

**TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: ANIMALS

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### ***Cross-reference:***

*Ordinance Violations Bureau; civil penalties for dog ordinance violations, see ' 10.98*

### **' 90.01 DEFINITIONS.**

As used in this chapter unless the context otherwise indicates:

***ANIMAL.*** Any live, non-human vertebrate creature, domestic or wild.

***ANIMAL SHELTER.*** Any facility operated by Department of Animal Services or a municipal agency, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

***AT LARGE.*** Elsewhere than on the owner's premises, and:

- (1) Not restrained by a leash; or
- (2) Not under the immediate and complete control of a person capable of controlling such animal.

***AUTHORIZED AGENT.*** Law enforcement officer or authorized employees of the Department of Animal Services.

***CAT.*** All domestic members of the feline family of animals.

***DANGEROUS DOG.*** Any dog that according to the records of the Department of Animal Services:

(1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury or death on a human being on public or private property; or

(2) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting;

(3) Has been listed as a potentially dangerous dog by the Department of Animal Services, and exhibits behavior warranting listing as a dangerous dog.

***DEPARTMENT OF ANIMAL SERVICES.*** The animal care and control department of the Kokomo Humane Society.

***DOG.*** All domestic members of the canine family of animals

***HARBOR.*** The actions of any person who permits any animal to habitually remain or lodge or to be fed within his or her home, store, enclosure, yard, or place of business, or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three days.

***HEALTH DEPARTMENT.*** Howard County Health Department.

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**KENNEL.** A facility operated principally for the purpose of boarding, housing or breeding dogs or cats.

**LESS SEVERE INJURY.** Any injury caused that results in a minor puncture, piercing or breaking of the skin made with teeth, fangs or claws of any animal that does not require extensive medical treatment.

**OWNER.** Any person or persons owning or having the care, custody, or control of any animal.

**PERSON.** Any individual, firm, association, partnership, or corporation.

**POTENTIALLY DANGEROUS DOG.** Any of the following:

(1) Any dog which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the dog;

(2) Any dog which, when unprovoked, bites a person causing a less severe injury as defined;

(3) Any dog which, when unprovoked, has killed, seriously bitten, inflicted injury or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog;

(4) Chases or menaces a person;

(5) Runs at large.

**PUBLIC NUISANCE.** Any animal or animals that:

(1) Attack passers-by or passing vehicles.

(2) Damage public or private property.

(3) Are not confined while in estrus (Aheat@).

(4) Bark, whine, or howl in an excessive or continuous fashion, unreasonable under the circumstances, as to violate the peace and quiet of the neighborhood.

(5) Do not have a permanent means of identification as provided for in this chapter.

(6) It shall also be a public nuisance to harbor more than four dogs or cats over the age of four months, unless classified as a kennel.

**RESTRAINT.** The securing of an animal by leash or confining it within the real property limits by its owner.

**SECURE ENCLOSURE.** Means that the dog is securely and humanely confined on the owner=s property within a house, building, locked pen or other enclosure that is designed to prevent the potentially dangerous dog from escaping over, under or through the enclosure (known as the Aprimary enclosure@). If the dog is maintained outside, a portion of the owner=s property must be fenced with a secured perimeter fence of sufficient height and strength to prevent entry by the public and to prevent the dog=s escape from the owner=s property.

**STRAY.** Any animal that does not appear, upon reasonable inquiry, to have an owner.

**UNINCORPORATED AREA OF HOWARD COUNTY.** All areas of the county not located in the City of Kokomo and the towns of Russiaville and Greentown.

**WILD ANIMALS.** Any non-domesticated animal, with the exception of small non-poisonous aquatic or amphibious animals and small caged birds. (Ord. 2008-BCC-06, passed 2-18-08; Am. Ord. 2011-BCCO-23, passed 8-15-11)

### 90.02 PERMANENT IDENTIFICATION OF DOGS AND CATS REQUIRED.

(A) A person who owns a dog or cat in the unincorporated area of the county shall ensure that it bears a permanent means of identification at all times.

(B) The means of identification shall be in addition to any tags required to be worn by dogs or cats by state law and shall be either by means of:

(1) A microchip implanted in the dog or cat which bears a registered identification number and which can be read by a standard microchip scanner; or

(2) A permanent tag attached to a durable collar worn at all times and bearing the owner's name, address and telephone number.

(3) Each veterinarian who implants microchips shall send the updated microchip information to the Department of Animal Services or other designated entity by the county at least monthly.

(Ord. 2008-BCC-06, passed 2-18-08)

### **' 90.03 PROHIBITIONS AND PENALTIES.**

(A) The following prohibitions and penalties shall apply, and be enforceable in, the unincorporated areas of the county.

(B) It shall be unlawful for any owner to allow, suffer, or permit an animal to be at large within the unincorporated area of the county, except that it shall be permissible during hunting season prescribed by state law for hunting dogs to be allowed to hunt with their owners on private property when permission has been obtained from the owner thereof and to hunt on state lands where allowed.

(C) It shall be unlawful for any person to hinder, molest, or interfere with any authorized official in the performance of any duty described in this chapter.

(D) It shall be unlawful for the owner of any animal to permit said animal to be a public nuisance within the unincorporated area of the county. Furthermore, it shall be unlawful for any owner of any animal to recklessly or carelessly fail to exercise care and control over said animal in such a way that the animal is a public nuisance.

(E) It shall be unlawful for any person to own, keep, or harbor a dangerous dog or wild animal within the county; provided this section shall not apply to animals under the control of a law enforcement or military agency.

(F) For the purpose of this chapter, an animal may be declared dangerous by the Department of Animal Services. Every person responsible for a potentially dangerous dog shall:

(1) Obtain and maintain a secure enclosure to confine the dog and must have posted on the premises a clearly visible warning sign, reading in letters not less than two inches high "Beware of Dog," at each entry point that informs both children and adults of the presence of a vicious dog on the property.

(2) In order to protect the public and to afford relief from the severe harm and injury that is likely to result from a dog attack, the owner of a vicious dog shall obtain and maintain insurance in the minimum amount of \$50,000 to provide for insurance against liability for damage to persons and property caused by the vicious dog. Insurance shall be provided by an insurance company authorized to do business in the State of Indiana, and the owner shall file a certificate of insurance with the Department of Animal Services.

(3) A potentially dangerous dog must not be outside a proper enclosure unless the dog is muzzled and securely restrained by a leash of not more than six feet in length and is under the control of the owner or competent custodian 18 years of age or older. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any human or animal. The owner may exercise the dog outside of its primary enclosure without a muzzle or leash only if the dog remains on the owner's property within the secured perimeter fence and only if the dog remains within the owner's sight and control at all times and only members of the owner's immediate household or persons 18 years of age or older are allowed within

the perimeter fence while the dog is present. When being transported, such dog must be safely and securely restrained within a vehicle.

(4) No potentially dangerous dog shall be chained, tethered or otherwise tied to any inanimate object, such as a tree, post or building that is outside its proper enclosure while unattended by the owner or competent custodian.

(5) The owner of a potentially dangerous animal shall consent to periodic inspections by the Department of Animal Services.

(6) The owner of any potentially dangerous dog shall have such dog permanently identified by means of a microchip at the owner's expense, and the owner of any potentially dangerous dog shall provide the Department of Animal Services with a color photograph of the dog taken within the last 12 months, suitable for use in identifying the dog.

(7) Any potentially dangerous dog, which has escaped from its fenced enclosure, may be impounded by the Department of Animal Services, whether or not it has been returned to its enclosure at the time of impoundment. If impounded pursuant to this division (F), the animal shall not be returned to a person responsible for it.

(G) Whoever violates any provision of this chapter shall be subject to a fine of not more than \$2,500. Additionally, upon the third violation of this chapter, the animal shall be seized and impounded. If such violation results in the dog causing serious injury to any person, the court may, upon request after a hearing, order the animal forfeited and/or destroyed.

(H) Any potentially dangerous dog found at large or not confined as required by this chapter may be captured, impounded and it shall be returned to its owner only if the enforcement authority in its discretion determines that such return will not result in further or ongoing violations of this chapter. If such determination cannot be made, or if the dog's actions have caused serious injury, the enforcement officer

shall apply to a court of competent jurisdiction for an order to dispose of the animal.  
(Ord. 2008-BCC-06, passed 2-18-08)

#### ' 90.04 AUTHORITY OF COUNTY AGENT.

Any authorized agent of the county is given authority to:

(A) Kill any dangerous, or potentially dangerous dog found at large within the unincorporated area of the county which cannot be safely captured and impounded by ordinary means; except that every reasonable effort shall be made to avoid killing an animal which has bitten or is suspected of having bitten a person or which appears to have rabies. If the killing of the animal cannot reasonably be avoided, the said authorized agent shall attempt to kill the animal in such a manner so as to preserve the head thereof intact.

