

**CODE OF ORDINANCES**

**City of**

**MUNCIE, INDIANA**

**Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 35-10, enacted September 13, 2010.**

See the References to Ordinances for further information.

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

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In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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**CHAPTER 32. LEGISLATIVE**

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**DIVISION 1. GENERAL PROVISIONS**

**Sec. 32.01. Legislative authority.**

The legislative power and authority of the city shall be vested in a common council. Unless otherwise provided by law, all powers and duties of the city which are legislative in nature shall be

exercised and performed by the common council. The common council of the city shall not elect or appoint any person to any office or employment whatever, except as expressly provided by statute.

**State law reference**—Similar provisions, IC 18-1-1.5-26.

**Sec. 32.02. Council members; councilmanic districts.**

In the city there shall be nine members of the common council: six district councilmen elected from such districts as the council may from time to time establish, and three councilmen-at-large elected at large from the entire city. (Ord. No. 620-80, 10-10-80)

**State law reference**—Similar provisions, IC 18-2-1-8.

**Sec. 32.03. Council meetings.**

The council shall meet at least once a month, and as much oftener as the rules may require. Special meetings shall be held on the call of the mayor, or on such other call as may be provided for by the rules. A majority of all the members shall constitute a quorum. It shall require a majority vote of all the members to pass an ordinance. Whenever it is required that any ordinance or resolution shall be passed or other action of the council taken by a  $\frac{2}{3}$  vote, such requirement shall be construed to mean a  $\frac{2}{3}$  vote of all the members. All meetings of the common council shall be public.

**Cross reference**—Time and place of regular meetings, see § 32.33

**State law reference**—Similar provisions, IC 18-1-3-2.

**Sec. 32.04. Officers of the common council.**

The officers of the common council shall be a president, president pro tempore, and reading clerk, all of whom shall be elected from the membership of the common council by the common council. The city clerk shall be the clerk of the common council. The duties of such officers shall be as follows.

- (A) The President of the common council shall preside at all council meetings, carry out such other duties as presiding officers generally perform, and shall carry out

such duties as shall from time to time be directed by ordinance or resolution of the council.

- (B) The president pro tempore shall preside in the absence of the president, or at the request of the president, and shall perform such other duties as may from time to time be directed by the president or the council.
- (C) The reading clerk shall, upon the call of the presiding officer, read aloud by number and title each matter to be considered by the council. Upon the vote of a majority of the members present and voting the reading clerk shall read aloud in its entirety any particular matter.
- (D) The clerk of the common council shall accurately record and prepare the minutes of all meetings of the common council. The minutes shall include the record of the vote taken on each matter considered, as well as sufficient other material to accurately reflect the transaction of all business at such meetings and public hearings. The clerk shall also be custodian of all official records of the council and shall perform such other duties as may be directed by the council or prescribed by law.

(Ord. No. 620-80, 10-10-80)

**Statutory reference**—Presiding officer in second-class cities, see IC 18-1-3-3.

**Sec. 32.05. Records of meetings.**

The city clerk shall be the clerk of the common council. It shall be the clerk's duty, as such clerk of the council, to keep the files and papers thereof, to make and keep accurate minutes and a journal of the proceedings, to enter the yeas and nays on the passage of every ordinance and resolution and on all other votes, whenever requested by two members, and to perform all other duties required by such office.

(Ord. No. 620-80, 10-10-80)

**State law reference**—Similar provisions, IC 18-1-3-4.

**Sec. 32.06. Expulsion of members.**

The council shall have the power to expel any of its own members for violation of official duty,

and to declare the seat of any member vacant by reason of his disability to perform the duties of his office. The council may adopt its own rules to govern in such cases; but a <sup>2</sup>/<sub>3</sub> vote shall be required to expel a member or vacate his seat under this section.

**State law reference**—Similar provisions, IC 18-1-3-5.

**Sec. 32.07. Powers of council concerning ordinances.**

(A) The common council of the city shall have power to pass all ordinances, orders, resolutions, and motions for the government of the city, for the control of its property and finances, and for the appropriation of money. No appropriation shall be made for the payment of money other than by ordinance, specifying by items the amount thereof and the department for which the appropriation is made. The council may prescribe by ordinance its own rules.

(B) No ordinance, order, or resolution of the council shall become a law, or operative until it has been signed by the presiding officer and approved in writing by the mayor, or passed over his veto, as hereinafter provided, and, whenever necessary, promulgated according to law. No ordinance shall be passed on the same day, or at the same meeting that it is introduced, except by unanimous consent, and then only in case there are present and voting at least two-thirds of all the members of the council. Every ordinance imposing a penalty or forfeiture for the violation thereof shall, before the same shall take effect, be published, once each week for two consecutive weeks, in a newspaper of general circulation printed in such city, provided that in case of insurrection, riot, pestilence, conflagration, or in other case of urgent necessity requiring the immediate operation of any such ordinance, it shall take effect as soon as proclamation is made thereof by the mayor, and copies are posted in three public places in each of the wards of the city.

