

CHAPTER 6

PUBLIC HEALTH AND SAFETY

ARTICLE 1. GENERAL PROVISIONS.

- Sec. 6-1 City's Authority To Regulate.
- Sec. 6-2 Preservation of Public Peace and Order.
- Sec. 6-3 Authority to Regulate Air and Sound.
- Sec. 6-4 Authority to Regulate Public Gatherings.
- Sec. 6-5 Authority to Establish a Police and Law Enforcement System.
- Sec. 6-6 Authority to Establish Firefighting and Fire Prevention System.
- Sec. 6-7 Offense Against Public Health, Order and Decency.
- Sec. 6-8 through Sec. 6-11 Reserved for Future Use.

ARTICLE 2. PROHIBITION OF OPEN ALCOHOLIC CONTAINERS.

- Sec. 6-12 Definitions.
- Sec. 6-13 Possession or Consumption Prohibited.
- Sec. 6-14 Operator or Owner of Motor Vehicle in Violation.
- Sec. 6-15 Violations.
- Sec. 6-16 Signs.
- Sec. 6-17 through Sec. 6-19 Reserved for Future Use.

ARTICLE 3. ANIMAL CARE AND CONTROL.

- Sec. 6-20 Definitions.
- Sec. 6-21 Duty to Control or Restrain Animals.
- Sec. 6-22 Impoundment and Disposition of Unrestrained Dogs and Nuisance Animals.
- Sec. 6-23 Liability of Owner for Animal Found at Large.
- Sec. 6-24 Confinement or Muzzling Dogs upon Order of County Board of Health.
- Sec. 6-25 Control and Disposition of Vicious Animals.
- Sec. 6-26 Loud Animals that Disturb the Peace Prohibited.
- Sec. 6-27 Name Tags for Dogs Required.
- Sec. 6-28 Keeping of Wild or Vicious Animals for Display or Exhibition Prohibited.
- Sec. 6-29 Treatment and Care of Animals.
- Sec. 6-30 Removal of Animal Waste by Owner of Animal.
- Sec. 6-31 Removal and Disposition of Dead Animals.
- Sec. 6-32 Restrictions on the Operation of Kennels, Stables, and Other Animal Pens and Shelters.
- Sec. 6-33 Restriction on the Sale of Young Animals.
- Sec. 6-34 Restrictions on Time when Livestock or Poultry May be Kept in a Sales Barn.
- Sec. 6-35 Violations and Penalties.
- Sec. 6-36 through Sec. 6-39 Reserved for Future Use.

ARTICLE 4. OPEN BURNING REGULATIONS.

- Sec. 6-40 Open Burning Prohibited - Exception.
- Sec. 6-41 Open Burning Regulations.
- Sec. 6-42 Indiana Air Pollution Control Board Regulations.
- Sec. 6-43 Penalties.

- Sec. 6-44 Building Fire or Burning in Street.
 Sec. 6-45 through Sec. 6-49 Reserved for Future Use.

ARTICLE 5. CURFEW REGULATIONS.

- Sec. 6-50 Curfew Established.
 Sec. 6-51 Special Curfew Hours Established.
 Sec. 6-52 Loitering in Places of Amusement - Prohibited Enforcement.
 Sec. 6-53 Parents, Guardians Not to Permit Violation of Curfew.
 Sec. 6-54 Exceptions.
 Sec. 6-55 Violations and Penalties.
 Sec. 6-56 through Sec. 6-57 Reserved for Future Use.

ARTICLE 6. INSTALLATION AND MAINTENANCE OF SMOKE DETECTORS.

- Sec. 6-58 Definitions.
 Sec. 6-59 Basic Requirements.
 Sec. 6-60 Installation; Location.
 Sec. 6-61 Maintenance.
 Sec. 6-62 Duty of Property Owner, Manager, or Rental Agent.
 Sec. 6-63 Enforcement of Provisions.
 Sec. 6-64 Violation and Penalty.
 Sec. 6-65 through Sec. 6-67 Reserved for Future Use.

ARTICLE 7. TREE AND VEGETATIVE CONTROL.

Division I. Rank Vegetation.

- Sec. 6-68 Definitions.
 Sec. 6-69 Purpose and Intent; Application of Chapter; Prohibited Activity.
 Sec. 6-70 Determination of Violation; Notice of Violation.
 Sec. 6-71 Failure to Abate after Notice; Abatement by City; Court Action for Ordinance Violation and/or Injunction; Court Action for Repeat Violation; Penalty.
 Sec. 6-72 Variance.

Division II. Planting, Maintenance, and Removal of Trees.

- Sec. 6-73 Definitions.
 Sec. 6-74 Tree Species to be Planted.
 Sec. 6-75 Spacing.
 Sec. 6-76 Distance from Curb and Sidewalk.
 Sec. 6-77 Distance from Street Corners and Fire Hydrants.
 Sec. 6-78 Utilities and Cable TV.
 Sec. 6-79 Public Tree Care.
 Sec. 6-80 New Development and Subdivisions.
 Sec. 6-81 Emergency Tree Care.
 Sec. 6-82 Pruning, Corner Clearance.
 Sec. 6-83 Dead, Diseased, or Unsafe Tree Removal on Private Property.
 Sec. 6-84 Removal of Stumps.
 Sec. 6-85 Interference with City Tree Board.

- Sec. 6-86 Arborists Permit
 Sec. 6-87 Review by the Greencastle City Council.
 Sec. 6-88 Violation and Penalty.
 Sec. 6-89 through Sec. 6-94 Reserved for Future Use.

ARTICLE 8. TRASH REMOVAL.

- Sec. 6-95 Charges for Trash and Refuse Pick-Up and Disposal Services.
 Sec. 6-96 Residential Services Only.
 Sec. 6-97 Pick-Up Schedule set by Board of Public Works
 Sec. 6-98 Monthly Billings.
 Sec. 6-99 Deposit Fee.
 Sec. 6-100 Effective Date.
 Sec. 6-101 Late Payment Charge
 Sec. 6-102 through Sec. 6-104 Reserved for Future Use.

ARTICLE 9. WATER CONSERVATION AND WATER RATIONING.

- Sec. 6-105 Application.
 Sec. 6-106 Declaration of Need of Water Shortage.
 Sec. 6-107 Voluntary Conservation of Water.
 Sec. 6-108 Mandatory Conservation of water.
 Sec. 6-109 Water Rationing.
 Sec. 6-110 Exceptions - Alternative Rationing.
 Sec. 6-111 Notice of Voluntary and Mandatory Water Conservation.
 Sec. 6-112 Enforcement.
 Sec. 6-113 through Sec. 6-117 Reserved for Future Use.

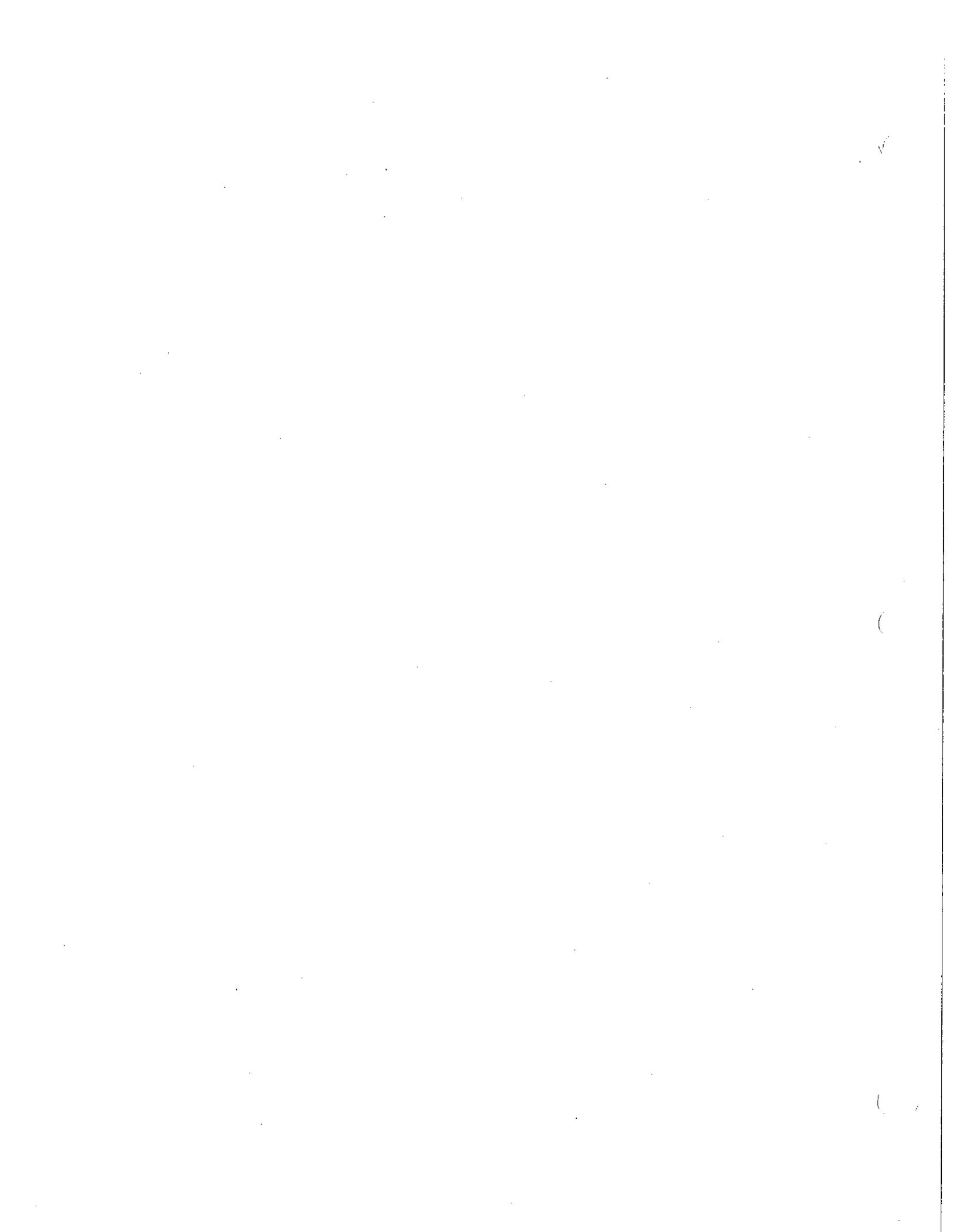
ARTICLE 10. EMERGENCY MANAGEMENT REGULATIONS.

