

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: FAIR HOUSING

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§ 90.01 POLICY.

It shall be the policy of the Town of Fortville to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 *et seq.*

(Ord. 1994-9A, passed 9-13-94)

§ 90.02 DEFINITIONS.

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

AGGRIEVED PERSON. Any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

(I.C. 22-9.5-2-2)

COMMISSION. The Indiana Civil Rights Commission created pursuant to I.C. 22-9.5-4 *et seq.*
(I.C. 22-9.5-2-3)

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COMPLAINT. A written grievance filed with the Town of Fortville, either by a complainant or another party, which meets all the requirements of § 90.10(B) and (C).

COMPLAINANT. A person, including the Commission, who files a complaint under I.C. 22-9.5-6. (I.C. 22-9.5-2-4)

COVERED MULTI-FAMILY DWELLINGS. This term means:

- (1) Buildings consisting of four or more units if the buildings have one or more elevators; and
- (2) Ground-floor units in other buildings consisting of four or more units.

DISABILITY. With respect to a person:

- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; or
- (3) An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990;
- (4) Any other impairment defined under I.C. 22-9.5-2-10.
- (5) The term **DISABILITY** shall not include current illegal use of or addiction to a controlled substance, as defined in 21 USC 802 (I.C. 22-9.5-2-10(b)) or psychoactive substance use disorders resulting from current illegal use of drugs;
- (6) An individual shall not be considered handicapped or disabled solely on the basis of the following:
 - (a) Homosexuality;
 - (b) Bisexuality;
 - (c) Transvestism (I.C. 22-905-2-10(c)), transsexualism, edophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments or other sexual behavior disorders; or
 - (d) Compulsive gambling, kleptomania or pyromania.

DWELLING. Any:

- (1) Building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or

(2) Vacant land which is offered for sale or lease for the construction or location of a building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families.
(IC 22-9.5-2-8)

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

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

OWNER. The person holding legal or equitable title to property or his or her legal representative.

OWNER OCCUPIED. Any individual who:

(1) Is a titleholder of record or contract purchaser of the real property in question, and, in addition;

(2) Continued to occupy and reside in the property as his or her principal dwelling place at the time the alleged discriminatory act occurs.

PERSON. Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers and fiduciaries.
(I.C. 22-9.5-2-11)

TO RENT. To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant.
(I.C. 22-9.5-2-13)
(Ord. 1994-9A, passed 9-15-94)

§ 90.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) of this section, § 90.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 90.04 shall apply to:

(A) All dwellings except as exempted by division (B) of this section and I.C. 22-9.5-3;

(B) Other than the provisions of division (C) of this section, nothing in § 90.04 shall apply to:

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

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

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 90.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title; or

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

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

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

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

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

(Ord. 1994-9A, passed 9-15-94)

§ 90.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 90.03 and except as exempted by § 90.03(B) or § 90.09, it shall be unlawful:

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

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

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

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

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

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

(a) That buyer or renter;

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

(c) Any person with that person;

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

(a) That buyer or renter;

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

(c) Any person with that person.

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

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

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

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

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

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

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

a. An accessible route into and through the dwelling;

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

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements the Americans With Disabilities Act of 1990 and of the American National Standards Institute (ANSI) standards for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of (F)(3)(c)3.

(5) Nothing in this division requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
(Ord. 1994-9A, passed 9-15-94)

§ 90.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

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

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

- (1) The making or purchasing of loans or providing other financial assistance:
 - (a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - (b) Secured by residential real estate.
- (2) The selling, brokering or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap or familial status.
(Ord. 1994-9A, passed 9-15-94) Penalty, see § 10.99

§ 90.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against him or her in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, handicap, familial status or national origin.
(Ord. 1994-9A, passed 9-15-94) Penalty, see § 10.99

§ 90.07 INTERFERENCE, COERCION OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of or on account of his or her having exercised or enjoyed or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by §§ 90.03 through 90.06.
(Ord. 1994-9A, passed 9-15-94) Penalty, see § 10.99

§ 90.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

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

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

(B) Any person because he or she is or has been or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status or national origin in any of the activities, services, organizations or facilities described in division (A) of this section; or

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

(C) Any citizen because he or she is or has been or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status or national origin, in any of the activities, services, organizations or facilities described in division (A) of this section or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000 or, if bodily injury, results shall be fined not more than \$2,500.
(Ord. 1994-9A, passed 9-15-94)

§ 90.09 EXEMPTIONS.

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

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

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

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

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

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

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

(3) Housing that includes units that are unoccupied or that are occupied by persons who do not meet the age requirement of divisions (B) or (C) does not fail to meet the requirements for housing older persons if:

(a) The unoccupied units are reserved for persons who meet the age requirements of divisions (B) or (C); or

(b) The occupants who do not meet the age requirements of divisions (B) or (C) have resided in the housing since September 13, 1988 or an earlier date, and the persons who become occupants after September 13, 1988 meet the age requirements of divisions (B) or (C).

(4) The Town of Fortville shall adopt rules under I.C. 4-22-2 to establish criteria for matching determinations under subsection (2). These rules must include at least the following provisions:

(a) Except as provided in the following subsection (b), the housing must provide significant facilities and services specifically designed to meet the physical or social needs of older persons;

(b) If the provision of the facilities and services described in subsection (a) is not practicable, the housing must be necessary to provide important housing opportunities for older persons.

(c) At least 80% of the units must be occupied by at least one person who is at least 55 years of age.

(d) The owner or manager of the housing must publish and adhere to provide housing for persons who are at least 55 years of age.

(Ord. 1994-9A, passed 9-15-94)

§ 90.10 ENFORCEMENT.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) of this section shall be vested in the chief executive officer of the Town of Fortville, Indiana.

(B) A complaint concerning an alleged discriminatory housing practice must be:

- (1) In writing;
- (2) Under oath; and
- (3) Addressed to the Town Manager of Fortville.

(C) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, file a complaint with the Commission (as delineated in division (D)) alleging the discriminatory housing practice.

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

(E) Not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, the Commission may file the Commission’s own complaint.

(F) A complaint under this section may be amended at any time.

(G) When a complaint is filed under this section, the Town of Fortville shall do the following:

- (1) Give the aggrieved person notice that the complaint has been received;
- (2) Advise the aggrieved person of the time limit and choice of forums under this section;
- (3) The chief executive officer of the Town of Fortville, Indiana, or the chief executive officer’s designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information;
- (4) Not later than 20 days after filing of the complaint or the identification of an additional respondent under this section, serve on each respondent:

(a) A notice identifying the alleged discriminatory practice and advising the respondent of the procedural rights and obligations of a respondent under this section; and

(b) A copy of the original complaint.

(H) All executive departments and agencies of the Town of Fortville, Indiana, shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the chief executive officer and the Commission to further such purposes.

(Ord. 1994-9A, passed 9-15-94)

CHAPTER 91: PARKS AND RECREATION

Section

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§ 91.01 AUTHORITY TO OPERATE.

The town may establish, aid, maintain and operate public parks, playgrounds and recreation facilities and programs.

(`87 Code, § 5-1)

Statutory reference:

Recreation facilities and programs, see I.C. 36-10-2-2

§ 91.02 RESERVED.

§ 91.03 ALCOHOLIC BEVERAGES PROHIBITED.

No person shall consume or possess alcoholic beverages in a town park.

(`87 Code, § 5-12) (Ord. 1976-6D, passed 6-22-76; Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

§ 91.04 SPEED LIMITS.

No person driving a motor vehicle shall exceed the speed of 15 mph while traveling on Church Street in the Fortville Town Park.

(`87 Code, § 5-13) (Ord. 1976-6D, passed 6-22-76) Penalty, see § 10.99

§ 91.05 PARK CLOSING TIME.

No person may enter a town park between 11:00 p.m. and sunrise without the permission of the Fortville Park and Recreation Board or the Town Manager.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

§ 91.06 NO CAMPING.

No person may camp in a town park without the permission of the Fortville Park and Recreation Board or the Town Manager.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

§ 91.07 DOMESTIC ANIMALS.

No person may permit a domestic animal in a town park unless the animal is on a leash.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

§ 91.08 DANGEROUS WEAPONS.

No person may use a weapon that is dangerous to others within a town park.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

CHAPTER 92: HEALTH AND SAFETY; NUISANCES

Section

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-
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GENERAL PROVISIONS**§ 92.01 BURNING REGULATIONS; OPEN BURNING.**

(A) Only dry, easily combustible material that burns cleanly may be burned within the town limits and then only under the following conditions:

- (1) All burning must occur between the hours of 8:00 a.m. and 5:00 p.m.;
- (2) All burning, except for leaves, must be done in a container that is capable of being closed;
- (3) No burning may occur on paved streets or alleys;

(4) The burning of leaves that are not in a container must be supervised continuously until the fire is completely out.

(`87 Code, § 6-27) (Ord. 1984-11A, passed 11-13-84)

(B) No person shall openly burn any material, except that wood products may be burned under the following conditions:

- (1) Only between 8:00 a.m. and 5:00 p.m.;

(2) In a noncombustible container with enclosed sides, a bottom and a mesh covering with openings no larger than ¼ inch square;

- (3) Fires shall be attended at all times until completely extinguished;

(4) If fires create an air pollution problem, a nuisance or a fire hazard, they shall be extinguished;

(5) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high wind or air stagnation.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 92.99

§ 92.02 NOISE REGULATIONS.

(A) *Public nuisance declared.*

(1) The making and creation of loud, unnecessary or unusual noises of various kinds and by various means within the limits of this town have so increased as to constitute a public nuisance.

(2) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of this town.

(3) The necessity in the public interest for the provisions and prohibitions hereinafter contained and ordained is declared, as a matter of legislative determination for this declaration of public policy, to be designed to secure and promote the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the inhabitants and visitors in this town.
(`87 Code, § 6-48)

(B) *Noise prohibited.* It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the town. (`87 Code, § 6-49)

(Ord. passed 4-4-61) Penalty, see § 92.99

Statutory reference:

Authorizing a town to regulate noises, see I.C. 36-8-2-8

§ 92.03 CUTTING WEEDS AND RANK VEGETATION.

(A) No property owner may permit weeds or rank vegetation to grow to a height greater than six inches.

