

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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§ 90.01 LICENSE REQUIRED.

It shall be unlawful to keep a dog or dogs within the town limits without obtaining a license for the dog or dogs annually. In addition to other license requirements found in this chapter, each license applicant shall be required to obtain and provided certified proof of liability insurance amount of \$50,000 per occurrence in order to be granted a license or post proof of financial responsibility. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983; Am. Ord. 2006-08, passed 7-6-2006) Penalty, see § 90.99

§ 90.02 LICENSE APPLICATIONS.

The town will supply application forms to be used in obtaining dog licenses. The application forms will have blanks for supplying information, including the name and address of the dog's owner, the breed of dog, its sex, name and color. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.03 CLERK-TREASURER TO ISSUE LICENSE.

The Clerk-Treasurer shall be empowered to issue licenses pursuant to this chapter upon receipt of a properly completed application form and the fee hereinafter set forth. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.04 FEES.

The license fees are as follows:

(A) Unneutered male or unspayed female: \$15.

(B) Neutered male or spayed female: \$5. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.05 CONFINEMENT OF FEMALE DOGS IN HEAT, DANGEROUS DOGS, SICK OR DISEASED DOGS.

(A) The owner or keeper of any female dog in heat, dangerous dog, or sick or diseased or non-vaccinated dog, shall confine the dog within a secure enclosure and in such a manner as to prevent it from becoming a nuisance.

(B) Confinement of a dog means enclosure of the dog within a completely enclosed building or secure enclosure with no means of escape. Such an animal may be confined in the owner's home. The animal's confinement must be such as will prevent the

animal from harassing neighbors or passers-by and may not constitute either a sight, smell or noise nuisance. The enclosure shall be located on the owner's property not less than 10 feet from the nearest edge of any municipal right-of-way. Chaining or tethering is not an acceptable form of confinement, unless the dog is attended.

(C) The owner of a female dog in heat, dangerous dog, sick, diseased or non-vaccinated dog may not cause, suffer, or allow it to go unconfined, unrestrained, or to run at large on any public street or by-way, right-of-way, or any municipally owned or public land or public building at any time or upon any private property without the permission of the owner of such private property.

(D) Upon reasonable suspicion to believe that a female dog in heat, dangerous dog, non-vaccinated dog or sick or diseased dog has violated this section, an animal control officer or any law enforcement officer shall seize the dog and deliver it to the custody and control of the County Humane Society.

(E) The Council shall conduct a public hearing within 5 business days to determine whether this section was violated. In the event that the Council finds that this section has been violated. In the event that the Council finds that this section has been violated, the following penalties shall be imposed upon the owner or keeper of the animal.

(1) The owner or keeper of the animal shall be ordered to pay any and all costs associated with the Humane Society's care and treatment of the dog during the seizure period.

(2) The dog shall be required to undergo a certified re-training program not to exceed a cost of \$2,500 at the owners or keeper's expense or the dog shall be destroyed at the owner or keeper's expense. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983; Am. Ord. 2006-08, passed 7-6-2006) Penalty, see § 90.99

§ 90.06 DISTURBANCES.

It shall be unlawful for an owner or custodian of any dog to knowingly allow or permit the dog to disturb the peace and quiet of a neighborhood by continued loud barking or by making any other loud or unusual noise.

(Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.07 NUISANCE.

Any dog which is found unlicensed or creating a disturbance as described in § 90.06 is hereby declared to be a nuisance.

(Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983; Am. Ord. 2006-08, passed 7-6-2006) Penalty, see § 90.99

§ 90.08 IMPOUNDMENT.

(A) All dogs found to be a nuisance shall be delivered to the custody and control of the County Humane Society by the Town Marshal. The Humane Society will be entitled to collect from the owner of any dog in their custody the reasonable costs incurred in the care and treatment of the dog.

(B) To assist the Humane Society in maintaining a shelter for dogs and other animals and because of the Humane Society's duties as outlined in this chapter, ½ of each fee collected by the Town Clerk-Treasurer, pursuant to § 90.04, will be paid over to the Humane Society.

(Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.09 DEFINITIONS.

DANGEROUS DOG. For purposes of this chapter, is any dog which, because of its nature, training, or characteristic behavior, is capable of inflicting physical harm or death to humans, and

which would constitute a danger to human life or property if it were not kept in the manner required by this chapter. The term **DANGEROUS DOG** includes any dog which has:

- (1) Attacked a person.
- (2) Attacked at a place other than its owner's property; or
- (3) Chased or approached a person at some place other than its owner's property in a menacing fashion or apparent attitude of attack.

NON-VACCINATED DOG. Any dog whose owner can not provide proof of current legal rabies vaccination as defined by state law.

SICK or DISEASED DOG. For purposes of this chapter is any dog sick with or liable to communicate Rabies or any other contagious or infectious disease. A **SICK or DISEASED DOG** for the purpose of this chapter is any dog with a highly contagious disease including but not limited to canine parvovirus and canine distemper virus.
(Ord. 2006-08, passed 7-6-2006)

§ 90.10 UNLAWFUL BAITING OF ANIMALS.

It shall be unlawful to bait deer or other large wild animals with salt, mineral blocks or other attractants within the limits of the town. It is further ordained that any person who violates this chapter shall be fined upon conviction thereof any sum of money not exceeding \$25. It is further ordained that each time a person continues to feed or bait deer or other large wild animals in violation of this section after said person has been notified to cease and desist by the Town Marshal, Town Manager or other town staff, shall be deemed a separate violation subject to separate fine.
(Ord. 2005-13, passed 1-19-2006)

§ 90.99 PENALTY.

Any person who violates any provision of this chapter, including the obligation upon owners to pay the Humane Society for dog care and treatment, shall be fined, upon conviction thereof, any sum of money not exceeding \$2,000.
(Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983; Am. Ord. 2006-08, passed 7-6-2006)

CHAPTER 91: FAIR HOUSING

Section

- 91.01 Policy
- 91.02 Authority and responsibility
- 91.03 Complaints and remedies

§ 91.03 COMPLAINTS AND REMEDIES.

The Town Manager or the Town Manager's designee, shall provide information on remedies available to any aggrieved person or complainant requesting that information.

(Res. 1994-4, passed 3-17-1994)

§ 91.01 POLICY.

It shall be the policy of the town 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.*

(Res. 1994-4, passed 3-17-1994)

§ 91.02 AUTHORITY AND RESPONSIBILITY.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Indiana Civil Rights Commission as set forth in § 91.02(B) hereof shall be vested in the Town Manager.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the town, 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 to the Indiana Civil Rights Commission (Commission) for administrative enforcement actions pursuant to I.C. 22-9.5-6, and the Town Manager shall refer all complaints to the Commission as provided under I.C. 22-9.5-6.

(Res. 1994-4, passed 3-17-1994)

CHAPTER 92: NUISANCES

Section

General Provisions

- 92.01 Nuisances prohibited
- 92.02 Violations

(B) The obstruction or encumbrance by fences, buildings, structures or otherwise, of any public grounds, by an individual, so as to injure the property of another;

Noise Control

- 92.15 Definitions
- 92.16 Sound pressure level; noise measurements
- 92.17 Sound pressure level limits
- 92.18 Noises prohibited
- 92.19 Exemptions
- 92.20 Special permits
- 92.21 Unnecessary noise standards and noise prohibitions
- 92.22 Enforcement
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- 92.24 Noise upon public ways and parking areas

- 92.99 Penalty

(C) The maintenance of any structure or building which has fallen into such a state of disrepair as to endanger the public and passers-by;

(D) The failure of any person to cut and remove weeds and other rank vegetation upon his or her property; or

(E) Pursuant to federal and state regulations, the spraying of herbicides, pesticides or other agents which might cause toxic or allergic reactions among neighboring residents without prior notification to same and/or in harmful concentrations will also be considered as a nuisance. Whenever such nuisance is observed, town personnel shall investigate and document details, serving notice to landowner and/or resident of ordinance violation.
(Ord. 1978-2, passed 6-5-1978; Am. Ord. 1991-4, passed 9-26-1991)

GENERAL PROVISIONS

§ 92.01 NUISANCES PROHIBITED.

Pursuant to I.C. 36-8-2-4, it is hereby declared that the following activities, when conducted within the town limits constitute a nuisance:

(A) The collection of any offal, filth or noisome substance in any place to the damage or prejudice of others or the public;

§ 92.02 VIOLATIONS.

(A) Whenever any of the above shall occur, 2 consecutive 5-day notices to remove the nuisance shall be issued by the Clerk-Treasurer of the town and served by the town and served by the Town Marshal upon the landowner, if he or she is a resident, or by registered mail addressed to the landowner's last known address, if he or she is a nonresident.