- Sec. 6-118 Regulations.
 Sec. 6-119 Sec. 6-143 Reserved for Future Use.

ARTICLE 11. MISCELLANEOUS PUBLIC NUISANCE AND SAFETY REGULATIONS.

- Sec. 6-144 Maintenance of Properties and Structures
 Sec. 6-145 Removal of Snow, Ice, or Other Obstructions from Sidewalks.
 Sec. 6-146 Noise.
 Sec. 6-147 Other Public Nuisances Enumerated and Prohibited.
 Sec. 6-148 Nuisance Abatement.
 Sec. 6-149 Outdoor Hydronic Heaters
 Sec. 6-150 through Sec. 6-155 Reserved for Future Use.

****Page 248 through Page 252 Reserved for Future Use.****



CHAPTER 6

PUBLIC HEALTH AND SAFETY

ARTICLE 1. GENERAL PROVISIONS.

Sec. 6-1 City's Authority To Regulate. ¹

The City may regulate the conduct, or use or possession of property which might endanger the public health, safety, or welfare of its citizens.

Sec. 6-2 Preservation of Public Peace and Order. ²

The City may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system.

Sec. 6-3 Authority to Regulate Air and Sound. ³

The City may regulate the introduction of any substance or odor into the air, or any generation of sound.

Sec. 6-4 Authority to Regulate Public Gatherings. ⁴

The City may regulate public gatherings, such as shows, demonstrations, fairs, conventions, sporting events, and exhibitions.

Sec. 6-5 Authority to Establish a Police and Law Enforcement System. ⁵

The City may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system.

Sec. 6-6 Authority to Establish Firefighting and Fire Prevention System. ⁶

The City may establish, maintain, and operate a firefighting and fire prevention system and may provide facilities and equipment for that system.

Sec. 6-7 Offense Against Public Health, Order and Decency. ⁷

a. All offenses against public health, order or decency not addressed by this *Code* shall be governed by applicable state statute.

¹ I.C., § 36-8-2-4, authorizes the regulation of conduct and property for reasons of public health, safety and welfare.

² I.C., § 36-8-2-2, sets forth the authorizes to preserve public peace and order.

³ I.C., § 36-8-2-8, authorizes the regulation of air and sound.

⁴ I.C., § 36-8-2-9, authorizes the regulation of public gatherings.

⁵ I.C., § 36-8-2-2, sets forth the authority to establish a police and law enforcement system.

⁶ I.C., § 36-8-2-3, sets forth the authority to establish a fire fighting system.

⁷ I.C., § 35-45-1-1, *et seq.*, addresses such offenses.

b. Except as specifically set forth herein, any violation of any provision of this Chapter shall be subject to the penalties provided by Sec. 1-18, *et seq.*, of this Code.

Sec. 6-8 through Sec. 6-11 Reserved for Future Use.

ARTICLE 2. PROHIBITION OF OPEN ALCOHOLIC CONTAINERS.⁸

Sec. 6-12 Definitions.

- a. **Alcoholic beverage** shall have the meaning set forth in *Indiana Code*, § 7.1-1-3-5.
- b. **Container** shall have the meaning set forth in *Indiana Code*, § 7.1-1-3-13.
- c. **Motor vehicle** shall have the meaning set forth in *Indiana Code*, § 9-1-1-2, except that **motor vehicle**, as used in this Chapter, shall not include recreational vehicles, as defined in *Indiana Code*, § 9-1-1-1(t) and which is designed to transport more than ten (10) passengers including the operator, or any chartered passenger vehicle licensed to operate within the State of Indiana. (Ord. No. 1992-24, § 445-05, 1-12-93)

Sec. 6-13 Possession or Consumption Prohibited.

A person who knowingly:

- a. Consumes an alcoholic beverage; or
- b. Possesses a container:
 1. that has been opened;
 2. that has a broken seal; or
 3. from which some of the contents have been removed;

while in a motor vehicle that is being operated upon a public street or highway within the corporate boundaries of the City of Greencastle commits a violation of this Chapter. (Ord. No. 1992-24, § 445-10, 1-12-93)

Sec. 6-14 Operator or Owner of Motor Vehicle in Violation.

- a. The operator or owner of a motor vehicle who, while the motor vehicle is in operation, knowingly keeps or allows to be kept in an area of the motor vehicle that is accessible to the operator or a passenger a container:
 1. that has been opened;

⁸ *I.C.*, § 9-30-15-1, *et seq.*, addresses open alcoholic beverage containers and is currently being challenged in Court. Ord. No. 1994-2 was introduced to repeal Ord. No. 1992-24, but said ordinance was defeated. Accordingly, Ord. No. 1994-2 was retained during the recodification.

2. that has a broken seal; or
3. from which some of the contents have been removed;

commits a violation of this Chapter.

b. Notwithstanding Section 6-14, the operator of a recreational vehicle or chartered passenger vehicle licensed to operate within the State of Indiana, who, while the motor vehicle is in operation, knowingly keeps or allows to be kept in an area of the recreational vehicle or chartered passenger vehicle that is accessible to the operator a container”

1. that has been opened;
2. that has a broken seal; or
3. from which some of the contents have been removed;

commits a violation of this Chapter. (Ord. No. 1992-24, § 445-15, 1-12-93)

Sec. 6-15 Violations.

An officer of the City of Greencastle Police Department may issue a City Ordinance Violation Citation to any person who violates this Chapter. The first such citation issued to an individual shall impose a fifty dollar (\$50.00) fine. Each subsequent citation issued to an individual shall impose a penalty of not less than one hundred dollars (\$100.00) and no more than two thousand five hundred dollars (\$2,500.00) (Ord. No. 1992-24, § 445-20, 1-12-93)

Sec. 6-16 Signs.

Signs giving notice of this prohibition of open alcoholic beverage containers shall be posted giving notice of such ordinance at all locations deemed appropriate by the Chief of Police or his designee. (Ord. No. 1992-24, § 445-25, 1-12-93)

Sec. 6-17 through Sec. 6-19 Reserved for Future Use.

ARTICLE 3. ANIMAL CARE AND CONTROL⁹.

Sec. 6-20 Definitions.

a. **Animal** means any live vertebrate creature, domestic or wild.

b. **Animal shelter** means 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 state law.

⁹

Ordinance 2000-18 passed and adopted August 8, 2000, revising Article 3.

c. **Kennel** means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling cats and dogs.

d. **Owner** means any person, partnership, or corporation owning, keeping or harboring one (1) or more animals. An animal shall be deemed harbored if it is fed or sheltered for three (3) or more consecutive days.

e. **Pet** means any animal kept for pleasure and not denied by state law or by this *Code* or any ordinance of the City of Greencastle.

f. **Public nuisance** means any animal that:

1. runs at large;
2. attacks other animals;
3. molests passersby or passing vehicles.
4. barks, whines, or howls in an excessive, continuous, or untimely fashion;
5. damages private or public property;
6. runs at large while in heat; or
7. trespasses on school grounds.

g. **Restrained animal** means any animal:

1. secured by a leash or led or under the control of a responsible person and obedient to the person's commands; or
2. within the real property limits of its owner.

h. **Vicious animal** means an animal that constitutes a physical threat to human beings or other animals.

i. **Wild animal** means an animal whose species usually:

1. lives in the wild; or
2. is not domesticated.