(B) The Town Manager or his or her designated representative shall notify any property owner in violation of division (A) of this section that he or she has five days after receipt of the notice to comply. Notice may be served by certified mail or the Town Marshal may personally serve the property owner or post the notice at the entranceway to the structure or property.

(C) If the property owner fails to comply within five days after service, the town may enter the property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and cut and remove weeds and rank vegetation by contract or with town employees and bill the property owner for the cost thereof, including administrative costs.

(D) The bill shall be served on the property owner in the same manner as the original notice and shall be paid by him or her to the Clerk-Treasurer within ten days after service. Upon failure to make timely payment, the Clerk-Treasurer shall certify to the Hancock County Auditor the amount of the bill and, pursuant to I.C. 36-7-10.1-4, request that such amount be placed on the tax duplicate of the affected property and be collected in the same manner as delinquent taxes.

(E) If the Town Manager or his or her designated representative shall serve a subsequent notice of violation, the property owner shall be deemed a repeat offender and the property will be maintained by contract or with town employees and bill the property owner for the cost thereof including administrative fees.

(F) A property owner may appeal a notice of violation under division (A) of this section within five days of receipt and may appeal the billing under divisions (C) and (D) within ten days of receipt. All appeals shall be to the Circuit, Superior or Superior II Courts of Hancock County.

(G) Weeds and rank vegetation include all plant life except:

- (1) Trees;
 - (2) Bushes; and
 - (3) Flowers, vegetables, and ornamental grasses or plants that are cultivated and separated from other plant life.
- (Ord. 1992-5A, passed 5-12-92; Am. Ord. 2002-6C, passed 6-25-02)

LITTER

§ 92.15 DEFINITIONS.

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

ABANDONED AND/OR JUNK VEHICLES.

- (1) A vehicle located on public property illegally;
- (2) A vehicle left on public property continuously without being moved for three days;
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;
- (4) A vehicle that has remained on private property without the consent of the property owner or person in control of the property without the consent of the property owners or persons in control of the property for more than 48 hours;
- (5) A vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperative and left on public property;
- (6) A vehicle that has been removed by a towing service or a public agency upon request of the Town Marshal and/or Deputy Town Marshals enforcing a statute or ordinance other than this chapter, if the vehicle once impounded is not claimed or deemed by the owner or his or her agent within 15 days of its removal; or
- (7) A vehicle that is six or more model years old and mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 30 days.

AIRCRAFT. Any contrivance not known or hereafter invented, used or designed for navigation or for flight in the air, and includes but is not limited to helicopters and lighter-than-air dirigibles and balloons.

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle as required and authorized in this subchapter.

COMMERCIAL HANDBILL. Any newspaper or similar publication containing substantial amounts of matter advertising articles or things for sale or any businesses or services for profit which newspaper or similar publication is in normal course distributed without charge and without subscription therefore by the recipients, and includes, but is not limited to, any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, booklet, paper or any other printed or otherwise reproduced original and copies of any matter or literature which:

- (1) Advertises for sale any merchandise, product, commodity or things;
- (2) Directs attention to any business or mercantile or commercial establishment or 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 profit; or
- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for private benefit and gain for any person so engaged as advertiser or distributor.

LITTER. Garbage, refuse, and rubbish and all other waste material which, if thrown or deposited in a manner prohibited by this subchapter, tends to create a danger to public health, safety and welfare or significantly reduces the aesthetic appearance of public or private property or the public right-of-way.

LITTER RECEPTACLE. A dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal.

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 the federal statute or regulation, any newspaper filed and recorded with any recording officer as provided by general law and includes but is not limited to any newspaper, periodical or current magazine regularly published and sold to the public by subscription.

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.

PARK. A park, reservation, playground, recreation center or any other public area in the town owned or used by the town and devoted to recreation.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES. Any dwelling, house, building, multi-family structure 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 includes but is not limited to any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such 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 non-putrescible solid wastes except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, wrecked or junked vehicles or parts thereof and solid market and industrial wastes.

RIGHT-OF-WAY. 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.

RUBBISH. Non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, metal, wood, glass, crockery, bedding 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.
(Ord. 2002-5A, passed 5-28-02; Am. Ord. 2008-2A, passed 3-17-08)

§ 92.16 LITTER IN PUBLIC PLACES.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place including freshwater streams, lakes, and ponds within the town except in public receptacles, or in authorized private receptacles for refuse, recycling or yard waste collection or leaf service or other town sponsored collection service.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.17 PLACEMENT OF LITTER IN RECEPTACLES.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such 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.

(Ord. 2002-5A, passed 5-28-02)

§ 92.18 DEPOSITING LITTER IN GUTTERS.

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any public or private sidewalk or driveway or any building or lot. Persons

owning or occupying property or places of business shall keep the sidewalk and parkway in front of their premises free of litter.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.19 LITTER FROM A VEHICLE.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town, or upon private property.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.20 LITTERING IN PARKS.

No person shall throw or deposit litter in any park within the town except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other 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 subchapter or as prescribed by other sections of the town's codified ordinances.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.21 HANDBILLS.

(A) *Deposit of commercial handbills on public property.* No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the town, nor shall any person hand out or distribute or sell any commercial handbill in any public place, but nothing in this section shall be deemed to prohibit any person from handing out or distributing on any sidewalk, street, or other public place within the town, without charge to the receiver thereof, any commercial handbill to any person willing to accept it.

(B) *Placing on vehicles.* No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle, but 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.

(C) *Deposited on posted property.* No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested in writing 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 words, "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to have their right of privacy disturbed, or to have any handbill left upon such premises.

(D) *Depositing handbill at inhabited premises; mail and newspapers.* No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited unless 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, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations. The provisions of this section shall not apply to the distribution of mail by the United States nor of newspapers as defined by this subchapter.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.22 DROPPING LITTER FROM AIRCRAFT.

No person in an aircraft shall throw out, drop or deposit within the town any litter, handbill or any other object.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.23 DEPOSIT OF LITTER ON OCCUPIED PRIVATE PROPERTY.

No person shall throw or deposit litter on any occupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles or collection in such 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.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.24 MAINTENANCE OF LITTER-FREE PREMISES.

The owner or person in control of any private property shall at all times maintain the premises free of litter; but this section shall not prohibit the storage of litter in authorized private receptacles for collection, or within any building when not in violation of any health, fire, building code or other regulation, order, ordinance or statute.

(Ord. 2002-5A, passed 5-28-02)

§ 92.25 VACANT LOTS.

No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not. Vacant lots shall be kept free of litter at all times by the person responsible for the property.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.26 RECEPTACLES.

(A) *Business establishments.* Every person owning, or managing, or having charge, control or occupancy of any real property in the town, who maintains a receptacle designated for their use, shall dispose of refuse in such a way that said receptacle shall not overflow and the refuse so deposited shall not circulate freely in the environment.

(B) *Sanitary conditions.* Every person owning, or managing, or having charge, control or occupancy of any real property in the town who maintain litter receptacles shall maintain such containers and receptacles in good condition. No receptacle may have ragged or sharp edges or any other defect liable to hamper or injure the person depositing or collecting the contents thereof.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.27 UNSIGHTLY PREMISES.

Every person owning, or managing, or having charge, control or occupancy of any real property in the town shall not allow any part of such property, visible from the street of adjoining premises to become so unsightly or untidy as to substantially detract from the appearance of the immediate neighborhood or tend to threaten the safety and welfare of the immediate neighborhood.

(Ord. 2002-5A, passed 5-28-02)

§ 92.28 ABATEMENT.

(A) *Generally.* All persons, firms, or corporations owning, leasing or occupying buildings, grounds, or lots are hereby required to remove rubbish, trash, weeds, or other accumulation of filth or debris which constitutes a hazard to the public health, safety and welfare, from buildings, grounds, lots, contiguous sidewalks, streets, and alleys.

(B) *Procedure.* Any person, whether as principle, manager, agent or employee of the owner, lessee or occupant of any building, grounds or lots who receive notice to abate from the Town Manager or his authorized representative will have five working days from the receipt of the notice to abate to abate litter as described in this section.

(C) *Copy of resolution to be served or published.* A copy of the notice to abate adopted under this subchapter may be served personally or at the usual place of residence of such owner, occupant or person in charge of such land or by registered mail, or in lieu of such service, may be published for two consecutive weeks in a newspaper of general circulation in the town.

(D) *Enforcement.* In case of failure or refusal to comply with any such notice of abatement, the work required thereby may be done at the expense of the town and the amount of money expended therefore shall be a valid claim against the owner, occupant or person in charge and a lien upon such land which may be enforced by suit in any court of competent jurisdiction. Proceedings under this division shall not relieve any party defendant from criminal prosecution or punishment for violation of any other criminal law or ordinance in force within the town.

(Ord. 2002-5A, passed 5-28-02)

*ABANDONED VEHICLES***§ 92.35 ABANDONED AND/OR JUNK VEHICLES EXPOSED TO THE PUBLIC.**

(A) The keeping, parking or storing of any wrecked, junked or abandoned vehicle or parts thereof, on private or public property, exposed to public view, except as provided in this subchapter, is hereby declared to be a nuisance.

(B) It shall be unlawful for any person to keep, park or store any wrecked junked or abandoned automobile or other vehicle, or parts thereof on public or private property within the town, not kept in a garage or other enclosure so as not to be exposed to public view, except as otherwise set forth herein.

(C) Any vehicle shall be deemed to be included in the terms of this subchapter if such vehicle does not have attached thereto a valid and current license plate, but, such license plate shall not be in the sole factor in determining the status of such vehicle.

(D) Nothing contained in this subsection shall be constructed to apply to any person, firm or corporation lawfully engaged in the junk business, the garage body shop or other vehicle repair business, auto sales business or other lawful business in a properly zoned area, in which automobiles or other vehicles are kept, stored or parked as an incident to the conducting of such business.

(E) For the purposes of this subchapter, the following definitions shall apply.

(1) A business organized for the purpose of scrap metal processing, automobile wrecking, or operating a junkyard.

(2) The Indiana Bureau of Motor Vehicles.

(3) A regular member of the Town Marshal's office of the Town of Fortville, Hancock County, Indiana.

(4) The last known record title holder of a vehicle, according to the records of the Indiana Bureau of Motor Vehicles, or any other comparable bureau or agency of any other state.

