995 Code,§ 13.08.170) Penalty, see § 77.99

§ 77.32 COMPLIANCE WITH STREET GRADE-SPECIFICATIONS.

At the point where a track intersects or crosses any street, it shall be the duty of the railroad company or person owning or maintaining the same, to make the grade therefor conform to the established grade of the street and to pave the same with paving blocks, bituminous products, asphalt or any accepted or equal material or to lay down securely, strong and substantial planks or steel plates or concrete slabs between and on either side for four feet six inches from the center of the track, in a manner that the planks, steel plates or concrete slabs, or paving blocks, bituminous products, asphalt or any accepted equal, shall extend the entire pavement width of the streets, and for the width of sidewalks. The construction or repair required shall be done and maintained in good condition, in every case to the satisfaction of the City Engineer. (1995 Code, § 13.08.180) Penalty, see § 77.99

§ 77.33 STOPPING AT CERTAIN INTERSECTIONS.

All railroad trains entering Euclid Avenue south of 144th Street and north of Baltimore and Ohio Chicago Terminal Railroad tracks, at about the gate of the General American Transportation Company, shall be required to come to a full, positive and complete stop before entering Euclid Avenue.

(1995 Code,§ 13.08.190) Penalty, see § 77.99

§ 77.34 CROSSING PROTECTION REQUIRED.

Crossing protection shall be maintained and operated by the respective railroads or persons in accordance with the provisions, requirements and schedules of this chapter, entirely at the expense of the railroads. Each protection shall be used in a manner as to afford persons and property protection against injury and damage. (1995 Code, § 13.08.200) Penalty, see § 77.99

§ 77.35 CROSSING PROTECTION INTERFERENCE.

It is unlawful for any person, unless duly authorized, to interfere in any manner with any crossing protection. (1995 Code, § 13.08.210) Penalty, see § 77.99

SAFETY GATES

§ 77.50 GENERALLY.

The term ***SAFETY GATES*** as used in this subchapter is defined to mean gates that as are commonly in use, extending across a street and sidewalk, and parallel or nearly parallel to the tracks of the railroad intersecting the street. The gates shall be so constructed that their arms shall be of the length, when lowered, as to reach completely across the street, including the sidewalk, on which traffic and pedestrians are to be stopped. The gates shall be placed on both sides of the tracks or intersection and

shall be so constructed that the gate arms, when in a position to indicate that traffic shall stop, shall be in a horizontal position and not more than three feet four inches above the grade of the street. Each of the gate arms shall have fixed thereon at least three red electric lights of not less than 25 watts each, to warn travelers when the gates are down; and the lights shall be lit at all times when the gates are down.

(1995 Code, § 13.08.220) Penalty, see § 77.99

§ 77.51 ADDITIONAL WARNINGS.

In addition to safety gates there shall also be installed a crossing bell with the gates, at each of the crossings herein named, which bell shall be sounded as a warning whenever the gates are lowered and trains pass over the crossing. (1995 Code, § 13.08.230) Penalty, see § 77.99

§ 77.52 OPERATION.

Railroad safety gates shall be lowered, in time, as a warning and in an effort to prevent traffic from using the streets, to offer some obstruction to travelers and to discourage travelers on the streets and sidewalks from any attempt to cross the intersection of the tracks and public ways, when trains are approaching and cross the intersections. After the locomotives, cars, trains or other vehicles operating on the railroad tracks shall have passed over the crossings, the gates shall then be raised to allow traffic and pedestrians to resume travel on the streets; provided, that the duty of lowering and raising the gates, aforesaid, shall be performed during each hour of the day and night of each passage of the locomotives, cars, trains and other vehicles on the tracks over the crossings, unless otherwise specifically provided.

(1995 Code, § 13.08.240) Penalty, see § 77.99

SAFETY FEATURES

§ 77.65 SAFETY FEATURES-JOINT OPERATION.

Where the lines of right-of-way of two or more companies adjoin and run parallel where they cross any of the streets named or where the lines are operated jointly by two or more companies, the construction, operation and maintenance of one set of gates at each of the street crossings shall be considered a compliance with the provisions of this chapter whenever the same can be done with adequate safety and full protection to persons and pedestrians using the streets. Under similar circumstances two or more companies may employ a trainman or watchman or install, operate and maintain electric lights or electric flasher lights, when the safety methods are required; but this joint compliance provision shall not diminish the individual responsibility of each person or company.

(1995 Code, § 13.08.250) Penalty, see § 77.99

§ 77.66 SAFETY FEATURES-SUPERVISION OF INSTALLATION.

Safety gates, flasher lights, flood lights and crossing lights shall be located and constructed under the direction and supervision of the City Engineer. (1995 Code, § 13.08.260) Penalty, see § 77.99

§ 77.67 SINGLE OR SHORT -ARM GATES.

(A) It is expressly provided that the installation or use of railroad safety gates of the “short-arm” or “single-arm” variety shall not be considered as compliance with the requirements of this chapter unless the gates reach completely across the street and sidewalk or sidewalks.

(B) Where “short-arm” or “single-arm” gates or gates other than herein described or required are installed or used, they shall be removed and appropriate safety gates which fully meet the requirements of this chapter shall be installed and used. (1995 Code, § 13.08.270)

§ 77.68 DUTIES OF TRAINMAN OR WATCHMAN.

(A) Where and when a trainman or watchman is required by this code, he or she shall be employed for the purpose of providing reasonable protection against death, personal injury and property damage. It shall be the duty of a railroad crossing trainman or watchman, by appropriate signals, to keep and warn all persons and vehicles from its tracks, at the various crossings, during the approach and passing of any railroad car, engine or train.

(B) Where a watchman or trainman is required, he or she shall be stationed at the intersection on the ground or at the crossing level.

(C) Where no provision is otherwise made in this chapter for crossing protection, warning or signals, a trainman of the train which crosses a railroad crossing shall give adequate warning, by signal, of the intended crossing and crossing of the train. (1995 Code, § 13.08.280) Penalty, see § 77.99

§ 77.69 TYPES AND LOCATION OF PROTECTION DEVICES.

(A) The types and locations of railroad crossing protection devices shall be from time to time established by the City Council and as set out in the schedule on file in the office of the City Clerk.

(B) The numbers given to the specific railroad crossing locations, shown in the schedule are shown on a railroad safety city map, which is by this reference incorporated into and made a part of this chapter and two copies of the map are on file in the office of the City Clerk for public inspection.
(1995 Code, § 13.08.290)

§ 77.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Obstructing-prohibited conduct.* For each violation of § 77.30, defined as each separate stopping or switching of trains, railroad cars or engines in violation hereof, a penalty consisting of a fine not exceeding $2,500 shall be assessed, thus any person, firm or corporation who shall violate the provisions of § 77.30 shall, upon conviction, be fined in any sum not to exceed $2,500. However, no railroad conductor or engineer acting under the rules or orders of a railroad company or its supervisory personnel may be fined for thereby violating § 77.30.
(1995 Code, § 13.08.160) (Ord. 0-99-0028, passed 12-30-1999)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. HEALTH AND SANITATION

92. FIRE PREVENTION

93. NUISANCES

94. UNIFORM ALARM SYSTEM

95. DANGEROUS, HAZARDOUS OR TOXIC SUBSTANCES

96. NEW OR USED TIRE STORAGE

97. STREETS AND PUBLIC PLACES

98. SIDEWALKS AND CURBS

99. TREES, PLANTS AND SHRUBS

100. PARKS

101. HARBORS

102. AIR POLLUTION

103. JUNKED OR ABANDONED VEHICLES

CHAPTER 90: ANIMALS

Section

General Provisions

90.001 Definitions
90.002 Chapter enforcement
90.003 Interference with officials prohibited
90.004 Right of entry to inspect
90.005 Exemptions from provisions of chapter
90.006 Females in heat
90.007 Wild animals
90.008 Injuring property of others
90.009 Keeping hogs, poultry of pigeons
90.010 Manure

Impoundment

90.025 Impoundment-period of confinement-disposal
90.026 Alternative penalties for certain dogs
90.027 Notification of owner
90.028 Impoundment of animals other than dogs and cats
90.029 Redemption of impounded animals
90.030 Records

Dogs

90.045 Restraint generally
90.046 Dogs in parks prohibited
90.047 Care of dogs kept outside
90.048 Nuisances declared

Dog Licensing

90.060 Required
90.061 Fees
90.062 Term-application
90.063 Tags
90.064 Use of tags by other than licensee
90.065 Duplicate tags

Dogs-Rabies

90.080 Vaccination required
90.081 Animal bites-report-quarantine
90.082 Veterinarian's report of suspected rabies cases
90.083 Positive rabies diagnosis-citywide quarantine
90.084 Failure or refusal to surrender animal for quarantine prohibited
90.085 Permission from Board of Health for disposition of rabid animal required
90.086 Disposition of carcass of animal exposed to rabies

90.087 Procedure upon death of quarantined animal

Pit Bull Dogs

90.100 Purpose
90.101 Definition of pit bull
90.102 Liability insurance required to be maintained by owners of pit bulls
90.103 Confinement of pit bulls
90.104 Registration of pit bulls
90.105 Enforcement

Pet Solid Waste Disposal

90.120 Definitions
90.121 Requirement for disposal
90.122 Exemptions
90.123 Enforcement

90.999 Penalty

GENERAL PROVISIONS

§ 90.001 DEFINITIONS.

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

ANIMAL SHELTER. Any premises designated by action of the city for the purpose of impounding and caring for all animals found running at large in violation of this chapter.

ANIMAL WARDEN. The person or persons employed by the City Health Department as its enforcement officer.

AT LARGE. Any animal off the property of his or her owner and not under control of a competent person.

DOG. Both male and female.

EXPOSED TO RABIES. Bitten by or exposed to any animal known to have been infected with rabies.

KENNEL. Any person engaged in the commercial business of breeding, buying, selling or boarding animals or who owns, harbors or keeps three or more dogs on his or her premises.

OWNER. Any person owning, keeping or harboring an animal or animals.

RESTRAINT. Controlled by a leash, at heel beside a competent person and obedient to that person's commands, on or within the property limits of the owner or keeper.

SPAYED FEMALE. Any bitch which has been operated upon to prevent conception. (1995 Code, § 6.04.010) (Ord. 3199, passed--1978)

§ 90.002 CHAPTER ENFORCEMENT.

The provisions of this chapter shall be enforced by the Health and Police Departments. (1995 Code, § 6.04.020)

§ 90.003 INTERFERENCE WITH OFFICIALS PROHIBITED.

No person shall interfere with, hinder or molest any member of the Police Department or the Board of Health in the performance of his or her duty or seek to release any animal in the custody of the Health Department. (1995 Code, § 6.04.030) Penalty, see § 90.999

§ 90.004 RIGHT OF ENTRY TO INSPECT.

For the purpose of discharging the duties imposed by this chapter and to enforce all of its provisions, any agent with the Board of Health or any police officer is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of the dog, examine the dog and to take possession of the animal when, in his or her opinion, it required humane treatment or to issue a citation to the owner for violating the terms and provisions of this chapter. (1995 Code, § 6.04.040) Penalty, see § 90.999

§ 90.005 EXEMPTIONS FROM PROVISIONS OF CHAPTER.

(A) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter, except where the duties are expressly stated.

(B) The licensing and vaccination requirements of this chapter shall not apply to any dog belonging to a nonresident of the city and kept within the city for not longer than 30 days; provided, that all dogs shall at all times while in the city be kept within a building, enclosure or vehicle or under restraint by the owner. (1995 Code, § 6.04.050)

§ 90.006 FEMALES IN HEAT.

Every female dog or cat in heat shall be kept confined in a building or secure enclosure or in a veterinary hospital or boarding kennel in a manner that the female dog or cat cannot come in contact with another animal, except for breeding purposes. (1995 Code, § 6.04.060) Penalty, see § 90.999

§ 90.007 WILD ANIMALS.

No wild animal may be kept within the city limits; provided, that wild animals may be kept for exhibition purposes by circuses, zoos and educational institutions in accordance with regulations as shall be established by the Board of Health. (1995 Code, § 6.04.070) Penalty, see § 90.999

§ 90.008 INJURING PROPERTY OF OTHERS.

It is unlawful for any person having charge, care and custody of any dog or animal to permit or suffer the same to escape or go upon any private lands or premises or to browse upon, trample upon or

otherwise mangle, eat, injure, break or destroy any lawn, parkway, flower bed, plant, tree, flower, shrubbery or other lawn or house decoration of another without permission of the owner of the premises.

(1995 Code, § 6.04.080) Penalty, see § 90.999

§ 90.009 KEEPING HOGS, POULTRY OR PIGEONS.

Whenever the Board of Health deems the keeping of any hogs, poultry or pigeons or the maintenance of any hog pen within the city injurious to the health thereof or noisome or offensive to the inhabitants in the vicinity of the same, it shall cause the owner of the hogs, poultry or pigeons or the person who maintains any hog pen or poultry or pigeon coop to be notified to remove the same. This notice shall be in writing and shall contain a description of the premises whereon the hogs, poultry or pigeons are kept or hog pen or poultry or pigeon coop maintained. The notice shall be served by a police officer or Health Inspector by leaving a copy thereof with the person who owns the hogs, poultry or pigeons or maintains the pen or coop. In case the owner fails to abate or remove the same within ten days after the receipt of the notice, he or she shall be deemed guilty of violating the provisions of this chapter.

(1995 Code, § 6.04.090) Penalty, see § 90.999

§ 90.010 MANURE.

(A) It is unlawful to pile or dump any manure in or upon any street or alley. After stables, barns or other shelters where animals are kept are cleaned, the floor shall be liberally sprinkled with slaked lime or shall be sprinkled with a disinfectant prescribed by the City Health Officer, such as a 10 % solution of crude carbolic acid or a 5 % solution of formaldehyde or a 10 % solution of copperas.

(B) All stables or barns or other shelters wherein animals are kept shall be cleaned daily in the months of April, May, June, July and August. All manure shall be kept in dark, watertight, fly-tight bins, pits or boxes, which shall be emptied and the manure hauled away when full or when ordered in writing by the City Health Officer or Supervisor of Public Works. (1995 Code,§ 6.04.100) Penalty, see § 90.999

IMPOUNDMENT

§ 90.025 IMPOUNDMENT-PERIOD OF CONFINEMENT-DISPOSAL.

Unlicensed dogs or dogs found running at large shall be taken up by the animal warden and impounded in the shelter designated as the city animal shelter and there confined in a humane manner for a period of not less than three days and may thereafter be disposed of in a humane manner if not claimed by their owners. (1995 Code, § 6.08.010)

§ 90.026 ALTERNATIVE PENALTIES FOR CERTAIN DOGS.

When dogs are found running at large and their ownership is known to the Police Department or animal warden, the dogs need not be impounded and the Police Department or the Health Department, may, at their discretion, after one warning has been given to the owner, issue a “dog violation ticket” notifying the owner of the dog or dogs that there is a violation of this chapter, giving the date and time and location and that the penalty for the violation is in the sum of $25 and thereafter the owner or owners may elect to pay this penalty or to appear in the City Court, at which time they will be given a trial. The penalty may be paid into the City Clerk’s office by mail or by bringing the ticket along with the sum of $25 to the City Clerk. Failure to pay the penalty within five days from the issuance of a dog violation

ticket, will constitute a violation of this chapter and the individual shall be prosecuted as for violation of this chapter and as for any other city ordinance. (1995 Code, § 6.08.020)

§ 90.027 NOTIFICATION OF OWNER.

Immediately upon impounding dogs or other animals, the Health Department shall make every possible effort to notify the owners of the dogs or other animals so impounded and inform the owners of the conditions whereby they may regain custody of the animals. (1995 Code, § 6.08.030)

§ 90.028 IMPOUNDMENT OF ANIMALS OTHER THAN DOGS AND CATS.

Animals other than dogs and cats shall be impounded when found running at large within the city limits and disposed of in accordance with law. (1995 Code, § 6.08.040)

§ 90.029 REDEMPTION OF IMPOUNDED ANIMALS.

(A) The owner shall be entitled to resume possession of any impounded dog, except as otherwise provided, upon compliance with §§ 90.045 through 90.048, 90.060 through 90.065 and 90.080 through 90.082 and the payment of impoundment fees.

(B) Any other animal impounded under the provisions of this chapter may be reclaimed by the owner upon the payment of impoundment fees set forth herein.

(C) Any animal impounded under the provisions of this chapter and not reclaimed by its owner within three days may be humanely destroyed by the Health Department or placed in the custody of some person deemed to be a responsible and suitable owner who will agree to comply with the provisions of this chapter and other regulations as shall be fixed by the City Health Department.

(D) Any animal found at large shall be impounded by the Police Department and may not be redeemed by owners, unless the redemption be authorized by the Board of Health; provided, that if any dog of dangerous, fierce or vicious propensities so found at large cannot be safely taken up and impounded, the dog may be slain.

(E) Any dog, cat or other animal impounded for being a public nuisance may not be redeemed unless the redemption is authorized by any court having jurisdiction.

(F) When, in the judgment of the Board of Health, an animal should be destroyed for humane reasons, the animal may not be redeemed. (1995 Code, § 6.08.050)

§ 90.030 RECORDS.

It shall be the duty of the animal warden to keep or cause to be kept, accurate and detailed records of the impoundment and disposition of all animals coming into his or her custody.
(1995 Code, § 6.08.060)

DOGS

§ 90.045 RESTRAINT GENERALLY.

(A) The owner shall keep his or her dog under restraint at all times and shall not permit the dog to be at large, off the premises or property of the owner, unless under the control of a competent person.

(B) The owner shall confine within a building or secure enclosure every dog of fierce, dangerous or vicious propensities and not take a dog out of the building or secure enclosure.
(1995 Code,§ 6.12.010) Penalty, see § 90.999

§ 90.046 DOGS IN PARKS PROHIBITED.

No person shall bring or lead any dog in city parks.
(1995 Code, § 6.12.020) Penalty, see § 90.999

§ 90.047 CARE OF DOGS KEPT OUTSIDE.

Dogs which are kept outside must be kept within a fenced enclosure of sufficient structure to keep the dog confined therein at all times or, if no fenced enclosure is provided, the dog shall be tied on a rope or chain of sufficient strength of not less than 12 feet in length. The dog shall be provided with a sturdy doghouse to protect the dog from weather, with sufficient bedding and ample supply of food and water every day. The premises at all times shall be kept clean and in sanitary condition so that there shall not be any offal, filth or offensive smells to be collected or remain in or about the premises to the danger or prejudice of others or the public. (1995 Code, § 6.12.030) Penalty, see § 90.999

§ 90.048 NUISANCES DECLARED.

Any dog is declared to be a nuisance which:

(A) Shall cause serious annoyance or disturbance to the neighborhood or any of the residents therein by its loud, frequent, habitual or continued barking, howling or yelping; or

(B) Demonstrates aggressive or vicious propensities or temperament, bites or injures a person or other animal. (1995 Code, § 6.12.040) (Ord. 0-95-0010, passed - -1995) Penalty, see § 90.999

DOG LICENSING

§ 90.060 REQUIRED.

No person shall own, keep or harbor a dog of any age within the city limits unless the dog is licensed as herein provided. Application for the license shall be made to the City Controller and shall state the name and address of the owner and the name, breed, color, age and sex of the dog. The license fee shall be paid at the time of making application, a numbered receipt given to the applicant and a numbered metallic tag shall be issued to the owner. (1995 Code, § 6.12.050) Penalty, see § 90.999

§ 90.061 FEES.

(A) The yearly license fee shall be $2 for a female and $1 for a male or spayed female.

(B) Every person engaged in the commercial business of buying, selling, breeding or boarding or who owns, harbors or keeps three or more dogs in an area which meets the zoning requirements shall pay an annual license fee of $25. (1995 Code, § 6.12.060) (Ord. 3199, passed - -1978) Penalty, see § 90.999

§ 90.062 TERM-APPLICATION.

All dog licenses and kennel licenses shall be issued for one year beginning with January 1. Applications for licenses may be made prior to and for 30 days after the start of the licensing year without penalty, but when application is made after 30 days of the licensing year have elapsed, the applicant shall be assessed a penalty of 50 % of the license fee, which amount shall be added and collected with the regular license fee. (1995 Code, § 6.12.070) Penalty, see § 90.999

§ 90.063 TAGS.

(A) Upon receipt of a license, as provided in this chapter, there shall be issued to the owner a numbered metallic tag, stamped with the number and the year for which issued. The shape or design of the tag shall be changed from year to year.

(B) Every owner is required to see that the tag is securely fastened to the dog's choke chain, collar or harness, which must be worn by the dog at all times. (1995 Code, § 6.12.080) Penalty, see § 90.999

§ 90.064 USE OF TAGS BY OTHER THAN LICENSEE.

No person shall use for any dog a license receipt or license tag issued for another dog. (1995 Code, § 6.12.090) Penalty, see § 90.999

§ 90.065 DUPLICATE TAGS.

In the event that a metallic license tag issued for a dog shall be lost, the owner may obtain a duplicate tag upon the payment of $1. (1995 Code, § 6.12.100) Penalty, see § 90.999

DOGS-RABIES

§ 90.080 VACCINATION REQUIRED.

It is unlawful for the owner of any dog to keep, maintain or harbor a dog unless it shall have been vaccinated by a licensed veterinary surgeon with anti-rabies vaccine within the current year. The dog shall have attached to his or her collar a metal tag bearing the inscription: “Innoc.-Rabies” and the date of inoculation. (1995 Code, § 6.12.110) Penalty, see § 90.999

§ 90.081 ANIMAL BITES-REPORT QUARANTINE.

(A) Every animal which bites a person shall be promptly reported to the Police Department and shall thereupon be securely quarantined at the direction of the Board of Health for a period of ten days

and shall not be released from the quarantine except by written permission of the Board of Health. At the discretion of the Board of Health, the quarantine may be, at the owner's option and expense, at the shelter designated as the city animal shelter, Hammond Humane Society or in a veterinary hospital of his or her choice. In the case of stray animals or in the cases of animals whose ownership is not known, the quarantine shall be at the city animal shelter.

(B) It shall be the duty of the Police Department and the Health Department to keep or cause to be kept, accurate and detailed records of all bite cases reported to it and its investigation of the cases.

(C) It shall be the duty of every physician or other practitioner to report to the Board of Health and the Police Department the names and addresses of persons treated for bites inflicted by animals, together with any other information as will be helpful in rabies control.

(1995 Code, § 6.12.120) Penalty, see § 90.999

§ 90.082 VETERINARIAN'S REPORT OF SUSPECTED RABIES CASES.

It shall be the duty of every licensed veterinarian to report to the Board of Health his or her diagnosis of any animal observed by him or her as a rabies suspect. (1995 Code, § 6.12.130)

§ 90.083 POSITIVE RABIES DIAGNOSIS-CITYWIDE QUARANTINE.

(A) When one or both reports of the State Department and the Board of Health, as provided in this chapter, give a positive diagnosis of rabies, the Board of Health shall recommend a city-wide quarantine for a period of 30 days. Upon the invoking of a quarantine, no animals shall be taken into the streets or permitted to be in the streets during the period of quarantine.

(B) During a period of rabies quarantine as herein mentioned, every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed or, at the owner's option and expense, shall be treated for rabies infection by a licensed veterinarian or held under 30 days quarantine by the owner in the same manner as other animals are quarantined.

(C) In the event there are additional positive cases of rabies occurring during the period of the quarantine, the period of quarantine may be extended for an additional six months.

(1995 Code, § 6.12.140)

§ 90.084 FAILURE OR REFUSAL TO SURRENDER ANIMAL FOR QUARANTINE PROHIBITED.

No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefor by the Board of Health or the Police Department.

(1995 Code, § 6.12.150) Penalty, see § 90.999

§ 90.085 PERMISSION FROM BOARD OF HEALTH FOR DISPOSITION OF RABID ANIMAL REQUIRED.

No person shall kill or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies or any animal biting a human, except herein provided, nor remove the animal from the city limits, without written permission from the Board of Health.

(1995 Code, § 6.12.160) Penalty, see § 90.999

§ 90.086 DISPOSITION OF CARCASS OF ANIMAL EXPOSED TO RABIES.

The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the Board of Health. (1995 Code, § 6.12.170) Penalty, see § 90.999

§ 90.087 PROCEDURE UPON DEATH OF QUARANTINED ANIMAL.

When an animal under quarantine has been diagnosed as being rabid and dies while under observation, the Board of Health shall immediately send the head of the animal to the State Health Department for pathological examination and shall notify the proper public health officer of reports of human contacts and the diagnosis made of the suspected animal.

(1995 Code, § 6.12.180) Penalty, see § 90.999

PIT BULL DOGS

§ 90.100 PURPOSE.

This subchapter is intended to utilize the authority and powers of the city, a home rule municipality, in order to secure for the citizens of this city, the protection of their health, safety and welfare. It is intended to be applicable to dogs which are commonly referred to as pit bulls and which are defined herein. This subchapter is designed to regulate these dogs and to ensure responsible handling by their owners through registration, confinement and liability insurance. The unique history, nature and characteristics of pit bulls have been determined to require the special regulations and provisions contained within this subchapter which the City Council finds reasonable and necessary.

(1995 Code, § 6.16.010)

§ 90.101 DEFINITION OF PIT BULL.

(A) The term ***PIT BULL*** as used within this chapter shall refer to any dog which exhibits those distinguishing characteristics which:

(1) Substantially conform to the standards established by the American Kennel Club for American Staffordshire terriers or Staffordshire bull terriers; or

(2) Substantially conform to the standards established by the United Kennel Club for American pit bull terriers.

(B) The standards of the American Kennel Club and the United Kennel Club referred to in division (A) above of this section are attached to the ordinance codified in this chapter as Exhibit A and shall remain on file with the City Animal Control Department.

(C) The term ***PIT BULL*** shall include American pit bull terriers, American Staffordshire terriers and all pit bull mixes where another breed of dog is intermixed with a pit bull.

(1995 Code, § 6.16.020) (Ord. 0-02-0018, passed --2002)

§ 90.102 LIABILITY INSURANCE REQUIRED TO BE MAINTAINED BY OWNERS OF PIT BULLS.

In order to protect the public from the severe harm and injury which is likely to result from a pit bull attack, every owner of a pit bull shall at all times that he or she owns the dog, maintain in full force and effect a liability insurance policy of $1,000,000. (1995 Code, § 6.16.030) Penalty, see § 90.999

§ 90.103 CONFINEMENT OF PIT BULLS.

(A) Because of the pit bull's inbred propensity to attack other animals, and because of the danger posed to humans and animals alike by a pit bull when running loose or while running together in a pack situation, pit bulls must at all times be securely confined indoors, or confined in a securely and totally enclosed or locked pen, with either a top or with sides six feet high.

(B) At any time that a pit bull is not confined as required in division (A) above of this section, the dog shall be muzzled in a manner as to prevent it from biting or injuring any person or animal, and kept on a leash with the owner or custodian in attendance.

(C) An exception to this section is provided for any pit bull in attendance at, and participating in, any lawful dog show, contest or exhibition sponsored by a dog club, association, society or similar organization.

(D) An exception to this section is provided for any pit bull when the dog is actually engaged in the sport of hunting in authorized areas and supervised by a competent person.

(1995 Code, § 6.16.040) Penalty, see § 90.999

§ 90.104 REGISTRATION OF PIT BULLS.

(A) In order to assure that owners of pit bulls are aware of the full requirements of this subchapter, and to assure compliance therewith, every owner of a pit bull shall register the dog with the City Controller's office. The registration shall include the following: name, address and telephone number of the dog's owner, the address where the dog is harbored, if different from the owner's address; a complete identification of the dog including the dog's sex, color and any other distinguishing physical characteristics; proof of rabies vaccination; proof of the liability insurance required pursuant to this subchapter, and a signed affidavit indicating the owner's knowledge of, agreement to abide by, the requirements of this subchapter.

(B) Newly acquired pit bulls shall be registered with the City Controller's office no later than 72 hours after acquisition. (1995 Code, § 6.16.050) Penalty, see § 90.999

§ 90.105 ENFORCEMENT.

It shall be the duty and responsibility of all law enforcement officers to enforce the provisions of this subchapter. (1995 Code, § 6.16.060)

PET SOLID WASTE DISPOSAL

§ 90.120 DEFINITIONS.

For the purposes 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 used in the plural number include the singular number and words used in the singular number include the plural number. The word shall is always mandatory and not merely directory.

IMMEDIATE. The pet solid waste is removed at once, without delay.

OWNER/KEEPER. Any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of the pet.

PERSON. Any individual, corporation, company, partnership, firm, association or political subdivision of this state subject to municipal jurisdiction.

PET. A domesticated animal (other than a disability assistance animal) kept for amusement or companionship.

PET SOLID WASTE. Waste matter expelled from the bowels of the pet; excrement.

PROPER DISPOSAL. Placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal. (Ord. 0-08-0014, passed--2008)

§ 90.121 REQUIREMENT FOR DISPOSAL.

All pet owners and keepers are required to immediately and properly dispose of their pets solid waste deposited on any property, public or private. not owned or possessed by that person.
(Ord. 0-08-0014, passed - -2008) Penalty, see § 90.999

§ 90.122 EXEMPTIONS.

Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this subchapter while the animal is being used for that purpose.
(Ord. 0-08-0014, passed - -2008)

§ 90.123 ENFORCEMENT.

The provisions of this subchapter shall be enforced by the Police Department and the Department of Health or Department of Code Enforcement. (Ord. 0-08-0014, passed - -2008)

§ 90.999 PENALTY.

(A) *Generally.* Whoever violates any provision of this chapter shall, upon conviction thereof, be fined in a sum up to $2,500 and costs of prosecution. Each day a violation of this chapter continues constitutes a separate offense. (1995 Code, § 6.16.070)

(B) *Dogs in parks prohibited.* Any person violating § 90.046 of this chapter, shall, upon conviction thereof, be fined in any sum not exceeding $300 to which may be added imprisonment for a term not exceeding 180 days.

(C) *Pet solid waste disposal.* Any person(s) who is found to be in violation of the provisions of §§ 90.115 through 90.118 shall be subject to a fine not to exceed $2,500.

(Ord. 3087, passed--1975; Ord. 0-02-0018, passed --2002; Ord. 0-08-0014, passed --2008)

CHAPTER 91: HEALTH AND SANITATION

Section

General Provisions

91.001 Adoption of state law
91.002 Privies and outhouses
91.003 Cleaning of privy vaults, cesspools or pits

Birth and Deaths

91.015 Reports-required
91.016 Reports-when due
91.017 Reports-maintenance
91.018 Birth or death certificates
91.019 Burial permits
91.020 Administrative expenses
91.021 Body transportation permit

Emergency Services Telephone Number

91.035 Emergency services telephone number

Contagious Diseases

91.050 Reports
91.051 Quarantine
91.052 Travel forbidden
91.053 Sale or use of food and food products from premises-presence of animals
91.054 Disinfection of premises
91.055 Exclusion from school
91.056 Relocation of sick persons-contaminated articles
91.057 Private funerals for certain deaths
91.058 Disease prevention expenses
91.059 Prevention and control of venereal disease
91.060 Free vaccinations
91.061 Diseased employees

GENERAL PROVISIONS

§ 91.001 ADOPTION OF STATE LAW.

The city adopts the provisions of I.C. 36-9-25. (1995 Code, § 8.04.010)

§ 91.002 PRIVIES AND OUTHOUSES.

Privies and outhouses are prohibited within the city; provided, that when it is impossible or unreasonable to connect with sewer or water facilities, the Board of Health may upon a specific, detailed,

verified petition permit the construction and use of a privy after investigation and approval in writing by the City Health Officer. The privy must be maintained in a sanitary manner and shall be so constructed as not to pollute the air or the earth, and so constructed as to be absolutely watertight and well ventilated.

(1995 Code, § 8.04.020) Penalty, see § 10.99

§ 91.003 CLEANING OF PRIVY VAULTS, CESSPOOLS OR PITS.

It is unlawful for any person to fill up an abandoned privy vault, cesspool or pit of any kind without first cleaning the same to the bottom and sprinkling liberally with quick lime or other disinfectant approved by the City Health Officer. (1995 Code, § 8.04.030) Penalty, see § 10.99

BIRTH AND DEATHS

§ 91.015 REPORTS-REQUIRED.

(A) It shall be the duty of all physicians, midwives and all other persons now permitted or entitled to practice obstetrics in this state to report all births, deaths and stillbirths in the city to the City Health Officer on forms prescribed by the State Board of Health.

(B) Stillbirths of 20 weeks gestation and over shall be reported as both births and deaths and when any death, birth or stillbirth may occur with no physician or midwife in attendance, the same shall be reported by the householder or other person in charge at the death, birth or stillbirth.

(1995 Code, § 8.08.010) Penalty, see § 10.99

§ 91.016 REPORTS-WHEN DUE.

All reports required in § 91.015 shall be made to the City Health Officer within three days after the occurrence is known and no burial permit shall be issued by the City Health Officer or his or her deputy until a complete death certificate has been filed. (1995 Code, § 8.08.020) Penalty, see § 10.99

§ 91.017 REPORTS-MAINTENANCE.

(A) All records of births and deaths shall be kept and preserved in the office of the City Health Officer at the City Hall.

(B) The City Health Officer shall procure suitable books at the expense of the city, the form of which shall be prescribed by the State Board of Health, in which the pertinent information contained in the birth and death reports shall be entered, and the book or books shall be kept and preserved as other public records.

(C) The City Health Officer shall copy in the records the reports of births, deaths and stillbirths filed in his or her office and shall forward the original certificate to the State Board of Health within three days.

(D) The City Health Officer shall comply with the rules and regulations of the State Board of Health concerning the reports of births and deaths. (1995 Code, § 8.08.030)

§ 91.018 BIRTH OR DEATH CERTIFICATES.

Upon request, the City Health Officer shall furnish to any applicant with a legal or personal interest a certified copy of any birth or death certificate as the same appears of record. A charge of $2 shall be made for all certificates, which sum shall be the property of the city and shall be paid into the General Fund. No charge shall be made for certificates required for benefits for services with the armed forces or for work permits for children as provided by law. The City Health Officer shall keep financial records, diligently, pursuant to a plan approved by the City Controller. He or she shall pay the money due the city at that time and shall make an accounting in the manner required by law and this code.

(1995 Code, § 8.08.040)

§ 91.019 BURIAL PERMITS.

(A) It shall be the duty of the City Health Officer to issue burial permits for deaths occurring within the city; provided, that a complete death certificate has been filed in his or her office by the attending physician and that there is no evidence of death by violence or criminal practice. If the death occurred without medical attendance or the physician last in attendance fails to or refuses to sign the death certificate, the City Health Officer shall investigate and certify as to the cause of death before issuing a permit for burial, cremation or other disposition of the body; if the circumstances suggest that the death or stillbirth was caused by other than natural causes, the Health Officer shall refer the case to the coroner for investigation and certification.

(B) The City Health Officer shall have the power to appoint special deputies for the issuance of burial permits. These deputies shall serve without any expense to the city. (1995 Code, § 8.08.050)

§ 91.020 ADMINISTRATIVE EXPENSES.

It shall be the duty of the Common Council to appropriate sufficient funds for adequate clerical assistance and supplies to carry out the provisions of this chapter and to collect and record all birth certificates available. (1995 Code, § 8.08.060)

§ 91.021 BODY TRANSPORTATION PERMIT.

When death or stillbirth occurs outside this state and the body is accompanied by a permit for burial, removal or other disposition issued in accordance with the law and regulations in force where the death or stillbirth occurs, the permit shall authorize the transportation of the body into or through this city and state. (1995 Code, § 8.08.070) Penalty, see § 10.99

EMERGENCY SERVICES TELEPHONE NUMBER

§ 91.035 EMERGENCY SERVICES TELEPHONE NUMBER.

(A) The Mayor or his or her designated representative is authorized to proceed with any and all actions necessary to establish 911 as the telephone number designated for emergency services.

(B) The telephone number 911 is designated as the emergency services telephone number for the city.

(C) The Illinois Bell Telephone Company and its successors is authorized to designated 911 as the emergency services telephone number for the city and to install equipment or apparatus as necessary to provide 911 emergency services, pursuant to any agreements established or required under division (A) above of this section. (1995 Code, § 8.12.010)

CONTAGIOUS DISEASES

§ 91.050 REPORTS.

(A) It shall be the duty of all physicians and other persons permitted to treat diseases in the state, who are called upon to attend a sick person in the city and who find the cause of the sickness to be of a contagious or infectious character or of a disease ordered to be reported by the rules of the State Board of Health, to report the facts to the City Health Officer immediately.

(B) It shall be the duty of every physician in the city to report forthwith in writing to the State Board of Health on blanks furnished by the Board the name, address, age, sex, color, marital state, occupation, name of disease and other related statistical facts as may be required of every person coming under his or her examination or care having gonorrhea, chancroid or syphilis. All reports shall be confidential.

(C) Whenever any person knows, or has reason to believe that any member of his or her family or household, a boarder, roomer or visitor, has either anthrax, chickenpox, diphtheria, German measles, glanders, hydrophobia, influenza, lethargic-encephalitis, measles, cerebrospinal meningitis, mumps, ophthalmia, neonatorum, poliomyelitis, pneumonia, scarlet fever, smallpox, tetanus, trachoma, tuberculosis, typhoid fever, whooping cough, tularemia, undulant fever, malaria, bacillary dysentery, or any other communicable disease listed in the rules of the State Board of Health he or she shall, immediately from the time the existence of the disease is known, if no physician is in attendance, give notice thereof to the City Health Officer.

(D) When any person who owns, manages or keeps any hotel, apartment building, boardinghouse, lodging house or inn and who knows, or has reason to believe that any occupant of the premises has any communicable disease, he or she shall immediately, if no physician is in attendance, give notice thereof to the City Health Officer. (1995 Code, § 8.28.010) Penalty, see § 10.99

§ 91.051 QUARANTINE.

(A) The City Health Officer, upon being notified in any way of the existence of any of the diseases which are required to be reported by law or rules of the State Board of Health, shall immediately, in person or by deputy, quarantine the infected house, rooms or premises to as to isolate effectually the cases, and the family if necessary, in a manner and for a time as may be necessary to prevent transmission of the disease. Whenever a house, tenement or room is placed in quarantine, a placard shall be posted in a conspicuous position, giving the name of the disease, in letters not less than two inches high, and also containing the following quarantine order: “All persons are forbidden to enter or leave these premises without special permit from the City Health Officer, and all persons are forbidden to remove or mutilate this card, or to interfere in any way with this quarantine without orders from the Health Officer.” When visiting persons afflicted with smallpox, diphtheria, membranous croup, scarlet fever or other infectious disease named in the rules of the State Board of Health, all physicians and health officers shall take precautions as are directed in the rules of the State Board of Health covering the matter.

(B) Whenever a physician shall report, in writing, to the State Board of Health that a person having gonorrhea, chancroid or syphilis in an infectious state, whom he or she has treated and examined, cannot properly and safely be treated at home, he or she shall communicate the fact to the State Board of Health and make recommendations as he or she may deem proper; and when it is possible and in the judgment of the State Health Commissioner it is advisable, the reported person shall be quarantined and treatment given until a time as the patient may be no longer infectious.

(C) No person other than a licensed physician, undertaker or nurse in the discharge of his or her duty may enter or leave any house or building under quarantine or enter or leave any quarantined area without first procuring permission from the City Health Officer and obeying absolutely his or her directions as to all sanitary precautions which he or she may require.

(D) When a case of any of the quarantinable diseases has recovered or has been terminated by death, the attending physician shall notify the City Health Officer and as soon thereafter as the City Health Officer deems it advisable and safe, he or she shall instruct the family and members of the household as to terminal disinfection necessary and required, and when the necessary instructions have been carried out, the quarantine shall be released. (1995 Code, § 8.28.020) Penalty, see § 10.99

§ 91.052 TRAVEL FORBIDDEN.

No person who is, or who has been recently affected with any communicable disease listed in § 91.050, except those in which absolute quarantine is not required, shall be permitted to travel in any common carrier or appear upon the public streets or highways or to appear in any public place of gathering, or to travel in any public vehicle or vessel, until a certificate is issued by the attending physician to the Health Officer within whose jurisdiction the case occurs, stating that all danger from infection or contagion by reason of the disease is passed and the certificate is approved and endorsed by the Health Officer and written permission is given to the person, by the Health Officer having jurisdiction.

(1995 Code, § 8.28.030) Penalty, see § 10.99

§ 91.053 SALE OR USE OF FOOD AND FOOD PRODUCTS FROM PREMISES-PRESENCE OF ANIMALS.

(A) The sale or use of milk or dairy food products from the premises where one of the quarantinable diseases exists or where typhoid fever is present, is strictly forbidden unless the milk, dairy or food products are handled, cans and pails washed and stock cared for by persons entirely separated from the affected person and family, and then only upon permission of the Health Officer having jurisdiction.

(B) No milk bottles shall be taken from premises on which a quarantinable disease exists until the quarantine has been raised, and the bottles have been thoroughly cleansed and disinfected by order of the Health Officer. Milk tickets and bread tickets shall not be taken away from the premises while the premises are under quarantine. Cats and dogs and other domestic animals belonging to premises under quarantine shall be kept out of the house and from contact with the patient. Should these precautions not be observed strictly, it shall be the duty of the Health Officer to cause the domestic animals to be destroyed.(1995 Code, § 8.28.040) Penalty, see § 10.99

§ 91.054 DISINFECTION OF PREMISES.

Immediately after the recovery or death of any infected person the City Health Officer shall cause the infected premises and infected persons to be thoroughly disinfected and cleansed according to the methods described in the rules of the State Board of Health. (1995 Code, § 8.28.050)

§ 91.055 EXCLUSION FROM SCHOOL.

When a case of communicable disease is reported to the City Health Officer, it shall be his or her duty to ascertain the school attended by any child or children from the infected premises and to serve notice upon those in charge of the school, requiring that all persons from the infected premises be excluded from the school until a medical certificate of health with a written permit from the Health Officer is presented. (1995 Code, § 8.28.060)

§ 91.056 RELOCATION OF SICK PERSONS-CONTAMINATED ARTICLES.

(A) The City Health Officer shall have power to remove or cause to be removed from any hotel, boardinghouse, apartment house or other building of like character to a proper place designated by the Health Officer all persons sick with any contagious, infectious or pestilential disease and the officer shall also have power to remove to a proper place designated all things and articles within the city which, in his or her opinion, shall be infected with any manner likely to communicate disease to the inhabitants of the city and the Health Officer may destroy or cause to be destroyed the articles or things when in his or her opinion the safety of the public health requires it. When articles are destroyed upon orders of the Health Officer, the actual cash value of the articles shall be claimed against the General Fund of the city; provided, that no sick person shall be removed except in the manner provided by law.

(B) Whenever the City Health Officer shall know, suspect or be informed of the existence of any communicable disease infectious to the public health and there be no physician in attendance, or should any physician while in attendance fail or refuse to report immediately to the Health Officer such case, it shall be the duty of the Officer or his or her deputy to examine the case of alleged communicable disease infectious to the public health. If in the judgment of the City Health Officer the afflicted person should be isolated and quarantined, it shall be the duty of the officer and he or she is empowered to remove the afflicted person. All expenses of the removal shall be paid by the Board of Health out of the General Fund of the city. The removal and maintenance of the afflicted persons shall be in compliance with law.

(1995 Code, § 8.28.070) Penalty, see § 10.99

§ 91.057 PRIVATE FUNERALS FOR CERTAIN DEATHS.

In all cases of death from cholera, bubonic plague, leprosy, typhus fever, smallpox, diphtheria, membranous croup, scarlet fever and cerebrospinal fever, the funeral shall be strictly private, and the burial shall be made according to the rules of the State Board of Health. No public or church funeral shall be held or any person permitted to enter the house containing the remains, excepting the relatives of the deceased, the minister, and the undertaker and his, her or their assistants, unless by permission of the Health Officer. (1995 Code, § 8.28.080) Penalty, see § 10.99

§ 91.058 DISEASE PREVENTION EXPENSES.

The expenses incident to disease prevention shall be paid by the city when, in the opinion of the City Health Officer, prevention becomes necessary in the interests of public health.

(1995 Code, § 8.28.090)

§ 91.059 PREVENTION AND CONTROL OF VENEREAL DISEASE.

(A) Whenever the Board of Public Health and the City Health Officer determine that there exists a prevalence of venereal disease inimical to the public health, safety and welfare of the citizens of the city or that the situation is causing economic interference with industry or with any other phase of public welfare, the Board of Public Health or City Health Officer may request of the Common Council and the Mayor an appropriation from the General Fund of the city for the prevention and control of venereal disease and for the hospitalization and quarantine of venereal disease cases for the support and maintenance of a program for the prevention and control of the disease if the Health Officer and Board of Health may deem it necessary and expedient. The City Health Officer shall transmit the request in writing to the President of the Common Council who shall present it at the next meeting of the Common Council. The Common Council may appropriate out of any money which may be available from the General Fund of the city an amount as it shall deem necessary and advisable to carry out properly the program for the prevention and control of venereal disease.

(B) Any sum of money so appropriated shall be set aside in a special fund to be known as the Board of Health-Venereal Disease Prevention and Control Fund. The Board of Health shall have full and complete authority to expend the funds when appropriated.

(C) There may also be levied annually by the Common Council for the control and prevention of venereal diseases, a tax of not more than $0.03 on each $100 of taxable property in the city as the same appears on the tax duplicate, which shall be in addition to other taxes of the city, for the prevention and control of venereal disease. Any unexpended balance remaining in the Fund at the end of the fiscal year shall not revert to the General Fund but shall remain in the special fund.

(D) Warrants for expenditures for the prevention of venereal disease shall be drawn by the City Controller upon a voucher of the Board of Health in the same manner as expenditures are made from the Board of Health General Fund. (1995 Code, § 8.28.100) Penalty, see § 10.99

§ 91.060 FREE VACCINATIONS.

(A) The city shall supply free of charge diphtheria, scarlet fever, tetanus (lockjaw) antitoxin and antirabic virus to people too poor to purchase the same, when proper blank forms are filled out in compliance with this section and other law.

(B) Upon the receipt of an official blank duly executed, any dealer may supply the antitoxin or virus, and the blank shall be a legal claim against the city for the market price of the antitoxin or virus.

(C) All costs hereby incurred through legal purchases of antitoxin or virus shall be paid by the city.

(D) The City Health Officer shall notify the Prosecuting Attorney of any violation of this section and shall also make reports required by law. (1995 Code, § 8.28.110)

§ 91.061 DISEASED EMPLOYEES.

(A) No employer shall permit or suffer any person to work who is afflicted with any contagious, infectious or venereal disease, nor shall any sick person work anywhere within the city in the production, preparation, manufacture, processing, handling, picking, storage, sale, distributing and transporting of food.

(B) No food product shall be sold in the city when the product has been prepared, manufactured, stored or delivered by any person who is infected with any contagious, infectious or venereal disease.(1995 Code, § 8.28.120) Penalty, see § 10.99

CHAPTER 92: FIRE PREVENTION

Section

Fire Prevention

92.001 Impersonating firefighters
92.002 Hindering firefighters- damaging fire apparatus
92.003 Fires in alleys or open lots
92.004 Fires near inflammable liquids, wood frame buildings
92.005 Bonfires on streets and sidewalks
92.006 Damaging fire hose
92.007 Throwing fire brands
92.008 Taking lighted objects into posted area
92.009 Flame proofing of certain flammable materials for certain uses
92.010 Smoking in public buildings
92.011 False alarms of fire
92.012 Reports of certain fire losses
92.013 Private property saved from fires

Fire and Smoke Detectors- Residential Requirements

92.025 Applicability
92.026 Detector systems required- standards
92.027 Upper level sleeping rooms-placement requirement
92.028 Kitchen detector- placement requirements
92.029 Heating plant- detector requirement
92.030 All residential occupancy buildings- detector requirements
92.031 Enforcement authority

Fire and Smoke Detectors

92.045 Compliance required-when
92.046 Applicability
92.047 Detection systems for single-family and two-family structures
92.048 Detector placement near sleeping rooms
92.049 Detector placement in kitchens
92.050 Detector placement on hearing plant level
92.051 Multi-family residential occupancy detector placement requirements
92.052 Nonresidential occupancy detection system requirements
92.053 Enforcement

Carbon Monoxide Detectors

92.065 Required for residential units
92.066 Exceptions

92.067 Installation and placement requirement
92.068 Compliance with state and federal regulations required
92.069 Disarming prohibited-exception
92.070 Required installation in central fossil fuel powered heating unit room
92.071 Fossil fuel defined
92.072 Constitutionality

Fireworks

92.085 Permit; required
92.086 Permit; application; requirements for issuance
92.087 Permit; bond
92.088 Storage
92.089 Seizure and removal
92.090 Exemptions
92.091 Consumer fireworks

92.999 Penalty

FIRE PREVENTION

§ 92.001 IMPERSONATING FIREFIGHTERS.

No person not a member of the fire force shall impersonate a firefighter or officer of the fire force, or wear in public the official city fire uniform or exhibit a uniform, star or badge or one resembling those of the fire force. (1995 Code, § 8.16.010) Penalty, see § 92.999

§ 92.002 HINDERING FIREFIGHTERS -DAMAGING FIRE APPARATUS.

No person shall willfully hinder any police officer, firefighter or other public official in the performance of his or her duty at a fire or in the station nor shall any person willfully in any manner injure, deface, damage or destroy any engine or fire apparatus belonging to the city.
(1995 Code, § 8.16.020) Penalty, see § 92.999

§ 92.003 FIRES IN ALLEYS OR OPEN LOTS.

It is unlawful for any person to make or cause a fire to be made in any alley or open lot for the purpose of burning any waste materials except between daylight and 6:00 p.m. when in a suitable metal or fire burner so constructed as to prevent the escape of burning material or spark which might endanger surrounding property; provided, that the burning does not violate the air pollution and other pertinent portions of this code. (1995 Code, § 8.16.030) Penalty, see § 92.999

§ 92.004 FIRES NEAR INFLAMMABLE LIQUIDS, WOOD FRAME BUILDINGS.

It is unlawful for any person to make or cause a fire to be made for burning any waste materials in any place within a radius of 200 feet of any tank containing inflammable liquid or any filling station pump, tank or other inlet or outlet for flammable liquids or to make or cause a fire to be made closer than 30 feet to any wood frame building or stock, store or accumulation of lumber or other combustible material. (1995 Code,§ 8.16.040) Penalty, see § 92.999

§ 92.005 BONFIRES ON STREETS AND SIDEWALKS.

It is unlawful for any person to make or cause to be made a bonfire on any public street or sidewalk within the city. (1995 Code,§ 8.16.050) Penalty, see § 92.999

§ 92.006 DAMAGING FIRE HOSE.

It is unlawful for any person to drive any vehicle of any kind over or to damage any fire hose laid in the street at the scene of any fire or while in use for any other purpose.

(1995 Code, § 8.16.060) Penalty, see § 92.999

§ 92.007 THROWING FIRE BRANDS.

It is unlawful for any person to throw fire brands, fire balls or any other ignited substance or to aid, abet or assist in throwing the same anywhere within the city.

(1995 Code, § 8.16.070) Penalty, see § 92.999

§ 92.008 TAKING LIGHTED OBJECTS INTO POSTED AREA.

It is unlawful for any person to take any lighted cigarette, cigar, pipe, fuse, candle, lantern or other lighted object into any building, structure or place within the city where inflammable material is kept or into any place where a sign is posted warning persons of possible danger from lighted objects.

(1995 Code, § 8.16.080) Penalty, see § 92.999

§ 92.009 FLAMEPROOFING OF CERTAIN FLAMMABLE MATERIALS FOR CERTAIN USES.

(A) No person shall use cotton batting, straw, dry vines, leaves, trees, celluloid or other highly inflammable materials for decorative purposes in show windows or in stores without a permit from the Fire Prevention Bureau.

(B) No person shall use paper or other readily inflammable materials for decorative purposes in any place of public assembly unless the materials have first been treated to render them flameproof in a manner prescribed by the Fire Prevention Bureau.

(C) No person shall sell or offer for sale or use in any building or structure within the city any Christmas tree unless it shall have been treated to render it flameproof in a manner prescribed by the Fire Prevention Bureau. (1995 Code, § 8.16.090) Penalty, see § 92.999

§ 92.010 SMOKING IN PUBLIC BUILDINGS.

It is unlawful for any person to light a match or other flame-producing device or to smoke in any theater or auditorium except in areas approved by the Building Commissioner and the Fire Prevention Bureau; provided, that the areas are free from all inflammable and combustible floors, walls, furniture, fixtures and decorations. No person shall smoke, light or carry a lighted cigarette, cigar or pipe or similar article in any public library, public school or public school building, including gymnasiums and auditoriums and similar buildings, unless authorized signs are displayed expressly permitting the same; provided further, that this section shall not be construed to prohibit smoking on the stage of any theater when used in connection with the performance. (1995 Code, § 8.16.100) Penalty, see § 92.999

§ 92.011 FALSE ALARMS OF FIRE.

It is unlawful for any person to give or cause to be given any false alarm of fire by means of any fire alarm signal system, by telephone or otherwise or to cry out a false alarm of fire in any church, public building, theater, gymnasium, show room or in any other place where people congregate while the same is being occupied by any person. (1995 Code, § 8.16.110) Penalty, see § 92.999

§ 92.012 REPORTS OF CERTAIN FIRE LOSSES.

It shall be the duty of every person who is the owner, lessee, occupant or manager of any property to report all fire losses to the Fire Prevention Bureau of the Fire Department of the city within 48 hours after a loss occurs when the amount of the damage sustained exceeds $50.

(1995 Code, § 8.16.120) Penalty, see § 92.999

§ 92.013 PRIVATE PROPERTY SAVED FROM FIRES.

No person shall be entitled to take away any property in the possession of the fire force saved from any fire until he or she shall make satisfactory proof of ownership.

(1995 Code, § 8.16.130) Penalty, see § 92.999

FIRE AND SMOKE DETECTORS RESIDENTIAL REQUIREMENTS

§ 92.025 APPLICABILITY.

The provisions of this subchapter shall not be construed as affecting or changing any ordinance requirement for a fire alarm system applicable to places of public resort or amusement.

(1995 Code, § 8.18.010)

§ 92.026 DETECTOR SYSTEMS REQUIRED-STANDARDS.

Every building having one or more residential units shall be equipped with a fire and smoke detector system. Residential units include single-family and multiple-family dwellings as defined in the city zoning regulations. The detectors shall be sensitive to any of the products for combustion except that detectors sensitive only to heat are not acceptable. Alarm signaling devices shall be clearly audible in all bedrooms when all intervening doors are closed. The detectors shall meet Underwriters Laboratory Standards # 217 or its equivalent.

(1995 Code, § 8.18.020) (Ord. 0-94-0027, passed - -1994) Penalty, see § 92.999

§ 92.027 UPPER LEVEL SLEEPING ROOMS-PLACEMENT REQUIREMENT.

Where sleeping rooms are on an upper level, a detector shall be placed at the center of the ceiling directly above the stairway. All detectors shall be located within 12 inches of the ceiling. Care shall be exercised to ensure that the installation will not interfere with the operating characteristics of the detector.

(1995 Code, § 8.18.030) (Ord. 0-94-0027, passed - -1994) Penalty, see § 92.999

§ 92.028 KITCHEN DETECTOR-PLACEMENT REQUIREMENTS.

Where the kitchen level is on a different level than the sleeping room or rooms, an additional detector shall be required in the kitchen.

(1995 Code, § 8.18.040) (Ord. 0-94-0027, passed - -1994) Penalty, see § 92.999

§ 92.029 HEATING PLANT -DETECTOR REQUIREMENTS.

Where the heating plant is on a different level than either the kitchen or sleeping room levels, an additional detector shall be required on that level.

(1995 Code, § 8.18.050) (Ord. 0-94-0027, passed - -1994) Penalty, see § 92.999

§ 92.030 ALL RESIDENTIAL OCCUPANCY BUILDINGS -DETECTOR REQUIREMENTS.

Every residential occupancy building, including hotels and motels, shall be equipped with an approved smoke detector in each unit and at the top of each stairway and exit way.

(1995 Code,§ 8.18.060) Penalty, see § 92.999

§ 92.031 ENFORCEMENT AUTHORITY.

It shall be the duty of the Fire Department Inspections Division and the City Building Inspector to enforce or cause to enforce the terms of this subchapter.

(1995 Code, § 8.18.070) (Ord. 0-94-0027, passed - -1994)

FIRE AND SMOKE DETECTORS

§ 92.045 COMPLIANCE REQUIRED-WHEN.

(A) Buildings presently constructed may be used for residential purposes only, without compliance with the provisions of this subchapter, but any remodeling, repair or construction of additions costing $1,000 or more must comply with the provisions of this subchapter.

(B) Where any of the remodeling, repair or construction consists of electrical rewiring to bring a building up to date on electrical code requirements, all of the sections of this subchapter shall still apply but the detectors shall be wired into the building electrical system.

(1995 Code, § 8.20.010) (Ord. 3180, passed - -1978) Penalty, see § 92.999

§ 92.046 APPLICABILITY.

The provisions of this subchapter shall not be construed as affecting or changing any ordinance requirements for a fire alarm system applicable to places of public resort or amusement.

(1995 Code, § 8.20.020) (Ord. 3180, passed - -1978) Penalty, see § 92.999

§ 92.047 DETECTION SYSTEMS FOR SINGLE-FAMILY AND TWO-FAMILY STRUCTURES.

Every building constructed for single-family and two-family occupancy, shall have installed therein an approved fire-detection, products-of-combustion system. The detectors shall be sensitive to any of the products of combustion except that detectors sensitive only to heat are not acceptable. Alarm signaling devices shall be clearly audible in all bedrooms when all intervening doors are closed. The detectors shall meet minimum Underwriters Laboratory Standards # 217.

(1995 Code, § 8.20.030) (Ord. 3180, passed - -1978) Penalty, see § 92.999

§ 92.048 DETECTOR PLACEMENT NEAR SLEEPING ROOMS.

Where sleeping rooms are on an upper level, a detector shall be placed at the center of the ceiling directly above the stairway. All detectors shall be located within 12 inches of the ceiling. Care shall be exercised to ensure that the installation will not interfere with the operating characteristics of the detector. When actuated, the detector shall provide an alarm.

(1995 Code, § 8.20.040) (Ord. 3180, passed - -1978) Penalty, see § 92.999

§ 92.049 DETECTOR PLACEMENT IN KITCHENS.

Where the kitchen level is on a different level than the sleeping room or rooms, an additional detector shall be required in the kitchen.

(1995 Code, § 8.20.050) (Ord. 3180, passed - -1978) Penalty, see § 92.999

§ 92.050 DETECTOR PLACEMENT ON HEATING PLANT LEVEL.

Where the heating plant level is on a different level than either the kitchen or sleeping room levels an additional detector shall be required on that level.

(1995 Code, § 8.20.060) (Ord. 3180, passed - -1978) Penalty, see § 92.999

§ 92.051 MULTI-FAMILY RESIDENTIAL OCCUPANCY DETECTOR PLACEMENT REQUIREMENTS.

Every building constructed for multi-family residential occupancy, including hotels, motels, shall have installed standards # 217 therein an Underwriters Laboratory smoke detectors that meets the minimum approved supervised fire-detection, products of combustion system in each unit and at the top of each stairway and exit way. Detectors that are sensitive to heat only are not acceptable.

(1995 Code, § 8.20.070) (Ord. 3180, passed - -1978) Penalty, see § 92.999

§ 92.052 NONRESIDENTIAL OCCUPANCY DETECTION SYSTEM REQUIREMENTS.

Every building constructed for nonresidential occupancies over 5,000 square feet in area, but less than 10,000 square feet in area, shall have installed therein an approved fire detection system in accordance with the standards for the system as established by the National Fire Protection Association.

(1995 Code, § 8.20.080) (Ord. 3180, passed - -1978) Penalty, see § 92.999

§ 92.053 ENFORCEMENT.

It shall be the duty of the Department of Inspection or other official designated by the Mayor to enforce or cause to be enforced the terms of this subchapter.

(1995 Code, § 8.20.090) (Ord. 3180, passed - -1978)

CARBON MONOXIDE DETECTORS

§ 92.065 REQUIRED FOR RESIDENTIAL UNITS.

Every building having one or more residential units shall be equipped with approved carbon monoxide detectors. Residential units include single-family and multiple-family dwellings as defined in the city zoning regulations. (1995 Code, § 8.22.010) (Ord. 0-94-0026, passed - -1994) Penalty, see § 92.999

§ 92.066 EXCEPTIONS.

The following residential units shall not be required to contain carbon monoxide detectors:

(A) A residential unit in a building that does not rely on combustion for heat, ventilation or hot water, and is not sufficiently close to any ventilated source of carbon monoxide, as determined by the Building Commissioner, to receive carbon monoxide from that source;

(B) A residential unit that:

(1) Is heated by steam, hot water or electric heat;

(2) Is not connected by duct work or ventilation shafts to any room containing a fossil fuel-burning boiler or heater; and

(3) Is not sufficiently close to any ventilated source of carbon monoxide, as determined by the Building Commissioner to receive carbon monoxide from that source.

(1995 Code, § 8.22.020) (Ord. 0-94-0026, passed - -1994)

§ 92.067 INSTALLATION AND PLACEMENT REQUIREMENTS.

(A) Not less than one approved carbon monoxide detector shall be installed in each residential unit. The detector shall be installed within 40 feet of all rooms used for sleeping purposes.

(B) In every hotel and motel, one approved carbon monoxide detector shall be installed for every 10,000 square feet of floor area, or fraction thereof:

(1) On every floor on which a fossil fuel-burning appliance, boiler or furnace is located; and

(2) On every floor on which sleeping rooms are heated by any type of warm air heating plant that burns fossil fuel. Floor area shall be computed separately for each floor. Each dwelling unit employing space heating equipment that is located within the dwelling unit and that burns fossil fuel shall be equipped with at least one carbon monoxide detector.

(1995 Code, § 8.22.030) (Ord. 0-94-0026, passed - -1994) Penalty, see § 92.999

§ 92.068 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS REQUIRED.

Every approved carbon monoxide detector shall comply with all applicable federal and state regulations, and shall bear the label of a nationally recognized standard testing laboratory, and shall meet the standards of Underwriters Laboratory # 2034 or its equivalent. The Building Commissioner shall issue rules and regulations for the implementation and administration relating to carbon monoxide detectors.

(1995 Code, § 8.22.040) (Ord. 0-94-0026, passed - -1994) Penalty, see § 92.999

§ 92.069 DISARMING PROHIBITED-EXCEPTION.

It is unlawful for any person to remove batteries from a carbon monoxide detector or in any way make inoperable a carbon monoxide detector, except a building owner or manager or his or her agent in the normal procedure of replacing batteries.

(1995 Code, § 8.22.050) (Ord. 0-94-0026, passed - -1994) Penalty, see § 92.999

§ 92.070 REQUIRED INSTALLATION IN CENTRAL FOSSIL FUEL POWERED HEATING UNIT ROOM.

In every building that is heated by one main central fossil fuel powered heating unit, and that is not exempted under § 92.066, one approved carbon monoxide detector must be installed in the room containing the central heating unit.

(1995 Code, § 8.22.060) (Ord. 0-94-0026, passed - -1994) Penalty, see § 92.999

§ 92.071 FOSSIL FUEL DEFINED.

The term ***FOSSIL FUEL*** includes gas, kerosene, oil, propane and wood.

(1995 Code, § 8.22.070) (Ord. 0-94-0026, passed - -1994)

§ 92.072 CONSTITUTIONALITY.

If any provision of this subchapter or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, the invalidity shall not affect other provisions of this subchapter which can be given effect without the invalid provision or invalid application of this chapter. It is declared to be the legislative intent of the Common Council that the ordinance codified in this subchapter would have been adopted had any unconstitutional or otherwise invalid provision or application not been included. (1995 Code, § 8.22.080) (Ord. 0-94-0026, passed - -1994)

FIREWORKS

§ 92.085 PERMIT; REQUIRED.

It is unlawful and it is prohibited for any person to store, sell or to use, discharge or cause to be discharged, ignited, fired or otherwise set in action within the city any fireworks containing any explosive or flammable compound, fire crackers, rockets, sparklers, torpedoes, Roman candles, fire balloons or other fireworks or substances of any combination whatsoever designed or intended for pyrotechnic display except after having obtained a permit as provided in this subchapter.

(1995 Code, § 8.24.010) Penalty, see § 92.999

§ 92.086 PERMIT; APPLICATION; REQUIREMENTS FOR ISSUANCE.

Permits for the public display of fireworks by properly qualified persons or by the city officials, under the direct supervision of experts in the handling of fireworks, may be issued by the City Controller under recommendations of the State Fire Marshal and the Chief of the Fire Department in accordance with the general licensing provisions of TITLE XI of this Code and upon furnishing information as may

be required; provided, that the display shall be of a character and so located, discharged or fired as, in the opinion of the Chief of the Fire Department after proper inspection, shall not be hazardous to property or endanger any person and shall be handled by competent operators to the approval of the Chief of the Fire Department; provided further, that application for permits be made 15 days in advance of the date of display. (1995 Code, § 8.24.020) Penalty, see § 92.999

§ 92.087 PERMIT; BOND.

Good and sufficient surety bond shall be required under the general licensing provisions of TITLE XI of this code before the issuance of a permit under this subchapter, conditioned for the payment of all damages which may be caused either to persons or property, by reason of the permitted display and arising from any acts of the permittee or persons under or through him or her.

(1995 Code, § 8.24.030) Penalty, see § 92.999

§ 92.088 STORAGE.

Fireworks or devices for pyrotechnic display may be stored within the limits of the city when the permit for the storage has been issued by the city; provided, that the building or premises in or upon which the storage is to be made has been properly inspected by the Chief of the Fire Department and certified as a proper place for storage; provided further, that no license shall be issued for storage within 500 feet of a school, hospital, church or other public institution or any building used as a place of public assembly. (1995 Code, § 8.24.040) Penalty, see § 92.999

§ 92.089 SEIZURE AND REMOVAL.

The Chief of the Fire Department, with the approval of the State Fire Marshal, shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this subchapter. (1995 Code, § 8.24.050)

§ 92.090 EXEMPTIONS.

The provisions of this subchapter shall not apply to items of the kind and nature mentioned in this subchapter which shall be in the possession of railroads or transportation companies for the purpose of transportation, unless the same shall be held voluntarily by railroads or companies as warehouse workers; provided, that none of the provisions of this subchapter shall apply to signaling devices used by railroad companies or to explosives used for blasting or similar purposes. (1995 Code, § 8.24.060)

§ 92.091 CONSUMER FIREWORKS.

(A) The use of consumer fireworks is prohibited with the city limits except for the specific hours and days that consumer fireworks are specifically allowed by state statute.

(B) This section shall not in any way be construed as affecting any noise regulations in the city.

(Ord. 0-07-0015, passed 6-11-2007) Penalty, see § 92.999

§ 92.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Fire detectors and smoke detectors-residential requirements.* Any person, firm or corporation violating any provision of §§ 92.025 through 92.031 shall be fined not less than $100, nor more than $500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (1995 Code, § 8.18.080)

(C) *Fire and smoke detectors.* Any person, firm or corporation violating any provision of §§ 92.045 through 92.053 shall be fined not less than $5 nor more than $500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
(1995 Code, § 8.20.100)

(D) *Carbon monoxide detectors.* Any person, firm or corporation violating any provision of §§ 92.065 through 92.072 shall be fined not less than $100, nor more than $500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (1995 Code, § 8.22.090)

(E) *Consumer fireworks.* The violation of any provision of § 92.091 shall be punished by a fine not to exceed $2,500 or $7,500 for any subsequent violation.
(Ord. 3180, passed - -1978; Ord. 0-94-0026, passed - -1994; Ord. 0-94-0027, passed - -1994; Ord. 0-07-0015, passed 6-11-2007)

CHAPTER 93: NUISANCES

Section

General Provisions

93.001 Dangerous or offensive maintenance of premises
93.002 Common-law and statutory nuisances
93.003 Notice to abate- abatement by city
93.004 Reporting violations-right of entry for inspection
93.005 Summary abatement
93.006 Nuisances brought into city prohibited
93.007 Certain acts enumerated
93.008 Barbed wire
93.009 Cellars or drains emitting noxious odors prohibited
93.010 Coal and dirt-loading
93.011 Abandoning or discarding ice boxes and refrigerators
93.012 Sale of secondhand bed clothing
93.013 Substances that scatter in wind
93.014 Sale of unclean rags and fabrics
93.015 Uncovered cisterns and cellars
93.016 Placing flowerpots, bowls or other articles on windowsills or balconies

Litter

93.030 Definitions
93.031 Placement in receptacles
93.032 Throwing litter in or upon streets, sidewalks, prohibited
93.033 Throwing litter from vehicles prohibited
93.034 Throwing litter in parks prohibited
93.035 Throwing litter fountains, ponds or streams prohibited
93.036 Throwing litter on private property prohibited
93.037 Throwing out, dropping or depositing litter from aircraft prohibited
93.038 Sweeping or depositing litter in gutters and streets- care of sidewalks
93.039 Merchants' duty to keep sidewalks free of litter
93.040 Truck loads blown or deposited in streets-wheels or tires depositing mud, dirt and foreign matter
93.041 Posting or affixing notices to poles, trees and buildings prohibited- exception
93.042 Maintenance of premises
93.043 Clearing private property by city- procedures

Handbills

93.055 Handbills in public places
93.056 Placing handbills in or upon vehicles
93.057 Placing handbills on private premises prohibited

Rat Control

93.070 Removal of storage areas providing harborage
93.071 Elimination of feeding places required
93.072 Extermination
93.073 Rat proofing buildings
93.074 Vermin poison

Weeds

93.085 Removal of weeds and rank vegetation

GENERAL PROVISIONS

§ 93.001 DANGEROUS OR OFFENSIVE MAINTENANCE OF PREMISES.

(A) No building, vehicle, structure, receptacle, yard, lot, thing, premises or part thereof shall be made, used, kept, maintained or operated in the city if the making, using, keeping, maintaining or operating shall be the occasion of any nuisance or shall be dangerous or detrimental to health or indecent or offensive to the senses.

(B) Any person who shall erect, construct, use, keep or maintain or permit to be erected, constructed, used or maintained any condition, trade, employment or business or anything whatever which is prohibited by this section shall be deemed and is declared to be the author of a nuisance.

(C) No substance, matter or thing of any kind whatever, which shall be dangerous or detrimental to health, or which shall become obnoxious or injurious to public comfort, shall be allowed to exist in connection with any factory, plant or business or be used therein or be used in any work or labor performed in the city, and no nuisance shall be permitted to exist in connection with any factory, plant or business or in connection with any work or labor.

(D) Any factory, yard, building or structure of any kind or soap factory, distillery, lively stable, cattle yard or shed, barn, packing house or rendering establishment which shall become noxious, foul or which shall emit an unwholesome odor or which shall become injurious to public comfort or health is declared to be a nuisance. (1995 Code, § 8.52.010) Penalty, see § 10.99

§ 93.002 COMMON-LAW AND STATUTORY NUISANCES.

In all cases where no provision is made in this chapter defining what are nuisances and how the same may be removed, abated or prevented, in addition to what may be declared such in this code, those offenses which are known to the common law and the statutes of the state as nuisances may, in case the same exists within the city, be treated as such and be proceeded against as is provided in this chapter or in accordance with other provisions of law. (1995 Code, § 8.52.020)

§ 93.003 NOTICE TO ABATE-ABATEMENT BY CITY.

(A) Whenever any nuisance shall be found on any premises within the city, the Board of Health, the Board of Public Safety or other proper city authorities are authorized to serve notice, in writing, upon

the owner, occupant, agent or person in possession or control of any structure, lot, thing, building or premises in or upon which any nuisance may be found, or upon the person owning or causing any nuisance, requiring him or her to abate the nuisance within a reasonable time. In place of service of notice upon the person abovementioned the notice may be posted upon the premises, structure or thing. It shall not be necessary in any case for the city authority to specify or designate in the notices the manner in which any nuisance shall be abated unless the city authority deems it advisable to do so. The notice may be given or served by any officer who is so directed or delegated. If the person so notified shall neglect or refuse to comply with the requirements of the order by abating the nuisance within the time specified, the person shall be guilty of a violation of the provisions of this chapter and shall be subject to the penalties provided herein.

(B) In the event of refusal or neglect on the part of the notified offender to obey an order within the time limit named in the order, the City Health Officer shall inform the Supervisor of Public Works upon a blank provided by the Board of Health and it shall then be the duty of the Supervisor of Public Works and he or she shall have the power and authority to remove and abate the unlawful conditions. He or she shall keep an accurate account of the cost and expenses thereof, which shall be paid from the city treasury upon sworn vouchers of the Supervisor of Public Works. The cost and expenses shall be a lien upon the property, to be placed upon the tax duplicate by the City Controller and shall be collected by law as other taxes are collected and duly paid into the city treasury.

(C) The proper city authority may cause any nuisance to be abated and shall immediately thereafter cause an action to be instituted in the name of the city against the owner, occupant, agent or person in possession and control of any structure, thing, lot, building or premises in or upon which any nuisance may be found or upon any person who is the owner or cause of any nuisance for recovery of the amount of the expense of the abatement. (1995 Code, § 8.52.030) Penalty, see § 10.99

§ 93.004 REPORTING VIOLATIONS-RIGHT OF ENTRY FOR INSPECTION.

For the purpose of carrying the provisions of this chapter into effect, it is made the duty of all officers and employees of the city to report all violations of this subchapter to the City Attorney or Mayor for prosecution. For this purpose, the Chief of Police, the Supervisor of Public Works, the members of the police force and the Board of Health and each of them shall be permitted at all hours to visit, enter into or upon any building, lot, grounds or premises within the limits of this city to ascertain and discover any nuisances and to make examination thereof. (1995 Code, § 8.52.040) Penalty, see § 10.99

§ 93.005 SUMMARY ABATEMENT.

Whenever any nuisance shall be found on any premises within the city, the Board of Public Health or Board of Public Safety or other proper city authority is authorized, in its discretion, to cause the same to be summarily abated in a manner as it may direct. (1995 Code, § 8.52.050)

§ 93.006 NUISANCES BROUGHT INTO CITY PROHIBITED.

No person shall bring into the city or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance or thing which shall be a nuisance or which shall occasion a nuisance in the city or which may or shall be dangerous or detrimental to health.
(1995 Code, § 8.52.060) Penalty, see § 10.99

§ 93.007 CERTAIN ACTS ENUMERATED.

The following acts shall be violations of this chapter and are declared to be nuisances, but the enumeration shall not be deemed to be exclusive:

(A) Any billboard or sign erected along or upon any street or public highway or vacant lot or acres and having fastened or placed thereon glaring and unseemly pictures and signs to the annoyance of the citizens of the city;

(B) Any bowling alley, pool room, dance hall or gaming house kept or maintained in any residence portion of the city or operated to the annoyance of the citizens there resident;

(C) The congregation of females for the purpose of illicit cohabitation in any house, building structure, vehicle or place;

(D) The leaving of any railroad or street car tracks in the streets of the city which tracks are unused as such;

(E) Erecting, maintaining, using or placing any building in violation of the zoning or building provisions of this code; or

(F) Any building or part thereof which, by reason of its unsanitary condition or its being infected with disease, is unfit for human habitation or which from any other cause is a source of sickness among the inhabitants of this city or which otherwise endangers the public health.
(1995 Code, § 8.52.070) Penalty, see § 10.99

§ 93.008 BARBED WIRE.

No person shall build, construct, use or maintain any fence or barrier consisting of or made of what is called barbed wire, along the line of or in, upon or along any public way or through, along or around any public park; provided, that nothing in this section shall be construed to prevent the use or maintenance of barbed wire in or on that part of any fence or barrier which is higher than six feet from the surface of the public way or park. (1995 Code, § 8.52.080) Penalty, see § 10.99

§ 93.009 CELLARS OR DRAINS EMITTING NOXIOUS ODORS PROHIBITED.

Any cellar, vault, drain, privy, pool, sewer, sink, catch basin or premises which shall become noxious, foul or offensive or which shall emit foul or offensive odors, gases, effluvia or stenches is hereby declared to be a public nuisance; and any person who shall create, suffer, maintain or permit a nuisance upon any premises owned or occupied by him or her or in his or her charge or control shall be subject to the provisions and penalties provided by this code. (1995 Code, § 8.52.090) Penalty, see § 10.99

§ 93.010 COAL AND DIRT-LOADING.

(A) When coal or dirt are dumped or unloaded, care shall be taken to prevent dust from being blown and settled in a manner which interferes with the comfort and convenience of persons in the vicinity. It is unlawful to load or unload coal in the city without first having sprinkled it in an efficient manner to prevent any dust from coal from arising or settling in a way as to cause annoyance or discomfort to persons in the vicinity.

(B) The violation of the terms of this section shall be considered a nuisance.
(1995 Code, § 8.52.100) Penalty, see § 10.99

§ 93.011 ABANDONING OR DISCARDING ICE BOXES AND REFRIGERATORS.

(A) It is unlawful for any person to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of an ice box, refrigerator or container.

(B) It is unlawful for any person to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or any other container of any kind which has an airtight snap-lock or other device thereon without first removing the snap-lock or doors from the ice box, refrigerator or container. (1995 Code, § 8.52.110) Penalty, see § 10.99

§ 93.012 SALE OF SECONDHAND BED CLOTHING.

The sale or offering for sale or vending of cast off, old or secondhand bed clothing within the city is declared to constitute a nuisance. (1995 Code, § 8.52.120) Penalty, see § 10.99

§ 93.013 SUBSTANCES THAT SCATTER IN WIND.

No lime, ashes, coal, dry sand, hair, feathers or other substances that may be scattered by the wind shall be sifted through a sieve, agitated or exposed. No mat, carpet or cloth shall be shaken or beaten, nor any cloth, yarn, garment, material or substance be scoured, cleaned or hung, nor shall any business be conducted over or in any public way or where particles set in motion therefrom will pass into any public way or into any occupied premises. No usual or reasonable precaution shall be omitted by any person to prevent fragments or other substances from falling or sand, dust and light material from flying into any public way or into any place or building from any building or structure while the same is being altered, repaired or demolished. (1995 Code, § 8.52.130) Penalty, see § 10.99

§ 93.014 SALE OF UNCLEAN RAGS AND FABRICS.

The sale, offer for sale or use of any rag or fabric, except in a thoroughly clean condition, is declared to be a nuisance. No manufacturer shall use or permit the use of any unwashed rags or fabrics in any factory, work shop or other place of employment owned or controlled by him or her; provided, that the provisions of this section shall not apply to rags or fabrics that become soiled in consequence of actual commercial usage in a factory, work shop or place of employment.

(1995 Code, § 8.52.140) Penalty, see § 10.99

§ 93.015 UNCOVERED CISTERNS AND CELLARS.

No person shall permit open or uncovered cisterns, cellars, wells, pits, excavations or vaults situated in any open or unfenced lot within the city and the places are declared to be nuisances.

(1995 Code, § 8.52.150) Penalty, see § 10.99

§ 93.016 PLACING FLOWERPOTS, BOWLS OR OTHER ARTICLES ON WINDOWSILLS OR BALCONIES.

It is not unlawful for any person to place or keep on any windowsill, railing or balcony, top of porch or any other projection from any house or other building in the city any flowerpot, wooden box, bowl, bottle, pitcher or other article or thing unless the same is securely and firmly fastened or protected so as to render it impossible for any articles to fall into the public way.

(1995 Code, § 8.52.170) Penalty, see § 10.99

LITTER

§ 93.030 DEFINITIONS.

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

AIRCRAFT. Any contrivance invented, used or designated for navigation for flight in the air. The word ***AIRCRAFT*** shall include helicopters and lighter than air dirigibles and balloons.

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle.

COMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature, which does any one or more of the following things:

(1) Advertises for sale any merchandise, product, commodity or thing;

(2) Directs attention to any business or mercantile or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales;

(3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit; provided, that the terms of this division shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to the meeting, theatrical performance, exhibition or event of any kind when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order, provided further, that nothing contained in this division shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where the license is or may be required by any law of this state, this code or under any ordinance of the city; and/or

(4) Contains reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER. Garbage, refuse and rubbish, as defined in this section, and all other waste material which, if thrown or deposited as prohibited in this subchapter, tends to create a danger to public health, safety and welfare.

NEWSPAPER. Any newspaper of general circulation, as defined by general law, any newspaper duly entered with the post office department of the United States in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

NONCOMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the definitions of a commercial handbill or a newspaper as provided in this section.

PARK. A park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

PRIVATE PREMISES. Any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to the dwelling, house, building or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

REFUSE. All putrescible and nonputrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

RUBBISH. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes such as paper, wrappings, cigarettes, cardboard, cans or containers of all types, yard clippings, leaves, wood, glass, broken glass, plastic or metal or glass containers, bedding, crockery and similar materials.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(1995 Code, § 8.44.010) (Ord. 3513, passed - -1990)

§ 93.031 PLACEMENT IN RECEPTACLES.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (1995 Code, § 8.44.020) Penalty, see § 10.99

§ 93.032 THROWING LITTER IN OR UPON STREETS, SIDEWALKS, PROHIBITED.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city, except in public receptacles, in authorized private receptacles for collection or in official city dumps. (1995 Code, § 8.44.030) Penalty, see § 10.99

§ 93.033 THROWING LITTER FROM VEHICLES PROHIBITED.

No driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place or private property within the city. (1995 Code, § 8.44.040) Penalty, see § 10.99

§ 93.034 THROWING LITTER IN PARKS PROHIBITED.

No person shall throw or deposit litter in any park within the city, except in public receptacles in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the park or upon any street or public place. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this chapter. (1995 Code, § 8.44.050) Penalty, see § 10.99

§ 93.035 THROWING LITTER IN FOUNTAINS, PONDS OR STREAMS PROHIBITED.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the city. (1995 Code, § 8.44.060) Penalty, see § 10.99

§ 93.036 THROWING LITTER ON PRIVATE PROPERTY PROHIBITED.

(A) No person shall throw or deposit litter on any occupied private property within the city, whether owned by the person or not; except that the owner or person in control of private property may maintain authorized private receptacles for collection in a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the city, whether owned by the person or not. (1995 Code, § 8.44.070) Penalty, see § 10.99

§ 93.037 THROWING OUT, DROPPING OR DEPOSITING LITTER FROM AIRCRAFT PROHIBITED.

No person in any aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object. (1995 Code, § 8.44.080) Penalty, see § 10.99

§ 93.038 SWEEPING OR DEPOSITING LITTER IN GUTTERS AND STREETS-CARE OF SIDEWALKS.

No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business within the city shall keep the sidewalk in front of their premises free from litter. (1995 Code, § 8.44.090)

§ 93.039 MERCHANTS' DUTY TO KEEP SIDEWALKS FREE OF LITTER.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free from litter.

(1995 Code, § 8.44.100) Penalty, see § 10.99

§ 93.040 TRUCK LOADS BLOWN OR DEPOSITED IN STREETS-WHEELS OR TIRES DEPOSITING MUD, DIRT AND FOREIGN MATTER.

No person shall drive or move any truck or other vehicle within the city unless the vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the city the wheels or tires of which carry onto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind. (1995 Code, § 8.44.110) Penalty, see § 10.99

§ 93.041 POSTING OR AFFIXING NOTICES TO POLES, TREES AND BUILDINGS PROHIBITED -EXCEPTION.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree or upon any public structure or building, except as may be authorized or required by this code or by law.

(1995 Code, § 8.44.120) Penalty, see § 10.99

§ 93.042 MAINTENANCE OF PREMISES.

The owner or person in control of any private property shall at all times maintain the premises free from litter, provided, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. (1995 Code, § 8.44.130) Penalty, see § 10.99

§ 93.043 CLEARING PRIVATE PROPERTY BY CITY -PROCEDURES.

(A) *Notice to remove.* The Director of Maintenance Services Department is authorized and empowered to notify the owner or his or her agent of any open or vacant private property within the city to properly dispose of litter located on the owner's property which is dangerous to public health, safety or welfare. The notice shall be by registered mail, addressed to the owner at his or her last known address.

(B) *Action upon noncompliance-time limits.* Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within ten days after receipt of the written notice, provided for in division (A) above of this section, or within 15 days after the date of the notice in the event the same is returned to the city post office department because of its inability to make delivery thereof; provided, that the notice was properly addressed to the last known address of the owner or his or her agent, the Director of Maintenance Services Department is authorized and empowered to pay for the disposing of the litter or to order its disposal by the city.

(C) *Charge included in tax bill-when payable.* When the city has effected or paid for the removal of dangerous litter, the actual cost thereof, plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by the owner prior to the limits of division (B) above of this section, shall be charged to the owner of the property on the next regular tax bill forwarded to the owner by the city and the charge shall be due and payable by the owner at the time of payment of the bill.

(D) *Recorded statement to constitute lien.* Where the full amount due the city is not paid by the owner within ten days after the disposal of the litter, as provided for in divisions (A) and (B) above of this section, then the Director of Maintenance Services Department shall cause to be recorded in the County Recorder's office a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which the work was done. The recordation of the sworn statement shall constitute a lien and privilege on the property and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final

payment has been made. The costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of 8% in the event the lien is not paid in full on or before the date the tax bill upon which the charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions of this section shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law. (1995 Code, § 8.44.140) Penalty, see § 10.99

HANDBILLS

§ 93.055 HANDBILLS IN PUBLIC PLACES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city, nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, that it is not unlawful on any sidewalk, street or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

(1995 Code, § 8.44.150) Penalty, see § 10.99

§ 93.056 PLACING HANDBILLS IN OR UPON VEHICLES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, that it is not unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it. (1995 Code, § 8.44.160) Penalty, see § 10.99

§ 93.057 PLACING HANDBILLS ON PRIVATE PREMISES PROHIBITED.

(A) No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(B) No person shall throw, deposit or distribute any commercial or noncommercial handbill upon an private premises if requested by anyone thereon not to do so, or if there is placed on the premises, in a conspicuous position near the entrance thereof, a sign bearing the following words: “No Trespassing”, “No Peddlers or Agents”, “No Advertisement” or any similar notice indicating, in any matter, that the occupants of the premises do not desire to be molested or have their right to privacy disturbed or have any handbills left upon the premises.

(C) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited except by handling or transmitting any handbill directly to the owner, occupant or other person then present in or upon private premises; provided, that in case of inhabited private premises which are not posted, as provided in this chapter, the person, unless requested by anyone upon the premises not to do so, may place or deposit any handbill in or upon an inhabited private premises if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets or other public places; except, that mailboxes may not be so used when so prohibited by federal postal law or regulations.

(D) The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers as defined in § 93.030, except that newspapers shall be placed on private property in a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (1995 Code, § 8.44.170) Penalty, see § 10.99

RAT CONTROL

§ 93.070 REMOVAL OF STORAGE AREAS PROVIDING HARBORAGE.

Whenever accumulations of rubbish, boxes, lumber, scrap metal, car bodies or any other materials provide rat harborage, the person owning or in control of the materials shall cause the materials to be removed or the materials shall be stored so as to eliminate the rat harborage. Lumber boxes and similar materials shall be neatly piled. These piles shall be raised at least a foot above the ground. When the owner of the materials cannot be found, after reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal or proper piling of the materials.
(1995 Code, § 8.48.010) Penalty, see § 10.99

§ 93.071 ELIMINATION OF FEEDING PLACES REQUIRED.

No person shall place or allow to accumulate any materials that may serve as food for rats in a site accessible to rats. Any waste material that may serve as food for rats shall be stored in rat proof containers. Feed for birds shall be placed on raised platforms or the feed shall be placed where it is not accessible to rats. (1995 Code, § 8.48.020) Penalty, see § 10.99

§ 93.072 EXTERMINATION.

(A) Whenever rat holes, burrows or other evidence of rat infestation are found on any premises or in any building within the city, it shall be the duty of the owner or manager of the property to exterminate the rats or to cause the rats to be exterminated.

(B) Within ten days after extermination, the owner or manager shall cause all of the rat holes or burrows in the ground to be filled with earth, ashes or other suitable material.
(1995 Code, § 8.48.030) Penalty, see § 10.99

§ 93.073 RATPROOFING BUILDINGS.

(A) It shall be the duty of the owner or manager of any building in the city to make the building reasonably rat proof, to replace broken basement windows and, when necessary, to cover the basement window openings with hardware, cloth or other suitable material for preventing rats from entering the building through the window openings.

(B) The owner or manager of any premises upon which sheds, barns, coops or similar buildings are located shall eliminate the rat harborages from within and under the buildings by rat proofing, raising the buildings above the ground or by some other suitable methods; or sheds, barns, coops or other buildings shall be razed. (1995 Code, § 8.48.040) Penalty, see § 10.99

§ 93.074 VERMIN POISON.

It is unlawful for any person, except persons under the jurisdiction of the Board of Health, to spread or to cause or permit any agent or employee to spread any poison for the purpose of killing rats, mice, insects or other vermin in any public way or public place in the city; and it is unlawful for any person to spread or to cause or permit any agent or employee to spread any poison for that purpose in any yard, court, passageway or other open place on private premises or on the outside of any building or structure, or in any place within a building which is open to the general public, or where pet dogs, cats or other domestic animals or fowls have access, without placing the poison in a receptacle of the kind or character that it can be reached only by the kind of vermin which the poison is intended to kill, or without placing a wire or other guard about same in a way that no child or domestic animal, domestic fowl or other harmless creature can reach the same. (1995 Code, § 8.48.050) Penalty, see § 10.99

WEEDS

§ 93.085 REMOVAL OF WEEDS AND RANK VEGETATION.

(A) It shall be unlawful for any person to permit, suffer or allow any thistles, weeds, brush, undergrowth or vegetation of any kind whatsoever to be, remain or grow to a height above six inches from the ground on any lots, parcels or tracts of land within the city. It shall be the duty of any person owning, leasing or controlling any lots, tracts or parcels of land within the city to cause the undergrowth to be removed therefrom before the growth reaches the height of six inches. This provision shall not apply to trees, flowers or cultivated plants.

(B) The Building Commissioner and his or her deputies and/or designees are vested with the duty of inspecting the various properties in the city for violations set forth herein. The Inspectors are hereby charged, authorized and empowered to notify any person owning, leasing or controlling property within the city to properly dispose of weeds and undergrowth. Weeds and undergrowth shall constitute a public nuisance.

(C) Notice of violation of the provisions of this section shall be by the following means:

(1) Personally serving a copy of a written notice upon the property owner or occupant of the property;

(2) If the owner or occupant is not present, by leaving a copy of the notice at the premises, and then by mailing a copy of the notice to that address; or

(3) Sending a copy of the notice, by regular mail, to the owner of the offending premises.

(D) Upon the failure, neglect or refusal of any person owning, leasing or controlling property to properly dispose of undergrowth, weeds, rank vegetation or the like, within five days after the date of notice, the Building Commissioner and his or her deputies and/or designees are authorized and empowered to proceed for penalties under this section or for abatement of a nuisance. The officer of the city may proceed to abate the nuisance of excessive weed growth by hiring out and paying for the removal of excessive growth or by ordering the removal of the excessive growth by the appropriate department of the city.

(E) When the city has effected or paid for the removal of the nuisance weed growth, the actual costs thereof, plus accrued interest at the rate of 10% per annum from the date of completion of the work, plus an administrative charge of $100 per property per removal shall be assessed and charged to the

person violating this section. The charges shall be paid by the person within ten days of notice to the owner of the completion of the work and the costs thereof. The charge shall be due and payable by the owner at the time for payment of the tax bill. Upon nonpayment of the costs by the property owner, the Director of the office of the City Controller or his or her designee, shall certify to the County Auditor the amount of the bill plus accrued interest. The Auditor shall place that total amount certified on the tax duplicate for the property affected and the total amount, including any accrued interest shall be collected as delinquent taxes are collected and shall be dispersed to the Unsafe Building Fund of the city.

(1) Sworn statements recorded in accordance with the provisions of this division shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the amount is due and collectible as provided by law.

(2) Any person liable for the charges as provided herein may appeal a violation notice or a bill for removal of weeds by filing a notice of appeal with the city's Board of Public Safety. The person charged with a violation shall appeal a violation notice within five days of the date of the notice. The person shall appeal the bill for removal of weeds or rank vegetation within ten days of the presentment of the bill by any city official. (Ord. 0-00-0026, passed 10-30-2000)
Cross-reference: *Unsafe Building Fund, see §§ 43.445 through 43.448*

CHAPTER 94: UNIFORM ALARM SYSTEM

Section

General Provisions

94.01 Interpretation
94.02 Definitions
94.03 City uniform central monitoring system
94.04 Alarm system instructions and service
94.05 Intentional false alarms prohibited
94.06 Report on alarm response-review
94.07 Remedies

Alarm Business

94.20 License required-application and fee
94.21 Review of application
94.22 License renewal-fee
94.23 License nontransferable
94.24 Information to be supplied to consumer

Alarm Users

94.35 Permits required-application and fee
94.36 Permit renewal
94.37 Automatic dialing devices-local alarms
94.38 False alarms-notice of fines

Permit Revocation

94.50 Permit revocation
94.51 Permit revocation-review hearing-Alarm Board of Appeals
94.52 Effect of revocation

94.99 Penalty

GENERAL PROVISIONS

§ 94.01 INTERPRETATION.

This chapter shall be liberally construed to effect the purpose of the sections included herein and to achieve uniform interpretation and application of the respective sections.

(1995 Code, § 8.56.010) (Ord. 3483, passed - -1989)

§ 94.02 DEFINITIONS.

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

ALARM BUSINESS. A business by any individual, partnership, corporation or other entity selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

ALARM SYSTEM. Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity or condition requiring urgent attention and to which the Police or Fire Department are expected to respond. This definition does not include fire detectors, audible alarms affixed to automobiles or other motor vehicles, or local alarms for home use and dwelling units.

ALARM USER. A person, firm, partnership, association, corporation, company or other organization of any kind in control of any building, structure or facility where an alarm system is maintained or activated.

AUTOMATIC DIALING DEVICE. A device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by a voice message or code signal an emergency message indicating the need for an emergency response.

EMERGENCY COMMUNICATION'S CENTER ADMINISTRATOR. An employee of the city whose responsibility is to coordinate the administration and documentation of alarm businesses and alarm systems as it relates to the effective enforcement of the provisions of this chapter.

FALSE ALARM. Any signal request or similar event, the purpose of which is to alert or summon the Police or Fire Department assistance, but which is not in response to actual or threatened emergency or criminal activity. ***FALSE ALARMS*** include any communication, either directly or indirectly, or signal device, which is in response to a signal or warning issued intentionally or accidentally; negligently or accidentally activated signals; signals which are the result of faulty, malfunctioning or improperly installed or maintained equipment; and signals which are purposely, but improperly, activated to alert or summon the Police or Fire Department. ***FALSE ALARM*** shall not include signals activated by unusually severe weather conditions or other natural causes.

INTERCONNECT. To connect an alarm system, including an automatic dialing device, to a telephone line, either directly or through a mechanical device that utilizes the telephone, for the purpose of using the telephone line to transmit a message upon activation of the alarm system.

LICENSE DIVISION. The division of the City Controller's office authorized to issue permits and licenses and collect the fees for the permits and licenses as provided in this chapter.

LOCAL ALARM. Those alarms which activate an audible signal within the proximity of a premises only.

PERMIT YEAR. A 12-month period, beginning June 1 and ending May 31 of each year.

PRIMARY TRUNK LINE. A telephone line leading directly into the emergency communication center for the purpose of handling emergency calls on a person-to-person basis, or which is identified by a specific number in the telephone directory. (1995 Code, § 8.56.020) (Ord. 3483, passed - -1989)

§ 94.03 CITY UNIFORM CENTRAL MONITORING SYSTEM.

(A) To the extent it is possible to do so without cost to the city, the Board of Public Works is authorized to contract for the installation of a uniform central monitoring system to receive visual and audible signals and perform other related functions over a signal line or lines at the Emergency Communication Center (hereinafter ECC). The system shall have a capacity to meet present needs and the ability to expand for future needs, and shall be available to those who meet the requirements for permits under this chapter.

(B) An alarm user's fire alarm system may be monitored at any outside facility chosen by the alarm user or his or her alarm business; provided that, if the fire alarm system is monitored at any off-premises location, it must also be monitored by the City's Uniform Control Monitoring System (hereinafter UCMS).

(C) However, a fire alarm system that is monitored by an Outside Monitoring Facility (hereinafter referred to as an OMF), which has the capability to consistently notify the city's UCMS in the ECC of the activation of a customer's fire alarm system within 90 seconds of the activation of that alarm, need not also be monitored by the city's UCMS.

(1) To facilitate random testing by the ECC staff of the 90-second maximum notification time requirement, each customer (both commercial or business and residential) of an OMF must have installed by its alarm installation company a test button, the activation of which shall provide to the OMF in the case of an actual fire; the communication room random tests will determine whether the OMF has the capability to notify the city's UCMS of an alarm activation within 90 seconds of the activation of the test button.

(2) Tests of the 90-second maximum notification requirement shall be done in a random manner on the facilities of OMF customers; no OMF customer will be tested more than once per year, except as provided in division (C)(4) below of this section.

(3) To perform these random tests, a member of the ECC staff will go unannounced to an OMF customer's facility and, with his or her timepiece synchronized to the UCMS computer timepiece, activate the customer's test button and note the exact time of activation (to the second); when he or she returns to the communications room, he or she will check the computer print-out for the time of notification by the OMF to the UCMS of a fire alarm at the customer's facility, and thereby determine whether the tested OMF has passed or failed the test.

(4) If an OMF fails the test one time, notice thereon shall be given in writing to the OMF and its customer and the tested facility and its OMF shall be tested (unannounced) a second time within 60 days of the first test. If the OMF passes this second test, failure of the first test will be disregarded. If the OMF fails the second test as well, then either:

(a) The customer's alarm system must (in addition, if desired by the customer, to continued monitoring by the OMF) be monitored by the city's UCMS; or

(b) The customer must select a new or different OMF, which meets the criteria of this chapter.

(D) The OMF of an alarm system customer whose alarm system is not wired direct to the city's UCMS or whose alarm system is not also monitored by the city's UCMS, shall report the activation of its customers' alarms by way only of the prescribed communications room emergency telephone numbers (as provided to the OMF by the city's alarm administrator). On all of its emergency alarm-reporting calls to the ECC, the OMF must provide the individual four-digit customer account number of the particular OMF customer whose alarm was activated, which individual four-digit number is provided to each separate alarm system owner by the city's Alarm Administrator. (1995 Code, § 8.56.030) (Ord. 3483, passed - -1989)

§ 94.04 ALARM SYSTEM INSTRUCTIONS AND SERVICE.

Every alarm business, selling, leasing or otherwise furnishing to any user of an alarm system, which is installed on premises located within the city, shall furnish to the user instructions as provide information to enable the user to properly operate the alarm system and to obtain service for the alarm system at any time. (1995 Code,§ 8.56.160) (Ord. 3483, passed - -1989) Penalty, see § 94.99

§ 94.05 INTENTIONAL FALSE ALARMS PROHIBITED.

It is unlawful for any person to knowingly, intentionally, and without just cause activate a security alarm to notify the Police or Fire Department in situations where there is no actual or threatened emergency or criminal activity, for notification of which the security alarm system is designed.
(1995 Code, § 8.56.170) (Ord. 3483, passed - -1989) Penalty, see § 94.99

§ 94.06 REPORT ON ALARM RESPONSE-REVIEW.

(A) A police officer responding to a police alarm shall prepare a report on his or her action and the actions of other responding officers regarding each alarm, including his or her determination as to whether it was a false alarm, what the weather conditions were at the time, the name of any individual (as representative of the alarm owner) with whom he or she conferred, and the substance of the conversation. The ECPD alarm incident report and/or officers daily activity sheet form shall be used for this purpose.

(B) When that responding officer determines that the criminal activity alarm to which he or she responded was a false alarm and the owner of the alarm system involved submits to the Alarm Administrator a written request for review of that determination within five days of the alarm, then the Alarm Administrator shall provide to the alarm system owner an informal, but binding, review and evaluation hearing at which hearing the entity conducting the hearing shall re-determine the false alarm issue.

(C) In the case of a fire alarm, the highest ranking firefighter shall prepare a "run report," on which he or she shall indicate whether the alarm was, in his or her determination, a false alarm and submit this report to the ECFD Inspection Bureau. When the run report indicates a false alarm, the Inspector Bureau shall hand deliver to the owner of the property/alarm system the ECFD false alarm evaluation report, which report, if the owner chooses to challenge the false alarm determination, must be returned by the owner to the Inspection Bureau within five days. If the false alarm evaluation report is not returned to the Inspection Bureau within five days, the run report determination of false alarm shall stand.

(D) If the false alarm evaluation report is returned to the Inspection Bureau within five days, the Chief Inspector shall, based on the contents of that report and the contents of the run report, make a final binding determination on the issue of whether the alarm shall be treated as a false alarm.

(1995 Code, § 8.56.180) (Ord. 3483, passed - -1989)

§ 94.07 REMEDIES.

(A) The conviction or punishment of any persons for violations of the provisions of this chapter or for failing to secure a permit required by this chapter shall not relieve the person from paying the permit fee or service charge due and unpaid at the time of the conviction, nor shall the payment of any permit fee or service charge prevent criminal prosecution for the violation of the provisions of this chapter. All remedies shall be cumulative. The use of one or more remedies by the city shall not bar the use of any other remedies for the purpose of enforcing the provisions of this chapter.

(B) The enforcement of any of the provisions of this chapter may be by civil action for abatement of a nuisance or by prosecution for violation of a municipal ordinance.

(1995 Code, § 8.56.190) (Ord. 3483, passed - -1989) Penalty, see § 94.99

ALARM BUSINESS

§ 94.20 LICENSE REQUIRED -APPLICATION AND FEE.

(A) Any individual, partnership, corporation or other entity engaged in the alarm business in the city shall apply to the licensing division of the city for a license to operate. Applications shall be on a form to be furnished by the division and signed by the individual proprietor of the business, by a partner, or by the proper corporate officer, as is appropriate for the form of the business seeking a license. The application shall include the following items:

(1) The name, address and telephone number of the alarm business and type of business entity it is (individual, partnership or corporate);

(2) The name, address and telephone number of the individual proprietor, partners or directors, principal officers and all employees, depending on the nature of the entity applying;

(3) A description of the alarm systems and devices offered for sale or lease to the public, and a description of any services related to alarm devices offered to the public;

(4) A list of all felony and misdemeanor convictions of individual proprietors, partners, employees, directors or principal shareholders of the applicant business. The date and location of each conviction shall also be included;

(5) A statement as to whether the applicant has ever been denied a license or permit in any jurisdiction to engage in the alarm business or has had a license or permit revoked;

(6) A statement as to the length of time the applicant has been engaged in the alarm business and where engaged;

(7) A statement that the applicant agrees to update the above information upon application for renewal of an alarm license at least every year, as provided in § 94.22; and

(8) A statement that all equipment complies with U.L., N.S.P.A., P.M., or equal standards, and that all installations comply with the National Electrical Code and the electrical code of the city.

(B) A license application shall be accompanied by a nonrefundable fee of $250 to cover the cost to the city to process the application as described herein.

(C) Any alarm business which installs or maintains an alarm system, a sprinkler system, or a fire suppression system within the city must be licensed and bonded in the state.

(1995 Code, § 8.56.040) (Ord. 3483, passed - -1989) Penalty, see § 94.99

§ 94.21 REVIEW OF APPLICATION.

(A) The ECC Administrator shall review each application for a license and shall conduct an investigation to determine whether the facts set forth in the application are true. He or she shall, within 60 days after receipt of an application for a license, either approve or deny issuance of the license and, accordingly, forward written notification to the applicant of the decision. A written notification of denial shall include the basis for this finding and if the grounds for denial are subject to correction, the applicant shall be given ten days after receipt of the notice within which to make the required correction.

(B) The ECC Administrator shall deny the application for an alarm business license if he or she finds that the applicant or the individual having the authority and the responsibility for the management and operation of the applicant's alarm business within the city or any of the applicant's owners, partners, employees or principal corporate shareholders have performed any of the following acts:

(1) Committed any act which if committed by a licensee would be grounds for revocation of a license under § 93.22(B);

(2) While unlicensed, knowingly and willfully committed, or aided and abetted in the commission of any act for which a license is required by statute; and

(3) Been convicted in any jurisdiction of a felony or misdemeanor, if this conviction reflects unfavorably on the fitness of the applicant to engage in the alarm business.

(1995 Code, § 8.56.050) (Ord. 3483, passed - -1989)

§ 94.22 LICENSE RENEWAL -FEE.

(A) Application for renewal of an alarm business license shall be made each year within 30 days immediately preceding June 1, and shall be accompanied by a nonrefundable fee of $250. Applicants for renewal may continue to do business while the renewal application is being processed.

(B) Licenses for alarm businesses shall not be renewed by the ECC Alarm Administrator, in the manner hereinafter set forth, if the licensee or any of its owners, partners, principal corporate officers or the individual having authority and the responsibility for the management and operation of the alarm business within the city are found to have done any of the following acts:

(1) Violated any of the provisions of this chapter;

(2) Knowingly or intentionally given any false information of a material nature in connection with the application for a license; a renewal or reinstatement of a license; or a notice of transfer of an alarm business license under this chapter;

(3) Have been convicted in any jurisdiction of a felony or misdemeanor if the conviction reflects unfavorably on the fitness of the applicant to engage in the alarm business; and

(4) Have committed any act while the license was not in effect, which could be cause for the revocation of a license or grounds for denial of an application for a license.
(1995 Code, § 8.56.060) (Ord. 3483, passed - -1989)

§ 94.23 LICENSE NONTRANSFERABLE.

No license issued pursuant to the provisions of this chapter shall be assigned or transferred either by operation of law or otherwise.
(1995 Code, § 8.56.070) (Ord. 3483, passed - -1989) Penalty, see § 94.99

§ 94.24 INFORMATION TO BE SUPPLIED TO CONSUMER.

Every alarm business selling, leasing or furnishing to any user an alarm system which is installed on premises located in the city shall furnish to the user instructions that provide information to enable the user to operate the alarm system properly and to obtain service for the alarm system at any time.
(1995 Code, § 8.56.080) (Ord. 3483, passed - -1989) Penalty, see § 94.99

ALARM USERS

§ 94.35 PERMITS REQUIRED -APPLICATION AND FEE.

(A) Every alarm user in the city shall apply to the licensing division of the city for an alarm user permit for each system used.

(B) Application for an alarm user's permit shall be accompanied by a nonrefundable fee of $10 for each application on behalf of a user in a residential building, and $50 for each application in behalf of a nonresidential building. The alarm user's permit application shall include the following information:

(1) The name, address and telephone number of the protected business, home and the like;

(2) The name, address and telephone number of the alarm company which installed or maintains the applicant's alarm system and three responsible individuals who can be contacted by the ECC dispatchers, if need be;

(3) In the case of a business entity, the names, addresses and telephone numbers of three responsible employees of the business who can be contacted by the ECC dispatchers if need be; and

(4) Information required in divisions (B)(2) and (B)(3) above shall be updated as required by changed circumstances.

(C) An alarm user which is a governmental political unit shall be subject to the provisions of this section and §§ 94.36 through 94.38 and 94.50 through 94.52.

(1995 Code, § 8.56.090) (Ord. 3483, passed - -1989) Penalty, see § 94.99

§ 94.36 PERMIT RENEWAL.

(A) Application for the renewal of an alarm user's permit shall be made every year within 30 days immediately preceding June 1, and shall be accompanied by a nonrefundable fee of $10 for each application on behalf of a use in a residential building and $50 for each application on behalf of a nonresidential building.

(B) A $25 late charge will be charged in addition to the fees provided in § 94.35(B) and division (A) above of this section to an alarm user who is more than 60 days delinquent in renewing a permit.

(1995 Code,§ 8.56.100) (Ord. 3483, passed - -1989)

§ 94.37 AUTOMATIC DIALING DEVICES-LOCAL ALARMS.

(A) Automatic dialing devices, as defined in § 94.03, shall not be connected to the primary trunk line of the ECC.

(B) Local alarms shall not resemble the sound of any emergency signal or civil defense alarm or siren. All local alarms shall have the capacity to reset themselves after 15 minutes.

(C) Provisions outlined in divisions (A) and (B) above of this section are in addition to those provisions of this chapter which are applicable to all alarm users, alarm businesses and alarm systems.

(1995 Code, § 8.56.110) (Ord. 3483, passed - -1989) Penalty, see § 94.99

§ 94.38 FALSE ALARMS-NOTICE OF FINES.

(A) Any alarm user who has false alarms on more than 12 occasions in any permit year for each 100 alarm devices installed and operable in the alarm user's facility shall be fined according to the following table for each false alarm in excess of eight occurring within the same permit year.

Number of False Alarms per 100 Alarm Devices	***Fine per Alarm***
1 through 12	None
13 through 24	$25
25 through 36	$50
37 through 48	$75
49 and above	$100

(B) A fine shall be due and payable by the alarm user within ten days after written notice of the violation is received by the alarm user. Any alarm user who does not pay his or her fine within the time prescribed shall also be subject to revocation of his or her permit, pursuant to § 93.50.

(C) All fines shall be payable to the city and fines collected shall be deposited in the city's General Fund. (1995 Code, § 8.56.120) (Ord. 3483, passed - -1989) Penalty, see § 94.99

PERMIT REVOCATION

§ 94.50 PERMIT REVOCATION.

(A) The ECC Administrator may revoke any permit issued pursuant to the provisions of this chapter upon a finding of any one or more of the following violations:

(1) Providing false information in an application for issuance or renewal of an alarm system permit;

(2) Failure to comply with any provisions of this chapter;

(3) Installation, maintenance or operation of an alarm system in a manner contrary to the terms of this chapter or contrary to any term or condition of the permit granting authority;

(4) Failure to timely pay any fine charged pursuant to this chapter; and

(5) Excessive false alarms.

(B) Before exercising his or her power to revoke any permit issued pursuant to this chapter, the ECC Administrator shall first give written notice to the alarm user describing therein the violation and advising the alarm user that:

(1) He or she shall have a reasonable time, not exceeding ten days to cure the defect of effect compliance; or

(2) He or she shall provide to the ECC Administrator information as he or she, the alarm user, believes will excuse or justify the alleged violation.

(1995 Code, § 8.56.130) (Ord. 3483, passed - -1989) Penalty, see § 94.99

§ 94.51 PERMIT REVOCATION -REVIEW HEARING -ALARM BOARD OF APPEALS.

(A) Any alarm user suffering revocation of his or her permit may appeal the decision of the ECC Administrator by filing a written request for a hearing, within ten days after the decision of the ECC Alarm Administrator is announced, with the Alarm Board of Appeals.

(1) The Alarm Board of Appeals shall consist of the following:

(a) Any two of the three members of the Board of Public Works; and

(b) One individual appointed by the Common Council of the city.

(2) If a hearing before the Alarm Board of Appeals is requested, written notice of the time and place of the hearing shall be served upon the alarm user requesting the hearing by either the ECC Alarm Administrator or the Alarm Board of Appeals by first class mail at least ten days prior to the date set for hearing.

(3) The Alarm Board of Appeals shall meet at times and places as determined by the Board and the action of the Board shall be by majority vote of members present and voting.

(B) At the hearing before the Alarm Board of Appeals the ECC Administrator and the alarm user shall have the right and opportunity to present written and oral evidence.

(C) The Alarm Board of Appeals shall review the decision of the ECC Administrator, the record of the proceedings and new information presented at the hearing and shall affirm, modify or reverse the decision of the ECC Administrator. (1995 Code, § 8.56.140) (Ord. 3483, passed - -1989)

§ 94.52 EFFECT OF REVOCATION.

(A) If the alarm user does not appeal the revocation decision of the ECC Alarm Administrator or if the Alarm Board of Appeals affirms the revocation decision of the ECC Administrator, the alarm user, upon receipt of notice of revocation or notice of affirmation of revocation, shall immediately discontinue use of the alarm system.

(B) An alarm user whose permit has been revoked may apply for a new user's permit as provided in § 93.35 (1995 Code, § 8.56.150) (Ord. 3483, passed--1989) Penalty, see § 94.99

§ 94.99 PENALTY.

Whoever violates a section or provision within this chapter shall be fined not more than $500. Each day that there is a failure or omission to comply with any section or provision of this chapter shall constitute a separate and distinct violation thereof. (1995 Code, § 8.56.200) (Ord. 3483, passed - -1989)

CHAPTER 95: DANGEROUS, HAZARDOUS OR TOXIC SUBSTANCES

Section

General Provisions

95.01 Definitions
95.02 Storage, handling or disposal requirements
95.03 Modification authority

Dangerous, Hazardous or Toxic Substance Spill Reports

95.15 Required
95.16 Definitions
95.17 Applicability
95.18 Notification-information required
95.19 Written information required
95.20 Premises right of entry
95.21 Enforcement authority

95.99 Penalty

GENERAL PROVISIONS

§ 95.01 DEFINITIONS.

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

PERSON. Individual, partnership, co-operative, firm, company, corporation, association, trust, estate, government entity or any other legal entity or their legal representatives, agents or assigns.

SUBSTANCES CONSIDERED AS DANGEROUS, HAZARDOUS OR TOXIC. Those which are items listed in CERCLA § 304, 40 C.P.R. Table 302.4.

(1995 Code, § 8.60.010) (Ord. 3502, passed - -1989)

§ 95.02 STORAGE, HANDLING OR DISPOSAL REQUIREMENTS.

Any person that uses, stores, handles or disposes of substance defined as dangerous, hazardous or toxic by this subchapter shall be required to furnish, maintain, revise and update the following at their location(s) within the city:

(A) A weatherproof lock box or other designated area of sufficient size to hold a binder(s) that shall contain all the material data sheets or other similar substance information sheets for each dangerous, hazardous or toxic substance used, stored, handled or disposed of, and the lock box shall be bright yellow in color on all sides including the top and bottom and meet the ANSI (American National Standards Institute) Specification 253 .1. The lock box shall be located within 100 feet of the entrance to the plant or facility, at a height of between 36 inches to 48 inches above the ground. The placement of the lock box in the plant or facility shall be approved by the Chief of the Fire Department or his or her designee;

(B) Included in the lock box is a facility plot plan made to the scale of one inch equals 20 feet containing:

(1) The location and identification of each structure;

(2) The location and size of all fire hydrants located on the premises within 500 feet of the boundary line of the premises;

(3) The location and quantity of any other firefighting, spill response or safety related equipment such as, but not limited to:

(a) Water sprinkler;

(b) Foam suppressants, (by type and quantity);

(c) Dry powder suppressants (fixed system);

(d) Protective clothing (specify fire/acid suits or other special suits);

(e) Self contained breathing apparatus (list amount of breathing time in minutes);

(f) Resuscitator;

(g) Natural gas shutoff valves;

(h) Electrical shutoff points;

(i) Municipal water shutoff;

(j) Drains to the city's Sanitary District;

(k) In plant telephones;

(l) Telephones; and

(m) Other items the city's Fire Chief of designee may require.

(C) An emergency action plan (E.A.P.) that shall outline the responsible persons and their actions in the event of a fire, spill, leak, discharge, release of a dangerous, hazardous or toxic substance regulated by this subchapter. The plan shall be submitted to the Chief of the Fire Department within 90 days of the effective date of the ordinance codified in this subchapter.

(1995 Code, § 8.60.020) (Ord. 3502, passed - -1989) Penalty, see § 95.99

§ 95.03 MODIFICATION AUTHORITY.

In order to accommodate the wide variety, in size and complexity of businesses and industries located in the city, the Fire Chief, or his or her designee, may modify any section of this subchapter on a case by case basis, in order to make it more effective. (1995 Code, § 8.60.030) (Ord. 3502, passed --1989)

DANGEROUS, HAZARDOUS OR TOXIC SUBSTANCE SPILL REPORTS

§ 95.15 REQUIRED.

Any spill, leak, discharge or release of a dangerous, hazardous or toxic substance into or onto the environment shall be immediately reported to the city's Emergency Communications Center, by telephone, or in person, as provided in this section.

(A) Any spill, leak, discharge or release of a dangerous, hazardous or toxic substance into or onto the environment in excess of CERCLA reportable quantities ("RQ"), which does not remain on the grounds of a facility site, shall be immediately reported to the city's Emergency Communications Center.

(B) A report will not be required on any spill, leak, discharge or release of a dangerous, hazardous or toxic substance into or onto the environment not in excess of CERCLA "RQ" which remains on the grounds of a facility site.

(C) Any spill, leak, discharge or release of a dangerous, hazardous or toxic substance into or onto the environment involving any mode of transportation on public rights-of-way, highways, railways and the like shall be immediately reported to the city's Emergency Communications Center.

(1995 Code, § 8.64.010) (Ord. 3503, passed - -1989) Penalty, see § 95.99

§ 95.16 DEFINITIONS.

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

CERCLA. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any amendments to that Act from 1980, inclusive.

ENVIRONMENT. Air, land or water, or its combination.

FACILITY. Individual, partnership, co-operative, firm, company, corporation, association, trust, estate, government entity or any other legal entity or their legal representatives, agents or assigns.

IMMEDIATELY. Within five minutes after discovery of the spill, leak, discharge, or release of the dangerous, hazardous or toxic substance.

SUBSTANCES CONSIDERED DANGEROUS, HAZARDOUS OR TOXIC. Those which are items listed in CERCLA § 304, 40 C.P.R. Table 302.4.

(1995 Code, § 8.64.020) (Ord. 3503, passed - -1989)

§ 95.17 APPLICABILITY.

This subchapter shall not apply to those releases permitted by federal, state, county, and city regulations. (1995 Code, § 8.64.030) (Ord. 3503, passed - -1989)

§ 95.18 NOTIFICATION-INFORMATION REQUIRED.

The following information shall be supplied at the time of the notification:

(A) Company and/or person's name reporting the incident;

(B) The chemical name or identity of the substance;

(C) An estimate of the quantity of the substance that was released into the environment;

(D) An estimate of the time and duration of the occurrence;

(E) The medium or media into where the spill, leak, discharge or release occurred and what adjoins it;

(F) Any known or anticipated acute or chronic health risks associated with the emergency, and appropriate advice regarding medical attention referenced on the material safety data sheets;

(G) Recommended precautions, if any, to take as a result of occurrence, including the need for the Haz-Mat Team; and

(H) The name and telephone number of the person or persons to be contacted for further information. (1995 Code, § 8.64.040) (Ord. 3503, passed - -1989) Penalty, see § 95.99

§ 95.19 WRITTEN INFORMATION REQUIRED.

Within 96 hours, excluding Saturdays, Sundays and legal holidays, after a spill, leak, discharge or release of the dangerous, hazardous or toxic substance (that was required to be reported) has been terminated, the person and/or company reporting or responsible for the spill shall, in writing, submit the following information to the Director, Department of Air Quality Control and the city's Fire Department Fire Chief:

(A) The actual quantity of the substance involved in the incident and the method used to determine that quantity;

(B) The reason why the incident occurred;

(C) The action to be taken to prevent similar incidents; and

(D) The method, extent and duration of any clean-up actively required or undertaken.

(1995 Code, § 8.64.050) (Ord. 3503, passed - -1989) Penalty, see § 95.99

§ 95.20 PREMISES RIGHT OF ENTRY.

All persons shall allow the city's Fire Department hazardous material response team to enter any premises whereupon a spill, leak, discharge, or release of a dangerous, hazardous or toxic substance has been reported or has occurred. (1995 Code, § 8.64.060) (Ord. 3503, passed - -1989) Penalty, see § 95.99

§ 95.21 ENFORCEMENT AUTHORITY.

This subchapter shall be enforced by the Chief of the Fire Department, or his or her designee. (1995 Code, § 8.64.070) (Ord. 3503, passed - -1989)

§ 95.99 PENALTY.

(A) *Dangerous, hazardous or toxic substances.* Whoever violates any provision of §§ 95.01 through 95.03 shall be fined not more than $1,000. Every day a violation occurs shall constitute a separate offense. (1995 Code, § 8.60.040)

(B) *Dangerous, hazardous or toxic substance spill reports.* Whoever violates any provision of §§ 95.15 through 95.21 shall be fined not more than $1,000 per day. Each day a violation occurs shall constitute a separate offense.
(1995 Code, § 8.64.080) (Ord. 3502, passed - -1989; Ord. 3503, passed - -1989)

CHAPTER 96: NEW OR USED TIRE STORAGE

Section

96.01 Definitions
96.02 Applicability
96.03 Long-term storage of waste tires prohibited
96.04 Open storage of tires prohibited
96.05 Retail and wholesale tire establishments
96.06 Enforcement and inspection
96.07 Entry upon property

96.99 Penalty

§ 96.01 DEFINITIONS.

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

NEW TIRE. A tire which has never been placed on a vehicle wheel rim.

PERSON. An individual, corporation, partnership or an unincorporated association.

REMANUFACTURED TIRE. A waste tire which has been recapped, re-treaded or re-grooved and which has not been placed on the wheel of a motor vehicle.

TIRE. A continuous, solid or pneumatic rubber covering designed to encircle a wheel of a motor car. This definition includes new tires, waste tires and remanufactured tires.

WASTE TIRE. A tire that is not suitable for the tire's original purpose because of wear, damage or defect. This definition includes a tire that has been shredded, chopped, drilled with holes or otherwise altered for recycling, disposal or any other purpose. It also means any used tire which is not being held for immediate sale at retail or wholesale. (1995 Code, § 8.68.010) (Ord. 0-95-0014, passed - -1995)

§ 96.02 APPLICABILITY.

This chapter shall apply to all property, including commercial, industrial or residential located within the city. (1995 Code, § 8.68.020) (Ord. 0-95-0014, passed - -1995)

§ 96.03 LONG-TERM STORAGE OF WASTE TIRES PROHIBITED.

The long-term storage of waste tires is prohibited within the corporate limits of the city. For purposes of this chapter, **LONG -TERM** is defined as any period longer than the time waste tires are stored awaiting pick-up and/or removal by a waste disposal firm which in no event shall exceed 30 days. Each owner or possessor of waste tires shall keep .a record from which it can be readily determined the day each individual waste tire came into the person's premises. Any waste tire existing on premises for which a record of its arrival on the premises is not maintained shall conclusively be presumed to have been stored in excess of 30 days in violation of this chapter.

(1995 Code, § 8.68.030) (Ord. 0-95-0014, passed - -1995) Penalty, see § 96.99

§ 96.04 OPEN STORAGE OF TIRES PROHIBITED.

Open storage of tires is prohibited. ***OPEN STORAGE*** shall mean any means of storage whereby waste tires are exposed to rain or can accumulate water.

(1995 Code, § 8.68.040) (Ord. 0-95-0014, passed - -1995) Penalty, see § 96.99

§ 96.05 RETAIL AND WHOLESALE TIRE ESTABLISHMENTS.

New, remanufactured and used tires which are intended for sale, at retail or wholesale, for use as tires, may be stored on the site of the retail or wholesale establishment without limitation as to time of storage. Tires, however, shall not be stored outdoors and in no event shall the total number of tires stored for sale at retail or wholesale exceed 150.

(1995 Code, § 8.68.050) (Ord. 0-95-0014, passed - -1995) Penalty, see § 96.99

§ 96.06 ENFORCEMENT AND INSPECTION.

The responsibility for inspection and enforcement of this chapter shall be shared equally among the Fire Department, the City Building Inspector and the City Health Department.

(1995 Code, § 8.68.060) (Ord. 0-95-0014, passed - -1995) Penalty, see § 96.99

§ 96.07 ENTRY UPON PROPERTY.

(A) If a condition violating the terms of this chapter exists on real property within the city, officers or agents of the city may enter onto that property and take appropriate action to bring the property into compliance with this chapter. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity to bring the property into compliance which in no event shall be longer than seven days. If action to bring the property into compliance is taken by the city, the expense involved shall be made a lien against the property and collected in the same manner as delinquent taxes on property are collected.