Sec. 6-21 Duty to Control or Restrain Animals.¹⁰

a. No person shall allow any cattle, sheep, swine, fowl, dogs, cats, or other domestic animals to run at large in the City.

¹⁰ I.C., § 15-2.1-21-8, addresses recklessly permitting a domestic animal to run at large.

b. Every owner shall exercise proper care and control of his/her animals to prevent them from becoming a public nuisance.

c. Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal other than for supervised and planned breeding. (Ord. No. 86-10, § 380-10, 8-31-86)

d. No animals shall be allowed on any lot, other than a domesticated animal no larger than the largest of the registered dog breeds, and no more than two (2) animals may be kept outside of the dwelling, whether in a pet house or otherwise.

e. The City shall not be responsible for catching or disposing of wild animals.

Sec. 6-22 Impoundment and Disposition of Unrestrained Dogs and Nuisance Animals.

a. Unrestrained dogs and nuisance animals shall be taken by the humane officer or other City police officer and impounded in an animal shelter and there confined in a humane manner.

b. If by a license tag or other means the owner of an impounded animal can be identified, the humane officer shall immediately upon impoundment notify the owner by telephone or certified mail.

c. After an animal has been held unredeemed at the animal shelter for a period of three (3) days, it shall be disposed of by the animal shelter in accordance with its policies and procedures and as permitted by law.

d. An owner may redeem his/her animal upon showing of proof of vaccination or prepayment of vaccination at the humane shelter. Animals impounded under any section of the Article shall be released only upon approval of, and at the sole discretion of the humane officer, upon his/her determination that the animal is not a health or safety threat.

Sec. 6-23 Liability of Owner for Animal Found at Large.

a. In addition to or in lieu of impounding an animal found at large, the humane officer or a City police officer may issue to the known owner of such animal a notice of ordinance violation.

b. The notice of violation shall impose upon the owner a penalty of fifty dollars (\$50.00) for the first violation. The fine for any subsequent violation occurring within the same calendar year shall be one-hundred dollars (\$100.00), which is to be paid to the Clerk-Treasurer of the City within forty-eight (48) hours in full satisfaction of the assessed penalty.

c. The owner shall be responsible for repaying the City for any boarding or other fees charged by the animal shelter.

d. In addition to the above, the owner shall be responsible for any court costs and attorneys' fees associated with collection of the above amounts.

Sec. 6-24 Confinement or Muzzling Dogs upon Order of County Board of Health.

a. Whenever the Putnam County Board of Health determines that there is danger of the existence or spread of hydrophobia within or near the City, it may issue an order requiring any person owning, possessing, or having the care and control of any dog either to confine or to muzzle such animal for

a term of not less than thirty (30) nor more than sixty (60) days after the date of such order.

b. The order of the Putnam County Board of Health shall be published in one (1) issue of a daily newspaper published in the City or a printed copy thereof shall be posed in at least three (3) public places in the City.

c. Any person subject to the order of the Putnam County Board of Health shall, during the period of time specified therein:

1. confine such animal so as to prevent it from biting any other animal or being bitten thereby;
or

2. securely and effectually muzzle it in such manner as to make it impossible for the animal to bite any person or any other animal.

d. No muzzle is lawful unless it is of such form, material, and strength and so attached and fastened as to effectually prevent an animal from biting.

e. Any dog that is found running at large within the City without a muzzle during the time specified in the order of the Putnam County Board of Health is declared to be a nuisance.

f. Upon the issuance and publication of the order of the Putnam County Board of Health and after the expiration of twenty-four (24) hours from such publication, the law enforcement authorities shall kill any dog running at large within the City during the time specified in such order unless it is securely and effectually muzzled as required by this Section. (Ord. No. 86-10, § 380-20, 8-31-86)

Sec. 6-25 Control and Disposition of Vicious Animals. ¹¹

a. No person shall keep or permit any vicious animal within the City unless the animal is secured by a chain on his premises or is muzzled to prevent the animal from biting.

b. Any dog that has bitten or attacked any person shall be considered vicious and shall be impounded for a period of ten (10) days or so long as the Putnam County Board of Health may otherwise determine. In lieu of impounding the dog at the animal shelter, the owner, at his expense, may provide for such dog to be delivered by the humane officer to a commercial kennel operated by a licensed veterinarian for such period. After such period, the animal shall be released or disposed of as the humane officer shall direct.

c. Any unmuzzled animal that is found running at large and is believed to be vicious may be destroyed by law enforcement authorities. (Ord. No. 86-10, § 380-25, 8-31-86)

Sec. 6-26 Loud Animals that Disturb the Peace Prohibited.

No person shall keep within the City any animal that by loud and frequent barking, howling, yelping, or other animal noises disturbs the peace and quiet or annoys any citizens. (Ord. No. 86-10, § 380-30, 8-31-86)

¹¹ I.C. § 16-2.1-6-1, *et seq.*, addresses Rabies quarantine procedures and health care requirements.

Sec. 6-27 Name Tags for Dogs Required.

No owner or person having custody of any dog shall allow such dog to be on the streets or other public places or upon the lands of others in the City unless such dog is wearing a name tag that gives the name and address of the owner or person having custody of such dog. (Ord. No. 86-10, § 380-35, 8-31-86)

Sec. 6-28 Keeping of Wild or Vicious Animals for Display or Exhibition Prohibited.

No person shall keep or permit to be kept on his/her premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee; however, this prohibition shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses. (Ord. No. 86-10, § 380-40, 8-31-86)

Sec. 6-29 Treatment and Care of Animals.

a. No owner or person responsible shall fail to provide his/her animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

b. No person shall beat, treat cruelly, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, or other combat between animals or between animals and humans.

c. No owner of an animal shall abandon an animal.

d. No person shall knowingly expose any known poisonous substance, whether mixed with food or not, so that the substance is liable to be eaten by an animal; however, it is not unlawful for a person to expose on his/her own property common rat poison mixed only with vegetable substance. (Ord. No. 86-10, § 380-45, 8-31-86)

Sec. 6-30 Removal of Animal Waste by Owner of Animal.

The owner of every animal shall be responsible for removal of any excreta deposited by the animal on public walks, recreation areas, or private property. (Ord. No. 86-10, § 380-50, 8-31-86)

Sec. 6-31 Removal and Disposition of Dead Animals.

a. Any person who becomes apprized of the death of any animal owned by him within the City shall, within six (6) hours thereafter, cause the animal to be removed and buried or disposed of so as not to become a nuisance.

b. When such animal is killed by any person other than its owner and the person who killed it is known, the owner shall not be compelled to remove the animal, and the animal shall be removed by the person who killed it. (Ord. No. 86-10, § 380-55, 8-31-86)

Sec. 6-32 Restrictions on the Operation of Kennels, Stables, and Other Animal Pens and Shelters.

No person shall keep within the City any pig sty, kennel, stable, or other animal pen or shelter in such a manner as to create or cause any offensive or noxious smell or condition or maintain or use

any such animal pen or shelter constructed in such manner as to permit the contents of filth therein to run or wash upon the premises owned or occupied by another or upon any street or other public place. (Ord. No. 86-10, § 380-60, 8-31-86)

Sec. 6-33 Restriction on the Sale of Young Animals.

a. No person shall sell or offer for sale, raffle, offer or give as a prize, premium, or advertising device, or display in any store, shop, carnival, or other place any chick, duckling, gosling, or rabbit that has been dyed or otherwise colored artificially.

b. No person shall sell or offer for sale, raffle, or offer or give as a prize, premium, or advertising device, or display in any store, shop, carnival, or advertising device any chicks, ducklings, or goslings younger than four (4) weeks of age in quantities of less than twelve (12) birds to each individual person.

c. All stores, shops, vendors, and others offering chicks, ducklings, or goslings for sale shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings, or goslings in good health and shall keep adequate food and water available to the birds at all times.

d. No person shall raffle or offer or give as a prize, premium, or advertising device any live vertebrate animal.

e. This section does not prohibit the lawful sale of animals where proper precautions are made for the health and safety of the animals and the sale is conducted in such a manner so as not to create a public nuisance. (Ord. No. 86-10, § 380-65, 8-31-86)

Sec. 6-34 Restrictions on Time when Livestock or Poultry May be Kept in a Sales Barn.