(B) Enter upon the land in the unincorporated area of the county when in pursuit of any animal which the said agent has reasonable cause to believe is in violation of this chapter, except that such agent is not authorized to enter any building without consent of the occupant.

(C) Issue citations for any alleged violation of this chapter even if not personally observed by the agent.

(D) Do all things necessary to effectuate the enforcement of this chapter.  
(Ord. 2008-BCC-06, passed 2-18-08)

#### ' 90.05 APPREHENSION AND IMPOUNDING OF ANIMALS.

It is the duty of persons and agencies, so authorized by the county to apprehend and impound:

(A) Any dog or cat at large, or any dog or cat deemed a public nuisance.

(B) Any dog not wearing a proper registration tag.

(C) (1) Any dog or cat not wearing a proper rabies vaccination tag; or

(2) Any animal which has bitten or is suspected of having bitten a person or which appears to have rabies.

(D) Any dangerous dog.

(E) Any potentially dangerous dog outside of its secure structure.

(Ord. 2008-BCC-06, passed 2-18-08)

#### **' 90.06 NOTICE TO OWNER.**

Not later than three days after impounding of a dog which was wearing an identification or registration tag at the time of its impoundment, the caretaker shall notify the owner advising of the impounding of the dog. If the owner fails to redeem said dog within five days after notice by mail, phone or electronic mail, the owner loses ownership of the dog and it may be destroyed or possession given to the Department of Animal Services. This notice provision shall apply to any animal impounded under this chapter.

(Ord. 2008-BCC-06, passed 2-18-08)

#### **' 90.07 REDEMPTION AND DISPOSITION OF IMPOUNDED ANIMALS.**

(A) Any healthy dog or cat apprehended or impounded may be redeemed by the owner or other persons as authorized in ' 90.06 within five days of such apprehension, upon showing that the dog has a current registration tag and the dog or cat has current rabies vaccination tag, and the payment of the following fees:

(1) If the dog or cat has been apprehended by an agent of the county, the sum of fee set forth annually by the Department of Animal Services; and

(2) A reasonable fee for room and board for each day or fraction thereof, during which the dog or cat was impounded.

(3) After five days, the dog or cat may be destroyed or possession given to the Department of Animal Services.

(4) Divisions (A)(1) through (3) of this section shall apply to any animal impounded under this chapter.

(B) Any animal impounded, for any reason, which appears to any duly licensed veterinarian to have any infectious or contagious disease, other than rabies, may be destroyed forthwith.

(C) Any person bitten by an animal must report the incident to the County Health Department.

(D) Any dog or cat apprehended and impounded for having bitten a person, being suspected of having bitten a person, or appearing to have rabies, shall be assessed by the Department of Animal Services to determine whether the bite constitutes the dog being dangerous or potentially dangerous. If so assessed the provisions of this chapter related to those dogs shall supersede this provision. Otherwise, the dog or cat shall be kept under observation at the Department of Animal Services for a minimum of ten days unless such dog or cat shall sooner die. At the expiration of said ten-day period, the animal may be redeemed by the owner or other person as provided in ' 90.06, upon showing that the dog has a current registration tag and the animal has a rabies vaccination tag and by payment of the fees as set forth in division (A) hereinabove; provided, however, home quarantine of an owned animal may be allowed by the County Health Department.

(Ord. 2008-BCC-06, passed 2-18-08)

#### **' 90.08 DISPOSITION OF MONIES COLLECTED.**

All monies or fines collected pursuant to this ordinance shall be paid to the County Auditor.

(Ord. 2008-BCC-06, passed 2-18-08)

**' 90.09 ENFORCEMENT.**

The Department of Animal Services shall be primarily responsible for the enforcement of this chapter. Additional enforcement shall be through proceedings brought by the County Attorney or assistant County Attorney pursuant to I.C. 36-1-6-3 and the related Indiana statutes referred to therein.  
(Ord. 2008-BCC-06, passed 2-18-08)



## CHAPTER 91: FAIR HOUSING

### Section

91.01	Policy statement	(2) Believes that the person will be injured
91.02	Definitions	by a discriminatory housing practice that is about to
91.03	Unlawful practices	occur.
91.04	Discrimination in the sale or rental of housing	(I.C. 22-9.5-2-2)
91.05	Discrimination in residential real estate transactions	<b>COMMISSION.</b> The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 et seq.
91.06	Discrimination in the provision of brokerage services	(I.C. 22-9.5-2-3)
91.07	Interference, coercion or intimidation	<b>COMPLAINANT.</b> A person, including the Commission, who files a complaint under I.C. 22-9.5-6. (I.C. 22-9.5-2-4)
91.08	Prevention of intimidation in fair housing cases	
91.09	Exemptions	
91.10	Administrative enforcement	<b>DISABLED.</b> With respect to a person:

### ' 91.01 POLICY STATEMENT.

It shall be the policy of the county to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, being 42 USC 2000e et seq., as amended, the Federal Housing and Community Development Act of 1974, being 42 USC 5301 et seq., as amended, and I.C. 22-9.5-1 et seq. (BCC Ord. 1994-45, passed 11-21-94)

### ' 91.02 DEFINITIONS.

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

**AGGRIEVED PERSON.** Any person who:

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

(1) A physical or mental impairment which substantially limits one or more of the 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, being 42 USC 12101 et seq., as amended; or

(5) Any other impairment defined under I.C. 22-9.5-2-10;

(6) The term shall not include current illegal use of or addiction to a controlled substance as defined in 21 USC 802 (I.C. 22-9.5-2-10(b)), nor does the term include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

***DISCRIMINATORY HOUSING PRACTICE.***

An act that is unlawful under ' ' 91.04, 91.05, 91.06, 91.07 or 91.08 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.***

(1) 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 the individual or the written permission of the parent or other person.

(2) The protection afforded against discrimination on this basis of familial status shall apply to any person who is pregnant or who 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 the family being further defined under Afamilial status.@ (I.C. 22-9.5-2-9)

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

***TO RENT.*** Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant. (I.C. 22-9.5-2-13)  
(BCC Ord. 1994-45, passed 11-21-94)

**' 91.03 UNLAWFUL PRACTICES.**

Subject to the provisions of division (B) of this section, ' 91.09 of this chapter and I.C. 22-9.5-3, the prohibition against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-3 and in ' 91.04 shall apply to:

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

(B) Other than the provisions of division (C) of this section, nothing in ' 91.04 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 single-family houses at any one time; provided, that in the sale of the single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on the owner=s behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from application of this section only if the house is sold or rented:

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

(b) Without the publication, posting or mailing after notice of advertisement or written notice in violation of ' 91.04(C) of this chapter, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other professional assistance as necessary to perfect or transfer this title; or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as a 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) The person has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

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

(3) The person is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.  
(BCC Ord. 1994-45, passed 11-21-94) Penalty, see ' 10.99

**' 91.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by ' 91.03 and except as exempted by ' 91.03(B) and ' 91.09, it shall be unlawful:

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

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, disability, 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, disability, familial status or national origin, or an intention to make any preference, limitation or discrimination.

(D) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when the 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, disability, familial status or national origin.

(F) To discriminate as set forth in this division (F):

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

(a) That buyer or renter;

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

(c) Any person associated with that person.

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

- (a) That person;
- (b) A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
- (c) Any person associated with that person.

(3) For purposes of this division, discrimination includes:

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

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

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

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

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

3. All premises within those dwellings contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats and other environmental controls in accessible locations; reinforcements in bathroom walls to allow late installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the Americans with Disabilities Act of 1990, being 42 USC 12101 et seq., and of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as AANSI A117.1") suffices to satisfy the requirements of the above paragraph (3)(c)3.

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

(BCC Ord. 1994-45, passed 11-21-94) Penalty, see ' 10.99

#### **' 91.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE 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 other person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status or national origin.

(B) As used in this section, **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, sex, disability, familial status or national origin.

(BCC Ord. 1994-45, passed 11-21-94) Penalty, see ' 10.99

**' 91.06 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 a person in the terms or conditions of access, membership or participation because of race, color, religion, sex, disability, familial status or national origin.

