

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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

AT LARGE. An animal not under restraint.

CIRCUS. A commercial variety show featuring animal acts for public entertainment.

COMMERCIAL ANIMAL ESTABLISHMENT. Any pet shop, auction, riding school or stable, zoological park, circus or performing animal exhibition.

COUNTY. Henry County, by its executive body.

DOMESTIC ANIMAL. A pet or an animal kept for utility.

HARBORING. The action of any person that permits any animal habitually to remain, lodge or to be fed within his or her home, store, enclosure, yard or place of business or any premises on which the person resides or controls. An animal shall be presumed **HARBORED** if it is fed or sheltered for three consecutive days.

NEW CASTLE/HENRY COUNTY ANIMAL SHELTER. The facility operated by the County Humane Society for impoundment and other animal control for which the county has contracted. Use of this term shall include successors with which the county has decided to contract.

OWNER. Any person owning, keeping or harboring one or more animals.

§ 90.01 DEFINITIONS.

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

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

ANIMAL CONTROL OFFICER. Person employed by an animal shelter which has contracted with the county to provide animal control services under this chapter.

PERFORMING ANIMAL EXHIBITION. Any spectacle, display, act or event, other than circuses, in which performing animals are used.

PERSON. Any individual, trust, partnership, corporation, organization, association or structure recognized as a legal entity by law.

PET SHOP. Any person, whether separately or in connection with another, except for a kennel, that buys, sells or boards any species of animal.

PETS. Any animal kept for pleasure rather than utility.

PUBLIC NUISANCE. The act of an animal which is:

(1) Annoying or disturbing to passers-by or passing vehicles, regardless of whether the act is passively permitted by, occurs with the indifference or inattention of or is effected with or by the intent of the owner or other person having charge of the animal;

(2) An attack on a domesticated animal;

(3) Damaging to public property or private property;

(4) Excessive or continuous barking, whining or howling; or

(5) Defecation on property other than the owner, and the owner or person having charge of the animal fails to immediately remove the waste and properly dispose of it.

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

RIDING SCHOOL OR STABLE. Any place that has available for hire, boarding or riding instruction, any horse, pony, donkey, mule or burro.

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

VICIOUS, FIERCE or DANGEROUS ANIMAL. Any animal that has:

(1) Attacked a person without having been provoked by that person;

(2) Attacked another animal at some place other than its owner's property; or

(3) Chased or approached a person at some place other than its owner's property, in a menacing fashion or with an apparent attitude of attack.

WILD ANIMAL. Any animal not a domestic animal, with the exception of small, non-poisonous aquatic or amphibious animals and small cage birds.

ZOOLOGICAL PARK. Any person, other than a pet shop or kennel, displaying or exhibiting, without the predominant purpose of selling, one or more species of non-domesticated animals, operated by a person or government agency.
(Ord. 2009-3-4-8, passed 4-8-2009)

§ 90.02 CONTROL REQUIRED.

(A) All animals shall be kept under restraint, provided that working animals on task shall be considered to be under restraint if they are under the voice command of the owner or other person having charge of the animal.

(B) No owner shall fail to exercise due care and control of his or her animal(s) to prevent them from becoming a public nuisance.
(Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.03 CARE OF PET.

(A) (1) Every owner of a pet animal within the county shall see that the pet is kept in a clean, sanitary and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement, and every person maintaining an animal pen or animal run shall keep the run or pen clean and sanitary and free from all refuse.

(2) The pen or run shall be thoroughly swept at least once every 48 hours, and it shall be unlawful to permit any decaying food, animal waste or refuse of any kind to remain in the run or pen.

(B) The pet shall have food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water, shelter, shade from the sun and ventilation, including quarters that are protected from excessive heat and cold and are of sufficient size to permit the animal to exercise and move about freely.

(C) The pet shall not be tethered by use of any collar too small for the size and age of the animal, nor by any rope, chain or cord directly attached to the animal's neck, nor by a leash without swivels on both ends or by a chain of unreasonable weight so as to prevent the animal from moving about freely.

(D) The owner shall provide reasonable necessary medical care in addition to the required rabies vaccination, which shall include recommended vaccinations as required by accepted veterinary standards, and if diseased or injured, or exhibiting symptoms of disease, the pet shall receive proper care and be segregated from other animals so as to prevent transmittal of the disease.

(Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.04 ABANDONMENT PROHIBITED.

No owner of an animal or any other person having charge of the animal shall abandon that animal.

(Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.05 VICIOUS ANIMAL.

(A) The Director of the County Animal Shelter, or his or her designee, or any law enforcement officer, may issue to an owner a written order determining that an animal is vicious.

(B) (1) Animals determined to be vicious by the Director of the County Animal Shelter, or his or her designee, or any law enforcement officer, shall be confined by the owner within a building or secure enclosure, which shall include four sides and a top, no less than four inches of fencing under ground and six feet in height above ground.

(2) A sign no less than three foot by three foot shall be displayed on all sides of the enclosure, reading "VICIOUS ANIMAL-BEWARE."

(3) The enclosure shall be kept padlocked at all times.

(4) The enclosure shall be approved by the Director of the County Animal Shelter or his or her designee, or any law enforcement officer.

(C) (1) If the animal is kept inside a home, the animal must be securely muzzled whenever outside the building for any reason and on a leash with the owner present. The animal shall remain on the owner's property at all times unless being transported to or from a veterinarian.

(2) The home shall have signs of reasonable size so as to be seen and read, displayed on all entry doors reading "VICIOUS ANIMAL-BEWARE."

(D) When an animal determined to be vicious has been impounded, it shall be spayed or neutered by a veterinarian at the owner's expense before being released to the owner.

(E) An owner of an animal deemed to be vicious shall never transfer ownership of the animal.

(F) If an animal owner wishes to contest an order determining an animal to be vicious, he or she may do so by requesting in writing, and within ten days of the date of the Director's written determination, a hearing with the Board of County Commissioners.

(Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.06 WILD ANIMAL.

(A) No person shall keep or permit to be kept on his or her premises any wild animal for any purpose, except as provided in division (B) below.

(B) This section shall not be construed to apply to zoological parks, circuses, performing animal exhibitions or research laboratories.

(Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.07 ANIMALS AS PRIZES PROHIBITED.

No person or group of persons shall give away any live animal, fish, reptile or bird as a prize for, or as an inducement to enter, any contract, game or other competition, or as an inducement to enter a place of amusement, or offer the vertebrate as an incentive to enter into any business agreement in which the offer was for the purpose of attracting trade.

(Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.08 POISONING ANIMALS.

No person shall expose any known poisonous substance, whether mixed with food or not, so that it shall be liable to be eaten by any animal; provided, that it shall not be unlawful for a person to expose on his or her own property common rat or mouse poison, unmixed or mixed only with vegetable substances.

(Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.09 AUTOMOBILE ACCIDENT INVOLVING CAT OR DOG.

Any person who, as the operator of a motor vehicle, strikes a dog or cat shall at once report the accident to the appropriate law enforcement agency or the County Animal Shelter.

(Ord. 2009-3-4-8, passed 4-8-2009)

§ 90.10 RABIES VACCINATION.

It is unlawful to own or harbor a dog without a valid rabies vaccination in accordance with state law; provided, however, a dog of age and physical condition unable to withstand a rabies vaccination is not required to be vaccinated if a licensed veterinarian certifies in writing the condition and recommends that the dog not be vaccinated.

(Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.11 ANIMAL BITES; PROCEDURE AND CONSEQUENCES.

(A) If a domestic animal bites a person:

(1) (a) The owner shall immediately cause the animal to be contained on the owner's property within a secure enclosure consisting of four sides and a top and securely locked so it cannot come into contact with others; and

(b) The animal shall be so contained for a period of 24 hours, at which time the animal shall, at the owner's expense, be quarantined at the Animal Shelter or a veterinary hospital located in the county for a period of ten days; provided, however, if a dog has a valid rabies vaccination, the owner may elect to quarantine the dog on the owner's property within a secure enclosure consisting of four sides and a top and securely locked so it cannot come into contact with others for the entire quarantine period; provided further, however, if the bite, as determined by the Director of the County Animal Shelter, is deemed to be vicious, the animal shall be immediately removed from the owner and quarantined at the County Animal Shelter. A bite is determined by the opening of skin.

(2) The owner shall cause the animal to be at a quarantine location within 24 hours of the bite occurrence; and

(3) If the owner of the animal does not reclaim the animal after the quarantine period, the Animal Shelter shall destroy the animal at the

owner's expense.

(B) If a stray bites a person, it shall be quarantined, and at the end of the quarantine period, if unclaimed, it shall be euthanized.

(C) If the animal dies during the 24-hour period or during the quarantine period, it shall, at the owner's expense, be sent to the proper authorities for rabies determination, in accordance with state law. (Ord. 2009-3-4-8, passed 4-8-2009)

§ 90.12 DUTIES OF OWNER OF SUSPECT ANIMAL.

(A) It is unlawful for any owner, knowing an animal to have rabies, to allow the animal to leave his or her premises, except to be taken to a veterinarian.

(B) Every owner, upon ascertaining an animal is rabid, shall immediately notify the appropriate law enforcement agency or the County Animal Shelter. (Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.13 IMPOUNDMENT; NOTICE

(A) (1) At-large animals and animals which have bitten persons may be taken by law enforcement or animal control officers and impounded in the County Animal Shelter.

(2) In lieu of impounding an animal which is at-large, a law enforcement officer or animal control officer may issue to the owner of the animal a notice of ordinance violation.

(B) If by a tag, or other reasonable means, the owner of an impounded animal can be identified, the animal control officer or law enforcement officer shall immediately upon impoundment notify the owner of the animal in writing by leaving a notice in a conspicuous place of the owner's property and/or by mailing a copy of the notice to the known address of the owner of the impounded animal. Animals whose owners are not identifiable or cannot be notified after reasonable effort shall be held for five nights in impoundment. If the owner of the

impounded animal is not identified and the impounded animal is not claimed after five nights, the County Animal Shelter shall place the animal for adoption or have it humanely euthanized. (Ord. 2009-3-4-8, passed 4-8-2009)

§ 90.14 ANIMAL SHELTER DUTIES, POWERS, JURISDICTION.

During the term of its contract with the County, the Animal Shelter, its agents and employees, shall carry out and supervise the enforcement of this chapter within the county as set forth in its contract. All those powers ordinary and necessary to carry out their duties shall be vested in them. These powers shall specifically include, but not be limited to, the power to impound animals as provided herein, to issue a notice of ordinance violations hereunder, and to go upon private land in fresh pursuit of an animal to enforce this chapter. Any law enforcement officer may likewise enforce the terms and provisions of this chapter. (Ord. 2009-3-4-8, passed 4-8-2009)

§ 90.15 INTERFERENCE WITH ANIMAL CONTROL OFFICER.

No person shall resist, oppose, obstruct, prevent, impede or interfere with any animal control officer or law enforcement officer while that officer is engaged in enforcing this chapter. (Ord. 2009-3-4-8, passed 4-8-2009) Penalty, see § 90.99

§ 90.16 VIOLATION PROCEDURE; FINE DISPOSITION.

(A) Any animal control officer or law enforcement officer may issue to any person in violation of this chapter a notice of ordinance violation. The notice of ordinance violation shall be filed in the Superior Court 2 with the County Clerk.

(B) All court costs and fines collected as a result of chapter violations shall be paid in accordance with state law and to the County Clerk. (Ord. 2009-3-4-8, passed 4-8-2009)

§ 90.99 PENALTY.

(A) Persons who violate any provision of this chapter for which another penalty has not been provided shall be subject to a fine of \$20 for the first offense, with the fine for each subsequent offense of this chapter increasing by an increment of \$20, not to exceed \$200. In the event the person has no additional violations of this chapter for a period of 12 consecutive months, the fine for any violation of this chapter after that period shall be \$20 for the first offense, with the fine for each subsequent offense increasing by an increment of \$20, not to exceed \$200.

(B) Persons who violate any provision of § 90.04 shall be subject to a fine of up to \$25 for each violation.

(C) Persons who violate any provision of § 90.05 shall be subject to a fine of up to \$500 for each violation and have the animal removed from them and humanely euthanized.

(D) Persons who violate any provision of §§ 90.06 or 90.10 shall be subject to a fine of up to \$100 for each violation.

(E) Persons who violate any provision of § 90.11 shall be subject to a fine of up to \$250 for each violation and have the animal immediately removed from them and quarantined at the County Animal Shelter as provided in § 90.11.

(F) Persons who violate any provision of § 90.17 shall be subject to a fine of up to \$1,000 for each violation.
(Ord. 2009-3-4-8, passed 4-8-2009)

CHAPTER 91: STREETS AND SIDEWALKS

Section

Driveways and Sidewalks

- 91.01 Private drive permits
- 91.02 Cut permits
- 91.03 Permit fees

(A) (1) Where any cut along or across a county road or subdivision street is planned, a permit must be obtained from the County Highway Office, and must be approved by the County Highway Supervisor.

House Numbering System

- 91.15 Uniform house and structure numbering system
- 91.99 Penalty

(2) All cuts or trenches must be back-filled with aggregate to grade level, and the proper signs, lights and barricades must be provided to protect the traveling public.

(3) Where underground drainage is installed, that part which is under the right-of-way of the county road or subdivision street must be of corrugated pipe or other suitable material, and must meet State Highway Specifications.