Any owner or operator of any sales barn within the City shall not keep within the sales barn any livestock or poultry before 6:00 a.m. or later than 11:00 p.m. of the day on which such animals are delivered at the sales barn; however, when weather conditions are such that to remove the livestock or poultry would be dangerous to the lives of such animals, the animals may remain in the sales barn until the weather permits their removal. (Ord. No. 86-10, § 380-70, 8-31-86)

Sec. 6-35 Violations and Penalties.

a. Any person who violates any provision of the Chapter commits a Class C ordinance violation and shall be fined not less than fifty dollars (\$50.00). Each day that a violation continues shall be deemed a separate violation and shall carry a \$50.00 fine unless specifically stated otherwise herein. (Ord. No. 2000-18)

Sec. 6-36 through Sec. 6-39 Reserved for Future Use.

ARTICLE 4. OPEN BURNING REGULATIONS.**Sec. 6-40 Open Burning Prohibited - Exceptions.**

No open burning of leaves, grass, wood, brush, waste oil, tires, paper, trash, or garbage shall be allowed within the City of Greencastle. The following types of fires are permitted:

- a. Fires celebrating Twelfth Night Ceremonies.
- b. Fires celebrating school pep rallies.
- c. Fires celebrating scouting activities.
- d. Fires used for recreational and cooking purposes; i.e., campfires, BBQ grills.
- e. Air curtain destructor burning when a copy of Indiana Department of Environmental Management letter of approval has been filed with the Chief of the Greencastle Fire Department. (Ord. No. 1992-17, § 1[a], 7-14-92)

Sec. 6-41 Open Burning Regulations.

- a. Fires shall be attended at all times until completely extinguished.
- b. If fires create a nuisance or fire hazard, they shall be extinguished.
- c. No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc. (Ord. No. 1992-17, § 1 [b], 7-14-92)

Sec. 6-42 Indiana Air Pollution Control Board Regulations.

All open burning must comply with the regulations controlling open burning promulgated by the Indiana Air Pollution Control Board (326 IAC, § 4-1-1, *et seq.*). (Ord. No. 1992-17, § 1[c], 7-14-92)

Sec. 6-43 Penalties.

Any person violating this ordinance shall be fined in an amount not to exceed two thousand five hundred dollars (\$2,500.00) for each such offense. (Ord. No. 1992-17, § 1[d], 7-14-92)

Sec. 6-44 Building Fire or Burning in Street.

a. It shall be unlawful for any person to build any fire or burn any trash upon any paved street of the City of Greencastle and thereby cause any damage thereto.

b. Anyone who violates this Section commits a Class E ordinance violation. (1986 *City of Greencastle Code*, § 460-10)

Sec. 6-45 through Sec. 6-49 Reserved for Future Use.

****Page 262 Reserved for Future Use.****

ARTICLE 5. CURFEW REGULATIONS. 11**Sec. 6-50 Curfew Established.**

The curfew time as set forth in *Indiana Code*, § 31-6-4-2 is as follows:

a. It is a curfew violation for a child fifteen (15), sixteen (16), or seventeen (17) years of age to be in a public place:

1. between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;
2. after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
3. before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

b. It is a curfew violation for a child under fifteen (15) years of age to be in a public place after 11:00 p.m. or before 5:00 a.m. on any day.

Sec. 6-51 Special Curfew Hours Established.

The curfew time as set forth in *Indiana Code*, § 31-6-4-2 is advanced by one (1) hour during the month of October of each year to be effective as follows:

a. It is a curfew violation for a child thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years of age to be in a public place:

1. Between 12 midnight and 6 a.m. on Saturday and Sunday;
2. After 10:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
3. Before 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday or Friday.

b. It is a curfew violation for a child under thirteen (13) years of age to be in a public place after 9:00 p.m. or before 6:00 a.m.

Sec. 6-52 Loitering in Places of Amusement - Prohibited Enforcement.

a. No person operating or in charge of any place of amusement, entertainment, refreshment or other place of business shall permit any minor under the age of eighteen (18) years to loiter, loaf or idle in such place during curfew hours set forth by *Indiana Code*, § 31-6-4-2.

b. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business shall find any person under the age of eighteen (18) years loitering, loafing or idling in such place of business, he shall immediately

11 *I.C.*, § 31-6-4-2, addresses curfew violations.

order such person to leave. If such person refuses to leave the place of business, the operator shall immediately notify the police department and inform them of the presence of such person.

Sec. 6-53 Parents, Guardians Not to Permit Violation of Curfew.

It shall be unlawful for any parent, guardian or other person having the legal care and custody of any person under the age of eighteen (18) years, to allow or permit such child to go or be in or upon any of the streets, alleys or public places in the City, within the curfew time set forth by *Indiana Code*, § 31-6-4-2 unless there exists a reasonable necessity.

Sec. 6-54 Exceptions.

This article does not apply to a child who is:

- a. Accompanied by his parent, guardian, or custodian;
- b. Accompanied by an adult specified by his parent, guardian, or custodian; or
- c. Participating in or returning from lawful employment or a lawful athletic, education, entertainment, religious, or social event.

Sec. 6-55 Violations and Penalties.

Any person violating this Article commits a Class E ordinance violation and shall be fined, forfeit, and pay to the City any sum not exceeding twenty-five dollars (\$25.00) for each offense. (1986 *City of Greencastle Code*, § 490-15)

Sec. 6-56 through Sec. 6-57 Reserved for Future Use.

ARTICLE 6. INSTALLATION AND MAINTENANCE OF SMOKE DETECTORS.

Sec. 6-58 Definitions.

For purposes of this Chapter, the following definitions shall apply:

- a. **Alarm Signal** - An audible signal indicating the detection of visible or invisible particles or products of combustion other than heat.
- b. **Authority having jurisdiction** - The Greencastle Fire Department and the Building Commissioner of the City of Greencastle have enforcement responsibility for this Article.
- c. **Class 1 Structure** - means any part of the following:
 1. A building or structure that is intended to be or is occupied or otherwise used in any part by or for any of the following:

- a) The public;
 - b) Three (3) or more tenants;
 - c) One (1) or more persons who act as the employee(s) of another;
 - d) Any structure that contains three (3) or more condominium units (as defined in *Indiana Code*, § 32-2-6-2) or other units that:
 - 1) are intended to be or are used or leased by the owner of the unit; and
 - 2) are not completely separated from each other by an unimproved space.
 - e) This does not include a building or structure that is intended to be or is used for an agricultural purpose on the land where it is located and is not used for retail trade.
2. Any class of buildings or structures that the building commissioner determines by rules to affect a building or structure described in Subdivision '1'.
3. Subsection '1' 'a' '1' does not include Class 2 structures.
- d. **Class 2 Structure** means any building or structure that is intended to contain or contains only one (1) dwelling unit or two (2) dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.
- e. **Labeled** - Equipment or materials to which has been attached a label, symbol or other identifying mark of an organization acceptable to the "authority having jurisdiction".
- f. **Listed** - Equipment or materials included in a list published by an organization acceptable to the "authority having jurisdiction" and which product meets appropriate standards or has been tested and found suitable for use in a specified manner.
- g. **NFPA74** - Standard 74 of the National Fire Protection Association, which is located in Batterymarch Park, Quincy, MD 02239.
- h. **Rental Agent** - Any person, partnership or corporation who rents, subleases, lets or otherwise grants for a consideration the right to occupy premises not owned by the occupant. This term shall not be construed to mean a real estate agent who is employed for the sole purpose of selling residential units.
- i. **Sleeping Areas** - The area or areas of the family living unit in which the bedrooms (or sleeping rooms) separated by other use areas, such as kitchens or living rooms (but not bathrooms), shall be considered sleeping areas.
- j. **Shall** - Indicates a mandatory requirement.
- k. **Smoke Detector** - Shall be defined as a device which detects visible or invisible particles or products of combustion other than heat, as approved by Underwriters Laboratories,

Inc. or Factory Mutual. The smoke detector shall produce an alarm signal upon detection of any visible or invisible particles or products of combustion. It may be either battery powered with a minimum nine (9) volt [battery] or it may be powered by a one hundred ten (110) volt alternating current. (Ord. No. 1990-6, § 415-5, 6-12-90)

Sec. 6-59 Basic Requirements.