(BCC Ord. 1994-45, passed 11-21-94) Penalty, see ' 10.99

**' 91.07 INTERFERENCE, COERCION OR INTIMIDATION.**

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or because of any person having

exercised or enjoyed, or because of any person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by ' ' 91.03, 91.04, 91.05, or 91.06.

(BCC Ord. 1994-45, passed 11-21-94) Penalty, see ' 10.99

**' 91.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.**

Whoever, whether or not acting under color of law, by force or threat of force, willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, any of the following shall be punished as provided in ' 10.99:

(A) Any person because of the person=s race, color, religion, gender, disability, familial status or national origin and because the person is or has 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;

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

(1) Participating without discrimination because of race, color, religion, gender, disability, familial status or national origin in any of the activities, services, organizations or facilities described in division (A);

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

(C) Any citizen because the citizen is or has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, religion, gender, disability, 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.

(BCC Ord. 1994-45, passed 11-21-94) Penalty, see ' 10.99

#### ' 91.09 EXEMPTIONS.

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

(B) Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to those persons, unless membership in the religion is restricted because 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 these 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, ***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 persons (as defined in the state or federal program);

(2) Intended for, and solely occupied by, persons 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.

(BCC Ord. 1994-45, passed 11-21-94)

#### ' 91.10 ADMINISTRATIVE ENFORCEMENT.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) hereof shall be vested in the County Auditor.

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

(C) All executive departments and agencies of the county 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 County Auditor and the Commission to further these purposes.

(D) The County Auditor or his or her designee shall provide information on remedies available to any aggrieved person or complainant requesting this information.

(BCC Ord. 1994-45, passed 11-21-94)

## CHAPTER 92: HEALTH AND SAFETY

### Section

#### *General Provisions*

- 92.01 Hazardous material clean-up and reimbursement
- 92.02 Temporary burn ban

#### *Health Department Service Fees*

- 92.15 Authority
- 92.16 Definitions
- 92.17 Fees for services
- 92.18 Collection, accounting and disposition
- 92.19 Violations

#### **Cross-reference:**

*Dumping of solid wastes prohibited, see ' 50.02*

*Food operations, see Chapter 110*

*Retail food and bed and breakfast establishments, see Chapter 111*

*Sewer regulations, see Chapter 51*

*Water regulations, see Chapter 52*

### **GENERAL PROVISIONS**

#### **' 92.01 HAZARDOUS MATERIAL CLEAN-UP AND REIMBURSEMENT.**

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

**EMERGENCY ACTION.** Any action taken to prevent or minimize the harm to human health, the environment or to property from the uncontrolled release of a hazardous material.

**EMERGENCY RESPONSE AGENCY.** The City of Kokomo Fire Department and all volunteer fire departments servicing the county.

**HAZARDOUS MATERIAL.** Any material or waste that has been determined to be hazardous or potentially hazardous to human health, the environment or property by the United States Environmental Protection Agency, Nuclear Regulatory Commission, Department of Transportation or Occupational Safety and Health Administration, or the Solid Waste Board. This definition shall also include all of the hazardous materials identified in 49 C.F.R. ' 172.101.

**HAZARDOUS MATERIAL EMERGENCY.** An occurrence that involves the controlled or imminent uncontrolled release of a hazardous material into the environment and that creates the possibility of harm to human health, property or the environment.

**RESPONSIBLE PARTY.** A person who owns hazardous material that is involved in the emergency, or owns a container or owns or operates a motor vehicle that contains hazardous material that is involved in the emergency, or one who causes or substantially contributes to the cause of the emergency, or one who owns real estate where an emergency occurs and knew or should have known that hazardous material was being used, stored or transported on the real estate.

(B) *Payment for clean-up.*

(1) Person who are responsible parties shall reimburse the emergency response agency for all reasonable and necessary expenses incurred in taking the emergency action.

(2) The emergency response agency shall submit a statement of the charges to the responsible owner within 30 days of the emergency. The statement shall direct the responsible party to remit payment directly to the emergency response agency within 30 days of receipt. In the event the responsible party fails to make full payment within 60 days, the responsible party shall be subject to the penalty prescribed in ' 10.99. Each day that the responsible party fails to make reimbursement 60 days after written demand shall be considered a separate offense and the responsible party may be fined as provided in ' 10.99 (up to \$2,500) for each such violation. This fine shall be in addition to the continuing duty of the responsible party to reimburse the amount of the statement.

(3) All fines imposed shall be paid to the County Auditor into an account maintained under this section. (BCC Ord. 1997-32, passed 7-7-97) Penalty, see ' 10.99

#### ' 92.02 TEMPORARY BURN BAN.

(A) The Howard County Board of Commissioners, declare and ordain pursuant to the provisions of I.C. 10-14-3-29, that a state or emergency exists in the county with respect to fire hazards; and that we hereby invoke and declare those portions of the Indiana Code which are applicable to the conditions and have caused the issuance of this proclamation, to be in full force and effect in the county until repealed, for the exercise of all necessary emergency authority to protect the lives and property of the citizens of Howard County.

(B) The Board of Commissioners also declare that, effective immediately, the following activities are prohibited in Howard County:

(1) Open burning of any kind, including comfort fires, agricultural fires (including timber or vegetation), burning of debris (including construction materials) or similar burning; provided, that this ban shall not apply to fires used for cooking or heating, such as barbeque grills, pits or fireplaces, so long as

such fires are properly contained and monitored and the wood or charcoal used in such fires is not removed until thoroughly extinguished; and

(2) Use of burn barrels or similar containers for any open burning at residential, business or commercial structures. (Ord. 2012-BCCO-17, passed 6-26-12) Penalty, see ' 10.99

### ***HEALTH DEPARTMENT SERVICE FEES***

#### ' 92.15 AUTHORITY.

The County Health Department is empowered to establish and collect fees in accordance with the following definitions and provisions. This subchapter wholly repeals and replaces all prior ordinances establishing, adding or revising fees for services charged by the Howard County Health Department. ('83 Code, ' 92.20) (Ord. 1983-4, passed 1-31-83; Am. BCC Ord. 1993-32, passed 10-25-93; Am. BCC Ord. 2000-11, passed 2-21-00; Am. Ord. 2004-BCC-05, passed 2-2-04; Am. Ord. 2012-BCCO-11, passed 4-16-12; Am. Ord. 2013-BCCO-23, passed 11-14-13; Am. Ord. 2014-BCCO-07, passed 3-17-14)

#### ' 92.16 DEFINITIONS.

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

***AUTHORIZED REPRESENTATIVE.*** An agent in the principle of the Board and Health Officer appointed in accordance with I.C. 16-20-1-14.

***HEALTH DEPARTMENT.*** The Howard County Health Department, Kokomo, Indiana, as provided for in I.C. 16-20-2-1.

***HEALTH OFFICER.*** The County Health Officer as provided for in I.C. 16-20-2-16.



**PERSON.** Any individual, partnership, co-partnership, firm, company, corporation or association.

( '83 Code, ' 92.21) (Ord. 1983-4, passed 1-31-83; Am. BCC Ord. 1993-32, passed 10-25-93; Am. BCC Ord. 2000-11, passed 2-21-00; Am. Ord. 2004-BCC-05, passed 2-2-04; Am. Ord. BCC-2005-05, passed 9-19-05; Am. Ord. BCC 2005-53, passed 9-19-05; Am. Ord. 2006-BCC-17, passed 3-7-06; Am. Ord. 2009-BCC-03, passed 2-16-09; Am. Ord. 2012-BCCO-11, passed 4-16-12; Am. Ord. 2013-BCCO-23, passed 11-4-13)

**' 92.17 FEES FOR SERVICES.**

(A) Having jurisdiction, the County Health Department may charge a service fee in order to cover the cost, but not exceeding the cost, of providing to any person the following services:

(1) For services provided by the County Health Department Vital Records Office, in providing a copy of a certificate of birth or death, correction affidavits, legitimations, paternities, genealogy searches, lamination fee, birth notifications, court order determining parentage, and birth certificates prior to 1907, as authorized by I.C. 16-20-1-27.

(2) For services provided by the Howard County Health Department Environmental Health Office provided in the plan review, permitting and inspection of retail food establishments, seasonal retail food establishments and temporary retail food establishments as authorized by I.C. 16-20-1-27.

(3) For services provided in the permitting and inspection of vending machines for both food and beverages.

(4) For services provided in the permitting, inspection and testing of all public pools and spas, which includes: private clubs, fitness centers, rehabilitation centers, motels, apartment complexes, municipalities and schools. Fees are waived for schools.

