

TITLE IX: GENERAL REGULATIONS

Chapter

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- 94. **HEALTH AND SAFETY; PUBLIC NUISANCES**
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CHAPTER 90: HANDICAPPED PERSONS

Section

90.01 Complaints

§ 90.01 COMPLAINTS.

(A) There is hereby established a formal method for the reception, review and evaluation of grievances made by employees or citizens that the county has denied them equal opportunity of employment or access to public services and programs or county facilities because of a physical handicap or impairment.

(B) A person who feels that he or she has been discriminated against, treated unfairly or denied equal access to public services, programs or facilities as a result of a physical handicap may file a complaint with the County Board of Commissioners.

(C) The complaint referred to in division (B) above must be in writing and must describe the particular act or omission constituting the essence of the grievance and, where applicable, must set out the time, place and date of the alleged act or omission. However, the Board of Commissioners shall review any complaint when, on its face, it states sufficient facts for the Board to investigate the situation and to determine whether there is merit to the complaint.

(D) The Board of Commissioners, upon receiving a written complaint, must conduct a fact-finding hearing within 15 days of the submission of the complaint. No formal rules of evidence shall apply at this hearing, which may be adjourned as necessary for the submission of additional evidence in the form of testimony, photographs, exhibits or other evidence. The hearing shall be conducted in an open session of the Board of Commissioners, although the Board may conduct executive sessions for the purpose of deliberating, all according to the provisions of the State "Open Door" Law. Written notice of the hearing setting forth the date, time and place shall be given to the complainant not less than seven days prior to the scheduled hearing date. Notice shall be presumed to have been given on the date the notice is placed in the United States mail, postage pre-paid, to the address of the complainant as indicated on the written complaint as filed.

(E) A complainant appearing at a hearing held by the Board of Commissioners in response to his or her complaint shall have the right to present evidence in regard to the complaint and may be assisted in the presentation of his or her case by another individual, including legal counsel.

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(F) After hearing evidence from the complainant and any other witnesses appearing at the hearing, the Board shall determine whether the complaint has merit, and if it determines that it does, the Board must then determine what is the most reasonable method to correct or rectify the situation, setting out a clear and definite plan for correction of the offending practice or procedure. If the Board determines that the complaint is without merit, the complainant shall be advised in writing of the determination and shall further be advised that he or she has the right of judicial appeal. The Board's determination shall be made within 30 days following the conclusion of the hearing.

(G) All complaints pertaining to alleged discriminatory practices or procedures, even if no hearing is sought thereon, shall be retained on file for a period of three years. All hearings shall be recorded by tape recorded means and the tapes maintained on file for a similar period of time. Decisions of the Board of Commissioners shall be duly recorded in the minutes so as to show full compliance with all the requirements herein. This procedure for filing of a grievance based upon discrimination of the handicapped shall be available in written form for public inspection in the office of the County Auditor.

(H) For the purposes of this section, and all proceedings conducted under its provisions, the term ***PHYSICAL HANDICAP*** shall be broadly defined to include all forms of impairment including, but not limited to, deficiencies in sight, hearing and speech, as well as neuromuscular impairments and mental deficiencies. The term shall be broadly construed to give effect to the purpose of this section, which is to ensure that no handicapped person is denied the right to participate in the democratic process, to enjoy the benefit of public services, or to seek employment opportunities when they are otherwise qualified to do so.

(Res. 84-1, passed 10-15-1984)

CHAPTER 91: STREETS AND SIDEWALKS

Section

- 91.01 Prohibition of public way cuts
- 91.02 Prohibition of placing injurious material upon highway; removal of such substances

- 91.99 Penalty

§ 91.01 PROHIBITION OF PUBLIC WAY CUTS.

It shall be unlawful to cut or penetrate through the surface or subsurface of any county highway or public way or alter any public way for the purpose of placing utility lines, pipe lines, telephone lines, drainage pipes or other apparatus of any type unless the written consent of the Board of Commissioners of the county is first obtained; provided, however, that all requests regarding cuts for farm drainage pipes or lines shall be made through the County Highway Department, and the consent, if given, shall be in writing from the County Highway Supervisor; that this prohibition against cuts in public ways shall not apply to the County Highway Department.