(B) (1) Notwithstanding the provisions of division (A) above of this section, the city is specifically authorized to negotiate an agreed order or other written undertaking with any person found to have violated the ordinance codified in this chapter. The agreed order shall provide for a remediation plan and establish specific time limits for the implementation of the plan and shall contain specified penalties for the failure to meet those time limits or any other terms of the agreed order.

(2) Enforcement under this section shall abate during the period covered by any agreed order so long as the terms and time limits contained in the agreed order are being fulfilled and no additional violations of the ordinance codified in this chapter occur on the subject property. All agreed orders shall be approved, on behalf of the city by the Building Inspector, Fire Chief and City Health Officer or their respective designees.
(1995 Code, § 8.68.070) (Ord. 0-95-0014, passed - -1995) Penalty, see § 96.99

§ 96.99 PENALTY.

Any person who shall be found to have violated any provision of this chapter shall be subject to a fine of not less than $200 and not more than $500 for each offense. A separate and distinct offense shall be deemed to have been committed for each and every day on which any person shall be guilty of the violation. (1995 Code, § 8.68.080) (Ord. 0-95-0014, passed - -1995)

CHAPTER 97: STREETS AND PUBLIC PLACES

Section

Streets- General Provisions

97.001 Discharge of offensive liquids and substances
97.002 Discharge of water from eaves of buildings
97.003 Parades, processions and open-air meetings
97.004 Unlawful assemblies
97.005 Skating
97.006 Soliciting business
97.007 Cleanliness of crosswalks and alleys
97.008 Curfew

Obstructions

97.020 Removal
97.021 Night lights
97.022 Temporary storage of certain fuels
97.023 Boxes and crates
97.024 Display or storage of merchandise
97.025 Fixtures for display of goods

Public Improvements

97.040 Injuring or hindering construction
97.041 Gas and water fixtures
97.042 Construction of wires and pipes
97.043 Building upon public ways

Street Grades

97.055 Grading authority
97.056 Establishment methods- intersection of streets defined
97.057 Public works
97.058 Unpaved alleys

97.059 City datum
97.060 Injuring or moving bench monuments

Excavations

97.075 Permit- required
97.076 Permit- application
97.077 Permit- conditions on issuance
97.078 Denial of future permits
97.079 Bond
97.080 Pavement restoration
97.081 Applicability of subchapter
97.082 Openings- protection- notification of Police and Fire Departments
97.083 Repair deposit

Street Lamps

97.095 Erection- control
97.096 Injury or destruction prohibited
97.097 Acceptance of posts
97.098 Unauthorized removal
97.099 Shading
97.100 Lighting or extinguishing

Subsurface Space

97.115 Permit to construct or use- required
97.116 Permit to construct or use- application
97.117 Permit to construct or use- cancellation
97.118 Permit to construct or use- revocation
97.119 Bond
97.120 Interference with sewer or water pipe
97.121 Conveyance of premises
97.122 Covers over openings
97.123 Structural safety
97.124 Care of sidewalks
97.125 Cesspools, explosives or flammable oils
97.126 Liability for damages

Driveways

97.140 Construction permit- required
97.141 Construction permit- application
97.142 Construction permit- revocation
97.143 Construction permit- issuance
97.144 Specifications
97.145 Compliance with chapter
97.146 Existing driveways

Numbering of Buildings and Blocks

97.160 System established
97.161 Assigning and placing of numbers
97.162 Display and size of numbers
97.163 Numbers obtained from City Clerk
97.164 Compliance required-when
97.165 Duty of owner or occupant
97.166 Destroying or defacing numbers
97.167 Violations recorded by police
97.168 Memorial street naming

Mail Delivery

97.180 Delivery to made on a door to door basis

STREETS-GENERAL PROVISIONS

§ 97.001 DISCHARGE OF OFFENSIVE LIQUIDS AND SUBSTANCES.

No person shall suffer any slops, dirty water or other liquid of offensive smell or which is otherwise noxious or unwholesome or any fluid, substance or offensive smell or otherwise noxious or unwholesome to flow from his or her premises into or upon any street, gutter, sidewalk, alley or public place in the city, nor shall any person place, throw or leave any noxious, offensive or unwholesome matter or substance in or upon any lot, lands, sidewalk, street, alley, parkway or public way in the city.

(1995 Code, § 12.04.010) Penalty, see § 10.99

§ 97.002 DISCHARGE OF WATER FROM EAVES OF BUILDINGS.

Every person owning a building shall cause the pipes conducting the water from the eaves of the building to be so constructed as not to spread the water over the sidewalk or to undermine the sidewalk, alley or street. (1995 Code, § 12.04.020) Penalty, see § 10.99

§ 97.003 PARADES, PROCESSIONS AND OPEN-AIR MEETINGS.

No parade or procession shall be allowed upon any public way, nor shall any open-air public meeting held in or upon any public way or upon any ground abutting upon any public way until a permit in writing therefor shall first be obtained from the Chief of Police. Application to conduct a parade or procession or open-air meeting shall be made in writing to the Chief of Police by the person in charge or control thereof or responsible therefor and the application shall set forth the route along which the parade or procession is to proceed, the time of starting and the name of the person in control thereof or responsible therefor and the purpose of the parade and procession. In case of an open-air meeting, the application shall specify the place at which it is desired to hold a meeting, the purpose thereof and the name of the person in control thereof or responsible therefor, the time at which the public meeting is to be held and the probable duration. Upon an application being made, the Chief of Police shall investigate or cause to be investigated the person making the application and the truth of the statements made in the application regarding the purpose or object of the parade, procession or open-air meeting, and, if he or she shall find that the parade, procession or open-air meeting is to be held for any lawful purpose and will not in any manner tend to a breach of the peace or unnecessarily interfere with the public use of the public ways of the city or the peace and quiet of the inhabitants thereof, he or she shall issue a permit to the

person or society making application therefor, without fee or charge. Upon refusal of the permit, an appeal may be made to the Mayor. (1995 Code, § 12.04.030) Penalty, see § 10.99

§ 97.004 UNLAWFUL ASSEMBLIES.

It is unlawful for three or more persons to assemble, except at a public meeting of citizens, on any of the sidewalks, street comers, street crossings or near the mouths of alleys in this city, to the obstruction of the same, so as to hinder, delay or annoy persons passing in, upon or along the same, or the owners or occupants of property adjacent thereto, or for any persons so assembled to make use of any offensive personal remarks upon the passerby. The provisions of this section shall not be construed to prohibit peaceful, lawful picketing. (1995 Code, § 12.04.040) Penalty, see § 10.99

§ 97.005 SKATING.

It is unlawful for any person to skate on roller or ice skates upon any public way in the city except on the sidewalks and at street intersections while crossing from one side of the street to the other or except upon properly designated and barricaded play streets.

(1995 Code, § 12.04.050) Penalty, see § 10.99

§ 97.006 SOLICITING BUSINESS.

(A) It is unlawful for any person, including the owner of any business adjacent to or near the public way, either in person or through others, to stand upon, use or occupy the public ways to solicit trade, customers or patronage for a business or to interfere with or impede any pedestrian or any one in a vehicle on a public way for the purpose of soliciting business.

(B) Any soliciting of business on any public way is declared to be a nuisance.

(1995 Code, § 12.04.060) Penalty, see § 10.99

§ 97.007 CLEANLINESS OF CROSSWALKS AND ALLEYS.

It is made the duty of the Director of Maintenance Services Department to cause the crosswalks and alley crossings to be kept open and free from snow during the winter months and free from dirt and dust during the year. (1995 Code, § 12.04.070) Penalty, see § 10.99

§ 97.008 CURFEW.

(A) It is a curfew violation for a child less than 15 years of age to be in a public place after 11 p.m. or before 5 a.m. on any day.

(B) It is a curfew violation for children 15 through 17 years of age to be in a public place:

(1) Between 1 a.m. and 5 a.m. on Saturday or Sunday;

(2) After 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(3) Before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(C) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

(1) The child has violated this section; and

(2) There is no legal defense to the violation.

(D) It is a defense to a violation under this chapter that the child was emancipated.

(E) It is a defense to a violation under this chapter that the child engaged in the prohibited conduct while:

(1) Accompanied by the child's parent, guardian, or custodian;

(2) Accompanied by an adult specified by the child's parent, guardian, or custodian;

(3) Participating in, going to, or returning from:

(a) Lawful employment;

(b) A school sanctioned activity;

(c) A religious event;

(d) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

(e) An activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, § 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or

(f) An activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of 1 or more adults;

(4) Participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian; or

(5) Engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

(F) The City has the option and right under I.C. 31-37-3-4 to determine that any curfew time established by the state statute that is later than is reasonable for public safety under the conditions found to exist in the City may, by ordinance, advance the curfew time by not more than 2 hours. The City, at this time, adopts the current state standards. Additionally, the City may advance by up to four (4) hours curfew times for the peace, order, and safety at a cemetery or other facility used to memorialize the dead, but the City elects not to do so at this time. (Ord. 0-11-0016, passed 7-25-2011)

OBSTRUCTIONS

§ 97.020 REMOVAL.

The Supervisor of Public Works is authorized to obey any article or thing whatsoever which may encumber or obstruct any public way or place within the city to be removed. If an article or thing shall not be removed within six hours after notice to the owner or person in charge thereof to remove the same or, if the owner cannot be readily found for the purpose of notice, the Supervisor of Public Works shall cause the same to be removed to some suitable place to be designated by the Supervisor. The owner of any article so removed shall be subject to the penalty provided in this code.

(1995 Code, § 12.04.080) Penalty, see § 10.99

§ 97.021 NIGHT LIGHTS.

Any person having the use of any portion of the street or sidewalk for the purpose of erecting or repairing any building or for any other business or proper purpose shall cause two red lights to be placed and to be kept burning in a conspicuous place, one at each end of the obstruction, from dusk until sunrise in the morning each night during the time the obstruction remains.

(1995 Code, § 12.04.090) Penalty, see § 10.99

§ 97.022 TEMPORARY STORAGE OF CERTAIN FUELS.

It is unlawful for any person, except upon express permission from the Supervisor of Public Works or the Board of Public Works first obtained to place, dump or deposit for a period of over 48 hours, any coal, wood or other fuel or anything which may impede or obstruct the free use of any public way by the public, or anything which tends to scatter or which is unsightly or causes annoyance to others in or upon alleys, streets, city grounds, parks or public ways or places; provided, that building materials to be used soon in the construction of buildings may be stored to a reasonable degree in public ways; provided further, that the provisions for lights required in § 97.021 shall be followed.

(1995 Code, § 12.04.100) Penalty, see § 10.99

§ 97.023 BOXES AND CRATES.

It is unlawful for any person to place or store, maintain or keep any boxes, barrels, crates or other material upon any part or portion of any street, sidewalk or alley, within the city; provided, that merchants and business persons shall have the right to place boxes, barrels, crates and merchandise upon two feet of the outer portion of any sidewalk adjacent to their place of business, during the time the same are being loaded and unloaded, but none of the boxes, barrels, crates or merchandise shall be permitted to remain upon a portion of the sidewalk for a longer period than two hours.

(1995 Code, § 12.04.110) Penalty, see § 10.99

§ 97.024 DISPLAY OR STORAGE OF MERCHANDISE.

It is unlawful for any person to use any part or portion of any sidewalk, street, alley or public way in the city, for the purpose of storing, exhibiting or displaying thereon or therein any goods, foods, wares, merchandise, hardware, implements, vehicles or any other articles or personal property of any description whatsoever. (1995 Code, § 12.04.120) Penalty, see § 10.99

§ 97.025 FIXTURES FOR DISPLAY OF GOODS.

It is unlawful for any person to build, erect, construct or maintain any showcase of any nature or description, any rack or stand, hooks or brackets, or other device or arrangement upon which to display

goods, so that the same shall project over or occupy any part or portion of any sidewalk, street or alley in the city. (1995 Code, § 12.04.130) Penalty, see § 10.99

PUBLIC IMPROVEMENTS

§ 97.040 INJURING OR HINDERING CONSTRUCTION.

(A) No person shall injure or tear up any pavement, sidewalk, crosswalk, drain, sewer or an other public improvement without authority from the Board of Public Works.

(B) No person shall hinder or obstruct the making or repairing of any public way without authority from the Board of Public Works.

(C) Any person who shall injure or tear up any pavement, sidewalk, crosswalk, drain or sewer, without due authority or who shall injure or obstruct any person employed by the Common Council or Supervisor of Public Works or the person employed by him or her, in making or repairing any public improvement or work ordered by the Common Council or Board of Public Works shall, upon conviction thereof, be deemed guilty of violating the provisions of this chapter.
(1995 Code, § 12.04.140) Penalty, see § 10.99

§ 97.041 GAS AND WATER FIXTURES.

It is unlawful for any person to build, erect or construct any escape pipe, plugs or shutoff valve or water, artificial gas, natural gas, oil or other pipes so that the same shall project above the flush level of any sidewalk, street or alley in the city, provided, that the provisions of this section shall not be deemed to apply to fire plugs. (1995 Code, § 12.04.150) Penalty, see § 10.99

§ 97.042 CONSTRUCTION OF WIRES AND PIPES.

No person shall construct or maintain, except as expressly provided by this code, any wire, pipe, conduit, track, bay window, or other structure or device over or underneath the surface of any public way without first having petitioned and obtained specific authority by ordinance adopted by the Common Council authorizing the privilege. (1995 Code, § 12.04.160) Penalty, see § 10.99

§ 97.043 BUILDING UPON PUBLIC WAYS.

(A) No person shall erect or place any building or other structure, in whole or in part, upon any public way or other public ground within the city.

(B) The provisions of this section prohibiting structures upon public ways shall not be construed to include United States mail boxes, police or fire alarm signal posts or boxes, public foundations, waste paper receptacles and other structures as may be legally authorized by the proper authorities in the city.
(1995 Code, § 12.04.170) Penalty, see § 10.99

STREET GRADES

§ 97.055 GRADING AUTHORITY.

Grades of all streets, alleys and sidewalks in the city shall be fixed or changed by the Board of Public Works, and the records of the action thereof shall be maintained by the Board.

(1995 Code, § 12.08.010) Penalty, see § 10.99

§ 97.056 ESTABLISHMENT METHODS INTERSECTION OF STREETS DEFINED.

Street grades shall be established along the curb lines of the streets and shall run in a straight line from the established grade at any street intersection to the established grade at the intersection of the next street thereto or to any established street grade between the intersections of the streets. The term ***INTERSECTION OF STREETS*** shall be taken as the intersection of curb lines produced at all intersecting and abutting streets. (1995 Code, § 12.08.020) Penalty, see § 10.99

§ 97.057 PUBLIC WORKS.

All public works and public improvements shall be construed in conformity with the street grade elevations established by the Board of Public Works. (1995 Code, § 12.08.030) Penalty, see § 10.99

§ 97.058 UNPAVED ALLEYS.

The grades of the side lines of each unpaved alley in the city at its intersection of streets shall conform to the sidewalk grades of streets, respectively and from the intersection shall rise at the rate of six inches in each 100 feet to meet at a summit. (1995 Code, § 12.08.040) Penalty, see § 10.99

§ 97.059 CITY DATUM.

The city datum, from which all elevations and the height of all grades shall be measured in feet and decimal fractions of a foot and for the purpose of fixing and establishing the level of the base or datum line, is declared to be at the City Hall, about 42 yards north of the building, about 28 yards east of the center line of Indianapolis Boulevard at the flag pole and in the top of the concrete base as a standard disk stamped “East Chicago” 1934 (178.744 meters or 586.429 feet). (1995 Code, § 12.08.050)

§ 97.060 INJURING OR MOVING BENCH MONUMENTS.

It is unlawful for any person to cover up, conceal, deface, obliterate or in any manner to injure, erase, disfigure or change the location of any of the standard bench monuments which have heretofore been established or which may hereafter be established by the city.

(1995 Code, § 12.08.060) Penalty, see § 10.99

EXCAVATIONS

§ 97.075 PERMIT-REQUIRED.

(A) Except as otherwise provided in this code, it is unlawful for any person to injure or to make an opening in, or tear up any public way or other public place without first obtaining a written permit to do so from the Board of Public Works.

(B) It is unlawful to dig any ditch or drain or to remove any sod, stone, earth, sand or gravel from any public way or public ground in the city without first having obtained a written permit from the Board of Public Works. (1995 Code, § 12.12.010) Penalty, see § 10.99

§ 97.076 PERMIT-APPLICATION.

All applications for permits which are required under § 97.075 shall be made in writing to the Board of Public Works and shall contain exact descriptions, specifications and diagrams, as requested, showing the time, place and character of the opening and the purpose thereof and other facts which the Board may deem necessary. (1995 Code, § 12.12.020) Penalty, see § 10.99

§ 97.077 PERMIT -CONDITIONS ON ISSUANCE.

The Board of Public Works shall not issue any permit for breaking into any public way until it has been fully advised of the time and place of the opening and the purpose thereof and shall have an estimate of the cost of inspection and of restoring the pavement and surface to a condition equally as good as it was before it was opened, with a fair additional sum as margin for contingent damages. The Board may, if in its opinion it is necessary, require the work to be done under authority of a permit to be supervised and inspected by either the City Engineer or a competent Inspector appointed by him or her. If the city deems it necessary to place an Inspector in charge of the work, the expense of supervision and inspection by the Inspector shall be charged to the person whom the permit was issued, and the amount of the expense shall be paid by the person. (1995 Code, § 12.12.030) Penalty, see § 10.99

§ 97.078 DENIAL OF FUTURE PERMITS.

Any person, having obtained a permit as provided in this chapter and having done work thereunder, who shall have failed or refused to prosecute the work thereunder in compliance with the provisions of this chapter or the terms of the permit and who shall have violated the provisions of this chapter or shall have failed, in any manner, to perform and complete the work in a good and workmanlike manner, may be refused permission by the Board for the construction of any more proposed work and may be denied any other permit unless and until the same shall be ordered by the Common Council after a full hearing. (1995 Code, § 12.12.040)

§ 97.079 BOND.

It is unlawful for any person to tear up, remove or repair any public way, or any part thereof, without first filing with the Clerk of the Board of Public Works a good and sufficient bond executed to the city in an amount to be fixed by the Board and in no case to be less than $10,000, with sureties to be approved by the Board conditioned to indemnify, save and keep harmless the city from any and all loss, cost, damage, expense or liability of any kind whatsoever which the city may suffer or which the city may be put to or which may be recovered from the city, from or on account of the issuance of the permit or from or on account of any act or thing done by virtue of the authority given in a permit or for any damage, loss or expense to any person caused by the tearing up, repairing or removing of a public way or part thereof and further conditioned that the applicant will complete the work in a workmanlike manner and properly fill in the opening and excavation and replace any surface that may have been displaced in as good condition as before the excavation had been made and shall in all respects save the city harmless from any cost, loss or damage. The bond shall be in effect for a period of not less than one year.

(1995 Code, § 12.12.050) Penalty, see § 10.99

§ 97.080 PAVEMENT RESTORATION.

Immediately after the completion of the work done under authority of the permit, the City Engineer or the Inspector appointed by him or her shall see that any surface or pavement of any public way, which may have been displaced by reason of any work done under the permit, is restored and replaced in proper shape and condition and that the surface of any public way or public place which may have been opened or otherwise disturbed, under the authority of any permit, has been restored to a condition equally as good as it was before being opened or disturbed under authority of the permit.
(1995 Code, § 12.12.060)

§ 97.081 APPLICABILITY OF SUBCHAPTER.

(A) The provisions of this subchapter shall apply to every person who shall place building material in any of the public streets or avenues or who shall be engaged in building any vault or constructing any lateral drain from any cellar to any public sewer or who shall do or perform any work causing obstructions in the public streets by virtue of any permit from an executive department and also to all city officers and employees engaged in performing any work in behalf of the city, whereby obstructions or excavations shall be made in the public streets.

(B) No department, division, bureau or officer of the city, except the City Engineer or Supervisor of Public Works in an absolute and extreme emergency, shall have the power to grant a permit or permission to any person to dig or make an opening in any public way in the city without a written permit as required by this chapter. (1995 Code, § 12.12.070)

§ 97.082 OPENINGS-PROTECTION-NOTIFICATION OF POLICE AND FIRE DEPARTMENTS.

All openings made in streets, alleys, sidewalks or any other public place shall be protected at all hours by sufficient barriers on which signal lights or flares shall be placed and maintained after dark. It shall be the duty of the master plumber to notify Police and Fire Departments when the streets, alleys, sidewalks or any other public place are fully obstructed. (1995 Code, § 12.12.080) Penalty, see § 10.99

§ 97.083 REPAIR DEPOSIT.

The amount of deposit required for the repairs for each opening of any street, alley, sidewalk, parkway or any other public place shall be $100, payable to the City Controller.
(1995 Code, § 12.12.090) Penalty, see § 10.99

STREET LAMPS

§ 97.095 ERECTION-CONTROL.

All street lamp posts and lamps of the city shall be erected by the city electrician, who shall have control over the lamp posts and lamps. (1995 Code, § 12.16.010) Penalty, see § 10.99

§ 97.096 INJURY OR DESTRUCTION PROHIBITED.

No person shall break, deface or in any way injure or destroy any street light or tie any animal, hang or place any goods or merchandise or place any goods, boxes, wood or other heavy material upon or against any street lamp or lamp post in the city. (1995 Code, § 12.16.020) Penalty, see § 10.99

§ 97.097 ACCEPTANCE OF POSTS.

(A) The Board of Public Works and Safety is authorized and directed to accept, on behalf of the city, all bills of sale presented to it by any person doing business in the city, conveying or assigning or transferring to the city the ownership of any electric light poles or telegraph or telephone poles having street lighting, alarm or other equipment of the city, which the Board shall deem necessary or desirable for the use of the city.

(B) The city electrician shall, upon acceptance of poles by the city, cause all previous marks of ownership to be removed and shall immediately thereafter mark them indicating the city's ownership of the poles. (1995 Code, § 12.16.030) Penalty, see § 10.99

§ 97.098 UNAUTHORIZED REMOVAL.

No person, without permission from the city electrician, approved by the Board of Public Works, shall take up, remove or carry away any street lamp posts of the city.
(1995 Code, § 12.16.040) Penalty, see § 10.99

§ 97.099 SHADING.

(A) Upon order of the Board of Public Works, the city electrician is authorized to cause to be installed, a device on street lamps, brackets or poles of the city for the purpose of diverting direct rays of light which interfere with the comfort or are detrimental to the health of persons residing near the lamp.

(B) No person, other than the duly authorized employees of the Electric and Light Division, shall place or attempt to place on any post any device for the obstruction of the light of a street lamp or shall interfere with a device placed in accordance with the provisions of this subchapter.
(1995 Code, § 12.16.050) Penalty, see § 10.99

§ 97.100 LIGHTING OR EXTINGUISHING.

No person, unless authorized by proper authority, shall at any time light or extinguish or cause to be lighted or extinguished, any street light or lamp of the city.
(1995 Code, § 12.16.060) Penalty, see § 10.99

SUBSURFACE SPACE

§ 97.115 PERMIT TO CONSTRUCT OR USE REQUIRED.

(A) No person shall construct for use, except as otherwise provided in this subchapter, any space underneath the surface of any public way or other public ground in the city or construct, install and maintain any structure thereunder or disturb the sidewalk or a public way or other public ground for the purpose of using, constructing and maintaining any vault or structure thereunder or any coal hole, trap door, areaway, grating, hyatt light or glass prisms or any other opening therein, without first obtaining a permit to do so from the Building Commissioner.

(B) No person shall use any space underneath any public way if, after written request by the Commissioner, any person now using any space shall fail to take out a permit for the use showing the structural soundness of the sub-sidewalk space construction as provided in this subchapter.

(1995 Code, § 12.20.010) Penalty, see § 10.99

§ 97.116 PERMIT TO CONSTRUCT OR USE APPLICATION.

Application for permits for new construction under this subchapter shall be accompanied by a sketch or diagram showing the gross measurements of the vault to be constructed hereafter, together with all openings in the surface over the same and the sketch or diagram shall be approved by the City Engineer. (1995 Code, § 12.20.020) Penalty, see § 10.99

§ 97.117 PERMIT TO CONSTRUCT OR USE CANCELLATION.

Whenever any party holding a permit for the construction or maintenance of any sub-sidewalk space shall desire to have the permit canceled, the Building Commissioner shall cancel the same, but the permit and the bond given therewith shall remain in full force and effect as to all rights and liabilities accruing under the same. (1995 Code, § 12.20.030) Penalty, see § 10.99

§ 97.118 PERMIT TO CONSTRUCT OR USE REVOCATION.

(A) All permits issued for the use of sub-sidewalk space shall be subject to revocation in whole or in part by the Building Commissioner whenever it is necessary for a public purpose. The permittee or owner shall have the right to appeal to the Board of Public Safety from an adverse ruling of the Building Commissioner.

(B) No permit shall be issued except upon the agreement of the party to whom the same is issued that the vault or space, or any portion thereof, required to be vacated shall be vacated within 30 days after the Building Commissioner shall have given notice of revocation of the permit; provided, that the Board of Public Safety shall have the power to extend the time of vacation or revocation.

(C) Permits which shall be issued under this chapter may be revoked by the Board of Public Safety. (1995 Code, § 12.20.040) Penalty, see § 10.99

§ 97.119 BOND.

(A) Every applicant for a permit authorizing the disturbing of a sidewalk for the construction and maintenance of any coal hole, trap door or other opening therein, shall file with the application, a bond in the penal sum of $5,000 with sureties to be approved by the Board of Public Safety. The bond shall be conditioned that the person to whom the permit shall be issued, his or her heirs, successors or assigns will save and keep the city free and harmless from any and all loss or damage or claim of damage arising from or out of the construction or use of the space, structure, vault, coal hole, trap door or other opening therein mentioned; and for the maintenance of the public way or the sidewalk over the space containing the hole, trap door or other opening, as the case may be, in a condition that the public way or the sidewalk shall, at all times after the structure, coal hole, trap door or other opening is completed or the space is covered, be safe for public use and conditioned for the full and complete protection of the city against any and all litigation growing out of the granting of the permit or anything done under the permit and conditioned further for the faithful performance and observance of various provisions of this chapter.

(B) Whenever the Board of Public Safety determines that the sureties on any bond given for any permit issued thereunder have become insufficient, a new bond for the permit shall be filed with the sureties to be approved by the Board. (1995 Code, § 12.20.050) Penalty, see § 10.99

§ 97.120 INTERFERENCE WITH SEWER OR WATER PIPE.

No person shall use his or her sub-sidewalk space in any manner to interfere with any sewer, water pipe or any work lawfully in the public way, without the express consent of the Board of Public Safety.(1995 Code, § 12.20.060) Penalty, see § 10.99

§ 97.121 CONVEYANCE OF PREMISES.

Any person to whom a permit for the use of sub-sidewalk space shall have been granted under the terms of this subchapter, or who has given a bond for the occupation of space under any sidewalk under any provisions of this subchapter, who has conveyed his or her interest in the premises for which the permit is issued, shall notify the Board of Public Safety, in writing, and shall furnish in writing the name and address of the purchaser. The new purchaser must again apply for a permit in the same manner as the original permittee. (1995 Code, § 12.20.070) Penalty, see § 10.99

§ 97.122 COVERS OVER OPENINGS.

(A) Every opening in any vault or coal hole or aperture in the sidewalk over a coal hole or vault shall be covered with a substantial metal plate with a rough surface to prevent accidents and the entire construction of the coal holes and vaults shall be subject to the reasonable direction and supervision of the City Engineer. The cover shall be kept sufficiently strong and safe.

(B) No person shall remove or insecurely fix, cause, procure or permit to be removed or to be insecurely fixed so that the same can be moved in its bed, any grate or covering of any coal hole, vault or chute under any public way or other public place; provided, that nothing herein contained shall prevent the owner or occupant of the building with which the coal hole, vault or chute shall be connected, from removing the grate or covering for the proper use of the opening, in case he or she encloses the opening or aperture, and keeps the same enclosed while the grate or covering shall be removed, with a proper guard or curb at least 24 inches high, firmly and securely made; provided further, that he or she shall not remove the grate or covering until after sunrise of any day and shall replace the grate or covering before one-half hour after sunset.

(C) It is unlawful for any person owning or using any coal hole, outside stairway or any other opening in any public sidewalk to allow the same to remain uncovered or opened, except while the same is actually being used for the purpose of an entrance or exit or for the purpose of introducing or removing any article or materials through an opening. (1995 Code, § 12.20.080) Penalty, see § 10.99

§ 97.123 STRUCTURAL SAFETY.

Whenever any coal hole, vault or any aperture constructed in any sidewalk is not covered or secured as provided in this subchapter, or is unsafe or inconvenient for public travel, the Board of Public Safety may order the same to be placed in a safe condition and if the same shall not be done within 15 days from the service of notice upon the owner or person in possession of the premises, the Supervisor of Public Safety may make the change and the expense thereof shall be charged against the owner or person in possession of the premises. (1995 Code, § 12.20.090) Penalty, see § 10.99

§ 97.124 CARE OF SIDEWALKS.

Every person using the space under any sidewalk shall at all times keep the sidewalk in good condition and repair and free from all snow, ice, dirt, filth or other obstructions or encumbrances.
(1995 Code, § 12.20.100) Penalty, see § 10.99

§ 97.125 CESSPOOLS, EXPLOSIVES OR FLAMMABLE OILS.

No cesspool shall be constructed or located for use or kept or operated and no explosive substance or flammable oil or substance shall be stored or kept for any purpose under any sidewalk and no excavations shall be ventilated into the public ways unless the aperture or ventilating hole or opening shall be securely covered as herein provided. (1995 Code, § 12.20.110) Penalty, see § 10.99

§ 97.126 LIABILITY FOR DAMAGES.

The owner and the person in possession of the abutting premises, in front of which a coal hole or vault is constructed, shall be held jointly responsible to the city for any and all damages to persons or property in consequence of any defect in the construction of the vault or coal hole or for allowing the same or any portion thereof, to remain out of repair, or for allowing the aperture in the sidewalk to be left exposed and uncovered or for leaving the covering insecure or unfastened. The owner shall be required to keep the vault or coal hole, its walls and coverings in good order at all times.
(1995 Code, § 12.20.120) Penalty, see § 10.99

DRIVEWAYS

§ 97.140 CONSTRUCTION PERMIT-REQUIRED.

No person shall construct build, establish, alter or maintain any driveway over, across or upon any public sidewalk, curb or public parkway without first obtaining a written permit to do so from the Board of Public Works. (1995 Code, § 12.28.010) Penalty, see § 10.99

§ 97.141 CONSTRUCTION PERMIT-APPLICATION.

Any person desiring to construct, build, establish, alter or maintain a driveway shall make written application to the Board of Public Works and shall submit specifications and plans which have first been approved by the City Engineer together with any other information which the Board may require. The Board shall thereupon make any investigation it deems necessary, shall require certain specifications, and shall make reasonable rules and regulations for the construction.
(1995 Code, § 12.28.020) Penalty, see § 10.99

§ 97.142 CONSTRUCTION PERMIT-REVOCATION.

All permits issued under this subchapter may be revoked by the Board of Public Works at any time without the consent of the grantee, in which case the authority and permit granted shall thereupon cease and terminate. Upon the termination by revocation or otherwise of the authority rights and privileges granted by the permit, the driveway therein authorized shall be removed and the sidewalk space where the same shall have been located, shall be restored to its proper condition to the satisfaction of the

City Engineer, so that the portion of the sidewalk space used for the driveway shall be safe for public travel and in the same condition as the remaining portion of the sidewalk space. The restoration shall be made at the sole expense to the grantee without cost or expense of any kind whatsoever to the city; provided, that in the event of the failure, neglect or refusal on the part of the grantee to remove the driveway when directed to do so, the city may proceed to remove the driveway and charge the expense to the grantee. (1995 Code, § 12.28.030) Penalty, see § 10.99

§ 97.143 CONSTRUCTION PERMIT-ISSUANCE.

If the Board of Public Works, in its discretion, desires to permit the construction of the driveway by the applicant, upon his or her agreement to maintain the driveway properly with full right reserved in the Board to order it sealed, it may do so. (1995 Code, § 12.28.040)

§ 97.144 SPECIFICATIONS.

(A) Driveways which are to be built across the sidewalk space, unless otherwise expressly authorized, shall conform, as much as possible, to the sidewalk grade. The driveways shall be seven inches in depth and shall consist of concrete. This work shall be done in the manner, and materials shall be of the quality and proportions specified for Portland cement concrete sidewalks.

(B) No driveway shall be so constructed as to prevent free and unobstructed passage on, over or across the same, or in a manner as to interfere with the proper drainage and safe grading of the streets. Gradual approaches to the regular sidewalk grade shall be made from the grade of the driveway. The slope of any driveway and the approaches thereto shall not exceed one inch vertical to one foot horizontal in any direction.

(C) All driveways shall be built in a manner that no sand or dirt from the parkway shall be washed or carried into the street gutter by way of the driveway. The Board of Public Works may require curbs to be built so that driveways can meet the above specified requirements.
(1995 Code, § 12.28.050) Penalty, see § 10.99

§ 97.145 COMPLIANCE WITH CHAPTER.

Any driveway built, constructed, established, altered or maintained in violation of this subchapter is declared to be a nuisance. (1995 Code, § 12.28.060) Penalty, see § 10.99

§ 97.146 EXISTING DRIVEWAYS.

(A) The Board of Public Works shall have the right to number and plat all existing driveways and to require proper repair and maintenance upon the additional penalty of ordering the sealing of the driveways.

(B) The permittee shall be liable for any negligence in the maintenance of the driveway and the city shall be impliedly exempt and indemnified against liability therefrom by virtue of the permit granted or the use of the driveway. (1995 Code, § 12.28.070) Penalty, see § 10.99

NUMBERING OF BUILDINGS AND BLOCKS

§ 97.160 SYSTEM ESTABLISHED.

There is established a uniform system of numbering all blocks, lots and buildings in the city fronting on all streets, alleys and highways in the city. This system shall be as follows:

From the northern limits of the city to the southern limits of the city, the lots and blocks shall be numbered consecutively, increasing 100 numbers for each block thereof, and on all blocks and lots running a general easterly and westerly direction, the numbering of buildings shall commence at number one at the waterways (conveyed to the United States of America, by deed, dated July 5, 1888, and recorded April 15, 1889, in Book 44, pages 472-475, in the Recorder's Office of Lake County, Indiana) and shall number consecutively 100 for each block thereof, from the west line of the waterway to the western limits of the city and shall also commence with number one and shall number consecutively 100 for each block running east from the east line of the waterway as above set out to the eastern limits of the city. (1995 Code, § 12.36.010) Penalty, see § 10.99

§ 97.161 ASSIGNING AND PLACING OF NUMBERS.

The City Engineer shall make the necessary survey and shall assign a number to each lot or part of lot, fronting on any street or avenue or public place according to the plan, assigning odd numbers to one side and even numbers to the other; giving to each lot a number that is practicable and he or she shall keep a record of all numbers so assigned. The system of numbers and map of the same prepared by the City Engineer and now on file in the office of the City Clerk is in all things ratified and approved and all numbers hereafter issued shall be issued according to a system and a record shall be made of the same in the office of the City Clerk and all numbers heretofore issued that conflict with the system shall be changed and made to conform to the system, and in accordance herewith as new numbers are taken out.

(1995 Code, § 12.36.020) Penalty, see § 10.99

§ 97.162 DISPLAY AND SIZE OF NUMBERS.

The owner or occupant of every house or business place in the number assigned to his or her lot or part of lot by the City Clerk in a conspicuous place on the side thereof or above the front door of the house or building, which number shall consist of figures not less than three inches in length and so made or marked as to be distinctly and easily read. If there is a garage at the rear of the property and the rear of the property is near an alley, the rear address must be displayed on the side of the garage facing the alley. If the rear of the property is not adjacent to an alley, no rear address is required. The owner of every business place shall also place the number at the rear of the building.

(1995 Code, § 12.36.030) (Ord. 0-05-0004, passed 3-14-2005) Penalty, see § 10.99

§ 97.163 NUMBERS OBTAINED FROM CITY CLERK.

Before any owner or occupant of any house or building shall place a number on the same, he or she shall obtain from the City Clerk the number assigned to his or her lot or part of lot and shall so place the number upon his or her lot or part of lot occupied. (1995 Code, § 12.36.040) Penalty, see § 10.99

§ 97.164 COMPLIANCE REQUIRED-WHEN.

Every occupant of any building hereafter erected in this city shall within 30 days after the erection of the same, place a number upon the same, according to the provisions of this subchapter.

(1995 Code, § 12.36.050) Penalty, see § 10.99

§ 97.165 DUTY OF OWNER OR OCCUPANT.

It is made the duty of the owner, agent or occupant of any building to number it in the manner herein provided. (1995 Code, § 12.36.060) Penalty, see § 10.99

§ 97.166 DESTROYING OR DEFACING NUMBERS.

It is unlawful for any person to take down, alter, deface, destroy, mutilate or cancel any number assigned to be placed upon any building or to place, substitute or permit to be placed, substituted or retained, an erroneous, illegible or improper number upon any building.

(1995 Code, § 12.36.070) Penalty, see § 10.99

§ 97.167 VIOLATIONS RECORDED BY POLICE.

It shall be the duty of all police officers to record violations of any provisions of this chapter.

(1995 Code, § 12.36.080)

§ 97.168 MEMORIAL STREET NAMING.

(A) Whenever the Common Council determines to honor a person, or ethnic group, or to designate a community, or historic area by naming a city street, other public ways or parts thereof or parcels of real estate which the City Council has designated by Council ordinance as part of the city's arterial highway system; the public street, arterial highway, or part thereof, shall retain its official name and its legal status, and a suitable sign or signs memorializing the honoree(s) shall be installed at a location beneath the official street name designated by proper Council resolution indicating the name, ethnic group, community, or historical area to be so honored.

(B) The proposed resolution shall take effect and be in full force from and after its passage by the Common Council and approval from the Mayor as required by the ordinance codified in this section. The resolution shall be prepared as follows:

Be it now ordered that the City Engineer is hereby authorized and directed to give consideration to honorarily designate_____ from_____ to _____memorializing the street to_____.

(1995 Code, § 12.36.090) (Ord. 0-95-0008, passed - -1995) Penalty, see § 10.99

MAIL DELIVERY

§ 97.180 DELIVERY TO MADE ON A DOOR TO DOOR BASIS.

All residential mail delivery within the city shall be made directly to the particular premises to which it is addressed on a door to door basis, unless the United States postal service or its successors are specifically requested not to do so by the residents of the premises.

(1995 Code, § 12.40.010) (Ord. 3104, passed - -1976)

CHAPTER 98: SIDEWALKS AND CURBS

Section

General Provisions

98.01 Parkways
98.02 Depositing rinds or peelings
98.03 Removal of rubbish
98.04 Snow and ice removal
98.05 Driving animals
98.06 Sprinkling or throwing water
98.07 Openings-leaving open
98.08 Openings-protection
98.09 Awnings-wooden
98.10 Awnings-height
98.11 Obstructing sidewalks
98.12 Dropping metal weights or other weights

Design Standards

98.25 Width
98.26 Level of sidewalk
98.27 Grade generally
98.28 Slope
98.29 Curbing

Construction and Repair

98.40 Compliance with chapter
98.41 General regulations
98.42 Permit to build or repair-required
98.43 Permit to build or repair-application-plans and specifications
98.44 Supervision of construction and repairs
98.45 Safety
98.46 Construction specifications
98.47 Nameplates

98.48 Repairs by property owner
98.49 Repairs by city

GENERAL PROVISIONS

§ 98.01 PARKWAYS.

Upon improved streets where there remains a strip of ground between the curb of the improved roadway and front lot line, according to the recorded plat of the abutting real estate, that has not been specifically designated by the Board of Public Works and Safety for a sidewalk or is not used for a sidewalk, the strip of ground shall be denominated, known and designated, as a parkway. It is unlawful for any person to ride or drive any vehicle or animal upon or across the parkway or to permit any animal to run, walk or graze upon the parkway or to place any rubbish or trash upon the same unless expressly permitted by this code. (1995 Code, § 12.24.010) Penalty, see § 10.99

§ 98.02 DEPOSITING RINDS OR PEELINGS.

No person shall place, put, throw or deposit any watermelon rind or seeds or the rind or seeds of any other kind of melon or any orange or banana peel or any other slippery thing or substance on any sidewalk in this city or on any steps leading from any sidewalk to any building.
(1995 Code, § 12.24.020) Penalty, see § 10.99

§ 98.03 REMOVAL OF RUBBISH.

No occupant of any lot or of the ground floor of any building or the owner of any unoccupied lot or building within the city, shall permit or suffer to remain upon the sidewalk opposite or in front of a lot or building, any beer kegs, boxes, leaves, sand or rubbish of any kind. Every owner or occupant who shall refuse or neglect to remove beer kegs, boxes, leaves, sand or rubbish, within six hours after receiving notice, from or by direction of the Supervisor of Public Works or any member of the police force, to remove the same, shall be deemed guilty of violating the provisions of this chapter.
(1995 Code, § 12.24.030) Penalty, see § 10.99

§ 98.04 SNOW AND ICE REMOVAL.

(A) Ever owner, lessee, tenant, occupant or other person having charge of any building or lot of ground in the city abutting upon any public way shall remove the snow and ice on the sidewalk in front of the building or lot of ground. If the sidewalk is of greater width than six feet, it shall not be necessary for the person to remove snow or ice for a space wider than six feet.

(B) In case the snow and ice on the sidewalk shall be frozen so hard that it cannot be removed without injury to the pavement, the person having charge of any building or lot of ground as aforesaid shall, within the time specified, cause the sidewalk abutting on the premises to be strewn with ashes, sand, sawdust or some similar suitable material and shall, as soon thereafter as the weather shall permit, thoroughly clean the sidewalk.

(C) The snow which falls or accumulates during the day (excepting Sundays) before 4:00p.m. shall be removed within three hours after the same has fallen or accumulated. The snow which falls or accumulates on Sunday or after 4:00 p.m. and during the night on other days shall be removed before 10:00 a.m. in the following morning. (1995 Code, § 12.24.040) Penalty, see § 10.99

§ 98.05 DRIVING ANIMALS.

No person having the charge, custody or control thereof shall suffer or permit to go or lead or ride or drive, any horse or other animal of any kind, except dogs or cats, upon any sidewalk in the city and no person shall lead, ride or drive any dray, cart, wagon, carriage or other vehicle to which any horse or other animal is attached on any of the sidewalks of this city. (1995 Code, § 12.24.050) Penalty, see § 10.99

§ 98.06 SPRINKLING OR THROWING WATER.

(A) It is unlawful for any person to clean or sweep any sidewalk on a business street, unless it shall have been first sprinkled with water or other dust deterrent sufficient to avoid the raising of dust while being cleaned or washed, except at times as when the sprinkling would be impossible on account of frost.

(B) It is unlawful for any person to sweep carpets, rugs or mats or to deposit rubbish, dirt or dust on any sidewalk. (1995 Code, § 12.24.060) Penalty, see § 10.99

§ 98.07 OPENINGS-LEAVING OPEN.

It is unlawful for any person to leave or keep open any cellar, door or grating of any window or vault on any sidewalk or street or to suffer the same to be left or kept open so as to endanger life or limb. (1995 Code, § 12.24.070) Penalty, see § 10.99

§ 98.08 OPENINGS-PROTECTION.

It is unlawful for any person to keep, maintain, use or operate in any part of any sidewalk within the city any open areas, areaway or other opening therein, without having the same equipped and maintained with sufficient iron doors or shutters which, when closed, shall be flush with the sidewalk and, when opened, the shutters shall stand perpendicularly and be firmly held in place by iron rods or other appliances, which rods and shutters or other appliances, when the areaway is open, shall be barriers and guards to warn and protect pedestrians using the sidewalk. (1995 Code, § 12.24.080) Penalty, see § 10.99

§ 98.09 AWNINGS-WOODEN.

No wooden awnings or shade shall be put upon or over any sidewalk in the city. (1995 Code, § 12.24.090) Penalty, see § 10.99

§ 98.10 AWNINGS-HEIGHT.

The awning bracket, arm or frame of all cloth awnings now up or which may hereafter be put up in the city shall be at the outer edge of the awning at least seven feet above the level of the sidewalk. All curtains and borders on the awnings shall hang at least six feet six inches above the level of the sidewalk. No person shall put up any awnings or suffer any awning to remain contrary to the provisions of this section. (1995 Code, § 12.24.100) Penalty, see § 10.99

§ 98.11 OBSTRUCTING SIDEWALKS.

No person shall pile, deposit, place or permit to be piled, deposited or placed, any rubbish, wood, coal dirt, impediment, stand, table, chair or obstruction of any kind upon or over any sidewalk or to occupy or obstruct any sidewalk as to interfere with the convenient use of the same by the public.

(1995 Code, § 12.24.110) Penalty, see § 10.99

§ 98.12 DROPPING METAL WEIGHTS OR OTHER WEIGHTS.

No person shall throw, drop or place any metal or other weight whereby the sidewalk shall be chipped, defaced or otherwise damaged. (1995 Code, § 12.24.120) Penalty, see § 10.99

DESIGN STANDARDS

§ 98.25 WIDTH.

All sidewalks to be hereafter constructed on any portion of the public ways of the city shall be not less than six feet in width except where any street is so narrow in width as to prevent a sidewalk of this width, in which case the Board of Public Works, upon recommendation of the City Engineer, may permit, in writing, a narrower construction. Sidewalks not to exceed two feet in width may be constructed adjoining the curb to permit access to and from vehicles. (1995 Code, § 12.24.130) Penalty, see § 10.99

§ 98.26 LEVEL OF SIDEWALK.

No part of any sidewalk or sidewalk space shall be taken for private use by lowering or cutting down the same next to the building or railing off the same by any wooden or iron railing or by shutting off the public from using the same; and the sidewalk shall not be raised next to the building by constructing a platform of wood, iron, concrete or stone, but the sidewalk shall be built flush up to the building on a uniform grade as provided in § 98.27. (1995 Code, § 12.24.140) Penalty, see § 10.99

§ 98.27 GRADE GENERALLY.

(A) The grade for sidewalks shall be fixed, established or changed by the Board of Public Works and a record of the same shall be kept on file and be accessible to the public.

(B) No person shall build or assist in building any sidewalk where no grade has been established by the Board of Public Works or is contrary to any established grade. All sidewalks heretofore constructed which do not conform to the established grade shall be re-laid to the proper grade by the owner of the abutting property. (1995 Code, § 12.24.150) Penalty, see § 10.99

§ 98.28 SLOPE.

All sidewalks shall be so constructed that when completed, the top surface shall coincide with the grade of the space between the curb line and the street line, which grade shall be a uniform incline, from the curb line towards the street line, with a rise of one inch in every three feet.
(1995 Code, § 12.24.160) Penalty, see § 10.99

§ 98.29 CURBING.

Whenever it is necessary to construct curbing or a “blind curb” in connection with a cement sidewalk, the curb shall consist of concrete mixed of materials and in proportion as in this chapter specified for concrete walks; the blind curb shall extend 18 inches below the top of the sidewalk. When finished, it shall present a true and perfectly plumb appearance, shall be free from buckles and bulges and all joints shall be straight and clean cut. The curb shall be seven inches in thickness.

(1995 Code, § 12.24.170) Penalty, see § 10.99

CONSTRUCTION AND REPAIR

§ 98.40 COMPLIANCE WITH CHAPTER.

It is unlawful for any person to construct, lay, rebuild or disturb any sidewalk or any public way of the city except in compliance with the provisions of this chapter.

(1995 Code, § 12.24.180) Penalty, see § 10.99

§ 98.41 GENERAL REGULATIONS.

All work shall be done according to plans, specifications in this code and ordinances of the city. All work shall be properly barricaded and warning lights shall be kept on barricades from one-half hour after sunset to one-half hour before sunrise. (1995 Code, § 12.24.190) Penalty, see § 10.99

§ 98.42 PERMIT TO BUILD OR REPAIR REQUIRED.

No person shall build, rebuild, lay, remove, repair or in any manner disturb any sidewalk or any portion of the public ways of the city without first having obtained a permit from the Board of Public Works specifying the work to be done. Any violations of the terms of the permit shall render it null and void. (1995 Code, § 12.24.200) Penalty, see § 10.99

§ 98.43 PERMIT TO BUILD OR REPAIR APPLICATION-PLANS AND SPECIFICATIONS.

Any person desiring a permit to built, rebuild, lay, remove, repair or in any manner disturb any sidewalk or public way shall first submit his or her plans and specifications to the City Engineer for approval. Upon the approval of the City Engineer, the applicant shall make written application to the Board of Public Works for a permit. (1995 Code, § 12.24.210) Penalty, see § 10.99

§ 98.44 SUPERVISION OF CONSTRUCTION AND REPAIRS.

All persons granted permits to build, rebuild, lay, remove, repair, or in any manner disturb any sidewalk or any portion of a public way shall, in so doing, be subject to the supervision of the City Engineer or the Supervisor of Public Works. (1995 Code, § 12.24.220) Penalty, see § 10.99

§ 98.45 SAFETY.

(A) No sidewalk shall be constructed or repaired so that it prevents free and unobstructed passage over, on or across the same or in a manner as to interfere with the proper drainage and safe grading of the street. While the construction or repair of the sidewalk is being carried on, proper barricades shall be maintained at all times and adequate red warning lights shall be maintained from one hour after sunset until one hour before sunrise during the time the obstruction or danger remains.

(B) No person shall, without consent of the City Engineer, Supervisor of Public Works or Board of Public Works, remove any barricades herein required. (1995 Code, § 12.24.230) Penalty, see § 10.99

§ 98.46 CONSTRUCTION SPECIFICATIONS.

Construction specifications for sidewalks within the city shall conform to the State Highway Standards, § 604, Sidewalks and Steps. (1995 Code, § 12.24.240) Penalty, see § 10.99

§ 98.47 NAMEPLATES.

(A) Before the top or finishing of concrete walks has set, the contractor or person building the walk shall place in a walk a front of each lot or parcel of property a stamp or plate giving the name and address of the contractor or person building the walk and the year in which the work was done. The top of the plate or stamp, which must not cover more than 54-square inches of surface, shall be flush and even with the top of the finished walk and must be of a permanent character plainly stamped or firmly bedded in the concrete in a manner that it cannot become loose or be easily removed or defaced.

(B) Wherever one contractor or person has laid walks in front of three or more adjoining lots or parcels or property in one continuous stretch, one of the above name stamps placed in the walk at each end of the stretch of walk will be sufficient. (1995 Code, § 12.24.250) Penalty, see § 10.99

§ 98.48 REPAIRS BY PROPERTY OWNER.

(A) It shall be the duty of all property owners abutting the public ways of the city to keep their respective sidewalks in repair, in a safe condition and in compliance with this chapter and with law.

(B) It is unlawful for the owner of any building or lot to permit the sidewalk abutting thereon to become and remain out of repair, so as to become dangerous and unsafe for pedestrian passage.
(1995 Code, § 12.24.260) Penalty, see § 10.99

§ 98.49 REPAIRS BY CITY.

When any property owner fails to repair his or her sidewalk abutting the public ways of the city, the Supervisor of Public Works or other city employees or officers may notify the owner or his or her agent. If, after 30 days' notice, the property owner fails to make the necessary repairs, the city may do so and charge the same against the property owner. (1995 Code, § 12.24.270) Penalty, see § 10.99

CHAPTER 99: TREES, PLANTS AND SHRUBS

Section

General Provisions

99.01 Powers and duties of Board of Parks and Recreation
99.02 Permission to remove, plant or destroy along public way
99.03 Injuring or destroying on public ways
99.04 Maintenance of trees and lawns
99.05 Approval of trees-placement
99.06 Protection of trees during building construction
99.07 Attaching animals, signs or other items to trees or shrubs
99.08 Removing or injuring protective devices
99.09 Open spaces around trees on public highways-protection from materials deposited on ground
99.10 Electrical devices near trees
99.11 Depositing salt in gutters
99.12 Gas leaks near trees
99.13 Removal of cottonwood trees or trees liable to fall
99.14 Certain trees declared nuisance

City Horticulturist

99.20 Powers
99.21 Duties
99.22 Interference

Branches Overhanging Streets and Sidewalks

99.36 Removal by city

GENERAL PROVISIONS

§ 99.01 POWERS AND DUTIES OF BOARD OF PARKS AND RECREATION.

(A) The Board of Parks and Recreation shall have the exclusive power to order, control and regulate the planting, trimming, maintaining and removing of shade trees, shrubs, vines, flowers, hedges and plants along the boulevards, streets, avenues and other public ways of the city. The Board shall also have the power to take over and control the improvement, maintenance and embellishment of all lawns, street centers and parkways in and along the boulevards, streets, avenues and other public ways of the city.

(B) The Board shall have the right and power to compel the owner of lots and parcels of land bordering on boulevards, streets, avenues and other public ways to plant, trim, protect and maintain shade trees and to sod, plant and maintain lawns, street centers and parkways upon first adopting a resolution and upon proceeding in the manner provided by law.

(C) The Board may make arrangements with property owners to make the improvements mentioned in this section, by private contract, at the expense of the owner, without levying assessments as the Board is empowered to do by law.

(D) The Board of Parks and Recreation, with the cooperation of the Board of Public Works, is authorized to order the planting, maintaining and protecting of shade trees and parkways along the residence streets of the city, under the same regulations and in the same manner as grading, paving and other improvements of streets and sidewalks are now constructed and maintained. The expense of the same shall be a lien on lots and parcels of ground so improved in the same manner and to the same extent as liens for street improvements.

(E) The Board of Parks and Recreation and the Board of Public Works shall cooperate at all times to beautify the city. (1995 Code, § 12.32.010)

§ 99.02 PERMISSION TO REMOVE, PLANT OR DESTROY ALONG PUBLIC WAY.

It is unlawful for any person to remove, plant, injure or destroy any tree, vine, shrub, hedge, flower or plant along any public way without first having obtained permission from the City Horticulturist or other person properly designated by the Superintendent of Public Parks with the approval of the Board of Parks and Recreation. (1995 Code, § 12.32.050) Penalty, see § 10.99

§ 99.03 INJURING OR DESTROYING ON PUBLIC WAYS.

No person shall cut, break, tear, deface or otherwise injure or destroy any grass plot, flower bed, ornamental or shade tree or shrub other than his or her own upon any sidewalk or other public way.
(1995 Code, § 12.32.060) Penalty, see § 10.99

§ 99.04 MAINTENANCE OF TREES AND LAWNS.

The owner of any lot or parcel of ground within the city bordering on any residence, side street or public way, excluding business districts, shall be required and are ordered to plant, maintain and protect shade trees and lawns in and along the parkway, sidewalks, streets and public ways under the direction, control and management of the Board of Park Commissioners of the city or the City Horticulturist, and according to the plans, details and specifications of the City Engineer, as shall have been approved by the Board of Parks and Recreation, and adopted and filed in the office of the Board of Public Works of the city; and the expense of the improvements, if and when so ordered by ordinance of the city, shall be a lien on the lots and parcels or ground and shall be collected in the same manner as assessments for the improvement of streets, as provided in I.C. 36-1-6-2. (1995 Code, § 12.32.070) Penalty, see § 10.99

§ 99.05 APPROVAL OF TREES PLACEMENT.

No shade or ornamental trees or shrubs shall be planted in or along any of the public ways of the city until the tree or shrub and the place where it is to be planted shall have been first approved, in writing, by the City Horticulturist or other person designated by the Superintendent of Public Parks, with the approval of the Board of Parks and Recreation. (1995 Code, § 12.32.080) Penalty, see § 10.99

§ 99.06 PROTECTION OF TREES DURING BUILDING CONSTRUCTION.

In the erection, alteration or repair of any building or structure, the owner thereof shall place or cause to be placed guards around or nearby trees in the public way as shall effectually prevent injury to the trees. (1995 Code, § 12.32.090) Penalty, see § 10.99

§ 99.07 ATTACHING ANIMALS, SIGNS OR OTHER ITEMS TO TREES OR SHRUBS.

No person shall fasten an animal or attach any rope, sign, handbill or other thing to any tree or shrub or to any protective device around any tree or shrub growing in any public way or parkway of the city; nor shall any person allow any animal to injure or deface any tree, plant or shrub in any manner whatsoever. (1995 Code, § 12.32.100) Penalty, see § 10.99

§ 99.08 REMOVING OR INJURING PROTECTIVE DEVICES.

No person shall remove, injure or misuse any guard or device placed or intended to protect any tree, plant or shrub growing in any public way of the city. (1995 Code,§ 12.32.110) Penalty, see § 10.99

§ 99.09 OPEN SPACES AROUND TREES ON PUBLIC HIGHWAYS-PROTECTION FROM MATERIALS DEPOSITED ON GROUND.

No person shall place or maintain upon the ground in a public highway of the city stone, cement, lumber or other substance or material which shall impede the free passage of water and air to any tree or shrub in the highway without leaving an open space of ground outside the trunk of the tree or the base of the shrub of an area not less than 16 square feet. Before depositing any materials in any highway of the city near to trees or shrubs therein, the person so depositing the material shall place guards around the trees and shrubs as shall effectually prevent injury to the trees and shrubs.

(1995 Code, § 12.32.120) Penalty, see § 10.99

§ 99.10 ELECTRICAL DEVICES NEAR TREES.

(A) No person shall without the written permit of the City Horticulturist attach any electric wire, insulator or any other device for holding an electric wire to any tree growing in any public way in the city.

(B) Every person having or maintaining any wire charged with electricity shall, whenever practicable, securely fasten the same so that the wire shall not come in contact with any tree in any public way in the city. (1995 Code, § 12.32.130) Penalty, see § 10.99

§ 99.11 DEPOSITING SALT IN GUTTERS.

No person, except city employees in the exercise of a prescribed duty, shall deposit or throw upon any public way or into any gutter thereof any salt or salt water or deposit in the gutter any receptacle containing salt or salt water which will injure trees in any way.

(1995 Code, § 12.32.140) Penalty, see § 10.99

§ 99.12 GAS LEAKS NEAR TREES.

No person owning, maintaining or operating any gas pipes or mains beneath the surface of any public way or public place in the city shall permit any leak to occur in the pipes or mains within a radius of 40 feet of any tree growing in any public way or public place in the city. In the event that a leak exists or occurs in any pipe or main, it shall be the duty of the person owning or using the defective pipe or main to repair the same immediately and to stop the leak in a manner so as to prevent a recurrence thereof, within five days after receiving notice, in writing, from the City Horticulturist, calling the attention of the person to the fact that the leak exists or has occurred. A separate offense shall be regarded as committed each day during which the person shall allow the violation to continue.

(1995 Code, § 12.32.150) Penalty, see § 10.99

§ 99.13 REMOVAL OF COTTONWOOD TREES OR TREES LIABLE TO FALL.

No tree which, in the opinion of the Supervisor of Public Works, may be liable to fall upon any sidewalk, street or building near the tree shall be permitted to stand upon or near any sidewalk in this city. It shall be the duty of the owner of the property upon which the tree sits to timely remove or cause the tree to be removed, or, to request that the tree be removed at public expense.

(1995 Code, § 12.32.160) (Ord. 0-02-0012, passed --2002) Penalty, see § 10.99

§ 99.14 CERTAIN TREES DECLARED NUISANCE.

The planting, preserving and maintaining of poplar, cottonwood, box elder, willow and dwarf catalpa trees for street planting and the planting within the city of the shrub known as berberis vulgaris are declared and shall be deemed a nuisance and are therefore prohibited.

(1995 Code,§ 12.32.170) Penalty, see § 10.99

CITY HORTICULTURIST

§ 99.20 POWERS.

The City Horticulturist shall have the power to destroy trees in the public ways and parkways if infected by disease or by injurious insects, when the destruction is necessary for the protection of other trees. (1995 Code, § 12.32.020)

§ 99.21 DUTIES.

It shall be the duty of the City Horticulturist to see that the provisions of this chapter are obeyed. Prosecutions for all violations of this chapter shall be instituted at the direction of the City Horticulturist and shall be prosecuted in the name of the city. (1995 Code, § 12.32.030)

§ 99.22 INTERFERENCE.

No person shall prevent, delay or interfere with the City Horticulturist or his or her assistants in the planting, pruning, cultivating, spraying or removing of any tree, plant or shrub that may be growing in any public way of the city or in the removing of stone, cement or other material about the trunk of any tree that may be growing in any public way of the city. (1995 Code, § 12.32.040) Penalty, see § 10.99

BRANCHES OVERHANGING STREETS AND SIDEWALKS

§ 99.36 REMOVAL BY CITY.

Trees, branches or limbs must not be permitted to overhang streets, alleys or sidewalks so as to interfere with traffic, obstruct traffic signals or signs or constitute a hazard or danger by reason of becoming liable to fall on any street, alley, sidewalk or public property. It shall be the duty of the owner of the property upon which the trees sit to timely remove or cause the removal of the trees, branches or limbs, or to request that the tree, branches or limbs be removed at public expense.

(1995 Code, § 12.32.190) (Ord. 0-02-0012, passed --2002) Penalty, see § 10.99

CHAPTER 100: PARKS

Section

100.01 Rules and Regulations
100.02 Conduct
100.03 Clothing for swimming and bathing
100.04 Permitted times for swimming or bathing
100.05 Contaminating public pools or beaches
100.06 Permits required for music, flags and drills
100.07 Bonfires-picnics
100.08 Interference with programs prohibited
100.09 Killing birds or animals
100.10 Domesticated animals
100.11 Injuring trees
100.12 Posting bills
100.13 Vehicles-horses
100.14 Carrying firearms, throwing stones or other missiles
100.15 Loitering in Kosciuszko Park
100.16 Rubbish
100.17 Parks and recreation sponsored functions

100.99 Penalty

§ 100.01 RULES AND REGULATIONS.

(A) The Board of Parks and Recreation shall have the right and power to adopt rules and regulations governing the use of the various parks, public playgrounds, swimming pools and bathing beaches and public recreational facilities of the city under its jurisdiction.

(B) Rules and regulations pertaining to parks, pools and the like shall be conspicuously posted and rigidly obeyed and enforced. It is unlawful for any person to refuse to comply with the regulations. All enforcement officials of the city and the Supervisor or Director of Recreation and persons duly authorized shall have the power to enforce the regulations.

(1995 Code, § 12.44.010) Penalty, see § 100.99

§ 100.02 CONDUCT.

No threatening, abusive, insulting or indecent language shall be allowed in any part of any public park, public playground, swimming pool or bathing beach; nor shall any conduct be permitted whereby a breach of peace may be occasioned or danger threatened; nor shall any person tell fortunes; nor shall any person play any game of chance at or with any table or instrument of gaming; nor shall any person violate the state alcoholic beverage act or commit any obscene or indecent act there; nor shall any person annoy any other person or canvass or solicit any contributions. (1995 Code, § 12.44.020) Penalty, see § 100.99

§ 100.03 CLOTHING FOR SWIMMING OR BATHING.

No person shall swim, bathe or be in the waters of Lake Michigan, adjacent to the city or in any part of the harbor or at any bathing beach or in or at any public swimming pool in the city unless the person is clothed in suitable bathing clothes as judged by contemporary community standards. (1995 Code, § 12.44.030) Penalty, see § 100.99

§ 100.04 PERMITTED TIMES FOR SWIMMING OR BATHING.

It is unlawful for any person to swim or bathe in any public swimming pool or public bathing beach at any time other than that expressly permitted by regulation of the Board of Parks and Recreation. (1995 Code, § 12.44.040) Penalty, see § 100.99

§ 100.05 CONTAMINATING PUBLIC POOLS OR BEACHES.

It is unlawful for any person to interfere with or contaminate any public swimming pool or public bathing beach. (1995 Code, § 12.44.050) Penalty, see § 100.99

§ 100.06 PERMITS REQUIRED FOR MUSIC, FLAGS AND DRILLS.

No person shall play upon any musical instrument, nor shall any person take into or carry or display in any park, public playground or bathing beach any flag, banner or target, nor shall any military company parade, drill or perform any military drill or other evolution movement without a permit from the Superintendent of Parks. (1995 Code, § 12.44.060) Penalty, see § 100.99

§ 100.07 BONFIRES-PICNICS.

(A) No person shall light or make or use any bonfire in any public park, public playground or bathing beach without express permission of the Superintendent of Parks.

(B) Picnicking may be held in public parks designated for that purpose subject to the regulations of the Board of Parks and Recreation. (1995 Code, § 12.44.070) Penalty, see § 100.99

§ 100.08 INTERFERENCE WITH PROGRAMS PROHIBITED.

It is unlawful for any person to interfere with or to interrupt or willfully disrupt or disturb any public program or entertainment wherever presented in the city, sponsored or directed by the Director of Community Recreation of the Department of Parks and Recreation. It is unlawful for any person to interfere with the Director of Community Recreation or any of his or her assistants in the presentation of the programs or to damage, disturb, tamper with, touch or to exercise control over any equipment, device or vehicle of the Director of Community Recreation. (1995 Code, § 12.44.080) Penalty, see § 100.99

§ 100.09 KILLING BIRDS OR ANIMALS.

It is unlawful for any person to kill or pursue with intent to kill any birds, waterfowl, squirrels, rabbits or other game animals in any public park. (1995 Code, § 12.44.090) Penalty, see § 100.99

§ 100.10 DOMESTICATED ANIMALS.

No person shall bring, lead or cause any domesticated animals to enter city parks.
(1995 Code, § 12.44.100) Penalty, see § 100.99

§ 100.11 INJURING TREES.

No person shall cut, break or in any way, injure, damage or deface trees, shrubs, plants, flowers, turf or any of the buildings, fences, stands or other construction or property contained in any public park. No person shall be allowed to play ball or other games likely to injure the grass, lawn flowers, trees or shrubbery in any of the city parks or places of public recreation except in places as may be provided for that purpose. (1995 Code, § 12.44.110) Penalty, see § 100.99

§ 100.12 POSTING BILLS.

No person shall post or otherwise affix any bills, notice or other paper upon any structure or thing within any park, public playground or bathing beach, nor upon any of the gates, fences or enclosures thereof. (1995 Code, § 12.44.120) Penalty, see § 100.99

§ 100.13 VEHICLES-HORSES.

(A) No bicycle, motorcycle, scooter, automobile, truck or other vehicle or horse shall be permitted on the foot walk, sidewalk, grass or planting places or any other place in public parks and playgrounds, except upon roadways expressly provided therefor.

(B) It is unlawful for any person to operate or permit to be operated any of the vehicles mentioned above, except where signs expressly permit their use or where the Superintendent of Parks for particular purposes has given permission for the operation. (1995 Code, § 12.44.130) Penalty, see § 100.99

§ 100.14 CARRYING FIREARMS, THROWING STONES OR OTHER MISSILES.

All persons are forbidden to carry firearms, air guns or weapons or to throw stones or other missiles within any park, public playground or bathing beach.
(1995 Code,§ 12.44.140) Penalty, see § 100.99

§ 100.15 LOITERING IN KOSCUISKO PARK.

It is unlawful for any person to loiter, idle, wander, stroll, play or sleep in any city park between the hours of 10:00 p.m. and 6:00 a.m. (prevailing local time) of the following day.
(1995 Code, § 12.44.150) Penalty, see § 100.99

§ 100.16 RUBBISH.

It is unlawful for any person to drop, throw, place or suffer to remain in any park, public playground or bathing beach any paper, box, waste or rubbish except in containers provided for that purpose. (1995 Code, § 12.44.160) Penalty, see § 100.99

§ 100.17 PARKS AND RECREATION SPONSORED FUNCTIONS.

(A) The policy of the Parks and Recreation Department of providing functions, events and prizes shall be continued and the City Council expressly authorizes the Parks and Recreation Department to sponsor events and functions and to purchase and award nominal prizes.

(B) The Parks and Recreation Department is instructed to continue to exert its utmost efforts to continue and expand upon past programs for senior citizens, children and athletic and other citizen involvement type events. (1995 Code, § 12.44.170) (Ord. 3201, passed --1978) Penalty, see § 100.99

§ 100.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Domesticated animals.* Any person violating the provisions of § 100.10 or any owner of a domesticated animal who violates provisions of § 100.10 shall be fined in any sum not exceeding $100 for each offense. (1995 Code, § 12.44.100)

(C) *Loitering in Kosciuszko Park.* Any person violating the provisions of § 100.15 shall be fined in any sum not exceeding $100 for each offense. (1995 Code, § 12.44.150) (Ord. 3405, passed--1985)

CHAPTER 101: HARBORS

Section

101.01 Effect of federal regulations on chapter
101.02 Harbor defined
101.03 Powers and duties of harbor master
101.04 Dock construction plans- filing
101.05 Dock construction plans- approval
101.06 Maintenance of docks
101.07 Smoking on docks, wharves and piers
101.08 Dredging permit
101.09 Dumping of refuse into Lake Michigan
101.10 Depositing putrid substances on banks and in harbor
101.11 Obstructions in harbor
101.12 Projections from wharf
101.13 Removal of sunken or insecure vessels
101.14 Display of vessel name
101.15 Vessel refuse tanks
101.16 Liability for injury to cables
101.17 Report of use harbor facilities
101.18 Rules for vessels in harbor
101.19 Duration of keeping bridge open during certain hours
101.20 Signals for vessels on bridges
101.21 Opening bridges for vessels
101.22 Manner of passing bridges
101.23 Damage to bridges
101.24 Report of accidents to docks, piers and bridges
101.25 Examinations and reports of defective dangerous places on bridges

§ 101.01 EFFECT OF FEDERAL REGULATIONS ON CHAPTER.

The provisions of this chapter shall apply when not contrary to the powers and regulations of the federal government. When a conflict in authority prevails, the provisions of this chapter shall not apply. The local authorities shall in all matters cooperate with superior federal authority.

(1995 Code, § 12.48.010)

§ 101.02 HARBOR DEFINED.

The harbor referred to in this chapter shall consist of the Indiana Harbor Ship Canal and its branches, including all ships adjacent to and connecting therewith and all piers and permanent structures therein, the Grand Calumet River, including all ships and basins connecting therewith and all piers, breakwaters and permanent structures therein, the waters of Lake Michigan, including all breakwaters, piers and permanent structures therein for a distance of three miles from the shore between the north and south lines of the city, extended at right angles to the original shore lines of Lake Michigan.

(1995 Code, § 12.48.020)

§ 101.03 POWERS AND DUTIES OF HARBOR MASTER.

(A) The harbor master shall have the power to remove any vessel, craft or float lying at any dock, wharf or pier, while receiving or discharging cargo or otherwise engaged, when it is necessary to do so to facilitate the movements of other vessels, crafts or floats or traffic in the harbor, or in case of fire or when public safety requires it; he or she shall also have the power, when a vessel is so deeply loaded as to interrupt the traffic at the bridges or in the harbor, to tie up the vessel until a time as the vessel shall have been lightened or a rise of water in the harbor may enable her to proceed; also to stop at any time or place Effect of federal regulations on chapter Harbor defined Powers and duties of harbor master Dock construction plans-filing Dock construction plans-approval Maintenance of docks Smoking on docks, wharves and piers Dredging permit Dumping of refuse into Lake Michigan Depositing putrid substances on banks and in harbor Obstructions in harbor Projections from wharf Removal of sunken or insecure vessels Display of vessel name Vessel refuse tanks Liability for injury to cables Report of use of harbor facilities Rules for vessels in harbor Duration of keeping bridge open during certain hours Signals for vessels on bridges Opening bridges for vessels Manner of passing bridges Damage to bridges Report of accidents to docks, piers and bridges Examinations and reports of defective dangerous places on bridges the vessels, crafts or floats as may be proceeding up or down the canal, to prevent a jam or blockade or at time of fire or where public safety requires it.

(B) The harbor master shall give orders and directions relative to the location, change of place or station, manner of moving or use of the harbor of or by every vessel, craft or float lying, moving or laid up in the harbor, as may be necessary to promote good order therein and the safety and equal convenience of the vessel, crafts or floats.

(C) It is unlawful for any mud scow, flat boat, dredge or any crafts to be placed or laid alongside of another while lying at any of the docks or wharves of the harbor during the navigable season of the year, without first having obtained permission from the harbor master. Any owner, master or other person having charge of the vessel, craft, float, mud scow, flat boat, dredge or other craft who shall refuse or neglect to obey any order or direction shall be deemed guilty of violating the provisions of this chapter.

(1995 Code, § 12.48.030) Penalty, see § 10.99

§ 101.04 DOCK CONSTRUCTION PLANS-FILING.

Every person before proceeding with the construction, erection, rebuilding, alteration or repair of any dock along the banks of any river, public canal or water slip within the corporate limits of the city shall, subject to the approval of the federal government, file with the Supervisor of Public Works, drawings, plans and specifications sufficient to enable the Supervisor of Public Works to obtain full and complete information as to the extent and character of the work to be done, which drawings, plans and

specifications shall be kept on file in the office of the Supervisor of Public W arks governing the construction, erection, rebuilding, alteration or repair of any dock along the banks of any river, public canal or water slip in the city. (1995 Code, § 12.48.040) Penalty, see § 10.99

§ 101.05 DOCK CONSTRUCTION PLANS-APPROVAL.

If the drawings, plans and specifications indicate to the Supervisor of Public Works that the work to be done on any dock is not in all respects in accordance with the standard plans and specifications approved by the federal government governing the construction, erection, rebuilding, alteration or repair of any dock along the banks of any river, public canal or water slip in the city, the supervisor shall immediately notify the federal government. (1995 Code, § 12.48.050)

§ 101.06 MAINTENANCE OF DOCKS.

Every owner, lessee or person in possession of premises abutting on the harbor shall at all times keep the wharves and docks on the premises in good repair and safe condition. The harbor master shall notify the owner, lessee or person in possession that he or she will be held liable for all damage occasioned to person or property by reason of the unsafe conditions of the wharves and docks.

(1995 Code, § 12.48.060) Penalty, see § 10.99

§ 101.07 SMOKING ON DOCKS, WHARVES AND PIERS.

It is unlawful for any person to smoke, carry or possess a lighted cigarette, cigar, pipe or match upon any bulkhead, dock, shipyard, pier, wharf, warehouse or shed, except the portions thereof as may be designated by the harbor master, or to smoke, carry or possess a lighted cigarette, cigar, pipe or match on board any ship, lighter, scow or other similar floating craft or equipment when berthed or moored at any dock, wharf, pier or to a vessel made fast thereto within the harbor.

(1995 Code, § 12.48.070) Penalty, see § 10.99

§ 101.08 DREDGING PERMIT.

It is unlawful for any dredge or other machine to cut clay or dredge sand or other material from the bed or bottom of the harbor, unless the person present conducting the work has in his or her possession a permit in writing from the federal government, in which permit the location and time occupied in the work shall be specified. The person conducting the work shall produce the permit on demand of the harbor master or any of his or her assistants. (1995 Code, § 12.48.080) Penalty, see § 10.99

§ 101.09 DUMPING OF REFUSE INTO LAKE MICHIGAN.

No person shall throw, discharge, dump or deposit or cause, suffer or procure to be thrown, discharged, dumped or deposited in the harbor of the city or anywhere in Lake Michigan within eight miles of the corporate limits any clay, earth, ashes or other heavy substances or substance, filth, logs, floating matter, obstructions or refuse matter of any kind or description whatever, unless the material shall be placed inside of a breakwater so arranged as not to permit the escape of clay, earth, ashes or other heavy substance, filth, logs, floating matter, obstruction or refuse matter into the body of Lake Michigan. It shall be the duty of the harbor master to cause the arrest of any person in charge of any tug, scow or dredge who violates any of the provisions of this section. (1995 Code, § 12.48.090) Penalty, see § 10.99

§ 101.10 DEPOSITING PUTRID SUBSTANCES ON BANKS AND IN HARBOR.

No person shall throw, place or deposit or cause or permit to be thrown, placed or deposited any garbage, refuse, vegetable matter, filth, dung, carrion, dead animal, offal, putrid or unwholesome substance of the content of any privy, water closet, catch basin, cesspool or vault upon the margin or banks or into the waters of the harbor. (1995 Code, § 12.48.100) Penalty, see § 10.99

§ 101.11 OBSTRUCTIONS IN HARBOR.

(A) It shall be the duty of the harbor master to report to the City Engineer any and all encroachments upon the harbor lines, and thereupon the officers shall take action as may be necessary to remove or cause to be removed any obstruction or encroachment. If it shall be found that any pile, stone, timber, earth, dock, bridge or other obstruction whatever has been placed in any part of the harbor in violation of the provisions of this section, and that the person who has placed or caused the same to be placed therein refuses or neglects to remove the obstruction upon being requested so to do by the harbor master, City Engineer or Board of Public Safety, the officers and Board or either of them shall have the power and it is made their duty to proceed forthwith to inform the federal government. Upon the authorization of the federal government, the city officer shall remove the obstruction and charge the expense of the removal to the person who placed or caused to be placed the obstruction in the harbor, and the imposition of any fine or penalty provided for or against any person obstructing the harbor shall not be held to exempt any person from a recovery by the city of the cost of removing any obstruction.

(B) Every pile, timber, stone or other substance placed or laid so as to project above or below the surface of the waters of the harbor or any part thereof or beyond any dock line established by its duly authorized agencies is declared a nuisance; and every person who shall place or lay any pile, timber, stone or substance or the owner of any premises on which the same shall be so placed or laid shall be deemed guilty of violating the provisions of this chapter.

(C) Any person having charge of any raft of lumber, logs or timber who shall refuse or neglect to comply with the orders of the harbor master, relative to the change of location or removal of the same, shall be deemed guilty of violating the provisions of this chapter. Any owner, master or officer of any tug, propeller or steamboat leaving any raft of lumber, logs or timber within the harbor, where the same shall be or become an obstruction to commerce, shall be deemed guilty of violating the provisions of this chapter. (1995 Code,§ 12.48.110) Penalty, see § 10.99

§ 101.12 PROJECTIONS FROM WHARF.

Any owner, lessee or person in possession of any wharf or dock, at which any vessel shall have been discharging its cargo, who shall suffer or permit any part of the cargo so discharged to project from the wharf or dock over and into the harbor after the vessel so unloaded shall have removed from the wharf or dock shall be deemed guilty of violating the provisions of this chapter.
(1995 Code, § 12.48.120) Penalty, see § 10.99

§ 101.13 REMOVAL OF SUNKEN OR INSECURE VESSELS.

(A) Whenever there shall be in the harbor any vessel, craft or float insecurely fastened, adrift, sunken or laid up, which may be required to be fastened, raised, removed or its location changed for the benefit of other vessels navigating the harbor or to carry out the provisions of § 101.03, the harbor master shall notify the owner or other person who may be in charge thereof to secure, raise or remove the vessel, craft or float, or if no person answering the description can be found by him or her, the notice shall not be required and the harbor master shall remove the vessel and the vessel shall be held for all expenses and costs, and any person who shall refuse or neglect to comply with the order or direction shall be deemed guilty of violating the provisions of this chapter.

(B) If any vessel, craft or float shall not be secured, removed or its location changed in compliance with the direction of the harbor master after notice, or if the harbor master shall be unable to serve the notice, in either case he or she shall cause the vessel, craft or float to be secured, raised, removed or its location changed, employing assistance as may be necessary for the purpose. All expenses which may be incurred in any case shall be recoverable of the owner, consignee, master or other person having charge of the vessel, craft or float. If any person shall resist the harbor master or any person acting under him or her in the execution of the duty imposed upon him or her by these sections, the person so resisting shall be deemed guilty of violating the provisions of this chapter.

(1995 Code, § 12.48.130) Penalty, see § 10.99

§ 101.14 DISPLAY OF VESSEL NAME.

It is unlawful for any owner, master or person in possession, charge or control of any vessel, steamboat, propeller, tug, scow, craft or float of any kind to operate, navigate, keep or maintain the same in the harbor of the city unless the same shall have a name plainly and conspicuously displayed thereon, which shall be large enough and in a position as to be readily distinguishable and readable on both sides or from the rear thereof for a distance of at least 500 feet. The name shall be of a distinctive character that any vessel, steamboat, propeller, tug, scow, craft or float of any kind may be readily identified by the same. (1995 Code, § 12.48.140) Penalty, see § 10.99

§ 101.15 VESSEL REFUSE TANKS.

All vessels, craft or floats which are engaged in lake commerce between the port of Indiana Harbor and other lake ports and all passenger and excursion boats and steamers entering or leaving the port or harbor of the city shall be provided and equipped with adequate tanks to receive and hold all garbage, refuse, filth, dung, carrion, offal, putrid or unwholesome substance or the contents of the privies or water closets while in port, and the contents of the tanks . shall not be dumped within ten miles of the shore line of the city or into the waters of Lake Michigan nearer than ten miles from any intake of water for public consumption. (1995 Code, § 12.48.150) Penalty, see § 10.99

§ 101.16 LIABILITY FOR INJURY TO CABLES.

Any person who shall injure, remove or damage any cable without consent shall pay to the city the cost of repairing. (1995 Code, § 12.48.160) Penalty, see § 10.99

§ 101.17 REPORT OF USE OF HARBOR FACILITIES.

It shall be the duty of the managing owner, agent or master of any vessel or person using the harbor facilities in the city to make a detailed monthly report to the harbor master of the name and tonnage of every vessel coming or landing at the wharves or docks of the city, the time of arrival of the vessel and the time of departure, together with a description of the cargo and a statement of the tonnage of the vessel.(1995 Code,§ 12.48.170) Penalty, see § 10.99

§ 101.18 RULES FOR VESSELS IN HARBOR.

All vessels, craft or floats lying in or navigating the harbor shall be respectively governed by the following provisions.

(A) Every vessel using steam shall have its smoke pipe or pipes so constructed and managed as to prevent sparks or coals of fire escaping therefrom, and shall be moved slowly at a speed not exceeding four mph under a low head of steam. Every tugboat or steam vessel used chiefly for towing shall have a joint in its smoke pipe or pipes and shall be constructed in all respects in a manner as to be able to pass under any bridge which is not less than 13 feet above the surface of the water.

(B) No master or other person owing or having charge of any vessel, craft or float shall leave the same in the harbor without having on board or in charge thereof some competent person to control, manage and secure the same, without first obtaining permission of the harbor master.

(C) All vessels, craft or floats, whether using steam or otherwise, while lying in the harbor shall have and keep their anchors on board and their lower yards cock-biled and the upper yards braced up sharp. They shall also have and keep out on board during the night time a conspicuous white light and shall have extinguished or safely secured at dark all fires which may be kept on board.

(D) No vessel, craft or float shall be suffered to lie in the harbor adrift of insecurely fastened.

(E) Vessels, craft or floats moving with the current shall have the right-of-way.

(F) In case one vessel desires to pass another going in the same direction in the harbor, the pilot of the vessel astern shall give the proper signal, indicating the side upon which he or she wishes to pass. Upon the pilot of one vessel astern of another giving the signal, the pilot of the vessel ahead shall immediately answer by giving the same signal; but if he or she does not think it safe for the vessel astern to attempt to pass at that point, he or she shall immediately signify the same by giving several short and rapid blasts of the whistle, and under no circumstances shall the steamer astern attempt to pass the steamer ahead until a time as they have reached a point where it can be safely done, when the vessel ahead shall signify her willingness by blowing the proper signals and then the vessel astern shall pass the overtaken vessel, giving the overtaken vessel as wide a berth as possible.

(G) The vessel dispatcher shall keep a record of the movements of all vessels, and through the bridge telephone operators give the directions to the bridge tenders or persons in charge of the bridges in regard to the opening of bridges that the provisions of this chapter may be carried out.
(1995 Code, § 12.48.180) Penalty, see § 10.99

§ 101.19 DURATION OF KEEPING BRIDGE OPEN DURING CERTAIN HOURS.

During the hours between 6:00 a.m. and 12:00 a.m. midnight, it is unlawful to keep open any bridge within the city, for the purpose of permitting vessels to pass through the same, for a longer period at an one time that 15 minutes. At the expiration of the period, it shall be the duty of the bridge tender or other person in charge of the bridge to display the proper signal and immediately close the bridge and keep it closed for fully 15 minutes for persons waiting to pass over. If more time shall be required for vessels, the bridge shall be opened again, for vessels to pass, for a 15minute period and so on alternately, if necessary, during the hours designated in this section. (1995 Code,§ 12.48.190) Penalty, see § 10.99

§ 101.20 SIGNALS FOR VESSELS ON BRIDGES.

The Board of Public Safety shall provide and maintain, at the several bridges over the Grand Calumet River and its branches and the Indiana Harbor Ship Canal, over which the city has jurisdiction, in the best and most practicable manner, vessel signals as required by these sections or as otherwise required by the federal government. (1995 Code, § 12.48.200) Penalty, see § 10.99

§ 101.21 OPENING BRIDGES FOR VESSELS.

(A) Every owner, officer or person in charge of any vessel passing up or down any part of the harbor shall sound or cause to be sounded a whistle to signal bridge tenders to open and swing bridges. The signal shall be three sharp, short sounds of the whistle, to be given in succession as quickly as possible and not be prolonged, and the whistle used for this purpose shall be of suitable size to be heard.

(B) (1) When any vessel shall signal for any bridge, the bridge tender shall immediately open the bridge.

(2) If, from any cause, the bridge tender cannot open the bridge, he or she shall immediately notify the vessel by waving a red flag by day and a red lantern by night and continue waving the same until the bridge can be opened. As soon as the cause for stopping the vessel has been removed, the bridge shall be immediately opened.

(3) It is unlawful for the owner, officer or other person in charge of a vessel in transit to attempt to navigate any vessel past any of the bridges while stop signals are being given or displayed.

(C) (1) When any vessel shall signal for any railroad bridge over the Grand Calumet River or the Indiana Harbor Ship Canal or any of its branches, the bridge tender shall immediately open the bridge, unless a train be on the bridge or approaching it so closely as to be unable to stop, and in that case the bridge may be kept closed long enough for the passage of one train and no more.

(2) If, from any cause, the bridge tender cannot open the bridge, he or she shall comply with division (B) above of this section.

(3) It is unlawful for the owner, officer or other person in charge of any vessel to attempt to pass any bridge while a stop signal is being given or displayed by the bridge tender.

(1995 Code, § 12.48.210) Penalty, see § 10.99

§ 101.22 MANNER OF PASSING BRIDGES.

All vessels, steamboats, propellers, tugs or other craft navigating the harbor, when passing any bridge, shall be moved past the same as expeditiously as is consistent with a proper movement in the harbor, but in no case shall any craft, while passing any bridge and obstructing the passage across the bridge, move at a rate of speed less than two mph and in no case shall any vessel, steamboat, propeller, tug or other craft, while passing any bridge and obstructing the same, remain or obstruct the passage across the bridge more than ten minutes; and no vessel, craft or float shall be so anchored, laid, moored or fastened or brought to a stop as to prevent any bridge from a free and speedy opening, as to prevent any bridge from a free and direct passage, nor shall any line or fastening be so thrown, laid or made fast as to cross the track of any bridge or vessel, under a penalty of violating the provisions of this chapter, provided, that the regulations hereunder shall be in compliance with lawful federal regulations. In the event of difference between local and proper federal regulations, the federal regulations exclusively shall apply. (1995 Code, § 12.48.220) Penalty, see § 10.99

§ 101.23 DAMAGE TO BRIDGES.

(A) Whenever any person having charge of any vessel, craft or float shall wish to move the same past any bridge, reasonable time shall be allowed for the opening of the bridge. Any person who shall

move any vessel, craft or float against any bridge before the same shall be opened shall be deemed guilty of violating the provisions of this chapter and shall also be answerable to the city for damages.

(B) Whenever any person having charge of any vessel, craft or float shall wish to move the same through the draw of any bridge, reasonable time shall be allowed for the opening of the same; and any person who shall move any vessel, craft or float against any bridge or the center or protection piers thereof before the same shall be opened to the injury thereof, and any person who shall otherwise, through willfulness or negligence, run any vessel, craft or float into any bridge or abutment thereof, or allow the vessel, craft or float to be driven or run into the piers, cribs, docks, bridge or abutment, or who shall take any stones from the crib for ballast or any other purpose shall, upon conviction, be subject to the penalty provided in this chapter and shall, in addition, be liable for all damages thus caused. Any vessel, craft or float, whose owner, master or other person in charge shall become liable as provided in this section, shall also be chargeable with the payment of the penalty and damages and amounts shall be and constitute a lien on a vessel, craft or float to be enforced as provided by law.

(1995 Code, § 12.48.230) Penalty, see § 10.99

§ 101.24 REPORT OF ACCIDENTS TO DOCKS, PIERS AND BRIDGES.

The managing owner, agent or master of any vessel, craft or float who shall run any vessel, craft or float into any of the docks, piers, clumps, bridges or abutment or allow the vessel, craft or float to be driven or run into the pier, dock, clump, bridge or abutment shall make immediately a report, in writing, to the harbor master or the Chief of Police signed by the managing owner, agent or master of the vessel and shall state the name and official number of the vessel, the port to which she belongs, the place where she was, the nature and probable cause of and the reason for the injury.

(1995 Code, § 12.48.240) Penalty, see § 10.99

§ 101.25 EXAMINATIONS AND REPORTS OF DEFECTIVE DANGEROUS PLACES ON BRIDGES.

The bridge tenders shall immediately report to the Supervisor of Public Works all defective and dangerous places upon their respective bridges and the approaches thereto, which shall come to their notice, and in the performance of their duties they shall particularly examine the bridges and the approaches thereto and make the report as provided in this section.

(1995 Code, § 12.48.250) Penalty, see § 10.99

CHAPTER 102: AIR POLLUTION

Section

General Provisions

102.001 Definitions
102.002 Purpose of chapter
102.003 Territorial jurisdiction of chapter
102.004 Adopted standards or recommended practices
102.005 Effect of state and federal regulations on chapter
102.006 Implementing state episode alert plan
102.007 Internal combustion engines
102.008 Sealing of violating equipment
102.009 Conduct of persons acting on behalf of city
102.010 Right of entry for inspections
102.011 Liability for violations of chapter
102.012 Party to claims or actions
102.013 Notice of violation

Department of Air Quality Control

102.025 Administration and enforcement of chapter
102.026 Director of Air Quality Control-generally
102.027 Director of Air Quality Control-powers and duties
102.028 Air Pollution Inspectors
102.029 Examination and approval of plans for certain equipment
102.030 Conflicts of interest of employees

Air Quality Control Advisory and Appeal Board

102.045 Chairperson
102.046 Composition-terms of office of members-vacancies
102.047 Appointment of members-duties
102.048 Compensation of members-secretarial duties
102.049 Meetings
102.050 Powers
102.051 Appeals

Installation Permits

102.065 Required-application contents
102.066 Affidavit for secret process
102.067 Approval-issuance generally
102.068 Duration
102.069 Certificate of compliance
102.070 Issuance prerequisite to building permit
102.071 Emergency repairs
102.072 Compliance with permits
102.073 Inspections-certificate of operation
102.074 Renewal of certificate of operation
102.075 Effect on prosecution of violation of chapter
102.076 Exemptions from subchapter
102.077 Registration of points of emission

Fees

102.090 Generally
102.091 Inspection-installation permit
102.092 Certificate of operation
102.093 Exemptions as to domestic refuse burning equipment

Emission Standards

102.105 Visible emissions
102.106 Emission of particulate matter-fuel burning equipment
102.107 Emission of particulate matter-incinerators
102.108 Emission of particulate matter-industrial process equipment
102.109 Stored petroleum and other volatile organic materials
102.110 Loading volatile petroleum distillates into tanks, trucks or other vehicles
102.111 Sulfur dioxide emissions from nonferrous smelters
102.112 Nitrogen oxides emission limitations
102.113 Circumvention
102.114 Report of equipment breakdown
102.115 Report of discontinued or dismantled equipment
102.116 Violations

Open Burning

102.130 Definition
102.131 Prohibition
102.132 Exemptions
102.133 Variances
102.134 Conditions applicable to exemptions and variances
102.135 Enforcement
102.136 Permits
102.137 Certain fires permitted
102.138 Salvage operation

Sulfur Oxides

102.150 Generally
102.151 Limitations on fuel sulfur content generally
102.152 Emissions from single stacks
102.153 Records of fuel analyses and usage
102.154 Sulfuric acid manufacturing processes
102.155 Hydrogen sulfide

Sampling and Testing

102.170 Authority to conduct tests
102.171 Test facilities and access
102.172 Stack emission test method
102.173 Fuel samples
102.174 Emission monitoring
102.175 Tampering with testing devices

Variances in General

102.190 Compliance schedule
102.191 Specific variances enumerated

102.999 Penalty

GENERAL PROVISIONS

§ 102.001 DEFINITIONS.

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

AIR CONTAMINANT. Any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter or any other materials in the outdoor atmosphere, but excluding uncombined water.

AIR POLLUTION. The presence in the outdoor atmosphere of one or more contaminants or combinations thereof in quantities and of a duration that they are or may tend to be injurious to human, plant or animal life or property, or that interfere with the comfortable enjoyment of life or property or the conduct of business.

ASHES. Cinders, fly ash or any other solid material resulting from combustion, and may include unburned combustibles.

ASME. The American Society of Mechanical Engineers.

ASTM. The American Society for Testing Materials.

BOARD. The Board created by this chapter to act as the Air Quality Control Advisory and Appeal Board to the Director and to act as provided for pursuant to§§ 102.045 to 102.050.

CERTIFICATE OF OPERATION. A certificate issued by the Director authorizing the use of any process, fuel burning, refuse burning or control equipment for the period indicated after it has been found that it can be operated in compliance with this chapter.

CLEANING FIRES. Act of removing ashes from the fuel bed or furnace.

COMBUSTIBLE REFUSE. Any combustible waste material.

CONTROL EQUIPMENT. Any equipment which has the function of regulating that portion of a process, fuel burning or refuse burning equipment which may release air contaminants and thus reduce the creation of or the emission of air contaminants to the atmosphere or both.

DEPARTMENT. The Air Quality Control Department of the city.

DIRECTOR. The Director of the Air Quality Control Department or his or her authorized representatives.

DOMESTIC HEATING PLANT. A plant generating heat for a single-family residence or for two residences, either in duplex or double house form, or for multiple-dwelling units having a total input of less than one million BTUs per hour, provided, that the heating plant is for the single purpose of space heating and the fuel used is gas or light fuel oils. Under this designation are, also, hot water heaters, stoves, space-heaters and other domestic appliances used in connection with the foregoing establishments or to heat temporary buildings; provided, that similar equipment used in multiple dwelling units other than described in this chapter, or used in permanent buildings of commercial or industrial establishments, is not to be construed as included under this designation.

DOMESTIC INCINERATOR OR REFUSE BURNING EQUIPMENT. Any refuse burning equipment or incinerator which is portable, packaged, completely assembled and directly fed, having not over five cubic feet storage capacity or 25 pounds per hour burning rate, designed to handle combustible refuse consisting of rubbish and garbage by weight.

EMISSION. The act of passing into the atmosphere of an air contaminant or the material so passed to the atmosphere.

FUEL BURNING EQUIPMENT. Any equipment, device or contrivance used for the burning of any fuel and all appurtenances thereto, including ducts, breechings, control equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys and the like, used for indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion. The equipment typically includes that used for heating water to boiling; raising or superheating steam; heating air, as in a warm air furnace; furnishing process heat that is conducted through process vessel walls; and furnishing process heat indirectly through its transfer by fluids.

HAND-FIRED FUEL BURNING EQUIPMENT. Fuel burning equipment in which fuel is manually introduced directly into the combustion chamber.

INCINERATORS. All devices intended or used for the destruction of refuse or other combustible refuse by burning.

INSTALLATION PERMIT. A permit issued by the Director of the Air Quality Control Department authorizing the construction, installation or alteration of any process, fuel burning, refuse burning or control equipment in accordance with plans and specifications approved by the Director of the Air Quality Control Department.

OPACITY. State of a substance which renders it partially or wholly impervious to the rays of light. ***OPACITY*** as used in this chapter refers to the obscuration of an observer's view.

OPEN BURNING. Any fire from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.

PARTICULATE MATTER. Material other than uncombined water which is suspended in air or other gases as a liquid or solid.

PROCESS EQUIPMENT. Any equipment, device or contrivance for changing any materials whatever or for storing or handling of any materials and all appurtenances thereto, including ducts, stacks and the like, the use or existence of which may cause any discharge of air pollutants into the outdoor atmosphere, but not including that equipment specifically defined as fuel burning equipment or refuse burning equipment in this section.

PROCESS WEIGHT. The total weight of all materials introduced into a unit operation or unit process, including solid fuels, but excluding liquid and gaseous fuels when these are used solely as fuels and excluding air introduced for purposes of combustion.

PROCESS WEIGHT RATE. A rate established as follows:

(1) For continuous or long-run, steady -state unit operations or unit process: the total process weight for the entire period of continuous operation or for a typical portion thereof divided by the number of hours of the period or portion thereof;

(2) For cyclical or batch unit operations or unit processes: the total process weight for a period that covers a complete operation or an integral number of cycles divided by the hours of actual process operation during the period; and

(3) Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

REFUSE BURNING EQUIPMENT. Any incinerator, equipment, device or contrivance used for the destruction of refuse or other combustible wastes by burning, and all appurtenances thereto.

SALVAGE OPERATIONS. Any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

SEAL FOR SEALING EQUIPMENT OR PREMISES. A device installed by the Director of the Air Quality Control Department that prevents use of the process, fuel burning, refuse burning or control equipment or premises causing the violation or from which violations of this chapter originate.

SMOKE. Small gas borne particles resulting from incomplete combustion, cons1stmg predominantly, but not exclusively, of carbon, ash and other combustible materials.

STACK. Duct, chimney, flue, conduit, vent, exhaust, breeching or any structure or opening arranged for the emission into the outdoor atmosphere of air pollutants.

TOTAL PLANT. A facility or installation that is comprised of one or more fuel burning units, incinerators or processes that are located at a single site or in one enclosure and that is usually served internally by common utilities and control systems, storage equipment and other related facilities.

UNIT OPERATION. Methods where raw materials undergo physical change; methods by which raw materials may be altered into different states, such as a vapor, liquid or solid, without changing into a new substance with different properties and composition.

UNIT PROCESS. Reactions where raw materials undergo chemical change; where one or more raw materials are combined and completely changed into a new substance with different properties and composition. (1995 Code, § 18.04.010)

§ 102.002 PURPOSE OF CHAPTER.

This chapter is designed to control air pollution by establishing the Department of Air Quality Control in the city and prescribing the duties of the Director of Air Quality Control, empowering investigation and abatement by the Director of violations of this chapter, providing for the establishment and enforcement of rules and regulations, providing for an Air Quality Control Advisory and Appeal Board, providing for registration of air pollution sources, permits for the installation, construction, addition to, alteration and use of process, fuel burning, refuse burning and control equipment and for the issuance of certificates of operation and for fees therefor, establishing limitations upon the emission of air pollutants, declaring emissions which do not meet the limitations to be unlawful and a public nuisance, prohibiting certain acts causing air pollution, providing for fines and penalties for violation of the provisions of this chapter and providing just and adequate means by which the provisions of this chapter may be executed. (1995 Code, § 18.04.020)

§ 102.003 TERRITORIAL JURISDICTION OF CHAPTER.

This chapter shall be effective territorially throughout the city. (1995 Code, § 18.04.030)

§ 102.004 ADOPTED STANDARDS OR RECOMMENDED PRACTICES.

Where reference is made in this chapter to the standards or recommended practices of national technical societies, associations or other organizations, the information shall form and be considered an integral part of the chapter in the same manner and extent as if fully reproduced therein. Not less than two copies of the standards or recommended practices of technical societies, associations or other organizations shall be kept on file at all times in the office of the Director and shall be available for consultation by the public. (1995 Code, § 18.04.040)

§ 102.005 EFFECT OF STATE AND FEDERAL REGULATIONS ON CHAPTER.

Whenever rules and regulations are adopted and promulgated in accordance with provisions stipulated in the Federal Register or by the State Air Pollution Control Board, which rules and regulations are more restrictive than the provisions of this chapter, then the rules and regulations shall be considered an integral part of this chapter in the same manner and extent as if fully reproduced herein.
(1995 Code, § 18.04.050)

§ 102.006 IMPLEMENTING STATE EPISODE ALERT PLAN.

Whenever atmospheric and pollution conditions create circumstances which may cause acute harmful health effects, the Director shall implement the state air pollution episode alert plan, which sets the standard for ambient air quality concentration for suspended particulate matter and sulfur dioxide for air pollution episode alert plan levels, as promulgated by the State Air Pollution Control Board, as amended from time to time. The Director is empowered to adopt plans as may be necessitated in cooperation with appropriate state and federal authorities for the purpose of eliminating the circumstances tending to cause acute harmful health effects, including but not limited to, the implementation of an air pollution watch and alert procedure and an emergency procedure. (1995 Code, § 18.04.060)

§ 102.007 INTERNAL COMBUSTION ENGINES.

No person shall operate or cause to be operated upon any street, highway, public place or private premises within the city any internal combustion engine, while stationary or moving, which emits, from any source of emission whatsoever, any air contaminant for a period aggregating more than three minutes in any one hour which is:

(A) Darker in shade than that designated as No. 1 on the Ringelmann Chart, as published by the United States Bureau of Mines; and

(B) Of an opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in division (A) above of this section. (1995 Code, § 18.04.070) Penalty, see § 102.999

§ 102.008 SEALING OF VIOLATING EQUIPMENT.

After previous notification of three or more violations of this chapter within a 12-month period, in respect to the emission of air contaminants, a violator shall be notified by registered mail to show cause before the Director within ten days why the offending equipment shall not be sealed. The notice shall be directed to the last address of the person to be notified or, if the person or his or her whereabouts are unknown, then the notice shall be posted on or near the premises at which the violations have occurred. If upon the hearing, at which the violator or his or her agent or attorney may appear and be heard, the Director finds that adequate corrective measures have not been taken, he or she shall seal the equipment until a time as corrective measures are taken. The decision may be appealed to the Advisory and Appeal Board, and the appeal shall stay the sealing until the Board renders a decision. It is unlawful for any person to break a seal that has been duly affixed by the Director or his or her authorized representative unless authorized in writing by the Director to do so. (1995 Code, § 18.04.080) Penalty, see § 102.999

§ 102.009 CONDUCT OF PERSONS ACTING ON BEHALF OF CITY.

No person acting on behalf of the city under the provisions of this chapter shall take or receive any money or any valuable thing for the purpose of deceiving, defrauding or favoring any person.
(1995 Code, § 18.04.090) Penalty, see § 102.999

§ 102.010 RIGHT OF ENTRY FOR INSPECTIONS.

Any person who in any manner hinders, obstructs, delays, resists, prevents or in any manner interferes or attempts to interfere with the Director or his or her authorized representatives in the performance of any duty enjoined or shall refuse to permit the Director or persons to perform their duty by refusing either of them entrance at reasonable hours to any premises in which the provisions of this chapter are being violated or are suspected of being violated or refuse to permit the inspection or

examination of the premises for the purposes of the enforcement of this chapter shall be subject to the fines and penalties provided in § 102.999. (1995 Code, § 18.04.100) Penalty, see § 102.999

§ 102.011 LIABILITY FOR VIOLATIONS OF CHAPTER.

All persons owning, operating or in charge or control of any equipment or premises who shall cause, suffer, allow, permit or participate in any violation of this chapter shall be individually and collectively liable for any penalties imposed by this chapter. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this chapter.
(1995 Code, § 18.04.110)

§ 102.012 PARTY TO CLAIMS OR ACTIONS.

All claims or actions filed by or against the Director or the Air Quality Control Advisory and Appeal Board shall be brought in the name of or filed against the city as a municipal corporation.
(1995 Code, § 18.04.120)

§ 102.013 NOTICE OF VIOLATION.

If the Director has reason to believe an emission from any source violates the provisions of §§ 102.105 to 102.155, he or she may, instead of acting under § 102.999, issue to the owner or operator of the source in question a violation notice.

(A) Any person who is issued a violation notice may, within 15 days from the date of receipt of the notice, submit data to the Director indicating reasons why he or she does not believe he or she was in violation of§§ 102.105 to 102.155. The Director shall review the data submitted and, within 15 days, either affirm or withdraw the violation notice by informing, in writing, the person receiving the notice of the decision to affirm or withdraw. In the case where the data is not submitted to the Director within the 15 days stipulated, the violation shall be considered still in force and affirmed.

(B) In the case of a violation of §§ 102.105 to 102.116, 102.130 through 102.138 and 102.150 through 102.155, the person cited, within ten days of receipt of the Director's decision to affirm the violation notice or within ten days of a decision of the Advisory and Appeals Board if appeal is taken from the Director's decision to affirm the violation notice, may ask that emission tests be performed to determine the extent of emissions from the operation which is the subject of the particulate emission violation notice. If the emission tests indicate that the total amount of particulate matter exceeds the maximum allowable emission standard applicable to the operation under §§ 102.105 to 102.116, 102.130 through 102.138 and 102.150 through 102.155, the violation notice shall be considered substantiated. If the emission tests indicate that the total amount of particular matter is equal to or less than the emission standard applicable to the operation under §§ 102.105 to 102.116, 102.130 through 102.138 and 102.150 through 102.155, then the violation notice shall be considered void. (1995 Code, § 18.04.130)

DEPARTMENT OF AIR QUALITY CONTROL

§ 102.025 ADMINISTRATION AND ENFORCEMENT OF CHAPTER.

The administration and enforcement of this chapter shall be conducted by the Department of Air Quality Control, which shall be headed by a Director. (1995 Code, § 18.04.150)

§ 102.026 DIRECTOR OF AIR QUALITY CONTROL-GENERALLY.

(A) There is created in the Department of Air Quality Control and position of Director of Air Quality Control, which Director shall be appointed by the Mayor.

(B) The Director of Air Quality Control shall be qualified by technical training and have at least three years experience in the theory and practice of construction and operation of furnaces, combustion devices or in the theory and practice of air quality control and shall be qualified by education and experience to cooperate with scientific, educational and civic organizations interested in air quality control. (1995 Code, § 18.04.160)

§ 102.027 DIRECTOR OF AIR QUALITY CONTROL-POWERS AND DUTIES.

(A) The Director of Air Quality Control shall perform duties as may be required of him or her relative to air quality control. He or she shall have control of all matters and things pertaining to the work of the Department and shall supervise the execution of all laws, rules and regulations pertaining to air pollution, as provided in this chapter.

(B) The Director of Air Quality Control shall also perform the following duties and have the following powers:

(1) Institute complaints against all persons violating any provision of this chapter and refer to the City Attorney all matters which require legal proceedings to prosecute violations of this chapter and compel the prevention and abatement of air pollution or nuisances arising therefrom;

(2) Examine plans for all new buildings and for the alteration of all existing buildings, structures and equipment, which may cause the issuance of air contaminants, in order to assure that they can comply with the rules and regulations of this chapter;

(3) Examine and approve or disapprove the plans for fuel and refuse burning equipment, process equipment and control equipment to be installed, constructed, reconstructed or altered or added to;

(4) Make inspections and tests of existing and newly installed, repaired, constructed, reconstructed or altered fuel or refuse burning equipment, process equipment and control equipment;

(5) Investigate complaints of violations of this chapter and make inspections and observations of air pollution conditions. Record the investigations, complaints, inspections and observations;

(6) Approve or reject applications for permits and administer the issuance of certificates of operation, notices or other matters required under the provisions of this chapter;

(7) Prepare and place before the Advisory and Appeal Board, for their consideration, proposals for additions or revisions to this chapter or any other regulation pertaining to air pollution abatement;

(8) Encourage voluntary cooperation by persons or affected groups in the preservation and restoration of the purity of the outdoor atmosphere and grant a reasonable time to comply with the provisions of this chapter;

(9) Collect and disseminate information on air quality control;

(10) Work with planning and zoning agencies for the purpose of coordinating activities under provisions of this chapter and foster the best possible management of the air resources;

(11) Cooperate and work with federal, interstate, state, county, district, municipal and other agencies concerned with air pollution with regard to aerometric studies, abatement programs, public complaints and other matters to the end that the air resources of the city and the county shall be best conserved and improved;

(12) Recommend needful rules and regulations pertaining to the administration of this chapter;

(13) Issue all permits, certificates, notices or other matters required under the provisions of this chapter, prepare and maintain adequate records thereof and notify all persons concerned of any decision he or she may render and provide persons with an opportunity to be heard as herein set forth;

(14) Report to the Mayor and the Air Quality Control Advisory and Appeal Board with respect to recommendations for needed additions or revisions of this chapter;

(15) Do any and all acts which may be necessary for the successful prosecution of the purpose of this chapter and any other acts as may be specifically enumerated herein as his or her duties;

(16) Enlist the cooperation of the public in the abatement of air pollution; and

(17) Refer the matters to the municipal Board of Health which may require its attention or assistance. (1995 Code, § 18.04.170)

§ 102.028 AIR POLLUTION INSPECTORS.

(A) Air Pollution Inspectors shall be employees of the Air Quality Control Department, qualified by technical training in the theory and practice of the construction and operation of combustion and process equipment or in the theory and practice of smoke abatement and air quality control.

(B) The duties of the Air Pollution Inspectors shall be to carry out the directions of the Director of Air Quality Control in all matters relating to enforcement of this chapter and to aid and assist the Director in the efficient discharge of his or her duties. (1995 Code, § 18.04.180)

§ 102.029 EXAMINATION AND APPROVAL OF PLANS FOR CERTAIN EQUIPMENT.

No employee shall recommend the issuance of any operating permit or certificate of operation without having thoroughly examined and approved the plans for fuel burning or process equipment so approved or certified. (1995 Code, § 18.04.190)

§ 102.030 CONFLICTS OF INTEREST OF EMPLOYEES.

No person employed in the Department of Air Quality Control shall be, directly or indirectly, interested in the manufacture, lease or sale of fuel, combustion or process equipment, gas cleaning devices, other smoke abatement or air pollution control equipment or the apparatus or devices connected therewith or any extensions thereof. (1995 Code, § 18.04.200)

§ 102.045 CHAIRPERSON.

The Air Quality Control Advisory and Appeal Board shall elect its own Chairperson. The Board shall meet at the call of the Chairperson, who shall be elected by the Board at the first meeting of each year. No Chairperson shall serve for more than two consecutive terms. (1995 Code, § 18.04.210)

§ 102.046 COMPOSITION-TERMS OF OFFICE OF MEMBERS-VACANCIES.

The Air Quality Advisory and Appeal Board shall consist of not less than seven members. Not more than two members of the Board shall hold any public office. The two ex officio members of the Board shall be the Building Commissioner and one member of the Common Council, who shall be named by the President of the Council. The remaining members of the Board shall include a chemist or an engineer, at least one physician licensed to practice medicine in the state and at least one attorney licensed to practice law in the state. The Director of Air Quality Control shall be an ex officio member of the Board without the right to vote. Two members shall be appointed for a term of one year, two members for a term of two years and the remainder for a term of three years. Upon expiration of any term all succeeding terms shall be for a term of three years. This provision shall be implemented by the Mayor on future replacements or vacancies so as to provide for qualified members in an orderly transition from the previous method of appointing Board members. The Mayor shall also appoint additional members to fill all vacancies. (1995 Code, § 18.04.220)

§ 102.047 APPOINTMENT OF MEMBERS-DUTIES.

(A) An Air Quality Control Advisory and Appeal Board shall be appointed by the Mayor. The Director of Air Quality Control may make recommendations to the Mayor for the appointments. The Board shall study the problem of air quality control within the city and shall, from time to time, recommend to the Director appropriate means of air pollution abatement, including needed additions to or revisions of this chapter.

(B) The Air Quality Control Advisory and Appeal Board shall confer with and advise the Director on needed revisions or additions to this chapter or any other ordinance pertaining to air pollution or rules and regulations promulgated thereunder and on any matters concerning air pollution abatement or control. (1995 Code, § 18.04.230)

§ 102.048 COMPENSATION OF MEMBERS-SECRETARIAL DUTIES.

All members shall serve without compensation, and all secretarial duties of the Board shall be performed by the Secretary of the Department. (1995 Code, § 18.04.240)

§ 102.049 MEETINGS.

(A) The Air Quality Control Advisory and Appeal Board shall hold a regular meeting at least quarterly and other meetings at additional times as may be called by the Chairperson.

(B) The Chairperson shall call a special meeting upon the written request of at least three members of the Board or on the written request of the Director.

(C) The Board shall keep minutes of its proceedings which shall clearly show the official actions of the Board and the vote of any member.

(D) All meetings and hearings of the Board shall be open to the public.

(E) A quorum shall consist of a majority of the members of the Air Quality and Control Advisory and Appeal Board. (1995 Code, § 18.04.250)

§ 102.050 POWERS.

The Air Quality Control Advisory and Appeal Board is vested with the following jurisdiction and authority:

(A) To decide appeals from any decision, ruling, regulation, determination or order made by the Director of Air Quality Control under this chapter, or failure to act upon request within a reasonable period of the directive in the manner and subject to the standards set out in this chapter;

(B) To pass upon applications for extensions of time for compliance or for exemptions of variances in the manner of and subject to § § 102. 190 and 102.191; and

(C) To decide all matters referred to it or upon which it is required to pass under this chapter. (1995 Code, § 18.04.260)

§ 102.051 APPEALS.

(A) Persons who desire to take exception to any decision, ruling, regulation or order of the Director of Air Quality Control may appeal to the Air Quality Control Advisory and Appeal Board. The appeal shall be taken within 15 days after receiving notice of decision, ruling or order complained of by filing with the Director a written notice of appeal directed to the Board specifying the grounds thereof and the relief sought. A fee of $50 shall be posted by the appellant with the Director at the time of the filing of the appeal to cover the costs of the hearing on appeal, which fee shall not be refundable. The Director shall forthwith furnish to the Advisory and Appeal Board all the papers in his or her possession relative to the matter on appeal. Within ten days after the date of filing of the notice of appeal, the Board shall set a date for the hearing and shall give notice thereof by mail to the interested parties. The Board may, in its discretion, grant continuances. An appeal shall act as a stay of the decision, ruling, requirement, rule, regulation or order in question until the Board has taken final action on the appeal. At the hearing, any party may appear in person or by agent or attorney and present both written and oral evidence pertinent to the questions and issues involved and may examine and cross-examine witnesses. All testimony shall be given under oath. The Board, after the hearing, shall affirm, modify or reverse the decision, ruling, requirement, rule, regulation or order of the Director or order him or her to act. The decision of the Board shall be binding on the Director and appellant, unless reversed by a court of competent jurisdiction upon judicial review.

(B) The procedural prov1s1ons of the I.C. 4-21.5-5 and all amendments and modifications thereof and the procedural rules adopted pursuant thereto shall apply and govern all proceedings for the judicial review of final administrative decisions under this chapter and are adopted and incorporated herein by

reference. References in the act to an agency of the state shall be deemed references to the Air Pollution Advisory and Appeal Board of the city, and references in an act to the Attorney General shall be deemed references to the City Attorney.

(C) The Advisory and Appeal Board, at its expense, shall provide a court reporter to take the testimony and preserve a record of all proceedings before the Board. The notice of appeal, the notice of hearing, all exhibits, documents, pleadings and written motions filed or admitted as evidence in the proceedings, the transcript of testimony adduced and the findings of fact and decisions shall constitute the complete and exclusive record of the hearing. Any party to a hearing may obtain a typewritten transcript of the record at his or her own expense.

(D) The Advisory and Appeal Board shall not be required to certify and record or file any answer or otherwise appear in any proceeding for judicial review unless the party filing the appeal deposits the sum of $0.95 per page which includes costs of certification. Failure on the part of the appellant to make deposits shall be grounds for dismissal of the action. Upon judicial review, the Secretary of the Advisory and Appeal Board shall certify the record. (1995 Code, § 18.04.270)

INSTALLATION PERMITS

§ 102.065 REQUIRED-APPLICATION CONTENTS.

(A) No person shall construct, install, reconstruct or alter any process, fuel burning, refuse burning or control equipment that may be a source of air contaminant for use within the city until an application, including not less than two sets of properly prepared plans and specifications of the process, fuel burning, refuse burning or control equipment and structures or buildings used in connection therewith, has been filed by the person or his or her agent in the office of the Director and has been approved by the Director and until an installation permit has been issued by the Director for the construction, installation or alteration, except as stated in § 102.069.

(B) If requested by the Director of Air Quality Control, the plans or specifications mentioned in division (A) above of this section shall show the form and dimensions of the process, fuel burning, refuse burning or· control equipment, together with the description and dimensions of the building or part thereof in which the process, fuel burning, refuse burning or control equipment is to be located, including the means provided for admitting the air for combustion processes; the character of the fuel to be used; the maximum quantity of the fuel to be burned per hour, the kind and amount of raw materials processed; the expected air contaminant emission rate; the operating requirements; the use to be made of a process, fuel burning, refuse burning or control equipment: contaminant concentration, gas volume and gas temperature at the emission point; physical characteristics of particulates emitted; the location and elevation of the emission point relative to nearby structures, window openings and the like; a flow diagram showing the equipment under consideration and its relationship to other processes, if any, and a general description of these processes; and any other reasonable and pertinent information that may be required by the Director. (1995 Code, § 18.04.280)

§ 102.066 AFFIDAVIT FOR SECRET PROCESS.

If the applicant for an installation permit deems the process or equipment to be secret, he or she may file, with the approval of the Director, an affidavit to the effect that the equipment or process will be so used as to comply with all of the other provisions of this chapter. Plans and specifications filed with an affidavit will remain the property of the applicant and shall only be for the confidential use of the

Director, the Control Board and their representatives, unless the owner or operator shall expressly agree to their publication or availability to the general public. Nothing in this section shall be construed to prevent the use of records or information by any department, agency or officer of the city in compiling or publishing analyses or summaries relating to the general condition of the ambient atmosphere; provided, that the analyses or summaries do not identify, directly or indirectly, any owner or operator or reveal any information otherwise confidential under this section. (1995 Code, § 18.04.290)

§ 102.067 APPROVAL-ISSUANCE GENERALLY.

An application shall be acted on within 30 calendar days after it is filed in the office of the Director. The Director shall notify the applicant, in writing. Upon the approval of the application and upon the payment of the prescribed fees, the Director shall issue a permit for the construction, installation or alteration of the process, fuel burning, refuse burning or control equipment. (1995 Code, § 18.04.300)

§ 102.068 DURATION.

If construction, installation, reconstruction or alteration is not completed within one year of the date of the installation permit or within the period of time specified in the permit, the permit shall become void and all fees shall be forfeited, unless an extension of time is warranted and granted by the Director. (1995 Code, § 18.04.310)

§ 102.069 CERTIFICATE OF COMPLIANCE.

In the event the plans, specifications and information submitted to the Director, pursuant to § 102.065, reveal a proposal to construct, install, reconstruct or alter any process, fuel burning, refuse burning or control equipment of the complex design or involving technological ingenuity or advances of considerable magnitude, the Director may, at his or her option, and in lieu of issuing an installation permit, require the applicant to file with the Director a statement certifying that the proposed equipment or installation will comply with all of the applicable provisions and limitations set forth in this chapter. Upon the filing of the certificate of compliance, the applicant may proceed with the proposed installation, subject to all of the provisions of § 102.068. (1995 Code, § 18.04.320)

§ 102.070 ISSUANCE PREREQUISITE TO BUILDING PERMIT.

No permit for the erection, construction or alteration of any building, plant or structure, which is related in any manner to fuel burning equipment or processing equipment, which may be a source of air contaminants, shall be issued by the Building Commissioner or by any department, bureau, division, officer or employee of the city until the Director of the Air Quality Control Department has issued an installation permit covering the equipment under his or her jurisdiction to be used in the building, plant or structure, as provided in this subchapter. (1995 Code, § 18.04.330)

§ 102.071 EMERGENCY REPAIRS.

An emergency repair may be made prior to the application for an installation permit if serious air pollution consequences may result if the repair were deferred. When the repair is made, the person concerned shall file an application for an installation permit if directed to do so by the Director. (1995 Code, § 18.04.340)

§ 102.072 COMPLIANCE WITH PERMITS.

(A) No construction, installation, reconstruction or alteration shall be made which is not in accordance with the plans, specifications and other pertinent information upon which the installation permit was issued without the written approval of the Director.

(B) Violation of the installation permit shall be sufficient cause for the Director to stop all work in connection with the permit, and he or she is hereby authorized to seal the installation. No further work shall be done until the Director is assured that the condition in question will be corrected and that the work will proceed in accordance with the installation permit.

(C) It shall be the duty of the various departments, bureaus, divisions, officers and employees of the city, having charge of the inspection of the premises in which the equipment is located, to cooperate with the Director in determining that the execution of the work so authorized by the installation permit shall be done in conformity with the approved plans and specifications that are approved and fixed by the Director. (1995 Code, § 18.04.350)

§ 102.073 INSPECTIONS-CERTIFICATE OF OPERATION.

(A) No person shall operate or cause to be operated any process, fuel burning, refuse burning or control equipment or any equipment pertaining thereto for which an installation permit was required or was issued under this subchapter until an inspection has been made by the Director. The person responsible for the installation, construction or alteration of any process, fuel burning or control equipment for which an installation permit is required shall notify the Director when the work is completed and ready for final inspection.

(B) On all new or modified processes, fuel burning, refuse burning or control equipment or any equipment pertaining thereto, stack emission tests must be made within 60 days of start-up time and results of the tests must be submitted to the Department. If results of the tests indicate a failure to comply within the limitations and requirements of this chapter, it shall constitute sufficient grounds for the Director to order changes in the process, fuel burning, refuse burning or control equipment or appurtenances, before an initial certificate of operation can be granted. When the Director refuses to issue a certificate of operation, he or she is authorized to seal the process, fuel burning, refuse burning or control equipment until the person required to procure the certificate of operation has complied with the provisions of this chapter.

(C) (1) Waiver of stack emission tests, as outlined in division (B) above of this section, may be granted by the Director when written evidence is presented that indicates to him or her that the tests are not necessary because of the nature of the process.

(2) Delay of stack emission tests, as outlined in division (B) above of this section, may be granted by the Director when written evidence is presented to him or her that the processes are not in effective operation. If granted, the delay shall not exceed 120 days.

(D) After the installation permit has been issued and it is demonstrated to the satisfaction of the Director, that the process, fuel burning, refuse burning or control equipment can be operated in compliance with this chapter, an initial certificate of operation shall be issued by the Director. The certificate of operation shall be kept posted on or near the installation for which it was issued. The certificate of operation shall properly identify the equipment to which it pertains and shall specify the class of fuel, type of refuse, type of raw materials used, if any, which have been successfully used in the stack emission or operating tests.

(E) No equipment shall be operated for any other purpose or in any other manner than that for which the installation permit was approved and for which a certificate of operation has been issued unless otherwise authorized in writing by the Director.

(F) A certificate of operation shall remain in force until terminated by any one or more of the following provisions of this chapter:

(1) Execution of §§ 102.105 to 102.116, 102.130 through 102.138 and 102.150 through 102.155 of this chapter; and/or

(2) Execution of § 102.008.

(1995 Code, § 18.04.360) Penalty, see § 102.999

§ 102.074 RENEWAL OF CERTIFICATE OF OPERATION.

(A) The Director of Air Quality Control shall require application for renewal of certificates of operation on those installations for which an installation permit was obtained and shall require the issuance or renewal of certificates of operation on equipment existing prior to the adoption of this chapter and collect appropriate fees for the certificates.

(B) A listing of all applications for certificates of operation and permit fees must be submitted to the Department. The certificates of operation shall not be required more often than once per year, and may be terminated for the same reasons as listed in§ 102.072. The Director is authorized to seal any equipment for which a certificate of operation is required and has not been issued. Installation permits and certificates of operation shall not be transferable. (1995 Code, § 18.04.370)

§ 102.075 EFFECT ON PROSECUTION OF VIOLATION OF CHAPTER.