(5) For services provided in shipping animal heads to the State Department of Health Rabies Laboratory. The Health Department pays for shipment of stray animals heads.

(6) For services provided for site evaluation, permitting and inspection of on-site wastewater treatment systems (septic systems) including: new construction permits, replacement permits, site visits (discretionary), installers/homeowners test, installer=s license as authorized by Rule 410 I.A.C. 6-8.1.

(7) For services provided by the Howard County Health Department Environmental Health Office in the permitting, evaluation, and inspection of tattoo establishments and tattoo artists.

(8) For services provided by the Howard County Health Department Nursing Office in providing adult and child immunizations, tuberculosis skin tests, and international immunization booklets.

(9) For the disposition of grant funds from the Indiana State Department of Health, the Indiana Department of Environmental Management, Indiana AIDS Fund and other entities. All awards, fees, donations and reimbursements shall be transferred to the County Health Fund under a designated account number.

(10) For services provided by the Howard County Health Department Environmental Health Office in regulating, inspecting, and abating health hazards. In the event Howard County and/or the Howard County Health Department is required to bring legal action in connection with the abatement of health hazards, the individual(s) to whom services have been provided shall, in addition to any charges, fines or penalties, pay all reasonable attorney fees incurred by Howard County and/or the Howard County Health Department necessary to abate the hazard.

(B) The monies collected in accord with the provisions of this subchapter shall be used only for the implementation, expansion, or maintenance of the specific program services from which they are derived according to the conditions of the grant agreement.

## Howard County - General Regulations

<i><b>SCHEDULE A</b></i>	
<b>92.17(A)(1)</b>	
Birth certificates	\$10
Wallet-sized birth certificates	\$10
Death certificates	\$10
Corrections	\$50
Paternities	\$100
Legitimations	\$100
Genealogy search	\$10
Lamination fee/certificate pouch	\$3
Birth notification	No charge
Court order determining parentage	No charge
<b>92.17(A)(2)</b>	
Retail food establishment permits	
Menu Type 1	\$125
Menu Type 2	\$175
Menu Type 3	\$200
Menu Type 4	\$200
Menu Type 5	\$200
Prior to July 1	Full fee
After July 1	One-half fee
Plan review fee	\$60
Seasonal retail food establishment permits	\$100 per 180 days; not to exceed \$200
Temporary retail food establishment permits	\$15 per day; not to exceed \$75
Bed & breakfast establishment permit fees will reflect menu type	
Late fee: assessed on any permit not renewed by the expiration date	\$25
Daily late fee: should a permit not be renewed by the expiration date	\$10 additionally per day will be assessed each late permit fee, in addition to the original \$25 late fee

<i><b>SCHEDULE A</b></i>	
<b>92.17(A)(3)</b>	
Commercial swimming pools, spas, hot tubs Annual per pool	\$150
Annual pool & spa	\$200
Seasonal per pool	\$100
Site visit (repeat or other discretionary visit)	\$50
<b>92.17(A)(4)</b>	
Animal head shipment to ISDH rabies lab	\$15
<b>92.17(A)(5)</b>	
Septic system permit New construction	\$200
Replacement	\$50
Repair	\$0
Site visit (repeat or other discretionary visit)	\$50
Installers/homeowners test fee	\$50
Installers license - annual (due 2/28)	\$10
<b>92.17(A)(6)</b>	
Tattoo establishment permit	\$150
Tattoo artist permit	\$50
<b>92.17(A)(7)</b>	
Unfit dwelling occupancy permit	\$100
<b>92.17(A)(8)</b>	
Immunization administration fees: Underinsured children (0-18 years) (Status determined at time of visit using Center for Disease Control eligibility criteria)	\$14
Insured children (0-18 years) (Fees vary, dependent on individual policy coverage at time of visit)	Fees vary, dependent on coverage
Adult (19 years and older) private purchase vaccines	\$15 per person per visit

## Howard County - General Regulations

<i><b>SCHEDULE A</b></i>	
Adult (19 years and older) state/federal grant vaccines	\$14 per person per visit
Adult (19 years and older) STD program grant no charge vaccines. (Eligibility determined using ISDH & CDC criteria)	No charge
Tuberculosis skin tests (All procedures administered to insured parties will be processed via an insurance claim to the individuals= insurance providers. Fees will vary dependent upon applicable coverage.)	\$15
Travel consultation: (adults and children)	\$30 per person upon initial travel visit
Vaccination fees: Children who meet vaccine for children (VCF) eligibility criteria	No cost
Insured children (varies dependent upon the child=s individual policy coverage)	Vary, dependent on coverage
Adult-private purchase vaccines including travel vaccines: (dependent on vaccines purchased ad current market/contracted price)	Current contracted price
Phlebotomy fee: HIV/CTR and STD program draw fee Private pay draw fee	No charge \$15 per person per visit
<b>‘ 92.17(A)(9)</b>	
Educational course fee: Basic tuberculosis certification course Basic tuberculosis certification refresher	\$35 per person \$25 per person
<b>‘ 92.17(A)(10)</b>	
Fee for checks returned for non-sufficient funds	Greater of \$35 or 5%, (but not more than \$250) of the amount due

(‘83 Code, ‘ 92.22) (Ord. 1983-4, passed 1-31-83; Am. BCC Ord. 1993-32, passed 10-25-93; Am. BCC Ord. 1997-22, passed 6-16-97; Am. BCC Ord. 2000-11, passed 2-21-00; Am. Ord. 2004-BCC-05, passed 2-2-04; Am. Ord. BCC-2005-05, passed 9-19-05; Am. Ord. BCC 2005-53, passed 9-19-05; Am. Ord. 2006-BCC-17, passed 3-7-06; Am. Ord. 2009-BCC-03, passed 2-16-09; Am. Ord. 2010-BCC-19, passed 7-6-10; Am. Ord. 2012-BCCO-11, passed 4-16-12; Am. Ord. 2012-BCCO-18, passed 8-6-12; Am. Ord. 2013-BCCO-23, passed 11-4-13; Am. Ord. 2014-BCCO-07, passed 3-17-14)

**' 92.18 COLLECTION, ACCOUNTING AND DISPOSITION.**

(A) *Collection of fees.* The Health Department shall collect all such fees established as a part of this subchapter in accord with the fees set forth in Schedule A in ' 92.17. Fees are subject to change without notice when rules set forth and governed by the State of Indiana are changed by the state and the change results in an immediate detrimental impact on the budget of the Howard County Health Department.

(B) *Accounting for fees.* All fees collected by the Health Department shall be accounted for in detail in each office area, Vital Records, Environmental Health, and Nursing offices.

(C) *Disposition of fees.*

(1) All fees collected by the Health Department shall be transferred to the County Health Fund.

(2) Any person whose check is returned for non-sufficient funds shall be subject to a fine in addition to the cost of the permit or service which must be paid in cash.

(`83 Code, ' 92.23) (Ord. 1983-4, passed 1-31-83; Am. BCC Ord. 1993-32, passed 10-25-93; Am. BCC Ord. 2000-11, passed 2-21-00; Am. Ord. 2004-BCC-05, passed 2-2-04; Am. Ord. 2006-BCC-17, passed 8-2-06; Am. Ord. BCC-2009-03, passed 2-16-09; Am. Ord. 2012-BCCO-11, passed 4-16-12; Am. Ord. 2013-BCCO-23, passed 11-4-13)

**' 92.19 VIOLATIONS.**

(A) Any violations of this subchapter may be prosecuted pursuant to the Indiana Code, and the fees enforced hereby revoking or suspending permits as may be granted under this subchapter.

(B) A refusal to comply with this subchapter by any person shall be deemed an infraction and, upon

of the Health Officer or authorized representative, shall be handled by the Health Department attorney, or County Attorney or other attorney so authorized by the Department.

(C) All attorney fees and other costs incurred by the Health Department as a result of this section shall be borne by the violator.

(D) *Notices of violations.* Whenever the Health Officer or designee determines that there has been a violation of any provision of this subchapter, the Health Department shall give notice of such violation to the person to whom the permit or license was issued or should have been issued.

(E) Any person affected by notice which has been issued in connection with the enforcement of any provision of this subchapter may request and be granted an extension of time, when circumstances warrant such an extension, and is in harmony with the general purpose of this subchapter to safeguard and secure the public health, safety, and welfare of the citizens of Howard County.

(F) For serious or repeated violations of health guidelines and policies, or for the interference with the enforcing officer in the performance of his or her duties, a permit may be permanently revoked after an opportunity for a hearing has been provided by the Health Department.

