

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

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

ABANDON. To forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his agent. Such abandonment shall constitute the relinquishment of all rights and claims by the owner to such animal.

DOMESTIC ANIMAL. Cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry or other bird, and any animals of the bovine, equine, ovine, caprine, porcine, canine, feline, or avian species.

(IC 15-2.1-2-15)

OWNER. Every person having a right of property to an animal and every person who keeps or harbors an animal, has it in his care, or permits it to remain on or about the premises owned or occupied by him.

§ 90.02 CRUELTY TO ANIMALS.

(A) A person is guilty of cruelty to animals when except as authorized by law he is intentionally or wantonly:

(1) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, causing it to fight for pleasure or profit, mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means; or

(2) Subjects any animal in his custody to cruel neglect; or

(3) Kills any animal.

(B) Nothing in this section shall apply to the killing of animals:

(1) Pursuant to a license to hunt, fish, or trap;

(2) Incident to the processing as food or for other commercial purposes;

(3) For humane purposes;

(4) For any other purpose authorized by law.

Penalty, see § 90.99

Statutory reference:

Coloring birds or rabbits, see IC 15-2.1-21-13

§ 90.03 ABANDONING DOMESTIC ANIMALS PROHIBITED.

No owner of a domestic animal shall abandon the animal.

Penalty, see § 90.99

§ 90.04 DESTRUCTION OF ABANDONED AND SUFFERING ANIMAL.

Any peace officer may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured, diseased, or suffering past recovery for any useful purpose.

§ 90.05 PROHIBITION OF THE OPERATION OF MOTOR VEHICLES AND HUNTING AT LARGE; EXCEPTIONS.

(A) The operation of motorized vehicles and the hunting by any means for purposes of confining, filling, or otherwise, wounding of any wild or domestic animal or fowl running at large upon the property of the town under the jurisdiction of the Town Park Board is found and determined to be a public nuisance and a menace to the health, safety, and welfare of the inhabitants of the town.

(B) It shall be unlawful for any person to operate any motorized vehicle or to hunt, by any means, for purposes of confining, killing, or otherwise, wounding any wild or domestic animal or fowl running at large upon the property of the town under the jurisdiction of the Town Park Board.

(C) This section shall not apply to any duly authorized law enforcement officer acting according to his duty for the safety and protection of the persons and property, both real and personal, located upon the property of the town nor to any person acting for and on behalf and with the specific express authority of the Town Park Board.

(Ord. 8201, passed 3-8-82) Penalty, see § 90.99

§ 90.06 SETTING OF TRAPS; EXCEPTIONS.

(A) The existence of any form of trap set upon the property belonging to the town, which has as its design or purpose the capture or killing of any wild or domestic animal or fowl running at large is found and determined to be a public nuisance and a menace to the health, safety, and welfare of the inhabitants of the town.

(B) It shall be unlawful for any person to place, set or allow to be placed or set upon the property belonging to the town, any trapping device which has as its purpose or design the capture or killing of any animal or fowl, domestic or wild, running at large, whether such trapping shall be for any purpose including domestic and commercial.

(C) This section shall not apply to any duly authorized law enforcement officer acting according to his duty for the safety and protection of the persons and property, both real and personal, located within the town.

(Ord. 8202, passed 3-8-82) Penalty, see § 90.99

DOGS

§ 90.15 LICENSE REQUIRED; UNLAWFUL CONCEALMENT OF ANIMALS SUBJECT TO REGULATIONS.

(A) It shall be unlawful for any person to own or harbor a dog over the age of six months unless such dog is licensed by the town as provided by §§ 90.15 through 90.22.

(B) It shall be unlawful for any person to conceal any animal, or falsely to deny ownership of any animal owned or harbored by him, from any official properly authorized to enforce the provisions of this subchapter.

(Ord. 8005, passed 7-14-80) Penalty, see § 90.99

§ 90.16 DURATION OF LICENSE.

All town dog licenses shall be effective for 24 months from the period beginning October 1 and ending September 30.

(Ord. 8005, passed 7-14-80)

§ 90.17 ISSUANCE OF LICENSE.

Town dog licenses shall be issued under the supervision of the Town Clerk-Treasurer at such places at such times as may be designated by the Clerk-Treasurer; provided, however, that the Clerk-Treasurer is authorized to permit the issuance of town dog licenses for the next ensuing license period on and after the passage of §§ 90.15 through 90.22.

(Ord. 8005, passed 7-14-80)

§ 90.18 DUTY OF OWNER TO OBTAIN LICENSE; NO FEE REQUIRED FOR GUIDE DOG.

(A) Every person owning or harboring a dog within the town shall on or before October 1 of each biannual year (October 1, 1980, October 1, 1982, and so on) or within ten days after any such dog becomes six months of age, obtain a town dog license for each dog so owned or harbored. The fee for all such individual town dog licenses shall be \$5 for a two-year license, except that no fee shall be charged for the licensing of any guide dog, trained to aid the blind and actually in use for such purposes.

(B) If application is made more than six months past the biannual licensing date, but more than six months prior to date required for relicensing, the license fee shall be \$2.50. The Town Council may, by resolution adopted in regular session, increase or diminish such fees in amount not to exceed the cost of administering and enforcing §§ 90.15 through 90.22.

(Ord. 8005, passed 7-14-80) Penalty, see § 90.99

§ 90.19 INOCULATION PREREQUISITE TO ISSUANCE.

On application for any annual license issued for any dog, the owner thereof shall exhibit a certificate showing the dog to have been inoculated against rabies within the preceding 12-month period by a duly licensed veterinarian.

(Ord. 8005, passed 7-14-80)

Cross-reference:

Rabies, see § 90.29

§ 90.20 LICENSE TAG TO BE ATTACHED TO DOG; TRANSFERABILITY.

(A) Individual town license tags shall be attached to the dog for which issued, and shall pass with the dog. Upon the change of ownership of any dog, every person purchasing or otherwise acquiring such dog, shall notify the Clerk-Treasurer in writing of such change in ownership, in order that the license records of the town may be properly adjusted. No tag shall be transferred from one dog to another dog.

(B) It shall be unlawful for the owner of any dog to permit such dog to be at large, except as otherwise provided for by town ordinance, without having its individual town dog license attached to a collar or harness worn by the dog. Town dog license tags shall not be obscured or defaced in any way.