(5) Refers to all components of a vehicle that as assembled do not constitute a complete vehicle.

(6) An individual, firm, corporation, association, fiduciary, or governmental entity.

(7) All property other than public property.

(8) A public right-of-way, street, highway, alley, sidewalk, park, or other municipal property.

(9) A business that engages in moving, removing, storing and impounding disabled vehicles.

(10) An automobile, motorcycle, truck, trailer, semitrailer, tractor, bus, school bus, recreational vehicle, camper or motorized bicycle.

(11) A vehicle which can be seen from public property and includes vehicles which have been covered by a temporary covering that allows the form and outline of the vehicle to remain visible from public property.

(Ord. 2008-2A, passed 3-17-08)

§ 92.36 CITATION, REMOVAL, DISPOSAL OR ABANDONED VEHICLES.

(A) No person shall abandon a vehicle or parts on any public or private property.

(B) The owner of an abandoned vehicle or parts is responsible for the abandonment and is liable for all of the costs incidental to the removal, storage, and disposal of the vehicle or its parts.

(C) In accordance with I.C. 9-22-1-1, if, in the opinion of the Town Marshal and/or Deputy Town Marshals, the market value of an abandoned vehicle or parts is less than \$750, according to the Official Kelley Blue Book, the Town Marshal and/or Deputy Town Marshals shall attach thereto in a prominent place a citation containing the following information.

(1) The date, time, Town Marshal and/or Deputy Town Marshal's name, public agency, address, and telephone number to contact for information.

(2) The vehicle or parts is considered abandoned.

(3) The vehicle or parts will be removed after 72 hours.

(4) The owner will be held responsible for all costs incidental to removal, storage, and disposal, and if not paid the owner's registration privileges will be suspended on that car.

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

(D) If the tagged vehicle or parts, which, in the opinion of the Town Marshal and/or Deputy Town Marshals, has a market value of less than \$750, according to the Official Kelley Blue Book, is not removed within 72 hours the Town Marshal and/or Deputy Town Marshals shall, in accordance with I.C. 9-9-1.1-5 and I.C. 9-22-1-13:

(1) Prepare a written abandoned vehicle report of the vehicle or parts including information on the condition, missing parts, and other facts that substantiate that the market value is less than \$750, according to the Official Kelley Blue Book.

(2) Take photographs to illustrate the condition of the vehicle or parts.

(3) Immediately order the removal of the vehicle or parts to an automobile scrapyard or holding area.

(E) In accordance with I.C. 9-22-1-14, if, in the opinion of the Town Marshal and/or Deputy Town Marshals, the market value of an abandoned vehicle or parts is \$750 or more, according to the Official Kelley Blue Book, the Town Marshal and/or Deputy Town Marshals shall make reasonable effort to

ascertain the owner or persons who may be in control of the vehicle or parts. Thereafter, the office shall attach to the vehicle or parts in a prominent place a citation containing the following information:

- (1) The date, time, Town Marshal and/or Deputy Town Marshal's name, public agency, address, and telephone number to contact for information.
- (2) The vehicle or parts is considered abandoned.
- (3) The vehicle or parts will be removed after 72 hours.
- (4) The owner will be held responsible for all costs incidental to removal, storage, and disposal, and if not paid the owner's registration privileges will be suspended on that car.
- (5) The owner may avoid costs by removal of the vehicle or parts within 72 hours.

(F) If the tagged vehicle or parts, which in the opinion of the Town Marshal and/or Deputy Town Marshals, has a market value of \$750 or more, according to the Official Kelley Blue Book, is not removed within the 72 hour period, the Town Marshal and/or Deputy Town Marshals shall in accordance with I.C. 9-22-1-14:

- (1) Take photographs to illustration the condition of the vehicle or parts and require the vehicle or parts to be moved to a storage area.
- (2) Immediately order the removal of the vehicle or parts to a storage area.
- (3) In accordance with I.C. 9-22-1-19, within 72 hours after the removal of an abandoned vehicle or parts to the storage area, the public agency or the towing operator shall prepare and forward to the Indiana Bureau of Motor Vehicles an abandoned vehicle report, including the make, model, if any, identification number and number of the license plate (and engine number if applicable), and request that the Indiana Bureau of Motor Vehicles advise the agency of the name and most recent mailing address of the owner and of any lien holder.
- (4) Upon receipt of the required information from the Indiana Bureau of Motor Vehicles, the public agency or the towing operator shall mail notice to the owner of any lien holder that the vehicle or parts have been impounded at a certain location, that the vehicle or parts must be claimed within 15 days of the date of the mailing notice, and that the vehicle or parts will be disposed of after that time. The notice shall also advise the owner that all costs incurred in removing and storing the vehicle or parts are the owners legal responsibility, all in accordance with I.C. 9-22-1-20(3)(B),
- (5) If the owner or lien holder appears to claim the vehicle before the 15 day time period, he shall be entitled to claim the impounded vehicle. The costs of the towing, storing and keeping of the impounded vehicle must be paid to the service holding the vehicle before the vehicle may be released. If the owner or lien holder does not appear within 15 days after the mailing of notice, the Indiana Bureau of Motor Vehicles shall sell the vehicle or parts to the highest bidder at a public sale conducted after notice under I.C. 5-3-1, except only one newspaper insertion one week before the public sale is required.

(6) If the vehicle is in such condition that the vehicle identification numbers or other means of identification are not available to determine the owner of record with the Indiana Bureau of Motor Vehicles, the vehicle may be disposed of without notice as permitted by I.C. 9-22-1-21.

(7) Upon complaint of a private property owner or persons in control of the property upon which a vehicle has been left for more than 48 hours without the consent of the owner or persons in control, the private property owner shall follow the procedure set forth in this subchapter.

(8) Neither the owner, lessee, or occupant of the property from which an abandoned vehicle is removed, unless they are the owner of the abandoned and/or junk vehicle, nor any public agency, towing service, or automobile scrapyard, is liable for any loss or damage to the vehicle or parts occurring during its remove, storage, or disposition.
(Ord. 2008-2A, passed 3-17-08) Penalty, see § 92.99

§ 92.37 VEHICLE ABANDONED ON RENTAL PROPERTY.

A person who finds a vehicle believed to be abandoned on the person's rental property shall do the following:

(A) Attach in a prominent place a notice tag containing the following information:

(1) The date, time, name, and address of the person who owns the rental property and a telephone number to contact for information.

(2) That the vehicle is considered to be abandoned.

(3) That the vehicle will be removed after 72 hours.

(4) That the person who owns the vehicle will be responsible for all cost incidental to the removal, storage, and disposal of the vehicle.

(5) That person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours.

(B) Contact the Indiana Bureau of Motor Vehicles to obtain the name and address of the person who owns the vehicle.

(C) Deliver by certified mail, a copy of the information contained in the notice required under division (A) above to the person who owns the vehicle.

(D) If after 72 hours the person who owns a vehicle believed to be abandoned on rental property has not remove the vehicle form the rental property, the person who owns the rental property may have the vehicle towed from the rental property. The person who owns the rental property shall give the towing operator a copy of the certified letter required under division (C) above as proof that notice of the towing has been given.

(Ord. 2008-2A, passed 3-17-08)

§ 92.38 EXEMPTIONS.

This subchapter does not apply to the following vehicles:

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

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

(C) A vehicle located on a designated vehicle sales lot or at a commercial servicing facility.

(D) A vehicle located upon property licensed or zoned as an automobile scrapyard.

(E) A vehicle registered and licensed under I.C. 9-18-12 as an antique motor vehicle.
(Ord. 2008-2A, passed 3-17-08)

§ 92.39 COST CHARGED TO ABANDONED VEHICLE ACCOUNT.

The cost for removal and storage of an abandoned vehicle or parts not claimed by owner or lien holder shall be paid from the Abandoned Vehicle Account. The charge payable by the owner or lien holder for towing, storage, or removing an abandoned vehicle or parts not exceed the limits established by ordinance from time to time.

(Ord. 2008-2A, passed 3-17-08)

§ 92.40 DISPOSITION OF PROCEEDS OF SALE.

The proceeds of sale of an abandoned vehicle or parts in accordance with this subchapter shall be credited against all cost incident to the removal, storage, and disposal of the vehicle.

(Ord. 2008-2A, passed 3-17-08)

§ 92.41 USE OF ABANDONED VEHICLE ACCOUNT.

All cost incurred by the public agency in administering this subchapter shall be paid from the Abandoned Vehicle Account. The Fortville Town Council shall annually appropriate sufficient monies to that account for the purpose of this subchapter. All monies remaining in the account at the end of each year remain in the account and do not revert to the general fund.

(Ord. 2008-2A, passed 3-17-08)

§ 92.42 CHARGES FOR TOWING, STORING OR REMOVING ABANDONED VEHICLES.

The following charges are established as maximum charges for towing, storing, or removing abandoned vehicles, and are payable by the owner or lien holder.

(A) The charge for towing the abandoned vehicle or parts shall not exceed \$125.

(B) The charge for removing abandoned vehicles or parts shall not exceed \$125.

(C) The charge for storing abandoned vehicles or abandoned parts shall not exceed \$25 per day of storage.

(Ord. 2008-2A, passed 3-17-08)

§ 92.99 PENALTY.

(A) Any person violating any provisions of this chapter will be subject to penalty as a violation of § 10.99.

(B) Each day such violation is committed or permitted to continue after the initial five working days to abate shall constitute a separate offense and shall be punishable as such.

(C) Any person violating any provision of §§ 92.35 through 92.42 shall, on conviction, be fined in any sum not less than \$10 nor more than \$100. In addition, any person violating the provision would also be responsible for any related court cost, reasonable attorney fees, and for the charges and costs of towing, storing or removing the subject vehicles.

(Ord. 2002-5A, passed 5-28-02; Am. Ord. 2008-2A, passed 3-17-08)

CHAPTER 93: ANIMALS

Section

General Provisions

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- 93.02 Licensing
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Regulations

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GENERAL PROVISIONS

§ 93.01 DEFINITIONS.

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

ABANDONMENT. The voluntary relinquishment of possession by the owner with the intention of his or her ownership, but without vesting possession in any other person. The failure to make adequate provisions of food, water and/or shelter shall be prima facie evidence of abandonment.