(B) If the landowner fails to remove the nuisance within the time prescribed, the Town Board may remove the nuisance, and the Clerk-Treasurer of the town shall, at the direction of the Board at the regular Board meeting, make a certified statement of the actual cost incurred by the town in the removal. The statement shall be delivered to the owner of the real estate by the Town Marshal, or by registered mail, and the owner shall have not more than 10 days within which to pay the amount to the Clerk-Treasurer.

(C) If the landowner fails to pay the sum within the time prescribed, a certified copy of the statement of the costs shall be filed in the Auditor's Office of the county wherein the real estate is located, and the Auditor shall place the amount claimed on the tax duplicate against the lands of the landowner affected by the work, and the amount shall be collected as taxes are collected, and when collected shall be dispersed to the General Fund of the town.

(D) If the landowner and/or resident fails to heed a first warning of violation, or is deemed to be flagrantly irresponsible or incompetent in the use of the agents described in § 92.01(E), then further legal action will be pursued against the landowner and/or resident through the Town Attorney.
(Ord. 1978-2, passed 6-5-1978; Am. Ord. 1991-4, passed 9-26-1991)

NOISE CONTROL

§ 92.15 DEFINITIONS.

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

DAYTIME. For ***NONSTATIONARY SOURCES*** shall mean 6:00 a.m. to 11:00 p.m., and ***NIGHT TIME*** for ***NONSTATIONARY SOURCES*** shall mean 11:00 p.m. to 6:00 a.m.; ***DAYTIME*** for ***FIXED SOURCES*** shall mean 7:00 a.m. to 9:00 p.m., and ***NIGHT TIME*** for ***FIXED SOURCES*** shall mean 9:00 p.m. to 7:00 a.m.

FIXED SOURCE. A machine or device capable of creating a noise level at the property upon which it is regularly located, or upon which it is regularly used, which projects into another property; this includes but is not limited to industrial and commercial process machinery and equipment, pumps, fans, air-conditioning apparatus, refrigeration machines, power lawn mowers and chain saws.

MUFFLER. Any device used upon a motor vehicle whose purpose is the deadening of the combustion noises of any engine thereon, or the deadening of any other motor noises, including but not limited to the noise of exhaust gases; or any other mechanical device for the deadening of the noise and intake gases upon a motor vehicle.

NOISE. The sound made by people, animals or any combination of sounds, which exceeds the sound pressure level as established by this chapter for a particular sound-producing object, vehicle, residential zone, church zone, school zone or any other area limited by this chapter.

NONSTATIONARY SOURCE. A machine or device capable of being moved from place to place for occasional or temporary use at a given location including, but not limited to motor vehicles, pile drivers and bulldozers.

PERSON. A person, firm, association, copartnership, joint venture, corporation, or any entity, public or private in nature.

SOUND PRESSURE LEVEL. In decibels, the level measured by a sound pressure level meter using the A-weighted scale as defined in the American National Standard 5-1.4-1971.

SOUND PRESSURE LEVEL METER. An instrument including a microphone, an amplifier, an output meter and frequency weighing networks for the measurement of noise and sound pressure levels in a manner specified by this subchapter that the slow meter response of the ***SOUND PRESSURE LEVEL METER*** shall be issued in order to best determine the average pressure.
(Ord. 1992-6, passed 4-15-1993)

§ 92.16 SOUND PRESSURE LEVEL; NOISE MEASUREMENTS.

(A) All sound pressure level or noise measurement shall be made by a designated police office, or a police officer using a police patrol vehicle equipped for sound pressure level measurements; provided, however, that the police officer(s) shall be trained in the use of the sound monitoring equipment by the Indiana University Speech and Hearing Department, or any other recognized school, institute or other group which has as a principal part of its function the study, investigation or anidometric training and measurement of sound.

(B) Measurement of sound or noise shall be made with a sound pressure level meter meeting the standards prescribed by the American Standards Association. The instrument(s) shall be maintained in calibration and good working order. A calibration check shall be made of the system before any sound or noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound or noise. A windscreen shall always be used.

(C) Measurement shall be made at any point on the property into which the noise is being transmitted and shall be made at least 3 feet away from any ground, wall, floor, ceiling, roof or other plane surface.

(D) In the event of multiple occupancy of a property, the measurement may be made at any point inside the premises to which any complainant has right of legal private occupancy; provided, that the measurement shall be made at least 3 feet away from any ground, wall, floor, ceiling, roof or other plane surface.

(E) The median measurement for this chapter shall be the sum of 2 readings divided by 2.

(F) Measurement of motor vehicles shall be taken at least 50 feet from the center line of travel of the source in areas other than residential. If the noise projects into private residential property, then measurement for purposes of investigating a complaint made by a citizen on any public street shall be taken at least 20 feet from the center line of travel of the source.

(G) The procedure for measurement of motor vehicles shall be as follows: A first measurement is to be made when the vehicle is 110 feet from the point of placement of the sound pressure level meter as measured along the line of travel; a second reading shall be taken when the vehicle is parallel to the point of placement of the sound pressure level meter. The median measurement shall then be recorded as the measurement for that moving vehicle.

(H) If a measurement is taken at the boundary of 2 zones, then the more restrictive zone’s standard shall apply.
(Ord. 1992-6, passed 4-15-1993)

§ 92.17 SOUND PRESSURE LEVEL LIMITS.

(A) These levels may not be exceeded by the median measurement for more than 3 cumulative minutes in any 1 hour by any 1 stationary, or fixed, source of sound. These levels may not be exceeded by the median measurement by any 1 nonstationary source of sound, motor vehicles included.

<i>Zones</i>	<i>Day Time</i>	<i>Night Time</i>
Residential	72	62
Business	78	70

(B) Mandatory public review of this subchapter shall take place within 6 months of date of passage and annually thereafter. Reviews shall be conducted under auspices of the Town Marshal and/or the Town Superintendent and must be publicly advertised at least 1 month prior to being held.
(Ord. 1992-6, passed 4-15-1993)

§ 92.18 NOISES PROHIBITED.

(A) It shall be a violation of this subchapter for any person to create any unnecessary, loud and disturbing, or offensive noise on any street, sidewalk, or public place adjacent to any school, institution of learning or church while any of the same is in use; at any time provided conspicuous signs are displayed in streets, sidewalks or public place indicating the presence of a school, institution of learning or church.

(B) It shall be a violation of this chapter to operate, or cause to be operated, any nonstationary source or fixed source which emits a noise above the limits set out in § 92.17, except as specifically exempted in § 92.19. Measurement shall be made in accordance with § 92.16(C), (D), (F), or (G).

(C) It shall be a violation of this subchapter to operate a motor vehicle, or combination of vehicles towed by the motor vehicle which creates noise or sound which exceeds the noise level limits set out in § 92.17.

(D) Every motor vehicle with an internal combustion, steam or air motor shall be equipped with a suitable and efficient muffler. A muffler shall be considered suitable and efficient, for purposes of this subchapter, when it does not create excessive noise. Excessive noise shall be determined when any sound created by the motor vehicle at any time and under any condition exceeds the limits set out in § 92.17. Except by specific governmental authorization given by the Police Department or the Town Council, no person while on a public or private highway, street or road shall operate a motor vehicle with the muffler cut out or removed.

(E) No cutout shall be so arranged or connected as to permit its operation or control by the driver of any motor vehicle while in position for driving or by a passenger of any motor vehicle.
(Ord. 1992-6, passed 4-15-1993)

(F) It shall be unlawful for any person to use or cause to be used in or on any automobile, truck, or other vehicle operating upon the streets or alleys or

public places in the town any radio device or apparatus, or any machine, device or apparatus for the amplification of any sounds from any radio or phonograph or other sound-making or sound-producing device, or any sound or device for the reproduction or amplification of the human voice or music, or other noise or sounds, for the purpose of hawking or advertising any business, merchandise, amusement, event, service, candidacy or the sale of anything. The use of the sound device for any noncommercial purposes shall be permitted only between the hours of 10:00 a.m. and 2:00 p.m. and only then if the use does not constitute a public nuisance.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 92.99

§ 92.19 EXEMPTIONS.

The following uses and activities shall be exempt from noise level regulations:

(A) Nonamplified crowd noises resulting from legal activities, between the hours of 7:00 a.m. and 9:00 p.m.;

(B) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; providing the equipment is operated with the manufacturer's mufflers and noise reducing equipment in use and in proper operating condition;

(C) Noises of safety signals, warning devices, and emergency pressure relief valves;

(D) Noises resulting from any authorized emergency, fire or police vehicle when responding to an emergency call, acting in time of emergency or in connection with official Police or Fire Department business;

(E) Noises made by churches using bells as part of their religious observance and by persons having obtained a permit to use the streets;

(F) Any aircraft operating in conformity with or pursuant to federal law, federal air regulations, and air traffic control instructions and pursuant to and within the duly adopted federal air regulations shall be exempt from provisions of § 92.20, as well as other provisions of this subchapter. Any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt; and

(G) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the town in accordance with § 92.20. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated in the permit or license and contained in § 92.20. (Ord. 1992-6, passed 4-15-1993)

§ 92.20 SPECIAL PERMITS.