DRIVEWAYS AND SIDEWALKS

§ 91.01 PRIVATE DRIVE PERMITS.

Before a private drive can be cut from private property on to a county road or subdivision street, and before a culvert shall be installed for the private drive, the person or persons requesting the drive and improvement shall first obtain a permit from the County Highway Office executed by the County Highway Supervisor or other duly authorized personnel. It shall be a condition to the granting of the permit for the private drive and the placing of the culvert that the County Highway Department be notified of the time when the culvert is to be placed and when the private drive shall be connected to the county highway system. All material and labor for the construction of the private drive and culvert shall be furnished by the property owner or his or her contractor.
(Prior Code, § 5.12.010)

(B) All material and labor shall be furnished by the property owner, contractor or utility doing the work.
(Prior Code, § 5.12.020)

§ 91.03 PERMIT FEES.

A minimum fee of \$25 will be charged for cutting a blacktop road or street. If the cost of repairing the cut exceeds \$25, the County Highway Supervisor shall estimate the cost of the repair and charge a fee based upon this estimated cost. The fee shall be paid by certified check made payable to the County Highway General Fund.
(Prior Code, § 5.12.030)

§ 91.02 CUT PERMITS.

Streets and Sidewalks

HOUSE NUMBERING SYSTEM

§ 91.15 UNIFORM HOUSE AND STRUCTURE NUMBERING SYSTEM.

(A) *Purpose and intent.* A plan for the orderly and systematic numbering and/or renumbering of houses and structures located within the jurisdictional area of the County Advisory Plan Commission is hereby enacted. The numbering and/or renumbering of houses and other structures in an orderly and systematic manner will make the location for the houses and structures more expeditious in cases of fire emergencies, in situations involving immediate need for medical attention for members of family or occupants of a building and in instances where police protection may be required with haste. An orderly and systematic house numbering process will also enhance the delivery of goods and services, as well as increase the efficiency of operations such as postal delivery.

(B) *Time of number assignment.* The numbering of all houses and structures located on lots or parcels of land abutting public streets or roads within the jurisdictional area of the County Advisory Plan Commission shall be accomplished in conformity with the uniform numbering system as herein described. At the time of issuance of any permit for the construction of a house or structure, a number shall be assigned by the County Advisory Plan Commission to the house or structure as hereinafter provided. The number shall be included on the permit.

(C) *Base lines and sequence.*

(1) The base lines for the uniform numbering system shall be as described below, and numbers shall be assigned in each of the four cardinal directions, increasing from zero at the point of intersection of the base lines.

(a) The east and west base line shall start at the intersection of Central Avenue E and the east line of the county. The base line shall run west along Central Avenue E to CR 600 E, and continue west along the north line of Section 16, Township 17 N, Range 11 E and each succeeding section line to

SR 38. The base line shall then follow SR 38 to the intersection with SR 234, where it continues west with SR 234 to the intersection with Central Avenue W. The base line shall follow Central Avenue W to the west line of the county.

(b) The north and south base line shall begin at the intersection of the south line of the county and CR 25 W. The base line shall run north along CR 25 W to the intersection of CR 400 S, where it jogs to the east along CR 400 S to the east line of Section 33, Township 17 N, Range 10 E. The base line shall continue north following the east section line of Section 33 and each succeeding section line to the intersection of CR 200 N. Then, the base line jogs to the west along CR 200 N to the east line of Section 33, Township 18 N, Range 10 E. The base line shall continue north following the east section line of Section 33 and each succeeding section line to the north line of the county.

(2) The uniform numbering system shall be an extension of the numbering system of the City of New Castle. The general rule shall be 500 numbers to one-half mile.

(3) All streets and roads and parts thereof running north and south shall add either the word "North" or "South" to the end of their official name, as is appropriate for their location in relationship to the above described east and west base line. All streets and roads and parts thereof running east and west shall add either the word "East" or "West" to the end of their official name, as is appropriate for their location in relationship to the above described north and south base line.

(4) All streets and roads and parts thereof that run at an angle or in a curved manner in relationship to the four cardinal directions shall be considered and have assigned to their name the one cardinal direction in which they predominately traverse the county.

(5) Even numbers shall be assigned to the east side of north and south streets and roads and the north side of east and west streets or roads. Odd numbers shall be assigned to the west side of north and south streets and roads and the south side of east and west streets and roads.

(D) *Administrative office.* The County Plan Commission shall act as the Administrative Office in charge of issuing numbers to houses or structures in compliance with the provisions of this subchapter. The Administrative Office shall issue numbers to all new houses or structures, renumber houses and structures whenever it becomes necessary to do so in the implementation of the uniform system and cause the numbering of all existing homes or structures which are not numbered to be numbered in accordance with the provisions of this subchapter.

(E) *Private streets.* The Administrative Office may, if it deems proper and necessary for the implementation of the uniform numbering system, assign numbers to houses or structures that are situated on private streets or roads within the jurisdictional area of the County Advisory Plan Commission.

(F) *Posting standards.*

(1) The owner or occupant of a house or structure located within the jurisdictional area of the County Advisory Plan Commission shall post officially assigned numbers in a location providing easy identification from the abutting street or road. The official number may be placed attached to the mail box, as according to postal regulations, or on a post or outside light, or on any prominent place on the house or structure so that the number is identifiable from the road, and it is recommended that the number be at least a minimum of two inches in height.

(2) The officially assigned numbers shall be posted in accordance with division (F)(1) above within 60 days of notice to the owner or occupant.

(G) *Renumbering.* Houses and structures that were numbered prior to the effective date of this subchapter shall be renumbered in order that the same may comply with the uniform numbering system and so that the numerical harmony throughout an area or areas is substantially achieved. The County Advisory Plan Commission, as designated in this subchapter, shall authorize the changes.

(H) *Notification.* The Administrative Office shall provide a uniform system of notification of the

issuance of numbers or the renumbering of houses and structures. Notification shall be made reasonably ahead of impending changes so as to allow major interested groups and agencies to plan and to prepare for proposed changes. The Administrative Office shall keep accurate records and shall, from time to time, prepare and make available to the County Commissioners a report of the status of the implementation of the uniform numbering system. In the assignment of house numbers, the Administrative Office shall use its best judgment and shall carefully consider and evaluate all contingencies and shall, with due regard to the sensitive nature of the job assigned to it, be considerate of the citizens of the county.

(I) *Enforcement.*

(1) The Board of Commissioners may institute a suit for injunction in the courts of the county to restrain any person, firm or corporation who shall take down, alter, deface, destroy or conceal any number assigned to or placed upon any building in compliance with this subchapter, or who shall place or substitute or permit to be placed or substituted upon any building an erroneous or improper number not in compliance with this subchapter. The Board of Commissioners may institute a suit for mandatory injunction directing a person, firm or corporation to correct any violation of the provisions of this subchapter or to bring about compliance with the provisions of this subchapter. If the Board of Commissioners is successful in the suit, the defendant or respondent shall bear the costs of the action, including reasonable attorney's fees.

(2) Any decision of the Plan Commission under this subchapter shall be subject to review by certiorari procedures. Any person, firm or corporation aggrieved by a decision of the Plan Commission under this subchapter may present to the Circuit or Superior Court of the county a petition, duly verified, setting forth that the decision is illegal in whole or in part, and specifying the grounds of the illegality. The petition shall be presented to the court within 30 days after the entry of the decision of the Plan Commission in question.

(Ord. 6(10-90), passed 10-15-1990) Penalty, see § 91.99

Streets and Sidewalks

§ 91.99 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, firm or corporation owning or occupying a building who shall fail to number the

building or who shall fail to maintain the number of the building as provided in § 91.15 shall be deemed to have violated the provisions of that section. Civil proceedings may be instituted against any alleged violator, and upon the finding of a violation, the court may enter judgment in an amount up to \$2,500 for each day of violation.

(Ord. 6(10-90), passed 10-15-1990)

CHAPTER 92: HEALTH AND SANITATION

Section

Hotels and Motels

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HOTELS AND MOTELS

§ 92.001 DEFINITIONS.

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

APPROVED. Approved by the local or state authority having such administrative authority.

BED BUG. A wingless, odorous, nocturnal insect (*Cimex lectularius* or any of the other species of the family Cimicidae) with a flat, reddish brown body that infests dwellings and bedding and feeds on human blood (also called chinch bug). This insect is not known to be a disease causing vector but may cause skin irritation and other complications in humans.

COMMERCIAL. Relating to the manufacture, storage, distribution, provision or sale of commodities or services, regardless of whether the entity intends to realize a profit.

DEPARTMENT. The County Health Department located in Henry County, Indiana.

EMERGENCY. Situations when a failure to act

immediately could lead to serious harm to public health or safety.

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HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating. The following types of rooms are not habitable rooms: bathroom, laundry room, furnace room, pantry, kitchenette, utility room with less than 50 square feet of floor space, foyer, connecting corridor, stairway, closet, storage space, workshop or hobby and recreation area.

HAZARDOUS MATERIAL. Any material present in large enough quantity to pose a significant physical or health hazard to public health, public safety or the environment due to its chemical composition. For the purpose of this subchapter, a hazardous material can be a pure chemical substance or a mixture, a raw material, any organic or inorganic mater that can cause or contribute to a health hazard or water pollution, a product or a waste material.

HEALTH OFFICER. The individual duly appointed as Health Officer by the Board of Health or his or her authorized representative.

INFESTATION. The presence within or around a dwelling of an excessive number of insects, rodents, or other pests.

LAW. Statutes, ordinances, regulations, and administrative rules.

LITTER. Any post-consumer solid waste not deposited in an authorized storage, transfer, processing or land disposal facility.

OCCUPANT. Any non-infant individual person living, sleeping, cooking or eating in or having possession of a dwelling unit or a rooming unit.

ROOMING HOUSE. Any building used for living and sleeping in which a person or persons are housed with no individual kitchen facilities provided.

TRANSIENT RESIDENTIAL BUILDING. Any building or structure kept, used or maintained as a place where sleeping accommodations are offered for pay to transient guests and the general public. The term includes all buildings known as hotels, motels,

rooming houses, or motor hotels.

WEEDS. Vegetation which is twelve inches or more in height and which provides rat harborage or other public health or safety hazard.

(Ord. — , passed - -)

§ 92.002 SCOPE.

These provisions shall apply to businesses such as hotels, motels, and rooming houses which provide shelter, furniture, linens, and housekeeping services, and the like within the guest room(s) and throughout the property. These provisions shall not apply to permanent residential facilities wherein the owner is responsible for providing the shelter, but does not provide furniture, linens, or housekeeping services.

(Ord. — , passed - -)

§ 92.003 STATE LAW ADOPTED BY REFERENCE.

This subchapter further incorporates any updates, amendments, or revisions that may occur from time to time, and any bulletin or publication which may hereafter be published by the State Department of Health as a supplement or successor to Indiana State Department of Health Rules listed herein.

(Ord. — , passed - -)

§ 92.004 PERMIT PROCESS.

(A) *Permit required.* No transient residential building shall be occupied or permitted to be occupied unless the owner, lessee or person in charge has first applied for and obtained the required permit from the Health Officer. A permit issued for a transient residential building shall expire December 31 of the calendar year for which it was issued, irrespective of the date of its issuance, and shall not be transferable. Whenever the interest of a permittee in a transient residential building ceases, the permit shall immediately become void. However, upon the death of a permittee, the permit shall be valid for 30 days from the date of death in favor of the legal representatives of the permittee, or of the person to

whom such transient residential building passed by law, but in no case shall such days extend beyond the end of the calendar year for which the permit was issued.

(B) *Application and fee.* Every application for a transient residential building permit shall be on a County Health Department form and shall state the name and address of the applicant; the nature and extent of their interest and, if the applicant is not the proprietor, then the application shall also state the name and address of the proprietor. The application shall further contain an accurate description of the transient residential building, its location, the number of rooms, the maximum number of guests to be accommodated at any one time and any other information as may be required by the Health Officer. The application shall be accompanied by non-refundable annual permit fees for each transient residential building prescribed by the County Commissioners under the following schedule:

- (1) 0-50 rooms.
- (2) 51 - 100 rooms.
- (3) 101-200 rooms.
- (4) Over 200 rooms.

(C) *Inspection.* The Health Officer shall grant to the applicant an operating permit for the transient residential building, provided it has been found, after a thorough inspection, to comply in all respects with the provisions of this subchapter, and of all state laws and other ordinances applicable to the operation thereof.

(D) *Permit issuance.* The Health Officer shall grant to the applicant therefore, an operating permit, which shall clearly specify the name and address of the person to whom it is issued, and in addition, if such person is other than the owner, the name and address of such owner, the location of such transient residential building, the maximum number of guests permitted therein at any one time, the date of expiration of such permit and such other information as the Health Officer shall prescribe.

(E) *Posting permit.* The transient residential

building permit shall be affixed to a wall of such building in a conspicuous place so that it may be seen by persons entering such building.

(Ord. — , passed - -) Penalty, see § 92.999

§ 92.005 REGISTER OF GUESTS.

The owner, lessee and person in charge of any transient residential building, except an industrial camp, shall keep a register or record containing the name and place of residence of all guests, date of arrival and departure and room occupied, along with the signature of all guests. Such register or record shall always be open for inspection to the Health Officer.

(Ord. — , passed - -) Penalty, see § 92.999

§ 92.006 MANAGEMENT ACCESSIBILITY.