(Ord. 1983-4, passed 1-31-83; Am. BCC Ord. 1993-32, passed 10-25-93; Am. BCC Ord. 2000-11, passed 2-21-00; Am. Ord. 2004-BCC-05, passed 2-2-04; Am. Ord. 2006-BCC-17, passed 8-2-06; Am. Ord. 2009-BCC-03, passed 2-16-09; Am. Ord. 2012-BCCO-11, passed 4-16-12; Am. Ord. 2013-BCCO-23, passed 11-4-13)



## CHAPTER 93: PARKS AND RECREATION

### Section

- 93.01 Definition
- 93.02 Conduct in parks
- 93.03 Operation of vehicles in parks
- 93.04 Park hours

#### **Cross-reference:**

*Department of Parks and Recreation, see*  
*' 31.04*

#### **' 93.01 DEFINITION.**

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

**COUNTY PARKS.** Any area within the geographic confines of the county which has been designated by the County Park and Recreation Board as a county park or recreation area. The boundaries of such parks or recreation areas shall be those boundaries established by the Park and Recreation Board.

(83 Code, ' 91.01) (Ord. 1978-15, passed 7-10-78)

#### **' 93.02 CONDUCT IN PARKS.**

No person in any county park shall do any of the following:

(A) Throw, discharge or otherwise place on the park ground or in the waters any substance which will result in the pollution of the water.

(B) Dump, deposit, or leave any garbage, refuse or other trash within the boundaries of any such park, with the exception of garbage, refuse or other trash originating and being created within the limits of any

such park. Any garbage, refuse or other trash shall be placed in containers placed in the park for those purposes.

(C) Unless authorized by the Park and Recreation Board, hunt, trap, molest, harm, harass or injure any form of wildlife or plant life found within the boundaries of the park.

(D) Fish in the waters of the park unless allowed by the laws of the state and only in places not prohibited by the County Park and Recreation Board, which shall have power to set aside areas for those purposes.

(E) Without specific written permission from the Park and Recreation Board, carry or discharge within the limits of the park any firearms, air rifles, missile-throwing devices or any other weapons.

(F) Start or use any fire other than in an oven or grill and then only for culinary purposes. Written permission must be obtained from the Park and Recreation Director for any other fire or camp fire.

(G) Drive or walk on any drive or trail which has been posted with appropriate signs or barricades prohibiting such driving or walking, nor shall any person operate a motor vehicle in any area of such park not specifically set aside for vehicular use.

(H) Post, display or expose within the park without written permission from the Park and Recreation Board any sign, advertisement, circular, notice, emblem or design.

(I) Camp overnight without specific written permission of the Park and Recreation Director.

(J) Disobey any commands, directions or orders issued by the Park and Recreation Board or its duly authorized officers and agents.

(K) Engage in gambling, consume alcoholic beverages, be intoxicated or do any indecent, lewd or improper act therein.

(L) Swim, wade, dive or jump into any lake, river, stream, pond or reservoir in any park not specifically designated as a swimming area by the Park and Recreation Board and posted as such with appropriate signs.

(M) Swim, wade, dive or jump into any water in any park designated as a swimming area unless a lifeguard employed and under the supervision of the Park and Recreation Board is on duty.  
(^83 Code, ' 91.02) (Ord. 1978-15, passed 7-10-78; Am. Ord. 1980-16, passed 8-18-80) Penalty, see ' 10.99

### ' 93.03 OPERATION OF VEHICLES IN PARKS.

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

**ORV=S.** Any motor or power driven vehicle or contrivance providing a means of way and which may or may not be specifically designed for off-road use.

**VEHICLES.** Any motor or power driven vehicle or contrivance providing a means of way.

(B) No person shall operate a vehicle or ORV including but not limited to motorcycles, trail bikes, snowmobiles, and four-wheel drive vehicles in any and all county parks except on designated roadways and trails and in specific areas set aside for their use. The County Parks and Recreation Board shall have the authority to designate what areas, if any, shall be set aside for the operation of vehicles or ORV=S in the county parks.

(C) Nothing in this section shall be construed as requiring the Parks and Recreation Board to set aside park areas for vehicular or ORV operation.

(D) No person shall operate vehicles or ORV=S, including but not limited to motorcycles, trail bikes, snowmobiles and four-wheel drive vehicles, on such designated roadways and trails in a manner so as to endanger the lives or property of others or to disturb the peace and tranquility of the county parks.  
(^83 Code, ' 91.03) (Ord. 1977-20, passed 5-23-77) Penalty, see ' 10.99

### ' 93.04 PARK HOURS.

The County Park and Recreation Board shall have the authority to specify the hours during which the county parks shall be open for use. Such hours may be designated by resolution of the Park and Recreation Board. No person shall be present in the county parks at any time other than during those hours so specified. However, nothing in this chapter shall be construed to prohibit the Park and Recreation Board from excepting from the operation of this provision any special use of park facilities by individuals or organizations.  
(^83 Code, ' 91.04) (Ord. 1978-15, passed 7-10-78) Penalty, see ' 10.99



## CHAPTER 94: STREETS AND SIDEWALKS

### Section

94.01 Construction of private driveways;  
standards adopted

***Cross-reference:***

*Major streets and highways and subdivision  
control regulations, see Chapter 152*

### **' 94.01 CONSTRUCTION OF PRIVATE DRIVEWAYS; STANDARDS ADOPTED.**

(A) The County Highway Department shall establish uniform standards for the construction of private driveways which cross or otherwise enter upon county roads, highways, ditches and their related easements.

(B) The uniform standards provided for in division (A) are hereby adopted by reference and shall be treated as if set forth in full herein.

(C) No resident of the county shall construct a driveway across a county road, highway, ditch or related easement until he or she has been granted permission to do so by the County Highway Department.

(BCC Ord. 1989-18, passed 8-21-89) Penalty, see  
' 10.99



## CHAPTER 95: ALARM SYSTEMS AND AUTOMATIC TELEPHONE DIALING DEVICES

### Section

- 95.01 Definitions
- 95.02 Permit required
- 95.03 Permit application
- 95.04 Issuance of permit; fee
- 95.05 Change in information
- 95.06 Location of permit
- 95.07 Automatic telephone dialing devices
- 95.08 False alarm
- 95.09 Notice of violations
- 95.10 Service of notice: contents
  
- 95.99 Penalty

(3) An alarm installed upon premises occupied by the United States, the State of Indiana, or any political subdivision thereof.

**AUTOMATIC TELEPHONE DIALING DEVICE.** Any device, excluding a medical alert system, connected to an alarm system which automatically sends a pre-recorded message or coded signal to a law enforcement agency indicating the activation of the alarm system.

**FALSE ALARM.** An alarm eliciting a response by HCSD where there is no obvious evidence of an attempted unlawful intrusion or entry (e.g., pry marks, broken windows, footprints and the like), as determined by the responding officers). A **FALSE ALARM**, for purposes of this chapter, does not include alarms triggered by atmospheric conditions or other circumstances not reasonably under the control of the permit holder or installer.

**HOWARD COUNTY.** The geographic territory of Howard County, Indiana, excluding the City of Kokomo and the towns of Greentown and Russiaville.

**PERMIT HOLDER.** The individual, corporation, partnership or other legal entity to whom an alarm system permit is issued.  
(Ord. 2005-BCC-67, passed 12-19-05)

### 95.01 DEFINITIONS.

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

**ALARM SYSTEM.** Any device used for the detection of an unauthorized entry or attempted entry into a building, structure, or facility or for alerting others of the commission of an unlawful act within a building, structure, facility or grounds, which when activated causes notification to be made directly or indirectly to the Howard County Sheriff=s Department (AHCS@). An **ALARM SYSTEM** shall not include:

(1) An alarm installed on a motor vehicle.

(2) An alarm system designated so that no notification is given to the HCSD until after the occupants, an agent of the owner or lessee, or an agent of an alarm system business have checked the alarm site and determined that the alarm was the result of criminal activity of the kind for which the alarm system was designated to give notice.

### 95.02 PERMIT REQUIRED.

It shall be unlawful for a person in control of property to operate, cause to be operated, or permit the operation of an alarm system on that property in the county unless a current permit has been obtained from HCSD. Failure to secure a permit within ten days of installation (including installation of a new

alarm system by a different vendor) will constitute violation of this chapter; provided, however, a person in control of property which has an alarm system existing at the time this chapter is enacted shall have 90 days from the effective date of this chapter to obtain a permit.

