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CHAPTER 90: ANIMALS

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DOGS

§ 90.01 HARBORING AND KEEPING OF DOGS.

For the purposes of this chapter, any person who shall allow any dog habitually to remain and be lodged and be fed within his house, store or enclosure or on his premises shall be deemed to harbor and keep a dog. ('67 Code, §51.01)

§ 90.02 LICENSING OF DOGS.

It shall be unlawful for any person, firm, or corporation to own, harbor or to have in their possession, within the city limits, any dog unless such dog is licensed, taxed, and regulated in accordance with the provisions hereinafter set out. ('67 Code, §50.01) Penalty, see §90.99 (A)

§ 90.03 METHOD OF OBTAINING LICENSE.

Any person, firm, or corporation desiring to obtain a license to keep a dog or dogs in the city, shall apply therefor to the Clerk-Treasurer, who shall issue a license to the applicant upon the payment of the license fee hereinafter provided. The license shall be issued in the name of the applicant only. The Clerk-Treasurer shall, upon furnishing the license, furnish the applicant a metal tag with numbers thereon for each and every license so issued. The Clerk-Treasurer will affix the numbers found on the metal tag on the license issued to the applicant and shall also affix the name of the applicant and the corresponding numbers so issued to the applicant in a permanent record, hereafter known as the dog tax record. The dog tax record shall be kept on file in the office of the Clerk-Treasurer and the same is, by the enactment of this chapter, made a part of the official records of the city. ('67 Code, §50.02)

§ 90.04 PLACING METAL TAG ON DOG.

All applicants obtaining licenses and metal tags to own, harbor, and possess a dog within the city limits shall place the metal tag with numbers thereon around the neck or upon the body of the dog, to be worn or attached to the dog at all times as evidence that the dog is duly licensed in accordance with the provisions of this chapter. Metal tags lost from licensed dogs may be replaced, upon presentation of license to the Clerk-Treasurer and upon paying an additional fee of \$.25. ('67 Code, §50.03) Penalty, see §90.99 (A)

§ 90.05 FEE FOR LICENSE.

The fee for a license to own, harbor, or possess any dog in the city shall be \$.50 per year, or any part thereof, for each dog so licensed. The license shall be issued and will be due and in effect the first day of January for each year. ('67 Code, §50.04)

§ 90.06 ENFORCEMENT OF REGULATIONS.

The regulation and control of this chapter shall be under the direction and supervision of the board of public works and safety. The board will direct any department or departments of the city as it may see fit to carry out the enforcement of this chapter. ('67 Code, §50.05)

§ 90.07 DOG POUND; DOG TAX FUND.

The board of public works and safety is, by the enactment of this chapter, authorized and empowered to erect a suitable dog pound on any real estate now owned or purchased by the city as the board deems practicable for such purpose. All funds received by the Clerk-Treasurer from licenses of dogs shall be used for the expenses of licenses, metal tags, costs of erection and maintenance of said dog pound, as well as any funds received from fees paid for the redemption of any dog or dogs as hereinafter provided. Money received from licenses and redemptions shall be kept in a separate fund hereinafter known as the "dog tax fund" and the fund shall be used only as herein set out. ('67 Code, §50.06)

§ 90.08 EXPENSES PAID FORM GENERAL FUND IF DOG TAX FUND INSUFFICIENT.

If, at any time after the enactment of this chapter, the dog tax fund does not have sufficient money to meet the necessary expenses to maintain and operate the dog pound, then the board of public works and safety is authorized to draw sufficient money from the general fund of the city to maintain and operate the dog pound. ('67 Code, §50.07)

§ 90.09 IMPOUNDING OF DOGS.

It shall be the duty of any department of the city, so directed by the board of public works and safety, to examine each and every dog found running at large at any place within the city limits to ascertain whether or not such dog is duly tagged and licensed in accordance with the provisions of this chapter. Any dog found that is not duly tagged and licensed shall be placed in the city dog pound for a period of 5 days. Within and including the period of 5 days any owner of the impounded dog, by presenting a current county dog tax receipt may redeem and recover the dog: First, by obtaining a license for such dog as heretofore provided; and second, by paying to the Clerk-Treasurer aforesaid a redemption fee of \$5 in addition to the license fee as remuneration for the care and keep of the dog while so impounded. At the expiration of 5 days, if the impounded dog is not claimed and redeemed, the humane officer or person designated to be in charge of the city dog pound by the board of public works and safety shall dispose of the unlicensed dog, the method and manner of such disposition to be determined by the board of public works and safety. ('67 Code, §50.08)

§ 90.10 LICENSED DOGS, WHEN IMPOUNDED.

Any duly licensed dog or dogs found running at large within the city limits, destroying property, flower beds, or shrubbery, upsetting garbage cans, or creating a general nuisance, will, upon proper complaint, be impounded in the city dog pound. The owner or owners of such licensed dog or dogs may redeem or recover such duly licensed dog or dogs by paying to the complainant a sum of money equal to the damage done, if any damage has been done, and by paying in addition a fee of \$1 to the Clerk-Treasurer of the city as remuneration for the care and keep of the dog while so impounded. ('67 Code, §50.09)

§ 90.11 DISTURBANCES PROHIBITED.