(C) When the city shall publish any of its ordinances in book or pamphlet form, such publication shall be of itself sufficient, and such ordinance or ordinances shall be in force in two weeks from the date of publication of such book or pamphlet. Any such publication of the ordinances of a city in book or pamphlet form, if the same

shall purport to be printed under the authority of the common council of such city, shall be presumptive evidence, in all courts and places, of the



**Sec. 32.21. Presiding officer to decide questions of order; appeal.**

The presiding officer shall decide all questions of order, subject to an appeal to the council by any member whose appeal shall be seconded.  
(Code 1968, § 31.02)

**Sec. 32.22. Presiding officer to decide whether or not question carried; division of council.**

The presiding officer shall decide whether any question is carried by affirmative or negative vote, but if in doubt, or a division be called for, the council shall divide.  
(Code 1968, § 31.03)

**Sec. 32.23. Debate prohibited on questions relating to order of business.**

All questions relating to the order of business shall be decided without debate.  
(Code 1968, § 31.04)

**Sec. 32.24. Manner of obtaining the floor.**

Before a member of the council may make a motion or address the council, he shall raise his hand, address the chair as "Mr. President", or "Madam President", and obtain recognition from the presiding officer. No member may be recognized while another member is speaking. No member shall speak more than twice on the same question, except by unanimous consent of the council members present at the time, nor more than once, until every member wishing to speak shall have spoken.  
(Code 1968, § 31.05; Ord. No. 620-80, 10-10-80)

**Sec. 32.25. Motion to be reduced to writing when requested; withdrawal of motion.**

Every motion shall be reduced to writing, if the presiding officer or any member desires it, and after being stated or read shall be considered in the possession of the council, but may be withdrawn at any time before decision or amendment.  
(Code 1968, § 31.06)

**Sec. 32.26. Motion not to be received while question is under debate; exception.**

When any question is under debate, no motion shall be received but to adjourn, to fix the day to which the council may adjourn, to lie on the table, for the previous question, to postpone to a certain day, to commit or amend or to postpone indefinitely, which several motions shall have precedence in the order in which they are here arranged.  
(Code 1968, § 31.07)

**Sec. 32.27. Moving the previous question.**

Debate upon any pending matter may be closed upon motion of any member, a second thereto, and an affirmative vote of a majority of the council members present. Such a motion takes precedence over all debatable questions and all subsidiary motions except motions to table, and is itself undebatable and not subject to amendment. The effect of such a motion is confined to the immediately pending motion unless specified otherwise.  
(Code 1968, § 31.08; Ord. No. 620-80, 10-10-80)

**Sec. 32.28. Commission and recommission of ordinances, resolutions, and reports.**

Ordinances, resolutions, and reports may be committed and recommitted at the pleasure of the council.  
(Code 1968, § 31.09)

**Sec. 32.29. Reconsideration of question.**

When any question has been once decided in the affirmative or negative, any member voting with the prevailing side may move a reconsideration thereof at the same or the next subsequent regular meeting; provided, that a vote passing any general ordinance shall not be reconsidered at any subsequent meeting.  
(Code 1968, § 31.10; Ord. No. 703-81, 8-3-81)

**Sec. 32.30. Order of propounding questions; filling blanks.**

All questions shall be propounded in order in which they are moved, except that in filling blanks

the largest sum and the longest time shall be put first, and then the next largest sum and the next longest time, and so on until the blank be filled. (Code 1968, § 31.11)

**Sec. 32.31. Roll call required, when.**

The vote on the passage of every ordinance and resolution shall be decided by the call of the roll. The vote on all other matters, including the introduction and amendment of pending ordinances and resolutions, may be decided by a voice vote, unless a division of the house is requested by a member of the common council. (Code 1968, § 32.12; Ord. No. 620-80, 10-10-80)

**Sec. 32.32. Certain motions not debatable; tabled ordinances or resolutions.**

(A) A motion to lie on the table or to fix the time which the council shall adjourn shall not be debatable.

(B) Any ordinance or resolution tabled by the council shall be deemed withdrawn if no action is taken thereon within six (6) months from the date said ordinance or resolution is tabled. (Code 1968, § 31.13; Ord. No. 5-10, § 1, 5-3-10)

**Sec. 32.33. Time and place for regular meetings.**

The first regular meeting of the council shall be held on the first Monday in January after the general election of the members-elect of the council, at 7:30 p.m. as provided by IC 18-1-3-2. All regular meetings shall be held on the first Monday evening of each month at 7:30 p.m. and may be adjourned at the pleasure of the council. Adjourned meetings shall have all the force and effect of regular meetings. Meetings shall be held in the council chamber, unless otherwise determined by the president and designated on the agenda. (Code 1968, § 31.14; Ord. No. 620-80, 10-10-80)

**Sec. 32.34. Special meetings.**

Special meetings of the council shall be held on the call of the mayor or the presiding officer of the council, or, in the event of the absence from the city of the presiding officer of the council, on the

call of the presiding officer pro tempore, or, upon the written request of seven members of the council. All members of the council must be notified by the city clerk. (Code 1968, § 31.15)

**Sec. 32.35. Committees, appointment.**

The presiding officer shall appoint all standing and other committees of the council as he shall deem necessary from time to time and designate the duties of each committee and members thereof; unless the council shall, by resolution, prescribe another mode of such designation and appointment. (Code 1968, § 31.16)

**Sec. 32.36. Duties of committees.**

The duties of the several committees designated by the presiding officer shall be enumerated by the presiding officer and the persons appointed to the committees shall be and take cognizance of and consider all matters concerning the city which are indicated by the title of the committee so designated and all other matters which may be referred to them by the council or by the presiding officer. (Code 1968, § 31.17)

**Sec. 32.37. Order of business.**

The order of business at every meeting of the council shall be as follows:

- (A) Calling the roll.
- (B) Reading the journal of the preceding meeting.
- (C) Hearing of petitions, memorials and remonstrances.
- (D) Reports of standing committees.
- (E) Reports of select committees.
- (F) Reports of city officers.
- (G) Ordinances on a second or third reading.
- (H) Introduction of ordinances.
- (I) Introduction of resolutions.
- (J) Unfinished and miscellaneous business. (Code 1968, § 31.18)