ANIMAL CONTROL OFFICER. Any person who has been appointed as such by the City of Greenfield.

ANIMAL SHELTER - ANIMAL POUND. Any facility operated by a humane society or Greenfield city agency, or its authorized agents, or operated under contract or agreement with the Greenfield Board of Public Works for the purpose of impounding or caring for animals held under the authority of this chapter.

AT LARGE. Off the premises of the owner while not under the control of the owner or other person by leash, cord, chain or other device of actual physical restraint or under the control of the accompanying owner or other person who has the ability to control the dog by voice command.

BIRDS OF PREY. Members of the Accipitridae, Aquila, Haliaeetus, Falconiformes, Accipiter and Butco family.

DANGEROUS. Able or apt to harm.

EXOTIC. Any animal not naturally found in the State of Indiana.

IDENTIFIED COMPLAINT. A complaint in which the identity of the complainant is known to the Animal Control Officer and whose identity will not be made public but held confidential.

KENNEL, COMMERCIAL. Any facility wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats.

NUISANCE. Any one or more of the following conditions:

- (1) A condition which arises by a dog, cat or other animal chasing persons, bicycles, automobiles or other moving vehicles on the streets or sidewalks or any other public area of the city;
- (2) A condition which arises by a dog, cat or other animal destroying, defacing or damaging shrubbery, lawns or flowers which results in the general nuisance of citizens in the neighborhood where such dog, cat or other animals are harbored;
- (3) A condition which arises by a dog barking consistently so as to disturb the peace of the neighborhood;
- (4) A condition which arises from the accumulation of animal excreta on the property of the owner, public or any other citizen so as to cause an obnoxious odor, create a situation which could draw or breed insects, attract vermin or cause a health nuisance;
- (5) Any dog on which the tax has not been paid on and after the fifteenth day of June of each year.

OFFICIAL WARNING. A written notice or warning based upon an identified complaint and given to the owner of a dog, cat or other animal by the Animal Control Officer.

OWNER. Any person owning, keeping or harboring a dog, cat or other animal for a period of 48 hours or longer.

PET SHOP. Any person, partnership, corporation or any other business entity other than a licensed kennel, that buys or sells any species of animal.

REPTILE. Any member of a large group of air-breathing scaly vertebrates, including but not limited to snakes, alligators and turtles.

RUNNING IN PACK. Three or more dogs, cats or other animals at large together, which, by repeated or continual presence, constitute a physical danger to a neighborhood, livestock, personal or real property.

VICIOUS ANIMAL. Any animal that has been known to have bitten or otherwise physically molested or inflicted a personal injury upon a human being without provocation, or placed a human being in fear without provocation; an animal who promiscuously attacks other animals; or any animal otherwise defined in the Indiana Code.

WARM-BLOODED ANIMAL. Any animal that maintains a constant body temperature; all mammals, including dogs, cats and rabbits.
(Ord. 1997-7A, passed 7-15-97; Am. Ord. 2006-5B, passed 8-4-06)

§ 93.02 LICENSING.

Any person owning, keeping, harboring or having custody of a dog must obtain a license as required by Indiana law, specifically I.C. 15-5-9-1 *et seq.*
(Ord. 1997-7A, passed 7-15-97)

§ 93.03 RESTRAINT.

(A) *Dog at large.* It shall be unlawful for an owner or person having custody or control of a dog to allow such animal to repeatedly run at large throughout the town so as to create a public nuisance.

(B) *Enclosure of animal in heat.* All owners or persons having custody or control shall confine within a completely enclosed building or secure enclosure with no means of escape any dog, cat or other animal when in heat or rutting.

(C) *Possession of a vicious animal.* It is a violation of this chapter for anyone to own, possess, harbor, maintain or have custody or control over a vicious animal as defined in this chapter at any location within the Town of Fortville, Indiana, other than the Animal Control Officer for purposes of rabies control and/or for the protection of the general public.

(D) *Annoyance or disturbance created by animal.* It shall be unlawful for any person to keep or harbor within the city an animal that creates a nuisance or which by loud, frequent or habitual barking, howling or yelping causes annoyance or disturbance to the area within said barking, howling or yelping may be heard.

(E) *Enclosure of suspected rabid animal.* All owners or person(s) having custody of such animal shall confine within a completely enclosed building or secure enclosure with no means of escape, or as otherwise directed by the County Health Department, any warm-blooded animal which has bitten, scratched or caused an abrasion of the skin of any human being, or any warm-blooded animal that is known or suspected of being rabid, in accordance with I.C. 15-2.1-6-11, I.A.C. 410 *et seq.* and § 93.05.

(F) *Trespassing of animal and controller.* It shall be unlawful for any owner or person then having custody or control of any dog, cat or other animal to enter upon the private property of another person without consent.

(G) *Damage or injury to person or property.* It shall be unlawful for any owner or person having custody or control of any dog, cat or other animal to allow such dog, cat or other animal to scratch, bite or otherwise injure any person or other animal or to cause any damage or injury to the personal or real property of another person.

(H) *Keeping dangerous reptiles and animals.* It shall be unlawful for any person to keep, maintain or have in his or her possession, or under his or her control within the town, any such dangerous reptiles, exotic animals and birds of prey. It shall be unlawful for any person to display or walk about with any type of snake, birds of prey, dangerous reptiles and exotic animals in a public place. (Ord. 1997-7A, passed 7-15-97) Penalty, see § 10.99

§ 93.04 ANIMAL CARE.

(A) *Provision of care.* No owner or person having custody of such animal shall fail to provide his or her animal with sufficient and wholesome food and water, protection from the weather and reasonable care, including veterinary treatment, as may be necessary to prevent suffering. This division shall also apply to animals kept at an animal shelter operated by Animal Control, Humane Society or by anyone in the town.

(B) *Classification of a non-commercial kennel.* The existence of more than four dogs and/or cats at a residence shall constitute a non-commercial kennel requiring the owner or person possessing said animals to obtain a non-commercial kennel license from the Animal Control Officer. It shall be unlawful for any person to keep or maintain a commercial kennel at a residence or in a residential area. Commercial kennels as defined under § 93.01 are permitted in General Business, Plan Business and Industrial Zoned areas per the Zoning Code governing the Town of Fortville, Indiana. The user fee for a commercial and non-commercial kennel is hereby established in the amount of \$100. Both commercial and non-commercial kennels must comply with Federal Register 9 CFR Part 2 February 15, 1991, Animal Welfare.

(C) *Ill treatment.* No person shall beat, cruelly ill treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate or permit a dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

(D) *Abandonment.* It shall be unlawful for any owner or person having custody of any dog, cat or other animal to abandon the same within the town.

(E) *Public disposal of poison liable to be possibly consumed by animals.* It shall be unlawful for any person to throw or deposit any poisonous substance in any area of the roads, parks, common yards or other places, whether public or private, within the town so that the same may possibly be consumed by any animal.

(F) *Removal of dead animals.* Any person who shall become apprized of the death of any dog, cat or other animal owned by him or her or under his or her control shall, immediately thereafter, cause the dog, cat or animal to either be properly interned or shall call the animal shelter to remove the animal from the town. Should the animal be removed by the animal shelter and/or Animal Control Officer, the charge for the removal shall be \$2 for a cat, \$5 for a dog and \$5 for any other animal.

(G) *Removal of animal waste.* All animal waste on public property or the private property of others shall be immediately removed by the owner of the animal.
(Ord. 1997-7A, passed 7-15-97)

§ 93.05 RABIES CONTROL.

All actions taken in connection with all animals suspected of suffering from rabies shall be in accordance with I.C. 15-2.1-6-11 and all acts amendatory or supplemental thereto as well as I.A.C. 410 *et seq* and all acts amendatory or supplemental thereto.
(Ord. 1997-7A, passed 7-15-97)

REGULATIONS

§ 93.20 CERTAIN DOMESTIC ANIMALS PROHIBITED WITHIN INCORPORATED LIMITS.

(A) *Prohibited.* It shall be illegal to own, board, keep or maintain one or more of the following animals within the legal boundaries of the town and further declares anyone violating this section shall be cited as maintaining a nuisance within said boundaries:

- (1) Cattle, including cows, bulls, steers, and calves;
- (2) Horses, including mares, stallions, geldings, and ponies;
- (3) Mules;

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- (4) Donkeys or burros;
- (5) Sheep or lambs;
- (6) Goats;
- (7) Rabbits for the purpose of commercial sale for their meat or pelts;
- (8) Swine, including pigs, hogs, boars, sows, or piglets;
- (9) Poultry, including but not limited to chickens, turkeys, ducks, geese, guinea fowl, peafowl, pigeons and pheasants;
- (10) Exotic animal, being defined as a wild animal that is non-native to the state;
- (11) Wild animals, being defined as one that lives in the wild or is not domesticated;
- (12) Bees;
- (13) Birds of prey, including but not limited to, members of the Accipitridae, Aquila, Haliaeetus, Falconiformes, Accipiter and Butco family;
- (14) Reptiles, including but not limited to, snakes, alligators and turtles, or any other member of a large group of air-breathing, scaly vertebrates; and
- (15) Any other animal kept, owned, maintained, or raised for the commercial purpose of selling it for meat, pelts, or other product.

(B) *Exceptions.*

(1) *Procedure for issuance.* Exceptions to these provisions may be issued by the office of the Town Manager.

(a) Persons wishing such exceptions must submit to the Town Manager's office a written application setting forth the reason such exception should be issued.

(b) Upon receipt of such application, the Town Manager's Office shall proceed to determine in his/her sole and unlimited discretion, whether said request for exception should be granted, and if so under what terms, conditions or limitations, all of which shall be stated on the permit issued if the exception is granted.

(c) Factors to be considered for issuance. Factors to be considered by the Town Manager's Office in determining whether or not an exception should be issued include, but are not limited to, the following:

1. The size of the applicant's lot;

2. The nature of the neighborhood and surrounding zoning;
3. The physical conditions and standard of care given the animals by the applicant;
4. The wishes and concerns of those living in the general vicinity of the applicant;
5. The length of time such exception would be applicable; and
6. Any other factor deemed relevant by the Town Manager.