A property management representative shall be accessible, in person or by telephone, on a 24-hour basis.

(Ord. — , passed - -) Penalty, see § 92.999

§ 92.007 GUEST COMPLAINTS.

The telephone number and address for the County Health Department shall be posted in a prominent location in the guest rooms or in the reception area in a manner conspicuous to the public.

(Ord. — , passed - -) Penalty, see § 92.999

§ 92.008 PROPERTY SECURITY.

(A) The installation and maintenance of an operable dead bolt lock is required on each main swinging entry door of a dwelling unit. The dead bolt lock shall be installed in accordance with the manufacturer's specifications and shall comply with applicable state and local codes including, but not limited to, those provisions relating to fire and life safety and accessibility for the disabled.

(B) Each door shall have a viewport or window convenient to the door.

(C) Each door connecting two guest units that share a common wall shall be equipped with a functional deadbolt lock.

(D) All windows designed to be opened shall have an operable window security or locking device. Louvered windows, casement windows, and all windows more than 12 feet vertically from the ground are excluded from this division, except where the window is within eight feet horizontally of a roof or any other platform area.

(Ord. — , passed - -) Penalty, see § 92.999

§ 92.009 TRANSIENT RESIDENTIAL BUILDING MINIMUM STANDARDS.

(A) Guest service elevators need to be fully functional and pass appropriate agency inspections. The name and telephone of the inspection agency shall be posted in all of the elevators. Elevators shall be operational on a 24-hour-a-day basis.

(B) Any lobby area or other public space shall be maintained in a sanitary condition, free of accumulated garbage or debris.

(C) Exterior window glass shall be without excessive cracks, chips or holes.

(D) All areas on the property designated for landscaping shall be maintained with properly trimmed living plant materials.

(E) Interior directional signs shall be posted as appropriate to ensure that emergency personnel can find guest rooms in a timely manner.

(F) Hot and cold running water shall be provided for all plumbing facilities.

(G) Guests in facilities with shared bathrooms shall have access to a functioning water closet (such as, toilet), lavatory (such as, sink), shower receptor and/or bathtub. Showering or bathing areas shall be able to be securely locked from the inside. Separate facilities shall be provided for men and women or the facilities shall be able to be locked for individual use.

(H) An active, fully functional switch which activates a light fixture shall be located at the main entry to the guest unit.

(I) Guests shall have 24-hour emergency access to a telephone on the property.

(J) Space shall be provided in good working order for hanging clothes and/or storing personal belongings in all building built after January 1, 1990. (Ord. — , passed - -) Penalty, see § 92.999

§ 92.010 HOUSEKEEPING CONDITIONS.

(A) Cleaning schedules shall be maintained in the manager's office.

(B) The premises shall be kept clean in every part and free from garbage, rubbish, rodents, vermin and other offensive matter.

(C) Mattresses shall be free of excessive bed bugs, stains, holes, rips or odors, normal wear and tear excluded, and maintained in a sanitary, non-defective condition without broken springs or excessive indentations.

(D) Where provided by management, linens shall be free of excessive stains, holes, rips or odors, normal wear and tear excluded, and shall be cleaned at change of occupancy or at least once each week when occupancy does not change.

(E) Linens shall be cleaned in a detergent and water solution for a minimum of 25 minutes.

(F) Bathroom fixtures shall be maintained without significant cracks, chips, or stains.

(G) Bathroom floors shall be washed with water and a sanitizer at change of occupancy or at least once each week when occupancy does not change.

(H) Carpeting shall be free of excessive stains, holes, rips or odors, normal wear and tear excluded, and maintained in a sanitary, non-defective condition.

(I) Wall surfaces shall be maintained without significant spots, stains, flakes, chips, or holes and

maintained in a clean and sanitary condition.

(J) All surfaces, including carpeting and flooring, and fixtures shall be free from any visible or otherwise demonstrable growth of mold or mildew. Water damage to physical facility or fixtures shall be repaired promptly.

(K) All furniture items provided by management shall be maintained in proper working order.

(L) Privacy coverings such as shades, draperies or blinds shall be appropriately hung to cover all windows and shall be free of significant stains, holes, rips or odors in excess of normal wear and tear, and maintained in a sanitary condition.

(Ord. — , passed - -) Penalty, see § 92.999

§ 92.011 CRIMINAL AND NUISANCE ACTIVITY.

(A) The operation of the property shall not result in repeated nuisance activities on the property or contribute to nuisance activities in close proximity to the property when the owner or operator is informed of such activities. Excessive loud noises shall be abated from 10:00 p.m. until 6:00 a.m.

(B) All graffiti shall be removed on a continuous basis within 48 hours of application.

(C) Litter shall be removed daily from the premises, including adjacent public sidewalks and all parking lots under control of the operator. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis to control debris. (Ord. — , passed - -) Penalty, see § 92.999

§ 92.012 ENFORCEMENT.

(A) *Enforcement policy.* Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this subchapter which affects the health of the occupants of any dwelling, or dwelling unit or health of the general public, the Health Officer shall give notice of such alleged violation to the

person or persons responsible therefore, or to any known agent of such person, hereinafter provided. Such notice shall:

- (1) Be put in writing;
- (2) Include a statement of the reason why it is being issued;
- (3) Allow a reasonable time for the performance of any act it required;
- (4) Be served upon the owner or his or her agent, or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him or her personally, or if a agent, or upon such occupant, if a copy thereof is served upon him or her personally, or if a copy is sent by certified mail to his or her last known address, or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice, or if he or she is served with such notice by any other method authorized or required under the laws of this state; or
- (5) Such notice must contain an outline of remedial action, which if taken, will effect compliance with the provisions of this subchapter.

(B) *Written order.* The Health Officer shall serve any person in violation of any of the provisions of this subchapter a written order.

(C) *Compliance required.* Any person, upon receipt of an order from the Health Officer, shall comply with the order and all other provisions of this subchapter.

(D) *Emergency orders.* Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health he or she may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he or she deems necessary to meet the emergency. Notwithstanding the other provisions of this subchapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Health Officer shall be afforded a hearing as soon as possible. After

having been complied with, the Health Officer shall continue such an order in effect, modify it, or revoke it.

(E) *Interpretation.* The Health Officer may initiate any procedures as he or she deems necessary for proper enforcement in order to carry out the purpose and intent of this subchapter.

(F) *Appeals.*

(1) *Hearing requests.* Any person affected by any notice issued by the Health Officer may request and shall be granted a hearing on the matter before the Health Officer or his or her duly appointed designee, if such person affected files in the office of the Health Officer, within ten days after the service of the notice, a written petition requesting the hearing and setting forth a brief statement of the grounds therefore. Upon receipt of such petition, the Health Officer shall arrange a time and place for such hearing and it shall be held as soon as practicable after the receipt of the request. At such hearing, the petitioner shall be given the opportunity to be heard and to show cause why such notice should not be complied with.

(2) *Hearing results.* After the hearing, the Health Officer, or his or her designee, shall sustain, modify, or withdraw the order, based upon his or her findings, on the relevant facts and the applicable subchapter provisions.

(Ord. — , passed - -)

FOOD ESTABLISHMENTS

§ 92.025 PURPOSE; AUTHORITY.

(A) The purpose of this subchapter is to safeguard public health and ensure that foods provided to consumers are safe, wholesome and sanitary, regulated products are unadulterated and honestly presented and these products are in compliance with state laws and regulations. This subchapter is designed to provide a comprehensive approach to protecting the consumer from contaminated food and foodborne illness.

(B) The County Health Department is authorized herein to issue bed and breakfast establishment, retail food establishment and temporary food establishment permits, collect plan review fees, permit fees and penalties, perform inspections, conduct investigations, hold hearings, order or otherwise compel correction of violations of this subchapter and is otherwise authorized to perform all actions necessary for the administration and enforcement of this subchapter. (Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.026 DEFINITIONS.

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

ACIDIFIED FOOD. Low-acid foods to which acid or acid food is added.

(1) **ACIDIFIED FOOD** includes, but is not limited to, the following, singly or in any combination. These foods have an a_w greater than 0.85, a finished equilibrium pH of 4.6 or below and may be called pickled, such as “pickled cauliflower:”

- (a) Beans;
- (b) Cucumbers;
- (c) Cabbage;
- (d) Artichokes;
- (e) Cauliflower;
- (f) Puddings;
- (g) Peppers;
- (h) Tropical fruits; and
- (i) Fish.

(2) **ACIDIFIED FOOD** does not include foods such as standard and non-standard food dressings and condiment sauces that contain small

amounts of low-acid food and have a resultant finished equilibrium pH that does not significantly differ from that of the predominant acid or acid food, foods that are stored, distributed and retailed under refrigeration, nor the following:

- (a) Carbonated beverages;
- (b) Jams;
- (c) Jellies;
- (d) Preserves; and
- (e) Acid foods.

a_w . Water activity that is as follows:

- (1) Measure of the free moisture in a food;
- (2) Quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature; and
- (3) Indicated by the symbol a_w .

ADULTERATED. As set forth in I.C. 16-42-1 through I.C. 16-42-4.

BED AND BREAKFAST ESTABLISHMENT. As defined in 410 I.A.C. 7-15.5, an operator occupied residence that:

- (1) Provides sleeping accommodations to the public for a fee;
- (2) Has no more than 14 guest rooms;
- (3) Provides breakfast to its guests as part of the fee; and
- (4) Provides sleeping accommodations for no more than 30 consecutive days to a particular guest.

CATERING. Preparation of food in an approved retail food establishment, and may include the transportation of the food for service and consumption at some other site.

COMMISSARY. Registered catering establishment, restaurant or any retail food establishment in which food, food containers or food supplies are kept, handled, prepared, packaged or stored, from which meals are catered and mobile retail food establishments or pushcarts are serviced.

CONFLICT OF INTEREST. Situation in which the private financial interest of a 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.

CONSUMER. Person who is a member of the public who:

- (1) Takes possession of food;
- (2) Is not functioning in the capacity of an operator of a retail food establishment or food processing plant; and
- (3) Does not offer the food for resale.

COUNTY HEALTH DEPARTMENT. Local health department in the county or authorized representative having jurisdiction over a bed and breakfast establishment, retail food establishment or temporary food establishment.

COUNTY OFFICIAL. Any official of the county.

CRITICAL CONTROL POINT. Point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

EMPLOYEE. Any of the following:

- (1) The person in charge;
- (2) The person having supervisory or management duties;
- (3) The person on the payroll;
- (4) A family member;
- (5) A volunteer;

(6) A person performing work under contractual agreement; or

(7) Any other person working in a retail food establishment.

FOOD.

(1) Articles used for food, drink, confectionery or condiment, whether simple, mixed or compound; and/or

(2) Substances or ingredients used in the preparation of the items described in division (1) of this definition.

FOODBORNE DISEASE OUTBREAK.

Incident, except as specified under division (2) below, in which:

(1) There is an occurrence of two or more cases of a similar illness resulting from the ingestion of a common food; and

(2) Epidemiological analysis implicates the food as the source of the illness.

HAZARD ANALYSIS CRITICAL CONTROL POINT or HACCP. As defined in 410 I.A.C. 7-24, a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

HEALTH OFFICER. Individual duly appointed as Health Officer of the county, by the County Board of Health, or his or her authorized representative.

HEARING OFFICER. 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.

IMMINENT HEALTH HAZARD. Any circumstance or situation which in the opinion of the Health Officer presents a serious health risk to the public.

INSPECTION REPORT. Document prepared by the County Health Department that is completed at the time of the inspection and a copy left with the operator.

OPERATOR. Person who has a primary oversight responsibility for operation of the establishment through ownership or lease or contractual agreement, and who is responsible for the storage, preparation, display, transportation or serving of food to the public.

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

PERMIT. Document issued by the County Health Department that authorizes a person to operate a bed and breakfast establishment, retail food establishment or temporary food establishment.

PERSON. An association, corporation, individual, partnership or other legal entity, government or governmental subdivision or agency.

pH. Symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between zero and seven indicate acidity, and values between seven and 14 indicate alkalinity. The value for pure distilled water is seven, which is considered neutral.

POTENTIALLY HAZARDOUS FOOD.

(1) Food that is natural or synthetic and requires temperature control because it is in a form capable of supporting any of the following:

(a) The rapid and progressive growth of infectious or toxigenic microorganisms;

(b) The growth and toxin production of clostridium botulinum; or

(c) In raw shell eggs, the growth of salmonella enteritidis.

(2) The term includes the following:

(a) A food of animal origin that is raw or heat treated;

(b) A food of plant origin that is heat-treated or consists of raw seed sprouts;

(c) Cut melons; and

(d) Garlic-in-oil mixtures that are not modified in a way that result in mixtures that do not support growth as specified under division (1) above.

(3) The term does not include any of the following:

(a) An air-cooled hard-boiled egg with shell intact;

(b) A food with an a_w value of 0.85 or less;

(c) A food with a pH level of 4.6 or below when measured at 75°F;

(d) A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

(e) A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of salmonella enteritidis in eggs or clostridium botulinum cannot occur, such as a food that:

1. Has an a_w and a pH that are above the levels specified under divisions (3)(b) and (c) above;

2. May contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; and

(f) A food that may contain an infectious or toxigenic microorganism or chemical or

physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified under division (1) above.

RETAIL FOOD ESTABLISHMENT.