It shall be unlawful and a violation of this chapter for any person to harbor or keep any dog within the city, which by loud and frequent or habitual barking, howling, or yelping shall cause serious annoyance or disturbance to the neighborhood. ('67 Code, §51.02) Penalty, see §90.99 (B)

§ 90.12 RUNNING AT LARGE PROHIBITED.

It shall be unlawful for any person being the owner of or having the care, custody, or control of any dog, or harboring or keeping any dog, to allow, suffer, or permit the dog to be at large upon the streets or other public places within the city, or in or upon any other place beyond the premises of such person unless the dog is:

(A) On a leash, controlled by some person physically able to control the dog;

(B) Displaying a tag or license issued by the Clerk-Treasurer of city;

(C) Displaying a tag or license issued by the township assessor's office;

(D) Displaying a tag showing that antirabic vaccine had been administered to that particular animal within the last 12 months.

(E) It shall be the duty of the humane officer of the city or the person designated to be in charge by the board of public works and safety, upon proper complaint, to apprehend and impound all dogs running at large contrary to the provisions of this chapter. Any dog so impounded may be redeemed by the owner within 5 days after the impounding of the dog by reclaiming the dog at the city dog pound where it is impounded; provided that the owner shall first pay to the city for the city dog tax fund a redemption fee of \$5. Upon presentation of a receipt for the payment of the redemption fee to the person designated to be in charge of the city dog pound by the board of public works and safety, such impounded dog shall be released to the owner thereof; provided, that no such impounded dog will be released unless the owner shall have obtained a city license therefor and shall also show a current county dog tax receipt as proof of ownership. All impounded dogs not reclaimed and redeemed by the owner thereof within 5 days after being impounded may be placed in suitable homes or otherwise disposed of or destroyed in a humane manner by the humane officer or person designated to be in charge by the board of public works and safety. ('67 Code, §51.03) Penalty, see §90.99 (B)

§ 90.13 DOGS TO BE IMPOUNDED AFTER BITING ANOTHER ANIMAL OR HUMAN BEING.

It shall be the duty of the humane officer of the city or the person designated to be in charge by the board of public works and safety to impound any dog which has bitten another animal or has bitten a human being. All such dogs shall be impounded for a period of not less than 14 days for observation for rabies. In the event the dog is determined not to be rabid, such dog shall be released to its owner, provided that the owner shall first pay to the city for the city dog tax fund a redemption fee of \$5. Upon presentation of a receipt for the payment of the redemption fee to the person designated to be in charge of the city dog pound by the board of public works and safety, the impounded dog shall be released to the owner thereof, provided that no impounded dog will be released unless the owner shall have obtained a city license therefor and shall also show a current county dog tax receipt as proof of ownership. All impounded dogs not reclaimed by the owner thereof within 5 days after a receipt of written notice to reclaim the same from the humane officer or person designated to be in charge of the city dog pound by the board of public works and safety, may be placed in suitable homes or otherwise disposed of or destroyed in a humane manner by the humane officer or person in charge. No dog being held for observation shall be released or destroyed until the expiration of the period of observation for rabies. ('67 Code, §51.04) Penalty, see §90.99 (B)

§ 90.14 UNLAWFUL TO HINDER AUTHORIZED PERSON.

It shall be unlawful and a violation of this chapter for any person to hinder, molest, or interfere with any person authorized to perform any duty described herein. ('67 Code, §51.05) Penalty, see §90.99 (B)

MISCELLANEOUS

§ 90.15 HORSES, CATTLE RUNNING AT LARGE.

When any horse, mule, horned cattle, swine (either hogs, shoats or pigs), sheep, geese, or goats are found running at large within the city limits, it shall be the duty of any police officer to take up and confine such animals in the public pound of the city and to feed and keep the same until redeemed or disposed of as provided in §90.09. ('67 Code, §50.10) Penalty, see §90.99 (B)

§ 90.16 OVERCROWDING SMALL ANIMALS; SELLING AS PETS.

(A) It shall be unlawful for any person, firm, or corporation to overcrowd in any crate, box, or other receptacle, chicks, ducklings, goslings, rabbits, fowl, or domestic animals, or fail to provide adequate food, water, shelter, or sanitation for the same.

(B) It shall be unlawful for any person, firm, or corporation as an owner, manager, operator, agent, or employee of a store, shop, business, or commercial establishment in the city to sell, offer for sale, barter, or give away baby chicks, ducklings, goslings, other fowl, or rabbits in such store, shop, or business, whether or not dyed, colored, or otherwise artificially treated. This section shall not be construed to prohibit the sale or display of baby rabbits, natural chicks, goslings, ducklings, or other fowl in proper brooder facilities by hatcheries or stores engaged in the business of selling and raising the same for commercial purposes. ('67 Code, §50.11) Penalty, see §90.99 (C)

§ 90.17 DUTY OF HUMANE OFFICER, PEACE OFFICER, SHERIFF OR HEALTH OFFICER.