The issuance by the Director of Air Quality Control of any installation permit or certificate of operation shall not be held to exempt the person to whom the permit or certificate was issued or who is in possession of the same from prosecution for the emission of air contaminants prohibited by this chapter.
(1995 Code, § 18.04.380)

§ 102.076 EXEMPTIONS FROM SUBCHAPTER.

The provisions of this subchapter are not applicable to domestic heating plants or domestic incinerators. (1995 Code, § 18.04.390)

§ 102.077 REGISTRATION OF POINTS OF EMISSION.

(A) The Director may require the written registration of points of emission of air contaminants, whether by stack, duct, flue, equipment or by any other means, when, in his or her opinion, the information is necessary for the conduct of the work of the Department. A period of 60 days shall be allowed for the filing of the registration. However, in case of emergency, the Director may designate any lesser time which he or she believes to be justified. The Director is also empowered to notify the owner or agent when, in his or her opinion, the registration is no longer required.

(B) The written registration of points of emission may include the following information:

(1) Location of the source of emission;

(2) Size of outlets;

(3) Height of outlets;

(4) Rate of emission;

(5) Composition of emission;

(6) Temperature effluent or emission;

(7) Nature of the equipment creating the emissions; and

(8) Any other pertinent information specified by the Director. (1995 Code, § 18.04.400)

FEES

§ 102.090 GENERALLY.

(A) All fees or penalties prescribed for the issuance of permits, licenses or certificates or for the inspection of plans, premises or equipment, under any provision of this chapter, shall be paid to the Director, who shall render to the person making the payment a receipt stating the amount and purpose for which the fee or penalty has been paid, a duplicate of which shall be made part of the records of the Department. All fees and penalties thus received shall be deposited with the City Controller for the corporate fund.

(B) All fees or penalties prescribed for which the payment is required under any provision of this subchapter shall constitute a debt due the city. The City Attorney shall, at the direction of the Director institute a civil suit in the name of the city to recover the amount of any unpaid fee or penalty. No civil judgment or any act by the City Attorney, the Director, or the violator shall bar or prevent a criminal prosecution for each and every violation of this chapter. (1995 Code, § 18.04.410)

§ 102.091 INSPECTION-INSTALLATION PERMIT.

Fees for the inspection of plans and issuing permits for the installation, erection, construction reconstruction, modification, alteration of or addition to fuel burning equipment, combustion or process equipment or devices and installation of apparatus or devices for the prevention or arresting of the discharge smoke, particulate, liquid, gaseous or other matter are specified in Table I.

Table I		
Fees for Installation Permits and for Annual Operating Certificates		
	Installation Permits	***Annual Operating Certificates***
Fuel Burning Equipment		
1,000,000 to 10,000,000 BTU/hour	$15	$10
10,000,000 to 100,000,000 BTU/hour	$30	$20

More than 100,000,000 BTU/hour	$45	$30
Incinerators		
Less than 10 sq. ft. of grate area (excluding residential incinerators)	$15	$10
10 to 50 sq. ft. of grate area	$30	$20
More than 50 sq. ft. of grate area	$45	$30
Processes		
Less than one ton per hour process weight	$15	$10
One ton to 10 ton per hour process weight	$30	$20
More than 10 tons per hour process weight	$45	$30
Stationary Product Storage Tanks for Volatile Products		
10,000 to 20,000 gallons capacity	$15	$10
20,000 to 40,000 gallons capacity	$30	$20
Over 40,000 gallons capacity	$45	$30
Control Units		
Maximum volumetric rate is less than 1,000 SCF per hour	$15	$10
Maximum volumetric rate is 1,000 to 100,000 SCF per hour	$30	$20
Maximum volumetric rate is more than 100,000 SCF per hour	$45	$30

(1995 Code, § 18.04.420)

§ 102.092 CERTIFICATE OF OPERATION.

Fees shall be as follows for the issuance or re-issuance of certificates of operation which may require annual inspection of fuel burning, combustion or process equipment or devices:

(A) Fuel burning equipment used for space heating, steam and hot water or power generation, for each unit:

Capacity of a million BTU per hour or more	$10

(B) Refuse burning equipment, for each unit:

With less than 15 sq. ft. of grate area	$5
With 15 sq. ft. or more of grate area	$10

(C) Process equipment or control devices:

Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	$5

(1995 Code, § 18.04.430)

§ 102.093 EXEMPTIONS AS TO DOMESTIC REFUSE BURNING EQUIPMENT.

Provisions of §§ 102.091 and 102.092 are not applicable for domestic refuse burning equipment. (1995 Code, § 18.04.440)

EMISSION STANDARDS

§ 102.105 VISIBLE EMISSIONS.

It is unlawful for any person to discharge into the atmosphere or cause to be so discharged from any combustion or process equipment or device, vehicle, incinerator or open fire whatsoever any air contaminant for a period aggregating more than five minutes in any one hour which is:

(A) As dark or darker in shade as that designated as No. 2 on Ringelmann Chart, as published by the United States Bureau of Mines; and

(B) Of an opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in division (A) above of this section. (1995 Code, § 18.04.450) Penalty, see § 102.999

§ 102.106 EMISSION OF PARTICULATE MATTER-FUEL BURNING EQUIPMENT.

(A) No person shall cause, suffer or allow to be emitted into the ambient atmosphere from any existing fuel burning equipment or premises or to pass a convenient measuring point near the stack outlet, particulate matter in the gases to exceed 0. 30 pounds per million BTU heat input per hour when total plant capacity is less than 700,000,000 BTU heat input per hour particulate matter in the gases are not to exceed 0.20 pounds per million BTU heat input per hour.

(B) For new equipment with more than 250,000,000 BTU heat input per hour the emissions shall not exceed 0.1 pounds of particulate matter per million BTU heat input per hour.

(C) For new equipment with less than 250,000,000 BTU heat input per hour the emissions shall not exceed 0. 2 pounds of particulate matter per million BTU heat input per hour.
(1995 Code, § 18.04.460) Penalty, see § 102.999

§ 102.107 EMISSION OF PARTICULATE MATTER-INCINERATORS.

No person shall cause, suffer or allow to be emitted into the ambient atmosphere from any incinerator, refuse burning equipment or premises, particulate matter in gases to exceed two-tenths pounds for each 100 pounds of refuse charged solid or liquid.
(1995 Code, § 18.04.470) Penalty, see § 102.999

§ 102.108 EMISSION OF PARTICULATE MATTER-INDUSTRIAL PROCESS EQUIPMENT.

(A) The maximum allowable emission of particulate matter from any source whatever except fuel burning and refuse burning equipment shall be determined from Table II. To use the table, find the process weight per hour in the table and note the allowable rate of emissions in pounds per hour next to the process weight per hour.

Table II		
Allowable Rate of Emission Based on Process Weight Rate		
Process Weight Pounds per Hour	***Rate Tons per Hour***	***Emission Rate Pounds per Hour***
50	0.025	0.03
100	0.05	0.55
500	0.25	1.53
1,000	0.50	2.25
5,000	2.5	6.34
10,000	5.0	9.73
20,000	10.0	14.99
60,000	30.0	29.60
80,000	40.0	31.19
120,000	60.0	33.28
160,000	80.0	34.85
200,000	100.0	36.11
400,000	200.0	40.35
1,000,000	500.0	46.72

(B) Interpolation of the data in this table for process weight rates up to 60,000 pounds per hour shall be accomplished by use of the equation: $E=3.59(P)^{0.62}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 pounds per hour shall be accomplished by use of the equation: $E = 17.31 (P)^{0.16}$ where E = rate of emission in pounds per hour and P = process weight in tons per hour.

(C) Any controlled process, approved by the Department prior to January 1, 1973, whose process weight exceeds 400 tons per hour shall not be in violation, if particulate emissions do not exceed five hundredths grains per standard cubic foot of effluent gases.

(1995 Code, § 18.04.480) Penalty, see § 102.999

§ 102.109 STORED PETROLEUM AND OTHER VOLATILE ORGANIC MATERIALS.

(A) A person shall not place, store or hold in any stationary tank reservoir or other container of more than 40,000 gallons capacity any petroleum or volatile product or mixture of products having a vapor pressure of two pounds per square inch absolute or greater under actual storage conditions, unless the tank, reservoir or other container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

(1) A floating roof, consisting of a pontoon type or double deck type roof, resting on the surface of the liquid contents and equipped with a closure seal to close the space between the roof edge and tank wall. The control equipment provided for in this division shall not be used if the gasoline, petroleum distillate or other volatile product has a vapor pressure of 12 pounds per

square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas tight, except when gauging or sampling is taking place;

(2) A vapor recovery system, consisting of a vapor gathering system capable of collecting the hydrocarbon vapors or other gases discharged and a vapor disposal system capable of processing the hydrocarbon vapors or other gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas tight, except when gauging or sampling is taking place; and

(3) Other equipment of equal efficiency; provided; that plans for the equipment are submitted to and approved by the Director.

(B) The provisions of this section shall not apply to:

(1) The manufacture of organic solvents;

(2) The spraying or other usage of insecticides, pesticides or herbicides;

(3) Industrial surface coating operations when the coating's solvent make-up is water based and does not exceed 20 % of organic materials by volume; and

(4) The use of organic solvents that will not create a health hazard or a nuisance, as determined by the Director. (1995 Code, § 18.04.490) Penalty, see § 102.999

§ 102.110 LOADING VOLATILE . PETROLEUM DISTILLATES INTO TANKS, TRUCKS OR OTHER VEHICLES.

(A) A person shall not load volatile products into any tank, truck or trailer or railroad car from any loading facility unless the loading operation utilizes a submerged fill pipe or the loading facility is equipped with a vapor collection and disposal system or its equivalent, properly installed, in good working order, in operation and approved by the Director.

(B) For purposes of this section, any petroleum distillate having a Reid vapor pressure of four pounds or greater shall be included by the term "volatile petroleum distillate or other volatile product" For the purposes of this section, the term ***SUBMERGED FILL PIPE*** is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid level is six inches above the bottom of the tank. ***SUBMERGED FILL PIPE***, when applied to a tank which is loaded from the side, is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid is 18 inches above the bottom of the tank. (1995 Code, § 18.04.500) Penalty, see § 102.999

§ 102.111 SULFUR DIOXIDE EMISSIONS FROM NONFERROUS SMELTERS.

Sulfur dioxide emissions from nonferrous smelters are limited by the use of the following equations.

Copper smelter	$Y = 0.2X$
Zinc smelter	$Y = .564X^{0.85}$
Lead smelter	$Y = .98X^{0.77}$
X = Total sulfur in process (lbs. per hour)	
Y = Sulfur dioxide emissions (lbs. per hour)	

(1995 Code, § 18.04.510)

§ 102.112 NITROGEN OXIDES EMISSION LIMITATIONS.

(A) Emission of nitrogen oxides from new installations shall be limited to the following.

(B) No person shall cause or allow the emission of nitrogen oxides from fuel burning equipment with a capacity of 250,000,000 BTU per hour or more in excess of the following limits:

(1) In the case of gas firing, 0.20 pounds of $N0_2$ per million BTU of heat input;

(2) In the case of oil firing, 0.30 pounds of $N0_2$ per million BTU of heat input;

(3) In the case of coal firing, 0. 70 pounds of $N0_2$ per million BTU of heat input.

(1995 Code, § 18.04.520) Penalty, see § 102.999

§ 102.113 CIRCUMVENTION.

No person shall build, erect, install or use any article, machine equipment or other contrivance, the sole purpose of which is to dilute or conceal an emission without resulting in a reduction in the total release of air contaminants to the atmosphere. Increase in stack height or constriction so as to increase stack exit velocity of gases shall not constitute a violation of this section.

(1995 Code, § 18.04.560) Penalty, see § 102.999

§ 102.114 REPORT OF EQUIPMENT BREAKDOWN.

(A) Emissions exceeding any of the limits established in this subchapter, as a direct result of upset conditions in or breakdown of any process, fuel burning, refuse burning or control equipment or related operating equipment shall not be deemed to be in violation of this subchapter; provided, that the owner or operator immediately advises the Director of the circumstances and outlines a corrective program acceptable to the Director.

(B) A record of all breakdowns or upset conditions of any process, fuel burning, refuse burning or control equipment shall be maintained. A quarterly summary of the record shall be submitted to the Department. (1995 Code, § 18.04.570)

§ 102.115 REPORT OF DISCONTINUED OR DISMANTLED EQUIPMENT.

It shall be the duty of any person responsible for any discontinued or dismantled fuel burning, combustion or process equipment or device coming under the jurisdiction of the permits or fees provisions of this chapter to report to the Department within 30 days the permanent discontinuance or dismantlement of the equipment or device. (1995 Code, § 18.04.580)

§ 102.116 VIOLATIONS.

(A) It is unlawful for any person to permit or cause the emission of quantities of air contaminants from whatever source in the place or manner as to be detrimental to any person or to the public or to endanger the health, comfort or safety of any person or the public or in a manner as to cause or have a tendency to cause injury or damage to property or business. Each day wherein a violation of this section

occurs shall constitute a separate offense. Any act or emission of air contaminants from any single or multiple source in violation or excess of the limitations established in this chapter shall be unlawful and may be ordered abated by the Director. The abatement may be in addition to the fines and penalties herein provided.

(B) It is unlawful for any person to cause or permit the handling, transporting or disposition of any substance or material which is likely to be scattered by the wind or is susceptible to being windborne without taking reasonable precautions or measures to minimize atmospheric pollution.

(C) It is unlawful for any person to operate or maintain or cause to be operated or maintained any premises, open area, right-of-way, storage pile of materials or vehicle or construction, alteration, demolition or wrecking operation or any other enterprise, which involves any material or substance likely to be scattered by the wind or susceptible to being windborne without taking reasonable precautions or measures to minimize atmospheric pollution. No person shall maintain or conduct or cause to be maintained or conducted, any parking lot or automobile or truck sales lot or use any roadway unless the lot or roadway is maintained in a manner as to minimize atmospheric pollution.

(D) Nothing in any section of this chapter relating to regulation of emission of air contaminants shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

(1995 Code, § 18.04.590) Penalty, see § 102.999

OPEN BURNING

§ 102.130 DEFINITION.

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

OPEN BURNING. The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber. (Ord. 0-06-0014, passed 5-8-2006)

§ 102.131 PROHIBITION.

No person shall start, kindle, cause, allow or maintain any form of open burning of any materials on private or public property, except as specifically authorized by this subchapter. No person shall allow the accumulation or existence of combustible material that constitutes or contributes to open burning.

(Ord. 0-06-0014, passed 5-8-2006) Penalty, see § 102.999

§ 102.132 EXEMPTIONS.

The following types of burning are allowed:

(A) The burning of charcoal, clean untreated wood and other cooking fuels customarily used in an outdoor grill, traditional food cooking devices or campfires; and

(B) Fires used for recreational or ceremonial purposes such as school pep rally fires or the celebration of Scout activities. Recreational or ceremonial shall meet the following conditions:

(1) Only clean untreated wood or charcoal shall be used. Paper or petroleum products can be used for ignition purposes only;

(2) The fire shall not be ignited more than two hours before the recreational activity is to take place and shall be extinguished upon the conclusion of the activity;

(3) The pile to be burned shall be less than 1,000 cubic feet (for example: ten feet by ten feet by ten feet);

(4) The local Fire Department shall be notified 24 hours in advance if the pile to be burned is more than 125 cubic feet (for example: five feet by five feet by five feet);

(5) The fire shall not be for disposal purposes; and

(6) The fire shall not be within 500 feet of a pipeline or fuel storage area.
(Ord. 0-06-0014, passed 5-8-2006)

§ 102.133 VARIANCES.

Other types of fires may be approved as follows:

(A) Any other type of fire whereby a citizen of the city has obtained a variance from the provisions of this subchapter by petitioning the Common Council may be allowed. However, the Common Council cannot grant a variance for burning that would otherwise violate the provisions of the 326 I.A.C. 4-1 *et seq.*, as amended and I. C. 13-17-9.

(B) The following types of fires may be allowed if approved by the Indiana Department of Environmental Management:

(1) Waste oil burning where waste oil originates from spillage during testing of an oil well and has been collected in a properly constructed and located burn off pit as prescribed in 310 I.A.C. 7-1-37(a) in the State Department of Natural Resources (DNR) rules, oil and gas operations. Burning shall be subject to the following conditions: each oil pit may be burned once every two months. The fire must be extinguished within 30 minutes of ignition;

(2) State Department of Natural Resources (DNR) burning to facilitate prescribed burning on DNR-controlled properties for wildlife habitat maintenance, forestry purposes, natural area management and firefighting or prevention; United States Department of the Interior burning to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore, for example; and United States Department of Agriculture, Forest Service burning, to facilitate wildlife habitat maintenance, forestry purposes, natural area management, ecosystem management and firefighting or prevention;

(3) Burning by the United States Forest Service for firefighting or prevention is not subject to the conditions in § 102.134;

(4) Burning of marijuana by federal, state and local law enforcement offices. Only clean petroleum products shall be used for ignition purposes;

(5) Burning, for the purpose of heating, using clean wood products or paper in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom. Burning shall be subject to the following conditions:

(a) Burning shall only occur between October 1 and May 15. Burning shall not be conducted for the purpose of disposal;

(b) Burning of vegetation by Fire Departments and firefighters to create fire breaks for purposes of extinguishing an existing fire. The burning is not subject to the conditions in division (B)(5)(c) below;

(c) Burning of clean petroleum products for fire extinguisher training, subject the following conditions;

(d) The local Fire Department and Health Department must be notified at least 24 hours in advance of the date, time and location of the burning;

(e) All burning shall take place in a noncombustible container or enclosure, enclosed on all sides with a bottom;

(f) A total of no more than 14 gallons of fuel may be burned per day. Only one fire may be allowed to burn at a time;

(g) All burning shall be conducted in a manner so as to prevent any possibility of soil contamination;

(h) Emergency burning with prior oral approval of the Commissioner of the State Department of Environmental Management or the Commissioner's designated agent may be authorized for the following;

1. Spilled or escaping liquid or gaseous petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire or health hazard or air or water pollution problem; or

2. Clean wood waste, vegetation or deceased animals resulting from a natural disaster where failure to burn would result in an imminent health or safety hazard. (Ord. 0-06-0014, passed 5-8-2006)

§ 102.134 CONDITIONS APPLICABLE TO EXEMPTIONS AND VARIANCES.

The following conditions apply to all exemptions and variances.

(A) Burning shall be done during safe weather conditions. Burning shall not occur, during high winds, temperature inversions, air stagnation, or when a pollution alert or ozone action day has been declared.

(B) Fires must be attended at all times until completely extinguished.

(C) Fires must be extinguished if they create a fire hazard, nuisance, pollution problem or threat to public health.

(D) Firefighting equipment adequate for the size of the fire shall be on-site and nearby during times of burning.

(E) Burning shall not be for disposal purposes.

(F) All burning shall comply with other federal, state and local laws, rules and ordinances. (Ord. 0-06-0014, passed 5-8-2006) Penalty, see § 102.999

§ 102.135 ENFORCEMENT.

(A) *Liability for fire.* Any person who allows the accumulation or existence of combustible material which constitutes or contributes to open burning may not avoid liability for violation of this subchapter on the basis that the fire was set by vandals, an accident or an act of God.

(B) *Enforcement.* The open burning provisions are enforceable by the duly appointed Fire Department personnel, police officer, Health Department Officer or City Inspector acting on his or her own initiative or at the request of the Mayor. (Ord. 0-06-0014, passed 5-8-2006) Penalty, see § 102.999

§ 102.136 PERMITS.

(A) No person shall dispose of refuse by open burning or cause, suffer, allow or permit open burning of refuse, unless a permit therefor has been obtained from the Director. Any person required by this section to secure a refuse burning permit may apply for a continuing permit which, when issued, shall authorize the burning of combustible refuse during the period covered thereby, the period not to exceed one year.

(B) The open burning of refuse may be permitted when it can be shown by a person that open burning is absolutely necessary and in the public interest. Any person intending to engage in open burning of refuse shall file a request to do so with the Director. The application shall state the following, but shall not be limited to:

(1) The name, address and telephone number of the person submitting the application;

(2) The type of business or activity involved;

(3) A description of the proposed equipment and operating practices, the type, quantity and composition and amount of air contaminants to be released to the atmosphere;

(4) The schedule of burning operations;

(5) The exact location where open burning may be carried on;

(6) Reason why no method other than open burning can be used for disposal of trade waste; and

(7) Evidence that the proposed open burning has been approved by the City Fire Department.

(C) The Director may, in his or her discretion, impose other reasonable conditions necessary to prevent the creation of a nuisance. (1995 Code, § 18.04.530) Penalty, see § 102.999

§ 102.137 CERTAIN FIRES PERMITTED.

Section 102.137 shall not apply to smoke from fires set by any person if the fire is set with the written permission of the Director. The decision of the Director to allow certain fires will be based on the necessity of a public officer in the performance of his or her duties for the prevention of a fire hazard or the instruction of public or private employees in the methods of fighting fire. (1995 Code, § 18.04.540)

§ 102.138 SALVAGE OPERATION.

No person shall conduct or cause or permit the conduct of a salvage operation by open burning. (1995 Code, § 18.04.550)

SULFUR OXIDES

§ 102.150 GENERALLY.

No person shall cause, let, permit, suffer or allow any emission or sulfur oxides which results in ground level concentrations of sulfur oxides at any given point in excess of five-tenths parts per million by volume in the period of any hour, and average exposure shall not exceed one-tenth parts per million by volume of sulfur oxide in any 24-hour period. These limitations shall not apply to ground level concentrations occurring on the property from which the emission occurs; provided that the property, from the emission point to the point of any concentration, is controlled by the person responsible for the emission. (1995 Code, § 18.04.600)

§ 102.151 LIMITATIONS ON FUEL SULFUR CONTENT GENERALLY.

(A) No person shall cause or permit the use, or if intended for use in the city, except as provided in division (E) below of this section, the purchase, sale, offering for sale, storage or transportation of fuel, which, as determined by the methods of the American Society for Testing and Materials, contains more than the following quantity of sulfur per million BTU in the following use classifications:

(1) From July 1, 1971, until July 1, 1972, one and eight-tenths pounds of sulfur per million BTU heating value; or

(2) After July 1, 1972, nine-tenths pounds of sulfur per million BTU heating value.

(B) All new space heating equipment, the plans for which are 50 % or less completed by July 1, 1971, shall be limited to the use of fuels containing no more than nine-tenths pounds of sulfur per million BTU. All existing space heating equipment shall be limited to the use of fuels containing not more than one and eight-tenths pounds of sulfur per million BTU on and after July 1, 1971, to and including July 1, 1972, and shall thereafter be limited to the use of fuels, containing no more than nine-tenths pounds sulfur per million BTU on and after July 1, 1972.

(C) All new and existing industrial power plants, electric power generating plants and process plants, except as provided in division (E) below of this section, shall be limited to the use of fuel containing no more than one and thirty-five hundredths pounds of sulfur per million BTU from and after

July 1, 1971, and shall be limited to the use of fuel containing no more than nine-tenths pounds of sulfur per million BTU on and after July 1, 1972.

(D) No fuels exceeding the sulfur limitations set forth in this section shall be used in the city without prior notification of its use to the Department.

(E) The following exceptions apply to divisions (A) through (D) above of this section:

(1) Fuels which exceed the sulfur limits as specified in division (A) above of this section may be sold, stored or transferred for use in the city if intended for use in combination simultaneously with other fuels in a facility whereby emissions of sulfur dioxide will not exceed that which could result from burning fuels having limits specified in division (A) above of this section;

(2) Fuels which exceed the sulfur limits specified in division (C) above of this section may be burned in industrial power plants, electric power generating plants and process plants if burned in combination with other fuels or materials in a facility whereby the emissions of sulfur dioxide shall not exceed that which would result from burning fuels specified in division (C) above of this section; and

(3) Any facility which has installed equipment which has been approved by the Department for the control of sulfur oxide emissions, may use fuels of higher sulfur content than that stipulated in divisions (A) and (C) above of this section.
(1995 Code, § 18.04.610) Penalty, see § 102.999

§ 102.152 EMISSIONS FROM SINGLE STACKS.

(A) After July 1, 1971, no person shall cause or permit the emission into the atmosphere from any new or existing stack of gases containing more than 1,200 parts per million by volume of sulfur dioxide at 20 % excess air, and after July 1, 1972, 850 parts per million, except as provided in division (B) below of this section.

(B) The limitation set forth in division (A) above of this section shall not apply to sulfur recovery plants or desulfurizing units employing the best available technology, as approved by the Director, for minimizing sulfur dioxide emissions, nor to other existing processes for which there is no generally accepted control method, as determined by the Director. (1995 Code, § 18.04.620) Penalty, see § 102.999

§ 102.153 RECORDS OF FUEL ANALYSES AND USAGE.

Records of the amount of daily fuel usage and an analyses of fuels shall be maintained. A quarterly summary of the records shall be submitted to the Department.
(1995 Code, § 18.04.630) Penalty, see § 102.999

§ 102.154 SULFURIC ACID MANUFACTURING PROCESSES.

(A) No person shall cause or permit the emission into the atmosphere from any existing sulfuric acid manufacturing process more than six and five-tenths pounds of sulfur dioxide per ton of 100 % acid produced. Acid mist emission levels shall not exceed more than five-tenths pounds per ton of 100 % acid produced and sulfur trioxide emissions shall be limited to two-tenths pounds per ton of 100 % acid produced.

(B) New sulfuric acid manufacturing processes shall include controls that limit emissions to four pounds of sulfur dioxide per ton of 100 % acid produced.

(1995 Code, § 18.04.640) Penalty, see § 102.999

§ 102.155 HYDROGEN SULFIDE.

No person shall cause or permit the emission into the atmosphere from any new or existing source of hydrogen sulfide in a manner and amounts that the concentrations thereof at the stack exceed a concentration of 160 parts per million by volume for a maximum period of two minutes at any time.

(1995 Code, § 18.04.650) Penalty, see § 102.999

SAMPLING AND TESTING

§ 102.170 AUTHORITY TO CONDUCT TESTS.

(A) (1) The Director is authorized to conductor cause to be conducted, a test or tests of existing process, fuel burning, refuse burning or control equipment, the operation of which, in his or her opinion, may result in emissions in excess of the limitations in this chapter or when, in his or her judgment, there is evidence that emissions from any equipment are exceeding any emission limitation prescribed in this chapter.

(2) When tests are requested by the Director, a detailed report of the tests shall be submitted within a reasonable time limit prescribed by the Director. He or she should be notified of the time and date of the testing and a representative of his or her office may be stipulated to be present during the conduct of the tests.

(B) Nothing in this section concerning tests conducted and paid by any person or his or her authorized agent shall be deemed to abridge the rights of the Director or his or her representative to conduct separate or additional tests of any process, fuel-burning or control equipment on behalf of the city at a reasonable time and if the tests substantiate that a violation exists, the person or persons liable for the violation shall be responsible for paying all attendant costs for conducting tests. (1995 Code, § 18.04.660)

§ 102.171 TEST FACILITIES AND ACCESS.

It shall be the responsibility of the owner or operator of the operation tested to provide, at his or her expense, reasonable and necessary openings in the system or stack and safe and easy access thereto, which shall permit technically valid samples and measurements to be taken. All new sources of air contaminants erected after the effective date of this chapter are required to provide adequate openings in the system or stack and safe and easy access thereto, which shall permit technically valid measurements and samples to be taken. If a person refuses to supply test openings, access scaffolding and other pertinent facilities requested for the purpose of conducting valid emission tests by the Director, the Director shall notify the person to show cause before the Director on a day certain, not less than ten or more than 20 days from the date of the notice, why the equipment should not be sealed. (1995 Code, § 18.04.670)

§ 102.172 STACK EMISSION TEST METHOD.

Stack emission tests shall be undertaken by generally recognized standards or methods of measurements recommended by the Federal Environmental Protection Agency, but these may be modified or adjusted by the Director to suit specific sampling conditions or needs based on good practice, judgment and experience. (1995 Code, § 18.04.680)

§ 102.173 FUEL SAMPLES.

The Director may at any time request samples of fuels being used in any operation for analyses. (1995 Code, § 18.04.690)

§ 102.174 EMISSION MONITORING.

The Director shall have the authority to request the installation and maintenance of a continuous emission monitoring device on any stationary source which in his or her opinion can exceed the limitations of this chapter. The date from the monitoring devices shall be maintained and a summary of the data shall be submitted to the Department quarterly. (1995 Code, § 18.04.700) Penalty, see § 102.999

§ 102.175 TAMPERING WITH TESTING DEVICES.

No person except duly authorized officers or employees of the city shall touch, remove, destroy, molest or mutilate any monitoring or testing device or contents owned or used by the city for monitoring or testing smoke, dust or other air contaminants. Any person shall be subject to the fines and penalties provided in this code. (1995 Code, § 18.04.710) Penalty, see § 102.999

VARIANCES IN GENERAL

§ 102.190 COMPLIANCE SCHEDULE.

(A) Where emission sources do not meet the emission limitations noted in §§ 102.105 to 102.155 of this chapter, then a compliance schedule to meet the emission limitations stipulated shall be developed and offered to the Director by the owner of the equipment causing the emission. This compliance schedule shall be submitted at a time fixed by the Director. After the compliance schedule has been approved by the Director, the owner of the equipment causing the emission shall not be in violation of this chapter so long as the compliance schedule is observed. In evaluating a compliance schedule, the Director shall take into consideration the following factors:

(1) Action taken to control atmospheric pollution within emission limitations in effect prior to the adoption of this chapter;

(2) Efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this chapter;

(3) Temporary interim control measures intended to minimize existing pollution levels;

(4) The effect the source of emission has on ambient air quality generally or in the immediate vicinity of the source;

(5) The degree of control in relation to other similar facilities which produce air pollution; and

(6) The age and prospective life of the facility in question.

(B) Reports consisting of information required by the Director indicating the progress of these compliance schedules shall be submitted quarterly to the Director by the owner of the equipment causing the emission in question.

(C) After the date stipulated for final compliance, an operating permit shall be issued when, in the opinion of the Director, all provisions of the compliance schedule have been satisfactorily completed.

(D) The compliance schedule developed in accordance with division (A) above of this section shall be legally enforceable, and failure to conform to the requirements of the compliance schedule shall constitute a separate violation of this chapter, apart from any violation of §§ 102.105 through 102.155 of this chapter. In the event of the violation of a compliance schedule, the Director may initiate the applicable provisions of § 102.999 for noncompliance.

(E) There shall be no violation if failure to meet the compliance schedule is for causes beyond the reasonable control of the owner or operator, as determined by the Director. Extension of time schedules may be granted by the Director when written evidence is presented that, in his or her opinion, would justify the granting of an extension of the schedule. (1995 Code, § 18.04.720) Penalty, see § 102.999

§ 102.191 SPECIFIC VARIANCES ENUMERATED.

(A) Where the presence of uncombined water is the only reason for failure of an emission to meet the requirement of § 102.105(B), the section shall not apply.

(B) Experimental procedures on new or existing process, fuel burning, refuse burning or other equipment or devices for use in a manner as to emit atmospheric pollutants may be conducted upon receipt of the written approval of the Director. The Director may grant a written approval to conduct experimental procedures for any period of time not to exceed one year, and he or she may, in addition to the time limitation, impose other conditions and limitations on the conduct of experimental procedures that he or she deems reasonable to minimize the effects of the experimental procedure on the ambient air. During the period of time the experimental procedures are conducted with the approval of the Director, the provisions of §§ 102.105 to 102.116 shall not apply. (1995 Code, § 18.04.730) Penalty, see § 102.999

§ 102.999 PENALTY.

(A) *Generally.* Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in § 10.99. Each day's violation shall constitute a separate offense, and an unlawful emission from each chimney, smoke stack, open fire or other point of discharge shall also constitute a separate offense. A separate and distinct offense shall be regarded as committed each day on which the person shall continue or permit any violation to exist after notification thereof by the Director. Any abatement provided for in §§ 102.105 through 102.155 of this chapter shall be in addition to any penalties prescribed in this section. (1995 Code, § 18.04.140)

(B) *Open burning.* Any person found in violation of this §§ 102.130 through 102.138 shall be subject to the following procedures.

(1) Any Fire Department personnel, police officer, Health Department Officer or City Inspector shall issue a warning notice to a first-time violator stating that he or she is in violation. The person must then correct the violation by immediately extinguishing the fire. Failure or refusal to immediately extinguish the fire shall result in a citation being issued, which shall be prosecuted by the City Attorney in the City Court.

(2) Violation of §§ 102.130 through 102.138 is punishable by a fine not exceeding $2,500 per occurrence.

(3) Failure or refusal by the violator to immediately extinguish the fire in violation of §§ 102.130 through 102.138 shall also result in the Fire Department having the authority to go upon private property to extinguish the fire.

(4) Each subsequent starting, kindling, causing or allowing of a new fire after a warning notice or citation has been issued, shall be considered a separate offense.
(Ord. 0-06-0014, passed 5-8-2006)

CHAPTER 103: JUNKED OR ABANDONED VEHICLES

Section

103.01 Definitions
103.02 Abandoning and leaving- generally
103.03 Allowing vehicles to remain on property
103.04 Removal by city- impounding
103.05 Immediate hazard constituting nuisance

§ 103.01 DEFINITIONS.

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

ABANDONED VEHICLE. Any motor vehicle whose owner has terminated the use and care of a motor vehicle and has left the motor vehicle on open lands and has either indicated by his or her words or actions an intent to leave the same and no longer claim ownership thereof or has left the same without making arrangements for the storage with the owner or occupant of the premises on which it is located, for a period of at least 30 days.

PROPERTY. Any real property within the city which is not a street or highway.

STREET or ***HIGHWAY.*** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

VEHICLE. A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.
(1995 Code, § 10.52.010)

§ 103.02 ABANDONING AND LEAVING- GENERALLY.

(A) No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city for a time and under circumstances as to cause the vehicle reasonably to appear to have been abandoned.

(B) No person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway within the city. (1995 Code, § 10.52.020) Penalty, see § 10.99

§ 103.03 ALLOWING VEHICLES TO REMAIN ON PROPERTY.

No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked, discarded vehicle or any vehicle without a valid state registration and license plate issued to the vehicle and to the occupant, owner, purchaser, lessor, lessee or tenant of any lot, building or structure therein or thereon situated, to remain on the property longer than 24 hours. No person shall leave any such vehicle on any property within the city for a longer time than 72 hours; except, that this section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.
(1995 Code, § 10.52.030) (Ord. 0-01-0021, passed 6-21-2001) Penalty, see § 10.99

§ 103.04 REMOVAL BY CITY-IMPOUNDING.

The Board of Public Safety is authorized to remove or have removed any vehicle left at any place within the city which reasonably appears to be in violation of this chapter or lost, stolen or unclaimed. The vehicle shall be impounded until lawfully claimed or disposed of. (1995 Code, § 10.52.040)

§ 103.05 IMMEDIATE HAZARD CONSTITUTING NUISANCE.

Where the existence of a motor vehicle on the public highways or thoroughfares or on private property shall be an immediate hazard requiring prompt abatement to protect the public safety and shall thereby constitute a nuisance, the Chief of Police may, on short notice or without notice, if notice is infeasible, cause the same to be removed. (1995 Code, § 10.52.050)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. BUSINESS LICENSES GENERALLY

111. AMUSEMENTS GENERALLY

112. ALUMINUM PURCHASE RECORDATION

113. AUCTIONS

114. BEVERAGE DELIVERY AND MANUFACTURE; FOOD MARKETS AND FOOD SERVICE ESTABLISHMENTS; WHOLESALE ITINERANT PRODUCE DEALERS

115. BUILDING CONTRACTORS AND MOVERS; CATCHBASIN AND SEWER CLEANERS; LUMBER YARDS AND STOREHOUSES; SIDEWALK CONTRACTORS

116. ENTERTAINMENTS AND SOLICITATIONS; COINOPERATED DEVICES; NIGHT CLUBS, DANCE HALLS AND SKATING RINKS

117. COAL OR COKE DEALERS

118. GASOLINE SERVICE STATIONS AND MOTOR VEIDCLE DEALERS

119. HOTELS

120. JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS

121. POOL ROOMS AND BOWLING ALLEYS

122. PUBLIC MOVERS

123. RENTAL HOUSING

124. RETAIL ESTABLISHMENTS SELLING ITEMS COMMONLY USED AS DRUG PARAPHERNALIA

125. SELF SERVICE LAUNDRIES

126. SHOOTING GALLERIES AND GUN CLUBS

127. SIGN ERECTORS

128. TAXICABS

129. COIN-OPERATED TELEPHONES

CHAPTER 110: BUSINESS LICENSES GENERALLY

Section

General Provisions

110.001 When required
110.002 Enforcement
110.003 Bond
110.004 Health certificates
110.005 Contents-compliance with code
110.006 Term
110.007 Procedure for changing licensed location
110.008 Transfer of licenses

Application

110.020 Contents
110.021 False statements
110.022 Affidavits
110.023 Compliance with zoning provisions
110.024 Investigations-disapproval

License Issuance

110.035 Qualifications-when required
110.036 Indebtedness to city

Fees

110.050 Payment
110.051 Prepayment
110.052 Refund for non-approval of license
110.053 Rebate
110.054 Prorating

110.055 License transfer

Insignia

110.070 Delivery
110.071 Posting-display
110.072 Issuance of duplicate
110.073 Alteration- removal
110.074 Use by other than licensee
110.075 Surrendering plates and certificates

GENERAL PROVISIONS

§ 110.001 WHEN REQUIRED.

It is unlawful for any person to conduct, engage in, maintain, operate, carry on or manage a business or occupation, thing or device for which a license is required without the license first having been procured for the business, occupation, thing or device as provided in this code or other ordinance of the city. (1995 Code, § 5.02.010) Penalty, see § 10.99

§ 110.002 ENFORCEMENT.

(A) It shall be the duty of the Chief of Police, the City Controller, all police officers and all officers and employees of the city charged with the enforcement of the provisions of this code to make inspections of the business, thing or device regulated and licensed under this code and to enforce, as may be provided by law, all laws of the city and state in the proper exercise of the police powers of the city.

(B) For the purpose of enforcing provisions of this code with regard to licenses, police officers shall have the right to request any person claiming to be licensed under this code to produce his or her license and to arrest any person who violates any of the license provisions of this code and shall have the right of entry at any time to any place of business for which a license is required by this code, for the purpose of ascertaining whether or not there has been compliance with the licensing provisions of this code. (1995 Code, § 5.02.020)

§ 110.003 BOND.

(A) (1) Any bond given by any person to the city under the license provisions of this code or other ordinance of the city shall, before a license is granted, be examined for approval as to form by the City Attorney or by his or her assistant at his or her direction.

(2) Except if otherwise specifically required, the City Controller shall investigate the sureties of any license bond, and if, upon investigation, he or she shall find that the same are good, he or she shall approve the bond; provided, that where a surety bond is required or furnished, the surety company must first be authorized to do business in the state.

(B) Any person exempt by law from the payment of any license fees shall, before beginning the business, present to the City Controller his or her credentials showing that he or she is entitled to the exemption and shall execute and file a bond as above provided, if required, and, upon the approval of the bond by the City Controller, he or she shall then receive a certificate from the City Controller authorizing him or her to engage in the business specified within the city for any period not longer than six months. If at the end of six months the person desires to continue in the business, another certificate must be procured from the City Controller in the same manner and upon the same terms as the original certificate.

(1995 Code, § 5.02.030) Penalty, see § 10.99

§ 110.004 HEALTH CERTIFICATES.

All persons who are engaged or desire to engage in any occupation or business for which a license is required and who produce or distribute food or food products or drinks shall present a health certificate, signed by a reputable practicing physician, which shall declare each person so engaged to be free from infectious or contagious disease. Blank certificates may be obtained from the Board of Health and shall be submitted to the Board of Health for approval, after execution, before transmission to the City Controller. (1995 Code, § 5.02.040)

§ 110.005 CONTENTS-COMPLIANCE WITH CODE.

Licenses shall be signed by the Mayor and be attested by the City Controller. All licenses issued shall bear the seal of the city, the name of the licensee, the address, nature or kind of business, occupation, thing or device licensed, the period for which the license is issued, the amount of the fee paid and other pertinent information as the City Controller shall prescribe. All licenses shall be subject to the provisions of this code or other ordinance of the city which may be in force at the time of the issuance thereof, or which subsequently may be passed by the Common Council.

(1995 Code, § 5.02.050) Penalty, see § 10.99

§ 110.006 TERM.

Except where otherwise expressly provided, all licenses shall be granted for a period of one year; except, that where otherwise expressly provided, every license shall expire on January 31 following the date of its issuance. All annual licenses, unless otherwise provided, shall be taken out and dated as of February 1. (1995 Code, § 5.02.060) Penalty, see § 10.99

§ 110.007 PROCEDURE FOR CHANGING LICENSED LOCATION.

If any person licensed to engage in a business or occupation at a particular place shall, before the expiration of the license period, desire to change the location of the place of business, he or she shall forthwith notify the City Controller of the fact. No business or occupation shall be engaged in under the authority of the license at the new location until notice of the change has been given as herein provided, and until the licensee shall have complied with all the provisions of this code or other ordinance of the city relating to the engaging in of the business or occupation at the new location, including the approval of the head of the bureau, division or department which originally approved the application for the license. (1995 Code, § 5.02.070)

§ 110.008 TRANSFER OF LICENSES.

(A) Any person to whom any license shall have been issued, the fee for which shall be not less than $25, may transfer and assign, except when otherwise specifically prohibited, the license to any other person of approved character and qualifications upon the following terms and conditions:

(1) Neither the transferor nor the transferee or assignee of the license shall then be under arrest or have been convicted within the last 12 months, immediately preceding the application for transfer, of any offense which by law or by this code shall constitute grounds for the revocation of the license;

(2) Written application for the transfer shall be filed in the office of the City Controller and a reasonable time shall be allowed for investigation of the facts relating to the conditions imposed upon the transfer; and

(3) No transfer shall be valid until the old license certificates, tags, plates, badges, emblems or other insignia, which have been issued to the licensee, shall have been surrendered and the license certificate shall have endorsed across the face thereof substantially the following: "Transferred this __day of__, 20 _, to____" and be duly signed by the Mayor and attested to by the City Controller.

(B) Where there has been compliance with the provisions of this code with regard to transfers of licenses, a new license certificate shall then be issued for the unexpired term of the old license authorizing the assignee or transferee of the license to engage in the same business or occupation at a place as may be named in the new license; provided, that no business or occupation shall be engaged in at any new location until the transferee shall have complied with the provisions of this code relating to the engaging in of the business or occupation at the new location.

(C) In all cases where a new bond is required, the person obtaining a new license shall give a bond with sureties which shall conform as near as may be to the bond upon which the surrendered license was issued.

(D) Not more than one transfer of ownership shall be allowed on any license, except where otherwise expressly permitted. (1995 Code, § 5.02.080) Penalty, see § 10.99

APPLICATION

§ 110.020 CONTENTS.

(A) The application for a license, upon presentment and surrender of the receipt of the Treasurer showing payment of the license fee as provided in § 110.050, shall be made in writing to the City Controller and shall contain or state the following:

(1) The full name, age, residence and address of the applicant for license;

(2) If applicant is an incorporated firm, association or corporation;

(3) If applicant is an incorporated firm or partnership, the application shall contain the full name and residence addresses of every individual composing the firm or partnership;

(4) If applicant is a limited partnership, the full names and residence addresses of the general partners thereof;

(5) If applicant is a corporation, the full names and residence addresses of its officers and resident agent and the place where and the time when it was incorporated;

(6) The exact location of the place of business or proposed location for which the license is sought;

(7) The nature of the business, occupation, thing or device for which the license is sought;

(8) Whether the applicant is a citizen of the United States;

(9) The experience, if any, the applicant has had in the business;

(10) The designation of a mailing address which will be acceptable to license for the receipt of letters or notifications for notice to appear before the proper city authorities to show cause why the license should not be revoked for failure upon the part of the licensee to comply with the provisions of this code or other ordinance of the city; and

(11) Any other pertinent information which the City Controller may require in conformity with the provisions of this code or other ordinance of the city or in the public interest.

(B) Where the application is merely for a renewal, unless otherwise specifically required, the City Controller may shorten the form upon verification of the applicant that all matters and answers are the same as in previous years. (1995 Code, § 5.02.090) Penalty, see § 10.99

§ 110.021 FALSE STATEMENTS.

It is unlawful for any person, either in his or her own behalf or for another, to make any false statements or false representations willfully for the purpose of obtaining any license or any undue advantage under this code or other ordinance of the city. (1995 Code, § 5.02.100) Penalty, see § 10.99

§ 110.022 AFFIDAVITS.

All applicants may be required to swear to any statement made in connection with the application for the issuance of any license. The affidavit may be made by the applicant before the City Clerk or a notary public in the office of the City Controller in which cases the oath shall be administered without cost. (1995 Code,§ 5.02.110) Penalty, see § 10.99

§ 110.023 COMPLIANCE WITH ZONING PROVISIONS.

The City Controller shall require that all license applications comply with provisions of the zoning regulations of this code. (1995 Code, § 5.02.120) Penalty, see § 10.99

§ 110.024 INVESTIGATIONS DISAPPROVAL.

(A) When a receipt of the Treasurer is presented showing the payment of the license fee for any application for a license which requires an investigation or an inspection by the city, an approval of the character or fitness of any applicant for a license or an approval of the proper location or condition of the premises in which the business, for which an application is made, is to be managed, conducted, operated or carried on, the City Controller shall transmit to each department, board or division charged with the investigation and approval of any application the information as may be necessary in order that the

required investigation or inspection may be made. Each department, bureau or division head charged with the investigation or inspection shall, immediately upon receipt of the information from the City Controller, cause an investigation or inspection to be made, and shall, within ten days after the receipt of the information from the City Controller, either approve or disapprove the issuance of the license and shall notify the City Controller accordingly.

(B) If any department, division or bureau head shall disapprove the application and the applicant for a license shall be in business or shall engage in the occupation for which the license is sought, it shall be the duty of the department or bureau head to take action as may be necessary to compel compliance with the provisions of this code. (1995 Code, § 5.02.130) Penalty, see § 10.99

LICENSE ISSUANCE

§ 110.035 QUALIFICATIONS-WHEN REQUIRED.

(A) Upon receiving satisfactory proof from the City Controller that the applicant or each of the principal officers, if the applicant is a corporation, is a fit and proper person to be granted a license, and that all laws and provisions of this code regulating the business or occupation, thing or device for which the license is applied for have been complied with, the City Controller may authorize and issue a license.

(B) In all cases where licenses are required to be procured, the licenses shall, upon full compliance by the applicant, be granted and issued by the City Controller. (1995 Code, § 5.02.140)

§ 110.036 INDEBTEDNESS TO CITY.

No license or permit shall be issued to any person indebted to the city until the person pays to the city all indebtedness then due for the person. (1995 Code, § 5.02.150) Penalty, see § 10.99

FEES

§ 110.050 PAYMENT.

The applicant for a license shall obtain a statement from the City Controller showing the amount to be paid and on what account and present the same to the Treasurer together with the required fee. The applicant shall then be given the receipt of the Treasurer showing payment therefor, which receipt the applicant shall deliver to the City Controller who shall thereupon issue a quietus to the person.
(1995 Code, § 5.02.160)

§ 110.051 PREPAYMENT.

(A) Whenever a license cannot be issued at the time an application for the same has been made, the Treasurer shall issue a receipt to the applicant for the money paid in advance. All receipts shall have plainly indicated thereon that the receipt of payment of the license fee is not to be construed as the issuance of a license.

(B) No receipt or the payment of any license fee in advance of the issuance of a license in due form shall entitle or authorize any person to any of the rights or privileges conferred by the issuance of any license or to the opening or maintaining of any business or establishment contrary to any of the provisions of this code or other ordinance of the city. (1995 Code, § 5.02.170)

§ 110.052 REFUND FOR NONAPPROVAL OF LICENSE.

(A) In the event a license is denied, the license fee paid shall be returned upon due demand.

(B) Whenever a license is not approved and the applicant has not engaged in the business or occupation for which the license was sought, the license fee paid in advance shall be refunded to the applicant, upon the recommendation and approval of the City Controller. (1995 Code, § 5.02.180)

§ 110.053 REBATE.

In no event shall any rebate or refund be made of any license fee or part thereof by reason of the death of the licensee or by reason of nonuse of the license or by reason of a change of location or occupation of the licensee; provided, that the provisions of this section shall not be construed to prevent the Common Council from authorizing a refund of a license fee or a portion thereof where the license fee was collected through an error, or where the holder has been prevented from enjoying the full license privilege due to induction into the armed services of the United States, under the provisions of federal acts, and has been stationed beyond the limits of the city. Where any rebate of any fee is made because of the induction into the armed services of the United States, it shall be for a sum not greater than the amount of the unused license period. (1995 Code, § 5.02.190)

§ 110.054 PRORATING.

When prorating of fees for licenses for a new place of business, occupation, thing or device is permitted, it shall be determined on the basis of the proportionate part of the calendar year remaining after the date of issuance, unless specifically provided otherwise; provided, that a full month's proportionate share shall be charged for any fractional part of any calendar month covered by the license and no fractional or proportionate rate shall be charged where a specific amount is provided for terms of less than one year; provided further, that no license shall be issued in any case for less than one-fourth of the annual fee. (1995 Code, § 5.02.200)

§ 110.055 LICENSE TRANSFER.

An additional fee of $2 shall be collected for a transfer of ownership of license, unless otherwise expressly provided. (1995 Code, § 5.02.210) Penalty, see § 10.99

INSIGNIA

§ 110.070 DELIVERY.

(A) In all cases where any provision of this code requires a license to be obtained and the regulation pertaining thereto also requires the licensee to obtain and exhibit a plate, tag, badge, emblem or

other insignia, it shall be the duty of the City Controller to deliver the insignia, free of charge, to the licensee and the fee paid shall be considered as including the cost of the insignia.

(B) The license plate, tag, emblem, badge or other insignia shall be impervious to weather and shall bear the same serial number as the license. Whenever practical, it shall be the duty of the City Controller to change annually the predominate background color of the insignia.

(1995 Code, § 5.02.220) Penalty, see § 10.99

§ 110.071 POSTING-DISPLAY.

(A) When a license certificate is delivered to any licensee who has designated therein a building, room, store, office or place in which the licensed business or occupation is to be conducted, it shall be the duty of the licensee to post the same in a conspicuous place upon the licensed premises.

(B) Every licensee operating a vehicle, for which a license plate is issued under the provisions of this code, shall have the plate securely fastened and plainly visible on the outside of each vehicle used or licensed in the conduct of the business or occupation.

(C) Every licensee operating any device or thing shall have the license tag or certificate affixed and displayed in a conspicuous place on the device or thing.

(D) No license certificate, plate, badge, tag, emblem or other insignia shall be permitted to remain posted or displayed after the period for which the license was issued has expired.

(1995 Code, § 5.02.230) Penalty, see § 10.99

§ 110.072 ISSUANCE OF DUPLICATE.

In case any licensee who has been furnished a plate, badge, tag, emblem or other insignia, in accordance with the provisions of this code shall lose the same, it shall be within the discretion of the City Controller to authorize an issuance of a duplicate insignia, upon the making of an affidavit of loss by the person and the payment of a fee of $0.50 to the city, unless otherwise provided.

(1995 Code, § 5.02.240) Penalty, see § 10.99

§ 110.073 ALTERATION-REMOVAL.

(A) No person shall add to, alter, deface, forge or counterfeit any license certificate or license plate, tag, badge, emblem or other insignia which has been or is being issued by the city.

(B) No person shall destroy, obliterate, take, remove or carry away without the consent of the owner any license certificate or license plate, tag, badge, emblem or other insignia which has been issued by the city; except, that the certificate, plate, tag, badge, emblem or other insignia may be removed after the licensed business has been discontinued or the licensed premises have been abandoned or the period of the license has expired. Nothing contained in this section shall prevent the Mayor or his or her duly authorized representative or the City Controller from removing any license certificate, emblem or insignia from the possession of a former licensee or from his or her premises, device or thing from any vehicle when the license has been revoked under the provisions of this code or other ordinance of the city.

(1995 Code, § 5.02.250) Penalty, see § 10.99

§ 110.074 USE BY OTHER THAN LICENSEE.

(A) It is unlawful for any licensee to lend or give away any license certificate or any license plate, tag, badge, emblem or other insignia issued to the licensee.

(B) It is unlawful for any person to use or display any license certificate or license plate, badge, tag, emblem or other insignia which has been unlawfully acquired.

(1995 Code,§ 5.02.260) Penalty, see § 10.99

§ 110.075 SURRENDERING PLATES AND CERTIFICATES.

Upon revocation of any license, the license plates and certificate, if any, shall be returned to the City Controller. (1995 Code, § 5.02.270) Penalty, see § 10.99

CHAPTER 111: AMUSEMENTS GENERALLY

Section

General Provisions

111.01 Definitions
111.02 Grounds for revocation of license

Amusement Places

111.15 License-required
111.16 License-application
111.17 License-fees-schedule
111.18 License-fees-exemptions
111.19 License-nontransferable-revocation
111.20 Insurance-bonds
111.21 Inspection
111.22 Use of city streets
111.23 Advertising
111.24 Location
111.25 Bond for carnivals
111.26 Tickets

Temporary Structures

111.40 Building permit required
111.41 Building permit-application contents
111.42 Building permit-application-submission
111.43 Building permit-approval
111.44 Occupancy permit
111.45 Attendance of city fire equipment at location

GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

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

AMUSEMENT. Any theatrical exhibition, show and similar entertainment offered, operated, presented or exhibited for gain or for admission to which the public is required to pay a fee.

AMUSEMENT PLACE. The place, auditorium, hall, theater, park, grounds, gardens, tents or other enclosures within which it is intended to produce, offer or present any amusement.

(1995 Code, § 5.04.010)

§ 111.02 GROUNDS FOR REVOCATION OF LICENSE.

(A) All licenses issued under this chapter shall be subject to the right which is expressly reserved to revoke the same should the licensee, directly or indirectly sell or lend or offer to sell or lend, give away or offer to give away or in any manner exhibit or have in his or her possession with or without intent to sell, lend or give away, any obscene book, pamphlet, paper, drawing, lithograph, stereoscopic picture, model, cast, instrument or article which is obscene or instrument or article for procuring abortion or for self-pollution or medicine for procuring abortion or advertise the same or any of them for sale or write or print any letter, circular, handbill, card, book, pamphlet, advertisement or notice of any kind or give information orally, stating when, how, where or by what means or of whom any of the obscene articles or things hereinbefore mentioned can be purchased, borrowed, presented or otherwise obtained or are manufactured or whoever knowingly manufactures or draws and exposes or draws with intent to sell or have sold or prints the articles or things; provided, that nothing in this section shall be construed to affect teaching in regularly chartered medical colleges, the publication of standard medical books or the practice of regular practitioners of medicine or druggists in their legitimate business.

(B) For the purposes of this section, obscene items as listed herein are defined as those items listed in this section which depict or describe sexual conduct, normal or perverted, actual or simulated, in a patently offensive way and, taken as a whole, appeal to the prurient interest in sex lacking serious literary, artistic, political or scientific value, which sexual conduct shall include but not be limited to fornication, cunnilingus, analingus, sodomy, fellatio, sadism, masochism, bestiality, excretory functions, masturbation and lewd exhibition of the genitals. (1995 Code, § 5.04.020) Penalty, see § 10.99

AMUSEMENT PLACES

§ 111.15 LICENSE-REQUIRED.

It is unlawful for any person to own, manage, lease or operate any amusement place, amusement or carnival without first obtaining a license as provided in this code.

(1995 Code, § 5.04.030) Penalty, see § 10.99

§ 111.16 LICENSE-APPLICATION.

The owner, manager or lessee of any licensed amusement place or carnival shall file his or her application for a performance license or permit in conformity with the provisions of this code and shall, in addition, offer information concerning the structure, equipment and capacity of the amusement place or carnival together with other relevant facts. (1995 Code, § 5.04.040) Penalty, see § 10.99

§ 111.17 LICENSE-FEES-SCHEDULE.

(A) *Amusement places.* Every amusement place shall pay an annual license fee of $100 per year for each year the same is so used; provided, that this provision requiring a payment of a license fee shall not apply to any church or school building within the city, unless they are used, leased or rented for gain or hire, provided also, that the license shall be separate and is not to be accepted in lieu of the license for specific amusements as provided in the following division.

(B) *Amusements.* No person shall operate, manage, conduct, present, offer give or cause to be given within the city any of the following without first obtaining a performance license to do so and without paying the following fees.

For each circus, menagerie, caravan or hippodrome or combinations of the same, per day	$100
In addition, for each exhibition to which a separate admission is charged, per day	$25
For each theatrical exhibition, live or filmed, or musical concert, per day of operation	$10
For each rodeo, horse show, tent show, dog and pony show, exhibition or show of puppets, panorama, jugglery, sleight of hand performance, industrial and trade shows, monkey shows, wild west shows or animal shows, per day	$5
For each combined vaudeville, variety, musical or minstrel shows, per day	$5
For each amusement operated by motor power or other than animal power, including devices, apparatus and attractions and entertainments for the transportation of persons, per day, except merry-go-rounds	$100
For each merry-go-round, per day	$10
For each amusement consisting of pony or animal rides or attractions operated by animal power for the transportation of persons, per day	$10
For each entertainment, exhibition, performance, contest or amusement not specifically included in any of the categories of this section, per day	$5

(C) *Carnivals.* Nothing herein to the contrary provided, the required fee for conducting or exhibiting a carnival in the city shall be the sum of $500 for each show or exhibition, which shall be good for a license period not to exceed three days, which sum shall be payable in advance and no license shall be granted except upon the payment of the full fee. (1995 Code, § 5.04.050) Penalty, see § 10.99

§ 111.18 LICENSE-FEES-EXEMPTIONS.

(A) Nothing contained in this subchapter shall be construed to require a license fee from any religious, educational, charitable, literary or scientific club or corporation when presenting the entertainment or amusement where the entire profit from the venture shall inure to and be used for the organization. If any club or corporation shall present any amusement or carnival, contemplated in or by this subchapter, where it is to receive only a percentage of the profits, a license shall be required as provided in this subchapter; provided, that the fee therefor shall be reduced in the same proportion as the club's share of the proceeds is to the gross receipts of the show, entertainment or amusement.

(B) No license fee shall be required for musical entertainment or concerts and exhibitions of painting and statuary given or made by citizens of the city. No license fee shall be required under this subchapter for amusements given in halls, buildings or rooms licensed as amusement places. No license fee shall be required for musical entertainment or concerts and exhibitions of painting and statuary given or made by citizens of the city. No license fee shall be required under this subchapter for amusements given in halls, buildings or rooms licensed as amusement places. No license fee shall be required for historic, scientific or benevolent or literary subjects and the apparatus for the elucidation of the same, including specimens of fine arts. (1995 Code, § 5.04.060) Penalty, see § 10.99

§ 111.19 LICENSE-NONTRANSFERABLE-REVOCATION.

All licenses issued under this subchapter shall be nontransferable, and all licenses so issued shall be subject to the right to revoke the same should the licensee, directly or indirectly, suffer or permit the display or exhibition of any thing or person contrary to good morals as provided in § 111.02.
(1995 Code, § 5.04.070) Penalty, see § 10.99

§ 111.20 INSURANCE-BONDS.

(A) The applicant for a license under this subchapter shall furnish evidence to the City Controller that a public liability insurance policy in amounts of not less than $500,000 for one person and $1,000,000 for any one accident shall be in force and effect at the time the structure is to be occupied as a place of assembly by the public.

(B) The applicant shall deposit with the City Treasurer a cash bond in the sum of $5,000, conditioned upon saving harmless from any and all liabilities or causes of action, which might arise by virtue of the granting of a permit to the applicant, and conditioned further that no damage will be done to the streets, sewers, trees or adjoining property and that no dirt, paper, litter or other debris will be permitted to remain upon the streets or upon any private property by the applicant. The cash bond shall be returned to the applicant upon certification by the Chief of Police that there has been compliance with all conditions of this subchapter. (1995 Code, § 5.04.080) Penalty, see § 10.99

§ 111.21 INSPECTION.

Every amusement place and carnival at which an admission fee is charged shall be required to be inspected by the proper city authorities and be licensed pursuant to the provisions of this code.
(1995 Code, § 5.04.090) Penalty, see § 10.99

§ 111.22 USE OF CITY STREETS.

(A) No circus, dog or pony show, menagerie or other shows shall use the streets of the city without first having obtained a permit from the Board of Public Safety therefor and without having the route of travel of the show approved in advance by the Board of Public Safety.

(B) The Board of Public Safety shall require as a condition for the use of the streets that the applicant agrees to repair and replace any pavement which may be damaged by it in the use of the streets and may require that a bond, with sureties to be approved by the Board, be furnished, which bond guarantees the payment.

(C) No applicant shall deviate from the route fixed or approved by the Board of Public Safety.

(D) The marks or signs placed to serve as guides or to designate the routes of travel shall be made in chalk or other means which shall be temporary in character. The city streets shall not be used for the parking of wagons, trucks or other vehicles belonging to the circus, dog and pony show, menagerie or other show. (1995 Code, § 5.04.100) Penalty, see § 10.99

§ 111.23 ADVERTISING.

It is unlawful for any person to post, tack or paste any advertising matter or banner concerning any amusement upon the outside of any building, fence or structure within the city; provided, that this provision shall not apply to any regularly established billboard or those which are erected especially for this purpose; provided further, that any and all other advertising matter concerning the amusement or performance shall be removed immediately after the date of the amusement.
(1995 Code, § 5.04.110) Penalty, see § 10.99

§ 111.24 LOCATION.

The amusement places, carnivals and amusements provided in this subchapter shall be located only at those places permitted by the zoning regulations. (1995 Code, § 5.04.120) Penalty, see § 10.99

§ 111.25 BOND FOR CARNIVALS.

No license shall be granted under the terms of this subchapter until the applicant shall have given to the city a bond in the penal sum of $25,000, conditioned to indemnify and to keep and save harmless the city against all liabilities, judgments, costs, damages and expenses which may in any way come against the city in consequence of the granting of the license or which may accrue against, be charged to or recovered from the city, from or by reason or account of any act or thing done, omitted or neglected to be done by the licensee in and about the conduct of the carnival in the construction, maintenance, use and removal of all materials and equipment provided for the conduct of the carnival. The bond shall be conditioned further that during the conduct of the carnival, public ways or public places will be kept clean and free from paper, debris or refuse and that upon termination of the license, by lapse of time or otherwise, all materials and equipment will be removed and the streets and sidewalks cleaned, and if damaged, will be repaired and restored to the condition they were in at the time the license was granted. The bond shall be continuing in effect until the carnival, material and equipment are removed and the public ways are restored as required. (1995 Code, § 5.04.130) Penalty, see § 10.99

§ 111.26 TICKETS.

All tickets to be used for admission to any amusement place or carnival governed by this subchapter shall have printed thereon in legible type the name of the owner, promoter or sponsor, type of entertainment to be presented, the date of the presentation and the admission price. If a government tax or service charge is to be paid, the ticket shall show on its face the amount of the tax or charge. If no tax is to be collected, the tickets shall so state. (1995 Code, § 5.04.140) Penalty, see § 10.99

TEMPORARY STRUCTURES

§ 111.40 BUILDING PERMIT REQUIRED.

It is unlawful for any person to erect or cause to be erected any temporary structure composed, wholly or partly, of canvas or similar material to be used as a place of amusement, carnival or for any religious, educational or recreational purposes or for any other public assemblages whatsoever within the city without first having made application for and having received a permit to do so in accordance with the conditions and limitations as set out in this subchapter. (1995 Code,§ 5.04.150) Penalty, see § 10.99

§ 111.41 BUILDING PERMIT-APPLICATION-CONTENTS.

(A) The application for the permit for temporary structures, as required in § 111. 40 shall be presented to the City Controller and shall be accompanied by a set of building plans, in duplicate, drawn to scale, which shall indicate clearly:

(1) The type of construction;

(2) The seating arrangements;

(3) The aisles;

(4) The structural details and calculations of the seats and supports;

(5) The location of all electrical wiring;

(6) The location of all exits;

(7) The location of all fire equipment within the structure and the specifications of the equipment; and

(8) The location, insofar as feasible, or adjacent structures and obstructions which might hinder the free egress of persons from the exits.

(B) The application shall further specify:

(1) Whether any open flame is intended to be used within the structure, and if so, what precautions are to be taken to render it safe;

(2) The name of the person which will use the structure;

(3) The location of the principal place of business of the person;

(4) The names and addresses of the officers if firm or corporation;

(5) The length of time the structure is intended to be used for the purpose for which the application was made;

(6) The hours of the day or night during which the structure is intended to be used as a place of assembly;

(7) The formula of the solution which is to be used to flameproof the structure;

(8) What provisions have been made for sanitary facilities for persons using the premises on which the structure is to be erected or is maintained; and

(9) Any other relevant information as the Fire Chief may require.
(1995 Code, § 5.04.160)

§ 111.42 BUILDING PERMIT-APPLICATION-SUBMISSION.

This application and plans required by § 111.41 shall be submitted to the Fire Chief at least ten days prior to the date of the opening of any structure, and he or she shall be notified at least 48 hours prior to the erection of the structure, so that he or she may make an inspection during reasonable daylight hours. (1995 Code, § 5.04.170) Penalty, see § 10.99

§ 111.43 BUILDING PERMIT -APPROVAL.

If the Fire Chief finds that the following provisions are or will be complied with by the applicant, he or she shall recommend that a license and permit be issued to erect or maintain a temporary structure, conditional upon reasonable limitations and requirements as he or she may deem necessary for the safety of persons and property.

(A) The Fire Chief or the Fire Inspector upon his or her orders shall determine and make his or her recommendations on a temporary structure if the applicant has made provisions for:

(1) Adequate aisles, seats, platforms and poles;

(2) Sufficient exits that are well marked and properly lighted;

(3) Lighted and unobstructed passageways to areas leading away from the structure;

(4) Removal before the structure is to be used as a place of public assembly of any pole, rope or other obstruction in any aisle or exit;

(5) Inspection before the opening of each performance by a qualified electrician to ascertain if any defects exist in the wiring, and provision made for the immediate correction of any defects which may be found during the inspection;

(6) Sufficient first aid fire appliances to be distributed throughout the structure with operating personnel familiar with the operation of the equipment available and assigned during the use of the structure as a place of assembly;

(7) Sufficient "No Smoking" signs, the signs being visible at all times;

(8) An employee at each entrance to require the extinguishing of all cigarettes, cigars and other smoking materials;

(9) Announcement at frequent intervals to the persons in the assembly of the fact that smoking within the structure is prohibited;

(10) Proper safeguarding of any use of open flames or its use prohibited;

(11) The clearing of straw, dry grass, sawdust and any combustible trash from the structure before it is opened to the public, and arrangements made to keep the areas where debris may be expected to accumulate well serviced, especially under open seats;

(12) Proper facilities for calling the city fire force;

(13) Special fire equipment of the city to attend at the structure during its use as a place of public assembly as the Fire Chief may decide is necessary for proper fire protection;

(14) The attendance of special police officers and firefighters as the Fire Chief may deem necessary for the control of persons in the assembly to prevent overcrowding, obstruction of aisles and exits and other control as may be necessary to render the occupation of the structure by the public safety; and

(15) The tent and canvas parts of the structure and all combustible decorative materials, including curtains, acoustic materials, streamers, cloth, cotton batting, straw, vines, leaves, trees and moss, to be rendered fireproof.

(B) The City Health Officer shall make an inspection to determine if provision has been made for satisfactory sanitary facilities on or near the premises on which the temporary structure is maintained or is to be maintained. Upon completing his or her inspection, the City Health Inspector shall make his or her recommendations concerning a permit.

(C) The Building Commissioner shall make an inspection to determine whether satisfactory provisions have been made for the public safety of persons on or near the premises on which the temporary structure is maintained or is to be maintained. Upon completion of his or her inspection, the Building Commissioner shall make his or her recommendations concerning a permit.

(1995 Code, § 5.04.180) Penalty, see § 10.99

§ 111.44 OCCUPANCY PERMIT.

(A) Upon completion of a temporary structure, it shall not be used as a place of assembly until the Fire Chief has inspected the entire premises upon which the structure is located.

(B) If the Fire Chief finds that all of the limitations and requirements of the permit and this subchapter have been complied with and that the structure has been erected in accordance with the plans

and specifications submitted with the application, he or she shall recommend that a permit be granted to occupy the premises.

(C) It is unlawful for any person to cause or permit the occupancy of the structure as a place of assembly, without the issuance of the permit to occupy the structure as herein provided.

(D) If the Fire Chief finds that the structure or the premises on which it is located is being maintained in violation of any of the provisions of the permit or any of the provisions of this subchapter or in a manner as to constitute a fire hazard, he or she may revoke the permit to occupy herein provided.

(E) Any person whose permit to occupy has been revoked as provided in this subchapter may, within ten days after receipt of a notice thereof, appeal to the Mayor for a hearing thereon, and the decision of the Mayor in this regard shall be final. If no appeal is taken within ten days as provided herein, the action of the Fire Chief shall be final. (1995 Code, § 5.04.190) Penalty, see § 10.99

§ 111.45 ATTENDANCE OF CITY FIRE EQUIPMENT AT LOCATION.

If the Fire Chief determines that the attendance of fire equipment at the location of a temporary structure during the use of the structure as a place of assembly is necessary for the safety of persons and property, the Fire Chief shall require that the applicant deposit with the City Controller a sum equal to the reasonable value of the use of the equipment and the furnishing of the necessary personnel for the time as will be required in order to reimburse the city for the expense.

(1995 Code, § 5.04.200) Penalty, see § 10.99

CHAPTER 112: ALUMINUM PURCHASE RECORDATION

Section

112.01 Definitions
112.02 Record of purchases- retention and filing of copies
112.03 Purchases to be kept separate and identifiable
112.04 Applicability of provisions

112.99 Penalty

§ 112.01 DEFINITIONS.

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

ALUMINUM METALS. Any object constructed out of aluminum and includes items such as aluminum siding, doors, downspouts, drains, poles or items constructed out of aluminum metals or aluminum alloys but excludes aluminum cans.

SCRAP DEALER. Any individual, firm, corporation or partnership engaged in a business of purchasing and reselling metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk and junk carts or trucks.

(1995 Code, § 9.36.010) (Ord. 3504, passed--1989)

§ 112.02 RECORD OF PURCHASES-RETENTION AND FILING OF COPIES.

(A) Every scrap dealer in the city shall report in duplicate for each purchase of aluminum metals the following information:

(1) The name and address of the dealer;

(2) The date and place of each purchase;

(3) The name, address, age, driver's license number or Social Security number of the person or persons from whom the aluminum metal was purchased;

(4) The motor vehicle licensed number of the vehicle or conveyance on which the aluminum metal was delivered to the dealer;

(5) The price paid for the metal; and

(6) The description of the aluminum metal purchased including the weight and what type of item it was.

(B) One copy of the completed notice shall be kept in a book or register by the dealer and shall be retained for a period of two years. The book or register shall be made available for inspection by any law enforcement official at any time. Within 24 hours from the date of purchase, one copy of the report shall be mailed to the Police Department. (1995 Code, § 9.36.020) (Ord. 3504, passed--1989) Penalty, see § 112.99

§ 112.03 PURCHASES TO BE KEPT SEPARATE AND IDENTIFIABLE.

While every scrap dealer shall hold each purchase of aluminum metal at his or her regular place of business, he or she shall hold it separate and apart so that it is readily identifiable from all other purchases. During the period, a dealer may not change the form of the aluminum metal and shall permit any law enforcement officer to make inspection of the aluminum metal purchased.

(1995 Code, § 9.36.030) (Ord. 3504, passed--1989) Penalty, see § 112.99

§ 112.04 APPLICABILITY OF PROVISIONS.

The provisions of §§ 112.02 and 112.03 do not apply to purchases from persons, firms or corporations regularly engaged in the business of manufacturing or selling aluminum metals should the persons, firms or corporations at the time of purchase or sale, provide the dealer with a bill of sale or other written evidence of title to the aluminum metal. The sale of used aluminum cans which contain beverages and/ or foods is not required to be reported.

(1995 Code, § 9.36.040) (Ord. 3504, passed--1989) Penalty, see § 112.99

§ 112.99 PENALTY.

A scrap dealer who fails to comply with this chapter is subject to a fine of up to $1,000. Each day that a scrap dealer so fails to comply constitutes a separate offense.

(1995 Code, § 9.36.050) (Ord. 3504, passed--1989)

CHAPTER 113: AUCTIONS

Section

113.01 Definitions
113.02 Hours of sale
113.03 Location of sale
113.04 Attracting attention to sale
113.05 Conditions of sale
113.06 Property for sale-announcement of description
113.07 Identification tags-sales book
113.08 False representations
113.09 Return of misrepresented goods
113.10 Substitution of articles
113.11 Fictitious bids
113.12 Enforcement of chapter

§ 113.01 DEFINITIONS.

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

AUCTIONEER. Every person who shall engage in the profession of conducting auction sales or crying off property at auction, except those who act by virtue of legal process. The term ***AUCTIONEER*** includes those who conduct an auction sale or cry off the property of others.

AUCTION SELLER. Every person whose property is sold or offered for sale at auction, except one whose property is sold or offered for sale by virtue of legal process.

LEGAL PROCESS. Any writ, process or order of any kind issued by any court.

PROPERTY. Personal property of every kind but not real property, except where a different meaning is specified. (1995 Code, § 5.06.010)

§ 113.02 HOURS OF SALE.

No personal property shall be sold or offered for sale at auction within the city between sunset of each day and sunrise of the following day, and the auction seller as well as the auctioneer shall be responsible for compliance with this section at every auction sale.

(1995 Code, § 5.06.020) Penalty, see § 10.99

§ 113.03 LOCATION OF SALE.

No real or personal property shall be sold at auction or exposed for sale by any auctioneer in any street, alley or public place in the city. (1995 Code, § 5.06.030) Penalty, see § 10.99

§ 113.04 ATTRACTING ATTENTION TO SALE.

No bellman, criers, instruments of music, signals or any other means of attracting the attention of the public, other than a sign or flag, shall be employed or suffered or permitted to be used in connection with any auction sale at or near any place of the sale or at or near any auction room.

(1995 Code, § 5.06.040) Penalty, see § 10.99

§ 113.05 CONDITIONS OF SALE.

It shall be the duty of every auctioneer before beginning any auction sale of real or personal property to state fully the terms and conditions upon which the sales will be made.

(1995 Code, § 5.06.050) Penalty, see § 10.99

§ 113.06 PROPERTY FOR SALE ANNOUNCEMENT OF DESCRIPTION.

It shall be the duty of every auctioneer, who shall offer for sale real or personal property of any kind whatever, to announce to the persons present, before proceeding to sell the same, the character, quality and description of the property offered for sale. (1995 Code, § 5.06.060) Penalty, see § 10.99

§ 113.07 IDENTIFICATION TAGS-SALES BOOK.

(A) All property sold at auction within the city shall have attached thereto a tag plainly marked in the English language stating fully and truthfully the name of the article, the quality thereof and whether the article is genuine or imitation. The auction seller as well as the auctioneer shall be responsible for full compliance with this section.

(B) At every auction sale within the city, there shall be kept a sale book in which each purchaser shall immediately after making a purchase sign his or her true name and address, opposite which the auctioneer shall write the name of the article purchased as the same appears upon the tag and the sale price thereof, and the article shall be delivered to the purchaser with the tag intact and attached thereto.

(1995 Code, § 5.06.070) Penalty, see § 10.99

§ 113.08 FALSE REPRESENTATIONS.

No auctioneer or person who is present when any real or personal property is offered for sale, shall knowingly, with intent to induce any person to purchase the property or any part thereof, make any

false representation or statement as to the ownership or the character or quality of the property so offered for sale or as to the property or circumstances of the owner or pretended owner of the property.

(1995 Code, § 5.06.080) Penalty, see § 10.99

§ 113.09 RETURN OF MISREPRESENTED GOODS.

(A) The purchaser at an auction sale of any personal property shall have the right to return it to the auctioneer at any time within five days from the day of sale, if it is not of the quality represented to him or her and the auctioneer shall return to the purchaser the price of the article.

(B) It is declared to be unlawful for the place of sale or the place of business of any auctioneer to have been closed at any time during the period of five days for the purpose of avoiding any offer to return any article so sold. (1995 Code, § 5.06.090) Penalty, see § 10.99

§ 113.10 SUBSTITUTION OF ARTICLES.

It is unlawful for any auctioneer to exhibit and offer for sale at auction any article and induce its purchase by any bidder, or to substitute afterward any article in lieu of that offered to any purchased by the bidder. (1995 Code, § 5.06.100) Penalty, see § 10.99

§ 113.11 FICTITIOUS BIDS.

(A) No auctioneer shall procure any person to make a fictitious bid at any auction sale of real or personal property, or shall conspire with any person to make a fictitious bid at any auction sale, nor shall any auctioneer himself or herself fictitiously raise any bid at any auction sale.

(B) No person shall act as bidder or what is commonly known as a capper, booster or shiner at any auction or place, or offer or make any false bid to buy or pretend to buy any article sold or offered for sale at any public auction. (1995 Code, § 5.06.110) Penalty, see § 10.99

§ 113.12 ENFORCEMENT OF CHAPTER.

The City Inspector of Weights and Measures will no longer enforce the provisions of this chapter. (1995 Code, § 5.06.120)(Ord. 0-10-0016, passed 11-22-2010)

CHAPTER 114: BEVERAGE DELIVERY AND MANUFACTURE; RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT; WHOLESALE ITINERANT PRODUCE DEALERS

Section

Beverage Delivery and Manufacture

114.01 License-required
114.02 License-fee
114.03 Sanitation

Retail Food Establishment and Bed and Breakfast Establishment

114.15 Title
114.16 Purpose
114.17 Authority
114.18 Adoption by reference
114.19 Definitions
114.20 Permits
114.21 Fees
114.22 Sale, examination and condemnation of unwholesome, adulterated or misbranded food
114.23 Inspection of retail food establishments

Wholesale Itinerant Produce Dealers

114.35 Defined
114.36 Identification of vehicles
114.37 Inspections of food and vehicles
114.38 Sale of unwholesome products
114.39 Health and sanitation
114.40 Inspection and sealing of weights and measures

114.41 Licenses-required
114.42 Licenses-application
114.43 Licenses-fees
114.44 Licenses-issuance of license plates

BEVERAGE DELIVERY AND MANUFACTURE

§ 114.01 LICENSE-REQUIRED.

(A) It is unlawful for any person to deliver from wagons or other vehicles to soft drink parlors, places of business or other houses or buildings selling beer, pop, soda water, seltzer or carbonated beverages or any of them within the city without first having obtained a license to do so. A license granted under this subchapter shall authorize the delivering of the articles designated by any and all employees of the person.

(B) It shall be unlawful for any person to manufacture for sale, barter, exchange or otherwise any soda drinks intended or reasonably likely to be used as a beverage without first obtaining a license to do so; provided, that this section shall not apply to any person selling water, nor any persons manufacturing wine or vinegar for his or her own domestic consumption, nor to the sale of juices or liquids for purely cooking purposes. (1995 Code, § 5.08.010) Penalty, see § 10.99

§ 114.02 LICENSE-FEE.

The application and issuance of licenses under this chapter shall be in conformity with the general licensing provisions of Chapter 110. The annual fee for licenses issued under this subchapter shall be $50. (1995 Code, § 5.08.020) Penalty, see § 10.99

§ 114.03 SANITATION.

All sanitary roles and requirements must be met and the Board of Health shall cause reasonable and necessary inspections to be made. (1995 Code, § 5.08.030) Penalty, see § 10.99

RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT

§ 114.15 TITLE.

This subchapter and all ordinances supplemental or amendatory hereto shall be known as the Retail Food Establishment and Bed and Breakfast Establishment Subchapter and may be cited as such and will be referred to herein as “this subchapter”. (Ord. 0-01-0004, passed 2-12-2001)

§ 114.16 PURPOSE.

The purpose of this subchapter is to safeguard public health and assure that food provided to consumers is safe, unadulterated and honestly presented. It established definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for retail food establishment plan review, permits, inspections, fines and employee restriction.

(Ord. 0-01-0004, passed 2-12-2001)

§ 114.17 AUTHORITY.

The Health Officer and/or his or her representative is hereby authorized to issue retail food establishment, temporary food establishment, and bed and breakfast establishment permits, collect permit fees and fines, perform inspections, order or otherwise compel correction of violations of this subchapter, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this subchapter. (Ord. 0-01-0004, passed 2-12-2001) Penalty, see § 10.99

§ 114.18 ADOPTION BY REFERENCE.

Title I.A.C. 7-20 Retail Food Sanitation Requirements and 410 I.A.C. 7-15.5 Bed and Breakfast Establishments are hereby incorporated by reference in this subchapter, as many be amended from time to time, as the same published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of 410 I.A.C. 7-20-1 *et seq.* and 410 I.A.C. 7-15.5-1 U *et seq.* are available and on file in the office of the Health Department of the office of the City Controller.
(Ord. 0-01-0004, passed 2-12-2001)

§ 114.19 DEFINITIONS.

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

APPLICANT. Person who has notified the health authority of intent to operate a retail food establishment, temporary food establishment or bed and breakfast and who has made application for a retail food establishment permit or bed and breakfast establishment permit.

BED AND BREAKFAST.

(1) An operator occupied residence that meets the following conditions:

(a) Provides sleeping accommodations to the public for a fee;

(b) Has not more than 14 guestrooms;

(c) Provides breakfast to the guests as part of the fee; and

(d) Provides sleeping accommodations for not more than 30 consecutive days to a particular guest.

(2) The term does not include hotels, motels, boarding houses or food service establishments.

CATERING. The preparation of food at the site listed on the permit and transportation of that food to another location for service by the retail food establishment employees.

DEPARTMENT. The Indiana State Department of Health or its authorized representative.

HEALTH OFFICER. The health authority having jurisdiction in the city and/or its representative.

MOBILE FOOD SERVICE. An operation that provides food to a consumer from a mobile food unit or a pushcart.

MOBILE FOOD UNIT. A vehicle mounted food service establishment that is not on a permanent foundation and is readily movable.

OPERATOR. The person, corporation or legal entity that owns the business; permittee.

PERMITTEE. The person(s) or other legal entity that owns the business and whose name appears on the permit.

PUSHCART. A non-self-propelled vehicle limited to serving commissary wrapped food, non-potentially hazardous food or limited to the preparation and serving of frankfurters.

REGULATORY AUTHORITY. The local, state or federal enforcement body and/or its authorized representative having jurisdiction over a retail food establishment or bed and breakfast establishment.

RETAIL FOOD ESTABLISHMENT. An operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption or that relinquishes possession of food to a consumer directly or indirectly through a delivery service. The term includes an element of the operation such a transportation vehicle, a central preparation facility that supplies a vending location or satellite feed location, an operation that is conducted in a mobile, stationary, temporary or permanent facility or location, where consumption is on or off the premises and regardless of whether there is a charge for the food.

TEMPORARY FOOD ESTABLISHMENT. A retail food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

VENDING MACHINE OPERATION. The placement, service and maintenance of one or more vending machines to make food available to the public via a vending machine.

(410 I.A.C. 7-20-18) (Ord. 0-01-0004, passed 2-12-2001)

§ 114.20 PERMITS.

It shall be unlawful for any person to operate a retail food establishment or a bed and breakfast establishment in the city that does not possess a valid permit issued by the Health Officer. The permit shall be posted in the establishment in a place conspicuous to the public.

(A) An applicant may apply for a permit by submitting a completed application form along with any other necessary required information to the Health Officer. Only persons who comply with the applicable requirements specified by the State Department of Health Codes, 410 I.A.C. 7-20-427, 410 I.A.C. 7-20-430 and 410 I.A. C. 7-20-431 shall be entitled to receive and retain a permit.

(B) Any permit issued by the Health Officer shall contain the following:

(1) Name of the establishment;

(2) Name of the person(s) or legal entity to whom the permit is granted;

(3) Address of the premises;

(4) Inclusive dates that the permit is valid; and

(5) Any other pertinent information as may be required by the Health Officer.

(C) A separate permit shall be required for each retail food establishment operated at a separate location.

(D) An applicant for any type of mobile food service operation must submit along with the application for a retail food establishment permit verification of the following:

(1) Each mobile food unit or pushcart shall operate from a commissary or other fixed food service operation and shall report at least daily to the commissary or other fixed food service operation for cleaning supplies and servicing; and

(2) The commissary or other fixed food service operation must be properly licensed and operated in compliance with local, state, and/or federal rules and regulations governing it.

(E) The Health Officer may impose additional requirements as may be necessary to protect against public health hazards or nuisances.

(F) A permit issued at any time during a calendar year shall expire on December 31 of that year and shall be renewed annually. A permit issued under this subchapter shall not be sold, assigned, loaned or transferred.

(G) Upon receipt of a completed application form along with all the required information, any fees, fines or penalties due and after the retail food establishment has been inspected by the Health Officer and found to be in compliance with this subchapter and any or all rules and regulations governing it, shall a permit be granted. (Ord. 0-01-0004, passed 2-12-2001) Penalty, see § 10.99

§ 114.21 FEES.

(A) A consultation fee will be assessed to each permit application made to operate a retail food establishment or bed and breakfast establishment. The fee shall be $15.

(B) There shall be an annual inspection fee to be determined by the square footage of the food service operation.

(1) Less than 3, 000 square feet: $10; and

(2) Three thousand square feet and over: $20.

(C) Thirty days after the annual inspection any unpaid annual inspection fee shall be assessed an additional 25% penalty.

(D) No fee shall be required and no fee shall be paid for establishment operated by religious, educational or charitable organizations that are exempt from the Indiana gross income tax, I.C. 6-3-2. To qualify for this exemption the following conditions shall be met:

(1) A photocopy of the not for profit tax exemption certificate from the State Department of Revenue shall be provided along with the permit application;

(2) Members of the organization will prepare the food that will be sold;

(3) The events conducted by the organization under this section will take place for not more than 30 days in a calendar year; and

(4) The name of each member who has prepared a food item is attached to the container in which the food item has been placed.

(E) This section does not prohibit an exempted organization from waiving the exemption and applying for a permit/license.

(F) Minimum requirements. All retail food establishments and bed and breakfast establishments shall comply with at least the minimal requirements specified by 410 I.A.C. 7-20, Retail Food Establishment Sanitation Requirements or 410 I.A. C. 7-15.5, Bed and Breakfast Establishments.
(Ord. 0-01-0004, passed 2-12-2001) Penalty, see § 10.99

§ 114.22 SALE, EXAMINATION AND CONDEMNATION OF UNWHOLESOME, ADULTERATED OR MISBRANDED FOOD.

It shall be unlawful for any person to sell through a retail food establishment, temporary food establishment, mobile retail food establishment, vending machine or bed and breakfast establishment any food that is unwholesome, adulterated or misbranded as provided in the Indiana Food, Drug and Cosmetic Act, I.C. 16-42-1 through 4 and 410 I.A.C. 7-5.

(A) Samples of food may be taken and examined by the Health Officer as often as may be necessary to determine freedom from contamination, adulteration or misbranding.

(B) Any dairy product, meat, meat product, seafood, poultry, confectionery, bakery product, vegetable, fruit or other perishable article:

(1) That is unsound;

(2) That contains any filthy, decomposed or putrid substance; or

(3) That may be poisonous or deleterious healthy or otherwise unsafe; constitutes a nuisance.

(C) Whenever the Health Officer finds:

(1) In any room, building, vehicle of transportation or other structure; or

(2) On any premises; perishable food or food product which constitutes a nuisance under this section, the Health Officer shall condemn or destroy the food or food product or in any other manner make the food or food product un-saleable as human food.
(I. C. 16-42-2-6) (Ord. 0-01-0004, passed 2-12-2001) Penalty, see § 10.99

§ 114.23 INSPECTION OF RETAIL FOOD ESTABLISHMENTS.

Every retail food establishment may be inspected at a frequency based on its menu type according to the retail food establishment inspection report state form 48669(R/ 4-00).

(A) If, during the inspection of any retail food establishment, the Health Officer or his or her representative, discovers the violation of any of the requirements of this subchapter, it shall issue a written narrative report listing the violations and a time for correction to the operator or person in charge and at a time of no more than 14 consecutive days within which the operator or person in charge shall abate and remedy the violations. A copy of the written report shall be filed with the records of the Food Inspection Division, in the City Health Department.

(B) If, upon a follow-up inspection, the Health Officer or his or her representative, finds that a retail food establishment, a person or employee is violating any of the provisions of this subchapter that are repeated from the previous inspection, as noted on the inspection report, shall furnish evidence of the violation to the prosecutor having jurisdiction in the city, and he or she shall prosecute all persons violating the provisions of this subchapter or the Health Officer and/or his or her representative may promptly issue a written order to the permittee of the retail food establishment no later than ten business days from the follow-up inspection to show cause why the permit issued under the provision of § 114.20 should not be revoked and penalties assessed according to § 10.99.

(C) The Health Officer and/or his or her representative upon a hearing, if the permittee should fail to show cause, may revoke the permit and promptly give written notice of the action to the permittee. The Health Officer and/or his or her representative shall maintain a permanent record of his or her proceedings filed in the office of the local Health Department.

(D) Any permit issued under this subchapter may be summarily suspended by the Health Officer and/or his or her representative without notice or hearing for a period not to exceed 30 days, for any of the following reasons:

(1) Unsanitary or other conditions which, in the opinion of the Health Officer and/or his or her representative, endanger the public's health;

(2) Interference with the Health Officer or any authorized representative in the performance of his or her duties, provided, however, that upon written application from the permittee, served upon the Health Officer within 15 days after the suspension, the Health Authority shall conduct a hearing upon the matter after giving at least five days' written notice of the time, place and purpose thereof, to the suspended permittee, provided, further, that any suspension order shall be issued by the health authority in writing and served upon the permittee by leaving a copy at his or her usual place of business or by delivery of registered or certified mail.

(E) Any person whose permit has been suspended at any time within 90 days may make application to the health authority for the reinstatement of the permit. After 90 days, the permit shall be null and void, at which time a new permit application must be submitted.

(Ord. 0-01-0004, passed 2-12-2001) Penalty, see § 10.99

WHOLESALE ITINERANT PRODUCE DEALERS

§ 114.35 DEFINED.

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

WHOLESALE ITINERANT PRODUCE DEALER. A person engaged in the business of selling any fresh fruit, fresh vegetables or garden produce, butter, eggs, cheese, fish, meat, poultry or any other or like article of food used or intended for human consumption to retail trade for purposes of resale.

(1995 Code, § 5.58.010)

§ 114.36 IDENTIFICATION OF VEHICLES.

Every vehicle used by licenses under this subchapter in or about the business of wholesale itinerant produce dealer in the city shall have the name of the owner and his or her address plainly and distinctly painted in letters and figures, at least two inches in height in a conspicuous place on the outside of each side of every vehicle and the name and address shall be kept so painted plainly and distinctly at all times while the vehicle is in use during the continuance of the license period permitted by this subchapter.

(1995 Code, § 5.58.020) Penalty, see § 10.99

§ 114.37 INSPECTIONS OF FOOD AND VEHICLES.

It shall be the duty of the Board of Health to require the City Health Officer or his or her agents to make periodic inspections, as often as necessary, of the food offered for sale and the vehicles used to see that there has been compliance with the provisions of this subchapter. (1995 Code, § 5.58.030)

§ 114.38 SALE OF UNWHOLESOME PRODUCTS.

(A) It is unlawful for any licensee under this subchapter to have in his or her possession with intent to sell or offer for sale any of the products mentioned in this subchapter which are unclean, unwholesome, tainted, putrid, decayed, adulterated, poisonous, infected or in any manner rendered unsafe or unwholesome for human consumption. The food products shall be deemed unwholesome for human food if the same have been contaminated by flies or other insects, vermin, dust, dirt or other form of contamination; if they contain any poison or deleterious or injurious ingredients in kinds and quantities to render the articles injurious or detrimental to health; or if they contain the whole or part of any uninspected or unpassed meat or meat products.

(B) It is unlawful for any licensee under this subchapter to sell or offer for sale any products contrary to law or rules or regulations of the Department of Agriculture of the United States.

(1995 Code, § 5.58.040) Penalty, see § 10.99

§ 114.39 HEALTH AND SANITATION.

(A) (1) No person who has an infectious or contagious disease, which may be transmitted, or who is a disease carrier shall be engaged in the handling of products named in this subchapter or in the handling of containers in which the foods are packed. The Board of Health may require each person so engaged to submit to proper examination for the purpose of determining his or her condition in this respect and for this purpose may require a medical certificate given by a reputable physician stating that the licensee under this subchapter, employee or agent is free from infectious or contagious disease and is not a disease carrier.

(2) Form certificates shall be prepared and provided by the Board of Health for physicians. The physician's certificate must be approved by the Board of Health.

(3) The City Controller may require the certificate of the Board of Health prior to the issuance of a license under this subchapter.

(B) All vehicles used by licensees under this subchapter shall be so constructed that the portion of the vehicle which contains the products shall be covered in a manner that no dust or dirt will settle on the products. The vehicles and all other equipment and facilities used shall be kept in a clean and sanitary condition and shall be protected from dust, flies, rodents and other contaminations.

(C) The operators of any vehicles used in connection with any licensees under this subchapter shall observe all the sanitary requirements prescribed herein, and the requirements shall extend to the licensee and his or her employees while engaged in and about the handling of the foods and food products on their way to and from and while in vehicles. (1995 Code, § 5.58.050) Penalty, see § 10.99

§ 114.40 INSPECTION AND SEALING OF WEIGHTS AND MEASURES.

Before any licensee under this subchapter shall sell or offer to sell any products in this city all scales or measuring devices used by him or her must be inspected and sealed by the Inspector of Weights and Measures. Thereafter, the weights and measures must be inspected at least annually. (1995 Code, § 5.58.060, Amended by Ordinance No. 10-0016 passed November 22, 2010.) Penalty, see § 10.99

§ 114.41 LICENSES-REQUIRED.

It is unlawful for any person to engage in the business of wholesale itinerant produce dealer without first having obtained a license to do so as provided in this subchapter.
(1995 Code, § 5.58.070) Penalty, see § 10.99

§ 114.42 LICENSES-APPLICATION.

Application for licenses under this subchapter shall be made in conformity with the general licensing provisions of this code. In addition to the information usually required, the applicant shall be required to state the nature of the business and the equipment and facilities to be used. A copy of each application shall be transmitted immediately to the Health Officer.
(1995 Code, § 5.58.080) Penalty, see § 10.99

§ 114.43 LICENSES-FEES.

The annual fee for licenses provided under this subchapter shall be $100. The entire annual fee must be paid in advance and no deduction shall be allowed from the fee for the licenses for any part of the year the license is not used. (1995 Code, § 5.58.090) Penalty, see § 10.99

§ 114.44 LICENSES-ISSUANCE OF LICENSE PLATES.

Every wholesale itinerant produce dealer licensed under the terms of this subchapter shall obtain from the City Controller at the time of the issuance of a license hereunder, a license plate or other suitable emblem for each vehicle to be used by him or her in or about his or her business. The plate shall have marked upon it the words “East Chicago Wholesale Itinerant Produce Dealer, number __, year __” or

abbreviations of those words. These license plates shall be securely fastened in plain view on the vehicle used by the licensees. (1995 Code,§ 5.58.100) Penalty, see § 10.99

CHAPTER 115: BUILDING CONTRACTORS AND MOVERS; CATCHBASIN AND SEWER CLEANERS; LUMBER YARDS AND STOREHOUSES; SIDEWALK CONTRACTORS

Section

Building Contractors

115.001 Building contractor defined
115.002 Building contractors Board of Examiners
115.003 Insurance required
115.004 Bond requirements
115.005 Licenses-required
115.006 Licenses-application
115.007 Licenses-examinations
115.008 Licenses-fees-renewal
115.009 Licenses-transferability
115.010 Licenses-suspension-revocation denial of issuance or renewal
115.011 Licenses-appeals

Building Movers

115.025 Business license-required
115.026 Business license-application
115.027 Business license-fee
115.028 Business license-nontransferable
115.029 Bond
115.030 Permit required for each building
115.031 Compliance with permits
115.032 Routes

Catch basin and Sewer Cleaners

115.045 Conveyance of removed substances-maintenance of equipment
115.046 Disposal of contents
115.047 Licenses-when required
115.048 Licenses-application
115.049 Licenses-bond
115.050 Licenses-fee
115.051 Certificates and emblems

Lumberyards and Storehouses

115.065 Licenses-when required
115.066 Licenses-application
115.067 Licenses-fees
115.068 Compliance with zoning regulations
115.069 Applicability of fire regulations
115.070 Storage near buildings

Sidewalk Contractors

115.085 Licenses-required
115.086 Licenses-fees
115.087 Bond
115.088 Property owners

BUILDING CONTRACTORS

§ 115.001 BUILDING CONTRACTOR DEFINED.

The term ***BUILDING CONTRACTOR*** as used in this chapter, means and includes any person, as principal, who for a fixed sum, price, fee, percentage or other compensation shall build, construct, alter, lay, repair, install, add to or erect any building, structure, pipe line or facility above or below ground within the city or who shall undertake to perform any of acts. The term shall not include:

(A) Any person, not a corporation, doing the above work upon his or her private residence or upon a multi-family building; provided, that the person owns and resides in a multi-family building;

(B) Plumbers, electricians and other specialized trades for which other special licenses are required; or

(C) Persons performing any of the work described in the above definition when the total value of labor and material utilized for the work does not exceed $100. (1995 Code, § 5.10.010)

§ 115.002 BUILDING CONTRACTORS BOARD OF EXAMINERS.

(A) There is created a Building Contractors Board of Examiners, appointed by the Mayor, which shall consist of the Building Commissioner, one licensed architect or licensed engineer, one licensed building contractor, one member of the building trades union, two lay members and one Council member who is the Chairperson of the Building and Zoning Committee of the Council.

(B) Four members of the seven Board members shall constitute a quorum.

(C) The Board shall adopt rules for the conduct of its business, the consideration of license applications, the holding of examinations, oral and written, the recommendations to the Mayor for suspension and revocation of licenses, and all other matters pertaining to the proper administration of the requirements of this subchapter.

(D) The Board shall keep written records.

(E) The Board will be empowered to hear complaints from the general public relative to any violations of the building regulations or this subchapter by licensed contractors or other adverse conditions resulting from work done by a licensed contractor. The Board may take necessary appropriate action as defined in this subchapter or make necessary recommendations to other municipal departments, agency or boards of the city government to correct any adverse conditions resulting from inferior, fraudulent or unworkmanlike work done by any contractor licensed by this subchapter.
(1995 Code, § 5.10.020)

§ 115.003 INSURANCE REQUIRED.

All contractors licensed under this subchapter shall be required to obtain and to file with the City Controller a certificate, issued by a duly authorized officer of a responsible insurance company authorized to do business in this state, showing that the licensee has, in full force and effect:

(A) Workers' compensation covering all employees on any work done within the city;

(B) Public liability insurance in the amount of not less than $100,000 for one person or $300,000 for one accident;

(C) Property damage insurance in the amount of not less than $50,000; and

(D) Workers' compensation, public liability and property damage insurance shall be kept in full force and effect during the entire licensed period and certificates to that effect annually submitted to the City Controller. (1995 Code, § 5.10.030) Penalty, see § 10.99

§ 115.004 BOND REQUIREMENTS.

(A) No general contractor's license or a renewal thereof shall be issued by the City Controller until the applicant has made, executed and delivered to the City Controller his or her bond, with good and sufficient surety, in the sum of $5,000, payable to the city. The bond shall recite that the principals and sureties agree to indemnify and save harmless the city against any and all claims and demands made by or against the city arising out of the principal's practice as a general contractor. In addition, a second bond in the same amount and of the same kind as above described shall be delivered to the City Controller for the use and benefit of any persons who have suffered loss or damages as a result of any work done or material furnished in violation of any of the laws of this city covering work.

(B) The bonds shall be resubmitted each year before renewal of the license is granted.

(C) The city shall not provide any legal services in disputes between contractors and their clients and likewise the city shall not provide legal service in any court action involving a surety bond.

(1995 Code, § 5.10.040) Penalty, see § 10.99

§ 115.005 LICENSES-REQUIRED.

(A) It is unlawful for any person to engage in the business of a building contractor in the city without having a license.

(B) No firm, association or corporation shall engage in building contracting in the city unless at least one officer, agent or member of the firm, association or corporation has been licensed, according to the provisions of this subchapter and has a license issued to it in the name of the firm, association or corporation as herein provided. The license shall designate the holder of the license who shall be the applicant who has successfully passed the examination herein required. The license shall be valid and in effect only while the individual who passed the examination is still the member, officer or agent of the firm, association or corporation.

(C) Nothing contained in this subchapter shall prohibit the owner of a private home from doing building contracting in his or her own private home or property upon his or her full compliance with all requirements tests and regulations provided for by law and this code. The fee holder of the real property in this section is his or her own contractor and will assume all responsibility for work done. All work must be done in a workmanlike manner and the fee holder must comply with all building codes and laws.

(1995 Code, § 5.10.050) Penalty, see § 10.99

§ 115.006 LICENSES-APPLICATION.

Applications for licenses under this subchapter shall be made to the City Controller in conformity with the general licensing provisions of this code. Thereupon, the City Controller shall notify the Building Contractors Board of Examiners. (1995 Code, § 5.10.060) Penalty, see § 10.99

§ 115.007 LICENSES-EXAMINATIONS.

(A) The Building Contractors Board of Examiners shall conduct examinations at reasonable intervals and test the qualifications of all applicants. Written and oral examinations shall be required for all applicants except for renewals of licenses.

(B) The Building Contractors Board of Examiners shall also inquire into the good character, ability and qualifications of the applicant. If the Board is satisfied, it shall approve the application, certify it and return it to the City Controller. If the Board is not satisfied, it shall disapprove the application. The examinations and grading shall be honest, fair and free from favoritism or unfair discrimination. The public interest shall be the paramount consideration. (1995 Code, § 5.10.070)

§ 115.008 LICENSES-FEES-RENEWAL.

(A) The annual fee for a building contractor's license under this subchapter shall be $50.

(B) The annual license fee for each annual renewal license for a building contractor in good standing shall be $20.

(C) The full annual fee must be paid and there shall be no prorating.

(D) An application for renewal shall be first approved and certified by the Building Contractors Board of Examiners before a renewal is granted and issued. (1995 Code, § 5.10.080) Penalty, see § 10.99

§ 115.009 LICENSES-TRANSFERABILITY.

No license or renewal thereof granted under the provisions of this subchapter shall be assignable or transferable. (1995 Code, § 5.10.090) Penalty, see § 10.99

§ 115.010 LICENSES-SUSPENSION-REVOCATION-DENIAL OF ISSUANCE OR RENEWAL.

(A) The Building Commissioner of the Building Contractors Board of Examiners may recommend to the Mayor the suspension or revocation of any license issued under this division when the building contractor shall have been guilty of fraud, misrepresentation, negligence or for violations of any of the building or zoning provisions of the city.

(B) The Building Contractors Board of Examiners for the above or reasons of equal gravity, may deny an application for a new or a renewal of a building contractor's license. (1995 Code, § 5.10.100)

§ 115.011 LICENSES-APPEALS.

Any applicant for a license under this subchapter shall be entitled to appeal the decision of the Building Contractors Board of Examiners on any application for examination to the Board of Public Works and Safety, which body shall have the right to alter, amend or reverse the decision of the Board and to order a new examination and which action upon the part of the Board of Public Safety shall be final in the matter. (1995 Code, § 5.10.110)

BUILDING MOVERS

§ 115.025 BUSINESS LICENSE-REQUIRED.

(A) It is unlawful for any person to engage in the business of moving any building any place in the city or over or onto or along any public street, sidewalk or alley in the city without first having obtained a building mover’s license.

(B) No person except a licensed building mover shall move or assist in moving any building any place in the city or over, onto or along any public street, sidewalk or alley in the city.
(1995 Code, § 5.12.010) Penalty, see § 10.99

§ 115.026 BUSINESS LICENSE-APPLICATION.

An application for a license under this subchapter shall be made in conformity with the general licensing provisions of this code. (1995 Code, § 5.12.020) Penalty, see § 10.99

§ 115.027 BUSINESS LICENSE-FEE.

The annual license fee of a building mover shall be $50 payable in advance. The full annual fee must be paid. (1995 Code, § 5.12.030) Penalty, see § 10.99

§ 115.028 BUSINESS LICENSE-NONTRANSFERABLE.

The business issued under this subchapter shall not be transferable to any other person and no person other than the licensee named shall act under the license.

(1995 Code, § 5.12.040) Penalty, see § 10.99

§ 115.029 BOND.

(A) Before a license for a building mover shall be issued, the applicant shall execute a proper surety bond to the city in the sum of $10,000 conditioned for the faithful observance and performance of all the provisions of this code and of law relating to or concerning the moving of buildings within the city. The bond shall be conditioned further, to pay all damages which may occur to the city or to any public way or any pole, wire, cable, electrical appliance, trees or shrubbery owned or under the control or jurisdiction of the city or to other property of any person or to any person in the city caused by or arising out of any act or thing done by the licensed building mover in and about the moving or raising of any building in the city or which shall be done by any licensed building mover under and by virtue of the authority given in this subchapter and code and further conditioned for the strict compliance with the terms of any permit issued by the Board of Public Safety including the route to be taken, the limit of time in which to make the removal and other conditions of the permits.

(B) The applicant shall make satisfactory proof to the City Controller that he or she is fully competent, is a responsible person, carries adequate insurance to protect his or her employees and others and possesses the necessary experience and the necessary or proper equipment to engage in the business of a building mover. (1995 Code, § 5.12.050) Penalty, see § 10.99

§ 115.030 PERMIT REQUIRED FOR EACH BUILDING.

(A) No person shall move any building from one place to another within the city or over, onto or along any street, sidewalk or alley in the city without applying for, in writing, and receiving a special written permit to do so from the Board of Public Works and Safety.

(B) The application shall set forth:

(1) Name, license number and the date of building mover's license;

(2) A description, including dimensions of the building sought to be moved;

(3) The present location and the place to which it is sought be removed;

(4) A complete description of the route over which it is desired to take the building in removing it to its destination;

(5) The time required for the moving; and

(6) Whether any wires or cables will be passed.

(C) The Board of Public Works and Safety may request an investigation to consider the request for a permit. The permittee shall serve the notice provided in Chapter 50 of this code when requested by the Board of Public Works and Safety.

(D) A permit fee of $20 shall be advanced at the time the application for a permit is filed with the Board. This fee is to cover the extra use of streets, sidewalks or other public property of the city including cost of the inspection.

(E) The Board of Public Safety may grant a permit for the moving of buildings as herein provided and shall have authority to refuse any permit where in its opinion the interruption of traffic or damage which might be done to trees or other public or private property or hazard connected with the project, would not warrant the granting of the permit. (1995 Code, § 5.12.060) Penalty, see § 10.99

§ 115.031 COMPLIANCE WITH PERMITS.

(A) No building mover shall remove or cause to be moved or removed, any building in the city without first having obtained the permit required in this subchapter. No building mover shall keep a building on the street longer than the permit calls for or do any other prohibited acts in violation of the permit.

(B) In exceptional cases, the Board of Public Works and Safety may require additional surety bonds, with surety to be approved by the Board, in additional amounts as the Board may prescribe, conditioned upon the strict compliance with the terms of the permit as to route to be taken, the limit of time in which to effect the removal and to pay to the city as liquidated damages, in an amount not exceeding $50, the exact amount to be fixed by the Board, for each and every day's delay in completing the removal or in repairing any damages to public improvements or property or in clearing public highways of all debris thereby occasioned or in obstructing traffic.

(C) The Building Commissioner shall thoroughly examine the building and refer the papers relating to the removal to the Board of Public Works and Safety, together with his or her opinion endorsed in writing upon the application as to whether the proposed removal can be made without serious injury to person or property. (1995 Code, § 5.12.070) Penalty, see § 10.99

§ 115.032 ROUTES.

No building shall be moved over any other street or routes than specified in the permit. (1995 Code,§ 5.12.080) Penalty, see § 10.99

CATCHBASIN AND SEWER CLEANERS

§ 115.045 CONVEYANCE OF REMOVED SUBSTANCES-MAINTENANCE OF EQUIPMENT.

All substances taken from catch basins or sewers shall be conveyed to the place of disposal in closely covered watertight iron or steel vehicle bodies or receptacles, and it is unlawful for any person to collect or remove the materials from catch basins or sewers in wooden receptacles or to haul them in wooden vehicle bodies. The vehicles, receptacles and utensils used in connection with the business shall be kept in a clean condition when not in use. (1995 Code, § 5.14.010) Penalty, see § 10.99

§ 115.046 DISPOSAL OF CONTENTS.

(A) The contents taken from catch basins and sewers in cleaning and repairing the same shall not be permitted to remain in any receptacle or vehicles used to transport and remove the contents and the same shall be disposed of at a place designated by the Board of Public Works and Safety.

(B) No receptacle or vehicle containing such material shall be permitted to be stored overnight in any building, barn, shed, yard or place on public or private property. The storing overnight of any of the materials taken from catch basins and sewers upon any premises within the limits of the city shall be deemed and is declared to be a public nuisance. (1995 Code, § 5.14.020) Penalty, see § 10.99

§ 115.047 LICENSES-WHEN REQUIRED.

It is unlawful for any person within the city to engage in the business of cleaning, collecting or transporting the contents of catch basins or sewers or kindred refuse by vehicle or otherwise, or in any manner to engage in the business of cleaning catch basins or sewers without first obtaining a license to do so; provided, that plumbers or sewer builders licensed by this code who may clean catch basins or sewers as an incident to the repair of the catch basins or sewers shall not be required to obtain the sewer cleaners' license. (1995 Code, § 5.14.030) Penalty, see § 10.99

§ 115.048 LICENSES-APPLICATION.

Application for a license under this subchapter shall be made with the City Controller in conformity with the general licensing provisions of this code. The application shall be approved by the Board of Public Works and Safety before the license shall be issued. The Board shall satisfy itself concerning the qualifications of the applicant before granting the license.
(1995 Code,§ 5.14.040) Penalty, see § 10.99

§ 115.049 LICENSES-BOND.

(A) Before any person shall be granted a license under this subchapter, he or she shall furnish a surety bond payable to the city in the penal sum of $5,000, indemnifying the city against any loss which might occur to the catch basins, sewers, streets, sidewalks or other public property and saving harmless the city against the city arising from the performance of any work of the licensee. This surety bond shall be further made for the use and benefit of the owner or any other party in interest in the property where the licensee has operated, against loss or damage which may arise by reason of the work done or materials changed in violation of the requirements of law or of this code.

(B) This surety bond shall require the approval of the Board of Public Works and Safety and the City Controller. (1995 Code, § 5.14.050)

§ 115.050 LICENSES-FEE.

The annual fee for a license under this subchapter shall be the sum of $30.
(1995 Code, § 5.14.060) Penalty, see § 10.99

§ 115.051 CERTIFICATES AND EMBLEMS.

Every person licensed to engage in the business of cleaning catch basins and sewers shall procure from the City Controller, at the time of the issuance of the license, a certificate and a metal plate or other

suitable emblem. The plate or emblem shall be conspicuously displayed on any vehicle or apparatus used by the licensee in the business. (1995 Code, § 5.14.070) Penalty, see § 10.99

LUMBERYARDS AND STOREHOUSES

§ 115.065 LICENSES-WHEN REQUIRED.

(A) No person shall conduct or operate a lumber yard or lumber storehouse without first having obtained a license as required by this subchapter.

(B) Included under the provisions of this subchapter requiring licenses, but not limited hereby, shall be all lumber yards, lumber storehouses and other places where new, used, finished or unfinished lumber, timber, wood except fire wood, wooden boxes, wooden barrels, veneers, ply woods, flex woods and similar materials in excess of 3,000 board feet are kept, placed, stored or piled for sale or use, other than lumber used in the repair, erection or construction of buildings or improvements incident to the land on the premises where so kept, placed, stored or piled on the premises immediately adjacent thereto.

(1995 Code, § 5.30.010) Penalty, see § 10.99

§ 115.066 LICENSES-APPLICATION.

An application for license under this subchapter shall be made in conformity with the general license requirements of Chapter 110. The Building Commissioner and the Fire Inspector in charge of the Bureau of Fire Prevention shall investigate the application and the matters and things therein stated to determine whether the premises comply with the provisions of this code.

(1995 Code, § 5.30.020) Penalty, see § 10.99

§ 115.067 LICENSES-FEES.

The annual license fee for each lumber yard or lumber storehouse or each separate place, location or premises where lumber or any of the wooden articles mentioned in § 115.065 are kept, placed, stored or piled shall be $100 for each separate location, place or premises; provided, that where lumber, veneers, ply woods, flex woods and similar materials are kept, placed, stored or piled by the owner thereof not for resale as such, but as incidental to manufacturing business and for the purpose of fabrication or manufacture into manufactured articles or parts thereof, the annual license fee shall be $100 for each separate location, place or premises. No license shall be issued except upon payment of the full annual license fee.

(1995 Code, § 5.30.030) Penalty, see § 10.99

§ 115.068 COMPLIANCE WITH ZONING REGULATIONS.

It is unlawful to conduct or operate any lumber yard or lumber storehouse or to pile or store lumber or any or the wooden articles mentioned in § 115.065 in any lot or plot of ground in the city without first complying with the provisions of the zoning regulations of this code and by also obtaining the written permission of the Building Commissioner and Fire Inspector, subject to approval of the Board of Zoning Appeals. (1995 Code, § 5.30.040) Penalty, see § 10.99

§ 115.069 APPLICABILITY OF FIRE REGULATIONS.

Any person who shall conduct or operate a lumber yard or lumber storehouse or who shall store or pile lumber or any of the wooden articles mentioned in § 115.065 shall be subject to all applicable fire regulations of this code and law and to all penalties for violations.
(1995 Code, § 5.30.050) Penalty, see § 10.99

§ 115.070 STORAGE NEAR BUILDINGS.

(A) It is unlawful for any person to pile either new or old lumber, wooden boxes, wooden barrels or other materials of similar combustible nature for the purpose of selling, storing, manufacturing, drying or seasoning within 50 feet of any building or within 25 feet of any fireproof or brick building, unless the roof of the brick building shall be of fireproof construction and all exposed windows, doors and other openings in both brick or fireproof buildings are fitted and protected with approved fire resisting wired glass and metal sash and frames or all windows and other openings are equipped with metal-clad shutters or doors.

(B) No lumber, boxes or barrels shall be piled in excess of 20 feet in height. If the area covered is in excess of 1,000 square feet, it shall be divided into areas of 1,000 square feet or less by aisles or passageways at least 48 inches wide. (1995 Code, § 5.30.060) Penalty, see § 10.99

SIDEWALK CONTRACTORS

§ 115.085 LICENSES-REQUIRED.

It is unlawful for any person to engage in the business of sidewalk contractor or in the business of laying any concrete walk or building or setting any curbing in the streets, alleys, sidewalks or public grounds of the city without first having obtained a license therefor as provided in this code.
(1995 Code, § 5.50.010) Penalty, see § 10.99

§ 115.086 LICENSES-FEES.

The annual license fee for a sidewalk contractor shall be $50.
(1995 Code, § 5.50.020) Penalty, see § 10.99

§ 115.087 BOND.

All applicants for a license under this subchapter shall file with the Board of Public Works and Safety a bond in the penal sum of $5,000 with good and sufficient surety to be approved by the Board and conditioned that the work will be according to plans and specifications, the rules and regulations of the Board and all requirements of this code and ordinances of the city, which bond shall inure to the benefit of both the city and the person for whom the work is being done and shall indemnify and save the city harmless from any liability arising out of the work. (1995 Code, § 5.50.030) Penalty, see § 10.99

§ 115.088 PROPERTY OWNERS.

This subchapter shall not prohibit the owners of any property, who are otherwise competent, from laying or repairing a sidewalk or driveway abutting their own property. (1995 Code, § 5.50.040)

CHAPTER 116: ENTERTAINMENTS AND SOLICITATIONS; COIN-OPERATED DEVICES; NIGHT CLUBS, DANCE HALLS AND SKATING RINKS

Section

Charitable Entertainments and Solicitations

116.01 Charitable entertainments- identification of benefited parties
116.02 Tag day solicitations

Coin-Operated Devices

116.15 Definitions
116.16 Gambling devices
116.17 Maintenance-identification-refunds
116.18 Violations
116.19 Licenses-required
116.20 Licenses-application
116.21 Licenses-investigation-approvals
116.22 Licenses-fees
116.23 Licenses-issuance
116.24 Licenses-display-transfer
116.25 Licenses-revocation

Night Clubs, Dance Halls and Skating Rinks

116.40 Definitions
116.41 Licenses-required-qualifications
116.42 Licenses-application-issuance
116.43 Licenses-fees-period of issuance
116.44 Licenses-investigation-approval of officials

116.45 Licenses-forfeiture
116.46 Insurance for skating rinks
116.47 Hours of operation of public dance halls
116.48 Employment of minors
116.49 Misrepresentation of age or parentage to gain admittance or employment
116.50 Inspection of premises

CHARITABLE ENTERTAINMENTS AND SOLICITATIONS

§ 116.01 CHARITABLE ENTERTAINMENTS-IDENTIFICATION OF BENEFITED PARTIES.

No person shall use any ticket, poster, placard, badge or other advertisement in the promotion of any dance, bazaar, picnic, game, theater or other entertainment or performance purporting to be given for charitable purposes unless the names of the persons or organizations intended to be benefited by the receipts from the entertainment or performance are stated on the ticket, poster, placard, badge or other advertisement. (1995 Code, § 5.16.010) Penalty, see § 10.99

§ 116.02 TAG DAY SOLICITATIONS.

(A) The solicitation of the public in the public streets, buildings and grounds, commonly classified as tag day solicitations, by solicitors for charitable, benevolent or religious institutions or organizations is prohibited. The intention of this section is to abolish so-called tag days and similar solicitations; provided, that the provisions of this section shall not apply where the Mayor has first granted a permit for solicitation.

(B) The officer or representative of any charitable, benevolent or religious institution or organization or any person representing himself or herself as an officer or agent thereof who shall solicit contributions from the public on the streets of the city in violation of the provisions of this section shall be subject to the penalty provided in this code. (1995 Code, § 5.16.020) Penalty, see § 10.99

COIN-OPERATED DEVICES

§ 116.15 DEFINITIONS.

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

AMUSEMENT GAME MACHINE. Any device, whether mechanical, electrical or electronic, which shall be ready for play by the insertion of a coin, token or payment to an attendant and may be operated by the public for use as entertainment or amusement. It shall include video games, pinball machines and pool tables. It does not include vending machines which do not incorporate amusement features, nor does it include juke boxes.

CIGARETTE VENDING MACHINE. Any automatic vending machine commercially used for the sale of cigarettes and matches and controlled by the insertion of coins.

COIN VENDING MACHINE. Any automatic vending machine commercially used for the sale of food and/or drink.

JUKE BOX. Any music vending machine or device commercially used, which upon the insertion of a coin, token or payment to an attendant, may be operated by the public for the emission of music or similar amusement. (1995 Code, § 5.20.010)

§ 116.16 GAMBLING DEVICES.

Nothing in this subchapter shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism that has been judicially determined to be a gambling device in this state or which is contrary to law. (1995 Code, § 5.20.020) Penalty, see § 10.99

§ 116.17 MAINTENANCE-IDENTIFICATION-REFUNDS.

(A) No person shall permit a cigarette vending machine, coin vending machine, juke box or amusement game machine to be maintained for use or operation by the public when they are not in proper working order. The owner of the machines or devices shall be responsible for maintaining or causing to be maintained any machine which is out of order.

(B) A placard shall be placed on every machine or device in a conspicuous place which shall contain the name of the owner and person in charge of the machine or device and shall, also, state that the person in charge of the machine or device will refund to any person money deposited for which service has not been received, and it is made the duty of the person to do so.
(1995 Code, § 5.20.030) Penalty, see § 10.99

§ 116.18 VIOLATIONS.

(A) No person holding a license under this subchapter shall permit the playing of juke boxes between the hours of 1:00 a.m. and 6:00 a.m. of any day.

(B) No person shall install or make amusement game machines available for public use without first complying with all standards and regulations on amusement game machines which have been set forth in the zoning regulations of this code.

(C) No person holding a license under this subchapter shall display or offer any cigarette vending machine, juke box, coin vending machine or amusement game machine unless it is offered to the public. The devices shall be kept in good and safe condition for the purposes for which they are to be used.

(D) No person holding a license under this subchapter shall permit the devices to be operated to constitute a nuisance or to permit the sound of the devices to disturb the peace and quiet of other persons in the vicinity of the premises where they are operated.

(E) No device shall be operated or be permitted to be operated in a manner which is offensive to good morals.

(F) No coin vending machines shall be operated or be permitted to be operated to sell any article of food or drink therefrom unless the same shall be fit for human consumption, shall be sanitary and shall comply with provisions of law and of this code. (1995 Code, § 5.20.040) Penalty, see § 10.99

§ 116.19 LICENSES-REQUIRED.

It is unlawful for any person within the city to display or keep for operation any cigarette vending machine, coin vending machine, juke box or amusement game machine, as defined in this subchapter, without first obtaining a license from the city, as herein provided. No person under 21 years of age or any person who is an alien shall be issued a license under this subchapter.

(1995 Code, § 5.20.050) Penalty, see § 10.99

§ 116.20 LICENSES-APPLICATION.

The application for a license under this subchapter shall be made in duplicate to the City Controller upon forms to be supplied by him or her for that purpose. shall be verified by the owner of the machines, and shall comply with the general licensing provisions of this code. The application shall state the place where the machine or device is to be displayed or operated, the business conducted at that place, and a description of the machine to be covered by the license.

(1995 Code, § 5.20.060) Penalty, see § 10.99

§ 116.21 LICENSES-INVESTIGATION-APPROVALS.

(A) One copy of the application for a license under this subchapter shall be referred to the Chief of Police, who shall investigate the location wherein it is proposed to operate the machine or device, ascertain if the applicant is a person of good moral character and either approve or disapprove the application.

(B) One copy of the application for a license under this subchapter shall be referred to the Building Commissioner who shall investigate the location wherein it is proposed to operate the devices, ascertain if the standards and regulations of the zoning regulations of this code have been met, and either approve or disapprove the application.

(C) The Department of Inspections and Permit shall inspect all devices to determine if they are safe and in compliance with the electrical code and shall either approve or disapprove the application.

(D) The City Health Officer shall inspect all coin vending machines and the contents thereof which vend food or drink and shall either approve or disapprove the application. He or she shall also approve the premises where the machines are kept. (1995 Code, § 5.20.070) Penalty, see § 10.99

§ 116.22 LICENSES-FEES.

(A) Every applicant, before being granted a license, shall pay the following annual license fee for the privilege of operating or maintaining for operation each cigarette vending machine, coin vending machine, juke box or amusement game machine as defined in this subchapter.

Cigarette vending machines, per machines	$25
Coin vending machines, per machines	$25
Juke boxes, per machine	$25
Juke boxes, per machine	$100

(B) The entire license fee shall be paid in advance without prorating.
(1995 Code, § 5.20.080) Penalty, see § 10.99

§ 116.23 LICENSES-ISSUANCE.

Upon compliance with all necessary conditions by the applicant for a license under this subchapter, the City Controller shall issue a license for each cigarette vending machine, coin vending machine, juke box or amusement game machine. (1995 Code, § 5.20.090) Penalty, see § 10.99

§ 116.24 LICENSES-DISPLAY-TRANSFER.