(1) An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, such as the following:

- (a) A restaurant;
- (b) A satellite or catered feeding location;
- (c) A catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people;
- (d) A market;
- (e) A grocery store;
- (f) A convenience store;
- (g) A vending location;
- (h) A conveyance used to transport people;
- (i) An institution;
- (j) A food bank;
- (k) A commissary;
- (l) A cottage industry;
- (m) A hospice facility as defined in I.C. 16-25-1.1-3;
- (n) A health care facility as defined in I.C. 16-18-2-161;
- (o) A health facility as defined in I.C. 16-18-2-167;
- (p) A child care facility such as the following:

1. Licensed child care centers licensed under 470 IAC 3-4.7;

2. Licensed child care institutions licensed under 465 IAC 2-9, 465 IAC 2-10 and 465 IAC 2-11;

3. Registered child care ministries registered under 470 IAC 3-4.5;

(2) An operation that relinquishes possession of food to a consumer directly or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or a delivery service that is provided by common carriers;

(3) An element of the operation, such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority;

(4) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises and regardless of whether there is a charge for the food.

(5) The term does not include the following:

(a) An establishment that offers only prepackaged foods that are not potentially hazardous;

(b) A produce stand that offers only whole, uncut fresh fruits and vegetables;

(c) A food processing plant operated under I.C. 16-42-5;

(d) A private home where food is prepared by a member of an organization that is operating under I.C. 16-42-5-4;

(e) An area where food that is prepared as specified in subsection (4) is sold or offered for human consumption;

(f) A bed and breakfast establishment as defined and regulated under I.C. 16-41-31 and 410 IAC 7-15.5;

(g) A private home that receives catered or home-delivered food; or

(h) A private home.
(Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.027 PERMIT REQUIREMENTS.

(A) It is unlawful for a person to operate any bed and breakfast establishment, retail food establishment or temporary food establishment in the county without first obtaining a valid permit from the Health Officer. The valid permit must be posted in a location conspicuous to the public in the bed and breakfast establishment, retail food establishment or temporary food establishment.

(B) Only persons who comply with the applicable requirements of 410 I.A.C. 7-15.5 and/or 410 I.A.C. 7-24 will be entitled to obtain and keep a permit.
(Ord. 2007-5-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.028 PERMIT NON-TRANSFERRABLE.

A permit issued under this subchapter is not transferable to any other person or to any other location.
(Ord. 2007-5-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.029 REGISTRATION; APPLICATION.

(A) A bed and breakfast establishment, retail food establishment and temporary food establishment permitted by the County Health Department shall be considered registered as required in I.C. 16-42-1-6. To allow verification that a bed and breakfast establishment, retail food establishment or temporary food establishment which is seeking to obtain a new permit is constructed, equipped and otherwise meets requirements of this subchapter, the County Health

Department shall be notified of an intent to operate at least 30 days prior to registering.

(B) A person desiring to operate a bed and breakfast establishment, retail food establishment or temporary food establishment shall submit to the County Health Department a written application for a permit on a form provided by the County Health Department.
(Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.030 APPLICATION CONTENT; QUALIFICATION.

(A) The application shall include:

(1) The name, mailing address, telephone number and original signature of the person and/or operator applying for the permit, and the name, mailing address, telephone number and location of the bed and breakfast establishment, retail food establishment or temporary food establishment;

(2) The name and title of the operator directly responsible for the bed and breakfast establishment, retail food establishment or temporary food establishment;

(3) Information specifying whether the bed and breakfast establishment, retail food establishment or temporary food establishment is owned by an association, corporation, individual, partnership or other legal entity;

(4) Statement signed by the applicant that:

(a) Attests to the accuracy of the information provided in the application; and

(b) Affirms that the operator will:

1. Comply with this subchapter;

and

2. Allow the County Health Department access to the bed and breakfast establishment, retail food establishment or temporary food establishment and records, as specified in 410 I.A.C. 7-15.5 and 410 I.A.C. 7-24.

(5) Statement specifying whether the bed and breakfast establishment, retail food establishment or temporary food establishment:

(a) If not permanent, is mobile and/or temporary; and

(b) The operation can be categorized by one or more of the following:

1. Prepares, offers for sale or serves potentially hazardous food only to order upon a consumer's request, in advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency, or using time, rather than temperature, as the public health control as specified under 410 I.A.C. 7-24;

2. Prepares acidified foods;

3. Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients, cooking, cooling, reheating, hot or cold holding, freezing or thawing;

4. Prepares food for delivery to and consumption at a location off the premises of the bed and breakfast establishment or retail food establishment where it is prepared;

5. Prepares food for service to a highly susceptible population, as defined in 410 I.A.C. 7-24;

6. Prepares only food that is not potentially hazardous; or

7. Does not prepare, but offers for sale only prepackaged food that is not potentially hazardous.

(6) Other information required by the County Health Department.

(B) To qualify for a permit, an applicant must:

(1) Be an owner and/or operator of the bed

and breakfast establishment, retail food establishment or temporary food establishment;

(2) Comply with the requirements of this subchapter;

(3) Agree to allow access to the bed and breakfast establishment, retail food establishment or temporary food establishment and provide required information; and

(4) Pay the applicable permit fees at the time the application is submitted.
(Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.031 FACILITY AND OPERATING PLANS SUBMISSION.

(A) The owner or other authorized agent of an existing or proposed bed and breakfast establishment, retail food establishment or temporary food establishment shall submit to the County Health Department properly prepared plans and specifications for review and approval before:

(1) The construction of a bed and breakfast establishment, retail food establishment or temporary food establishment;

(2) The conversion of an existing structure for use as a bed and breakfast establishment, retail food establishment or temporary food establishment;

(3) The remodeling of a bed and breakfast establishment, retail food establishment or temporary food establishment; or

(4) A change in the type of bed and breakfast establishment, retail food establishment or temporary food establishment if the County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

(B) The plans and specifications for a bed and breakfast establishment, retail food establishment or temporary food establishment shall include:

(1) The type of operation;

(2) The types of food preparation; and

(3) Identification of the foods to be prepared.

(C) The plans and specifications must be deemed satisfactory and approved by the County Health Department before a permit can be issued.

(D) A pre-operational inspection must show that the bed and breakfast establishment, retail food establishment or temporary food establishment is built or remodeled in accordance with the approved plans and specifications, and that the establishment is in compliance with this subchapter and all applicable requirements in 410 I.A.C. 7-24 and/or 410 I.A.C. 7-15.5.

(E) In addition to the annual permit fee required in § 92.036, every bed and breakfast establishment and retail food establishment required to submit plans and specifications to the Health Department in division (A) above shall pay a plan review fee equivalent to the annual permit fee for the bed and breakfast establishment or retail food establishment which has not previously obtained a permit.
(Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.032 PERMIT PERIOD.

(A) A permit for each bed and breakfast establishment or retail food establishment having permanent location in the county shall be issued for a term of one year beginning January 1 and expiring December 31 of the same calendar year, and shall be renewed annually.

(B) A permit for a temporary food establishment shall be for the term of one continuous operation, not to exceed 14 consecutive days.
(Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.033 PERMIT CONTENTS.

Any permit issued by the Health Officer shall

contain the name and address of the person and/or the owner to whom the permit is granted, the location of the establishment for which the permit is issued, the issuance and expiration dates and other pertinent data as may be required by the County Health Officer.
(Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.034 OPERATOR RESPONSIBILITIES.

(A) Upon acceptance of the permit issued by the County Health Department, the operator, in order to retain the permit, shall:

(1) Post the permit in a location in the bed and breakfast establishment, retail food establishment or temporary food establishment that is conspicuous to consumers;

(2) Comply with the provisions of this subchapter and all laws and rules adopted by reference herein, and the conditions of any variances granted by the State Department of Health;

(3) Immediately discontinue affected operations and notify the County Health Department if an imminent health hazard may exist;

(4) Allow representatives of the County Health Department access to the bed and breakfast establishment, retail food establishment or temporary food establishment at all reasonable times;

(5) Comply with directives of the County Health Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings and other directives issued by the County Health Department in regard to the operator's bed and breakfast establishment, retail food establishment or temporary food establishment or in response to community emergencies; and

(6) Accept notices issued and served by the County Health Department.

(B) The operator shall be subject to the administrative, civil, injunctive and criminal remedies authorized in law for failure to comply with this subchapter or a directive of the County Health Department.
 (Ord. 2007-5-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.035 CHANGE OF OWNERSHIP.

After a properly completed application is submitted, reviewed and approved, the fees are paid and an inspection shows the establishment is in compliance with this subchapter, the County Health Department may renew a permit for an existing bed and breakfast establishment or retail food establishment, or may issue a permit to a new owner of an existing bed and breakfast establishment or retail food establishment.
 (Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.036 PERMIT FEES.

(A) (1) (a) It shall be unlawful for any person to operate a bed and breakfast establishment, retail food establishment or temporary food establishment in the county who has not paid the permit fee required to be paid for the operation of the establishment.

(b) Except as provided for in divisions (F) through (J) of this section, the permit fee shall be paid for a term of one year beginning January 1 and expiring December 31 of the same year, and shall be renewed annually.

(2) Permit fees for the issuance of a permit under this subchapter to a bed and breakfast establishment, retail food establishment or temporary food establishment shall be set by the County Health Department, as provided for in I.C. 16-20-1-27.

(3) A receipt for the payment of the fee shall be provided by the County Health Department if a valid permit from the Health Officer is presented.

(4) The payment of the fees shall be required for each bed and breakfast establishment, retail food establishment and temporary food

establishment, operated or to be operated by any person.

(5) Permit fees based on number of employees are as follows:

<i>Number of Employees</i>	<i>Permit Fee</i>
Less than 20 employees	\$75
20 through 49 employees	\$100
More than 49 employees	\$150

(6) The permit fee for a new establishment having permanent location in the county and filing its application between June 1 and December 31 of any year thereby operating less than six months during any one calendar year shall be one-half of the scheduled permit fee for that establishment.

(7) Any person who desires to operate a temporary food establishment in the county shall obtain from the County Health Department a temporary food establishment permit. The County Health Department shall provide the permit upon inspection and approval of the establishment and when presented with \$10 for each day of operation, not to exceed \$140 for any continuous operation.

(8) Retail food establishments which operate less than six months during any one calendar year will be charged one-half of the scheduled fee.

(9) Every person operating a bed and breakfast establishment or retail food establishment shall pay annually to the County Health Department a permit fee for permit renewal in accordance with the schedule of fees aforementioned in division (E) above between January 1 and February 1 of each year. If the permit fee is not paid on or before February 1 of the calendar year, the permit shall be ipso facto void. A 25% late fee shall be assessed to permits renewed late after February 1.

(10) (a) An organization that is exempt from the state gross retail and use taxes under I.C. 6-2.5-5-26 and that offers food to the final consumer at an event held for the benefit of the organization shall

be exempt from the requirements of this subchapter if:

1. Members of the organization prepare the food that will be offered;

2. Events conducted by the organization under this division take place for no more than 30 days in any calendar year; and

3. The name of each member who has prepared a food item is attached to the container in which food has been placed.

(b) The Health Officer shall be provided, upon request, proof of an organization's tax exemption.

(11) The payment of permit fees under this subchapter is non-transferable and non-refundable.

(B) (1) The County Health Department shall collect the fees established as a part of this subchapter in accord with the schedules designated in this subchapter.

(2) All fees and penalties collected by the County Health Department shall be accounted for in detail for each plan review fee, permit fee, late fee, civil penalty and/or other penalty.

(3) (a) All fees collected by the County Health Department under this subchapter shall be transferred to the County Health Maintenance Fund. The monies collected in accord with the provisions of this subchapter shall be used only for the maintenance of or for future expansion of the specific program service from which they are derived.

(b) All penalties collected by the County Health Department under this subchapter shall be transferred to the County General Fund as provided for in I.C. 16-42-5-28. (Ord. 2007-5-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.037 INSPECTIONS.

(A) The County Health Department shall inspect each bed and breakfast establishment and retail food establishment having permanent location in the county at least once every year.

(B) The County Health Department may increase the interval between inspections if:

(1) The bed and breakfast establishment and/or retail food establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan;

(2) The bed and breakfast establishment and/or retail food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction of the County Health Department; or

(3) The County Health Department is able to contact the establishment operator to determine that the nature of the food operation has not changed.

(C) The County Health Department shall periodically inspect throughout the permit period a temporary food establishment that prepares, sells or serves unpackaged potentially hazardous food. The County Health Department may inspect a temporary food establishment that prepares, sells or serves unpackaged, non-potentially hazardous food that:

(1) Has improvised rather than permanent facilities or equipment for accomplishing functions such as hand washing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal and insect and rodent control; or

(2) Has untrained food employees.

(D) Within the parameters specified in this subchapter, the County Health Department shall prioritize and conduct more frequent inspections based upon its assessment of a bed and breakfast establishment's and/or retail food establishment's history of compliance with this subchapter and the bed and breakfast establishment's and/or retail food establishment's potential as a vector of foodborne infectious or toxigenic microorganisms by evaluating:

(1) Past performance regarding violations of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24 and/or 410 I.A.C. 7-22 and/or HACCP plan requirements that are critical or non-critical;

(2) The occurrence of numerous or repeat violations of 410 I.A.C. 7-15.5 and/or 410 I.A.C. 7-24 and/or HACCP plan requirements that are non-critical;

(3) Past performance when complaints investigated and found to be valid;

(4) The hazards associated with the particular foods that are prepared, stored or served;

(5) The type of operation, including the methods and extent of food storage, preparation and service;

(6) The number of people served; and

(7) Whether the population served is a highly susceptible population.