All Class 1 and Class 2 structures within the corporate limits of the City of Greencastle, Indiana, shall be equipped with a minimum of one (1) functional, properly located, labeled and listed, smoke detector, or its equivalent or better as described in the NFPA74, within twelve (12) months from the date of passage of this Section. (Ord. No. 1990-6, § 415-10, 6-12-90)

Sec. 6-60 Installation; Location.

a. All smoke detectors must be installed according to the manufacturer's instructions and subject to the approval of the "authority having jurisdiction".

b. A minimum of one (1) smoke detector or its equivalent or better as described in NFPA74 shall be installed in each structure unit as defined in Section 6-58 within the corporate limits of the City of Greencastle. The placement of this unit shall be at the direction of the Greencastle City Fire Department unless otherwise specified or designated by this *Code*.

c. The smoke detector shall be installed on or near the ceiling, not less than six (6) inches from any wall, or on a wall, not less than six (6) inches nor more than twelve (12) inches from the ceiling, and its installation shall be subject to approval by the "authority having jurisdiction". No detector shall be recessed into the ceiling.

d. A smoke detector shall be installed to protect the sleeping areas and shall be located outside of the bedrooms but in the immediate vicinity of the sleeping areas, within fifteen (15) feet of all rooms used for sleeping areas and at least one (1) on each additional story of the family living unit, including basements and excluding crawl spaces and unfinished attics.

e. All smoke detectors shall be accessible for servicing and testing.

f. If a smoke detector is A.C. powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of A.C. powered detectors shall conform to all usual electric trade standards. A smoke detector required under this Chapter shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any City electrical standard, the City electric standard shall take precedence. (Ord. No. 1990-6, § 415-15, 6-12-90)

Sec. 6-61 Maintenance.

It shall be unlawful for any person to tamper with or remove any smoke detector, except when it is necessary for maintenance or inspection purposes. Any smoke detector removed for

repair or replacement shall be reinstalled or replaced so that it is operable and in place during normal usage hours.

a. **Rented units** - Each smoke detector may be tested in accordance with manufacturer's recommendations, but shall be tested at six (6) month intervals in every individual unit, and maintained as necessary, to ensure it is in operable condition before the unit is re-occupied.

b. **Owner-occupied units** - Each smoke detector may be tested in accordance with manufacturer's recommendations, but shall be tested at six (6) months intervals, and maintained as necessary to ensure it is in operable condition. (Ord. No. 1990-6, § 415-20, 6-12-90)

Sec. 6-62 Duty of Property Owner, Manager, or Rental Agent.

Every owner, or the manager or rental agent of such owner, of any Class 1 or Class 2 structure shall be responsible for the installation of all smoke detectors. It is the responsibility of the tenant to maintain all such smoke detectors provided by the owner in good working order until said tenant vacates the premises unless said smoke detector requires A.C. power supply, then the responsibility shall be that of the owner, manager, or rental agent of the property. (Ord. No. 1990-6, § 415-25, 6-12-90)

Sec. 6-63 Enforcement of Provisions.

The Greencastle City Fire Department and the Building Commissioner shall be charged with the duty of enforcing the terms of this Article of this Chapter. (Ord. No. 1990-6, § 415-30, 6-12-90)

Sec. 6-64 Violation and Penalty.

a. Any person, firm or corporation violating any provisions of this Article of this Chapter, or who shall fail to comply with an order as affirmed or modified by the authority having jurisdiction shall be subject to a fine of fifty dollars (\$50.00).

b. Each day such violation is permitted to continue may be deemed to constitute a separate offense.

c. The violation and penalty as herein described in this Article shall not [be] subject to any other fine or penalty within this Chapter. (Ord. No. 1990-6, § 415-35, 6-12-90)

Sec. 6-65 through Sec. 6-67 Reserved for Future Use.

ARTICLE 7. TREE AND VEGETATIVE CONTROL.

Division I. Rank Vegetation.¹²

Sec. 6-68 Definitions.

For the purpose of this chapter, the following terms shall have the following meanings. The word "shall" is always mandatory and not merely directory.

- a. **Authorized employee** means an employee of the City of Greencastle.
- b. **City** means the City of Greencastle.
- c. **Rank vegetation** means:
 1. Vegetation on private or governmental property which is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and which has attained a height of twelve (12) inches or more;
 2. Vegetation, trees or woody growth on private property which, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or which has been allowed to become a health or safety hazard;
- d. **Excluded property** means:
 1. Cultivated land in commercial, domestic, agricultural or horticultural use;
 2. An existing natural or developed forest which does not create a health or safety hazard;
 3. Vacant, open lands, fields or wooded areas more than one-hundred, fifty (150) feet from occupied property;
 4. A nature habitat area more than one-hundred, fifty (150) feet from an occupied structure on adjacent property and determined by state and/or local governmental health authorities not to be a health or safety hazard; or
 5. A wetland area designated by the United States Department of Interior Fish and Wildlife Division on a National Wetlands Inventory Map.
- e. **Governmental property** means real estate which is owned, leased, controlled or occupied by the United States, the State of Indiana, the City of Greencastle, or a political subdivision thereof.
- f. **Equipment** means such equipment as trucks, tractors, bulldozers and similar motor vehicles and hand-operated equipment such as weed trimmers and similar equipment.
- g. **Occupant** means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or entity

¹²

I.C., §§ 36-7-10.1-1 through 36-7-10.1-5, addresses removal of weeds and rank vegetation (Public Law 89-1991).

or any house or other structure located thereon. Occupant shall include any lessee of the property.

- h. **Owner** means the record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located.
- i. **Private property** means all real estate within the City except governmental property.
- j. **Recipient** means the owner or occupant to whom notice of violation has been directed.
- k. **Repeat violation** occurs upon a recipient's second failure to abate a similar environment public nuisance for the same property within eighteen (18) months of the date of notice of the most recent violation. A failure to abate occurs after the department has issued a notice of violation described herein and the time for compliance set forth in the notice has expired. (Ord. No. 1999-17, 11-9-99)

Sec. 6-69 Purpose and Intent; Application of Chapter; Prohibited Activity.

a. It is hereby declared to be the purpose of this chapter to protect public safety, health and welfare and enhance the environment for the people of the City by making it unlawful for property owners and occupants to allow rank vegetation to exist

b. Each department or agency of the United States, the State of Indiana, or political subdivision thereof shall be required to keep governmental property within the City free from rank vegetation.

c. All owners, occupants, or other persons in control of any private property within the City shall be required to keep the private property free from rank vegetation.

d. It shall be unlawful for any property owner or occupant to allow rank vegetation to exist. This provision shall not apply to excluded property. (Ord. No. 1999-17, 11-9-99)

Sec. 6-70 Determination of Violation; Notice of Violation. (Ord. No. 2013-4, 5-20-2013)

a. Any department of the City or elected City Official who receives a complaint regarding an environmental public nuisance on any property within the City shall forward that complaint to the City Planner. An authorized employee shall visually inspect the property in question. If the authorized employee determines that a violation exists, the City Planner shall issue a notice of violation to the owner and, in the City's sole discretion, to the occupant.

b. Notice of violation shall be issued by certified mail or equivalent service. Such notice shall state the nature of the alleged rank vegetation violation and the action deemed necessary to correct the condition, and shall fix a date, not sooner than fifteen (15) days from the date of the notice, when the property will be reinspected. The notice shall inform the recipient that, if the condition is not corrected upon reinspection, the City has the right to enter on the property to abate or correct the condition and bill the recipient for costs incurred in so doing and/or to file a court action against the recipient for ordinance violation. A notice to the occupant at the real estate or to the owner at the address to which property tax statements are sent as these addresses are shown by the most current records in the township assessor's office of the township in which the real estate is located shall be sufficient notice under the subsection.

c. If an initial notice of the violation of an ordinance adopted under this section was provided by certified mail or equivalent service, a continuous abatement notice may be posted at the property at

the time of abatement instead of by certified mail or equivalent service, as required under subsection (b).

d. A continuous abatement notice serves as notice to the real property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the municipality or its contractors.

e. If, upon reinspection, it is determined that the rank vegetation has been abated, the recipient shall not be liable for any charges under this chapter. (Ord. No. 1999-17, 11-9-99)

Sec. 6-71 Failure to Abate after Notice; Abatement by City; Court Action for Ordinance Violation and/or Injunction; Court Action for Repeat Violation; Penalty.

a. *Abatement by City.* If, upon reinspection, it is determined by the authorized employee that abatement has not occurred, then the City Building Commissioner, or his designee, may enter upon the premises and abate the rank vegetation violation. The recipient shall be liable for the costs of abatement. After abatement is completed, the City shall, either by personal service or first class United States mail, postage prepaid, send the recipient a bill for the costs of abatement.

b. *Responsibility of occupant or owner for costs of abatement.*

1. *Abatement costs.* As reimbursement to the City for its costs, the recipient shall, within ten (10) days of the date of the bill, pay to the Board of Works of the City the following fees and charges:

a. The following administrative fees for such administrative tasks as inspecting the property to determine compliance, determining ownership and preparing and mailing notices:

Administrative fees \$140.00

b. The following labor fees per person, per hour, or fraction thereof, for labor necessary to abate an environmental nuisance:

Laborer	\$ 24.84
Truck driver	25.60
Equipment operator	27.15
Heavy equipment operator	28.32
Crew leader	29.70

c. The following equipment fees per machine, per hour, or fraction thereof, for the use of each piece of equipment necessary to abate an environmental nuisance:

Pickup truck	\$ 4.75
Tractor/bush hog	9.25
Boom truck	17.70
Backhoe	16.90
Dump truck (single axle)	19.40
Dump truck (tandem axle)	21.25
Packer	19.75
Excavator	31.60
Dozer (small)	20.25
Dozer (large)	30.00
Loader	21.00
Bobcat or equivalent	15.00

d. Any disposal fees actually incurred to dispose of materials, litter and waste products removed;

e. Any other reasonable fees actually incurred in abating the violation;

f. Administrative, labor and equipment fees may be changed by action of the Common Council of the City of Greencastle as necessary to assure that such fees are adequate to reimburse the department.