(Ord. 84-2, passed 11-5-1984; Ord. 85-2, passed 5-20-1985) Penalty, see § 91.99

§ 91.02 PROHIBITION OF PLACING INJURIOUS MATERIAL UPON HIGHWAY; REMOVAL OF SUCH SUBSTANCES.

(A) No person shall place or knowingly drop or throw upon any part of a highway, lane, road, street, or alley any tacks, bottles, wire, glass, nails, grass clippings or other yard waste and vegetation, snow, or any other articles or destructive or injurious material which may damage or injure any person, vehicle, or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(B) Any person who places or knowingly drops or throws or permits to be dropped or thrown upon any part of a highway, lane, road, street, or alley, any tacks, bottles, wire, glass, nails, grass clippings or other yard waste and vegetation, snow, or any other articles or destructive or injurious material which may damage or injure any person, vehicle, or animal traveling along or upon such highway, shall immediately remove the same.

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(C) Any person authorized to remove a wrecked or damaged vehicle from a highway, lane, road, street, or alley shall remove any glass or other injurious substance dropped upon the highway, lane, road, street, or alley from such vehicle.

(D) No person shall place any obstruction in or upon a highway, lane, road, street, or alley without proper authority.

(E) Except as otherwise provided, any person violating a provision of this chapter shall be deemed guilty of an offense and fined not less than \$50 for a first offense, not less than \$100 for a second offense and not less than \$200 for all subsequent offenses, with the fine to go into the county's General Fund, but no fine for any individual offense shall exceed \$2,500, plus costs and attorney's fees where a judgment has been entered.

(F) An action under this section may be brought by the Wells County Attorney or the Wells County Prosecuting Attorney.
(Ord. 2020-11, passed 7-6-2020)

§ 91.99 PENALTY.

Anyone violating the provisions of § 91.01 shall be liable for the damages caused to the county to repair the highway or other public way, and shall further be subject to a fine of not more than \$500.
(Ord. 84-2, passed 11-5-1984)

CHAPTER 92: FAIR HOUSING

Section

- 92.01 Policy statement
- 92.02 Definitions
- 92.03 Unlawful practice
- 92.04 Discrimination in sale or rental of housing
- 92.05 Discrimination in residential real estate-related transactions
- 92.06 Discrimination in the provision of brokerage services
- 92.07 Interference, coercion or intimidation
- 92.08 Prevention of intimidation in fair housing cases
- 92.09 Equal access to housing in HUD programs
- 92.10 Exemptions
- 92.11 Administrative enforcement of chapter

- 92.99 Penalty

§ 92.01 POLICY STATEMENT.

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

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020)

§ 92.02 DEFINITIONS.

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

AGGRIEVED PERSON. Includes any person who:

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

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

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

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COMMISSION. The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 *et seq.* (I.C. 22-9.5-2-3)

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

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 92.04, 92.05, 92.06, 92.07, or 92.08 below or I.C. 22-9.5-5.

DWELLING. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families.

(I.C. 22-9.5-2-8)

FAMILIAL STATUS. One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

FAMILY. Includes a single individual, with the status of such family being further defined in the definition **FAMILIAL STATUS** above.

(I.C. 22-9.5-2-9).

HANDICAP. With respect to a person:

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(2) A record of having such an impairment;

(3) Being regarded as having such an impairment;

(4) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; or

(5) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code; nor does the term **HANDICAP** include an individual solely because that individual is a transvestite.

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

(I.C. 22-9.5-2-11)

RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

(I.C. 22-9.5-2-13).

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020)

§ 92.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) below, § 92.09 below, and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1, and in § 92.04 below shall apply to:

(A) All dwellings except as exempted by division (B) below and I.C. 22-9.5-3.

(B) Other than the provisions of division (G) below, nothing in § 92.04 below shall apply to:

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

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

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 92.04(C) below, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title.