(Ord. 8005, passed 7-14-80) Penalty, see § 90.99

§ 90.21 LOSS OF TAG; FEE FOR DUPLICATE.

If any town license tag is lost, the owner of the dog for which the town dog license was obtained may procure a duplicate town dog license for use, during the balance of the 24-month period, upon making application therefor, and paying a fee of \$1 to the Clerk-Treasurer.

(Ord. 8005, passed 7-14-80)

§ 90.22 REMOVAL OF TAG FROM COLLAR.

It shall be unlawful for any person other than the owner of the dog or his agent, to remove any town dog license from the dog.

(Ord. 8005, passed 7-14-80) Penalty, see § 90.99

§ 90.23 COLLAR AND TAG.

Every dog over the age of six months, whether kennel licensed or individually licensed, and if individually licensed, whether on or off the owner's premises, shall, at all times, wear a durable collar, to which the license tag shall be securely attached. The tag shall not be used on the collar of any other dog than the one for which it was issued.

(Ord. passed 3-8-76) Penalty, see § 90.99

§ 90.24 RUNNING AT LARGE.

(A) No dog, whether licensed or unlicensed, muzzled or not muzzled, shall be allowed upon the streets of the town or in public places or on public conveyances, unless on a suitable dependable lead not longer than eight feet, or a retractable lead with locking mechanism of not longer than 25 feet but at all times within reasonable control of its owner, or other person known to the dog with the owner's consent, to protect the persons and property of all others.

(B) All dogs, at all times, when off the property of their owner, must be on a lead.

(C) In no event, shall any dog be allowed on any town public beach, whether or not on a lead.

(Ord. passed 3-8-76; Am. Ord. 0002, passed 9-11-00; Am. Ord. 1003, passed 8-9-10) Penalty, see § 90.99

§ 90.25 DOG WARDEN.

A dog warden shall be employed by the town, and he shall have such special police powers as may be necessary for the enforcement of the provisions of this subchapter. Compensation of the dog warden shall be paid by the Town Council, commensurate with the amount of time and effort necessary to be expended by the dog warden.

(Ord. passed 3-8-76)

§ 90.26 IMPOUNDMENT; NOTIFICATION.

Any dog running at large within the provisions of § 90.24, shall be seized promptly by the dog warden or by any police officer of the town and placed with the Michigan City Humane Society. The owner of the dog, whether by telephone or other means, and not later than on the day following that on which the dog is seized, shall be notified that such dog has been seized and where it is impounded, and that such dog is awaiting redemption on or before a certain specified date, namely three days after date of seizure. Date of seizure not to be counted in the three days.

(Ord. passed 3-8-76)

§ 90.27 RELEASE AND REDEMPTION; DESTRUCTION.

(A) (1) No dog seized and impounded as provided in § 90.26, shall be redeemed or released to anyone except the owner or his duly authorized agent, and then only upon payment of a fine of \$25 for the first offense, a fine of \$50 for the second offense and a fine of \$100 for each offense after the second offense, together with any fees which may be incurred as a result of the dog being picked up and placed with the Humane Society until claimed by the owner or his authorized agent.

(2) If the dog is over six months of age and has not had its rabies vaccination, the dog will be vaccinated and the owner will be responsible for payment of the vaccination before its release.

(3) The fine and impounding fees shall be paid to the Town Clerk, who will give the owner or his authorized agent a receipt for the payment to be shown to the Humane Society in order to pick up the dog.

(B) If any impounded dog shall not be redeemed and released to the owner or agent and the required fees and costs paid prior to the time of release, on or before the third calendar day after the day of seizure, such dog shall be put to death humanely by a qualified veterinarian recommended by the Humane Society, and except that a dog impounded on account of being or reasonably suspected of being rabid, or having been bitten by a rabid dog or other animal, shall be held for a period of 15 days after seizure unless death occurs otherwise than by destruction before expiration of 15 days.

(Ord. passed 3-8-76; Am. Ord. 9809, passed 9-14-98)

§ 90.28 RECORD KEPT OF IMPOUNDED DOGS.

(A) The dog warden shall, without fail, keep a careful record of all dogs seized or received by him, describing each dog carefully and the disposition of such dog, and such report shall be delivered to the Clerk of the Town Council on or before the Friday preceding the second Monday of each month, and shall report daily to the Town Clerk as to the number and type of dogs picked up.

(B) (1) If any owner shall have lost his dog, whether licensed or unlicensed, and shall make inquiry of the dog warden concerning the whereabouts of such dog, and at the time of inquiry, such dog has not been seized or impounded, the owner shall give to the dog warden, and the latter shall make a written record of, a full and complete description of such dog.

(2) If, at any time, within 30 days after making of such inquiry and giving of such description, such dog should be seized and impounded by the dog warden, he shall promptly notify the owner who gave the description of such dog, such notice to be given in the same manner as the notice provided for in § 90.26. The owner of such dog may thereupon redeem and obtain the release of the dog in the same manner, and by complying with all of the provisions and paying any fees that have been necessitated for housing by the Humane Society because of the dog warden's inability to contact the owner to pick up the dog immediately.

(C) However, if such dog is not seized or impounded by the dog warden within 30 days after the making of such inquiry and giving of such description by the owner, the dog warden shall not be required to give the notice as herein provided, unless the owner shall renew his inquiry before the expiration of each successive 30-day period occurring after he has initially made inquiry and given the description as hereinbefore provided.

(Ord. passed 3-8-76)

§ 90.29 RABIES.

(A) If a dog is believed to have rabies or has been bitten by a dog suspected of having rabies, such dog shall be confined by a leash or chain on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period that such dog has been exposed to rabies and at his discretion, the dog warden empowered to have such

dog removed from the owner's premises to a veterinary hospital and there placed under observation of a veterinarian for a period of 15 days at the expense of the owner.

(B) No person knowing or suspecting a dog has rabies shall allow such dog to be taken off his premises or beyond the limits of the town without the written permission of the dog warden.

(C) Every owner, or other person, upon ascertaining a dog is rabid shall immediately notify the dog warden or a policeman, who shall either remove the dog to a veterinary hospital or summarily destroy it.

(Ord. passed 3-8-76) Penalty, see § 90.99

Cross-reference:

Inoculation prerequisite to issuance of license, see § 90.19

Statutory reference:

Municipal power to control rabies, see IC 15-2.1-6-13

Rabies control in general, see IC 15-2.1-6-1 - 15-2.1-6-13

§ 90.30 NOISE DISTURBANCE.