2. *Hearing.* A recipient may request in writing an informal hearing before the Board of Works, or its designee, to dispute the existence of a violation and/or the accuracy of all or part of the costs of abatement billed. Upon receipt of a hearing request, the City shall not take abatement action until after the Board of Works or its designee notifies the recipient of its decision. After such hearing, the Board of Works, or its designee, shall determine the existence of a violation and/or the accuracy of all or part of the abatement costs billed and shall notify the recipient of any amounts due to the City. The decision of the Board of Works, or its designee, shall be final.

3. *Unpaid costs become lien upon affected property; perfecting of lien.* Upon the failure of the owner who was sent a notice of violation and bill to pay the appropriate fees and charges within the fifteen (15) day time period, the City shall have a lien upon the property on which the rank vegetation was abated for the amount billed in accordance with the fee schedule listed above. In addition, there will be a ten-dollar charge for services necessary in order to perfect such lien. Such liens may be perfected in the following manner: (Ord. 2013-4, 5-20-2013)

a. By the adoption by the Board of Works at any regular or special meeting thereof of an assessment resolution, which shall give the name of the owner or owners, a description of the property on which the environmental public nuisance was abated, and the amount of the charges being assessed; and

b. The certification of such assessment resolution to the auditor of Putnam County, who by special assessment shall cause the amount thereof to be placed on a tax duplicate for the property on which the rank vegetation violation was abated for collection as in the nature of a real property tax;

c. Upon receipt of a written verified request from the purchaser, the department shall release liens perfected after the recorded date of conveyance of the property. The request must state that the purchaser was not an owner or occupant of the property at the time of the notice of violation, had no knowledge of the notice of violation and has not been paid by the seller for the costs of abatement billed.

d. The Board of Works may release any liens for abatement costs or judgment liens for any other amount due pursuant to this chapter if it finds that the benefit to the City outweighs the detriment caused by such a release. The Board may require parties affected by the release to agree to whatever conditions the Board deems appropriate; provided, however, all conditions shall be set forth in a conditional release of the lien and shall be recorded in the office of the Recorder of Putnam County, Indiana. If the Board finds that an affected party has failed to comply substantially with the conditions imposed by the Board, the release shall be void and the lien affecting the property may be reinstated by the Board.

4. *Civil action to recover costs of abatement.* Upon the failure of the recipient who was sent the notice of violation and bill to pay the appropriate fees and charges within the fifteen (15) day period, the Board of Works may bring a civil action in court against such recipient to recover the amount billed, plus reasonable attorney's fees. (Ord. 2013-4, 5-20-2013)

c. In addition to or in lieu of the foregoing, if, upon reinspection, it is determined by the authorized employee that abatement has not occurred, the Board of Works may initiate a civil court action for ordinance violation against the recipient.

d. Regardless of whether later abatement by the recipient has occurred, the Board of Works may initiate a civil court action for a repeat violation.

e. Any recipient found in violation of this chapter may be fined not more than two-thousand, five-hundred dollars (\$2,500.00) for each violation. Each day such violation is permitted to continue may be deemed to constitute a separate violation. A previous violation of this chapter on the same property during the current or preceding calendar year may be considered in determining the penalty as assessed. A finding that a violation occurred or an admission that a violation occurred is not required to assess and recover a penalty if the recipient subject to the penalty agrees to pay the penalty pursuant to an agreed judgment or consent decree in a court action for ordinance violation.

f. Notwithstanding paragraph (c) above, a recipient shall be fined two-thousand, five-hundred dollars (\$2,500.00) for each repeat violation. (Ord. No. 1999-17, 11-9-99)

Sec. 6-72 Variance.

An owner or occupant may submit a written request for a variance to the Board of Works if compliance with this chapter will cause undue hardship to such owner or occupant without a sufficient corresponding benefit to the health or safety of the public. To receive consideration, such request must be received prior to the time the City abates the rank vegetation on the property. Upon receipt of a request, the Board of Works shall schedule a hearing and notify the owner or occupant of the time and place. At least ten (10) days prior to the hearing, the owner or occupant shall notify in writing the owners and occupants of all property within one-hundred, fifty (150) feet of the property for which the variance is requested. The notice shall state the location of the property for which the variance is requested, the nature of the variance requested, and the time and place of the hearing. At the hearing, the owner or occupant requesting the variance, representatives of the City, representatives of state or local governmental health authorities and any person affected by the proposed variance may present evidence. After the hearing, the Board of Works may grant or deny the request. The decision of the Board of Works shall be final. Within ten (10) days of the decision, written notice of the Board of Works' decision shall be given to the owner or occupant who requested the variance. (Ord. No. 1999-17, 11-9-99)

Division II. Planting, Maintenance, and Removal of Trees.¹⁴

Sec. 6-73 Definitions.¹⁵

a. City-Owned Property and Public Property: Property within the City limits of the City of Greencastle, Indiana owned by the City or expressly dedicated to the public for present or future use for the purposes of vehicular or pedestrian traffic or for public access or easements.

b. City Trees: Trees located on public property, including but not limited to Park trees, Street trees, trees in the City cemetery and other trees located on city-owned and public property.

c. Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying in the right-of-way on either side of all streets, avenues, or ways within the City.

d. Tree Topping: The severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

¹⁴ **Editor's Note:** Ord. No. 1990-1 was passed "...in order to protect the safety of the residents and the value of the City trees" and replaced by Ord. No. 2016-3.

¹⁵ **Editor's Note:** Ord. No. 1990-1 and Ord. No. 1995-4 were replaced by Ord. No. 2016-3. Sec. 2-135 *et seq.* of this Code addresses the Tree Board.

Sec. 6-74 Tree Species Permitted to be Planted.

The City Tree Board shall develop and maintain a list of trees which are permitted to be planted as street trees. (Ord. No. 1995-4, § 7, 4-11-95 repealed and replaced by Ord. No. 2016-3)

Sec. 6-75 Tree Species Not Permitted to be Planted.

The City Tree Board will also maintain a list of trees that are not permitted to be planted due to factors like susceptibility to disease or quarantine. The *Greencastle Tree Board Preferred Species List(s)* will be updated periodically to reflect planting recommendations made by the Indiana Department of Natural Resources (IDNR) and other agencies. These lists will be made available to the public on the City's website.

Sec. 6-76 Distance from the Curb and Sidewalk

No trees may be planted closer to any curb or sidewalk than three (3) feet. (Ord. No. 1995-4 repealed and replaced by Ord. No. 2016-3)

Sec. 6-77 Distance from Street Corners and Fire Hydrants.

No street tree shall be planted in conflict with the rules governing visibility and sight triangles contained in the Greencastle Zoning Code. No tree shall be planted within fifteen (15) feet of any fire hydrant. (Ord. No. 1995-4, § 10, 4-11-95 repealed and replaced by Ord. No. 2016-3)

Sec. 6-78 Utilities and Cable TV.

Trimming of street trees by public and private utility companies is permitted to maintain safe operating clearance from high voltage electric lines. It is also permissible to trim to provide access to poles, cable and other facilities. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. (Ord. No. 1995-4, § 11, 4-11-95 repealed and replaced by Ord. No. 2016-3)

Sec. 6-79 Public Tree Care.

The City shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the rights-of-way of all streets, alleys, avenues, lanes, parkways, highways, squares, and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public grounds. Whenever any tree is planted or set out in conflict with the provisions of this Ordinance, the Greencastle Department of Public Works may remove or cause removal of the same. The cost of the removal of such tree may be charged to the property owner responsible for the planting thereof.

The Greencastle Tree Board may remove or cause or order to be removed any street tree or City tree or part thereof which is in unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infected with any injurious fungus, insect, or other pest. Property owners wishing to do maintenance or removal work at their own expense on Street trees adjacent to their property must obtain a Right-of-Way Permit.