(A) Each cigarette vending machine, coin vending machine, juke box or amusement game machine licensed under this subchapter shall contain suitable identification marks and numbers and a card certifying to the issuance of a license for each machine, juke box or device shall be affixed and be plainly visible or be posted permanently and conspicuously at the location of the machine or device in the premises wherein it is to be operated or maintained.

(B) The license, except for amusement game machines, may be transferred from one machine or device to another similar machine upon applying to the City Controller to the effect and the giving of a description and the serial number of the new machine or device. Not more than one cigarette vending machine, coin vending machine, juke box or amusement game machines shall be operated under one license and the applicant or licensee shall be required to obtain a license for each and every one displayed or operated by him or her.

(C) If the licensee shall move his or her place of business to another location within the city, the license may be transferred to the new location upon application to the City Controller, giving the street and number of the new location. The new location shall be approved by the Chief of Police, the Building Commissioner and the City Health Officer in the same manner as provided in § 116.21.
(1995 Code, § 5.20.100) Penalty, see § 10.99

§ 116.25 LICENSES-REVOCATION.

Every license issued under this subchapter is subject to the general powers of revocation should the licensee, directly or indirectly, violate this code or state law. (1995 Code, § 5.20.110)

NIGHT CLUBS, DANCE HALLS AND SKATING RINKS

§ 116.40 DEFINITIONS.

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

NIGHT CLUB. Each and every place or establishment in the city where alcoholic beverages, whether distilled, malted or fermented, may be sold under a state license, to be consumed on the premises where sold and where, in addition to the sale of the alcoholic beverages, dancing is permitted or floor shows are given.

PRIVATE HALL. Any room, place or space, enclosed or unenclosed, in which private dances, receptions and parties shall be held to which only the members of the organization owning or leasing the premises, and their guests, may gain admission. A ***PRIVATE HALL*** becomes a public hall when the general public may gain admission.

PUBLIC DANCE. A dance to which admission can be had by payment of a fee or by the purchase, possession or presentation of a ticket or token, or at which a charge is made for care of clothing or other property or to which the public generally may gain admission with or without payment of a fee, or where an individual fee is charged or collected for participation in any individual dance.

PUBLIC HALL. Any room, place or space, enclosed or unenclosed, in which a public dance reception and party shall be held and to which the public generally may gain admission.

SKATING RINK. Enclosed rooms or structures for skating.
(1995 Code, § 5.34.010) (Ord. 3375, passed--1984) Penalty, see § 10.99

§ 116.41 LICENSES-REQUIRED-QUALIFICATIONS.

(A) It is unlawful for any person to own, operate or manage any public dance hall, night club or skating rink in the city without first having obtained a license so to do.

(B) Every licensee or the manager of a business licensed under the provisions of this subchapter must be a citizen of the United States.

(C) No person who has been convicted of a felony or who has been twice convicted of a violation of this subchapter shall be entitled to hold or operate a public dance hall, night club or a skating rink.
(1995 Code, § 5.34.020) Penalty, see § 10.99

§ 116.42 LICENSES-APPLICATION-ISSUANCE.

The application and issuance of a license for a night club, public dance hall or skating rink shall be made in conformity with the general licensing provisions of this code. The applicant shall state the size of the hall, room, place or space to be used. In addition the applicant for a night club license shall be required to show:

(A) Detailed and legible plans of the entire and specific premises to be used under the license;

(B) The seating capacity for which the night club is contemplated;

(C) The names of five reputable householders of the city who have resided in the city for at least five years prior to the application to be used as reference as to the moral character, credit standing and general reputation of the applicant;

(D) Places when and where applicant has engaged in any business;

(E) The entire and detailed criminal record, if any, of the applicant; and

(F) The name of the person owning the building or structure in which applicant intends to carry on the business. (1995 Code, § 5.34.030) Penalty, see § 10.99

§ 116.43 LICENSES-FEES-PERIOD OF ISSUANCE.

(A) (1) The annual license fee for a night club shall be the sum of $100.

(2) The license period shall be in conformity with the general licensing provisions of this code.

(B) The annual fee for a public hall shall be $50.

(C) The annual fee for a skating rink shall be $50.

(D) The annual fee for a private hall shall be $50; however, no fee shall be charged if the private hall also has a public hall license. (1995 Code, § 5.34.040) (Ord. 3375, passed--1984) Penalty, see § 10.99

§ 116.44 LICENSES-INVESTIGATION-APPROVAL OF OFFICIALS.

In addition to the investigation required under the general provisions of this code, the City Controller shall require the applicant to obtain a signed approval of the following officials:

(A) City Health Officer, showing that the premises are clean, healthful and sanitary and that they are properly ventilated and equipped and have at least two separate toilets for both men and women;

(B) Building Commissioner, stating that the building is constructed properly to permit the holding or conducting of a congregation, and that the location is expressly permitted by the zoning regulations of this code; and

(C) Fire Chief, stating that the building and hall are properly equipped with adequate fire escapes, exits and are properly safeguarded against fires. (1995 Code, § 5.34.050)

§ 116.45 LICENSES-FORFEITURE.

The license of any person convicted of two violations of any of the provisions of this subchapter shall automatically operate as a forfeiture of the license issued under this subchapter to the owner or operator. No new license shall be issued to the former licensee until after the expiration of one year.
(1995 Code, § 5.34.060)

§ 116.46 INSURANCE FOR SKATING RINKS.

All licensees, before being permitted to operate skating rinks under this subchapter, shall furnish an approved insurance policy in the sum of $10,000 protecting persons against negligence in the operation of the skating rink or in the use and maintenance of its equipment.
(1995 Code, § 5.34.070) Penalty, see § 10.99

§ 116.47 HOURS OF OPERATION OF PUBLIC DANCE HALLS.

No person shall be permitted to operate or hold a public dance between the hours of 1:00 a.m. and 7:00 a.m.; provided, that the City Controller, with the approval of the Chief of Police, may grant the permits, in writing, allowing the establishments to operate until a later hour on special occasions; provided further, that the application for the permit shall have been filed not less than 48 hours before the dance. (1995 Code, § 5.34.080) Penalty, see § 10.99

§ 116.48 EMPLOYMENT OF MINORS.

It is unlawful for any person operating a night club or public dance to employ, allow or permit any person under the age of 18 years to act as an entertainer or to be employed in any other capacity. It is unlawful for any person who holds a public dance or who owns, operates or manages a night club to permit any person under 18 years of age to loiter in or around his or her place of business, unless accompanied by a parent or guardian; provided, that the provisions of this subchapter shall not prohibit the employment of minors in a public dance hall under 18 years to assist in the check or cloak room when an adult is also working therein. (1995 Code, § 5.34.090) Penalty, see § 10.99

§ 116.49 MISREPRESENTATION OF AGE OR PARENTAGE TO GAIN ADMITTANCE OR EMPLOYMENT.

(A) It is unlawful for any person to represent himself or herself to have reached the age of 18 years in order to obtain admission to a night club or public dance hall or obtain employment or to remain or participate in the night club or public dance hall.

(B) It is also unlawful for any person to represent himself or herself to be a parent or guardian of any person for the purpose of avoiding the provisions of this subchapter.

(1995 Code, § 5.34.100) Penalty, see § 10.99

§ 116.50 INSPECTION OF PREMISES.

The licensed premises of a public dance hall, night club and skating rink shall be open at all times to inspection by the duly constituted city and state authorities for the purposes of inspecting the premises to determine whether there has been compliance with all fire, sanitary and police regulations of this code.

(1995 Code, § 5.34.110) Penalty, see § 10.99

§ 116.51 VENTILATION, TOILETS AND DRINKING FOUNTAINS.

Every public dance hall, night club and skating rink shall have proper provisions made for ventilation, be supplied with separate and sufficient toilet conveniences for both men and women in good sanitary condition and with sanitary drinking fountains, all to the approval of the Board of Health.

(1995 Code, § 5.34.120) Penalty, see § 10.99

§ 116.52 MAINTENANCE OF PREMISES AND EQUIPMENT.

The licensee shall, at all times, keep and maintain the premises and equipment in a clean, wholesome and safe condition. (1995 Code, § 5.34.130) Penalty, see § 10.99

§ 116.53 PUBLIC HALL-ATTENDANCE OF POLICE OFFICERS.

It shall be the duty of any person operating any public hall or private hall used as a public hall as defined in this subchapter for the purpose of holding public dances, receptions and parties either upon the payment of admission fee or otherwise, to request for the duration of the function two police officers for the purpose of maintaining peace, quietude and dignity of the function. It shall be the duty of the person or organization holding or proposing to hold the dance to make the request to the Chief of Police at least 24 hours prior to the holding of the function. It shall be the duty of the Chief of Police on presentation of the application to assign regular or special police officers to the duty. It shall be the responsibility of the owner or lessor of the public hall to state these conditions in their contract when leasing any hall for the purposes as mentioned in this subchapter.

(1995 Code, § 5.34.140) (Ord. 3375, passed--1984) Penalty, see § 10.99

§ 116.54 PUBLIC DANCES-PROHIBITED ACTS.

No licensee under the provisions of this subchapter or any other person, by himself, herself or another, shall permit his or her establishment or public dance to:

(A) Become a place for thieves, prostitutes, procurers, vagrants or other disorderly persons to congregate or loiter;

(B) Permit gambling or the placing or using of any gambling apparatus or paraphernalia; or

(C) Allow any intoxicated person to dance or loiter. (1995 Code,§ 5.34.150) Penalty, see § 10.99

§ 116.55 C-3 NORTH HARBOR BUSINESS DISTRICT: CONDITIONS OF LIQUOR LICENSE.

The following operation and design requirements shall be applied to all new businesses licensed to sell alcoholic liquor located within the C-3 North Harbor Business District. Existing businesses licensed to sell alcoholic liquor within the C-3 North Harbor Business District shall have 24 months to comply with the design requirements here within and shall be required to comply with the operation requirements upon approval of this section by the City Council.

(A) *Closing hours.*

(1) (a) This chapter, all authorized licensed eating/drinking establishments are permitted to sell alcoholic beverages for consumption in the dining facilities in conjunction with and incidental to the purchase (for fair consideration) and consumption of a sit-down meal. The bar area for the sale of alcoholic liquor and beverages shall be no more than 30% of the net square footage of the establishment. Licensed eating/drinking establishments are not authorized to sell packaged alcoholic liquor or beverages to consumers.

(b) The bar cannot be self-contained or have separate entrance and exit access from the dining facilities. The bar and the dining facilities must close at the same time. All patrons, customers, and all persons other than the licensee and employees thereof, in the actual pursuit of their duties as such, shall leave the premises not later than 15 minutes following the closing hours per state law.

(2) In the case of hotels and recreational facilities, where the sale of alcoholic liquor is conducted on the premises, the bar area for the sale of alcoholic liquor shall be no more than 30% of the net square footage of the establishment.

(B) *Election days.* Licensees may not sell at retail any alcoholic liquor on the day of any national, state, county or municipal election, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

(C) *Sale of packaged liquor.* The sale of packaged liquor is prohibited.

(D) *Alcoholic drinks.* Alcoholic drinks cannot be taken off the premises.

(E) *Quantity sales for on-premises liquor consumption.* It shall be unlawful for any licensee, other than a Class I or Class J licensee offering restaurant service, and possessing a bottle permit, within the meaning of that term as defined in this chapter, to sell, give away, or permit to be sold, served, or given away for consumption on the licensed premises any distilled spirits except by the glass, in individual servings not exceeding three fluid ounces.

(F) *Alcoholic beverages at reduced prices.* It shall be unlawful for any licensee licensed hereunder to sell, offer for sale, dispense, or serve any alcoholic beverages at reduced prices or promotional drinks, except as authorized as liquor tasting licensees.

(G) *Happy hours restrictions.*

(1) All retail liquor licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a license holder operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the license holder shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(2) No retail liquor licensee or employee or agent of such licensee shall:

(a) Serve two or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except selling or delivering wine by the bottle or carafe;

(b) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or

(c) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a) through (c).

(3) Nothing in subsection (2) shall be construed to prohibit a liquor licensee from:

(a) Offering free food or entertainment at any time;

(b) Including drinks of alcoholic liquor as part of a meal package;

(c) Including drinks of alcoholic liquor as part of a hotel package;

(d) Negotiating drinks of alcoholic liquor as part of a contract between a liquor license holder and another group for the holding of any function, meeting, convention, or trade show on the premises of the licensee;

(e) Providing room service to persons renting rooms at a hotel;

(f) Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to two or more persons at one time; or

(g) Increasing prices of drinks of alcoholic liquor in lieu of, in whole or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.

(4) A violation of this section shall be grounds for suspension or revocation of the retailer's liquor license as provided by the current city business license ordinances and all current state statutes.

(H) *Displaying liquor and tobacco licenses.* Every liquor and tobacco licensee shall cause the license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises. (Ord. 0-08-0031, passed 11-24-2008)

CHAPTER 117: COAL OR COKE DEALERS

Section

117.01 Retail coal or coke dealer defined
117.02 License-required
117.03 License-fee-nontransferable

§ 117.01 RETAIL COAL OR COKE DEALER DEFINED.

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

RETAIL COAL OR COKE DEALER. Any person selling or offering to sell, delivering or offering to deliver coal or coke in less than carload lots. (1995 Code, § 5.18.010)

§ 117.02 LICENSE-REQUIRED.

No persons shall engage in the business of a retail coal or coke dealer without first having obtained a license to do so. (1995 Code, § 5.18.020) Penalty, see § 10.99

§ 117.03 LICENSE-FEE-NONTRANSFERABLE.

The annual fee for a retail coal or coke dealer shall be $50. A separate license shall be required for each and every separate location. The entire fee shall be paid in advance and shall not be transferable or prorated. (1995 Code, § 5.18.030) Penalty, see § 10.99

CHAPTER 118: GASOLINE SERVICE STATIONS AND MOTOR VEHICLE DEALERS

Section

Gasoline Service Stations

118.01 License-fee-issuance-requirements
118.02 Service station defined-private storage and underground storage
118.03 Motor fuel dispensing requirements
118.04 Maintenance and operation-compliance required
118.05 Flammable liquid classes-dispensing-flash point determination
118.06 Basements prohibited-flooring requirements
118.07 Heating systems
118.08 Greasing pits
118.09 Outdoor provisions-maintenance requirements
118.10 Rest rooms
118.11 Pump area prohibitions
118.12 Vehicle dismantling enclosure requirements
118.13 Parts storage and enclosure requirements
118.14 Sidewalk or parkway obstruction prohibited
118.15 Inspections prior to license issuance
118.16 Vehicle repair-enclosure requirements
118.17 Fire extinguisher
118.18 Advertisement and/or sale of used vehicles prohibited
118.19 Periodic inspections-violations
118.20 Compliance with subchapter

Motor Vehicle Dealers

118.35 Automobile titles
118.36 Conduct of employees
118.37 Investigation
118.38 Records-cooperation with police
118.39 Licenses-required
118.40 Licenses-applications-contents
118.41 Licenses-applications-denial-reconsideration
118.42 Licenses-independent consideration for each location
118.43 Licenses-fees
118.44 Licenses-qualifications and bond of applicant
118.45 Licenses-issuance-display
118.46 Licenses-transfer of locations
118.47 Licenses-expiration
118.48 Licenses-grounds for revocation

118.99 Penalty

GASOLINE SERVICE STATIONS

§ 118.01 LICENSE-FEE-ISSUANCE REQUIREMENTS.

It is unlawful to conduct or operate a service station in the city without first having obtained a license therefor. The annual fee for a license shall be $25 for stations where not more than three pumps are maintained and $10 for each additional pump over three maintained. No license shall be issued unless the location and equipment to be used fully comply with the ordinances of the city.

(1995 Code,§ 5.24.010) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.02 SERVICE STATION DEFINED-PRIVATE STORAGE AND UNDERGROUND STORAGE.

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

SERVICE STATION. A place of business where gasoline or any highly volatile fuels for motor vehicles or internal combustion engines are sold or offered for sale or retail and dispensed into the fuel tanks of motor vehicles.

(B) This definition shall include also a private storage tank and dispensing of products for the same purposes as those served by a service station, whether the storage is maintained for the use or benefit of the owner, lessee, agents or employees of either, or of any others.

(C) The requirements covering service stations shall govern underground storage maintained at general storage plants and places other than service stations, so far as applicable.

(1995 Code,§ 5.24.020) (Ord. 3165, passed--1977)

§ 118.03 MOTOR FUEL DISPENSING REQUIREMENTS.

No motor fuel shall be dispensed at any service station except into the fuel tank of motor vehicles, when the tanks are connected with the carburetor system of vehicles; provided, however, that individual sales up to five gallons may be made in metal receptacles when painted red and so labeled as for gasoline, the individual sales shall be limited to five gallons to any one person in any one instance.

(1995 Code, § 5.24.030) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.04 MAINTENANCE AND OPERATION-COMPLIANCE REQUIRED.

Any person, firm or corporation maintaining or operating any storage tank or gasoline for the use of automobiles for the owner, lessees, employees or agents of the person, firm or corporation shall comply with all the provisions of this subchapter other than the requirement for the payment of a fee.

(1995 Code,§ 5.24.040) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.05 FLAMMABLE LIQUID CLASSES-DISPENSING-FLASH POINT DETERMINATION.

Class I and II flammable liquids shall be transferred from underground tanks by means of fixed pumps so designed and equipped as to allow control of the flow and to prevent leakage or accidental discharge. Supplemental means shall be provided outside of the dispensing device whereby the source of power may be readily disconnected in the event of fire or other accident.

(A) (1) *Three classes.* For the purpose of this subchapter, flammable liquids are divided into three classes, according to flash point at or below 25 °F (-4 °C) Closed Cup tester.

(2) *Class II.* Liquids with a flash point above that for Class I and at or below 70°F (21 °C) Closed Cup tester.

(3) *Class III.* Liquids with a flash point above that for Class II and at or below 200°F (93-113 °C) Closed Cup tester.

(4) *Flash point.* The flash point shall be determined with Elliot, Abel, Abel Pensky or the Tag Closed Cup tester, but the Tag Closed Cup tester (standardized by the United States Bureau of Standards) shall be authoritative in case of dispute. All tests shall be made in accordance with the methods adopted by the American Society for Testing Materials.

(5) *Examples of flammable liquids.* Representative examples for the classes of flammable liquids are:

Class I	***Class II***	***Class III***
Ether	Alcohol	Kerosene
Carbon disulphide	Amyl acetate	Amyl alcohol
Gasoline	Toluol	Turpentine
Benzol	Ethyl acetate	Fuel oil
Naphtha	Methyl alcohol	
Acetone		
Collodion		

(B) No pumps shall be located within a building.
(1995 Code,§ 5.24.050) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.06 BASEMENTS PROHIBITED-FLOORING REQUIREMENTS.

No basement shall be permitted under any service station building.

(A) Floor level shall be above grade so as to prevent the flow of liquids or vapors into building.

(B) Floors shall be concrete.
(1995 Code, § 5.24.060) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.07 HEATING SYSTEMS.

Heating systems in service stations that have room or stalls for greasing or servicing motor vehicles shall be of a type that will preclude the likelihood of gasoline reaching the heaters.
(1995 Code, § 5.24.070) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.08 GREASING PITS.

Every greasing pit installed in a building or enclosed by three or more walls, shall be ventilated by a vent duct not less than six inches in diameter, or equivalent cross sectional area of a noncircular duct if used. (1995 Code, § 5.24.080) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.09 OUTDOOR PROVISIONS-MAINTENANCE REQUIREMENTS.

Every gasoline service station establishment containing any outdoor provisions (for parking vehicles) to which the public is invited or which the public is permitted to use, shall be equipped with trash containers in compliance with the regulations hereof. It shall be the duty of the person charged with or maintaining the establishment to see that it complies with the provisions hereof.
(1995 Code, § 5.24.090) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.10 REST ROOMS.

All automobile service stations must provide clean sanitary rest rooms for public use.
(1995 Code,§ 5.24.100) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.11 PUMP AREA PROHIBITIONS.

It is unlawful for any service station to use the pump area of the station as a depository for abandoned vehicles or as a vehicle parking area.
(1995 Code, § 5.24.110) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.12 VEHICLE DISMANTLING ENCLOSURE REQUIREMENTS.

It is unlawful for any person in charge or control of any automobile service station, whether as owner, tenant, occupant, lessee, or otherwise, to allow the dismantling, wrecking, stripping, discarding or junking of vehicles on the property except that the vehicle is in an enclosed building.

(1995 Code, § 5.24.120) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.13 PARTS STORAGE AND ENCLOSURE REQUIREMENTS.

It is unlawful for any person in charge or control of any automobile service station, whether as owner, tenant, occupant, lessee, or otherwise to allow the storage of parts from any dismantled, wrecked, stripped or junked vehicle itself on the property except in an enclosed building.

(1995 Code, § 5.24.130) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.14 SIDEWALK OR PARKWAY OBSTRUCTION PROHIBITED.

It is unlawful for any person in charge or control of any automobile service station to place or permit to be placed any cars or obstruction of any kind over any sidewalks or parkways surrounding the station so as to interfere with the convenient use of the same by the public.

(1995 Code, § 5.24.140) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.15 INSPECTIONS PRIOR TO LICENSE ISSUANCE.

The entire premises of all automobile service stations shall be inspected for cleanliness, health hazards, safety and welfare of the public by the Health Department and Division of Inspection before issuance of a license. (1995 Code, § 5.24.150) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.16 VEHICLE REPAIR-ENCLOSURE REQUIREMENTS.

It is unlawful for any person in charge or control of any automobile service station, whether as owner, tenant, occupant, lessee or otherwise to repair or permit the repairing of vehicles on the premises except in an enclosed building; except for emergencies such as charging batteries and repairing flat tires.

(1995 Code,§ 5.24.160) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.17 FIRE EXTINGUISHER.

Each service station shall be equipped with at least one chemical fire extinguisher suitable for oil or gasoline fire. (1995 Code,§ 5.24.170) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.18 ADVERTISEMENT AND/OR SALE OF USED VEHICLES PROHIBITED.

It is unlawful for any person in charge or control of any automobile service station, whether as owner, tenant, occupant, lessee or otherwise to use any part of the premises for the advertisement and/or sale of used cars. (1995 Code,§ 5.24.180) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.19 PERIODIC INSPECTIONS-VIOLATIONS.

It shall be the duty of the Health Department and/or Department of Inspection or other official designated by the Mayor to inspect or cause to be inspected every establishment licensed under the ordinance codified in this subchapter periodically. Any violation under the terms of this subchapter shall be reported to the police and a sworn complaint filed to be prosecuted in the manner prescribed for violations of city ordinances. (1995 Code, § 5.24.200) (Ord. 3165, passed--1977) Penalty, see § 118.99

§ 118.20 COMPLIANCE WITH SUBCHAPTER.

All gasoline service stations must be in full compliance with this ordinance as of January 1, 1978 and thereafter. (1995 Code, § 5.24.210) (Ord. 3165, passed--1977) Penalty, see § 118.99

MOTOR VEHICLE DEALERS

§ 118.35 AUTOMOBILE TITLES.

Every licensee shall have a title for every automobile displayed on a lot customarily used for the sale of automobiles, and the title shall be produced upon demand by the Police Department.
(1995 Code, § 5.32.010) Penalty, see § 118.99

§ 118.36 CONDUCT OF EMPLOYEES.

Every licensee under this subchapter shall be held strictly responsible for the conduct of his or her employees in so far as the sales or purchases of automobiles or motor vehicles are concerned. It shall be the licensee's duty to see that no automobiles or motor vehicles are sold or purchased by his or her agents or any person in and upon his or her premises other than the licensee's own automobiles or motor vehicles. (1995 Code, § 5.32.020) Penalty, see § 118.99

§ 118.37 INVESTIGATION.

It shall be the duty of the Chief of Police to designate some member of his or her force to make an investigation of any automobile dealer whom he or she might have reason to believe is not conforming to this subchapter or to any other ordinance or law pertaining to the possession and sale of automobiles. It shall be the duty of the designated police officer to make a monthly report to the Board of Public Safety.
(1995 Code, § 5.32.030)

§ 118.38 RECORDS-COOPERATION WITH POLICE.

Each licensee shall keep any and all reasonable records required by the Police Department and shall cooperate with the Police Department in every respect.
(1995 Code, § 5.32.040) Penalty, see § 118.99

§ 118.39 LICENSES-REQUIRED.

It is unlawful for any person to engage in, carry on, maintain or conduct the business of buying, selling or dealing in motor vehicles in the city unless and until a license to so engage in business shall have been granted. (1995 Code, § 5.32.050) Penalty, see § 118.99

§ 118.40 LICENSES-APPLICATIONS-CONTENTS.

Any person desiring to obtain a license to conduct, maintain, carry on or engage in the business of buying, selling or dealing in motor vehicles shall make application in writing on a form prescribed by the City Controller to the Controller. The application must be filed at least 30 days before the hearing of the application. When issued, the license shall show the following:

(A) Whether applicant is a person, firm, partnership, association or corporation;

(B) The names and post office addresses of all officers or members of the corporation, partnership, firm or association;

(C) The street number of the building or location at which the applicant intends to carry on, maintain, conduct or engage in business; and

(D) Other information as the City Controller shall request.
(1995 Code, § 5.32.060) Penalty, see § 118.99

§ 118.41 LICENSES-APPLICATIONS DENIAL-RECONSIDERATION.

If any license application under this subchapter is declined or a license revoked, no application shall be again considered for a period of less than six months. (1995 Code, § 5.32.070)

§ 118.42 LICENSES-INDEPENDENT CONSIDERATION FOR EACH LOCATION.

Each application for a license under this subchapter shall be considered independently by the City Controller and the issuance of a license to engage in business at one location in no way entitles the applicant to a license for a second location unless the same is duly approved by the Controller.
(1995 Code, § 5.32.080) Penalty, see § 118.99

§ 118.43 LICENSES-FEES.

Each applicant filed under this subchapter shall be accompanied by a fee of $100 for the first location and a fee of $50 for each additional location. The entire fee shall be refunded in the event the application is declined. (1995 Code, § 5.32.090) Penalty, see § 118.99

§ 118.44 LICENSES-QUALIFICATIONS AND BOND OF APPLICANT.

No application for a license under this subchapter from any person shall be considered until the person has become bona fide residents of the state, or has posted a surety bond satisfactory to the City Controller of not less than $10,000, which shall be used to satisfy any judgment obtained against the licensee upon grounds of fraudulent transactions in the motor vehicle business.
(1995 Code, § 5.32.100) Penalty, see § 118.99

§ 118.45 LICENSES-ISSUANCE-DISPLAY.

The City Controller shall, for cause, refuse to authorize a license under this subchapter or shall, if there is no cause for acting otherwise, issue a certificate of license to the applicant, which certificate shall be displayed in a conspicuous place in his or her place of business.
(1995 Code, § 5.32.110) Penalty, see § 118.99

§ 118.46 LICENSES-TRANSFER OF LOCATIONS.

If the licensee shall, at any time, change the location of his or her place of business, he or she shall again file with the City Controller a new application for a license to do business in the location, which shall be handled as outlined in this subchapter. (1995 Code, § 5.32.120) Penalty, see § 118.99

§ 118.47 LICENSES-EXPIRATION.

All licenses shall be so issued as to expire on the December 31 of each year and, if no application for renewal has been filed with the City Controller by the December 31 for the following year, the licensee's right and license to sell automobiles shall become null and void.

(1995 Code, § 5.32.130) Penalty, see § 118.99

§ 118.48 LICENSES-GROUNDS FOR REVOCATION.

No licensee under this subchapter shall permit another person to operate a business on a location for which the licensee has a license and, if the licensee shall permit the abuse of his or her license, the license shall be revoked ipso facto. (1995 Code, § 5.32.140) Penalty, see § 118.99

§ 118.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Gasoline service stations.* Upon conviction of violation of any provisions of §§ 118.01 through 118.21, the establishment shall be fined $300 or the license may be revoked for a period of 30 days or the establishment may be both fined and have the license revoked. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(1995 Code, § 5.24.190) (Ord. 3165, passed--1977)

CHAPTER 119: HOTELS

Section

119.01 Hotel defined
119.02 Licenses-required
119.03 Licenses-inspection of premises of applicant
119.04 Licenses-fees
119.05 Register
119.06 Manner of operation
119.07 Conduct of lodgers
119.08 Inspection

§ 119.01 HOTEL DEFINED.

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

HOTEL. A place, inn, rooming house, lodging house or other public house or place which provides lodging for hire, with or without board, for the transient accommodation of the public, but shall not include hospitals or private residences or private boarding or rooming houses occupied by families where boarders or roomers are kept under a private arrangement or contract and are not understood to be catering to the general public for patronage. (1995 Code, § 5.26.010)

§ 119.02 LICENSES-REQUIRED.

It is unlawful for any person to engage in the business of operation of a hotel, or other public house or place in the city without first having obtained a license therefor from the City Controller as provided in this code. (1995 Code, § 5.26.020) Penalty, see § 10.99

§ 119.02 LICENSES-INSPECTION OF PREMISES OF APPLICANT.

(A) No license shall be granted pursuant to the provisions of this chapter until the City Health Officer shall make a careful examination of the premises and shall approve them in writing and show that the premises are in a clean and wholesome condition with all required, or necessary sanitary appliances and facilities, with proper heating, water, ventilation and garbage facilities. The City Health Officer shall refuse to approve any premises which, because of their unsanitary condition or from any other cause, are unfit for human habitation or have insufficient plumbing facilities, or which may otherwise endanger the public health.

(B) The Building Commissioner and Fire Inspector shall also rigidly inspect the premises and make their recommendations. (1995 Code, § 5.26.030) Penalty, see § 10.99

§ 119.04 LICENSES-FEES.

The annual license fee for each hotel, inn, rooming house, lodging house or other public house or place in the city shall be as follows.

Not more than ten rooms	$20
More than ten rooms and not exceeding 25 rooms	$50
More than 25 rooms and not exceeding 100 rooms	$100

(1995 Code, § 5.26.040) Penalty, see § 10.99

§ 119.05 REGISTER.

Every operator of premises licensed under this chapter shall at all times keep a book or register in which shall be entered and registered at the time and in the proper order the name of every person becoming a guest of the premises or an occupant of any room or portion of the premises excepting employees of the hotel. The register shall be at all times open to the inspection of the Mayor, the Health Officer or their designated agents. (1995 Code, § 5.26.050) Penalty, see § 10.99

§ 119.06 MANNER OF OPERATION.

All hotels or other public houses or places, as defined in this chapter, shall be conducted and operated in a clean and sanitary manner, shall comply with the law and with this code, and shall, at all reasonable times, be subject to inspection by the police, fire and sanitary officers and Building Commissioner of the city. It is unlawful for the proprietor, operator or any person in charge of any business, to rent or hire any mom for any immoral purpose or to permit any loud, boisterous or disorderly conduct in or about a hotel or public house or place. (1995 Code, § 5.26.060) Penalty, see § 10.99

§ 119.07 CONDUCT OF LODGERS.

It is unlawful for any guest, lodger or occupant of any hotel or other public house or place to engage in any immoral conduct therein or to act in a loud, boisterous or disorderly manner or to disturb other guests or occupants. (1995 Code, § 5.26.070) Penalty, see § 10.99

§ 119.08 INSPECTION.

The City Health Officer shall visit or cause to be visited, all hotels or other public houses or places within the city as often as he or she shall deem necessary to see that the provisions of this code pertaining thereto have been complied with and to see that the premises and appliances used therein do not endanger the public health. (1995 Code, § 5.26.080) Penalty, see § 10.99

CHAPTER 120: JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS

Section

Junk Dealers and Junk Peddlers

120.001 Definitions
120.002 Identification of vehicles
120.003 Fencing of yards-location of junk
120.004 Location of business
120.005 Melting of articles-when
120.006 Sales-when
120.007 Operation as pawnbroker
120.008 Hours of business
120.009 Stolen goods
120.010 Licenses-generally
120.011 Licenses-application
120.012 Licenses-fees
120.013 Licenses-character of applicant
120.014 Licenses-designation of location of business
120.015 Licenses-revocation
120.016 Licenses-plate, emblems and badges

Pawnbrokers

120.030 Pawnbroker defined

120.031 Licenses-required
120.032 Licenses-fee-application
120.033 Licenses-issuance
120.034 Bond
120.035 Interest rates
120.036 Records of pledges and purchases
120.037 Daily report to police
120.038 Memorandum to pledger
120.039 Display of weapons
120.040 Hours operation
120.041 Sale, redemption and the like
120.042 Prohibited transactions generally

Peddlers

120.055 Peddler defined
120.056 Inspection of food and vehicles
120.057 Weights and measures
120.058 Loud noises, horns, amplifiers
120.059 Identification
120.060 Sanitary and health requirements
120.061 Sale of unwholesome food products
120.062 Use of streets
120.063 Licenses-required
120.064 Licenses-application-contents-bond
120.065 Licenses-investigation by Chief of Police-approval
120.066 Licenses-duration-payment of fees
120.067 Licenses-fee schedule
120.068 Licenses-transferability
120.069 Licenses-display

Secondhand Dealers

120.080 License-required
120.081 License-application
120.082 License-fee
120.083 Business locations to comply with zoning regulations
120.084 Record of purchases
120.085 Daily reports to police
120.086 Sales

Solicitors and Canvassers

120.100 Definitions
120.101 Licenses-required
120.102 Licenses-application
120.103 Licenses-bond
120.104 Licenses-fees
120.105 Licenses-badge issuance

Transient and Itinerant Merchants

120.120 Definitions
120.121 Loud noises-sound amplifying devices-prohibited acts
120.122 Licenses-required
120.123 Licenses-application
120.124 Licenses-bond
120.125 Licenses-service of process
120.126 Licenses-issuance-fees-duration -renewals
120.127 Licenses-transferability
120.128 Licenses-display

Scrap Metal Merchants

120.140 Definition
120.141 Payments
120.142 Stolen property
120.143 Law enforcement-right to inspect

120.999 Penalty

JUNK DEALERS AND JUNK PEDDLERS

§ 120.001 DEFINITIONS.

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

FENCE. Any place for the purchase, reception or keeping of stolen goods, except when the context requires a different meaning.

JUNK. Old iron, chain, brass, copper, tin, lead or other base metals, old rope, old bags, rags, waste paper, feathers, paper clippings, scraps of woolens, clips, bagging, rubber, glass and empty bottles of different kinds and sizes, when the number of each kind or size is less than one gross and all articles and things discarded or no longer used as a manufactured article composed of consisting of any one or more of the materials or articles herein mentioned.

JUNK DEALER. Every person who shall engage in the business of buying, selling, bartering or exchanging, or who shall collect, receive, store or hold in possession for sale, barter or exchange any of the things defined in this section as junk or purchases from junk peddlers; provided, that a junk peddler as defined in this section who does not occupy premises within the city owned, leased or purchased especially for the purpose of the business shall not be deemed a junk dealer under the terms of this article.

JUNK PEDDLER. Every person who uses a junk wagon as defined in this section and travels from place to place within the city for the purpose of purchasing junk or who, without a junk yard or junk store within the city, makes a business of purchasing junk and carries it away upon purchasing it.

JUNK STORE. Any store, shop, warehouse or building where junk is bought, sold, bartered or exchanged or where junk is collected, received, stored or held in possession for resale, barter or exchange, either at wholesale or retail.

JUNK YARD. Any yard, place or enclosure other than a junk store, as defined in this section, where junk is bought, sold, bartered or exchanged, either at wholesale or retail or where junk is collected, received, stored or held in possession for resale, barter or exchange, either at wholesale or retail.

(1995 Code, § 5.28.010)

§ 120.002 IDENTIFICATION OF VEHICLES.

(A) Each junk wagon shall be permanently and legibly marked with the name of the licensed dealer using the wagon, together with the street and number of his or her place of business.

(B) Whenever any junk dealer shall remove his or her place of business from the place designated in the license, the dealer shall immediately change the address on all junk wagons used by him or her to correspond with the new place of business. (1995 Code, § 5.28.020) Penalty, see § 120.999

§ 120.003 FENCING OF YARDS-LOCATION OF JUNK.

(A) Every premises or enclosure, except a completely enclosed building, used for the purpose of storing parts of dismantled vehicles shall be entirely surrounded by a neat fence six feet in height, which fence shall be kept in a proper state of repair and none of the enclosed articles shall be piled higher than the fence.

(B) No junk shall be permitted to be or remain on the parkways, sidewalks, streets or public ways within the city. (1995 Code, § 5.28.030) Penalty, see § 120.999

§ 120.004 LOCATION OF BUSINESS.

(A) It is unlawful for any person to locate, conduct or operate any junk store or junk yard within 1,000 feet of a church, hospital, park, playground, public building or school, the distance to be measured by the shortest straight line between the junk store or junk yard sought to be located, conducted or operated and any building used for those purposes.

(B) It is unlawful for any person to locate, for the purpose of conducting or operating, any junk store or junk yard in any block in which two-thirds of the buildings on both sides of the street in any block are used exclusively for residence purposes or residence and wholesale or retail store purposes or use exclusively for wholesale or retail store purposes without the written consent of a majority of the property owners according to the frontage on both sides of the street; provided, that in determining whether two-thirds of the buildings on both sides of the street in any block are used exclusively for residence purposes, or residence and wholesale or retail store purposes, or used exclusively for wholesale or retail store purposes, any building fronting upon another street and located upon the comer lot shall not be considered; provided further, that the word ***BLOCK*** as used in this section shall be held not to mean a square, but shall be held to embrace only that part of the street in question which lies between the two nearest intersecting streets on either side of the lot on which the junk store or junk yard is to be located, conducted or operated. The written consent of the property owners shall be filed with the Building Commissioner. If, after inspection and verification of the frontage consents, the Building Commissioner shall find that this section and the building and zoning regulations of this code have been complied with, he or she shall issue a permit for the location or operation of the junk store or junk yard.

(1995 Code, § 5.28.040) Penalty, see § 120.999

§ 120.005 MELTING OF ARTICLES-WHEN.

No article, thing or substance included within the junk purchased, received or collected shall be melted, vulcanized or otherwise changed or its identity destroyed within two days after the same was purchased, received or collected. (1995 Code, § 5.28.050) Penalty, see § 120.999

§ 120.006 SALES-WHEN.

No junk dealer or junk peddler shall expose for sale or sell or dispose of any goods, article, junk or thing whatsoever within two days of the time of collecting, receiving or purchasing the same, nor until the same shall have been in the premises wherein the same are offered, exposed or sold at least two days; provided, that a junk peddler may dispose of junk collected by him or her in bulk sales from day to day to a junk dealer whose duty it shall be to hold the purchases for two days in conformity with the provisions of this subchapter. (1995 Code, § 5.28.060) Penalty, see § 120.999

§ 120.007 OPERATION AS PAWNBROKER.

No retail junk dealer or junk peddler shall receive any article or thing by way of pledge or pawn nor shall the dealer or peddler loan or advance any sum of money on the security of any article or thing.
(1995 Code, § 5.28.070) Penalty, see § 120.999

§ 120.008 HOURS OF BUSINESS.

No junk dealer or junk peddler shall receive, in the conduct of his or her business, any goods, articles or thing whatsoever from any person between the hours of 8:00p.m. and 6:00a.m.
(1995 Code, § 5.28.080) Penalty, see § 120.999

§ 120.009 STOLEN GOODS.

(A) No person shall keep, maintain or conduct a place for the purchase, reception or keeping of stolen goods as a fence.

(B) Every junk dealer or junk peddler who shall receive or be in possession of any goods, articles, things or junk which may have been lost or stolen or are alleged or supposed to have been lost or stolen shall forthwith exhibit the same to any member of the police force on demand.

(C) The places of business, junk wagons and all junk of every junk dealer and the junk wagon of every junk peddler shall, at all reasonable times, be open to the inspection of any member of the police force.

(D) Whenever there shall be filed with the Chief of Police, by the owner or his or her agent, a sworn written and signed statement that the owner or the agent has reason to believe that certain stolen goods or things specifically described in a sworn statement are in the possession of any wholesale junk dealer, any member of the police force shall have the right to inspect the premises of the junk dealer at any reasonable hour and view all junk which has been purchased, received, collected or stored in the premises occupied by the business. (1995 Code, § 5.28.090) Penalty, see § 120.999

§ 120.010 LICENSES-GENERALLY.

(A) It is unlawful for any person to and no person shall operate as a junk dealer or junk peddler nor engage in the business of keeping a junk store or junk yard nor use a junk wagon for the purpose of collecting, transporting or disposing of junk without first obtaining a license from the city for that purpose.

(B) A junk peddler's license shall not authorize a junk peddler to operate as a junk dealer, provided, that a junk dealer may employ the number of junk peddlers as he or she may obtain junk vehicle licenses for, but in case it shall be necessary for the junk peddler to have a license as the junk peddler in addition to the license for the vehicle.

(C) A separate license shall be procured by every junk dealer for each separate junk store or junk yard located on separate premises and for each junk wagon used in the business. Where a junk store and a junk yard located upon the same or contiguous or adjoining premises are conducted or operated by the same person, the business shall be considered as one business and only one license shall be required therefor.

(D) No person licensed as a junk dealer or junk peddler shall receive or hold a license to conduct the business of a pawnbroker or secondhand dealer, except as a dealer in parts and accessories of secondhand motor vehicles. (1995 Code, § 5.28.100) Penalty, see § 120.999

§ 120.011 LICENSES-APPLICATION.

(A) In addition to the general licensing provisions of this code, the applicant for a license under this subchapter shall also state in his or her written application that he or she has not kept, conducted or operated and that he or she has not been convicted of keeping, operating or conducting a fence within one year prior to the date of the application.

(B) Every person, if a corporation, making application for a license as a junk dealer shall state in its written application that it has not, nor has any of its officers, stockholders or employees, kept, operated or conducted or been convicted of keeping, operating or conducting a fence during the period of one year prior to the date of the application.

(C) Every application for a license shall contain the signed recommendation of at least three other citizens of the city as to the good moral character of the applicant. The applicant shall state that the purpose of his or her business is to engage in a particular type of junk business, stating it, as the case may be, and that the person will observe and comply with all provisions of this code or which may hereafter be passed, as the case may be. (1995 Code,§ 5.28.110) Penalty, see § 120.999

§ 120.012 LICENSES-FEES.

Fees for licenses issued pursuant to this subchapter are as follows.

(A) *Junk dealer's license.*

(1) The annual fee for a junk dealer's license shall be $50.

(2) Every junk dealer who shall operate a junk vehicle in connection with his or her business shall pay the sum of $15 annually, additionally therefor, as a license fee. A separate license shall be obtained for each junk vehicle used in the business.

(B) *Junk peddler's license.* The annual fee for a junk peddler's license, where he or she operates with a junk wagon propelled by motor and who has no junk yard, shall be $50.

(1995 Code, § 5.28.120) Penalty, see § 120.999

§ 120.013 LICENSES-CHARACTER OF APPLICANT.

The City Controller shall direct the issuance of licenses under this subchapter to the persons who shall produce satisfactory evidence of good character or reputable standing subject to other provisions of this code. (1995 Code,§ 5.28.130)

§ 120.014 LICENSES-DESIGNATION OF LOCATION OF BUSINESS.

Every license granted to a junk dealer shall designate the house, store, place, building, warehouse, yard or enclosure in which the person receiving the license shall be authorized to conduct or operate the· business and the business shall not be conducted or operated in any place other than the place designated in the license. (1995 Code,§ 5.28.140) Penalty, see § 120.999

§ 120.015 LICENSES-REVOCATION.

The license of any junk dealer or junk peddler who has been convicted of keeping, maintaining or conducting a fence shall, upon conviction, be immediately revoked. No person shall be granted a license as a retail junk dealer or junk peddler during the period of one year after conviction. No corporation of which any one of the officers, stockholders or employees has been convicted of keeping, maintaining or conducting a fence, shall be granted a license as a retail junk dealer during the period of one year after conviction, unless the corporation shall produce satisfactory evidence to the Mayor that the officer, stockholder or employee has disposed of his or her entire interest in the corporation and has completely served his or her connection with the corporation. (1995 Code, § 5.28.150) Penalty, see § 120.999

§ 120.016 LICENSES-PLATE, EMBLEMS AND BADGES.

(A) Every person licensed as a junk dealer, before using any junk wagon or causing the same to be used for the collection, transportation or disposal of any junk, shall obtain from the City Controller, for each junk wagon, a license plate or other suitable emblem on which shall be stamped the words "East Chicago-Junk" and the year.

(B) The person shall also, at the same time that the plate or emblem for a junk wagon is obtained, procure from the City Controller a badge of metal or suitable substitute approximately three inches in diameter for the driver of each licensed junk wagon. The badge shall be provided with a pin or other fastening and shall be worn in a conspicuous place on the outside of the coat.

(C) Every person licensed as a junk peddler under the provisions of this subchapter who does not operate a junk store or junk yard and who is not employed by a junk dealer shall be subject to all the requirements of this section in respect to license plates, emblems and badges.

(1995 Code, § 5.28.160) Penalty, see § 120.999

PAWNBROKERS

§ 120.030 PAWNBROKER DEFINED.

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

PAWNBROKER. Any person who engages in the business of lending money on the deposit or pledge of personal property other than chooses in action, securities or printed evidence of indebtedness. (1995 Code, § 5.36.010)

§ 120.031 LICENSES-REQUIRED.

No person shall engage in the business of pawnbroker in the city without first obtaining a license therefor as provided in this subchapter. (1995 Code, § 5.36.020) Penalty, see § 120.999

§ 120.032 LICENSES-FEE-APPLICATION.

The annual fee for a pawnbroker's license shall be the sum of $500 which shall be paid to the city before an application is made to the City Controller in compliance with the provisions of this subchapter. (1995 Code, § 5.36.030) Penalty, see § 120.999

§ 120.033 LICENSES-ISSUANCE.

Upon the filing of the application for a pawnbroker's license, if the City Controller shall find the financial standing and character of the applicant are such that the business will be operated honestly, fairly and efficiently, the City Controller shall issue a license to the applicant as provided in this subchapter. (1995 Code, § 5.36.040)

§ 120.034 BOND.

Every person licensed as a pawnbroker shall, at the time of receiving the license, execute a bond to the city in the sum of $10,000, with good and sufficient sureties, conditioned for the due observance of the provisions of this subchapter respecting pawnbrokers at all times during the continuance of the license and for the use of any person who may have a cause of action against the obligor of the bond under the provisions of this subchapter. (1995 Code, § 5.36.050) Penalty, see § 120.999

§ 120.035 INTEREST RATES.

The pawnbroker shall not charge or receive interest on loans at a rate in excess of that authorized by law. (1995 Code, § 5.36.060) Penalty, see § 120.999

§ 120.036 RECORDS OF PLEDGES AND PURCHASES.

(A) Every pawnbroker shall keep a book in which shall be recorded, legibly in ink, at the time of making each loan, an accurate account and description in the English language of the goods, articles or things pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on the loan, the name and residence address of the person pawning or pledging the

goods, articles or things; the facts showing whether the pledge is made by a person acting as agent for a disclosed principal and, if so, the names and addresses of principal and agent; the age, color, height, weight, complexion and style of dress of the person pawning the article and the serial number of the loan.

(B) In a separate book, the pawnbroker shall record, in ink, all sales or redeemed pledges showing the number, date, amount and duration of each loan, the date of the sale, the amount realized from the sale of the collateral, the amount charged to the pledger as interest, commission and expenses of sale, the amount of the surplus or deficit, as the case may be, the date on which and the person to whom the surplus, if any, was paid.

(C) In no event shall any required entry be delayed longer than one hour after the transaction, and no entry in the records shall be obliterated, erased or defaced.

(D) The records as well as every article or thing of value pawned or pledged shall at all reasonable times be open to the inspection of the Chief of Police or his or her duly appointed agent.

(1995 Code, § 5.36.070) Penalty, see § 120.999

§ 120.037 DAILY REPORT TO POLICE.

It shall be the duty of every pawnbroker to make out and deliver to the Chief of Police every day before the hour of 12:00 p.m., a legible and correct copy from the books required in this subchapter of all personal property and other valuable things received on deposit and all secondhand articles purchased during the preceding day, setting forth the hour when received and the description of the person by whom left in pledge or sold. (1995 Code, § 5.36.080) Penalty, see § 120.999

§ 120.038 MEMORANDUM TO PLEDGER.

A pawnbroker shall, at the time of making a loan, deliver to the pledger or his or her agent a memorandum containing the substance of the entry made in his or her books as required in this subchapter. There shall be no charge for the memorandum.

(1995 Code, § 5.36.090) Penalty, see § 120.999

§ 120.039 DISPLAY OF WEAPONS.

No pawnbroker shall show, display or exhibit any pistol, revolver, derringer, bowie knife, dirk or other weapon of similar character which can be concealed on the person, in any show window or in or on any premises immediately abutting upon any public street in the city in such a way that the same may be seen from the street. (1995 Code, § 5.36.100) Penalty, see § 120.999

§ 120.040 HOURS OF OPERATION.

No pawnbroker shall receive on deposit or pledge any personal property or other valuable thing or shall buy any secondhand article or thing or carry on the business before the hour of 8:00 a.m. or after the hour of 10:00 p.m. (1995 Code, § 5.36.110) Penalty, see § 120.999

§ 120.041 SALE, REDEMPTION AND THE LIKE.

No personal property received on deposit, purchased on condition, pledged or pawned to the pawnbroker shall be sold or permitted to be redeemed or removed from the place of business of the pawnbroker for a period of 24 hours after a copy of the statement required by this subchapter has been delivered to the Chief of Police. (1995 Code,§ 5.36.120) Penalty, see § 120.999

§ 120.042 PROHIBITED TRANSACTIONS GENERALLY.

(A) No pawnbroker shall purchase or take or receive any pledge or purchase any article or any thing from a minor.

(B) No pawnbroker shall receive any pledge or purchase any article from any person who is known by him or her to be a thief or associate of a thief or receiver or stolen property or from any person whom he or she has reason to suspect or believe to be any of the foregoing.

(C) No pawnbroker shall purchase personal property or any other valuable thing agreeing to sell the same back to the seller at a price other than the original purchase price, at a total charge rate of interest, discount or other remuneration in excess of the rate permitted by law.

(D) No pawnbroker shall permit any person under the age of 16 to take pledges in pawn for him or her or to purchase secondhand articles for him or her.

(E) No pawnbroker shall take or receive any article or thing of value in pawn or pledge from any person who is intoxicated at the time of offering the article in pawn or pledge.

(1995 Code, § 5.36.130) Penalty, see § 120.999

PEDDLERS

§ 120.055 PEDDLER DEFINED.

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

PEDDLER.

(1) Any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street carrying or transporting goods, wares, merchandise, meat, butter, eggs, cheese, fish, vegetables, fruits, garden truck, farm products, ice cream or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance; provided, that one who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this subchapter shall be deemed a peddler and subject to the provisions of this subchapter.

(2) The word ***PEDDLER*** shall also include the words hawker and huckster.

(1995 Code, § 5.38.010)

§ 120.056 INSPECTION OF FOOD AND VEHICLES.

It shall be the duty of the Board of Health to cause periodic inspections, as often as necessary, of the food offered for sale and the vehicles used to determine if there has been compliance with the provisions of this subchapter. Ice cream trucks are to be of safe design; service is to be from the curb side of the vehicle only. Stopping or parking of ice cream trucks in the middle of the street is prohibited.

(1995 Code,§ 5.38.020) (Ord. 3215, passed--1979)

§ 120.057 WEIGHTS AND MEASURES.

(A) All peddlers using any weights, scales, measures or weighing or measuring devices shall cause the same to be inspected before they are used. If the weights or measures prove to be correct, they shall be stamp thereon the proper seal for the year during which the same are to be used.

(B) No licensee under this subchapter shall use any scales or measuring devices until they have first been approved .

(1995 Code, § 5.38.030) (Ord. 0-10-0016, passed 11-22-2010) Penalty, see § 120.999

§ 120.058 LOUD NOISES, HORNS, AMPLIFIERS.

No peddler nor any person in his or her behalf shall shout, make any cry out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying systems upon any of the streets, sidewalks, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, sidewalks, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which the peddler licensed under this subchapter proposes to sell. (1995 Code, § 5.38.040) Penalty, see § 120.999

§ 120.059 IDENTIFICATION.

(A) Every vehicle used by a peddler shall have the name of the owner and his or her address plainly and legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of each side of every vehicle and name shall be kept plain and distinct at all times while the vehicle is in use for peddling in the city.

(B) Every peddler who uses a vehicle shall obtain from the City Controller a suitable license plate for the vehicle. The license plate or emblem shall have stamped or imprinted thereon “City of East Chicago-Peddler” and the year.

(C) Every individual having a license under this subchapter as a peddler while engaged in the business of peddling in the city shall wear conspicuously, on the outside of his or her outside coat or garment, a badge or shield furnished by the City Controller. The badge shall have stamped on it the words “peddler”, the year, “City of East Chicago” and a number.

(D) Every helper on a vehicle shall have a badge marked “peddler's helper”.

(E) The license badge shall not be worn at any time by any person other than the one to whom it was issued by the city.

(F) Each peddler or helper shall also carry with him or her a card furnished by the City Controller showing all necessary details and information in connection with his or her license, including the date of expiration. (1995 Code, § 5.38.050) Penalty, see § 120.999

§ 120.060 SANITARY AND HEALTH REQUIREMENTS.

(A) (1) No person having an infectious or contagious disease, which may be transmitted, or who is a disease carrier shall be engaged in the handling of food products for human consumption or in the handling of containers in which the foods are packed. The Board of Health may require each person so engaged to submit to proper examination for the purpose of determining his or her condition in this respect and for this purpose may require a medical certificate given by a reputable physician stating that the licensee, helper, employee or agent is free from infectious or contagious disease and is not a disease carrier.

(2) Form certificates shall be prepared and provided by the Board of Health for physicians. The physician's certificate must be approved by the Board of Health.

(3) The City Controller may require the certificate of the Board of Health prior to the issuance of a license under this subchapter.

(B) All vehicles used by licensees under this subchapter shall be so constructed that the portion of the vehicle which contains the food products for human consumption shall be covered in a manner that no dust or dirt will settle on the products. The vehicles and all other equipment and facilities used shall be kept in a clean and sanitary condition and shall be protected from dust, flies, rodents and other contamination.

(C) The operators of any vehicles used in connection with any licensees under this subchapter shall observe all the sanitary requirements prescribed in this subchapter, and the requirements shall extend to the licensee and his or her employees while engaged in and about the handling of foods and food products on their way to and from and while in the vehicles.
(1995 Code, § 5.38.060) Penalty, see § 120.999

§ 120.061 SALE OF UNWHOLESOME FOOD PRODUCTS.

(A) It is unlawful for any licensee under this subchapter to have in his or her possession with intent to sell or offer for sale any food products for human consumption which are unclean, unwholesome, tainted, putrid, decayed, adulterated, poisoned, infected or in any manner rendered unsafe or unwholesome for human consumption. The food products shall be deemed unwholesome for human food if the same have been contaminated by flies or other insects, vermin, dust, dirt or other form of contamination; if they contain any poison or deleterious or injurious ingredients in kinds and quantities to render the article injurious or detrimental to health; or if they contain the whole or part of any un-inspected or un-passed meat or meat products.

(B) It is unlawful for any licensee under this subchapter to sell or offer for sale any food products for human consumption contrary to law or rules or regulations of the Department of Agriculture of the United States. (1995 Code, § 5.38.070) Penalty, see § 120.999

§ 120.062 USE OF STREETS.

No licensee under this subchapter shall have exclusive right to occupy any portion of a business street, alley or other public grounds in the business districts of the city; nor shall he or she be permitted a stationary location; nor shall he or she be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. In no instance shall the licensee remain at one point longer than ten minutes. (1995 Code, § 5.38.080) Penalty, see § 120.999

§ 120.063 LICENSES-REQUIRED.

It is unlawful for any person to engage in or carry on the business of a peddler within the city without first obtaining a license to do so as provided in this subchapter.

(1995 Code, § 5.38.090) Penalty, see § 120.999

§ 120.064 LICENSES-APPLICATION CONTENTS-BOND.

(A) Every person who desires a license under this subchapter as a peddler or hawker shall make written application therefor in conformity with the general licensing requirements of this code at least two days before the license is issued. The application shall be sworn to by the applicant and shall show the kind of goods to be offered for sale.

(B) In addition to the information usually required, the applicant shall be required to state the nature of the business and the equipment and facilities to be used. A copy of each application shall be transmitted immediately to the City Health Officer.

(C) The applicant shall furnish a photograph of himself or herself taken within 60 days of the application, which picture shall be two inches by two inches and show the head and shoulders of the applicant in a clear and distinguishing manner.

(D) The applicant shall have his or her fingerprints taken by the police and shall give full detail of his or her criminal record, if any.

(E) The applicant shall furnish evidence of his or her good character and business responsibility.

(F) The application shall be accompanied by a surety bond payable to the city in the penal sum of $5,000 executed by a surety company or by two freeholders resident in the county or, in lieu thereof, a cash bond of equal amount conditioned that all goods, wares, merchandise, personal property, agricultural products, produce, poultry, meats, fish, eggs and other similar articles or goods sold by the applicant will be as represented by him or her and that he or she will refund the purchase price of any personal property, articles or products which are not as represented. The bond shall continue in force for 30 days after the expiration of the license. Any purchaser of the personal property, articles or products which are not as represented shall have a right of action on the bond for damages sustained by reason of the misrepresentation. (1995 Code, § 5.38.100) Penalty, see § 120.999

§ 120.065 LICENSES-INVESTIGATION BY CHIEF OF POLICE-APPROVAL.

(A) Upon receipt of the application, the original shall be referred to the Chief of Police, who shall cause the investigation of the applicant's business and moral character to be made as he or she deems necessary.

(B) After investigation of the character or business responsibility of applicant, the Chief of Police shall endorse on the application his or her approval or disapproval and he or she shall so notify the City Controller who shall be governed by the report.

(C) If as a result of the investigation the applicant has been approved, he or she shall pay the fees required. (1995 Code, § 5.38.110)

§ 120.066 LICENSES-DURATION-PAYMENT OF FEES.

Licenses issued under this subchapter shall be for the full license period of one year. The entire annual fee must be paid in advance and no deduction shall be allowed from the fee for the licenses for any part of the year the license is not used. (1995 Code, § 5.38.120) Penalty, see § 120.999

§ 120.067 LICENSES-FEE SCHEDULE.

(A) The annual license fee for a peddler using a motor-propelled vehicle shall be $100.

(B) The annual license fee for peddler's helpers shall be $40 for each helper.

(C) For all other peddlers embraced by the terms of this subchapter, the annual license fee shall be $40. (1995 Code, § 5.38.130) Penalty, see § 120.999

§ 120.068 LICENSES-TRANSFERABILITY.

No license granted under this subchapter shall be transferable or authorize any other person than the one named therein to engage in the business sanctioned by the license.
(1995 Code, § 5.38.140) Penalty, see § 120.999

§ 120.069 LICENSES-DISPLAY.

No person who whom a license or certificate has been issued under the provisions of this subchapter shall refuse, upon request made, to show the license or certificate to any police officer of the city or to any person to whom he or she shall offer to sell any goods, wares, merchandise, personal property or agricultural products. (1995 Code, § 5.38.150) Penalty, see § 120.999

SECONDHAND DEALERS

§ 120.080 LICENSE-REQUIRED.

It is unlawful for any person to engage in the business of secondhand dealer or to purchase gold, silver, metals and jewelry by going from house to house or to carry on, operate or conduct a secondhand store or place of business where goods, wares and merchandise are bought and sold at secondhand without first having obtained a license therefor as provided in this subchapter, provided, that the words "secondhand dealer" or "secondhand stores" shall not include peddlers or hawkers, junk dealers, secondhand auto dealers or other dealers as defined and licensed by this code; provided further, that the provisions of this subchapter shall not permit the sale of secondhand clothing or other prohibited articles.
(1995 Code, § 5.44.010) Penalty, see § 120.999

§ 120.081 LICENSE-APPLICATION.

An application for a license for secondhand dealers or secondhand stores shall be made in conformity with the general licensing provisions of this code.
(1995 Code, § 5.44.020) Penalty, see § 120.999

§ 120.082 LICENSE-FEE.

The annual fee for secondhand dealers or secondhand stores shall be $100.
(1995 Code, § 5.44.030) Penalty, see § 120.999

§ 120.083 BUSINESS LOCATIONS TO COMPLY WITH ZONING REGULATIONS.

All locations for businesses engaged in the selling of secondhand articles must be permitted under the provisions of the zoning regulations of this code before the location shall be approved by the City Controller. (1995 Code, § 5.44.040)

§ 120.084 RECORD OF PURCHASES.

(A) Every person who is a secondhand dealer or who operates or conducts a secondhand store shall keep a record of all goods, articles or things of value purchased, giving a full description of the same, where purchased, with the name of the maker, marks, number or brand of any article so purchased; the amount of money paid therefor, the hour and date of the sale, the name, residence and street number of the person selling the goods or article together with a record of the age, color, height, weight, complexion and style of dress of the person so selling the article at the time of the sale. The record shall be made as soon as possible after the sale is completed and shall be written legibly and in the English language. No record shall be obliterated, erased or defaced.

(B) The records, as well as every article or thing of value purchased at secondhand stores, shall at all reasonable times be open to the inspection of any member of the police force when duly authorized.
(1995 Code, § 5.44.050)

§ 120.085 DAILY REPORTS TO POLICE.

It shall be the duty of every person licensed under the provisions of this subchapter, after the Chief of Police shall so require in writing, to make out and deliver to the Chief of Police each day before the hour of 12:00 p.m. a correct and legible copy from the records of all personal property or other valuable articles or things purchased the preceding day. A separate report shall be made for each transaction. The Chief may suspend, in writing, the necessity for further reports.
(1995 Code, § 5.44.060) Penalty, see § 120.999

§ 120.086 SALES.

No property purchased by a licensee under this subchapter shall be resold or removed from his or her place of business for a period of 24 hours after a copy of the record has been delivered to the Chief of Police. (1995 Code, § 5.44.070) Penalty, see § 120.999

SOLICITORS AND CANVASSERS

§ 120.100 DEFINITIONS.

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

CANVASSER or ***SOLICITOR.*** Any person, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares or merchandise, personal property of any nature whatsoever for future delivery or for services to be

furnished or performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the sale or whether he or she is collecting advance payment on the sales or not; provided, that the definition shall include any person who for himself, herself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(1995 Code, § 5.54.010)

§ 120.101 LICENSES-REQUIRED.

It is unlawful for any solicitor or canvasser as defined in this subchapter to engage in the business within the city without first obtaining a license therefor in compliance with the provisions of this subchapter. (1995 Code, § 5.54.020) Penalty, see § 120.999

§ 120.102 LICENSES-APPLICATION.

A written application for the license shall be filed with the City Controller in compliance with the general licensing provisions of this code. In addition to the general information required, the application shall contain the following information:

(A) The length of time for which the right to do business is desired;

(B) The place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where the goods or products are located at the time the application is filed and the proposed method of delivery;

(C) A photograph of the applicant taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

(D) The fingerprints of the applicant and references as to the applicant's good character and business respectability;

(E) The complete criminal record, if any, of the applicant; and

(F) A statement by a reputable physician of the city dated not more than ten days prior to submission of the application certifying the applicant to be free of contagious, infectious or communicable disease. (1995 Code, § 5.54.030) Penalty, see § 120.999

§ 120.103 LICENSES-BOND.

Every applicant not a resident of the city or who, being a resident of the city, represents a firm whose principal place of business is located outside the state shall file with the City Controller a surety bond, payable to the city in the penal sum of $5,000, with acceptable surety, conditioned that the applicant shall comply fully with all the provisions of law and this subchapter regulating and concerning the business of solicitors and guaranteeing to any person that all money paid in the city as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing to any person doing business with the solicitor in the city that the property purchased will be delivered according to the representations of the solicitor. Action on the bond may be brought in the name of the city to the use or benefit of the aggrieved person. (1995 Code, § 5.54.040) Penalty, see § 120.999

§ 120.104 LICENSES-FEES.

(A) The license fee which shall be required of each applicant shall be $100 per annum, and shall be payable in advance. On all licenses applied for after July 1, only one-half the annual fee shall be required.

(B) None of the license fees provided for by this subchapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon the commerce, he or she may apply to the City Controller for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to the commerce. The application may be made before, at or within six months after payment of the prescribed license fee, but at least one month before the end of the calendar year. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the gross volume or estimated gross volume of business and other information as the City Controller may deem necessary in order to determine the extent, if any, of undue burden on commerce. The City Controller shall then conduct an investigation, compare the applicant's business with other businesses of a similar nature and shall make findings of fact from which he or she shall determine whether the fee fixed by this section is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the City Controller shall have the power to base the fee upon a percentage of the gross sales or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed in this section. Should the City Controller determine the gross sales measure of the fee to be the fair basis, he or she may require the applicant to submit, either at the time of termination of applicant's business in the city or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided, that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license as prescribed in this section. (1995 Code, § 5.54.050)

§ 120.105 LICENSES-BADGE ISSUANCE.

The City Controller shall issue a license and a badge, which shall contain the words "licensed solicitor", the period for which the license is issued and the number of the license, in letters and figures easily discernible from the distance of ten feet. The badge shall, during the time the licensee is engaged in soliciting, be worn constantly by the licensee on the front of his or her outer garment in a way as to be conspicuous. (1995 Code, § 5.54.060) Penalty, see § 120.999

TRANSIENT AND ITINERANT MERCHANTS

§ 120.120 DEFINITIONS.

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

TRANSIENT MERCHANT, ITINERANT MERCHANT or ***ITINERANT VENDOR.*** Any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares or merchandise within the city and who, in furtherance of the purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar or boat, public rooms in hotels, lodging houses, apartments, shops or any street, alley

or other place within the city for the exhibition and sale of the goods, wares or merchandise, either privately or at public auction; provided, that the definition shall not be construed to include any person who, while occupying the temporary location, does not sell from stock, but exhibits samples only for the purpose of obtaining orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this subchapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting the transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer. (1995 Code, § 5.56.010)

§ 120.121 LOUD NOISES-SOUND AMPLIFYING DEVICES-PROHIBITED ACTS.

No transient merchant, itinerant merchant or itinerant vendor, nor any persons acting in his or her behalf shall shout, make any cry out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying systems upon any of the streets, sidewalks, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, sidewalks, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which the transient merchant, itinerant merchant or itinerant vendor proposes to sell.

(1995 Code, § 5.56.020) Penalty, see § 120.999

§ 120.122 LICENSES-REQUIRED.

No transient merchant, itinerant merchant or itinerant vendor shall engage in, do or transact any business, as such, in the city without having first obtained a license as provided in this subchapter.

(1995 Code, § 5.56.030) Penalty, see § 120.999

§ 120.123 LICENSES-APPLICATION.

A written application for the license shall be filed not less than five days before the license is desired in compliance with the general licensing provisions of this code. In addition to the information required under the general licensing provisions of this code, the applicant shall furnish the following information:

(A) The fingerprints of the persons having the management or supervision of the applicant's business;

(B) The place other than the permanent place of business of the applicant where the applicant, within six
months next preceding the date of the application, conducted a transient business, stating the nature of and giving the post office and street address of any building or office in which the business was conducted;

(C) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the city; the invoice value and quality of the goods, wares and merchandise; whether the same are proposed to be sold for stock in possession or from stock in possession and by sample, at auction, by direct sale or by direct sale and by taking orders for future delivery, where the goods or property proposed to be sold are manufactured or produced and where the goods or products are located at the time the application is filed;

(D) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers;

(E) The complete criminal record, if any, of the person having the management or supervision of the applicant's business; and

(F) Other relevant information. (1995 Code, § 5.56.040) Penalty, see § 120.999

§ 120.124 LICENSES-BOND.

(A) An application for a license under this subchapter shall be accompanied by a bond payable to the city in the penal sum of $5,000, executed by the applicant as principal and by an acceptable surety company or by two freeholders resident in the county or, in lieu thereof, a cash bond of equal amount conditioned that the applicant shall fully comply with the provisions of law and this subchapter and will pay all judgments rendered against the applicant for any violation thereof, together with all judgments and costs that may be recovered against him or her by any person for damage growing out of any misrepresentation or deception practiced on any person transacting the business with the applicant, whether the misrepresentations or deceptions were made or practiced by the owners or their agents or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise. Action on the bond may be brought in the name of the city to the use of the aggrieved person.

(B) In the event a cash bond is deposited, the bond shall be retained by the city for six months from the date of the license. (1995 Code, § 5.56.050) Penalty, see § 120.999

§ 120.125 LICENSES-SERVICE OF PROCESS.

Before any license shall be issued under this subchapter, the applicant shall file with the City Controller an instrument nominating and appointing the Controller his or her true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under the license and the bond given as provided in § 120.124 or for the performance of the conditions of the bond or for any breach thereof, which instrument shall also contain recitals to the effect that the applicant for a license under this subchapter consents and agrees that service of any notice or process may be made upon the agent and when so made shall be taken and held to be as valid as if personally served upon the person applying for the license under this subchapter, according to the law of this or any other state and waiving all claim or right of error by reason of any acknowledgment of service or manner of service. Immediately upon service of process upon the City Controller as herein provided, the City Controller shall send to the licensee, at his or her last known address; by registered mail a copy of the process.
(1995 Code, § 5.56.060) Penalty, see § 120.999

§ 120.126 LICENSES-ISSUANCE-FEES DURATION-RENEWALS.

Upon the filing of an application and bond under this subchapter, to the approval of the City Controller, and instrument for service of process, a license shall be issued to the applicant upon payment of the following fees: $30 per day for the first ten days or any part thereof; and after the first ten days, a license fee of $20 per day. No license shall be issued for a shorter period than six days or for a longer period than one month. All license fees must be paid in advance and, if any licensee desires to continue in business after expiration of the license, a new license must be obtained in the same manner and upon the same terms as the original license. (1995 Code, § 5.56.070) Penalty, see § 120.999

§ 120.127 LICENSES-TRANSFERABILITY.

No license or certificate issued under this subchapter shall be transferable; nor shall any person other than the one named in the license be permitted to use the same; nor shall any license protect any person from incurring the penalties prescribed by this code.

(1995 Code, § 5.56.080) Penalty, see § 120.999

§ 120.128 LICENSES-DISPLAY.

No person to whom a license or certificate has been issued under the provisions of this subchapter shall refuse, upon request made, to show any license or certificate to any police officer of the city or to any person to whom he or she shall offer to sell any goods, wares or merchandise.

(1995 Code, § 5.56.090) Penalty, see § 120.999

SCRAP METAL MERCHANTS

§ 120.140 DEFINITION.

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

SCRAP METAL MERCHANT. Any entity (person, firm, company, partnership, association or corporation) who purchases products containing ferrous or nonferrous metals for recycling or resale. Ferrous metals contain iron, for example, mild steel, high-carbon steel, stainless steel and iron. Non-ferrous metals for example, aluminum, brass and copper or any other metal alloy containing these materials.

(Ord. 0-08-0027, passed 10-27-2008)

§ 120.141 PAYMENTS.

(A) *Cash payments.* For all purchases of scrap metal paid for in cash, the scrap metal merchant shall obtain the following information from the seller of the products containing ferrous or non-ferrous material:

(1) A complete and accurate description of all property taken, purchased or received by the merchant in the regular course of business;

(2) The date and time of the purchase;

(3) The correct legal name, date of birth and place of residence, including city and state;

(4) A photograph of the person;

(5) A copy of the driver’s license, or if not available, a copy of the individual's military identification, passport, or other approved state identification number;

(6) License plate number of the vehicle delivering the material; and

(7) The amount paid for the property and the name of the employee handling the transaction.

(B) *Check payments to corporations or businesses.*

(1) Except as provided in division (B)(2) below, for all purchases of scrap metal from a corporation or business and paid for by pre-numbered check drawn on the regular bank account of the scrap metal merchant and made payable to the legal name of the corporation or business, the scrap metal merchant shall obtain and maintain on file, the following information from the seller of the products containing ferrous or non-ferrous metals;

(a) A complete and accurate description of all property taken, purchased or received by the merchant in the regular course of business;

(b) The date and time of the delivery;

(c) The federal employer identification number of the payee on the check (FEIN);

(d) The name and full address of the driver delivering the product;

(e) License plate number of the vehicle delivering the material; and

(f) The amount paid for the property and the name of the employee handling the transaction.

(2) In the event the scrap metal is delivered in a vehicle belonging to the scrap metal merchant and driven by an employee of the scrap metal merchant, the scrap metal merchant shall only be required to maintain the information required by divisions (B)(1)(a), (B)(1)(b) and (B)(l)(t).

(3) In the event any of the above is not available and on file at the scrap metal merchant's office, the information obtained shall be the same as required for a cash purchase.

(4) Checks may not be converted to cash by a scrap metal merchant or by any related entity.

(C) *Records.*

(1) Every scrap metal merchant shall keep the information required in divisions (A) and (B) above either in writing or in a retrievable electronic format at the merchant's place of business. The records shall be made at the time of the purchase of the property and in no event later than close of the business day subsequent to the time of purchase.

(2) Records required by this subchapter shall be maintained by the scrap metal merchant at the merchant's place of business for not less than two years following the date of transaction.

(3) No purchases shall be made from persons not of legal age.

(4) The following types of property and/or transactions are not subject to the record keeping requirements of this division:

(a) Recyclable food and beverage containers; and

(b) Transactions involving materials purchased directly from a regulated public utility. (Ord. 0-08-0027, passed 10-27-2008) Penalty, see § 120.999

§ 120.142 STOLEN PROPERTY.

When a police officer has reasonable cause to believe that any property received by a scrap metal merchant is stolen, the police officer may place a hold notice upon the suspected stolen property. The identified property upon which a hold notice has been placed must be held by the scrap metal merchant at the merchant's place of business for 60 calendar days unless released sooner by authority of the Police Chief or his or her designee. After 60 calendar days, unless other disposition is authorized by the Police Chief or his or her designee, the hold is automatically released and scrap processor may dispose of the property. (Ord. 0-08-0027, passed 10-27-2008) Penalty, see § 120.999

§ 120.143 LAW ENFORCEMENT -RIGHT TO INSPECT.

Every scrap metal merchant and every person employed by them in the conduct of their business shall admit to any and every part of the business premises at any time any law enforcement officer or other official designated by the Chief of Police of the city to examine, photograph or copy any goods, articles, things, books, or other records on the premises to determine compliance with this subchapter, and to search for and to place a hold upon pursuant to the provisions of § 120.999(B) any article known or believed by the officer or official to have been stolen.
(Ord. 0-08-0027, passed 10-27-2008) Penalty, see § 120.999

§ 120.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Scrap metal merchants.*

(1) Any scrap metal merchant who shall conduct business in violation of any of the provisions of §§ 120.140 through 120.143 shall be subject to a fine of not more than $2,500 per violation. Every transaction conducted by a scrap metal merchant in violation of the provisions of §§ 120.140 through 120.143 shall be deemed a separate violation.

(2) In addition to the penalties described in this section the city may revoke any occupancy permit or business license issued for the business premise of the scrap metal merchant. (Ord. 0-08-0027, passed 10-27-2008)

CHAPTER 121: POOL ROOMS AND BOWLING ALLEYS

Section

121.01 Definitions
121.02 Hours of operation
121.03 Sanitation
121.04 Gambling
121.05 Minors
121.06 Bowling alleys to comply with zoning regulations
121.07 Licenses-required
121.08 Licenses-application-issuance
121.09 Licenses-fees
121.10 Licenses-transferability

§ 121.01 DEFINITIONS.

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

BILLIARD ROOM. Any public place where the game of billiards is permitted to be played for hire or gain within the city.

BILLIARDS. Any of the several games played on a table surrounded by an elastic edge of cushions with balls which are impelled by a cue, including all forms of the game known as carom billiards.

BOWLING ALLEY. Includes bowling alleys, pin and ball alleys, box ball alleys, skee-ball alleys and all alleys of similar character. (1995 Code, § 5.40.010)

§ 121.02 HOURS OF OPERATION.

No person shall operate a billiard room or bowling alley between the hours of 1:00 a.m. and 7:00 a.m. or permit any person to play billiards or bowl or permit any person in the room in which the table or alley is kept. This section shall not be construed to prohibit regular employees from performing necessary work within the premises. (1995 Code, § 5.40.020) Penalty, see § 10.99

§ 121.03 SANITATION.

The entire premises in which a billiard room or bowling alley is located shall be kept, at all times, in a clean and sanitary condition and shall comply with all provisions relating to the same and shall be subject to all sanitary rules and regulations prescribed by the Board of Health.

(1995 Code, § 5.40.030) Penalty, see § 10.99

§ 121.04 GAMBLING.

Gambling in any form in any billiard room or bowling alley is prohibited; provided, that this provision shall not be construed to prevent the giving of cash prizes or merchandise to billiard players or bowlers in tournament, league or any other competitive play.

(1995 Code, § 5.40.040) Penalty, see § 10.99

§ 121.05 MINORS.

It is unlawful for any person to play billiards and to be permitted to remain in a billiard room who has not reached the age of 18 years, unless accompanied by a parent or guardian, and it is unlawful for any person to represent himself or herself to have reached the age of 18 years in order to obtain admission to or to be permitted to remain where the person in fact is under 18 years of age.

(1995 Code, § 5.40.050) Penalty, see § 10.99

§ 121.06 BOWLING ALLEYS TO COMPLY WITH ZONING REGULATIONS.

No person shall conduct, own, operate or manage within the city any bowling alleys in any building, structure or place unless there is compliance with the zoning regulations or other applicable provisions of this code. (1995 Code, § 5.40.060) Penalty, see § 10.99

§ 121.07 LICENSES-REQUIRED.

No person shall conduct, own, operate or manage for profit a billiard room or bowling alley within the city without first obtaining a license to do so. No person shall be eligible for a license under this chapter who is not a citizen of the United States. (1995 Code, § 5.40.070) Penalty, see § 10.99

§ 121.08 LICENSES-APPLICATION-ISSUANCE.

(A) Applications for licenses under this chapter shall be made in conformity with the general licensing requirements of this code. The application shall also include information concerning citizenship; employment or business of the applicant during previous five years; complete record of convictions, if any, of felonies or misdemeanors; the number of bowling alleys or billiard tables to be licensed. The applicant shall also give three persons for references who are householders in the city. The applications shall be referred to the Chief of Police for investigation as to the moral status of the applicant and the moral conditions surrounding the proposed location.

(B) The Chief of Police shall cause an investigation to be made as to the character of the applicant and of the officers of the club, society, group or corporation and shall report the result to the City Controller.

(C) If the City Controller, upon the report of the investigation, shall find that any of the persons named in the application are not of good moral character or have been connected with a billiard room where the license has been revoked and has not been restored, he or she may refuse to issue the license.
(1995 Code, § 5.40.080) Penalty, see § 10.99

§ 121.09 LICENSES-FEES.

(A) The annual fee for a billiard room containing only one billiard table shall be $10.

(B) The annual license fee for a billiard room containing more than one billiard table shall be $20.

(C) (1) The annual fee for each billiard table shall be $10.

(2) The fee for each table shall be in addition to the billiard room fee and must be paid for each table. Persons conducting, owning, operating or managing a billiard room containing more than one table must pay the billiard room fee in addition to the fee for each table. Persons conducting, owning, operating or managing a billiard room with only one billiard table need pay only the fee for the table and need not pay the billiard room fee.

(D) The annual license fee for each separate bowling or pin and ball alley shall be $20.
(1995 Code, § 5.40.090) Penalty, see § 10.99

§ 121.10 LICENSES-TRANSFERABILITY.

No transfer of any license granted under the provisions of this chapter shall be permitted, except with express written consent of the City Controller and in conformity with the general licensing provisions of this code. (1995 Code, § 5.40.100) Penalty, see § 10.99

CHAPTER 122: PUBLIC MOVERS

Section

122.01 Public mover defined
122.02 Vehicle identification
122.03 Licenses-required
122.04 Licenses-application
122.05 Licenses-fee per vehicle
122.06 Licenses-bond
122.07 Licenses-issuance
122.08 Licenses-transferability

§ 122.01 PUBLIC MOVER DEFINED.

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

PUBLIC MOVER. Any person owning or operating any moving van, wagon, truck or other vehicle of any kind who shall move or transport for hire or reward household goods and furniture or other furniture fixtures or stock from one place to another place in the city; provided, that public movers shall not include persons engaged in moving solely for one person who are under contract for a period of 30 days or more for the handling of merchandise for any mercantile or manufacturing establishments located in the city and shall be otherwise and exclusively engaged in the handling thereof for the period under the contract. (1995 Code, § 5.42.010)

§ 122.02 VEHICLE IDENTIFICATION.

Each van, vehicle or conveyance used by a public mover in carrying on his or her business shall have the name and address of the public mover painted or posted conspicuously upon both sides. The license plate shall be attached to the vehicle in a conspicuous place.

(1995 Code, § 5.42.020) Penalty, see § 10.99

§ 122.03 LICENSES-REQUIRED.

No person shall carry on the business of a public mover without first having obtained a license to do so. (1995 Code,§ 5.42.030) Penalty, see § 10.99

§ 122.04 LICENSES-APPLICATION.

Any person desiring to obtain a license as a public mover shall make an application to the City Controller in conformity with the general licensing provisions of this code.

(1995 Code, § 5.42.040) Penalty, see § 10.99

§ 122.05 LICENSES-FEE PER VEHICLE.

The annual license fee for each van or other conveyance or vehicle used by a public mover shall be $50. (1995 Code, § 5.42.050) Penalty, see § 10.99

§ 122.06 LICENSES-BOND.

Before a license shall be issued under this chapter, the applicant shall file an approved surety bond, undertaking or policy of insurance payable to the city in the sum of $5,000, for the use and benefit of the city and for persons for whom the applicant shall do moving and for others, conditioned for the faithful performance of his or her duties as a public mover and for the performance of all duties required by law relating to the safe and prompt delivery to the proper person of all household goods, furniture, office furniture, fixtures or personal property entrusted to the public mover for moving and as security for the payment to the proper person of all damages to real or personal property caused by the mover and for which he or she shall be responsible by law. The bond or policy shall be kept in full force and effect at all times. (1995 Code, § 5.42.060) Penalty, see § 10.99

§ 122.07 LICENSES-ISSUANCE.

The City Controller shall, after compliance by the applicant with the requirements of law and this code, issue to the applicant a numbered license and license plate for each van, vehicle or conveyance in conformity with the general licensing provisions of this code.

(1995 Code, § 5.42.070) Penalty, see § 10.99

§ 122.08 LICENSES-TRANSFERABILITY.

No license issued under this chapter shall be assignable or transferable.

(1995 Code, § 5.42.080) Penalty, see § 10.99

CHAPTER 123: RENTAL HOUSING

Section

123.01 Legislative purpose
123.02 Definitions
123.03 Registration
123.04 Certificate required
123.05 Certificate
123.06 Certificate revocation or suspension
123.07 Exemptions
123.08 Violation

§ 123.01 LEGISLATIVE PURPOSE.

(A) It is hereby declared that there exist within the city rental housing units, which by reason of their operation, use or occupancy affect or are likely to affect the public health, safety and general welfare of the city.

(B) It is further declared that the purpose of the ordinance codified in this chapter is to protect the health, safety and general welfare of the citizens of the city by requiring the registration of all rental housing units which are or shall be in existence in the city. (Ord. 0-01-0017, passed --2001)

§ 123.02 DEFINITIONS.

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

DWELLING UNIT. The abode of a family or a single unit providing complete, independent facilities for the exclusive use and enjoyment of a family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

GUEST. A person who is a temporary resident (less than 25% of the time) of a dwelling unit and does not utilize the dwelling unit as a legal address for any purpose.

OCCUPANCY. Adhering to use standards and occupant load as required by local, state and federal statutes.

OCCUPANT. A person occupying a dwelling unit, other than a guest, or using the property as a legal address for any purpose.

OWNER.

(1) The legal title holder or holders of the realty, except:

(a) If legal title is held by an Indiana land trust, owner shall mean the beneficial owner or owners of the trust; and

(b) If there is a purchaser or purchasers under a real estate installment sales contract, owner shall mean the purchaser or purchasers.

(2) The singular shall include the plural throughout.

(3) For the purpose of § 123.03(A), the owner shall mean legal title holder(s), beneficial owner(s) and contract purchaser(s) of the realty.

PERSON. Includes a corporation, firm, partnership, association, organization, company, limited liability company or any group acting as a unit, as well as a natural person. References in the masculine gender include the feminine and the neuter, in the present tense includes the future, and the singular includes the plural.

RENTAL HOUSING. Any room or suite of rooms forming a single, separate habitable unit to be used for living, or for living and sleeping; but not for cooking and eating purposes.

ROOMING UNIT. A room or suite of rooms forming a single, separate habitable unit to be used for living, or for living and sleeping; but not for cooking and eating purposes.
(Ord. 0-01-0017, passed --2001; Ord. 0-02-0016, passed --2002)

§ 123.03 REGISTRATION.

(A) Any owner of real property in the city, which real property is used as rental housing, shall be required to register all such properties on an annual basis, by January 31 of each year.

(B) The registration forms shall be available at the office of the City Controller, and no registration or renewal will be accepted by that office without a showing of full liability, fire, or other insurance equal to the value of the property insured, including the cost of demolition of the property. Alternately, a bond or letter of credit from a federally insured financial institution may be filled with the Office of the City Controller in an amount equal to the value of the property insured or $25,000.00, whichever is greater, which will be used to cover the cost of demolition if necessary.

(C) There shall be a $10 annual fee assessed for each dwelling or rooming unit, due with the registration form. Failure to register any or all real property utilized as rental housing shall constitute a violation of this subchapter and shall subject the owner to a fine not to exceed $2,500.00 per unit.

(D) Each day of the violation shall constitute a separate and actionable offense. Initial registration is required within 30 days of the effective date of this ordinance or within 30 days of obtaining the title of rental housing real property.

(E) There shall be a $100 late fee assessed for each dwelling or rental/rooming unit not registered by April 15, 2009, and April 15 of each year thereafter. (Ord. 0-09-0020, passed 9-28-2009)

§ 123.04 CERTIFICATE REQUIRED.

(A) It shall be unlawful for any person to let to another for occupancy rental housing or a rental unit in any form, without a current, unrevoked city certificate of rental registration, for the rental housing at the specific location set out on the application.

(B) Each applicant for rental registration shall, in addition to all other information required by the Chief of Inspections or this code section, contain the name of the primary tenant for each rental unit, and an emergency contact number for each listed tenant. Each application shall be updated, at no additional cost, annually or upon a change in tenant. Falsification of an application or rental registration shall be grounds for revocation or denial of the certificate.

(C) Violations of this section may be enforced by Code Enforcement and each day constitutes a separate and continuing offense and shall subject the owner to a fine of not more than $,500 for a first offense and $ 7,500 for a second or subsequent offenses. (Ord. 0-09-0020, passed 9-28-2009)

§ 123.05 CERTIFICATE.

(A) The certificate shall be for a period of 1 year, or until the general expiration date of the then current certificate for the dwelling or rooming unit whichever is sooner.

(B) For all dwelling or rooming units located in any area of the city, the city shall issue a sticker stating the unit's certification, date of expiration and permitted occupancy. The property owner and/or manager must prominently and continuously display the sticker on the inside of the door to the main entrance for each dwelling or rooming unit.

(C) It shall be a violation of this chapter for any party to remove the sticker for the owner and/or manager to fail to continuously display the sticker, as provided in division (B) above, in each dwelling or rooming unit and shall subject the owner or tenant to a fine not to exceed $ 100 per dwelling or rooming unit. Each day of the violation shall constitute a separate and actionable offense.

(D) It shall be a violation of this chapter to permit occupancy by more than the maximum allowed, and shall subject the owner or tenant to a fine not to exceed $ 100 per dwelling or rooming unit. Each day of the violation shall constitute a separate and actionable offense.
(Ord. 0-09-0020, passed 9-28-2009)

§ 123.06 CERTIFICATE REVOCATION OR SUSPENSION.

A certificate in force may be suspended or revoked, entirely or in part, upon finding conditions or practices pertaining to the rental housing are in continuing violation of the Building, Health/and/or fire Codes of the City. (Ord. 0-09-0020, passed 9-28-2009)

§ 123.07 EXEMPTIONS.

(A) A dwelling or rooming unit occupier by the owner of the property shall be exempt from the $ 10.00 annual fee, registration and requirement of a sticker to be displayed.

(B) A dwelling or rooming unit occupied by an immediate family member of the owner of the property shall be exempt from the $ 10.00 annual fee, registration and requirement of a sticker to be displayed, provided that the immediate family member pays no rent. (Ord. 0-09-0020, passed 9-28-2009)

§ 123.08 VIOLATION.

(A) Failure to register any or all real property as rental housing shall constitute a violation of this subchapter and shall subject the owner to a fine not exceed $ 2,500 per unit. Each day of the violation shall constitute a separate and actionable offense. Initial registration is required within 30 days of the effective date of this ordinance or within 30 days of acquiring rental housing real property.

(B) Failure to continuously display or to remove the registration sticker shall constitute a violation of this subchapter and shall subject the owner or tenant to a fine not to exceed $ 100 per unit. Each day of the violation shall constitute a separate and actionable offense. It shall be a defense for the owner to provide evidence of his or her compliance with this requirement.

(C) Occupancy by more persons than the maximum allowed in a rental dwelling or rooming unit shall constitute a violation of this subchapter and shall subject the owner or tenant to a fine not to exceed $ 100 per unit. Each day of the violation shall constitute a separate and actionable offense. It shall be a defense for the owner if the owner provides a written lease which sets out the names and number of occupants of a rental dwelling or rooming unit.

(D) The inspectors of the Fire Department and the East Chicago Code Enforcement Officers are authorized to enforce all provisions regarding rental property registration.

(Ord. 0-09-0020, passed 9-28-2009)

CHAPTER 124: RETAIL ESTABLISHMENTS SELLING ITEMS COMMONLY USED AS DRUG PARAPHERNALIA

Section

124.01 Blunt cigars and similar
124.02 Location of sale
124.03 Exception

124.99 Penalty

§ 124.01 BLUNT CIGARS AND SIMILAR ITEMS.

It shall be unlawful for any person, including any retail business to sell or offer for sale any of the following: any item that constitutes drug paraphernalia as that term is used in I.C. 35-48-4-8.1, 35-48-4-8.3 and 35-48-4-8.5 where the seller knows, or under the circumstances reasonably should know, that it would be used to convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of that Act, especially any of the following:

(A) Containers, bags, capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances, as well as cigars, cigarettes and related items intended for use in concealing or holding the substances; and

(B) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) Cigars sold singly, flavored cigars known as blunts, unflavored blunts, flavored and unflavored blunt wraps, cigarette rolling papers, cigarillos and tiparillos;

(2) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(3) Water pipes;

(4) Carburetion tubes and devices;

(5) Smoking and carburetion masks;

(6) Roach clips, meaning objects used to hold burning material such as a marijuana cigarette that has become too small or too short to be held in the hand;

(7) Chamber pipes;

(8) Carburetor pipes;

(9) Electric pipes;

(10) Air-driven pipes;

(11) Chillums;

(12) Bongs;

(13) Ice pipes or chillers;

(14) Miniature cocaine spoons and cocaine vials; and

(15) Rose and pen combinations.

(Ord. 0-08-0002, passed 1-28-2008) Penalty, see § 124.99

§ 124.02 LOCATION OF SALE.

It shall be unlawful for any person, including any retail business, to sell or offer for sale within 500 feet of a school, recreation center, day care center, church, or community center any of the items identified above regardless of the intent as to use of the item.

(Ord. 0-08-0002, passed 1-28-2008) Penalty, see § 124.99

§ 124.03 EXCEPTION.

This chapter shall not apply to cigarettes in packages of 20 or more.

(Ord. 0-08-0002, passed 1-28-2008)

§ 124.99 PENALTY.

(A) In addition to the penalties as presently provided by law, any person in violation of this chapter shall be subject to a civil penalty not to exceed $2,500.

(B) In addition to the penalties outlined above, the Board of Safety may revoke the business privilege license of any person violating the provisions of this chapter.

(Ord. 0-08-0002, passed 1-28-2008)

CHAPTER 125: SELF-SERVICE LAUNDRIES

Section

125.01 Definitions
125.02 Licenses-required
125.03 Licenses-fees-Health Department certification
125.04 Permitted business hours
125.05 Equipment installation requirements
125.06 Cleanliness requirements for premises
125.07 Toilet facilities
125.08 Inspection requirements

125.99 Penalty

§ 125.01 DEFINITIONS.

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

SELF SERVICE LAUNDRIES and ***LAUNDROMAT.*** Any establishment in which coin-operated facilities are available for washing clothes or for drying clothes or for the dry cleaning of clothes and which is open and available to the general public for use.

(1995 Code,§ 5.46.010) (Ord. 3142, passed--1977)

§ 125.02 LICENSES-REQUIRED.

It is unlawful to establish or operate any self service laundry or laundromat in the city without first having secured a license therefor as herein provided. Applications for the licenses shall comply with the general provisions relating to applications for licenses and permits.

(1995 Code, § 5.46.020) (Ord. 3142, passed--1977) Penalty, see § 125.99

§ 125.03 LICENSES-FEES-HEALTH DEPARTMENT CERTIFICATION.

The annual fee for licenses for self service laundries and laundromats shall be the sum of $25 and no license shall be issued except upon payment of the full fee and a certification from the Health Department that the premises used are in a clean and sanitary condition.

(1995 Code,§ 5.46.030) (Ord. 3142, passed--1977) Penalty, see § 125.99

§ 125.04 PERMITTED BUSINESS HOURS.

It is unlawful to keep any such establishment open for business between the hours of 12:00 a.m. and 6:00 a.m. (prevailing time). (1995 Code,§ 5.46.040) (Ord. 3142, passed--1977) Penalty, see § 125.99

§ 125.05 EQUIPMENT INSTALLATION REQUIREMENTS.

Installation of all equipment in establishments shall be in conformity with the ordinances relating to the installations. (1995 Code,§ 5.46.050) (Ord. 3142, passed--1977) Penalty, see § 125.99

§ 125.06 CLEANLINESS REQUIREMENTS FOR PREMISES.

Premises used shall be kept in a clean and sanitary condition and must be thoroughly swept at least every 24 hours and the outside sidewalks and adjacent areas kept clear of litter and trash.

(1995 Code,§ 5.46.060) (Ord. 3142, passed--1977) Penalty, see § 125.99

§ 125.07 TOILET FACILITIES.

Adequate toilet facilities conveniently located shall be provided for customers of the establishment and shall be posted as such. The toilet facilities must have a minimum of at least one water closet and one lavatory and be supplied with towels, either paper or cloth, toilet paper and soap. The doors of all toilet rooms shall be self closing and capable of being locked. Toilet rooms shall be kept in a clean and sanitary condition, in good repair, and well lighted and ventilated.

(1995 Code, § 5.46.070) (Ord. 3142, passed--1977) Penalty, see § 125.99

§ 125.08 INSPECTION REQUIREMENTS.

It shall be the duty of the Health Department or other official designated by the Mayor to inspect or cause to be inspected every establishment licensed under this chapter at least weekly. Any violations under the terms of this chapter shall be reported to the police and a sworn complaint filed to be prosecuted in the manner described for violations of city ordinances.

(1995 Code, § 5.46.080) (Ord. 3142, passed--1977) Penalty, see § 125.99

§ 125.99 PENALTY.

Upon conviction of violation of any of the terms of this chapter, the license of the establishment may be revoked and suspended, to which may be added a fine of up to $500.

(1995 Code,§ 5.46.090) (Ord. 3142, passed--1977)

CHAPTER 126: SHOOTING GALLERIES AND GUN CLUBS

Section

126.01 Licenses-required-citizenship of applicant
126.02 Licenses-application-prerequisite inspection
126.03 Licenses-fees
126.04 Location-premises approval required
126.05 Safety regulations
126.06 Exemptions

§ 126.01 LICENSES-REQUIRED-CITIZENSHIP OF APPLICANT.

(A) No person shall conduct, own or operate any shooting gallery, rifle range, gun club or other place where firearms are discharged within the city without first being licensed to do so.

(B) No person who is not a citizen of the United States shall be eligible to obtain a license under the provisions of this chapter. (1995 Code, § 5.48.010) Penalty, see § 10.99

§ 126.02 LICENSES-APPLICATION-PREREQUISITE INSPECTION.

(A) Application for a license under this chapter shall be in conformity with the general licensing requirements of this code.

(B) When the application is made, the Chief of Police shall cause to be made an inspection of the premises in or upon which it is intended or desired to conduct or operate the shooting gallery, rifle range, gun club or other business subject to this license to determine whether the premises are properly located

and are of sufficient size, and that the targets and other equipment of the premises will be placed, kept and maintained in a manner and in a condition as to produce the maximum degree of safety.

(C) In addition to the information generally required, the applicant must state the specific caliber of cartridges to be used, and there can be no deviation from the stated size without the written consent of the city, as provided in this chapter. (1995 Code, § 5.48.020) Penalty, see § 10.99

§ 126.03 LICENSES-FEES.

The annual license fee for a license provided under the terms of this chapter shall be $500, and no license shall be issued except upon the payment of the full license fee.
(1995 Code, § 5.48.030) Penalty, see § 10.99

§ 126.04 LOCATION-PREMISES APPROVAL REQUIRED.

(A) No shooting gallery shall be located anywhere within the city unless expressly permitted in the zoning regulations of this code.

(B) Each rifle range, gun club or other place upon or in which firearms may be discharged shall be sufficiently ample to permit the discharge thereon or therein without endangering the safety of the public or persons living adjacent to the premises, and the targets or butts shall be so placed, kept and maintained as to permit the use of the premises and the discharge thereon or therein of firearms with the maximum of safety to the public, to persons living adjacent to the premises and to persons using the premises upon which the rifle range or gun club is being conducted or operated.

(C) The Chief of Police must approve the premises before they can be used for a shooting gallery or gun club. (1995 Code, § 5.48.040)

§ 126.05 SAFETY REGULATIONS.

(A) Targets shall be of the stationary bull's-eye type; all moving targets are prohibited unless approved by the Chief of Police.

(B) No firearms shall be used, kept or discharged within any of the premises licensed under this chapter other than .22 caliber rifles or pistols, and no ammunition larger than .22 caliber long rifle rim fire cartridge shall be used, except upon the written recommendation of the Chief of Police and the approval of the Board of Public Works and Safety.

(C) The Chief of Police may make other reasonable regulations for reasons of safety, all subject to approval of the Board of Public Works and Safety. (1995 Code, § 5.46.080) Penalty, see § 10.99

§ 126.06 EXEMPTIONS.

The provisions of this chapter pertaining to the licensing, establishment and operation of shooting galleries and gun clubs shall not apply to the police force of the city. (1995 Code, § 5.46.080)

CHAPTER 127: SIGN ERECTORS

Section

127.01 Defined
127.02 Sign identification
127.03 Prohibited acts
127.04 Licenses-required
127.05 Licenses-application
127.06 Licenses-qualifications of applicants
127.07 Licenses-fees-duration-transferability
127.08 Licenses-bond

§ 127.01 DEFINED.

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

SIGN ERECTORS. Any person who is licensed by this chapter to erect, place, paint, paste, print, stamp or raise signs in the city. (1995 Code, § 5.52.010)

§ 127.02 SIGN IDENTIFICATION.

All signs shall be plainly marked with the licensed sign erector's name.
(1995 Code, § 5.52.020) Penalty, see § 10.99

§ 127.03 PROHIBITED ACTS.

(A) It is unlawful for any person to place, erect, paint, paste, print, stamp, raise, use or display a sign in any place in the city where it is prohibited.

(B) It is unlawful for any person to permit any sign or cause it to be placed any place in the city until the permit fees required by this chapter have been paid.

(C) It is unlawful for any sign erector to place any sign containing pictures, illustrations or words of an obscene or immoral character. (1995 Code, § 5.52.030) Penalty, see § 10.99

§ 127.04 LICENSES-REQUIRED.

No person shall erect or maintain signs or engage in the erection and maintenance of signs within the city without first having procured a license to do so. No person shall cause or permit any sign to be erected, placed, painted, pasted, printed, stamped or raised unless it has been so done by a person licensed under the provisions of this chapter, and the permit required by this chapter has been properly obtained from the city as provided in this chapter. (1995 Code, § 5.52.040) Penalty, see § 10.99

§ 127.05 LICENSES-APPLICATION.

Applications for a sign erector's license shall be made in conformity with the general licensing provisions of this code. The applicant and application must be approved by the Building Commissioner before they can be considered by the City Controller. (1995 Code, § 5.52.050) Penalty, see § 10.99

§ 127.06 LICENSES-QUALIFICATIONS OF APPLICANTS.

All licensees under this chapter must be persons with sufficient knowledge, experience and equipment to satisfy the Building Commissioner as to the applicant's ability to erect signs in a safe and substantial manner in accordance with the provisions of this chapter.
(1995 Code, § 5.52.060) Penalty, see § 10.99

§ 127.07 LICENSES-FEES-DURATION-TRANSFERABILITY.

The annual license fee under the provisions of this chapter shall be $50. The fee for the full year must be paid in advance. No license shall be granted for a period less than one year, and the license shall be nontransferable. (1995 Code, § 5.52.070) Penalty, see § 10.99

§ 127.08 LICENSES-BOND.

Every person applying for a license under this chapter as a sign erector in the city shall, before receiving a license, execute a surety bond payable to the city in the penal sum of $5,000, to indemnify, save and keep harmless the city from any and all costs, damages and expenses whatsoever which may be suffered by the city or which the city may be put to or which may accrue against the city by charging to or recovering from the city from or by reason of the granting of permission to erect the signs or by reason of any acts or things done under or by authority or permission granted by the city to erect the signs in the city or by reason of negligence, failure or refusal of any person to comply with the provisions of this chapter applicable to signs. The bond shall provide that the licensee will conform to all provisions of this chapter. The bond shall also indemnify the public against loss or damage to property and injury or death of persons by reason of the negligence of the licensee. The bond must be kept in full force during all times in which the person shall engage in the erection and maintenance of signs within the city.
(1995 Code, § 5.52.080) Penalty, see § 10.99

CHAPTER 128: TAXICABS

Section

128.01 Definitions
128.02 Declaration of policy
128.03 Determination of public convenience and necessity
128.04 Permit-required
128.05 Permit-application
128.06 Permit-fees
128.07 Permit-general procedures for determination
128.08 Permit-issuance of license- non-transferability of license plates
128.09 Permit-vehicle descriptions-driver information
128.10 Public stands
128.11 Fares
128.12 Taximeters
128.13 Driver identification
128.14 Persons permitted in front seat
128.15 Only paid persons allowed
128.16 Rules and regulations prerequisite to licensing
128.17 Insurance and bond required
128.18 Corporations and partnership

128.99 Penalty

§ 128.01 DEFINITIONS.

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

TAXICAB. A motor vehicle that:

(l) Is designed and constructed to accommodate and transport not more than six passengers in addition to the driver;

(2) Does not operate over any definite and designated routes within the corporate boundaries of the city; and

(3) Transports passengers to the destination designated by the passengers at the time of their transportation.

TAXIMETER. Any instrument or fare-registering device attached to a taxicab designed and intended to mechanically register the distance traveled or waiting time and to indicate upon the record, by figures, the fare to be charged in dollars and cents.

(1995 Code, § 5.60.010) (Ord. 0-93-0028, passed --1994)

§ 128.02 DECLARATION OF POLICY.

Pursuant to the city's statutory authority to regulate the services offered by persons who hold out for public hire the use of vehicles, including the power to fix the price to be charged for that service, it is declared to be the policy of the Common Council:

(A) To provide for the regulation of taxicabs in the city;

(B) To promote safe, adequate, economical and efficient service and to foster a sound economic condition in transportation in the city;

(C) To establish and maintain reasonable charges for transportation services; and

(D) To make the highways safe for the general public:

(1) The wear of the highways may be reduced;

(2) The inconvenience to other users of the highways may be minimized;

(3) The minimum hindrance and stoppage to other users of the highway compatible with the needs of the public for adequate transportation service may be effected;

(4) The highways may be safeguarded from improper or unnecessary usage;

(5) The operation by irresponsible persons or any other operation threatening the safety of the public or detrimental to the general welfare be prevented; and

(6) The congestion of traffic on the highway be minimized and that the public highways serve the best interest of the general public.

(1995 Code, § 5.60.020) (Ord. 0-93-0028, passed --1994)

§ 128.03 DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY.

The Common Council determines and declares that the public convenience and necessity requires the permitting of a single taxicab service, consisting of no fewer than four taxicabs, to operate within the city. The permit, as issued by the Common Council, signed by the presiding officer and attested by the City Clerk, shall remain in effect until canceled by resolution adopted by the Common Council.

(1995 Code, § 5.60.030) (Ord. 0-93-0028, passed --1994)

§ 128.04 PERMIT -REQUIRED.

It is unlawful for any person to operate a taxicab or a taxicab service or business within the city unless that person or business is the holder of the taxicab service permit issued as provided in this chapter, provided, however, that taxicabs licensed by other cities may be driven into and out of this city when the taxicab and driver are properly licensed in the city of origin.

(1995 Code, § 5.60.040) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.05 PERMIT-APPLICATION.

(A) The prospective taxicab service permittee shall file with the Common Council his, her or its application for a permit upon the forms to be supplied by the Council Clerk. The application shall contain the following information:

(1) The name and address of the applicant;

(2) If the applicant is a partnership, a copy of the partnership agreement shall be filed, together with the full names and address of all the partners;

(3) If the application is a corporation, a copy of the articles of incorporation shall be filed, and the application shall show the names and addresses of all the officers and directors of the corporation;

(4) The number of taxicabs which will be covered by the permit;

(5) A complete description of each taxicab, including the make, year of manufacture, engine number, serial number and color, and the applicant shall designate the color to be used;

(6) Any other information the Common Council may deem necessary to show compliance with this chapter;

(7) Attached to or accompanying the application shall be an insurance policy or bond, as required in this chapter, and cash or check for a basic license fee or individual taxicab fees, as provided in this chapter; and

(8) The application shall be signed by the owner of the taxicab company and the application shall be sworn to by the applicant.

(B) All applications for the taxicab service permit shall be made and received by the Common Council no later than February 28, 1994.

(1995 Code, § 5.60.050) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.06 PERMIT -FEES.

A basic annual permit fee of $150 per year shall be paid for each taxicab.

(1995 Code, § 5.60.060) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.07 PERMIT -GENERAL PROCEDURES FOR DETERMINATION.

Within 30 days of the close of permit applications, the Common Council, after a public hearing, shall by resolution, award and designate the taxicab service permittee. In making this determination, the Council shall take into consideration the qualifications of the applicant, including financial responsibility, experience in the taxicab business, age and quality of taxicabs, experience and reliability of drivers, the color scheme to be used by the applicant and any other factors that the Common Council shall deem desirable or necessary. (1995 Code, § 5.60.070) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.08 PERMIT -ISSUANCE OF LICENSE-NONTRANSFERABILITY OF LICENSE PLATES.

Upon issuance of the taxicab service permit by the Common Council and after providing proof of insurance and payment of the license fee, as provided herein, the City Controller shall issue to the permittee a license authorizing the permittee to operate each taxicab upon the streets and alleys of this city. The individual license plates shall not be transferred to any other taxicab, other than that taxicab for which it was issued, except under the following conditions:

(A) If a taxicab is to be retired permanently from service during the year, then an application for the transfer of the city license shall be made to the City Controller showing the information required in § 128.09 and having attached thereto the rider to the insurance policy covering the substitute taxicab; and

(B) In the event that a taxicab operator wishes to substitute temporarily a taxicab for one that is undergoing repairs, he or she shall notify the Chief of Police and advise him or her of the serial number of the substitute taxicab and give him or her the name and telephone number of the insurance agent who issued the liability policy to cover the substitute taxicab during the period. The Chief of Police shall make an investigation, as he or she deems proper, to assure that the substitute taxicab is in a safe operating condition and is properly insured. Upon these findings, he or she shall notify the taxicab owner that he or she may transfer the city license to the substitute taxicab and shall enter this decision on the police daily case sheet. Upon return of the original taxicab to service, the owner shall again notify the Chief of Police that he or she is returning the original taxicab to service and transferring the city license back to the original taxicab, which facts shall be entered in the daily police case sheet.

(1995 Code, § 5.60.080) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.09 PERMIT-VEHICLE DESCRIPTIONS-DRIVER INFORMATION.

The permittee shall also provide to the City Controller the following:

(A) A description of each vehicle to be operated including the:

(1) Make;

(2) Model;

(3) Motor and chassis numbers;

(4) Seating capacity;

(5) Age of vehicle;

(6) State license number;

(7) State registered owner; and

(8) Color scheme to be used.

(B) A statement concerning each proposed driver showing compliance with the following:

(1) No person shall act as a driver of a taxicab licensed under this chapter unless possessing the following qualifications:

(a) Have attained the age of 21;

(b) Possess good physical health and having no history or symptoms of any disease or disorder which might render him or her unfit for the safe operation of a taxicab;

(c) Be able to read and write the English language;

(d) Be clean in dress and person and not be addicted to the use of intoxicating liquors or narcotics;

(e) Have the proper state license to operate a taxicab; and

(f) Be of good moral character.

(2) No person shall engage in operating a taxicab required to be licensed under this chapter until he or she has obtained an identification card from the Chief of Police, three inches by six inches in size, bearing the photograph and name of the driver which shall, at all times when he or she is driving a taxicab, be mounted above the meter in a manner so that it will be plainly visible and in view of the passenger at all times. Each cab company shall make available the proper facilities to hold this identification card plus the number of the cab, and shall pay a reasonable sum to the proper authorities for the cost of the identification card and photograph of each driver. (1995 Code, § 5.60.090) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.10 PUBLIC STANDS.

(A) The following general locations are designated as public taxi stands and shall be for the exclusive use of taxicabs licensed under the terms of this chapter and no other vehicles whatsoever.

(1) *Stand 1.* The northeast corner of Indianapolis Boulevard and Chicago Avenue;

(2) *Stand 2.* The Fir Street main entrance to St. Catherine's Hospital;

(3) *Stand 3.* The South Shore Lines station at 5615 Indianapolis Boulevard;

(4) *Stand 4.* The west side of Indianapolis Boulevard immediately south of its intersection with Columbus Drive;

(5) *Stand 5.* The intersection of Michigan Avenue and Guthrie Avenue;

(6) *Stand 6.* Broadway immediately west of its intersection with Main Street; and

(7) Stand 7. Chicago Avenue and McCook.

(B) All public taxi stands shall be of a width of 15 feet, shall not exceed 50 feet in length, and shall be at specific locations at the general locations heretofore designated as the Board of Works shall designate by resolution. (1995 Code, § 5.60.100) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.11 FARES.

(A) Operators of taxicabs shall charge passengers $1 for the first one-tenth mile or fraction thereof traveled and an additional $0.10 for each additional one-tenth mile or fraction thereof traveled while the passenger or passengers are occupying the taxicab in the city, and shall not charge more than $1 per mile for trips outside the city limits.

(B) Waiting time shall include the time when the taxicab is not in motion, beginning with the arrival at the place to which it has been called, or the time consumed while standing or waiting at the direction of the passenger. Waiting time shall be charged at the rate of $0.20 for each minute or fraction thereof or $12 per hour.

(C) Any passenger upon demand, after payment of the fare, shall be entitled to a receipt for the fare. The receipt shall show the name of the owner of the taxicab, the items which were paid, and the date of payment.

(D) Every driver of a taxicab shall have the right to demand payment in advance of the legal fare for all trips outside of the city, and may refuse to transport or carry any person so refusing to pay the fare in advance.

(E) No driver of a licensed taxicab shall carry any other than the passenger first employing the taxicab without consent of the person first employing it. If they are together but going to different destinations, they each will pay fares.

(F) All disputes as to fares shall be determined by the officer in charge of the police station nearest the place where the dispute arose. Drivers of the taxicabs shall abide by the decision of the officer.

(G) No driver of a taxicab shall charge or attempt to charge any passenger a higher rate of fare than to which he or she is entitled under the provisions of this chapter.

(H) Shared ride fare. Up to four passengers may ride from a single departure point to a single destination point for the same fare.

(1995 Code, § 5.60.110) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.12 TAXIMETERS.

(A) It is unlawful for any person owning, operating, or driving a taxicab to operate or to use or advertise in connection therewith the words "taxicab", "taxi" or "cab" when soliciting a trade from the public or to represent himself or herself as the driver, operator or owner of a taxicab, unless the taxicab is equipped with a taximeter complying with the provisions of this chapter.

(B) It is unlawful for any person owning, operating or driving a taxicab to operate or drive a taxicab unless the fare to be charged is determined by a standard type taximeter and no other or different fare shall be charged to the passenger than is recorded on the reading face of the taximeter for the trip.

(1995 Code, § 5.60.120) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.13 DRIVER IDENTIFICATION.

Each driver shall, at all times that he or she is operating a taxicab, wear a cap or hat with an insignia or badge which will identify the company for whom he or she is operating the taxicab.

(1995 Code, § 5.60.130) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.14 PERSONS PERMITTED IN FRONT SEAT.

No passenger or other person shall be permitted to occupy the front seat beside the driver, unless the rear seat is occupied by two or more persons. If both the front and rear seat are occupied in compliance with this chapter, the driver of the taxicab shall not be required to transfer the person in the front seat to the rear seat when the passengers in the rear seat get out at their destination. It shall be lawful for the driver to permit the person to remain in the front seat until he or she arrives at his or her destination. It shall be lawful to permit a handicapped person, who could not ride comfortably or with safety in the rear seat, to occupy the front seat.

(1995 Code, § 5.60.140) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.15 ONLY PAID PERSONS ALLOWED.

Only paid passengers shall be permitted to ride in taxicabs.

(1995 Code, § 5.60.150) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.16 RULES AND REGULATIONS PREREQUISITE TO LICENSING.

No license shall be issued for a taxicab unless it shall comply with the following rules and regulations.

(A) *Floormat.* The taxicab shall be equipped with a floormat made of rubber, leather, metal chain or other similar nonabsorbent, washable material and shall be easily removable.

(B) *Dome light.* Every taxicab shall be equipped with an interior dome light of sufficient candlepower to illuminate the entire interior.

(C) *Name and number of cab.* No license shall be issued for any taxicab unless the name of the owner operating the taxicab and the number of the cab shall be painted in letters at least two inches in height on both sides of the taxicab.

(D) *Mechanical condition.* No taxicab license shall be issued for a vehicle that is not in excellent mechanical condition and manufactured within five years immediately prior to the issuing of the license.

(E) *Taximeter.* No taxicab license shall be issued for any vehicle unless the vehicle shall have affixed thereto a taximeter of standard size and design. The taximeters shall be illuminated by a suitable light or arranged so as to throw a continuous steady light on the face of the dial thereof which shall be visible to the passenger. The case of the taximeter shall be sealed and its cover and gear must be intact and in proper working order at all times.

(F) *Compliance.* A taxicab shall be deemed to be in compliance with divisions (A) through (E) above if it has been licensed by another municipality in the county, within 90 days of the date of license application in the city, pursuant to conditions identical or substantially similar to divisions (A) through (E) above of this section. (1995 Code, § 5.60.160) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.17 INSURANCE AND BOND REQUIRED.

No license shall be issued for any taxicab or to any operator thereof until the owner of the taxicab shall file with the City Controller an insurance policy in regard to the taxicab sought to be licensed which provides a minimum of $500,000 combined single limit liability. The insurance policy shall be issued by a responsible insurance carrier licensed to do business in the state and the form of policy shall be approved by the corporation counsel.

(1995 Code, § 5.60.170) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.18 CORPORATIONS AND PARTNERSHIP.

No corporation or partnership shall be granted a permit under the provisions of this chapter unless the corporation or partnership is qualified to do business in the state.

(1995 Code, § 5.60.180) (Ord. 0-93-0028, passed --1994) Penalty, see § 128.99

§ 128.99 PENALTY.

Any person who, or corporation which, shall violate any provision of this chapter or shall fail to comply therewith, or with any of the requirements thereof, or who shall violate or fail to comply with this chapter shall be guilty of an offense, and upon conviction thereof, shall be fined not more than $300 and each day the violation shall be permitted to exist shall constitute a separate offense.

(1995 Code, § 5.60.190) (Ord. 0-93-0028, passed --1994)

CHAPTER 129: COIN-OPERATED TELEPHONES

Section

129.01 Applicability
129.02 Registration
129.03 Permit-Required- Fees
129.04 Permit- Application- Installation Determination Authority
129.05 Maintenance and location regulations
129.06 Non-maintenance- violation- correction- removal
129.07 Installation, placement and enforcement authority

129.99 Penalty

§ 129.01 APPLICABILITY.

The provisions set out in this chapter shall apply to all coin-operated telephones in the city. (1995 Code, § 5.62.010) (Ord. 0-94-0006, passed --1994)

§ 129.02 REGISTRATION.

Owners/installers of existing coin-operated telephones and those wishing to install new coin-operated telephones shall register with the City Controller on forms provided by the Controller's office

which shall include information as to the current address, telephone number and license number of the owner/installer. (1995 Code, § 5.62.020) (Ord. 0-94-0006, passed --1994) Penalty, see § 129.99

§ 129.03 PERMIT – REQUIRED- FEES

No coin-operated telephone shall be installed until a permit for the installation shall be issued by the Board of Public Works and Safety. The fee for the permit shall be $25.

(1995 Code, § 5.62.030) (Ord. 0-94-0006, passed --1994) Penalty, see § 129.99

§ 129.04 PERMIT-APPLICATION -INSTALLATION DETERMINATION AUTHORITY.

To obtain a permit an application shall be filed including a drawing showing the proposed location of the telephone, and the permit fee must be paid. The Board of Public Works and Safety shall determine whether the proposed coin-operated telephone is necessary and reasonable for the proposed location. Representative(s) from the Board of Public Works and Safety may canvass residents and businesses in the area adjacent to and within 500 feet of the proposed telephone to determine if the proposed telephone is reasonable and necessary. No coin-operated telephone shall be located within 500 feet of an existing coin-operated telephone, unless a showing of hardship and necessity is made by the individual or corporation requesting the permit.

(1995 Code, § 5.62.040) (Ord. 0-94-0006, passed --1994) Penalty, see § 129.99

§ 129.05 MAINTENANCE AND LOCATION REGULATIONS.

All coin-operated telephones and their surroundings shall be checked and maintained on a regular basis by the owner. Any debris or graffiti shall be removed. All coin-operated telephones shall be located within the property lines on which they are located, and shall be set back from the property line a minimum of three feet, or more if necessary so the telephone shall not block or restrict movement upon the public sidewalk or right-of-way.

(1995 Code, § 5.62.050) (Ord. 0-94-0006, passed --1994) Penalty, see § 129.99

§ 129.06 NON-MAINTENANCE-VIOLATION-CORRECTION-REMOVAL.

Any telephone found by a representative of the Board of Public Works and Safety to not be regularly maintained shall receive a written notice of violation. The notice shall provide the owner 14 days to correct the violation. If the violation is not corrected, the telephone may be removed with notice by mail to the owner/installer.

(1995 Code, § 5.62.060) (Ord. 0-94-0006, passed --1994) Penalty, see§ 129.99

§ 129.07 INSTALLATION, PLACEMENT AND ENFORCEMENT AUTHORITY.

The Board of Public Works and Safety shall authorize the issuance of permits for the installation of coin-operated telephones, and shall further regulate the placement of telephones, and shall enforce other rules and regulations as the city may from time to time promulgate with regard to the technical requirements for installation, maintenance and removal of telephones, including but not limited to the following restrictions:

(A) Restrict pay phones from receiving incoming calls;

(B) Provide pager access control which disables the ability of a pay phone to input date into pagers;

(C) Restrict pay phones from accepting coins during the evening and early morning hours. (1995 Code, § 5.62.070) (Ord. 0-94-0006, passed --1994) Penalty, see § 129.99

§ 129.99 PENALTY.

Coin-operated telephones installed in violation of this chapter shall be removed and confiscated within seven days notice to owners of the property upon which they are located. In addition, telephones which, although validly installed, have, in the opinion of the city, become a public nuisance, or have otherwise contributed to criminality or decay, may be removed and confiscated within 14-day written notice. Individuals and corporations guilty of a violation of the provisions of this chapter may be cited and fined an amount not to exceed $1,000 for each violation. Each day that a violation continues shall be a separate violation of this chapter. (1995 Code, § 5.62.080) (Ord. 0-94-0006, passed --1994)

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PUBLIC OFFICERS AND GOVERNMENT

131. OFFENSES AGAINST PUBLIC PEACE

132. OFFENSES AGAINST PUBLIC DECENCY

133. OFFENSES AGAINST PROPERTY

134. OFFENSES AGAINST PEOPLE

135. OFFENSES INVOLVING MINORS

136. WEAPONS

137. UNITED STATES FLAG

CHAPTER 130: OFFENSES AGAINST PUBLIC OFFICERS AND GOVERNMENT

Section

130.01 Tampering with fire or police signal systems and municipal electric wires
130.02 Communicating with prisoners in jail-authorization required
130.03 Impersonating officers or employees
130.04 Impersonating police officers or firefighters
130.05 Abusing police officers
130.06 Disturbing public library
130.07 Extinguishing street lights or traffic signals

§ 130.01 TAMPERING WITH FIRE OR POLICE SIGNAL SYSTEMS AND MUNICIPAL ELECTRIC WIRES.

No person, unless duly authorized, shall open any signal box, unless it be to give an alarm of fire or to communicate with the police on necessary business; nor shall any person break, cut, injure, deface, derange or in any manner meddle or interfere with any signal box or the fire or police alarms or radio systems or with any municipal electric wires, poles, conduits or apparatus. No person shall deface or injure or write or paint on any pole used to supply current to the city communications system or on any pole which is part of the system. (1995 Code, § 9.04.010) Penalty, see § 10.99

§ 130.02 COMMUNICATING WITH PRISONERS IN JAIL-AUTHORIZATION REQUIRED.

No person shall stand, loiter or stroll in front of or around a city jail and converse or communicate with prisoners confined in the jail, through the windows or otherwise, without proper authorization.

(1995 Code, § 9.04.020) Penalty, see § 10.99

§ 130.03 IMPERSONATING OFFICERS OR EMPLOYEES.

It is unlawful for any person to represent himself or herself falsely to be an officer or employee of the city or, without being duly authorized, to exercise or attempt to exercise any of the duties, functions or powers of the officers or employees. (1995 Code, § 9.04.030) Penalty, see § 10.99

§ 130.04 IMPERSONATING POLICE OFFICERS OR FIREFIGHTERS.

It is unlawful for any person not a police officer or firefighter of the city to wear a star or any badge resembling the same. No person who is not a police officer or firefighter of the city shall falsely represent himself or herself to be a member of the police or fire force or shall, with intent to deceive, use or imitate any of the signs, signals or devices used by the police or fire force. No person other than a police officer of the city shall wear a uniform in any public place, at a time, which is similar to or which is not easily distinguishable from the office police uniform adopted for the city by the Board of Public Safety. (1995 Code, § 9.04.040) Penalty, see § 10.99

§ 130.05 ABUSING POLICE OFFICERS.

It is unlawful for any person to abuse or use any abusive language to or enter into any altercation with any police officer of the city while the police officer shall be in the discharge of his or her duties as a police officer or while the latter is carrying out any order of any superior officer of the city.

(1995 Code, § 9.04.050) Penalty, see § 10.99

§ 130.06 DISTURBING PUBLIC LIBRARY.

No person shall talk in a loud or boisterous manner or make any unnecessary noise or disturb the quiet of any public library. (1995 Code, § 9.04.060) Penalty, see § 10.99

§ 130.07 EXTINGUISIHING STREET LIGHTS OR TRAFFIC SIGNALS.