In the event of a violation of this chapter, it shall be the duty of any duly appointed humane officer, peace officer, sheriff or health officer to seize such fowl or animal and provide the necessary care and attention for the same. Such fowl or animal may be redeemed within 2 days of the seizure thereof by the owner paying the cost of all such care and attention and if not so redeemed, the officer seizing the same may dispose of such fowl or animal in a humane manner. ('67 Code, §50.13)

§ 90.99 PENALTY.

(A) Whoever violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction thereof, be fined in any sum not less than \$5 nor more than \$50.

(B) Any person violating or failing to comply with the provisions of §§ 90.11 through 90.14 shall, upon conviction thereof, be fined not less than \$5 nor more than \$50. The court in its

discretion, however, upon the conviction of any person for violating or failing to comply with the provisions of these sections, may order any dog running at large or causing annoyance as described herein turned over to the humane officer or person designated to be in charge of the city dog pound by the board of public works and safety to be destroyed in a humane manner. When any violation of these sections has been called to the attention of the violator by any law enforcement officer, each day's continuance of the violation shall constitute a separate offense.

(C) Any person, firm, or corporation violating the provisions of §90.16 shall upon conviction thereof, be subjected to a fine not to exceed \$100. Each day such violation continues shall be deemed to be a separate and distinct offense. ('67 Code, §50.99, 51.06)

CHAPTER 91: FIRE PREVENTION

Section

- 91.01 Inspection of premises for fire hazards, orders
- 91.02 Fire limits
- 91.03 Roofing materials; chimneys
- 91.04 Depositing combustibles within the city
- 91.05 Burning rubbish, etc., within fire limits
- 91.06 Lumber yards in fire limits
- 91.07 Storing explosives
- 91.08 Storing gasoline
- 91.09 False alarm of fire
- 91.10 Steam boilers
- 91.11 Conflict with other provisions
- 91.20 Fire code
- 91.24 Fire lanes
- 91.99 Penalty

§ 91.01 INSPECTION OF PREMISES FOR FIRE HAZARDS, ORDERS.

(A) It shall be the duty of the fire chief, or person designated to him, to inspect, as often as may be necessary, but not less than twice a year in outlying districts and 4 times a year in the closely built portions of the city, all buildings, premises and public thoroughfares, except interiors of private dwellings, for the purpose of ascertaining, and causing to be corrected, any conditions liable to cause fire or any violations of the provisions or intent of any ordinance of the city affecting the fire hazard.

(B) The chief of the fire department and/or his assistants, designated by the fire chief, are authorized and directed to enter into and examine all places within the city where fire is liable to occur, and to take all necessary means to prevent danger therefrom. Such inspections shall be made at reasonable hours.

(C) In the event that during the inspection as set out in 91.01 (B), the fire chief and/or his assistants discovers a condition which in his opinion is dangerous, the fire chief shall give the owner of the premises and/or the occupant of the premises, a notice by United States certified mail, with return receipt requested, in which he shall set forth the dangerous conditions, and shall further state the necessary means to prevent the danger.

(D) The fire chief and/or his assistants are authorized to compel owners and/or occupants of premises to make scuttles in the roofs thereof, with stairs or ladders reaching to the same, to compel the erection of fire escapes, to require and regulate the use of smoke consumers, and to require any and all necessary means to prevent danger.

(E) The fire chief shall state in the notice a time in which the means prescribed by the fire chief shall be complied with.

(F) In the event that the recipient of the notice does not take the necessary action to correct the dangerous condition as set out in the notice, the recipient shall be in violation of this section. ('67 Code, §50.01) Penalty, see §91.99

§ 91.02 FIRE LIMITS.

(A) The fire limits in the city are established as follows:

All territory lying and being within the following described points: Commencing at the intersection of the St. Mary's River with the center line of Adams Street in the city, thence running west in the center of Adams Street to Fourth Street in the city, thence running north in the center of Fourth Street to the intersection of the center line of Fourth Street with the center line of the alley running east and west as now located midway between Jackson Street and Marshall Street in the city, thence running east on a line in the center of the alley and the continuation thereof to the St. Mary's River, thence in a south and southeasterly direction following the meanderings of the river to the place of beginning.

(B) No person, persons, firm, company, or corporation shall erect or cause to be erected any building on any lot or parcel of ground within the territory described in §91.02 (A), unless the outer walls thereof are composed entirely of brick, stone, tile block, concrete, or concrete block with mortar and fireproofing, and no person, persons, firm, company, or corporation shall erect or construct any buildings within the fire limits without first obtaining a building permit from the Clerk-Treasurer.

(C) Whenever any frame or wooden building heretofore erected within the city limits described in §91.02 (A) is removed one foot or more from the place now occupied by same, it shall not be relocated within the fire limits, nor shall any person, persons, firm, company, or corporation be permitted to enlarge any such building now erected within such limits.

(D) No building shall be erected within the fire limits of the city, except as hereinafter provided, unless the same shall be constructed in conformity with the following provisions:

(1) Outside and party walls not exceeding 24 feet in height from the top of the sidewalk to the underside of the roof, joists or rafters, except for stores, mills, breweries, and warehouses, shall not be less than 16 inches in thickness if of stone; if of brick, not less than 12 inches in thickness; but stores, mills, breweries, and warehouses exceeding 24 feet in height, as aforesaid, shall not be less an 12 inches in thickness if of brick; nor less than 18 inches in thickness if of stone; and if exceeding 3 stories in height, the 2 lower stories shall not be less than 16 inches in thickness if of brick, nor less than 24 inches in thickness if of stone.