**Sec. 32.38. General rules.**

The general rules of parliamentary law shall be considered the rules of the council, so far as applicable, unless in conflict with this chapter. (Code 1968, § 31.19)

**Sec. 32.39. Prerequisites to action on ordinance, resolution.**

(A) The city clerk shall not accept for filing any ordinance or resolution to be considered by the common council unless it has been approved by written signature thereon of a member of the council, and further, unless it has been approved for form by the city attorney or the attorney for the common council. Each ordinance and resolution shall bear at the top of the first page thereof a caption which shall briefly and fairly describe the nature, purpose, and content of the document. Any ordinance or resolution submitted which conforms to the requirements of this division shall be given an identifying number and placed on the agenda of the first regular council meeting occurring at least 15 days from the date of filing. The city clerk shall distribute the ordinance or resolution to council members for their study no later than ten days prior to the meeting.

- (1) Any matter filed with the clerk in conformity with subsection (A) above shall be eligible for consideration by the council 15 days after filing. No ordinance shall be passed on the same day, or at the same meeting, that it is introduced, except by unanimous consent, and then only in case there are present and voting at least two-thirds of all of the members-elect of the council. The consent of a simple majority of those present and voting shall be required in order to suspend the rules for any other purpose.
- (2) Any matter may be amended at any point in the proceedings by appropriate vote, and the amendment shall not need to comply with any time or filing provisions in this section. Any matter except ordinances to amend the comprehensive zoning ordinance may be withdrawn from consideration by the council upon the oral request of the sponsoring council member

without a vote upon the request. Ordinances to amend the comprehensive zoning ordinance may only be withdrawn by the applicant with the consent of a majority of the members of the council present.

(B) The date the ordinance is officially brought before or certified to the council is the date the ordinance is introduced by the council at a regular meeting or special meeting, as provided by sections 32.33 and 32.34 and in compliance with the provisions of this section.

(C) No ordinance or resolution affecting a specific department of city government shall be passed unless and until the department head of the affected department or his designee appears before the council to answer any inquiries the council may have regarding the ordinance. (Code 1968, § 31.20; Ord. No. 44-74, 11-12-74; Ord. No. 183-76, 5-10-76; Ord. No. 376-78, 5-8-78; Ord. No. 620-80, 10-10-80; Ord. No. 19-93, 6-7-93)

**Sec. 32.40. Reintroduction of defeated ordinance.**

No ordinance that has been defeated by council action shall be reintroduced in the same year, unless by unanimous consent of the council. (Code 1968, § 31.21)

**Sec. 32.41. Motions to recess or adjourn.**

Motions to recess or adjourn must be by roll call vote. (Code 1968, § 31.22)

**Sec. 32.42. Expenditures from council budget.**

(A) All expenditures of money from the appropriated budget of the common council must be approved by the president of the common council or, in the absence of the president, the president pro tempore prior to payment by the controller, subject to subsection (D), below.

(B) No expenditure of appropriated money from the budget of the common council shall be approved which is not reasonably related to the carrying out of the duties of the members of the common council.

(C) All expenditures from the budget of the common council, except for salaries of elected officials, shall be in the nature of reimbursement for expenditures incurred by the council members. Each expenditure shall be supported by a sworn claim signed by the council member seeing reimbursement and shall be supported by appropriate and reasonable documentation thereof.

(D) The decision of the president or president pro tempore under subsection (A) may be appealed to the full council by any member of the council whose motion shall be seconded. Such motion shall be debatable, and shall require the affirmative vote of at least the majority of the members present, for passage, provided a quorum is present.

(E) The controller shall prepare and file with the city clerk for distribution to the council a monthly statement of expenditures under the provisions of this section.  
(Ord. No. 713-81, 9-14-81)

## CHAPTER 35. POLICE AND FIRE DIVISIONS

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## DIVISION 1. GENERAL PROVISIONS

### Sec. 35.01. Residency requirements for police and firemen.

(A) All new applicants for the positions of regular policemen or regular firemen are required to reside within the municipal corporate boundaries of the city and are required to reside within the city on the date of hire-in.

(B) All new regular policemen and regular firemen shall reside within the municipal corporate boundaries of the city from and after June 8, 1976, and shall be required to reside within the city during their job tenure.  
 (Ord. No. 188-76, 6-8-76)

### Sec. 35.02. Adoption of police and fire merit system.

All of the provisions of IC 19-1-14 are hereby adopted by reference and made a part hereof, and shall remain in full force and effect.  
 (Ord. No. 924-82, 12-6-82)

**State law reference**—Retention of merit system, see IC 36-8-3.5-1.

### Secs. 35.03—35.09. Reserved.

## DIVISION 2. POLICE DIVISION

### Sec. 35.10. Powers and duties of officers and members of the police force.

(A) The officers and members of the police force of the city shall possess all the common-law and statutory powers of constables, except in

relation to the service of civil process. Any warrant of search or arrest issued by any judge, magistrate, or justice of the peace of the state may be executed in any part thereof by any member of the police force, subject to the laws of the state governing arrest and bail.