(A) Application for a permit for relief from the maximum allowable noise level limits designated in this subchapter shall be made in writing to the Town Council. Any permit granted by the Town Council must be in writing, with appropriate copies to the Police Department and Town Superintendent and shall contain all conditions upon which the permit shall be effective.

(B) The Town Council may grant the relief as applied for under the following conditions:

(1) The Town Council may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound attenuating devices.

(2) Except in emergency situations, as determined by the Town Council, the temporary permit may be issued only for the hours between

7:00 a.m. and 9:00 p.m., and the permit shall not be issued for longer than 1 week, renewable by further application to the Town Council; provided, however, that these renewal(s) are not automatic and are not issued for longer than 4 consecutive weeks.

(3) The Town Council may issue special permits, that remain in force, for equipment that is maintained in good condition. Reasonable conditions may be placed upon the special permit and the special permit shall be renewed annually.

(4) The Town Council may authorize civic event permits. These permits shall be limited to the hours of 7:00 a.m. and 12:00 midnight, shall be issued for not longer than 1 day, and shall not be renewable.

(Ord. 1992-6, passed 4-15-1993)

§ 92.21 UNNECESSARY NOISE STANDARDS AND NOISE PROHIBITIONS.

(A) Some sounds may be such that they are not measurable by the sound pressure level meter or may not exceed the limits set forth in this subchapter, but they may be excessive, unnatural, prolonged, unusual or are a detriment to the public health, comfort, convenience, safety and welfare of the residents of the town. Noises prohibited by this section are a violation of this subchapter notwithstanding the fact that no violation of §§ 92.17 and 92.19(B), (C), and (D) is involved. Thus the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this subchapter, but the enumeration shall not be deemed to be exclusive, namely:

(1) The sounding of any horn or signaling device on any automobile or other vehicle, except as a danger warning; the creation by means of any signaling device of any unreasonable, loud or harsh sound; the sounding of any signaling device for any unnecessary and unreasonable period of time; and the unreasonable use of any signaling device which creates sound.

(2) Any noise of a continuous or intermittent nature which persists for a period of 15 minutes and can be heard by any person outside the immediate premises from the location of the emitter and is caused by the using, operating or permitting to be played, use or operation of any radio, television, tape or record player, amplifier, musical instrument or other machine or device used for the production, reproduction or emission of sound, or any prolonged sounds by people, or by any animal or bird so as to disturb the public peace, quiet and comfort of the neighboring inhabitants.

(B) Any person making a complaint under this section shall be required to give the person's name to the enforcement officer upon requesting an investigation.

(Ord. 1992-6, passed 4-15-1993)

§ 92.22 ENFORCEMENT.

This subchapter shall be enforced by:

(A) The Town Superintendent or the Police Department.

(B) Each person charged with enforcement of this subchapter shall have the power and authority to issue all orders and give notice of violations as are designated under this subchapter. A person or persons shall keep complete and accurate records. For purposes of enforcement, any nonpolice officer who seeks enforcement of § 92.18(C) must be accompanied by a police officer.

(Ord. 1992-6, passed 4-15-1993)

§ 92.23 VIOLATION WARNINGS; APPEALS.

(A) Those charged with violating noise limits in this subchapter may, in the discretion of the enforcement officer, be issued an official warning advising them of their violation of the provisions of those sections. If an official warning is issued, it shall be considered as affording the violator 1 opportunity

to comply with this chapter's provisions. An official warning shall be issued by any person charged with enforcing this subchapter.

(B) All appeals from written finding of the enforcement officer must be taken, within 14 days, to the Town Council.

(C) All appeals from written findings of the Town Council shall be made to the Circuit Court within 7 days.

(D) Upon failure to appeal an adverse finding or failure to comply with a written order or assessed penalty, the Town Attorney's office shall be empowered to take all appropriate action necessary to enforce the written findings of the enforcement officer or of the Town Council.

(Ord. 1992-6, passed 4-15-1993)

§ 92.24 NOISE UPON PUBLIC WAYS AND PARKING AREAS.

(A) *Purpose.*

(1) The Nashville Town Council finds that excessive noise may:

(a) Cause distraction to drivers, which impairs the safe operation of motor vehicles;

(b) Unreasonably disturb the quiet and normal functioning of the Town's residential and commercial areas;

(c) Startle, threaten, or intimidate pedestrians or frighten horses;

(d) Project a negative image of the town, all to the detriment of the health, welfare, and safety of Nashville's citizens and guests.

(2) Accordingly, it is the policy of the Town of Nashville to prohibit unnecessary, excessive, annoying, or distracting noise on public ways and parking areas within the town.

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

(1) **TOWN** means the Town of Nashville.

(2) **NOISE-CREATING DEVICE** means any electrical, mechanical, or chemical device or instrument, or combination thereof, that creates noise during its operation by a person.

(3) **MOTORCYCLE** means an unenclosed motor vehicle, having a saddle for the use of an operator, with 2 or 3 wheels in contact with the ground, including, but not limited to, motor scooters and mini bikes.

(4) **OPERATION** means actual control by a person.

(5) **PUBLIC WAY** means any street, roadway, alley, sidewalk, or other area deeded or dedicated for public travel or transportation services.

(6) **STRAIGHT PIPE EXHAUST SYSTEM** means any muffler that does not contain baffles, including, but not limited to, glass packs, straight pipes and drag pipes, cutouts, and any exhaust system not approved by the Federal and State Departments of Transportation.

(7) **EXCESSIVE NOISE** means audible vibrations intentionally created by the operator of a vehicle or a noise-creating device which, by its volume, repetition, location, location and/or time of day creates an annoyance to other persons, including law enforcement officers, within earshot and which is unnecessary to the lawful use and enjoyment of the vehicle or noise creating device.

(8) **PARKING AREAS** means both public and private locations where motor vehicles are permanently or temporarily located, with or without charge.

(C) *Creation of certain noise prohibited*.

(1) No person on a public way or parking area shall operate any noise creating device in such a manner that the level of noise causes the public's attention to be drawn to the source of the noise, subject to the exceptions hereinafter provided.

(2) The prohibition of this section shall include, but not be limited to, the following activity or conduct:

(a) Discharging fireworks or any exploding device;

(b) Firing a starter pistol or firearm;

(c) Sounding a bell or whistle, alarm or horn, for so extended a period of time as to cause annoyance to others;

(d) Rapid throttle advance and/or revving of an internal combustion engine resulting in the increased noise from the engine and exhaust system, including the practice of motorcycle "blipping"; and

(e) Operation of a radio or stereo at a volume that causes annoyance to others.

(f) Unnecessary "jake braking" of heavy trucks.

(g) Operation of a vehicle with a straight pipe exhaust system.

(D) *Exceptions*. The provisions of this section shall not apply to the following activity or conduct:

(1) Expression or communication protected by the United States Constitution, including the first amendment, or the Indiana Constitution.

(2) Any activity or conduct the regulation of which has been preempted by Indiana statute.

(3) Any noise created by a governmental entity in the performance of an official duty.

(4) Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit.

(5) The necessary sounding of any signal device permitted by law.

(6) Properly licensed common carriers and service vehicles in the performance of their customary duties.

(E) Any section or subsection of the noise control ordinance, §§ 92.15—92.99, that is in conflict with or duplicative of the provisions of this section are hereby repealed.
(Ord. 2004-1, passed 3-18-2004)

§ 92.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided, shall be fined not more than \$2,500 for each offense. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(B) Any person violating any of the provisions of §§ 92.15 through 92.23, except 92.18(F), shall, upon a written finding of violation signed by the enforcement officer, be subject to a penalty of \$25. Each day any such violation is committed or permitted to continue shall constitute a separate offense.

(1) Upon written findings of a violation by the same person for the same offense 3 times within a consecutive 12-month period, when the noise is created by the same noise emitter or a violation by the same person for the same offense 3 times within a consecutive 12-month period, when the noise is created by the same noise emitter or same type of noise emitter, the noise-creating device may be

ordered by the enforcement officer to cease being used or operated until it can be brought into compliance with §§ 92.15 through 92.23.