(E) After a County Health Department official presents his or her credentials and provides notice of the purpose and of the intent to conduct an inspection, the operator shall allow the County Health Department to determine if the bed and breakfast establishment, retail food establishment or temporary food establishment is in compliance with this subchapter by allowing access to the establishment, allowing inspection and providing information and records as requested. The County Health Department is entitled to information and records according to I.C. 16-42-1-13 and I.C. 16-42-5-23, during the bed and breakfast establishment, retail food establishment or temporary food establishment hours of operation and other reasonable times.

(F) Access is a condition of the acceptance and retention of a permit. If access is denied, an order issued by the appropriate authority allowing access may be obtained according to law as provided in I.C. 16-20-1-26.

(G) At the conclusion of the inspection, the County Health Department shall provide a copy of

the completed inspection report and the notice to correct violations to the operator or to the person-in-charge as required under I.C. 16-20-8-5.

(H) Except as specified in division (I) below, an operator shall, at the time of inspection, correct a critical violation of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24 and/or 410 I.A.C. 7-22, and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(I) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the County Health Department may agree to or specify a longer time frame after the inspection for the operator to correct critical code violations or HACCP plan deviations.

(J) After receiving notification that the operator has corrected a critical violation or HACCP plan deviation, or at the end of the specified period of time, the County Health Department shall verify correction of the violation, document the information on an inspection report and enter the report in the County Health Department's records.

(K) Refusal to sign an acknowledgment of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frames specified.

(L) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the County Health Department's historical record for the bed and breakfast establishment, retail food establishment or temporary food establishment.

(M) The operator is not necessarily in agreement with the findings of the County Health Department by acknowledgment of receipt of the inspection report.

(N) Except as specified in 410 I.A.C. 7-24, § 194, the County Health Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in I.C. 16-20-8-6. (Ord. 2007-5-4-25, passed 4-25-2007) Penalty, see § 92.999

**§ 92.038 COMPLIANCE; ENFORCEMENT;
CONFLICT OF INTEREST.**

(A) If an application for plan review and/or permit to operate a bed and breakfast establishment, retail food establishment or temporary food establishment is denied, the County Health Department shall provide the applicant with a notice that includes:

(1) The specified reasons and rule citations for the application and/or permit denial;

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

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

(B) The County Health Department may suspend the permit to operate a bed and breakfast establishment, retail food establishment or temporary food establishment if it determines through inspections or examination of employees, food, records or other means as specified in this subchapter, that an imminent health hazard exists.

(C) The operator of a bed and breakfast establishment, retail food establishment or temporary food establishment shall immediately discontinue operations and notify the County Health Department that an imminent health hazard may exist because of an emergency such as:

(1) Fire;

(2) Flood;

(3) Extended interruption of electrical or water service;

(4) Sewage backup;

(5) Misuse of poisonous or toxic materials;

(6) Onset of an apparent foodborne illness outbreak;

(7) Gross unsanitary occurrence or condition; or

(8) Other circumstances that may endanger public health.

(D) An operator need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(E) If a bed and breakfast establishment, retail food establishment or temporary food establishment has discontinued operations for the reason(s) stated above or otherwise according to law, the operator must obtain approval from the County Health Department before resuming operations.

(F) (1) The following options are available to the County Health Department for enforcement when the actions are reasonable:

(a) Issuing of tickets based on violations of the bed and breakfast establishment, retail food establishment or temporary food establishment as provided for in I.C. 16-42-5-28;

(b) Conduct administrative proceeding for suspension and/or revocation of the bed and breakfast establishment, retail food establishment or temporary food establishment permit in front of a Hearing Officer; and/or

(c) Issuing an order to abate based on a condition that may transmit, generate or promote disease. 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, County Prosecuting Attorney or the County Board of Health Attorney. (I.C. 16-20-1-25)

(2) Should the action concerning public health be a violation of the subchapter, the County Attorney, the County Prosecuting Attorney or the County Board of Health Attorney may initiate a proceeding in the courts for the enforcement of the subchapter violation pursuant to the provisions of I.C. 34-28-5-1. Should the action concerning public health be a criminal offense, the County Attorney or the

County Prosecuting Attorney may institute a proceeding in the courts for enforcement pursuant to the provisions of I.C. 16-20-1-25.

(G) The Health Officer may initiate any procedures as he or she deems necessary for proper enforcement in order to carry out the purpose and intent of this subchapter.

(H) No County Health Department official shall conduct themselves in a manner that is or could have the appearance of a conflict of interest. (Ord. 2007-5-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.039 APPEALS.

(A) Any persons aggrieved by orders issued under § 92.037(A) through (C) shall be entitled to a review of the final order before a Hearing Officer by filing a written request therefore with the Health Officer. The written request must be mailed to the Health Officer at County Health Department, ATTN: Health Officer, 1201 Race Street, Suite 208, New Castle, Indiana, 47362-4653, and must be received within 15 days after the final order is issued.

(B) Upon the Health Officer's receipt of the 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 the court of the county. A shorter period of time may be granted, if requested by either party and agreed upon among the parties.

(C) The notice of the hearing shall be served upon the person requesting the review by leaving or mailing by certified mail the notice to the address listed on the permit application as the person's mailing address, or other address as the person shall designate in the letter of request to the Health Officer.

(D) The Hearing Officer shall make written findings of fact and shall enter its final order or determination of this matter in writing. (Ord. 2007-5-4-25, passed 4-25-2007)

§ 92.040 STATE PROVISIONS INCORPORATED BY REFERENCE.

(A) The requirements of I.C. 16-42-1, I.C. 16-42-2 and I.C. 16-42-5, and State Department of Health Rules, 410 I.A.C. 7-15.5, *Bed and Breakfast Establishments*, 410 I.A.C. 7-24 *Retail Food Establishment Sanitation Requirements*, 410 I.A.C. 7-21 *Wholesale Food Establishment Sanitation Requirements*, 410 I.A.C. 7-22 *Certification of Food Handlers* and 410 I.A.C. 7-23 *Food Establishment: Schedule of Civil Penalties for Violations* are hereby incorporated by reference.

(B) This subchapter further incorporates any updates, amendments or revisions that may occur from time to time, and any bulletin or publication which may hereafter be published by the State Department of Health as a supplement or successor to State Department of Health rules listed herein. (Ord. 2007-5-4-25, passed 4-25-2007)

SWIMMING POOLS AND SPAS

§ 92.055 PURPOSE.

The purpose of this subchapter is to provide minimum standards for the prevention and suppression of disease and health risks associated with recreational water illnesses, and to otherwise promote public safety and welfare and protection of the environment. (Ord. 2007-6-4-25, passed 4-25-2007)

§ 92.056 DEFINITIONS.

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

AIR GAP. Unobstructed vertical distance through atmosphere between the water supply inlet and the flood level of the rim of the receiving unit.

BATHER. Any person using a pool facility for the purpose of recreation, relaxation, therapy or related activities.

BATHER LOAD. Maximum number of bathers allowed within a pool structure using the following formulas:

(1) Square footage per bather for an indoor swimming pool shall be equal to the water surface area divided by 24;

(2) Square footage per bather for an outdoor swimming pool shall be equal to the water surface area divided by 20; and

(3) Square footage per bather for a spa shall be equal to the water surface area divided by ten.

BOARD. County Board of Health.

BREAKPOINT CHLORINATION. Point in rising chlorine residual at which the concentration of free or available chlorine becomes great enough to completely oxidize all organic matter and ammonia compounds (chloramines) in a pool.

DEPARTMENT. County Health Department, and/or its employees.

DIVING POOL. Pool designed and constructed primarily for diving and does not have a shallow end.

HEALTH OFFICER. Individual duly appointed as County Health Officer by the County Board of Health, or his or her authorized representative.

IMMINENT HEALTH HAZARD. Any event, circumstance or situation which, in the discretion of the Health Officer, presents a serious and present health or safety risk to a person or to the public at large.

mg/l. Milligrams per liter and is equivalent to parts per million (ppm) when the medium is water.

OWNER. Any individual, association, company, corporation, partnership, division of government or other group acting as a unit, trust,

estate, agent or legal representative thereof who shall hold title to the real estate upon which the pool is placed, or who shall be legally responsible for the operations of the pool or who shall be so named as the owner on the pool permit application.

PERMIT. Certificate approved and issued by the County Health Officer allowing pool operations.

PERSON. Any individual, association, company, corporation, partnership, division of government, agent or other legal representative.

PLUNGE POOL. Pool located at the exit end of a waterslide flume which is intended and designed to receive sliders emerging from the flume.

POOL. Structure, basin, chamber or tank containing an artificial body of water designed for swimming, diving, wading or other recreational use, or for relaxation or other therapeutic purposes.

PUBLIC POOL Any pool operated by a concessionaire, lessee, licensee or owner which is intended to be used for recreational or therapeutic purposes to the public at large regardless of whether a fee is charged for use, other than those pools defined as semi-public or pools constructed at a one- or two-family dwelling for the sole use of the household and house guests.

SEMI-PUBLIC POOL. Any pool which is operated for and in conjunction with hotels, motels, apartments, condominiums, bed and breakfasts or similar lodgings, health clubs, neighborhood associations, camps or mobile home parks, medical or behavioral treatment facilities, universities, colleges or other schools.

SPA or SPA POOL. Hydrotherapy structure used primarily for therapeutic or relaxation purposes which is not drained, cleaned and refilled after each use.

TURNOVER RATE. The period of time, expressed in hours, required to circulate the volume of water equal to the pool capacity through the pool water treatment system.

WADING POOL. Pool used for bathing that has

a maximum depth of two feet.

WAVE POOL. Pool having a bottom sloped upward from the deep end to the surface at the shallow end with equipment installed at the deep end to create wave motions in the water.

ZERO DEPTH POOL. Pool with a bottom sloped upward from the deep end to the surface level at the shallow end.

(Ord. 2007-6-4-25, passed 4-25-2007)

§ 92.057 PERMIT REQUIREMENTS.

(A) Nothing in this subchapter shall be construed as applying to any pool or spa constructed at a one- or two-family dwelling and maintained for the sole use of the household and houseguests, or to any pool or spa in a hospital or health facility approved by the State Board of Health, which pool or spa is used for individual therapy only and drained and filled prior to each individual use.

(B) It shall be unlawful for any person to operate a public or semi-public pool in the county who does not possess a valid permit from the Health Officer. Only persons who comply with the applicable provisions of this subchapter shall be entitled to receive and retain the permit. The permit shall be for a term of one year or less and shall be renewed annually on or before the anniversary date established by the Health Officer.

(C) Each pool structure shall require a permit for the operation of the pool. A permit issued by the Health Officer for the pool shall contain the name of the owner, pool water surface area, pool water volume capacity and any other data as the Health Officer may deem necessary. The permit shall be posted in a conspicuous place on the premises of the pool.

(D) Pools and spas which operate only during the months of May, June, July, August or September shall pay the Department a seasonal permit fee of \$25, which shall be submitted with the seasonal permit application.

(E) Pools and spas which operate for periods

which include months other than the months listed in division (D) above shall pay to the Department an annual permit fee of \$50, which shall be submitted with the annual permit application.

(F) In addition, a fee of \$25 shall be paid for each additional swimming pool or spa operated by the same owner at the same address.

(G) All annual permit fees shall be payable prior to the expiration date of the permit.

(H) Pool permits are non-transferable, and once an establishment has been issued a permit to allow pool operations, the cost of the permit is non-refundable.

(Ord. 2007-6-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.058 FEE AND FINE COLLECTION AND DISPOSITION.

(A) The County Health Department shall collect the fees established as a part of this subchapter in accord with the schedules designated in § 92.057.

(B) All fees and fines collected by the County Health Department shall be accounted for in detail for each permit fee or fine.

(C) All fees and fines collected by the County Health Department under this subchapter shall be transferred to the County Health Fund. The monies collected in accord with the provisions of this subchapter shall be used only for the maintenance of or for future expansion of the specific program service from which they are derived.

(Ord. 2007-6-4-25, passed 4-25-2007)

§ 92.059 WATER SAMPLE COLLECTION AND TESTING.

(A) Bacteriological testing of pool water shall start at least one week prior to the opening of a swimming pool or spa.

(B) The owner of a pool shall arrange for the collection and bacteriological examination of at least one sample of pool water per week whenever the pool is open for use.

(C) A pool owner may utilize a private, state approved laboratory for water sample collection and examination, and shall be responsible to submit the water sample reports to the Department. Failure to submit any weekly pool water sample during the time the pool is open for use shall cause the missed sample to be declared unsatisfactory for the appropriate week.

(D) Bacteriological examinations performed on pool water samples shall include a heterotrophic 35°C plate count and a total coliform test using the multiple tube fermentation test, a membrane filter test or the 100 milliliter present/absent test.

(E) Any two consecutive pool water samples or three pool water samples collected in a six-week period from the same pool which contain more than 200 bacteria colonies per milliliter as determined by the heterotrophic 35°C plate count or test positive for coliform organisms using the tests enumerated in division (D) above shall cause the pool to be closed by the Department.

(F) Whenever a pool is closed by the Department due to an unsatisfactory pool water sample report, an additional sample shall be submitted to the Department or other state approved laboratory to be analyzed. The pool may be reopened upon receipt of a satisfactory report.