It is an unacceptable procedure for the City or any person or firm to top a City street tree. Topping is defined as "the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree." Trees

near utility lines or in areas that cannot be pruned using acceptable techniques should be removed and a new tree appropriate to the site planted. (Ord. No. 1995-4, § 12, 4-11-95 repealed and replaced by Ord. No. 2016-3)

Sec. 6-80 Emergency Tree Care

The City, public utilities, or the Indiana Department of Transportation (INDOT) may act to trim or remove trees in emergency situations when a tree or trees have been damaged by storms or otherwise presents an immediate safety concern. In these situations, they may resort to severe cutting back of the limbs or removal of the street trees but must report all such incidents to the Greencastle Tree Board as soon as practical after the emergency has passed. (Ord. No. 1995-4, § 14, 4-11-95 repealed and replaced by Ord. No. 2016-3)

Sec. 6-81 Pruning, Corner Clearance.

Owners of trees overhanging a public street or public right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection or impair any sidewalk and/or Pathway. There shall be a clear space of sixteen (16') feet above street surface and of eight feet (8') above the sidewalk or Pathway surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to public safety. The City shall have the right to prune or remove any tree or shrub overhanging the public right-of-way when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign or sight triangle at intersections or otherwise presents a safety concern. (Ord. No. 1995-4, § 15, 4-11-95 repealed and replaced by Ord. No. 2016-3)

Sec. 6-82 Dead, Diseased, or Unsafe Tree Removal on Private Property.

The City shall notify in writing the owner of any dead or diseased tree when such tree constitutes a hazard to life and property, or harbors insects or disease which constitutes a potential threat to other trees within the City. It is the tree owner's responsibility to take the necessary measures to remove or treat these trees to ensure the safety of the Greencastle community. The City may take such measures if the property owner fails to do so, or if there is an imminent safety concern. (Ord. No. 1995-4, § 16, 4-11-95 repealed and replaced by Ord. No. 2016-3)

Sec. 6-83 Removal of Stumps.

All stumps of street trees shall be removed below the surface of the ground.

Sec. 6-84 Interference with City Tree Board.

It shall be unlawful for any person to prevent, delay, or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees as authorized by this Ordinance. Such interference may result in fines of \$100.00 per day or legal action.

Sec. 6-85 Permits.

Any person or firm engaging in the business or occupation of pruning, treating, or removing street trees within the City must first apply for and procure a Right-of-Way permit. The permit fee shall be paid in advance to the City through the Greencastle Municipal Utilities Department.

All applicants must provide proof of liability insurance prior to conducting any work in the right-of-way.

The permit is valid for one year. Appeals of this procedure or requests for extensions of the permit may be submitted to the City Tree Board.

Sec. 6-86 Review by Greencastle Common Council.

The Greencastle Common Council shall have the right to review the conduct, acts, and decisions of the City Tree Board. Any person may appeal any decision, ruling or order of the Tree Board to the Common Council who may hear the matter and make final decisions. Said appeal must be filed within thirty (30) days of the decision, ruling or order of the Tree Board.

Sec. 6-87 Violation and Penalty.

Any person who violates any provision of this Ordinance or who fails to comply with any notice issued pursuant to the provisions of the Ordinance, upon being found in violation, shall be responsible to pay for damages equal to the appraised value or replacement value of the tree(s) and public improvements as well as reimbursement to the City for its costs to remove, maintain or replant the trees. A fine of one-hundred dollars (\$100.00) per day will be levied for each separate offense. Each day during which any violation of the provisions of this Ordinance shall occur or continue shall be considered a separate offense. (Ord. No. 1995-4, § 21, 4-11-95 repealed and replace by Ord. No. 2016-3)

Sec. 6-88 through Sec. 6-94 Reserved for Future Use.

ARTICLE 8. TRASH REMOVAL.¹⁶**Sec. 6-95 Charges for Trash and Refuse Pick-Up and Disposal Services.**

The City of Greencastle shall levy a charge of ten dollars (\$10.00) per month for trash and refuse pick-up and disposal services, and curbside recycling services rendered by the City. (Ord. No. 1992-4, § 1[a] effective replaced by Ord. No. 2000-19, 9-12-2000) (Ordinance 2004-15)

Sec. 6-96 Residential Services Only.

The trash and refuse pick-up and disposal services shall be rendered only to private residences and individual units used as private residences and shall not be rendered to commercial establishments or businesses of any nature within the confines of the City of Greencastle. (Ord. No. 1992-4, § 1[b], 4-14-92)

Sec. 6-97 Pick-Up Schedule Set by Board of Public Works.

The Board of Public Works of the City of Greencastle shall set and maintain a schedule throughout the City for trash and refuse pick-up and disposal services and shall provide such services to each private residence and individual unit used as a private residence of the City of Greencastle no less than once per week under such schedule. (Ord. No. 1992-4, § 1[c], 4-14-92)

Sec. 6-98 Monthly Billings.

The charges levied herein shall be billed by and through the Department of Waterworks of the City of Greencastle by adding the same to the monthly water bill of such private residence or individual unit used as a private residence of the City receiving such service. (Ord. No. 1992-4, § 1[d], 4-14-92)

Sec. 6-99 Deposit Fee. (Ord. No. 1997-9)

a. The amount of the refundable trash service deposit shall be Twenty-Five and no/100 Dollars (\$25.00) for service provided to the customer. Deposits may be waived by the Superintendent for customers with satisfactory prior payment records.

b. After two (2) years of on-time, current payment of bills, the deposits shall be refunded to the customer, without interest.

c. If there is a disruption in service or payment another deposit may be required.

d. A deposit made that has remained unclaimed by the customer for more than sixty (60) days after the termination of the customer's trash service shall become the property of the municipality. If a customer comes back to the utility office at a later date, and can prove that he/she is owed the deposit, the utility office will return the deposit to the customer. (Ord. No. 2007-7)

Sec. 6-100 Effective Date.

This Article shall take effect on May 1, 1992. (Ord. No. 1992-4, § 2, 4-14-92)

Sec. 6-101 Late Payment Charge

Payments for trash service are due on the 10th of each month. The City shall allow a one business day grace period after the 10th of the month before assessing a late payment charge. All bills for trash

¹⁶

Editor's Note: Ord. No. 1992-4 effectively repealed Ord. No. 1988-18, passed December 21, 1988, and Ord. No. 1985-2, passed March 12, 1985.

service not paid on or before that date shall be subject to a late payment charge of 10% of the bill. (Ord. No. 2004-30)

Sec. 6-102 through Sec. 6-104 Reserved for Future Use.

ARTICLE 9. WATER CONSERVATION AND WATER RATIONING.

Sec. 6-105 Application.

This ordinance shall apply to all persons, firms, partnerships, associations, corporations, company or organizations of any kind connected to the City of Greencastle public water system or using water therefrom (hereafter, users). (Ord. No. 1988-11, § 1, 7-26-88)

Sec. 6-106 Declaration of Need of Water Shortage.

Upon determining that the City of Greencastle public water system is in imminent danger of a shortage of water or is experiencing a shortage of water, the governing body shall declare a water conservation emergency and establish the appropriate conservation measures and the duration thereof. (Ord. No. 1988-11, § 2, 7-26-88)

Sec. 6-107 Voluntary Conservation of Water.

In accordance with Section 6-111, users shall be requested to reduce water consumption by practicing voluntary conservation techniques. The governing body shall suggest reasonable and meaningful actions which will alleviate existing or potential water shortage. (Ord. No. 1988-11, § 3, 7-26-88)

Sec. 6-108 Mandatory Conservation of Water.

In accordance with Section 6-111, users shall be prohibited from the water uses listed below, subject to reasonable terms, times and conditions as the governing body shall determine:

- a. Sprinkling, watering or irrigating of shrubbery, trees, grass, ground covers, plants, vines, gardens, vegetables, or any other vegetation.
- b. Washing to automobiles, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment.
- c. Cleaning or spraying of sidewalks, driveways, paved areas, or other outdoor surfaces.
- d. Washing and cleaning of any business equipment or machinery.
- e. The filling of swimming pools, wading pools and ornamental fountains.
- f. Knowingly allowing leakage through defective plumbing. (Ord. No. 1988-11, § 4, 7-26-88)

Sec. 6-109 Water Rationing.

In addition to the mandatory conservation measures identified in Section 6-108 and in accordance with Section 6-111, users shall be limited to water use per the following schedule:

a. Residential use shall be limited to fifty (50) gallons per person per day.

b. Business, commercial and industrial users shall be limited to seventy-five percent (75%) of the volume of water used during the corresponding month of the preceding year. Business, commercial or industrial users that were not in business and operating in the area served by the Greencastle Public Water system more than one (1) year prior to the declaration of need shall be restricted to seventy-five percent (75%) of the average monthly volume of water used during the number of months such business, commercial and industrial user was in business and operating in the public water system area. (Ord. No. 1988-11, § 5, 7-26-88)

Sec. 6-110 Exceptions - Alternative Rationing.