(d) The Town Manger's decision to not issue the exception may be appealable to the Town Council at a public hearing upon notice provided by the applicant to all adjacent property owners, including those living across from the applicant's property owners, including those living across from the applicant's property, and where there are alleys, streets or public rights-of-way, as to the date, time and location of said hearing by certified mail, return receipt requested, no less than ten days prior to the date of the hearing. Said hearing date and time shall be provided by the Town Manager to the applicant wishing to appeal the Town Manager's decision.

(e) At the hearing appealing the decision of the Town Manager, the applicant must provide the Town Council with proof of mailing of the notice of hearing and receipt of same by those affected, and present evidence to establish that the exception is mandated for medical, health or religious reasons. ('87 Code, § 6-1) (Ord. 1984-4A, passed 4-10-84; Am. Ord. 2008-8B, passed 10-20-08)

§ 93.21 NOISE.

No person may keep an animal which makes noise with sufficient loudness and frequency so as to be a nuisance to other persons.

('87 Code, § 6-2) (Ord. 1984-4A, passed 4-10-84)

§ 93.22 ODOR.

No person may keep an animal on property where the sanitary conditions result in order or appearance that is so offensive as to be a nuisance to other persons.

('87 Code, § 6-3) (Ord. 1984-4A, passed 4-10-84)

§ 93.23 ANIMALS WITHIN AGRICULTURAL DISTRICTS.

(A) *Intent.* It is the intent of the Town Council to clarify those ordinances of the Town of Fortville which are or appear to be inconsistent with respect to the permitted use of agricultural land for the keeping and raising of livestock. It is the further intent of the Town Council that no ordinance of the Town of Fortville prohibit the keeping and raising of livestock, including without limitation, horses and cattle, on any land within the town limits of the Town of Fortville zoned or otherwise legally used for agricultural purposes. ('87 Code, § 6-15)

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(B) *Horse regulations.* Persons shall be permitted to keep, raise, ride or otherwise use horses upon any land within the town limits now or hereafter zoned Agricultural District (A) under the permanent zoning ordinance and Master Plan of this town. (`87 Code, § 6-16)

(C) *Livestock regulations.* No ordinance of the Town of Fortville shall prohibit or be construed to prohibit the keeping and raising of livestock upon any land within the town limits now or hereafter zoned Agricultural District (A) under the permanent zoning ordinance and Master Plan of this town. (`87 Code, § 6-17)
(Ord. 1979-2D, passed 2-27-79)

ADMINISTRATION AND ENFORCEMENT

§ 93.35 IMPOUNDMENT.

(A) *Establishment of pound or shelter.* The City of Greenfield has arranged for use of an animal pound or shelter, as provided in Indiana law.

(B) *Cause for impoundment.* It shall be the duty of the Animal Control Officer to apprehend and impound in such animal shelter any dog, cat or any other animal found doing any of the following acts or being kept or maintained in any of the following conditions, unless provided herein:

- (1) Running at large, not conforming to § 93.03(A);
- (2) Not confined, as provided in § 93.03(B), (C) and (D);
- (3) Kept in violation of § 93.03(A) and § 93.04(B);
- (4) Abandoned, as provided in § 93.04(D);
- (5) Entering private property causing injury to person or property in violation of § 93.03(F) and (G);
- (6) Not registered, licensed or tagged as provided in this chapter and Indiana law;
- (7) Upon all identified complaints made to the Animal Control Officer or a violation of this chapter;
- (8) Upon order of the court following a conviction of any person for violating any provision of this chapter.

(C) *Official warning in lieu of impoundment.* The provisions of the above, notwithstanding, in lieu of impounding any animal under division (B) above, the Animal Control Officer may issue an official warning to the owner or person having custody of the dog, cat or other animal.

(D) *Notification of impoundment.* Not later than 24 hours after the impounding of any dog, cat or other animal, except if such impoundment is by reason of division (B)(8), the Animal Control Officer or his or her deputy shall notify the owner or person having custody of such animal, if known, by First Class United States Mail or by telephone of such impoundment and the reason thereof. In the event that the owner is unknown, no notification will be deemed necessary.

(E) *Notification and redemption of impounded animal.* Whether any animal that has been impounded on three or more occasions may not be redeemed or reclaimed is within the discretion of the Animal Control Officer.

(F) *Fees for redemption of impounded animal.* An owner or person having custody of an impounded dog, cat or other animal who has been notified that such dog, cat or other animal may be reclaimed or redeemed, may reclaim or redeem the same upon payment of the following fees and upon fulfillment of the following obligations:

(1) If the dog, cat or other animal has been picked up or captured by the Animal Control Officer, the owner or person having custody of such animal shall pay a redemption fee as provided by the schedule per the Greenfield Board of Works, except for the case in which the impounded animal is female and is in heat that has not been restrained in accordance with § 93.03(B), in which case the owner or person having custody of the animal shall pay a redemption fee as provided;

(2) In addition to the payment required in division (F)(1) above, any person, firm, agency or corporation operating such animal shelter under contract or agreement with the City of Greenfield may charge an impoundment fee for each day or part thereof that the animal shall be impounded and an impoundment fee to help defray costs of handling and keeping of records;

(3) Notwithstanding any other provisions of this chapter, no dog or cat impounded shall be released if such dog or cat has not been registered, licensed and tagged as provided in this chapter and by Indiana law until such requirements have been satisfied. In addition, if the impounded dog or cat is not required to be licensed, before the dog or cat shall be released, the owner or person having custody of such animal shall have the dog or cat inoculated against rabies and certify the same to the Animal Control Officer.

(G) *Failure to reclaim or redeem impounded animal.* It shall be unlawful for an owner or person having custody of an impounded dog, cat or other animal who has been notified that such dog, cat or other animal may be reclaimed or redeemed to fail to reclaim or redeem the same on or before the last day of impoundment before the disposition of such dog, cat or other animal under division (H) of this section.

(H) *Impounded animal not registered, licensed, tagged or redeemed.* All dogs, cats or other animals impounded under this chapter and not registered, licensed, tagged and redeemed shall be disposed of in a humane manner after the expiration of the following time periods:

(1) Three business days after notice is given to the owner or person having custody of such animal as required under division (D) of this section;

(2) Five business days after impoundment when the owner or person having custody of such animal is unknown;

(3) After the animal has been impounded for the third time within a 12-month period; or

(4) At the time fixed by the court under division (B) of this section; provided, however, that the dog, cat or other animal which appears to be suffering from mange or other infectious or contagious disease, except rabies, may be disposed of immediately upon impoundment. Any animal destroyed which is believed to be suffering from mange or other infectious disease shall be forthwith reported to the Animal Control Officer.

(I) *Extermination of vicious animals.* Whenever the Animal Control Department shall find any dog, cat or other animal running in packs, vicious or in such condition as to be too dangerous to capture, then the Animal Control Officer is authorized to dispose of the animal where it may be found.

(J) *Prohibition of experimentation on impounded animals.* No impounded animal shall be sold or given to any person, procurer or agent for the purpose of experimentation.
(Ord. 1997-7A, passed 7-15-97)

§ 93.36 ADOPTION RULES AND PROCEDURES.

(A) *Adoption.* Adoption restrictions are as follows:

(1) Animals to be adopted must meet state requirements for vaccination and taxation;

(2) Animals that have not been neutered will not be adopted until arrangements for neutering have been made;

(3) Persons adopting give assurance that the animal will be kept on their property and not be allowed to run at large;

(4) No animal will be adopted to a person convicted of cruelty to an animal or known to be a repeat offender of allowing an animal to run at large;

(5) No adoption by a minor will be allowed;

(6) Any person living in an apartment, mobile home or rental property must get consent from the owner before adoption;

(7) If at any time the new owner becomes unable to care for the animal, a new responsible owner must be found or the animal returned to the shelter;

(8) Injured or sick animals are not available for adoption;

(9) The person adopting acknowledges Animal Control personnel are not veterinarians and therefore cannot guarantee the health of adopted animals;

(10) All fees are nonrefundable;

(11) Any animal that is known to have bitten an individual will not be available for adoption;
and

(12) Animal Control, the Town of Fortville and the City of Greenfield are not responsible for the actions of animals adopted out of the shelter.

(13) If the application is accepted, placement can take place as soon as fees and other required certification is completed. Animal Control reserves the right of refusal on any adoption. The applicant has the right of appeal to the Director of Animal Control within 24 hours of refusal.

(B) *Fees.*

(1) Fees for adoption are set by the City of Greenfield.

(2) Fees set forth in subsection (1) shall be paid to any participating veterinarian of the applicant's choice. The animal will be released when proof of receipt from a participating veterinarian has been shown.

(Ord. 1997-7A, passed 7-15-97)

§ 93.37 ENFORCEMENT.

(A) *Enforcement.* The Animal Control Officer and authorized members of this Department will have the full and unrestricted authority to enforce this chapter.

(B) *Interference with official.* It shall be a violation of this chapter to interfere with the Animal Control Officer or any Deputy Animal Control Officer in the performance of his or her duties thereunder which shall be punishable in accordance with division (G) of this section.

(C) *Record of impound animals.* The Animal Control Officer shall keep a record of all dogs, cats or other animals impounded in the Animal Shelter, which record shall show the date of impoundment, the reason thereof, name of the person bringing the animal to the pound and the kind, sex, color, breed and any identifying collars, tags, tattoos or marks of the animal impounded.

(D) *Official warning and notice of code violation.* Upon information sufficient to establish a violation of the provisions of this chapter, the Animal Control Officer or authorized deputy may issue to the person committing such violation, or to the owner or person having custody or control of any animal involved in such violation, either:

(1) An official warning stating the name of the person to whom the warning is being issued, the nature of the violation, the date of the violation and any other pertinent information concerning the violation. Such official warning shall also state that it is only a warning and is neither a notice of code violation nor a notice to appear to answer to any such violation; or

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(2) A notice of code violation stating the name of the person to whom the notice is being issued, the nature of the violation, the fine imposed for such violation in accordance with division (E) of this section, the specific section of this chapter which has been violated and any other information which is pertinent to the violation and necessary for a thorough understanding of the circumstances surrounding such violation. Such violation notice shall instruct the person to whom the violation is being issued that he or she shall appear at the Hancock Superior Court II to answer to such violation.