§ 91.04 DEPOSITING COMBUSTIBLES WITHIN THE CITY.

No person or persons shall deposit or stack any hay, straw, or other combustible substance within 100 feet of any dwelling house, barn, stable, outhouse, or building of any description with in the limits of the city, without first having obtained permission from the common council. ('67 Code, §52.04) Penalty, see §91.99

§ 91.05 BURNING RUBBISH, ETC., WITHIN FIRE LIMITS.

No hay, straw, shavings, or other combustible matter shall be set fire to, or burned within any street, alley, or public or private grounds within the fire limits of the city. ('67 Code, §52.02) Penalty, see §91.99

§ 91.06 LUMBER YARDS IN FIRE LIMITS.

No lumber yard for the sale of lumber shall be kept upon any premises within the fire limits which are not now occupied for that purpose. ('67 Code, §52.06) Penalty, see §91.99

§ 91.07 STORING EXPLOSIVES.

(A) No person shall store any amount of dynamite in or about any building, storeroom, warehouse, shed, barn, structure, or any other place within the city limits.

(B) No person shall keep a building, room, shed, cellar, excavation or tenement, to be used or occupied for a powder magazine, or knowingly permit the same to be used or occupied as a powder magazine. No person, being the owner of any building, room, shed, cellar, excavation or tenement, shall rent the same to be used or occupied as a powder magazine within the city limits, or within 2 miles of the city limits. ('67 Code, §52.07) Penalty, see §91.99

§ 91.08 STORING GASOLINE.

(A) No person shall keep or store more than 5 gallons of gasoline within the following prescribed limits of the city, viz: All that part of the city bounded on the east by the St. Mary's River, on the north by Jackson Street, on the west by Fourth Street and on the south by Adams Street.

(B) No person shall keep or store more than one barrel of gasoline at any place in the city outside of the boundary lines fixed in §91.08 (A).

(C) No owner of any building or other structure or of any vacant lot or tract of land lying within the city shall permit any tenant or occupant to keep or store at, in, or upon such building or other structure, vacant lot, or tract of land, gasoline in greater quantities than is specified in §91.08 (A) and (B).

(D) All gasoline, whenever kept or stored in the city, shall be kept or stored in an airtight metal can or receiver, and it shall be unlawful for any person to take or draw gasoline therefrom at any time, except during daylight. The gasoline shall be kept or stored not less than 20 feet from where the owner or occupant of such real estate uses any artificial light. ('67 Code, §52.08) Penalty, see §91.99

§ 91.09 FALSE ALARM OF FIRE.

No person shall willfully give or make a false alarm of fire. ('67 Code, §52.09) Penalty,

see §91.99

§ 91.10 STEAM BOILERS.

No person shall operate, or cause to be operated, within the corporate limits of the city a stationary steam boiler of 15 horsepower or more without a smokestack and/or chimney of at least 40 feet in height, measured from the ground to the top of smokestack and/or chimneys. ('67 Code, §52.10) Penalty, see §91.99

§ 91.11 CONFLICT WITH OTHER PROVISIONS.

If any provision of this chapter prescribing construction standards conflicts with any provision of Chapter 151, the building code of the city, the provision of the building code shall control. ('67 Code, §52.11)

§ 91.20 ADOPTION OF FIRE PREVENTION CODES.

The following fire safety rules of the Indiana Fire Prevention and Building Safety Commission as set out in Article 22 of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this Code, and shall include later amendments to that Article as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

Article 22-Fire Prevention Codes

- (A) Indiana Flammable and Combustible liquids and gases code.
- (B) Indiana Fire Prevention Code.

Copies of adopted fire safety rules, codes and standards are on file in the offices of the City Clerk-Treasurer, the City Engineer, the Chief of the Fire Department and the Superior Court Judge.

§ 91.21 ENFORCEMENT OF CODES.

The Fire Prevention Code shall be enforced by the Chief of the Fire Department and/or any other officer of the Fire Department designated by the Chief of the Fire Department. It shall be unlawful for any person properly served with an order or citation under provisions of the Fire Prevention Code to fail to comply with such orders or citations.

§ 91.22 INSPECTIONS.

Prior to any new or remodeled or change of occupancy to any building being occupied, a final inspection by the Fire Prevention Bureau shall be conducted and a certificate of occupancy shall be issued by the building department, countersigned by the Fire Department Inspector.

§ 91.23 FIRE DEPARTMENT POLICY ON ENFORCEMENT.

1. The Fire Prevention Bureau shall be responsible for the enforcement of laws and regulations for safeguarding, to a reasonable degree, of life and property from hazards of fire and/or explosions and from conditions hazardous to life and property in the use or occupancy of buildings or premises and their contents.

2. It is the intent of the Fire Department to achieve compliance by traditional means of inspection, notification, granting of reasonable time to comply and reinspection. The citation shall be used only after all reasonable means to gain compliance have failed or with proper justification, at the discretion of the Fire Chief.