It is unlawful for any person, without proper authority, to put out or extinguish any street lights or lamps or traffic or signal light or to turn off the electricity supplying the same.

(1995 Code, § 9.04.070) Penalty, see § 10.99

CHAPTER 131: OFFENSES AGAINST PUBLIC PEACE

Section

General Provisions

131.01 Buildings used for disturbing the peace
131.02 Wearing of masks, cowls or hoods
131.03 Material dealing with racial or religious hatred- dissemination
131.04 Interference with radio and television

Labor Disputes

131.15 City Policy
131.16 Strikebreakers- generally
131.17 Strikebreakers- recruitment
131.18 Strikebreakers- employing

Noise

131.30 Generally
131.31 Enumeration
131.32 Transporting rails, pillars or other materials
131.33 Sound trucks
131.34 Abatement

Loitering

131.45 Definitions
131.46 Loitering by street gang members- dispersal order
131.47 Loitering by minors prohibited- exceptions

Open Alcoholic Beverages on Public Thoroughfare or Public Property

131.60 Definitions
131.61 Possession or consumption prohibited

131.99 Penalty

GENERAL PROVISIONS

§ 131.01 BUILDINGS USED FOR DISTURBING THE PEACE.

No person owning or in possession or control of any building or premises shall use the same, permit the use of the same or rent the same to be used for any business or employment or for the purpose of pleasure or recreation if the use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood in which the building or premises is situated or be dangerous or detrimental to health.

(1995 Code, § 9.08.010) Penalty, see § 131.99

§ 131.02 WEARING OF MASKS, COWLS OR HOODS.

It is unlawful for any person within the city to appear in public in any mask, cap, cowl, hood or other thing concealing the identity of the wearer; provided, that the provisions of this section shall not apply to persons attending or taking part in carnivals, masked balls, public shows, entertainments or celebrations in the city or under the permission of the proper authority of the city, nor to any person holding a written permit issued by the Mayor. (1995 Code, § 9.08.060) Penalty, see § 131.99

§ 131.03 MATERIAL DEALING WITH RACIAL OR RELIGIOUS HATRED-DISSEMINATION.

It is unlawful for any person to print, publish, distribute or cause to be printed, published or distributed by any means or in any manner whatsoever any handbill, dodger, circular, booklet, pamphlet, leaflet, card, sticker, periodical, literature, paper or other printed matter which tends to expose any individual or any racial or religious group to hatred, contempt, ridicule or obloquy unless the same is clearly printed or written thereon:

(A) The true name and post office address of the person causing the same to be printed, published or distributed; and

(B) If the name is that of a firm, corporation or organization, the name and post office address of the individual acting in its behalf in causing the printing, publication or distribution.

(1995 Code, § 9.08.070) Penalty, see § 131.99

§ 131.04 INTERFERENCE WITH RADIO AND TELEVISION RECEPTION.

It is unlawful for any person knowingly and wantonly to operate or cause to be operated any machine, device, apparatus or instrument of any kind whatsoever within the city between the hours of 8:00 a.m. and 11:00 p.m. the operation of which shall cause reasonably preventable electrical interference with radio or television reception within the city; provided, that X-ray pictures, examinations or treatments may be made at any time if the machines or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with radio reception and are not negligently operated. This section shall not be applicable to any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce or the operation of which instrument, apparatus or device is licensed or authorized by or under the provisions of any act of the Congress of the United States. (1995 Code,§ 9.08.130) Penalty, see § 131.99

LABOR DISPUTES

§ 131.15 CITY POLICY.

It is declared to be the policy of the city, in the exercise of its police power for the protection of the public safety and for the maintenance of peace and good order and for the promotion of the city's trade, commerce and manufacturing, to assure all persons involved in labor disputes freedom of speech and freedom from bodily harm and to prohibit the occasion of violence and disorder and, in furtherance of these policies, to prohibit the recruitment and furnishing of professional strikebreakers to replace the employees involved in labor disputes. (1995 Code, § 9.08.020) Penalty, see § 131.99

§ 131.16 STRIKEBREAKERS-GENERALLY.

(A) No person who customarily and repeatedly offers himself or herself for employment in place of employees involved in a labor dispute shall take or offer to take the place of any employee in a labor dispute.

(B) It shall be prima facie evidence that a person customarily and repeatedly offers himself or herself for the employment in place of employees involved in a labor dispute if the person shall have two times before offered to take the place of employment of persons involved in labor disputes.
(1995 Code, § 9.08.030) Penalty, see § 131.99

§ 131.17 STRIKEBREAKERS-RECRUITMENT.

No person shall recruit, procure, supply or refer any person for employment who customarily and repeatedly offers himself or herself for employment in place of any employee involved in a labor dispute in which the person is not directly involved. (1995 Code, § 9.08.040) Penalty, see § 131.99

§ 131.18 STRIKEBREAKERS-EMPLOYING.

No person involved in a labor dispute shall, directly or indirectly:

(A) Employ in place of an employee involved in a dispute any person who customarily and repeatedly offers himself or herself for employment in the place of employees involved in a labor dispute; or

(B) Contract or arrange with any other person to recruit, procure, supply or refer persons who customarily and repeatedly offer themselves for employment in place of employees involved in a labor dispute. (1995 Code, § 9.08.050) Penalty, see § 131.99

NOISE

§ 131.30 GENERALLY.

It is unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing or unnecessary noise in the city.
(1995 Code, § 9.08.080) Penalty, see § 131.99

§ 131.31 ENUMERATION.

The following acts are declared to be violations of this section, but the enumeration shall not be deemed to be exclusive, namely:

(A) The keeping of any animal or bird which by frequent or loud continued noise shall disturb the comfort and repose of any person in the vicinity and the attaching of any bell on any animal or allowing the same to remain on any animal;

(B) The use of any automobile, motorcycle or other vehicle, engine, stationary or moving instrument, device or thing so used or repaired or so loaded in a manner as to create a loud and unnecessary granting, grinding, rattling or other noise;

(C) The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city except as a necessary warning of danger to property or persons;

(D) The blowing of any steam whistle situated on any stationary boiler, except to give notice of the time to begin or to stop work or as a warning of danger or except at 11:00 a.m. on Armistice Day, midnight on New Year's Eve or upon proclamation of the Mayor or except as otherwise provided in this code;

(E) The use of any whistle on any locomotive engine which makes unnecessary noise with or by its whistle in any residential or business part of the city;

(F) The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled and reduced;

(G) The erection, including excavation, demolition, alteration or repair of any building or structure other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public safety;

(H) The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle, as defined in Title VII of this code;

(I) Any excessive noise on any street adjacent to any hospital or other institution reserved for the sick or any school while the same is in session;

(J) The discharge into the open air of exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine except through a muffler or other device which will effectively prevent loud or explosive noise therefrom;

(K) The use or operation of any electrical piano, phonograph, graphophone, radio, television, loudspeaker or any instrument or sound producing or sound amplifying device in a manner or with volume as to annoy or disturb persons in the vicinity of the instruments or sound amplifying device; provided, that police and fire equipment shall be exempt from these prohibitions;

(L) The making of any noise upon the public street or in proximity thereto as to be distinctly and loudly audible upon the street, any noise of any kind by crying, calling, barking or shouting or by means of any whistle, rattle, bell, gong, gripper horn, drum, loud speaker, amplifier, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever; provided, that nothing contained in this division shall be construed to prohibit yelling by newsboys between the hours of 6:00 a.m. and 10:00 p.m. and, in the case of the sale of extra editions of newspapers, at any time;

(M) The operation of any noise-creating blower or power fan or any internal combustion engine or from any cracking process the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from the blower or fan is muffled and the engine is equipped with a muffler device sufficient to deaden the noise;

(N) The playing, using, operating or permitting to be played, used or operated, any radio, tape recorder, cassette player or other device for receiving broadcast sound or reproducing recorded sound if the device is located:

(1) On the public way; or

(2) In any motor vehicle on the public way; and if the sound generated by the device is clearly audible to a person with normal hearing at a distance greater than 75 feet. This division shall not apply to any person participating in a parade or public assembly for which a permit has been obtained.

(O) No person within the city shall play, use, operate or permit to be played, used or operated, any radio, CD player, tape recorder, cassette player, digital satellite system or any other device for sending or receiving a broadcast sound or for recorded ·sound if the device is located:

(1) In, on or associated with any motor vehicle on the public right-of-way or on public spaces; and if the sound generated by the device is plainly audible to a person at a distance of greater than 50 feet from that motor vehicle in any direction;

(2) In addition to a citation written under this section, a motor vehicle that is used in violation of supra, may be considered a public nuisance and is subject to seizure, towing and impoundment by the Police Department;

(3) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure, towing and impoundment pursuant to this division, the police officer shall provide for the towing of the vehicle to a facility approved by the Board of Public Works and Safety; and

(4) The motor vehicle will be held at the approved towing facility and may be repossessed by the registered owner upon paying all expenses of towing, impoundment and

storage. (Unclaimed vehicles will be disposed of as per the provisions of §§ 70.085 and 70.086 of this code.) (1995 Code, § 9.08.090) (Ord. 0-97-0004, passed --1997; Ord. 0-06-0024, passed 6-26-2006) Penalty, see § 131.99

§ 131.32 TRANSPORTING RAILS, PILLARS OR OTHER MATERIALS.

All rails, pillars and columns of iron, steel or other metal, stone or other materials which are being transported on the public ways of the city shall be so loaded as to avoid causing loud noises or disturbing the peace and quiet of public ways. (1995 Code,§ 9.08.100) Penalty, see § 131.99

§ 131.33 SOUND TRUCKS.

It is unlawful for any person to use or cause to be used in or on any automobile, truck or other vehicle operating upon the streets or alleys or public places in the city any radio device or apparatus or any machine, device or apparatus for the amplification of any sounds from any radio or phonograph or other sound making or sound producing device or any sound or device for the reproduction or amplification of the human voice or music or other noise or sounds, for the purpose of hawking or advertising any business, merchandise, amusement, event, service, candidacy or the sale of anything. The use of sound devices for any noncommercial purposes shall be permitted only between the hours of 10:00 a.m. and 2:00 p.m., and then only if the use does not constitute a public nuisance.

(1995 Code, § 9.08.110) Penalty, see § 131.99

§ 131.34 ABATEMENT.

The acts enumerated in § 131.31 are declared to be nuisances, and upon complaint to the Police Department by any person disturbed or annoyed by the noises therefrom, the police shall thereupon investigate the complaint and, if found justified, shall notify the person causing or permitting the continuance of the noise to abate the nuisance, and if the person so notified neglects to abate the same forthwith, a complaint shall be filed against the offending person. Any person, however, may be arrested or sued for penalties for violation of §§ 131.30 and 131.31 upon the direct complaint of any other person and any police office may arrest the offender when he or she hears the noise.

(1995 Code, § 9.08.120) Penalty, see § 131.99

LOITERING

§ 131.45 DEFINITIONS.

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

GANG ACTIVITY. The commission, attempted commission or solicitation of any offense as defined in I.C. Title 35, Articles 41 through 49 inclusive, and further shall include any activity or conduct that violates existing city ordinances committed by two or more persons, or by an individual at the direction of, or in association with, any street gang, with the intent to promote, further or assist in any criminal conduct by gang members.

LOITER. To remain in any one place with no apparent purpose.

PUBLIC PLACE. The public way and any other location open to the public, whether either publicly or privately owned.

STREET GANG. Any on-going organization, association in fact or group of three or more persons, whether formal or informal, having as one if its substantial activities the commission of any criminal act and whose members individually or collectively engage in or have engaged in a pattern of gang activity. (1995 Code, § 9.44.010) (Ord. 0-93-0023, passed --1993)

§ 131.46 LOITERING BY STREET GANG MEMBERS-DISPERSAL ORDER.

(A) Whenever a police officer observes a person whom they reasonably believe to be a street gang member loitering in any public place with one or more other persons, the officer shall order all such persons to disperse and remove themselves from the area. Any person who does not promptly obey the order is in violation of this subchapter.

(B) It shall be an affirmative defense to an alleged violation of this subchapter that no person who was observed loitering was in fact a member of a street gang.

(1995 Code, § 9.44.020) (Ord. 0-93-0023, passed --1993) Penalty, see § 131.99

§ 131.47 LOITERING BY MINORS PROHIBITED-EXCEPTIONS.

It is unlawful for any person under the age of 18 years to be present at, or upon any public assembly, building, place, street or highway in the city between the hours of 11:00 p.m. Friday and 6:00 a.m. Saturday, between the hours of 11:00 p.m. Saturday and 6:00a.m. Sunday, and also between the hours of 10:00 p.m. and 6:00 a.m. on any other day of the week; provided, however, that the provisions of this section shall not apply when:

(A) The minor is accompanied and supervised by his or her parent, legal guardian or other adult having the legal care or custody of the minor, or by the minor's spouse if the spouse is 18 years of age or older, or by any other responsible companion at least 21 years of age or older approved by the minor's parent or legal guardian or other adult having the legal care or custody of the minor;

(B) The presence of the minor in a place is required by an occupation or business in which the minor is lawfully engaged; and

(C) The minor is going directly to or from any adult supervised activity sponsored by a school, church, civic or not-for-profit organization who is in good standing in the community.

(1995 Code, § 9.44.040) (Ord. 0-93-0023, passed --1993) Penalty, see § 131.99

OPEN ALCOHOLIC BEVERAGES ON PUBLIC THOROUGHFARE OR PUBLIC PROPERTY

§ 131.60 DEFINITIONS.

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

ALCOHOLIC BEVERAGE. The meaning set forth in I.C. 7.1-1-3-5.

CONTAINER. The meaning set forth in I.C. 7.1-1-3-13. (Ord. 0-02-0020, passed--2002)

§ 131.61 POSSESSION OR CONSUMPTION PROHIBITED.

A person who knowingly consumes an alcoholic beverage or possesses a container that has been opened; that has a broken seal; or from which some of the contents have been removed while standing on a public street, sidewalk, thoroughfare, parkway, park or other public place within the city limits commits a violation of this subchapter. (Ord. 0-02-0020, passed --2002) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) *Generally.* Any person who shall violate any of the provisions of this chapter, for which no other penalty is provided, shall, upon conviction thereof, pay a fine not exceeding $2,500 for each violation. (1995 Code, § 9.08.140)

(B) *Loitering.*

(1) *Violation of § 131.46.* Any person who violates § 131.46 is subject to a fine of not less than $100 and not more than $500 for each offense. In addition to the above penalties, any person who violates § 131.46 may be required to perform up to a maximum of 120 hours of community service. (1995 Code, § 9.44.030)

(2) *Violation of § 131.47-police custody authorized.*

(a) A police officer who finds a minor in violation of § 131.4 7 is authorized to take the minor into custody until a time as the minor's parent, legal guardian or other adult having legal care or custody of the minor is located and notified of the violation, and takes custody of the minor from the police. If no person can be located within a reasonable period of time, the minor shall then be referred to the appropriate juvenile authorities. (1995 Code, § 9.44.050)

(b) A parent, legal guardian or other adult having the legal care or custody of a minor who shall knowingly permit the minor to violate any provision of § 131.47 shall be fined not less than $100 nor more than $500 for each offense. (1995 Code, § 9.44.060)

(C) *Alcohol.* An officer of the City Police Department may issue a ticket or city ordinance violation citation to a person who violates §§ 131.60 through 131.61. Conviction of the citation or ticket issued to an individual shall carry up to a $2,500 penalty for each offense. (Ord. 0-93-0023, passed --1993; Ord. 0-97-0004, passed--1997; Ord. 0-02-0020, passed--2002; Ord. 0-06-0024, passed 6-26-2006)

CHAPTER 132: OFFENSES AGAINST PUBLIC DECENCY

Section

General Provisions

132.01 Endurance and similar contests
132.02 Food containers and measures – deceptive practices unlawful
132.03 Indecent exposure or dress
132.04 Indecent or lewd acts
132.05 Sleeping in streets, parks and other public places
132.06 Spitting in public

Comic Books

132.20 Definitions
132.21 Selling and displaying
132.22 Certification of contents

Glue Vapors or Fumes

132.35 Definition
132.36 Smelling or inhaling
132.37 Use or possession

132.38 Sales
132.39 Sales records
132.40 Sales to minors

132.99 Penalty

GENERAL PROVISIONS

§ 132.01 ENDURANCE AND SIMILAR CONTESTS.

It is unlawful for any person to conduct, aid, participate in or to receive any receipts from a so-called marathon, walkathon or endurance contest participated in by dancers or skaters, or by persons suspending themselves from great heights or in hazardous places, except in the prosecution of building or repair work. (1995 Code,§ 9.12.040) Penalty, see § 132.99

§ 132.02 FOOD CONTAINERS AND MEASURES- DECEPTIVE PRACTICES UNLAWFUL.

No person shall sell or offer for sale any berries, fruit, produce, food products or any other article or commodity in any container or measure the contents of which shall not be uniform in quality and no person shall top-dress or, otherwise, cause measures or containers to be filled and exposed for sale with any commodity for the purpose of deceiving the purchaser or concealing the quality of the product or commodity. It is unlawful for any person to sell or offer for sale any fresh or green fruit or vegetables or any other perishable commodity for human consumption which shall have been emptied from the container and repacked unless the word “repacked” shall be clearly written or stamped upon the measure or container in which the repacked commodity is offered for sale.

(1995 Code, § 9.12.050) Penalty, see § 132.99

§ 132.03 INDECENT EXPOSURE OR DRESS.

It is unlawful for any person to appear in a public place in a state of nudity, or in indecent or lewd dress or clothes or to make any indecent exposure of his or her person to other persons.

(1995 Code,§ 9.12.130) Penalty, see § 132.99

§ 132.04 INDECENT OR LEWD ACTS.

No person shall commit any indecent or lewd act that is an affront to contemporary community standards in any public place of the city. (1995 Code,§ 9.12.140) Penalty, see § 132.99

§ 132.05 SLEEPING IN STREETS, PARKS AND OTHER PUBLIC PLACES.

It is unlawful for any person to sleep in a public park, along or upon any public street or alley or in any other public place or on or about any private property without the permission of the owner or occupant thereof. (1995 Code,§ 9.12.150) Penalty, see § 132.99

§ 132.06 SPITTING IN PUBLIC.

No person shall spit upon any public sidewalk or in any public conveyance or upon the floor of any theater, hall, assembly room or public building. (1995 Code, § 9.12.160) Penalty, see § 132.99

COMIC BOOKS

§ 132.20 DEFINITIONS.

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

COMIC BOOK. Any narrative, story, tale, romance or account of events or happenings, fictional, factual or historical, in which the successive steps in the development of the action or plot are pictorially or graphically illustrated by drawings or photographs and in which the legend, narrative or dialogue is printed adjacent to or on the pictorial illustration, whether or not in balloons proceeding out of the mouths of the characters portrayed. This definition includes all publications of the nature described regardless of whether they partake of the elements of comedy or humor.

COMIC BOOK PORTRAYING DEEDS OF BRUTALITY AND VIOLENCE. A comic book, as hereinbefore described, the theme or plot of which is devoted primarily or in substantial part to deeds or acts of brutality or violence, such as assaults, cuttings, stabbings, beatings, sluggings, floggings, eye gougings, brutal kickings, burnings, dismemberments and other reprehensible assaults and batteries on the person.

CRIME COMIC BOOK. A comic book, as hereinbefore described, the theme or plot of which is devoted primarily or in substantial part to the portrayal of the planning or commission of criminal deeds, such as murders, rapes, armed robberies, burglaries, thefts, kidnappings, arsons, the peddling, sale or use of narcotics or other felonies or conspiracies or attempts to commit felonies.

HORROR COMIC BOOK. A comic book, as hereinbefore described, the theme or plot of which is gruesome, debasing, monstrous, vile, demonic, ghoulish, weird, horrible, vicious, depraved, inhuman or otherwise calculated to inspire in readers feelings of terror, fear, revulsion, disgust or morbid curiosity.

SEXUALLY INDECENT COMIC BOOK. A comic book, as hereinbefore described, the theme or plot of which is devoted primarily or in substantial part to sexually indecent subject matter, such as adultery, homosexuality, sadism, masochism or other perversions or in which male and female characters are depicted in lewd, lascivious or suggestive amorous embraces or in which male or female characters are scantily or indecently clad or in which the breasts of female characters or the genital organs of male or female characters are exposed or partially exposed. (1995 Code, § 9.12.010)

§ 132.21 SELLING AND DISPLAYING.

It is unlawful for any person to sell, display, offer for sale, distribute, lend or give away or otherwise make available to any person any horror comic book, crime comic book, sexually indecent comic book or comic book portraying deeds of brutality and violence, as defined in § 132.20.

(1995 Code, § 9.12.020) Penalty, see § 132.99

§ 132.22 CERTIFICATION OF CONTENTS.

(A) The provisions of §§ 132.20 and 132.21 notwithstanding, no retailer selling, displaying, offering for sale, distributing, lending, giving away or otherwise making available to any person any horror comic book, crime comic book, sexually indecent comic book or comic book portraying deeds of brutality and violence, as defined in § 132.20, shall be held in violation of this code if, prior to the sale,

display, offering for sale, distributing, lending, giving away or otherwise making available to a person, the retailer has obtained from a wholesaler or distributor, licensed as such to do business in the city, a written certification that the particular comic book supplied to the retailer is not of the nature defined in § 132.20. The certification shall plainly and legibly show the date of delivery to the retailer and the name and local address of the party signing certification.

(B) If any wholesaler or distributor or any agent or representative thereof shall falsely certify to a retailer that any comic book supplied by him or her to a retailer is not a horror comic book, crime comic book, sexually indecent comic book or comic book portraying deeds of brutality and violence, as defined in § 132.20, the wholesaler or distributor and his or her agent or representative shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished or fined as provided in § 132.99.

(1995 Code, § 9.12.030) Penalty, see § 132.99

GLUE VAPORS OR FUMES

§ 132.35 DEFINITION.

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

GLUE CONTAINING A SOLVENT HAVING THE PROPERTY OF RELEASING TOXIC VAPORS OR FUMES. Any glue, cement or other adhesive containing one or more of the following chemical compounds:

(1) Acetone;

(2) An acetate;

(3) Benzene;

(4) Butyl alcohol;

(5) Ethyl alcohol;

(6) Ethylene dichloride;

(7) Isopropyl alcohol;

(8) Methyl alcohol;

(9) Methyl ethyl ketone;

(10) Pentachlorophenol;

(11) Petroleum ether; or

(12) Toluene.

(1995 Code, § 9.12.060)

§ 132.36 SMELLING OR INHALING.

No person shall, for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of his or her brain or nervous system, intentionally smell or inhale the fumes from any glue containing a solvent which has the property of releasing toxic vapors or fumes; provided, that nothing in this section shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes. (1995 Code, § 9.12.070) Penalty, see § 132.99

§ 132.37 USE OR POSSESSION.

No individual shall, for the purpose of violating § 132.36, use or possess for the purpose of so using any glue containing a solvent having the property of releasing toxic vapors or fumes.

(1995 Code, § 9.12.080) Penalty, see § 132.99

§ 132.38 SALES.

No person, except a person who is, at the time of the sale, actually employed by or engaged in operating a bona fide commercial establishment at a fixed location, shall sell to any other person any tube or other container of glue containing a solvent having the property of releasing toxic vapors or fumes and all sales of glue not made in or from an establishment are prohibited.

(1995 Code, § 9.12.090) Penalty, see § 132.99

§ 132.39 SALES RECORDS.

Each person who, in one transaction or in two or more transactions closely connected in time, sells to any other person two or more containers of glue containing a solvent having the property of releasing toxic vapors or fumes shall upon the occurrence of the second or subsequent transaction, require the other person to exhibit means of identification of himself or herself, and shall record in a register conforming with requirements established by the Chief of Police the name, address and description of the other person. The record shall be kept for a period of not less than six months and shall be available for inspection during normal business hours by officers and members of the city police force.

(1995 Code, § 9.12.100) Penalty, see § 132.99

§ 132.40 SALES TO MINORS.

No person shall sell, give or otherwise transfer to any other person under the age of 18, except with the written consent of the parent or guardian of the other person, any glue containing a solvent having the property of releasing toxic fumes or vapors; provided, that nothing contained in these regulations shall be considered applicable to the sale of a tube or other container of glue immediately in conjunction with the sale of a model kit requiring the use of approximately the quantity of glue for the assembly of a model; provided further, that nothing contained in this section shall be applicable to the transfer of a tube or other container of glue from a parent to his or her child or from a guardian to his or her ward. (1995 Code, § 9.12.110) Penalty, see § 132.99

§ 132.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Glue vapors or fumes-sales; penalties when illegal.* Any violations of §§ 132.38 and 132.40 shall in addition to the penalties set out in this code be grounds for the immediate revocation of any and all licenses or permits granted to any person by the city. (1995 Code, § 9.12.120)

CHAPTER 133: OFFENSES AGAINST PROPERTY

Section

General Provisions

133.01 Meddling with personal property
133.02 Damaging or destroying public and private property
133.03 Digging or removing sod, stone, earth, sand, or gravel

Graffiti

133.15 Graffiti prohibited
133.16 Notice of violation
133.17 Notice of violation-contents
133.18 Failure to abate
133.19 Prohibited

133.99 Penalty

GENERAL PROVISIONS

§ 133.01 MEDDLING WITH PERSONAL PROPERTY.

It is unlawful for any person to meddle or interfere, in any manner, with the property of any other person within the city. (1995 Code, § 9.16.010) Penalty, see § 133.99

§ 133.02 DAMAGING OR DESTROYING PUBLIC AND PRIVATE PROPERTY.

(A) No person shall damage, injure, cut, mar, deface or destroy any public or private building, fountain, statue, tree, grass or shrubbery, sewer, water pipe, hydrant, sign, signal or other public or private property, whether real or personal. No person shall break, injure or destroy any private or public street bulbs, lamps, posts or appendages.

(B) No person shall, without authority, cut, mutilate, injure or destroy any fence, guide post, traffic signal or sign or awning.

(C) No person shall wantonly injure or destroy any private window or building, seminary or any other edifice whatever or any building or structure under construction, or any private shade or ornamental trees or the box or protection around them planted in any yard, street or public ground within the city.

(D) No person shall maliciously or intentionally damage or destroy any official police or fire uniform, equipment or signal.

(E) No person shall cause graffito or graffiti on any public or private building, fountain, statue, viaduct, bridge, water tower, hydrant, sign, signal or other city or private property, whether real or personal. ***GRAFFITO*** and ***GRAFFITI*** are defined as being inscription or inscriptions or drawings or paint spraying made on any surface capable of being inscribed, drawn or painted on.

(1995 Code,§ 9.16.020) (Ord. 3397, passed--1985) Penalty, see § 133.99

Cross-reference: *Graffiti, see §§ 133.15 through 133.19*

§ 133.03 DIGGING OR REMOVING SOD, STONE, EARTH, SAND OR GRAVEL.

No person shall cut, dig or remove any sod, stone, earth, sand or gravel from any premises not his or her own without the consent of the owner. No person shall dig, cut or remove any sod, earth, sand, gravel or stone from any property adjoining or contiguous to a public way in a manner as to leave the property in an unsafe or unsanitary condition or in a condition as will constitute a public nuisance.

(1995 Code, § 9.16.030) Penalty, see § 133.99

GRAFFITI

§ 133.15 GRAFFITI PROHIBITED.

All sidewalks, walls, buildings, fences, signs and other structures or surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.

(1995 Code, § 9.48.010) (Ord. 0-98-0003, passed --1998) Penalty, see § 133.99

§ 133.16 NOTICE OF VIOLATION.

In the event that graffiti is determined to exist on property in violation of this subchapter, the city shall, in writing, notify the owner of the property or responsible party, through the issuance a notice of violation providing a maximum of ten days to abate the graffiti, which notice may be served by certified mail, personal service or by posting the subject property and publishing the notice in a newspaper of general circulation within the city.

(1995 Code, § 9.48.020) (Ord. 0-98-0003, passed --1998) Penalty, see § 133.99

§ 133.17 NOTICE OF VIOLATION CONTENTS.

The notice of violation shall identify the property in violation, shall generally describe the location of the graffiti and direct that the graffiti shall be abated within ten days of receipt of the notice. The notice shall state that in the event the owner or responsible party fails to abate the graffiti within the time period specified in the notice of violation, the city shall abate the graffiti and bill the owner or responsible party for the costs thereof. The notice shall state that the owner or responsible party may appeal the notice to the City Board of Public Works and Safety by filing a written notice of appeal within the same time period to abate the graffiti, accompanied with and appeal fee of $25.

(1995 Code, § 9.48.030) (Ord. 0-98-0003, passed --1998) Penalty, see § 133.99

§ 133.18 FAILURE TO ABATE.

In the event that the owner or responsible party fails to abate the graffiti as required by the notice of violation, the city may proceed to abate the graffiti and bill the owner or responsible party for the costs thereof. In the event that the bill is not paid, a statement of the account shall be certified to the City Controller who shall collect the same due, together with interest at the rate established by law. The city or its authorized private contractor is expressly authorized to enter private property and abate graffiti thereon in accordance with this section.

(1995 Code, § 9.48.040) (Ord. 0-98-0003, passed --1998) Penalty, see § 133.99

§ 133.19 PROHIBITED.

(A) No person may write, paint or draw any inscription, figure or mark of any type on any public or private building or other real or personal property owned, operated or maintained by a governmental entity or any agency or instrumentality thereof or by a person, form or corporation unless the express permission of the owner or operator of the property has been obtained.

(B) No person may possess an aerosol spray paint container or broad-tipped indelible marker with the intent to violate division (A) above of this section.

(C) No person may possess an aerosol spray paint container or broad-tipped indelible marker on any private property unless the owner, agent, manager or other person having control of the property consented to the presence of the aerosol spray paint container or broad-tipped indelible marker.

(D) No person under the age of 18 years may possess an aerosol spray paint container or broad-tipped indelible marker on any public property unless accompanied by a parent, guardian, employer, teacher or other adult in any similar relationship and the possession is for a lawful purpose.

(E) No person or firm may sell, deliver or give or cause to be sold, delivered or given to any person under the age of 18 years and no person under the age of 18 years may buy any aerosol spray paint container or broad-tipped indelible marker. Evidence that a person, his or her employee or agent demanded and was shown acceptable evidence of majority and acted upon the evidence in a transaction or

sale shall be a defense to any enforcement under this division. This division does not apply to the transfer of an aerosol spray paint container or broad-tipped indelible marker from a parent to child, guardian to ward, employer to employee, teacher to student or in any other similar relationship when the transfer is for a lawful purpose. (1995 Code, § 9.48.050) (Ord. 0-98-0003, passed --1998) Penalty, see § 133.99

§ 133.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Graffiti.* Whoever violates any of the provisions of § 133.19 shall, upon conviction thereof, be fined in a sum up to $2,500 and costs of prosecution. Each day a violation of this chapter continues constitutes a separate offense. (1995 Code, § 9.48.060) (Ord. 0-98-0003, passed --1998)

CHAPTER 134: OFFENSES AGAINST PEOPLE

Section

134.01 Molesting persons of opposite sex

§ 134.01 MOLESTING PERSONS OF OPPOSITE SEX.

It is unlawful for any person to molest any person of the opposite sex. (1995 Code, § 9.20.010) Penalty, see § 10.99

CHAPTER 135: OFFENSES INVOLVING MINORS

Section

General Provisions

135.01 Parents to exercise control
135.02 Curfew
135.03 Defenses

Laser Pointers

135.15 Prohibited acts
135.16 Transfer or sale to minor
135.17 Liability of parent or legal guardian

135.99 Penalty

GENERAL PROVISIONS

§ 135.01 PARENTS TO EXERCISE CONTROL.

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

CRIMINAL ACTS. Those acts which violate the statutes of the state or the ordinances of the city, not including traffic violations.

MINOR.

(a) Any juvenile under the age of 18 years residing with the parent as defined in this section.

(b) Any person under the age of 18.

PARENT. Mother, father, legal guardian and any other person having the care or custody of a minor or other adult with whom a minor may be found residing.

(B) (1) It is unlawful for the parent of any minor to fail to exercise parental control which results in the minor committing any criminal act or to allow or encourage any criminal act or become delinquent in accordance with the juvenile code as it pertains to juveniles.

(2) Failure to exercise parental control shall include, but not be limited to the following:

(a) Knowingly permit the minor to keep stolen property;

(b) Knowingly permit the minor to be absent without cause from regular school sessions;

(c) Knowingly permit the minor to possess unlawful drugs and narcotics;

(d) Knowingly permit the minor to be without proper supervision in the absence of parents;

(e) Knowingly permit the minor to spray paint on or deface any property within the city;

(f) Knowingly permit the minor to carry or possess firearms except and unless he or she is a licensed hunter in the company of an adult in direct route to a hunting site;

(g) Knowingly permit the minor to carry within the city a knife or sharp instrument the blade of which is over three and one-half inches; and

(h) Knowingly or otherwise, leave firearms for young children to injure or destroy themselves.

(C) (1) Whenever a minor shall be arrested or detained for the commission of any criminal act within the city, the parent of the minor shall be immediately notified by the Police Department advising the parent of the arrest or detention, the reason therefor and their responsibility under this section.

(2) A record of the notifications shall be kept by the City Police Department.

(D) Any parent or guardian of a minor child shall be responsible and financially obligated to reimburse the damages of any property or personal injuries inflicted by the minor child, if found guilty.

(1995 Code, § 9.24.010) Penalty, see § 135.99

LASER POINTERS

§ 135.15 PROHIBITED ACTS.

It shall be unlawful for any person less than 18 years of age to have in his or her possession at any private or public place, except as provided herein, a laser pointer of the following type:

(A) A Helium Neon (HeNe) laser which typically operates at a wavelength of 632.8 nMe with the mandated power limit of 5mW of power. The lasers are considered Class 2 laser with the potential for eye injury; and

(B) A diode laser which typically operates at a wavelength of 670 nMe (although others are possible) with a power source providing 5mW. The lasers are considered Class 3a lasers, with the potential for eye injury. (Ord. 0-98-0025, passed 12-21-1998) Penalty, see § 135.99

§ 135.16 TRANSFER OR SALE TO MINOR.

No person, firm or corporation shall sell to or provide a minor with a Class 2 or Class 3a laser pointer as described in this subchapter unless the minor is accompanied by a parent or legal guardian at the time of purchase or transfer. No minor shall, at the time of purchase of a laser pointer, furnish fraudulent evidence of majority. No minor shall possess a Class 2 or Class 3a laser pointer as described in this subchapter on any public property or private property except while accompanied by a parent or legal guardian and, on while private property, with the express permission of the lawful owner or manager of the private property. Also provided, however, that the possession by a person under the age of 18 years, under the direct supervision of the parent or guardian of the person in the privacy of the parent's or guardian's home, shall not be prohibited. (Ord. 0-98-0025, passed 12-21-1998) Penalty, see § 135.99

§ 135.17 LIABILITY OF PARENT OR LEGAL GUARDIAN.

(A) The parent or legal guardian of an un-emancipated minor defendant who resides with the parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this subchapter, provided that the minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with a summons or notice to appear in the original cause as provided by law.

(B) The parent or legal guardian of an un-emancipated minor defendant who resides with the parent or legal guardian shall be a necessary party to any proceeding under this subchapter.

(Ord. 0-98-0025, passed 12-21-1998) Penalty, see § 135.99

§ 135.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Laser pointers.* Any person found guilty or liable of an offense of §§ 135.15 through 135.17 shall be fined in a sum up to $2,500 and costs of prosecution. Each day a violation of §§ 135.15 through 135.17 continues constitutes a separate offense. (Ord. 0-98-0025, passed 12-21-1998)

CHAPTER 136: WEAPONS

Section

136.01 Bombs, fire balls and weapons made of thin glass
136.02 Offensive chemical and substances
136.03 Throwing or bowling stones or peashooters
136.04 Weapons-air guns or air rifles
136.05 Pointing or discharging toy weapons
136.06 Pointing or discharging firearms
136.07 Chemical weapons
136.08 Automatic or semi-automatic rifles

136.99 Penalty

§ 136.01 BOMBS, FIRE BALLS AND WEAPONS MADE OF THIN GLASS.

No person shall sell, give away, offer to sell or give away or have in his or her possession any stink ball or fire ball or any bomb, ball, tube, vial or bottle made of thin glass or other easily breakable material containing any of the abovementioned substances. (1995 Code, § 9.28.010) Penalty, see § 36.99

§ 136.02 OFFENSIVE CHEMICALS AND SUBSTANCES.

It shall be unlawful for any person to have in his or her possession or for any person to carry about any corrosive acid or any solution or mixture thereof or any other nauseous, offensive or filthy substance of like or similar nature; provided, that this provision shall not apply to manufacturing and wholesale druggists, retail druggists, physicians, chemists, regularly established laboratories or to persons who have procured any substances for medicinal purposes 27 upon a prescription of a physician regularly licensed under the laws of the state. (1995 Code, § 9.28.020) Penalty, see § 36.99

§ 136.03 THROWING OR BLOWING STONES OR PEASHOOTERS.

No person shall use a bean blower or peashooter or blow any object or throw or cast any stone, snowball or other missile in, from or to any public way or place in the city or against any vehicle or person therein riding. (1995 Code, § 9.28.030) Penalty, see § 36.99

§ 136.04 WEAPONS-AIR GUNS OR AIR RIFLES.

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

AIR GUN. An instrument from which the projectile is propelled by a spring.

AIR RIFLE. Any instrument where, by means of a lever, air is pumped into a chamber and the release of the compressed air forces out a pellet (BB shots).

SUPERVISED GROUND AREA. A private or public area or space designated in a location or site wherein the discharge of any pellets (BB shots) or projectiles from an air rifle or air gun will prevent the same from transversing any grounds or space outside the limits of the designated area or space and wherein a responsible person has power or authority to regulate and direct the activities of the use of the air rifle or air gun within the area or space.

(B) It is unlawful for any person under the age of 18 to use or have in his or her possession any air gun or air rifle that possesses any metallic bullets or pellets (BB shots) in the chamber of the air gun or air rifle.

(C) It is unlawful for any person under the age of 18 years of age to shoot, set off or discharge any air rifle or air gun within the corporate limits of the city; provided, that this section shall not apply to supervised private or public grounds or areas designated as provided herein, for the purpose of shooting, discharging or firing an air gun or air rifle in a manner as not to endanger person or property.
(1995 Code, § 9.28.040) Penalty, see § 36.99

§ 136.05 POINTING OR DISCHARGING TOY WEAPONS.

No person shall point at or discharge at any person any toy firearm, air rifle, toy cannon or any gun that discharges projectiles either by air, spring, explosive or any other force.
(1995 Code, § 9.28.050) Penalty, see § 36.99

§ 136.06 POINTING OR DISCHARGING FIREARMS.

(A) No person shall fire or discharge any gun, pistol or other firearm within the city, except upon premises used by a duly licensed or approved shooting gallery, gun or rifle club. No cannon or piece of

artillery shall be discharged or fired off in any public way or other place within the city, except upon the express permission of the Common Council.

(B) The provisions of this section shall not apply to members of the police force or other peace officers engaged in the discharge of their official duties, nor to any person summoned by any of officers to assist in making arrests or preserving the peace while the person so summoned is engaged in assisting the officer, nor to sheriffs, coroners or constables.

(C) The restrictions of this section shall not apply to the use of or discharge of any gun loaded with blank cartridges when used in athletic contests. (1995 Code, § 9.28.060) Penalty, see § 36.99

§ 136.07 CHEMICAL WEAPONS.

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

CHEMICAL WEAPON. Any solid, liquid or gaseous substances which, upon dispersion in the atmosphere or in its original state, is designed or intended for use as a means of inflicting temporary or permanent physical injury or discomfort to human beings or which is designed or intended for use as a means to temporarily or permanently incapacitate or otherwise blunt or deaden the facilities of perception of human beings.

(B) *Prohibition.* It is unlawful for any person to sell, offer to sell, disperse or distribute any chemical weapon to any person under the full age of 18 years.
(1995 Code, § 9.28.070) Penalty, see § 36.99

§ 136.08 AUTOMATIC OR SEMI-AUTOMATIC RIFLES.

(A) Any person who owns or possesses any automatic or semi-automatic rifle shall be fined and the weapon or weapons shall be confiscated.

(B) The provisions of this section shall not be construed to apply to the members of the military or naval forces of the United States, National Guard of the state or State Guard when on duty or practicing; also any law enforcement officers of this state or the United States while acting in the furtherance of their duties. (1995 Code,§ 9.28.080) (Ord. 3486, passed--1989)

§ 136.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of§ 10.99.

(B) *Automatic or semi-automatic rifles.*

(1) Any person who owns or possesses any automatic or semi-automatic rifle in violation of § 136.08 shall be fined up to $1,000 and the weapon or weapons shall be confiscated.

(2) The fact that the weapon is loaded shall also be an offense punishable by fine and confiscation. (1995 Code, § 9.28.080) (Ord. 3486, passed--1989)

CHAPTER 137: UNITED STATES FLAG

Section

137.01 Defined
137.02 Offenses enumerated

137.99 Penalty

§ 137.01 DEFINED.

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

FLAG OF THE UNITED STATES. As used in this chapter, shall include any flag, standard, colors, ensign or any picture or representation of either, or of any part or parts of either, made of any substance or represented on any substance, of any size evidently purporting to be either of the flag, standard, colors or ensign of the United States of America, or a picture or a representation of either, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or of any part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, standards, colors or ensign of the United States of America.

(1995 Code, § 9.32.010) (Ord. 3485, passed--1989)

§ 137.02 OFFENSES ENUMERATED.

No disrespect should be shown to the flag of the United States of America; the flag should not be dipped to any person or thing. Regimental colors, state flags and organization or institutional flags are to be dipped as a mark of honor.

(A) The flag should never be displayed with the union down, except as a signal or dire distress in instances of extreme danger to life or property.

(B) The flag should never touch anything beneath it, such as the ground, the floor, water or merchandise.

(C) The flag should never be carried flat or horizontally, but always aloft and free.

(D) The flag should never be used as wearing apparel, bedding or drapery. It should never be festooned, drawn back, nor up, in folds, but always allowed to fall free. Bunting of blue, white and red, always arranged with the blue above, the white in the middle, and the red below, should be used for covering a speaker's desk, draping the front of the platform, and for decoration in general.

(E) The flag should never be fastened, displayed, used or stored in a manner as to permit it to be easily torn, soiled or damaged in any way.

(F) The flag should never be used as a covering for a ceiling.

(G) The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture or drawing of any nature.

(H) The flag should never be used as a receptacle for receiving, holding, carrying or delivering anything.

(I) The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on articles such as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.

(J) No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firefighters, police officers and members of patriotic organizations. The flag represents a living country and is itself considered a living thing. Therefore, the lapel flag pin being a replica should be worn on the left lapel near the heart.

(K) The flag, when it is in a condition that it is not a fitting emblem for display, should be destroyed in a dignified way, preferably by burning.

(1995 Code,§ 9.32.020) (Ord. 3485, passed--1989) Penalty, see § 137.99

§ 137.99 PENALTY.

Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning or trampling upon it shall be fined not more than $500.

(1995 Code, § 9.32.030) (Ord. 3485, passed--1989)

TITLE XV: LAND USAGE

Chapter

150. BUILDING CODE

151. BUILDING AND STRUCTURE WRECKING

152. HOUSING STANDARDS

153. CONSTRUCTION CONTRACT WAGE SCALES

154. FLOOD HAZARD AREAS

155. SUBDIVISION REGULATIONS

156. ZONING

CHAPTER 150: BUILDING CODE

Section

150.01 Title
150.02 Purpose
150.03 Authority
150.04 Definitions
150.05 Scope
150.06 Adoption of rules by reference
150.07 Application for permits
150.08 Permit required
150.09 Other ordinances
150.10 Fees
150.11 Review of application
150.12 Inspections
150.13 Fire alarm systems-reports
150.14 Entry
150.15 Stop work order
150.16 Certificate of occupancy
150.17 Standards
150.18 Violations
150.19 Right of appeal
150.20 Remedies

150.99 Penalty

§ 150.01 TITLE.

This chapter, and all ordinances supplemental or amendatory hereto, shall be known as the building code of the City of East Chicago, Indiana, may be cited as such, and will be referred to herein as "this code." (1995 Code, § 15.04.010) (Ord. 0-02-0036, passed --2002)

§ 150.02 PURPOSE.

The purpose of this code is to provide minimum standards for the protection of life, limb, health, environment, public safety and for the conservation of energy in the design and construction of buildings and structures. (1995 Code, § 15.04.020) (Ord. 0-02-0036, passed --2002)

§ 150.03 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this Building Code, variances granted in accordance with I.C. 22-13-2-11, and orders issued under I.C. 22-12-7. Whenever in the building regulations, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Building Commissioner's office, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance has been complied with; and no provision shall be construed as giving any officer discretionary powers as to what regulations, codes or standards shall be, or power to require conditions not prescribed by ordinances or to enforce ordinance provisions in an arbitrary or discriminatory manner. (1995 Code, § 15.04.030) (Ord. 0-02-0036, passed --2002)

§ 150.04 DEFINITIONS.

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

BUILDING COMMISSIONER. Includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.

CLASS 1 STRUCTURE. Pursuant to I.C. 22-12-1-4, has the following definition:

(1) ***CLASS 1 STRUCTURE*** means any part of the following:

(a) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

1. The public;

2. Three or more tenants; or

3. One or more persons who act as the employees of another.

(b) A site improvement affecting access by persons with physical disabilities to a building or structure described in division (1)(a) above; or

(c) Any class of buildings or structures that the Commission determines by rules to affect a building or structure described in division (1)(a), except buildings or structures described in divisions (3) through (5).

(2) Division (1)(a) above includes a structure that contains three or more condominium units (as defined in I. C. 32-25-2-9) or other units that:

(a) Are intended to be or are used or leased by the owner of the unit; and

(b) Are not completely separated from each other by an unimproved space.

(3) Division (1)(a) above does not include a building or structure that:

(a) Is intended to be or is used only for an agricultural purpose on the land where it is located; and

(b) Is not used for retail trade or is a stand used for retail sales of farm produce for eight or less consecutive months in a calendar year.

(4) Division (1)(a) above does not include a Class 2 structure.

(5) Division (1)(a) above does not include a vehicular bridge.

(6) Pursuant to I.C. 22-12-1-24, structure includes swimming pool.

CLASS 2 STRUCTURE. Pursuant to I.C. 22-12-1-5, has the following definition:

(1) ***CLASS 2 STRUCTURE*** means any part of the following:

(a) A building or structure that is intended to contain or contains only one dwelling unit or two dwelling units unless any part of the building or structure is regularly used as a Class 1 structure; or

(b) An outbuilding for a structure described in division (1)(a), such as a garage, barn or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

(2) Division (1) does not include a vehicular bridge.

(3) Pursuant to I.C. 22-12-1-24, structure includes swimming pool.

CONSTRUCTION. Pursuant to I. C. 22-12-1-7, means any of the following:

(1) Fabrication of any part of an industrialized building system or mobile structure for use at another site;

(2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used;

(3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used;

(4) Work undertaken to alter, remodel, rehabilitate or add to any part of a Class 1 or Class 2 structure; or

(5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

INDUSTRIALIZED BUILDING SYSTEM. Pursuant to I.C. 22-12-1-14, means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

MANUFACTURED HOME. Pursuant to I.C. 22-12-1-16, has the meaning set forth in 42 U.S.C. § 5402 as it existed on January 1, 1984. This definition is as follows: ***MANUFACTURED HOME*** means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. § 5402.

MOBILE STRUCTURE. Pursuant to I.C. 22-12-1-17, has the following definition:

(1) ***MOBILE STRUCTURE*** means any part of a fabricated unit that is designed to be:

(a) Towed on its own chassis; and

(b) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure or another structure.

(2) The term includes the following:

(a) Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; and

(b) Two or more units that are separately towable but designed to be joined into one integral unit.

PERSONS. Pursuant to I.C. 22-12-1-18, means an individual, corporation, limited liability company, partnership, unincorporated association or governmental entity.

STRUCTURE. Both Class 1 and Class 2 structures, unless specifically stated otherwise.

VEHICULAR BRIDGE. Pursuant to I.C. 22-12-1-26, means any bridge that is neither:

(1) A pedestrian walkway; nor

(2) A passageway for light vehicles; suspended between two or more parts of a building or between two or more buildings. (Ord. 0-02-0036, passed --2002)

§ 150.05 SCOPE.

The provisions of this code apply to the construction, alterations, repair, use, occupancy, maintenance and additions to all buildings and structures, including fences, other than industrialized building systems or mobile structures certified under I.C. 22-15-4, in the city.
(1995 Code, § 15.04.040) (Ord. 0-02-0036, passed --2002)

§ 150.06 ADOPTION OF RULES BY REFERENCE.

(A) Pursuant to I.C. 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include any later amendments to those rules.

(1) Article 13-Building Code:

(a) Fire and Building Safety Standards; and

(b) Indiana Building Code.

(2) Article 14-Indiana Residential Code;

(3) Article 16-lndiana Plumbing Code;

(4) Article 17-Indiana Electrical Code;

(5) Article 18-Indiana Mechanical Code;

(6) Article 19-Indiana Energy Conservation Code;

(7) Article 20-lndiana Swimming Pool Code; and

(8) Article 22-Indiana Fire Code.

(B) Shall include East Chicago amendments to those articles.

(C) Two copies of the above building rules incorporated by reference are on file in the office of the Clerk for the legislative body for public inspection as required by I.C. 36-1-5-4.

(D) The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this Building Code. Pursuant to I. C. 22-13-2-7(b), a variance granted .by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission.
(1995 Code, § 15.04.050) (Ord. 0-02-0036, passed --2002; Ord. 0-02-0037, passed --2002)

§ 150.07 APPLICATION FOR PERMITS.

No permits shall be issued for the forgoing purposes, unless the application for the permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done. All plans for building construction under the authority of the Fire Prevention and Building Safety Commission of the state must also be filed with the State Building Commissioner. No local permits shall be issued hereunder until a copy of a design release from the State Building Commissioner and the State Fire Marshal is received by the Building Commissioner.

(1995 Code, § 15.04.060) (Ord. 0-02-0036, passed --2002) Penalty, see § 150.99

§ 150.08 PERMIT REQUIRED.

A permit shall be obtained before beginning construction, alteration or repair of any building or structure, the cost of which exceeds $100 using forms furnished by the Building Commissioner.

(1995 Code, § 15.04.070) (Ord. 0-02-0036, passed --2002) Penalty, see § 150.99

§ 150.09 OTHER ORDINANCES.

All work done under any permit issued hereunder shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits hereinafter provided for, there shall be paid the fees prescribed in the ordinance.

(1995 Code, § 15.04.080) (Ord. 0-02-0036, passed --2002) Penalty, see § 150.99

§ 150.10 FEES.

Permits required by § 150.07 hereof shall be issued upon prior payment of fees according to the adopted ordinance establishing application fees for building and all other permits covered under this code, and all fees required by this code shall be paid to the city. (1995 Code, § 15.04.090) (Ord. 0-02-0017, passed --2002; Ord. 0-02-0036, passed--2002) Penalty, see § 150.99

§ 150.11 REVIEW OF APPLICATION.

Prior to the issuance of any building permit hereunder, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with the provisions of this chapter;

(B) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding;

(C) Review building permit applications for major repairs within the floodplain area having special flood hazards to determine that the proposed repair:

(1) Uses construction materials and utility equipment that are resistant to flood damage; and

(2) Uses construction methods and practices that will minimize flood damage.

(D) Review building permit applications for new construction or substantial improvements within the floodplain area having special flood hazards to ensure that the proposed construction (including prefabricated and mobile homes):

(1) Is protected against flood damage;

(2) Is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure, flood damage; and

(3) Uses construction methods and practices that will minimize flood damage.
(1995 Code, § 15.04.100) (Ord. 0-02-0036, passed --2002)

§ 150.12 INSPECTIONS.

After the issuance of any building permits hereunder, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done under the permits as are necessary to ensure full compliance with the provisions of this chapter and the terms of the permit. Re-inspections of work found to be incomplete or not ready for inspection are subject to assessment of re-inspection fees as prescribed by this code. (1995 Code, § 15.04.110) (Ord. 0-02-0036, passed --2002)

§ 150.13 FIRE ALARM SYSTEMS-REPORTS.

The Chief of the Fire Department, or his or her designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of the inspection to the Building Commissioner.
(1995 Code, § 15.04.120) (Ord. 0-02-0036, passed --2002)

§ 150.14 ENTRY.

Upon presentation of proper credentials, the Building Commissioner or his or her duly authorized representatives may enter at reasonably times any building structure or premises in the city to perform any duty imposed upon him or her by this code. (1995 Code, § 15.04.130) (Ord. 0-02-0036, passed --2002)

§ 150.15 STOP WORK ORDER.

Whenever any work is being done contrary to the provisions of this code, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing the work to be done, and any persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.
(1995 Code, § 15.04.140) (Ord. 0-02-0036, passed --2002)

§ 150.16 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure erected, altered or repaired after the adoption of this chapter shall be issued unless the building or structure was erected, altered or repaired in compliance with the provisions of this chapter. It shall be unlawful to occupy any building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner. (1995 Code,§ 15.04.150) (Ord. 0-02-0036, passed --2002)

§ 150.17 STANDARDS.

All work on the construction, alteration and repair of buildings or other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in trade.

(1995 Code, § 15.04.160) (Ord. 0-02-0036, passed --2002) Penalty, see § 150.99

§ 150.18 VIOLATIONS.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, including fences, in the city or cause or permit the same to be done, contrary to or in violation of the provisions of this code. (1995 Code,§ 15.04.170) (Ord. 0-02-0017, passed --2002; Ord. 0-02-0036, passed--2002) Penalty, see § 150.99

§ 150.19 RIGHT OF APPEAL.

All persons shall have the right to appeal the Building Commissioner's decision first to the Board of Public Safety of the city; and then to the State Fire Prevention and Building Safety Commission in accordance with the provisions of I.C. 22-13-2-7.

(1995 Code, § 15.04.180) (Ord. 0-02-0036, passed --2002)

§ 150.20 REMEDIES.

The Building Commissioner shall in the name of the city bring actions in the County Circuit or Superior Courts for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders, made by the Building Commissioner, and any action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.

(1995 Code, § 15.04.190) (Ord. 0-02-0036, passed --2002)

§ 150.99 PENALTY.

If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this chapter, for each violation, failure or refusal, the person, firm or corporation shall be fined in any sum not less than $250, nor more than $1,000. Each day of the unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense.

(1995 Code, § 15.04.200) (Ord. 0-02-0017, passed --2002; Ord. 0-02-0036, passed --2002)

CHAPTER 151: BUILDING AND STRUCTURE WRECKING

Section

General Provisions

151.01 Permit required- definitions
151.02 Storage of salvaged materials
151.03 Exemptions
151.04 Protection of persons and property during wrecking and repairing
151.05 Fences or barricades
151.06 Bridges or sidewalks covers
151.07 Fans
151.08 Construction of fences, fans and bridges
151.09 Wrecking operations

Building Wreckers

151.20 License- required
151.21 License- application- fee- issuance- bond
151.22 License- insurance
151.23 License- scope
151.24 Sale of materials

GENERAL PROVISIONS

§ 151.01 PERMIT REQUIRED-DEFINITIONS.

(A) *Permit required.* A wrecking permit shall be required for the wrecking or removal of all masonry buildings and for all frame buildings which are over one story in height and which are less than ten feet from a street or alley line. A fee of $0.50 shall be charged for the permit. Application for a wrecking permit shall be made to the Building Commissioner. The application shall be in duplicate and shall give accurately all the information which is thereon required. A plot plan, drawn to scale, shall be furnished for buildings where barricades or bridges are required, showing the building on the lot and the distances to street, alley and property lines, with width of adjacent sidewalks. The barricade, fence or bridge required by this code shall be shown and specified in its proper position relative to the building, and complete details of its construction shall be followed. The application shall state the type of construction of the building, its height and number of stories and shall state the method to be used in the wrecking, together with other information as the Building Commissioner may reasonably require. No permit shall be issued for wrecking buildings unless the application is signed by the owner of the property and is verified by affidavit authorizing the wrecking company to obtain the permit for the demolition of the building referred to in statements contained in the application. No permit for the wrecking of any building or other structure shall be issued except to a person licensed under the provisions of this chapter, provided, that a permit may be issued, for the wrecking of a minor building or structure, as hereinafter defined, to the owner of the premises upon which minor building or structure shall be located. The work or operation of building wrecking under a permit issued to an owner of a minor building or structures shall be performed or executed by the owner or the employees or servants of the owner acting under his or her supervision and direction, but shall not be done by an independent contractor unless the independent contractor shall be a licensed building wrecker under the provisions of this chapter.

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

MINOR BUILDING OR STRUCTURE. Any masonry building not over one story in height and five thousand cubic feet in volume above the grade line.

OWNER. Any person holding title and possession of the land upon which the building or structure to be wrecked is located by virtue of a deed, real estate contract or lease for more than three years. (1995 Code, § 15.08.010) Penalty, see § 10.99

§ 151.02 STORAGE OF SALVAGED MATERIALS.

No building, structure, place or lot shall hereafter be established and used for the storage of used, secondhand or salvaged building material, building equipment and building appurtenances, unless a permit authorizing the establishment has first been obtained from the Building Commissioner. No permit shall be granted for any establishment in any block on any street in which one-half of the buildings on both sides of the street are used exclusively for residence purposes, unless the consent in writing of the owners, or the duly authorized agents of the owners, owning 50 % of the frontage of the property on both sides of the street in the block in which the business is to be established shall first have been obtained. Written consent shall be filed with the Building Commissioner before a permit shall be granted under this section; provided, that no permit shall be issued for any establishment within Fire Zone No. 1, and provided further, that no permit shall be issued which shall in any way conflict with the zoning regulations of the city. (1995 Code, § 15.08.020) Penalty, see § 10.99

§ 151.03 EXEMPTIONS.

The provisions of this chapter shall not apply to wrecking of minor buildings or structures as herein-before defined nor to the wrecking or removal of 50 % or less of any building or structure incidental to or necessary in connection with repair, alteration or enlargement of the building or structure.

(1995 Code, § 15.08.030)

§ 151.04 PROTECTION OF PERSONS AND PROPERTY DURING WRECKING AND REPAIRING.

Whenever a building or structure abutting a street, alley or sidewalk is dismantled, removed or extensively repaired, suitable protection shall be provided for persons using the streets and for adjacent property. Protection shall be a fence or barricade, fan or sidewalk bridge or cover, as provided in this chapter. (1995 Code, § 15.08.040) Penalty, see § 10.99

§ 151.05 FENCES OR BARRICADES.

Fences or barricades shall be required for buildings not over 40 feet high adjacent to street and alley lines and for higher buildings 15 or more feet from the lines. For buildings not exceeding 22 feet in height, the fence shall not be less than seven feet from the building. For buildings exceeding 22 feet in height, fences or barricades shall not be less than six feet in height, shall not be less than nine feet from the building and shall be built of three-quarter-inch boards laid tight together and securely fastened to four-inch by four-inch uprights, set not over four feet apart with two-inch by four-inch bracing and girts. The posts shall be securely set and braced to prevent buckling or over-turning. The fence shall be continued past each end of the building a distance equal to the required distance from the face of the building and returned back to the property line at each end, but no fence shall extend beyond the lot line of the property upon which the building is located without the consent of the adjoining owner. Wherever the fence cannot be continued past the end of the building the required distance, a sidewalk cover or other effective protection shall be provided to guard the public from falling materials. Fences may be omitted where the building is set back 20 feet from the street or alley line. For buildings over 40 feet high similar fences may be used if located 15 feet or more from the building, except, that the boards on the fence shall be nominal two-inch plank. Fans shall also be provided at each alternate story unless the fence is at least 25 feet from the building. In the storage of materials or erection of fences or barricades, care shall be taken to leave fire hydrants easily accessible. (1995 Code, § 15.08.050) Penalty, see § 10.99

§ 151.06 BRIDGES OR SIDEWALK COVERS.

Bridges or sidewalk covers shall be provided over all sidewalks or alleys in all cases where it is not permissible to use a fence as required in § 151.05. The cover or bridge for sidewalks, streets or alleys shall not be less than eight feet wide overall and the inner edge shall be located not less than seven feet from the exterior wall of the building. The frame of the bridge shall be designed to carry at least 150 pounds per square foot and the top deck shall be designed to carry not less than 250 pounds per square foot. Nominal two-inch planking shall not span more than three feet. The roof of the bridge shall be made watertight and suitable provision shall be made for lighting the walk under the bridge by means of 40 watt electric lights placed 12 feet on center. The clear ceiling height above the sidewalk under the bridge shall not be less than eight feet six inches except the lower ends of knee braces which shall be located not less than six feet six inches above the sidewalk. The inner wall of the bridge shall be sheathed with nominal two-inch plank from the sidewalk to the top of the bridge. A substantial two-inch plank barricade not less than four feet high shall be provided on the outer edge of the roof and shall be well braced. Posts shall be knee braced in both directions by two by six-inch pieces at an angle of 45 degrees or by any other equally

effective method. Posts may be set directly on concrete sidewalk, but if there is no concrete sidewalk, suitable mud sills and stringers shall be provided for posts and a temporary tight two inch plank sidewalk for the full width of the bridge shall be provided the full length of the bridge. There shall be no handrails or other obstruction on the outer edge of the bridge. Where desired, an iron or structural steel bridge may be constructed in place of the wooden bridge herein required, but the steel bridge shall be of equivalent strength and dimensions and shall be subject to the approval of the Building Commissioner in each case.

(1995 Code, § 15.08.060) Penalty, see § 10.99

§ 151.07 FANS.

In wrecking or extensively remodeling buildings over 40 feet high, fans shall be provided at each alternate story level in addition to fences and bridges required herein. Fans shall project from the side of the building not less than six feet, and shall be designed for a live load of 100 pounds per square foot for a distance of five feet out from the wall line. The lookouts or supports shall be not less than two by 12inch joists spiked together and spaced not over eight feet on center, cantilevered on the wall and adequately anchored to beams, girders or joists of the building with steel cables or bolts of sufficient strength to withstand the maximum load which can be applied to the fan outside of the building. The entire area of the fan shall be floored with two-inch plank laid tight and solid plank guard rails three feet in height shall be provided on the outer edge and the ends of the fan rigidly braced and secured to lookouts.

(1995 Code, § 15.08.070) Penalty, see § 10.99

§ 151.08 CONSTRUCTION OF FENCES, FANS AND BRIDGES.

All materials used in the construction of fences, barricades, fans and bridges shall be clean, sound and free from decay or other defects which would seriously impair the strength of the same. Posts, beams, joists and lookouts shall be one continuous piece and splicing shall be prohibited. All parts of the construction shall be well spiked or bolted to develop the strength of the structural members. All temporary sidewalk covers or fences erected on public property in accordance with these provisions which remain in place longer than 30 days shall be painted on all surfaces exposed to public view with at least one coat of suitable oil paint. Signs may be painted thereon descriptive of the building, the name and business of prospective tenants and the name, address and business of the owner or lessee. Signs shall cover not more than one-half of the street side of the barricade, bridge or fence. No banner or temporary sign shall be permitted. (1995 Code, § 15.08.080) Penalty, see § 10.99

§ 151.09 WRECKING OPERATIONS.

After obtaining a permit from the Building Commissioner, as well as the permission of the Board of Public Safety for occupancy of any public property, the building wrecker shall proceed to erect all required protections and shall then notify the Building Commissioner to inspect the same, before proceeding with wrecking operations. The building wrecker or building wrecking permittee shall be held liable for compliance with the provisions of this chapter and other laws and ordinances pertaining to wrecking of buildings and shall also be liable for the acts of subcontractors or other persons who do any work or removal or destruction in the wrecking of the building or structure. The methods to be used in wrecking shall not involve undue hazards to the public or unnecessary danger to the workers and shall be in accordance with good practice. Suitable provisions shall be made for the disposal of materials which are accumulated during the wrecking operations. No part of the structure shall be overloaded by excessive storage of materials or debris. Chutes, scaffolds, derricks and hoists shall be strong and substantial and safe for the purpose for which the same are intended. Materials which in their removal would cause an excessive amount of dust shall be well wet down to prevent the creation of a nuisance. No open fires or other sources of flame except necessary cutting torches shall be used in the inside of the building being wrecked, nor in close proximity to inflammable materials outside of the buildings and every precaution

shall be taken to prevent the possibility of fire. The requirements of this section shall be the minimum requirements for average conditions and in the case of unusual or dangerous situations, adequate provisions shall be made and every precaution taken to protect the safety of the public and workers. The Building Commissioner is given authority to stop the wrecking of any building within the city, wherever in his or her judgment the same is being done in a reckless, careless or unsafe manner or in violation of the law or ordinance. When any work shall have been so stopped the same shall not be resumed until the Building Commissioner shall have been satisfied that all precautions shall be taken for the protection of life and property and that the work shall be prosecuted in a safe manner and in conformity with the ordinances of the city. At the completion of all wrecking, the lot shall be cleaned of all rubbish and debris accumulated in the course of wrecking and the lot leveled off so as to leave no unsightly condition. Any basements, cellars or other excavations shall be filled in and leveled off with new earth puddled and tamped to ensure the minimum of settling or shall be fenced off, all to the approval of the Building Commissioner. (1995 Code; § 15.08.090) Penalty, see § 10.99

BUILDING WRECKERS

§ 151.20 LICENSE-REQUIRED.

No person shall engage in the business of wrecking buildings or other structures in the city without first having obtained a building wrecker's license from the Building Commissioner and the Board of Public Safety authorizing the holder thereof to carry on or engage in business.

(1995 Code,§ 15.08.100) Penalty, see § 10.99

§ 151.21 LICENSE-APPLICATION-FEEISSUANCE-BOND.

(A) The annual fee for a building wrecker's license shall be $25. Any person who desires a building wrecker's license shall first make application to the Building Commissioner on a form prescribed by the city. The Building Commissioner shall investigate the qualifications of the applicant and if he or she finds them satisfactory and that the applicant is reputable and competent, he or she shall approve the application and recommend the issuance of a building wrecker's license to the City Controller. No building wrecker's license shall be issued until the applicant therefor shall have shown satisfactory evidence that he or she has the necessary knowledge, experience, equipment and storage facilities to conduct wrecking operations properly. If the City Controller has been satisfied that the applicant has paid the required license fee to the City Treasurer and has furnished the bond herein required, he or she shall issue a building wrecker's license.

(B) Before the building wrecker's license is issued, the applicant shall furnish and deliver to the City Controller an indemnity bond of $5,000, with the surety as is approved by the City Controller, conditioned on the faithful performance of the provisions of this chapter and other applicable laws and ordinances, and indemnifying the city for any damage to public sidewalks, streets or curbs which may occur in the course of wrecking any building or structure. (1995 Code, § 15.08.110)

§ 151.22 LICENSE-INSURANCE.

All wrecking contractors licensed under this subchapter shall be required to obtain and to file with the City Controller, a certificate, issued by a duly authorized officer of a responsible insurance company authorized to do business in this state, showing that the licensee has, in full force and effect:

(A) Worker's compensation covering all employees on any work done within the city;

(B) Public liability insurance in the amount of not less than $100,000 for one person or $300,000 for one accident;

(C) Property damage insurance in the amount of not less than $50,000; and

(D) Worker's compensation, public liability and property damage insurance shall be kept in full force and effect during the entire licensed period. Certificates to that effect shall be annually submitted to the City Controller. (1995 Code, § 15.08.120) Penalty, see § 10.99

§ 151.23 LICENSE-SCOPE.

The license issued under the terms of this subchapter shall authorize the licensee to engage in the wrecking of buildings or other structures and the storing and disposing of or selling the materials obtained through the wrecking of buildings or structures to the extent the storage and disposition are not contrary to law. It is unlawful for any person licensed hereunder to engage in the business of buying, selling or dealing in house wrecking materials, secondhand building materials and secondhand building appliances and appurtenances not obtained through the wrecking of buildings or other structures by the licensee or obtained from a person not licensed under the provisions of this subchapter.

(1995 Code,§ 15.08.130) Penalty, see § 10.99

§ 151.24 SALE OF MATERIALS.

Every license issued under the terms of this subchapter shall state the location of the main office and storage yard of the licensee. It is unlawful for the licensee to offer for sale, sell or dispose of salvage materials obtained from the wrecking of buildings or structures except at the main office, storage yard or on the wrecking job of the licensee from which the materials have been obtained.

(1995 Code, § 15.08.140) Penalty, see § 10.99

CHAPTER 152: HOUSING STANDARDS

Section

152.01 Definitions
152.02 Purpose
152.03 Applicability
152.04 Sanitation, water and heating
152.05 Light and ventilation
152.06 Space, use and location
152.07 Exits
152.08 Maintenance
152.09 Rooming houses-hotels
152.10 Responsibilities
152.11 Designation of unfit dwellings and legal procedure of condemnation
152.12 Reports of violations
152.13 Notice of violations
152.14 Hearings on violations
152.15 Order to repair or demolish-issuance
152.16 Order to repair or demolish-compliance
152.17 Effect of failure to receive notice or order
152.18 Emergencies

§ 152.01 DEFINITIONS.

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

BASEMENT. A portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

BUILDING COMMISSIONER. The Commissioner of buildings of the city or his or her authorized representative.

CELLAR. A portion of a building located, partly or wholly, underground and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DWELLING. Any building which is, wholly or partly, used or intended to be used for living or sleeping by human occupants; provided, that temporary housing, as hereinafter defined, shall not be regarded as a dwelling.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Health Officer.

FIRE CHIEF. The Chief of the fire force of the city or his or her authorized representatives assigned to the Fire Prevention Bureau.

GARBAGE. The animal and vegetable waste resulting from handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage space.

HEALTH OFFICER or ***DIRECTOR OF PUBLIC HEALTH.*** The legally designated health authority of the city or his or her authorized representative.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests.

LET. To give another person the right to occupy any portion of dwelling unit or rooming unit. The act of ***LETTING*** shall be deemed to be a continuing act for so long as the persons given the right to occupy premises continue to do so. A further ***LETTING*** by any occupant of a portion of a dwelling unit or rooming unit is also a ***LETTING*** by the owner or operator of the dwelling.

MULTIPLE-DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person, over one year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or a rooming unit.

OPERATOR. Any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

OWNER. Any person who, alone or jointly or severally with others:

(a) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(b) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator or administratrix, trustee or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

PLUMBING. All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PREMISES. All areas, including but not limited to yards, outbuildings and courts.

ROOMINGHOUSE. Any dwelling or that part of any dwelling containing one or more rooming units in which space is let, for a valuable consideration, by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father or sister or brother of the owner or operator, but any child lawfully under the care of any of the above members of a family shall not be deemed a roomer.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass, crockery and dust.

SUPPLIED. Paid for, furnished or provided by or under the control of the owner or operator.

(B) Whenever the words dwelling, dwelling unit, rooming house, rooming unit or premises are used in this chapter, they shall be constructed as though they were followed by the words "or any part thereof". (1995 Code, § 15.12.010)

§ 152.02 PURPOSE.

The purpose of this chapter shall be to protect public health, safety, comfort, morals and welfare of the people within the city by establishing the following for all buildings used for housing:

(A) Minimum standards for cooking, heating and sanitary equipment necessary and expedient to promote health, suppress disease and protect safety of occupants of buildings;

(B) Facilities for ventilation, light, space and means of egress which promote health and preserve safety;

(C) Minimum standards of maintenance and responsibilities of owners, agents and occupants of dwellings for maintenance which promote health and safety and aid in the enforcement of standards; and

(D) Minimum standards essential to health, safety and welfare which are uniform in application to all dwellings whenever constructed, so that with the resulting uniformity, simplicity and certainty, owners, operators and tenants are better able to determine the applicability of this chapter and the law to them and this chapter and the laws applicable to housing shall be administratively more convenient to enforce. (1995 Code, § 15.12.020)

§ 152.03 APPLICABILITY.

This chapter is applicable to occupancy for residential purposes of any building, whether or not the building was erected, altered or converted in full or substantial compliance with ordinances in force at the time of its erection, alteration or conversion, and whether or not the building was erected, altered or converted prior to the effective date of this chapter. Whenever any ordinance imposes higher standards of health and safety than the standards imposed by this chapter, this chapter shall not make a continued violation of the ordinance legal, nor does this chapter permit any building which complies with the ordinance to be altered or converted, as to either structure or occupancy, to conform to any lower standards imposed by this chapter. Every building constructed, altered or converted after the effective date of this chapter shall comply with the applicable provisions of the Building Code in effect at the time and a building shall not be occupied for residential purposes unless it also complies with any higher standards imposed by this chapter. The requirements imposed by this chapter shall be in addition to other applicable requirements for existing buildings imposed by other provisions of this chapter and applicable requirements regarding garbage and trash, nuisances and air pollution provisions of this code.
(1995 Code, § 15.12.030)

§ 152.04 SANITATION, WATER AND HEATING.

No person shall occupy as owner-occupant, nor shall any person let or hold out to another for occupancy any dwelling unit which does not comply with the requirements of this section.

(A) Every unit shall contain within its walls a room, separate from the habitable rooms, which affords privacy and which is equipped with a flush water closet in good working condition and properly connected to a water and sewer system, approved by the Health Officer and Building Commissioner.

(B) Every dwelling unit shall contain within its walls a lavatory basin to be located in the same room as the required water closet or as near to that room as practicable.

(C) Every dwelling unit shall contain within its walls a room, separate from the habitable rooms, which affords privacy to a person in the room and which is equipped with a bathtub or shower in good working condition and properly connected to a water and sewer system approved by the Health Officer and Building Commissioner.

(D) Every dwelling unit shall contain within its walls a kitchen sink in good working condition and properly connected to a water and sewer system approved by the Health Officer and Building Commissioner.

(E) Every kitchen sink, lavatory basin and bathtub or shower required under the provisions of divisions (B), (C) and (E) of this section shall be properly connected with both hot and cold water lines.

(F) Every dwelling unit shall have heating facilities which are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments within its walls to a temperature of at least 70°F when the outside temperature is -10 °F. Gas appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this section. Portable heating equipment employing flame and the use of gasoline as a fuel does not meet the requirements of this section and is prohibited. The owner may require that the occupant shall provide the required heating facilities at the occupant's expense, but the agreement or requirement does not relieve the owner from responsibility for the presence of heating equipment in the dwelling unit.

(G) Every dwelling unit or rooming unit to which heat is furnished from a heating plant used in common for the purpose of heating the various rooms of the dwelling shall be supplied with heat from September 15 of each year to June 1 of the succeeding year so that the occupants of a dwelling unit or rooming unit may secure, without undue restriction of ventilation as to interfere with proper sanitary conditions, a minimum temperature of 70°F.

(H) Every kitchen sink, lavatory and bathtub or shower required by this chapter shall be connected with both cold and hot water lines. The hot water lines shall be connected with water heating facilities which are capable of heating water to a temperature as to permit water to be drawn at every required outlet at a temperature of not less than l20°F even when the dwelling unit heating facilities required by this code are not in operation.

(I) Every dwelling unit or rooming unit to which hot water is furnished from water heating facilities used in common shall be supplied with hot water throughout the year, so that the occupants may draw water at every hot water outlet between the hours of 6:00 a.m. and 10:30 p.m. of a minimum temperature of l20°F. (1995 Code, § 15.12.040) Penalty, see § 10.99

§ 152.05 LIGHT AND VENTILATION.

No person shall occupy as owner-occupant or shall let or hold out to another for occupancy any dwelling or dwelling unit which does not comply with the requirements of this section.

(A) All habitable rooms, other than a kitchen, must be provided with a means for transmitting natural light from outside complying with the following requirements:

(1) The area required for transmitting light from the outside shall be computed on the basis of clear glass measured as to the nominal glass dimensions. A material other than clear glass may be used, but the required area then shall be that necessary to provide the equivalent of clear glass lighting;

(2) The required clear glass area shall not be less than 10 % of the floor area of the room, and not less than ten square feet. The effective area shall be computed at not more than 80% of the actual area when a required natural light area:

(a) Faces a wall or other obstruction at a distance of less than ten feet; or

(b) Is located below a roof or other obstruction projecting more than four feet from the face of the window or other natural light area and the plane from the head to the outside of the projection forms an angle with the horizontal of less than 45 degrees.

(3) Whenever a habitable room has natural light area openings from the room to enclosed porch, the area shall not be counted as a required light area unless the enclosed porch has a natural light area of not less than three times the required light area opening from the room to the porch.

(B) Whenever the only window in a room is a skylight type of window in the top of the room, the total window area of the skylight shall equal at least 15 % of the total floor area of the room.

(C) Every habitable room shall have at least one window or skylight which can easily be opened or another device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 % of the minimum window area size or minimum skylight type window size, as required in divisions (A) and (B) of this section.

(D) Mechanical or gravity ventilation shall be deemed to be adequate if it is a system approved by the Health Officer and Building Commissioner.

(E) A kitchen with a floor area of less than 70 square feet may be without either natural or mechanical ventilation if there is an opening of not less than 32 square feet between the kitchen and another room in the same dwelling unit and if the room into which the kitchen opens has the ventilation requirements of the preceding divisions of this section.

(F) Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in divisions (A) through (E) of this section; except, that no window or skylight shall be required in bathrooms and water closet compartments equipped with a ventilation system which may be kept in continuous operation and approved by the Health Officer and Building Commissioner.

(G) Every habitable room shall have an approximately central ceiling outlet or at least two convenience outlets; except, that a bathroom or toilet room shall have at least one electric outlet in the ceiling or wall. All electrical outlets and switches shall meet standards as prescribed in the Electrical Code.

(H) Every room intended for laundry, workshop, furnace or play purposes and every inside stairway and passageway shall be provided with electrical outlets and switches that meet the standards as prescribed in the Electrical Code.

(I) Every multiple-dwelling shall have all fire exits, stairways and passages thereto and all exits and stairways from the portions of the structure to which the public has access shall be marked and illuminated as described and specified in Chapter 34 of the building rules and regulations of the State Administrative Building Council. (1995 Code, § 15.12.050) Penalty, see § 10.99

§ 152.06 SPACE, USE AND LOCATION.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of divisions (A) through (F) of this section.

(A) Every dwelling unit shall contain at least 125 square feet of floor area for each of the first two occupants and at least 100 square feet for each additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

(B) In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space. Every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant.

(C) No dwelling unit containing two or more sleeping rooms shall have room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

(D) At least 75 % of the floor area of every habitable room on the main floor shall have a ceiling height of at least eight feet. On the second story and higher, a ceiling height of at least seven feet and six inches is required; under sloping roofs at least 50 % of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches; and the floor area of that part of any room, when the ceiling height is less than five feet, shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(E) No cellar space shall be used as a habitable room or dwelling unit.

(F) No basement space shall be used as a habitable room or dwelling unit unless:

(1) The ceiling height is a minimum of six feet and ten inches clear under overhead obstructions;

(2) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness;

(3) The finish floor below the adjoining outside finish grade does not exceed a maximum two feet and six inches at required windows;

(4) The total of window area in each room is equal to at least the minimum window area as required in § 152.05(A);

(5) The required minimum window area is located entirely above the grade of the ground adjoining window area; or

(6) The total of openable window area in each room is equal to at least the minimum as required under § 152.05(C), except where some other device is supplied, affording adequate ventilation and approved by the Building Commissioner and Health Officer.

(1995 Code, § 15.12.060) Penalty, see § 10.99

§ 152.07 EXITS.

No person shall occupy as an owner-occupant or shall let or hold out to another for occupancy any dwelling, dwelling unit or rooming unit which does not comply with the following provisions.

(A) Every dwelling, dwelling unit and rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level at all times. No passage through any part of another dwelling unit or rooming unit shall constitute a legal means of egress.

(B) Where four or more dwelling units or rooming units per floor contribute to a common stairway, each of the dwelling units and rooming units so contributing shall have two separate means of egress from that floor.

(C) In any building four or more stories in height, every dwelling unit and rooming unit in the building shall have two separate means of egress from the floor on which the dwelling unit or rooming unit is located.

(D) In any building three or less stories in height and where three or less dwelling units or rooming units on any floor contribute to a common stairway, then that stairway must have a one-hour fire rating.

(E) With the exception of division (H) of this section, nothing in this section is intended to require more than one means of egress from any first floor dwelling unit or rooming unit.

(F) With the exception of division (H) of this section, nothing in this section is intended to require more than two means of egress from any single-family structure.

(G) In order to qualify as an adequately fire retarded exit or means of egress, the construction of the exit or means of egress must comply with the following:

(1) If the property is located in Fire Zones I or II and the stairway is not enclosed, the soffits, railings, stringers, underside of platforms and porches must be protected with or constructed of, at least one hour fire resistant materials;

(2) If the property is located in Fire Zones I or II and the stairway is enclosed, the walls, ceilings, soffit of stairs, stringers, railings, underside of platforms and porches must be protected with or constructed of at least one-hour fire resistant material;

(3) If the property is located in Fire Zone III and the stairway is not enclosed, closed risers are required; and

(4) If the property is located in Fire Zone III and stairway is enclosed, the soffits and underside of platforms and porches must be protected with or constructed of at least one-hour fire resistant material.

(H) Where hazardous conditions exist because of the number, width, construction or location exists, the Building Commissioner may order additional exits or rearrangement of existing exits or greater fire retardation construction of exits so as to assure adequate safety of the occupants of the structures.
(1995 Code, § 15.12.070)

§ 152.08 MAINTENANCE.

No person shall occupy as owner-occupant or shall let or hold out to another for occupancy any dwelling or dwelling units, for the purpose of living therein, which is not safe, clean, sanitary and fit for human occupancy or habitation and which does not comply with the particular requirements of §§ 152.04 and 152.07 and this section.

(A) The foundation, exterior walls and exterior roof shall be substantially watertight and protected against rodents and shall be kept in sound condition and repair:

(1) The foundation elements shall adequately support the building at all points;

(2) Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or to the exterior spaces of the dwelling;

(3) The roof shall be tight and have no defects which admit rain and roof drainage shall be adequate to prevent rain water from causing dampness in the walls;

(4) The dwelling shall be in a rat-stopped condition and adequately protected against the entry of other rodents; and

(5) All cornices, rustication, quoins, moldings, belt courses, lintels, sills, oriel windows, pediments and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous and dangerous.

(B) Every floor, interior wall and ceiling shall be adequately protected against the passage of rodents, and shall be kept in sound condition and good repair:

(1) Every floor shall be free of holes and wide cracks which might admit rodents or which constitute a possible accident hazard;

(2) Every floor shall be free of loose, warped, protruding or rotting floorboards;

(3) Every interior wall and ceiling shall be free of holes and large cracks;

(4) Every interior wall and ceiling shall be free of loose plaster or other structural material, the collapse of which might constitute an accident or hazard;

(5) Plaster, paint and all other surface materials shall be of a character as to be easily cleanable and reasonably smooth, clean and tight; and

(6) Every toilet room and bathroom floor surface shall be substantially impervious to water and be capable of being maintained easily in a clean and sanitary condition.

(C) Every window, exterior door and basement hatchway shall be substantially tight, and shall be kept in sound condition and repair:

(1) Every window shall be fully supplied with window panes which are without open cracks or holes;

(2) Every window sash shall be in good condition and fit reasonably tight within its frame;

(3) Every window, other than a fixed window, shall be capable or being easily opened and shall be held in position by window hardware;

(4) Every exterior door, door hinge and door latch shall be in good condition;

(5) Every exterior door, when closed, shall fit reasonably well within its frame;

(6) Every window, door and frame shall be constructed and maintained in relation to the adjacent wall construction as completely to exclude rain and substantially to exclude wind from entering the dwelling;

(7) Every basement hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface water into the dwelling; and

(8) Every door available as an exit shall be capable of being opened from the inside, easily and without the use of a key.

(D) Screens shall be supplied to the following extent:

(1) Every basement or cellar window which is openable shall be supplied with a heavy wire screen or hardware cloth of not less than four mesh per inch which fits tightly and is securely fastened to the frame or with any other material affording equivalent protection against the entry of rodents; and

(2) From April 15 to November 15 of each year, every door opening directly from any dwelling unit to the outdoors and every window or other outside opening used for ventilation purposes, shall be supplied with a screen of not less than 16 mesh per inch and every screen door shall have a self-closing device in good working condition; provided, that the screens shall not be required during the period in rooms deemed by the Health Officer to be located high enough in the upper stories of the buildings as to be free from insects.

(E) Every stairway, inside or outside of the dwelling, and every porch, shall be kept in safe condition and sound repair:

(1) Every flight of stairs and every porch floor shall be free of holes, grooves and cracks which are large enough to constitute possible accident hazards;

(2) Every stairwell and every flight of stairs, which is more than two risers high, shall have rails not less than two and one-half feet high, measured vertically from the nose of the tread to the top of the rail; and every porch which is more than two risers high shall have rails not less than three and one-half feet above the floor of the porch;

(3) Every rail and balustrade must be firmly fastened and maintained in good condition;

(4) No flight of stairs shall have settled more than one inch out of its intended position or have pulled away from supporting or adjacent structures;

(5) No flight of stairs shall have rotting, loose or deteriorating supports;

(6) The treads of every flight of stairs shall be uniform in height;

(7) Every stair tread shall be sound and be securely fastened in a substantially level position;

(8) Every stair tread shall be strong enough to bear a concentrated load of at least 400 pounds without danger of breaking;

(9) Every porch shall have a sound floor; and

(10) No porch shall have rotting, loose or deteriorating supports.

(F) Every basement and every cellar shall be maintained in a safe and sanitary condition:

(1) Water shall not be permitted to accumulate or stand on the floor;

(2) All sewer connections shall be properly trapped;

(3) All cellar and slab drains shall be covered with grating; and

(4) Junk, rubbish and waste shall not be permitted to accumulate to an extent as to create fire hazards or to endanger health or safety.

(G) Every supplied facility, piece of equipment or utility and every chimney and chimney flue, shall be installed and maintained in a safe and sound working condition.

(H) Every yard, court, vent passageway and other portion of the lot on which the dwelling stands shall be graded and drained so as to prevent the accumulation of stagnant water on any surface.
(1995 Code, § 15.12.080) Penalty, see § 10.99

§ 152.09 ROOMINGHOUSES-HOTELS.

No person shall operate a rooming house or let to another for occupancy any rooming unit unless the rooming unit complies with Chapter 119 of this code and with the minimum standards set forth in §§ 152.04 through 152.08 and this section.

(A) Every rooming house and every rooming unit shall be in compliance with the minimum standards for dwelling units set forth in:

(1) Section 152.04 on minimum standards for heating;

(2) Section 152.04 on minimum standards for hot and cold water lines, water heating facilities and continuation of service;

(3) Section 152.05 on minimum standards for light and ventilation;

(4) Section 152.07 on minimum exit requirements and standards;

(5) Section 152.06 on space, use and location, except for the provisions of § 152.06(A) of that section;

(6) Section 152.08 on minimum standards for safe and sanitary maintenance; and

(7) Chapter 13, § 1307 through 1309 of the Building Rules and Regulations of the Administrative Building Council of the state on enclosures of vertical openings, fire extinguishing apparatus and special hazards.

(B) (1) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the Health Officer and Building Commissioner and in good working condition, shall be supplied for each ten persons or fraction of ten within a rooming house, including members of the family of the owner if they share the use of the facilities.

(2) All facilities shall be located within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing the facilities and shall not be more than one story removed from the rooming unit of any occupant intended to share the facilities. In a rooming house in which rooms are let only to males, flush urinals may be substituted for not more than 33-1/3 % of the required number of water closets. In a rooming house where both sexes are accommodated, the water closets shall be separately calculated on the occupancy of each sex and shall be in compartments separated for use of each sex, except where not more than one water closet is required.

(C) Every operator of a rooming house shall be responsible for the following matters required by this chapter. Extermination of insects, rodents or other pests in it or in its yard; disposal of refuse by placing it in disposal facilities supplied by him or her; hanging and removing all screens required; sanitary maintenance of all walls, floors and ceilings; maintenance of a sanitary condition in every part of the rooming house; and proper installation and repair of every facility.

(D) The operator of every rooming house shall supply bed linen and towels therein at least once each week and prior to the letting of any room to another occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(E) Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area and every room occupied for sleeping purposes by more than three persons shall contain at least 50 square feet of floor area for each occupant thereof.

(F) Every provision of this chapter which applies to rooming houses shall also apply to hotels, except to the extent that any provision may be found in conflict with the laws of this state or with the lawful regulations of any state board or agency. (1995 Code, § 15.12.090) Penalty, see § 10.99

§ 152.10 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

In addition to other applicable provisions of this chapter, owners and occupants shall comply with the respective responsibilities imposed upon them by this section.

(A) Every occupant of a dwelling unit must:

(1) Keep that part of the dwelling unit which he or she occupies and controls in a clean, sanitary and safe condition;

(2) Keep the supplied plumbing fixtures therein clean and sanitary and be responsible for the exercise of reasonable care in their proper use and operation;

(3) If a resident in a single-family dwelling unit, exterminate any insects, rodents or other pests therein or on the premises, and if resident in a dwelling unit in a dwelling containing more than one family exterminate insects, pests and rodents whenever his or her dwelling unit is the only one in the dwelling infested, except as provided in division (B)(3) below of this section;

(4) Dispose of all garbage, trash and other refuse only in the containers required and in the manner prescribed in §§ 55.001 through 55.061 of this code;

(5) Hang and remove all screens required for his or her dwelling unit by this chapter unless the owner has agreed to supply the service;

(6) Not place on the premises any material which causes a fire hazard or otherwise endangers the health or safety of any occupant of the dwelling nor place in storage on the premises any furniture, equipment or material which harbors insects, rodents or other pests;

(7) Not permit any dwelling unit let to him or her to be occupied so that any occupancy resulting therefrom violates any of the provisions of this chapter;

(8) Provide heating facilities for that part of the dwelling unit he or she occupies unless the facilities are provided by the owner. Gas appliances or water heating facilities shall not be considered as heating facilities within the meaning of this section; and

(9) Every plumbing fixture furnished by the occupant of a dwelling unit shall be properly installed and shall be maintained in good working condition, kept clean and sanitary and free of defects, leaks or obstructions.

(B) Every owner or operator must:

(1) Comply with the requirements imposed on him or her by this chapter;

(2) Maintain in a clean, sanitary and safe condition the shared or public areas of the dwelling or premises, and maintain and repair any equipment of a type specified in this chapter which he or she supplies or is required to supply;

(3) Exterminate any insects, rodents or other pests in any dwelling unit if infestation is caused by the failure of the owner or operator to maintain the dwelling in a rat proof or reasonable insect proof condition and he or she must exterminate the pests in any dwelling unit in the dwelling, regardless of the cause of infestation if infestation exists in two or more of the dwelling units in the dwelling or in the shared or public parts of any dwelling containing two or more dwelling units;

(4) Supply and maintain the facilities for refuse disposal which are required of him or her by §§ 55.001 through 55.011, 55.025 through 55.033, 55.045 through 55.049, 55.060 and 55.061 of this code;

(5) Must supply bed linen and towels therein at least once each week and prior to the letting of any room to another occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner; and

(6) No owner shall shut off or shall cause to have discontinued or disconnected provided utilities for any occupied dwelling unit except where the interruption of utility service is

necessary while in the actual process of making repairs or during temporary emergencies for which repairs are being arranged. (1995 Code, § 15.12.100) Penalty, see § 10.99

§ 152.11 DESIGNATION OF UNFIT DWELLINGS AND LEGAL PROCEDURE OF CONDEMNATION.

The designation of dwellings or dwelling units as unfit for human habitation and procedure for the condemnation and placarding of unfit dwellings or dwelling units shall be carried out in compliance with the following requirements.

(A) Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Building Commissioner:

(1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public;

(2) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public; or

(3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

(B) Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the Building Commissioner shall be vacated within a reasonable time as ordered by the Building Commissioner.

(C) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from and the placard is removed by the Building Commissioner. The Building Commissioner shall remove the placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(D) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in division (C) above of this section.

(E) Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may result and shall be granted a hearing on the matter before the Board of Public Safety under the procedure set forth in § 152.14.
(1995 Code, § 15.12.110) Penalty, see § 10.99

§ 152.12 REPORTS OF VIOLATIONS.

In addition to the powers and duties granted the Building Commissioner, the Electrical Inspector, the Plumbing Inspector, the City Health Officer and the Fire Inspector, it shall be the duty of the aforementioned Inspectors to report to the Building Commissioner all violations of the standards as prescribed in this chapter that are observed by them in the course of their existing duties as Inspectors as prescribed by this code. Every occupant of a dwelling unit shall give the owner thereof or his or her agent or employee access to any part of the dwelling, dwelling unit, rooming unit or building used as a dwelling

on the premises at all reasonable times and hours for the purpose of making repairs or alterations as are necessary to effect compliance with the provisions of this chapter. (1995 Code, § 15.12.120)

§ 152.13 NOTICE OF VIOLATIONS.

Whenever the Building Commissioner determines that there are reasonable grounds to believe, due to inspections made by his or her Department or by one of the other Inspectors as described in § 152.14, that there has been a violation of any of the provisions of this chapter which affects the safety or health of the general public or occupants of any dwelling, dwelling unit, rooming unit, building used as a dwelling or premises, he or she shall give notice of the alleged violation to the person responsible therefor and to any known agent of the person as hereinafter provided. The notice shall:

(A) Be put in writing;

(B) Include a statement of the reasons why it is being issued;

(C) Allow reasonable time for the performance of any act it requires;

(D) Be served upon the owner or his or her agent or the occupant, as the case may require; provided, that the notice shall be deemed to be properly served upon the owner or agent or upon the occupant if a copy thereof is served upon him or her personally or if a copy thereof is sent by registered mail to his or her last known address or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice or if he or she is served with notice by any other method authorized or required under the laws of this state; and

(E) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter. (1995 Code, § 15.12.130)

§ 152.14 HEARINGS ON VIOLATIONS.

Any person affected by any notice issued by the Building Commissioner under § 152.13 may request and shall be granted a hearing on the matter before the Board of Public Works and Safety. If the notice is issued due to violations that have been reported by Inspectors other than those working under the supervision of the Building Commissioner, then a representative of the Department employing the reporting Inspector shall be in attendance at the hearing. The person shall file in the office of the Building Commissioner within ten days after service of the notice, a written petition requesting a hearing and setting forth a brief statement of the grounds therefor. Upon receipt of the petition the Building Commissioner shall arrange a time and place for the hearing and shall give the petitioner written notice thereof. A hearing shall be held as soon as practicable after the receipt of request therefor. At the hearing the petitioner shall be given an opportunity to be heard and to show cause why the notice should not be complied with. At the conclusion of the hearing, the Board shall have the right either to sustain or overrule the action of the Building Commissioner. (1995 Code, § 15.12.140)

§ 152.15 ORDER TO REPAIR OR DEMOLISH-ISSUANCE.

If, after a hearing, the Board of Public Works and Safety determines that the dwelling or building under consideration is dangerous or unfit for human habitation, then the Building Commissioner shall, within ten days, issue and shall cause to be served upon the owner of the building or dwelling an order, ordering him or her either to restore the building or dwelling to a state of satisfactory repair within a reasonable time or to demolish the building within 60 days. (1995 Code,§ 15.12.150) Penalty, see § 10.99

§ 152.16 ORDER TO REPAIR OR DEMOLISH-COMPLIANCE.

(A) If the owner of a building or dwelling fails to comply with the order to repair, alter or improve or to vacate and close the building or dwelling, the Building Commissioner shall cause to be posted on the main entrance to any building or dwelling so closed a placard with the following words: "This building is dangerous and unfit for human habitation. The use or occupation of this building for human habitation or any other purpose, is prohibited and unlawful."

(B) If the owner fails to comply with an order to remove or demolish the building, the Building Commissioner may cause the building to be removed or demolished.

(1995 Code,§ 15.12.160) Penalty, see § 10.99

§ 152.17 EFFECT OF FAILURE TO RECEIVE NOTICE OR ORDER.

Failure on the part of any owner or party in interest to receive or have served upon him or her any complaint, notice or order herein provided for, shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person. (1995 Code, § 15.12.170) Penalty, see § 10.99

§ 152.18 EMERGENCIES.

Whenever the City Health Officer finds that an emergency exists which requires immediate action to protect the public health he or she may, without notice or hearing, issue an order citing the existence of an emergency and requiring that the action be taken as he or she deems necessary to meet the emergency and so inform the Building Commissioner. Notwithstanding the other provisions of this chapter, the order shall be effected immediately. Any person to whom an order is directed shall comply therewith immediately, but upon petition to the Director of Public Health shall be given a hearing as soon as possible in the manner provided in § 152.14. After the hearing, depending upon the finding as to whether the provisions of this chapter have been complied with, the Board shall continue the order to modify it or revoke it. (1995 Code, § 15.12.180)

CHAPTER 153: CONSTRUCTION CONTRACT WAGE SCALES

Section

153.01 Prevailing wage scales required
153.02 Qualified personnel
153.03 Labor classifications
153.04 Minimum wage rates and job classifications to equal teamsters' rates
153.05 Compliance required
153.06 Filing of payroll record required
153.07 Applicability

§ 153.01 PREVAILING WAGE SCALES REQUIRED.

For any maintenance, improvement and construction contracts having an estimated value of $25,000 or more awarded by a municipal utility of the city, it shall be required that a contractor or subcontractor pay for each class of work on the project a scale of wages that may not be less than the prevailing scale of wages being paid in the immediate locality.

(1995 Code, § 15.28.010) (Ord. 0-94-0002, passed --1994) Penalty, see § 10.99

§ 153.02 QUALIFIED PERSONNEL.

The contractor and subcontractor shall utilize qualified personnel typically used by area water departments that are experienced in the crafts necessary to perform the services called for, and must meet the city's qualifications to perform the work.

(1995 Code, § 15.28.020) (Ord. 0-94-0002, passed --1994) Penalty, see § 10.99

§ 153.03 LABOR CLASSIFICATIONS.

A classification of the labor to be employed in the performance of the contract for the project shall be divided into the following three classes:

(A) Skilled labor;

(B) Semiskilled labor; and

(C) Unskilled labor. (1995 Code, § 15.28.030) (Ord. 0-94-0002, passed --1994)

§ 153.04 MINIMUM WAGE RATES AND JOB CLASSIFICATIONS TO EQUAL TEAMSTERS RATES.

Minimum wage rates and job classifications shall be equal to the Teamsters rates set forth below:

(A) *Skilled labor.*

	Straight Time Hourly Rate	***Overtime Hourly Rate***
Locator, trouble shooter	$10.85	$16.28
Dump truck driver	$11.02	$16.53
Master meter repair	$11.53	$17.30
Working foreperson	$12.07	$18.11
Foreperson	$12.78	$19.17
Assistant to distribution supervisor	$14.94	$22.41

(B) *Semiskilled labor.*

	Straight Time Hourly Rate	***Overtime Hourly Rate***
Master meter repair helper	$10.33	$15.50
Leak truck helper	$10.56	$15.84
Truck driver	$10.56	$15.84
Leak truck driver	$11.70	$17.55

(C) Unskilled labor.

	Straight Time Hourly Rate	*Overtime Hourly Rate*
Labor trainee	$8.56	$12.84
Leak truck helper	$10.04	$15.06

(1995 Code, § 15.28.040) (Ord. 0-94-0002, passed --1994) Penalty, see § 10.99

§ 153.05 COMPLIANCE REQUIRED.

A provision shall be made a part of and a condition of the contract that a contractor and subcontractor shall comply with this chapter.

(1995 Code, § 15.28.050) (Ord. 0-94-0002, passed --1994) Penalty, see § 10.99

§ 153.06 FILING OF PAYROLL RECORD REQUIRED.

The municipal corporation thereof letting any contract shall require any contractor or subcontractor performing public work to file a copy of its payroll record for personnel on the project every week with the city's Affirmative Action Officer in the Human Rights Department.

(1995 Code, § 15.28.060) (Ord. 0-94-0002, passed --1994) Penalty, see § 10.99

§ 153.07 APPLICABILITY.

This chapter shall not apply to public projects in the city where funds granted by the federal government are subject to federal law and rules and regulations.

(1995 Code, § 15.28.070) (Ord. 0-94-0002, passed --1994)

CHAPTER 154: FLOOD HAZARD AREAS

Section

154.01 Statutory authorization
154.02 Statement of purpose
154.03 Definitions
154.04 Duties of the Administrator
154.05 Regulatory flood elevation
154.06 Improvement location permit
154.07 Preventing increased damages
154.08 Protecting buildings
154.09 Other development requirements
154.10 Variances
154.11 Disclaimer of liability
154.12 Abrogation and greater restrictions
154.13 Effective date

154.99 Penalty

§ 154.01 STATUTORY AUTHORIZATION.

The Indiana Legislature granted the power to local units of government (I. C. 36-7-4) to control land use within their jurisdictions in order to accomplish the following.

(Ord. 0-04-0017, passed 7-12-2004)

§ 154.02 STATEMENT OF PURPOSE.

The purpose of this chapter is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Common Council hereby adopts the following floodplain management regulations in order to accomplish the following:

(A) To prevent unwise developments from increasing flood or drainage hazards to others;

(B) To protect new buildings and major improvements to buildings from flood damage;

(C) To protect human life and health from the hazards of flooding;

(D) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;

(E) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

(F) To make federally subsidized flood insurance available for structures and their contents in the city by fulfilling the requirements of the National Flood Insurance Program.

(Ord. 0-04-0017, passed 7-12-2004)

§ 154.03 DEFINITIONS.

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

BUILDING. See ***STRUCTURE.***

DEVELOPMENT.

(1) Any manmade change to improved or unimproved real estate including but not limited to:

(a) Construction, reconstruction or placement of a building or any addition to a building;

(b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;

(c) Installing utilities, erection of walls and fences, construction of roads or similar projects;

(d) Construction of flood control structures such as levees, dikes, dams, channel improvements and the like;

(e) Mining, dredging, filling, grading, excavation or drilling operations;

(f) Construction and/or reconstruction of bridges or culverts;

(g) Storage of materials; or

(h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) ***DEVELOPMENT*** does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation or the construction of permanent buildings.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FBFM. Flood Boundary and Floodway Map.

FEMA. Federal Emergency Management Agency.

FHBM. Flood Hazard Boundary Map.

FIRM. Flood Insurance Rate Map.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The ***FLOODPLAIN*** includes both the flood way and the floodway fringe districts.

FLOOD PROTECTION GRADE or ***FPG.*** The elevation of the regulatory flood plus two feet at any given location in the SFHA.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FLOODWAY FRINGE. Those portions of the floodplain lying outside the flood way.

LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A ***LOMA*** is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations and elevations.

LOWEST FLOOR. The lowest of the following:

(1) The top of the lowest floor of a building;

(2) The top of the basement floor;

(3) The top of the garage floor, if the garage is the lowest level of the building; and

(4) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one square inch for every one square foot of enclosed area subject to flooding. The bottom of all the openings shall be no higher than one foot above grade;

(b) The lowest point of the interior grade of any crawl space is at or above the BFE; and

(c) The enclosed space shall be usable for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term ***MANUFACTURED HOME*** does not include a recreational vehicle.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.

RECREATIONAL VEHICLE. A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel or seasonal use.

REGULATORY FLOOD. The flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 154.05 of this chapter. The ***REGULATORY FLOOD*** is also known by the term base flood.

SFHA or ***SPECIAL FLOOD HAZARD AREA.*** Those lands within the jurisdictions of the city that are subject to inundation by the regulatory flood. The SFHAs of the city are generally identified as such on the Flood Insurance Rate Map of the city prepared by the Federal Emergency Management Agency and dated June 4, 1980. The SFHAs of those parts of unincorporated county that are within the extraterritorial jurisdiction of the city or that may be annexed into the city are generally identified as such on the Flood Insurance Rate Map prepared for the county by the Federal Emergency Management Agency and dated September 2, 1981.

STRUCTURE. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a historic structure, provided that the alteration will not preclude the structures continued designation as a historic structure. (Ord. 0-04-0017, passed 7-12-2004)

§ 154.04 DUTIES OF THE ADMINISTRATOR.

The City Engineer shall implement this chapter and hereafter be referred to as the Floodplain Administrator. The Floodplain Administrator for the city is appointed to review all development and subdivision proposals to ensure compliance with this chapter, including but not limited to the following duties:

(A) Ensure that all development activities within the SFHAs of the jurisdiction of the city meet the requirements of this chapter;

(B) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(C) Ensure that construction authorization has been granted by the State Natural Resources Commission for all development projects subject to § 154.07 of this chapter, and maintain a record of the authorization (either copy of actual permit, letter of recommendation, or floodplain analysis and regulatory assessment);

(D) Maintain a record of the “as-built” elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction;

(E) Maintain a record of the engineer's certificate and the "as-built" flood proofed elevation of all buildings subject to § 154.08 of this chapter;

(F) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this chapter. Submit reports as required for the National Flood Insurance Program;

(G) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessment, federal permit documents and "as-built" elevation and flood proofing data for all building constructed subject to this chapter; and

(H) Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of the notifications to FEMA.

(Ord. 0-04-0017, passed 7-12-2004; Ord. 0-09-0019, passed 8-24-2009)

§ 154.05 REGULATORY FLOOD ELEVATION.

This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

(A) The regulatory flood elevation and floodway limits for the studied SFHAs of Indiana Harbor Canal, Lake George Canal (more commonly known as the Indiana Harbor Ship Canal with the Lake George and Calumet River branches) and Grand Calumet River shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of the city dated December 1979 and the corresponding Flood Boundary Floodway Map dated June 4, 1980, prepared by the Federal Emergency Management Agency.

(B) The regulatory flood elevation and floodway limits for each of the remaining SFHAs delineated as an "A Zone" on the Flood Insurance Rate Map of the city shall be according to the best data available as provided by the Department of Natural Resources.

(C) The regulatory flood elevation and flood way limits for the studied SFHAs of those parts of unincorporated Lake County that are within the extraterritorial jurisdiction of the city shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Lake County dated March 2, 1981 and the Corresponding Flood Boundary Floodway Map dated September 2, 1981 prepared by the. Federal Emergency Management Agency.

(D) If the SFHA is delineated as A Zone on the County Flood Insurance Rate Map, the regulatory flood elevation and floodway limits shall be according to the best available data as provided by the Department of Natural Resources. (Ord. 0-04-0017, passed 7-12-2004)

§ 154.06 IMPROVEMENT LOCATION PERMIT.

No person, firm, corporation or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining an improvement location permit from the Floodplain Administrator. The Floodplain Administrator shall not issue an improvement location permit if the proposed development does not meet the requirements of this chapter.

(A) The application for an improvement location permit shall be accompanied by the following:

(1) A description of the proposed development;

(2) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;

(3) A legal description of the property site;

(4) A site development plan showing existing and proposed development locations and existing and proposed land grades; and

(5) Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included.

(B) Upon receipt of an application for an improvement location permit, the Floodplain Administrator shall determine if the site is located within an identified flood way, flood way fringe or within the floodplain where the limits of the flood way have not yet been determined.

(1) (a) If the site is in an identified flood way, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a flood way. Under the provisions of I.C. 14-28-1 a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the flood way. This includes land preparation activities such as filling, grading, clearing and paving and the like undertaken before the actual start of construction of the building.

(b) No action shall be taken by the Floodplain Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the flood way. Once a permit has been issued by the Natural Resources Commission, the Floodplain Administrator may issue the local improvement location permit, provided the provisions contained in §§ 154.07 and 154.08 of this chapter have been met. The improvement location permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) If the site is located in an identified floodway fringe, then the Floodplain Administrator may issue the local improvement location permit provided the provisions contained in §§ 154.07 and 154.08 of this chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the flood protection grade (FPG).

(3) (a) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

(b) No action shall be taken by the Floodplain Administrator until either a permit for construction in the floodway or a floodplain analysis and regulatory assessment citing the 1 00-year flood elevation and the recommended flood protection grade has been received from the Department of Natural Resources.

(c) Once the Floodplain Administrator has received the proper permit or floodplain analysis and regulatory assessment approving the proposed development, an improvement location permit may be issued provided the conditions of the improvement location permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained in §§ 154.07 and 154.08 of this chapter have been met.

(4) (a) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the flood way, flood way fringe and 100-year elevation for the site.

(b) Upon receipt, the Floodplain Administrator may issue the local improvement location permit, provided the provisions contained in §§ 154.07 and 154.08 of this chapter have been met. (Ord. 0-04-0017, passed 7-12-2004) Penalty, see § 154.99

§ 154.07 PREVENTING INCREASED DAMAGES.

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(A) Within the floodway identified on the Flood Boundary and Floodway Map, the Flood Insurance Rate Map or engineering analysis as provided in § 154.06(B)(4), the following standards shall apply:

(1) No development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and

(2) For all projects involving channel modifications or fill (including levees) the city shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(B) Within all SFHAs identified as A Zones (no 100-year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply: the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth of one foot and will not increase flood damages or potential flood damages.

(C) Public health standards in all SFHAs:

(1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants or other hazardous or toxic materials below the flood protection grade, unless the materials are stored in a flood proofed storage tank or building constructed according to the requirements of § 154.08 of this chapter; and

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

(Ord. 0-04-0017, passed 7-12-2004) Penalty, see § 154.99

§ 154.08 PROTECTING BUILDINGS.

In addition to the damage prevention requirements of § 154.07, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

(A) This building protection requirement applies to the following situations:

(1) Construction or placement of any new building having a floor area greater than 400 square feet;

(2) Structural alterations made to:

(a) An existing (previously unaltered) building, the cost of which equals or exceeds 50 % of the value of the pre-altered building (excluding the value of the land); and

(b) Any previously altered building.

(3) Reconstruction or repairs made to a damaged building that are valued at or more than 50 % of the market value of the building (excluding the value of the land) before damage occurred;

(4) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

(5) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(B) This building protection requirement may be met by one of the following methods. The Floodplain Administrator shall maintain a record of compliance with these building protection standards as required in § 154.04 of this chapter.

(1) A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:

(a) The fill shall be placed in layers no greater than one-foot deep before compacting to 95 % of the maximum density obtainable with the Standard Proctor Test method;

(b) The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG;

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical;

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties; and

(e) The top of the lowest floor including basements shall be at or above the FPG.

(2) A residential or nonresidential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls or other types of similar foundation provided:

1. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square inch for every one square foot of enclosed area subject to flooding. The bottom of all the opening shall be no higher than one foot above grade;

2. The lowest point of the interior grade of any crawl space is at or above the BFE; and

3. Any enclosure below the elevated floor is used for storage of vehicles and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice and floating debris.

(c) All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the FPG.

(3) Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

1. Outside a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

(b) 1. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

2. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) Recreational vehicles placed on a site shall either:

(a) Be on the site for less than 180 consecutive days;

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); and/ or

(c) Meet the requirements for manufactured homes in division (B)(2) above of this section.

(5) A nonresidential building may be flood proofed to the FPG (in lieu of elevating) if done in accordance with the following:

(a) A registered professional engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures and impacts from debris or ice.

(b) Flood proofing measures shall be operable without human intervention and without an outside source of electricity.

(Ord. 0-04-0017, passed 7-12-2004) Penalty, see § 154.99

Cross-reference: *Definition of lowest floor, see § 154.03*

§ 154.09 OTHER DEVELOPMENT REQUIREMENTS.

(A) The Floodplain Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined else where by ordinance. If the Floodplain Administrator finds the subdivision to be so located, the Floodplain Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Floodplain Administrator shall require appropriate changes and modifications in order to assure that:

(1) It is consistent with the need to minimize flood damages;

(2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) On-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(B) Developers shall record the 100-year flood elevation on all subdivision plats containing lands (identified elsewhere by this chapter) within a flood hazard area prior to submitting the plats for approval by the Plan Commission.

(C) All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed with and approved by the appropriate community emergency management authorities.

(Ord. 0-04-0017, passed 7-12-2004) Penalty, see § 154.99

§ 154.10 VARIANCES.

(A) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this chapter provided the applicant demonstrates that:

(1) There exists a good and sufficient cause for the requested variance;

(2) The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant; and

(3) The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(B) The Board of Zoning Appeals may issue a variance to the terms and provisions of this chapter subject to the following standards and conditions:

(1) No variance or exception for a residential uses within a floodway subject to § 154.07(A) or (B) of this chapter may be granted.

(2) Any variance or exception granted in a floodway subject to§ 154.07(A) or (B) of this chapter will require a permit from the Department of Natural Resources.

(3) Variances or exceptions to the building protection standards of§ 154.08 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(4) Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the *Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects*;

(5) All variances shall give the minimum relief necessary and be so that the maximum practical flood protection will be given to the proposed construction; and

(6) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

(Ord. 0-04-0017, passed 7-12-2004) Penalty, see § 154.99

§ 154.11 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the community, the Department of Natural Resources, or the state, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(Ord. 0-04-0017, passed 7-12-2004)

§ 154.12 ABROGATION AND GREATER RESTRICTIONS.

This chapter repeals and replaces other ordinances adopted by the Common Council to fulfill the requirements of the National Flood Insurance Program. However, this chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this chapter repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this chapter and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the Common Council shall assure that all National Flood Insurance Program regulations (44 C.F.R. § 60) as well as Indiana laws and regulations regarding floodplain issues (312 I.A.C. 10, I.C. 14-28-1 and 14-28-3) are met. (Ord. 0-04-0017, passed 7-12-2004)

§ 154.13 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after its passage by the Common Council on July, 12, 2004. (Ord. 0-04-0017, passed 7-12-2004)

§ 154.99 PENALTY.

Failure to obtain an improvement location permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the zoning regulations for the city. All violations shall be punishable by a fine not exceeding $5,000.

(A) A separate offense shall be deemed to occur for each day the violation continues to exist.

(B) The City Planning Commission shall inform the owner that any violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(C) Nothing herein shall prevent the city from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Ord. 0-04-0017, passed 7-12-2004)

CHAPTER 155: SUBDIVISION REGULATIONS

Section

General Provisions

155.001 Title
155.002 Policy
155.003 Purposes
155.004 Authority
155.005 Jurisdiction
155.006 State statute citation

Definitions and Construction of Language

155.020 Definitions
155.021 Construction of language

Design Standards and Required Improvements

155.035 Compliance with comprehensive plan and zoning ordinance

155.036 Compliance with design standards and state regulations
155.037 Commission to control improvements
155.038 Monuments
155.039 Street requirements
155.040 Alleys
155.041 Easements
155.042 Utilities
155.043 Blocks
155.044 Lots
155.045 Water and sewer systems
155.046 Street lights

Waiver of Standards and Specifications

155.060 Modifications permitted
155.061 Limitations
155.062 Conditions
155.063 Procedure

Preliminary Review Procedures

155.075 Request for preliminary review
155.076 Commission review

Preliminary Plat Approval Procedures

155.090 Application
155.091 Staff review
155.092 Public hearing
155.093 Approval or disapproval

Secondary (Final) Plat Approval Procedures

155.105 Application for secondary approval
155.106 Commission review
155.107 Bonds for improvement
155.108 Use of bond proceeds
155.109 Plat filing and recording

Document Submission Specifications

155.120 Sketch plan
155.121 Primary plat
155.122 Secondary (final) plat

Certificate of Error

155.135 Certificates of error

Acceptance of Improvements

155.150 Official acceptance of improvements
155.151 Maintenance bond
155.152 Bond release

Fees

155.165 Primary plat fee
155.166 Secondary (final) plat fee

Enforcement and Abatement

155.180 Enforcement
155.181 Abatement

Appeals, Disqualification and Amendments

155.195 Appeals
155.196 Disqualifications
155.197 Amendments

155.999 Penalty

GENERAL PROVISIONS

§ 155.001 TITLE.

These regulations (hereinafter "these regulations") shall officially be known as the subdivision control ordinance for the city. (Ord. 0-98-0026, passed 12-21-1998)

§ 155.002 POLICY.

The subdivision of land and the subsequent development of the subdivided plat is subject to the control of the city and shall be carried out in accordance with the city comprehensive plan and the city zoning regulations in order to achieve the orderly, planned, efficient and economical development of the city. (Ord. 0-98-0026, passed 12-21-1998)

§ 155.003 PURPOSES.

These regulations are adopted for the following purposes:

(A) To protect and provide for the public health, safety, comfort, morals and general welfare of the city;

(B) To secure adequate light, air and convenience of access; to secure safety from fire, flood and other danger; and to prevent overcrowding of the land and undue congestion of population;

(C) To protect the character and the social and economic stability of all parts of the city by encouraging: infill development in existing neighborhoods; the installation of adequate public facilities; proper urban form and open space separation; and protection of environmentally critical areas;

(D) To protect and conserve property values throughout the city and the value of buildings and improvements upon the land;

(E) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage and other public requirements and facilities;

(F) To provide a beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the city, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various use of land and buildings, and to provide for the proper location and width of streets;

(G) To establish reasonable standards of design and procedures for subdivisions and re-subdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land;

(H) To ensure that public facilities and services are available to support development and will have a sufficient capacity to serve the proposed subdivision, through requiring the developer to ensure that the development provides its share of capital facilities needs generated by the development;

(I) To prevent the pollution of air and water; to assure the adequacy of drainage facilities; to safeguard the water table; to encourage the responsible use and management of natural resources to preserve the stability of the community and to protect the value of existing development;

(J) To provide for open spaces through efficient design and layout, while complying with the comprehensive plan and zoning regulations; and

(K) To remedy problems associated with inappropriately subdivided lands, including partial or incomplete subdivision and inferior subdivision. (Ord. 0-98-0026, passed 12-21-1998)

§ 155.004 AUTHORITY.

The City Plan Commission, as established by virtue of I.C. 36-7-4-100 *et seq.*, as amended, is established as the administrative agency for this chapter and is vested with the authority to undertake all duties with regard thereto. (Ord. 0-98-0026, passed 12-21-1998)

§ 155.005 JURISDICTION.

(A) This chapter shall apply to all subdivisions of land within the corporate limits of the city as now or hereafter established.

(B) No subdivision or replat of any lot, tract or parcel of land shall be affected, nor shall any street, sanitary sewer, storm sewer, water main or other facility in connection therewith be laid out, constructed, opened or dedicated for public use or for the common use of occupants of buildings or land abutting thereon, except in strict accordance with the provisions of this chapter.

(C) No lot shall be sold, nor shall an improvement location permit or a building permit to erect, alter or repair any building upon land be issued, unless and until a subdivision has been approved and recorded, and until the improvements required by the city in connection therewith have been constructed or guaranteed as provided in this chapter. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.006 STATE STATUTE CITATION.

The applicable Indiana laws pertaining to these regulations are the 700 Series-Subdivision Control (I.C. 36-7-4-700 *et seq.*). Regulations contained in, and revisions to, this chapter reflect the provisions of this statute. (Ord. 0-98-0026, passed 12-21-1998)

DEFINITIONS AND CONSTRUCTION OF LANGUAGE

§ 155.020 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Illustrations and diagrams provide graphic representation of the concept of a definition. The illustration or diagram is not to be construed or interpreted as a definition itself.

ACCESS. The way by which vehicles shall have ingress to and egress from a land parcel or property and the street fronting along the property or parcel.

ALLEY. Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from the lot.

APPLICANT. The owner(s) or representative of owner(s), legal and equitable, of land within the territorial limits of the city who submit an application for review under the terms of this chapter.

BOARD. The City Board of Public Works and Safety.

BOND. Any form of security including cash, surety bond or financial instrument of credit, as approved by the Board.

BLOCK. A tract of land bounded by a street or streets and any combination of boundary lines of public or institutionally owned lands, railroad right-of-way, natural features or other lines of demarcation.

BUILDING. Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property of any kind, having a permanent roof supported by columns or walls.

BUILDING SETBACK LINE. The line delineating the area of a lot in which no permanent structure shall be constructed or located.

CITY. The City of East Chicago, Indiana.

COMMISSION. The Plan Commission of the city.

COMPREHENSIVE PLAN. The city comprehensive (master) plan.

COMMITMENT. An officially recorded agreement concerning and running with the land, as recorded in the County Recorder's office.

CONDITION. An official agreement between city and the applicant concerning the use or development of the land as specified in a Commission or Council approval.

COUNCIL. The Common Council of the city.

COVENANT. A legal agreement concerning the use of land.

CUL-DE-SAC. See ***STREET, CUL-DE-SAC.***

DEVELOPER. The owner of land proposed to be subdivided, or his or her representative.

EASEMENT. A grant by a property owner to the general public, a public utility, a drainage or other district or a private party, for the use of land for a specifically stated purpose.

FRONT LOT LINE. See ***LOT LINE, FRONT.***

FRONTAGE. The length along the street right-of-way line of a single lot, tract or development area between the lot lines of the property. It is that side of a lot abutting a street, generally regarded as the front of the lot.

GRADE. Percentage of slope.

IMPROVEMENT. Any alteration to the land or other physical construction associated with subdivision and site development.

INFRASTRUCTURE. The fixed public works and facilities necessary in a community, such as sewers, water systems, streets, sidewalks, street lights and the like.

INTERESTED PARTIES. Those parties identified as requiring notice under the rules of procedure of the Plan Commission.

LOT. Per the subdivision regulations only, the portion of a subdivision proposed to be recorded as a lot of record for the plat.

LOT, DOUBLE FRONTAGE. A lot, other than a corner lot, which fronts on two streets.

LOT, THROUGH. A lot abutting two parallel streets, or abutting two streets which do not intersect at the boundaries of the lot.

LOT LINE. The legal boundary of a lot as recorded in the County Recorder's office.

LOT LINE, FRONT. The lot line coinciding with the street right-of-way, in the case of a corner lot, both lot lines coinciding with the street right-of-way shall be considered front lot lines.

LOT OF RECORD. A lot which is part of a subdivision or a lot or a parcel recorded in the County Recorder's office with a metes and bounds description.

MODEL HOME. A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision.

MONUMENT. Any permanent marker used to identify the boundary lines of any tract, parcel, lot or street line.

OUTLOT. A non-buildable lot which is to be excluded from the development because of its potential for some other use.

OWNER. A person, firm, business entity or any other legal entity having legal title to the land sought to be subdivided under these regulations.

PLAN COMMISSION. The City Plan Commission.

PLANNED UNIT DEVELOPMENT. The PUD zoning classification provided for in the municipal code.

PLAT. The drawing on which the sub-divider's plan of subdivision is presented for approval and submitted for recording.

PUBLIC UTILITY. An entity authorized to furnish electricity, gas, steam, communication service, cable television, transportation, drainage, sewer, water or other public services.

REGISTERED ENGINEER. An engineer who is licensed in compliance with the laws of the state.

REGISTERED LAND SURVEYOR. A surveyor who is licensed in compliance with the laws of the state.

REPLAT. The process of allowing for an adjustment of a lot line or lines or easements, as shown on a recorded subdivision.

RE-RECORDING. The process allowing for an adjustment of an easement or correction of a drafting or typographical error.

RIGHT-OF-WAY. A strip of land occupied or intended for occupancy by transportation facilities, public utilities or other special public uses. ***RIGHTS-OF-WAY*** intended for use involving maintenance by a public agency shall be dedicated to public use by the sub-divider.

SECONDARY PLAT. A map indicating the subdivision of land, intended to be recorded and prepared in accordance with these regulations. Also known as a ***FINAL PLAT.***

SETBACK. The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line.

SKETCH PLAN. A plan, which may be drawn as a freehand pen or pencil sketch, without precise dimensions or sheet size, used to show the Commission the location, proposed street and lot layout and other significant features of a proposed subdivision.

STAFF. The staff members of the City Department of Business Development and Planning.