(E) *Fines.*

(1) Any person who violates the provisions of this chapter within five business days of the date of the notice of the chapter violation, such violator shall pay a fine as follows:

<i>Violation Section/Subsection</i>	<i>Fine, as Provided by Ordinance First Offense, Second Offense, Subsequent Offenses</i>
93.03(A)	\$25, \$50, \$100
93.03(B)	\$25, \$50, \$100
93.03(C)	\$100, \$200, \$400
93.03(D)	\$25, \$50, \$100
93.03(E)	\$25, \$50, \$100
93.03(F)	\$25, \$50, \$100
93.03(G)	\$25, \$50, \$100
93.04(A)	\$25, \$50, \$100
93.04(B)	\$25, \$50, \$100
93.04(C)	\$25, \$50, \$100
93.04(D)	\$25, \$50, \$100
93.04(E)	\$25, \$50, \$100
93.05	\$25, \$50, \$100
93.35(G)	\$25, \$50, \$100

(2) The fines will be collected by the Town Clerk-Treasurer and transferred to the General Fund.

(F) *Failure to pay fines.* If a violator fails to pay fines or appear at the Clerk-Treasurer's office within five business days of the date of notice of code violation, such violation may be filed with Hancock Superior Court II, and such violator may be summoned to appear before the court.

(G) *Penalties.* Any person found to be in violation of any provision of this chapter, other than the licensing provision of § 93.02 or the sections listed in division (E) of this section shall be fined an amount as determined by § 10.99. Each day a violation occurs shall be deemed a separate violation, unless otherwise provided by Indiana law.

(H) *Restitution*. In addition to the fines set forth herein, any person who violates the provisions of § 93.03(G) shall make full restitution for any damages or injury to persons or property as a result of such violation, including, but not limited to, medical expenses, the value of any real or personal property which has been destroyed or the cost of returning any damage to real or personal property.
(Ord. 1997-7A, passed 7-15-97; Am. Ord. 2006-5B, passed 8-4-06)

CHAPTER 94: STREETS AND SIDEWALKS

Section

General Provisions

- 94.01 Street renumbering
- 94.02 Utility and Street Construction Standards

Sidewalk Regulations

- 94.15 Construction standards
- 94.16 Highway Superintendent's rule
- 94.17 Signs and obstructions

Digging Regulations Along Streets and Alleys

- 94.30 Permit required
- 94.31 Application and bond requirements

Standards for Streets, Curbs and Gutters in New Subdivisions

- 94.45 Standards for streets in new subdivisions
- 94.46 Standard specifications for streets
- 94.47 Preparation of subgrade for street pavements
- 94.48 Rigid (plain concrete) pavement construction
- 94.49 Flexible pavement construction
- 94.50 Additional regulations

GENERAL PROVISIONS

§ 94.01 STREET RENUMBERING.

All of the streets in the Town of Fortville, Indiana, are renumbered and the renumbering of the streets shall be as contained on a plot now located in the office of the Clerk-Treasurer of the town, and the plot and instructions thereon are incorporated and made a part of this chapter.
(`87 Code, § 7-22) (Ord. 1953-, passed 7-14-53)

§ 94.02 UTILITY AND STREET CONSTRUCTION STANDARDS.

(A) There is hereby adopted the utility and street construction standards in the form attached to Ordinance 2001-12B, which may be from time to time amended by Town Council meeting in regular or special session. Any amendment to the construction standards shall be in writing and adopted by vote of a majority of the Town Council pursuant to written ordinance, which shall thereafter be incorporated into the written utility and construction standards following its adoption.

(B) The utility and street construction standards adopted pursuant to this section shall be the exclusive statement of construction standards of the town applying to the construction and changes made to and of streets and utilities.

(C) The utility and street construction standards apply to all persons or firms involved in the construction and/or repair and/or modification of streets and utilities under the jurisdiction of the town unless otherwise provided by applicable law.

(Ord. 2001-12B, passed 12-20-01)

SIDEWALK REGULATIONS**§ 94.15 CONSTRUCTION STANDARDS.**

Hereafter all sidewalks being newly constructed or replaced shall meet the following standards:

(A) They shall be made of concrete that is not less than 4,000 pound test strength;

(B) They shall not be less than four inches thick and not less than four feet wide;

(C) The top of the sidewalk shall not be more than four inches higher than the crown of the street;

(D) They shall be sloped, but not more than one-half inch, from property to street;

(E) No step-downs are permitted.

([^]87 Code, § 7-10) (Ord. 1977-11A, passed 11-8-77)

§ 94.16 HIGHWAY SUPERINTENDENT'S RULE.

In special circumstances requiring special construction needs, the Highway Superintendent may grant a variance for one or more of the requirements set out in § 94.15.

([^]87 Code, § 7-11) (Ord. 1977-11A, passed 11-8-77)

§ 94.17 SIGNS AND OBSTRUCTIONS.

It shall hereafter be unlawful for any person, firm or corporation to erect and operate signs and obstructions of any description on or along the sidewalks and curbs in the Town of Fortville, Indiana, without first obtaining the consent of the Town Council in regular session; exceptions are made of state, county and municipal signs pertaining to traffic and parking markers.
(`87 Code, § 7-12) (Ord. 1-1936, passed 7-1-36) Penalty, see § 10.99

DIGGING REGULATIONS ALONG STREETS AND ALLEYS

§ 94.30 PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to dig into or along any of the streets or alleys of the Town of Fortville, Indiana, for the purpose of laying any gas pipe, cable, conduit or other material or for the purpose of removing any gas pipe, cable, conduit or other material without first procuring from the Clerk-Treasurer of the town a permit in writing signed by the Clerk-Treasurer to so dig in any street or alley and by paying to the Clerk-Treasurer of the town the sum of \$50 for such permit, which permit so issued by the Clerk-Treasurer shall state the place, time and purpose for which such digging is to be done.
(`87 Code, § 7-17) (Ord. 10-1930, passed 10-17-30) Penalty, see § 10.99

§ 94.31 APPLICATION AND BOND REQUIREMENTS.

Before the Clerk-Treasurer of the town shall issue any such permit the person, firm or corporation desiring to dig in and along any of the streets or alleys of the Town of Fortville, Indiana, and for the purpose aforesaid shall apply to the Clerk-Treasurer in writing for such permit stating specifically in such application the nature of the work to be done, the location where the digging is to be done and approximately the time that will be required to do the work and shall file with the Clerk-Treasurer a bond with sufficient security thereon for the proper repairing or adjust any damages done to the street or alley occasioned by such digging, which bond shall be for the purpose of covering the cost of repairing such street or alley in case the person, firm or corporation securing such permit fails to do so.
(`87 Code, § 7-18) (Ord. 10-1930, passed 10-17-30)

STANDARDS FOR STREETS, CURBS AND GUTTERS IN NEW SUBDIVISIONS**§ 94.45 STANDARDS FOR STREETS IN NEW SUBDIVISIONS.**

(A) Where local streets are designed to serve two and one-half dwelling units or less per acre of ground, the minimum width pavement, including curbs and gutters, shall be 27 feet measured back to back of curbs. Parking is permitted on one side only; add ten feet to permit parking on both sides.

(B) Where local streets are designed to serve for more than two and one-half dwelling units per acre of ground, the minimum width of pavement, including curbs and gutters, shall be 30 feet measured back to back of curbs. Parking is permitted on one side only; add ten feet to permit parking on both sides.

(C) Rolled curbs and gutters shall be required for all streets unless a waiver is granted by the Town of Fortville.

(D) Sidewalks are required and will be constructed of plain concrete, four inches thick, with four-foot minimum width and located as shown on typical local street section, as depicted in Exhibit A to the ordinance set forth in this section and made a part hereof, copies of which are kept on file in the office of the Clerk-Treasurer.

(E) The width of street requirement as set out in this section may be reduced upon the recommendation of the Street Superintendent and approval by the Town Council.
(`87 Code, § 7-25) (Ord. 1978-8A, passed 8-8-78; Ord. 1979-4A, passed 4-10-79)

§ 94.46 STANDARD SPECIFICATIONS FOR STREETS.

Minimum requirements for street construction shall be in accordance with Standard Specifications of the State Highway Commission of Indiana, 1974 Edition, or subsequent superseding editions, thereafter referred to as the "Standard Specifications," unless otherwise required by the article. Copies of said "Standard Specifications" are on file in the office of the Utility Superintendent.
(`87 Code, § 7-26) (Ord. 1979-4A, passed 4-10-79)

§ 94.47 PREPARATION OF SUBGRADE FOR STREET PAVEMENTS.

(A) After all earth work is substantially complete and all drains installed, the subgrade shall be brought to the lies and grades shown on the plans or as may be otherwise approved in accordance with these standards. Such portions shall be known as subgrades.

(B) Unless otherwise provided, the upper six inches of all subgrade shall be uniformly compacted to at least 95% standard density as determined by the provisions of AASHO, T99, (American Association State Highway Offices), "Compaction and Density of Soils." A six-inch subgrade fill next to concrete shall be two-inch stone or its equal, then rolled with not less than a ten-ton roller. During

subgrade preparation and after its completion, adequate drainage shall be provided at all times to prevent water from standing on the subgrade. Subgrades shall be so constructed that it will have as nearly as possible uniform density throughout. After compaction and final grading, the subgrade shall be finished with a three-wheel roller weighing not less than ten tons. At areas not accessible to the roller, the required compaction shall be obtained with mechanical tamps and vibrators. All soft yielding or otherwise unsuitable material which will not compact properly shall be removed. All rock encountered shall either be removed or broken off to conform with the required cross section. Any holes or depressions resulting from the removal of such unsuitable material shall be filled with satisfactory material and compacted to conform with the surrounding subgrade surface. No placement of pavement shall be permitted on uninspected or unapproved subgrade and at no time when the subgrade is frozen or muddy. No hauling shall be done nor equipment moved over the subgrade when its condition is such that undue distortion results. If these conditions are present, the subgrade shall be protected with adequate plant runways, mats or other satisfactory means if hauling is done thereon. The subgrade shall be prepared sufficiently in advance to permit proper inspection so that the final elevation may be checked with a scratch template and compaction checked. All utility excavations under the pavement shall be backfilled with Grade "B" borrow, and construction shall conform to Section 211 of the "Standard Specifications" or compacted thoroughly by other means.