(Ord. 2005-BCC-67, passed 12-19-05)

### 95.03 PERMIT APPLICATION.

(A) Application for a permit for the operation of an alarm system shall be made by a person or legal entity having control over the property on which the alarm system is installed and operated.

(B) The application shall be made in writing to the HCSD on a form designated by the county for that purpose. The application shall include at least the following information:

(1) The name, address, and telephone number of each person in control of the property; the applicant's e-mail address if the applicant consents to contact by e-mail.

(2) The street address of the property on which the alarm system is to be or has been installed and operated.

(3) Any business name used for the premises on which the alarm system is to be or has been installed and operated.

(4) Whether the alarm system or systems are or are not local alarms and whether the alarm system or systems are designated to give notice of a burglary, hold-up, or of other type of emergency.

(5) The name of the person or alarm system business who will install or has installed the alarm system.

(6) The name and telephone number of two persons or of an alarm system business which are able to and have agreed:

(a) To receive notification at any time;

(b) To come to the alarm site within 30 minutes after receiving a request from the HCSD to do so; and

(c) To grant access to the alarm site and to deactivate the system if it becomes necessary.

(Ord. 2005-BCC-67, passed 12-19-05)

### 95.04 ISSUANCE OF PERMIT; FEE.

(A) The HCSD shall issue an alarm system permit to the person or other entity in control of the property upon submission of an application therefor in accordance with this section, unless the HCSD finds that any statement made in the application was incomplete or false. Should the property in which an alarm system is located change ownership, or should the entity in control of the property change, a new application for a permit must be made within 30 days. The permits are not transferable.

(B) The fee for an alarm system permit will be \$10 for a residential property and \$25 for a commercial property for each calendar year. Each and every permit issued prior to July 1 of any year shall be charged at the full rate. Each and every permit issued on or after July 1 of any year shall be charged at one-half of the regular rate.

(C) On or before December 1 of each calendar year, the HCSD shall send a notice of renewal to each permit holder at the address shown on the permit holder's application, including an e-mail address if so authorized by the applicant on the application form. However, failure to receive notice from the HCSD shall not excuse the permit holder from renewing the permit or from any penalty for failure to renew the permit.

(D) A permit issued pursuant to this section shall be personal to the permit holder and is not transferable.

(E) A permit issued pursuant to this section may be suspended or revoked pursuant to the conditions and procedures established in ' 95.99. (Ord. 2005-BCC-67, passed 12-19-05)

**' 95.05 CHANGE IN INFORMATION.**

The permit holder shall promptly notify the HCSD in writing of any change in the information contained in the permit application. (Ord. 2005-BCC-67, passed 12-19-05)

**' 95.06 LOCATION OF PERMIT.**

The permit holder for an alarm system shall keep the permit at the alarm site in a location which is visible to any law enforcement official who responds to an alarm. (Ord. 2005-BCC-67, passed 12-19-05)

**' 95.07 AUTOMATIC TELEPHONE DIALING DEVICES.**

(A) It shall be unlawful to use or permit the use of any automatic telephone device or attachment which automatically selects any telephone line leading into the communication center of HCSD and then transfers any pre-recorded message or signal.

(B) It shall be unlawful to sell or install any automatic telephone device which automatically selects any telephone line leading into the communication center of the HCSD and then transmits any pre-recorded message or signal.

(C) Any person who operates or uses an automatic telephone device at this time this chapter becomes effective shall have 60 days to comply with the requirements of this section. (Ord. 2005-BCC-67, passed 12-19-05)

**' 95.08 FALSE ALARM.**

It shall be unlawful for a person who controls property on which an alarm system is installed to issue, cause to be issued, allow or permit the issuance of false alarm. (Ord. 2005-BCC-67, passed 12-19-05)

**' 95.09 NOTICE OF VIOLATIONS.**

Whenever an officer of the HCSD, in his or her sole discretion based upon the circumstances, shall find that the owner or operator of any alarm system has committed any of the acts which have been declared unlawful by any provision of this chapter, the officer shall give written notice to the person of the violation in the manner directed in ' 95.10 (A Notice of Violation@). (Ord. 2005-BCC-67, passed 12-19-05)

**' 95.10 SERVICE OF NOTICE: CONTENTS.**

(A) An officer of the HCSD shall notify the owner or operator of an alarm system, or his representative, of any violation of this chapter by presenting the person found in possession of or in charge of the alarm system with a Notice of Violation. If the officer shall not find any person in possession or in charge of the premises, or if the person is a child or incapable of receiving the notice, the officer shall notify the owner or operator thereof by posting or attaching a Notice of Violation in a conspicuous place upon the premises and the person shall be bound thereby.

(B) All Notices of Violations, as required to be served by this section, shall be executed by the officer in duplicate. One copy shall be served upon the violator and the other copy shall be retained by the HCSD.

(C) All Notices of Violations shall be numbered and shall contain at least the following information:

(1) The specific violation with which the violator is charged;

(2) The name and address of the person who controls property on which the alarm system is installed;

(3) The location of the violation;

(4) The signature of the officer;

(5) The badge number, if any, of the officer;

(6) The date of the violation.  
(Ord. 2005-BCC-67, passed 12-19-05)

**' 95.99 PENALTY.**

(A) The following fines shall be imposed for violations of this chapter:

(1) Upon the first Notice of Violation issued for false alarms or operation of an illegal telephone dialing device, no fine shall be charged, but a record of the violation shall be made.

(2) Upon the second Notice of Violation for a false alarm or operation of an illegal telephone dialing device, a fine of \$25 is hereby imposed.

(3) Upon the third Notice of Violation, and upon each and every other Notice of Violation thereafter, a fine of \$50 is hereby imposed for false alarms or operation of an illegal telephone dialing device.

(4) A fine of \$100 is hereby imposed for failure to obtain or renew a permit as required by ' 95.02, or the failure to pay the permit fee imposed under ' 95.04.

(5) All fines imposed by this division (A) shall be paid to the HCSD within 30 days after the Notice of Violation is served. In the event such fines

are not paid as required, penalties may be imposed in accordance with division (B) of this section. All fines collected shall be deposited in the County General Fund.

(B) The County Attorney is hereby authorized to institute court action under the authority of I.C. 36-1-6-3(b) or I.C. 36-1-6-4 to enforce any provisions of this chapter, including the payment of fines. In such event, the court is authorized to impose, in addition to any unpaid fines imposed under division (A) of this section, penalties of up to \$2,500 pursuant to ' 10.99 of the Howard County Code of Ordinances.

(C) Upon 20 days prior written notice to a permit holder and the opportunity to be heard, the HCSD (in addition to the imposition of fines) may revoke a permit issued under ' 95.02 after the fourth notice of violation given in any one calendar year. Any such revocation shall be in writing and the permit holder may not apply for a new permit until 60 days after the date of revocation.  
(Ord. 2005-BCC-67, passed 12-19-05)

## CHAPTER 96: PUBLIC AND SEMI-PUBLIC SWIMMING POOLS AND SPAS

### Section

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#### ' 96.01 TITLE.

This chapter and all Ordinances supplemental or amendatory hereto shall be known as the Public and Semi-Public Swimming Pool/Spa Ordinance of Howard County, and may be cited as such and will be referred to herein as Athis chapter@.  
(Ord. 2006-BCC-11, passed 3-6-06)

#### ' 96.02 PURPOSE.

The purpose of this chapter is to safeguard public health and assure that all swimming pools are safe for use. It establishes definitions; sets standards for management and personnel, pool operations and equipment and facilities, and provides for public and semi-public pool permits, inspections, fines and employee restrictions.  
(Ord. 2006-BCC-11, passed 3-6-06)

#### ' 96.03 AUTHORITY.

The Regulatory Authority is hereby authorized to issue Public and Semi-Public Pool and Spa Permits, collect permit fees and fines, perform inspections, order or otherwise compel correction of violations of this chapter, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this chapter.  
(Ord. 2006-BCC-11, passed 3-6-06)

#### ' 96.04 ADOPTION BY REFERENCE.

Title 410 I.A.C. 6-2.1, Public and Semi-Public Pools, as amended, and 675 I.A.C. 20-1 Indiana Swimming Pool Code, second edition, are hereby incorporated by reference in this chapter, as may be amended from time to time, as the same published in the Indiana Register of the Indiana Administrative Code with effective dates fixed therein. Copies of 410 I.A.C 6-2.1 et seq. and 675 I.A.C. 20-1 et seq. are available and on file in the office of the County Health Department.  
(Ord. 2006-BCC-11, passed 3-6-06)

#### ' 96.05 DEFINITIONS.

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

**ACCREDITING ORGANIZATION.** An independent organization, such as the National Swimming Pool Foundation, that is qualified to train, certify, and re-certify a pool operator.