STREET. A right-of-way which affords the principal means of access to abutting properties or to other streets. A ***STREET*** may be designated as a highway, thoroughfare, parkway, boulevard, road,

avenue, drive or other appropriate name. A ***STREET*** may also be identified according to type of use as follows:

STREET, ARTERIAL. A street designated or used primarily for heavy, fast moving through traffic.

STREET, COLLECTOR. A street which carries traffic from local streets to major arterial streets and vice versa.

STREET, LOCAL. A street intended primarily to provide access to abutting properties.

STRUCTURE. Anything constructed or erected with permanent location on the ground or anything permanently attached to something having a permanent location on the ground.

SUBDIVIDER. Any person who undertakes the subdivision or re-subdivision of land. The person may be the owner or the authorized agent of the owner of the land to be subdivided.

SUBDIVISION. A lot, tract or parcel of land of one or more lots or other divisions of land for the purpose, immediate or future, of transfer of ownership or development, including any plat or plan which may include the creation of any part of one or more streets, public easements or other rights-of-way, whether public or private, for access to or from the lots, and/or including the creation of new or enlarged parks, playgrounds, plazas or open spaces. ***SUBDIVISION*** includes the re-subdivision of one or more lots in a subdivision previously made and recorded.

THOROUGHFARE. An arterial street.

THROUGH LOT. A lot abutting two or more parallel streets or abutting two streets which do not intersect at the boundaries of the lot.

THRUWALK. A public right-of-way located across a block to provide pedestrian access to adjacent streets or areas.

TRAFFIC CONTROL DEVICES. All signs, signals, markings and devices placed or erected by authority of the city or the state for the purpose of regulating, warning or guiding traffic.

VARIANCE. A modification of the strict terms of this chapter, where the modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of action or inaction of the applicant, sub-divider or owner, a literal enforcement of this chapter would result in unnecessary and undue hardship. VARIANCES in subdivision regulations are granted solely by the Commission.

YARD. A space on the same lot with a principal building that is open and unobstructed by structures except as otherwise authorized herein.

YARD, FRONT. A yard extending across the full width of the lot unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, but not including porches or decks, the depth of which is the least distance between the front lot line and the front line of the building.

YARD, SIDE. A yard between the principal building and the adjacent side lot line, that extends from the front yard to the rear yard, the width of which is the least distance between the side lot line and the adjacent side of the building.

YARD, BACK. A yard extending across the full width of a lot and bounded on the rear by the rear lot line, the depth of which is the least distance between the rear lot line and the rear of the principal building.

ZONING REGULATIONS. Chapter 156 of the municipal code.
(Ord. 0-98-0026, passed 12-21-1998)

§ 155.021 CONSTRUCTION OF LANGUAGE.

The language of these regulations shall be interpreted as follows.

(A) The particular shall control the general.

(B) In the case of any difference of meaning or implication between the text of these regulations and any illustration or diagram, the text shall control.

(C) The word ***SHALL*** is always mandatory and not discretionary.

(D) The word ***MAY*** is permissive.

(E) Words used in present tense shall include the future; words used in the singular shall include the plural; and the plural, the singular, unless the context clearly indicates the contrary.

(F) A ***BUILDING*** or ***STRUCTURE*** includes any part thereof, unless the context clearly indicates the contrary.

(G) The phrase ***USED FOR*** includes ***ARRANGED FOR, DESIGNED FOR, INTENDED FOR, MAINTAINED FOR, OCCUPIED FOR*** and similar terms.

(H) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by a conjunction:

(1) ***AND*** indicates that all connected items, conditions, provisions or events shall apply;

(2) ***OR*** indicates that the connected items, conditions, provisions or events may apply singly or in any combination; or

(3) ***EITHER ... OR*** indicates that all the connected items, conditions, provisions or events shall apply singly but not in combination. (Ord. 0-98-0026, passed 12-21-1998)

DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

§ 155.035 COMPLIANCE WITH COMPREHENSIVE PLAN AND ZONING ORDINANCE.

The subdivision and its components shall conform to all elements of the comprehensive plan and to all regulations as set forth in the zoning regulations, as amended.
(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.036 COMPLIANCE WITH DESIGN STANDARDS AND STATE REGULATIONS.

All development covered by these regulations shall be constructed in accordance with the design standards set forth herein and also in accordance with the latest editions of the *Indiana Standard Specifications of Road and Bridge Construction and Maintenance*, and amendments thereto. In addition, the development shall comply with all other applicable local, state and federal requirements.

(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.037 COMMISSION TO CONTROL IMPROVEMENTS.

The construction of any and all improvements described in these regulations shall be in every case under the direction, inspection and control of the Commission or its agents and employees. No improvements or installations shall be made unless and until all necessary plans, profiles and specifications have been submitted to and approved by the Commission. The costs of the improvement, including all legal fees, engineering fees and expenses, and publication costs shall be paid by the applicant, developer or lot owners directly benefited.

(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.038 MONUMENTS.

The applicant shall have a survey of the subdivision made and monuments and markers placed conforming to the following specifications.

(A) A complete survey shall be made by a registered land surveyor or professional engineer. The traverse of the exterior boundaries of the tract and of each block, when computed from field measurements on the ground, shall close within a limit of error on one foot to 10,000 of the perimeter before balancing the survey.

(B) A permanent monument shall be placed at each comer and at each change of direction in the boundary lines of the subdivision. The permanent monuments shall be of concrete, reinforced over its full length with a one-half-inch reinforcement bar, which shall be clearly visible at the top. These monuments shall be 36 inches long and not less than six inches in least diameter at the bottom and four inches in least diameter at the top.

(C) Iron pipe markers shall be placed at all block corners, at the beginning and end of all curves, at a point where a waterway changes its radius and at all angle points in any line. The markers shall be not less than two feet in length and three-fourths inch in diameter.

(D) Monuments and markers shall be set flush with the ground in a manner approved by the City Engineer. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.039 STREET REQUIREMENTS.

All streets shall be graded to the grades and dimensions as shown on plans and profiles and as approved by the Commission. The streets shall conform to the following.

(A) The arrangement, character, extent, width, grade and location of all streets shall be correlated to existing and planned streets, existing topography, public safety, and in their appropriate relations to the proposed uses of the land to be served by those streets.

(B) Local streets shall be laid out so that their use by through traffic will be discouraged.

(C) No new street shall have a name which duplicates or so nearly duplicates as to be confused with any existing street within the city, unless the new street is to be an extension of an existing street, in which case the street shall bear the name of the existing street. Continuous local and collector streets which have major directional changes shall require a change in street name for each directional change.

(D) Street roadways shall be surfaced to the minimum width set forth in Table 1, herein. Street roadways shall be of bituminous concrete with a base course of ten inches compacted crushed stone, a two-inch asphalt binder course and a one-inch minimum asphalt surface; provided, however, that the Commission may permit the installation of surfacing other than bituminous concrete subject to standards assuring that the surfacing will be equivalent to the above mentioned roadway depth.

(E) Industrial roadways shall be of bituminous concrete with a base course of 12 inches compacted crushed stone, a two-inch asphalt binder course and a one-inch minimum asphalt surface; provided, however, that the Commission may permit the installation of surfacing other than bituminous concrete subject to standards assuring that the surfacing will be equivalent to the above mentioned roadway depth.

(F) Suitable drainage structures, culverts, storm sewers, ditches and related installations shall be provided to ensure adequate drainage of all points along the streets. The structures or installations shall be placed in accordance with the latest edition of the *Indiana Standard Specifications of Road and Bridge Construction and Maintenance* and other standards that the Commission may deem essential upon advice of the City Engineer.

(G) Street shoulders shall be constructed which are uniformly and thoroughly compacted by rolling, and level with the tops of curbs.

(H) Curbs and gutters shall be constructed for all street pavements in all subdivisions. Curbs shall be of concrete and have a width of 24 inches, a rear height of 12 inches. Curbs shall be constructed over a sufficient base. An expansion joint shall be placed at 35-foot intervals. At each expansion joint, two and one-half-inch diameter steel smooth dowel rods 24 inches long shall be placed and evenly divided at the joints.

(I) All work on grading, surfacing and improvements shall be performed in the manner prescribed in the latest edition of the *Indiana Standard Specifications of Road and Bridge Construction and Maintenance*; provided, however, that the Commission may make additional requirements based on soil characteristics.

(J) Private driveways shall be constructed with a bituminous or concrete surface. If the construction is to be hot asphaltic concrete, the surface of the driveway shall be excavated a minimum of six inches below finished grade line and filled with four inches of crushed stone and two inches of hot asphaltic concrete. Each course shall be thoroughly compacted by rolling. The base course may be compacted with a vibratory compactor.

(K) If the construction is to be Portland cement concrete, the driveway shall be excavated a minimum of four inches and filled with concrete, with wire mesh, six by six, 10/10 W.W.F. The wire mesh shall extend to within two inches of each edge. Solid forms shall be used and in no case will earth be allowed to substitute as a form. If the driveway is 20 feet or longer, a preformed expansion joint shall be placed at 20-foot intervals, with one-half inch round bars, painted and oiled, placed at three foot intervals across this joint. The edges of the drive shall be edged with a three-fourths-inch edger.

(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.040 ALLEYS.

(A) *Residential areas.* Alleys are discouraged, but may be approved in new developments if the Commission determines that the access for delivery of public and private services will be impaired without an alley. Alleys, when deemed necessary, shall be not less than 20 feet in width.

(B) *Commercial, industrial and institutional areas.* Service access, including off-street parking and loading areas which do not require the use of alleys are encouraged. If the Commission determines that service access is insufficient without alleys, they shall be required. Alleys, when required, shall not be less than 30 feet in width.

(C) *Intersections.* Alley intersections and alleys with sharp changes in alignment are discouraged, but where the intersections or changes are unavoidable, corners shall be cut off with a radius of not less than ten feet or sufficiently to permit safe vehicular movement.

(D) *Dead end alleys.* Dead end alleys are discouraged but where the alleys are unavoidable, they shall be provided with adequate turnaround facilities at the closed end.

(E) *Surfacing.* Alleys shall be surfaced to the full width of their rights-of-way. Alley roadways shall be of bituminous concrete with a base course of six inches compacted crushed stone, a two-inch asphalt binder course and a one-inch minimum asphalt surface; provided, however, that the Commission may permit the installation of surfacing other than bituminous concrete subject to standards assuring that the surfacing will be equivalent to the above mentioned roadway depth.

(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.041 EASEMENTS.

Easements centered on rear or side lot lines shall be provided for utilities where necessary and shall be not less than seven and one-half feet wide on both sides of the property line. Easements shall be continuous to the street at the end of the block to connect with adjoining blocks in an efficient manner.

(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.042 UTILITIES.

(A) The sub-divider shall provide a system of gas and electrical distribution lines to serve all lots within the subdivision.

(B) Underground installation is required in new residential subdivisions.

(C) Underground installation is encouraged in commercial and industrial areas. Aerial installation is prohibited within 50 feet from any affected residential area.

(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.043 BLOCKS.

(A) Block length shall not exceed 1 ,300 feet, except that a longer length may be permitted where it achieves conformity with existing streets.

(B) Blocks shall be wide enough to allow two tiers of lots of at least minimum depth, except where lots front on major arterial streets or in the presence of adverse topographical conditions.

(C) Pedestrian access through blocks longer than 800 feet may be required where the access is deemed essential by the Commission. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.044 LOTS.

(A) Lots sizes, setbacks and yard requirements shall conform to the requirements of the zoning regulations.

(B) Every lot shall abut and front on a public street.

(C) Lots shall be consecutively numbered and addresses shall be assigned in accordance with the uniform address system of the city. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.045 WATER AND SEWER SYSTEMS.

(A) *Generally.* The water supply and sewage disposal systems for all subdivisions shall meet the design standards and requirements of the State Board of Health, the local Board of Health, applicable provisions of these regulations and any other city code.

(B) *Water mains.*

(1) In residential, business and industrial areas, water mains shall have a minimum nominal diameter of eight inches. For diameters of eight inches, ten inches or 12 inches, water mains shall be pressure class 350, or an approved equal, ductile iron pipe manufactured in the U.S. in accordance with the latest revision of ANSIIAWWA C151/A21.51. Each pipe shall be subjected to a hydrostatic pressure test of at least 500 psi at the point of manufacture.

(2) Pipe shall have standard asphaltic coating on the exterior. Pipe shall also have a cement mortar lining on the interior in accordance with ANSI/AWWA C104/A21.4, or latest revision. Water mains with nominal diameters of 14 inches or larger shall be a pressure class approved by the city utility.

(C) *Hydrants.* Water hydrants shall be the same as those presently used throughout the city with two 2 and ½ inch openings and one 4 and ½ inch pumper nozzle, all national standard thread. Hydrants shall be placed along the streets not more than three feet back of the curb line, at intersections whenever possible. The maximum distance between hydrants and valves in residential areas shall be 450 feet and in business and industrial areas shall be 350 feet. Ports or openings shall be elevated between 26 and 34 inches above grade and be turned facing the street.

(D) *Sewage system.* Sanitary house connection sewers shall be no less than four inches in diameter. If less than six inches, PVC-ASTM-3033-3034 must be used. Sanitary local sewers to serve a subdivision, or a part thereof, shall be a minimum of eight inches, inside diameter.

(E) *Water supply interconnections.* There shall be no cross-connection between a public and private water supply system and a sewer which will permit the passage of any sewage or polluted water into the water supply. Sewers shall be kept removed from water supply sources and structures.

(F) *Relation of sewers to water mains.* A minimum horizontal distance of ten feet shall be maintained between water and sanitary sewer lines servicing any property. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe, or encased in concrete for a distance of ten

feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two feet above the sewer.

(G) *Valves.* Water main valves shall be located at every street and cul-de-sac intersection and before each hydrant. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.046 STREET LIGHTS.

A complete street lighting system with underground wiring shall be provided in accordance with standards adopted by the Board. In order to decrease the hazards of vehicular and pedestrian traffic incidents, the sub-divider shall install approved street lights at all intersections and other areas deemed necessary, in a manner prescribed in the standards adopted by the Board.
(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

WAIVER OF STANDARDS AND SPECIFICATIONS

§ 155.060 MODIFICATIONS PERMITTED.

Where the Commission finds that strict compliance with these regulations would result in extraordinary or undue hardship to the sub-divider, or that these conditions would result in retarding the achievement of the objectives of this chapter, then the Commission may, after written application by the applicant, approve variations or exceptions to these regulations within the limitations and conditions stated below, provided that the variations or exceptions shall not have the effect of nullifying the intent and purposes of these regulations or the comprehensive plan.
(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.061 LIMITATIONS.

The Commission shall approve variations or exceptions to these regulations only where it finds, based upon the evidence presented on a case by case basis, that:

(A) As a result of the particular physical characteristics of the specific property involved, a particular hardship to the sub-divider would result if the strict letter of these regulations was carried out;

(B) The variation or exception will not have the effect of reducing the traffic capacity of any major arterial or collector street; or

(C) The variation will not be detrimental to the purposes set forth herein.
(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.062 CONDITIONS.

In granting variances, modifications, exceptions or waivers, the Commission may require conditions as will, in its judgment, secure substantially the objectives of the standards and requirements so affected. (Ord. 0-98-0026, passed 12-21-1998)

§ 155.063 PROCEDURE.

(A) A variance from the terms and conditions of this chapter may be requested by the filing of a written petition with the Administrative Secretary of the Commission, setting forth the variance requested and any other information deemed necessary by the Commission. Upon receipt of this petition, the request for variance shall be included in the advertising and notice given for the public hearing regarding plat approval.

(B) Should the applicant request variance subsequent to the public hearing held on plat approval, another public hearing, advertised and held in conformance with the Commission's requirements regarding public hearings, will be required. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

PRELIMINARY REVIEW PROCEDURES

§ 155.075 REQUEST FOR PRELIMINARY REVIEW.

An applicant for subdivision approval may appear before the Commission to discuss the proposal before filing an application for preliminary plat approval. Preliminary review is encouraged but not required. No fee or formal application is required for this meeting, however, the applicant should submit a sketch plan and a letter of intent describing the area which is intended to be subdivided and setting forth the plan for the proposed land use, existing characteristics, availability of facilities and utilities, and site access and proposed street layout. The applicant should be prepared to discuss the details of the proposed subdivision. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.076 COMMISSION REVIEW.

The Commission shall inform the applicant whether the plans and data as submitted or modified appear to meet the objectives of these regulations. When the Commission finds that the objectives are not met, it shall express its reasons therefore in writing. When the Commission finds that the plan is acceptable, it shall inform the applicant in writing of any rezoning required, provide an application form to be submitted with the preliminary plat, and place the project on the Commission agenda on a mutually agreeable date. (Ord. 0-98-0026, passed 12-21-1998)

PRELIMINARY PLAT APPROVAL PROCEDURES

§ 155.090 APPLICATION.

(A) An applicant for primary subdivision approval shall submit an application for approval of a preliminary plat to the Commission on a form provided by the Commission and submitted at least ten days prior to the Commission meeting at which it is to be considered.

(B) (1) The application shall be accompanied by the following:

(a) Three copies of all maps and data as required in § 155.121; and

(b) A check or money order in the amount set forth in § 155.165.

(2) In addition, the applicant shall deliver one copy of the application form and all maps and data as required in § 155.121 to the following:

(a) City Engineer;

(b) Sanitary District;

(c) Department of Parks and Recreation;

(d) Building Department;

(e) Department of Redevelopment; and

(f) Fire Department.

(3) An erosion control plan as required by the Soil Conservation Service.
(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.091 STAFF REVIEW.

(A) Upon receipt of an application for primary approval, the Commission staff shall review the application for technical conformity with the standards fixed in the subdivision control regulations. At the first Commission meeting following the completed application filing, but in any event not more than 30 days after receipt, the staff shall announce the date for a hearing before the Commission and provide for notice to interested parties.

(B) After the staff has announced a date for a hearing before the Commission, it shall:

(1) Notify the applicant in writing;

(2) Give notice of the hearing by publication; and

(3) Provide for ten day notice to interested parties (Ord. 0-98-0026, passed 12-21-1998)

§ 155.092 PUBLIC HEARING.

(A) The Commission shall hold the public hearing in accordance with the procedures established in the Plan Commission rules of procedure.

(B) In determining whether to grant primary approval of a plat, the Commission shall determine if the plat or subdivision qualifies for primary approval under the standards prescribed by the subdivision control ordinance. The Commission must make written findings stating whether the plat meets the subdivision ordinance standards regarding:

(1) Minimum width, depth and area of lots in the subdivision;

(2) Public way widths, grades, curves and the coordination of subdivision public ways with current and planned public ways; and

(3) The provision and/or extension of water, sewer and other municipal services.

(C) As a condition of primary approval of a plat, the Commission may specify:

(1) The manner in which public ways shall be laid out, graded and improved;

(2) A provision for water, sewage and other utility services;

(3) A provision for lot size, number and location;

(4) A provision for drainage design; and

(5) A provision for other services as specified in the subdivision control ordinance.

(Ord. 0-98-0026, passed 12-21-1998)

§ 155.093 APPROVAL OR DISAPPROVAL.

(A) If, after the hearing, the Commission determines that the application and plat comply with the standards in the subdivision control regulations, it shall make written findings and a decision granting primary approval to the plat. The primary approval must be certified on behalf of the Commission and signed by the Plan Commission Chairperson and the City Engineer.

(B) If, after the hearing, the Commission disapproves the plat, it shall make written findings that set forth its reasons and a decision denying primary approval and shall provide the applicant with a copy. This decision must be signed by the Plan Commission Chairperson and the City Engineer.

(C) The primary approval or disapproval of a plat by the Commission or the imposition of a condition on primary approval is a final decision of the Commission that may be appealed in the manner provided in §§ 155.195 through 155.197 herein, according to Indiana Code.

(D) If the Commission fails to take action on the application for primary approval within 60 days of the public hearing, the application is automatically approved. (Ord. 0-98-0026, passed 12-21-1998)

SECONDARY (FINAL) PLAT APPROVAL PROCEDURES

§ 155.105 APPLICATION FOR SECONDARY APPROVAL.

Thirty days or more following the date of primary approval, the applicant may request secondary plat approval upon the submission of the secondary (final) plat as set forth in § 155.122.

(Ord. 0-98-0026, passed 12-21-1998)

§ 155.106 COMMISSION REVIEW.

Upon the determination of the City Engineer that all improvements and infrastructure installation required for the subdivision have been properly completed and accepted by the applicable city boards or utilities, the Commission may grant secondary approval of the plat. No notice or hearing is required.

(Ord. 0-98-0026, passed 12-21-1998)

§ 155.107 BONDS FOR IMPROVEMENT.

Secondary approval of the subdivision plat may be granted to a plat for subdivision in which the improvements and installments have not been completed and accepted as required by the subdivision control ordinance, if:

(A) The applicant provides a bond or other proof of financial responsibility such as a letter of credit that:

(1) Is an amount determined by the Commission be sufficient to complete the improvements and installations in compliance with the regulations; and

(2) Provides surety satisfactory to the Commission.

(B) With respect to the installation or extension of water, sewer or other utility service:

(1) The applicant shows by written evidence that it has entered into a contract with the political subdivision or utility providing the service and installation; and

(2) The Commission determines based on written evidence that the contract provides satisfactory assurance that the service will be installed or extended in compliance with the subdivision control regulations. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.108 USE OF BOND PROCEEDS.

Any money received from a bond or otherwise shall be used only for making the improvements and installation for which the bond or other proof of financial responsibility was provided. This money may be used for these purposes without appropriation. The improvement or installation must conform to the standards provided for the improvements or installations in the city and state, as well as the subdivision control regulations. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.109 PLAT FILING AND RECORDING.

After a plat of subdivision has received secondary approval and been signed and certified by the Plan Commission Chairperson and the City Engineer, the plat may be filed with the County Auditor and recorded in the County Recorder's office. (Ord. 0-98-0026, passed 12-21-1998)

DOCUMENT SUBMISSION SPECIFICATIONS

§ 155.120 SKETCH PLAN.

For use during preliminary review by the Commission, the applicant shall submit a sketch plan to present to the Commission and staff. The plan may be drawn as a freehand pen or pencil sketch and does not require precise dimensions or any special sheet size. A sketch plan should show the location, proposed street and lot layout and other significant features of the proposed subdivision.
(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.121 PRIMARY PLAT.

The following maps and data shall be submitted with the application for primary plat approval. These maps and data may be on separate sheets or combined on one or more sheets, depending on the size and complexity of the proposed subdivision:

(A) Proof of ownership of property;

(B) Location map of the proposed subdivision, drawn at a scale of one-inch equals 400 feet or less, showing:

(1) Location of proposed subdivision within the city;

(2) Zoning of the tract and adjacent properties; and

(3) Existing related streets, including the distances therefrom.

(C) Site map of the proposed subdivision and all lands within 300 feet of its boundaries, except where the proposed subdivision borders on an existing subdivision, the site map need only include the first tier of dwellings boundaries, showing:

(1) Existing contours based on USGS datum with intervals of not more than five feet where the slope is greater than 10% and not more than two feet where the slope is 10% or less. Elevations shall be based on sea level datum;

(2) Character and location of natural or artificial features existing on the land which would affect the design of the subdivision, such as wooded areas, embankments, retaining wall, buildings or nonresidential land use;

(3) Existing and proposed streets and rights-of-way; including dedicated width, roadway widths, approximate gradients; and types and widths of pavements, sidewalks and curbs;

(4) Existing and proposed easements, including width and purposes;

(5) Existing water mains, storm sewers, sanitary sewers, culverts, bridges, gas mains, cellular towers, power lines and other utility structures within the tract, including pipe sizes, grades and exact locations as obtained from public records;

(6) Areas subject to periodic overflow of flood or stormwaters;

(7) Subsurface conditions, including information about ground water levels, stability of subsoils and possible contamination. The results of soil analysis test, if required;

(8) Tract boundary lines by calculated distances and bearings;

(9) Proposed landscaping; and

(10) Title, graphic scale, north arrow and date.

(D) Subdivision plat of the proposed subdivision drawn legibly on tracing cloth or equal material of good quality at a scale of not more than 100 feet to one-inch showing:

(1) The proposed name and/ or number of the subdivision by which it shall legally and commonly be known;

(2) Legal description of the subdivision;

(3) Names and addresses of the owner(s), the sub-divider and the engineer or surveyor who prepared the plat. The signature and seal of a licensed land surveyor or professional engineer must appear on a primary plat if work is to commence on public improvements prior to secondary plat approval;

(4) Total acreage within the subdivision and residential density in number of dwelling units per gross acre of residential area;

(5) Street pattern, including the name of each street (which shall not duplicate an existing street name unless it is an extension of an existing street), widths of rights-of-way of streets and alleys and approximate grades of streets;

(6) Layout of lots, including dimensions, numbers and building setback lines. All lots intended for sale shall be consecutive throughout the several additions. Where all the lots are of the same dimensions, it shall be sufficient to so state and mark the precise length and width upon one tier thereof. All triangles or other lots which are neither squares nor parallelograms shall have the length on each side plainly defined by figures;

(7) Parcels of land proposed to be dedicated or reserved for public use or reserved for use of all property owners of the subdivision, with the proposed conditions, if any, attached to the dedication or reservation. Private parks and excluded parcels shall be designated as that in printing upon the plat and shall be lettered respectively or given a name;

(8) Key plan, legend, notes, graphic scale, north arrow and date; and

(9) In case of a replat, all descriptive lines of the original plat being replaced shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in sold lines so as to avoid ambiguity or confusion.

(E) Engineering plans for the proposed subdivision showing:

(1) A centerline profile of all proposed streets or roads, with typical cross sections indicating proposed crowns and slopes anticipated in meeting required street improvements. The profile shall display the locations and typical cross-section of street pavements including curbs, gutters, sidewalks, drainage easements, servitudes, rights-of-way, manholes and catch basins; the location of street trees, street lighting and street signs; the location size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants, showing connection to any existing or proposed utility systems; and the exact location and size of all water, gas or other underground utilities or structures;

(2) A profile and other explanatory data of the proposed sewage system and all sewer lines; and

(3) A storm drainage study delineating the method and manner of handling and disposing of stormwater for the subdivision.

(F) Statement of the proposed uses of lots, stating type of residential buildings with number or proposed dwelling units; type of business or industry; so as to reveal the effect of the development on traffic, fire hazards or congestion;

(G) Proposed covenants and restrictions, set out in full;

(H) Proposed zoning plan for the area, if any zoning changes are proposed;

(I) Statement of the date upon which it is proposed to commence and complete development, once approved; and

(J) Other information as may be deemed necessary for proper review.
(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.122 SECONDARY (FINAL) PLAT.

The following maps and data shall be submitted for secondary plat approval:

(A) A secondary (final) plat that is clearly and legibly drawn with black india ink on tracing cloth or equal material. Reproduction processes used shall leave the paper and ink unaltered and reproduction by a wet process such as photostating shall not be accepted. Each sheet of the secondary plat shall be 24 by 36 inches in size. When more than one sheet is required, all sheets shall be indexed in an orderly consecutive fashion and a small scale key drawing of the entire subdivision, showing the portions of the subdivision appearing on respective sheets, shall appear on the first sheet. The secondary plat shall be drawn to a scale of not more than 100 feet to one-inch and shall show the following:

(1) The name by which the subdivision shall be legally and commonly known, shown on the plat in prominent letters at the top of the sheet;

(2) Location of the subdivision by section, township, and range, municipality, county and state;

(3) The exact location of subdivision boundaries indicated on the plat drawings by distances and bearing, with reference to at least two of the nearest recognized permanent monuments of section corners;

(4) Names of owner(s) and registered surveyor or registered engineer preparing the plat;

(5) Date of the survey, scale of map and north arrow;

(6) All subdivision boundaries, showing length of courses to one one-hundredths of a foot and bearing to half minutes, and radii and angles of all curves and tangents;

(7) Exact location, width and name of all streets within and adjoining the subdivision and the exact location and width of all alleys and thru walks;

(8) Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs, chord and chord bearings;

(9) All easements for rights-of-way provided for public services or utilities and any limitations of the easements;

(10) All lot numbers and lot lines, with accurate dimensions in feet and hundredths, and with bearing or angles to street and alley or thru walk right-of-way lines. Where all lots are of the same dimensions, it shall be sufficient to so state and mark the precise length and width upon one tier thereof. All gores, triangles or other lots which are neither squares nor parallelograms shall have the length of each side plainly defined by figures. Blocks in numbered additions to subdivisions bearing the same name may be numbered consecutively through the several additions;

(11) Accurate location of all monuments erected, corners and other points established in the field in their proper places. The material of which each permanent monument, corner or other point is made shall be noted by legend, symbol or otherwise;

(12) Accurate outlines and legal descriptions, by courses and extent, of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated thereon; and of any area to be reserved by deed covenant for common use of all property owners;

(13) Building setback lines, with dimension;

(14) When lots are located on a curve or when side lot lines are at angles other than 90 degrees, the width at the building line shall be shown;

(15) All lake or stream shore meander lines established by the surveyor, the distances and bearings thereof, and the distance between the points of intersection of meander lines with lot lines and the ordinary high water mark; and

(16) Abutting state highway lines and streets of adjoining plats shown in their proper location, with names and widths.

(B) To entitle a secondary plat to be recorded, the following certificates shall be included and lettered or printed on the plat:

(1) Certification by the Commission that all improvements and installations required by this chapter are in place;

(2) Certification by the Secretary of the Commission that the sub-divider has filed a performance bond which shall:

(a) Run to the city;

(b) Be in an amount determined by the Commission to be sufficient to complete the improvements and installations required by this chapter;

(c) Be with surety satisfactory to the Commission; and

(d) Specify the time for completion of improvements and installations.

(3) Certification by a registered engineer or land surveyor that the plat represents a survey made by the person; that all monuments shown thereon actually exist and that their locations are correctly shown; and that all dimensional and geodetic details are correct; and

(4) Form of dedication, stating the name of the plat, that the lands embraced therein have been surveyed and platted and that the streets, alleys, public areas, sewers, water lines and other improvements shown are dedicated to the use of the public. The dedication shall be signed by the person(s) holding the title by deed of the lands, by any person holding any other title of record, by any person holding title as vendee under land contract, and stating if the lands to be dedicated to public use are mortgaged. The signatures must be witnessed and execution of the dedication must be acknowledged as deeds conveying lands are required to be witnessed and acknowledged.

(a) All the above required information shall be in proper form for the approval of the Commission.

(b) A request for acceptance of dedicated improvements and lands, and acceptance of the plat by the Common Council shall also be in a proper form for submission to the Common Council.

(c) The sub-divider shall submit with the secondary plat an abstract of title certified to date, or at the option of the sub-divider, a policy of title insurance, for examination by the Commission, in order that the Commission may ascertain whether the proper parties have signed and acknowledged the required certificates on the plat, and whether the property involved is free and clear of all encumbrances; provided, however, that the Commission may waive this requirement if it determines that unusual circumstances make the abstract or policy unnecessary.

(d) Any existing or proposed protective covenants that are to run with the land shall be submitted with the secondary plat. These covenants may be shown upon the secondary plat, but if they are not so shown, they shall be submitted with the secondary plat in form for recording, and shall be recorded concurrently with the secondary plat.

(e) The sub-divider shall submit with the secondary plat all the necessary plans, profiles and specifications for the improvements and installations required by these regulations; provided, however, that the plans, profiles and specifications may, at the option of the sub-divider, be filed prior to the filing of the secondary plat.

(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

CERTIFICATE OF ERROR

§ 155.135 CERTIFICATES OF ERROR.

Engineer's certificates of error or certificates of correction, reciting and correcting subsequently discovered engineering or surveying errors of measurement or typographical errors in recording plats, replats or vacations, shall not be required to follow the procedures outlined herein, but shall require approval by the City Engineer prior to recording of the corrections. (Ord. 0-98-0026, passed 12-21-1998)

ACCEPTANCE OF IMPROVEMENTS

§ 155.150 OFFICIAL ACCEPTANCE OF IMPROVEMENTS.

Prior to the official dedication of streets and other improvements for the benefit of the city, the sub-divider shall provide for a final inspection of all improvements by the City Engineer or his or her designee, and shall provide as built maps of all improvements. Upon the certification of the completion of improvements in conformance with these regulations by the City Engineer, the city may accept the improvements, subject to § 155.151. (Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.151 MAINTENANCE BOND.

Prior to the acceptance of any street or other improvement by the city, the sub-divider shall post a maintenance bond and/or other acceptable security naming the city as obligee in an amount approved by the Board, upon a recommendation of an amount deemed appropriate by the City Engineer to ensure maintenance of the improvements for a period of at least 24 months from the date of acceptance by the city. Cash, a letter of credit or equivalent security may be submitted in lieu of a maintenance bond.

(Ord. 0-98-0026, passed 12-21-1998) Penalty, see § 155.999

§ 155.152 BOND RELEASE.

Bonds or other securities provided by the sub-divider to guarantee installation of the improvements, or maintenance thereof, may be reduced or released by the Board, on behalf of the city, upon a favorable recommendation of the Commission. (Ord. 0-98-0026, passed 12-21-1998)

ENFORCEMENT AND ABATEMENT

§ 155.180 ENFORCEMENT.

The Plan Commission, the Board of Zoning Appeals (BZA) or any designated enforcement official may institute a suit for injunction in the County Circuit Court to restrain an individual or government unit from violating any provision of this chapter. (Ord. 0-98-0026, passed 12-21-1998)

§ 155.181 ABATEMENT.

The Commission or BZA may institute a suit for a mandatory injunction directing an individual, person, firm, corporation, other business entity or a governmental unit to remove a structure erected in violation of the provisions of this chapter. If the Commission or BZA is successful in its suit, the respondent shall bear the cost of the action. (Ord. 0-98-0026, passed 12-21-1998)

APPEALS, DISQUALIFICATION AND AMENDMENTS

§ 155.195 APPEALS.

Every decision of the Commission shall be subject to review by certiorari. Each person aggrieved by a decision of the Commission may present to the County Circuit or Superior Court a verified petition setting forth that the decision is illegal in whole or in part, and specifying the grounds of the illegality. The petition shall be presented to the Court within 30 days after the date of that decision of the Commission. (Ord. 0-98-0026, passed 12-21-1998)

§ 155.196 DISQUALIFICATION.

A member of the Commission or Council may not participate in a hearing or decision of that Commission or Council concerning a subdivision or vacation matter in which he or she has a direct or indirect financial interest. The Commission or Council shall enter the disqualification on the record.
(Ord. 0-98-0026, passed 12-21-1998)

§ 155.197 AMENDMENTS.

These regulations may be amended from time to time in the manner provided by Indiana Code.
(Ord. 0-98-0026, passed 12-21-1998)

§ 155.999 PENALTY.

Any individual, person, firm, corporation or other business entity who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $10 and not more than $300. Each day the violation continues shall constitute a separate offense and the penalties for each violation shall be cumulative. (Ord. 0-98-0026, passed 12-21-1998)

CHAPTER 156: ZONING

Section

General Provisions

156.001 Purpose
156.002 Word interpretation
156.003 Definitions
156.004 Scope
156.005 Minimum requirements standards
156.006 Enforcement
156.007 Community unit plan
156.008 Amendments
156.009 Amendments- advertising costs
156.010 District zone map changes
156.011 Development plan requirements

Board of Zoning Appeals

156.025 Established – composition
156.026 General provisions
156.027 Powers and duties
156.028 Affirmation, modification or repeal of appealed decision
156.029 Appeal from decision of Board

Certificates and Permits

156.040 Occupancy and compliance certificates
156.041 Occupancy and compliance certificates- application- records
156.042 Occupancy and compliance certificates- prerequisite for permits and occupancy
156.043 Plats accompanying building permit applications

Zone Map Changes

156.055 Hearing- notice- contents
156.056 Area subject of zone map change – notice to nearby occupants
156.057 Hearing- place- rules of conduct
156.058 Files concerning proposal- availability

Districts Generally

156.070 Districts established- zoning map
156.071 Determination of boundaries
156.072 Annexed territory
156.073 Underwater areas
156.074 Vacated areas
156.075 General regulations- district use provisions
156.076 Exceptions to use, height and area regulations
156.077 Special uses
156.078 Off- street parking
156.079 Parking lots in residence districts
156.080 Off- street loading
156.081 Nonconforming uses
156.082 Performance standards

R-1 Single-Family Dwelling District

156.095 Use regulations
156.096 Height regulations
156.097 Area regulations
156.098 Development plan

R-1a Single-Family or Semi-Detached Dwelling District

156.110 Use regulations
156.111 Height regulations
156.112 Area regulations
156.113 Development plan

R-2 Two-Family Dwelling District

156.125 Use regulations
156.126 Height regulations
156.127 Area regulations
156.128 Development plan

R-3 Multiple-Dwelling and/or Two-Story Row House District

156.140 Use regulations
156.141 Height regulations
156.142 Area regulations
156.143 Development plan

R-4 Multiple-Dwelling, Three-Story or Less District

156.155 Use regulations
156.156 Height regulations
156.157 Area regulations
156.158 Development plan

R-5 Dwelling Four-Story or More District

156.170 Generally
156.171 Use regulations
156.172 Height regulations
156.173 Area regulations
156.174 Development plan

C-1 Neighborhood Retail District

156.185 Generally
156.186 Use regulations
156.187 Height regulations
156.188 Area regulations
156.189 Development plan

C-2 General Commercial District

156.200 Use regulations
156.201 Height regulations
156.202 Area regulations
156.203 Development plan

C-3 North Harbor Business District

156.215 General intent
156.216 Permitted uses
156.217 Conditional uses
156.218 Conditional use procedures
156.219 Lot width requirements

156.220 Building size requirements
156.221 Yard requirements
156.222 Height limitations/bulk regulations
156.223 Public display area requirements
156.224 Commercial signs
156.225 Signage location
156.226 Signage illumination
156.227 Fences
156.228 C-3 North Harbor Business District-special use-01
156.229 C-3 North Harbor Business District-special use-02
156.230 C-3 North Harbor Business District-special use-03
156.231 C-3 North Harbor Business District-special use-04

M-1 Light Industrial District

156.245 Generally
156.246 Use regulations
156.247 Height regulations
156.248 Area regulations
156.249 Development plan

M-2 Heavy Industrial District

156.260 Use regulations
156.261 Height regulations
156.262 Area regulations
156.263 Development plan

P-1 Park District

156.275 Generally
156.276 Use regulations

WD-1 Waterfront Development District

156.290 General regulations
156.291 Use regulations
156.292 Height regulations
156.293 Area regulations

Manufactured Housing

156.305 Definitions
156.306 Placement
156.307 Standards
156.308 Installation standards
156.309 Approved siding materials list
156.310 Approved roofing materials list

TV Earth Station Antennas

156.325 Height and fencing requirements
156.326 Installation-setback conformance
156.327 Roof installation requirements
156.328 Specifications and code compliance
156.329 Permit and license requirements

Video Game Arcades

156.340 Definitions
156.341 Amusement game machines as accessory uses
156.342 Amusement arcade regulations
156.343 Amusement arcade standards

Signs

156.355 Intent
156.356 Definitions
156.357 General regulations
156.358 Prohibited signs
156.359 Temporary signs
156.360 Signs requiring a special use permit
156.361 Zoning classification regulations
156.362 Abandoned signs
156.363 Pre-application conference-exempt signs
156.364 Sign pre-application conference-required
156.365 Sign pre-application conference-fee
156.366 Permits and fees
156.367 Enforcement

Fences

156.380 Purpose and intent
156.381 Definition and classification
156.382 Location of fences
156.383 Maintenance and repair of fences
156.384 Prohibited fences
156.385 Certain fence enclosures required
156.386 Permitted fences-residential districts
156.387 Permitted fences-commercial and industrial districts
156.388 Fence permit pre-application conference-required
156.389 Fence permit pre-application conference
156.390 Permits and fees
156.391 Enforcement

Historic Preservation Committee

156.405 Purpose
156.406 Definitions
156.407 Applicability
156.408 Acquisitions of appropriate protective interests

Non-Conforming Uses

156.420 Purpose
156.421 Intent
156.422 Authority to continue
156.423 Determination of nonconformity status
156.424 Repairs and maintenance
156.425 Nonconforming structure
156.426 Nonconforming use
156.427 Nonconforming lots
156.428 Nonconforming developments
156.429 Nonconforming signs
156.430 Nonconforming fences
156.431 Nonconforming parking areas
156.432 Nonconforming floodway/floodway fringe/flood plain

Landscape Regulations

156.440 Purpose
156.441 Application
156.442 Exempt projects
156.443 Definitions
156.444 General landscaping standards
156.445 Perimeter planting standards
156.446 Residential subdivision lot and foundation planting standards
156.447 Commercial, multi-family, institutional (schools, churches, government offices, parks) uses lot and foundation planting standards
156.448 Parking lot planting standards
156.449 Buffer yard standards
156.450 Optional natural area protection
156.451 Enforcement and penalties

156.999 Penalty

GENERAL PROVISIONS

§ 156.001 PURPOSE.

The purpose of this chapter is as follows:

(A) To promote and to protect the public health, safety, morals, comfort, convenience and the general welfare of the people;

(B) To divide the city into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration and use of buildings, structures and land for residence, business, commercial, manufacturing and other specified uses;

(C) To protect the character and maintain the stability of residential, business, commercial, manufacturing areas within the city and to promote the orderly and beneficial development of the areas;

(D) To regulate the intensity of use of land and to determine the area of open spaces surrounding buildings necessary to provide adequate light and air and protect the public health;

(E) To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;

(F) To prevent additions to and alterations or remodeling of existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder; and

(G) To provide protection against fire, explosion and other hazards in the interest of the public health, safety, comfort and the general welfare. (1995 Code, § 17.04.010)

§ 156.002 WORD INTERPRETATION.

In the interpretation and enforcement of this chapter, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicated otherwise.

(A) Words used in the present tense shall include the future; words used in the singular number shall include the plural number and the plural the singular.

(B) The word ***SHALL*** is mandatory and not discretionary.

(C) The word ***MAY*** is permissive.

(D) The word ***LOT*** shall include the words piece and parcel; the phrase ***USED FOR*** shall include the phrases arranged for, designed for, intended for, maintained for and occupied for.
(1995 Code, § 17.04.020)

§ 156.003 DEFINITIONS.

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

ACCESSORY BUILDING. A subordinate building, the use of which is incidental to that of the principal building on the same lot or to the use of the premises. An accessory use is one which is incidental to the principal use of the premises.

ALLEY. A public right-of-way which affords only a secondary means of access to abutting property and which has a width of less than 30 feet.

ALTERATIONS. As applied to a building or structure, ***ALTERATIONS*** mean a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.

APARTMENT. A room or suite of rooms in a multiple or two-family dwelling or where one or more dwelling units are established above nonresidential uses.

APARTMENT HOUSE. See ***DWELLING, MULTIPLE.***

AREA, NET SITE. The total area within the property lines excluding external streets.

AUTO COURT. A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term ***AUTO COURT*** includes buildings designated as tourist courts, motor lodges, motels and similar appellations.

BASEMENT. A story partly underground but having less than half of its clear floor-to-ceiling height below finished grade. A ***BASEMENT*** shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet and the basement is used for business or dwelling purposes.

BOARDINGHOUSE. A private dwelling in which, for compensation, lodging and meals are provided for three but not more than 20 persons.

BUILDING. Any structure having a roof designed or intended for the enclosure, shelter or protection of persons, animals, chattels or property and which is permanently affixed to the land. When a structure is divided into separate parts by unpierced walls extending from the ground up, each part is deemed a separate ***BUILDING.***

BUILDING, DETACHED. A building surrounded by open space on the same lot.

BUILDING, FRONT LINE OF. The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING, HEIGHT OF. The vertical distance measured from the average grade (see ***GRADE***) to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which it is located.

CELLAR. A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A ***CELLAR*** shall not be considered in determining the permissible number of stories, nor shall it be considered as space to be used for living quarters.

COURT. An unoccupied open space other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of a building.

COVERAGE. The percentage of the plot or lot area covered by the building area.

CURB LEVEL. The officially established grade of the curb in front of the midpoint of the lot.

DEVELOPMENT PLAN. A development plan for development of real property, including construction and remodeling, in a zoning classification for which a development plan is required. All provisions of the development plan shall be in conformance with I. C. 36-7-4-1400 et seq. , as may be amended from time to time.

DOG KENNEL. The keeping of more than three dogs that are more than six months old.

DISTRICT. A section or sections of the incorporated area of the city for which the regulations governing the use of buildings and premises or the height and area of buildings are uniform.

DUMP. A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste materials of any kind.

DWELLING. A building or portion thereof, but not an automobile house trailer, designed or used exclusively as the living quarters for one or more families.

DWELLING, GROUP. A group of two or more one-family, two-family or multiple-dwellings occupying a parcel or tract designed and developed as a unit and having any yard in common.

DWELLING, MULTIPLE. A building used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment hotels, flats and group houses.

DWELLING, ROW HOUSE. A building consisting of a series of three or more dwelling units having a common wall between two adjacent dwelling units.

DWELLING, SEMI-DETACHED. A building designed for or occupied exclusively by two families living independently of each other with the units placed side by side, each unit having one party wall and one side yard.

DWELLING, SINGLE-FAMILY. A detached building designed for and containing a one family dwelling unit only.

DWELLING, TWO-FAMILY. A building except a semi-detached dwelling designed for or occupied exclusively by two families living independently of each other.

DWELLING UNIT. A dwelling or portion thereof providing complete living facilities for one family, including complete single kitchen facilities, permanently installed.

FAMILY. One or more persons related by blood, marriage or adoption occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel.

FILLING STATION. Any area of land, including structures thereon, that is used or designed to be used for retail sale or dispensing of fuels, lubricants, tires, batteries, accessories and minor parts, including installation, for motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing motor vehicles, but does not include welding, major repair or body work.

FLOOD or ***FLOODWATER.*** The water of any lake or watercourse which is above the banks and/or outside the channel and banks of the watercourse.

FLOOD HAZARD AREA. Any floodplain, flood way, floodway fringe district or any combination thereof.

FLOODPROOFED BUILDING. A commercial or industrial building designed to exclude floodwaters from the interior of that building. All flood proofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

FLOOR PROTECTION GRADE. The elevation of the lowest floor or a building or structure. If a basement is included, the basement floor is considered the lowest floor. Exception: If a commercial or industrial building is flood proofed as hereinafter defined, the term ***FLOOD PROTECTION GRADE*** applies to the water surface elevation for which the building is protected.

FRONTAGE. All the property on one side of a street between two intersecting streets measured along the line of the street or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

GARAGE, PRIVATE. An accessory building used for storage purposes only and having a capacity of not more than three automobiles or not more than one automobile per family housed in the building to which the garage is accessory, whichever is greater. Space therein may be used for not more than one commercial vehicle and space may be rented for not more than two vehicles of others than occupants of the building to which the garage is accessory.

GARAGE, PUBLIC. Any garage not a private garage, which is used for storage, repair, rental, servicing or supplying of gasoline or oil to motor vehicles.

GARAGE, STORAGE. Any building or premises, used for housing only of motor driven vehicles other than truck and commercial vehicles pursuant to previous arrangements and not to transients and at which automobile fuels and oils are not sold and motor driven vehicles are not equipped, repaired, hired or sold.

GRADE. The officially established level of the curb in front of the midpoint of the lot.

HOME OCCUPATION. An occupation or a profession which:

(1) Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;

(2) Is carried on by a member of the family residing in the dwelling unit;

(3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes;

(4) Which conforms to the following additional conditions:

(a) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto;

(b) No person is employed other than a member of the immediate family residing on the premises;

(c) There shall be no exterior display, no exterior sign except a small name plate with an area no larger than one square foot and not illuminated, no exterior storage of

materials of the home occupation or variation from the residential character of the principal building; and

(d) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

(5) In particular, a ***HOME OCCUPATION*** may include the following:

(a) Art studio;

(b) Dressmaking;

(c) Professional office of a physician, dentist, lawyer, engineer, architect or accountant, within a dwelling occupied by the same;

(d) Real estate brokerage, exclusive of service for payment of bills, collection of rent and the like; and

(e) Teaching with musical instruction, limited to a single pupil at a time.

(6) A ***HOME OCCUPATION*** shall not be interpreted to include the following: barber shops and beauty parlors, commercial stables and kennels, restaurants, tea rooms, dancing instruction, band instrument instruction in groups, tourist home, mortuary establishments, stores, trades or business of any kind not herein excepted.

HOSPITAL. A building used for the diagnosis, treatment or other care of human ailments, unless otherwise specified.

HOTEL. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

INSTITUTION. A building occupied by a nonprofit corporation of a nonprofit establishment for public use.

LODGINGHOUSE. A building where lodging only is provided for compensation to three or more but not more than 20 persons and in which no meals are provided.

LOT. A parcel of land occupied or intended for occupancy by a use permitted in this chapter including one principal building together with its accessory building and the open spaces required by this chapter, and having its principal frontage upon a dedicated public street or upon a public way.

LOT AREA. The area of a horizontal plane bounded by the front, side and rear lot lines.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

LOT, DEPTH OF. The mean horizontal distance between the front and real lot lines.

LOT, DOUBLE FRONTAGE. A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

LOT, INTERIOR. A lot other than a corner lot.

LOT, WIDTH OF. The mean horizontal distance between the side lot lines.

LOT, LINE, FRONT. In the case of an interior lot, ***FRONT LOT LINE*** means a line separating the lot from the dedicated public street or public way and, in the case of a corner lot, ***FRONT LOTLINE*** means a line separating the narrowest street frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the ***FRONT LOT LINE*** or, in the case of a corner lot where both street frontages are equal in width or where front lot lines prevail on both street frontages, then both the lines separating the lot from the dedicated public streets shall be regarded as front lot lines for purposes of conforming to front yard requirements.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any lot boundary line not a front lot line or a rear lot line.

LOT OF RECORD. An area of land designated as a lot on a plat of subdivision registered or recorded in the office of the County Recorder or a parcel of land the deed of which was recorded in the office of the County Recorder prior to the adoption of this chapter.

MOBILE HOMES TIE-DOWNS-SCHEDULE A.

(1) Sufficient anchorage to resist flotation, collapse or lateral movement of any mobile home.

(2) At a minimum, the anchorage shall consist of:

(a) Over-the top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only one additional tie per side;

(b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;

(c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(d) Additions to the mobile home be similarly anchored.

NATURAL RESOURCES. The Indiana Natural Resources Commission.

NONCONFORMING USE. Any use of land or buildings which does not comply with all of the regulations of this chapter or of any amendment hereto governing use for the zoning district in which the use is located.

PARKING LOT. In the case of non-industrial areas, ***PARKING LOT*** means a permanently all-weather surfaced parcel of land devoted to unenclosed parking spaces, but not used for the commercial sale or lease of motor vehicles and, in the case of industrial areas, ***PARKING LOT*** means a parcel of land devoted to unenclosed parking spaces surfaced with slag, cinders or other dustless materials.

PARKING SPACE. An area of not less than 200 square feet, to store one standard sized automobile, together with a driveway connecting the parking space with a street or alley and permitting satisfactory ingress and egress of an automobile.

PLACE. An open unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property

REGULATORY FLOOD. The flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year.

REGULATORY FLOOD PROFILE. A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

ROOMINGHOUSE. See ***LODGINGHOUSE.***

ROW HOUSE. See ***DWELLING, ROW HOUSE.***

STORY. The portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the surface between the floor and the ceiling next above it.

STORY, HALF. The portion of a building under a sloping gable, hip or gambrel roof; the wall plates on at least two opposite exterior walls of which are not more than three feet above the floor level of the half-story.

STREET. A public right-of-way which affords a primary means of access to abutting property.

STREET LINE. A dividing line between a lot, tract or parcel of land and a contiguous street.

STRUCTURAL ALTERATION. Any change other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or in exterior walls.

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground including, but without limiting the generality of the foregoing, advertising signs, billboards, platforms, radio towers, sheds, bins and fences but excluding, in M-1 and M-2 districts, mechanical or electrical equipment such as boilers, pressure vessels, pumps, blowers, turbines, motors or other machinery, piping, electrical wiring and the like.

SUBSTANTIAL MODIFICATION. Any alteration, repair, enlargement or extension of an existing building. ***SUBSTANTIAL MODIFICATION*** is considered to occur when the first alteration of any wall, ceiling, floor or other structural element of the building commences. This term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing health, sanitary or safety code specifications; or

(2) Any alteration of a structure listed on the *National Register of Historic Places* or the *Indiana State Survey of Historic, Architectural, Archeological and Cultural Sites, Structures, Districts and Objects*.

YARD. An open space on a lot which is unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

YARD, FRONT. A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the nearest part of the principal building or any projection thereof, other than the projection of the usual steps or entrance way.

YARD, REAR. A yard extending across the rear of the lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections other than steps, unenclosed balconies or unenclosed porches. On both comer lots and interior lots, the ***REAR YARD*** shall in all cases be at the opposite end of the lot from the front yard.

YARD, SIDE. A yard between the principal building and the side line of the lot and extending from the front line of the principal building to the rear line of the principal building. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the principal building. (1995 Code, § 17.04.030) (Ord. 3241, passed --1979; Ord. 0-98-0002, passed--1998)

§ 156.004 SCOPE.

(A) All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alteration or relocation of existing buildings occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which the buildings, uses or land shall be located.

(B) However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter; and provided, that construction is begun within 90 days of the effective date and diligently prosecuted to completion, the building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued and may, upon completion, be occupied under a certificate of occupancy by the use for which originally designated, subject thereafter to the provisions of § 156.081. (1995 Code,§ 17.04.040) Penalty, see § 156.999

§ 156.005 MINIMUM REQUIREMENTS STANDARDS.

(A) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare.

(B) Wherever the regulations of this chapter require a greater width or size of yards, courts of other open spaces or require a lower height of buildings or less numbers of stores or require a greater percentage of lot to be left unoccupied or require a lower density of population or require a more restricted use of land or impose other higher standards than are required in an other ordinance or regulation, private deed restrictions or private covenants, these regulations shall govern but, if the requirements of the other ordinances, regulations, private deed restriction or private covenant is the more restrictive, then those requirements shall govern. (1995 Code, § 17.04.050) Penalty, see § 156.999

§ 156.006 ENFORCEMENT.

It shall be the duty of the Building Commissioner to see that this chapter is enforced through the proper proceedings. (1995 Code, § 17.04.060)

§ 156.007 COMMUNITY UNIT PLAN.

(A) The owner or owners of any tract of land comprising an area of not less than five acres may submit to the Common Council a plan for the use and development of all of the tract of land for residential purposes. The development plan shall be referred to the City Plan Commission for study and report and for public hearing. If the Commission approves the development plan, the plan, together with the recommendation of the Commission, shall be accompanied by a report stating the reasons for approval of the application and specific evidence and facts showing that the proposed community unit plan meets the following conditions:

(1) The property adjacent to that area included in the plan will not be adversely affected;

(2) The plan is consistent with the intent and purpose of this chapter to promote public health, safety, morals and general welfare;

(3) The buildings shall be used only for single-family dwellings, two-family dwellings or multiple-dwellings and the usual accessory uses such as garages, storage space and community activities, and may include churches; and

(4) The average lot area per family contained in the site, exclusive of the area occupied by streets, will be not less than the lot area per family required in the district in which the development is located.

(B) If the Common Council approves the plan, building permits and certificate of occupancy may be issued even though the use of land, the location of the buildings to be erected in the area and yards and open spaces contemplated by the plan do not conform in some respects to the district regulations of the district in which it is located. (1995 Code,§ 17.04.080)

§ 156.008 AMENDMENTS.

The regulations or districts established by this chapter may be amended by ordinance of the Common Council, but only after public notice and hearing, all in the manner provided by law.
(1995 Code, § 17.04.090)

§ 156.009 AMENDMENTS-ADVERTISING COSTS.

Any person requesting an amendment shall file with the Secretary of the City Plan Commission a receipt showing the payment into the treasury of the city the sum necessary to cover the cost of advertisement of the proposed change in this chapter or the district zone map or, in lieu of a payment into the treasury of the city, the City Plan Commission may accept affidavits from the publishers that costs for advertisements have been paid to the publishers or otherwise secured.
(1995 Code, § 17.04.100) Penalty, see § 156.999

§ 156.010 DISTRICT ZONE MAP CHANGES.

All official changes in the district zone map shall be made by or under the direction and supervision of the City Engineer. (1995 Code, § 17.04.110)

§ 156.011 DEVELOPMENT PLAN REQUIREMENTS.

In each zoning classification in which the submission and approval of a development plan is required before construction or exterior remodeling, the following shall apply:

(A) Concurrent with the filing of a petition for development plan review, the petitioner shall provide the following supportive materials:

(1) A site plan, drawn to scale, showing the following:

(a) Surrounding land uses;

(b) Availability of water, sanitary sewer, stormwater drainage and other utilities;

(c) Traffic management;

(d) Building setback lines;

(e) Building coverage, both for existing and proposed primary and accessory structures

(f) Building separation;

(g) Vehicle and pedestrian circulation;

(h) Parking;

(i) Landscaping;

(j) Height, scale, materials and style of improvements;

(k) Signage;

(I) Recreation space, if any; and

(m) Outdoor lighting.

(2) Information establishing that the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development and that the entrances, streets and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments.

(B) The Plan Commission may waive the requirement that certain items be included in the supportive materials if it makes a written finding that the materials are unnecessary to an appropriate review of the development plan.

(C) If the cost of remodeling does not exceed

(D) Application for review of a development plan shall be made in the same manner as other petitions are filed with the Plan Commission. The fee, notice requirements, hearing requirements and other matters relevant to the review shall conform to the existing requirements for petition for rezoning.

(E) In the event that any provision in the ordinance codified in this section is in contravention to I.C. 36-7-4-1400 *et seq*., as amended from time to time, the provision shall not affect the validity of the remaining portions of the chapter and code as hereby adopted.

(1995 Code, § 17.04.120) (Ord. 0-98-0002, passed --1998) Penalty, see § 156.999

BOARD OF ZONING APPEALS

§ 156.025 ESTABLISHED-COMPOSITION.

A Board of Zoning Appeals is established. The Board shall be composed of members of the City Plan Commission. The Board shall adopt from time to time rules and regulations as it may deem necessary to carry into effect the provisions of this chapter. (1995 Code, § 17.08.010)

§ 156.026 GENERAL PROVISIONS.

(A) The Board of Zoning Appeals shall hear and determine appeals from and review any order, requirement, decision or determination made by the Building Commissioner in the enforcement of this chapter and shall permit and authorize exceptions to and variations from the district regulations in the classes of cases or in particular situations specified in this chapter and it shall hear and try all matters referred to it or upon which it is required to pass under this chapter. Every decision of the Board shall be subject to view by certiorari. The appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the city. The Building Commissioner shall, upon the request of the Board of Zoning Appeals, forthwith transmit to the Board all documents, plans and papers constituting the record upon which the action appealed from was taken.

(B) The Board shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties in interest and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney. (1995 Code, § 17.08.020)

§ 156.027 POWERS AND DUTIES.

The Board of Zoning Appeals shall have the following powers and duties:

(A) To hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the Building Commissioner in the enforcement of this chapter;

(B) To permit the extension of a district where the boundary line of a district divides a lot held in single ownership at the time of the effective date of this chapter:

(C) To interpret the provisions of this chapter where the street layout actually on the ground varies from the street layout as shown on the district zone map fixing the several districts:

(D) To grant a variation in the regulations when a property owner can show that his or her property was acquired in good faith and where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, at the time of the effective date of this chapter or where, by reason

of exceptional topographical conditions or other extraordinary or exceptional situations, the strict application of the terms of this chapter actually prohibits or unreasonably restricts the use of his or her property and where the Board is satisfied, under the evidence heard before it, that the granting of the variation will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the owner, provided, however, that all variations granted under this clause shall be in harmony with the intended spirit and purpose of this chapter and shall not constitute a direct and obvious amendment of any district regulations or district boundaries: and

(E) To permit the following exceptions to the district regulations set forth in this chapter by issuance of a permit maintaining conditions governing design, construction or operation of the exception so as to adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property:

(1) The erection or use of a building or the use of a premises for public utility purposes only, which the Board finds to be reasonably necessary for the public convenience or welfare. The public utility structure may also be authorized by the Board to exceed the height and area regulations of the district in which it is located; and

(2) The reconstruction to begin within 12 months from the time of adjusted loss either by agreement or by court decree of a nonconforming building which has been damaged by explosion, fire, act of God or public enemy, to the extent of more than 50% of the cost of replacement of the entire building. (1995 Code, § 17.08.030)

§ 156.028 AFFIRMATION, MODIFICATION OR REPEAL OF APPEALED DECISION.

(A) In exercising the powers enumerated in this chapter the Board may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and may make an order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Building Commissioner from whom the appeal is taken.

(B) Every variation granted or denied by the Board shall be accompanied by a written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variation. (1995 Code, § 17.08.040)

§ 156.029 APPEAL FROM DECISION OF BOARD.

Any person dissatisfied with the decision and action of the Board of Zoning Appeals may present to the Circuit or Superior Court of the county a petition for a writ of certiorari. The procedure for making an appeal shall conform to the requirements of the laws of the state authorizing cities to adopt zoning regulations. (1995 Code, § 17.08.050)

CERTIFICATES AND PERMITS

§ 156.040 OCCUPANCY AND COMPLIANCE CERTIFICATES.

Subsequent to the effective date of this chapter no change in the use or occupancy of land, nor any change of use or occupancy in any existing building, other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied for any purpose other than single-family dwelling use until a certificate of occupancy and compliance has been issued by the Building Commissioner. Every

certificate of occupancy and compliance shall state that the new occupancy complies with all provisions of this chapter. (1995 Code, § 17.12.010) Penalty, see § 156.999

§ 156.041 OCCUPANCY AND COMPLIANCE CERTIFICATE-APPLICATION-RECORDS.

Certificates of occupancy and compliance shall be applied for coincidentally with the application for a building permit and shall be issued within ten days after the lawful erection or alteration of the building is completed. A record of all certificates of occupancy and compliance shall be kept on file in the office of the Building Commissioner and copies shall be furnished on request to any person having proprietary or tenancy interest in land or a building affected by the certificate of occupancy and compliance. (1995 Code,§ 17.12.020) Penalty, see § 156.999

§ 156.042 OCCUPANCY AND COMPLIANCE CERTIFICATE-PREREQUISITE FOR PERMITS AND OCCUPANCY.

No permit for excavation for or the erection or alteration of any building shall be issued before the application has been made for a certificate of occupancy and compliance and no building or premises shall be occupied until that certificate and permit is issued.

(1995 Code, § 17.12.030) Penalty, see § 156.999

§ 156.043 PLATS ACCOMPANYING BUILDING PERMIT APPLICATIONS.

All applications for building permits shall be accompanied by a plat in duplicate drawn to scale showing the actual dimensions of the lot to be built upon, the size of the building to be erected and other information as may be necessary to provide for the enforcement of these regulations. A careful record of the application and plats shall be kept in the office of the Building Commissioner. At the time the application is made for the building permit, the lot corners of the lot to be built upon must be established on the ground to the satisfaction of the Building Commissioner.

(1995 Code, § 17.12.040) Penalty, see § 156.999

ZONE MAP CHANGES

§ 156.055 HEARING-NOTICE-CONTENTS.

Prior to the Plan Commission certifying a proposal to the Common Council where the subject is a zone map change, the Plan Commission shall give notice of 'the hearing by publication under I.C. 5-3-1. The notice must state:

(A) The time and place of the hearing; and

(B) The geographic area that is the subject of the zone map change.

(1995 Code, § 17.14.010) (Ord. 0-93-0029, passed --1994)

§ 156.056 AREA SUBJECT OF ZONE MAP CHANGE-NOTICE TO NEARBY OCCUPANTS.

The Plan Commission shall also give due notice of the proposal to change the zone maps to all people owning, occupying or leasing property within 300 feet of the geographic area that is the subject of the zone map change. The notice shall be in the form of registered or certified mail and shall be given at least ten days before the date set for hearing. (1995 Code, § 17.14.020) (Ord. 0-93-0029, passed --1994)

§ 156.057 HEARING-PLACE-RULES OF CONDUCT.

The hearing must be held by the Plan Commission at the place stated in the notice. The Commission shall adopt rules governing the conduct of the hearing, which rules shall include receiving oral comments by interested parties concerning the proposal.

(1995 Code, § 17.14.030) (Ord. 0-93-0029, passed --1994)

§ 156.058 FILES CONCERNING PROPOSAL-AVAILABILITY.

The files of the Plan Commission concerning the proposal shall be public record and shall be kept available for inspection by any interested party. (1995 Code, § 17.14.040)

DISTRICTS GENERALLY

§ 156.070 DISTRICTS ESTABLISHEDZONING MAP.

(A) For the purpose of classifying, regulating and limiting the use of buildings hereafter to be erected and of regulating and determining the area of front, rear and side yards and other open spaces about buildings and of regulating and determining, the use and intensity of use of land and of lot areas and of classifying, regulating and restricting the location of trades, callings, industries, commercial enterprises and the location of buildings designed for the uses herein specified, the city is hereby divided into 11 districts. The use, height and area regulations are uniform in each class of district. The districts shall be known as:

(1) R-1 Single-Family Dwelling District;

(2) R-1a Single-Family or Semi-Detached Dwelling District;

(3) R-2 Two-Family Dwelling District;

(4) R-3 Multiple-Dwelling and/or Two-Story Row House District;

(5) R-4 Multiple-Dwelling, Three-Story or less District;

(6) R-5 Multiple-Dwelling, Four-Story or More District;

(7) C-1 Neighborhood Retail District;

(8) C-2 General Commercial District;

(9) M-1 Light Industrial District;

(10) M-2 Heavy Industrial District;

(11) P-1 Park District;

(12) FP Floodplain District;

(13) FW Floodway District;

(14) FF Floodway Fringe District; and

(15) WD-1 Waterfront Development District.

(B) The boundaries of these districts are indicated upon the city district zone map, which map is made a part of this chapter. The district zone map and all notations, references and other matters shown thereon shall be as much a part of this chapter as if the notations, references and other matters set forth by the map were all fully described herein and the district zone map is properly attested and is on file with the City Clerk. (1995 Code, § 17 .16.010) (Ord. 3241, passed --1979; Ord. 0-95-0003, passed --1995; Ord. 0-96-0003, passed --1996)

§ 156.071 DETERMINATION OF BOUNDARIES.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the district zone map adopted by § 156.070, the following rules apply.

(A) The district boundaries shall be the center line of either streets or alleys, unless otherwise shown, and where the districts designated on the district zone map are bounded approximately by street or alley lines, the center line of the street or alley shall be construed to be the boundary of the district.

(B) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines and, where the districts designated on the map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

(C) In unsubdivided property, the district boundary lines on the district zone map shall be determined by use of the scale appearing on the map. (1995 Code, § 17.16.020)

§ 156.072 ANNEXED TERRITORY.

All territory which may hereafter become a part of the city by annexation, except the areas provided for in § 156.073, shall automatically be classed as lying and being in the R-1 Single-Family Dwelling District until classifications shall have been changed by an amendment to this chapter, as provided by law. (1995 Code, § 17.16.030)

§ 156.073 UNDERWATER AREAS.

(A) All underwater areas in Lake Michigan not shown on the district zone map as included in any zoning district shall, when filled, be subject to the regulations of the zoning district in which the riparian land so extended by the filled area is located; provided, that all underwater areas and areas which have been filled prior to the effective date of this chapter and not shown on the district zone map and lying north on the boundary line between the Inland Area No. 2 and the Park Board Area, as defined in a certain agreement between Inland Steel Company and the city dated May 22, 1954, and recorded on March 18, 1955, in Book 633, page 348, in the County Recorder’s office, shall be as so filled or when filled be

subject to the regulations of the M-2 Heavy Industrial District and that all underwater areas south of the boundary line and north of the boundary line between Inland Area No. 1 and the Park Board Area, as defined in the agreement, shall, when filled, be subject solely to the regulations of the P-1 Park District.

(B) All other areas which are under water and are not shown on the district zone map as included in any district shall be subject, in the event of being filled, to all of the regulations of the district of which the filled land is an extension. (1995 Code, § 17.16.040)

§ 156.074 VACATED AREAS.

Whenever any street, alley or other public way is vacated in a manner authorized by law, the zoning district adjoining each side of the street, alley or public way shall be automatically extended to the center of the vacation and all area included in the vacation shall then and henceforth shall be subject to all regulations of the extended districts. (1995 Code, § 17.16.050)

§ 156.075 GENERAL REGULATIONS DISTRICT USE PROVISIONS.

Except as hereinafter provided:

(A) No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this chapter for the district in which the building or land is located.

(B) The minimum yards and other open spaces, including the intensity of use provisions contained in this chapter for each and every building hereafter erected or structurally altered, shall not be encroached upon or considered as yard or open spaces requirements or intensity of use requirements for any other building, except as expressly provided by this chapter.

(C) Every building hereafter erected or structurally altered for residential purposes shall be located on a lot. In no case shall there be more than one principal building for residential purposes on one lot. (1995 Code, § 17.16.060) Penalty, see § 156.999

§ 156.076 EXCEPTIONS TO USE, HEIGHT AND AREA REGULATIONS.

The district regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(A) Public, semi-public or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and churches and temples may be erected to a height not exceeding 75 feet if the building is set back from each yard line at least one foot for each two feet of additional building height above the height limit otherwise provided in the district in which the building is built.

(B) Single-family dwellings and two-family dwellings in the dwelling districts may be increased in height by not more than ten feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten feet, but they shall not exceed three stories in height.

(C) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, wireless towers, farm buildings or necessary mechanical appurtenances, may be erected to any height not in conflict with other ordinances or regulations.

(D) Buildings on through lots and extending through from street to street may waive the requirements for a rear yard by furnishing an equivalent open space in lieu of the required rear yard.

(E) Accessory buildings which are not a part of the main building may be built in a rear yard within three feet of the rear and side lot lines. An accessory building which is not a part of the main building shall not occupy more than 30 % of the required rear yard.

(F) Accessory buildings which are to be used for storage purposes only may be erected upon a lot prior to the construction of the main building.

(G) Every part of a required yard shall be open to the sky unobstructed except for accessory buildings in a rear yard and except for the ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches. This requirement shall permit the construction of fences not exceeding ten feet in height except on that portion of lots within 30 feet of the intersection of the street curb lines or pavement edges, where there are no curb lines, of two or more streets, where wire fences will be permitted; provided, that land use does not obstruct sight lines at elevations between two feet and six feet.

(H) Open or lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon a yard not more than five feet and the ordinary projections of chimneys and flues are permitted.

(I) For the purpose of side yard requirements, a two-family dwelling shall be considered as one building occupying a single lot.

(J) An open unenclosed or screened porch or paved terrace, may project into a front yard for a distance not exceeding ten feet.

(K) More than one industrial, commercial, multiple-dwelling or institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any buildings, nor shall there be any change in the intensity of the use regulations.

(L) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of the Floodway (FW), Floodway Fringe (FF) or Floodplain (FP) Districts provided the applicant offers that:

(1) There exists a good and sufficient cause for the requested variance;

(2) The strict application of the terms of the ordinance codified in this section will constitute an exceptional hardship to the applicant; and

(3) The grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public or conflict with existing laws or ordinances.

(M) The Board of Zoning Appeals may issue a variance to the terms and provisions of the Floodway (FW), Floodway Fringe (FF) or Floodplain (FP) Districts subject to the following standards and conditions:

(1) No variance or exception for a residential use in a Floodway (FW) District may be granted;

(2) Any variance or exception granted in a Floodway (FW) District will require a permit from Natural Resources;

(3) Variances or exceptions to the flood protection grade requirements in a Floodway Fringe (FF) District may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;

(4) Any variance or exception granted in a Floodplain (FP) District will require a permit or letter of recommendations from Natural Resources. If a letter of recommendation is received from Natural Resources, the Board of Zoning Appeals may apply the standards pertaining to a Floodway Fringe (FF) district contained in division (M)(3) above of this section;

(5) Variance or exception may be granted for the reconstruction or restoration of any structure listed on the *National Register of Historic Places* or the *Indiana State Survey of Historic, Architectural, Archeological and Cultural Sites, Structures, District and Objects*;

(6) All variances shall give the minimum relief necessary, and be such that the maximum practical flood protection will be given to the proposed construction; and

(7) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.
(1995 Code, § 17.16.070) (Ord. 3241, passed --1979) Penalty, see § 156.999

§ 156.077 SPECIAL USES.

(A) There are occasions where following the strict letter of this code is not feasible or desired. This section provides remedy for those instances, by allowing owners of property to receive a special use permit which authorizes a use or uses in a zoning classification in which the uses are not permitted uses, after public hearing by the Advisory Board of Zoning Appeals and review by the Common Council. The establishment of any of the following uses shall require a special use permit:

(l) Any public building erected and used by any public agency;

(2) The extraction of raw materials such as rock, gravel, sand, clay and the like;

(3) Hospitals, clinics, clubs and institutions; provided, however, that the buildings or uses will be located upon a lot of sufficient area and shall be of a character that they will not have any serious and depreciating effects upon the value of the surrounding area; and provided, further, that the required building setback shall be established as a condition of the special use permit;

(4) Recreation field;

(5) Heliport or landing field for aircraft;

(6) Greenhouses; provided that any structures shall not be less than 75 feet from all property lines;

(7) Riding stables;

(8) Temporary and seasonal uses, including roadside stands and recreational and amusement uses;

(9) Structures with drive-through facilities;

(10) Public storage facilities;

(11) Towers and/or other facilities for wireless communication, not associated with a principal use;

(12) Waste transfer station;

(13) Trucking company;

(14) Storage of slag, stone, cinder, coal, explosives, fireworks, toxic materials and/or hazardous materials;

(15) Nonresidential uses in residential zoning classifications, other than permitted uses;

(16) Handling, processing, and/or manufacture of acid, cement, lime, gypsum or plaster of paris, explosives, fireworks, and ammunition, toxic materials and/or hazardous materials;

(17) Packing plants and/or slaughter yards;

(18) Crushing or pulverizing of slag, stone, cider, coal or similar materials;

(19) All steel pickling processes and other pickling processes of any nature;

(20) (a) Floodplain (FP) District and Floodway (FW) District. The following special uses may be permitted in the Floodplain District or Flood way District only after all required permitting by other agencies with floodplain or flood way jurisdiction have been obtained. Any special use permit issued shall include all terms and conditions imposed by other permitting agencies, and additional restrictions may be imposed. All buildings, structures and additions to existing buildings and structures shall have flood protection grades not less than two feet above the regulatory flood profile.

1. Water management and use facilities, such as dams, docks, Dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, flood walls, weirs and irrigation facilities;

2. Transportation facilities, such as streets, bridges, roadways, fords, airports, heliports, pipe lines, railroad and utility transmissions facilities;

3. Temporary or seasonal floodplain occupancy;

4. Water-related urban uses, such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities and water treatment facilities;

5. Other flood tolerant or open space urban uses such as flood proofed buildings, race tracks, tennis courts, park facilities, outdoor theaters, fills, truck freight terminals, radio, television or wireless communication towers, parking lots and mineral extractions; and

6. Residential structures constructed on the building site so as to minimize obstruction to the flow of floodgates.

(b) Flood proofing of nonresidential structures, if proposed, must be in accordance with the definition of a flood proofed building as set forth in this municipal code and must be so certified by a professional engineer or a registered architect licensed to practice in the state.

(21) Planned unit development (PUD). PUDs are special uses. In addition to review of the above-stated criteria, PUDs must have;

(a) Minimum site area of one acre;

(b) Uniform control, either by ownership or written agreement, of all uses and activities within the PUD;

(c) An approved concept plan set which includes a site plan, engineering plan, landscape plan and architectural plans which depict the intent of the proposal. The plans shall be drawn at a scale as approved by the City Planner and shall identify proposed uses, buildings and structures, roadways, parking, pedestrian circulation, common open spaces and landscape areas; and shall identify the means by which the proposal will be constructed and serviced;

(d) A written description accompanying the concept site plan outlining the intent of the site plan, including a phasing plan if applicable;

(e) A written estimate of construction costs for all buildings and site improvements, with subtotals for major development features;

(f) Declarations and covenants, and restrictions proposed; and

(g) Additional information as required by the Plan Commission.

(22) Tattoo and body piercing establishments.

(23) Boarding houses and lodging houses.

(B) Upon petition to the Advisory Board of Zoning Appeals (BZA) for a special use, the BZA shall hold a public hearing in conformance with Indiana Code and BZA Rules of Procedure. The BZA shall make findings of fact determining whether the proposed special use:

(1) Promotes the public interest;

(2) Promotes the public health, safety and welfare;

(3) Promotes public convenience;

(4) Does not adversely affect property values in the surrounding area;

(5) Conforms to the purpose, intent and spirit of the zoning regulations;

(6) Is compatible with the surrounding area;

(7) Is not detrimental or injurious to the surrounding area; and

(8) Does not create excessive nuisance in the surrounding area.

(C) The BZA shall forward the petition with the BZA recommendation, if any shall be made, to the Common Council of the city. The Common Council may, after review of the petition and findings of fact, issue a special use permit. The special use permit may be issued for a particular period of time, set a time for review of the use, and/or have conditions attached thereto.

(Ord. 0-00-0016, passed 6-15-2000; Ord. 0-09-0015, passed 7-13-2009; Ord. 0-11-0009, passed 6-27-2011) Penalty, see § 156.999

§ 156.078 OFF-STREET PARKING.

(A) The following on-site parking shall be provided and satisfactorily maintained on the property by the owner of the property for each building in existence on that property, or which, after the day when this section becomes effective, is erected, enlarged or altered for use for any of the following purposes, provided that uses already established on the effective date of this section and rendered nonconforming by the provisions thereof shall be subject to the regulations of § 156.081. The following on-site parking space requirements are exclusive of space requirements for access drives or aisles:

(1) Single-family and two-family dwelling: one parking space per dwelling unit;

(2) Multi-family dwellings.

Number of Dwelling Units in Building	***Number of Parking Spaces Required***
3	2
4 to 5	3
6 to 7	4
8	5
9	6
10	7
One parking space for each two additional dwelling units	

(3) Auditorium, theater or other places of public assemblage: one parking space for each six seats provided for its patrons, based on maximum seating capacity;

(4) School, public or parochial: one parking space for each three members of the staff plus one space for each ten seats in auditorium or gymnasium;

(5) Hotels, boardinghouses or lodging houses: one parking space for each three sleeping rooms;

(6) Auto court or motel: one parking space for each sleeping room;

(7) Restaurant or other eating place: one parking space for each five seats;

(8) Hospital, sanitarium or nursing home: one parking space for each five seats;

(9) Clinic, medical or dental: three parking spaces per doctor plus one additional space for every two employees;

(10) Retail stores, commercial recreational, other than theaters, private clubs and lodges: one parking space for each 200 square feet of ground floor area;

(11) Banks, offices, postal stations and the like: one space for each 300 square feet of total floor area or one space for each three employees, whichever is the lesser;

(12) Wholesale establishments: one space for each three employees; and

(13) Industrial: one space for each four employees, based on average total employment.

(B) Where feasible, off-street parking facilities in industrial zones under division (A)(13) above, shall be provided for contractor's employees temporarily engaged in work in a construction project; but if not feasible shall not be required.

(C) All parking spaces required in non-industrial zones pursuant to this section shall all be located on-site, on the same lot or parcel as the use or proposed use which requires those parking spaces, except that the Board of Zoning Appeals may permit the required parking spaces to be on an off-site premises if:

(1) It determines that it is impractical to provide parking on-site;

(2) The off-site premises is within a reasonable distance, which, except in M-1 and M-2 Districts, shall be limited to no more than 300 feet;

(3) The total number of parking spaces on the off-site premises is, after giving effect to the number of off-site parking spaces proposed, not less than the sum of the minimum number of parking spaces required under this section for each separate use to which the off-site premises is being put; and

(4) No prior variances have been granted as to the off-site premises to reduce the number of parking spaces below the minimum number required by this section, for any of the uses on the off-site premises.

(D) Surfacing of all off-street parking areas shall be improved with an all-weather dust-proof material meeting the standard specifications of the city, except in M-1 and M-2 Districts, slag, cinder or other dustless material shall be permitted.

(1995 Code,§ 17.16.090) (Ord. 0-08-0011, passed 5-12-2008) Penalty, see § 156.999

§ 156.079 PARKING LOTS IN RESIDENCE DISTRICTS.

In order to meet requirement for vehicle parking space, where the space is not available on the lot occupied by a building, the Board of Zoning Appeals may, after receipt of a favorable report from the City Plan Commission on the proposal and after public notice and hearing, grant a permit for the establishment of a parking lot in a residence district; provided, that the entire area of the parking lot is within 300 feet of a C-1, C-2, M-1 or M-2 District or, in the case of a church or other place of congregation in a residence district, immediately adjacent to the church or other place of congregation; and provided further, that:

(A) There are no sales, dead storage, repair work, dismantling or servicing of any kind on a parking lot;

(B) Entrances and exits shall be approved as to location by the Board of Public Safety;

(C) No parking shall be permitted between the front yard line and the front lot line. This shall not exclude use of front yard area for entrance or egress requirements. Side yard requirements shall be the same as those required for a single story structure;

(D) The lot shall be paved with an all-weather dustproof or hard surface meeting the standard specifications of the City Board of Public Works and Safety;

(E) No advertising signs shall be erected upon a lot except not more than one sign each street side to indicate the operator and purpose of the lot. The sign shall not exceed 20 square feet in area and shall not extend more than ten feet in overall height above the ground;

(F) Lighting facilities, if provided, shall be so arranged as to be reflected away from residentially zoned or used property; and

(G) If at any time after the issuance of the required permits any of the provisions of this section are not complied with, the permits shall be revoked. (1995 Code, § 17.16.100) Penalty, see § 156.999

§ 156.080 OFF-STREET LOADING.

(A) On the same premises with every building, structure or part thereof in existence or erected, established or enlarged and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, retail store, hotel, mortuary, laundry, dry cleaning or other uses involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained adequate space for standing, loading and unloading in order to avoid undue interference with public use of the street or alley. Uses already established on the effective date of this chapter and rendered nonconforming by the provisions of this section shall be subject to the regulations of § 156.081.

(B) Off-street loading or unloading space, unless otherwise adequately provided for, shall include a 12 foot by 35 foot loading space with 14 foot height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor area used for abovementioned purposes. These

requirements may upon appeal be increased, modified, or waived by the Board of Zoning Appeals where the circumstances justify the action. (1995 Code, § 17.16.110) Penalty, see § 156.999

§ 156.081 NONCONFORMING USES.

The lawful use of a building or premises existing on the effective date of this chapter may be continued although the use does not conform to all the provisions of this chapter except as herein provided.

(A) Whenever a nonconforming title use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use or a less restricted use, except upon approval of the Board of Zoning Appeals; provided, that where a property in an M-1 or M-2 District conforms with requirements for off-street parking through the utilization of leased land on the effective date of this chapter, the use of that property shall not be considered to have changed from conforming to nonconforming use by virtue of the loss of the right to the use of leased property for off-street parking purposes, until the time or unless additional property becomes available, in which event off-street parking requirements shall be met before other uses are established.

(B) A building designed or arranged for a nonconforming use or devoted to a nonconforming use on the effective date of this chapter shall not be reconstructed, altered or enlarged unless it is designed, arranged and intended for a conforming use, except when the building is destroyed or damaged by fire or other casualty so that the cost of restoration to the condition in which it was before the occurrence of the fire or other casualty will not exceed 50 % of the cost of replacement of the entire building.

(C) A nonconforming use of a building or structure designed for a conforming use shall not be expanded or extended into any other portion of the conforming building or structure nor changed except to a conforming use.

(D) These provisions apply in the same manner to a use which may become a nonconforming use due to a later amendment to this chapter.

(E) The nonconforming use of land for storage purposes shall be discontinued within five years from the effective date of this chapter and the use of land for storage purposes which becomes nonconforming by reason of subsequent change in this chapter shall also be discontinued within five years from the date of change.

(F) Whenever a nonconforming use has been discontinued for a period of one year, the use shall not thereafter be established and any future use shall be in conformity with the provisions of this chapter.

(G) The Board of Zoning Appeals may authorize, by written permit, in a residential district for a period of not more than one year from the date of the permit, a temporary building for commercial or industrial use incidental to the residential construction and development of the district.

(H) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which has been started within 90 days of the date of the permit and diligently prosecuted to completion according to the plans as filed.

(I) (1) In a Floodway (FW) District, no nonconforming use may be expanded or enlarged nor can a building undergo substantial modification without a permit for construction in a floodway from Natural Resources.

(2) In a Floodway Fringe (FF) District a building which constitutes a nonconforming use may undergo substantial modification provided the modification is on a one-time-only basis and further provided that the modification does not increase the value of the building, by more than 40% of its pre-improvement market value, (excluding the value of land) unless the building is permanently changed to a conforming use.

(3) A nonconforming use in a Floodplain (FP) District may be altered, enlarged or extended, on a one-time-only basis, provided the procedures set forth in the ordinance codified in this section with respect to new construction in a Floodplain (FP) District are followed and further provided the alterations, enlargements or extensions do not increase the value of the building structure, or other use (excluding the value of land) by more than 40% of its pre-improvement market value, unless the building, structure or use is permanently changed to a conforming use.

(4) Any nonconforming use in the FP, FW and FF Districts which is damaged by flood, fire explosion, act of God or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings, excluding the value of the land, by more than 40 % of its pre-damage value.

(1995 Code, § 17.16.120) (Ord. 3241, passed --1979) Penalty, see § 156.999

§ 156.082 PERFORMANCE STANDARDS.

(A) *Purpose and intent.*

(1) It is the intent of this section to provide that businesses, utilities, light industry, research, offices, residential uses and related activities shall be constructed, maintained and operated with a proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by controlling the emission of noise, odor, exterior lighting, vibration, smoke, particulate matter, gases and wastes.

(2) It is further the intent of this section to state the conditions of construction and operation with which uses will be expected to comply. In many cases, the relation of a prospective use to all performance standards cannot be judged properly at the time of building permit issuance. In these cases, the recipient of the building permit should note that these standards, like all other provisions of this chapter, are continuing obligations and that all uses shall be expected to operate in compliance with these standards. The building plans shall bear the signature of a qualified professional stating that all performance standards will be complied with based upon the submitted building plans. The city retains the right to conduct its own investigation to determine compliance with the performance standards at any time.

(B) *Compliance.* The performance standards set forth in this section shall be complied with and any use which fails to comply with these standards shall be in violation of this section and shall be subject to penalty provided for violations.

(C) *Performance standards; measurements.* Each measurable standard shall be measured at the appropriate indicated location in accordance with the provisions of this section. The following performance standards shall be applicable to all uses in all zoning districts.

(1) *Noise.* The decibels generated from a use shall not exceed the exterior noise limitations set forth in Table 1 of this section as measured at the property line of the parcel from which the noise is generated. The decibels typically generated by particular uses are given in Table 2 of this section.

(a) *Measurement of noise.* Noise shall be measured at the property line of the parcel from which the noise is generated. Noise shall be muffled so as not to become violative of applicable standards due to intermittence, beat frequency, shrillness or intensity. The sound pressure level shall be measured with a sound level meter and an octave band analyzer that conforms to ANSI S 1.4-1983 (American National Standards Institute) specifications, or any successor standard promulgated by ANSI. Preferred frequencies for acoustical measurements shall be used.

Table 1		
Land Use	***7:00 a.m. to 7:00 p.m.***	***7:00 p.m. to 7:00 a.m.***
Residential	55 dBA	50 dBA
Commercial	62 dBA	55 dBA
Light industrial	70 dBA	70 dBA
Industrial	80 dBA	80 dBA

Table 2	
Sound Environment	***Typical Sound Pressure Levels Generated (dBA)***
Threshold of hearing	0 dBA
Broadcast studio	20 dBA
Library	30 dBA
Quiet office	40 dBA
Light auto traffic (100 feet)	50 dBA
Air-conditioning unit (20 feet)	60 dBA
Freeway traffic	70 dBA
Vacuum cleaner (5 feet)	80 dBA
Passing car at 10 feet	90 dBA
Passing bus or truck at 10 feet	100 dBA
Passing subway train at 10 feet	110 dBA
Nightclub with band playing	120 dBA
Jet takeoff (200 feet)	130 dBA
Air-raid siren	140 dBA

(b) *Exceptions.*

1. *Nighttime building or construction operations.* It shall be unlawful to allow or permit any building or construction operations (including construction related noises, such as the delivery of equipment or material or the operation of tools, machinery or apparatus) on private property between the hours of 7:00 p.m. and 7:00 a.m. within 1,000 feet of any residence between 10:00 p.m. and 7:00 a.m.. in all other districts. Work occurring in the public right-of-way, on public property, or within public utility easement areas shall be exempt from these restrictions.

2. *Daytime building or construction operations.* Between the hours of 7:00 a.m. and 7:00 p.m., noises customarily resulting from construction work and from the maintenance of grounds shall be exempt from the limitations listed in Table 1 of this section.

3. *Amplifiers; noise generated by an amplifier or other device for which a license has been obtained in accordance with current City of East Chicago Ordinance for Amplifier, permitting, use and the like.* Amplifiers, of this code shall be exempt from limitations listed in Table 1 of this section.

4. *Other exemptions.*

a. Valves, warning devices, aircraft and railroads, emergency generators, snowplowing, mosquito abatement and emergency equipment/vehicles used only during times of emergency;

b. Church bells, chimes and carillons;

c. The authorized use of recreational facilities within the property of schools, colleges and public parks between the hours of 7:00 and 10:00 p.m.; and

d. Substations for public utilities.

(c) *External speaker systems.*

1.External speaker systems shall not generate noise that is heard beyond the property line.

2. External speakers and audible external paging systems are prohibited for businesses conducting motor vehicle sales. Existing nonconforming speakers at automotive dealerships shall be brought into compliance within six months from the date of adoption of this division.

(2) *Odors.* At a point along or outside any property line, the emission of odorous matter in a quantity as to be offensive or in excess of the odor threshold shall not be permitted.

(a) The measurement of odor threshold shall be in accordance with the American Society for Testing and Materials Method 01391-57 *Standard Method For Measurement Of Odor In Atmosphere (Dilution Method)* (Philadelphia: American Society of Testing and Materials, 1957).

(b) Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.

(3) *Exterior lighting.* All public and private outdoor lighting installed in the city shall be in conformance with the requirements set forth in this division.

(a) *Definitions.*

EXTERIOR LIGHTING. The illumination of an outside area or object by any manmade device that produces light by any means.

FIXTURE. The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/ or a refractor or lens.

FLAT LENSES. A glass or plastic element used in luminairies that is flush or inside the bottom edge of the luminaire.

FOOT-CANDLE (fc). A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one standard candle.

FOOT-CANDLE HORIZONTAL MEASUREMENT (hfc). The measurement of foot-candles utilizing a direct reading, portable light meter mounted on a horizontal position.

GLARE. The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance and visibility.

LIGHT LOSS FACTOR (LLF). A factor applied to lamps which estimates the lumen output of a lamp sometime after installation. (For example, a lamp with an initial lumen rating of 10,000 which has a light loss factor of 0.8 is estimated to put out 8,000 lumens. A lamp with an initial lumen rating of 10,000, which has a light loss factor of 1.0, is estimated to put out 10,000 lumens.)

LUMINAIRE. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

SAG LENSES. A glass or plastic element used in luminairies that extends below the bottom edge of the luminairies.

UNIFORMITY RATIO. Describes the average level of illumination in relation to the lowest level of illumination for a given area.

(b) *Luminaire design factors.*

1. The style of the light and light standard shall be consistent with the architectural style of the principal building.

2. Pathways, sidewalks and trails shall be lighted with low level fixtures not to exceed eight feet in pole height.

3. All building lighting for security or aesthetics shall include glare controls and shall be shielded. Floodlighting is discouraged, and if used, shall be shielded to prevent disability glare for drivers or pedestrians, light trespass beyond the property line, and light above a 90-degree horizontal plane. Wallpack type fixtures shall not be permitted.

4. All parking area lighting shall include glare controls and shall be shielded.

5. Poles supporting lights shall be no taller than 23 feet in a residential district and shall be dark-sky light fixtures, 25 feet in a commercial district, a commercial part of a residential planned unit development, or in office/business park districts, and 32 feet in any industrial district.

(c) *Standards and requirements.*

1. *Standards; exception.* Lighting shall be provided in accordance with the standards of the Illuminating Engineering Society of North America (IESNA) as follows for all uses.

Table 3			
IESNA Parking Lot Levels Of Activity	***IESNA Maintained Horizontal Illuminance Standards (Foot- Candles)***		
	General Parking And Pedestrian Area	***Vehicle Use Area (Only)***	
	Ave.	***Min.***	***Uniformity Ratio***
High	5.0	0.9	4:1
Major athletic events			
Major cultural events			
Regional shopping centers (space above 100,000 square feet)			
Fast food facilities (>40 seats)			
Entertainment theaters			
Community shopping centers (space to 99,999 square feet)			
Office parks			
Hospital parking			
Multi-family residential complex			

Neighborhood shopping centers (retail space of less than 5,000 square feet)			
Industrial employee parking			
Educational facilities			
Church parking			

2. *Automotive dealerships.* Lighting shall be provided in accordance with the standards of the Illuminating Engineering Society of North America (IESNA) as follows for automotive dealerships:

Table 4

Areas of Activity	***Description***	***Standards (Foot-Candles) Target Maintained Levels***
Feature display area	The first row of vehicles adjacent to a major/minor arterial, including the area in front of the vehicle up to the property line and behind the vehicle up to the merchandise area and/or the circulation area including drive aisles. However, compliance with the provision related to security lighting, below, is required from 10:00 p.m. until sunrise.	75 foot-candles maximum
Merchandise area	All other rows of vehicles on a lot used for general auto sales, including all areas surrounding the vehicle up to the defined circulation area including related drive aisles. Car dealerships shall comply with this provision no later than January 1, 2010. However, compliance with the provision related to security lighting, below, is required from 10:00 p.m. until sunrise.	50 foot-candles maximum
Circulation area	Includes all portions of the lot dedicated to customer parking, employee parking, site entrance areas and inventory areas including related drive aisles. Car dealerships shall comply with this provision no later than January 1, 2010. However, compliance with the provision related to security lighting, below, is required from 10:00 p.m. until sunrise.	10 foot-candles average
Security lighting, Monday -Sunday	The average amount of light found on site within each of the areas of activity, including the feature display area, average merchandise area and circulation area from 10:00 p.m. until sunrise. Car dealerships shall comply with this provision no later than January 1, 2010.	10 foot-candles average

a. In determining the maximum foot-candle standard provided above, all foot -candle measurements shall be taken from the ground at any point within the areas of activity or at the property line.

b. In determining the average foot-candle standard, all foot-candle measurements shall be taken from the ground at ten foot increments throughout the areas of activity.

c. Sag lenses are prohibited from use on all car dealerships luminaries. All existing dealerships using sag lenses at the time of adoption date hereof, will be grandfathered and considered legal nonconforming for the sole purpose of its lens type until the dealership replaces greater than 10 % of their existing fixtures on site during any 12-month period at which time full compliance shall be required. All new fixtures shall flat lenses.

d. Light shield used by car dealerships to control light and reduce glare shall be made of non-reflective material.

3. *Exterior lighting*. Exterior lighting shall be designed at or below the following average maintained foot-candles at the property line:

Table 5	
Location	***Maximum Foot-Candles At Property Line- Horizontal Measurement***
Residential to residential	Horizontal fc: 0.10
Nonresidential to nonresidential	Horizontal fc: 2.0
Nonresidential to residential	Horizontal fc: 0.10
Intensity at adjoining right-of-way	Horizontal fc:0.50
Intensity at adjoining major/minor arterial rights-of-way	Horizontal fc: 10.0

4. *Light loss factor.* The light loss factor (LLF) shall be a minimum of 0. 75 to a maximum of 0.8 for all uses.

(d) *Measuring light levels.*

1. *Metering equipment.* Light levels of both direct and indirect light shall be measured in foot-candles with a direct reading, portable light meter. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading.

2. *Method of measurement.* Foot-candle horizontal measurements shall be taken at a height of three and one-half feet aboveground.

(e) *Exceptions and variances.*

1. Because of their unique requirement for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, tennis courts and other outdoor recreational facilities shall be exempted from the general standards of this division. Lighting for outdoor recreational facilities shall be shielded to

minimize light and glare from spilling onto adjacent residential properties. The maximum permitted illumination at adjoining residential property lines shall be one foot-candle. The maximum permitted illumination at adjoining nonresidential property lines shall be two foot -candles.

2. Luminairies used for public roadway illumination by a public transportation agency shall be exempt from the requirements of this section but may be subject to the regulations of federal or state agencies or by intergovernmental agreements.

3. Decorative seasonal lighting shall be limited to a power rating of less than or equal to 75 watts.

4. Temporary emergency lighting used by police, firefighters and other emergency services, as well as all vehicular luminaries shall be exempt.

5. Hazard warning lights that are required by local or federal regulatory agencies shall be exempt.

6. Transportation facilities shall be exempt.

7. Public walkways shall be exempt.

8. When site characteristics are unique and the requirements of this section cannot be met, the City Planner has the authority to approve nonconforming lighting designs if the illumination levels and/or uniformity ratios are within 20% of the values set forth in this division. All other nonconforming designs shall be subject to approval of the City Council through the variance procedure or development agreement.

(f) *Nonconforming luminaires.* Exterior lighting luminaires in existence on the effective date of this division shall be exempt from the standards of this division and shall be considered legally nonconforming. The fixtures may be repaired and maintained. However, if any legal nonconforming luminaire is moved or damaged by any means to an extent that its total replacement is necessary, the luminaire, or replacement, shall comply with this division. For development activity involving improved property, luminaires shall be required to comply with this division when the floor area of any building or structure, or parking areas, or any combination thereof, is increased by 10% or greater.

(g) *Exterior lighting plan required.*

1. A lighting plan shall be required any time exterior lighting is proposed, or modified, that is associated with a residential use of greater density than a one-or two-family dwelling or with any commercial, office, industrial or other use. The lighting plan shall be submitted with the site plan information as required in this section.

2. The lighting plan shall include a site plan indicating location of light fixtures and intensity of foot-candles at various points on the site, catalog cuts of the proposed fixtures, and a summary table containing average foot-candles, minimum foot-candles, maximum foot-candles, uniformity ratio

(average/minimum), foot-candles at the property line, pole height and light loss factor (LLF). The plan shall also contain a certification by the property owner or agent and the preparer of the plan that the exterior lighting depicted on the plan complies with the requirements of this chapter. Once the plan is approved, the exterior lighting of the property shall conform to the plan.

(4) *Vibration.* Vibration shall not be discernible at any property line to the human sense of feeling for three minutes or more duration in any one hour. Vibration at any time shall not produce at any time an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7 United States Bureau of Mines Bulletin No. 442 *Seismic Effects Of Quarry Blasting*, on any structure. The methods and equations of Bulletin No. 442 shall be used to compute all values for the enforcement of this provision.

(5) *Smoke and particulate matter.* Measurement of smoke and particulate matter shall be taken from the point of emission.

(a) The emission of particulate matter containing more than 5% by weight, of particles having a particle diameter larger than 44 microns, is prohibited.

(b) The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of one-half pound per acre of lot size during any one hour.

(c) Smoke not darker or more opaque than No. 0 on the Ringelmann smoke chart (as published by the United States Bureau of Mines) may be emitted except that smoke not darker or more opaque than No. 1 on the chart may be emitted for periods not longer than four minutes in any 30 minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

(d) Dust or other types of air pollution borne by the wind from sources such as storage areas, trash enclosures and yards within the boundaries of any lot shall be kept to a minimum by appropriate landscaping, screening, paving, oiling, wetting or other acceptable means.

(6) *Gases.* Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic or corrosive. The values given in Table I (industrial hygiene standards - maximum allowable concentration for eight hour day, five days per week), Table III (odor thresholds), Table IV (concentrations of substances causing pain in the eyes) and Table V (exposures to substances causing injury to vegetation) in the latest revision of Chapter 5, *Physiological Effect*, that contains the tables, in the *Air Pollution Abatement Manual*, by the Manufacturing Chemists' Association, Inc., Washington, D.C. , are hereby established as guides for the determination of permissible concentration or amounts. Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit.

(7) *Hazard.* Any operation of an industrial nature shall be carried on with reasonable precautions against fire and explosion hazards.

(8) *Waste.* All sewage and industrial wastes shall be treated and disposed of in a manner as to comply with the water quality standards applicable to the classification assigned to the

receiving waters by the city, the state and IDEM. Approval of the Indiana Environmental Protection Agency of all plans for waste disposal facilities shall be required before issuance of any building permit. (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

R-1 SINGLE-FAMILY DWELLING DISTRICT

§ 156.095 USE REGULATIONS.

A building or premises in an R-1 Single-Family Dwelling District shall be used only for the following purposes:

(A) One-family dwellings;

(B) Churches or similar places of worship, including parish house and convent;

(C) Nursery schools;

(D) Public elementary schools, high schools and institutions for higher education;

(E) Private elementary or parochial schools and private institutions for higher education; provided, that site areas corresponding to public school requirements are met;

(F) Public parks and playgrounds and other municipal recreation uses;

(G) Public libraries;

(H) Fences; and

(I) Customary accessory uses and buildings; provided, that the uses are incidental to the principal use and do not include any activity commonly conducted for gain. Any accessory building that is not part of the principal building shall not project beyond the average front yard line as defined in § 156.097 and no accessory building shall be used for dwelling purposes.
(1995 Code,§ 17.20.010) Penalty, see § 156.999

§ 156.096 HEIGHT REGULATIONS.

No building in an R-1 Single-Family Dwelling District shall exceed two and one-half stories or 35 feet in height as provided in § 156.076. (1995 Code, § 17.20.020) Penalty, see § 156.999

§ 156.097 AREA REGULATIONS.

The following shall apply in R-1 Single-Family Dwelling Districts.

(A) *Intensity of use.* Every lot shall have an area of not less than 6,000 square feet and lot width of not less than 50 feet; except, that if a lot has less area than herein required and was of record at the time of the effective date of this subchapter, that lot may be used for any of the uses permitted by this section and §§ 156.095 and 156.096 inclusive.

(B) *Front yard.*

(1) There shall be a front yard for any of the uses permitted by § 156.095 of not less than 25 feet, unless 40% or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed a front yard line having a variation in depth of not more than ten feet, in which case no building shall project beyond the average front yard so established, but this regulation shall not be interpreted to require a front yard of more than 50 feet.

(2) Where lots have a double frontage, the required front yard shall be provided on both streets.

(C) *Side yard.*

(1) Except as hereinafter provided, there shall be a side yard having a width of not less than five feet on each side of the building for any of the uses permitted by § 156.095.

(2) Wherever a lot of record existing at the time of the effective date of this subchapter has a width of 40 feet or less, the side yard on each side of a building may be reduced to a width of not less than 10% of the width of the lot, but in no instance shall there be a side yard of less than three feet.

(3) On a comer lot, the side yard on the street side of the lot shall not be less than eight feet in width; except, that the buildable width of the lot shall not be reduced to less than 26 feet.

(D) *Rear yard.* Except as otherwise provided, there shall be a rear yard for any of the uses permitted by § 156.095 having a depth of not less than 30 feet unless the lot has a depth of less than 100 feet, in which event the depth of the rear yard shall not be less than 20% of the depth of the lot.
(1995 Code, § 17.20.030) Penalty, see § 156.999

§ 156.098 DEVELOPMENT PLAN.

Any construction, remodeling and/or renovation which expands, enlarges or adds-on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds $ 10,000 and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011.(Ord. 0-11-0007, passed 8-8-2011)

R-1a SINGLE-FAMILY OR SEMI-DETACHED DWELLING DISTRICT

§ 156.110 USE REGULATIONS.

A building or premises in an R-1a Single-Family or Semi-Detached Dwelling District shall be used only for the following purposes:

(A) Any use permitted in the R-1 Single-Family District;

(B) Semi-detached dwelling; and

(C) Customary home occupation, as defined by § 156.003.
(1995 Code, § 17.24.010) Penalty, see § 156.999

§ 156.111 HEIGHT REGULATIONS.

No building in an R-1a Single-Family or Semi-Detached Dwelling District shall exceed two and one-half stories or 35 feet in height, except as provided in § 156.076.
(1995 Code, § 17.24.020) Penalty, see § 156.999

§ 156.112 AREA REGULATIONS.

The following shall apply in R-1a Single-Family or Semi-Detached Dwelling Districts.

(A) *Intensity of use.* Every lot shall have an area of not less than 4,500 square feet per dwelling unit and to width of not less than 37.5 feet for a single-family dwelling or for each unit of a semi-detached dwelling; except, that if a contiguous parcel in any single ownership of record at the effective date of this subchapter has less than 4,500 square feet or less width than 37.5 feet, that parcel may be used for a single-family dwelling only.

(B) *Front, side and rear yards.* Each lot shall have front, side and rear yards not less than those specified for R -1 Districts. (1995 Code, § 17.24.030) Penalty, see § 156.999

§ 156.113 DEVELOPMENT PLAN.

Any construction, remodeling and/or renovation which expands, enlarges or adds-on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds $ 10,000 and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011.(Ord. 0-11-0007, passed 8-8-2011)

R-2 TWO-FAMILY DWELLING DISTRICT

§ 156.125 USE REGULATIONS.

A building or premises in an R-2 Two-Family Dwelling District shall be used only for the following purposes:

(A) Any use and accessory use permitted in the R-1 Single-Family District and the R-1a Single-Family or Semi-Detached Dwelling District;

(B) Two-family dwellings.
(1995 Code, § 17.28.010) (Ord. 0-11-0009, passed 6-27-2011) Penalty, see § 156.999

§ 156.126 HEIGHT REGULATIONS.

No building in any R-2 Two-Family Dwelling District shall exceed two and one-half stores or 35 feet in height, except as provided in § 156.076. (1995 Code, § 17.28.020) Penalty, see § 156.999

§ 156.127 AREA REGULATIONS.

The following shall apply in R-2 Two-Family Dwelling Districts.

(A) Intensity of use.

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than 4,500 square feet and a lot width of not less than 37.5 feet.

(2) A lot on which there is erected a semi-detached dwelling or a two-family dwelling shall contain an area of not less than 2,250 square feet per dwelling unit and a lot width of not less than 37.5 feet.

(3) If a contiguous parcel in any single ownership of record at the time of the effective date of this subchapter has less than 4,500 square feet or less width than 37.5 feet, that parcel may be used for a single-family dwelling only.

(B) *Front, side and rear yards.* Each lot shall have front, side and rear yards not less than those specified for R-1 Districts. (1995 Code, § 17.28.030) Penalty, see § 156.999

§ 156.128 DEVELOPMENT PLAN.

Any construction, remodeling and/or renovation which expands, enlarges or adds-on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds $ 10,000 and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011.(Ord. 0-11-0007, passed 8-8-2011)

R-3 MULTIPLE-DWELLING AND/OR TWO-STORY ROW HOUSE DISTRICT

§ 156.140 USE REGULATIONS.

A building or premises in an R-3 Multiple-Dwelling and/or Two-story Row House District shall be used only for the following purposes:

(A) Any use and accessory use permitted in the R-1 Single-Family District, R-1a Single-Family or Semi-Detached Dwelling District and the R-2 Two-Family District;

(B) Two-story row houses;

(C) Two-story multiple-dwelling; and

(D) Group dwellings. (1995 Code,§ 17.32.010) Penalty, see § 156.999

§ 156.141 HEIGHT REGULATIONS.

No building in an R-3 Multiple-Dwelling and/or Two-Story Row House District shall exceed two and one-half stories or 35 feet in height, except as provided in § 156.076.
(1995 Code, § 17.32.020) Penalty, see § 156.999

§ 156.142 AREA REGULATIONS.

The following shall apply in R-3 Multiple-Dwelling and/or Two-story Row House Districts.

(A) *Intensity of use.*

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than four square feet and a lot width of not less than 35 feet.

(2) A lot on which there is erected a two-family dwelling or semi-detached dwelling shall contain an area of not less than 2,000 feet per dwelling unit and a lot width of not less than 35 feet.

(3) A lot on which there is erected a two story row house, two-story multiple-dwelling or group dwellings shall contain an area of not less than 1 ,500 square feet per dwelling unit.

(4) There shall be no exceptions to the standards in divisions (A)(1) through (3) above of this section except where a contiguous parcel in any single ownership of record on the effective date of this chapter has less than 4,000 square feet or a width of less than 35 feet that parcel may be used for single-family dwelling purposes only.

(B) *Front yard.* The front yard regulations are the same as those in the R-1 Single-Family District except on lots with less than 100 feet depth where two-story row house dwellings are erected perpendicular to the front lot line, in which case the front yard may be decreased to 20% of the lot depth but in no case shall the front yard be less than 20 feet.

(C) *Side yard.*

(1) The side yard regulations for single-family and two-family dwellings are the same as those in the R-1 Single-Family Dwelling District.

(2) There shall be a side yard which shall have a width of not less than ten feet on each side of a two-story multiple-dwelling or a two-story row house dwelling.

(3) Where a lot is used for group dwellings every building or part thereof shall be located not less than ten feet from either side lot line.

(D) *Rear yard.* The rear yard regulations are the same as those in the R-1 Single-Family Dwelling District. (1995 Code,§ 17.32.030) Penalty, see § 156.999

§ 156.143 DEVELOPMENT PLAN.

Any construction, remodeling and/or renovation which expands, enlarges or adds-on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds $ 10,000 and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011.(Ord. 0-11-0007, passed 8-8-2011)

R-4 MULTIPLE-DWELLING, THREE-STORY OR LESS DISTRICT

§ 156.155 USE REGULATIONS.

A building or premises in an R-4 Multiple-Dwelling, Three-Story or Less District shall be used only for the following purposes:

(A) Any use permitted in the R-1 Single-Family District, R-1a Single-Family or Semi-Detached Dwelling District, R-2 Two-Family District and the R-3 Multiple-Dwelling and/or Two-Story Row House District;

(B) Multiple-family dwellings;

(C) Multiple-family group dwellings;

(D) Hospitals and clinics, excepting animal hospitals and clinics;

(E) Dormitories, clubs and lodges, excepting the clubs or lodges the chief activity of which is a service customarily carried on as a business or primarily for gain. In conjunction with a dormitory, club or lodge, a dining room may be operated; provided, that it is incidental to the activities of the dormitory, club or lodge and is conducted for the benefit of the residents or members thereof only; provided further, that no sign is displayed advertising the activity;

(F) Apartment hotels;

(G) Restaurants, drugstores, newsstands and personal service shops located in a hotel or apartment house and accessible to the public only through the lobby and with no advertising or display visible from outside the building;

(H) Institutions of a religious, educational, eleemosynary or philanthropic nature; and

(I) Any accessory building or use customarily incident to the above uses which is not a part of the principal building shall be located not less than 60 feet from the front lot line and not less than five feet from any side street line. (1995 Code, § 17.36.010) Penalty, see § 156.999

§ 156.156 HEIGHT REGULATIONS.

No building in an R-4 Multiple-Dwelling, Three Story or Less District shall exceed three stories or 35 feet in height. (1995 Code, § 17.36.020) Penalty, see § 156.999

§ 156.157 AREA REGULATIONS.

The following shall apply in R-4 Multiple-Dwelling, Three-Story or Less Districts.

(A) *Intensity of use.*

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than 4,000 square feet and a lot width of not less than 35 feet.

(2) A lot on which there is erected a two-family or a semi-detached dwelling shall contain an area of not less than 2,000 square feet per dwelling unit, and a lot width of not less than 35 feet.

(3) A lot on which there is erected two story row houses or two-story group dwellings shall contain an area of not less than 1 ,500 square feet per dwelling unit and a lot width of not less than 35 feet.

(4) A lot on which there is erected a three story multiple-dwelling structure or three-story multiple-family group dwelling structures shall contain an area of not less than 750 square feet per dwelling and a lot width of not less than 35 feet.

(5) There shall be no exceptions to the standards in divisions (A)(1) through (4) above of this section except where a contiguous parcel in any single ownership of record on the effective date of this chapter has less than 4,000 square feet or a width of less than 35 feet that parcel may be used for single-family dwelling purposes only.

(B) *Front yard.*

(1) The front yard regulations for single-family, two-family and two-story row house dwellings shall be the same as those in the R-3 Multiple-Dwelling District.

(2) A lot on which there is erected a multiple-dwelling structure or multiple-family group dwelling structure shall have a front yard of not less than 20 feet.

(C) *Side yard.*

(1) The side yard regulations for single-family and two-family dwellings shall be the same as those in the R-1 Single-Family District.

(2) The side yard regulations for two-story row house dwellings, two-story multiple-dwellings and two-story group dwellings shall be the same as those in the R-3 Multiple-Dwelling and/or Two-Story Row House District.

(3) A lot on which there is erected a three story multiple-dwelling shall have side yards of not less than 20 feet.

(4) Where a lot or parcel is used for three story multiple-family group dwellings, every building or part thereof shall be located not less than 20 feet from either side lot line.

(D) *Rear yard.*

(1) The rear yard regulations for single-family, two-family, two-story row house dwellings and two-story multiple-dwellings or group dwellings are the same as those in the R-1 Single-Family District.

(2) A lot on which a three-story multiple-dwelling or three-story multiple-family group dwellings are erected shall have a rear yard of not less than 20 feet.
(1995 Code, § 17.36.030) Penalty, see § 156.999

§ 156.158 DEVELOPMENT PLAN.

Any construction, remodeling and/or renovation which expands, enlarges or adds-on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds $ 10,000

and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011.(Ord. 0-11-0007, passed 8-8-2011)

R-5 DWELLING FOUR-STORY OR MORE DISTRICT

§ 156.170 GENERALLY.

Areas suitable for the location of an R-5 Multiple-Dwelling District shall include the following:

(A) Residential areas in which typical existing land uses are established and stabilized with dwellings at more than 25 families per net acre;

(B) Areas which are subject to redevelopment or rebuilding by reason of advanced obsolescence of typical existing structures and are suitable for residential use at more than 25 families per net acre by reason of proximity to good facilities for shopping, transportation and other community services; or

(C) Undeveloped or vacant areas which are suitable for residential use at more than 25 families per net acre by reason of market demand for additional land for high density use and proximity of good facilities for shopping, transportation and other community services.
(1995 Code, § 17.40.010) Penalty, see § 156.999

§ 156.171 USE REGULATIONS.

A building or premises in an R-5 Multiple-Dwelling District shall be used only for the following purposes:

(A) Multiple-family dwellings;

(B) Apartment hotels;

(C) Restaurants, drugstores, newsstands and personal service shops in a hotel or apartment house and accessible to the public only through the lobby and with no advertising or display visible from outside the building; and

(D) Accessory buildings and uses customarily incident to any of the above uses.
(1995 Code, § 17.40.020) Penalty, see § 156.999

§ 156.172 HEIGHT REGULATIONS.

No building in an R-5 Multiple-Dwelling Four Story or More District shall exceed 12 stories or 130 feet in height. (1995 Code, § 17.40.030) Penalty, see § 156.999

§ 156.173 AREA REGULATIONS.

The following shall apply in R-5 Multiple-Dwelling Four-Story or More Districts.

(A) *Intensity of use.*

(1) A lot on which there is erected a special multiple-dwelling of not less than four stories but not over 12 stories shall contain, except as provided in division (A)(2) below of this section, an area of not less than 400 square feet per dwelling unit.

(2) Modification of the minimum lot area per dwelling unit set forth in division (A)(1) above of this section will be considered by the Board of Zoning Appeals for property located in an area subject to redevelopment or rebuilding by reason of advanced obsolescence of typical existing structures and suitable for residential use at more than 25 families per net acre by reason of proximity to good facilities for shopping, transportation and other community service when:

(a) The dwelling units to be constructed are to be used for relocation families or individuals to be replaced by redevelopment operations and it is demonstrated that adequate provisions will be made for off-street parking, refuse storage and removal and, in the case of family housing, for play space for children under ten years of age and laundry drying facilities where mechanical dryers are not to be available within the structure; and

(b) The building site will become part of a neighborhood redevelopment plan providing for satisfactory density and coverage when completed.

(B) *Front yard.* A lot on which there is erected a special multiple-dwelling of nine stories or less shall have, except as provided in division (E) below of this section, a front yard of not less than 20 feet.

(C) *Side yard.* A lot on which there is erected a special multiple-dwelling shall have, except as provided in division (E) below of this section, side yards of not less than one foot width for each two feet of building height.

(D) *Rear yard.* A lot on which there is erected a special multiple-dwelling shall have, except as provided in division (E) below of this section, a rear yard of not less than 30 feet for buildings six stories and less plus five additional feet for each story over six stories.

(E) *Yard modifications.* Modification of the minimum yard regulations set in divisions (B), (C) and (D) above of this section will be considered by the Board of Zoning Appeals for a property located in an area subject to redevelopment or rebuilding by reason of obsolescence of typical existing structures and suitable for residential use at more than 25 families per net acre by reason of proximity to good facilities for shopping, transportation and other community services when:

(1) The dwelling units to be constructed are to be used for relocating families or individuals to be replaced by redevelopment operations and it is demonstrated that adequate provisions will be made for off-street parking, refuse storage and removal and, in the case of family housing, for play space for children under ten years of age and laundry drying facilities where mechanical dryers are not to be available in the structure; and

(2) The building site will become part of a neighborhood redevelopment plan providing for satisfactory yard dimensions when completed.
(1995 Code, § 17.40.040) Penalty, see § 156.999

§ 156.174 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011 of this chapter of the municipal code. (1995 Code, § 17.40.050) (Ord. 0-98-0002, passed --1998) Penalty, see § 156.999

C-1 NEIGHBORHOOD RETAIL DISTRICT

§ 156.185 GENERALLY.

The C-1 Neighborhood Retail District is designed primarily for the convenience shopping of persons residing in the adjacent residential areas. Retail commercial establishments, except food marts, are restricted to a maximum floor area of 12,500 square feet each so as to limit the volume of vehicular and pedestrian traffic in and about a local retail center to a level consistent with its function and location. (1995 Code, § 17.44.010)

§ 156.186 USE REGULATIONS.

(A) Uses permitted in a C-1 Neighborhood Retail District shall be subject to the following conditions:

(1) Dwelling units and lodging rooms are not permitted below the second floor and commercial establishments are not permitted on any floor above the ground floor;

(2) All commercial establishments shall be retail or service establishments dealing directly with consumers; and

(3) Except for food marts, all commercial establishments shall be restricted to a maximum gross floor area of 12,500 square feet each, exclusive of any floor area developed to off-street parking or loading facilities.

(B) A building or premises in a C-1 Neighborhood Retail District shall be used only for the following purposes:

(1) Dwelling units and lodging rooms;

(2) Stores and shops for the conducting of any retail business;

(3) Offices, photographic studios;

(4) Branch office facilities designed for neighborhood banking service;

(5) Restaurants, tea rooms, cafes and other places serving food or beverage;

(6) Personal service shops such as barber, shoe shine, beauty parlor;

(7) Filling stations;

(8) Advertising signs and advertising structures, but only related to the one use conducted in the building or on the immediate premises thereof; and

(9) Accessory buildings and accessory uses.

(1995 Code, § 17.44.020) (Ord. 0-00-0016, passed 6-15-2000) Penalty, see § 156.999

§ 156.187 HEIGHT REGULATIONS.

No building in a C-1 Neighborhood Retail District shall exceed two and one-half stories or 35 feet in height. (1995 Code, § 17.44.030) Penalty, see § 156.999

§ 156.188 AREA REGULATIONS.

No yards are required in a C-1 Neighborhood Retail District, except in § 156.080 and as follows.

(A) *Front yard transition.* Where a C-1 District abuts a residence district along a street line, there shall be provided, for a distance of 50 feet from the district boundary line into a C-1 District, a front yard equal to one-half of the required front yard depth for the residence district.

(B) *Side and rear yard transition.* On every lot in a C-1 District that abuts directly a residence district, there shall be provided a side and rear yard of at least six feet on a lot along the line or lines where it abuts the residence district.

(C) *Side yard on corner lot.* On a corner lot which borders on a residence district, there shall be provided a side yard on the side street equal in depth to the required front yard on a side street.

(1995 Code,§ 17.44.040) Penalty, see § 156.999

§ 156.189 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011 of this chapter of the municipal code. (1995 Code, § 17.44.050) (Ord. 0-98-0002, passed --1998) Penalty, see § 156.999

C-2 GENERAL COMMERCIAL DISTRICT

§ 156.200 USE REGULATIONS.

A building or premises located in a C-2 General Commercial District shall be used only for the following purposes; provided, that where a proposed use requires drive-in facilities, satisfactory ingress and egress and capacity for the use intended shall be determined to be available by the Board of Public Safety after studies by the Traffic Department:

(A) Dwelling units and lodging rooms; provided, that they are not below the second floor;

(B) Any use permitted in the C-1 Neighborhood Retail District; provided, that the gross floor area restrictions set forth in the C-1 Neighborhood Retail District shall not apply to the C-2 General Commercial District;

(C) Banks;

(D) Hotels;

(E) Theaters, billiard or pool parlors, bowling alleys, skating rinks or similar recreational uses or places of assembly;

(F) Private schools conducted for gain;

(G) Caterer;

(H) Undertaker;

(I) Telegraph office, telephone and express office;

(J) Baking, confectionery, dressmaking, dyeing, laundry, printing, tailoring, upholstering and similar establishments and businesses of a similar and no more objectionable character subject to the following provisions:

(1) All goods or products manufactured or processed shall be sold at retail on the premises; and

(2) All manufacturing or processing shall be done on the premises and not more than five persons shall be so employed at any one time; except, that the limitation on number of employees shall not apply to dry cleaning establishments, laundries or bakeries.

(K) Automobile parking lots, used car lots and commercial garages for storage purposes;

(L) Automobile showroom, agency and repair services; provided, that the repair or storage portion of the building shall not be less than 20 feet from the front of the building;

(M) Wholesale storage and warehouse facilities except lumber, wood, feed, coal, salvage or junk storage yards;

(N) Other uses similar in character to those enumerated above and which, in the opinion of the Board of Appeals will not be injurious to the district; and

(O) Accessory buildings and accessory uses.
(1995 Code, § 17.48.010) Penalty, see § 156.999

§ 156.201 HEIGHT REGULATIONS.

No building in a C-2 General Commercial District shall exceed six stories or 75 feet in height.
(1995 Code, § 17.48.020) Penalty, see § 156.999

§ 156.202 AREA REGULATIONS.

All area regulations in a C-2 General Commercial District are the same as those required in the C-1 Neighborhood Retail District. (1995 Code, § 17.48.030) Penalty, see § 156.999

§ 156.203 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011 of this chapter of the municipal code. (1995 Code, § 17.48.040) (Ord. 0-98-0002, passed --1998) Penalty, see § 156.999

C-3 NORTH HARBOR BUSINESS DISTRICT

§ 156.215 GENERAL INTENT.

It is the intent of this new C-3 District to accommodate the retail, service, and office uses which are characteristic of the major retail area of the city that is the central core of the Indiana North Harbor Central Business District. This central core is intended to contain intensive retail business activities. In accord with the zoning regulations, the boundaries of this C-3 District have been defined by the City Engineer.

(A) *C-3 North Harbor Business District.* 3700, 3800, 3900 Blocks of Main Street right-of-way to east and west alleys. Also, Broadway right-of-way to north and south alleys bounded by Michigan Avenue to Alder Street.

(B) *C-3 North Harbor Business District Special Use 01.* 3900 Block of Main Street right-of-way to east and west alleys and Broadway right-of-way to east and west alleys bounded by Grand Boulevard to Michigan Avenue, excluding Nunez Park and the remainder of north Broadway between Deodar Street and the Nunez Park.