No person shall keep or harbor or own any dog which by loud or frequent or habitual barking, yelping, or howling, shall cause annoyance to the neighborhood or to people passing the streets.

(Ord. passed 10-11-71) Penalty, see § 90.99

§ 90.31 ANIMAL EXCRETA.

(A) The owner of every domestic animal shall be responsible for the immediate removal of any excreta deposited by his animal on public property or on private property of another, excepting a blind person working with a guide dog.

(B) The owner or agent walking its domestic animal outside of its real property limits must have in its possession a shovel, plastic bag or similar device to pick up the animal's excrement if deposited while on the walk.

(Ord. 0002, passed 9-11-00)

§ 90.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no penalty is otherwise provided, shall be fined not more than \$100 for each offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(B) Any person violating any of the provisions of §§ 90.05 and 90.06 shall be fined \$500 for the first offense and \$1,000 for the second and all subsequent offenses to be paid to the office of the Town Clerk-Treasurer.

(Ord. 8201, passed 3-8-82 and Ord. 8202, passed 3-8-82)

(C) In the event that any violations of §§ 90.15 through 90.22 are found to exist, the authorized agent for the town shall have the authority to capture and impound the dog not

properly licensed, by any means deemed necessary to effectuate such capture and impoundment, and the owner of the dog shall be responsible for payment of any impoundment fees, together with a fine in the sum of \$10 per violation.

(Ord. 8005, passed 7-14-80)

(D) Any person violating any of the provisions of § 90.29 shall be fined \$25, to be paid to the office of the Town Clerk.

(Ord. passed 3-8-76)

(E) Any person who violates § 90.30 shall be fined \$50 for a first offense and \$100 for a second and subsequent offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(F) Any person who violates § 90.31 shall be deemed guilty of an offense and shall be punished by a fine of \$50. Each day a violation continues, it shall be deemed a separate offense. (Ord. passed 10-11-71; Am. Ord. 9809, passed 9-14-98; Am. Ord. 0002, passed 9-11-00; Am. Ord. 15-07, passed 7-13-15)

CHAPTER 91: FIREWORKS, EXPLOSIVES, FIRE PREVENTION

Section

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91.02	Fireworks display; certificate of insurance
91.03	Storage of explosives
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91.06	Use of consumer fireworks
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§ 91.01 DEFINITIONS.

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

EXPLOSIVE. Any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion; that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

(IC 22-11-13-1)

FIREWORKS. Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. **FIREWORKS** consist of **COMMON FIREWORKS** and **SPECIAL FIREWORKS**. The following items are excluded from the definition of fireworks: model rockets; toy pistol caps; emergency signal flares;

matches; fixed ammunition for firearms; ammunition components intended for use in firearms, muzzle loading cannons, or small arms; shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.

(1) **COMMON FIREWORK.** A small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing 50 milligrams or less of explosive composition, and aerial devices containing 130 milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect.

(a) **COMMON FIREWORKS** include:

1. Ground and hand-held sparkling devices, which include dipped stick, certain wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;
2. Aerial devices, which include sky rockets, missile-type rockets, helicopter or aerial spinners, roman candles, mines, and shells;
3. Ground audible devices, which include fire-crackers, salutes, and chasers; and
4. Firework devices containing combinations of two or more of the effects described in the preceding three divisions.

(b) **COMMON FIREWORKS** do not include the following novelties and trick noisemakers:

1. Snakes or glow worms.
2. Smoke devices.
3. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item.
4. Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

(2) **SPECIAL FIREWORKS.** Fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as “common fireworks.”

(IC 22-11-14-1)

§ 91.02 FIREWORKS DISPLAY; CERTIFICATE OF INSURANCE.

(A) Supervised public fireworks displays are permitted subject to the provisions of IC 22-11-14-2.

(B) The governing body of the municipality shall require a certificate of insurance conditioned for the payment of all damages which may be caused either to a person or persons in an amount of not less than \$10,000 and to property in an amount of not less than \$10,000, by reason of the licensed display, and arising from any acts of the licensee, his agents, employees,

or subcontractors. However, the governing body of the municipality may in its discretion require additional amounts of insurance coverage not to exceed \$100,000 for damages caused to a person or persons, or \$100,000 for damage to property.

(IC 22-11-14-3)

Statutory reference:

Fireworks generally, see IC 22-11-14-1 - 22-11-14-6

§ 91.03 STORAGE OF EXPLOSIVES.

It shall be unlawful to store at any time within the municipality a quantity of gunpowder or other similar explosive weighing in excess of 100 pounds without the express authorization of the legislative body.

Penalty, see § 91.99

Statutory reference:

Explosives generally, see IC 22-11-13-1 - 22-11-13-28

Power of municipality to restrict explosives, see IC 22-11-13-19

§ 91.04 BLASTING PERMIT.

No person shall cause a blast to occur within the municipality without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from the executive or other proper administrative officer. The executive or other proper administrative officer before granting such permit may require the applicant to provide a bond to indemnify the municipality and all other persons against injury or damages which might result from the proposed blasting.

Penalty, see § 91.99

§ 91.05 STORAGE OF FLAMMABLES.

(A) All flammable or combustible materials shall be arranged and stored in a manner which affords reasonable safety against the danger of fire.

(B) Waste paper, ashes, oil rags, waste rags, excelsior, or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for such hazardous materials.

(C) No matter shall be stored or arranged in a manner which impedes or prevents access to or exit from any premises in case of fire.

Penalty, see § 91.99

Statutory reference:

Municipal fire prevention, see IC 36-8-2-3

§ 91.06 USE OF CONSUMER FIREWORKS.

Unless otherwise provided for in this chapter, no consumer fireworks shall be discharged within the municipal boundaries of the Town of Long Beach, Indiana, except:

- (A) Between the hours of 5:00 p.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9;
- (B) Between the hours of 10:00 a.m. and 12:00 midnight on July 4; and
- (C) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

(Ord. 0705, passed 9-10-07)

§ 91.99 PENALTY.