**BOARD OF HEALTH.** A local board of health as defined in I.C. 16-18-2-210 and referred to in I.C. 16-20.

**CERTIFICATION DOCUMENT.** A certificate, letter, or other document which includes the expiration date that verifies the individual has passed an accredited examination given by an accredited testing service.

**CONFLICT OF INTEREST.** As derived from 68 I.A.C. 9-1-1 (b)(2), means a situation in which the private financial interest of the County Official, County Official=s spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the County Official=s judgment in the performance of a public duty. (Note: The County Officials should follow the code of ethics if a code of ethics was established for County Officials.)

**CPO.** A certified pool operator that is recognized by an accredited organization, such as the National Swimming Pool Foundation, and/or has been recognized by the County Health Department.

**DEPARTMENT.** The Indiana State Department of Health or its authorized representative.

**HEALTH OFFICER(S).** A medical doctor serving as the executive officer for the County Health Department and secretary for the County Board of Health.

**HEARING OFFICER.** An individual or panel of individuals acting in the capacity of a Hearing Officer in proceedings. The Hearing Officer is not the Health Officer or any other employee of the County Health Department. Examples of Hearing Officer could be the County Board of Health, a subcommittee of County Board of Health, a subcommittee of health professionals from the community or other non-biased third party appointed by the Board of Health.

**HOWARD COUNTY HEALTH DEPARTMENT.** The local health department in Howard County or authorized representative having jurisdiction over a public or semi-public pool.

**HOWARD COUNTY OFFICIAL.** Any Official of Howard County, Indiana.

**IMMINENT HEALTH HAZARD.** A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on the:

- (1) Number of potential injuries or illnesses; and
- (2) Nature, severity, and duration of the anticipated injury or illness.

**INSPECTION.** A visit by the Regulatory Authority to determine compliance with pool laws.

**INSPECTION REPORT.** The document prepared by the County Health Department that is completed as the result of the inspection and provided to the operator.

**OPERATOR.** The person or corporation that has primary oversight responsibility for operation of the pool through ownership, or lease or contractual agreement (permittee).

**ORDER.** As derived from I.C. 4-21.5-1-9, means a County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons. The term includes a permit.

**PERMIT.** The document issued by the County Health Department that authorizes a person or corporation to operate a public or semi-public pool.

**PERMITTEE.** The person, association, corporation, individual, partnership, or other legal entity that owns the pool and whose name appears on the permit.



**POOL.** Any structure, basin, chamber, or tank containing an artificial body of water for swimming, bathing, competition, relaxation, therapeutic, or recreational use. All spas, baby pools, lazy rivers, plunge pools and the like are considered pools for the purpose of this chapter.

**PUBLIC POOL.** Any pool, other than those defined as a semi-public pool, which is intended to be used for swimming or bathing and is operated by a concessionaire, owner, lessee, operator, or licensee, regardless of whether a fee is charged for use. Nothing in this chapter shall be construed as applying to any pool, constructed at a one- or two-family dwelling, and maintained by an individual for the sole use of the household and house guests.

**RE-CERTIFICATION.** Requiring a pre-certified individual to pass an accredited certification examination within five years from the date of issue of their most recent certificate issue date, or complying with the accredited testing service's written policy for re-certification.

**REGULATORY AUTHORITY.** The local, state, or federal enforcement body or authorized representative having jurisdiction over a public or semi-public pool.

**REPEAT VIOLATION.** A violation that has been observed and recorded on the previous inspection form and the violation was also observed and recorded again on the consecutive inspection report.

**SEMI-PUBLIC POOL.** Any pool that is intended to be used for swimming or bathing and is operated solely for and in conjunction with:

- (1) Schools, universities, and colleges;
- (2) Hotels, motels, apartments, condominiums, bed and breakfasts, or similar lodgings;
- (3) Camps or mobile home parks;
- (4) Memberships, clubs or associations; or

(5) Therapeutic pools; rehabilitation and health care facilities.

Nothing in this chapter shall be construed as applying to any pool, constructed at a one- or two-family dwelling, and maintained by an individual for the sole use of the household and house guests.

**SPA.** A pool designed for recreational and/or therapeutic use, which is not drained, cleaned, and refilled after each use. The term may include, but is not limited to:

- (1) Hydrojet circulation;
- (2) Hot water;
- (3) Cold water;
- (4) Mineral baths;
- (5) Air induction systems; or
- (6) Any combination thereof.

**THERAPEUTIC POOL.** Any pool used for rehabilitation of patients or clients at a health care facility. A **THERAPEUTIC POOL** would be considered semi-public.

**UNSATISFACTORY WATER SAMPLE.** A water sample that contains more than 200 bacteria colonies per milliliter as determined by the heterotrophic 35-degree Centigrade plate count, a test positive (confirmed test) for coliform organisms in any of the five to ten milliliter portions of a sample when the multiple tube fermentation tube test is used, a test positive for more than one coliform organism per 50 milliliters when the membrane filter test is used, or the presence of any coliform when the 100 milliliter presence/absence test is used.

(Ord. 2006-BCC-11, passed 3-6-06)

#### ' 95.06 PERMITS.

(A) It shall be unlawful for any person to operate a public or semi-public pool in the county that does

not possess a valid permit issued by the Regulatory Authority. The permit shall provide the name and address of the operator of the pool. An annual swimming pool permit or an annual spa permit shall be issued for a term of one year, beginning on May 1 and expiring on April 30 of the next year. A seasonal swimming pool permit or a seasonal spa permit shall be obtained for any pool that will be opened less than six months in the same calendar year. All seasonal pools must obtain a permit prior to opening. Any holder of a permit shall be subject to inspection as set forth herein. The County Health Department shall provide the appropriate application forms for the permits. The permit(s) shall be posted in the establishment in a place conspicuous to the public.

(B) Each pool within an establishment will require a separate permit. Therefore, if an establishment has a pool and a spa they will be required to obtain two permits. This ensures that the County Health Department can suspend a permit when necessary and an unaffected pool may remain open, according to this chapter, and the Indiana State Department of Health=s Swimming Pool Rule, 410 I.A.C. 6-2.1.

(C) Establishments applying for an annual or seasonal permit must provide proof of a satisfactory water sample obtained from the pool prior to issuance of a permit. This criterion allows the County Health Department to ensure the annual pool can remain open and the seasonal pool has met all the mandatory bacteriological requirements before it is allowed to open.

(D) Prior to issuance of a permit, an application must be filled out and submitted to the County Health Department for each pool. The application will provide contact information and specific information regarding each pool.

(E) Plan review. Any newly constructed, rehabilitated or altered public pools or spas must show proof of prior approval from the Indiana Fire and Building Services Department. Their authority for this plan review is addressed in Title 675 I.A.C. 20-1.

(F) Permit fees. Fees are required to be paid to the County Health Department prior to issuance of any permit. Fees are established in the County Fee Collection Ordinance, as amended. Fees are required for each annual swimming pool or spa permit (May-April) or any seasonal swimming pool or spa permit to operate a public or semi-public pool as defined in division (A) of this section.

(G) Outstanding fees. All fees, fines, and penalties must be paid before a permit may be issued, renewed, or reinstated.

(H) Application denial. If an application for a permit to operate a swimming pool/spa is denied, the County Health Department shall provide the applicant with a notice that includes:

(1) The specific reasons and rule citations for the permit denial;

(2) The actions, if any, that the applicant must take to qualify for permit; and

(3) Advisement of the applicant=s right of appeal and the process and time frames for appeal that are provided in law.

(Ord. 2006-BCC-11, passed 3-6-06)

#### ' 96.07 PERMIT SUSPENSION.

(A) The Health Department may conduct administrative proceeding for suspension, denial, and/or revocation of the establishment=s permit before a Hearing Officer. See ' 96.14, Appeals, to ensure that due process is followed.

(B) Any person whose permit has been suspended may at any time make application to the Regulatory Authority for the reinstatement of the permit.

(Ord. 2006-BCC-11, passed 3-6-06)

**' 96.08 MINIMUM REQUIREMENTS.**

All public and semi-public pools shall comply with at least the minimum requirements specified by 675 I.A.C. 20-1, Swimming Pool Code, and 410 I.A.C. 6-2.1, Public and Semi-Public Pools, and this chapter.