§ 91.24 EMERGENCY LANES ESTABLISHED.

1. Any owner of commercial property shall in accordance with the provisions of this section, establish Emergency Lanes upon their property.

2. Any new industrial or commercial structure must establish Emergency Lanes in accordance with Fire Department regulations. In addition, any renovation of an existing commercial or industrial structure over fifty (50) per cent pursuant to the Indiana Building Code, shall be required to the establishment of Emergency Lanes.

3. The Chief of Police and Chief of the Fire Department of the City of Decatur are hereby authorized and required to establish and maintain Emergency Lanes on private commercial property upon the request of the owner thereof.

4. Location and marking of Emergency Lanes upon said commercial property shall be subject to the approval of the Chief of Police and the Chief of the Fire Department.

5. Emergency lanes shall be approximately fifteen (15) feet in width and shall be marked with the appropriate yellow marks or lines. Signs designating the Emergency Lanes shall be marked "No Parking - Emergency Lane" and shall be placed at least every fifty (50) feet along the curb or side of building wherein the lanes are established.

6. It shall be the responsibility of the owner of the commercial property to bear the cost of the signs and marking of said Emergency Lanes and curbs.

7. Police officers and/or fire officials of the City of Decatur shall remove or cause the removal of any vehicle from any Emergency Lane established in accordance with this section. Such vehicle shall be impounded into a storage yard. The owner of said vehicle shall pay reasonable towing and storage charges before any vehicle may be released.

8. Any person who stops, stands, or parks any vehicle other than an Emergency Vehicle, whether attended or unattended, in any Emergency Lane established according to the provisions of this section, shall, upon conviction thereof, be punished as set forth in Section 91.99.

9. EXCEPTIONS;

(a) Those vehicles displaying a State “Disabled” or other “Disabled” identifying insignia or by the attesting officers certain knowledge of the person in question being “Disabled” or “Handicapped”, may stand in an Emergency Lane while loading or unloading.

(b) All areas already established and marked as “Handicapped Parking” shall remain as placed and marked, and shall not be moved or changed in any manner as to conflict with the establishing of Emergency Lanes, except when they cannot be complied with in accordance to Section 91.24(4).

§ 91.99 PENALTY.

1. Whoever violates any of the provisions of this chapter or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certification or permit issued thereunder, shall for each and every such violation and noncompliance respectively, be fined not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00).

2. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified each ten days that prohibited conditions are maintained shall constitute a separate offense.

3. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Ord. 1991-8)

CHAPTER 92: NUISANCES

Section

- 92.01 Nuisances; definitions
- 92.02 Common law and statutory nuisances
- 92.03 Abatement of nuisances
- 92.04 Inspection of premises
- 92.05 Test for nuisance
- 92.06 Nuisances created by others

92.99 Penalty

§ 92.01 NUISANCES; DEFINITIONS.

(A) For the purposes of this chapter the existence of the situations listed in division (B) are declared to be nuisances.

(B) For the purposes of this chapter the following words and phrases shall have the following meanings ascribed them respectively.

(1) “ACCUMULATION OF RUBBISH.” An accumulation on any premises of filth, refuse, trash, garbage or other waste material which endangers the public health, welfare or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger of its catching or communicating fire, its attracting and propagating vermin, rodents or insects, or its blowing into any street, sidewalk, or property of another. It shall be the duty of persons owning or being in charge of those business establishments whose patrons purchase goods or services from their automobiles, commonly known as “drive-ins”, to furnish sufficient covered receptacles for the deposit of wastes created in the operation of such business and to clean up such wastes as are not deposited in receptacles at the close of business each day (or if such business operates continuously, at least once each day) and at such other times as weather conditions are such that waste from the operation of such business is being blown to adjoining premises.

(2) “AUTOMOBILE PARTS.” Includes any portion of parts of any motor-driven vehicle as detached from the vehicle as a whole.

(3) “DANGEROUS BUILDINGS.” Any building, house, or structure so out of repair and dilapidated that it shall, if such condition is suffered to continue, endanger the life, limb, or property of, or cause hurt, damage or injury to persons or property using or being upon the streets or public ways of the city adjoining such premises, because of the collapse of such building, house, or structure or by the falling of parts thereof or of objects therefrom.

(4) “DANGEROUS TREES, STACKS, ETC.” Any tree, stack or other object, adjoining a street, standing upon premises in a condition that shall, if suffered to continue, endanger the life, limb, or property or cause hurt, damage, or injury to persons or property

adjacent thereto.

(5) “DILAPIDATED BUILDINGS.” Any building, house, or structure which is so out of repair and dilapidated that it constitutes a fire hazard because of its condition and lack of repair, or that, due to lack of adequate maintenance or neglect, endangers the public health, welfare or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.

(6) “DRESSING POULTRY.” The dressing of poultry within the city limits for wholesale, or retail, unless at the end of each day the debris made in the dressing of the same shall be removed to some point beyond the city limits and destroyed.

(7) “DWELLING UNFIT FOR HUMAN HABITATION.” Any part of any building or its premises used as a place of residence or habitation or for sleeping that is dangerous or detrimental to life or health because of want of repair, defects in the drainage, plumbing, lighting, ventilation or construction, infection with contagious disease or the existence on the premises of any unsanitary condition likely to cause sickness among occupants of the dwelling.