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

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

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

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

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

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020)

§ 92.04 DISCRIMINATION IN SALE OR RENTAL OF HOUSING.

As made applicable by § 92.03 and except as exempted by § 92.03(B) and § 92.10, it shall be unlawful:

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

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

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

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

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

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

(1) That buyer or renter;

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

(3) Any person associated with that person.

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

(1) That person; or

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

(3) Any person associated with that person.

(H) (1) For purposes of this division, discrimination includes:

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

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

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that;

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1. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
2. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
3. All premises within such dwellings contain the following features of adaptive design:
 - a. An accessible route into and through the dwelling;
 - b. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations; and
 - c. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

(2) Compliance with the appropriate requirements of the Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of division (H)(1)(c)3.c. above.

(3) Nothing in this division requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health and safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020) Penalty, see § 92.99

§ 92.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

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

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

- (1) The making or purchasing of loans or providing other financial assistance:

- (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (b) Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020) Penalty, see § 92.99

§ 92.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020) Penalty, see § 92.99

§ 92.07 INTERFERENCE, COERCION OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 92.03, 92.04, 92.05 or 92.06 above.

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020) Penalty, see § 92.99

§ 92.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

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

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

(B) Any person because they are or have been, or in order to intimidate such person or any other person or any class of persons from:

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

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

(C) Any citizen because they are or have been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020)

§ 92.09 EQUAL ACCESS TO HOUSING IN HUD PROGRAMS.

Pursuant to 24 CFR Part 5.403 and 24 CFR Part 574.3 the definition of "family" is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

(Ord. 2020-14, passed 7-20-2020)

§ 92.10 EXEMPTIONS.

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

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

(C) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons. As used in this section, the term ***HOUSING FOR OLDER PERSONS*** means housing:

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

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

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

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020)

§ 92.11 ADMINISTRATIVE ENFORCEMENT OF CHAPTER.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commissioner as set forth in division (B) hereof shall be vested in the Chief Elected Official of Wells County, Indiana.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, Wells County, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the sections of this chapter by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6; and the Chief Elected Official of Wells County, Indiana, shall refer all said complaints to the Commission as provided for under division (A) above to said Commission for purposes of investigation, resolution and appropriate relief as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of Wells County, Indiana, shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Elected Official and the Commission to further such purposes.

(D) The Chief Elected Official of Wells County, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 93-8, passed 6-21-1993; Ord. 2020-14, passed 7-20-2020)

§ 92.99 PENALTY.

(A) A person who violates this chapter commits a Class C infraction. In addition, a person who violates this chapter is punishable by a fine of not more than \$2,500 for a first violation of the chapter, and not more than \$7,500 for a second or subsequent violation of the chapter, and judgment may be entered for such a violation plus costs pursuant to I.C. 34-28-5-4.

(B) Each day the violation continues constitutes a new violation.

(C) Fines for violations are separate from and in addition to all other remedies authorized by law or equity.

(Ord. 2020-14, passed 7-20-2020)

CHAPTER 93: PARKS AND RECREATION

Section

Policy for Recreational/Cultural Site Guide Signs

- 93.01 General provisions
- 93.02 Application for permit

POLICY FOR RECREATIONAL/CULTURAL SITE GUIDE SIGNS

§ 93.01 GENERAL PROVISIONS.

(A) A policy has been adopted called recreational/cultural site guide policy and application for permit; and the same is attached hereto and made a part hereof.

(B) Each entity requesting the signage shall pay for the manufacture or procurement of the signs and the installation and maintenance thereof.

(C) The County Engineer shall be responsible for designating an appropriate place for the signage based upon the guidelines set out in this guideline policy.

(D) The recreational/cultural site guide sign guideline policy permit shall be completed by the applicant and approved by the Commissioners before any sign is installed.
(Res. 2005-11, passed 11-21-2005)

§ 93.02 APPLICATION FOR PERMIT.