Any person who violates Chapter 91 where no other penalty is specifically provided shall be fined \$250 for each offense if paid within 30 days following the issuance of a citation. Failure to pay the violation or fine within 30 days will be subject to § 10.99, General Penalty. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(Ord. 15-07, passed 7-13-15)

CHAPTER 92: LITTERING

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- 92.01 Throwing litter from vehicle
- 92.02 Tracking foreign matter on streets
- 92.03 Hauling loose material
- 92.04 Sweeping litter into gutters
- 92.05 Merchants to keep sidewalks free of litter
- 92.06 Posting notices
- 92.07 Litter on private property
- 92.08 Prohibition of glass containers on public beaches

- 92.99 Penalty

Statutory reference:

Power to regulate for the public health, see IC 36-8-2-4

§ 92.01 THROWING LITTER FROM 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 municipality or upon private property.

Penalty, see § 92.99

§ 92.02 TRACKING FOREIGN MATTER ON STREETS.

No person shall drive or move any vehicle or truck within the municipality, the wheels or tires of which carry onto or deposit in any street, alley, or other public place, mud, dirt, sticky substances, litter, or foreign matter of any kind.

Penalty, see § 92.99

§ 92.03 HAULING LOOSE MATERIAL.

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt, or loose material of any kind in or upon any street, alley, sidewalk, or other public place shall haul it, or cause it to be hauled in vehicles provided with tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown, or deposited upon any street, alley, sidewalk, or other public place. Any materials which fall from, or which are thrown, blown, or deposited from any vehicle upon any street, alley, sidewalk, or other public place, shall be removed immediately by the person in charge of the vehicle.

Penalty, see § 92.99

§ 92.04 SWEEPING LITTER INTO GUTTERS.

No person shall sweep into or deposit in any gutter, street, or other public place within the municipality the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

Penalty, see § 92.99

§ 92.05 MERCHANTS TO KEEP SIDEWALKS FREE OF LITTER.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place within the municipality the accumulation of litter from any building or lot or from any public or private sidewalk. Persons owning or occupying places of business within the municipality shall keep the sidewalk in front of their business premises free of litter.

Penalty, see § 92.99

§ 92.06 POSTING NOTICES.

No person shall post or affix any notice, poster, or other paper or device which is calculated to attract the attention of the public, to any lamp post, public utility pole, or shade tree, or upon any public structure or building, except as may be authorized by law.

Penalty, see § 92.99

§ 92.07 LITTER ON PRIVATE PROPERTY.

(A) No person shall throw or deposit litter on any occupied private property within the municipality, whether owned by that person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon streets, sidewalks, or other public places, or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the municipality whether owned by that person or not.

Penalty, see § 92.99

§ 92.08 PROHIBITION OF GLASS CONTAINERS ON PUBLIC BEACHES.

No person shall possess or cause to be brought upon the public beaches within the town, any bottles or other glass containers.

(Ord. 1005, passed 10-11-10) Penalty, see § 92.99

§ 92.99 PENALTY.

Any person who violates Chapter 92 where no other penalty is specifically provided shall be fined \$100 for each offense if paid within 30 days following the issuance of a citation. Failure to pay the violation or fine within 30 days will be subject to § 10.99, General Penalty. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(Ord. 15-07, passed 7-13-15)

CHAPTER 93: NUISANCES

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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.

DWELLING. Any part of any building or its premises used as a place of residence or habitation or for sleeping by any person.

NUISANCE. Public nuisance.

SCRAP METAL. Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose.

UNFIT FOR HUMAN HABITATION. Dangerous or detrimental to life or health because of: want of repair; defects in the drainage, plumbing, lighting, ventilation, or construction; infection with contagious disease; or the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling.

§ 93.02 COMMON LAW AND STATUTORY NUISANCES.

In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the common law and statutes of Indiana as public nuisances may be treated as such and be proceeded against as is provided in this chapter or in accordance with any other provision of law.

Penalty, see § 93.99

§ 93.03 CERTAIN CONDITIONS DECLARED A NUISANCE.

It shall be unlawful for the owner, occupant, or person having control or management of any land within the municipality to permit a public nuisance to develop thereon. The following conditions are declared to be public nuisances:

(A) *Dwellings unfit for human habitation.* The erection, use, or maintenance of a dwelling which is unfit for human habitation.

(B) *Dangerous buildings adjoining streets.* Any building, house, or structure so out of repair and dilapidated that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property using or being upon the streets or public way of the municipality adjoining the premises, by reason of the collapse of the building, house, or structure or by the falling of parts thereof or of objects therefrom.

(C) *Dangerous trees or stacks adjoining street.* Any tree, stack, or other object standing in such a condition that it will, if the condition is allowed to continue, endanger the life,

limb, or property of, or cause hurt, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof.

(D) *Dilapidated buildings.* Any building, house, or structure which is so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire, or which due to lack of adequate maintenance or neglect, endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.

(E) *Accumulation of rubbish.* An accumulation on any premises of filth, refuse, trash, garbage, or other waste material which endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger of its catching or communicating fire, its attracting and propagating vermin, rodents, or insects, or its blowing of rubbish into any street, sidewalk, or property of another.

(F) *Noxious odors or smoke.* Emission into the surrounding atmosphere of odor, dust, smoke, or other matter which renders ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.

(G) *Noise.* Emission of noise which is noxious enough to destroy the enjoyment of dwellings or other uses of property in the vicinity by interfering with the ordinary comforts of human existence.

(H) *Storage of explosives or combustible material.* The storage of combustible or explosive material which creates a safety hazard to other property or persons in the vicinity.

(I) *Open wells.* The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private premises in any open or unfenced lot or place.

(J) *Trees and shrubbery obstructing streets and sidewalks.* The growing and maintenance of trees with less than 14 feet clearance over streets or less than eight feet over sidewalks, or the growing and maintenance of shrubbery in excess of three feet in height within the radius of 20 feet from the point where the curb line of any street intersects the curb line of another street. No shrub shall be planted between the curb line and the property line of any street within a radius of 20 feet from the point where the curb line of any street intersects with the curb line of another street.

(K) *Scrap metal.* The storage of scrap metal within the municipal limits except on premises authorized by the municipality for such purposes.

Penalty, see § 93.99

Cross-reference:

Abandoned vehicles, see Ch. 95

Unsafe Building Law, see §§ 93.20 through 93.23

Statutory reference:

Municipal regulation of air pollution, see IC 36-8-2-8

Municipal regulation of building improvements, see IC 36-7-2-5

Municipal regulation of sound pollution, see IC 36-8-2-8

§ 93.04 ABATEMENT PROCEDURE.