(B) The members of the police force shall have the exclusive power, and it shall be their duty, to serve all process within the city issuing from the city court. They shall be conservators of the peace in the city and shall arrest, without process, all persons who within view commit any crime or misdemeanor contrary to the statutes of the state, or who violate the ordinances of the city. Such violations shall include violations on public school property of any traffic ordinance adopted for that school property by the common council after recommendation by the governing body of the school corporation operating that school within the city. The members of the police force shall take the violators before the city court, or other officer having jurisdiction of the offense with which such person is charged, and retain them in custody until the cause of such arrest has been investigated. The members of the police force shall suppress all breaches of the peace within their knowledge. Authority is given to the police force members to call to their aid the power of the city, and to pursue and commit to jail all felons and persons guilty of misdemeanors or crimes in violation of the statutes of this state.

(C) They shall have the exclusive power, and it shall be their duty, to serve all process issued by the common council or any committee thereof, pursuant to this chapter, or issued by any of the executive departments of the city.

(D) They shall attend upon the city court and assist the bailiff to preserve order in the court. The members of the police force, under the direction of the police director, shall convey prisoners to and from the county jail or station houses of the city for arraignment or trial in the city court, or to the house of correction, workhouse, reform school, county jail, or other place of punishment or imprisonment, under judgment, sentence, order, or process of the court.

**State law reference**—Similar provisions, IC 18-1-11-4.

### **Sec. 35.11. Special powers.**

(A) It is made the duty of the police force, and the members thereof are specially empowered, at all times, within the city, to preserve peace; prevent crime; detect and arrest offenders; suppress riots, mobs, and insurrections; disperse unlawful and dangerous assemblages, and assemblages which obstruct the free passage of public streets, sidewalks, parks, and places; protect the rights of persons and property; guard the public health; preserve order at elections and public meetings; direct the movement of vehicles in streets, alleys, or public places; enforce traffic ordinances; remove all nuisances in public streets, parks, or highways; arrest all street beggars and vagrants; provide proper police assistance at fires; assist, advise, and protect strangers and travelers in public streets or at railroad stations; carefully observe and inspect all places of business under license, or required to have the same, all houses of ill fame or prostitution, and houses where common prostitutes resort or reside, all lottery or policy shops, all gambling houses, cock pits, dance houses and resorts; and to suppress and restrain all unlawful or disorderly conduct or practices, and enforce and prevent the violation of all ordinances and laws in force in the city.

(B) The police director and each captain in his precinct shall possess the power of supervision and inspection over all pawnbrokers, vendors, junk shop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, and auctions; and any member of the force may be authorized, in writing, by the director to exercise the same powers. The director or any captain may, by written authority, empower any member of the police force, when in search of stolen property, of evidence, or of suspected offenders, to examine the books, business, or premises of any of the persons named in this section and to examine property in whosoever possession the same shall be.

**State law reference**—Similar provisions, IC 18-1-11-7.

### **Sec. 35.12. Police dogs, privileges.**

Any person, being a duly appointed police officer of any duly authorized law enforcement agency, who is accompanied by a dog described as "police attack dog" or "police K-9 dog" or any dog edu-

cated by a recognized training agency or school which is used as a tool or assistance to law enforcement, is entitled to the full and equal accommodations, advantages, facilities, and privileges of all public conveyances, hotels, lodging places, and all other places to which the public is invited, and is entitled to take said dog into such conveyances and places subject only to the conditions and limitations applicable to all persons not so accompanied provided that said dog shall not occupy a seat in any public conveyance. (Code 1968, § 33.05)

**Sec. 35.13. Interference with police dogs.**

No person shall willfully or intentionally interfere with any police officer while accompanied by a trained "police attack dog" or "police K-9 dog" while performing his duties as a police officer. (Code 1968, § 33.06)

**Cross reference**—Penalty, see § 10.99.

**Sec. 35.14. Injuring police dogs.**

No person shall do or attempt to do bodily harm, physical harm, or cause mental anguish to any trained "police attack dog" or "police K-9 dog" that has been trained for use by any law enforcement agency as an assistance or tool to assist law enforcement officials.

(Code 1968, § 33.07)

**Cross reference**—Penalty, § 10.99.

**Sec. 35.15. Fees charged for the purpose of police training and education.**

(A) The following fees shall be charged by the Muncie Police Department. All revenue derived from the following sources shall be deposited into the Muncie Police Department Training Equipment Fund (Account No. 243-20-439017). Revenue deposited into this account shall only be utilized for the purchase, repair and other maintenance of police department training equipment.

- (1) A fee of \$1.00 per document shall be charged for lamination of any document.
- (2) A fee of \$2.00 per document shall be charged for notary service.
- (3) A fee of \$5.00 shall be charged for faxing any documents.

- (4) A fee of \$10.00 shall be charged for:
  - a. Fingerprints;
  - b. Criminal statistic research;
  - c. CD copy of case photographs.
- (5) A fee of \$10.00 shall be charged for criminal history searches.
- (6) A fee of \$20.00 shall be charged for any video or DVD request.
- (7) A fee of \$100.00 shall be charged for each taxicab permit issued with a maximum annual fee of \$500.00 for owners of multiple taxicabs.
- (8) A fee of \$25.00 shall be charged for each driver's card issued pursuant to the taxicab ordinance.
- (9) No fee shall be charged for the inspection of a public record by the police department.

(B) The following fees shall be charged by the police department and deposited into the Law Enforcement Continuing Education Fund (Account No. 247-20-439071). Revenue received and deposited into this fund shall be used for the continuing education and training of law enforcement officers employed by the agency and for equipment and supplies for law enforcement purposes in accordance with IC 5-2-8-6.