(2) Any person issued a written notice of violation of §§ 92.15 through 92.23, except 92.18(F), shall pay to the Clerk-Treasurer as a penalty for, and in full satisfaction of the violation, the sum of \$25 within 7 days of the notice, unless the notice is appealed in conformity with § 92.23.
(Ord. 1992-6, passed 4-15-1993)

(C) Any person violating the provisions of § 92.18(F) shall, upon conviction, be fined in any sum not more than \$100.
(Ord. 4-6-70, passed 4-6-1970)

(D) Violation of § 92.24 is punishable by the following fines:

(1) First offense: \$50;

(2) Second offense: \$100;

(3) Third offense: \$200;

(4) Fourth offense and subsequent offenses: \$500.
(Ord. 2004-1, passed 3-18-2004)

CHAPTER 93: STREETS AND SIDEWALKS

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GENERAL PROVISIONS

§ 93.001 OBSTRUCTING OR DRIVING ON SIDEWALKS.

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

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

(B) No person shall obstruct or interfere in any way with the free use of any sidewalk area.

(C) The driver of any vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway. In no event shall the driver of any vehicle park within any sidewalk area.
(Ord. 4-3-68, passed 5-6-1968) Penalty, see § 93.999

§ 93.002 USE OF SKATEBOARDS AND ROLLER SKATES.

(A) No person shall ride or otherwise operate a skateboard on the public streets, public sidewalks or public rights-of-way in the town.

(B) No person shall ride or otherwise operate roller skates on the public streets, public sidewalks, or public rights-of-way in the town.

(C) The Town Marshal or his or her deputy is hereby authorized to enforce the provisions of this section.
(Ord. 1989-7, passed 7-20-1989) Penalty, see § 93.999

§ 93.003 SIDEWALKS OUT OF REPAIR.

Every owner of any house or other building and any owner of any vacant lot within the town shall keep the sidewalks in front of the house, building or vacant lot in repair. Any person neglecting or refusing to comply with the provisions of this section, or neglecting or refusing to put the sidewalk in front of any house, building or vacant lot owned or occupied by him or her in repair, after having received notice from the Town Manager to do so, shall be subject to general penalty provisions of this code. Should the town find it necessary to make repairs to any sidewalk, it shall be the duty of the property owner to

reimburse the town for that expense, and the making of these repairs shall in no manner be construed as relieving the property owner from his absolute and total liability for any and all claims that may result from the sidewalk being out of repair.

(Ord. 4-6-70, passed 4-6-1970; Am. Ord. 1996-2, passed - -) Penalty, see § 93.999

§ 93.004 DISCHARGE OF WATER ON SIDEWALK.

It is unlawful for any person owning or controlling any building in the town adjacent to an improved sidewalk to permit water to run from a downspout attached to the building onto and over the sidewalk.

(Ord. 1996-2, passed - -) Penalty, see § 93.999

§ 93.005 ALLOWING FILTHY OR NOISOME LIQUID TO FLOW ON STREETS.

It is unlawful for any person to cause or permit the flow or stagnation of any filthy or noisome liquid or substance upon any street, alley, other public place or into any stream in the town.

(Ord. 1996-2, passed - -) Penalty, see § 93.999

§ 93.006 DUTY OF ABUTTING PROPERTY OWNER TO KEEP SIDEWALK CLEAN.

It shall be the duty of every owner of real estate within the town to keep the sidewalk fronting upon that real estate reasonably clean and free from all dirt, filth or litter that may be washed or deposited thereon.
(Ord. 1996-2, passed - -)

§ 93.007 SNOW AND ICE REMOVAL; DUTY OF ABUTTING PROPERTY OWNER.

It shall be the duty of every owner of any premises abutting a sidewalk in the town to remove, or cause to be removed, all snow and ice from the sidewalk to its full paved width within 24 hours after

snow or ice has ceased to fall or in any way accumulate. Where the ownership of the premises abutting a sidewalk is being transferred by means of a sales contract that has been recorded in the office of the county, the purchaser of the premises shall be considered the owner for purposes of this section. (Ord. 1996-2, passed - -)

**§ 93.008 SNOW AND ICE REMOVAL;
FAILURE TO REMOVE.**

(A) If the owner of any premises abutting a sidewalk fails to remove or cause to be removed snow and ice as required in § 93.007, the owner shall be issued a notice of ordinance violation and may be fined \$25 for failure to comply with any provision of § 93.007. In the event payment is not made within the time designated, court proceedings may be initiated by the Town Attorney.

(B) Each day a violation of § 93.007 continues after the owner has been notified of the violation shall constitute a separate violation.

(C) (1) Instead of or in addition to imposing the fine set forth above, the town may, at its discretion, remove or contract for the removal of the snow, and the Clerk-Treasurer of the town shall make a certified statement of the costs incurred by the town in the removal. The statement shall be delivered to the owner of the property by the Town Marshal, or by certified mail, and the owner shall have 10 days within which to pay the amount to the Clerk-Treasurer.

(2) If the property owner fails to pay the sum within the time prescribed, a certified copy of the statement of costs shall be filed in the County Auditor's Office of the county where the real estate is located, and the Auditor shall place the amount claimed on the tax duplicate against the lauds of the owner affected by the work, and the amount shall be collected as taxes are collected, and when collected shall be disbursed to the General Fund of the town. (Ord. 1996-2, passed - -; Am. Ord. 2007-03, passed 6-21-2007)

§ 93.009 OBSTRUCTING GUTTERS.

It is unlawful for any person to obstruct any gutter in any manner with planks, timbers, pipe, bridge or other material or design. (Ord. 1996-2, passed - -) Penalty, see § 93.999

***CUTTING, OBSTRUCTING OR ALTERING
RIGHTS-OF-WAY***

§ 93.015 APPLICABILITY.

(A) *Permit to cut required.* No person, organization, group or association shall cut into, under or over, or otherwise alter any public right-of-way of the town without first obtaining from the Town Superintendent a permit to cut into a public right-of-way.

(B) *Permit to obstruct public right-of-way required.* No person, organization, group or association shall obstruct any public right-of-way of the town for a period exceeding 15 minutes without first obtaining from the Town Superintendent a permit for temporary obstruction. (Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.016 ENFORCEMENT, FORCE AND EFFECT.

(A) *Enforcement agent.* This subchapter shall be enforced by the Town Superintendent or his or her designated agent. Each person charged with enforcement of this subchapter shall have the power and authority to issue all orders and give notice of violations as are designated under this subchapter.

(B) *Suspension or revocation of permit.* Any violation of this subchapter by the holder of a permit issued hereunder shall be grounds for suspension or revocation of the permit by the Town Superintendent.

(C) *Force and effect.* This subchapter shall be in full force and effect from and after its passage by the Town Council.

(Ord. 1993-2, passed 5-6-1993)

§ 93.017 PERMIT APPLICATION AND FEES.

(A) *Application; fee.* Before issuing a permit to cut, obstruct or otherwise alter any public right-of-way, the Town Superintendent shall first receive from each applicant a completed application to cut, obstruct or otherwise alter, along with the required fee of \$35 and any required bond as set forth on the application to cut, obstruct or otherwise alter a public right-of-way.

(B) *Fee waivers.* Not-for-profit organizations may be excluded from any permit fee and/or bond requirements at the discretion of the Town Council.
(Ord. 1993-2, passed 5-6-1993)

§ 93.018 TERM OF PERMIT.

Each permit to cut, obstruct or otherwise alter any public right-of-way shall be in full force and effect according to provisions dictated by the permit.
(Ord. 1993-2, passed 5-6-1993)

§ 93.019 DISPLAY OF PERMIT.

Each permittee shall display the permit to any town agent upon request.
(Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.020 TRAFFIC-CONTROL PLAN.

(A) Before a permit shall be issued to cut, obstruct or otherwise alter any portion of a public right-of-way, a traffic-control plan shall be submitted to the Town Superintendent or his or her agent. The obstruction of the public right-of-way shall not begin until the traffic-control plan is approved.

(B) An acceptable traffic-control plan shall include but not be limited to the following items:

(1) The traffic-control plan shall demonstrate compliance with street construction and maintenance operations as set forth in the state manual on Uniform Traffic Control Devices for Streets and Highways.

(2) Provide for properly working devices at the site, particularly when site is unattended.

(3) Provide for the documentation of all actions taken on or related to traffic controls that are placed in effect at the worksite.

(4) Provide for the documentation of permittee's or his or her authorized agent's inspection of the worksite at frequent intervals with special attention to detecting and immediately correcting deficiencies in the traffic-control plan.

(5) Provide for the removal of all unnecessary materials and provide protection to motorists, pedestrians and workers to prevent potential conflicts and hazards that may result from work being done at the site.

(6) Provide a diagram indicating placement of the traffic-control devices and proposed traffic flow patterns.

(7) The permittee shall provide a list of all potentially affected persons.
(Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.021 BONDS.

(A) The permittee shall post a performance bond in an amount set by the Town Superintendent, but the bond shall not be less than \$1,000.