(Ord. 2006-BCC-11, passed 3-6-06)

**' 96.09 CERTIFIED POOL OPERATOR CERTIFICATION.**

(A) The certified pool operator (CPO) training is not required by this chapter. However, the County Health Department strongly recommends that all pool operators and/or management participate in a CPO training course. The CPO training allows pool operators to obtain the knowledge concerning pool chemistry that is essential for complying with this chapter.

(B) The CPO certification examination by the National Swimming Pool Foundation or an equivalent nationally recognized certification examination is recognized by the County Health Department.

(Ord. 2006-BCC-11, passed 3-6-06)

**' 96.10 INSPECTION OF PUBLIC AND SEMI-PUBLIC POOLS.**

(A) The Regulatory Authority may inspect each public or semi-public pool for which a permit is required at any time during its normal operational hours. If, during an inspection of any public pool, the Regulatory Authority discovers the violation of any of the requirements of this chapter, it shall issue a written narrative report listing such violations and a time for correction to the operator. A copy of the written report shall be filed with the records of the Regulatory Authority.

(B) Pool testing kit requirements. The Regulatory Authority requires the availability and use of pool test kits that will provide the ranges listed below to measure the level of disinfectants in pools.

(1) Pools and spas that use chlorine as a disinfectant. Chlorine kit: the initial reading for chlorine is a measurable range of 0 to 10 ppm (parts per million) free and/or combined chlorine.

(2) Pools and spas that use bromine as a disinfectant. Bromine kit: the initial reading for bromine is a measurable range of 0 to 15 ppm (parts per million) bromine.

(Ord. 2006-BCC-11, passed 3-6-06; Am. Res. 2007-BCC-06, passed 2-5-07)

**' 96.11 410 I.A.C. 6-2.1 REASONS FOR CLOSURE.**

(A) Failure to meet bacteriological requirements of 410 I.A.C. 6-2.1, section 31(f) Public and Semi-Public Pools.

(B) Failure to meet the disinfectant concentrations of 410 I.A.C. 6-2.1, section 30(b) Public and Semi-Public Pools.

(C) Failure to meet water clarity requirements according to of 410 I.A.C. 6-2.1, section 31(a) Public and Semi-Public Pools.

(D) The grate on the main drain is missing or broken.

(E) Failure to meet lifeguard requirements according to 410 I.A.C. 6-2.1, section 35 Public and Semi-Public Pools, if applicable.

(F) A pump, filter, and/or disinfectant feeders is nonoperational.

(G) A nonsolid fecal accident.

(H) Spa water temperature exceeds 104° Fahrenheit.

(Ord. 2006-BCC-11, passed 3-6-06)

**' 96.12 ADDITIONAL REQUIREMENTS.**

(A) Additional reasons that may result in closure:

(1) Failure to have the swimming pool under the supervision of an individual who shall assume the responsibility for compliance with all parts of 410 I.A.C. 6-2.1 and this chapter.

(2) Failure to maintain a pH between 7.2 and 7.8.

(3) Detecting any measurable concentration of chlorinated isocyanurates and cyanuric acid stabilizers used in an indoor pool.

(4) Any other imminent health hazard that could cause injury or illness.

(B) Ceasing operation and contacting the County Health Department. A pool operator shall immediately discontinue operations and notify the County Health Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

(C) Resuming operation. If an establishment has discontinued operations for the reasons stated above or otherwise according to law, the operator must obtain approval from the County Health Department before resuming operations.

(Ord. 2006-BCC-11, passed 3-6-06)

**' 96.13 COMPLIANCE AND ENFORCEMENT.**

(A) The County Health Department may suspend a swimming pool or spa permit to operate a pool if it determines through inspection or any other means as specified in this chapter that an imminent health hazard exists. The suspension shall remain in effect until the Regulatory Authority confirms that the

condition(s) cited in the notice of suspension no longer exist.

(B) The Regulatory Authority may at any time summarily suspend a pool=s permit:

(1) By providing written notice to the permit holder or operator, without prior warning, notice of a hearing, or a hearing, if it is determined that an imminent health hazard exists; or

(2) For interference with the Regulatory Authority in the performance of its duties.

(C) A permit holder may request a hearing to address concerns about the Regulatory Authority=s compliance actions, except that a hearing request does not stay the Regulatory Authority=s imposition of a summary suspension. If a permit is suspended and/or revoked, the pool/spa must be inaccessible to bathers by use of locked doors or other barriers.

(D) The following are options available to the County Health Department for consideration:

(1) The County Health Officer may issue an Order to Abate, Permit Suspension, Pool Closure Order, or hold a hearing and levy fines based on a condition that may transmit, generate, or promote disease. A hearing shall be called if an establishment has obtained four closures within a 30-day period. Reasons for closure are listed in ' ' 96.11 and 96.12. A requested inspection that does not meet operational standards shall also count as a closure for these purposes. Failure on the part of the operator to comply with the order could result in the enforcement of the order in the court of jurisdiction by the initiation of an action by the County Attorney, or attorney authorized by the County Executive or County Prosecuting Attorney. See I.C. 16-20-1-25. See also ' 96.14.

(2) If the action concerning public health is an ordinance violation, the County Attorney or attorney authorized by the County Executive may be requested to institute a proceeding in the courts for the

enforcement of the ordinance violation. See I.C. 34-28-5-1.

(3) If the action concerning public health is a criminal offense, the County Prosecuting Attorney shall be requested to institute a proceeding in the courts for enforcement. See I.C. 16-20-1-25(c).

(E) Monetary fines. Unless adjusted by an administrative order, the following schedule of monetary penalties shall be used if penalties are to be assessed:

(1) The penalty for operating a public or semi-public pool without a valid permit (which includes any pool closed by a health inspector), as defined in this chapter, shall be up to \$500.

(2) The penalty for repeated violations on consecutive inspection reports as defined in this chapter and in 410 I.A.C. 6-2.1, shall be up to \$50 for each violation for each day the violation(s) continue. The \$50 fine for repeated violations excludes any items listed in ' ' 93.11 and 96.12 that describe reasons for closure.

(3) All other penalties will be assessed by the Hearing Officer. In determining the seriousness of the violation and the specific amount of the penalty to be sought for each violation, the Hearing Officer will consider, but is not limited to, the following:

(a) The potential for harm or imminent threat to public health.

(b) The extent of deviation from statutory or regulatory requirements.

(c) Degree of willfulness or negligence.

(d) History of noncompliance.

(4) The absence of direct harm will not result in assessment of a lower penalty for a violation.

(F) The County Health Department may suspend a permit to operate a pool if it determines, through inspection, swimming pool logs that are not maintained according to Indiana State Department of Health=s Swimming Pool Rule 410 I.A.C. 6-2.1, or other means as specified in this chapter, that an imminent health hazard exists.

(G) Pool closure orders will be issued and Health Department signage will be immediately posted. Pool closure signage placed by the Regulatory Authority shall not be removed except by the Regulatory Authority. A return of service order will be completed for a record of the date and time the order was delivered.

(Ord. 2006-BCC-11, passed 3-6-06)

**' 96.14 APPEALS.**

(A) Any person(s) aggrieved by orders issued under ' 96.13, Compliance and Enforcement of this Chapter, shall be entitled to a review of the final order before a Hearing Officer by filing an administrative written request therefore with the Health Officer (Secretary of the County Board of Health. See I.C. 16-20-1-10). The written request must be mailed or hand delivered to Health Officer, Howard County Health Department 120 E. Mulberry St., 2nd floor, Kokomo, IN 46901) and must be received within 15 days after such final order is issued.

(B) Upon the Health Officer=s receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five days written notice of the time, place and nature thereof. The time shall be measured pursuant to the rules of court of the jurisdiction. A shorter period of time may be granted, if requested by either party and agreed upon.

(C) The notice of the hearing shall be served upon the person requesting the review by hand delivering or mailing by certified mail the notice to the address listed on the permit application as the person=s mailing address or such other address, as the person

shall designate in the letter of request to the Health Officer.

(D) The Hearing Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.

(E) The Hearing Officer shall make written findings of facts and shall enter its final administrative order or determination of this matter in writing.

(F) The administrative order completes the Administrative Appeals procedure.  
(Ord. 2006-BCC-11, passed 3-6-06)

**' 96.15 CONFLICT OF INTEREST.**

No County Official shall conduct himself or herself in a manner that is or could have the appearance of a conflict of interest.  
(Ord. 2006-BCC-11, passed 3-6-06)