- (1) A fee of \$0.10 per page shall be charged for all black and white copies of arrest reports and case reports.
  - (2) A fee of \$0.25 per page shall be charged for all color copies of arrest reports and case reports.
  - (3) A fee of \$5.00 shall be charged for any vehicle title inspection report.
  - (4) A fee of \$8.00 shall be charged for an accident report.
  - (5) A fee of \$10.00 shall be charged for each gun permit application.
  - (6) There shall be no fee charged for the inspection of a public record by the police department.
- (Ord. No. 19-10, §§ 1, 2, 8-2-10; Ord. No. 20-10, §§ 1, 2, 8-2-10)

**Secs. 35.16—35.19. Reserved.**

DIVISION 3. FIRE DIVISION

**Sec. 35.20. Members; requirements.**

In order to be eligible for appointment to the fire division, an applicant must be 21 years of age and not over the age of 30 years.

**Secs. 35.21—35.29. Reserved.**

DIVISION 4. POLICE RESERVE UNIT

**Sec. 35.30. Established.**

There is established a police reserve unit for the city, to be known as the Muncie police reserve unit with members of the unit to be known as police reserve officers.  
(Ord. No. 543-79, 12-3-79)

**Sec. 35.31. Number of officers.**

The maximum number of police reserve officers shall be 124.  
(Ord. No. 543-79, 12-3-79; amend. Ord. No. 767-81, 1-4-2)

**Sec. 35.32. Appointment; powers.**

(A) Police reserve officers shall be appointed by the police and fire merit commission in accordance with IC 36-8-3-20.

(B) Those persons now serving and duly appointed as city reserve, special or auxiliary officers prior to the effective date hereof, shall continue under their prior appointment with the full powers afforded by an appointment until such time as the police and fire merit commission shall make appointments to the police reserve unit.

(C) On appointment to the police reserve unit by the police and fire merit commission, the police reserve officers shall have all the police powers of members of the regular police force, except as limited by the rules of the police department.  
(Ord. No. 543-79, 12-3-79)

**Sec. 35.33. Prior reserve officers.**

All prior reserve, special, or auxiliary officers who have given satisfactory service in such capacity, shall be given first priority by the police and fire merit commission in the commission's appointments to the police reserve unit, provided the prior reserve, special, or auxiliary officer applies for appointment thereto.

**Sec. 35.34. Residency.**

All appointees to the police reserve unit shall be residents of Delaware County. In addition, all members must reside within 15 miles of the corporate boundaries of the city; have adequate means of transportation into the city; and maintain residential telephone service with the city.  
(Ord. No. 1-90, 3-5-90)

**Secs. 35.35—35.49. Reserved.**

DIVISION 5. POLICE REPRESENTATION\*

**Sec. 35.50. Short title.**

This subchapter shall be sited as the police officer recognition and arbitration ordinance.  
(Ord. No. 41-93, § 1, 9-13-93)

**Sec. 35.51. Representation of police bargaining unit.**

The city hereby recognizes Fraternal Order of Police Lodge No. 87 as the representative selected by the majority of police officers in the bargaining unit, and that F.O.P. Lodge No. 87 has the exclusive right to bargain collectively in its members behalf.  
(Ord. No. 41-93, § 2, 9-13-93)

**Sec. 35.52. No right to strike granted.**

In the protection of the public health, safety and welfare of the citizens of Muncie, Indiana,

\***Editor's note**—Nonamendatory Ord. No. 41-93, §§ 1—14, adopted Sept, 13, 1993, has been included herein as §§ 35.50—35.63 at the discretion of the editor.

**Cross references**—Firefighters representation, § 35.80 et seq.; collective bargaining, § 37.01 et seq.

police officers thereof shall not, and will not, be accorded the right to strike. A strike will constitute a violation of this subchapter. (Ord. No. 41-93, § 3, 9-13-93)

**Sec. 35.53. Definitions.**

As used in this subchapter, the following terms shall have the following meanings, unless the context requires a different interpretation:

*Bargaining unit* shall apply to all active and retired members of the Muncie police department except:

- (1) The police chief;
- (2) The deputy police chiefs;
- (3) Any active member with less than one year seniority;
- (4) The police reserves;
- (5) Any retired member who does not remain in good standing with F.O.P. Lodge No. 87.

*City* shall mean the proper officials within the City of Muncie whose duty or duties it is to establish wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of members of the Muncie police department whether they be the common council of the City of Muncie, the mayor or any combination thereof.

*Collective bargaining* or *bargain* means the performance of the city and the exclusive representation of the mutual obligation:

- (1) To meet at reasonable times, including meeting in advance of the budget-making process, and
- (2) To negotiate in good faith with respect to wages, rates of pay, hours of employment, fringe benefits, working conditions including health and safety issues and all other terms and conditions of employment; however, this obligation does not require either party to make a concession.

*Exclusive representation* shall mean F.O.P. Lodge No. 87 who shall represent the bargaining unit as to wages, hours of employment, fringe benefits

and working conditions including health and safety issues, and all other terms and conditions of employment.

*Factors* shall mean wages, rates of pay, hours of employment, fringe benefits, working conditions including health and safety issues, and all other terms and conditions of employment.

*Police officer* shall mean the active and retired members of the Muncie police department in the bargaining unit.