(8) “JUNK, SCRAP METAL, MOTOR VEHICLES.” The storage of motor vehicles in an inoperative condition, motor vehicles unfit for further use, automobile parts or scrap metal within the city limits.

(9) “MOTOR VEHICLE IN AN INOPERATIVE CONDITION.” Any style or type of motor-driven vehicle used or useful for the conveyance of persons or property which is unable to move under its own power due to defective or missing parts, or any vehicle which is unlicensed, or any vehicle which is uninsured and which has remained in such condition for a period of not less than ten (10) consecutive days, unless, said vehicle is stored in a building.

(10) “MOTOR VEHICLE UNFIT FOR FURTHER USE.” Any style or type of motor-driven vehicle used for the conveyance of persons or property, which is in a dangerous condition, has defective or missing parts, or is in such a condition generally as to be unfit for further use as a conveyance, unless said vehicle is stored within a building.

(11) “NOXIOUS NOISE.” Sound emitted from premises which destroys the enjoyment of dwelling houses or other uses of property in the vicinity by interference with the ordinary comforts of human existence shall constitute noxious noise.

(12) “NOXIOUS ODORS OR SMOKE.” Odors, smoke, dust, or other matter emitted from premises into the surrounding atmosphere and which render ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.

(13) “OPEN WELLS.” The maintenance of any open or uncovered, or insecurely covered, cistern, cellar, well, pit, excavation or vault situated upon private premises in any open or unfenced lot or place.

(14) “SCRAP METAL.” Any pieces and/or parts of steel, iron, tin, zinc, copper, aluminum or any alloy thereof, whether covered with porcelain or any other materials, whether

intact of in parts, which has served its usefulness in its original intended purposes.

(15) “TREES AND SHRUBBERY OBSTRUCTING STREETS AND SIDEWALKS.” The growing and maintenance of trees with less than 14 feet clearance over streets or less than 8 feet over sidewalks, or the growing and maintenance of shrubbery in excess of 3 feet in height above curb level within the radius of 20 feet from the point where the curb line of any street intersects the curb line of another street. No shrub shall be planted between the curb line and the property line of any street within a radius of 20 feet from the point where the curb line of any street intersects with the curb line of another street.

(16) “WEEDS.” The existence of thistles, burdock, jimson weed, ragweed, milkweed, poison ivy, poison oak, iron weed, and all other noxious weeds and rank vegetation in excess of a height of 12 inches. It shall be the duty of every owner, occupant or person in charge of any lot or land within the city to cause such weeds to be destroyed by spraying them with a chemical approved by the board of health or by cutting them or digging them under.

(17) “UNSAFE STORAGE.” Explosives and combustible material which will create a safety hazard to other property or persons in the vicinity. ('67 Code, §54.04) Penalty, see §92.99

§ 92.02 COMMON LAW AND STATUTORY NUISANCES.

In addition to what is declared in §94.01 to be a public nuisance, those offenses which are known to the common law and the statutes of Indiana as public nuisances may, in case any exist within the city limits, be treated as such and be proceeded against as is provided in this chapter, or in accordance with any other provisions of law. Wherever the word “NUISANCE” is used in this chapter it refers to a public nuisance. ('67 Code, §54.01)

§ 92.03 ABATEMENT OF NUISANCES.

(A) In any case where any nuisance may be found to exist, it shall be the duty of the board of public works and safety to serve notice upon the owner or occupant of the premises where such nuisance exists, or upon any other person causing such nuisance, to abate such nuisance within a reasonable time. In determining such reasonable time the board shall take into consideration the degree of threat to the public health, safety and welfare and the means required to abate such nuisance. It shall not be necessary for such board to designate in the notice the manner in which any such nuisance shall be abated unless such board shall deem it advisable to do so; however, the board shall indicate in such notice the date within which the nuisance must be abated.

(B) If the owner, occupant, or other person served with a notice to abate the nuisance shall refuse or neglect to abate such nuisance within the designated time after such notice is given, such person shall be subject to the penalties provided in §92.99. In addition, the board may cause such nuisance to be abated in any manner authorized by law, including the institution in the name of the city, against the owner, occupant or other person, of an action therefor and for the recovery of the amount of expense of such abatement.

(C) The board shall notify the Clerk-Treasurer of the cost of abatement of any nuisance.

The Clerk-Treasurer shall notify the owner, occupant, or other person against whom the abatement proceedings were brought as to the cost of abatement; and if the cost is not paid by the owner within 30 days, the proper city officers shall proceed to collect the same either by causing the costs to be placed on the tax duplicate or by suit.

(D) The requirement for service of notice under the provisions of §92.03 (A) and (B) may be complied with by the mailing of such notice by registered or certified mail to the last known address of the person sought to be notified or by personal service of such notice by any police officer so directed. ('67 Code, §54.02)

§ 92.04 INSPECTION OF THE PREMISES.

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 the existence of nuisances to the board of public works and safety, and for this purpose the city civil engineer, the street commissioner, police department and fire department or other employees designated by the board of public works and safety shall be permitted to visit, enter into or upon any building, lot, grounds, or premises, within the limits of the city to ascertain and discover any such nuisances and to make examination thereof. ('67 Code, §54.03)

§ 92.05 TEST FOR NUISANCE.