(A) It shall be the duty of an officer designated by the legislative body, to serve or cause to be served a notice upon all persons holding a substantial interest in any premises on which there is kept or maintained any nuisance in violation of the provisions of this chapter and to demand the abatement of the nuisance within a reasonable time, stated in the notice. Notice shall be served upon persons by certified mail, but if the whereabouts of the persons is unknown and cannot be ascertained by the officer in the exercise of reasonable diligence, the officer shall make an affidavit to that effect, and the serving of notice may be made by publication in a newspaper of general circulation for two consecutive days. A copy of the notice shall also be posted in a conspicuous place on the premises affected by the notice.

(B) If the person so served does not abate the nuisance within the reasonable period stated in the notice, the municipality may proceed to abate the nuisance, keeping an account of the expense of the abatement, and the expense shall be charged and paid by the owner or occupant.

(C) Charges for nuisance abatement shall be a lien upon the premises.

Statutory reference:

Violations on private property; lien authorized, see IC 36-1-6-2

§ 93.05 NUISANCE CREATED BY OTHERS.

For the purposes of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware of.

§ 93.06 SUSPENSION OF LICENSE.

(A) Whenever it is brought to the attention of the legislative body that a nuisance exists and the legislative body deems that there is an immediate threat to the public health, safety, welfare, the legislative body may by majority vote suspend the license of any person conducting business upon the premises where the nuisance exists.

(B) The municipality shall cause notice of the suspension to be served personally upon the licensee or at the premises where the nuisance exists.

(C) Upon application of the licensee, the legislative body may remove the suspension upon such terms as it may direct.

§ 93.07 WEEDS.

(A) The legislative body of the municipality may require the owners of real property to cut and remove weeds or other rank vegetation growing on that property. A five-day written notice to remove the vegetation must be issued by the fiscal officer of the municipality and

served by a law enforcement officer upon the landowner, if he is a resident, or by registered mail addressed to his last known address, if he is a nonresident.

(B) If the landowner fails to remove the vegetation within the time prescribed, the municipality may remove the vegetation. The fiscal officer must make a certified statement of the actual cost incurred by the municipality in the removal. The statement must be delivered to the owner of the property by a law enforcement officer, or by registered mail, and the owner shall pay the amount to the fiscal officer. If the landowner fails to pay the amount within ten days after receiving the statement, a certified copy of the statement of costs shall be filed in the office of the Auditor of the county in which the property is located. The Auditor shall place the amount claimed on the tax duplicate against the property affected by the work, and the amount shall be collected as taxes are collected and shall be disbursed to the general fund of the municipality.

(IC 36-7-10-3)

§ 93.08 DISCHARGE OF FIREARMS WITHIN TOWN LIMITS; EXCEPTIONS.

(A) The discharge of firearms, BB guns, compressed air or gas guns, or pellet guns or cross and compound bow and arrows within the town is found and determined to be a public nuisance and a menace to the health, safety, and welfare of the inhabitants of the town.

(B) It shall be unlawful for any person to discharge a firearm, BB gun, compressed air or gas gun, or pellet gun or cross and compound bow and arrow within the corporate limits of the town.

(C) This section shall not apply to cases in which firearms, BB guns, compressed air or gas guns, or pellet guns or cross and compound bow and arrows are used in self-defense in the discharge of official duty or when lawfully authorized.

(Ord. 8103, passed 7-13-81) Penalty, see § 93.99

UNSAFE BUILDING LAW

§ 93.20 ADOPTION BY REFERENCE.

From and after the date of adoption and/or publication as required by law, the Town of Long Beach, Indiana, does hereby adopt IC 36-7-9-1 through 36-7-9-28, as the law of the Town of Long Beach, Indiana.

(Ord. 0804, passed 7-14-08)

§ 93.21 BUILDING COMMISSIONER TO ADMINISTER.

The administration of this subchapter shall be the responsibility of the Building Commissioner.

(Ord. 0804, passed 7-14-08)

§ 93.22 DEFINITION INCORPORATED BY REFERENCE.

The Town of Long Beach, Indiana, specifically incorporates by reference the definition of ***SUBSTANTIAL PROPERTY INTEREST*** as set forth in IC 36-7-9-2, along with all other provisions of IC 36-7-9-1 through 36-7-9-28.
(Ord. 0804, passed 7-14-08)

§ 93.23 CONFLICT WITH OTHER PROVISIONS.

Any terms and conditions of the Building/Zoning and Nuisance Ordinances of the Town of Long Beach, Indiana, inconsistent with the terms and conditions of this subchapter are deemed repealed, and all other existing provisions of this code not inconsistent with this subchapter shall remain in full force and effect.
(Ord. 0804, passed 7-14-08)

§ 93.99 PENALTY.

(A) Any person who violates Chapter 93 where no other penalty is specifically provided shall be subject to § 10.99, General Penalty. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(B) Any person who violates § 93.07 shall be fined \$100 for each offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(C) Any person who violates § 93.08 shall be fined \$250 for each offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.
(Ord. 8103, passed 7-13-81; Am. Ord. 15-07, passed 7-13-15)

CHAPTER 94: STREETS AND SIDEWALKS

Section

Excavations and Construction

- 94.01 Opening permit required
- 94.02 Application and cash deposit
- 94.03 Restoration of pavement
- 94.04 Barriers around excavations
- 94.05 Warning lights
- 94.06 Sidewalk construction
- 94.07 Erecting poles, posts, or fences on public place without permit

Obstructions

- 94.20 Unloading on street, sidewalk
- 94.21 Street and sidewalk obstruction
- 94.22 Materials on street or sidewalk

94.23 Removal of ice and snow

94.99 Penalty

Statutory reference:

Maintenance of public streets and ways, see IC 36-9-2-5

Regulating use of public ways, see IC 36-9-2-7

EXCAVATIONS AND CONSTRUCTION

§ 94.01 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than the Street Commissioner, Municipal Engineer, or other authorized person, to make any opening in any street, alley, sidewalk, or public way of the municipality unless a permit to make the opening has been obtained prior to commencement of the work.

Penalty, see § 94.99

§ 94.02 APPLICATION AND CASH DEPOSIT.

Each permit for making an opening shall be confined to a single project and shall be issued by the executive or other proper administrative officer. Application shall be made on a form prescribed by the legislative body, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and such other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the executive or other proper administrative officer, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

§ 94.03 RESTORATION OF PAVEMENT.