*Strike* shall mean any group action or refusal to act, which results in any interference with normal activity of the department, such as, but not limited to willful absence from one's position, sick in, stoppage of work, abstinence, interference



Title VII

**TRAFFIC CODE**

Chapter

- 70. General Provisions
- 71. Traffic Rules
- 72. Drivers
- 73. Pedestrians
- 74. Bicycles and Motorcycles
- 75. Equipment
- 76. Abandoned Vehicles
- 77. Parking Regulations
- 78. Commercial Vehicles
- 79. Traffic Administration; Enforcement
- 80. Traffic Schedules
- 81. Mopeds and Pocket Bikes



## TRAFFIC SCHEDULES

Sched. IV

<i>Street</i>	<i>Between</i>	<i>Side</i>	<i>Ord. No.</i>
Mound	Jackson and Charles	West	
Mound	Jackson to Adams	West	50-85
Mulberry	South curb line Victor north and south curb line of Wysor	East	
Mulberry	Willard and Gilbert	West	
Mulberry	Willard and south to 6th	East	1502
Neely	East curb of McKinley and point 250 ft. east	South	
Neely	East curb line of McKinley Ave. and point 735 ft. west of west curb line of New York Ave.	South	596-80
Neely	Wheeling and Reserve	Both	69-88
New York	Neely and Bethel	Both	
New York	Riverside and Neely	Both	36-10
New York	Riverside and two block north	East	1730
Nichols	Jackson and first alley north of Jackson	East	
Nichols	Jackson and first alley south of Jackson	Both	
Nichols	Jackson and Main	West	
North	Elm and Madison	South	7-66
North	Elm and point 30 ft. east thereof	North	7-66
North(west)	Dicks and Martin	Both	
North	Madison and point 30 ft. west thereof	North	7-66
North	Walnut and Madison	North	
North St.	Talley Ave. and McKinley Ave.	Both	55-02
Oakwood	McGalliard and Bethel	Both	
Ohio	Washington and Penn Central R.R.	Both	
Ohio	Blaine and Wolf	Both	776-81
Parkway	Petty and Petty	Both	
Pauline	Marsh and Carson	Both	
Pauline	Beechwood and Riverside	West	734-81
Pauline	Beechwood and a point 150 feet thereof	East	734-81

<i>Street</i>	<i>Between</i>	<i>Side</i>	<i>Ord. No.</i>
Penn	Memorial and 14th	East	
Penn	6th and first alley north of 6th	East	
Pershing	Jackson and 50 ft. south of Jackson	East	
Pershing Dr.	Wysor and Charles	West	
Petty	Briar and McKinley	Both	644-80
Port	5th and 6th	West	
Powers	Council and Liberty	South	7-66
Powers	East curb line of Kilgore and west curb line of Liberty	North	
Proctor (Co. Rd. 300 W.)	St. Rd. 32 and Conrail Railroad	West	24-87
Proud		West	
Purdue	Tillotson and Manchester	North	165-76
Queen	Alameda and Wheeling	North	165-76
Race	Jefferson and Madison	South	45-01
Reserve	Centennial and Cromer	Both	542-79
Reserve	North and Riverside	East	
Reserve	Riverside and alley south of Riverside first	West	
Reserve	Riverside and University	Both	
Reserve	Riverside and 6th ft. south of Riverside	West	
Reserve	University and alley north of University	West	
Rex	New York West to dead end	Both	27-91
Rex	Wheeling and point 20 ft. west of first alley west of Wheeling	South	1730
Riverside	McKinley and west to Tillotson	North	9-66
Riverside	Point 250 ft. east of Tillotson and Tillotson (west leg)	South	
Riverside	Wheeling and point 100 ft. east of Warwick	South	
Riverside	Wheeling and Tillotson	North	

**CHAPTER 81. MOPEDS AND POCKET BIKES**

- Sec. 81.01. Definitions.
- Sec. 81.02. Effect of chapter.
- Sec. 81.03. Application of state traffic laws and obedience to traffic devices.
- Sec. 81.04. Alteration restrictions.
- Sec. 81.05. Operation, passengers, safety, and parking.
- Sec. 81.06. Moped registration and inspection.
- Sec. 81.07. Equipment and proper identification.
- Sec. 81.08. Rental agencies.
- Sec. 81.09. Pocket bikes.
- Secs. 81.10—81.97. Reserved.
- Sec. 81.98. Unconstitutionality clause.
- Sec. 81.99. Penalty.

**Sec 81.01. Definitions.**

*Moped:* A moped shall mean any two- or three-wheeled vehicle that is propelled by an internal combustion engine or a battery powered motor, or by both, and, if powered by an internal combustion engine, has the following:

- (1) An engine rating of not more than two horsepower and a cylinder capacity not exceeding 49 cubic centimeters (49cc);
- (2) An automatic transmission; and
- (3) A maximum design speed of no more than 25 miles per hour on a flat surface.

The term "scooter" shall be interchangeable with the term "moped." Specifically excluded from the definition of "moped" are the following:

- (1) Any two- or three-wheeled vehicle exceeding the above specifications and deemed to be a motorcycle required to be registered with and by the state bureau of motor vehicles.
- (2) An electric personal assistive mobility device, presently defined in IC 9-13-2-49.3.
- (3) An off-road vehicle, otherwise known as all-terrain vehicle (ATV), presently defined in IC 14-8-2-185, and required to be registered by the Department of Natural Resources under IC 14-16-1 or any other applicable state law.

*Pocket bike:* A pocket bike, also referred to a pocket rocket, shall mean any wheeled device ridden by a person or used as transportation, powered or assisted by any on-board power source

other than the rider's own physical efforts that has a handlebar height of 30 inches or less, measured from the highest point of the handlebar, or a seat height of 24 inches or less, as measured from the highest point of the horizontal seat surface actually designed to bear the weight of the rider.

Specifically excluded from the definition of "pocket bike" are the following:

- (1) Any two- or three- wheeled vehicle deemed to be a motorcycle to be registered with and by a state bureau of motor vehicles.
- (2) An electric personal assistive mobility device presently defined in IC 9-13-2-49.3.
- (3) An off-road vehicle, otherwise known as all-terrain vehicle (ATV), presently defined in IC 14-8-2-185, and required by the Department of Natural Resources under IC 14-16-1.