(B) Before a permit shall be issued or renewed, the applicant therefore shall post or maintain with the Town Superintendent either an indemnity bond or a

policy of public liability insurance, approved as to form by the Town Attorney and conditioned substantially that the permittee will indemnify and hold harmless the town, its Council members, agents and employees, from any and all loss, costs, damages or expenses, by reason of legal liability which may result from or arise out of the granting of the permit for the operations for which a permit is issued, and that the permittee will pay any and all loss or damage that may be sustained by any person resulting from or arising out of the legal or negligent acts of the permittee. The bond or policy of insurance shall be maintained in its original amount by the permit at their expense at all times during the period for the which the permit is in effect. In the event that 2 or more permits are issued to 1 permittee, 1 such bond or policy of insurance may be furnished to cover 2 permits, and each bond or policy shall be of a type where coverage shall automatically be restored after the occurrence of accident or event from which liability may thereafter accrue.

(C) The limit of liability upon any bond or policy posted shall in no case be less than \$100,000 for death or injury of 1 person, \$500,000 for total liability for death or personal injury arising out of any 1 event or casualty and \$100,000 for property damage.

(D) Any bond posted pursuant to this section shall be accompanied by good and sufficient sureties approved by the Clerk-Treasurer.
(Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.022 NOTICE OF CLAIM.

The Town Superintendent shall notify the permittee under this subchapter of any claim of which the town has notice, where the claim arises from the operations granted by the issuance of the permit.
(Ord. 1993-2, passed 5-6-1993)

§ 93.023 PUBLIC HEARING.

(A) *Notice required.* The Town Superintendent shall give public notice of any right-of-way permit given for a period exceeding 1 day. All potentially affected persons listed as part of the traffic-control plan shall be contacted by certified mail, cost of which shall be born by the permittee.

(B) *Hearing.* The Town Superintendent shall upon receipt of a petition by a potentially affected person set a hearing date to evaluate the concerns listed in the hearing petition.
(Ord. 1993-2, passed 5-6-1993)

§ 93.024 MODIFICATION OF PERMIT CONDITIONS.

Upon hearing the concerns listed by the potentially effected person, the Town Superintendent shall review and incorporate the relevant comments in the right-of-way permit.
(Ord. 1993-2, passed 5-6-1993)

§ 93.025 REQUIREMENTS TO BE MET.

Before a permit shall be issued to cut, obstruct or otherwise alter any portion of the public right-of-way, the following general provisions must be observed.

(A) All work described in the permit shall be subject to the inspection of any town agent and the permittee shall adjust or stop operations upon direction of any police officer or town agent employee.

(B) The permit may be rescinded at any time by the Town Superintendent for noncompliance with any and/or all provisions of the permit.

(C) The permittee shall notify the Town Superintendent 5 working days preceding the beginning of any work activity.

(D) The permittee shall notify the Town Superintendent that the work is complete and this notice is to be provided within 7 days from completion of all work on this permit.

(E) The permittee shall have the permit complete with drawings and special provisions in their possession during work operations and will show the permit, on demand, to any police officer or other town agent.

(F) The permit is valid through the stated expiration date. If work is not completed within the allotted time, the permit expires. An extension may be requested prior to the expiration date and the request may be approved by the Town Superintendent upon a showing of good cause. If a permit has expired, a new application must be submitted and approved before the proposed work can be resumed.

(G) The permittee shall erect and maintain all necessary signs, barricades, detour signs, and warning devices required to safely direct traffic over or around the part of the highway where permitted operations are to be done, so long as the work does not interfere with traffic, in accordance with Indiana Manual of Uniform Traffic Control Devices.

(H) All construction and materials used within the public right-of-way must conform to the current Indiana Department of Transportation “Standard Specifications” and any special provisions indicated on permit with the permittee being considered in the same status as the contractor.

(I) The permitted operations shall not interfere with any existing structure on the town right-of-way without specific permission in writing from the Town Superintendent. In the event that any buildings, railings, traffic-control devices or other structures are damaged, the cost of the removal and/or damage shall be borne by the permittee.

(J) This permit does not apply to any town rights-of-way that are closed for construction purposes by the town.

(K) Approval of the permit application shall be subject to the permittee obtaining all necessary authorizations from local authorities and complying with all applicable laws. The issuance of the permit shall in no way imply the town approval of, or be intended to influence any action pending before a local board, commission or agency.

(L) In accordance with the notice requirements of this permit, any objection to the conditions and provisions of an approved permit must be submitted in writing to the town.

(Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.026 OFFICIAL WARNINGS.

Those charged with violating the provisions of this subchapter may at the discretion of the enforcing agent be issued an official warning advising them of their violation of the provisions. If an official warning is issued, it shall be considered as affording the violator 1 opportunity to comply with this subchapter’s provision. An official warning shall be issued by any person charged with enforcing this subchapter.

(Ord. 1993-2, passed 5-6-1993)

SIDEWALK CONSTRUCTION

§ 93.040 COMPLIANCE TO PLANNING AND ZONING COMMISSION.

All future construction of sidewalks must comply with construction requirements mandated by the Town Superintendent or Planning and Zoning Commission, the construction being specifically of concrete, 5 feet in width unless otherwise required or waived by the Town Superintendent or the Planning and Zoning Commission, and meeting all other requirements conforming with the State Building Handbook or other official reference manuals.

(Res. 1989-4, passed - -1989)

§ 93.041 CONSTRUCTION PLANS.

Plans for new building construction presented to the Planning and Zoning Commission for a building permit must include plans for sidewalks meeting the required specifications, and construction can be waived only by Planning and Zoning or the Town Superintendent.

(Res. 1989-4, passed - -1989)

§ 93.042 REQUEST TO CONSTRUCT SIDEWALKS AT EXISTING BUILDINGS.

For safety reasons and to limit liability in the event of accidents, construction of sidewalks and/or curblines at existing building sites may be required by request of the Town Board, and a Barrett Assessment may be used if necessary to expedite the improvement.

(Res. 1989-4, passed - -1989)

§ 93.043 MATERIALS.

New or replacement sidewalk construction of wood, asphalt, or brick material is specifically banned on the public right-of-way due to safety hazards associated with the surface.

(Res. 1989-4, passed - -1989)

STANDARDS FOR STREET CONSTRUCTION

§ 93.055 PERMIT REQUIRED FOR TRANSPORT OF EQUIPMENT.

Use of any town street for transport of any equipment or materials for development, construction or any other purposes where street or infrastructure damages may occur shall require a permit, as follows:

(A) *Permit fee.* Any person desiring to use town streets as access to the development of property shall pay to the Clerk-Treasurer for the required permit the sum of \$25 per site.

(B) *Bond required; amount; conditions.* At the time of filing and fee payment, the person desiring use shall also file a bond or insurance certificate payable to the town in the sum designated by the Town Superintendent and/or Town Engineer as applicable to cover any specific damages which might occur in the street right-of-way, including infrastructure, water mains, sewer interceptors, or any other utilities for which the town might otherwise be held liable.

(C) *Bonds.* Bonds shall be filed with the Town Clerk-Treasurer and shall be conditioned to save the town harmless from any loss, cost or damage by reason of the proposed work, and that the same shall be done in all respects in conformity to the requirements of this subchapter and all other ordinances of the town regulating same. The bond or insurance certificate shall embrace all work of the permittee for a period of time between the date of execution of the same and 1 year from the date of completion of the project.

(D) *Effective date.* The permit shall be effective and shall expire on dates as specified by the Town Superintendent at time of filing.
(Ord. 1991-6, passed 2-20-1992)

§ 93.056 RESTORATION OF DAMAGE.

The person to whom a permit is issued under the provisions of this subchapter shall properly restore or

cause to be restored all damages incurred under the permit in the manner and following specifications required by the Town Superintendent and/or Town Engineer. In the event of the permittee’s failure to do so, the town may restore the damages or employ another contractor to do so, at the expense of the permittee, the expense to be deducted from the bond or insurance certificate. In addition, the town may take such civil action as provided by law, including, but not limited to, imposition of penalties or other relief as provided for herein. In the event reinspection of repaired damages is required as result of noncompliance with any section contained herein, a reinspection fee in the amount of \$50 may be charged by the Town Superintendent and/or Town Engineer for each day the work remains unfinished beyond the specified completion time.

(Ord. 1991-6, passed 2-20-1992)

§ 93.057 COMPLIANCE WITH FEDERAL AND STATE LAW.

The permittee shall keep fully informed of federal and state laws; local laws; ordinances; and regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work. He or she shall at all times observe and comply with all such laws, ordinances, regulations, orders and decrees.

(Ord. 1991-6, passed 2-20-1992)

§ 93.058 WEIGHT RESTRICTIONS.

The permittee shall restrict gross weight loads on town streets to no more than 15 tons unless otherwise specifically permitted by Town Superintendent and/or Town Engineer. He or she shall constantly monitor street condition for any sign of material fatigue or failure and report same to the town. Where any initial minor damage appears, the permittee shall minimize same by reducing weight loads and/or otherwise altering operations to control.