(` 87 Code, § 7-27) (Ord. 1979-4A, passed 4-10-79; Ord. 1978-8A, passed 8-8-78)

§ 94.48 RIGID (PLAIN CONCRETE) PAVEMENT CONSTRUCTION.

(A) At the time of placement of the concrete, the subgrade shall be properly dampened just prior to the placement where it has become dry, where the surface has been removed by final grading or for any other reason it has not been removed by final grading or for any other reason it has not been properly dampened. Plain cement pavement shall be in accordance with Section 501 of the "Standard Specifications" or any subsequent amendments thereto.

(B) Materials shall comply with requirements of the "Standard Specifications." Minimum cement content shall be 6.0 bags per cubic yards of concrete mixture. No cement reduction below the minimum shall be allowed for admixtures to increase workability or control setting time. Concrete pavement is to be six inches in thickness. Concrete is to be mixed with air entrained cement of at least 6% air. Center of street bulkheads is to be keywayed by 2-inch x 4-inch keyway in center of form. Construction joints are to be doweled by one inch bars 14" long every two feet. (At all bulkheads where pour ends and starts again. Concrete shall be finished by machine or vibratory screed except on widened portions, intersections or other places where hand-finishing will be permitted.)

(C) Weakened plane or dummy, transverse, contraction joints shall be placed not to exceed 20-foot spacing. Closer spacing to average 15 feet will be encouraged. Transverse contraction joints may either be formed or sawed dummy groove, ribbon or pro-molded strip type and shall be one-fourth the pavement depth.

(D) When transverse joints are to be formed by sawing, care must be taken to saw the grooves soon after placing the concrete to prevent the formation of cracks due to contraction of the slab. All transverse joints shall be sawed within eight hours after the placing of the concrete unless authorization is given

for sawing at a later time. One of the above-named joints shall be placed at every catch basin and manhole in line of pavement. The location of manholes and the like in the pavement shall determine the exact location of the joints. All joints shall extend throughout curbs to full width of pavement.

(E) Transverse expansion joints shall be placed at Tee intersections and wherever else shown on the plans.

(F) Whenever the width between forms of the pavement under construction is greater than 13½ feet, longitudinal joints shall be constructed so as to divide the pavement into strips not to exceed 13½ feet each. This may be accomplished by sawing or constructing a slot or groove as herein described for dummy construction joints or by a deformed key plate installed prior to the depositing of the concrete.

(G) Curing with white membrane curing compound AASHO Number type 2 - M - 14B will be properly applied to give complete coverage.
(`87 Code, § 7-28) (Ord. 1978-8A, passed 8-8-78; Ord. 1979-4A, passed 4-10-79)

§ 94.49 FLEXIBLE PAVEMENT CONSTRUCTION.

(A) Pavement shall be constructed in accordance with the requirements of Section 401 of the "Standard Specifications." Pavement shall be full-depth hot asphaltic concrete unless otherwise approved by the Town Council on the recommendation of the Utility Superintendent.

(B) Where the Town Council allows collector streets or local streets to be constructed with compacted aggregate base, the base shall be placed on the prepared subgrade, compacted, primed and covered with binder before being contaminated by construction traffic.

(C) Materials and construction procedures shall comply with the requirements of Sections 303 and 403 of the "Standard Specifications."
(`87 Code, § 7-29) (Ord. 1978-8A, passed 8-8-78)

§ 94.50 ADDITIONAL REGULATIONS.

(A) Material shall comply with the requirements for Class A concrete of the "Standard Specifications."

(B) Slipforming will be permissible.
(`87 Code, § 7-30) (Ord. 1978-8A, passed 8-8-78)

CHAPTER 95: TREES

Section

- 95.01 Title
- 95.02 Purpose and intent
- 95.03 Definitions
- 95.04 Jurisdiction
- 95.05 Tree Program Supervisor
- 95.06 Appeals
- 95.07 Enforcement
- 95.08 Performance evaluation
- 95.09 Local government disclaims liability
- 95.10 Responsibility of property owners
- 95.11 Topping prohibited
- 95.12 Action on failure to abate
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- 95.14 Resolution of conflicts between trees and structures
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- 95.16 Diseased or hazardous trees and plants
- 95.17 Abatement of hazardous and public nuisances
- 95.18 Permit required for planting within town right-of-way
- 95.19 Harming public trees prohibited
- 95.20 Licensing of private tree care firms
- 95.21 Conservation of forest and woodland resources during development
- 95.22 Prohibited species list

- 95.99 Penalty

§ 95.01 TITLE.

This chapter shall be known as the “Town of Fortville Tree and Flora Ordinance.”
(Ord. 2002-7A, passed 9-24-02)

§ 95.02 PURPOSE AND INTENT.

(A) This chapter establishes policies, regulations, and standards necessary to ensure that the town will continue to realize the benefits provided by its trees and plants.

(B) The provisions of this chapter are enacted to regulate the planting, maintenance, protection and removal of trees and shrubs on public streets, parks and other town-owned property. It shall also provide for the issuing of permits for the planting, maintenance, protection and removal of trees and shrubs in town-owned areas.

(Ord. 2002-7A, passed 9-24-02)

§ 95.03 DEFINITIONS.

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

CONSULTING ARBORIST. An individual who is trained and certified by the International Society of Arboriculture, in the art and science of planting, caring for and maintaining individual trees and forests.

FLORA. Any and all trees, shrubbery and other plants, which grow to a height of greater than 12 inches, but excludes weeds.

OWNER(S). Any one or more of the following:

- (1) In fee simple of a parcel of real estate, including the life tenant(s).
- (2) As reflected by the most current records in the town assessor's office.
- (3) The purchaser(s) of such real estate under any contract for the conditional sale thereof.

PLANTS. All trees, shrubbery and other plants that grow to a height of greater than 12 inches, but excludes weeds.

SHRUBS. Any woody, perennial plant with multiple stems that grows to a height of less than ten feet. This may include ornamental grasses.

TOPPING. The indiscriminate cutting back of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Other names for topping include "heading," "tipping," "hat-racking," and "rounding over."

TREE. Any woody, perennial plant and includes those having a single stem or multiple stems that grows to a height of over ten feet.

(Ord. 2002-7A, passed 9-24-02)

§ 95.04 JURISDICTION.

The town shall have control of all trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the town limits, and shall have the power to plant, maintain, remove, and replace such trees, shrubs and other plantings.
(Ord. 2002-7A, passed 9-24-02)

§ 95.05 TREE PROGRAM SUPERVISOR.

The Street and Utilities Superintendent shall be established as the Tree Program Supervisor. The Tree Program Supervisor shall assist in the management of the natural resources within the town by enforcement of the sections within this chapter and evaluation of the overall tree management program.
(Ord. 2002-7A, passed 9-24-02)

§ 95.06 APPEALS.

Any action of the Tree Program Supervisor and/or Park Superintendent may be appealed to and heard by the Town Council. To be effective, an appeal must be filed within ten days after the decision of the Tree Program Supervisor and/or Park Superintendent. The appeal shall be in writing and shall be filed with the President of the Town Council for placement on the Council's agenda. The appeal shall clearly specify the reasons for which a hearing is requested. To be effective, an appeal to the Town Council must be in writing, state the reasons for the appeal, and must be filed with the Town Clerk within ten days after notice of the decision of Tree Program Supervisor and/or Park Superintendent is mailed to the applicant. The decision of the Town Council shall be final.
(Ord. 2002-7A, passed 9-24-02)

§ 95.07 ENFORCEMENT.

The Tree Program Supervisor, under the auspices of the Town Council and the Town Manager is hereby charged with the responsibility for the enforcement of this chapter and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the Town Legal Counsel is hereby authorized to institute appropriate proceedings to that end.
(Ord. 2002-7A, passed 9-24-02)

§ 95.08 PERFORMANCE EVALUATION.

The Tree Program Supervisor shall collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the stated goals of this chapter. An annual summary and, analysis of the evaluation, and recommendations for action shall be prepared at the direction of the Tree Program Supervisor and the consulting arborist and presented to the Town

Council. The Town Council shall consider the report and recommendations and take all actions deemed necessary to accomplish the goals of this chapter. These actions may include, but are not limited to, revision or amendment of this chapter or the adoption of other resolutions or ordinances.

(Ord. 2002-7A, passed 9-24-02)

§ 95.09 LOCAL GOVERNMENT DISCLAIMS LIABILITY.

Nothing contained in this chapter shall be deemed to impose any liability upon the town, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his or her property or under his or her control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley or public place within the town.

(Ord. 2002-7A, passed 9-24-02)

§ 95.10 RESPONSIBILITY OF PROPERTY OWNERS.

It shall be the duty and responsibility of every person owning or occupying any real property within the town to keep all trees and plants on that property trimmed in such a manner that there is a clearance of at least 14 feet above any street or alley, and a clearance of at least seven feet over any sidewalk. It shall also be the duty and responsibility of every person owning or occupying any real property within the town to keep all trees on that property trimmed in such a manner that they do not obstruct the view of any traffic sign or device for vehicle traffic in the direction controlled by that traffic sign or device.

(Ord. 2002-7A, passed 9-24-02)

§ 95.11 TOPPING PROHIBITED.

The practice of topping and/or other especially destructive maintenance practices such as severely trimming trees in public trees is strictly forbidden. "Severely trimmed" shall mean the cutting of the branches and/or trunk of a tree in a manner which will substantially reduce the overall size of the tree area so as to destroy the existing symmetrical appearance or natural shape of the tree in a manner which results in the removal of main lateral branches leaving the trunk of the tree in a stub appearances. The standards identified in the ANSI A300 standards describe trimming methods, which will give maximum benefits to both trees and people. These specifications and methods are available from the Tree Program Supervisor.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.12 ACTION ON FAILURE TO ABATE.

If upon re-inspection of the offending real estate, and, where notice has been given by publication, after the lapse of the ten-day notice period, it is determined by the Tree Program Supervisor that

abatement has not occurred, and shall be allowed to enter upon such private property or right-of-way and proceed with corrective action.

(Ord. 2002-7A, passed 9-24-02)

§ 95.13 PROCEDURAL AND LABOR CHARGES.