(C) *C-3 North Harbor Business District Special Use 02.* Broadway right-of-way to east and west alley, travel east to the intersection of Guthrie Street (Honorary King Street), turn northwest, travel to intersection of Alder Street turn south, travel to intersection of Broadway. (Boundary is from center of right-of-way to alleys.)

(D) *C-3 North Harbor Business District Special Use 03.* Broadway right-of-way to east and west alleys, bounded by Pulaski Street and Alder Street.

(E) *C-3 North Harbor Business District Special Use 04.* Broadway right-of-way to east and west alleys, bounded by Grand Boulevard to Ivy Street.

(F) *P-1 Park District.* Broadway right-of-way to north alley and Deodar Street and Elm Street to the east and west. (Ord. 0-08-0020, passed 9-22-2008)

§ 156.216 PERMITTED USES.

The permitted uses for each C-3 North Harbor Business District and C-3 North Harbor Business District Special Uses 01 , 02 and 03 not specifically listed shall not be permitted unless use variance is petitioned for. No building, structure or parcel of land shall be used and no building or structure shall be erected, altered or enlarged which is arranged, intended or designed for other than one of the following uses.

Table 6-C-3 North Harbor Business District Permitted Uses						
Land Use Category	***C-3 Bus.***	***Special Use***	***Special Use***	***Special Use***	***Special Use***	***Development Requirements***

	Distr.	*01*	*02*	*03*	*04*	
P = Permitted Use; S = Special Use; C = Conditional Use						
Civil buildings	P					
Commercial studios						
Eating/ drinking establishments	P					C-3
Second level or above: residential units	P					C-3, S
Residential units at all levels		P			P	C-3, S
Carryout establishments	P					
Coffee shops	P					
General retail	P					
Health spa without lodging	P					
Clinical massage with state license	P					
Internet cafes	P					
Grocery stores (min 10,000 sq. ft. max: 17,000 sq. ft.)				P		C-3, S
Second level or above: office/professional building	P					C-3, S
Second level or above: medical building	P					C-3, S
Photography studio	P					C-3, S
Barbershops	P					C-3, S
Dry cleaners	P					C-3, C
Shoe repair shops	P					C-3, C
Tailor shops	P					C-3, C
Bank without drive-thru	P					C-3, C
Home healthcare services	P					C-3, C
Indoor theaters (no adult entertainment)	P					C-3, C
Business incubators	P					C-3, C
Community centers	P					C-3, C
Senior community centers	P	P				C-3, C
Senior dwelling units	P	P				C-3, C
Other uses which are of the same general character as the above permitted uses, as determined by the zoning administrator, but specifically prohibiting those uses which are first permitted in the C-1 Neighborhood Retail District and C-2 General Commercial District						
Farmers market	P					C-3, C
Public plaza (principle use)	P					C-3, C
Parking garages (principle use)	P					C-3, C
Health club	P					
Gymnasium	P					
Music school	P					
Public/private utility facilities	P					
Antenna towers-television (in rear of business)	P					

Radio and television stations/studios	P					
Clubs/lodges						
Training studios	P					

(A) Civil buildings;

(B) Commercial studios;

(C) Residential units on the upper floors of commercial buildings;

(D) Residential units on the first floor in designated blocks, per the following design requirements:

(1) A minimum of two stories;

(2) A building frontage set at ten feet from the sidewalk. All residential structures shall conform to the area, lot width, yard, height and bulk regulations of the zoning district in which the structure is located, or for those uses which are not allowed in that zoning;

(3) An entry level of a minimum height of five feet zero inches above finish grade; and

(4) A minimum of 65% masonry on all exposed facades.

(E) Eating and drinking establishments, including carryout establishments and coffee shops;

(F) General retail;

(G) Health spa without lodging accommodation/ clinical massage establishments. All massages must be performed by an individual with a State Board of Professional Regulations License for a massage therapist;

(H) Internet cafes;

(I) Community grocery stores (10,000 square feet minimum and 17,000 square feet maximum);

(J) Offices including business or professional and medical or dental, second floor or above;

(K) Photography studios, including the developing of film and pictures when conducted as part of the retail business on the premises. The development and sale of pornographic material is prohibited in the C-3 District;

(L) Services, including, but not limited to, barbershops, beauty shops/salons, dry cleaning, shoe repair, tailor shops, banks and financial institutions without drive-through facilities and similar stores or shops which sell services on site; excluding business related services which have a primary business office component;

(M) Home healthcare services;

(N) Theaters-indoor. Adult entertainment theaters are prohibited in the C-3 District;

(O) Business incubators; and

(P) Other uses which are of the same general character as the above permitted uses, as determined by the Zoning Administrator, but specifically prohibiting those uses which are first permitted in the C-1 Neighborhood Retail District and C-2 General Commercial District.

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

Cross-reference: *Business regulations, see Title XI*

§ 156.217 CONDITIONAL USES.

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined below as conditional uses and Chapter 55 and Chapter 91 through Chapter 96 of the of the municipal code.

(A) Community centers;

(B) Cultural institutions;

(C) Farmers' markets;

(D) Public plazas and parking garages as a principal use;

(E) Health clubs/gymnasiums, music and dance schools;

(F) Public and private utility facilities;

(G) Antenna towers for television and radio broadcast only in accordance with tower specifications and uses stated in §§ 156.325 through 156.329. Antenna towers must be placed in rear of business;

(H) Radio and television stations and studios;

(I) Clubs, lodges. An application for these conditional uses shall be processed in accordance with the requirements of § 156.218 of this subchapter;

(J) Religious buildings constructed prior to January 1, 2008; and

(K) Training studios. (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.218 CONDITIONAL USE PROCEDURES.

(A) *Authority.* The development and execution of this subchapter is based upon the division of the city into zoning districts within which districts the use of buildings, structures and land, and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon adjacent land and of the public need for the particular use in the particular location. Upon receiving the finding of the City Board of Zoning Appeals (BZA), the Plan Commission shall evaluate the BZA' s findings and recommendation for the preparation of a report to the City Council. The City Council, after receiving a report from the Plan Commission, containing its findings and

recommendations, may allow a conditional use and any variance requested in connection therewith in a particular zoning district or districts.

(B) *Standards for conditional uses.* The Commission shall not recommend nor the City Council grant a conditional use in a particular zoning district or districts unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the public health, safety and general welfare;

(2) The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood; and

(3) The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the District.

(C) *Procedures for and effective period of applications for conditional uses.*

(1) An application for a conditional use shall be processed in accordance with the provisions of division (D) below of this section.

(2) An application for a conditional use shall be valid for a period of two years from the date on which the application is filed with the Department of Redevelopment.

(3) Any application for a conditional use which is not processed completely in accordance with city ordinances and regulations, including the preparation and approval of required ordinances, within the two-year period, shall automatically lapse and become null and void without further action by the city.

(4) The Department of Community Development shall send written notice to the last known property owner of record at least 30 days before any application for a conditional use shall lapse.

(5) Upon the applicant's request, the City Council may grant a one-year extension to the application period.

(6) After an application for a conditional use has lapsed, all fees paid by the applicant shall be forfeited, and any subsequent application for a conditional use shall be accompanied by the fees required by this code.

(D) *Initiation of conditional use.* A conditional use may be proposed by a person being the owner, lessee or contract purchaser of the subject property.

(1) The following conditions shall be required.

(2) Except as provided in this division, offices, training studios, health spas (established after July 1, 2008), and health clubs/gymnasiums shall not be permitted below the second floor of any building or structure.

(a) Office uses and health spas (established after July 1, 2008) shall be permitted in single-story buildings adjoining the C-3 North Harbor Business District, less than 3,000 square feet, which are set back at least 12 feet from the right-of-way.

(b) Office uses, training studios, health spas (established after July 1, 2008), and health clubs/gymnasiums will not be continued where a building is remodeled in a manner that does not conform to the requirements of this division.

(c) If granted the conditional use, training studios and health clubs/gymnasiums shall be permitted in single-story buildings adjoining the C-3 North Harbor Business District, less than 3,000 square feet, which are set back at least 12 feet from the right-of-way.

(E) *Generally.*

(1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.

(2) All new buildings within a C-3 zoned classification shall be a minimum of two stories and a maximum of three stories. All new building located on a comer lot shall be a minimum of three stories and a maximum of five stories.

(3) Acceptable facade wall base materials shall be pre-cast concrete,
(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.219 LOT WIDTH REQUIREMENTS.

The minimum lot width requirements in the C-3 Downtown Core District shall be 30 feet.

(A) Setback requirements.

(1) No commercial building shall be set back more than three feet zero inches from the sidewalk. See Figures 1, 2, 3 and 4.

(2) No residential building shall be set back more than 15 feet zero inches from the property line.

(3) No commercial building at the comers of Main Street and Broadway shall be setback more than three feet zero inches from the sidewalk and three feet zero inches from the alley. See Figure 4.

Figure1

Figure 2

Figure 3

Figure 4

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.220 BUILDING SIZE REQUIREMENTS.

(A) The minimum building sizes required in the C-3 district shall be as follows.

Facade width min.	30 feet 0 inches (with the exception of the comer of Broadway and Main Street)

(B) All new structures not located at the comers of Main Street and Broadway shall be a minimum of 1,000 square feet in net floor area. All new structures located at the comers of Main Street and Broadway shall be a minimum of 3,375 square feet.

(C) Facade width minimum for buildings facing Main Street and located at the comers of Main Street and Broadway shall be in compliance with Figure 4.
(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.221 YARD REQUIREMENTS.

The minimum yards required in the C-3 district shall be as follows.

Front yard	0 feet, 3 feet maximum
Corner yard	0 feet, 3 feet maximum
Interior yard	None
Rear yard:	
If the rear lot line abuts property located in a business district:	None
If the rear lot line of the C-3 district coincides with a side or rear lot line of property that is residentially zoned and intended for residential use	12 feet

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.222 HEIGHT LIMITATIONS/BULK REGULATIONS.

(A) The maximum floor area ratio for all buildings and structures in the C-3 district shall be two to five.

(B) All new buildings within a C-3 zoned classification shall be a minimum of two stories and a maximum of three stories. All new buildings located on a comer lot shall be a minimum of three stories and a maximum of five stories for a minimum distance of 60 feet from the comer.

(C) The building heights per floor shall be a minimum of nine feet zero inches high. The exterior building wall base shall be no less than 30 inches high and shall be a form of masonry block (see Figure 1 0). The building facade requirements shall be as indicated in Figure 10 as well as the requirements stated in this subchapter. The overall building height per story shall be as follows:

2 Story	24 feet, 0 inches minimum and 35 feet, 0 inches maximum
3 Story	35 feet, 0 inches minimum and 46 feet, 0 inches maximum
4 Story	48 feet, 0 inches minimum and 55 feet, 0 inches maximum
5 Story	55 feet, 0 inches minimum and 60 feet, 0 inches maximum

(Ord. 0-08-0020, passed 9-22-2008)

§ 156.223 PUBLIC DISPLAY AREA REQUIREMENTS.

(A) The figures below indicate locations for public displays and pedestrian rights-of-way.

(B) Public displays can be placed as shown.

(C) The four feet zero inches parkway can not be used as a means for pedestrian traffic.

Figure 5

Figure 6

Figure 7

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.224 COMMERCIAL SIGNS.

Commercial signs are permitted for lawfully established and maintained businesses, including retail, services and office locations as provided herein. Commercial signs shall be limited to the business, product and/or activity available or conducted on the property. In particular, and billboards, are expressly prohibited. Provided, these provisions shall not apply to nonconforming uses nor to home occupations. All existing buildings' signage and associated lighting to conform to the city code requirements. All new signage has to be reviewed and approved by the Planning Director prior to erection.

(A) *Wall signs.* Each commercial business is allowed to display one wall sign per each frontage along a public roadway or expressway. Wall signs may also be displayed adjacent to an off-street parking area provided customer access is also available.

(1) For every linear foot of store frontage, ten inches, up to a maximum of 90 square feet of signage is allowed and a minimum height of two feet zero inches is required. See Figure 8.

Figure 8

(2) The area of wall sign shall be determined by enclosing the elements of the graphic in an imaginary box (es). The sum total area of the graphic within the box (es) is deducted from the permitted wall signage available.

(3) If a raceway is visible it shall match the color of the exterior of the building.

(4) No signs other than those identifying the property where they are installed or identifying the use conducted therein shall be permitted. Advertising by material or product manufacturers and suppliers other than the primary use of property shall not be permitted. All lighting elements such as wires, conduits, junction boxes shall be concealed from view as much as possible.

(B) *Changeable copy.* Changeable copy is allowed. Changeable copy cannot exceed 50% of the surface of the sign.

(C) *Awning signs.*

(1) Awning signs are allowed to a maximum of 12 square feet of text size per frontage facing a public or private roadway.

(2) When an awning covers multiple storefronts, each store is allowed up to 30 square feet of copy space. See Figure 9.

Figure 9

(3) Canopies and awnings are limited to two colors. Logos are exempt from this provision. Striping may only be vertical or horizontal.

(4) Canopies may be illuminated per § 156.226 of this subchapter.

(D) *Window signs.* Window signs are allowed up to 25% of each window. Temporary windows signs are exempt from permit.

(E) *Real estate signs.* Real estate signs in commercial districts are limited to one sign not to exceed 32 square feet with a maximum height of ten feet.

(F) *Permits.* LED and LCD signage permitted based upon Planning Committee approval. (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.225 SIGNAGE LOCATION.

All signage shall meet the following requirements for location unless stated otherwise in this subchapter.

(A) Signage shall be mounted at minimum height of nine feet zero inches and a maximum height of 12 feet zero inches. Signage height shall be no less than two feet zero inches and must match all awning dimensions as shown in Figure 10. Lettering for signage shall be a minimum of six inches and a maximum of 24 inches.

Figure 10-Facade Requirements

(B) Acceptable types of building signage are as follows, no other forms of signage or signage materials will be accepted:

(1) Illuminated glass signage;

(2) Surface mounted metal letters;

(3) Neon;

(4) LED; and

(5) LCD.

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.226 SIGNAGE ILLUMINATION.

Internally or externally illuminated signs shall be permitted, per the regulations of this chapter, provided they meet the following requirements.

(A) Signs shall be illuminated only by steady, stationary, shielded or shaded light sources directed solely at the sign, or internal to it so that the light intensity or brightness does not create either a nuisance to adjacent property or a traffic hazard for motorists or pedestrians.

(B) Individual letters or logos may be internally illuminated. All other portions of the sign shall be opaque.

(C) No exposed reflective type bulb and no strobe light shall be used. All bulbs to be metal halide.

(D) Illuminated signs shall produce no more than 30 foot-candles of illumination, four feet from the sign.

(E) Whenever external illumination is used for a sign, the source of light shall be located, shielded and directed in a manner that the light source is not visible from a public street or private residence.

(F) See the Appendix for awning light fixture specifications or any approved equal.

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.227 FENCES.

(A) *C-3 Business District.* The establishment of fences in the C-3 Downtown Core District shall be regulated as follows.

(1) Acceptable open fences include, without limitation, wrought iron. Fences may be constructed and maintained in the side yard with a setback of three feet and in the rear yard with a setback of one foot.

(2) Fences shall be permitted in the required interior side yard or rear yard; provided, that the fence does not extend nearer to a lot line adjoining a street than the longest distance between the lot line and the nearest wall of the principal building or structure; in the case of corner lots,

not beyond the front or street side line of the building or structure; and does not exceed a height of three feet for front yard and ten feet for rear yard.

(3) Fences must be positioned so that the finished side faces away from the lot on which constructed.

(4) Walls which enclose outside storage shall be a minimum of six feet and a maximum of ten feet in height.

(B) Public utility minimum standards. All fences shall be constructed and maintained in accordance with the following Department of Public Utilities minimum standards construction to allow for safe access to equipment.

(1) Five feet of clearance shall be maintained between any fence and all sides of an electrical transformer, except the side of the transformer which is padlocked, which shall have a ten-foot clearance.

(a) If it is impossible to maintain ten feet of clearance between the padlocked side of an electrical transformer and the fence, a removable section of fence or a gate with a padlock shall be installed.

(b) All padlocks shall be issued by the city.

(2) Five feet of clearance shall be maintained between any fence and all sides of an electrical pedestal.

(a) If it is impossible to maintain five feet of clearance between an electrical pedestal and the fence, a removable section of fence or a gate with a padlock shall be installed.

(b) All padlocks shall be issued by the city.

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.228 C-3 NORTH HARBOR BUSINESS DISTRICT-SPECIAL USE-01.

The Special Use-01 design requirements for construction within the C-3 North Harbor Business District shall be as follows.

(A) All new residential buildings within a C-3-zoned classification shall have minimum first floor elevation of five feet zero inches above finish grade. All methods of elevation such as stairs, ramps and the like shall be concrete or masonry clad. All elevation materials and their composition are to be reviewed by the Plan Commission prior the approval from the BZA and the City Council.

(B) All new residential buildings within a C-3-zoned classification shall have a minimum floor to ceiling height of nine feet zero inches. The exterior building wall base shall be no less than 30 inches high and shall be a form of masonry block. All facade materials (above the required base material) and their composition are to be reviewed by the Plan Commission prior the approval from the BZA and the City Council. When a facade consists of all brick material, the accent color of brick or masonry material shall cover no more than 15 % of total surface area. Glazing shall be provided for no less than 30% of the total surface area. See Figure 10 in § 156.225.

(C) All new residential buildings within a C-3-zoned classification shall have a minimum facade height of 20 feet zero inches and a maximum facade height of no more than five feet zero inches above the top of the roof line of a three-story structure.

(1) A minimum of two stories;

(2) A building frontage set at ten feet from the sidewalk. All residential structures shall conform to the area, lot width, yard, height and bulk regulations of the zoning district in which the structure is located or, for those uses which are not allowed in that zoning;

(3) A minimum of 65 % masonry on all exposed facades; and

(4) For residences located in the C-3 district, the rear setback requirement for a garage shall be a three feet zero inches minimum and 20 feet zero inches maximum. Rear setbacks for residences shall be 23 feet zero inches.

(D) Special Use-01 fence requirements. The establishment of all fences in residential districts shall be regulated as follows.

(1) Open fences, as described in this section, not exceeding six feet in height may be constructed and maintained at the front or corner side yard lot line. The minimum fence height requirement shall be four feet.

(2) (a) An open fence shall be designed so that an area equal to 30% of the width of each upright remains unobstructed.

(b) Acceptable open fences include, without limitation, wrought iron.

(3) Fences not exceeding six feet in height may be constructed and maintained at any point behind the corner side yard line, provided they do not extend forward of the wall of the principal building facing the front yard.

(4) Fences up to six feet in height shall be permitted in the required interior side yard or rear yard; provided, that the fence does not extend nearer to a front lot line than the longest distance between the lot line and the nearest wall of the principal building or structure; and the fence does not extend nearer than ten feet to the corner side property line.

(5) Fences must be positioned so that the finished side faces away from the lot on which it is constructed.

(6) Every fence fronting onto an existing or proposed road right-of-way, except for corner lots, must include a gate giving access to the right-of-way.

(7) In order to maintain the urban character the C-3 Downtown Core District, no stockade fences located within the C-3 Downtown Core District shall be permitted. All fencing within this district shall be wrought iron.

(8) A fence permit fee and approval by the City Planning Department shall be paid for all fences to be erected in the C-3 Downtown Core District before a fence is erected on any property within the city. (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.229 C-3 NORTH HARBOR BUSINESS DISTRICT-SPECIAL USE-02.

The Special Use-02 design requirements for construction within the C-3 North Harbor Business District shall be as follows.

(A) The permitted uses and design requirements for senior housing in this area shall be determined by the Department of Redevelopment.

(B) The following permitted uses are allowed:

(1) Senior housing;

(2) Parking garages;

(3) Multi-level residential dwellings (minimum two stories and maximum six stories);

(4) Medical service businesses; and

(5) Commercial retail stores.

(C) All elevations materials and their composition are to be reviewed by the Redevelopment Commission prior to approval from the BZA and the City Council.

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.230 C-3 NORTH HARBOR BUSINESS DISTRICT-SPECIAL USE-03.

The Special Use-03 design requirements for construction within the C-3 North Harbor Business District shall be as follows.

(A) All new Special Use-03 Commercial Buildings within a C-3-zoned classification shall have minimum square footage of 10,000 square feet and a maximum square footage of 17,000 square feet.

(B) All elevation materials and their composition are to be reviewed by Plan Commission prior the approval from the BZA and the City Council.

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.231 C-3 NORTH HARBOR BUSINESS DISTRICT-SPECIAL USE-04.

All new residential buildings within the C-3 North Harbor Business District: Special U se-04 boundaries shall conform to the design requirements, area, lot width, yard, height bulk regulations and fence requirements of the zoning district C-3 North Harbor Business District: Special Use-01 of this subchapter. No new commercial buildings shall be allowed within the Special Use-04 boundaries. Existing commercial buildings located within the Special U se-04 boundaries shall have 24 months from the date of approval of this ordinance to be relocated within the C-3 North Harbor Business District.

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

M-1 LIGHT INDUSTRIAL DISTRICT

§ 156.245 GENERALLY.

(A) The M-1 Light Industrial District is established as a district in which the principal use of land is for light manufacturing and industrial uses, and these regulations are specifically intended to prohibit the use of land in this district for residences.

(B) Uses already established on the effective date of this chapter and rendered nonconforming by the provisions thereof shall be subject to the regulations of § 156.081. (1995 Code, § 17.52.010)

§ 156.246 USE REGULATIONS.

A building or premises in an M -1 Light Industrial District shall be used only for the following purposes.

(A) No restrictions: Filling stations.

(B) The following uses are permitted; provided, that where they are within 100 feet of a lot in a more restricted zone they shall be conducted wholly within a building except for off-street loading of delivery vehicles which are incidental thereto as required in § 156.080:

(1) The manufacture, compounding, processing, packaging or treatment of food products;

(2) Automobile storage, assembly, painting, upholstering, rebuilding, reconditioning, truck repair or overhauling, tire repair or recapping;

(3) Blacksmith shops, manufacturing of machine tools, manufacturing of machinery, including agricultural, electrical machinery or equipment, office or store machines, equipment or supplies and the like, machine shops, excluding punch presses over 100 tons ready capacity, and drop forges;

(4) Foundries casting lightweight, nonferrous metals not causing noxious fumes or odors;

(5) Animal hospitals or kennels;

(6) The compounding, processing, packing or treatment of products such as bakery goods, candy, cosmetics, drugs, perfumed toilet soap, pharmaceuticals and toiletries;

(7) The manufacture or repair of electric or neon signs, billboards, excluding commercial advertising structures, light sheet metal production, heating or ventilating ducts or equipment, cornices or edges and the like;

(8) The manufacture of musical instruments, clocks, watches, toys, novelties and rubber or metal stamps;

(9) Assembly of electrical appliances, electronic instruments and devices, radio and phonograph and including the manufacture of small parts only, such as coils, condensers, transformers, crystals and crystal holder;

(10) Wholesale warehouses and storage buildings; and

(11) Storage yards for lumber, wood, feed or other similar storage related to and required by any other permitted uses.

(C) The following uses are permitted; provided, that the operations are carried on completely within the building:

(1) Bleaching or dyeing;

(2) Body and fender works;

(3) Breweries and liquor distilleries; and

(4) Stone cutting.

(D) The following uses, not directly related to the foregoing uses, are permitted; provided, that the operations are conducted completely within the building or hidden from view by a fence not less than six feet in height and in which the openings or cracks are less than 15% of the total area:

(1) Auto wrecking;

(2) Storage, sorting, collection of baling of rags, paper, metal or junk; and

(3) In general, those uses, except residential, which are not obnoxious or offensive by reasons of emission of odor, dust, smoke, gas or noise.

(1995 Code,§ 17.52.020) Penalty, see § 156.999

§ 156.247 HEIGHT REGULATIONS.

A building in the M-1 Light Industrial District may be erected to any height not in conflict with other provisions of this chapter or other city ordinances and regulations.

(1995 Code, § 17.52.030) Penalty, see § 156.999

§ 156.248 AREA REGULATIONS.

Where any yard in an M-1 Light Industrial District adjoins a district or districts of another classification, the highest yard requirements of the adjoining district or districts, including transition provisions along a common street line, shall apply. In all cases, the following shall apply.

(A) *Front yard.*

(1) Where a front yard abuts or adjoins a residence district at the street line and the building is to exceed a height of six stories or 75 feet, the minimum front yard shall be increased by a distance of at least one foot for each three feet of building height in excess of 75 feet.

(2) Where a filling station is established in an M-1 District, service driveways and outdoor dispensing equipment, lighting facilities and not more than one pole-supported business identification sign for each street frontage may occupy the otherwise required front yard area; provided, that all dispensing equipment shall be at least 15 feet from the front lot line.

(B) *Side yards.* Where a yard adjoins a residence district, ten feet minimum each.

(C) *Rear yard.* Where a rear yard abuts or adjoins a residence district and the building is to exceed a height of six stories of 75 feet, the minimum rear yard shall be increased a distance of at least one foot for each three feet of building height in excess of 75 feet.

(1995 Code, § 17.52.040) Penalty, see § 156.999

§ 156.249 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011 of this chapter of the municipal code. (1995 Code, § 17.52.050) (Ord. 0-98-0002, passed --1998) Penalty, see § 156.999

M-2 HEAVY INDUSTRIAL DISTRICT

§ 156.260 USE REGULATIONS.

In the M-2 Heavy Industrial District, no building shall be converted, erected or used for stockyards or for dwelling purposes, except for use during temporary emergency such as strikes, acts of God or national emergencies; provided, that dwelling quarters may be established in connection with any industrial establishment for watchmen and caretakers employed upon the premises. A building or premises may be used for any other purpose whatsoever not in conflict with any ordinance of the city; provided, that the use and storage of products which produce flammable or explosive vapor or gases shall be in conformity with existing standards prescribed by the National Fire Protection Association and the requirements of ordinances embodied in this code; except, that for installations in petroleum refineries compliance with Division IV of the *State of Indiana Rules and Regulations of the State Fire Marshal Regulating the Use, Handling, Storage and Sale of Flammable Liquids in the State of Indiana* shall be deemed to satisfy the requirements of this section.

(1995 Code, § 17.56.010) (Ord. 0-00-0016, passed 6-15-2000) Penalty, see § 156.999

§ 156.261 HEIGHT REGULATIONS.

A building in an M-2 Heavy Industrial District may be erected to any height not in conflict with other provisions of this chapter or other city ordinances and regulations.

(1995 Code, § 17.56.020) Penalty, see § 156.999

§ 156.262 AREA REGULATIONS.

(A) *Front yard.* Where all the frontage on one side of the street between two intersecting streets is not located in an M-2 Heavy Industrial District, no front yard shall be required. Also in an M-2 District where the district adjoins a residential, commercial or M-1 Light Industrial District, without separation by a street, then the front yard requirements in the M-2 District shall be the same as in the adjoining residential, commercial or M-1 Light Industrial District for either the remainder of the frontage on that street within the same block or for a distance of not less than 500 feet measured along the front lot line on that street within the same block from the boundary line between the M-2 District and the adjoining residential, commercial or M-1 Light Industrial District, whichever is the lesser.

(B) *Side yard.* No side yards shall be required where a lot adjoins another lot in the M-2 District classification; in all other cases, the side yard regulations are the same as in the M-1 District.

(C) *Rear yard.* No rear yard shall be required where a lot adjoins another lot in the M-2 District classification; in all other cases, the rear yard regulations are the same as in the M -1 District.

(D) *Intensity of use.* No dwellings are permitted in the M-2 District, except as determined by § 156.260. (1995 Code, § 17.56.030) Penalty, see § 156.999

§ 156.263 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.011 of this chapter of the municipal code. (1995 Code, § 17.56.040) (Ord. 0-98-0002, passed --1998) Penalty, see § 156.999

P-1 PARK DISTRICT

§ 156.275 GENERALLY.

The P-1 Park District is established as a district in which the predominant use of land is for parks, open spaces, beaches and outdoor recreation facilities and is specifically intended to:

(A) Encourage the continued use of land for community recreation facilities and parks; and

(B) Prohibit residential commercial and industrial use of land.
(1995 Code, § 17.60.010) Penalty, see § 156.999

§ 156.276 USE REGULATIONS.

The following shall apply in the P-1 Park Districts.

(A) All uses usually associated with park and recreational areas as determined by the City Park Board shall be permitted.

(B) Only those buildings and structures associated with park and recreational facilities, as determined by the City Park Board or other buildings and structures for public purposes as authorized by the Board of Zoning Appeals by§ 156.027. (1995 Code, § 17.60.020) Penalty, see § 156.999

WD-1 WATERFRONT DEVELOPMENT DISTRICT

§ 156.290 GENERAL REGULATIONS.

The WD-1 Waterfront Development District is established as a district in which a wide variety of principal uses are designed to foster economic growth and public benefit. These regulations are intended to:

(A) Prohibit the use of the land in this district that is counter productive to the general intent of the district;

(B) Permit commercial, office, entertainment, hotel or other visitor-serving use, recreational and supporting uses to coexist in a single district designed as a unit;

(C) Locate the district so that Lake Michigan or a majority tributary provides one of its boundaries; and

(D) Initiate the establishment of this district by approval of a concept plan that documents and identifies the intent of the district. (1995 Code, § 17.62.010) (Ord. 0-96-0003, passed --1996; Ord. 0-00-0024, passed 10-30-2000) Penalty, see § 156.999

§ 156.291 USE REGULATIONS.

Uses permitted in the WD-1 Waterfront Development District shall be subject to the following conditions:

(A) Uniform control, either by ownership or agreement, of all uses and activities within the district;

(B) An approved concept plan set which includes a site plan, engineering plan, landscape plan and architectural plans which depict the intent of the proposal. The plan(s) shall be drawn at a scale as approved by the Plan Commission, identifying the proposed uses, buildings, roadways, parking, pedestrian circulation system, recreational facilities, common open spaces and landscape areas; and identifies the means by which the proposal will be constructed and serviced;

(C) A written description accompanying the concept site plan outlining the intent of the site plan, including a phasing plan if applicable;

(D) An estimate of construction costs for all buildings and site improvements, with subtotals for major development features; and

(E) Additional information as required by the Plan Commission which may include: concepts regarding covenants/restrictions, concepts regarding supplemental donations and the like.
(1995 Code, § 17.62.020) (Ord. 0-96-0003, passed --1996)

§ 156.292 HEIGHT REGULATIONS.

No specific height regulations are required, provided the proposed district can document to the satisfaction of the Common Council that all buildings, structures and uses can be adequately serviced by police, fire and other municipal agencies so as to protect the health, safety and welfare of the occupants.
(1995 Code, § 17.62.030) (Ord. 0-96-0003, passed --1996) Penalty, see § 156.999

§ 156.293 AREA REGULATIONS.

No yards are required in the WD-1 Waterfront Development District, except as noted in §§ 156.078, 156.080 and the following:

(A) Where the district boundary is located within 25 feet of a building, the district shall require a 25-foot wide transitional yard along the entire length of that district boundary line and no parking, roadways or buildings shall be located within the yard;

(B) Along with other district boundaries, a yard shall be required. The yard depth shall be determined by the Plan Commission and shall incorporate landscaping indicative of the proposed use, and landscaping shall reduce impacts on adjoining land.

(1995 Code, § 17.62.040) (Ord. 0-96-0003, passed --1996) Penalty, see § 156.999

MANUFACTURED HOUSING

§ 156.305 DEFINITIONS.

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

MANUFACTURED HOME. A dwelling unit fabricated on or after January 1, 1981, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufacturing Housing Construction and Safety Standards Code or Indiana Pub L. No. 360, Acts of 1971, as promulgated by the Indiana Administrative Building Council.

MOBILE HOME. A transportable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, larger than 320 square feet, and designed to be used as a year-round residential dwelling. (1995 Code, § 17.68.010) (Ord. 3328, passed --1982)

§ 156.306 PLACEMENT.

The establishment, location and use of manufactured homes may be permitted in residential zones permitting installation of site-constructed homes; provided, that the homes shall meet the following requirements and limitations:

(A) The homes shall meet the appropriate exterior appearance standards hereinafter set forth;

(B) The home shall receive all required permits and conform to the zoning regulations, building codes, fire codes, and any other applicable state and local regulations;

(C) Mobile homes and manufactured homes not meeting the definition of a manufactured home as stated in § 156.305, shall not be permitted anywhere within the City; and

(D) The establishment, assembly, location or use of manufactured housing is expressly prohibited in the Marktown and Sunnyside Historic Districts. (1995 Code, § 17.68.020) (Ord. 3328, passed --1982) Penalty, see § 156.999

§ 156.307 STANDARDS.

A manufactured home shall:

(A) Contain in excess of 950 square feet of occupied space;

(B) Be placed on a foundation meeting all requirements of a site-constructed home;

(C) Have wheels, axles and hitch mechanism removed;

(D) Meet appropriate utility connection standards;

(E) Be placed onto a permanent exterior perimeter retaining wall, in accordance with approved manufactured home installation standards; and

(F) Have roofing and siding materials of a type customarily used on site-constructed residences.
(1995 Code, § 17.68.030) (Ord. 3328, passed --1982) Penalty, see § 156.999

§ 156.308 INSTALLATION STANDARDS.

Manufactured homes must be set onto a concrete slab or an excavated area with footings, foundations and basement walls constructed in accordance with the terms of the One and Two Family Dwelling Code as set by the State Administrative Building Council. The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter retaining wall. The wall shall be composed or solid masonry, which shall extend below the frost line. The design by a registered professional engineer or architect shall safely support those loads, as determined by the character of the soil. (1995 Code, § 17.68.040) (Ord. 3328, passed --1982) Penalty, see § 156.999

§ 156.309 APPROVED SIDING MATERIALS LIST.

The following siding materials are approved for use on manufactured housing:

(A) Residential horizontal lap siding;

(B) Residential horizontal vinyl lap siding;

(C) Wood siding, subject to approval by the Director of the Division of Inspections and Permits;

(D) Stucco siding; and

(E) Brick or stone siding.
(1995 Code, § 17.68.050) (Ord. 3328, passed --1982) Penalty, see § 156.999

§ 156.310 APPROVED ROOFING MATERIALS LIST.

The following roofing materials are approved for use on manufactured housing:

(A) Asbestos shingles on a roof pitched according to the design specifications of the shingles;

(B) Fiberglass shingles on a roof pitched according to the design specifications of the shingles;

(C) Shake shingles on a roof pitched according to the design specifications of the shingles;

(D) Asphalt shingles on a roof pitched according to the design specifications of the shingles; and

(E) Tile materials on a roof pitched according to the design specifications of the materials.
(1995 Code, § 17.68.060) (Ord. 3328, passed --1982) Penalty, see § 156.999

TV EARTH STATION ANTENNAS

§ 156.325 HEIGHT AND FENCING REQUIREMENTS.

All TV earth station antennas used for receiving microwave transmissions from satellites in R-1 through 5 and C-1 and 2 Districts shall not be more than 14 feet in height. All TV earth station antennas installed with a single-pole type of installation with a safety feature pressure shut-off or hand crank turning mechanism will not need a fence. All TV earth station antennas with a tripod or tower grid type of installation shall have a six-foot fence enclosing the antenna, if there is no fence enclosing the yard in which the antenna is located. (1995 Code, § 17.72.010) (Ord. 3450, passed --1987) Penalty, see § 156.999

§ 156.326 INSTALLATION-SETBACK CONFORMANCE.

TV earth station antennas shall be installed only in rear yards behind the rear structure line. TV earth station antennas shall conform with all city building setback requirements.

(1995 Code, § 17.72.020) (Ord. 3450, passed --1987) Penalty, see § 156.999

§ 156.327 ROOF INSTALLATION REQUIREMENTS.

TV earth station antennas may be installed on the flat roofs of buildings or structures in R-4, R-5, C-1 and C-2 Districts with the permission of the Zoning Board.

(1995 Code, § 17.72.030) (Ord. 3450, passed --1987) Penalty, see § 156.999

§ 156.328 SPECIFICATIONS AND CODE COMPLIANCE.

TV earth station antennas shall be installed pursuant to its manufacturer's specifications and instructions and in compliance with Article 810 of the National Electrical Code, 1984, published by the National Fire Protection Association (NFPA), as amended.

(1995 Code, § 17.72.040) (Ord. 3450, passed --1987) Penalty, see § 156.999

§ 156.329 PERMIT AND LICENSE REQUIREMENTS.

Applicants for TV earth station antennas shall be required to obtain a building permit from the city and present documentation or possession of any required license by any federal, state or local agency prior to the issuance of any building permit.

(1995 Code, § 17.72.050) (Ord. 3450, passed --1987) Penalty, see § 156.999

VIDEO GAME ARCADES

§ 156.340 DEFINITIONS.

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

AMUSEMENT GAME MACHINES. Any device, whether mechanical, electrical or electronic, which shall be ready for play by the insertion of a coin, token or payment to an attendant and may be

operated by the public for use as entertainment or amusement. It shall include video games, pinball machines and pool tables. It does not include vending machines which do not incorporate amusement features, nor does it include juke boxes or other musical devices.

ARCADE. Any establishment, room or place where four or more amusement game machines are available to the public and/or which derives more than 50 % of its gross revenues from amusement game machines. (1995 Code, § 17. 76.010) (Ord. 3367, passed --1983)

§ 156.341 AMUSEMENT GAME MACIDNES AS ACCESSORY USES.

A retail establishment located in a commercially zoned area may be allowed to install amusement game machines in any single business as an accessory use. The installation and use of amusement game machines as an accessory use may be permitted provided that the following requirements and limitations are met:

(A) No more than three amusement game machines are allowed. More than three machines will constitute an arcade;

(B) No retail establishment within 200 feet of the lot line of a school will be permitted to install amusement game machines as an accessory use;

(C) No retail establishment within 200 feet of the lot line of a church will be permitted to install amusement game machines as an accessory use; and

(D) All regulations of the municipal code must be met. Any retail establishment that already has amusement game machines as an accessory use as of the date of adoption of the ordinance codified in this subchapter shall be permitted to maintain the machines for the duration of the license period. However, renewal of the license will not be permitted unless all requirements of this subchapter are met.

(1995 Code, § 17.76.020) (Ord. 3367, passed --1983) Penalty, see § 156.999

§ 156.342 AMUSEMENT ARCADE REGULATIONS.

(A) No person, organization or company shall operate an amusement arcade in the city without first obtaining, in addition to all other licenses and permits required by the city code, a special use permit from the Board of Zoning Appeals.

(B) Any person, organization or company that is lawfully operating an amusement arcade as of the date of adoption of the ordinance codified in this chapter shall be permitted to operate without a special use permit for the duration of the license period. Thereafter, a renewal of the license will not be permitted unless all requirements of this subchapter are met.

(C) No amusement arcade, whether lawfully in operation as of the adoption of the ordinance codified in this chapter or not, shall be exempted from any of the provisions of this section.

(D) No special use permit for an amusement arcade shall be granted for a period longer than two years. The Board of Zoning Appeals may grant a special use permit for a shorter period of time or it may impose additional conditions to be met whenever necessary to effectuate the purposes of this chapter and to promote the health, safety, morals and general welfare of the public.

(1995 Code, § 17.76.030) (Ord. 3367, passed --1983) Penalty, see § 156.999

§ 156.343 AMUSEMENT ARCADE STANDARDS.

The following standards shall be applied to all amusement arcades in the city:

(A) Amusement arcades are expressly prohibited within 200 feet of the lot line of a school;

(B) Amusement arcades are expressly prohibited within 200 feet of the lot line of a church;

(C) Each amusement arcade must provide at least two restrooms (one for males and one for females) which will be accessible to employees and customers;

(D) Each amusement arcade must have at least one supervisory employee, 21 years or older, on the premises throughout business hours;

(E) The sale, possession, consumption and use of alcoholic beverages are expressly prohibited at all times;

(F) Each amusement arcade must post at least two signs informing the public that the sale and use of alcoholic beverages are prohibited. One sign shall be plainly visible to persons entering therein. The other sign shall be plainly posted within the arcade;

(G) Persons under the age of 18 are expressly prohibited from entering the premises of an amusement arcade from 5:00 a.m. to 4:00 p.m. or when minors are required to be in school;

(H) Each amusement arcade must post at least two signs informing the public that persons under the age of 18 are prohibited from entering the premises during school hours;

(I) The sale of tobacco products and smoking paraphernalia are prohibited;

(J) Shouting, swearing, loitering or abusive language shall not be permitted;

(K) Persons under the age of seven are prohibited from entering the premises of an amusement arcade unless accompanied by an adult; and

(L) The hours of operation for each amusement arcade shall be established by the Board of Zoning Appeals. (1995 Code, § 17.76.040) (Ord. 3367, passed --1983) Penalty, see § 156.999

SIGNS

§ 156.355 INTENT.

(A) The intent of this subchapter is to provide adequate opportunity for the erection of signs while reducing visual clutter and achieving an aesthetically pleasing appearance in the city. In so doing, this subchapter intends to improve the visual environment of the city, eliminate traffic hazards caused by improper signs and ensure that information is presented safely and effectively.

(B) This subchapter establishes a comprehensive system for the regulation of signs to promote the public safety, health and welfare. It presents a set of reasonable, non-arbitrary and non-discriminatory standards and procedures that are intended to facilitate the improvement and protection of the community by prohibiting the misuse of signs.

(C) This subchapter furthers the greater public interest by allowing a property owner to identify the ownership of property and the activities, services and products available thereon. The identification of property, activities, services and products located elsewhere is permitted to a lesser degree.

(Ord. 0-01-0024, passed 9-10-2001)

§ 156.356 DEFINITIONS.

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

ANIMATED SIGN. Any sign that includes action and/or motion, not including flashing or changing signs.

BANNER SIGN. A temporary sign composed of cloth, canvas or other lightweight material that may or may not be enclosed in a frame.

BENCH SIGN. Any sign on or attached to any structure or device intended for exterior public seating.

BUSINESS SIGN. A lawfully operating enterprise or use licensed as a business by the city.

CHANGING SIGN. A sign, such as an electronic sign, temperature or date sign, message center or reader board, on which content changes at timed intervals.

CONSTRUCTION SIGN. A temporary sign stating the names of those persons directly connected with the construction of a project and may include address and telephone information.

DIRECTIONAL SIGN. A sign, the sole purpose of which is to direct the flow of vehicular or pedestrian traffic, indicate entrances or exits, transmit parking information or convey similar information,

DOUBLE-FACED SIGN. A sign with two distinct faces of equal size, generally back-to-back, supported on the same structure and designed so that each face is viewed from a different direction.

FLASHING SIGN. A sign on which illumination flashes intermittently, in whole or in part, or which gives the perception of intermittent or flashing light by another means.

FREESTANDING SIGN. A sign erected on a freestanding frame, mast or pole and not attached to any other structure.

HEIGHT. As applied to a sign means the vertical distance measured from the lowest ground level directly beneath the sign to the highest point at the top of the sign. The ground level shall be the lowest of natural grade or finished grade.

IDENTIFICATION SIGN. A sign, the sole purpose of which is to identify the site or the building, use or persons occupying the site on which the sign is located.

ILLUMINATED SIGN. A sign having its own immediate source of internal or external lighting.

INSTITUTIONAL SIGN. A sign incorporating information regarding governmental, quasi governmental, educational, charitable or religious institutions.

NAMEPLATE SIGN. A sign identifying only the name, address and/or occupation or profession of the occupant of the premises on which the sign is located.

OFF-PREMISE SIGN. A sign with content unrelated to the premises on which the sign is located.

OUTDOOR ADVERTISING SIGN. An off-premise sign.

POLITICAL SIGN.

(1) A sign designed to influence the action of voters whether for the passage or defeat of a measure appearing on the ballot in any federal, state or local election. The election or defeat of a candidate for nomination or election to any public office, or for the support of any political party, not exceeding eight square feet in sign area. Excluded from this definition is signage identifying a political headquarters or office of a political party or candidate.

(2) Signs shall be secured by wire frame; or shall have the option of employing faring strips for support, if wire framing is not available. No ***POLITICAL SIGNS*** shall be attached or placed upon any abandoned building within any zoning classification of the city. The earliest date that a political sign can be installed or placed is October! or April I of any year that a federal, state or local election is held. Any political sign shall be removed not later than seven days following the election to which it relates. Exception: The provisions of this section shall not apply to lawful commercial outdoor advertising structures licensed under this subchapter.

PORTABLE SIGN. A sign intended to be moved or capable of being moved, whether or not on wheels or other special supports, including but not limited to A-frame signs and placards.

PROJECTING SIGN. A sign, other than a wall sign, suspended from or supported by a building or wall, projecting from 12 inches to 30 inches from the building or wall.

REAL ESTATE SIGN. A sign intended to convey information regarding the availability of the property on which the sign is located for sale, lease or rent and removed within seven days of the sale, lease or rental of the property.

ROOF SIGN. Any sign erected on or extending above the roofline or parapet of any building or structure.

SIGN. Any device, fixture, structure, construction, cloth or other material that conveys a message in pictorial, symbolic or word form, placed for display to the outdoor public. The term ***SIGN*** shall not include time and temperature devices, church windows, religious symbols, noncommercial flags, barber poles or similar devices if there is no identification or advertising thereon.

SIGN AREA. The entire area within a single, continuous perimeter enclosing the extreme limits of a sign and not passing between or through any elements of the sign. The perimeter shall include all elements and ornamentation forming an integral part of the design of the sign. Directional signs and signs

identifying or indicating restrooms, telephones and similar convenience areas shall not be included in calculating ***SIGN AREA.***

SPECIAL EVENT SIGN. A temporary sign pertaining to events of civic, community, philanthropic, educational or religious organizations, which are not conducted in connection with the operation of a commercial enterprise.

UNLAWFUL SIGN. A sign in violation of any term of the municipal code.

WALL SIGN. A sign attached or erected against the wall of a building or structure with the sign face parallel to and less than 12 inches from the wall of the building or structure and not extending above the building face or parapet.

WINDOW SIGN. A sign placed inside a window for purposes of viewing from outside the window. (Ord. 0-01-0024, passed 9-10-2001; Ord. 0-03-0010, passed 2-10-2003)

§ 156.357 GENERAL REGULATIONS.

(A) No sign shall be erected, installed, altered or maintained in any zoning district in the city, including public and private streets therein, except in conformity with this subchapter. All signs shall comply with the particular regulations of the district in which they are located.

(B) No sign attached to a building shall extend above the height of the building, project more than 30 inches from the outside wall of the building nor project in a manner as to impede movement on a public sidewalk, street, alley or other public way. Signs shall be maintained in an attractive and structurally safe condition. All exterior parts shall be painted, coated or made of rust inhibitive material. Any supporting structure shall be free of any bracing such as guy wires or cables and shall be designed as an architectural feature of the building.

(C) No sign shall obstruct any door, fire escape or free passage over any public right-of-way or create a traffic hazard. Signs shall be placed with care so as not to obscure unreasonably existing conforming signs on adjacent properties.

(D) On a site on which more than one lawful use conducted, each use shall be permitted an identification sign not larger in area than the identification sign for uses permitted under the requirements of the zoning district in which the site is located. However, the total site area on site shall not exceed the total sign area for the site as permitted in the zoning district.
(Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.358 PROHIBITED SIGNS.

The following signs are prohibited:

(A) Roof signs;

(B) Signs on benches or other similar structures;

(C) Signs on non-working vehicles or trailers placed on the premises for purposes of advertising;

(D) Signs that, by their wording, color or location resemble or conflict with traffic control signs or devices;

(E) Signs that create a safety hazard;

(F) Signs that obstruct any door, window, fire escape or other emergency exit; and

(G) Signs erected in the public right-of-way or on any public pole, bench, bus shelter or other public structure, excepting when posted by a public officer in the performance of a public duty.
(Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.359 TEMPORARY SIGNS.

The following signs are permitted for a period of not more than seven days with a temporary sign permit:

(A) Freestanding, moveable signs;

(B) Balloon signs;

(C) Banner signs;

(D) Flags and pennants; and

(E) Special event signs. (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.360 SIGNS REQUIRING A SPECIAL USE PERMIT.

The following signs are permitted only with a conditional use permit:

(A) Animated signs;

(B) Flashing signs;

(C) Signs for cinemas, theaters, auditoriums, banquet facilities, hotels, motels, riverboats, casinos or similar facilities; and

(D) Signs within the Waterfront Development District.
(Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.361 ZONING CLASSIFICATION REGULATIONS.

Only signs for purposes consistent with the uses or activities authorized within the zoning district or for the particular premises may be erected or maintained.

(A) *Residential signs.*

(1) *Permitted residential signs.*

(a) A sign identifying a lawful home occupation limited to a nameplate sign not exceeding two square feet in sign area;

(b) A sign identifying an institutional, religious, charitable, educational or multi-family facility within a residential zoning district not exceeding six square feet in sign area for the first 100 feet of street frontage and an additional two square feet in sign area for each additional 100 feet of street frontage, not to exceed 48 square feet total sign area;

(c) Real estate signs; and

(d) Political signs.

(2) *Conditional residential signs.*
Temporary signs.

(B) *Commercial signs.*

(1) *Permitted C-1 signs.*

(a) An identification sign for each business on site up to 16 square feet in sign area; and

(b) Additional signs up to a total sign area on site of the total of the number of businesses on site multiplied by 16 square feet, plus an additional 16 square feet for the first 500 feet or street frontage, and an additional two square feet in sign area for each additional 100 feet of street frontage.

(2) *Permitted C-2 signs.*

(a) An identification sign for each business on site up to 32 square feet in sign area;

(b) Additional signs up to a total sign area on site of the total of the number of businesses on site multiplied by 32 square feet, plus an additional 32 square feet for the first 500 feet of street frontage and an additional two square feet in sign area for each additional 100 feet of street frontage.

(3) *Additional signs.* Signs for theaters, auditoriums, banquet facilities, hotels, motels, casinos or related facilities may be erected or maintained contrary to the provisions of this subchapter only upon approval of the site development plan by the Planning Commission with a special use permit.

(C) *Industrial signs.*

(1) *Permitted M-1 signs.*

(a) An identification sign for each business on site not exceeding 64 square feet in sign area;

(b) Additional signs up to a total sign area on site of the total of the number of businesses on site multiplied by 64 square feet, plus an additional 64 square feet for the first 500 feet of street frontage and an additional four square feet for each additional 100 feet in street frontage; and

(c) An off-premise sign, in conformance with the criteria set forth herein:

1. Off-premise signs will only be allowed on Cline A venue (State Road 912) corridor and the Indiana Toll Road (1-90) corridor;

2. No off-premise signs of any kind will be allowed in the following surface street corridors:

a. Indianapolis Boulevard;

b. Chicago Avenue;

c. Railroad Avenue;

d. Kennedy Avenue;

e. Huish Drive;

f. Euclid Avenue; and

g. Columbus Drive.

3. The maximum number of faces per sign structure shall be two, constructed back to back. No faces shall be installed side-by-side or stacked;

4. The maximum sign area shall be 672 square feet per face. Temporary extensions of copy for artistic purposes, up to 200 additional square feet, may be approved by the City Planner for a period not to exceed 120 days;

5. The maximum height shall be 50 feet, measured from the centerline of the roadway toward which the sign is faced, to the top of the sign structure;

6. The mm1mum distance between two off-premise signs shall be 2,640 feet measured along the roadway surface in either direction. The separation distance is measured from the center points of the sign posts. If the sign has more than one support, then the separation distance is measured from the center of the lineal dimension of the sign;

7. The minimum distance between an off-premise sign and a platted residential district, school, park, church or waterfront district shall be 500 feet, measured from the base of the sign to the nearest property line of any residential district, school, park, church or waterfront district;

8. The minimum setback from the nearest property line for any off-premise signs 50 feet. In addition, no off-premise sign shall project over or onto the right-of-way of any roadway;

9. Lighting of an off-premise sign shall be designed in a manner as to not be or become a nuisance to any residentially-zoned property in the city; and

10. Any pre-application conference filed with the City Planner for an off-premise sign (billboard) will need to include a plat of survey from a registered surveyor to include the proposed sign location on the property, the setback of the sign from the roadway, the legal description of the property and key number, separation measurements from any existing off-premises signs within 3,000 feet, and schools, churches, parks any platted residential districts, and Waterfront Development District within 600 feet.

(2) *Permitted M-2 signs.*

(a) An identification sign for each business on site not to exceed 96 square feet in sign area;

(b) Additional signs up to a total sign area on site of the total of the number of businesses on site multiplied by 96 square feet, plus an additional 96 square feet for the first 500 feet of street frontage and an additional six square feet in sign area for each additional 100 feet in street frontage; and

(c) An off-premise sign, in conformance with the criteria set forth herein:

1. Off-premise signs will only be allowed on Cline Avenue (State Road 912) corridor and the Indiana Toll Road (1-90) corridor;

2. No off-premise signs of any kind will be allowed in the following surface street corridors:

a. Indianapolis Boulevard;

b. Chicago Avenue;

c. Railroad Avenue;

d. Kennedy Avenue;

e. Huish Drive;

f. Euclid Avenue; and

g. Columbus Drive.

3. The maximum number of faces per sign structure shall be two, constructed back to back. No faces shall be installed side-by-side or stacked;

4. The maximum sign area shall be 672 square feet per face. Temporary extensions of copy for artistic purposes, up to 200 additional square feet, may be approved by the City Planner for a period not to exceed 120 days;

5. The maximum height shall be 50 feet, measured from the centerline of the roadway toward which the sign is faced, to the top of the sign structure;

6. The minimum distance between two off-premise signs shall be 2,640 feet measured along the roadway surface in either direction. The separation distance is measured from the center points of the sign posts. If the sign has more than one support, then the separation distance is measured from the center of the lineal dimension of the sign;

7. The minimum distance between an off-premise sign and a platted residential district, school, park, church or waterfront district shall be 500 feet, measured from the base of the sign to the nearest property line of any residential district, school, park, church or waterfront district;

8. The minimum setback from the nearest property line for any off-premise signs 50 feet. In addition, no off-premise sign shall project over or onto the right-of-way of any roadway;

9. Lighting of an off-premise sign shall be designed in a manner as to not be or become a nuisance to any residentially-zoned property in the city; and

10. Any pre-application conference filed with the City Planner for an off-premise sign (billboard) will need to include a plat of survey from a registered surveyor to include the proposed sign location on the property, the setback of the sign from the roadway, the legal description of the property and key number, separation measurements from any existing off-premises signs within 3,000 feet, and schools, churches, parks, any platted residential districts and Waterfront Development District within 600 feet.

(D) *Waterfront development signs.* All signs in the Waterfront Development District shall require site development review and a special use permit.

(Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.362 ABANDONED SIGNS.

The owner of property on which a sign advertising a use, facility, product or event that is no long sold, conducted or available on the premises shall remove the sign within 90 days of the discontinuance. Signs remaining after 90 days shall be considered abandoned signs and may be removed by the city, with the cost of the removal charged to the property owner(s). In the event that the property owner(s) fails to pay for the expense of removing any abandoned sign, the city may place a lien on the property for the amount due. (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.363 PRE-APPLICATION CONFERENCE-EXEMPT SIGNS.

The following signs shall be exempt from the requirement of a pre-application conference:

(A) One identification sign, not exceeding the square footages established pursuant to the zoning district in which the property is located, affixed to the building;

(B) Directional signs;

(C) Properly displayed national, state or local flags;

(D) Seasonal holiday decorations;

(E) Political signs in conformance with this subchapter;

(F) Real estate signs in conformance with this subchapter;

(G) Bulletin boards on the site of a national, state or local public facility, religious, charitable or educational institution;

(H) Official traffic, fire and police related signs, temporary traffic control signs, utility location and identification signs and markers, and any signs required by the city or any other public authority to be erected, installed or maintained; and

(I) Notices required to be posted by law.
(Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.364 SIGN PRE-APPLICATION CONFERENCE-REQUIRED.

No person shall place, erect, install or maintain any sign in the city without first obtaining a sign pre-application conference pursuant to this subchapter, unless the sign is exempt under the provisions of § 156.363. (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.365 SIGN PRE-APPLICATION CONFERENCE-FEE.

Application for a sign pre-application conference shall be made to the City Planner on form as may be prescribed by the Department of Business Development and Planning. Approval for signs not requiring site plan review and conforming to the regulations of this subchapter shall be issued by the City Planner and referred to the Building Commissioner for permits. An application for a sign requiring development plan review shall be referred by the City Planner to the Planning Commission for review in the same manner as other projects requiring development plan review. An application for a sign requiring a special use permit shall be processed in the same manner as any other application for a special use permit. (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.366 PERMITS AND FEES.

(A) After a pre-application conference and/or sign approval has been issued by the City Planner, a permit shall be obtained before placing, erecting, installing or repairing any sign, using forms furnished by the Building Commissioner pursuant to construction codes adopted by the city.

(B) Fees for sign permits shall be established by the Common Council of the city from time to time. The current fee schedule, adopted contemporaneously with the ordinance adopting this subchapter, shall be $1 per square foot of sign area. The sign application fee shall accompany the sign application.
(Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.367 ENFORCEMENT.

It shall be the duty of the Building Commissioner to see that this subchapter is enforced through the proper proceedings.

(A) Any sign lawfully erected prior to the effective date of this subchapter and maintained in conformance with the requirements of this subchapter shall be permitted to continue as a legal

nonconforming sign. No modification shall be made to a legal nonconforming sign, unless the modification serves to make the sign more conforming to the requirements of this subchapter.

(B) Any unlawfully erected or maintained sign shall be subject to removal under the provisions of Indiana Code and the city municipal code. The reasonable expense of removal, including reasonable attorney fees, may be placed as a lien on the property on which the sign was unlawfully erected or maintained. (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

FENCES

§ 156.380 PURPOSE AND INTENT.

(A) The purpose of a fence is to provide privacy, security, boundary definition, weather conditions control (snow fencing), decoration and safety for the residents and property owners of the city, the general public and for the various land uses within the corporate limits of the city.

(B) The intent of the following regulations is to provide a framework for the protection of the residents and property owners of the city, the general public and public and private property through the regulation of the installation, erection, repair, construction, placement and maintenance of fences on property located within the city. (Ord. 0-02-0009, passed--2002)

§ 156.381 DEFINITION AND CLASSIFICATION.

(A) *Definition.* A ***FENCE*** shall be defined as a manmade structure partially or completely surrounding a part of, or the whole of, a zoned lot from within the area controlled, including a hedge or other natural growth specifically planted as a barrier.

(B) *Classification.* A fence shall be of the following classifications:

(1) Wooden picket, PVI or other similar materials (not more than 50% open);

(2) Woven wire, chain link and similar metal materials (excluding chicken wire);

(3) Ornamental iron of any type;

(4) Wooden split rail and the like;

(5) Privacy fencing of solid material (90 % or more solid opaque material and taller than four foot), including PVC fencing, designed to physically and visually enclose areas;

(6) Shrubbery, including hedges, trees (excluding shade trees), or plants planted so as to provide a visual barrier of 50 % or more solid;

(7) Masonry walls of the following materials; brick, stone, decorative block, concrete block (in commercial and industrial zoning districts only) and/or other similar materials; constructed on a foundation; and

(8) Any similar fence-type structure not specifically mentioned above, designed to enclose all or part of a zoning lot that serves a purpose similar to a fence excluding masonry walls. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.382 LOCATION OF FENCES.

The location of all fencing and associated bases shall adhere to all setback and yard requirements provided in the zoning regulations and shall be within the property line.
(Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.383 MAINTENANCE AND REPAIR OF FENCES.

(A) All fences (including walls) shall be constructed of new or good used material and in accordance with the methods of construction that conform to the requirements of the adopted Building Code.

(B) All materials used in the construction of fences shall be clean, sound and free from decay or other defects that would seriously hamper or impair the strength of the fence. All materials used shall be nontoxic, non-hazardous, and not deleterious to the environment. Wood fences shall be proper fencing materials. All fences shall be of a uniform material from the ground or lowest level to the top of highest level of the fence. City staff shall review all proposed materials as part of the fence permit application process.

(C) All fences shall be maintained in a state of good repair. Any dilapidated, dangerous or unsightly fences or retaining walls shall be repaired, painted or removed when so ordered by the Building Commissioner. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.384 PROHIBITED FENCES.

(A) *Barbed wire; razor wire fences and the like.*

(1) No person shall place, erect, install, build, construct, add as a repair item, use and/or maintain any fence or barrier consisting of, or made of what is called barbed wire in residential zoning districts.

(2) Barbed wire is also prohibited along the line of, or in or upon a public park, church, school or other location intended for use by children. Use of barbed wire for special reasons is subject to review by city staff for use in only commercial and industrial zoning districts.

(B) *Electrically charged fences.* No person shall place, erect, install, build, construct, add as a repair item, use and/or maintain an electrically charged fence within any zoning district of the city.

(C) *Excluded materials used to construct fences.* No person shall place, erect, install, build, construct, add as a repair item, use and/or maintain any fence or barrier consisting of, or made of what is commonly known as railroad ties, blocking lumber, pallets or similar materials. Additionally, no metal siding, metal sheeting or the like shall be used to construct a fence.

(D) *Protrusion on fences.* No person shall place, erect, install, build, construct, add as a repair item, use and/ or maintain any fence or barrier with spikes or nails or any other sharp objects imbedded on the top or sides of a fence or barrier within any zoning district of the city.

(E) Fences and other obstacles causing obstruction of view. No owner, occupant or tenant of any real estate abutting any street intersection shall permit any fence, tree, shrubbery or obstacle at any street intersection or within 20 feet from the intersecting right-of-way lines of the intersection. No fence, tree, shrubbery or obstacle shall obstruct or tend to obstruct the view of any operator of a vehicle or a bicycle or a pedestrian approaching any intersection within the city in what is known as the vision clearance area.

(Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.385 CERTAIN FENCE ENCLOSURES REQUIRED.

The following shall be required to be enclosed by a fence.

(A) *Property undergoing new construction.*

(1) Prior to the initiation of construction and upon obtaining a required fence permit, a temporary security fence of six feet is required to be erected with sufficient anchoring to secure the new construction site.

(2) The temporary security fence is to be removed after the construction completion and prior to occupancy of the site.

(B) *Property undergoing demolition and/or repair.*

(1) Prior to the initiation of demolition, dismantling, removing or extensively repairing of a building or structure abutting a street, alley or sidewalk; and, upon obtaining a required fence permit, protection in the form of a temporary security fence shall be provided for the site being affected. Any temporary security fence installed with sufficient anchoring shall not be less than four feet high with approved and appropriate cautionary signage, barricades and/or ribbon taping. The temporary security fence shall be removed after completion of the demolition or repair.

(2) A minimum four-foot high temporary security fence shall also be required for any building under 40 feet high and shall be placed within 15 feet of, or adjacent to, a street and alley line.

(a) For buildings not exceeding 22 feet in height the fence shall not be less than seven feet from the building line.

(b) For buildings exceeding 22 feet in height the fence shall not be less than nine feet from the building line. The fence must fully enclose the building from the required distance between the face of the building and the property line, but shall not extend beyond the lot line of the property upon which the building is located without special acknowledgment by the issued permit.

(3) For buildings exceeding 40 feet in height the temporary security fence shall not be less than six feet high and shall be located 15 feet or more from the building line. Where the protection extends beyond the lot line of the property upon which the building is located, a special acknowledgment shall be noted on the issued permit.

(C) *Storage yards.* Every premises or enclosure (except a completely enclosed building) used for the purpose of storing materials, including bulk storage, junkyard materials, inoperable and/or dismantled vehicles and similar items, shall be entirely surrounded by a privacy fence. The privacy fence shall be at a minimum six feet high and not exceeding eight feet in height. The fence shall be kept in a proper state of

repair and none of the enclosed items or stored materials shall be piled higher than the fence or visible above the top of the fence.

(D) *Swimming pools.* All swimming pools shall be enclosed by means of a fence. The fence shall be at least six feet, and not exceeding eight feet in height, and shall be of a type not readily climbed by children. The gates for the fence shall be of a self-closing and latching type with the latch on the inside of the gate not readily accessible for public entrance. If a privacy fence of at least six feet encloses the entire rear yard of the residential unit, this provision may be waived after inspection and approval of the residential enclosure by the City Building Commissioner's office. The approval shall be issued on forms provided by the City Building Commissioner's office and must be retained by the property owner.

(Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.386 PERMITTED FENCES-RESIDENTIAL DISTRICTS.

In residence districts, fences enclosing plots used for dwelling purposes shall conform to the following requirements.

(A) *Residential units not at an intersection (see Diagram A).*

(1) Fences erected in front of the building line shall be as listed in § 156.381(B) (1), (2), (3), (4), (6) or (8) and shall not exceed four feet in height unless approved by variance. No privacy fence may be erected in front of the building line. Masonry pillars may be permitted as part of the permit. The pillars for a fence shall not exceed 4.6 feet in height and each pillar shall not exceed 18 inches in width and depth.

(2) Side yard fences placed behind the front building line, may be of any type but shall not exceed a height of six feet.

(3) Rear yard fences may be of any type, but shall not exceed a height of eight feet.

(B) *Residential units at an intersection (see Diagram B).*

(1) Corner lot properties (those having a side yard adjacent to a street) fences erected in front of the building line shall be as listed in § 156.381(B)(1), (2), (3), (4) or (6), and shall not exceed four feet in height unless approved by variance. No privacy fence may be erected in front of the building line. Fence type (§ 156.381(B)(6)) shrubbery, and the like, may be used on the side yard adjacent to a street, up to a maximum height of six feet, provided the fence is located behind the front building line. Any pillar use shall conform to the above.

(2) Side yard fences, on the nonadjacent street side, placed behind the front building line to the rear building line, may be of any type but shall not exceed a height of six feet.

(3) Side yard fences, on the adjacent street side, § 156.381(B)-privacy fencing may be used on the side yard adjacent to a street, up to a maximum height of six feet, provided the fence is located behind the front and rear building lines.

(4) Rear yard fences may be of any type, but shall not exceed a height of eight feet.

(C) *Generally.* Any residential district or subdivision with a developmental covenant restricting the use of fencing or places certain restrictions on fencing type and height and the like, remain in force and will be enforced by this subchapter.

Diagram A-Interior Lot-Not at Intersection

Diagram B -Corner Lot at Intersection

(Ord. 0-02-0009, passed--2002) Penalty, see § 156.999

§ 156.387 PERMITTED FENCES-COMMERCIAL AND INDUSTRIAL DISTRICTS.

In commercial and industrial zones fences shall conform to the following requirements.

(A) Fences erected along the front property line in commercially and industrially zoned districts shall not exceed six feet in height and may be of any type except§ 156.381(B)(7)-masonry walls. Fences along the sides and back building lines may be of any type and shall not exceed six feet.

(B) Fences erected along the front property in commercially and industrially zoned districts that are greater than six feet, but not more than eight feet in height, may be of any type. The fence shall be set back from the street line a minimum of five feet and softened by landscaping material as approved by the City Planning Department in the pre-application conference.

(C) Fences erected along the front property line of existing and occupied residential unit(s) in commercially and industrially zoned districts shall not exceed four feet in height unless approved by variance and shall be of any type § 156.381(B)(5)-privacy fencing. The residential lot can use any other type of fence for the sides and back of the parcel in conformance with the residential section of this subchapter.

(D) Fences erected in association with used car lots or parking lots (public or private) along the front property line (or the street frontages, if at a corner) in commercially and industrially zoned districts shall not exceed six feet in height and only can be of § 156.381(B)(2)-woven wire. A site plan showing lot ingress and egress, the placement of the vehicles on the lot, and the type of gate system to be used must accompany any application for the fence. The used car or parking lot can use any type of fence for the sides and back of the parcel in conformance with this section of this subchapter.

(E) Barbed wire, and the like, may be used at a height of not less than seven feet above grade. Barbed wire, and the like, shall be placed so that it does not project beyond the outside face of the fence. The City Planning Department in the pre-application conference shall approve the use of barbed wire, and/or the like, in conjunction with a fence. (Ord. 0-02-0009, passed--2002)

§ 156.388 FENCE PERMIT PRE-APPLICATION CONFERENCE REQUIRED.

A fence permit pre-application conference is required to place, erect, construct or install any fence in the city. A person with an existing fence needing repair in an amount over $100 is also required to participate in a fence permit pre-application conference.

(Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.389 FENCE PERMIT PRE-APPLICATION CONFERENCE.

(A) Application for a fence permit pre-application conference shall be made to the City Planner on forms as may be prescribed by the Department of Business Development and Planning. The person

making application should submit a plat of survey with the fence located on the survey, it will become an attachment to the conference form.

(B) Approval for fences not requiring site plan review and conforming to the regulations of this subchapter shall be issued by the City Planner and referred to the Building Commissioner for a fence permit.

(C) An application for a fence requiring development plan review shall be referred by the City Planner to the Planning Commission for review in the same manner as other projects requiring development plan review. An application for a fence requiring a variance or special use permit shall be processed in the same manner as any other application for a variance or special use permit.
(Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.390 PERMITS AND FEES.

(A) A plat of survey must accompany a fence permit application as part of the pre-application conference and any permitting submission to the Building Department.

(B) A building permit must be obtained (by either the owner of the property upon which the fence is to be constructed or erected, or by contractor performing the work) before placing, erecting, installing, construction or repairing the fence, after the pre-application conference form with fence approval has been issued by the City Planner. The permitting process shall use forms furnished by the Building Commissioner pursuant to building/construction codes adopted by the city.

(C) The Common Council of the city establishes fees for any permits from time to time. The current fee schedule, adopted contemporaneously with the ordinance adopting this subchapter, shall be based on the entire cost of the fence materials plus labor costs.

(D) The fence building permit fee shall accompany the fence permit application.
(Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.391 ENFORCEMENT.

It shall be the duty of the Building Commissioner to see that this subchapter is enforced through the proper proceedings, including legal action.

(A) Any fence lawfully erected prior to the effective date of this subchapter and maintained in conformance with the requirements of this subchapter shall be permitted to continue as a legal nonconforming fence. No modification shall be made to a legal nonconforming fence, unless the modification serves to make the fence more conforming to the requirements of this subchapter. Any modification requires the pre-application conference process, as well as, a building permit.

(B) Any unlawfully erected or maintained fence shall be subject to removal under the provisions of Indiana Code and the city municipal code. The actual expense ·of removal, including reasonable attorney fees, may be placed as a lien on the property on which the fence was unlawfully erected or maintained.

(C) (1) If a dispute arises between the property owner erecting the fence and any adjacent property owners as to the location of the fence, the Building Commissioner may require the property owner erecting the fence to either:

(a) Show that the fence was erected according to the plat of survey described in § 156.390(A); or

(b) Shall obtain a current land survey from a registered surveyor.

(2) If the parties in the dispute find that the fence has been improperly placed/located, the owner erecting the fence shall be required to move the fence.
(Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

HISTORIC PRESERVATION COMMITTEE

§ 156.405 PURPOSE.

(A) The purpose of this subchapter is to identify those structures, sites and neighborhoods in the city that have historic, architectural and aesthetic significance and to preserve and maintain them for current and future residents by encouraging renovation, rehabilitation and repair that is consistent with their historic, architectural and aesthetic character.

(B) Furthermore, it is the purpose of this subchapter to strengthen the economy of the city by stabilizing and improving property values in historic areas, and to encourage new or rehabilitated buildings and developments that will be harmonious with existing historic structures, sites and neighborhoods. (Ord. 0-08-0020, passed 9-22-2008)

§ 156.406 DEFINITIONS.

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

ALTERATION. Any act or process which changes one or more of the "exterior architectural features" of an improvement.

CERTIFICATE OF APPROPRIATENESS. A certificate authorizing plans for alteration, construction, demolition or removal of an improvement which has been designated a landmark or which is located within an historic preservation district.

COMMISSION.

(1) The Historic Sites Commission shall be an appointed body, consisting of appointees from the following governing branches:

(a) Plan Commission: one appointee, (this appointee shall be an architect or planner);

(b) BZA: one appointee;

(c) City Council: one appointee; and

(d) Office of the Mayor: two appointees.

(2) At the discretion of their respective appointing body, each appointee shall serve a term of no less than two years. All additional conditions affecting the Historic Sites Commission shall be determined by the city.

CONSTRUCTION. Any act of process whereby a new improvement is built, an existing improvement is expanded in size or area, or a demolished improvement is rebuilt.

DEMOLITION. Any act or process which destroys all of an improvement.

EXTERIOR ARCHITECTURAL FEATURE. The architectural style, design, general arrangement and components of all of the outer surfaces of an improvement, as distinguished from the interior surfaces enclosed by the exterior services, including, but not limited to, the kind of building materials and the type and style of windows, doors, lights, signs and other fixtures are pertinent to the improvement, visible from any public street or thoroughfare. An alley shall not be considered a public street or thoroughfare for the purposes of this definition.

HISTORIC PRESERVATION DISTRICT. Any area which:

(1) Contains improvements which:

(a) Have a special character or special historic or aesthetic interest of value;

(b) Represent one or more periods of styles of architecture typical of one or more eras in the history of the city; and

(c) Cause the area, by reason of factors, to constitute a distinct section of the city.

(2) Has been designated by the City Council as an ***HISTORIC PRESERVATION DISTRICT*** pursuant to the provisions of this subchapter.

IMPROVEMENT. Any building, structure, site, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of or addition to real property, or any part of the betterment or addition.

INTERIOR. The visible surfaces of the enclosed or inside portions of an improvement.

LANDMARK. Any improvement, which has a special historical, community or aesthetic interest or value as party of the development, heritage or cultural characteristics of the city, state of nation and which has been designated by the City Council as a landmark pursuant to the provisions of this subchapter. ***LANDMARKS*** include improvements which reflect or exemplify the cultural, political, spiritual, economic, social or artistic history of the city, state or nation, or which are identified with historic personages or with important events in local, state or national history, or which embody the distinguishing characteristics of an architectural specimen, inherently valuable for a representation of a period, style or method of construction, or a notable work of construction, or a notable work of a master designer or architect whose individual genius influenced his or her era .

ORDINARY REPAIRS AND MAINTENANCE. Any work done on or replacement of any part of an improvement for which a permit issued by the Department of Community Development is not required by law, where the purpose and effect of the work or replacement is to correct any deterioration or decay of or damage to the improvement of any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of the deterioration, decay or damage.

OWNER. Any person, group of persons, partnership, corporation or other legal entity holding legal or equitable title to real estate located within the city, including, but not limited to, contract purchasers and all of the beneficiaries under a land trust.

PARTIAL DEMOLITION. Any act or process which destroys part of an improvement in order to accommodate an addition to the improvement.

REMOVAL. Any act or process which changes the location or position of an improvement of or any portion of an improvement.

TAX PARCEL. Any lot, block, tract or other piece of real property, whether tax exempt or not, which has been assigned a permanent real estate index number, as shown on the record of the local real estate tax collector. (Ord. 0-08-0020, passed 9-22-2008)

§ 156.407 APPLICABILITY OF ZONING PROVISIONS.

(A) *Zoning classifications and permitted uses.*

(1) All landmarks and historic preservation districts shall also be classified in one or more of the zoning districts established by subchapter. The zoning of any landmark shall be designated by a combination of symbols, i.e., R-2-L, C-1-L and the like. The zoning of any land in a historic preservation district shall be designated by a combination of symbols, i.e., R-2-H, R-3-H and the like.

(2) For any landmark or any historic preservation district, all the regulations of the underlying zoning district shall apply, except insofar as the regulations are in conflict with any special regulations applicable to a landmark or historic preservation district, and in the event of a conflict, the regulations governing the landmark or historic preservation district shall apply. All permitted uses or conditional uses otherwise allowable in the underlying zoning district shall continue to be the appropriate allowable use.

(B) *Relationship to Plan Commission.* The Historic Sites Commission may, at the request of the Plan Commission or on its own initiative, prepare a written report to, and, in addition, may testify at any public hearing conducted by, the Plan Commission with respect to any matter being considered by the Plan Commission which may affect any improvement designated a landmark or any designated historic preservation district.

(C) *Conditional uses.*

(1) A copy of any application for a conditional use under the provisions of this subchapter shall be forwarded by the Plan Commission to the Historic Sites Commission, if the proposed conditional use would be within or immediately adjacent to a historic preservation district, or if the owner of a landmark would be entitled to notice under the provisions of this subchapter.

(2) Within a reasonable time after receipt of the copy of any application for a conditional use, the Historic Sites Commission shall review the application to determine the effect which the proposed conditional use would have on the landmark or historic preservation district, according to the appropriate criteria and architectural and aesthetic consideration for the granting of a certificate of appropriateness.

(3) Within 30 days after receipt of the copy of any application for a conditional use, the Historic Sites Commission shall file with the Plan Commission any written report and recommendations it desires to make. The written report and recommendations, and any testimony presented by the Historic Sites Commission at a public hearing conducted by the Plan Commission, shall be briefly summarized in the report submitted by the Plan Commission to the City Council. In lieu of the summary, the Plan Commission, at its discretion, may append the Historic Sites Commission's report and recommendations to the written report and recommendations made by the Plan Commission to the City Council.

(D) *Variances, amendments to zoning provisions.*

(1) A copy of any application for a variance from the provisions of these zoning provisions, or street graphics ordinance, and a copy of any proposed amendment to the map or text of the zoning provisions shall be forwarded by the Plan Commission of the Board of Zoning Appeals to the Historic Sites Commission, if the proposed change would be within or immediately adjacent to a Historic Preservation District, or if the owner of a landmark would be entitled to notice under the provisions of the zoning provisions or this chapter.

(2) Within a reasonable time after receipt of the copy of any application for a variance from the provisions of this zoning chapter or an amendment to the map or text of this zoning chapter, the Historic Sites Commission shall review the application to determine the effect which the proposed variance or amendment would have on the district according to the appropriate criteria and architectural and aesthetic considerations of the granting of a certificate of appropriateness.

(3) Within 30 days after receipt of the copy of any application for a variance of a proposed amendment, the Historic Sites Commission shall forward any written report and recommendations it desires to make to the Commission or Board from which the copy of the application or amendment was received. The written report and recommendations, and any testimony presented by the Historic Sites Commission as a public hearing conducted by the Plan Commission or Board of Zoning Appeals concerning the proposed variance or amendment, shall be briefly summarized in any reports required to be submitted to the Historic Landmarks Foundation of Indiana by the Plan Commission or Board of Zoning Appeals, as applicable. In lieu of the summary, the Plan Commission or Board or Zoning Appeals, at its discretion, may append the Historic Sites Commission's report and recommendations to any written reports and recommendations required to be provided to the Historic Landmarks Foundation of Indiana by the Plan Commission or Board of Zoning Appeals.

(Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.408 ACQUISITIONS OF APPROPRIATE PROTECTIVE INTERESTS.

(A) The city may acquire, by purchase, donation or condemnation, appropriate protective interests in any landmark or any improvement located within an historic preservation district within the corporate boundaries of the city wherever and to the extent that the City Council, upon the recommendation of the Commission, determines that the acquisition will be in the public interest.

(B) For the purposes of this section, an ***APPROPRIATE PROTECTIVE INTEREST*** means any right or interest in or title to an improvement including, but not limited to, fee title or any easement, restriction, covenant or condition running with the land, designated to preserve, maintain or enhance all or part of the existing state of improvements of historic, architectural or aesthetic significance, the

acquisition of which is determined by the City Council to be necessary and appropriate for the effectuation of the purposes of this subchapter. (Ord. 0-08-0020, passed 9-22-2008)

NON-CONFORMING USES

§ 156.420 PURPOSE.

The regulations of this chapter govern nonconformities, which are structures, use, lots, developments, signs, fences, parking areas and floodway/floodway fringe use that were lawfully established but because of the adoption of new or amended regulations no longer comply with one or more requirements of this Zoning Ordinance. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.421 INTENT.

In older cities, such as East Chicago, many structures and uses that were established in compliance with all regulations in effect at the time of their establishment have been made nonconforming by zoning map changes (rezoning) or amendments to the Zoning Ordinance text. The regulations of this chapter are intended to clarify the effect of such nonconforming status and avoid confusion with illegal structures and uses (those established in violation of zoning rules). The regulations are also intended to:

(A) Recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;

(B) Promote maintenance, reuse and rehabilitation of existing building; and

(C) Place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties or the community as a whole. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.422 AUTHORITY TO CONTINUE.

Any nonconformity that existed on the effective dates specified in § 10.05 or any situation that becomes nonconformity upon adoption of any amendment to this Zoning Ordinance may be continued in accordance with the regulations of this chapter.
(Ord. 0-09-0008, passed 4-27-2009)

§ 156.423 DETERMINATION OF NONCONFORMITY STATUS.

The burden of proving that nonconformity exists (as opposed to a violation of this Zoning Ordinance) rests with the subject landowner. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.424 REPAIRS AND MAINTENANCE.

(A) Nonconformities must be maintained to be safe and in good repair.

(B) Incidental repairs and normal maintenance necessary to keep nonconformity in sound condition are permitted unless otherwise expressly prohibited by this Zoning Ordinance.

(C) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt after three months of such declaration except in conformity with the regulations of the district in which it is located.

(D) Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(E) When the structure is destroyed or damaged by fire or other casualty the structure can be restored to the condition in which it was before the occurrence of the fire or other casualty only if the reconstruction cost does not exceed fifty (50) percent of the cost of replacement of the entire building. (As stated on the property owner's record card located in the Township Assessor's office.)

(Ord. 0-09-0008, passed 4-27-2009)

§ 156.425 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter but could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, setback lines, intensity, its location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity to a conforming use.

(B) A detached residential accessory structure which becomes a nonconforming structure due to the demolition or other removal of the primary residential structure shall be permitted to continue. However, the failure to construct a new primary residential structure on the same lot, tract, or development parcel within 12 months of the removal of the primary structure shall be construed as intent to abandon the accessory structure. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.426 NONCONFORMING USE.

A lawful use involving individual structures, land or of structures and land in combination, exists at the effective date of adoption or amendment of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a district or greater restrictions, it shall not thereafter be changed to a non-conforming use or a less restricted use, except upon approval of the Board of Zoning Appeals. Provided, however, that where a property in an "M-1" or "M-2" district conforms with requirements for off-street parking through the utilization of leased land at the time of the enactment of this Ordinance, the use of that property shall not be considered to have changed from conforming to non-conforming use by virtue of the loss of the right to the use of leased property for off-street parking purposes, until such time or unless additional property become available, in which event off-street parking requirements shall be met before other uses are established.

(B) A non-conforming use of a building or structure designed for a conforming use shall not be expanded or extended into any other portion of such conforming building or structure nor changed except to a conforming use.

(C) These provisions apply in the same manner to a use which may become a non-conforming use due to a later amendment to this Ordinance.

D. The non-conforming use of land for storage purposes shall be discontinued within five (5) years from the date of the adoption and approval of this Ordinance, and the use of land for storage purposes which becomes non-conforming by reason of subsequent change in the Ordinance shall also be discontinued with five (5) years from the date of change. In addition, an environmental remediation plan to restore the land shall be established prior to the termination of the non-conforming use and such plan must be implemented by the land owners or leaser of land at the termination of the non-conforming use.

(E) Whenever a non-conforming use has been discontinued for a period of one (1) year such use shall not thereafter be established and any future use shall be in conformity with the provisions of this Ordinance.

(F) If no structural alterations are made to a structure or structure and land in combination, a non-conforming use may be changed to another nonconforming use, provided that the zoning administrator shall make specific findings that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. The determination of the zoning administrator may be referred by the applicant or the staff of the board of zoning appeals which may make the findings and require appropriate conditions and safeguards.

(G) When a nonconforming use of a structure, land, or a structure and land in combination is discontinued or abandoned for (1) year, or when governmental action impedes access to the premises, the structure, land, or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(H) If a nonconforming adult use or open use of land is discontinued for (6) continuous months or more, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

(I) When a structure containing a nonconforming use is intentionally damaged by causes within the control of the owner, re-establishment of the nonconforming use is prohibited.

(J) The Board of Zoning Appeals may authorize, by written permit, in a residential district for a period of not more than one (1) year from the date of such permit, a temporary building for commercial or industrial use incidental to the residential construction and development of such district.
(Ord. 0-09-0008, passed 4-27-2009)

§ 156.427 NONCONFORMING LOTS.

A nonconforming lot is a tract of land lawfully established as a lot on a plat recorded or registered, pursuant to statute, with the Recorder of Deeds of Lake County Indiana and the City of East Chicago, Indiana that does not comply with the minimum lot area or lot width standards of the zoning district in which it is now located. The lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) In residential zoning districts, a nonconforming lot may not be developed unless approved by BZA. However, if a nonconforming lot is voluntarily increased in size and complies with applicable lot area or lot width standards, such lot may be developed within a residential zoning district.

(B) In nonresidential zoning districts, a nonconforming lot may not be developed without approved by BZA. How However, if a nonconforming lot is voluntarily increased in size and complies with applicable lot area or lot width standards, such lot may be developed within a nonresidential zoning district. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.428 NONCONFORMING DEVELOPMENTS.

A nonconforming development is any aspect of a development other than a nonconforming lot, nonconforming use or nonconforming sign that was lawfully established, in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more standards of this Zoning Ordinance. Common examples of nonconforming developments are buildings that do not comply with current setback or height standards, off-street parking or loading areas that contain fewer spaces than required by current standards or sites that do not comply with current landscaping standards. Nonconforming developments may remain, subject to the regulations of this section.

Unless otherwise expressly stated in this Zoning Ordinance, nonconforming developments may be altered or enlarged as long as the alteration or enlargement does not increase the extent of conformity. A building addition to an existing nonconforming development that projects further into a required setback or further above the permitted maximum height is an example of increasing the extent of nonconformity. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.429 NONCONFORMING SIGNS.

A nonconforming sign is a sign that was lawfully established prior to the effective date of adoption or amendment of this chapter, the lawful sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) Nonconforming signs must be maintained in good repair, and must comply with all other requirements of this Zoning Ordinance.

(B) Nonconforming signs shall be reviewed by zoning district and determinations made based on the provisions of the Sign Ordinance.

(C) Change of copy or the substitution of panels or faces on nonconforming signs is permitted without affecting the legal status of a sign as a nonconforming sign (subject to requirements for building and electrical permits). No other alterations are allowed, except for routine maintenance and repair.

(D) Any nonconforming on-premise sign that is located on property that has failed to maintain a valid business license or that becomes vacant and unoccupied for a period of (3) months, or any nonconforming on-premise sign that pertains to a time, event or purpose that is no longer imminent or pending will be deemed to have been abandoned.

(E) Any nonconforming off-premise sign that is not used or for which a valid permit or license does not exist for a continuous period of (3) months will be deemed to have been abandoned.

(F) Abandoned nonconforming signs are prohibited and must be removed by the owner of the sign or the property owner of the premises. No building permits or approvals may be issued for buildings occupied by nonconforming abandoned signs until such signs are removed or updated to present sign ordinance. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.430 NONCONFORMING FENCES.

Fences which are legal non-conforming with regard to location on the lot may be maintained and repaired as necessary. Such a fence may also be replaced, provided the, location and type of fence remains the same and the height is not increased. However, in the event of (30%) of a non-conforming fence is damaged by unforeseen incident, or a non-conforming fence containing barbed wire, razor wire or other harmful material, the replacement of the fence shall only be permitted in accordance with the applicable current requirements of the zoning district where the fence is located. Any person proposing to replace such a nonconforming fence shall submit adequate documentation as part of the fence application for the Improvement Location Permit for the fence verifying the current location, height and fencing material to a Zoning Enforcement Officer. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.431 NONCONFORMING PARKING AREAS.

Parking areas which do not conform to the improvements and or landscaping standards or the screening and buffering standards may continue to be used. Any proposed addition to or expansion of such a parking area shall be required to conform to the current applicable parking requirements including the improvement and landscaping standards, and the screening and buffering standards. The resurfacing, re-striping, or similar maintenance of existing parking area shall not be considered an addition or expansion. (Ord. 0-09-0008, passed 4-27-2009)

§ 156.432 NONCONFORMING FLOODWAY/FLOODWAY FRINGE/FLOOD PLAIN.

In a floodway (FW) district, no nonconforming use may be expanded or enlarged nor can a building undergo substantial modification without a permit for construction in a floodway from Natural Resources.

In a floodway fringe (FF) district a building which constitutes a nonconforming use may undergo substantial modification provided such modification is on a one-time only basis and further provided that such modification does not increase the value of the building, by more than forty percent of its pre-improvement market value, (excluding the value of land) unless such building is permanently changed to a conforming use.

A nonconforming use in a floodplain (FP) district may be altered, enlarged, or extended, on a one-time-only basis, provided the procedures set forth in the ordinance codified in this section with respect to new construction in a floodplain (FP) district are followed and further provided such alterations, enlargements, or extensions do not increase the value of the building structure, or other use (excluding the value of land) by more than forty percent of its pre-improvement market value, unless such building, structure or use is permanently changed to a conforming use.

Any nonconforming use in the FW, FF, and FP district which is damaged by flood, fire, explosion, act of God, or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings, excluding the value of the land, by more than forty percent of its pre-damage value. (Ord. 0-09-0008, passed 4-27-2009)

LANDSCAPE REGULATIONS

§ 156.440 PURPOSE.

This chapter is intended to establish minimum time, place and manner standards for landscaping in the City of East Chicago. More specifically the purpose of this chapter:

(A) To promote the community's goals and objectives;

(B) To establish landscaping provisions within the City of East Chicago Zoning Ordinance;

(C) To insure that landscaping is an integral component of design and development and not an afterthought;

(D) To require landscape planting such to benefit the health, safety and general welfare of the community;

(E) To protect the natural environment;

(F) To require a reasonable amount of landscaping materials such to reduce glare, reduce heat buildup, enhance visual quality of developments, screen and mitigate potential conflict between land uses, reduce noise pollution, reduce erosion, minimize storm water runoff, and improve air quality;

(G) To require regular maintenance and ongoing compliance with the regulations;

(H) Require the use of appropriate plant and tree species and disallow invasive plant species;

(I) Manage and minimize the removal of existing significant plant material; and

(J) To establish punitive recourse for violations or noncompliance regarding these landscape provisions. (Ord. 0-09-0008, passed 4-28-2009)

§ 156.441 APPLICATION.

This chapter applies to any project requiring an Improvement Location Permit, any Primary Plat, or any Detailed Development Plan. Only projects that meet these regulations shall be granted the required permits. (Ord. 0-09-0008, passed 4-28-2009)

§ 156.442 EXEMPT PROJECTS.

Any proposed project that has completely and accurately submitted an application for review or approval prior to the effective date of this chapter shall be exempt from this chapter.
(Ord. 0-09-0008, passed 4-28-2009)

§ 156.443 DEFINITIONS.

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

APPLICANT. The owner, owners, or legal representative of lot who makes application to the City of East Chicago Plan Commission and/or Board of Zoning Appeals for action by said commission or board affecting the lot owned thereby.

BOARD OF ZONING APPEALS (BZA). The City of East Chicago Board of Zoning Appeals.

CALIPER. Diameter measurement of the trunk of nursery stock taken six inches above ground level for trees up to and including four-inch caliper size. Measurement shall be taken 12 inches above the ground for larger trees.

CANOPY TREE. Deciduous trees that grow to at least 30 feet in height and that have a canopy that is round or oval in shape. Conical or tubular shaped trees are not ***CANOPY TREES***.

CONTINUOUS MOUND. See ***MOUND, CONTINUOUS.***

CRITICAL HABITATS. Land with plant and animal species which are listed as threatened or endangered by the Indiana Department of Natural Resources publication, "Indiana's Rare Plants and Animals".

DBH (DIAMETER AT BREAST HEIGHT). DBH is an urban forestry term and is sometimes used instead of caliper. DBH is the diameter of a tree four and one-half feet above ground level. If the tree is multi-trunked or the tree is not over four and one-half feet tall, the diameter measurement of the trunk taken six inches above the ground level shall constitute DBH.

DIRECTOR OF PLANNING. The person delegated the responsibility for the administration of this chapter including the DIRECTOR OF PLANNING'S designee(s).

DRIP LINE. A vertical line running through the outermost portions of the tree crown extending to the ground.

EXISTING SIGNIFICANT PLANT MATERIAL. Evergreens over six feet in height, deciduous trees over two and one-half inches DBH, and shrubs over four feet in height.

GREEN SPACE. Areas designated for public gathering or recreation (passive or active), held in private or public ownership.

IMPERVIOUS SURFACE. Any building, structure, paved surface, gravel surface or compacted area which by its dense nature does not allow absorption of storm water or the passage of sufficient oxygen and moisture to support and sustain healthy root growth.

LANDSCAPE AREAS. Places on a lot or abutting right-of-way that are identified for application of landscaping regulations. ***LANDSCAPE AREAS*** include: street tree planting areas, parking lot planting areas, foundation planting areas, buffer yard areas, retention pond planting areas, and perimeter planting areas. The image below (Landscape Areas Diagram) conceptually demonstrates the general location of each landscape area.

Insert Diagram

LANDSCAPE MATERIAL. Trees, shrubs, groundcover, fence, retaining walls, walls, earthen mounds, irrigation systems, large decorative rock, edging, mulch, stakes and the like can be considered

landscape material. Artificial plants (trees, shrubs, ground cover, and flowers) and gravel-sized rock are not considered ***LANDSCAPE MATERIAL.***

LANDSCAPE STRUCTURE. Fences, walls, retaining walls, edging, decorative rocks and the like.

LOT. A piece, parcel or tract of land designated by its owner or developer to be used developed or built upon as a unit single or multiple ownership or control.

MOUND. A landscape feature in which earth is piled up in irregular, round or oblong shapes. Particularly, MOUNDS do not have consistent crest elevations, but are irregular in form and overlapping such to emulate a more natural landscape feature.

MOUND, CONTINUOUS. A landscape feature which earth is piled up in a regular oblong shape and that has a top elevation (crest) relatively consistent from one end to the other.

ORNAMENTAL TREE. Generally, a deciduous tree that does not exceed 30 feet in height at maturity. ***ORNAMENTAL TREES*** typically are flowering trees.

PLANNING COMMISSION. The City of East Chicago Planning Commission.

PLANT MATERIAL. Trees, shrubs, perennials, vegetative ground cover, and similar living vegetation.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses.

RIPARIAN AREA. Of or pertaining to the wooded or vegetated areas along creeks, streams, rivers or designated regulated drains.

ROOT PROTECTION ZONE. Generally, 18 to 24 inches deep and a distance from the trunk of a tree equal to one-half its height or its drip line, whichever is greater.

SPECIMEN TREE. Trees with a DBH of 24 inches or greater.

STRUCTURE. Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground, including but not limited to buildings, freestanding signs and other similar items.

CITY. The City of East Chicago.

CITY ARBORIST. A person certified in tree and plant care.

TURF. Lawn-type grasses that are intended to be manicured and maintained at no more than eight inches of height.

WOODED LOT. An area which contains trees at a rate above 250 cumulative inches DBH per acre. Trees under two and one-half inches DBH are not included in the cumulative DBH calculation per acre. (Ord. 0-09-0008, passed 4-28-2009)

§ 156.444 GENERAL LANDSCAPING STANDARDS.

(A) This section applies to new development requesting an Improvement Location Permit (ILP) or approval of a Development Plan, or Primary Plat in all zoning districts.

(1) To treat landscape material the same as other development requirements (such as parking lots) by requiring regular maintenance and ongoing compliance with the regulations.

(2) To encourage the use of appropriate species and to disallow invasive plant species.

(B) Landscape material with the exception of street trees shall not be planted or placed in the right-of-way or easements without permission from the CITY or the easement holder unless otherwise required by this chapter. A tree canopy may project over a right-of-way or easement.

(C) Trees, vegetation, irrigation systems, fences, walls and other landscape material are essential elements of a project. The applicant and/or landowner, and their successors in interest are responsible for the regular maintenance of all landscaping elements such that they are kept in good condition. Specifically:

(1) All plant material shall be maintained alive, healthy, and free from disease and pests;

(2) All landscaped areas shall be free of weeds, litter, graffiti, and similar signs of deferred maintenance; and

(3) All landscape structures such as fences and walls must be repaired or replaced periodically to maintain a structurally sound condition.

(D) Landscape plans shall be designed by landscape professionals (landscape architects, landscape designers, landscape contractors, nursery personnel) and include the following features:

(1) Property lines, north arrow, scale;

(2) Existing and proposed structures;

(3) Existing and proposed pavement;

(4) Rights-of-way and easements;

(5) Topography with two-foot contour lines;

(6) Mounds shown by one-foot contour lines;

(7) Utilities;

(8) Fencing and walls;

(9) Existing wooded areas; and

(10) Proposed plant material with identification of botanical and common name, DBH, quantity, and planning details.

(E) Plant material shall be selected from Appendix A- the City's list of recommended species. Additions and substitutions to the list may be submitted to the Planning Department for approval as the list is intended to be a guide and is not inclusive of all appropriate selections available.

(F) Species identified in Appendix B- "Invasive and Poor Characteristic Species" shall be avoided and shall not be counted toward landscaping requirements for projects requesting an ILP.

(G) Landscape material exceeding three feet in height shall be located outside of the vision clearance triangle.

(H) All newly planted deciduous trees shall be at least two-inch caliper and newly planted evergreens at least six feet tall. Shrubs shall be at least two gallon container size or 18 inches tall from the adjacent ground level. Minimum sizes shall apply to trees mentioned in all sections below.

(I) Upon request, the DIRECTOR OF PLANNING may grant an extension of up to 180 days for the complete installation of landscaping materials due to seasonal or weather conditions which preclude the quality installation of plant materials. As a condition of the extension, the DIRECTOR OF PLANNING may require a performance bond, letter of credit, or other satisfactory assurance from the person requesting the extension.

(J) The installation of irrigation systems is strongly encouraged to ensure establishment and long term survivability of plant material.

(K) All plant material shall be living species. Dead, diseased or artificial plants shall not be recognized by the CITY as contributing to required landscaping.

(L) The DIRECTOR OF PLANNING may allow required plant material to be moved to alternate locations both on-and off-site but only if there are site features or constraints that prevent installation of or it is determined that there is no appreciative improvement to the site by installing the landscape materials. Any lessening of the requirements must be noticed to adjacent property owners prior to construction or installation, and may be appealed to the Plan Commission by an interested party within 30 days of the public notice.

(M) When wooded areas, tree rows or specimen trees are designated to be conserved or has been included in the commitments, the following measures should be taken:

(1) Install highly visible (orange) construction fencing at least three feet outside the drip line of the trees;

(2) Avoid injuring roots when installing anchoring posts for fencing; and

(3) Signs should be posted clearly identifying the plant protection zone.

(Ord. 0-09-0008, passed 4-28-2009)

§ 156.445 PERIMETER PLANTING STANDARDS.

(A) This section applies to all residential projects requesting an Improvement Location Permit or approval of a Development Plan or Primary Plat that abut a major or minor collector, primary or secondary arterial or freeway.

(B) Intent.

(1) To buffer the public right-of-way from developments;

(2) To provide a soft barrier between pedestrians and developments;

(3) To better define the edge or roads for vehicular safety and flow;

(4) To maintain community character goals and enhance aesthetics along public streets.

(C) Residential properties that abut a road or external right-of-way along rights-of-way other than that, which the main residence faces, shall have a 20-foot landscaping area adjacent to the road or right-of-way. The landscaping shall be located in an area designated as "common area" or "landscape easement" and shall not overlap any other easement which prohibits the placement of landscape materials. The landscape area shall be labeled as common area and shall not be counted as open space.

(D) Single and multi-family residential development that abuts a major or minor collector, primary or secondary arterial, or expressway or interstate highway must install the following landscape elements.

(1) Trees and shrubs: Trees provided at a rate of 6 trees per 100 lineal feet and shrubs provided at a rate of 10 per 100 lineal feet of perimeter planting. Trees and shrubs shall be pro-rated and rounded up to the nearest whole number for every foot over the initial 100 feet. It is suggested that the required trees and shrubs be at least 50% evergreen, planted in clusters or I regular patterns; and

(2) Be combined with either fencing or mounding as described below:

(a) Development perimeter fences shall be combined with plant material and shall be constructed of masonry, stone, wood, or metal. Fences constructed of synthetic materials that simulate natural materials will also be considered. Fences shall be at least 36 inches in height, but not over 72 inches in height. Fencing may only be provided by the developer and only located in the area designated as "common area" or "landscape easement".

(b) Mounds shall be combined with plant material, as described above, and may include fencing. Mounds shall be located in an area designated as "common area" or "landscape easement". Mounds shall be a minimum of three feet in height. Maximum side slope shall not exceed a 3:1 ratio. Engineering design requirements shall determine the setback from the right-of-way line of a public or private street and from the property line of an adjoining property. Continuous mounds are not permitted.

(c) Where a common area is designated on the plat or development plan of a commercial or residential project, a Property or Homeowner's Association shall be formed and shall be required to provide necessary maintenance to said common areas.

(Ord. 0-09-0008, passed 4-28-2009)

§ 156.446 RESIDENTIAL SUBDIVISION LOT AND FOUNDATION PLANTING STANDARDS.

(A) This section applies to all single-family detached uses located in a residential subdivision requesting an Improvement Location Permit or approval of a Development Plan or Primary Plat.

(B) The following planting requirements apply to all single-family residential uses:

(1) Lots with 6,000 or less square feet shall be required to plant one deciduous tree or one evergreen lawn tree in the lot planting area in the front yard;

(2) Lots over 6,000 square feet but less than 15,000 square feet shall be required to plant two trees in the lot planting area in the front or side yard within 10 feet of the established building line; and

(3) Lots over 15,000 square feet shall be required to plant three trees in the lot planting area with at least one in the front yard.

(C) All lots shall have a minimum of six shrubs planted along the foundation facing a street. Corner lots shall install six shrubs per side facing a street.
(Ord. 0-09-0008, passed 4-28-2009)

§ 156.447 COMMERICAL, MULTI-FAMILY, INSTITUTIONAL (SCHOOLS, CHURCHES, GOVERNMENT OFFICES, PARKS) USES LOT AND FOUNDATION PLANTING STANDARDS.

(A) This section applies to all projects requesting an Improvement Location Permit or approval of a Development Plan or Primary Plat.

(B) The following lot planting requirements apply:

(1) Lots over 15,000 square feet but less than 30,000 square feet shall be required to plant one canopy tree;

(2) Lots over 30,000 square feet but less than 45,000 square feet shall be required to plant two trees, one of which must be canopy trees; and

(3) Lots over 45,000 square feet shall be required to plant three trees plus one more per every 15,000 square feet over 45,000 square feet. At least one-third of all trees planted must be canopy trees.

(C) The following foundation planting requirements apply to primary structures:

(1) The foundation plantings shall be located within 20 feet of the foundation wall. Plantings may be grouped;

(2) At least one shrub or ornamental tree shall be planted for every 12 lineal feet of building circumference exclusive of window, door and loading dock openings; and

(3) Trash enclosures and ground-mounted heating and cooling units shall be completely screened with a fence or wall constructed of similar materials as the primary structure, and is supplemented with landscaping. (Ord. 0-09-0008, passed 4-28-2009)

§ 156.448 PARKING LOT PLANTING STANDARDS.

(A) This section applies to projects in all zoning districts requesting an Improvement Location Permit or approval of a Development Plan or Primary Plat.

(B) Intent. Require a reasonable amount of plant materials around parking lots such to reduce glare, reduce heat buildup, enhance visual quality of developments, screen and mitigate potential conflict between land uses, reduce noise pollution, reduce erosion, minimize storm water runoff, and improve air quality.

(C) Perimeter landscaping. Parking lots with six or more spaces shall have the following perimeter planting:

(1) Parking lots shall be screened from streets and adjacent uses using a combination of plant materials, decorative fences, decorative walls, and/or earthen mounds;

(2) Shrubs shall be planted at a maximum ratio of one shrub per four lineal feet around the perimeter and be maintained at a height of at least 36 inches tall at maturity in order to minimize headlights projecting onto adjacent properties. Minimum size at planting shall be 24 inches in height;

(3) A wall or mound may be installed in lieu of shrubs. Walls or mounds, if used, shall be a minimum of 36 inches and maximum of 42 inches in height;

(4) One deciduous tree per 35 feet of parking lot perimeter shall be planted within 10 feet of the parking lot edge;

(5) The screen may be broken into segments to allow for pedestrian movement; and

(6) Drive aisles located along property lines shall be required to have half of the above landscaping requirement.

(D) Interior parking lot landscaping. Parking lots with 20 or more parking spaces are required to have the following. The portion of an Institutional Use's parking lot used primary for bus circulation and staging is not required to install the landscape islands required in this section for that portion of the parking area.

(1) One landscape island shall be provided per 20 spaces and the islands shall be distributed equally throughout the parking lot.

(2) Each island shall be at least 180 square feet in size and contain at least one tree.

(3) Each landscape island shall be designed such that any tree when planted is not within three and one-half feet of a curbed or paved edge.

(4) Each landscape island shall be bordered by a four-inch or higher curb above the surface or the parking lot.

(5) Parking lot landscape areas shall not be filled with gravel or impervious surface. They must be free of litter and be maintained with plant materials and mulch.

(E) The Planning Department may require a graphic depiction (perspective sketch or elevation) of the parking lot screening and islands as seen from the street.

(F) Parking lots may project into the perimeter landscaping areas by up to ten feet. When a parking lot extends into any portion of a perimeter landscape area, the requirements in division (C) are no

longer required in those areas. However, fencing (as noted in § 156.445 (D)) shall be used instead of mounding within the perimeter landscaping area.

(Ord. 0-09-0008, passed 4-28-2009)

§ 156.449 BUFFER YARD STANDARDS.

(A) This section applies to projects in all zoning districts requesting an Improvement Location Permit or approval of a Development Plan or Primary Plat.

(B) Intent. To soften the potential conflicts between uses in one zoning district from the uses in an adjacent district by using distance, plantings, fences, walls and mounds. The degree of conflict (or potential conflict) between two Zoning Districts will determine the extent of buffering required.

(C) The buffer yard standards only apply along the property lines (side and rear property lines included) where the two conflicting zoning districts meet.

(D) The property which is zoned for higher intensity uses is responsible for installing the buffer yard.

(E) A natural or irregular row and spacing of trees is preferred. However, trees shall be planted no more than 20 feet apart. A plant list including a "living fence" category is included in Appendix A. Plant material shall be installed within the buffer yard within the setback.

(F) If the applicant can produce evidence that the planting area is too wet for evergreen trees, the applicant may substitute another type of tree as approved by the DIRECTOR OF PLANNING.

(G) The following small-sized buffer yard is required where single-family uses abut either a multi-family, institutional or C1- Neighborhood Retail. The following quantities are minimums:

(1) Three canopy trees and three evergreen trees per 100 lineal feet. Trees shall be prorated and rounded up to the nearest whole number for every foot over the initial 100 feet of contiguous boundary with the conflicting district;

(2) All trees must be planted in the setback between 5 and 15 feet from the property line that is contiguous to the conflicting property;

(3) A reasonable attempt to screen the most obnoxious, noise producing , unsightly, tallest, most intrusive or most visible parts of buildings on the subject property should be made; and

(4) Undulating mounds with a minimum height of three feet must be installed for a distance equivalent to 60 % of the distance contiguous to the conflicting property. Maximum height of undulating mounds is eight feet.

(H) The following medium-sized buffer yard is required where single-family, multi-family, or institutional uses abut a C2- General Commercial. The following quantities are minimums:

(1) Four canopy trees and four evergreen trees must be planted for every 100 feet of contiguous boundary with the conflicting district. Each evergreen tree may not be spaced more than 25 feet from one another. Trees shall be prorated and rounded up to the nearest whole number for every foot over the initial 100 feet;

(2) All trees must be planted in the setback within 25 feet from the property line that is contiguous to the conflicting property;

(3) Ten shrubs shall be planted for every 100 feet of contiguous boundary with the conflicting district;

(4) A reasonable attempt to screen the most obnoxious, noise producing, unsightly, tallest, most intrusive or most visible parts of buildings on the subject property should be made; and

(5) Undulating mounds with a minimum height of four feet must be installed for a distance equivalent to 80 % of the distance contiguous to the conflicting property. Maximum height of undulating mounds is eight feet.

(I) The following large-sized buffer yard is required where single-family, multi-family, or institutional uses abut an industrial district. The following quantities are minimum:

(1) Five canopy trees must be planted for every 100 feet of contiguous boundary with the conflicting district; and

(2) Five evergreen trees must be planted for every 100 feet of contiguous boundary with the conflicting district. Trees shall be prorated and rounded up to the nearest whole number for every foot over the initial 100 feet;

(3) All trees must be planted within 25 feet from the property line that is contiguous to the conflicting property;

(4) Twenty shrubs shall be planted for every 100 feet of contiguous boundary with the conflicting district;

(5) Undulating mounds with a minimum height of four feet must be installed for a minimum distance equivalent to 80 % of the contiguous conflicting property. Maximum height of undulating mounds is eight feet; and

(6) A reasonable attempt to screen the most obnoxious, noise producing, unsightly, tallest, most intrusive or most visible parts of buildings on the subject property should be made.

Buffer yards (single-family abutting Multi-Family or C1 District)	Six trees (50% canopy/50% evergreen) per 100’ plus minimum 3’ mound
Buffer yards (residential abutting C2 or C3 Districts)	8 trees and 10 shrubs per 100’ plus minimum 4’ mound for 80% distance
Buffer yard (residential abuts C4 or Industrial Districts)	10 trees and 20 shrubs per 100’ plus minimum 4’ mound for 80% distance

(Ord. 0-09-0008, passed 4-28-2009)

§ 156.450 OPTIONAL NATURAL AREA PROTECTION.

(A) This section is presented as an option for the development community in all zoning districts applying for an Improvement Location Permit or approval of a Development Plan or Primary Plat.

(B) Intent.

(1) To prevent the unnecessary cutting, removal or killing of trees in wooded areas.

(2) To prevent the unnecessary cutting, removal or killing of specimen trees.

(3) Promote and maintain a high level of community aesthetics through the conservation and planting of trees.

(4) Other area to be given priority for protection are: critical habitats which contain rare, threatened or endangered species, wooded 100 year floodways, wooded wetlands wooded slopes, wooded or partially wooded stream corridors with drainage areas greater than 50 acres, and riparian areas.

(C) Incentives. The preservation of an existing healthy tree shall constitute an in-kind credit toward meeting the landscape requirements in this chapter. A credit will be given per tree that contributes to and satisfies similarly the intent of a particular section of this chapter. The following credits shall be granted for an existing tree as follows:

(1) For each preserved deciduous tree over four inches but less than eight inches DBH a credit for three deciduous trees shall be granted;

(2) For each preserved deciduous tree over 8 inches but less than 12 inches DBH a credit for four deciduous trees shall be granted;

(3) For each preserved deciduous tree over 12 inches DBH a credit for five deciduous trees shall be granted. The DIRECTOR OF PLANNING may grant larger credits for trees over 12 inches DBH upon request;

(4) For each preserved evergreen tree over 6 feet tall but less than 10 feet tall shall be granted credit for two evergreen trees; and

(5) For each preserved evergreen tree over ten feet tall shall be granted credit for three evergreen trees. The DIRECTOR OF PLANNING may grant larger credits for evergreen trees over ten feet tall upon request.

(D) Development density increases could be granted by the CITY Council.

(E) Greater open space credit could be granted due to the preservation of quality natural areas.

(F) If preserving the natural landscape is chosen, prior to construction on or removal of trees from a wooded area, the following standards apply:

(1) Provide a tree conservation plan outlining strategies for retaining, protecting and replanting trees on a site. DNR can provide guidance. Prepare a tree conservation map that outlines existing tree cover, priority protection areas, proposed grading and proposed protective devices;

(2) Within the designated conservation areas, no trees with a DBH in excess of six inches or evergreens eight feet or more in height shall be removed from any lot unless trees are: (1) within the building site pad; (2) within 15 feet of the perimeter of the primary structure or accessory structures; (3) between the front of the primary structure and the interior roadway of the subdivision; and/or (4) required to be removed in order to comply with safety requirements of any governmental agency;

(3) Trees retention areas shall be a minimum of 35 feet wide and minimum contiguous area of 10,000 square feet; and

(4) A builder who violates the trees conservation plan once established and improperly removes trees shall be required to reestablish such trees consistent with the trees removed. For example, if a six-inch caliper tree is removed, the builder may reestablish such tree by installing three 2-inch caliper trees or two 3-inch caliper trees to total the caliper of the trees removed.

(G) Prior to construction around a specimen tree in a tree conservation area, the following standards apply:

(1) Install highly visible (orange) construction fencing at least three feet outside the drip line of the trees;

(2) Avoid injuring roots when installing anchoring posts for fencing;

(3) Signs should be posted clearly identifying the plant protection zone; and

(4) If a portion greater than 30% of the area within the drip line is unavoidably impacted, applicant shall install a root aeration system, tree well, retaining wall or raised boardwalk as appropriate permanent protection.

(H) Prior to construction in a riparian area:

(1) The petitioner shall work with the City of East Chicago Planning Department regarding conservation of riparian areas on site;

(2) Establish or enhance forest buffers of at least 50% feet wide adjacent to intermittent and perennial streams;

(3) Newly planted trees and shrubs shall be species native to central Indiana;

(4) Trees size may be a minimum of one-inch caliper unless otherwise approved by the DIRECTOR OF PLANNING; and

(5) For optimal survival and unless irrigated with an automatic system, planting should occur in the spring or fall. (Ord. 0-09-0008, passed 4-28-2009)

§ 156.451 ENFORCEMENT AND PENALTIES.

(A) This section applies to all zoning districts in the City of East Chicago Code.

(B) The maintenance and routine care of plant material located within the rights-of-way of the CITY shall be the responsibility of the adjacent property owners. For purposes of this section,

maintenance and care shall include but not be limited to pruning, watering, fertilizing, and mulching, or any item which would constitute a safety hazard to pedestrian or vehicular traffic.

(C) Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction be subject to a fine not exceeding $500.

(Ord. 0-09-0008, passed 4-28-2009)

APPENDIX A: PERMITTED PLANT SPECIES BY CHARACTERISTICS.

(A) Appendix A contains species recommended by the City of East Chicago Department of Planning. Names in single quotation marks are cultivars (varieties) of particular species that are already available in the surrounding area. Other species and varieties may be substituted with approval of the Department of Planning. Appendix B lists species to be avoided.

(B) Plant material is generally grouped together under the following functional categories:

(1) Street trees. Street trees are deciduous trees planted at regular spacing in close proximity to the street that contribute to the streetscape. Street trees are usually canopy trees with greater than 20-foot wide canopies at maturity. They usually have an orderly growth habit and attain heights of 25 to 40 feet minimum.

(2) Open space and lawn trees. These selections can be deciduous or evergreen. They provide shade, interest and color. Street trees may also be used.

(3) Shrubs. "Living fence" species: Plant material can be used to create a "living fence" or barrier for perimeter landscape requirements. Tall shrubs can provide a screen between differing land uses and can mitigate the effects of unattractive uses. Shorter shrubs are effective in screening automobiles in parking lots, utilities boxes and buildings foundations.

Botanical Name	***Common Name***	***Canopy Height***	***Canopy Width***
Street Trees			
Acer griseum	Paper Bark Maple	H 20-40'	W 15-30'
Acer griseum x nikoense 'Ginzam'	Ginzam Maple	H 25-30'	W 15-35'
Acer rubrum	Red Maple	H 50-75'	W 30-70'
Acer rubrum 'Autumn Flame'	Autumn Flame Maple	H 35'	W 35'
Acer rubrum 'October Glory'	October Glory Maple	H 40'	W 35'
Acer rubrum 'Red Sunset'	Red Sunset Maple	H 40'	W 35'
Carpinus betulus 'Fastigiata'	European Hornbeam	H 35-40'	W 20-30'
Fraxinus pennsylvanica 'Marshall'	Marshall Seedless Ash	H 45-55'	W 35-45'

Seedless Fraxinus pennsylvanica 'Summit'	Summit Ash	H 50-60'	W 45-55'
Ginko biloba 'Autumn Gold'	Autumn Gold Ginkgo (male)	H 45-55'	W 30-40'
Ginkgo biloba 'Fairmount'	Fairmount Ginkgo (male)	H 55-65'	W 25-30'
Ginkgo biloba 'Princeton Sentry'	Princeton Sentry Ginkgo (male)	H 40'	W 15'
Gleditsia triacanthos 'Imperial'	Honeylocust	H 35'	W 30'
Street Trees			
Gleditsia triacanthos 'Shademaster'	Honeylocust	H 50-60'	W 50-60'
Liquidambar styraciflua	Sweet Gum	H 60'	W 40'
Liquidambar styraciflua 'Worplesdon'	Sweet Gum	H 40'	W25'
Platanus acerifolia 'Bloodgood'	Plane Tree	H 70-80'	W 55-65'
Pyrus calleryana 'Aristocrat'	Aristocrat Pear	H 35-45'	W 25-35'
Quercus rubra	Red Oak	H 60-70'	W 50-60'
Tilia cordata 'Chancellor'	Littleleaf Linden	H 50-70'	W 35-50'
Tilia cordata 'Corzam'	Corinthian Linden	H 45-50'	W 15-35'
Tilia cordata 'Greenspire'	Littleleaf Linden	H 50-70'	W 35-50'
Trees with Narrow Canopies (for use in areas with sewer conflict)			
Acer platanoides 'Columnare'	Maple	H 40'	W 15'
Acer rubrum 'Bowhall'	Bowhall Maple	H 50'	W 15'
Acer saccharum 'Columnare'	Upright Sugar Maple	H 40-50'	W 15'
Acer saccharum 'Endowment'	Endowment Maple	H 50'	W 10'
Alnus glutinosa 'Pyramidalis'	Fastigiate Alder	H 40'	W 10'
Trees with Narrow Canopies (for use in areas with sewer conflict)			
Pyrus calleryana 'Chanticleer'	Chanticleer Pear	H 35-40'	W 15-20'
Pyrus calleryana 'Cleprizam'	Cleprizam Pear	H 25-30'	W 15-20'
Pyrus calleryana 'Fronzam'	Fronzam Pear	H 30-35'	W 15-20'
Pyrus calleryana 'Redspire'	Redspire Pear	H 40-45'	W 20-25'

Quercus robur ‘Fastigiata’	English Oak	H 50-60’	W 15-20’
Open Space and Lawn Trees			
Acer saccharinum ‘Green Mountain’	Sugar Maple	H 45’	W 35’ 30’
Aesculus x carnea	Red Horsechestnut	H 35-50’	W 30-45’ 22’
Amelanchier arborea	Serviceberry species	H 15-30’	W 15-25’ 12’
Amelanchier x grandiflora	Apple Serviceberry	H 20-25’	W 15-20’ 10’
Betula nigra ‘Heritage’	River Birch	H 40-50’	W 30-35’ X
Cercis canadensis	Eastern Redbud	H 25-30’	W 25-35’ 17’
Cornus Kousa chinensis	Kousa Dogwood	H 20’	W 15-20’ 15’
Cornus florida	Flowering Dogwood	H 20-30’	W 20-30’ 15’
Cornus florida ‘Cherokee Chief’	Flowering Dogwood	H 15’	W 12’ 9’
Crataegus phaenopyrum	Washington Hawthorn	H 20-30’	W 20-30’ 15’
Crataegus viridis ‘Winter King’	Hawthorn	H 20-25’	W 20-25’ 15’
Fagus sylvatica ‘Tricolor’	Tricolor beech	H 40’	W 30’ 15’
Gymnocladus dioicus	Kentucky Coffeetree	H 50-70’	W 40-50’ 25’
Liriodendron tulipifera ‘Moraine’	Tulip Tree	H 40-100’	W 30-50’ 25’
Liriodendron tulipifera	Tulip Tree	H 70- 90’	W 35’ 25’
Magnolia stellata	Royal Star Magnolia	H 15’	W 15’ 8’
Magnolia x soulangiana	Sauce Magnolia	H 15-20’	W 15-20’ 10’
Malus floribunda	Japanese Flowering Crabapple	H 15-25’	W 20-25’ 12’
Malus hybrids	Flowering Crabapple	H 10-25’	W 10-25’ 12’
Open Space and Lawn Trees			
Prunus ‘Accolade’	Flowering Cherry	H 30-40’	W 25-35’ 17
Prunus cerasifera ‘Newport’	Flowering Plum	H 15-20’	W 15-20’ 10’
Prunus cerasifera ‘Thundercloud’	Cherry Plum	H 15-25’	W 15-25’ 12’
Prunus pendula ‘Snofozam’	Weeping Cherry	H 6-15’	W 6-15’ 8’
Prunus serrulata ‘Kwanzan”	Kwanzan Flowering Cherry	H 20-25’	W 15-20’ 12’

Quercus alba L.	White oak	H 50-80’	W 50-60’ X
Quercus bicolor	Swamp white oak	H 50-60’	W 50-80’ 40’
Quercus coccinea	Scarlet oak	H 50-60’	W 50-60’ X
Evergreen			
Abies concolor	White fir	H 30-50’	W 15-30’ 20’
Cupressocyparis leylandii	Leyland cypress	H 60-70’	W 12-20’ 10’
Picea abies	Norway spruce	H 40-60’	W 30-40’ 20’
Picea omorika	Serbian spruce	H 50-60’	W 15-25’ 12’
Picea pungens glauca	Colorado Blue Spruce	H 40-60’	W 20’ 10’
Pinus nigra	Austrian pine (European Black)	H 30-60’	W 20-40’ 20’
Pinus strobus L.	Eastern White Pine	H 50-80’	W 20-40’ 20’

“X” Tree type not permitted within ten feet of sewer facilities to mature drip line.

(Ord. 0-09-0008, passed 4-28-2009)

APPENDIX B: INVASIVE AND POOR CHARACTERISTIC SPECIES.

(A) Shrubs. “Living fence” species: Plant material can be used to create a “living fence” or barrier for perimeter landscape requirements. Tall shrubs can provide a screen between differing land uses and can mitigate the effects of unattractive uses. Shorter shrubs are effective in screening automobiles in parking lots, utilities boxes and building foundations.

BOTANICAL NAME	***COMMON NAME***
Tall Shrubs (six feet or greater)	
Berberis julianae	Wintergreen Barberry
Cornus alba ‘sibirica’	Tatarian dogwood
Cupressocyparis Leylandii	Leyland Cypress
Cotoneaster lucidus	Hedge cotoneaster
Ilex crenata	Japanese Holly
Juniperus chinensis ‘Hetzii columnaris’	Chinese juniper
Ligustrum obtusifolium	Border privet
Picea abies	Norway spruce
Pinus koraiensis	Korean pine
Thuja occidentalis ‘Emerald’, ‘Woodwardii’, ‘Techny’	American arborvitae

Viburnum x burkwoodii	Burkwood viburnum
Shrubs (six feet or less)	
Berberis thunbergii	Japanese Barberry
Buxus microphylla Koreana 'Green Gem', 'Green Mountain', 'Green Velvet'	Boxwood
Euonymus alatus 'Compactus'	Burning bush
Ilex glabra 'Compacta'	Inkberry holly
Myrica pennsylvanica	Northern bayberry
Taxus x media 'Densiformis', 'Hicksii'	Yew
Viburnum farreri 'Nanum'	Fragrant viburnum
Viburnum trilobum 'Compactum'	American Cranberry bush

(Ord. 0-09-0008, passed 4-28-2009)

(B) Invasive and poor characteristic species. The following list of trees has been evaluated by a landscape designer and contains trees considered not suitable for street tree planting in the City of East Chicago. Many of these trees appear on the state and federal list as invasive Indiana plants. Invasive or aggressive species should be avoided because they are considered difficult to control and are known to displace and compete with more desirable native and ornamental species. The listed trees possess other undesirable traits such as inability to resist disease or insect infestation, weak wood which causes limb drop, shallow or invasive roots or messy litter (fruits).

