

CHAPTER 10: GENERAL PROVISIONS

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10.01 TITLE OF CODE

This codification of ordinances by and for the City of Richmond, Indiana, shall be designated as the "Richmond Code" and may be cited in the form "R.C. 10.01" or such other section number as is appropriate.

10.02 INTERPRETATION

- (a) Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Code as those governing the interpretation of the Indiana Code.
- (b) Where a section of this Code is followed by a reference to the Indiana Code, such reference indicates that the section is analogous or similar to the cited sections in the Indiana Code. Footnotes, cross-references, and other comments are by way of explanation only and should not be deemed a part of the text of any section.
- (c) All provisions of this Code are limited in application to the territorial boundaries of the municipal corporation although the same may not be so limited specifically Richmond, Indiana, except Chapter 153 regarding Subdivisions of land and Chapter 154 regarding zoning of land, both of which Chapters apply to the unincorporated territorial jurisdiction of Richmond, Indiana, for planning purposes. (Ord. ????-1995)

10.03 APPLICATION TO FUTURE ORDINANCES

All provisions of Chapter 10, not incompatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

10.04 CAPTIONS

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section

10.05 DEFINITIONS

(a) General rule

Words and phrases shall be taken in their plain, or ordinary and usual sense. But technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import. (I.C. 1-1-4-1)

(b) For the purposes of this code the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "CITY," "MUNICIPAL CORPORATION," OR " MUNICIPALITY" - The City of Richmond, Indiana.
- (2) "THIS CODE" or "THIS CODE OF ORDINANCES" - The municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.
- (3) "COUNCIL" - The Common Council of Richmond, Indiana.
- (4) "COUNTY" - Wayne County.
- (5) "MAY" - The act referred to is permissive.
- (6) "MONTH" - A calendar month.
- (7) "OWNER" - Applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, or joint tenant of the whole or a part of such building or land, either alone or with others.
- (8) "PERSON" - Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms. (Ord. ????-1995)
- (9) "PERSON" or "WHOEVER" as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers thereof. (I.C. 18-1-24-1)
- (10) "PERSONAL PROPERTY" - Every species of property except real property.
- (11) "PROPERTY" - Real and personal property.
- (12) "REAL PROPERTY" Lands, tenements, and hereditaments and all chattels real.
- (13) "SHALL" The act referred to is mandatory.
- (14) "SIDEWALK" - That portion of a street between the curb lines of the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.
- (15) "STATE" - State of Indiana.

(16) "STREET" - Except as provided in the traffic code, the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right.

(17) "YEAR" - A calendar year, unless otherwise expressed; equivalent to the words "Year of our Lord". (I.C. 1-1-4-1)

10.06 RULES OF INTERPRETATION

The construction of all ordinances provisions of this city Code shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same actual ordinance as adopted by Council. (Ord. ????-1995)

(a) "AND" or "OR"

Either conjunction shall include the other as if written "and/or," if the sense requires it.

(b) Acts by assistants

When a statute provision requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition requirement shall be satisfied by the performance of such act by an authorized agent or deputy. (I.C. 1-1-4-1) (Ord. ????-1995)

(c) Gender; singular and plural; tenses

Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(d) General term

A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(e) Joint authority

Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons, unless otherwise declared in the law giving such authority. (I.C. 1-1-4-1)

10.07 SEVERABILITY

If any provision of this Code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application. (I.C. 1-1-1-8)

10.08 REFERENCE TO OTHER SECTIONS

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

10.09 REFERENCE TO OFFICES

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

10.10 ERRORS AND OMISSIONS

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; or the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

10.11 OFFICIAL TIME

The official time, as established by applicable state and federal law, shall be the official time within the city for the transaction of all city business.

10.12 REASONABLE TIME OR NOTICE

- (a) In all cases where an ordinance a provision requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.
- (b) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded. (I.C. 34-1-61-1) (Ord. ????-1995)

10.13 ORDINANCES REPEALED

This Code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this Code shall be deemed repealed from and after the effective date of this Code.

10.14 ORDINANCES UNAFFECTED

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this Code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

10.80 DISCLAIMER OF LIABILITY

This City Code or any other Ordinance shall not create liability on the part of the City or its administering agency official for any damages that result from reliance on the Code or other Ordinance or any administrative decision lawfully made hereunder. (Ord. 38-1986; Ord. ????-1995)

10.98 APPROPRIATION AND PAYMENT OF REWARDS

- (a) The Common Council may appropriate money for a reward for information leading to the apprehension, arrest, and conviction of a person or persons for any felony committed in the city.

(b) The reward may be offered in such a manner and method as deemed appropriate by the Common Council or may be delegated to any board or commission of the city. (Ord. 89-1981)

10.99 GENERAL PENALTY

(a) Any person adjudged guilty of violating any provision of this Code that does not prescribe a different penalty shall be fined Fifty Dollars (\$50.00) and may also be required to pay the costs of prosecution of such violation.