*Roadway:* A roadway shall mean any highway, road, public way, street, or alley and shall include any street designated as a parkway, boulevard, place, avenue, or other similar designation, all of which are within the City of Muncie corporate limits.

Terms used in this chapter not specifically defined shall have the meanings as set forth in the Uniform Act regulating traffic on highways, IC 9-13 et seq. (Ord. No. 35-10, § 1, 9-13-10)

**Sec. 81.02 Effect of chapter.**

(A) It is a violation for any person to do any act forbidden or fail to perform any act required in this chapter. This chapter shall apply to any person who operates mopeds or pocket bikes within the City of Muncie corporate limits. An operator who resides outside the corporate limits of the City of Muncie in Delaware County, or who resides in a county that borders Delaware County, who operates his or her moped in the city under a valid registration, as required by the operator's jurisdiction of residence, shall not be required to have his or her moped registered with the city, provided valid proof of registration is given and the operator has on his or her person proper identification, as required by state law.

(B) The parent or guardian of any child under the age of 18 shall not authorize or knowingly permit any child or ward to violate any of the provisions of this chapter.

(C) This chapter is applicable to mopeds and pocket bikes and shall apply whenever a moped or pocket bike is operated on any and all roadways, streets, alleys, sidewalks, and public ways within the city or on any path set aside for the exclusive use of mopeds within the City of Muncie, subject to those exceptions or prohibitions stated herein. (Ord. No. 35-10, § 1, 9-13-10)

**Sec. 81.03 Application of state traffic laws and obedience to traffic devices.**

(A) Every person riding a moped on a roadway in the City of Muncie shall be subject to all of the duties applicable to the operator of a vehicle by the laws of this state declaring sections of the road applicable to vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, in addition to special regulations in this chapter and except as to those provisions of laws and ordinances, which by their nature can have no application. Any person disobeying the traffic control devices or signs, or violating IC while operating a moped shall receive a citation for an infraction.

(B) A moped may not be operated:

- (1) By a person less than 15 years of age;
- (2) By a person who has not obtained a state-issued identification card, learner's permit, operator's license, chauffeur's license or a public passenger chauffeur's license;
- (3) On an interstate highway or a sidewalk; or
- (4) At a speed greater than 25 miles per hour.

(C) A police officer having probable cause to believe a person has violated subsection (B)(1) or subsection (B)(2) above may immediately impound the moped as evidence. If no action has been filed in court to enforce the violation of this section, or if there is proof that the fine has been paid, or unless proof is provided that no violation

has occurred, the police department shall allow the owner to retrieve the moped bicycle within 45 days of its seizure.

(Ord. No. 35-10, § 1, 9-13-10)

State law reference—IC 9-21-11-12.

**Sec. 81.04 Alteration restrictions.**

(A) The owner, if 18 years or older, or the parent or guardian of a minor, who is the owner of a moped shall not alter or allow the alteration of the OEM exhaust system, which permits loud exhaust.

(B) An owner, if 18 years or older, or the parent or guardian of a minor, who owns a moped with an engine that has been manufactured, converted, modified, or altered to the degree that the moped qualifies as a motorcycle under IC (where the engine rating exceeds more than two horsepower, the cylinder capacity exceeds more than 49 cubic centimeters (49cc), or the maximum design speed exceeds 25 miles per hour on a flat surface) shall be required to:

- (1) Properly register, license, and insure said vehicle as a motorcycle pursuant to state law (presently IC 9-29-5) or shall be required to properly register, license, and insure said vehicle as a privately assembled vehicle pursuant to state law (presently IC 9-17-4); and
- (2) Hold a state-issued motorcycle operator's license, learner's permit, or endorsement pursuant to state law (presently IC 9-24-8).

(Ord. No. 35-10, § 1, 9-13-10)

**Sec. 81.05 Operation, passengers, safety, and parking.**

(A) Every person operating a moped on a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Persons operating mopeds on a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of mopeds.

(C) No moped shall be operated on a sidewalk or a railroad right-of-way.

(D) No moped shall be operated on another's private property, unless the expressed written consent has been obtained from the owner of the real estate or unless written notice has been posted on the private real estate.

(E) No person shall operate a moped in a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons. (See Chapter 100 of the City of Muncie Code of Ordinances.)

(F) A person operating a moped shall not ride other than astride a permanent and regular seat attached thereto. A passenger on a moped shall not ride other than astride a permanent and regular seat attached thereto. All persons operating or riding as a passenger must be able to keep his or her feet firmly on the foot boards or foot pegs while sitting comfortably on the seat or saddle.

(G) No moped shall be used to carry more persons at one time than the number for which it is designed and equipped, as designed with an additional set of foot boards or foot pegs.

(H) No moped shall be used to carry a child under the age of 15 years unless the operator is the legal guardian or has written permission of the legal guardian. No passenger shall be permitted to ride in front of the operator. A police officer having probable cause to believe a person has violated this subsection may immediately impound the moped as evidence. If no action has been filed in court to enforce the violation of this section, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the police department shall allow the owner to retrieve the moped within 45 days of its seizure.

(I) No person shall operate a moped at a speed that is greater than reasonable and prudent under the conditions then existing. In no case shall a person operate a moped at a speed greater than 25 miles per hour. In the event the speed of a moped shall cause excess traffic of two or more

vehicles to be backed up behind the moped, the moped operator shall pull over and allow the traffic to pass.