BOTANICAL NAME	***COMMON NAME***	***CHARACTERISTICS***
Acer negundo	Box elder	Weak-wood, aggressive
Acer saccharinum	Silver maple	Weak-wood, aggressive
Aesculus species	Buckeye, Horsechestnut	Litter
Ailanthus altissima	Tree of Heaven	Invasive, suckers, weak wood
Betula papyrifera	Paper Birch	Intolerant of city streets, insects
Betula pendula	European White Birch	Intolerant of city streets, insects
Catalpa speciosa	Northern Catalpa	Large litter
Ginko biloba	Ginko (female)	Noxious smelling, fleshy fruit
Juglans spp.	Walnut	Fruit
Maclura pomifera	Osage-orange	Large fruit litter, thorns
Malus sp.	Apple	Large fruit litter, thorns
Morus-species	Mulberry	Litter stains, short lived
Populus species	Poplar	Weak wood, suckers, short-lived
Pyrus calleryana "Bradford"	Bradford Pear	Not wind resistant, weak vertical branching habit

Robinia pseudoacacia	Black locust	Shallow, invasive roots
Salix species	Willow	Invasive roots, weak wood
Sorbus aucuparia	European Mountain Ash	
Ulmus Americana "Moline"	Moline American Elm	Insects, disease
Ulmus pumila	Siberian Elm	Weak wood, disease

(Ord. 0-09-0008, passed 4-28-2009)

§ 156.999 PENALTY.

(A) *Generally.* Any person who shall violate any provision of this chapter or shall fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any essential statement or plan submitted and approved thereunder shall for each and every violation or noncompliance be guilty of an offense and upon conviction thereof or finding to that effect, shall be fined not more than $300 to which may be added imprisonment for a term not exceeding ten days. Each day the violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or any premises or any part thereof, where anything in violation of this chapter shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who or which may have assisted in the commission of any violation shall each be guilty of a separate offense and upon conviction thereof or finding to that effect shall be fined as herein provided and any building erected, raised or converted or land or premises used in violation of any provision of this chapter or any requirement hereof, is declared to be a common nuisance and as such may be abated in a manner as nuisances are now or may hereafter be abated under existing law. (1995 Code, § 17.04.070)

(B) *Signs.* In the event that subsequent to the adoption of §§ 156.355 through 156.367, a sign is installed without a permit, an additional fee of $100 per sign or sign face shall be imposed.

(C) *Fences.* In the event that subsequent to the adoption of §§ 156.380 through 156.391, a fence is installed without a building permit, a penalty fee of $100 shall be imposed each day of the violation. The penalty fee shall constitute and be considered a separate offence each day of the violation.

(D) *Historic Preservation Committee.*

(1) *Illegal demolition.*

(a) It shall be unlawful to demolish any portion of any landmark or any improvement located within the historic preservation district unless specifically permitted through a certificate of appropriateness issued for that property.

(b) Property owners will be subject to the following fines and penalties (which shall include a property) for any and all illegal demolition to any landmark or any improvement listed on the historic register as defined by the City Historic Commission:

1. A fine of no less than $10,000 and no greater than $50,000; and

2. A two-year building moratorium on the property on which the illegal demolition occurred.

(c) In cases where the building has been completely demolished, ownership of the subject property is forfeited and the subject property shall become that of the city.

(d) In cases where a building is partially demolished, the property owner shall be required to complete the construction or renovation of the home in accordance with the building permits granted by the city.

(e) Occupancy shall not be granted on the subject property until two years from the date of an approved final inspection of the structure.

(f) Prior to and during the building moratorium, the subject property in all instances must be maintained in accordance with the property maintenance code.

(2) *Illegal construction or alteration.*

(a) It shall be unlawful to complete any construction or alteration to any landmark or any improvement located within a historic preservation district unless specifically permitted through the certificate of appropriateness issues for that property.

(b) 1. Property owners will be subject to the following fines and penalties for any and all illegal construction or alteration to any landmark or any improvement located within a historic preservation district:

2. A fine of no less than $500 and no greater than $1,000 per day, per violation until an acceptable resolution is approved by the Historic Sites Commission.

(Ord. 0-01-0024, passed 9-10-2001; Ord. 0-02-0009, passed--2002; Ord. 0-08-0020, passed 9-22-2008)

TABLE OF SPECIAL ORDINANCES

[Reserved]

PARALLEL REFERENCES

References to Indiana Code
References to 1995 Code
References to Ordinances

INDEX

INDEX

ABANDONED VEHICLES (See JUNKED OR ABANDONED VEHICLES)

ADULT PROBATION SERVICES FUND
- Created, 43.205

AIR GUNS OR AIR RIFLES, 136.04

AIR POLLUTION
- Adopted standards or recommended practices, 102.004
- Air Quality Control Advisory and Appeal Board
  - Appeals, 102.051
  - Appointment of members-duties, 102.047
  - Chairperson, 102.045
  - Compensation of members-secretarial duties, 102.048
  - Composition-terms of office of members-vacancies, 102.046
  - Meetings, 102.049
  - Powers, 102.050
- Air Quality Control Department
  - Administration and enforcement of chapter, 102.025
  - Air Pollution Inspectors, 102.028
  - Conflicts of interest of employees, 102.030
  - Director of Air Quality Control-powers and duties, 102.027
  - Director of Air Quality Control-generally, 102.026
  - Examination and approval of plans for certain equipment, 102.029
- Conduct of persons acting on behalf of city, 102.009
- Definitions, 102.001
- Effect of state and federal regulations on chapter, 102.005
- Emission Standards
  - Circumvention, 102.113
  - Emission of particulate matter-incinerators, 102.107
  - Emission of particulate matter-industrial process equipment, 102.108
  - Emission of particulate matter-fuel burning equipment, 102.106
  - Loading volatile petroleum distillates into tanks, trucks or other vehicles, 102.110
  - Nitrogen oxides emission limitations, 102.112
  - Report of discontinued or dismantled equipment, 102.115
  - Report of equipment breakdown, 102.114
  - Stored petroleum and other volatile organic materials, 102.109
  - Sulfur dioxide emissions from nonferrous smelters, 102.111
  - Violations, 102.116
  - Visible emissions, 102.105
- Fees
  - Certificate of operation, 102.092
  - Exemptions as to domestic refuse burning equipment, 102.093
  - Generally, 102.090
  - Inspection-installation permit, 102.091
- Implementing state episode alert plan, 102.006

AIR POLLUTION (Cont'd)
Installation Permits
Affidavit for secret process, 102.066
Approval-issuance generally, 102.067
Certificate of compliance, 102.069
Compliance with permits, 102.072
Duration, 102.068
Effect on prosecution of violation of chapter, 102.075
Emergency repairs, 102.071
Exemptions from subchapter, 102.076
Inspections-certificate of operation, 102.073
Issuance prerequisite to building permit, 102.070
Registration of points of emission, 102.077
Renewal of certificate of operation, 102.074
Required-application contents, 102.065
Internal combustion engines, 102.007
Liability for violations of chapter, 102.011
Notice of violation, 102.013
Open Burning
Certain fires permitted, 102.137
Conditions applicable to exemptions and variances, 102.134
Definition, 102.130
Enforcement, 102.135
Exemptions, 102.132
Permits, 102.136
Prohibition, 102.131
Salvage operation, 102.138
Variances, 102.133
Party to claims or actions, 102.012
Penalty, 102.999
Purpose of chapter, 102.002
Right of entry for inspections, 102.010
Sampling and Testing
Authority to conduct tests, 102.170
Emission monitoring, 102.174
Fuel samples, 102.173
Stack emission test method, 102.172
Tampering with testing devices, 102.175
Test facilities and access, 102.171
Sealing of violating equipment, 102.008
Sulfur Oxides
Emissions from single stacks, 102.152
Generally, 102.150
Hydrogen sulfide, 102.155
Limitations on fuel sulfur content generally, 102.151
Records of fuel analyses and usage, 102.153
Sulfuric acid manufacturing processes, 102.154
Territorial jurisdiction of chapter, 102.003
Variances in General
Compliance schedule, 102.190

Specific variances enumerated, 102.191
ALARM SYSTEM; UNIFORM
Alarm Business
Information to be supplied to consumer, 94.24
License nontransferable, 94.23
License renewal-fee, 94.22
License required-application and fee, 94.20
Review of application, 94.21
Alarm system instructions and service, 94.04
Alarm Users
Automatic dialing devices-local alarms, 94.37
False alarms-notice of fines, 94.38
Permit renewal, 94.36
Permits required-application and fee, 94.35
City uniform central monitoring system, 94.03
Definitions, 94.02
Intentional false alarms prohibited, 94.05
Interpretation, 94.01
Penalty, 94.99
Permit Revocation
Effect of revocation, 94.52
Permit revocation, 94.50
Permit revocation-review hearing-Alarm Board of Appeals, 94.51
Remedies, 94.07
Report on alarm response-review, 94.06

ALCOHOL AND DRUG PROGRAM USERS FEE FUND
Deposits, 43.431
Established, 43.430
Expenditures, 43.432
Termination of Fund, 43.433

ALCOHOLIC BEVERAGES ON PUBLIC THOROUGHFARE OR PUBLIC PROPERTY; OPEN
Definitions, 131.60
Possession or consumption prohibited, 131.61

ALLEYS, 155.040
Cleanliness of, 97.007

ALUMINUM PURCHASE RECORDATION
Applicability of provisions, 112.04
Definitions, 112.01
Penalty, 112.99
Purchases to be kept separate and identifiable, 112.03
Record of purchases-retention and filing of copies, 112.02

AMUSEMENT ARCADE REGULATIONS, 156.342

AMUSEMENTS GENERALLY
Amusement Places
Advertising, 111.23

Bond for carnivals, 111.25
AMUSEMENTS GENERALLY (Cont'd)
Amusement Places (Cont'd)
Inspection, 111.21
Insurance-bonds, 111.20
License-application, 111.16
License-fees-exemptions, 111.18
License-fees-schedule, 111. 17
License-nontransferable-revocation, 111.19
License-required, 111.15
Location, 111.24
Tickets, 111. 26
Use of city streets, 111.22
Definitions, 111.01
Grounds for revocation of license, 111.02
Temporary Structures
Attendance of city fire equipment at location, 111.45
Building permit required, 111.40
Building permit-application-submission, 111.42
Building permit-application-contents, 111.41
Building permit-approval, 111.43
Occupancy permit, 111.44

ANIMALS
Chapter enforcement, 90.002
Definitions, 90.001
Dog Licensing
Duplicate tags, 90.065
Fees, 90.061
Required, 90.060
Tags, 90.063
Term-application, 90.062
Use of tags by other than licensee, 90.064
Dogs
Care of dogs kept outside, 90.047
Dogs in parks prohibited, 90.046
Nuisances declared, 90.048
Restraint generally, 90.045
Dogs-Rabies
Animal bites-report-quarantine, 90.081
Disposition of carcass of animal exposed to rabies, 90.086
Failure or refusal to surrender animal for quarantine prohibited, 90.084
Permission from Board of Health for disposition of rabid animal required, 90.085
Positive rabies diagnosis-citywide quarantine, 90.083
Procedure upon death of quarantined animal, 90.087
Vaccination required, 90.080
Veterinarian's report of suspected rabies cases, 90.082
Exemptions from provisions of chapter, 90.005
Females in heat, 90.006
Impoundment
Alternative penalties for certain dogs, 90.026

Impoundment of animals other than dogs and cats, 90.028
ANIMALS (Cont'd)
Impoundment (Cont'd)
Impoundment-period of confinement-disposal, 90.025
Notification of owner, 90.027
Records, 90.030
Redemption of impounded animals, 90.029
Injuring property of others, 90.008
Interference with officials prohibited, 90.003
Keeping hogs, poultry or pigeons, 90.009
Manure, 90.010
Penalty, 90.999
Pet Solid Waste Disposal
Definitions, 90.120
Enforcement, 90.123
Exemptions, 90.122
Requirement for disposal, 90.121
Pit Bull Dogs
Confinement of pit bulls, 90.103
Definition of pit bull, 90.101
Enforcement, 90.105
Liability insurance required to be maintained by owners of pit bulls, 90.102
Purpose, 90.100
Registration of pit bulls, 90.104
Right of entry to inspect, 90.004
Wild animals, 90.007

ANTENNAS; TV EARTH STATION (See ZONING)

ARCADE REGULATIONS, 156.342

ATTORNEY; CITY (See CITY ATTORNEY)

AUCTIONS
Attracting attention to sale, 113.04
Conditions of sale, 113.05
Definitions, 113.01
Enforcement of chapter, 113.12
False representations, 113.08
Fictitious bids, 113.11
Hours of sale, 113.02
Identification tags-sales book, 113.07
Location of sale, 113. 03
Property for sale-announcement of description, 113.06
Return of misrepresented goods, 113.09
Substitution of articles, 113.10

AWNINGS
Height, 98.10
Wooden, 98.09

BARBED WIRE, 93.008
BED AND BREAKFAST ESTABLISHMENT (See BEVERAGE DELIVERY AND MANUFACTURE; RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT; WHOLESALE ITINERANT PRODUCE DEALERS)

BEVERAGE DELIVERY AND MANUFACTURE; RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT; WHOLESALE ITINERANT PRODUCE DEALERS
- Beverage Delivery and Manufacture
  - License-fee, 114.02
  - License-required, 114.01
  - Sanitation, 114.03
- Retail Food Establishment and Bed and Breakfast Establishment
  - Adoption by reference, 114.18
  - Authority, 114.17
  - Definitions, 114.19
  - Fees, 114.21
  - Inspection of retail food establishments, 114.23
  - Permits, 114.20
  - Purpose, 114.16
  - Sale, examination and condemnation of unwholesome, adulterated or misbranded food, 114.22
  - Title, 114.15
- Wholesale Itinerant Produce Dealers
  - Defined, 114.35
  - Health and sanitation, 114.39
  - Identification of vehicles, 114.36
  - Inspection and sealing of weights and measures, 114.40
  - Inspections of food and vehicles, 114.37
  - Licenses-application, 114.42
  - Licenses-fees, 114.43
  - Licenses-issuance of license plates, 114.44
  - Licenses-required, 114.41
  - Sale of unwholesome products, 114.38

BICYCLES
- Bicycle defined, 75.01
- Impoundment, 75.04
- Licenses
  - Application-fee, 75.21
  - Identification numbers, 75.22
  - Plates or tags-sale or transfer of bicycle, 75.27
  - Prerequisite inspection-issuance-duration, 75.23
  - Records, 75.26
  - Renewal, 75.24
  - Required, 75.20
  - Revocation or suspension, 75.25
- Permitting minor to violate chapter, 75.05
- Rental, 75.02
- Sales, 75.03
- Traffic Regulations
  - Applicability of motor vehicle laws, 75.40

Audible warning devices, 75.54
BICYCLES (Cont'd)
Traffic Regulations (Cont'd)
Brakes, 75.55
Carrying packages or other articles, 75.51
Clinging to vehicles, 75.49
Lamps and reflectors, 75.53
Method of operation, 75.42
Obedience to traffic-control devices, 75.41
Parking, 75.52
Racing, 75.46
Riding abreast, 75.50
Riding on roadways, 75.44
Riding on sidewalks, 75.43
Speed, 75.45
Turning, 75.47
Yielding right-of-way, 75.48

BIRTH AND DEATHS (See HEALTH AND SANITATION)

BLOCKS, 155.043

BOARD OF FINANCE, 43.001

BOARD OF HEALTH (See HEALTH DEPARTMENT)

BOARD OF ZONING APPEALS (See ZONING)

BOMBS, FIRE BALLS AND WEAPONS MADE OF THIN GLASS, 136.01

BONFIRES ON STREETS AND SIDEWALKS, 92.005

BOWLING ALLEYS (See POOL ROOMS AND BOWLING ALLEYS)

BRIDGES; CROSSING (See TRAFFIC CODE)

BUILDING AND STRUCTURE WRECKING
Bridges or sidewalk covers, 151.06
Building Wreckers
License-application-fee-issuance-bond, 151.21
License-insurance, 151.22
License-required, 151.20
License-scope, 151.23
Sale of materials, 151.24
Construction of fences, fans and bridges, 151.08
Exemptions, 151.03
Fans, 151.07
Fences or barricades, 151.05
Permit required-definitions, 151.01
Protection of persons and property during wrecking and repairing, 151.04
Storage of salvaged materials, 151.02

Wrecking operations, 151.09

BUILDING CODE
Adoption of rules by reference, 150.06
Application for permits, 150.07
Authority, 150.03
Certificate of occupancy, 150.16
Definitions, 150.04
Entry, 150.14
Fees, 150.10
Fire alarm systems-reports, 150.13
Inspections, 150.12
Other ordinances, 150.09
Penalty, 150.99
Permit required, 150.08
Purpose, 150.02
Remedies, 150.20
Review of application, 150.11
Right of appeal, 150.19
Scope, 150.05
Standards, 150.17
Stop work order, 150.15
Title, 150.01
Violations, 150.18

BUILDING COMMISSIONER
Established as head of Division of Building Inspection and Permits, 33.035
Powers and duties, 33.036

BUILDING CONTRACTORS AND MOVERS; CATCHBASIN AND SEWER CLEANERS; LUMBER YARDS AND STOREHOUSES; SIDEWALK CONTRACTORS
Building Contractors
Bond requirements, 115.004
Building contractor defined, 115.001
Building contractors Board of Examiners, 115.002
Insurance required, 115.003
Licenses-appeals, 115.011
Licenses-application, 115 .006
Licenses-examinations, 115.007
Licenses-fees-renewal, 115.008
Licenses-required, 115.005
Licenses-suspension-revocation-denial of issuance or renewal, 115.010
Licenses-transferability, 115.009
Building Movers
Bond, 115.029
Business license-application, 115.026
Business license-fee, 115.027
Business license-nontransferable, 115.028
Business license-required, 115.025
Compliance with permits, 115.031
Permit required for each building, 115.030

Routes, 115.032
BUILDING CONTRACTORS AND MOVERS; CATCHBASIN AND SEWER CLEANERS; LUMBER YARDS AND STOREHOUSES; SIDEWALK CONTRACTORS (Cont'd)
Catch basin and Sewer Cleaners
Certificates and emblems, 115.051
Conveyance of removed substances-maintenance of equipment, 115.045
Disposal of contents, 115.046
Licenses-application, 115.048
Licenses-bond, 115.049
Licenses-fee, 115.050
Licenses-when required, 115.047
Lumberyards and Storehouses
Applicability of fire regulations, 115.069
Compliance with zoning regulations, 115.068
Licenses-application, 115.066
Licenses-fees, 115.067
Licenses-when required, 115.065
Storage near buildings, 115.070
Sidewalk Contractors
Bond, 115.087
Licenses-fees, 115.086
Licenses-required, 115.085
Property owners, 115.088

BUILDING DEPARTMENT, 32.021

BUILDING DEPARTMENT-CHANGE FUND
Established, 43.475
Fund limit, 43.476
Initial deposit, 43.477
Termination of Fund, 43.478

BUILDING FUND; UNSAFE (See UNSAFE BUILDING FUND)

BUS AND TAXICAB STANDS (See TRAFFIC CODE)

BUSINESS DEVELOPMENT DEPARTMENT, 32.022

BUSINESS DISTRICT; NORTH HARBOR (See ZONING)

BUSINESS LICENSES GENERALLY
Application
Affidavits, 110.022
Compliance with zoning provisions, 110.023
Contents, 110.020
False statements, 110.021
Investigations-disapproval, 110.024
Bond, 110.003
Contents-compliance with code, 110.005
Enforcement, 110.002

BUSINESS LICENSES GENERALLY (Cont'd)
Fees
License transfer, 110.055
Payment, 110.050
Prepayment, 110.051
Prorating, 110. 054
Rebate, 110.053
Refund for non-approval of license, 110.052
Health certificates, 110.004
Insignia
Alteration-removal, 110.073
Delivery, 110.070
Issuance of duplicate, 110.072
Posting-display, 110.071
Surrendering plates and certificates, 110.075
Use by other than licensee, 110.07 4
License Issuance
Indebtedness to city, 110.036
Qualifications-when required, 110.035
Procedure for changing licensed location, 110.007
Term, 110.006
Transfer of licenses, 110.008
When required, 110.001

C-1 NEIGHBORHOOD RETAIL DISTRICT
Area regulations, 156.188
Development plan, 156.189
Generally, 156.185
Height regulations, 156.187
Use regulations, 156.186

C-2 GENERAL COMMERCIAL DISTRICT
Area regulations, 156.202
Development plan, 156.203
Height regulations, 156.201
Use regulations, 156.200

C-3 NORTH HARBOR BUSINESS DISTRICT
Building size requirements, 156.220
C-3 North Harbor Business District-special use-01, 156.228
C-3 North Harbor Business District-special use-02, 156.229
C-3 North Harbor Business District-special use-03, 156.230
C-3 North Harbor Business District-special use-04, 156.231
Commercial signs, 156.224
Conditional use procedures, 156.218
Conditional uses, 156.217
Fences, 156.227
General intent, 156.215
Height limitations/bulk regulations, 156.222
Lot width requirements, 156.219

Permitted uses, 156.216
C-3 NORTH HARBOR BUSINESS DISTRICT (Cont'd)
Public display area requirements, 156.223
Signage illumination, 156.226
Signage location, 156.225
Yard requirements, 156.221

CAB STANDS (See TRAFFIC CODE)

CABLE COMMUNICATIONS ADVISORY BOARD
Advisory relationship, 32.290
Conflict of interest, 32.287
Created, 32.285
Expenses, 32.292
Legal counsel, 32.293
Meetings, 32.288
Powers and duties, 32.291
Quorum, 32.289
Stipend, 32.295
Term, 32.286
Written report, 32.294

CABLE SERVICE DEPARTMENT, 32.020

CABS (See TAXICABS)

CANVASSERS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

CARBON MONOXIDE DETECTORS (See FIRE PREVENTION)

CARNIVALS (See AMUSEMENTS GENERALLY)

CASH RESERVE FUND
Created, 43.170

CATCHBASIN AND SEWER CLEANERS (See BUILDING CONTRACTORS AND MOVERS; CATCHBASIN AND SEWER CLEANERS; LUMBER YARDS AND STOREHOUSES; SIDEWALK CONTRACTORS)

CHANNEL MAINTENANCE FUND, 44.15

CHEMICAL WEAPONS, 136.07

CHEMICALS AND SUBSTANCES; OFFENSIVE, 136.02

CITY ATTORNEY
Appointment-head of Department of Law, 31.065
Composition of Department of Law, 31.068
Duties, 31.066

Secretary and other special assistants, 31.067

CITY CLERK
Assistants, 31.039
Compensation and fees, 31.037
Deputy City Clerks, 31.038
Duties generally, 31.036
Election-term of office, 31.035

CITY CONTRACTS
City Contracts
Actual residents defined, 39.02
Affidavit of East Chicago Residency Hiring, 39.06
Compliance, 39.04
Construction contracts to provide for resident employment, 39.01
Contracts-forms-drafting authority, 39.07
Contracts-local hiring ordinance to be included-compliance required, 39.05
Minimum percentage, 39.03
Monetary damages, 39.08
Equal Employment Opportunity
Contractor's submissions, 39.26
Deductions, 39.25
Employment of formula, 39.21
Equal employment opportunity goals, 39.20
Formula, 39.23
Goals to apply to projects subsidized by federal revenues, 39.24
Goals to apply to projects funded entirely by the city, 39.22
Prevailing wage range, 39.27
Use of monetary damages, 39.28
Project Labor Agreements
Additional provisions, 39.44
Enforcement, 39.43
Language required for any instructions to bidders, 39.42
Language required for all solicitations for bids, 39.41
Policy, 39.40

CITY CONTROLLER
Additional assistants and clerks, 31.053
Appointment-head of Department of Finance, 31.050
Controller's Chief Clerk, 31.052
Duties and powers, 31.051
Office, 32.004

CITY COUNCIL OFFICE EXPENSE FUND
Creation, 43.235

CITY COUNCIL PROMOTIONAL FUND
Created, 43.220
Expenditures, 43.221
Expense authorization required, 43.222

CITY COURT
Appeals
Civil actions, 36.020
Criminal actions, 36.021
Bailiffs
Appointment-salary, 36.050
Powers and duties, 36.051
City Court Reporter
Administering oaths, 36.079
City court reporter, 36.075
Compensation, 36.076
Duties, 36.078
Furnishing transcripts, 36.080
Qualifications, 36.077
City Judge
Election-term of office, 36.035
Powers and duties, 36.036
Judicial power-court of record, 36.001
Jurisdiction generally, 36.003
Name and seal, 36.002
Personal fees of certain officers, 36.006
Probation Officer
Appointment-compensation-qualifications, 36.065
Powers and duties, 36.066
Traffic Violations Division, 36.004
When sessions of Court to be held, 36.005

CITY COURT-FIRST OFFENDER'S FUND
Cost, 43.491
Deposits, 43.492
Established, 43.490
Expenditures, 43.493
Termination of Fund, 43.494

CITY COURT -PUBLIC DEFENDER FUND
Cost, 43.506
Deposits, 43.507
Established, 43.505
Expenditures, 43.508
Termination of Fund, 43.509

CITY ENGINEER
Appointment-assistants, 31.080
Assistant City Engineer, 31.082
Duties, 31.081
Funding of assistants, 31.083

CITY OFFICIALS
City Attorney
Appointment-head of Department of Law, 31.065
Composition of Department of Law, 31.068
Duties, 31.066
Secretary and other special assistants, 31.067
City Clerk
Assistants, 31.039
Compensation and fees, 31.037
Deputy City Clerks, 31.038
Duties generally, 31.036
Election-term of office, 31.035
City Controller
Additional assistants and clerks, 31.053
Appointment-head of Department of Finance, 31.050
Controller's Chief Clerk, 31.052
Duties and powers, 31.051
City Engineer
Appointment-assistants, 31.080
Assistant City Engineer, 31.082
Duties, 31.081
Funding of assistants, 31.083
Common Council
Authority to allow and approve claims, 31.003
Clerk of Council, 31.008
Composition-election, 31.001
Legislative authority, 31.002
President-duties, 31.005
President-election, 31.004
Sergeant-at-arms, 31.007
Vice-President, 31.006
Harbor Master
Authority and duties generally, 31.097
Control of bridges, 31.102
Custody of city property, 31.100
Office, 31.096
Police powers, 31.099
Position created-appointment, 31.095
Power to compel assistance, 31.101
Records of accidents and damages, 31.098
Mayor
Election, 31.020
Mayor's Secretary, 31.022
Powers and duties, 31.021

CITY POLICIES
Credit cards used for official city business, 42.03
Disposal of city property, 42.01
Penalty, 42.99
Records and reports, 42.02

Smoke-Free Environment on or in Municipal Property
CITY POLICIES (Cont'd)
Definitions, 42.15
More restrictive actions, 42.19
Non-retaliation clause, 42.18
Posting of signs, 42.17
Prohibition of smoking in public buildings and city vehicles, 42.16

CITY PROPERTY DAMAGE FUND Created, 43.110

CITY SEAL
Custodial and usage authority designation, 11.01
Unlawful usage, 11.02

CITY STANDARDS
City Seal
Custodial and usage authority designation, 11.01
Unlawful usage, 11.02

CIVIL DEFENSE AND EMERGENCIES
Definitions, 37.01
Procedures
Civil defense plan, 37.32
Civil Defense Council, 37.31
Enforcement of orders of Governor or Mayor, 37.34
Expenditures of funds, 37.39
False air raid signals, 37.41
Federal and private aid, 37.38
Liability for death, personal injury or property damage, 37.40
Lights displayed contrary to chapter, 37.42
Mobile reserve battalions, 37.35
Mutual aid agreements, 37.33
Powers of Mayor, 37.30
Special police, 37.36
Utilization of municipal services, facilities, 37.37
Proclamation of Emergency
Authority of Mayor, 37.15
Compliance, 37.18
Effective date, 37.16
Termination-extensions, 37.17

CIVIL SERVICE SYSTEM-FIRE DEPARTMENT, 35.125

CLERK OF COUNCIL, 31.008

CLERK; CITY (See CITY CLERK)

COAL OR COKE DEALERS
License-fee-nontransferable, 117.03
License-required, 117.02
Retail coal or coke dealer defined, 117.01

CODE ENFORCEMENT DEPARTMENT
Created, 32.315
Duties, 32.316

CODE OF ORDINANCES; GENERAL CODE CONSTRUCTION; GENERAL PENALTY
Application to future ordinances, 10.03
Catch lines of sections, 10.17
Construction of code, 10.04
Errors and omissions, 10.09
General penalty, 10.99
Interpretation, 10.02
Limitation periods, 10.12
Ordinances unaffected, 10.13
Ordinances which amend or supplement code, 10.14
Preservation of penalties, offenses, rights and liabilities, 10.16
Reasonable time, 10.10
Reference to offices; name designations, 10.08
Reference to other sections, 10.07
Repeal or modification of code section, 10.11
Rules of interpretation; definitions, 10.05
Section histories; statutory references, 10.15
Severability, 10.06
Title of code, 10.01

COIN-OPERATED DEVICES (See ENTERTAINMENTS AND SOLICITATIONS; COIN-OPERATED DEVICES; NIGHT CLUBS, DANCE HALLS AND SKATING RINKS)

COIN-OPERA TED TELEPHONES
Applicability, 129.01
Installation, placement and enforcement authority, 129.07
Maintenance and location regulations, 129.05
Non-maintenance-violation-correction-removal, 129.06
Penalty, 129.99
Permit-application-installation determination authority, 129.04
Permit-required-fees, 129.03
Registration, 129.02

COKE DEALERS (See COAL OR COKE DEALERS)

COMIC BOOKS
Certification of contents, 132.22
Definitions, 132.20
Selling and displaying, 132.21

COMMERCIAL AND HEAVY VEHICLES
Truck routes, 71.070
Trucks and heavy or slower moving vehicles, 71.072
Trucks passing each other, 71.071

COMMERCIAL DISTRICT; GENERAL (See ZONING)

COMMON COUNCIL
Authority to allow and approve claims, 31.003
Clerk of Council, 31.008
Composition-election, 31.001
Legislative authority, 31.002
President-duties, 31.005
President-election, 31.004
Sergeant-at-arms, 31.007
Vice-President, 31.006

COMMUNICATIONS DEPARTMENT, 32.017

COMMUNICATIONS REVOLVING FUND
Created, 43.140

COMMUNITY DEVELOPMENT DEBT SERVICE RESERVE FUND; NONREVERTING
Created, 43.310
Deposits, 43.311
Expenditures, 43.312
Termination of Fund, 43.313

COMMUNITY UNIT PLAN, 156.007

COMPLAINTS OFFICE, 32.033

CONSTRUCTION CONTRACT WAGE SCALES
Applicability, 153.07
Compliance required, 153.05
Filing of payroll record required, 153.06
Labor classifications, 153.03
Minimum wage rates and job classifications to equal teamsters' rates, 153.04
Prevailing wage scales required, 153.01
Qualified personnel, 153.02

CONTAGIOUS DISEASES (See HEALTH AND SANITATION)

CONTRACTS; CITY (See CITY CONTRACTS)

CONTROLLER; CITY (See CITY CONTROLLER)

COUNCIL CLERK OF, 31.008

COUNCIL MEETINGS
Amendments to be germane, 30.14
Application of Robert's Rules of Order, 30.05
Attendance of members at meetings, 30.03
Council member decorum, 30.21
Motions generally, 30.13
Order of business, 30.07
Ordinances-general and emergency introductions, 30.09

Ordinances-readings and passage, 30.10
COUNCIL MEETINGS (Cont'd)
Previous question generally, 30.15
Priority of business to be decided without debate, 30.08
Questions of privilege, 30.16
Quorum, 30.04
Reconsideration of decided questions, 30.17
Referrals of questions, resolutions and the like to committees-procedure, 30.11
Regular meetings-adjourned meetings, 30.01
Reports by committees, 30.12
Special meetings, 30.02
Speeches before Council, 30.20
Suspension of rules generally, 30.06
Voting on postponed matters, 30.19
Voting procedure, 30.18

COUNCIL OFFICE EXPENSE FUND
Creation, 43.235

COUNCIL PROMOTIONAL FUND (See CITY COUNCIL PROMOTIONAL FUND)

COUNCIL; COMMON (See COMMON COUNCIL)

COUNCILMANIC DISTRICTS
District descriptions, 12.01

COURT DRIVING SCHOOL FUND
Deposits, 43.401
Established, 43.400
Expenditures, 43.402
Termination of Fund, 43.403

COURT; CITY (See CITY COURT)

COURT-FIRST OFFENDER'S FUND; CITY (See CITY COURT-FIRST OFFENDER'S FUND)

COURT-PUBLIC DEFENDER FUND; CITY (See CITY COURT-PUBLIC DEFENDER FUND)

COWLS OR HOODS; WEARING, 131.02

CREDIT CARDS USED FOR OFFICIAL CITY BUSINESS, 42.03

CROSS CONNECTION CONTROL
Access to premises, 53.05
Definitions, 53.01
Discontinuance of water service, 53.06
Inspections, 53.04
Policy, 53.02
Regulation, 53.03
Typical installations, 53.07

CROSSWALKS AND ALLEYS; CLEANLINESS OF, 97.007

CROSSWALKS; BLOCKING, 71.020

CUMULATIVE CAPITAL DEVELOPMENT FUND
Designated uses, 43.189
Maximum rate of tax levy, 43.187
Other uses, 43.190
Re-established, 43.185
Re-established for certain years, 43.188
Tax levy, 43.186

CUMULATIVE CAPITAL IMPROVEMENT FUND, 43.015

CUMULATIVE FIRE DEPARTMENT FUND
Created-purpose, 43.045
Expenditures, 43.046
Tax levy-advertisement-reduction, rescission, 43.049
Tax levy-amount, 43.047
Tax levy-deposit-additional purposes, 43.050
Tax levy-when levied, 43.048

CUMULATIVE FIREFIGHTING BUILDING AND EQUIPMENT FUND
Designated uses, 43.069
Established, 43.065
Established for certain year, 43.068
Maximum rate of tax levy, 43.067
Tax levy, 43.066

CURBS (See SIDEWALKS AND CURBS)

CURFEW, 135.02

DANCE HALLS (See ENTERTAINMENTS AND SOLICITATIONS; COIN-OPERATED DEVICES; NIGHT CLUBS, DANCE HALLS AND SKATING RINKS)

DANGEROUS, HAZARDOUS OR TOXIC SUBSTANCES
Dangerous, Hazardous or Toxic Substance Spill Reports
Applicability, 95.17
Definitions, 95.16
Enforcement authority, 95.21
Notification-information required, 95.18
Premises right of entry, 95.20
Required, 95.15
Written information required, 95 .19
Definitions, 95.01
Modification authority, 95.03
Penalty, 95.99
Storage, handling or disposal requirements, 95.02

DARE FUND
Deposits, 43.356
Established, 43.355
Expenditures, 43.357
Termination of Fund, 43.358

DATA PROCESSING DEPARTMENT, 32.007

DATA PROCESSING REVOLVING FUND
Created, 43.125

DATA SYSTEM
Created, 32.210
Data Processing Department to remain independent of data system, 32.219
Data system users, 32.220
Data System Board-appointment-term, 32.211
Data System Board-compensation, 32.212
Data System Board-management authority, 32.213
Data System Revolving Fund-created, 32.217
Data System Revolving Fund-source of funds, 32.218
Funds-management authority, 32.216
Rate adjustment authority, 32.214
Rate applicability-when, 32.215

DEATHS (See HEALTH AND SANITATION)

DEBT SERVICE RESERVE FUND; NONREVERTING COMMUNITY DEVELOPMENT (See COMMUNITY DEVELOPMENT DEBT SERVICE RESERVE FUND; NONREVERTING)

DEPARTMENT OF FINANCE (See CITY CONTROLLER)

DEPARTMENT OF LAW (See CITY ATTORNEY)

DEPARTMENTS GENERALLY
Departments of the city, 32.001
Department directors, 32.002
Other municipal functions, 32.034
Previous powers and authorities, 32.035

DESIGN STANDARDS (See SUBDIVISION REGULATIONS)

DEVELOPMENT FUND (See CUMULATIVE CAPITAL DEVELOPMENT FUND)

DEVELOPMENT PLAN REQUIREMENTS, 156.011

DIABETES AWARENESS FUND
Deposits, 43.386
Established, 43.385
Expenditures, 43. 387
Termination of Fund, 43.388

DISEASES; CONTAGIOUS (See HEALTH AND SANITATION)

DISTRICT DESCRIPTIONS; COUNCILMANIC, 12.01

DOGS (See ANIMALS)

DRIVEWAYS (See STREETS AND PUBLIC PLACES)

DRIVING SCHOOL FUND; COURT (See COURT DRIVING SCHOOL FUND)

DRUG PARAPHERNALIA; RETAIL ESTABLISHMENTS SELLING ITEMS COMMONLY USED AS
- Blunt cigars and similar items, 124.01
- Exception, 124.03
- Location of sale, 124.02
- Penalty, 124.99

DRUG PROGRAM USERS FEE FUND (See ALCOHOL AND DRUG PROGRAM USERS FEE FUND)

DUMPING
- Generally, 55.060
- Permit required, 55.061

EARTH STATION ANTENNAS; TV (See ZONING)

EASEMENTS, 155.041

EAST CHICAGO PORT AUTHORITY
- Advisory Council, 44.08
- Annual budget, 44.09
- Annual fee on watercraft, 44.18
- Board of Directors, 44.05
- Creation, 44.02
- Cumulative Channel Maintenance Fund, 44.15
- Definitions, 44.01
- Depositories-disbursement of funds, 44.16
- Development plan, 44.10
- Intergovernmental contracts-acquisition of land, 44.11
- Jurisdiction, 44.04
- Miscellaneous provisions, 44.19
- Officers and employees, 44.07
- Powers and duties, 44.06
- Provisions governing participation by private enterprise-construction and operation of facilities, 44.14
- Purposes, 44.03
- Railroad rights-of-way-powers, 44.12
- Revenue bonds, 44.17
- Rules and regulations, 44.13
- Transfer and savings clause, 44.20

ECONOMIC AND BUSINESS DEVELOPMENT DEPARTMENT, 32.022

ECONOMIC DEVELOPMENT COMMISSION
Appointment, 32.131
Bond issuance-cost of operation-fee limit, 32.134
Collection-fund established, 32.137
Commission levy authority-amount to be paid, 32.135
Created-composition, 32.130
Executive Director, 32.140
Fee issuance limitation, 32.136
Funds appropriated not to exceed funds received as proceeds, 32.138
Qualifications of members, 32.133
Revolving fund designation, 32.139
Terms of office, successors and compensation of members, 32.132

ECONOMIC DEVELOPMENT CONTRIBUTIONS RECEIVED FROM GAMING REVENUES, 43.004

EMERGENCIES (See CIVIL DEFENSE AND EMERGENCIES)

EMERGENCY MANAGEMENT AND COMMUNICATIONS DEPARTMENT, 32.017

EMERGENCY MEDICAL SERVICE (See also HEALTH DEPARTMENT)
Established, 32.175 REPEALED
Fee schedule for ambulance service, 32.177
Health Department Division, 32.176

EMERGENCY MEDICAL SERVICES DEPARTMENT, 32.028

EMISSION STANDARDS (See AIR POLLUTION)

ENGINEER; CITY (See CITY ENGINEER)

ENGINEERING DEPARTMENT, 32.009

ENTERTAINMENTS AND SOLICITATIONS; COIN-OPERATED DEVICES; NIGHT CLUBS, DANCE HALLS AND SKATING RINKS
Charitable Entertainments and Solicitations
Charitable entertainments-identification of benefited parties, 116.01
Tag day solicitations, 116.02
Coin-Operated Devices
Definitions, 116.15
Gambling devices, 116.16
Licenses-application, 116.20
Licenses-display-transfer, 116.24
Licenses-fees, 116.22
Licenses-investigation-approvals, 116.21
Licenses-issuance, 116.23
Licenses-required, 116.19
Licenses-revocation, 116.25

Maintenance-identification-refunds, 116.17
Violations, 116.18
Night Clubs, Dance Halls and Skating Rinks
C-3 North Harbor Business District: conditions of liquor license, 116.55
Definitions, 116.40
Employment of minors, 116.48
Hours of operation of public dance halls, 116.47
Inspection of premises, 116.50
Insurance for skating rinks, 116.46
Licenses-application-issuance, 116.42
Licenses-fees-period of issuance, 116.43
Licenses-forfeiture, 116.45
Licenses-investigation-approval of officials, 116.44
Licenses-required-qualifications, 116.41
Maintenance of premises and equipment, 116.52
Misrepresentation of age or parentage to gain admittance or employment, 116.49
Public dances-prohibited acts, 116.54
Public hall-attendance of police officers, 116.53
Ventilation, toilets and drinking fountains, 116.51

ENVIRONMENTAL HEALTH DEPARTMENT, 32.026 (See also PUBLIC AND ENVIRONMENTAL HEALTH DEPARTMENT)

ENVIRONMENTAL MANAGEMENT DEPARTMENT, 32.027

EQUIPMENT FUND (See CUMULATIVE FIREFIGHTING BUILDING AND EQUIPMENT FUND)

EXCAVATIONS (See STREETS AND PUBLIC PLACES)

FALSE ALARMS OF FIRE, 92.011

FENCES
Certain fence enclosures required, 156.385
Definition and classification, 156.381
Enforcement, 156.391
Fence permit pre-application conference-required, 156.388
Fence permit pre-application conference, 156.389
Location of fences, 156.382
Maintenance and repair of fences, 156.383
Permits and fees, 156.390
Permitted fences-commercial and industrial districts, 156.387
Permitted fences-residential districts, 156.386
Prohibited fences, 156.384
Purpose and intent, 156.380

FINANCE BOARD, 43.001

FINANCE DEPARTMENT (See CITY CONTROLLER)

FINANCIAL POLICIES-FUNDS
Alcohol and Drug Program Users Fee Fund

Deposits, 43.431
Established, 43.430
Expenditures, 43.432
Termination of Fund, 43.433
Board of Finance, 43.001
Building Department-Change Fund
Established, 43.475
Fund limit, 43.476
Initial deposit, 43.4 77
Termination of Fund, 43.478
Cash Reserve Fund
Created, 43.170
City Council Office Expense Fund
Creation, 43.235
City Council Promotional Fund
Created, 43.220
Expenditures, 43.221
Expense authorization required, 43.222
City Court-First Offender's Fund
Cost, 43.491
Deposits, 43.492
Established, 43.490
Expenditures, 43.493
Termination of Fund, 43.494
City Court-Public Defender Fund
Cost, 43.506
Deposits, 43.507
Established, 43.505
Expenditures, 43.508
Termination of Fund, 43.509
City Property Damage Fund
Created, 43.110
Communications Revolving Fund
Created, 43.140
Court Driving School Fund
Deposits, 43.401
Established, 43.400
Expenditures, 43.402
Termination of Fund, 43.403
Cumulative Capital Development Fund
Designated uses, 43.189
Maximum rate of tax levy, 43.187
Other uses, 43.190
Re-established, 43.185
Re-established for certain years, 43.188
Tax levy, 43.186
Cumulative Capital Improvement Fund, 43.015
Cumulative Fire Department Fund
Created-purpose, 43.045
Expenditures, 43.046
Tax levy-advertisement-reduction, rescission, 43.049

Tax levy-amount, 43.047
FINANCIAL POLICIES-FUNDS (Cont'd)
Cumulative Fire Department Fund (Cont'd)
Tax levy-deposit-additional purposes, 43.050
Tax levy-when levied, 43.048
Cumulative Firefighting Building and Equipment Fund
Designated uses, 43.069
Established, 43.065
Established for certain year, 43.068
Maximum rate of tax levy, 43.067
Tax levy, 43.066
DARE Fund
Deposits, 43.356
Established, 43.355
Expenditures, 43.357
Termination of Fund, 43.358
Data Processing Revolving Fund
Created, 43.125
Department of Public and Environmental Health-Change Fund
Created, 43.280
Purpose, 43.281
Department of Public and Environmental Health-Petty Cash Fund
Created, 43.265
Purpose, 43.266
Diabetes Awareness Fund
Deposits, 43.386
Established, 43.385
Expenditures, 43.387
Termination of Fund, 43.388
Gasoline Fund
Created, 43.095
General Adult Probation Services Fund
Created, 43.205
Government Services Cooperative Fund
Deposits, 43.326
Established, 43.325
Expenditures, 43.327
Termination of Fund, 43.328
Major Moves Construction Fund 450
Established, 43.520
Uses, 43.521
Nonreverting Community Development Debt Service Reserve Fund
Created, 43.310
Deposits, 43.311
Expenditures, 43.312
Termination of Fund, 43.313
Nonreverting Fire Department Capital Fund
Deposits, 43.081
Designated uses, 43.082
Established, 43.080
Perpetual, 43.083

Nonreverting funds, 43.003
FINANCIAL POLICIES-FUNDS (Cont'd)
Nonreverting Grant Fund
Deposits, 43.341
Established, 43.340
Expenditures, 43.342
Termination of Fund, 43.343
Nonreverting Immunization Fund
Created, 43.295
Deposits, 43.296
Expenditures, 43.297
Termination of Fund, 43.298
Park and Recreation Revolving Fund
Created, 43.155
Program for expenditures of economic development contributions received from gaming revenues, 43.004
Property Tax Credit Fund
Established, 43.535
Uses, 43.536
Railroad Relocation Fund
Deposits, 43.416
Established, 43.415
Expenditures, 43 .417
Termination of Fund, 43.418
Sinking Fund
Commissioners, 43.031
Created-purpose, 43.030
Special Nonreverting Operating Fund for Park and Recreational Purposes
Created, 43.250
Expenditures, 43.252
Monies received, 43.251
Stormwater Management Fund
Disbursements, 43.463
Established, 43.460
Expenditures, 43.461
Termination of Fund, 43.462
Unsafe Building Fund
Deposits, 43.446
Established, 43.445
Expenditures, 43.447
Termination of Fund, 43.448
Use of certain fees for General Fund, 43.002
Water Tank Refurbishment Fund
Deposits, 43.371
Established, 43.370
Expenditures, 43.372
Termination of Fund, 43.373

FIRE BALLS AND WEAPONS MADE OF THIN GLASS, 136.01

FIRE DEPARTMENT, 32.015
Chief
Appointment -qualifications, 35.020
Powers and duties, 35.021
Civil Service System-Fire Department
Adopted by reference, 35.125
Commanding officers, 35.005
Creation and Reimbursement of Hazardous Materials (Haz-Mat) Response Team
Billing responsibility, 35.128
Clean-up contractors-reimbursement responsibility, 35.127
Created, 35.125
Haz-Mat Team response-reimbursement responsibility, 35.126
Division of Department of Public Safety-composition, 35.002
Employees, assistants-generally, 35.004
Equipment
Care of city property, 35.062
Care of fire hose, 35.061
Obstruction to fire hydrants, 35.063
Returning equipment of other fire companies, 35.060
Fire Prevention Bureau
Chief of Fire Prevention Bureau, 35.091
Duties of fire inspector, 35.094
Established-supervision-purpose, 35.090
Inspections, 35.093
Investigations, 35.097
Notice of hazards to owner, occupant and the like-compliance with order to remedy violations, 35.096
Records, 35.092
Report of structural instabilities of buildings, 35.095
Fire Station
Disturbances, noise prohibited, 35.113
Gambling prohibited, 35.111
Persons allowed to occupy fire station, 35.110
Sanitary conditions required, 35.112
Firefighters
Appointment, demotion, resignation, 35.036
Duties, 35.035
Efficiency ratings and merit roll-rewards for meritorious service, 35.044
False reports regarding members of fire force, 35.049
Fire force-outside interests, 35.040
Fire force-ranks, 35.039
Fire force-residency requirements for members, 35.038
Fire force-training, 35.037
Firefighters' Pension Fund, 35.045
Officer absence or disability-assumption of duties, 35.041
Sleeping hours when on duty-exceptions, 35.048
Standards of conduct for members of fire force, 35.042
Uniforms-equipment, 35.043
Vacations, 35.046
Work schedules-working during emergencies, 35.047

FIRE DEPARTMENT (Cont'd)
Jurisdiction and control, 35.001
Requests for Assistance
Assisting police upon request, 35.077
Police assistance, 35.076
Requests for assistance generally, 35.075
Secretary to Fire Department, 35.003

FIRE DEPARTMENT CAPITAL FUND; NONREVERTING
Deposits, 43.081
Designated uses, 43.082
Established, 43.080
Perpetual, 43.083

FIRE DEPARTMENT FUND (See CUMULATIVE FIRE DEPARTMENT FUND)

FIRE DETECTORS (See FIRE PREVENTION)

FIRE HOSE
Damaging, 92.006
Driving across, 71.009

FIRE PREVENTION
Fire and Smoke Detectors-Residential Requirements
All residential occupancy buildings-detector requirements, 92.030
Applicability, 92.025
Detector systems required-standards, 92.026
Enforcement authority, 92.031
Heating plant-detector requirements, 92.029
Kitchen detector-placement requirements, 92.028
Upper level sleeping rooms-placement requirement, 92.027
Bonfires on streets and sidewalks, 92.005
Carbon Monoxide Detectors
Compliance with state and federal regulations required, 92.068
Constitutionality, 92.072
Disarming prohibited-exception, 92.069
Exceptions, 92.066
Fossil fuel defined, 92.071
Installation and placement requirements, 92.067
Required for residential units, 92.065
Required installation in central fossil fuel powered heating unit room, 92.070
Damaging fire hose, 92.006
False alarms of fire, 92.011
Fire and Smoke Detectors
Applicability, 92.046
Compliance required-when, 92.045
Detection systems for single-family and two-family structures, 92.047
Detector placement in kitchens, 92.049
Detector placement near sleeping rooms, 92.048
Detector placement on heating plant level, 92.050

Enforcement, 92.053
FIRE PREVENTION (Cont'd)
Fire and Smoke Detectors (Cont'd)
Multi-family residential occupancy detector placement requirements, 92.051
Nonresidential occupancy detection system requirements, 92.052
Fires in alleys or open lots, 92.003
Fires near inflammable liquids, wood frame buildings, 92.004
Fireworks
Consumer fireworks, 92.091
Exemptions, 92.090
Permit; application; requirements for issuance, 92.086
Permit; bond, 92.087
Permit; required, 92.085
Seizure and removal, 92.089
Storage, 92.088
Flame proofing of certain flammable materials for certain uses, 92.009
Hindering firefighters-damaging fire apparatus, 92.002
Impersonating firefighters, 92.001
Penalty, 92.999
Private property saved from fires, 92.013
Reports of certain fire losses, 92.012
Smoking in public buildings, 92.010
Taking lighted objects into posted area, 92.008
Throwing fire brands, 92.007

FIRE PREVENTION BUREAU (See FIRE DEPARTMENT)

FIREARMS; POINTING OR DISCHARGING, 136.06

FIREFIGHTING BUILDING AND EQUIPMENT FUND (See CUMULATIVE FIREFIGHTING BUILDING AND EQUIPMENT FUND)

FIREWORKS (See FIRE PREVENTION)

FIRST OFFENDER'S FUND; CITY COURT (See CITY COURT-FIRST OFFENDER'S FUND)

FLAG; UNITED STATES (See UNITED STATES FLAG)

FLOOD HAZARD AREAS
Abrogation and greater restrictions, 154.12
Definitions, 154.03
Disclaimer of liability, 154.11
Duties of the Administrator, 154.04
Effective date, 154.13
Improvement location permit, 154.06
Other development requirements, 154.09
Penalty, 154.99
Preventing increased damages, 154.07
Protecting buildings, 154.08
Regulatory flood elevation, 154.05
Statement of purpose, 154.02

Statutory authorization, 154.01
FLOOD HAZARD AREAS (Cont'd)
Variances, 154.10

FOOD ESTABLISHMENT (See BEVERAGE DELIVERY AND MANUFACTURE; RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT; WHOLESALE ITINERANT PRODUCE DEALERS)

FOUR-STORY OR MORE DISTRICT (See ZONING)

FUND; USE OF CERTAIN FEES FOR GENERAL, 43.002

FUNDS (See FINANCIAL POLICIES-FUNDS)

FUNDS; NONREVERTING, 43.003

FUNERAL PROCESSIONS, 70.041

GAMBLING DEVICES, 116.16

GAME ARCADES; VIDEO (See ZONING)

GARBAGE
City Landfills
Establishment, 55.075
Permit for sorting rags and junk required, 55.076
Regulations-supervision and control-promulgation and posting, 55.077
Containers
Capacity-number, 55.028
Condemnation, confiscation, 55.031
Disturbance unlawful, 55.030
Location-removal after collection, 55.029
Required, 55.025
Specifications, 55.027
Street waste containers, 55.033
Use generally, 55.026
Using containers of others declared unlawful, 55.032
Dumping
Generally, 55.060
Permit required, 55.061
Garbage
Compliance with chapter, 55.002
Definitions, 55.001
Disposal of facial tissues and paper handkerchiefs, 55.010
Hot ashes, 55.006
Incinerating and reduction plants, 55.003
Mixing garbage with certain large articles, 55.004
Sale of garbage, 55.005
Sharp objects, 55.007
Throwing or depositing garbage-nuisance declared, 55.008
Unsanitary premises declared unlawful, 55.009

Vacation of premises-garbage removal required, 55.011
GARBAGE (Cont'd)
Garbage Collection, Removal and Disposal
Commercial and industrial garbage and trash removal regulations, 55.047
Domestic garbage and trash removal-compliance required, 55.046
Interference with collectors, 55.049
Jurisdiction, 55.045
Regulations-designated authority, 55.048

GAS (See PUBLIC UTILITIES)

GASOLINE FUND Created, 43.095

GASOLINE SERVICE STATIONS AND MOTOR VEHICLE DEALERS
Gasoline Service Stations
Advertisement and/or sale of used vehicles prohibited, 118.18
Basements prohibited-flooring requirements, 118.06
Compliance with subchapter, 118.20
Fire extinguisher, 118. 17
Flammable liquid classes-dispensing-flash point determination, 118.05
Greasing pits, 118.08
Heating systems, 118.07
Inspections prior to license issuance, 118.15
License-fee-issuance requirements, 118.01
Maintenance and operation-compliance required, 118.04
Motor fuel dispensing requirements, 118.03
Outdoor provisions-maintenance requirements, 118.09
Parts storage and enclosure requirements, 118.13
Periodic inspections-violations, 118.19
Pump area prohibitions, 118.11
Rest rooms, 118.10
Service station defined-private storage and underground storage, 118.02
Sidewalk or parkway obstruction prohibited, 118.14
Vehicle dismantling enclosure requirements, 118.12
Vehicle repair-enclosure requirements, 118.16
Motor Vehicle Dealers
Automobile titles, 118.35
Conduct of employees, 118.36
Investigation, 118.37
Licenses-applications-contents, 118.40
Licenses-applications-denial-reconsideration, 118.41
Licenses-expiration, 118.47
Licenses-fees, 118.43
Licenses-grounds for revocation, 118.48
Licenses-independent consideration for each location, 118.42
Licenses-issuance-display, 118.45
Licenses-qualifications and bond of applicant, 118.44
Licenses-required, 118.39
Licenses-transfer of locations, 118.46
Records-cooperation with police, 118.38
Penalty, 118.99

GENERAL COMMERCIAL DISTRICT (See ZONING)

GENERAL FUND; USE OF CERTAIN FEES FOR, 43.002

GLUE VAPORS OR FUMES
Definition, 132.35
Sales, 132.38
Sales records, 132.39
Sales to minors, 132.40
Smelling or inhaling, 132.36
Use or possession, 132.37

GOVERNMENT SERVICES COOPERATIVE FUND
Deposits, 43.326
Established, 43.325
Expenditures, 43.327
Termination of Fund, 43.328

GRAFFITI
Failure to abate, 133.18
Graffiti prohibited, 133.15
Notice of violation, 133.16
Notice of violation-contents, 133.17
Prohibited, 133.19

GRANT FUND; NONREVERTING
Deposits, 43.341
Established, 43.340
Expenditures, 43.342
Termination of Fund, 43.343

GUN CLUBS (See SHOOTING GALLERIES AND GUN CLUBS)

HANDBILLS
Handbills in public places, 93.055
Placing handbills in or upon vehicles, 93.056
Placing handbills on private premises prohibited, 93.057

HANDICAPPED PARKING
Criteria for designating a restricted handicapped area, 76.03
Definition of physically handicapped persons, 76.01
Penalty, 76.99
Spaces, 72.102
Public agency parking facilities, 76.04
Restricted handicapped areas-handicapped individual-residence parking permits, 76.02

HARBOR MASTER
Authority and duties generally, 31.097
Control of bridges, 31.102
Custody of city property, 31.100

Office, 31.096
HARBOR MASTER (Cont'd)
Police powers, 31.099
Position created-appointment, 31.095
Power to compel assistance, 31.101
Records of accidents and damages, 31.098

HARBORS
Damage to bridges, 101.23
Depositing putrid substances on banks and in harbor, 101.10
Display of vessel name, 101.14
Dock construction plans-filing, 101.04
Dock construction plans-approval, 101.05
Dredging permit, 101.08
Dumping of refuse into Lake Michigan, 101.09
Duration of keeping bridge open during certain hours, 101.19
Effect of federal regulations on chapter, 101.01
Examinations and reports of defective dangerous places on bridges, 101.25
Harbor defined, 101.02
Liability for injury to cables, 101.16
Maintenance of docks, 101.06
Manner of passing bridges, 101.22
Obstructions in harbor, 101.11
Opening bridges for vessels, 101.21
Powers and duties of harbor master, 101.03
Projections from wharf, 101.12
Removal of sunken or insecure vessels, 101.13
Report of use of harbor facilities, 101.17
Report of accidents to docks, piers and bridges, 101.24
Rules for vessels in harbor, 101.18
Signals for vessels on bridges, 101.20
Smoking on docks, wharves and piers, 101.07
Vessel refuse tanks, 101.15

HAZARDOUS MATERIALS (HAZ-MAT) RESPONSE TEAM
Billing responsibility, 35.128
Clean-up contractors-reimbursement responsibility, 35.127
Created, 35.125
Haz-Mat Team response-reimbursement responsibility, 35.126

HAZARDOUS MATERIALS RESPONSE DEPARTMENT, 32.016

HAZARDOUS OR TOXIC SUBSTANCES (See DANGEROUS, HAZARDOUS OR TOXIC SUBSTANCES)

HEALTH AND SANITATION
Adoption of state law, 91.001
Birth and Deaths
Administrative expenses, 91.020
Birth or death certificates, 91.018
Body transportation permit, 91.021

Burial permits, 91.019
HEALTH AND SANITATION (Cont'd)
Birth and Deaths (Cont'd)
Reports-maintenance, 91.017
Reports-required, 91.015
Reports-when due, 91.016
Cleaning of privy vaults, cesspools or pits, 91.003
Contagious Diseases
Disease prevention expenses, 91.058
Diseased employees, 91.061
Disinfection of premises, 91.054
Exclusion from school, 91.055
Free vaccinations, 91.060
Prevention and control of venereal disease, 91.059
Private funerals for certain deaths, 91.057
Quarantine, 91.051
Relocation of sick persons-contaminated articles, 91.056
Reports, 91.050
Sale or use of food and food products from premises-presence of animals, 91.053
Travel forbidden, 91.052
Emergency services telephone number, 91.035
Privies and outhouses, 91.002

HEALTH DEPARTMENT
Authorized assistants, employees and public health personnel, 32.061
Baby clinic doctor, 32.059
Board of Health-appointment, qualifications and terms of office of members, 32.064
Board of Health-election of officers-meetings-rules and regulations, 32.065
Board of Health-powers and duties, 32.066
Chemical and bacteriological laboratory-procedure upon discovery by laboratory of violation of code and the like, 32.063
Chief Health Inspector and Health Inspector, 32.057
City chemist, 32.062
Clerk-Interpreter, 32.052
Clerk of Department, 32.051
Created, 32.050
Health Officer, 32.053
Health Officer-powers and duties, 32.054
Insignia and police powers of Health Officers, Inspectors and the like, 32.055
Inspection powers and right of entry, 32.056
Public health nurses, 32.058
Venereal disease doctor, 32.060

HEALTH DEPARTMENT; PUBLIC AND ENVIRONMENTAL, 32.026

HEAVY INDUSTRIAL DISTRICT (See ZONING)

HEAVY VEHICLES
Truck routes, 71.070
Trucks and heavy or slower moving vehicles, 71.072
Trucks passing each other, 71.071

HISTORIC PRESERVATION COMMITTEE
Acquisitions of appropriate protective interests, 156.408
Applicability of zoning provisions, 156.407
Definitions, 156.406
Purpose, 156.405

HOODS; WEARING, 131.02

HOTELS
Conduct of lodgers, 119.07
Hotel defined, 119.01
Inspection, 119.08
Licenses-fees, 119.04
Licenses-inspection of premises of applicant, 119.03
Licenses-required, 119.02
Manner of operation, 119.06
Register, 119.05

HOUSING AUTHORITY, 32.025

HOUSING STANDARDS
Applicability, 152.03
Definitions, 152.01
Designation of unfit dwellings and legal procedure of condemnation, 152.11
Effect of failure to receive notice or order, 152.17
Emergencies, 152.18
Exits, 152.07
Hearings on violations, 152.14
Light and ventilation, 152.05
Maintenance, 152.08
Notice of violations, 152.13
Order to repair or demolish-issuance, 152.15
Order to repair or demolish-compliance, 152.16
Purpose, 152.02
Reports of violations, 152.12
Responsibilities of owners and occupants, 152.10
Rooming houses-hotels, 152.09
Sanitation, water and heating, 152.04
Space, use and location, 152.06

HOUSING; MANUFACTURED (See ZONING)

HOUSING; RENTAL (See RENTAL HOUSING)

HUMAN RIGHTS, 40.01

HUMAN RIGHTS DEPARTMENT, 32.029

ICE BOXES AND REFRIGERATORS; ABANDONING, 93.011

ICE REMOVAL, 98.04

IMMUNIZATION FUND; NONREVERTING
Created, 43.295
Deposits, 43.296
Expenditures, 43.297 Termination of Fund, 43.298

IMPERSONATING
Officers or employees, 130.03
Police officers or firefighters, 130.04

IMPROVEMENT FUND, 43.015

INDECENT
Exposure or dress, 132.03
Indecent or lewd acts, 132.04

INDUSTRIAL DISTRICTS (See ZONING)

INQUIRIES AND COMPLAINTS OFFICE, 32.033

INSPECTIONS DEPARTMENT
Establishment, 32.330
Powers and duties, 32.331

INTERSECTIONS OR CROSSWALKS; BLOCKING, 71.020

ITINERANT MERCHANTS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

ITINERANT PRODUCE DEALERS (See BEVERAGE DELIVERY AND MANUFACTURE; RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT; WHOLESALE ITINERANT PRODUCE DEALERS)

JOB BANK COMMISSION
Created, 32.255
Members-appointment, 32.256
Members-duties, 32.257

JUDGE
Election-term of office, 36.035
Powers and duties, 36.036

JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS
Junk Dealers and Junk Peddlers
Definitions, 120.001
Fencing of yards-location of junk, 120.003
Hours of business, 120.008

Identification of vehicles, 120.002
JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS (Cont'd)
Junk Dealers and Junk Peddlers (Cont'd)
Licenses-application, 120.011
Licenses-character of applicant, 120.013
Licenses-designation of location of business, 120.014
Licenses-fees, 120.012
Licenses-generally, 120.010
Licenses-plate, emblems and badges, 120.016
Licenses-revocation, 120.015
Location of business, 120.004
Melting of articles-when, 120.005
Operation as pawnbroker, 120.007
Sales-when, 120.006
Stolen goods, 120.009
Pawnbrokers
Bond, 120.034
Daily report to police, 120.037
Display of weapons, 120.039
Hours of operation, 120.040
Interest rates, 120.035
Licenses-fee-application, 120.032
Licenses-issuance, 120.033
Licenses-required, 120.031
Memorandum to pledger, 120.038
Pawnbroker defined, 120.030
Prohibited transactions generally, 120.042
Records of pledges and purchases, 120.036
Sale, redemption and the like, 120.041
Peddlers
Identification, 120.059
Inspection of food and vehicles, 120.056
Licenses-application-contents-bond, 120.064
Licenses-display, 120.069
Licenses-duration-payment of fees, 120.066
Licenses-fee schedule, 120.067
Licenses-investigation by Chief of Police-approval, 120.065
Licenses-required, 120.063
Licenses-transferability, 120.068
Loud noises, horns, amplifiers, 120.058
Peddler defined, 120.055
Sale of unwholesome food products, 120.061
Sanitary and health requirements, 120.060
Use of streets, 120.062
Weights and measures, 120.057
Penalty, 120.999
Scrap Metal Merchants
Definition, 120.140
Law enforcement-right to inspect, 120.143

Payments, 120.141
JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS (Cont'd)
Scrap Metal Merchants (Cont'd)
Stolen property, 120.142
Secondhand Dealers
Business locations to comply with zoning regulations, 120.083
Daily reports to police, 120.085
License-application, 120.081
License-fee, 120.082
License-required, 120.080
Record of purchases, 120.084
Sales, 120.086
Solicitors and Canvassers
Definitions, 120.100
Licenses-application, 120.102
Licenses-badge issuance, 120.105
Licenses-bond, 120.103
Licenses-fees, 120.104
Licenses-required, 120.101
Transient and Itinerant Merchants
Definitions, 120.120
Licenses-application, 120.123
Licenses-bond, 120.124
Licenses-display, 120.128
Licenses-issuance-fees-duration-renewals, 120.126
Licenses-required, 120.122
Licenses-service of process, 120.125
Licenses-transferability, 120.127
Loud noises-sound amplifying devices-prohibited acts, 120.121

JUNKED OR ABANDONED VEHICLES
Abandoning and leaving-generally, 103.02
Allowing vehicles to remain on property, 103.03
Definitions, 103.01
Immediate hazard constituting nuisance, 103.05
Removal by city-impounding, 103.04

LABOR AGREEMENTS (See CITY CONTRACTS)

LABOR DISPUTES
City policy, 131.15
Strikebreakers-employing, 131.18
Strikebreakers-generally, 131. 16
Strikebreakers-recruitment, 131.17

LANDFILLS (See GARBAGE)

LASER POINTERS
Liability of parent or legal guardian, 135. 17

Prohibited acts, 135.15
LASER POINTERS (Cont'd)
Transfer or sale to minor, 135.16

LAUNDRIES; SELF-SERVICE (See SELF-SERVICE LAUNDRIES)

LAW DEPARTMENT, 32.005 (See also CITY ATTORNEY)

LIBRARY; DISTURBING PUBLIC, 130.06

LIGHT INDUSTRIAL DISTRICT (See ZONING)

LIGHTS; STREET, 155.046

LITTER
Clearing private property by city-procedures, 93.043
Definitions, 93.030
Maintenance of premises, 93.042
Merchants' duty to keep sidewalks free of litter, 93.039
Placement in receptacles, 93.031
Posting or affixing notices to poles, trees and buildings prohibited-exception, 93.041
Sweeping or depositing litter in gutters and streets-care of sidewalks, 93.038
Throwing litter from vehicles prohibited, 93.033
Throwing litter in or upon streets, sidewalks, prohibited, 93.032
Throwing litter in parks prohibited, 93.034
Throwing litter in fountains, ponds or streams prohibited, 93.035
Throwing litter on private property prohibited, 93.036
Throwing out, dropping or depositing litter from aircraft prohibited, 93.037
Truck loads blown or deposited in streets-wheels or tires depositing mud, dirt and foreign matter, 93.040

LOITERING
Definitions, 131.45
Loitering by minors prohibited-exceptions, 131.47
Loitering by street gang members-dispersal order, 131.46

LOTS, 155.044

LUMBER YARDS AND STOREHOUSES (See BUILDING CONTRACTORS AND MOVERS; CATCHBASIN AND SEWER CLEANERS; LUMBER YARDS AND STOREHOUSES; SIDEWALK CONTRACTORS)

M-1 LIGHT INDUSTRIAL DISTRICT
Area regulations, 156.248
Development plan, 156.249
Generally, 156.245
Height regulations, 156.247
Use regulations, 156.246

M-2 HEAVY INDUSTRIAL DISTRICT
Area regulations, 156.262

Development plan, 156.263
M-2 HEAVY INDUSTRIAL DISTRICT (Cont'd)
Height regulations, 156.261
Use regulations, 156.260

MAIL DELIVERY
Delivery to made on a door to door basis, 97.180

MAINTENANCE SERVICES DEPARTMENT, 32.010

MAJOR MOVES CONSTRUCTION FUND 450
Established, 43.520
Uses, 43.521

MANUFACTURED HOUSING
Approved roofing materials list, 156.310
Approved siding materials list, 156.309
Definitions, 156.305
Installation standards, 156.308
Placement, 156.306
Standards, 156.307

MASKS, COWLS OR HOODS; WEARING, 131.02

MAYOR
Election, 31.020
Mayor's Secretary, 31.022
Powers and duties, 31.021

MAYOR'S OFFICE, 32.003

MEDICAL SERVICE; EMERGENCY (See also HEALTH DEPARTMENT)

MEETINGS; COUNCIL (See COUNCIL MEETINGS)

MERCHANTS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

MINORS; OFFENSES INVOLVING (See OFFENSES INVOLVING MINORS)

MOLESTING PERSONS OF OPPOSITE SEX, 134.01

MONUMENTS, 155.038

MOTOR VEHICLE DEALERS (See GASOLINE SERVICE STATIONS AND MOTOR VEHICLE DEALERS)

MOTORCYCLES; RIDING ON, 71.018

MOVERS; PUBLIC (See PUBLIC MOVERS)

MULTIPLE-DWELLING AND/OR TWO-STORY ROW HOUSE DISTRICT (See ZONING)

MULTIPLE-DWELLING, THREE-STORY OR LESS DISTRICT (See ZONING)

NEIGHBORHOOD RETAIL DISTRICT (See ZONING)

NIGHT CLUBS (See ENTERTAINMENTS AND SOLICITATIONS; COIN-OPERATED DEVICES; NIGHT CLUBS, DANCE HALLS AND SKATING RINKS)

NOISE
- Abatement, 131.34
- Enumeration, 131.31
- Generally, 131.30
- Sound trucks, 131.33
- Transporting rails, pillars or other materials, 131.32

NORTH HARBOR BUSINESS DISTRICT (See ZONING)

NUISANCES
- Abandoning or discarding ice boxes and refrigerators, 93.011
- Barbed wire, 93.008
- Cellars or drains emitting noxious odors prohibited, 93.009
- Certain acts enumerated, 93.007
- Coal and dirt-loading, 93.010
- Common-law and statutory nuisances, 93.002
- Dangerous or offensive maintenance of premises, 93.001
- Handbills
  - Handbills in public places, 93.055
  - Placing handbills in or upon vehicles, 93.056
  - Placing handbills on private premises prohibited, 93.057
- Litter
  - Clearing private property by city-procedures, 93.043
  - Definitions, 93.030
  - Maintenance of premises, 93.042
  - Merchants' duty to keep sidewalks free of litter, 93.039
  - Placement in receptacles, 93.031
  - Posting or affixing notices to poles, trees and buildings prohibited-exception, 93.041
  - Sweeping or depositing litter in gutters and streets-care of sidewalks, 93.038
  - Throwing litter from vehicles prohibited, 93.033
  - Throwing litter in or upon streets, sidewalks, prohibited, 93.032
  - Throwing litter in parks prohibited, 93.034
  - Throwing litter in fountains, ponds or streams prohibited, 93.035
  - Throwing litter on private property prohibited, 93.036
  - Throwing out, dropping or depositing litter from aircraft prohibited, 93.037
  - Truck loads blown or deposited in streets-wheels or tires depositing mud, dirt and foreign matter, 93.040
- Notice to abate-abatement by city, 93.003
- Nuisances brought into city prohibited, 93.006
- Placing flowerpots, bowls or other articles on windowsills or balconies, 93.016
- Rat Control

Elimination of feeding places required, 93.071
NUISANCES (Cont'd)
Rat Control (Cont'd)
Extermination, 93.072
Rat proofing buildings, 93.073
Removal of storage areas providing harborage, 93.070
Vermin poison, 93.074
Reporting violations-right of entry for inspection, 93.004
Sale of secondhand bed clothing, 93.012
Sale of unclean rags and fabrics, 93.014
Substances that scatter in wind, 93.013
Summary abatement, 93.005
Uncovered cisterns and cellars, 93.015
Weeds
Removal of weeds and rank vegetation, 93.085

OFFENSES AGAINST PEOPLE
Molesting persons of opposite sex, 134.01

OFFENSES AGAINST PROPERTY
Damaging or destroying public and private property, 133.02
Digging or removing sod, stone, earth, sand or gravel, 133.03
Graffiti
Failure to abate, 133.18
Graffiti prohibited, 133.15
Notice of violation, 133.16
Notice of violation-contents, 133.17
Prohibited, 133.19
Meddling with personal property, 133.01
Penalty, 133.99

OFFENSES AGAINST PUBLIC DECENCY
Comic Books
Certification of contents, 132.22
Definitions, 132.20
Selling and displaying, 132.21
Endurance and similar contests, 132.01
Food containers and measures-deceptive practices unlawful, 132.02
Glue Vapors or Fumes
Definition, 132.35
Sales, 132.38
Sales records, 132.39
Sales to minors, 132.40
Smelling or inhaling, 132.36
Use or possession, 132.37
Indecent exposure or dress, 132.03
Indecent or lewd acts, 132.04
Penalty, 132.99
Sleeping in streets, parks and other public places, 132.05
Spitting in public, 132.06

OFFENSES AGAINST PUBLIC OFFICERS AND GOVERNMENT
Abusing police officers, 130.05
Communicating with prisoners in jail-authorization required, 130.02
Disturbing public library, 130.06
Extinguishing street lights or traffic signals, 130.07
Impersonating officers or employees, 130.03
Impersonating police officers or firefighters, 130.04
Tampering with fire or police signal systems and municipal electric wires, 130.01

OFFENSES AGAINST PUBLIC PEACE
Buildings used for disturbing the peace, 131.01
Interference with radio and television reception, 131.04
Labor Disputes
City policy, 131.15
Strikebreakers-employing, 131.18
Strikebreakers-generally, 131. 16
Strikebreakers-recruitment, 131.17
Loitering
Definitions, 131.45
Loitering by minors prohibited-exceptions, 131.47
Loitering by street gang members-dispersal order, 131.46
Material dealing with racial or religious hatred-dissemination, 131.03
Noise
Abatement, 131.34
Enumeration, 131.31
Generally, 131.30
Sound trucks, 131.33
Transporting rails, pillars or other materials, 131.32
Open Alcoholic Beverages on Public Thoroughfare or Public Property
Definitions, 131.60
Possession or consumption prohibited, 131.61
Penalty, 131.99
Wearing of masks, cowls or hoods, 131.02

OFFENSES INVOLVING MINORS
Curfew, 135.02
Defenses, 135.03
Laser Pointers
Liability of parent or legal guardian, 135.17
Prohibited acts, 135.15
Transfer or sale to minor, 135. 16
Parents to exercise control, 135.01
Penalty, 135.99

OFFICE HOURS, 38.01

OFFICIALS (See CITY OFFICIALS)

ONE-WAY STREETS, 71.001,71.142

OPEN ALCOHOLIC BEVERAGES ON PUBLIC THOROUGHFARE OR PUBLIC PROPERTY
Definitions, 131.60
Possession or consumption prohibited, 131.61

OPEN BURNING
Certain fires permitted, 102.137
Conditions applicable to exemptions and variances, 102.134
Definition, 102.130
Enforcement, 102.135
Exemptions, 102.132
Permits, 102.136
Prohibition, 102.131
Salvage operation, 102.138
Variances, 102.133

ORDINANCES (See CODE OF ORDINANCES and COUNCIL MEETINGS)

P-1 PARK DISTRICT
Generally, 156.275
Use regulations, 156.276

PARADES AND PROCESSIONS (See also PROCESSIONS)
Identification of funeral processions, 70.041
Parades and processions, 70.040
Parades, processions and open-air meetings, 97.003

PARK AND RECREATION REVOLVING FUND
Created, 43.155

PARK AND RECREATIONAL SPECIAL NONREVERTING OPERATING FUND; PURPOSES
Created, 43.250
Expenditures, 43.252
Monies received, 43.251

PARK DISTRICT (See ZONING)

PARKING METERS
Collection and disposition of proceeds, 73.11
Definitions, 73.01
Deposit of certain coins for certain amounts of time-parking overtime, 73.08
Designation of zones, 73.02
Determination and posting of time limitations, 73.04
Location on curb-design requirements, 73.06
Metered space-identification-method of parking, 73.03
Notices of violations-payment of fine, 73.12
Operation, 73.07
Parts and installation-acquisition and payment, 73.05
Penalty, 73.99
Tampering, 73.09
Use of slugs, 73.10

Use of Space for Residence Parking
Certain violations-voiding of arrest, 73.26
Registration of owner and vehicle, 73.25

PARKING REGULATIONS (See TRAFFIC CODE)

PARKS
Bonfires-picnics, 100.07
Carrying firearms, throwing stones or other missiles, 100.14
Clothing for swimming or bathing, 100.03
Conduct, 100.02
Contaminating public pools or beaches, 100.05
Domesticated animals, 100.10
Injuring trees, 100.11
Interference with programs prohibited, 100.08
Killing birds or animals, 100.09
Loitering in Kosciuszko Park, 100.15
Parks and recreation sponsored functions, 100.17
Penalty, 100.99
Permits required for music, flags and drills, 100.06
Permitted times for swimming or bathing, 100.04
Posting bills, 100.12
Rubbish, 100.16
Rules and regulations, 100.01
Vehicles-horses, 100.13

PARKS AND RECREATION DEPARTMENT, 32.031
Application of state law, 32.081
Composition-members, 32.082
Created-composition, 32.080
Powers, 32.083
Special nonreverting capital fund, 32.084
Special nonreverting capital fund-withdrawal of funds, 32.085

PAWNBROKERS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

PEASHOOTERS; THROWING OR BLOWING, 136.03

PEDDLERS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

PEDESTRIANS
Crossing without crosswalk, 74.04
Exercise of due care by drivers, 74.10
Marked crosswalks, 74.07
Prohibited crossing, 74.06
Right-of-way in crosswalk, 74.02
Rights and restrictions, 74.01

Solicitation of rides, 74.09
Use of right half of crosswalks, 74.03
Use of roller skates, coasters and toy vehicles, 74.11
Walking along roadways, 74.08
Yielding to vehicles, 74.05

PERSONNEL DEPARTMENT, 32.006

PERSONNEL RULES AND PRACTICES, 41.01

PLAN COMMISSION
Board of Zoning Appeals, 32.160
Composition-qualifications, appointment and terms of office of members, 32.156
Election of officers-office space-records-annual reports-meetings, 32.157
Employees, 32.161
Establishment and continuation, 32.155
Expenses-vouchers, 32.162
Powers and duties, 32.158
Requests for information, 32.159

PLANNING DEPARTMENT, 32.023

PLANTS (See TREES, PLANTS AND SHRUBS)

PLATS (See SUBDIVISION REGULATIONS)

POLES AND WIRES (See PUBLIC UTILITIES)

POLICE DEPARTMENT, 32.014
Chief of Police
Appointment-qualifications, 34.015
Employees and assistants, 34.017
Powers and duties, 34.016
Composition, 34.001
Impersonation of police officer prohibited, 34.004
Organization and structure, 34.003
Police Department Death Benefits
Funeral benefits, 34.066
Generally, 34.065
Other benefits provided by law, 34.069
Payments to surviving children, 34.068
Payments to surviving spouse, 34.067
Police Force
Appointment-promotion, demotion and the like, 34.031
Conduct, 34.034
Cooperation with Department of Law, 34.030
Number, 34.032
Powers and duties generally, 34.033
Reporting and attending fires, 34.036
Resignations-reappointments, 34.035
Police Merit Commission

Appeal to Court-suspension or dismissal-precedence, 34.093
Commissioners-terms-tenure, 34.082
Definitions, 34.080
Department members-appointment-qualifications, etc., 34.087
POLICE DEPARTMENT (Cont'd)
Police Merit Commission (Cont'd)
Department members-tenure-Chief-appointment and qualifications, 34.086
Disciplinary actions-grounds-hearing-notice-requisites-procedures-appeals, 34.092
Elections-meetings-notice, 34.083
Establishment and composition of Commission, 34.081
Offense-furnishing information to applicants, 34.098
Performance ratings-rules-appeal, 34.090
Prior ranks and grades undisturbed, 34.099
Promotions-certification of eligible members-probation-procedures, 34.091
Promotions-competitive examinations-procedures, 34.089
Promotions-rules-requisites-eligibility list, 34.088
Retirement age, 34.095
Rules governing Commission-transaction of business-selection of officers-records-budget, 34.084
Rules-adoption-notice and hearing, 34.085
Rules-printing-copies to Department member, 34.097
Summary disciplinary actions-reprimand or suspension, 34.094
Temporary leave of absence-seniority-reinstatement, 34.096
Supervision and control, 34.002
Uniforms and Equipment
Ammunition for Police Department firearms-furnished by city, 34.051
Style and design of uniforms-badges generally, 34.052
Uniforms and equipment-furnished by city, 34.050

POLICE OFFICERS; ABUSING, 130.05

POLICIES (See CITY POLICIES)

POLLUTION; AIR (See AIR POLLUTION)

POOL ROOMS AND BOWLING ALLEYS
Bowling alleys to comply with zoning regulations, 121.06
Definitions, 121.01
Gambling, 121.04
Hours of operation, 121.02
Licenses-application-issuance, 121.08
Licenses-fees, 121.09
Licenses-required, 121.07
Licenses-transferability, 121.10
Minors, 121.05
Sanitation, 121.03

PORT AUTHORITY (MARINA FACILITY), 32.032 (See also EAST CHICAGO PORT AUTHORITY)

PRISONERS IN JAIL; COMMUNICATING WITH-AUTHORIZATION REQUIRED, 130.02

PROBATION SERVICES FUND; ADULT
Created, 43.205

PROCESSIONS (See also PARADES AND PROCESSIONS)
Driving in, 71.012
Driving through, 71.011
Processions and open-air meetings, 97.003

PRODUCE DEALERS (See BEVERAGE DELIVERY AND MANUFACTURE; RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT; WHOLESALE ITINERANT PRODUCE DEALERS)

PROJECT LABOR AGREEMENTS (See CITY CONTRACTS)

PROPERTY DAMAGE FUND
Created, 43.110

PROPERTY TAX CREDIT FUND
Established, 43.535
Uses, 43.536

PUBLIC ACCESS CABLE SERVICE DEPARTMENT, 32.020

PUBLIC AND ENVIRONMENTAL HEALTH DEPARTMENT
Change fund
Created, 43.280
Purpose, 43.281
Petty cash fund
Created, 43.265
Purpose, 43.266

PUBLIC AND ENVIRONMENTAL HEALTH DEPARTMENT, 32.026

PUBLIC DEFENDER FUND; CITY COURT (See CITY COURT -PUBLIC DEFENDER FUND)

PUBLIC INFORMATION DEPARTMENT, 32.018

PUBLIC LIBRARY; DISTURBING, 130.06

PUBLIC MOVERS
Licenses-application, 122.04
Licenses-bond, 122.06
Licenses-fee per vehicle, 122.05
Licenses-issuance, 122.07
Licenses-required, 122.03
Licenses-transferability, 122.08
Public mover defined, 122.01
Vehicle identification, 122.02

PUBLIC PLACES (See STREETS AND PUBLIC PLACES)

PUBLIC SAFETY DEPARTMENT
Building Inspections and Permits Division
Additional employees, 33.017
Bureau of electrical permits created, 33.016
Conflicts of interest, 33.020
Established-composition, 33.015
Police aid in enforcement of code provisions, 33.021
Records, 33.019
Right of entry to inspect, 33.018
Control of divisions, 33.006
Divisions created, 33.005

PUBLIC SANITATION DEPARTMENT
Appointment of personnel, 32.101
Composition and appointment of Board of Sanitary Commissioners, 32.104
Created, 32.100
Powers and duties, 32.102
Wastewater Division and Solids Waste Division, 32.103

PUBLIC TRANSPORTATION CORPORATION
Board of Directors-composition-appointment of members, 32.192
Board of Directors-election of Chairperson and Secretary-meetings, 32.194
Board of Directors-terms of office of members, 32.193
Created, 32.190
Jurisdictional boundaries, 32.191
State law to govern operations generally, 32.195

PUBLIC TRANSPORTATION DEPARTMENT, 32.030

PUBLIC UTILITIES
Compliance with chapter, 50.001
Connections
Approval of work, 50.059
Assessment for costs, 50.057
Certificate of occupancy required, 50.060
Construction of permanent improvements-requirements, 50.055
Inclusion in improvement contract, 50.056
Notice of intention by city to install, 50.058
Excavations, 50.002
Gas
Calorific value, 50.020
Pressure, 50.021
Implied agreements by utilities, 50.005
Inspector’s uniform or badge, 50.007
Maps and records of locations of facilities, 50.008
Penalty, 50.999
Poles and Wires

Erection of poles, 50.035
Joint use of poles, 50.038
Permission to go upon roofs to string wires, 50.041
Placing signs on or damaging poles, 50.037
PUBLIC UTILITIES (Cont'd)
Poles and Wires (Cont'd)
Placing wires underground, 50.044
Removal of wires and poles-costs, 50.043
Removal of wires and poles-moving buildings, 50.042
Restoration of streets and sidewalks, 50.039
Supervision of installments, 50.036
Wires to be securely fastened, 50.040
Repairing existing facilities, 50.004
Reservation of power in city, 50.006
Use of street by utilities, 50.003

PUBLIC WORKS AND SAFETY BOARD
Building Commissioner
Established as head of Division of Building Inspection and Permits, 33.035
Powers and duties, 33.036
Department of Public Safety
Building Inspections and Permits Division
Additional employees, 33.017
Bureau of electrical permits created, 33.016
Conflicts of interest, 33.020
Established-composition, 33.015
Police aid in enforcement of code provisions, 33.021
Records, 33.019
Right of entry to inspect, 33.018
Control of divisions, 33.006
Divisions created, 33.005
Employees-compensation, 33.001
Meetings, 33.002
Police powers of certain officials, 33.004
Public Works Department
Divisions created, 33.050
Supervisor of Public Works, 33.051
Mechanical Division
Additional assistants and employees, 33.068
Created, 33.065
Master mechanic-generally-position created, 33.066
Master mechanic-powers and duties, 33.067
Electric and Light Division
Additional assistants and workers, 33.084
City electrician, 33.083
Created-jurisdiction, 33.080
Duties, 33.081
Electrical Inspector-Bureau of Electrical Permits, 33.082
Public safety, 33.085
Records and appointments, 33.003

PUBLIC WORKS DEPARTMENT
Divisions created, 33.050
Supervisor of Public Works, 33.051
Mechanical Division
Additional assistants and employees, 33.068
Created, 33.065
Master mechanic-generally-position created, 33.066
Master mechanic-powers and duties, 33.067
Electric and Light Division
Additional assistants and workers, 33.084
City electrician, 33.083
Created-jurisdiction, 33.080
Duties, 33.081
Electrical Inspector-Bureau of Electrical Permits, 33.082
Public safety, 33.085

R-1 MULTIPLE-DWELLING, THREE-STORY OR LESS DISTRICT
Area regulations, 156.157
Height regulations, 156.156
Use regulations, 156.155

R-1 SINGLE-FAMILY DWELLING DISTRICT
Area regulations, 156.097
Height regulations, 156.096
Use regulations, 156.095

R-1A SINGLE-FAMILY OR SEMI-DETACHED DWELLING DISTRICT
Area regulations, 156.112
Height regulations, 156.111
Use regulations, 156.110

R-2 TWO-FAMILY DWELLING DISTRICT
Area regulations, 156.127
Height regulations, 156.126
Use regulations, 156.125

R-3 MULTIPLE-DWELLING AND/OR TWO-STORY ROW HOUSE DISTRICT
Area regulations, 156.142
Height regulations, 156.141
Use regulations, 156.140

R-5 DWELLING FOUR-STORY OR MORE DISTRICT
Area regulations, 156.173
Development plan, 156.174
Generally, 156.170
Height regulations, 156.172
Use regulations, 156.171

RAILROAD RELOCATION FUND
Deposits, 43.416
Established, 43.415
RAILROAD RELOCATION FUND (Cont'd)
Expenditures, 43.417
Termination of Fund, 43.418

RAILROADS
Change of position or alignment of tracks, 77.07
Crossings
Compliance with street grade-specifications, 77.32
Crossing protection-interference, 77.35
Crossing protection-required, 77.34
Maintenance, 77.31
Obstructing-prohibited conduct, 77.30
Stopping at certain intersections, 77,33
Definitions, 77.01
Escape of steam, 77.11
Grade of tracks, 77.05
Maintenance of depot grounds and right-of-way, 77.15
Penalty, 77.99
Removal of tracks by city, 77.08
Reporting ownership or management of tracks, 77.04
Reports of accidents, 77.03
Safety Features
Duties of trainman or watchman, 77.68
Safety features-joint operation, 77.65
Safety features-supervision of installation, 77.66
Single or short-arm gates, 77.67
Types and location of protection devices, 77.69
Safety Gates
Additional warnings, 77.51
Generally, 77.50
Operation, 77.52
Smoke emission, 77.12
Speed of trains, 77.09
Switching at certain hours prohibited, 77.02
Toilets on trains, 77.14
Unnecessary signals, 77.10
Use of streets generally, 77.06
Waiting rooms, 77.13

RAT CONTROL
Elimination of feeding places required, 93.071
Extermination, 93.072
Rat proofing buildings, 93.073
Removal of storage areas providing harborage, 93.070
Vermin poison, 93.074

RECREATION REVOLVING FUND

Created, 43.155

RECREATIONAL SPECIAL NONREVERTING OPERATING FUND; PURPOSES (See PARK AND RECREATIONAL SPECIAL NONREVERTING OPERATING FUND; PURPOSES)

REDEVELOPMENT DEPARTMENT, 32.024

REDEVELOPMENT DEPARTMENT AND BOARD OF TRUSTEES
Appointment and terms of office of members, 32.117
Created-composition, 32.116
Department of Redevelopment, 32.115

REFRIGERATORS; ABANDONING, 93.011

RENTAL HOUSING
Amended registration, 123.07
Certificate required, 123.06
Definitions, 123.02
Enforcement, 123.09
Fee exemption, 123.05
Legislative purpose, 123.01
Notice of code violations, 123.10
Penalty, 123.99
Registration fee, 123.04
Registration records, 123.08
Registration required, 123.03
Unsafe Building Fund, 123.11

RETAIL FOOD ESTABLISHMENT (See BEVERAGE DELIVERY AND MANUFACTURE; RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT; WHOLESALE ITINERANT PRODUCE DEALERS)

RIFLES (See WEAPONS)

ROBERT'S RULES OF ORDER; APPLICATION OF, 30.05

RUBBISH REMOVAL, 98.03

SAFETY BOARD (See PUBLIC WORKS AND SAFETY BOARD)

SANITATION (See HEALTH AND SANITATION)

SANITATION DEPARTMENT; PUBLIC (See PUBLIC SANITATION DEPARTMENT)

SCRAP METAL MERCHANTS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

SEAL; CITY
Custodial and usage authority designation, 11.01
Unlawful usage, 11.02

SECONDHAND DEALERS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

SELF-SERVICE LAUNDRIES
- Cleanliness requirements for premises, 125.06
- Definitions, 125.01
- Equipment installation requirements, 125.05
- Inspection requirements, 125.08
- Licenses-fees-Health Department certification, 125.03
- Licenses-required, 125.02
- Penalty, 125.99
- Permitted business hours, 125.04
- Toilet facilities, 125.07

SEWER CLEANERS (See BUILDING CONTRACTORS AND MOVERS; CATCHBASIN AND SEWER CLEANERS; LUMBER YARDS AND STOREHOUSES; SIDEWALK CONTRACTORS)

SEWER SYSTEMS, 155.045

SEWERS (See WASTEWATER DISCHARGE REGULATIONS)

SHOOTING GALLERIES AND GUN CLUBS
- Exemptions, 126.06
- Licenses-application-prerequisite inspection, 126.02
- Licenses-fees, 126.03
- Licenses-required-citizenship of applicant, 126.01
- Location-premises approval required, 126.04
- Safety regulations, 126.05

SHRUBS (See TREES, PLANTS AND SHRUBS)

SIDEWALK CONTRACTORS (See BUILDING CONTRACTORS AND MOVERS; CA TCHBASIN AND SEWER CLEANERS; LUMBER YARDS AND STOREHOUSES; SIDEWALK CONTRAC-TORS)

SIDEWALKS AND CURBS
- Awnings-height, 98.10
- Awnings-wooden, 98.09
- Construction and Repair
  - Compliance with chapter, 98.40
  - Construction specifications, 98.46
  - General regulations, 98.41
  - Nameplates, 98.47
  - Permit to build or repair-application-plans and specifications, 98.43
  - Permit to build or repair-required, 98.42
  - Repairs by city, 98.49
  - Repairs by property owner, 98.48
  - Safety, 98.45
  - Supervision of construction and repairs, 98.44

Depositing rinds or peelings, 98.02
Design Standards
Curbing, 98.29
Grade generally, 98.27
SIDEWALKS AND CURBS (Cont'd)
Design Standards (Cont'd)
Level of sidewalk, 98.26
Slope, 98.28
Width, 98.25
Driving animals, 98.05
Dropping metal weights or other weights, 98.12
Obstructing sidewalks, 98 .11
Openings-leaving open, 98.07
Openings-protection, 98.08
Parkways, 98.01
Removal of rubbish, 98.03
Snow and ice removal, 98.04
Sprinkling or throwing water, 98.06

SIGN ERECTORS
Defined, 127.01
Licenses-application, 127.05
Licenses-bond, 127.08
Licenses-fees-duration-transferability, 127.07
Licenses-qualifications of applicants, 127.06
Licenses-required, 127.04
Prohibited acts, 127.03
Sign identification, 127.02

SIGNS
Abandoned signs, 156.362
Definitions, 156.356
Enforcement, 156.367
General regulations, 156.357
Intent, 156.355
Permits and fees, 156.366
Pre-application conference-exempt signs, 156.363
Prohibited signs, 156.358
Sign pre-application conference-fee, 156.365
Sign pre-application conference-required, 156.364
Signs requiring a special use permit, 156.360
Temporary signs, 156.359
Zoning classification regulations, 156.361

SINGLE-FAMILY DWELLING DISTRICT (See ZONING)

SINGLE-FAMILY OR SEMI-DETACHED DWELLING DISTRICT (See ZONING)

SINKING FUND
Commissioners, 43.031
Created-purpose, 43.030

SKATING, 97.005

SKATING RINKS (See ENTERTAINMENTS AND SOLICITATIONS; COIN-OPERA TED DEVICES; NIGHT CLUBS, DANCE HALLS AND SKATING RINKS)

SKETCH PLAN, 155.120

SLEEPING IN STREETS, PARKS AND OTHER PUBLIC PLACES, 132.05

SMOKE DETECTORS (See FIRE PREVENTION)

SMOKE-FREE ENVIRONMENT ON OR IN MUNICIPAL PROPERTY
- Definitions, 42.15
- More restrictive actions, 42.19
- Non-retaliation clause, 42.18
- Posting of signs, 42.17
- Prohibition of smoking in public buildings and city vehicles, 42.16

SMOKING IN PUBLIC BUILDINGS, 92.010

SNOW AND ICE REMOVAL, 98.04

SOLICITING BUSINESS, 97.006

SOLICITORS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

SOLID WASTE DIVISION OF THE SANITARY DISTRICT, 32.011

SOLIDS WASTE DIVISION, 32.103

SPECIAL EVENTS OFFICE, 32.019

SPEED LIMITS, 71.145

SPITTING IN PUBLIC, 132.06

SPRINKLING OR THROWING WATER, 98.06

STONES OR PEASHOOTERS; THROWING OR BLOWING, 136.03

STORMWATER MANAGEMENT
- Abbreviations and definitions, 54.003
- Board of Stormwater Management to operate stormwater system, 54.001
- Construction Site Control
  - Applicability and exemptions, 54.016
  - Determination of land disturbance, 54.018
  - General requirements for stormwater quality control, 54.020
  - Purpose and intent, 54.015

Responsibility for administration, 54.017
Responsibility for implementation, 54.019

STORMWATER MANAGEMENT (Cont'd)
Inspection, Maintenance and Reporting
Inspection, maintenance and reporting, 54.050
Penalty, 54.999
Prohibited Discharges and Connections
Applicability and exemptions, 54.066
Monitoring of discharges, 54.069
Pollutant reduction through the use of best management practices, 54.070
Private property maintenance duties, 54.071
Prohibited discharges and connections, 54.067
Purpose and intent, 54.065
Spill reporting, 54.072
Storage of hazardous or toxic material, 54.068
Purpose and objective, 54.002
Rates, Charges and Billing
Appeals of ERU determination, 54.089
Billings-terms of payment, 54.088
Delinquent fees and penalties as liens-duplicates-collection, 54.092
Discount and credit policies and procedures, 54.090
Rate structure and calculation, 54.087
Stormwater Fund, 54.091
Stormwater rate establishment procedures, 54.086
Stormwater service charge, 54.085
Stormwater Quality Management Control for Post -Construction
Applicability and exemptions, 54.036
Calculations, design standards and specifications, 54.038
Purpose and intent, 54.035
Responsibility for implementation, 54.037

STORMWATER MANAGEMENT FUND
Disbursements, 43.463
Established, 43.460
Expenditures, 43 .461
Termination of Fund, 43.462

STREET LIGHTS, 155.046

STREETS AND PUBLIC PLACES
Cleanliness of crosswalks and alleys, 97.007
Discharge of offensive liquids and substances, 97.001
Discharge of water from eaves of buildings, 97.002
Driveways
Compliance with chapter, 97.145
Construction permit-application, 97.141
Construction permit-issuance, 97.143
Construction permit-required, 97.140
Construction permit-revocation, 97.142
Existing driveways, 97.146

Specifications, 97.144
Excavations
Applicability of subchapter, 97.081
STREETS AND PUBLIC PLACES (Cont'd)
Excavations (Cont'd)
Bond, 97.079
Denial of future permits, 97.078
Openings-protection-notification of Police and Fire Departments, 97.082
Pavement restoration, 97.080
Permit-application, 97.076
Permit-conditions on issuance, 97.077
Permit-required, 97.075
Repair deposit, 97.083
Mail Delivery
Delivery to made on a door to door basis, 97.180
Numbering of Buildings and Blocks
Assigning and placing of numbers, 97. 161
Compliance required-when, 97.164
Destroying or defacing numbers, 97.166
Display and size of numbers, 97.162
Duty of owner or occupant, 97. 165
Memorial street naming, 97.168
Numbers obtained from City Clerk, 97.163
System established, 97.160
Violations recorded by police, 97.167
Obstructions
Boxes and crates, 97.023
Display or storage of merchandise, 97.024
Fixtures for display of goods, 97.025
Night lights, 97.021
Removal, 97.020
Temporary storage of certain fuels, 97.022
Parades, processions and open-air meetings, 97.003
Public Improvements
Building upon public ways, 97.043
Construction of wires and pipes, 97.042
Gas and water fixtures, 97.041
Injuring or hindering construction, 97.040
Skating, 97.005
Soliciting business, 97.006
Street Grades
City datum, 97.059
Establishment methods-intersection of streets defined, 97.056
Grading authority, 97.055
Injuring or moving bench monuments, 97.060
Public works, 97.057
Unpaved alleys, 97.058
Street Lamps
Acceptance of posts, 97.097
Erection-control, 97.095
Injury or destruction prohibited, 97.096

Lighting or extinguishing, 97.100
Shading, 97.099
Unauthorized removal, 97.098
STREETS AND PUBLIC PLACES (Cont'd)
Subsurface Space
Bond, 97.119
Care of sidewalks, 97.124
Cesspools, explosives or flammable oils, 97.125
Conveyance of premises, 97.121
Covers over openings, 97.122
Interference with sewer or water pipe, 97.120
Liability for damages, 97.126
Permit to construct or use-required, 97.115
Permit to construct or use-cancellation, 97.117
Permit to construct or use-application, 97.116
Permit to construct or use-revocation, 97.118
Structural safety, 97.123
Unlawful assemblies, 97.004

STRUCTURE WRECKING (See BUILDING AND STRUCTURE WRECKING)

SUBDIVISION REGULATIONS
Acceptance of Improvements
Bond release, 155.152
Maintenance bond, 155.151
Official acceptance of improvements, 155.150
Appeals, Disqualification and Amendments
Amendments, 155.197
Appeals, 155.195
Disqualification, 155.196
Authority, 155.004
Certificates of error, 155.135
Definitions and Construction of Language
Construction of language, 155.021
Definitions, 155.020
Design Standards and Required Improvements
Alleys, 155.040
Blocks, 155.043
Commission to control improvements, 155.037
Compliance with comprehensive plan and zoning ordinance, 155.035
Compliance with design standards and state regulations, 155.036
Easements, 155.041
Lots, 155.044
Monuments, 155.038
Street lights, 155.046
Street requirements, 155.039
Utilities, 155.042
Water and sewer systems, 155.045
Document Submission Specifications
Primary plat, 155.121
Secondary (final) plat, 155.122

Sketch plan, 155.120
Enforcement and Abatement
Abatement, 155.181
SUBDIVISION REGULATIONS (Cont'd)
Enforcement and Abatement (Cont'd)
Enforcement, 155.180
Fees
Primary plat fee, 155.165
Secondary (final) plat fee, 155.166
Jurisdiction, 155.005
Penalty, 155.999
Policy, 155.002
Preliminary Plat Approval Procedures
Application, 155.090
Approval or disapproval, 155.093
Public hearing, 155.092
Staff review, 155.091
Preliminary Review Procedures
Commission review, 155.076
Request for preliminary review, 155.075
Purposes, 155.003
Secondary (Final) Plat Approval Procedures
Application for secondary approval, 155.105
Bonds for improvement, 155.107
Commission review, 155.106
Plat filing and recording, 155.109
Use of bond proceeds, 155.108
State statute citation, 155.006
Title, 155.001
Waiver of Standards and Specifications
Conditions, 155.062
Limitations, 155.061
Modifications permitted, 155.060
Procedure, 155.063

SUBSTANCES; DANGEROUS, HAZARDOUS OR TOXIC (See DANGEROUS, HAZARDOUS OR TOXIC SUBSTANCES)

SUBSTANCES; OFFENSIVE, 136.02

TAXICAB STANDS (See TRAFFIC CODE)

TAXICABS
Corporations and partnership, 128.18
Declaration of policy, 128.02
Definitions, 128.01
Determination of public convenience and necessity, 128.03
Driver identification, 128.13
Fares, 128.11
Insurance and bond required, 128.17
Only paid persons allowed, 128.15

Penalty, 128.99
Permit-application, 128.05
Permit-fees, 128.06
TAXICABS (Cont'd)
Permit-general procedures for determination, 128.07
Permit-issuance of license- non-transferability of license plates, 128.08
Permit-required, 128.04
Permit-vehicle descriptions-driver information, 128.09
Persons permitted in front seat, 128.14
Public stands, 128.10
Rules and regulations prerequisite to licensing, 128.16
Taximeters, 128.12

TELEPHONES; COIN-OPERATED (See COIN-OPERATED TELEPHONES)

THREE-STORY OR LESS DISTRICT (See ZONING)

TIRE STORAGE; NEW OR USED
Applicability, 96.02
Penalty, 96.99
Definitions, 96.01
Enforcement and inspection, 96.06
Entry upon property, 96.07
Long-term storage of waste tires prohibited, 96.03
Retail and wholesale tire establishments, 96.05
Open storage of tires prohibited, 96.04

TOWING VEHICLES GENERALLY, 71.016

TOXIC SUBSTANCES (See DANGEROUS, HAZARDOUS OR TOXIC SUBSTANCES)

TOY WEAPONS; POINTING OR DISCHARGING, 136.05

TRAFFIC CODE
Applicability, 70.004
Bicycles (See BICYCLES)
Bus and Taxicab Stands-Loading Zones
Far side bus stops and taxicab stands, 72.078
Location of loading zones-generally, 72.075
Manner of loading and unloading buses, 72.081
Parking or stopping buses or taxicabs, 72.080
Permits for curb loading zones-application-revocation, 72.083
Permits for curb loading zones-generally, 72.082
Use of bus stop or taxicab stand by vehicles other than buses or taxicabs, 72.079
Use of freight curb loading zones, 72.077
Use of passenger curb loading zones-generally, 72.076
Cafeteria Court
Duties, 70.116
Election to appear at Cafeteria Court or before City Judge, 70.119
Establishment, 70.115
Procedures, 70.118

Records and reports of notices and arrests, 70.117
Commercial and Heavy Vehicles
Truck routes, 71.070
TRAFFIC CODE (Cont'd)
Commercial and Heavy Vehicles (Cont'd)
Trucks and heavy or slower moving vehicles, 71.072
Trucks passing each other, 71.071
Compliance, 70.002
Crossing Bridges
Attempting to cross while opening or shutting-disobeying orders of bridge tender, 71.036
Breaking into line of traffic-disobeying or resisting officer, 71.040
Obstructing bridges or approaches, 71.038
Right-of-way for fire apparatus, 71.035
Speed limit, 71.03 7
Vehicles to keep right, 71.039
Definitions, 70.001
Handicapped parking
Criteria for designating a restricted handicapped area, 76.03
Definition of physically handicapped persons, 76.01
Penalty, 76.99
Public agency parking facilities, 76.04
Restricted handicapped areas-handicapped individual-residence parking permits, 76.02
Impounding, Enforcement
Impounding vehicles-procedures after impoundment, 70.085
Traffic violation notices, 70.086
Interpretation and construction, 70.003
Near hazardous or congested places generally, 72.003
On parkways or private property, 72.002
Open Alcoholic Beverage Containers in Passenger Vehicles
Definitions, 71.125
Operator or owner of motor vehicle in violation, 71.127
Possession or consumption prohibited, 71.126
Signs to be posted, 71.128
Operation Generally
Backing, 71.017
Blocking intersections or crosswalks, 71.020
Designation of through or preferential streets, 71.002
Driving across fire hose, 71. 009
Driving in processions, 71.012
Driving over curbs or within parks or playgrounds, 71.013
Driving through or in safety zones, 71.010
Driving through processions, 71.011
Emerging from alley, private driveway or building, 71.019
Exceptions to state speed laws, 71.004
Following fire apparatus-driving into block where fire apparatus has stopped, 71.006
Horns or warning devices, 71.007
Obstructions to driver's view or driving mechanism, 71.008
One-way streets, 71.001
Operating noisy vehicle, 71.014
Operating vehicle emitting smoke or fumes, 71.015
Procedure upon approach of authorized emergency vehicle, 71.005

Riding on motorcycles, 71.018
Slow intersections designated, 71.003
Towing vehicles generally, 71.016
TRAFFIC CODE (Cont'd)
Parades and Processions
Identification of funeral processions, 70.041
Parades and processions, 70.040
Parking meters (See PARKING METERS)
Pedestrians
Crossing without crosswalk, 74.04
Exercise of due care by drivers, 74.10
Marked crosswalks, 74.07
Prohibited crossing, 74.06
Right-of-way in crosswalk, 74.02
Rights and restrictions, 74.01
Solicitation of rides, 74.09
Use of right half of crosswalks, 74.03
Use of roller skates, coasters and toy vehicles, 74.11
Walking along roadways, 74.08
Yielding to vehicles, 74.05
Penalty, 70.999, 71.999, 72.999
Places where stopping, standing and parking prohibited, 72.001
Railroads (See RAILROADS)
Signs, Signals and Markers
Designation of crosswalks, safety zones and traffic lanes, 71.101
Enforcement-when, 71.105
Existing signs and signals, 71.100
Flashing signals, 71.108
General authority to install and maintain devices, 71.102
Interference with traffic-control devices prohibited, 71.111
Location of traffic-control signals generally, 71.109
Manual and specifications, 71.103
Obedience generally, 71.104
Special pedestrian-control signals, 71.107
Traffic-control signal legends, 71.106
Unauthorized display, 71.110
Special Uses of Public Ways
Play streets, 71.056
Zones of quiet, 71.055
Specific Parking Regulations
Angle parking, 72.099
Fifteen minute parking, 72.096
Handicapped persons parking spaces, 72.102
No parking allowed, 72.103
No parking signs, 72.095
One-hour parking, 72.097
Residential and no parking zones, 72.101
Restricted parking-certain times, certain places, 72.104
Truck parking, 72.100
Two-hour parking, 72.098
Specific Traffic Regulations

Miscellaneous traffic control signs, 71.141
One-way streets, 71.142
Size and load limits, 71.146
TRAFFIC CODE (Cont'd)
Specific Traffic Regulations (Cont'd)
Speed limits, 71.145
Speed limits-Marktown streets, 71.144
Stop intersections, 71.140
Two-way streets, 71.143
Standing and Parking
Adjacent to schools, 72.055
Alley parking and speed limits, 72.063
Applicability of subchapter, 72.045
During snow removal, 72.061
Erection of signs prerequisite to enforcement, 72.048
Lights on parked vehicles, 72.062
Manner of parking, 72.047
Municipal parking lots, 72.058
Obstructing traffic, 72.056
On dual highways, 72.054
On narrow streets, 72.052
On one-way streets-generally, 72.053
Parking places for city officials and employees at City Hall, 72.059
Prohibited or restricted parking areas, 72.050
Recreational vehicles, campers and trailers, 72.057
Responsibility of owner of vehicle for violation, 72.049
Standing or parking for certain purposes prohibited, 72.046
Temporary parking ban for designated snow route streets, 72.060
While streets being swept, 72.051
Stopping
At intersection of through street, 72.017
Designation of stop intersections, 72.015
Hazardous intersections, 72.016
Obedience to stop signs, 72.019
Stop sign visibility and location at intersection, 72.018
Traffic Bureau
Assistance of City Engineer, 70.103
Creation, 70.100
Powers and duties, 70.102
Records-spot maps, 70.101
Traffic Control Devices
Temporary regulations-testing traffic-control devices, 70.055
Traffic control devices-Damage, destruction or absence reports, 70.056
Traffic Reports
Annual traffic report, 70.070
Damaged vehicles-reports, 70.071
Traffic accidents-procedures and reports, 70.072
Turning Movements
Determination and marking of no turn intersections-prohibition of turns at certain times, 71.086
Directional signals, markers or other indications, 71.087

Limitations on turning around, 71.088
Method of turning at intersections-generally, 71.085

TRAFFIC CODE (Cont'd)
Unattended Vehicles
Authority of police, 72.031
Duties of driver, 72.030
Owner responsibility, 72.032
Vehicles and Operation
Attendant at gasoline or service station, 70.027
Boarding or alighting from vehicles, 70.017
Clinging to moving vehicles, 70.018
Direction of traffic by police and fire officials, 70.025
Exemptions for authorized emergency vehicles, 70.015
Intercity bus routes-Operation authority, 70.026
Obstruction of streets by railroad trains, 70.020
Offensive or dangerous public garages or other sites declared public nuisance, 70.028
Permit for moving large equipment required, 70.023
Radar detecting devices, 70.024
Riding on part of vehicle not intended for use of passengers, 70.016
Street vendors' vehicles, 70.022
Tractor-trailers, 70.021
Trees or signs obstructing traffic at street intersections, 70.019

TRAFFIC VIOLATIONS DIVISION, 36.004

TRAINS (See RAILROADS)

TRANSIENT AND ITINERANT MERCHANTS (See JUNK DEALERS AND JUNK PEDDLERS; PAWNBROKERS; PEDDLERS; SECONDHAND DEALERS; SOLICITORS AND CANVASSERS; TRANSIENT AND ITINERANT MERCHANTS; SCRAP METAL MERCHANTS)

TRANSPORTATION CORPORATION; PUBLIC (See PUBLIC TRANSPORTATION CORPORATION)

TRASH (See GARBAGE)

TREES, PLANTS AND SHRUBS
Approval of trees-placement, 99.05
Attaching animals, signs or other items to trees or shrubs, 99.07
Certain trees declared nuisance, 99.14
City Horticulturist
Duties, 99.21
Interference, 99.22
Powers, 99.20
Depositing salt in gutters, 99.11
Electrical devices near trees, 99.10
Gas leaks near trees, 99.12
Injuring or destroying on public ways, 99.03
Maintenance of trees and lawns, 99.04

Open spaces around trees on public highways-protection from materials deposited on ground, 99.09
Overhanging Streets and Sidewalks, Branches
Permission to remove, plant or destroy along public way, 99.02
TREES, PLANTS AND SHRUBS (Cont'd)
Overhanging Streets and Sidewalks, Branches (Cont'd)
Powers and duties of Board of Parks and Recreation, 99.01
Protection of trees during building construction, 99.06
Removal by city, 99.36
Removal of cottonwood trees or trees liable to fall, 99.13
Removing or injuring protective devices, 99.08

TRUCK PARKING, 72.100

TRUCKS
Routes, 71.070
Passing each other, 71.071
Trucks and heavy or slower moving vehicles, 71.072

TV EARTH STATION ANTENNAS
Height and fencing requirements, 156.325
Installation-setback conformance, 156.326
Permit and license requirements, 156.329
Roof installation requirements, 156.327
Specifications and code compliance, 156.328

TWO-FAMILY DWELLING DISTRICT (See ZONING)

TWO-STORY ROW HOUSE DISTRICT (See ZONING)

TWO-WAY STREETS, 71.143

UNITED STATES FLAG
Defined, 137.01
Offenses enumerated, 137.02
Penalty, 137.99

UNSAFE BUILDING FUND, 123.11
Deposits, 43.446
Established, 43.445
Expenditures, 43.447
Termination of Fund, 43.448

UTILITIES, 155.042

UTILITIES ADMINISTRATIVE SERVICES DIVISION, 32.013

UTILITIES; PUBLIC (See PUBLIC UTILITIES)

VEHICLE DEALERS (See GASOLINE SERVICE STATIONS AND MOTOR VEHICLE DEALERS)

VEHICLES (See TRAFFIC CODE)

VEHICLES; JUNKED OR ABANDONED (See JUNKED OR ABANDONED VEHICLES)

VIDEO GAME ARCADES
- Amusement arcade regulations, 156.342
- Amusement arcade standards, 156.343
- Amusement game machines as accessory uses, 156.341
- Definitions, 156.340

WASTEWATER DEPARTMENT OF THE SANITARY DISTRICT, 32.012

WASTEWATER DISCHARGE REGULATIONS
- Accidental discharges, 51.031
- Construction Requirements
  - Sewer connections, 51.125
- Definitions, 51.015
- Enforcement
  - Emergency suspension of service and discharge permits, 51.170
  - Enforcement actions-annual publication, 51.175
  - Judicial proceedings, 51.17 4
  - Notification of violation-administrative adjustment, 51.172
  - Operating upsets, 51.177
  - Revocation of permit, 51.171
  - Right of appeal, 51.176
  - Show cause hearing, 51.173
- Fees
  - Charges and fees, 51.061
  - Permit application fees, 51.062
  - Purpose, 51.060
  - Sewer connection and inspection fees, 51.063
- General discharge prohibitions, 51.030
- Limitations on Wastewater Strength
  - Dilution, 51.049
  - National categorical pretreatment standards, 51.045
  - Right of revision, 51.048
  - Specific pollutant limitations, 51.047
  - State requirements, 51.046
- Mass balance considerations, 51.157
- Net/gross calculation, 51.156
- Penalty, 51.999
- Permits
  - Application, 51.092
  - Conditions, 51.094
  - Duration, 51.095
  - Limitations on permit transfer, 51.096
  - Modifications, 51.093
  - New and existing users, 51.091
  - Required, 51.090
- Permittee Reporting Requirements
  - Baseline reports, 51.113

Compliance date report, 51.110
Compliance reports, 51.111
Monthly reports, 51.112
Purpose and policy, 51.001
WASTEWATER DISCHARGE REGULATIONS (Cont'd)
Records retention, 51.140
Removal credits, 51.155
Wastewater Discharge-Administration
Calibration requirements, 51.076
Confidential information, 51.079
Inspection and sampling, 51.077
Monitoring facilities, 51.075
Pretreatment, 51.078

WASTEWATER DIVISION AND SOLIDS WASTE DIVISION, 32.103

WATER AND SEWER SYSTEMS, 155.045

WATER SYSTEM
Generally, 52.01
Pollution, 52.02
Water Works Department
Continued-Board of Trustees, 52.15
Adoption of state law, 52.16
Personnel, 52.17
Records-supervision, 52.18
Notice to Department prior to sale of property, 52.19

WATER TANK REFURBISHMENT FUND
Deposits, 43.371
Established, 43.370
Expenditures, 43.372
Termination of Fund, 43.373

WATER WORKS DEPARTMENT, 32.008

WATERFRONT DEVELOPMENT DISTRICT (See ZONING)

WD-1 WATERFRONT DEVELOPMENT DISTRICT
Area regulations, 156.293
General regulations, 156.290
Height regulations, 156.292
Use regulations, 156.291

WEAPONS
Automatic or semi-automatic rifles, 136.08
Bombs, fire balls and weapons made of thin glass, 136.01
Chemical weapons, 136.07
Offensive chemicals and substances, 136.02
Penalty, 136.99
Pointing or discharging toy weapons, 136.05

Pointing or discharging firearms, 136.06
Throwing or blowing stones or peashooters, 136.03
Weapons-air guns or air rifles, 136.04

WEEDS
Removal of weeds and rank vegetation, 93.085

WEIGHTS AND MEASURES DIVISION
Compliance with standards, 32.239
Division of Weights and Measures, 32.235
Inspector of Weights and Measures-duties, 32.238
Inspector of Weights and Measures-position-appointment-qualifications, 32.236
Inspector of Weights and Measures-powers, 32.237
Petroleum products, 32.243
Sales by standard weight or measure, 32.242
Scales, measures-condemnation, 32.241
Scales, measures-sealing-false weights, 32.240

WHOLESALE ITINERANT PRODUCE DEALERS (See BEVERAGE DELIVERY AND MANUFACTURE; RETAIL FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT; WHOLESALE ITINERANT PRODUCE DEALERS)

WIRES; POLES (See POLES AND WIRES)

WOMEN'S COMMISSION
Creation-membership and staff, 32.272
Definitions, 32.271
Powers and duties, 32.273
Purpose, 32.270

WRECKING; BUILDING AND STRUCTURE (See BUILDING AND STRUCTURE WRECKING)

ZONING
Amendments, 156.008
Amendments-advertising costs, 156.009
Board of Zoning Appeals
Affirmation, modification or repeal of appealed decision, 156.028
Appeal from decision of Board, 156.029
Established-composition, 156.025
General provisions, 156.026
Powers and duties, 156.027
C-1 Neighborhood Retail District
Area regulations, 156.188
Development plan, 156.189
Generally, 156.185
Height regulations, 156.187
Use regulations, 156.186
C-2 General Commercial District
Area regulations, 156.202
Development plan, 156.203
Height regulations, 156.201

Use regulations, 156.200
C-3 North Harbor Business District
Building size requirements, 156.220
C-3 North Harbor Business District-special use-03, 156.230
ZONING (Cont'd)
C-3 North Harbor Business District (Cont'd)
C-3 North Harbor Business District-special use-01, 156.228
C-3 North Harbor Business District-special use-04, 156.231
C-3 North Harbor Business District-special use-02, 156.229
Commercial signs, 156.224
Conditional use procedures, 156.218
Conditional uses, 156.217
Fences, 156.227
General intent, 156.215
Height limitations/bulk regulations, 156.222
Lot width requirements, 156.219
Permitted uses, 156.216
Public display area requirements, 156.223
Signage illumination, 156.226
Signage location, 156.225
Yard requirements, 156.221
Certificates and Permits
Occupancy and compliance certificates, 156.040
Occupancy and compliance certificate-application-records, 156.041
Occupancy and compliance certificate-prerequisite for permits and occupancy, 156.042
Plats accompanying building permit applications, 156.043
Community unit plan, 156.007
Definitions, 156.003
Development plan requirements, 156.011
District zone map changes, 156.010
Districts Generally
Annexed territory, 156.072
Determination of boundaries, 156.071
Districts established-zoning map, 156.070
Exceptions to use, height and area regulations, 156.076
General regulations-district use provisions, 156.075
Nonconforming uses, 156.081
Off-street loading, 156.080
Off-street parking, 156.078
Parking lots in residence districts, 156.079
Performance standards, 156.082
Special uses, 156.077
Underwater areas, 156.073
Vacated areas, 156.074
Enforcement, 156.006
Fences
Certain fence enclosures required, 156.385
Definition and classification, 156.381
Enforcement, 156.391
Fence permit pre-application conference-required, 156.388
Fence permit pre-application conference, 156.389

Location of fences, 156.382
Maintenance and repair of fences, 156.383
Permits and fees, 156.390
Permitted fences-commercial and industrial districts, 156.387
ZONING (Cont'd)
Fences (Cont'd)
Permitted fences-residential districts, 156.386
Prohibited fences, 156.384
Purpose and intent, 156.380
Historic Preservation Committee
Acquisitions of appropriate protective interests, 156.408
Applicability of zoning provisions, 156.407
Definitions, 156.406
Purpose, 156.405
M-1 Light Industrial District
Area regulations, 156.248
Development plan, 156.249
Generally, 156.245
Height regulations, 156.247
Use regulations, 156.246
M-2 Heavy Industrial District
Area regulations, 156.262
Development plan, 156.263
Height regulations, 156.261
Use regulations, 156.260
Manufactured Housing
Approved roofing materials list, 156.310
Approved siding materials list, 156.309
Definitions, 156.305
Installation standards, 156.308
Placement, 156.306
Standards, 156.307
Minimum requirements standards, 156.005
P-1 Park District
Generally, 156.275
Use regulations, 156.276
Penalty, 156.999
Purpose, 156.001
R-1 Multiple-Dwelling, Three-Story or Less District
Area regulations, 156.157
Height regulations, 156.156
Use regulations, 156.155
R-1 Single-Family Dwelling District
Area regulations, 156.097
Height regulations, 156.096
Use regulations, 156.095
R-1a Single-Family or Semi-Detached Dwelling District
Area regulations, 156.112
Height regulations, 156.111
Use regulations, 156.110
R-2 Two-Family Dwelling District

Area regulations, 156.127
Height regulations, 156.126
Use regulations, 156.125

ZONING (Cont'd)
R-3 Multiple-Dwelling and/or Two-Story Row House District
Area regulations, 156.142
Height regulations, 156.141
Use regulations, 156.140
R-5 Dwelling Four-Story or More District
Area regulations, 156.173
Development plan, 156.174
Generally, 156.170
Height regulations, 156.172
Use regulations, 156.171
Scope, 156.004
Signs
Abandoned signs, 156.362
Definitions, 156.356
Enforcement, 156.367
General regulations, 156.357
Intent, 156.355
Permits and fees, 156.366
Pre-application conference-exempt signs, 156.363
Prohibited signs, 156.358
Sign pre-application conference-fee, 156.365
Sign pre-application conference-required, 156.364
Signs requiring a special use permit, 156.360
Temporary signs, 156.359
Zoning classification regulations, 156.361
TV Earth Station Antennas
Height and fencing requirements, 156.325
Installation-setback conformance, 156.326
Permit and license requirements, 156.329
Roof installation requirements, 156.327
Specifications and code compliance, 156.328
Video Game Arcades
Amusement arcade regulations, 156.342
Amusement arcade standards, 156.343
Amusement game machines as accessory uses, 156.341
Definitions, 156.340
WD-1 Waterfront Development District
Area regulations, 156.293
General regulations, 156.290
Height regulations, 156.292
Use regulations, 156.291
Word interpretation, 156.002
Zone Map Changes
Area subject of zone map change-notice to nearby occupants, 156.056
Files concerning proposal-availability, 156.058
Hearing-notice-contents, 156.055

Hearing-place-rules of conduct, 156.057