(b) Any person adjudged guilty of violating the following provisions of the Richmond Code shall be fined the sum of One Hundred Dollars (\$100.00), and proper reference of this fine shall also be made in the applicable Section of the Code, to-wit:

- (1) Section 90.22 Taxiing an aircraft in an improper manner.
- (2) Section 90.23 Improperly handling or operating an aircraft.
- (3) Section 90.24 Failing to remove an aircraft from the airport
- (4) Section 90.25 Damaging a light or fixture at the airport.
- (5) Section 90.26 Improper use of flammable liquids at the airport.
- (6) Section 90.27 Improper fueling of an aircraft.
- (7) Section 90.28 Repair of an aircraft by a person other than a qualified mechanic.
- (8) Section 90.29 Interfering with an aircraft without permission of the owner.
- (9) Section 90.30 Failing to report an accident at the airport to the airport manager.
- (10) Section 90.33 Improper acts by lessees at the airport (i.e. altering structures, failing to maintain bulletin board for FAA notices).
- (11) Section 93.04 Operating as a private hauler of refuse without receiving approval from the Board of Sanitary Commissioners or complying with other provisions of 93.04
- (12) Section 93.08 Open burning of refuse without approval.
- (13) Section 94.01 Offensive industries (stockyard, fertilizer plants, slaughterhouse) within ½ mile of a residence, church, factory, schoolhouse or other public place or within 500 ft. of a public road.
- (14) Section 94.02 Possessing live swine within the City.
- (15) Section 94.04 Storage of machinery or junk vehicles on a premises or property.
- (16) Section 94.30 Creating a dense smoke nuisance.
- (17) Section 94.31 Interfering with Fire Chief in his efforts to enforce smoke nuisance.

- (18) Section 94.32 Constructing furnace without permit.
- (19) Section 94.34 Operating soft coal furnace in non-residential structure in a manner not designed to reduce black smoke emissions.
- (20) Section 94.35 Operating a stoking furnace in a manner not designed to reduce black smoke emission.
- (21) Section 95.12 Cruelty to animals in park, capturing animals in park, allowing animals to run at large in City park, unauthorized riding of a horse in City park.
- (22) Section 95.13 Bringing or landing an aviation device within a City park.
- (23) Section 95.15 Unauthorized construction work in a City park.

- (24) Section 95.16 Damaging park property or plants.
- (25) Section 95.19 Starting a fire in a City park other than in designated areas
- (26) Section 96.01 Obstructing a City street
- (27) Section 96.02 Selling of merchandise on a sidewalk without approval from Board of Works.
- (28) Section 96.03 Constructing an awning or other overhang without approval from the Board of Works.
- (29) Section 96.04 Constructing a gate that swings over the sidewalk.
- (30) Section 96.11 Driving on a street under repair.
- (31) Section 96.20 Constructing a barbed wire fence at a height in which pedestrians may come into contact with such fence (along street or sidewalk).
- (32) Section 96.23 Discharging a downspout or conductor pipe upon an improved sidewalk.
- (33) Section 96.25 Damaging a City sidewalk.
- (34) Section 96.26 Operating a portable engine on a City street without obtaining a permit from the City Engineer.
- (35) Chapter 105. Constructing a driveway or other highway access without obtaining approval from the Board of Works.
- (36) Chapter 115. Operating a massage parlor in a manner not conforming with the provisions of §§ 115.01 – 115.20.
- (37) Section 118.01 Operating a train at a speed greater than 40 m.p.h. within the city limits.
- (38) Section 118.06 Failing to maintain a railroad crossing.

- (39) Section 118.09 Operating a railroad crossing without properly working flashers.
- (40) Section 130.02 Falsely reporting a fire.
- (41) Section 130.03 Discharging fireworks within the city limits.
- (42) Section 130.07 Placing a refrigerator upright in a place accessible to children without removing the doors from the refrigerator prior to its placement.
- (43) Section 130.15 Obstructing a fire hydrant; opening a fire hydrant without authorization; tampering with fire equipment.
- (44) Section 150.18 Failing to maintain the exterior of a structure.
- (45) Section 151.10 Occupying (or causing to be occupied) a dwelling with improper sanitation facilities.
- (46) Section 151.11 Occupying (or causing to be occupied) a dwelling with insufficient heating facilities.
- (47) Section 151.12 Occupying (or causing to be occupied) a dwelling with insufficient lighting, ventilation, or electrical facilities.
- (48) Section 151.13 Failing to otherwise maintain or care for a structure.
- (49) Section 151.14 Occupying (or causing to be occupied) a dwelling with insufficient living space and/or proper ingress and egress.
- (50) Section 151.21 Failing to maintain the neighborhood environment.
- (51) Section 151.39 Removal of a placard from a rooming house.
- (52) Chapter 152.00 Operating a mobile home park or constructing a mobile home in a manner not conforming to the provisions of § 152.00.
- (53) Chapter 153.00 Transferring parcels in subdivision without receiving “subdivision approval” as defined in § 153.00.