(G) Whenever a pool is closed for more than 14 consecutive days, for any reason, a water sample shall be submitted to the Department or other state approved laboratory to be analyzed. The pool may be reopened upon receipt of a satisfactory report. (Ord. 2007-6-4-25, passed 4-25-2007)

§ 92.060 OPERATION, INSPECTION RECORDS.

(A) (1) Daily operating records for pools shall be maintained and recorded each day a pool is open for use, and the records are to be kept for a minimum

of one year and made available to the Department upon request.

(2) The records shall contain the following:

(a) Disinfectant residuals, pH readings, combined chlorine concentrations and total alkalinity;

(b) Volume of fresh water added to pool;

(c) Amounts of chemicals added to pool;

(d) Operating periods of pool water pumps and filters and the rate of flow readings in gallons per minute (gpm);

(e) Maintenance and malfunctioning of equipment; and

(f) Cyanuric acid levels if cyanuric acid is used.

(B) All pools shall have available onsite an injury/incident report form prescribed by the State Department of Health. The form shall be completed for each occurrence that results in death, that requires resuscitation or that requires transportation to a medical facility for treatment or results in an illness believed to be connected to the water quality of the pool. The form shall be furnished to the Department and to the State Department of Health within ten days of the incident.

(C) The Department shall inspect all pools under seasonal permit at least once annually.

(D) The Department shall inspect all pools under annual permit at least once annually. (Ord. 2007-6-4-25, passed 4-25-2007)

§ 92.061 DEPTH MARKINGS.

(A) Depth of pool water shall be plainly marked at or above the water surface on the vertical pool walls and on the top of the coping or walk next to the

pool.

(B) Depth markers on the deck shall be within 18 inches of the water's edge and positioned to be read while on the deck facing the water.

(C) Depth markings shall be installed at the maximum and minimum water depths and at all points of slope change at increments of water depths not to exceed two feet.

(D) Depth marking shall be at least four inches in height, colored in contrast to the background on which they are applied and expressed in feet and inches.

(E) Where depth markers cannot be placed on the vertical walls at or above the water level of a pool, other means shall be used which are plainly visible from the centerline of the pool.

(F) Swimming pools having water depths greater than five feet extending for a distance of not less than five feet shall have a buoyed transition line extended across the width of the pool. The line shall be securely fastened to anchors constructed of corrosion resistant materials and recessed into the pool walls at a point one foot upslope from the breakpoint between shallow areas of five feet or less and deep areas over five feet. The line shall be installed at all times the pool is open for use except when the pool is being used for organized competitive activities.

(G) All public and semi-public pools, except spas, shall conform to the provisions of this subchapter.
(Ord. 2007-6-4-25, passed 4-25-2007)

§ 92.062 SIGNAGE.

(A) A sign warning "DANGER-HAZARDOUS CHEMICALS" in clearly legible letters at least four inches in height shall be posted on or adjacent to the pool chemical feed and chemical storage rooms.

(B) Whenever a swimming pool is open for use and no lifeguard service is provided, a sign shall be placed in plain view at the entrance(s) and inside the

pool perimeter that warns "WARNING-NO LIFEGUARD ON DUTY" in clearly legible letters at least four inches in height, and the signs shall also warn "NO SWIMMING ALONE. CHILDREN UNDER 14 YEARS OF AGE AND NON-SWIMMERS SHALL NOT USE THE POOL UNLESS ACCOMPANIED BY A RESPONSIBLE ADULT" in clearly legible letters at least two inches in height. This sign shall not be required at spas or therapy pools.

(C) Whenever a pool is not open for use, a sign stating "POOL CLOSED" in clearly legible letters at least four inches in height shall be posted at the entrance(s) or near the pool structure that is closed. When possible, access to a closed pool shall be denied with a fixed barrier or locked entrance(s).

(D) Signs stating "NO DIVING" in clearly legible letters four inches in height shall be posted at non-diving areas and at portions of the pool which are five feet or less in water depth. The signs shall not be required at spas or wading pools.

(E) The following sanitation and safety rules shall be posted within the pool perimeter on signage with clearly legible letters at least one inch in height.

(1) Anyone who has or has had diarrhea in the past two weeks shall not use the pool.

(2) Anyone who has an area of exposed subepidermal tissue, open blisters, cuts and the like, is advised not to use the pool.

(3) All persons shall take a cleansing shower before entering the pool. A bather leaving the pool to use the toilet shall take another cleansing shower before returning to the pool enclosure.

(4) Spitting, spouting of water, blowing the nose and similar behavior in the pool is prohibited.

(5) No running or rough play is permitted in the pool, on the runways, on diving boards, on floats, on platforms, in dressing rooms or in showers.

(6) Street clothes are not allowed in the pool.

(F) In addition to the requirements of division (E) above, spas shall have the following warning posted.

(1) Pregnant women, small children or persons with heart disease, diabetes, high blood pressure or low blood pressure should not enter the spa except under advice of a physician.

(2) Avoid use while under the influence of alcohol, tranquilizers or other drugs that cause drowsiness or raise or lower blood pressure.

(3) Exposure greater than 15 minutes may result in drowsiness, nausea or fainting.

(G) In addition to the requirements of division (E) above, wading pools shall have the following rules posted.

(1) All diaper-aged children shall use plastic pants with tight fitting elastic at the legs and waist, or wear swim diapers.

(2) Do not change diapers poolside.

(H) The following rules shall be posted at or near the entrance of a pool slide.

(1) One rider at a time. Wait until the landing area is clear before entering slide.

(2) Slide in a sitting position or on the back only.

(3) Do not attempt to stop on the slide.

(4) Leave the plunge area immediately.

(5) Warning: Water depth is _____ feet.

(I) The following rules shall be posted near the entrance of a water slide.

(1) Only one rider at a time.

(2) Follow the instructions of the attendant and/or lifeguard.

(3) No running, standing, kneeling, rotating, tumbling or stopping in the flumes.

(4) No diving from a flume.

(5) Leave the plunge pool promptly after entering.

(J) A sign shall be posted in the immediate vicinity of the pool indicating the location of a telephone designated for emergency use. The telephone shall be located within 200 feet of the pool enclosure and be available for emergency use whenever the pool is open, and shall have the following emergency telephone number(s) posted within view of the use:

(1) 911;

(2) Ambulance or rescue unit (if different than 911);

(3) Hospital (if different than 911);

(4) Police (if different than 911); and

(5) Fire Department (if different than 911).
(Ord. 2007-6-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.063 SPECTATOR, SNACK AREAS.

(A) There shall be a separation between the area used by visitors and spectators at a public pool and the area used by bathers. Visitors and spectators may be permitted within the pool enclosure if an area is provided which is separated from the area used by bathers with a barrier at least 29 inches in height.

(B) Food and beverages shall not be permitted within any pool enclosure except in a visitor or spectator area as described in division (A) above, or in a similarly separated snack area for bathers. Refuse containers with tight fitting lids shall be provided in these areas.

(C) No glass food or beverage containers or other glassware shall be allowed within any pool enclosure. If any broken glass is suspected or known

to be in a pool, the pool shall be closed and the glass removed before the pool can be opened for use.

(D) Refuse shall be collected and regularly disposed of so that the pool area is kept clean and litter free.

(Ord. 2007-6-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.064 CONSTRUCTION.

(A) All public and semi-public pools shall be enclosed by a fence, wall, building or other barrier of durable construction which is at least six feet of height to aid in the movement of bathers, spectators or other patrons, and to discourage the entrance of unwanted persons.

(B) All doors and gates that serve as an entrance to a swimming pool and/or spa shall be equipped with operable self-latching and self-closing devices, which shall be capable of being locked.

(C) An attendant stationed at the entrance of a public pool at all times the pool is open for use shall be sufficient to satisfy the requirements of self-latching and self-closing doors or gates as referenced in division (B) above.

(D) All public and semi-public pools in which the pools are indoors and lifeguard service is provided shall have acoustical treatment to control noise levels so that bathers can hear signals and directions of routine supervision and emergency control.

(E) A pool shall not be operated if a drain cover or outlet grate is missing, broken, have any configuration or space which could entrap the fingers or toes of a bather or can be removed without the use of tools.

(F) Decks shall be so constructed so as to cause water to drain away from the pool.

(G) A hose bibb with a vacuum breaker shall be installed at the water spigot when a water hose is connected to the spigot for the purpose of washing the pool deck or adding fresh water to a pool.

(H) Skimming devices shall develop sufficient suction on the water to induce floating scum and wastes into the skimmer. The skimmer shall be of sturdy, corrosion-resistant material with an easily removable and cleanable basket or screen through which pool water overflow must pass and have a hole in the skimmer cover to prevent air lock of the pump when the cover is fastened to the skimmer housing.

(I) Swimming pools having a diving board shall conform to the requirements set forth in 675 I.A.C. 20-2-8 and 675 I.A.C. 20-2-15.

(J) Any outdoor pool, when open for use after dusk, shall have operable overhead and underwater lighting.

(K) A wave pool shall be equipped with not less than two emergency wave shutoff devices, with one device located on each side of the pool at a fixed lifeguard station.

(L) A timing control for a spa shall be so located that it cannot be adjusted by a patron while seated in the spa.

(M) All pools, ancillary facilities and components thereof shall be designed, constructed, operated, maintained and modified so as to minimize the possibility of harm to pool patrons due to pinching, tripping, slipping, abrasion, puncture, entrapment or other hazard as identified by the Health Officer.

(N) All pools, ancillary facilities and components thereof shall be designed, constructed, operated, maintained and modified in accordance with applicable provisions of 675 I.A.C. 20-1.1.

(Ord. 2007-6-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.065 CLOSURE.

(A) A pool shall be closed when any of the following occur:

(1) Failure to meet the bacteriological requirements as referenced in 410 I.A.C. 6-2.1, *State Department of Health Swimming Pool Rule*;

(2) Failure to meet the disinfectant concentration requirements as referenced in 410 I.A.C. 6-2.1, *State Department of Health Swimming Pool Rule*;

(3) Failure to meet the water clarity requirements as referenced in 410 I.A.C. 6-2.1, *State Department of Health Swimming Pool Rule*;

(4) The main outlet cover or grate is missing, broken or not securely fastened, as referenced in 410 I.A.C. 6-2.1, *State Department of Health Swimming Pool Rule*;

(5) Failure to meet the lifeguard requirements as enumerated in 410 I.A.C. 6-2.1, *State Department of Health Swimming Pool Rule*;

(6) A pump, filter or disinfectant feed is non-operational;

(7) A non-solid fecal accident as referenced in 410 I.A.C. 6-2.1, *State Department of Health Swimming Pool Rule*;

(8) A spa water temperature exceeds 104°F; or

(9) Broken glass is suspected or known to be in the pool water.

(B) Upon being advised by the Health Officer, any circumstance which the Health Officer determines to be a serious health or safety risk shall close a pool.

(Ord. 2007-6-4-25, passed 4-25-2007)

§ 92.066 INSPECTION; SUSPENSION; REVOCATION.

(A) The owner, or his or her agent, shall, upon the request of the Health Officer, permit access to all areas of the pool and shall permit inspection of, access to and the copying of any and all records relating to the operation of the pool.

(B) Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this subchapter, the Health Officer shall give notice of the alleged violations to the owner and/or his or her agent as hereinafter provided. The notice shall:

(1) Be in writing;

(2) Include a statement of the reasons why it is being issued;

(3) Contain an outline of remedial action, which, if taken, will effect compliance with the provisions of the subchapter;

(4) Allow a reasonable time for the correction of the violation(s); and

(5) Be served upon the owner or his or her agent, provided that the notice shall be deemed to be properly served upon the owner or agent if a copy thereof is sent by certified mail to the address listed on the permit of the facility affected by the notice, or if the owner or its agent is served with the notice by any other method authorized by the laws of this state.

(C) The Health Officer may order a fine, suspension or revocation of any permit issued under this subchapter for the following reasons:

(1) Interference with the Health Officer, or his or her authorized representatives, in the performance of his or her duties. **INTERFERENCE** shall be defined as the process of obstructing, hampering or blocking the Health Officer in the performance of his or her duties; or

(2) As a result of the willful and/or continuous violation of any provision of this subchapter.

(D) (1) No fine, suspension or revocation shall be ordered by the Health Officer except after a hearing. Notwithstanding any other provisions of this subchapter, whenever the Health Officer, or his or her authorized representatives, find unsanitary or other conditions involving the operation of a facility regulated under this subchapter, the operation of which, in his or her reasonable belief, constitutes an

imminent health hazard, he or she shall, without notice or hearing, issue and serve a written order upon the permittee requiring the immediate closure of its facility, which order shall cite the existence of the unsanitary condition(s) and shall specify the corrective action(s) to be taken.

(2) (a) The order shall be effective immediately;

(b) Upon written request to the Health Officer, the permittee shall be afforded a hearing on the next business day; and

(c) The Health Officer, or his or her representative, shall make a reinspection upon the request of the permittee during normal business hours of the Health Department. When the Health Officer determines that the necessary corrective action(s) have been taken, operation of the facility may be resumed.

(E) All hearings required under this subchapter, except those set forth in § 92.065, shall be held only upon at least ten days written notice to the permittee of time, place and nature thereof. The notice of hearing shall be served upon the permittee by leaving or mailing by certified mail the notice to the address listed on the permit application as the permittee's mailing address, or other address as the permittee shall designate in writing to the Health Officer.