Services rendered in the enforcement of this chapter to any owners(s) shall pay to the town the following fees and charges:

(A) Fifty dollars for each inspection to determine compliance.

(B) Twenty-five dollars for property ownership determination.

(C) All costs for notice publication.

(D) Twenty dollars for services performed in perfecting a lien.

(E) Ten dollars for certified mail preparation and sending.

(F) Forty dollars per man-hour plus equipment charges, as determined by the Tree Program Supervisor, for services rendered in violation abatement.

(Ord. 2002-7A, passed 9-24-02)

§ 95.14 RESOLUTION OF CONFLICTS BETWEEN TREES AND STRUCTURES.

Where sidewalk or curb damage due to tree roots occurs, every effort shall be made to correct the problem without removing or damaging the tree. The Tree Program Supervisor, in conjunction with the consulting arborist shall be responsible for developing or approving corrective measures. Corrective action may include alteration of sidewalk and/or curb construction.

(Ord. 2002-7A, passed 9-24-02)

§ 95.15 PUBLIC NUISANCES.

Any tree, shrub or groundcover, or plant growing or standing on private property in such a manner that any portion thereof interferes with any public street, sidewalk, alley or restricts the flow of traffic or visibility of such street, sidewalk, alley or intersection thereof to any person or persons lawfully using such streets, sidewalks, alleys or intersections shall constitute a public nuisance.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.16 DISEASED OR HAZARDOUS TREES AND PLANTS.

The town shall have the exclusive authority to destroy any plants in or on public streets, alleys, ways, places and parks if infected by disease or injurious insects, or if in the judgment of the Tree Program Supervisor, represents a dangerous condition or hazard to the public. Such destruction may also be effected when necessary for the protection of other flora or in any other case when the public safety, health or welfare is or may be adversely affected.

(Ord. 2002-7A, passed 9-24-02)

§ 95.17 ABATEMENT OF HAZARDOUS AND PUBLIC NUISANCES.

The town may remove or trim such tree, may permit any public utility to do so, or may require the property owner to remove or trim such tree on private property or on a public parking area abutting upon the property of the owner. The failure of the property owner, or his or her duly authorized agent, to remove such tree or perform specified maintenance on the tree, after 15 days notice by the Tree Program Supervisor shall be deemed a violation of the provisions of this chapter, and the Tree Program Supervisor may then remove or trim such tree and assess the cost thereof against the property.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.18 PERMIT REQUIRED FOR PLANTING WITHIN TOWN RIGHT-OF-WAY.

No person shall plant any street tree except according to policies, regulations and specifications established pursuant to this section:

(A) All trees or plant material planted on or in the public street, sidewalk area, alley or parks shall be required by this code to have the approval of the Tree Program Supervisor or the consulting arborist and be granted a special permit for such planting.

(B) Plants shall be located and planted under the supervision of the Tree Program Supervisor or designee, who shall supervise such planting and locating. In the performance of such work, consideration shall be given to the following factors; provided, that setbacks permit and considerations of safety do not interfere. No tree shall be planted in any public street, alley, place or park in the town less than 30 feet away from any other tree planted along the same area or at a distance of less than 3 feet from any established sidewalk or curb bordering any public right-of-way, except by written permission by the Tree Program Supervisor.

(C) The Tree Program Supervisor shall have the power to set forth any further specifications required and may alter methods of planting, reject any tree or tree species, or suspend the right of a permit holder to plant, for any reason and without advance notice.

(D) Trees that must be removed shall be replaced by new planting, except in unusual circumstances or where construction or space is prohibitive.

(E) Plant material selected may vary, depending on location; however, they must be of high quality and of suitable species, and not of the prohibited species prescribed. All plant materials must conform to the specifications set forth by the American Association of Nurserymen Plant Standards.

(F) Planting procedures shall comply with ANSI A300 standards for the installation of nursery stock. Suitable maintenance plans and procedures must be submitted prior to installation and shall be subject to the approval of the Tree Program Supervisor and the consulting arborist.

(G) Permit holder shall guarantee survival of each tree for a minimum of one year after planting date. Any tree not surviving the minimum shall be replaced either by the permit holder or the department at the permit holder's expense. After a period of one year, all plant materials shall become property of the town and becomes the responsibility of the town.

(H) The coordination of tree planting on public ways with landscaping on private property so as to achieve the above purposes is deemed desirable.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.19 HARMING PUBLIC TREES PROHIBITED.

It shall be a violation of the provisions of this chapter for any person to abuse, destroy or mutilate any tree, plant or shrub in the right-of-way or any other public place, or to attach or place any rope, wire (other than one used to support a young or broken tree), chain, sign, poster, handbill or other things to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with their roots, trunks, or leaves. No person shall perform any arboricultural work on any plant material on town property unless first granted a special permit indicating the approved activity on each designated plant. All work on town trees including pruning, protecting, bracing, relocating, cultivating, spraying or removing will be allowed only when permitted by the Tree Program Supervisor.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.20 LICENSING OF PRIVATE TREE CARE FIRMS.

It is unlawful for any person or business to perform tree pruning and/or repair work on public trees for hire within the town without a valid tree care license issued by the Tree Program Supervisor.

(A) Each tree pruned or otherwise modified in violation of this provision shall constitute a separate offense. The first such offense is punishable by a fine not to exceed \$500; each subsequent offense is punishable by a fine not to exceed \$1,000. A single person or business establishes no maximum fine for multiple violations.

(B) The Tree Program Supervisor is authorized to issue tree care licenses to persons or businesses that meet the following minimum requirements: The person or at least one person on the staff of a business must be designated as a qualified arborist by the town. To be designated as a qualified

arborist, a tree service employee shall demonstrate knowledge of proper arboricultural techniques by providing documentation of professional certification, education, and/or experience acceptable to the town arborist.

(C) The licensee must sign an affidavit to certify that all tree work will be performed under the direct supervision of the qualified arborist and will comply with all town standards and ordinances.

(D) The Tree Program Supervisor is authorized to suspend or revoke the tree care license of any person or business that performs work which does not comply with tree care standards as specified in ANSI A300, in this chapter and in the tree management plan. License suspensions and revocations may be appealed to the Town Council within ten days of notification. The decision of the Town Council shall be final and is not subject to appeal.

(E) The Tree Program Supervisor, under the guidance of the consulting arborist, may reissue any tree care business license previously revoked subject to the above minimum requirements and any additional requirements as may be prescribed by the consulting arborist and approved by the Town Council.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.21 CONSERVATION OF FOREST AND WOODLAND RESOURCES DURING DEVELOPMENT.

No person, business or corporation shall destroy or significantly alter any forest or woodland through tree damage or removal, clearing, grading, tilling, burning, application of chemicals, or any other means unless they apply for special permitting. No person, business or corporation shall be granted a permit for subdivision, grading, building or the construction of any improvement on wooded or forested lands unless they possess a valid permit. Any alteration of wooded or forested lands shall conform to the conditions and specifications of the Tree Management Program.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.22 PROHIBITED SPECIES LIST.

The following tree species shall not be used by anyone for planting along any public street, alley, right-of-way or park. The town shall not place, nor permit to be placed, any tree or shrub, which will cause or tend to cause a hazardous or unsafe condition either for motorists or pedestrians. Other species of trees and plants may be added at any time and subject to revision.

Acer negundo	Box Elder
Acer sacharrinum	Silver Maple
Ailanthus altissima	Tree of Heaven
Betula papyrifera	Paper Birch
Betula pendula	European White Birch
Catalpa bignoides	Southern Catalpa
Morus species	Mulberry
Populus nigra	Lombardy Poplar
Populus deltoides	Cottonwood
Salix species	Willows, all
Ulmus species	Elms, all
Robinia pseudoacacia	Black Locust
Gingko species	Gingko, except seedless cultivars.
Juglans nigra	Black Walnut
Pyrus callefyana "Bradford"	Bradford Pear

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.99 PENALTY.

(A) *Tree removal and damage violations.* Any person who neglects or refuses to comply with, or assists in the violation of, any of the provisions of this chapter, or any order, permit, or notice issued

pursuant thereto, shall be fined not more than \$1,000 for each such violation and shall pay in addition the cost of replacement as provided in this section. Each day any such violation continues shall constitute a separate offense, and each tree removed or damaged shall also constitute a separate offense. Any person who causes a tree to be removed or damaged in violation of this chapter, or any order, permit, or notice issued pursuant thereto, shall repair or replace any such tree at the violator's sole cost and expense pursuant to the tree replacement requirements set forth in sections of this chapter. The cost of replacement shall be \$100 for each DBH inch of the removed or damaged tree. If the precise DBH cannot be determined, the cost of replacement shall be determined by the Tree Program Supervisor based on the consulting arborist's estimate of the DBH of the removed or damaged tree. The person responsible for the violation shall pay the replacement cost of the tree to the town. The location, species, and planting specification for replacement trees shall be approved prior to replanting by the Tree Program Supervisor pursuant to the requirements of sections in this chapter.

(B) *Planting, arboricultural work or encroachment violations.* If the Tree Program Supervisor determines that a violation exists regarding planting, maintenance or encroachment of trees or flora upon property within the right-of-way the following shall occur:

(1) A preliminary notice shall be given to the owner or occupant of such property, either verbally or by posting the notice on the property. The notice shall state the nature of the alleged violation, corrective action necessary and a date, not less than two weeks, when the property will be re-inspected to determine if compliance has been effected. After re-inspection, if it is determined that the violation has been corrected, the owner or occupant shall not be liable for any charges by reason of the preliminary notice procedure.

(2) If any violation is not corrected as a result of the preliminary notice, or no preliminary notice is given, or the condition exists on a vacant lot or unoccupied, unimproved real estate, the Tree Program Supervisor shall give to the owner of such real estate written notice of the existing condition. Such notice shall be given by certified mail, stating the nature of the violation, describe the real estate upon which the condition exists and demand abatement of the condition and set a date, not sooner than two weeks after the date of such notice. The property shall then be re-inspected to determine if abatement has been effected. If the certified mail is not returned within 30 calendar days or if the address of the owner is unknown and cannot be ascertained after due diligence, it shall be sufficient to give notice by publication in the town newspaper circulation. The owner(s) notified by publication shall have ten days from the date of the published notice in which to abate the offending condition.

(Ord. 2002-7A, passed 9-24-02)