(A) The opening and restoration of a pavement of other surface shall be performed under the direction and to the satisfaction of the Street Commissioner, Municipal Engineer, or other authorized person, and in accordance with rules, regulations, and specifications approved by the legislative body.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the municipality may proceed without notice to make such fill and restoration and the deposit referred to in § 94.02 shall be forfeited. Thereupon the deposit shall be paid into the appropriate fund of the municipality, except such part demanded and paid to the permittee as the difference between the deposit and the charges of the municipality for restoration services performed by it. If the amount of such services performed by the municipality should exceed the amount of the deposit,

the Clerk or other proper administrative officer shall proceed to collect the remainder due from the permittee.

§ 94.04 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating, or opening any street, sidewalk, alley, or other public way, shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

Penalty, see § 94.99

§ 94.05 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley, or other public way, at all times during the night season shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at, or near each end of such obstruction or excavation, and if the space involved shall exceed 50 feet in extent, then at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed.

Penalty, see § 94.99

§ 94.06 SIDEWALK CONSTRUCTION.

It shall be the duty of the Street Commissioner, Municipal Engineer or other authorized person to supervise construction or repair of sidewalks within the municipality. He shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the same to the legislative body for approval. When the specifications are approved, the legislative body shall advertise for proposals to do all the work which may be ordered by the municipality in construction and repair of sidewalks, and shall contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall furnish good and sufficient sureties for the faithful performance of the work. The legislative body, if it deems advisable, may make separate contracts for the different kinds of work with different parties.

§ 94.07 ERECTING POLES, POSTS, OR FENCES ON PUBLIC PLACE WITHOUT PERMIT.

It shall be unlawful for any person, firm, or corporation, to place, erect, or construct any poles, posts, fences, or abutments along or upon the highway or public place within the limits of the town, without first obtaining a permit authorizing the same from the Town Council.

(Ord. passed 1-12-31) Penalty, see § 94.99

OBSTRUCTIONS

§ 94.20 UNLOADING ON STREET, SIDEWALK.

No person shall unload any heavy material in the streets of the municipality, by throwing or letting the same fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 94.99

§ 94.21 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk, or other public way within the municipality, by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any such fence or building is permitted to remain upon such public way shall be deemed a separate offense.

Penalty, see § 94.99

§ 94.22 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit the same to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, see § 94.99

§ 94.23 REMOVAL OF ICE AND SNOW.

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the municipality abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice, and to remove therefrom all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated.

Penalty, see § 94.99

§ 94.99 PENALTY.

(A) Any person who violates Chapter 94 where no other penalty is specifically provided shall be fined \$250 for each offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(B) Any person who violates § 94.07 shall be fined \$100 for each offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(Ord. passed 1-12-31; Am. Ord. 15-07, passed 7-13-15)

CHAPTER 95: ABANDONED VEHICLES

Section

- 95.01 Safety hazard and nuisance
- 95.02 Parking and storage of abandoned vehicles
- 95.03 License plate required
- 95.04 Permit required; fee
- 95.05 Violation notice; towing procedure

- 95.99 Penalty

Statutory reference:

Abandoned vehicles, see IC 9-9-1.1-1 et seq.

§ 95.01 SAFETY HAZARD AND NUISANCE.

It is found and determined to be a public nuisance and safety hazard to keep, park, or store any wrecked, junked, or abandoned vehicle or part thereof on private or public property exposed to public view except as provided herein is a nuisance.

(Ord. 8302, passed 10-10-83) Penalty, see § 95.99

§ 95.02 PARKING AND STORAGE OF ABANDONED VEHICLES.

No person shall park or store any wrecked, junked, abandoned automobile or other vehicle or parts thereof on private or public property within the town, except in a garage or other enclosure so, as not to be exposed to public view, as set forth in § 95.05 herein.

(Ord. 8302, passed 10-10-83) Penalty, see § 95.99

§ 95.03 LICENSE PLATE REQUIRED.

Any vehicle shall be included in § 95.02 if the vehicle does not have attached thereto a valid and current license plate, but the license plate shall not be the sole factor in determining the status of the vehicle.

(Ord. 8302, passed 10-10-83)

§ 95.04 PERMIT REQUIRED; FEE.

Any person not engaged in the business as provided in § 95.02 herein owning or having on their property a wrecked, junked, or abandoned automobile, or other motor vehicle parked or stored in the view of the public for purpose of being repaired or for the purpose of providing parts for another vehicle may obtain a permit for that purpose from the Town Clerk, at his office valid for a period not to exceed 30 days. Upon payment of \$10 which permit shall not be

renewable. The permit shall be displayed on the windshield of the vehicle for which the permit was issued.

(Ord. 8302, passed 10-10-83) Penalty, see § 95.99

§ 95.05 VIOLATION NOTICE; TOWING PROCEDURE.

(A) The Police Department or any member thereof is authorized to issue a written demand to the owner, occupant, agent, or person in possession of the premises on which any junked, wrecked, or abandoned motor vehicle is kept in violation of this chapter notifying the person to remove the vehicle from the premises within ten days of receipt of the notice. Upon the failure or refusal of the person to remove the vehicle within the time specified the Police Department shall impound the vehicle and cause it to be removed by a licensed towing agency and store it in a place affording it protection from vandalism or damage.

(B) The owner shall have 30 days in which to reclaim the vehicle by paying the actual expense of the removal and storage. If the vehicle is not reclaimed within the time, the vehicle will be sold for junk or at public auction by the town. Any money received over the expenses of the removal and storage shall be returned to the owner.

(C) The powers given the Police Department herein are intended in no way to abridge or void existing authority given any other department, group, or agency of the town, county, or state, by any ordinances of the town, county, or state statutes now in effect.

(Ord. 8302, passed 10-10-83)

§ 95.99 PENALTY.

Any person who violates Chapter 95 where no other penalty is specifically provided shall be fined \$50 for each offense if paid within 30 days following the issuance of a citation. Failure to pay the violation or fine within 30 days will be subject to § 10.99, General Penalty. A separate offense shall be deemed committed on each day that a violation occurs or continues. The violator shall also be responsible to pay any and all towing and storage fees incurred relative to the enforcement of this chapter.

(Ord. 8302, passed 10-10-83; Am. Ord. 15-07, passed 7-13-15)

CHAPTER 96: GARBAGE AND REFUSE REMOVAL AND LEAF PICK UP

Section

96.01	Charge for garbage and refuse removal and leaf pick up
96.02	Unit charges established
96.03	Billings
96.04	Revenue from billings
96.05	Unit charge

§ 96.01 CHARGE FOR GARBAGE AND REFUSE REMOVAL AND LEAF PICK UP.