(F) At any hearing required under this subchapter, every person who is a party to the proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded. Upon the conclusion of the hearing, the Health Officer shall enter a final order, subject to the right of appeal.

(G) (1) Any permittee aggrieved by any final order of the Health Officer shall be entitled to a review of the final order before the Board by filing a written request therefore with the Secretary of the Board within 15 days after the final order is issued. Upon the Health Officer's receipt of the request, the Board shall hear the matter de novo in an open hearing at least ten days written notice of the time,

place and nature thereof. The Health Officer and permittee may agree to a shorter period of time, if requested by either party. The notice shall be issued by the Secretary of the Board to the Health Officer and the permittee filing the request. The notice of hearing shall be served upon the permittee by leaving or mailing by certified mail the notice to the address listed on the permit application as the permittee's mailing address or other address as the permittee shall designate in writing to the Secretary of the Board.

(2) At the hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Officer; provided, that upon written request by the permittee or the Health Officer, the Board shall cause the proceedings before it to be recorded by a reporter employed for the purpose, and the same, together with all papers and documents filed therein, shall, at the request of either party be reproduced by the Board in the form of a transcript, a copy of which shall be available to any party. The expense of the proceedings shall be charged to the permittee who applied for the review, except that copies of transcripts shall be at the expense of the party requesting the same. At the time the transcript is requested, the Board may require the permittee to pay a deposit in an amount determined by the Board to be necessary to secure the expense(s). The Board shall make written findings of fact and shall enter its final order or determination of the matter in writing. (Ord. 2007-6-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.067 ENFORCEMENT.

(A) It shall be the duty of the Health Officer to enforce the provisions of this subchapter. Any permit issued in conflict with the provisions of this subchapter shall be null and void. A violation of an order issued by the Health Officer, Department or Board shall be considered to be a violation of this subchapter.

(B) Whenever the Health Officer determines that any personnel, or any other person, is in willful violation of any of the provisions of this subchapter, the Health Officer shall furnish evidence of the willful violation to the County Prosecuting Attorney or the attorney for the Board, who shall seek all appropriate legal remedies against the person(s) violating the provisions of this subchapter.

(C) The operation of any public or semi-public pool which is contrary to any of the provisions of this subchapter is hereby declared to be a common nuisance and an unlawful violation of this subchapter, and the owner of the swimming pool shall be liable for maintaining a common nuisance.

(D) The Health Officer may initiate any procedures as he or she deems necessary for proper enforcement in order to carry out the purpose and intent of this subchapter.
(Ord. 2007-6-4-25, passed 4-25-2007) Penalty, see § 92.999

§ 92.068 STATE PROVISIONS INCORPORATED BY REFERENCE.

(A) The requirements of State Department of Health Rule 410 I.A.C. 6-2.1, *Swimming Pool Rule*, are hereby incorporated by reference as part of this subchapter, and all public and semi-public swimming pool and spas shall be constructed and operated in accordance with the terms and provisions of the rule.

(B) The requirements of 675 I.A.C. 20-1.1, *Swimming Pool Code*, are hereby incorporated by reference as part of this subchapter, and all public and semi-public swimming pools and spas shall be constructed and operated in accordance with the terms and provisions of the code.
(Ord. 2007-6-4-25, passed 4-25-2007)

TATTOO PARLORS

§ 92.080 JURISDICTION.

All places, individuals and businesses that offer to affix any type of permanent tattoo to a person shall be regulated by this subchapter, and shall maintain the premises in which tattoos are performed and equipment used in the tattoo process in a sanitary manner.
(Ord. 5(11-01), passed 11-21-2001)

§ 92.081 DEFINITIONS.

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

BLOOD. Human blood.

BLOOD BORNE PATHOGENS. Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, the following:

- (1) HBV;
- (2) HCV; and
- (3) HIV.

CLEANED. Removal of all visible dust, soil or any other foreign material.

CONTAMINATED. Presence or reasonably anticipated presence of blood or OPIM on an item or surface.

DECONTAMINATED. Use of physical or chemical means to remove, inactivate or destroy blood borne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use or disposal.

DEPARTMENT. County Health Department. The County Board of Health shall be considered part of the **DEPARTMENT**.

HBV. Hepatitis B virus.

HCV. Hepatitis C virus.

HEALTH OFFICER. Duly appointed Health Officer as set forth in I.C. 16-20-2-16. The County Health Officer or designee shall be designated as the official in charge of enforcing this subchapter. The Health Officer may designate someone in the Health Department to perform those duties and responsibilities of the Health Officer.

HIV. Human immunodeficiency virus.

INFECTIOUS WASTE. Waste that epidemiological evidence indicates is capable of transmitting a dangerous communicable disease. **INFECTIOUS WASTE** includes, but is not limited to, the following:

- (1) Contaminated sharps or contaminated objects that could potentially become contaminated sharps;
- (2) Infectious biological cultures, infectious associated biological and infectious agent stock;
- (3) Pathological waste;
- (4) Blood and blood products in liquid and semi-liquid form;
- (5) Carcasses, body parts, blood and body fluids in liquid and semi-liquid form and bedding of laboratory animals; and
- (6) Other waste that has been intermingled with infectious waste.

OTHER POTENTIALLY INFECTIOUS MATERIALS or **OPIM.**

- (1) Human body fluids as follows:
 - (a) Semen;
 - (b) Vaginal secretions;
 - (c) Cerebrospinal fluid;
 - (d) Synovial fluid;

(e) Pleural fluid;

(f) Pericardial fluid;

(g) Peritoneal fluid;

(h) Amniotic fluid;

(i) Saliva in dental procedures;

(j) Any body fluid that is visibly contaminated with blood; and/or

(k) All body fluids where it is difficult or impossible to differentiate between body fluids.

(2) Any unfixed tissue or organ, other than intact skin, from a human, living or dead; and

(3) HIV-containing cell or tissue cultures, and HIV- or HBV-containing culture medium or other solutions, and blood, organs or other tissues from experimental animals infected with HIV or HBV.

PARENTERAL. Piercing the mucous membranes or the skin barrier through such events as needle sticks, human bites, cut or abrasions.

PERSONAL PROTECTIVE EQUIPMENT. Specialized clothing or equipment worn for protection against contact with blood or OPIM.

SECURE AREA. Area that is designated and maintained to prevent the entry of unauthorized persons.

SEMI LIQUID BLOOD, BLOOD PRODUCTS. Blood, blood products that have intermediate fluid properties and are capable of flowing in a manner similar to liquid.

STERILIZE. Use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

STORE. Containment of infectious waste in a manner as not to constitute collection, treatment, transport or disposal.

TATTOO.

(1) Any indelible design, letter, scroll, figure, symbol or other mark placed with the aid of needles or other instruments;

(2) Any design, letter, scroll, figure or symbol done by scarring upon or under the skin; or

(3) Any piercing of the mucous membranes or the skin through which needles or other items are inserted for temporary or permanent placement upon a person.

TATTOO ARTIST. Any person who provides a tattoo to an individual or who performs any type of piercing of the mucous membranes or the skin through which needles or other objects are inserted for temporary or permanent placement.

TATTOO OPERATOR. Person who controls, operates, conducts, manages or owns any tattoo parlor.

TATTOO PARLOR. Any room or space where tattooing is provided or where the business of tattooing is conducted.

UNIVERSAL PRECAUTIONS. An approach to infection control in which all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, HCV and other bloodborne pathogens.

(Ord. 5(11-01), passed 11-21-2001)

§ 92.082 OPERATOR RESPONSIBILITIES.

(A) An individual or entity that is a tattoo operator shall comply with the following training responsibilities:

(1) Ensure that the training described in the State Occupational Safety and Health Administration's bloodborne pathogens standard (29 C.F.R. § 1910.1030) is provided to all tattoo artists, anyone employed by the tattoo parlor or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane or parenteral contact with blood or OPIM;

(2) Ensure that training on the handling of infectious waste is provided to all tattoo artists, anyone employed by the tattoo parlor or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane or parenteral contact with blood or OPIM;

(3) Ensure that a record of training described in division (A)(1) above is maintained, as required under the State Occupational Safety and Health Administration's bloodborne pathogens standard (29 C.F.R. § 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request; and

(4) Ensure that a record of training described in division (A)(2) above is maintained.

(B) (1) The tattoo operator shall ensure that tattoo artists, anyone employed by the tattoo parlor or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane or parenteral contact with blood are provided personal protective equipment and expendables needed to implement the precaution required by this subchapter and the State Occupational Safety and Health Administration's bloodborne pathogens standard (29 C.F.R. § 1910.1030).

(2) The tattoo operator shall require tattoo artists, anyone employed by the tattoo parlor or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in division (A) above.

(3) The tattoo operator shall display a description of compliance with the requirements contained in division (B)(4) below.

(4) The tattoo operator shall display written materials prepared or approved by the Department explaining universal precautions and patrons' rights under this subchapter. These materials shall include information on how to report violations of universal precautions and shall include information

regarding the Department's duties to investigate.

(5) The tattoo operator shall ensure that no illicit drugs or alcohol are consumed or permitted in the tattoo parlor.

(6) The tattoo operator shall ensure that no tattoo shall be affixed to any person that is intoxicated.

(Ord. 5(11-01), passed 11-21-2001) Penalty, see § 92.999

§ 92.083 POLICIES.

(A) The tattoo operator shall develop a written policy in compliance with this subchapter and the requirements of the State Occupational Safety and Health Administration's bloodborne pathogen standard (29 C.F.R. § 1910.1030).

(B) The policy shall:

(1) Require the use of universal precautions when performing tattooing and any activity or duty that includes any reasonably anticipated skin, eye, mucous membrane or parenteral contact with blood or OPIM;

(2) Include the safe handling of infectious waste; and

(3) Provide sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions and/or handle infectious waste safely.

(Ord. 5(11-01), passed 11-21-2001) Penalty, see § 92.999

§ 92.084 MINIMUM TRAINING AND CERTIFICATION REQUIREMENTS.

(A) (1) All tattoo artists, anyone employed by the tattoo parlor and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane or parenteral contact with blood or OPIM shall complete the training program that is required under the requirements of the State Occupational Safety and Health

Administration's bloodborne pathogen standard (29 C.F.R. § 1910.1030).

(2) The programs under this section shall be as follows:

(a) A bloodborne pathogen training session provided by the tattoo operator, meeting the requirements under the State Occupational Safety and Health Administration's bloodborne pathogens standard (29 C.F.R. § 1910.1030); or

(b) Any bloodborne pathogen continuing education program accredited by a health care licensing entity.

(B) All tattoo artists, anyone employed by the tattoo parlor and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane or parenteral contact with blood or OPIM must be trained in the tattoo parlor's policies on the handling of infectious waste.

(Ord. 5(11-01), passed 11-21-2001)

§ 92.085 PATRON RECORDS.

(A) Records of each patron shall be maintained for two years.

(B) The record shall include the following:

(1) Patron's name;

(2) Address;

(3) Age, verified by two items of identification, one of which must be a valid government-issued identification;

(4) Date tattooed;

(5) Design of the tattoo;

(6) Location of the tattoo on the patron's body;

(7) The name of the tattoo artist who performed the work; and

(8) Parental consent in writing when performed on any minor as permitted by law. (Ord. 5(11-01), passed 11-21-2001)

§ 92.086 RESTRICTED ILLNESS.

(A) Tattoo artists who are experiencing symptoms of acute disease shall refrain from providing tattoos.

(B) These diseases include, but are not limited to:

- (1) Diarrhea;
- (2) Vomiting;
- (3) Fever;
- (4) Rash;
- (5) Productive cough;
- (6) Jaundice; or

(7) Draining or open skin infections, boils, impetigo or scabies. (Ord. 5(11-01), passed 11-21-2001)

§ 92.087 HAND WASHING REQUIREMENT.

(A) Hand washing facilities provided with both hot and cold running water shall be readily accessible in the same room where tattooing is provided.

(B) Hands shall be washed with soap and running water immediately before putting on gloves and after removal of gloves or other personal protective equipment.

(C) Only single-use towels shall be used. (Ord. 5(11-01), passed 11-21-2001)

§ 92.088 EQUIPMENT.

(A) Appropriate personal protective equipment shall be worn as follows.

(1) A clean protective clothing layer shall be worn whenever there is a reasonably anticipated risk of contamination of clothing by blood or OPIM.

(2) Masks in combination with eye protection devices, such as goggles or glasses with solid side shield, or chin length face shield, shall be worn whenever splashes, spray, splatter or droplets of blood or OPIM may be generated and eye, nose or mouth contamination can be reasonably anticipated.

(3) Disposable gloves shall be worn during the tattooing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo, when the gloves become torn or punctured or whenever the ability to function as a barrier is compromised. Disposable gloves shall not be reused.

(4) Gloves shall be worn when decontaminating environmental surfaces and equipment.

(B) (1) Only single-use razors shall be used to shave the area to be tattooed.

(2) All stencils shall be properly disposed of after a single-use.

(3) If the design is drawn directly onto the skin, it shall be applied with a single-use article only.

(C) (1) Needles shall be individually packaged and sterilized prior to use.

(2) Needles shall be single-use only.

(3) Needles shall be discarded in sharps containers immediately after use.

(4) Contaminated needles shall not be bent or broken or otherwise manipulated by hand.