Whether or not a particular annoyance, as listed in §92.01, constitutes a nuisance shall depend on its effect upon persons of ordinary health and average sensibilities, and not its effect upon persons who are delicate or super-sensitive, or whose habits, tastes or conditions are such that they are never sensible of any annoyance. ('67 Code, §54.05)

§ 92.06 NUISANCES CREATED BY OTHERS.

For the purpose of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner or tenants, or their agents or representatives, but merely that the nuisance be enacted or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not liable, but of which, by the exercise of reasonable care, the owner or operator ought to have become aware. ('67 Code, §54.06)

§ 92.99 PENALTY.

Whoever creates or maintains any nuisance defined in this chapter and who fails or refuses to abate such nuisance when so ordered, shall be fined not more than \$200. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed by the board of public works and safety for abatement of such nuisance. The action against any person to enforce a penalty by the city shall constitute a separate and additional legal remedy, and the fact that any proceedings by way of an injunction or for the abatement of any such nuisance has been or may be instituted by the city and may be pending or concluded, shall not affect this chapter or be considered in any way as a defense to such action for the penalty

herein prescribed. ('67 Code,
§54.99)

CHAPTER 93: STREETS AND SIDEWALKS

Section

- 93.01 Cutting into streets, permit
- 93.02 Application to Clerk-Treasurer
- 93.03 Permit fee
- 93.04 Determination of fee
- 93.05 Backfilling
- 93.06 Leaving cellar doors open
- 93.07 Sidewalk construction, material
- 93.08 Placing ashes on streets, sidewalks
- 93.09 Littering streets
- 93.10 Gasoline pumps prohibited
- 93.11 Specifications for streets, sidewalks, curbs, drainage structures
- 93.12 Erection of utility poles, license required

- 93.99 Penalty

Cross-reference:

Walkway regulations, see Chapter 96

Statutory reference:

City's power to regulate. I.C. 36-9-2-5, 36-9-2-7

§ 93.01 CUTTING INTO STREETS, PERMIT.

It shall be unlawful for any person to enter upon any of the streets or alleys or public grounds of the city and dig trenches for the purpose of laying, attaching, removing, or repairing any pipe or other underground fixture used for conducting, supplying, or draining; or to dig trenches or make excavations in any street, alley, sidewalk, or public place in the city, for any purpose whatever; or to injure, destroy, or deface any improved street, alley, sidewalk, or crosswalk, or other public property; or to alter or change the established grade of any street, alley, sidewalk, crosswalk, or public place in the city, without first obtaining the permission of the Clerk-Treasurer as provided in §93.02, and paying the license fee as set out in §93.03. ('67 Code, §55.01) Penalty, see §93.99 (A)

Cross-references:

Sewer regulations, see Chapter 50
Sewer builder's license, see Chapter 114
Specifications, see Chapter 94

§ 93.02 APPLICATION TO CLERK-TREASURER.

Before any person, firm, or corporation shall enter upon any of the streets, alleys, or public grounds of the city, and dig any trenches or make any excavations as forbidden in §93.01, they shall first make application, in writing, to the Clerk-Treasurer of the city, setting forth when and where such excavation or trenches are to be made, or grade is to be changed, and receive a permit. ('67 Code, §55.02)

§ 93.03 PERMIT FEE.

(A) The person, firm, or corporation shall pay to the city the sum of \$5 per square foot for improved streets and alleys, and \$3 per square foot for unimproved streets or alleys in the event that the city replaces the excavated portion. For the purpose of this section, the term "IMPROVED STREET OR ALLEY" shall mean a surface of blacktop, concrete or brick, and "UNIMPROVED STREET OR ALLEY" is designated to be a street or alley with a surface of either dirt, loose stone, or cinders, and/or a street or alley with a surface of either dirt, loose stone, or cinders covered with oil.

(B) the above rates shall be applicable only when the city replaces the excavation. In the event the party desiring the cut shall do the work themselves, they need not pay the above rates, but shall do the work in the manner prescribed below, and shall pay the city an inspection charge according to rates in §90.03 (C).

(C) Whether the person, firm, or corporation replaces the cut or whether the city does the work, there shall be paid to the city an inspection fee according to the following schedule: \$5 per cut for the first 5 cuts during a calendar year; commencing with the sixth cut made during any calendar year, the inspection fee shall be \$1 per cut. ('67 Code, §55.03)

§ 93.04 DETERMINATION OF FEE.

The street commissioner shall notify the Clerk-Treasurer of the sum of money due pursuant to §93.03. The Clerk-Treasurer shall notify the person, firm, or corporation of the amount due. If not paid 30 days after being notified by the Clerk-Treasurer, the person, firm, or corporation shall be in violation of this chapter. ('67 Code, §55.04) Penalty, see §93.99 (A)

§ 93.05 BACKFILLING.

(A) Unimproved streets or alleys shall be refilled with dirt, after which tamping shall come to within one foot of the top of the surface dug into and the remaining one foot shall be filled with either stone or cinders.