(Ord. 1991-6, passed 2-20-1992)

§ 93.059 USE OF GRADE; OBSTRUCTION OF TRAFFIC; STORAGE OF EQUIPMENT.

The permittee shall arrange work so that all operations on the pavement will be held to a minimum by using the new grade insofar as possible. The work shall be conducted in a manner that will ensure the least obstruction to traffic so as to cause only such inconvenience to the traveling public and residents as is considered unavoidable. There shall be no storage or placement of nonoperating construction equipment, workers' vehicles, materials, field offices, and the like within 10 feet of the town right-of-way or within 10 feet of adjacent residential property line.

(Ord. 1991-6, passed 2-20-1992)

§ 93.060 REMOVAL OF DIRT AND MATERIALS.

Provisions shall be made for prompt removal from traveled roadways of all dirt and other materials that have been deposited thereon by operations concerned with the project whenever the accumulation is sufficient to cause the formation of dust or mud, interfere with drainage, damage pavements or create a traffic hazard. Construction methods and means shall be employed to keep flying dust and air pollution to a minimum.

(Ord. 1991-6, passed 2-20-1992)

§ 93.061 PUBLIC STREET INSPECTIONS.

(A) The construction of all streets in the town and any outlying streets scheduled for public dedication shall be reviewed by the Town Superintendent or designated Street Inspector. The minimum acceptable standard, for local streets, is 1 inch asphalt surface (110#/syd) on 2 inches asphalt base (220#/syd) on 7 inches compacted aggregate (No. 2 and/or No. 53 at 0.3888 tons/syd) on a smooth subgrade. Three inspections will be required.

(1) *Subgrade inspection.* The subgrade will be inspected prior to placement of stone. It will be

inspected for compaction, wetness and proper depth from finish grade. The curb and gutter will also be inspected at this time.

(2) *Base inspection.* Prior to placing asphalt base, the depth of stone will be inspected.

(3) *Asphalt inspection.* Prior to placement of asphalt surface.

(B) Final road inspection will be done as part of the final site inspection to be done prior to acceptance. (Ord. 1991-6, passed 2-20-1992)

ACCESS STANDARDS

§ 93.075 APPLICATION.

This subchapter shall apply to all persons, firms, partnerships, associations, corporations, companies or organizations of any kind in the town limits hereafter referred to as "citizens."

(Ord. 1988-15, passed - -1988)

§ 93.076 PURPOSE.

The purpose of this subchapter is to regulate access to all streets, alleys and other public rights-of-way in the town limits, to ensure proper traffic flow conformance with established standards and adequate drainage.

(Ord. 1988-15, passed - -1988)

§ 93.077 ACCESS STANDARDS; PRIVATE DRIVE.

(A) No private drive or other access way shall be made onto any town street, without a specific permit being first duly obtained from the Street Department for that particular drive or access at that particular location.

(B) No entrance shall be closer than 5 feet to the adjacent property line, and no approach shall be so constructed that any part of the same extends in front of property belonging to a person other than the permittee, unless both owners sign a joint application for a permit, except for deceleration lanes, acceleration lanes or passing lanes, as required by the Street Department.

(C) All drainage pipes or tiles used in the construction of driveways and approaches shall be a minimum of 12 inches in diameter and as much larger than the Street Department shall deem necessary for proper drainage, and on all new driveways and approaches shall be furnished by the permittee. All pipe or tile and other drainage structures used shall meet the approval of the Street Department as to type, quality, size and length.

(D) All driveways and approaches shall be so constructed that they shall not interfere with drainage of or cause erosion to the street. If it is proposed to construct any portion of an approach on a slope or grade greater than 15%, the grade or slope shall be designated on the application. If no designation or grade is shown on the application, the approach shall not be constructed on a grade greater than 15%.

(E) All disturbed areas shall be fertilized and seeded or sodded to prevent erosion.

(F) That the construction of these driveways and approaches shall not interfere with any existing structure utility or any town right-of-way without specific permission in writing from the Town Superintendent or other owner thereof.

(G) All entrances and approaches shall be so located as to provide adequate sight distance in both directions along the street for safe access to the street without interfering with traffic on the street.

(H) No entrance or approach shall be located or constructed so as to interfere with or prevent the proper location of necessary street signs.

(I) The permittee shall assume responsibility for all maintenance of such approaches from the right-of-way line to the edge of the traveled street.

(J) No entrance or approach shall be relocated or its dimensions altered without written consent of the Town Superintendent.

(K) The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly from the construction of any approach or driveway.

(L) The permittee shall remove or relocate any entrance or approaches when requested to do so by the Town Superintendent in the interest of safety to town street traffic. For the purpose of road or bridge construction or improvements, the driveway entrances and approaches shall be removed at any time upon the request of the Town Superintendent. Driveway entrances and approaches may be rescinded at any time by the Town Superintendent. Driveway entrances and approaches must be complete within 1 year after the permit is issued. Otherwise, their permit will be cancelled.

(M) The right-of-way area adjacent to or between the approaches may be graded at the permittee's expense, subject to drainage requirements as determined by the Town Superintendent. The permittee may plant in this area grass, flowers, or low-growing shrubs that never attain sufficient height to obstruct clear vision in any direction or interfere with drainage, so long as they are in compliance with all other applicable law, ordinances or regulations.

(N) All work shall be done in accordance with the approved plans and the latest issue of the State Highway Standard Specifications, and shall meet the approval of the Town Superintendent.

(O) No driveway or other vehicle access road onto a town street shall be less than 10 feet in width as measured along the private property line for a single-family residential access, or less than 24 feet as measured along the private property line for all other

accesses. The drainage pipe shall be exposed at least 12 inches at each side of the driveway or access road unless approved otherwise, in writing in advance, by the Town Superintendent.

(Ord. 1988-15, passed - -1988)

§ 93.078 EXISTING PRIVATE DRIVES.

(A) The Town Superintendent may require the removal and replacement of existing private drives and/or the drainage pipe and tiles for existing private drives when necessary to ensure proper drainage or in the interest of safety to town street traffic in accordance with the access standards set forth in § 93.077.

(B) The cost of all drainage pipes or tiles required by the Town Superintendent to be replaced shall be paid by the property owner.

(C) The Town Superintendent may furnish such assistance as may be necessary for the removal and replacement of existing drives and/or the drainage pipes and tiles, such as technical assistance, equipment and grading.

(D) All work on existing drives shall be in accordance with the access standards set forth in § 93.077 and shall be acceptable to and approved by the Town Superintendent.

(Ord. 1988-15, passed - -1988)

§ 93.079 PERMIT APPLICATION.

(A) No person shall cut, dig, trench or otherwise interfere with the surface or subsurface of any town street which is a part of the town street system or the easement adjacent to any street, unless the person shall first obtain a permit from the Town Superintendent.

(B) A form shall be developed and used for the application by any person seeking a permit to construct a driveway onto any town street, or on the right-of-way adjacent thereto.

(Ord. 1988-15, passed - -1988)

§ 93.080 PERMIT FEES.

The following schedule of fees shall be charged for driveway permits onto the town streets:

<i>Type</i>	<i>Fee</i>
Private drive	\$5
Commercial drive	\$50
Subdivision entrance	\$150

(Ord. 1988-15, passed - -1988)

§ 93.999 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(B) Any person guilty of violating § 93.001 of this chapter, may, within 24 hours of the time a notice is given, pay to the Clerk-Treasurer as a penalty for, and in full satisfaction of the violation the sum of \$5. All monies paid under this provision for violation of those sections shall be deposited to the credit of the town and in the General Fund. The failure of the person to make the payment within 24 hours shall constitute a misdemeanor. Any person who is convicted of a misdemeanor under the terms of this division (B), shall be punished by a fine not exceeding \$300 or by imprisonment not exceeding 6 months, or both.

(Ord. 4-3-68, passed 5-6-1968)

(C) Any person failing to comply with the provisions of § 93.002 shall be subject to fine of \$50.

(Ord. 1989-7, passed 7-20-1989)

(D) Any person violating the provisions of § 93.003 shall, upon conviction, be fined in any sum not more than \$100.

(Ord. 4-6-70, passed 4-6-1970)

(E) Any person, organization, group or association violating the provisions of §§ 93.015

through 93.026 shall be fined a sum of \$150 per violation and cost of right-of-way restoration. Each day a violation continues shall be deemed a separate violation.