(D) (1) Heating procedures capable of sterilization must be used when heat stable, non-disposable equipment is sterilized.

(2) Records must be maintained to document the following:

(a) Duration of sterilization technique;

(b) Determination of effective sterility, such as use of a biological indicator, is performed monthly; and

(c) Equipment is maintained as recommended by the owner's manual and proof is available that the owner's manual recommendations are reviewed monthly.

(3) Reusable contaminated equipment shall not be stored or processed in a manner that requires any person to reach by hand into the containers where these sharp items have been placed.

(4) Reusable contaminated equipment shall be:

(a) Placed in puncture-resistant containers;

(b) Labeled with the bio-hazard symbol;

(c) Leakproof on both sides and bottom; and

(d) Stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.

(5) Contaminated reusable equipment shall be effectively cleaned prior to sterilization.

(6) Reusable tubes shall be effectively cleaned and sterilized before use.

(E) (1) All dyes or pigments in tattooing shall be from suppliers specifically providing dyes or pigments for the tattooing of human skin.

(2) (a) In preparing dyes or pigments to be used by tattoo artists, only non-toxic sterile materials shall be used.

(3) Single-use or individual portions of dyes or pigments in clean, sterilized containers shall

be used for each patron.

(4) After tattooing, the remaining unused dye or pigment in single-use or individual containers shall be discarded along with the container. (Ord. 5(11-01), passed 11-21-2001) Penalty, see § 92.999

§ 92.089 WORK ENVIRONMENT.

(A) No tattooing shall be conducted in any room used as living quarters or in any room that opens directly into living or sleeping quarters.

(B) Live animals shall be excluded from areas where tattooing is being conducted. This exclusion does not apply to the following:

(1) Patrol dogs accompanying security or police officers; and

(2) Guide dogs accompanying the following:

(a) Blind persons;

(b) Partially blind persons;

(c) Physically disabled persons;

(d) Guide dog trainers; or

(e) Persons with impaired hearing.

(C) Eating, drinking, smoking or applying cosmetics shall not be allowed in work areas where there is a likelihood of exposure to blood of OPIM.

(D) Food and drink shall not be kept in areas where there is a reasonably anticipated risk of exposure to blood or OPIM.

(E) All equipment and environmental surfaces shall be cleaned and decontaminated after contact with blood or OPIM.

(F) Environmental surfaces and equipment not requiring sterilization that has been contaminated by blood shall be cleaned and decontaminated.

(G) All work surfaces shall be:

- (1) Non-absorbent;
- (2) Easily cleanable;
- (3) Smooth; and
- (4) Free of:
 - (a) Breaks;
 - (b) Open seams;
 - (c) Cracks;
 - (d) Chips;
 - (e) Pits; and
 - (f) Similar imperfections.

(H) Disinfectant solutions shall be:

(1) A hospital grade, tuberculocidal Environmental Protection Agency (EPA) registered disinfectant; or

(2) Sodium hypochlorite, 0.5% concentration by volume (common household bleach is 10% in water) and the solution shall be dated and shall not be used if it is more than 24 hours old. (Ord. 5(11-01), passed 11-21-2001) Penalty, see § 92.999

§ 92.090 INFECTIOUS WASTE.

(A) (1) Contaminated disposable needles or instruments shall be stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the bio-hazard symbol and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

(2) Infectious wastes that are contaminated sharps or objects that could potentially become contaminated sharps shall be placed in containers that meet the following requirements:

- (a) Impervious to moisture;
- (b) Sufficient strength and thickness to prevent expulsion;
- (c) Secured to prevent leakage expulsion;
- (d) Labeled with the bio-hazard symbol; and
- (d) Effectively treated in accordance with this subchapter prior to being placed in an unsecured area and sent for final disposal.

(3) If infectious waste is stored prior to final disposal, all persons subject to this subchapter shall store infectious waste in a secure area that:

- (a) Is locked or otherwise secured to eliminate access by or exposure to the general public;
- (b) Affords protection from adverse environmental conditions and vermin; and
- (c) Has a prominently displayed bio-hazard symbol.

(4) Infectious waste shall be stored in a manner that preserves the integrity of the containers, and is not conducive to rapid microbial growth and putrefaction.

(5) Disinfect reusable containers for infectious waste each time that they are emptied unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags or other devices that are removed with the infectious waste.

(B) (1) All tattoo operators shall ensure that infectious waste is either treated on-site in accordance with this subchapter or transported off-site for treatment in accordance with this subchapter.

(2) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved and is carried out in a manner consistent with this

subchapter. Effective treatment may include:

(a) Incineration in an incinerator designed to accommodate infection waste;

(b) Steam sterilization;

(c) Chemical disinfection under circumstances where safe handling of the waste is assured;

(d) Thermal inactivation;

(e) Irradiation; or

(f) Discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(3) All persons subject to this subchapter shall:

(a) Transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and

(b) Effectively treat infectious waste in accordance with this subchapter before it is compacted.

(4) The tattoo operator shall ensure that infectious waste, effectively treated or not, is transported off-site in compliance with 410 I.A.C. 1-3.

(Ord. 5(11-01), passed 11-21-2001) Penalty, see § 92.999

§ 92.091 INSPECTION.

The County Health Department shall conduct inspections of each and every tattoo parlor located in the county. The Health Department may conduct a minimum of two inspections per year. The Health Department may conduct additional inspections as it determines, and/or in response to complaints submitted. The results of the inspections shall be provided to each operator. Violations noted by the Health Department shall be corrected immediately. The Health Department shall conduct follow-up inspections to determine compliance with this subchapter.

(Ord. 5(11-01), passed 11-21-2001)

§ 92.092 PERMIT; REVOCATION.

(A) (1) *Business.* Prior to commencing business, or, if already in operation, within 30 days after the effective date of this subchapter, each tattoo parlor operation shall obtain a permit from the County Health Department. The permit shall provide the name and address of the owner of the business, and the name and address of each and every tattoo artist located at each location. The cost for this permit shall be \$100 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The County Health Department shall provide the appropriate forms for this permit. The permit shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public.

(2) *Tattoo artist.* Every person that desires to perform any tattoo shall obtain a tattoo artist permit from the County Health Department. This permit must be obtained before any tattoos are affixed to any person, and after the requisite training. The applicant must satisfy the minimum requirements as set forth in § 92.084. The cost of the permit shall be \$50 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The County Health Department shall provide the appropriate forms for this permit. The permits shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public.

(B) The Health Officer may suspend or revoke the permit of any tattoo artist or operator for any period of time for any violation of this subchapter, state or federal regulations concerning bloodborne pathogens, tattoos or work-place regulations (OSHA). The suspension and/or revocation shall be effective upon issuance by the Health Officer. The operator or artist may have the permit reinstated upon compliance with this subchapter, state or federal regulation concerning bloodborne pathogens, tattoos or work place regulations (OSHA) and to the satisfaction of the Health Officer. Appeals of orders of revocation shall be conducted pursuant to I.C. 4-21.5-3-1 *et seq.* The Board of Health shall conduct administrative hearings concerning the suspension or revocation of any permit issued herein as set forth in I.C. 4-21.5-3 *et seq.*
(Ord. 5(11-01), passed 11-21-2001) Penalty, see § 92.999

§ 92.999 PENALTY.

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

(B) (1) The doing of any prohibited act or the omission of any required act, governed by §§ 92.001 through 92.012 is declared to be a violation of §§ 92.001 through 92.012. Any person declared to have committed a violation shall, upon such finding, be fined in an amount not to exceed \$1,000. In addition

to any fine levied under §§ 92.001 through 92.012, the County Board of Health may enjoin any violation of §§ 92.001 through 92.012 by proceeding in any court of competent jurisdiction seeking to abate the public health hazard, nuisance or violation of §§ 92.001 through 92.012.

(2) The County Board of Health shall also be entitled to seek any other legal remedy available against any person firm or corporation who shall violate any provision of §§ 92.001 through 92.012.

(3) Each violation of §§ 92.001 through 92.012 shall constitute a separate offense.

(C) In addition to any civil penalty that may be imposed under 410 I.A.C. 7-23, any person who recklessly violates or fails to comply with applicable requirements of §§ 92.025 through 92.040 shall be deemed guilty of a Class B misdemeanor as provided in I.C. 35-50-3-3 and I.C. 16-42-5-27, and shall be imprisoned for a fixed term of not more than 180 days; in addition, he or she may be fined not more than \$1000.

(D) (1) Any owner who violates any provision of §§ 92.055 through 92.068 shall, upon conviction, be punished by a fine of not more than \$500 for each violation. Each day of the existence of any violation shall be a separate offense.

(2) Any owner violating any of the provisions of §§ 92.055 through 92.068 shall become liable to the county for any expense, loss or damage occasioned by reason of the violation, including reasonable attorney's fees and costs.

(3) The remedies provided for in this division (D) shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

(E) (1) The doing of any prohibited act or the omission of any required act governed by §§ 92.080 through 92.092 is declared to be a violation. Any person declared to have committed a violation shall, upon the finding, be fined in an amount not to exceed \$2,500. In addition to any fine levied under this division (E), the County Board of Health may enjoin any violation by proceeding in any court of competent jurisdiction, seeking to abate the public health hazard, nuisance or violation of §§ 92.080 through 92.092.

(2) The County Board of Health shall also be entitled to seek any other legal remedy available against any person, firm or corporation who shall violate any provision of §§ 92.080 through 92.092. (Ord. passed 8-27-1990; Ord. 5(11-01), passed 11-21-2001; Ord. 2007-5-4-25, passed 4-25-2007; Ord. 2007-6-4-25, passed 4-25-2007; Ord. -, passed - -)

CHAPTER 93: PARKS AND RECREATION

Section

93.01 Park hours; exceptions

§ 93.01 PARK HOURS; EXCEPTIONS.

(A) Memorial Park shall be open to the public only between the hours of 7:30 a.m. and 10:00 p.m. of each day.

(Prior Code, § 5.30.010)

(B) The Board of Trustees of Memorial Park are hereby empowered and authorized to establish special hours for the use of the Park for special occasions, held under the supervision and control of the Board.

(Prior Code, § 5.30.020)

CHAPTER 94: FAIR HOUSING

Section

- 94.01 Policy statement
- 94.02 Definitions
- 94.03 Unlawful practice
- 94.04 Discrimination in the sale or rental of housing
- 94.05 Discrimination in residential real estate-related transactions
- 94.06 Discrimination in the provision of brokerage service
- 94.07 Interference, coercion or intimidation
- 94.08 Prevention of intimidation in fair housing cases
- 94.09 Exemptions
- 94.10 Enforcement

§ 94.01 POLICY STATEMENT.

It shall be the policy of the county to provide, within constitutional limitation, for fair housing throughout the unincorporated areas of the county 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. 2004-12-11-24, passed 11-24-2004)

§ 94.02 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 (I.C. 22-9.5-2-2):

- (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.

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 §§ 94.04 through 94.08 of this chapter 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 such individual or the written permission of such parent or other person.

(2) 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. A single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in this section.

HANDICAP.

- (1) With respect to a person:

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

(b) A record of having such an impairment;

(c) Being regarded as having such an impairment;

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

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

(2) **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in U.S.C. Section 802 of Title 21 (I.C. 22-9.5-2-10(b)); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite.
(I.C. 22-9.5-2-10(c))

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 U.S.C. Title 11, receivers, and fiduciaries.
(I.C. 22-9.5-2-11)

TO RENT. To lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.
(I.C. 22-9.5-2-13)
(Ord. 2004-12-11-24, passed 11-24-2004)

§ 94.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) of this section, § 94.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 94.04 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 § 94.04 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 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 or her 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 excepted from application of this section only if such house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or 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 § 94.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, 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) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

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

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.
(Ord. 2004-12-11-24, passed 11-24-2004) Penalty, see § 10.99

§ 94.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 94.03 and except as exempted by § 94.03(B) and 94.09, 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, 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 or 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) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

(a) That buyer or renter;

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

(c) Any person 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 such dwelling, because of a handicap 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 subsection, 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:

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;

C. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

D. Compliance with the appropriate requirement 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 subsection (C)(3)(c).

E. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. (Ord. 2004-12-11-24, passed 11-24-2004) Penalty, see § 10.99

§ 94.05 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. 2004-12-11-24, passed 11-24-2004) Penalty, see § 10.99

§ 94.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE.

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

(Ord. 2004-12-11-24, passed 11-24-2004) Penalty, see § 10.99

§ 94.07 INTERFERENCE, COERCION OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 94.03 through 94.06.

(Ord. 2004-12-11-24, passed 11-24-2004) Penalty, see § 10.99

§ 94.08 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 attempt to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, handicap, familial status, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, 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 he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

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

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

(C) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination

on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A), 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. 2004-12-11-24, passed 11-24-2004)

§ 94.09 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).

(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 lodging to its members or from giving preference to its members.

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

(2) (a) 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, 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. 2004-12-11-24, passed 11-24-2004)

§ 94.10 ENFORCEMENT.

(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 Board of Commissioners.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the county, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the ordinance, 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 Board of Commissioners, shall refer all the complaints to the Commission as provided for under division(A) of this section to the Commission for purposes of investigation, resolution and appropriate relief as provided for under I.C. 22-9.5-6.

(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 Board of Commissioners and the Commission to further such purposes.

(D) The Board of Commissioners, or its designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 2004-12-11-24, passed 11-24-2004)