1. An application to install guide signs shall be filed with the Board of Commissioners and attached to this policy. This permit form needs to be signed by an agent of the entity applying for permission to erect sign(s).

2. Plan sheets showing the location (s) and a detailed sketch of the sign message must be part of this permit and shall be attached to the application,

3. Such signs are considered destination guide signs.

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4. Positioning.

- a. Signs shall be positioned in the right-of-way should be so that they are not confused with or hinder the effectiveness of any traffic control sign.
- b. No sight distance problems shall be created by the placement and maintenance of such sign.
- c. The placement of said sign(s) shall not conflict with adjacent landowners operations.
- d. Signs shall be placed near other features that need to be mowed around or otherwise maintained in order to minimize maintenance.
- e. The number of signs may be limited based on the collective judgment of the Board of Commissioners with recommendation of the Wells County Highway Department.

5. The signs shall be square or rectangular with a maximum dimension of thirty inches (30").

6. Symbols (if appropriate) text messages and borders shall be white. The background shall be brown. The sign should include directional arrows.

7. The entity requesting the signs will pay for the manufacture or procurement of the signs, the installation of the signs, and the continued maintenance of the signs.

8. Maintenance issues will be decided by agreement of the entity and the Wells County Highway Department.

9. If said signs become damaged so that their message and intent is not clear, the entity shall refurbish or change or remove the sign(s), whichever is most reasonable.

10. Removal or relocation of any such sign shall be preceded with a hearing by the Board of Commissioners in a regular meeting.

11. Reasons for removal or relocations include, but are not limited to:

- a. damage
- b. disintegration
- c. disuse of the site for which the sign was designed and placed.

The undersigned applies for consent of the Wells County Board of Commissioners to place a guide sign in Wells County.

The applicant agrees to abide by the regulations set out by the Board of Commissioner regarding guide signs.

Indicate the location of requested sign(s).

Indicate sign message:

DATE

Applicant - Name of Entity

Agent of Entity

Approved:

WELLS COUNTY BOARD OF COMMISSIONERS:

DATE

(Res. 2005-11, passed 11-21-2005)

CHAPTER 94: HEALTH AND SAFETY; PUBLIC NUISANCES

Section

Abandonment of Vehicles

- 94.01 Title/citation
- 94.02 Definitions
- 94.03 General provisions

Outdoor Wood-Fired Boilers

- 94.15 General provisions
- 94.99 Penalty

ABANDONMENT OF VEHICLES

§ 94.01 TITLE/CITATION.

This subchapter shall hereafter be known and cited as the "Abandoned Vehicle Ordinance".
(Ord. 1997-18, passed 12-15-1997)

§ 94.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All words or terms as used in this subchapter shall have the meaning ascribed to them in I.C. 9-22-1-1 *et seq.* and I.C. 9-13-2-1 *et seq.*

ABANDONED VEHICLE. The following:

- (1) A vehicle located on public property illegally;
- (2) A vehicle left on public property without being moved for three days;

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(3) A vehicle located on public property in a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;

(4) A vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours;

(5) A vehicle from which the engine, transmission or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property;

(6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this subchapter, if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days after the vehicle's removal; and/or

(7) A vehicle that is at least three model years old, is mechanically inoperable and is left on private property continuously in a location visible from public property for more than 20 days.

NON-APPLICABILITY. This subchapter does not apply to the following:

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

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

(3) A vehicle located on a vehicle sale lot or on a commercial vehicle servicing facility;

(4) A vehicle located upon property licensed or zoned as an automobile scrap yard; or

(5) A vehicle registered and licensed under I.C. 9-18-12 as an antique vehicle.

VEHICLE. A vehicle that is self-propelled. The term does not include a "farm tractor" or "implement of husbandry".

(Ord. 1997-18, passed 12-15-1997)

§ 94.03 GENERAL PROVISIONS.

(A) *Responsibility and liability of owner of abandoned vehicles or parts.* The person who owns an abandoned vehicle or parts is:

(1) Responsible for the abandonment; and

(2) Liable for all of the costs incidental to the removal, storage and disposal of the vehicle or the parts under this subchapter.