(Ord. 1993-2, passed 5-6-1993)

CHAPTER 94: ABANDONED VEHICLES

Section

94.01	Definitions	(2) A vehicle left on public property continuously without being moved for 3 days.
94.02	Intent	
94.03	Nuisance declared	
94.04	Abandonment of vehicles prohibited	(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.
94.05	Right to possession; inability to establish	
94.06	Responsibility and liability of vehicle owner	
94.07	Notice tag to be placed on vehicle by police officer	(4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.
94.08	Disposition of unclaimed vehicle	
94.09	Disposal of vehicle by bureau	
94.10	Bill of sale	(5) A vehicle from which the engine, transmission, 2 or more tires or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.
94.11	Facilitation of removal of abandoned vehicles	
94.12	Abandoned vehicles on private property	
94.13	Liability for loss or damage	(6) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or an ordinance other than this chapter, if the impounded vehicle is not claimed or redeemed by the owner or his or her agent within 15 days of its removal.
94.14	Proceeds of sale applied to costs	
94.15	Limitation of costs	
94.16	Proceeds of sale; abandoned vehicle fund	
94.17	Exceptions	

Cross-reference:

Tow service pool, see § 33.04

§ 94.01 DEFINITIONS.

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

ABANDONED VEHICLE.

(1) A vehicle located on public property illegally.

(7) A vehicle that is at least 6 model years old, mechanically inoperable or unlicensed, and is left on private property continuously in a location visible from public property for more than 30 days.

AUTOMOBILE SCRAP YARD. A business organized for the purpose of scrap metal processing, automobile wrecking or operating a junk yard.

BUREAU. The State Bureau of Motor Vehicles.

OFFICER. Any regular member of the state police, any regular member of the town Police Department or any regular member of the county Sheriff's Department.

OWNER. The last known record title holder of a vehicle according to the records of the Bureau under I.C. 9-17.

PARTS. All components of a vehicle that, as assembled, do not constitute a complete vehicle.

PRIVATE PROPERTY. All property other than public property.

PUBLIC AGENCY. The bureau or local agency given the responsibility by statute or ordinance for the removal, storage and disposal of abandoned vehicles.

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

TOWING SERVICE. A business that engages in moving or removing disabled vehicles and, once removed, scores or impounds vehicles.

VEHICLE. An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, motorized bicycle, farm equipment or other means of carrying or transporting something.
(Ord. 1995-8, passed 9-21-1995)

§ 94.02 INTENT.

It is the purpose of this chapter to provide for the disposal of abandoned or junk vehicles which are discarded or otherwise permitted to remain on public property or private property without the permission of the person having the right to possession of the property upon which the motor vehicle was left. The Police Department is given the responsibility for removal, storage and disposal of abandoned vehicles.
(Ord. 1995-8, passed 9-21-1995)

§ 94.03 NUISANCE DECLARED.

Abandoned or junk vehicles which are located on public property or private property without the permission of the person having the right to possession of the property upon which the motor vehicle was left are detrimental to the safety and welfare of the general public. In addition, these vehicles are a detriment to the economic welfare of the state, by producing a scenic blight which is adverse to the maintenance and continuing development of the municipalities in the state. These vehicles are declared to be a public nuisance and a safety and health hazard.
(Ord. 1995-8, passed 9-21-1995) Penalty, see § 10.99

§ 94.04 ABANDONMENT OF VEHICLES PROHIBITED.

(A) *Public property.* No person shall abandon a vehicle on any public property continuously, without being moved from the location, for 3 days; or abandon a vehicle in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way.

(B) *Private property.* No person shall abandon a vehicle on private property without the consent of the owner or person in control of that property, for more than 48 hours.
(Ord. 1995-8, passed 9-21-1995) Penalty, see § 10.99

§ 94.05 RIGHT TO POSSESSION; INABILITY TO ESTABLISH.

When an officer discovers a vehicle in the possession of a person other than the person who owns the vehicle and the person cannot establish the right to possession of the vehicle, the vehicle shall be taken to and stored in a suitable place.
(Ord. 1995-8, passed 9-21-1995)

§ 94.06 RESPONSIBILITY AND LIABILITY OF VEHICLE OWNER.

The person who owns an abandoned vehicle or parts is responsible for the abandonment, and liable for all of the costs incidental to the removal, storage and disposal of the vehicle or the parts under this chapter.

(Ord. 1995-8, passed 9-21-1995) Penalty, see § 10.99

§ 94.07 NOTICE TAG TO BE PLACED ON VEHICLE BY POLICE OFFICER.

(A) An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, officer’s name, town and address and telephone number to contact for information;
- (2) That the vehicle or parts are considered abandoned;
- (3) That the vehicle or parts will be removed after 72 hours;
- (4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle; and
- (5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours.

(B) If a vehicle or a part tagged under division (A) above is not removed within the 72-hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

(Ord. 1995-8, passed 9-21-1995)

§ 94.08 DISPOSITION OF UNCLAIMED VEHICLE.

(A) *Less than \$100 in value.* If in the opinion of the officer the market value of the vehicle or parts abandoned under § 94.07 is determined to be less than \$100 in value, the officer shall immediately dispose of the vehicle to an automobile scrap yard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the State Bureau of Motor Vehicles. The town or towing agency disposing of the vehicle shall retain the original records and photographs for at least 2 years.

(B) *Greater than \$100 in value.* If in the opinion of the officer the market value of the abandoned vehicle or parts is at least \$100, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage area.

(C) *Abandoned vehicle report.*

(1) Within 72 hours after removal of an abandoned vehicle to a storage area under divisions (A) and (B) of this section and I.C. 9-22-1-16, the town or storage lot shall prepare and forward to the Bureau an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

- (a) The make;
- (b) The model;
- (c) The identification number; and
- (d) The number of the license plate.

(2) The town or storage lot shall request that the Bureau advise the town or storage lot of the name and most recent address of the person who owns or holds a lien on the vehicle.

(Ord. 1995-8, passed 9-21-1995)

§ 94.09 DISPOSAL OF VEHICLE BY BUREAU.

(A) This section applies to the Bureau. If the person who owns or holds a lien upon a vehicle does not appear within 15 days after the mailing of a notice, the Bureau shall sell the vehicle or parts to the highest bidder at a public sale. Notice of the sale shall be given under I.C. 5-3-1, except only 1 newspaper insertion 1 week before the public sale is required.

(B) If a vehicle or parts are in such a condition that vehicle identification numbers or other means of identification are not available to determine the person who owns or holds a lien on the vehicle, the vehicle may be disposed of without notice.

(Ord. 1995-8, passed 9-21-1995)

§ 94.10 BILL OF SALE.

A person who purchases a vehicle under § 94.09 or I.C. 9-22-1-23 shall be furnished a bill of sale for each abandoned vehicle sold by the Bureau or public agency upon paying the fee for a bill of sale under I.C. 9-29-7. A person who purchases a vehicle under § 94.09 or I.C. 9-22-1-23 must present evidence from a law enforcement agency that the vehicle purchased is road-worthy, if applicable; and pay the appropriate title fee under I.C. 9-29-4 in order to obtain a certificate of title under I.C. 9-17 for the vehicle.

(Ord. 1995-8, passed 9-21-1995)

§ 94.11 FACILITATION OF REMOVAL OF ABANDONED VEHICLES.

To facilitate the removal of abandoned vehicles or parts, a public agency may employ personnel; acquire equipment, property and facilities; and enter into towing contracts for the removal, storage, and disposition of abandoned vehicles and parts. The Town Council may, by ordinance, establish procedures to carry out this section.

(Ord. 1995-8, passed 9-21-1995)

§ 94.12 ABANDONED VEHICLES ON PRIVATE PROPERTY.

Upon complaint of a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in §§ 94.07 and 94.08.

(Ord. 1995-8, passed 9-21-1995)

§ 94.13 LIABILITY FOR LOSS OR DAMAGE.

The following are not liable for loss or damage to a vehicle or parts occurring during the removal, storage, or disposition of a vehicle or parts under this chapter:

(A) A person who owns, leases, or occupies property from which an abandoned vehicle or parts are removed;

(B) A public agency;

(C) A towing service; or

(D) An automobile scrap yard.

(Ord. 1995-8, passed 9-21-1995)

§ 94.14 PROCEEDS OF SALE APPLIED TO COSTS.

(A) The costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on a vehicle shall be paid from the abandoned vehicle account under I.C. 9-22-1-30. The charge payable by the person who owns or holds a lien on a vehicle for towing, storing, or removing an abandoned vehicle or parts may not exceed the limits established by ordinance adopted under I.C. 9-22-1-30.

(B) The proceeds of sale of an abandoned vehicle or parts in accordance with §§ 94.07 and

94.08 shall be credited against all costs incident to the removal, storage and disposal of the vehicle.
(Ord. 1995-8, passed 9-21-1995)

§ 94.15 LIMITATION OF COSTS.