- (c) Each act of violation and every day upon which a violation occurs constitutes a separate offense. In addition to any fines or other penalties, that may be assessable, any person, corporation, or entity violating any provisions of the City Code, other ordinances, contracts, rules, or regulations of the City, its boards, Departments, agencies, or Commissions, shall become liable to the City of Richmond for any expenses, loss or damage caused to the City by reason of such violation including, but not limited to, any corrective, clean-up, evacuation, administrative or other expenses, including legal, investigative, and engineering expenses, and labor and overtime costs
- (d) The penalties provided by this section (\$50.00) and **(\$100.00)** apply to the amendment of any section of this code or any code adopted herein by reference whether or not such penalty is reenacted in the amendatory ordinance.
- (e) Reference to any section of this code shall be understood to also refer to and include the penalty section relating thereto, unless otherwise expressly provided.

- (f) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject such officer or employee to the penalty imposed for violation of this code, unless a penalty is specifically provided.

BE IT FURTHER ORDAINED, by the Common Council of the City of Richmond, Indiana, that the following Sections of the Richmond Code shall be eliminated, with summary reference to their topics shown included herein, to-wit:

- (a) Section 70.22 Propelling a pushcart or riding an animal in a manner not conforming with the provisions of the City Traffic Code.
- (b) Section 70.26 Failing to file a written report of accident involving more than \$200.00 to person(s) or property.
- (c) Section 95.21 Playing a game or sport in an "inadequate place: within a City park.
- (d) Section 95.22 Using a kite in an unauthorized place within a City park.
- (e) Sections 111.01 thru 111.03
Operating a carnival, circus or shooting gallery without obtaining a business license for such activity.
- (f) Sections 111.13 thru 111.20
Operating a dance hall in a manner not conforming with the provisions of § § 111.13-111.20.
- (g) Sections 114.01 thru 114.05
Conducting a jewelry auction in a manner not conforming with the provisions of § § 114.01-114.05.
- (h) Section 151.26 Failing to obtain a rooming house license.

10.99 ENFORCEMENT AND GENERAL PENALTY

- (a) An action to enforce this Code shall be brought in the name of Richmond, Indiana. The City need not prove that it or the Code provision is valid unless validity is controverted by affidavit. (I.C. 34-4-32-1)
- (b) Actions shall be conducted in accordance with the Indiana Rules of Trial Procedure and must be brought within two years after the alleged conduct or violation occurred.
- (c) The City must prove the commission of a Code violation by a preponderance of the evidence.
- (d) Whenever a Code enforcement officer believes in good faith that a person has committed a Code violation, said officer may detain that person for a time sufficient to:
 - (1) inform the person of the allegation;
 - (2) obtain the person's:
 - (A) name, address, and date of birth; or
 - (B) driver's license, if in his or her possession. (I.C. 34-4-32-2)

(e) A person who knowingly or intentionally refuses to provide either his or her:

(1) name, address, and date of birth; or

(2) driver's license, if in his or her possession;

to a Code enforcement officer who has stopped the person for a Code violation commits a Class C misdemeanor. (I.C. 34-4-32-3)

(f) A judgment including the fine and costs incurred by the City in obtaining compliance with this Code up to the amount requested in the complaint but not exceeding \$2,500.00, may be entered for violation of this Code. (I.C. 34-4-32-4)

(g) Any person who admits violating a provision of this Code or who is adjudged by a Court to be in violation of this Code shall be fined \$50.00 unless the Code sets forth a lesser or larger fine for the specific violation.

(h) A fine is payable to the City Clerk, 50 North Fifth Street, Richmond, Indiana, within fourteen days of the date appearing on the Notice of Violation. Failure to pay the fine or advise the City Law Department in writing, 50 North Fifth Street, Richmond, Indiana, of one's denial of the violation and request for trial before the Wayne Superior Court Number Three, Small Claims Division, within fourteen days of the date appearing on the Notice of Violation shall result in a late fee of \$10.00 being added to the fine.

(i) If a condition violating this Code exists on real property, enforcement officers of the City may enter onto that property and take appropriate action to bring the property into compliance with this Code. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity to bring the property into compliance. If action to bring compliance is taken by the City, the expense involved may be made a lien against the property. (I.C. 36-1-6-2)

(j) The City may bring a civil action to enjoin any person from:

(1) violating a provision of this Code regulating or prohibiting a condition or use of property; or

(2) engaging in conduct without a license if a provision of this Code requires a license to engage in the conduct. (I.C. 36-1-6-4)

(k) The Richmond, Indiana, Advisory Plan Commission or any designated enforcement officer may invoke any legal, equitable, or special remedy for the enforcement of Chapters 153 and 154 of this Code in addition to the other enforcement provisions set forth in this Section 10.99. (I.C. 36-7-4-1014)

(l) The penalty provided by subsection (g) applies to the amendment of any section of this Code whether or not such penalty is reenacted in the amendatory ordinance.

(m) Reference to any section of this Code shall be understood also to refer to and include the penalty section relating thereto unless otherwise expressly provided.

(n) The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed by subsection (g) unless a penalty is specifically provided elsewhere in this Code. (Ord. ???-1995)