(B) *Discovery of possession by persons other than vehicle owner.* 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.

(C) *Notice to Bureau of vehicle discovery in possession of person other than owner; search; notice to owner.* The Bureau shall be notified within 72 hours of the location and description of a vehicle described in the section immediately described in this subchapter. Upon receipt of notification, the Bureau shall cause a search to be made to determine and notify the person who owns the vehicle under I.C. 9-22-1-19.

(D) *Inability to determine ownership; declaring vehicle abandoned.* If the person who owns the vehicle cannot be determined by search under I.C. 9-22-1-20, the Bureau shall declare the vehicle abandoned and provide for disposal under this subchapter.

(E) *Release to owner or lien holder of stored vehicle.* If the properly identified person who owns or holds the lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays all costs incurred against the vehicle or parts at that time, the vehicle or parts shall be released.

(F) *Release; contents; notice by towing operators.* The release must state the name, signature and address of the person who owns or holds a lien on the vehicle, a description of the vehicle or parts, costs and date of release. A towing operator shall notify the Bureau and the county of all releases under the preceding section of this subchapter.

(G) *Failure of owner or lien holder to appear; declaring vehicle abandoned.* If the person who owns or holds the lien under preceding sections of this subchapter does not appear and pay all costs, the Bureau shall declare the vehicle abandoned and provide for disposal under this subchapter.

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

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

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(I) *Officer's abandoned vehicle report and photographs.* If a vehicle or a part tagged under the preceding division of this section 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 the 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.

(J) *Disposal of vehicle or parts; retention of records and photographs by Bureau.* If, in the opinion of the officer, the market value of an abandoned vehicle or parts determined under the preceding division is less than \$500, 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 Bureau. The public agency disposing of the vehicle shall retain the original records and photographs for at least two years.

(K) *Duties of tagging officer; towing and storage of vehicle or parts.* If, in the opinion of the officer, the market value of the abandoned vehicle or parts determined under a preceding section of this subchapter is less than \$500, the officer, before placing a notice tag on a 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 in a storage area.

(L) *Discovery of vehicle abandoned on rental property.* A person who finds a vehicle believed to be abandoned on the person's rental property shall attach in a prominent place a notice tag containing the following information:

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

(M) *Towing vehicle from rental property.*

(1) If, after 72 hours, the person who owns the vehicle believed to be abandoned on rental property, has not removed the vehicle from the rental property, the person who owns the rental property may have the vehicle towed from the rental property.

(2) The towing operator shall do the following:

(a) Contact the Bureau to obtain the name and address of the person who owns the vehicle;

(b) Deliver, by certified mail, a copy of the information contained in the notice required under the preceding division to the person who owns the vehicle. The notice required by this division must be given not later than five business days after the vehicle is removed; and

(c) Notwithstanding division (M)(1) above, in an emergency situation, a vehicle may be removed immediately. As used in this division, an *EMERGENCY SITUATION* means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the owner of the rental property or poses a threat to the safety and security of persons or property, or both.

(N) *Abandoned vehicle report; description and information; name and address of owner or lien holder.*

(1) Within 72 hours after removal of an abandoned vehicle to a storage area under the preceding divisions of this section, the public agency or storage lot shall prepare and forward to the Bureau an abandoned vehicle report containing 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 public agency or storage lot shall request that the Bureau advise the public agency or storage lot of the name and most recent address of the person who owns or holds the lien on the vehicle.

(O) *Search by bureau for owner or lien holder; notice to owner or lien holder.* Upon receipt of an abandoned vehicle report under the preceding division of this section, the Bureau shall do the following:

(1) Conduct a reasonable search through the National Automobile Theft Bureau and the State Police Department to determine whether the vehicle or parts have been reported as stolen;

(2) Conduct a reasonable search of Bureau records to determine the person who owns the vehicle or parts or the person who owns the lien of record;

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(3) (a) Except as provided in division (O)(4) below, if a reasonable search discloses the name and address of the person who owns or holds the lien on the vehicle, mail a written notice, by first class mail, to:

1. The person who owns the vehicle, with a copy to each person who holds the lien on the vehicle if the Bureau discloses the vehicle; and

2. The public agency, if the public agency disposes of the vehicle; indicating that the vehicle or parts have been impounded at a certain location and must be removed within 20 days after the date of mailing of the notice and advising that the vehicle or parts will be disposed of after that time.