The governing body of the City of Greencastle reserves the right to establish alternative rationing requirements for the following:

a. Health care providers.

b. A reasonable use of water to maintain adequate health and sanitary standards.

c. Those industrial and agricultural activities declared to be necessary for the public health and well-being. (Ord. No.1988-11, § 6, 7-26-88)

Sec. 6-111 Notice of Voluntary and Mandatory Water Conservation.

Notice of voluntary conservation measures shall be by publication in a local newspaper of general circulation or other means as deemed appropriate by the governing body. Said notice shall be effective upon publication.

Notice of mandatory conservation or rationing shall be by first class United States mail, or by other door-to-door distribution to each current user, and by electronic and print media. Said notice shall be deemed effective at the conclusion of door-to-door distribution, or at noon of the third day after depositing same in the United States mail. (Ord. No. 1988-11, § 7, 7-26-88)

Sec. 6-112 Enforcement.

Any user who violates Sections 6-108 or 6-109 of this Article may be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00). Each day of violation shall constitute a separate offense. In addition to, or in the alternative to a fine, water service may be terminated for any user who violates Section 6-108 or 6-109 of this Article. (Ord. No. 1988-11, § 8, 7-26-88)

Sec. 6-113 through Sec. 6-117 Reserved for Future Use.

ARTICLE 10. EMERGENCY MANAGEMENT REGULATIONS.¹⁷**Sec. 6-118 Regulations.¹⁸**

The City of Greencastle and the County of Putnam operate in emergency and disaster situations pursuant to SEMA regulations.

Sec. 6-119 through Sec. 6-143 Reserved for Future Use.

¹⁷ I.C., § 10-4-1-1, *et seq.*, sets forth the "Civil Defense Law of 1975", commonly known as the "Emergency Management and disaster Law". I.C., § 10-4-1-3, sets forth the State's law definitions. Chapter 430 of the 1986 *Code* was deleted at the request of the City during the 1997 recodification.

¹⁸ I.C., § 10-4-1-10, addresses the County Emergency Management. I.C., § 10-4-1-11, addresses claims for loss or damages.

**ARTICLE 11. MISCELLANEOUS PUBLIC NUISANCE
AND SAFETY REGULATIONS.**

Sec. 6-144 Maintenance of Properties and Structures. (Ord. No. 2006-15)

a. All properties shall at all times be maintained and used in a clean, neat, well-groomed condition, free from all natural and man-made debris, droppings, junk, rubbish, trash, weeds, and the like. All structures shall at all times be erected, located and maintained in a whole, safe, sound condition; any structure that is damaged or destroyed by fire, storm, or other act of nature or man shall be restored to whole, safe, sound condition (or wholly removed) within ninety (90) days of the transaction or occurrence causing its damage or destruction.

b. Enforcement of subsection a., above, shall be governed by Sections 6-70 through 6-72 of the Greencastle Code.

Sec. 6-145 Removal of Snow, Ice, or Other Obstructions from Sidewalks.

a. It shall be unlawful for any person, firm, or corporation that is the owner or occupant of any lot, part of lot, or parcel fronting upon any street in the City to permit, suffer, or allow snow, ice, or other obstructions to accumulate and remain upon any sidewalk in the City upon the same side of the street as and fronting any lot, part, or parcel so owned or occupied by such person, firm, or corporation for any period of time in excess of twenty-four (24) hours.

b. The City of Greencastle, by and through its proper officers and employees, shall have the right to remove such snow, ice, or other obstructions so accumulating and remaining upon and sidewalk upon the same side of the street as and fronting any lot, part of lot, or parcel so owned and occupied by such person, firm, or corporation if the same is not removed by such person, firm, or corporation within the period of twenty-four (24) hours, and the costs and expense of so doing shall be charged against such owner or occupant.

c. Any person, firm, or corporation violating any provision of Subsection 'a' commits a Class E ordinance violation and shall be fined in any sum not in excess of ten dollars (\$10.00). (1986 *City of Greencastle Code*, § 460-20)

Sec. 6-146 Noise.¹⁹

a. No person shall permit excessive noise or persons of disorderly conduct to assemble in any house which annoys, disturbs, injures or endangers the health, peace or safety of others within the City.

b. No person shall operate any sound amplification system or any other machine, device or equipment which produces sound outside of buildings or other enclosed structures which would disturb the peace or welfare of the neighborhood between the hours of 10:00 p.m. and 8:00 a.m. An exception may be granted upon request to the Greencastle Common Council for a specific event. The Mayor shall have the authority to approve requests when the event occurs prior to the next Common Council meeting or under other unusual circumstances. The Mayor shall notify the Common Council of any such approvals prior to the time of the event.

c. No person shall cause, allow or permit noise, music, and or sounds from any radio, stereo, or

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other sound amplification system which is plainly audible at a distance of twenty-five (25) feet or more from any moving or stationary vehicle.

d. Any person who violates any provision of this section and any person who aids or assists therein, shall be subject to a fine of twenty-five dollars (\$25.00) for the first citation and fifty dollars (\$50.00) for each subsequent citation.

Sec. 6-147 Other Public Nuisances Enumerated and Prohibited.²⁰

The following are declared to be public nuisances in addition to any other nuisances defined elsewhere in this *Code*. It shall be unlawful for any person to create or maintain a public nuisance within the City, or to permit a public nuisance to remain on premises under his control within the City.

a. The sale, or offering for sale, of unwholesome food or drink or the keeping of a place where such sale or offering is made.

b. The sale, offering for sale or furnishing of intoxicating liquor in violation of the state law or ordinances of the City, or the keeping of a place where intoxicating liquor is sold, offered for sale or furnished in violation of the state law or ordinances of the City.

c. The keeping of a place where prostitution, illicit sexual intercourse or other immoral acts are practiced.

d. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on.

e. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities, or the keeping of an animal which makes such noises.

f. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinance.

g. Any building or structure which is dangerous to the public health

h. Any pit, hole or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety.

i. Any fire or explosion hazard which endangers the public safety.

Sec. 6-148 Nuisance Abatement.²¹

a. If a public nuisance is of such nature as to be constituted a grave and immediate danger to the public peace, health, safety, morals or welfare, the police department or other appropriate officer or agency of the City government is authorized to take immediate and proper action to abate such nuisance, or to reduce or suspend such danger until more deliberate action can be taken toward the abatement.

b. Any officer, employee of the City or citizen of the City may submit to the Common Council a

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I.C., § 34-1-52-1, defines "nuisance".

²¹

I. C., § 34-1-52-2, authorizes the City Attorney to bring civil action to abate or enjoin a nuisance.

recommendation that it be abated. The Common Council shall determine whether or not the alleged public nuisance is a public nuisance.

c. If the Common Council finds that a public nuisance does in fact exist, it shall direct the owner or other persons responsible for or causing the public nuisance to abate it within a specified time.

Sec. 6-149 Outdoor Hydronic Heaters (Ord. No. 2008-5)

a. Definitions. For the purposes of the Section, “outdoor hydronic heater” means a fuel-burning device that is:

1. Designed to burn wood or other dry solid fuels, such as corn, seed or coal, typically by hand firing.
2. Specified by the manufacturer for outdoor installation or for installation in structures not normally occupied by humans (e.g. garages).
3. Designed to heat building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

Examples of common uses include, but are not limited to, residential or commercial space heating, heating of domestic hot water, or heating of water for swimming pools, hot tubs or whirlpool baths.

b. Prohibition

It shall be a violation of this Section of the Greencastle City Code to have installed, install, use or permit the use of an outdoor hydronic heater after the effective date of this Section.

c. Exemption

1. Outdoor hydronic heaters installed or operating prior to the effective date of this Section shall be exempted from this prohibition so long as the following criteria are met:
 - a.) Documentation is available to verify the date of installation.
 - b.) The outdoor hydronic heater complies with all applicable federal, state and local laws.
 - c.) The outdoor heater does not otherwise create a public nuisance, as defined in the Greencastle City Code.
 - d.) The outdoor hydronic heater is installed in compliance with municipal building codes pertaining to the installation of any primary heating source;
 - e.) The outdoor hydronic heater uses only dry fuel (such as wood or corn pellets, seed or coal).

2. The burning of trash or any other non-approved materials is strictly prohibited.

3. Existing exempted outdoor hydronic heaters may not be replaced in the event they become inoperable.

d. Penalty.

A violation of this Section of the Greencastle City Code shall constitute a Class D ordinance violation and shall be subject to a fine in the amount of Fifty Dollars (\$50.00) per violation. Each day that a violation occurs shall constitute a separate violation, subject to the above penalty. In addition to the monetary fine, the City may enforce this section by obtaining an injunction or other court order directing the removal of the outdoor hydronic heater or ordering the owner or other person not to operate the device.

Sec. 6-150 through Sec. 6-155 Reserved for Future Use.

****Page 283 through Page 308 Reserved for Future Use.****