Commencing the calendar year 2012, an equitable charge will be assessed to each tax payer of improved property within the town for the expense of garbage and refuse removal. An additional equitable charge will be made to each tax payer of improved property within the town for the expense of leaf pick up and associated street services.

(Ord. 7903, passed 10-22-79; Am. Ord. 9404, passed 6-20-94; Am. Ord. 12-03, passed - -12)

§ 96.02 UNIT CHARGES ESTABLISHED.

The appropriate unit charge for garbage and refuse removal and the appropriate unit charge for leaf removal and associated street services referred to in § 96.01 shall be reviewed annually at budget time and adjusted for the following year. Unit charges for garbage and refuse removal, as well as for leaf pick up and associated street services shall take into account actual expenses incurred by the town in providing said services whether said expenses derive from contractual relationships with third parties or are incurred by the town directly.

(Ord. 7903, passed 10-22-79; Am. Ord. 9404, passed 6-20-94; Am. Ord. 12-03, passed - -12)

§ 96.03 BILLINGS.

(A) Billings will be sent by the town to the address of record of each property owner on a monthly basis. Payments shall be due and owing within 30 days of the date of billing. Any payments not made within 30 days of the date of billing shall be delinquent. Interest on delinquent payments shall accrue interest at the rate of 8% per annum from the due date. Delinquencies in excess of six months will be certified to the County Auditor, placed on the tax duplicate by the County Auditor and collected as taxes are collected.

(B) Notwithstanding any language contained to the contrary in this chapter, the annual charge for leaf removal and associated street services will be made to each tax payer of improved property within the town. The annual unit charge for garbage and refuse removal will be made to each tax payer of improved property within the town with the exception of any property which is serviced by the Michigan City Sanitation Department and is, therefore, provided with garbage and refuse services by the City of Michigan City, Indiana. Accordingly, the Town of Long Beach, Indiana, shall not provide garbage and refuse removal services to those properties.

(Ord. 7903, passed 10-22-79; Am. Ord. 12-03, passed - -12)

§ 96.04 REVENUE FROM BILLINGS.

(A) Revenues from billings for garbage and refuse removal will be accrued in a separate fund. Payments of all costs incident to the services will be made from this fund. Any surplus or deficit accumulating in this fund will be applied to the estimated cost for garbage and refuse removal for the ensuing year, and considered in setting the unit charge for garbage and refuse removal for the year. The objective of this procedure is to liquidate all costs in the revenue year and limit long term accrual in the fund.

(B) Revenues from billings for leaf removal and associated street services will be accrued in a separate fund. Payments of all costs incident to leaf removal and associated street services will be made from this fund. Any surplus or deficit accumulating in this fund will be applied to the estimated cost for leaf removal and associated street services for the ensuing year, and considered in setting the unit charge for leaf removal and associated street services for the year. The objective of this procedure is to liquidate all costs in the revenue year and limit long term accrual in the fund.

(Ord. 7903, passed 10-22-79; Am. Ord. 12-03, passed - -12)

§ 96.05 UNIT CHARGE.

Beginning January 1, 2006, the charge for the expense of garbage and refuse removal to be made to each taxpayer of improved property within the town shall be \$195 per year.

(Ord. 0507, passed 12-31-05)

CHAPTER 97: OPEN BURNING

Section

97.01	Open burning prohibited
97.02	Exemptions
97.03	Permit
97.04	Outdoor hydronic heaters prohibited
97.99	Penalty

§ 97.01 OPEN BURNING PROHIBITED.

No person, firm or corporation shall engage in the open burning of any material in the town except as permitted by this chapter.

(Ord. 9403, passed 7-11-94)

§ 97.02 EXEMPTIONS.

(A) The only forms of open burning which shall be exempted from the terms and conditions of this chapter shall be those set forth in 326 IAC 4-1-3(c)(1), (2), (6) and (7).

(B) The open burning permitted pursuant to 326 IAC 4-1-3(c)(1) in division (A) above shall be subject to the following conditions:

(1) Only clean wood products, paper, charcoal or clean petroleum products may be burned.

(2) The local Fire Department and Health Department must be notified at least 24 hours prior to any burning where the sides to the pile burned are more than 125 cubic feet.

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(3) Fires shall not be ignited prior to two hours before the recreational activity is to take place, and shall be extinguished upon conclusion of the activity.

(4) The pile to be burned shall be less than or equal to 1,000 cubic feet, and only one pile may be burned at a time.

(5) The fires shall not be used for disposal purposes.

(6) Fires shall not take place within 500 feet of any fuel storage area or pipeline.

(C) The open burning permitted pursuant to 326 IAC 4-1-3(c)(2) in division (A) above shall be subject to the following conditions:

(1) Burning shall be in a noncombustible container that:

(a) Is sufficiently vented to induce adequate primary combustion; and

(b) Has enclosed sides and a bottom.

(2) Only clean wood products and paper may be burned.

(D) The open burning permitted pursuant to 326 IAC 4-1-3(c)(6) in division (A) above shall be subject to:

(1) All of the conditions set forth in divisions (B) and (C);

(2) Plus the following conditions:

(a) Burning shall only occur between October 1 and May 15.

(b) Burning shall not be conducted for the purpose of disposal.

(E) The following restrictions shall apply to all burning permitted in division (A) above:

(1) The fire shall be attended at all times until completely extinguished.

(2) If fires create a nuisance or a fire hazard, they shall be extinguished.

(3) No such burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds and air stagnation.

(Ord. 9403, passed 7-11-94; Am. Ord. 9609, passed 2-10-97; Am. Ord. 0502, passed 8-8-05)

§ 97.03 PERMIT.

(A) *Permit required.* No person shall cause or allow open burning on the public beaches in the town, unless a burning permit has been obtained from the Office of the Town Marshal.

(B) *Term of permit.* Any open burning permit on the public beaches for the town shall be for a specific time period, not to exceed 48 hours.

(C) *Application for permit.* Any person desiring to engage in open burning on the public beaches of the town shall file an application for an open burning permit with the Town Marshal. The application shall state the following information and such additional information as the Town Marshal may require:

(1) The name, address and telephone number of the person submitting the application;

(2) The type of business or activity involved;

(3) The description and exact location, especially in relation to adjacent buildings of the burning site, any equipment to be used, and the proposed operating procedures;

(4) The schedule of burning operations;

(5) The type, quantity and composition of material to be burned;

(6) Evidence that the proposed open burning has been approved as safe by the Fire Department. The Fire Chief may, at his discretion, impose any reasonable restrictions on open burning necessary to prevent the creation of a nuisance or hazard to the public.