(b) The notice must advise the person who owns or holds a lien on the vehicle that all costs incurred in removing and storing the parts are the person's legal responsibility.

(4) (a) If a reasonable search discloses the name and address of the person who owns or holds the lien on the vehicle, the Bureau shall mail a written notice, by first class mail, to:

1. The person who owns the vehicle with a copy to each person who holds the lien on the vehicle if the Bureau disposes of the vehicle; or

2. The public agency if the public agency disposes of the vehicle; indicating that the vehicle or parts have been impounded at a certain location and must be removed 15 days of the date of the mailing of the notice and advising that the vehicle or parts will be disposed of after that time.

(b) The notice must advise the person who owns or holds a lien on the vehicle that all costs incurred in removing and storing of the vehicle or parts are the person's legal responsibility.

(P) *Means of vehicle identification not available; disposal without notice.* If a vehicle or parts are in 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.

(Q) *Disposal of vehicle.*

(1) Except as provided in division (Q)(2) below, if the person who owns or holds a lien upon a vehicle does not appear within 20 days after the mailing of a notice under the preceding divisions of this section, the county may sell the vehicle or parts by either of the following methods:

(a) The county may 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 that only one newspaper insertion one week before the public sale is required; or

(b) The county may sell the vehicle or parts as unclaimed property under I.C. 36-1-11. The 20-day period for the property to remain unclaimed is sufficient for a sale under this section.

(2) If the person who owns or holds a lien upon a vehicle does not appear within 15 days after the mailing of a notice under the preceding divisions of this section, the county may sell the vehicle or parts by either of the following methods:

(a) The county may 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 that only one newspaper insertion one week before the public sale is required; or

(b) The county may sell the vehicle or parts as part of unclaimed property under I.C. 36-1-11. The 15-day period for the property to remain unclaimed is sufficient for a sale under this section.

(R) *Purchases at public sales; bill of sale; fees; road worthiness of vehicle.* A person who purchases a vehicle under the preceding divisions of this section shall be furnished a bill of sale for each abandoned vehicle sold by the county upon paying the fee for a bill of sale under I.C. 9-29-7. A person who purchases a vehicle under the preceding divisions of this section must:

(1) Present evidence from a law enforcement agency that the vehicle purchased is road worthy, if applicable; and

(2) Pay the appropriate fee under I.C. 9-29-4 to obtain a certificate of title under I.C. 9-17 for the vehicle.

(S) *Payment of costs.* The cost for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on the vehicle shall be paid for from the abandoned vehicle account established under this section. The charge payable by the person who owns or holds a lien on a vehicle for towing, storage or removing an abandoned vehicle or parts, may not exceed the limits established by ordinance.

(T) *Sale proceeds credited against removal, storage and disposition costs.* The proceeds from the sale of an abandoned vehicle or parts under this section shall be credited against the cost of the removal, storage and disposal of the vehicle.

(U) *Sale by local unit; deposits of proceeds; payment of public agency costs; appropriations.*

(1) The proceeds from the sale of abandoned vehicles or parts, including:

(a) Charges for bills of sale; and

(b) Money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicle shall be deposited with the County Treasurer and placed by the Treasurer in the county's abandoned vehicle fund.

(2) The costs incurred by the county in administering this subchapter shall be paid from the abandoned vehicle fund.

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(V) *No liability for loss or damage.* Pursuant to I.C. 9-22-1-32, 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 subchapter:

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

(2) A public agency;

(3) A towing service; and

(4) An automobile scrap yard.