In no event shall the owner of the motor vehicle be charged for towing or removing the vehicle a sum in excess of \$40, nor shall the cost of storage exceed the sum of \$15 per day. The storage charge shall be limited to the number of days of actual storage.
(Ord. 1995-8, passed 9-21-1995)

§ 94.16 PROCEEDS OF SALE; ABANDONED VEHICLE FUND.

(A) This section applies to sales of abandoned vehicles or parts by local units.

(B) The proceeds from the sale of abandoned vehicles or parts, including charges for bills of sale, and money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles shall be placed by the Clerk-Treasurer in the unit's abandoned vehicle fund.

(C) The costs incurred by a public agency in administering this chapter shall be paid from the abandoned vehicle fund.

(D) The Town Council shall annually appropriate sufficient money to the fund to carry out this chapter. Money remaining in the fund at the end of a year remains in the fund and does not revert to the General Fund.
(Ord. 1995-8, passed 9-21-1995)

Statutory reference:

Similar provisions, see I.C. 9-22-1-27

§ 94.17 EXCEPTIONS.

This chapter does not apply to the following:

(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 vehicle sale lot or at a commercial vehicle servicing facility.

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

(E) A vehicle registered and licensed under I.C. 9-18-12 as an antique vehicle.
(Ord. 1995-8, passed 9-21-1995)

CHAPTER 95: TREES

Section

- 95.01 Authority and power
- 95.02 Town's right to plant, maintain, and remove trees on private property

- 95.99 Penalty

§ 95.02 TOWN'S RIGHT TO PLANT, MAINTAIN, AND REMOVE TREES ON PRIVATE PROPERTY.

(A) *Right to enter private property.* The Town Administration, upon the advice of the Town Tree Board or an Indiana Department of Natural Resources Forester, has authority to enter onto private property for the purpose of inspecting a public tree when the tree cannot be adequately inspected from public property, or for the purpose of inspecting a private tree believed to be a nuisance.

(B) *Duty to inspect for and control insect and disease problems.*

(1) The Town Administration may inspect any trees, shrubs, vines, hedges, plants, logs, or branches existing or growing upon any property within the town. The Town Administration shall conduct surveys to determine if any destructive or communicable disease or other pestilence exists which may be detrimental to or endanger the good health and well being of trees or other plant life in the town.

(2) The town may, upon the advice of the Town Tree Board or an Indiana Department of Natural Resources Forester remove diseased or damaged trees from private property.

(C) *Order required for a notice to take action.*

(1) Upon discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, hedges, or shrubbery, or threatens to spread disease or insect infestations, the Town Administration shall at once cause written notice to be served upon the owner of

§ 95.01 AUTHORITY AND POWER.

(A) Town's right to plant, maintain, and remove trees on public property. It is the public policy of the town to maintain existing trees and to provide for and encourage the planting of new trees within the town to the greatest extent possible.

(B) The Town Council, upon the advice of an Indiana Department of Natural Resources Forester or the Town Tree Board, shall have the authority and jurisdiction of regulating, but does not have the obligation, to plant, maintain, or remove trees, plants, and shrubs on streets and other publicly owned and right-of-way to ensure safety or preserve the aesthetics of such public sites. Also, the Town Administration may remove or cause or order to be removed, any tree or part thereof which is an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infected with any injurious fungus, insect, or other pest.

(C) Private citizens desiring to plant trees (to be deemed to include shrubs and bushes) in the public right-of-way abutting their property shall comply with the terms and conditions of this chapter and such trees shall, once planted, be strictly subject to management by the town to include pruning and removal as necessary to protect the public health.
(Ord. 2005-04, passed 3-16-2006)

the property or his or her agent upon which such diseased or infested trees, hedges, or shrubs are situated.

(2) Such notice shall state the actions that the property owner shall undertake to abate the nuisance; and the notices shall require such property owner(s) to eradicate, remove, or otherwise control such conditions within 30 days to be specified in such notice.

(3) The Town Administration shall have the authority and it shall be its duty to order the trimming, preservation, or removal of trees or plants upon private property when it may find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.

(D) *Failure to comply with a notice to take action.* If the owner fails to comply with such notice, the Town Administration shall cause such trees or shrubs to be pruned, treated, or removed as necessary to remove the obstruction or threat of communicable disease or insect infestation, and assess the property owner for the cost of services in the same manner in which the cost of a nuisance abatement under §§ 92.01 and 92.02 may be assessed.

(E) *Cutting, killing or removing trees from private property.* Prior to the cutting, killing or removal of any tree in excess of 8 inches bole diameter measured 1 foot from the soil line and located on private property in a B1, B2 or B3 zone, the property owner must first obtain a permit from the Town Administration. Upon receiving an application for a tree cutting, killing or removal permit, the Town Administration shall forward said application to the Tree Board. The Tree Board shall grant or deny the application for permit at its next regularly scheduled meeting.

(F) *Landscaping.*

(1) Subdivision and development plans shall be designed to preserve natural vegetation areas as much as possible. Streets, parcels, structures, and parking areas shall be made out to minimize the

destruction of wooded areas or outstanding tree specimens. Developers of land are encouraged to designate wooded areas as park reserves.

(2) The Development Review Commission shall consider a landscape plan as part of its review of any subdivision plat, development plan, or site plan application.

(3) The Design Review Commission shall submit all subdivision development landscape plans within its jurisdiction for review and approval by the Town Tree Board established by §§ 33.40 through 33.48.

(G) *Protection from mutilation and damage.*

(1) No person shall be allowed to post any bills, advertisements, cards, or notices of any kind upon any trees, placed or growing for ornamental use, in any street or square within the limits of the town, without the permission of the Town Administration, if such tree is within the limits of a public place.

(2) Each public utility company shall exercise reasonable diligence in the maintenance of its plant construction so as to avoid the damage of trees.

(3) It shall be unlawful for any person, firm, or public utility to place salt, brine, petroleum products, herbicides, or any other substances in such amounts as to be toxic or injurious to the health, growth, or vitality of any tree or shrub in any public area or public right-of-way.

(4) Heavy equipment and other implements, machines, and tools shall be used or operated in such a manner as to not damage or destroy any tree, shrub, or plant in any public area or public right-of-way.

(5) Unless specifically authorized by the Town Administration, no person shall intentionally damage, cut, carve, transplant, or remove any tree on public property or on any public place of right-of-way.

(6) It shall be unlawful for any person, firm, or corporation to cut or break any branch of any tree or shrub or injure in any way the bark of said tree or shrub growing on public property.

(7) No person shall remove, or substantially alter the habit of any tree located within a public right-of-way, or in a park, without first obtaining a permit from the Town Administration.

(H) *Enforcement.*

(1) The Town Administration shall have the power to promulgate and enforce rules, regulations, and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges, and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the town.

(2) No person shall unreasonably hinder, prevent, delay, or interfere with the Town Administration while engaged in the execution and/or enforcement of this chapter.

(I) *Appeals.* Any person or party aggrieved by an act or decision of the Town Administration, the Development Review Commission or the Tree Board shall have a right to appeal that matter to the Town Council and shall be entitled to a judicial review of any decision on said appeal by the Town Council in accordance with I.C. 4-22-1.

(Ord. 2005-04, passed 3-16-2006) Penalty, see § 95.99

§ 95.99 PENALTY.

(A) *Violations.*

(1) Any person who shall injure, damage, or destroy any tree, shrub, vine, hedge, or other plant situated upon public property or right-of-way of any street, alley, sidewalk, or other public place within the town shall promptly notify the Town Administration of such occurrence and shall, within such reasonable

time as specified by the Town Administration, repair or replace the damaged vegetation to the satisfaction of the Town Administration. Any replacement planting shall be no less than 50% of the stump diameter of the replaced tree.

(2) It is prohibited for any person to violate the provisions of this chapter, including failure to comply with any notice or decision of the Town Administration following appeal.

(3) The town must be compensated for damage to or the loss of any tree as determined in accordance with this chapter. If, as a result of the violation of any provision of this chapter, the injury, mutilation, or death of a tree, shrub, or other plant located on town-owned property, public property, or right-of-way is caused, the cost of repair and replacement, or the appraised dollar value of such tree, shrub, or other plant shall be borne by the party in violation.

(4) In addition to the remedies set out above, the violator shall be subject to a fine not to exceed \$500 per violation.

(B) *Separate violations.*

(1) Each tree affected by noncompliance with this article shall constitute a separate violation.

(2) Each day during which any violations of the provisions of this chapter shall occur or continue will constitute a separate violation.

(3) The owner of any property where any violation exists and any builder, contractor, or agent who may have assisted in the commission of any such violation, shall be guilty of a separate violation.

(C) *Assessment of claim.* In the event that a violation is not abated by the date specified in the notice, the Town Administration is authorized to cause the abatement of the violation. The reasonable cost of such abatement shall be filed and a lien against the property on which the violation was located.

(Ord. 2005-04, passed 3-16-2006)