(D) *No permit fee required.* There shall be no fee charged for the issuance of a permit under this section.

(E) *Responsible party.* The person, persons, firm, corporation or other legal entity to whom the permit is issued shall be personally responsible for any and all damages occasioned by any party as a result of the open burning conducted.

(Ord. 0502, passed 8-8-05)

§ 97.04 OUTDOOR HYDRONIC HEATERS PROHIBITED.

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

OUTDOOR HYDRONIC HEATER. A fuel burning device designed to:

- (a) Burn wood or other approved solid fuels;
- (b) That the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and
- (c) Heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

(B) *Prohibition.* No person shall have installed, install, use or permit the use of an outdoor hydronic heater after the effective date of this section unless it has been certified to meet a particulate emission limit of 0.32 lb/MMBtu heat output. In addition, within each of the burn rate categories, no individual test shall exceed 15 grams per hour.

(C) *Exemption.* Outdoor hydronic heaters installed or operating prior to the effective date of this section shall be exempted from this prohibition so long as the following criteria are met:

- (1) Documentation is available to verify the date of installation;
- (2) Complies with all applicable laws;
- (3) Does not create a public nuisance as defined in Chapter 93;
- (4) Is installed in compliance with the municipal codes pertaining to the installation of any primary heating source;

(5) Is installed and operated in compliance with manufacturer's specifications;

and

(6) Uses only dry seasoned wood. No other materials may be burned.

(Ord. 0703, passed 9-10-07) Penalty, see § 97.99

§ 97.99 PENALTY.

(A) Any person who violates Chapter 97 where no other penalty is specifically provided shall be fined \$100 for a first offense and \$250 for a second and subsequent offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(B) Any person who violates § 97.04 shall be fined \$100 for each offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(Ord. 9609, passed 2-10-97; Am. Ord. 0703, passed 9-10-07; Am. Ord. 15-07, passed 7-13-15)

CHAPTER 98: ALARMS

Section

- 98.01 Definitions
- 98.02 False alarms prohibited
- 98.03 Penalties
- 98.04 Exceptions
- 98.05 Severability
- 98.06 Effectiveness

Cross-reference:

False alarms, see § 136.01

§ 98.01 DEFINITIONS.

For all purposes of this chapter, the following definitions shall apply:

ACTS OF GOD. An unusual, extraordinary, sudden or unexpected display of the forces of nature against which the science and the skill of man are of no avail.

ALARM SYSTEM. A protection device or an assembly of equipment and/or devices arranged to signal the Town of Long Beach or the Long Beach Marshal's Department or Long Beach Fire Department directly or indirectly (through an alarm monitoring agency) regarding the presence of a hazard requiring urgent attention to which the Town of Long Beach, Town Marshal, Volunteer Fire Department or other personnel are expected to respond.

ALARM SYSTEM USERS. Any corporation, partnership, unincorporated entity or individual, whether owner, occupant or tenant, upon whose premises or property an alarm system is maintained or operated within the Town of Long Beach, Indiana, except for an alarm system on motor vehicles; if, however, the alarm system on a motor vehicle is connected with an alarm system on premises, the person using such a system is an alarm user.

ALARM MONITORING AGENCY. Any corporation, partnership, unincorporated entity or individual who monitors an alarm system existing in the Town of Long Beach, Indiana on behalf of an alarm system user with the purpose of transmitting information to the Town of Long Beach Town Marshal, Fire Department or other town personnel regardless the presence of a hazard requiring urgent attention to which the Long Beach Town Marshal, Volunteer Fire Department or other town personnel expected to respond.

TOWN. The Town of Long Beach, LaPorte County, Indiana.

FALSE ALARM. Any meritless signal received by the town or the Town Marshal or Town Volunteer Fire Department from an alarm monitoring agency to which the Town Marshal, Volunteer Fire Department or other town personnel are meant to respond, except such signals as are caused by criminal activity or Acts of God or circumstances not controlled by an alarm company or user.

(Ord. 9901, passed 4-12-99)

§ 98.02 FALSE ALARMS PROHIBITED.

No alarm system user or alarm monitoring agency shall cause or allow a false alarm to be made. An alarm system user and/or alarm system monitor shall be in violation of this chapter whenever any alarm system maintained on his premises (in the case of the user) or any alarm system that he monitors (in the case of a monitor) registers more than three false alarms in any 365 day period.

(Ord. 9901, passed 4-12-99)

§ 98.03 PENALTIES.

(A) Upon the occurrence of a third false alarm within said one year (365 days) period, the Town Marshal of the Town of Long Beach, Indiana shall give written notice to the owner of the premises that the alarm system experienced problems that may be defective. The owner shall have the system inspected by an alarm system contractor who shall, within 30 days, file a written report with the Town of Long Beach Marshal of the results of its inspection of the system, the probable cause and its recommendations for eliminating false alarms.

(B) Any person who experiences further violations within said one year period of the provisions of this chapter shall be deemed in violation of said chapter and shall be responsible to pay a fine of \$100, plus any costs, damages, expenses or other losses incurred by the Town of Long Beach, Indiana as a direct result of said violation.

(C) A subsequent or repeat violations by the same individual of the same alleged violation within one year period shall carry a fine of not less than \$150, plus costs, damages, expenses or other losses incurred by the Town of Long Beach, Indiana as a direct result of said violation.

(D) Any subsequent violation by the same individual of the same alleged violation within the one year period shall carry a fine of \$500, plus costs, damages, expenses or other losses incurred by the Town of Long Beach, Indiana as a direct result of said violation.

(Ord. 9901, passed 4-12-99)

§ 98.04 EXCEPTIONS.

This chapter shall not apply to the use of an alarm system by law enforcement personnel of federal, state or local governments.

(Ord. 9901, passed 4-12-99)

§ 98.05 SEVERABILITY.

If any section, subsection, sentence, clause or portion of this chapter is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be declared a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the provisions of the chapter.

(Ord. 9901, passed 4-12-99)

§ 98.06 EFFECTIVENESS.

This chapter shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.
(Ord. 9901, passed 4-12-99)