(Ord. 1997-18, passed 12-15-1997)

OUTDOOR WOOD-FIRED BOILERS**§ 94.15 GENERAL PROVISIONS.**

(A) An outdoor wood-fired boiler may be installed and used in the county only in accordance with all the following provisions:

(1) The outdoor wood-fired boiler may be used only in accordance with the manufacturer's instructions;

(2) The outdoor wood-fired boiler shall not be used to burn refuse;

(3) The outdoor wood-fired boiler shall be located at least 100 feet from the nearest building which is not on the same property as the outdoor wood-fired boiler; and

(4) If there are any residences within 100 feet the chimney shall also extend at least as high above the ground surface as the height of the roof of all the residences.

(B) A violation of this section shall be deemed a Class A infraction. Any person found to be in violation of this subchapter shall be responsible for all attorney fees and other costs incurred by the county.

(C) This section may be enforced by all enforcement officers in the county as well as the County Attorney and the County Prosecutor or any deputy or appointee thereof.
(Ord. 2009-11, passed 4-6-2009)

§ 94.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person violating any of the provisions of §§ 94.01 through 94.03 shall be deemed guilty of a misdemeanor and upon conviction thereunder shall be fined not exceeding \$25 or be imprisoned not exceeding five days, or be subject to fine and imprisonment.

(C) Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such thereunder.
(Ord. 1997-18, passed 12-15-1997)

CHAPTER 95: ANIMAL CONTROL

Section

- 95.01 Definitions
- 95.02 Restraint, nuisance and the like
- 95.03 Impoundment

§ 95.01 DEFINITIONS.

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

ANIMAL. Any dog, cat or other vicious animal.

ANIMAL SHELTER. A facility designated or recognized by the county for the purpose of impounding and caring for animals.

AT LARGE. A dog or cat or other vicious animal that is off the property of the owner and not under restraint.

NUISANCE. Considered a dog or cat or other vicious animal that:

(1) Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless the waste is immediately removed and properly disposed of by the owner;

(2) Causes unsanitary, dangerous or offensive conditions;

(3) Causes a disturbance by excessive barking or other noise making;

(4) Chases vehicles; and/or

(5) Molests, attacks or interferes with persons or other domesticated animals on public property.

OWNER. The person having the right of property or custody of a dog, cat or other vicious animal or the person who keeps or harbors a dog, cat or other vicious animal or knowingly permits a dog, cat or other vicious animal to remain on or about any premises occupied by that person.

RESTRAINT. Considered to be in effect if a dog, cat or other vicious animal is within the real property limits of its owner or secured by a leash or lead or under the control of a responsible person.

VICIOUS ANIMAL. A dog, cat or other animal that constitutes a physical threat to humans or other domesticated animals.

(Ord. 2008-4, passed 4-21-2008)

§ 95.02 RESTRAINT, NUISANCE AND THE LIKE.

(A) All dogs, cats and other vicious animals shall be kept under restraint.

(B) Every dog, cat or other vicious animal, as determined by the County Sheriff's Department shall be confined by its owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(C) No dog, cat or other vicious animal shall be allowed to cause a nuisance. The owner of every dog, cat or other vicious animal shall be held responsible for every behavior of the dog, cat or other vicious animal under the provisions of this chapter.

(D) Anyone violating the terms of this chapter shall be subject to fines and penalties of a Class C infraction.

(Ord. 2008-4, passed 4-21-2008) Penalty, see § 10.99

§ 95.03 IMPOUNDMENT.

Impoundment shall be as follows:

(A) Any dog, cat or other vicious animal found running at large shall be impounded by the County Sheriff's Department and immediately upon impounding a dog, cat or other vicious animal the County Sheriff's Department shall make every reasonable effort to notify the owner and inform the owner of the condition whereby custody of the animal may be regained. Dogs, cats and other vicious animals not claimed by their owners within a period of three full days in which the shelter is open to the public shall become the property of the county; and

(B) When a dog, cat or other vicious animal is found running at large and its ownership is verified by the County Sheriff's Department the authority may exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.