(B) Improved streets or alleys shall be filled in the following manner:

(1) Six inches of dirt shall be first placed in the hole so cut and dug;

(2) The dirt shall be tamped;

(3) The balance of the hole shall be filled with clean gravel and/or stone up to the street, alley and/or sidewalk, and tamped to a point of 4 inches;

(4) The hole shall then be capped with concrete 4 inches in thickness;

(5) Any brick, concrete or blacktop shall be replaced.

(C) The above operations set out in §93.05 (A) or (B) shall be done in a workmanlike manner, and to the approval of the street commissioner, and shall be completed as soon as possible, but not to exceed 30 days, weather permitting. ('67 Code, §55.05) Penalty, see §93.99 (A)

§ 93.06 LEAVING CELLAR DOORS OPEN.

It shall be unlawful for any person to keep or leave open any cellar door, or grating of any vault on any street or sidewalk, or to suffer the same left or kept open, or suffer any sidewalk in front of his premises to become or continue in such condition so as to endanger life or limb. ('67 Code, §55.06) Penalty, see §93.99 (A)

§ 93.07 SIDEWALK CONSTRUCTION, MATERIAL.

All sidewalks hereafter built, constructed or repaired within the city shall be built, constructed, or repaired with cement of a good quality to be approved and recommended by the Common Council of the city. ('67 Code, §55.07)

Cross-reference:

Specifications, see Chapter 94

§ 93.08 PLACING ASHES ON STREETS, SIDEWALKS.

It shall be unlawful for any person(s), firm, company, or corporation to place or pile any ashes upon any of the streets, alleys, sidewalks, or highways within the limits of the corporation of the city. ('67 Code, §55.08) Penalty, see §93.99 (A)

§ 93.09 LITTERING STREETS.

It is declared unlawful for any person to put, throw, dump, or leave any tin cans, old iron, brush, boxes, tools, rubbish, wood, logs, glass, glassware, glass bottles, glass jars, broken glass, broken glassware, dead animals or fowl, or debris of any kind or character whatsoever in, upon, or within the limits of any street in the city. ('67 Code, §55.09) Penalty, see §93.99 (B)

§ 93.10 GASOLINE PUMPS PROHIBITED.

The installation and operation of gasoline pumps and appliances for furnishing water and

air to motor vehicles on the public streets and sidewalks of the city shall be prohibited. ('67 Code, §55.10) Penalty, see §93.99 (A)

§ 93.11 SPECIFICATIONS FOR STREETS, SIDEWALKS, CURBS, DRAINAGE STRUCTURES.

(See Chapter 94) ('67 Code, §55.11)

§ 93.12 ERECTION OF UTILITY POLES, LICENSE REQUIRED.

(A) No telegraph or telephone pole, or poles used by electric light, railway, street railway, telephone, or other companies, corporations, firms, or individuals, shall be erected or maintained in the streets, alleys, or other public places in the city unless a license therefor shall first be obtained from the Mayor of the city.

(B) It shall be the duty of every telegraph, telephone, electric light, railway, street railway, and all other companies, corporations or individuals, owning or maintaining poles in the streets, alleys, and public places in the city to file with the Mayor on the first Monday of July or within 10 days thereafter, in every year, a statement in writing under oath, showing the whole number of poles owned by them in the streets, alleys, or other public places in the city.

(C) It shall further be the duty of the companies, corporations, firms, and individuals to make a chart showing the streets, alleys, and other public places in the city wherein are located the poles enumerated in the statement herein provided for, and indicate accurately the position of each of the poles, and file the same as a part of said statement.

(D) It shall be lawful for the Mayor of the city to cut down and remove, at any time after statements and charts have been filed, all poles not returned as herein provided.

(E) The companies, corporations, and individuals shall, on the first Monday of July or within 10 days thereafter in every year, make application to the Mayor for a license to maintain the poles owned by them in the streets, alleys, and other public places in the city for the ensuing year.

(F) The companies, corporations, firms, or individuals shall pay into the city treasury for the use of the city, on the first Monday of July or within 10 days thereafter of each year, the sum of \$.25 annually, for each and every pole for which a license shall be granted in accordance with the provisions of this section.

(G) If the Mayor shall not be satisfied as to the correctness of any statement so made by any company, corporation, firm, or individual, he shall have power to require the principal officer or any officer of the company, corporation, firm, or individual, to appear before him with books and papers and submit to an examination concerning these matters. If it shall thus be ascertained that the full number of poles in use has not been returned as above provided, he shall order the company, corporation, firm or individual in error to pay into the city treasury forthwith the deficiency ascertained by the examination. ('67 Code, §55.12) Penalty, see §93.99 (C)

§ 93.99 PENALTY.

(A) Whoever violates any provision of this chapter for which another penalty is not specifically provided shall be fined not more than \$50.

(B) Whoever violates §93.09 shall be fined not less than \$25 nor more than \$100.

(C) Any company, corporation, firm, or individual violating any of the provisions of §93.12 shall, upon conviction thereof, be fined in any sum not exceeding \$100, nor less than \$25 and each day's default in procuring the license, as hereinbefore provided, shall constitute a separate offense. ('67 Code, §55.99)