(Ord. 2008-4, passed 4-21-2008)

CHAPTER 96: EVENT POLICIES

Section

Washington/Main Commons Event Policy

- 96.01 Definitions
 - 96.02 Permit required
 - 96.03 Application requirements
 - 96.04 Authorization; access
 - 96.05 Approval
 - 96.06 Revocation
- Appendix A: Washington/Main Commons Event Permit

WASHINGTON/MAIN COMMONS EVENT POLICY

§ 96.01 DEFINITIONS.

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

APPLICANT. Any person, individual, corporation, partnership or other entity who desires to use the Washington/Main Commons in City of Bluffton, Indiana, for purposes other than public parking.

WASHINGTON/MAIN COMMONS. The area bounded by Washington, Main, Elm and Johnson Streets including all curbs, sidewalks, lighting, landscaping and improvements thereto.
(Ord. passed - -)

§ 96.02 PERMIT REQUIRED.

No applicant shall use or cause to be used the Washington/Main Commons without first having applied for and received written permission of the Mayor of the City of Bluffton and the County Commissioners in the form of a "Washington/Main Commons Event Permit".
(Ord. passed - -)

§ 96.03 APPLICATION REQUIREMENTS.

An applicant for a Washington/Main Commons event permit shall provide to the city, the following:

(A) A certificate of liability insurance, naming the City of Bluffton, Indiana and the county, as additional insureds where possible, in an amount not less than \$1,000,000 or an amount as may be determined by the Mayor and Board of County Commissioners. This coverage may be met by the applicant's primary and/or excess coverage policies;

(B) An executed agreement whereby the applicant agrees to hold both the city and county harmless and indemnify the city and county for and against all claims resulting from the work performed by the applicant; and

(C) Proof that the applicant has procured all required city, county, state and/or federal permits for the activities that the applicant intends to perform.

(Ord. passed - -)

§ 96.04 AUTHORIZATION; ACCESS.

(A) A Washington/Main Commons event permit authorizes the applicant to use the Washington/Main Commons area during the times and dates specified and for the purposes specified.

(B) If water or electricity is desired by the applicant, the applicant shall be responsible for obtaining access to city utilities through the Bluffton Utilities Office.

(Ord. passed - -)

§ 96.05 APPROVAL.

(A) All events must be approved by both the Mayor of the City of Bluffton and the County Board of Commissioners.

(B) This application must be filed with the Mayor's office at least ten business days prior to the beginning date of the event.

(C) Following approval by the Mayor, the Mayor's office will transmit the application to the County Auditor for consideration by the County Commissioners at its next regularly-scheduled meeting.

(D) In the event that no regular meeting of the Commissioners is scheduled prior to the event, the President of the Board of Commissioners may approve the application on behalf of the Board.

(Ord. passed - -)

§ 96.06 REVOCATION.

The permit may be revoked by the City of Bluffton or the county for any reason.
(Ord. passed - -)

APPENDIX A: WASHINGTON/MAIN COMMONS EVENT PERMIT

The undersigned applies for consent of the City of Bluffton and Wells County to use the Washington/Main Commons during the dates and times and for the purpose listed below.

The applicant agrees to indemnify and hold harmless the City of Bluffton, Wells County, their agents and employees from and against any and all loss or expense (including coats and attorney fees) because of liability imposed for damages arising out of or in consequence of the use of the Washington/Main Commons. The applicant further agrees to name the City of Bluffton and Wells County as its secondary insured on its policy where able and to provide defense to the city if incidentally named in a law suit because of the negligence of the applicant.

The applicant agrees to reimburse to the City of Bluffton the cost of repair and/or restoration to original condition any property damaged as a result of the action by the Applicant or individuals contracted by the Applicant.

The undersigned has read and understands the Washington/Main Commons Event Policy attached hereto and agrees to abide by the terms hereof.

Date(s) and Time(s) of Use:

Purpose

Applicant (Printed Name)

Date

by: _____

Approved:

Mayor

Date

Wells County Board of Commissioners:

President

Member

Member

Date