(J) The operator of a moped emerging from an alley, driveway, or building shall, on approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and on entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(K) No person shall propel or operate a moped in any unsafe manner, including, but not limited to, weaving or swerving over the road, cutting through traffic, changing lanes excessively, following other vehicles too closely, accelerating excessively or dangerously, or jumping curbs or speed-bumps.

(L) All wheels of all mopeds must be on the surface being ridden upon at all times such moped is in operation.

(M) No person operating a moped shall carry any package, bundle, or article which prevents the rider from keeping all hands on the handlebars.

(N) No person shall park a moped on a street other than on the roadway against the curb or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

(Ord. No. 35-10, § 1, 9-13-10)

#### **Sec. 81.06. Moped registration and inspection.**

(A) The owner, if 18 years or older, or the parent or guardian of a minor who is the owner, of a moped, who resides within the city, shall have the moped registered with the police department within 90 days of the effective date of the ordinance from which this chapter derives or within 30 days after its acquisition if a change of ownership occurs.

(B) These provisions shall apply any time there is a change of ownership, including those instances when the moped has been registered to the previous owner.

(C) Registration shall include the imprinting, stamping, or otherwise placing of a registration number on each moped and the keeping of appropriate records by the police department as to identification of the mopeds and their ownership. An initial registration fee of \$35.00 per moped shall be charged when the new owner registers each moped, and thereafter an annual fee of \$15.00 per moped per year shall be charged to the owner for registration and inspection.

(d) A Muncie police officer shall inspect each moped before registering it and shall refuse to register any moped which is determined by the officer to be in unsafe mechanical condition due to:

- (1) Inoperative brakes;
- (2) Inoperative headlights or taillights;
- (3) Tires with the wear marks exposed;
- (4) Non-intact or missing body panels or panels that are improperly secured;
- (5) Missing or damaged kickstands;
- (6) Unsecured or improperly secured seats or saddles; or
- (7) Which is determined by the officer to be a moped that has been altered to the degree that it qualifies as a motorcycle that is required by state law to be registered with the Bureau of Motor Vehicles.

(E) The operator of any moped that does not have a city registration designation pursuant to subsection (C) above displayed on the moped, or a motorcycle license plate issued by a state Bureau of Motor Vehicles displayed on the moped, may be stopped by a Muncie police officer to determine compliance with Indiana law or Muncie City Code.

(Ord. No. 35-10, § 1, 9-13-10)

#### **Sec. 81.07. Equipment and proper identification.**

(A) Every moped, when in use after dusk, shall be equipped with a front lamp which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 500 feet to 300 feet to the rear

when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(B) A person less than 18 years of age who operates a moped or rides a moped as a passenger, on a street or highway shall wear protective headgear, and must also wear protective glasses, goggles, or a transparent face shield, as set forth in IC 9-21-11-13.

(C) An adult operating a moped shall carry the identification required pursuant to the above section 81.03 and IC 9-21-11-12 when operating the moped, and shall, when detained by a police officer, produce said identification to the police officer.

(D) A person operating a moped that has not yet been registered pursuant to section 81.06 above shall carry either the moped registration paperwork or the dated sales receipt during the initial 30 days of ownership, and shall, when detained by a police officer, produce said paperwork and/or sales receipt to the police officer. (Ord. No. 35-10, § 1, 9-13-10)

#### **Sec. 81.08. Rental agencies.**

(A) A rental agency shall not rent or offer any moped for rent unless the moped is equipped with the lamps and other equipment required in this chapter.

(B) A rental agency shall not rent or offer any moped for rent to anyone under the age of 15 years of age.

(C) A rental agency shall not rent or offer any moped for rent to any minor between the ages of 15 and 18 years of age unless:

- (1) The minor has identification required pursuant to the above section 81.03 and IC 9-21-11-12; and
  - (2) The minor's parent or guardian signs the rental agreement.
- (Ord. No. 35-10, § 1, 9-13-10)

**Sec. 81.09. Pocket bikes.**

(A) The use of pocket bikes is prohibited on any and all roadways, streets, alleys, sidewalks, and public ways within the City of Muncie.

(B) In addition to the above prohibition on the use of pocket bikes as set forth in subsection (A) above, any person who owns or operates a pocket bike shall also be required to comply with the entirety of this chapter as it applies to mopeds with the exception that pocket bikes are not required to be registered. In the event any person commits a violation of the provisions of this chapter while operating a pocket bike, that person shall be fined under the penalty section 81.99 for the specific violation, or shall be fined for the Indiana state violation, in addition to the penalty for operation of the prohibited pocket bike.

(C) A police officer having probable cause to believe a person has violated this section may immediately impound the pocket bike as evidence. If no action has been filed in court to enforce the violation of subsection (A) above, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the police department shall allow the owner to retrieve the pocket bike within 45 days of its seizure.

(Ord. No. 35-10, § 1, 9-13-10)

**Secs. 81.10—81.97. Reserved.****Sec. 81.98. Unconstitutionality clause.**

Should any section, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, the remainder of said chapter shall not be affected thereby.

(Ord. No. 35-10, § 1, 9-13-10)

**Sec. 81.99. Penalty.**

(A) Any violation of state law shall result in the issuance of a state citation.

(B) Any person violating the registration provision under section 81.06 shall be fined \$50.00.

(C) The parent or guardian of any person violating the underage operation provision under subsection 81.03(B) shall be fined \$30.00 and the moped shall be impounded in accordance with subsection 81.03(C).

(D) Any person violating the pocket bike prohibition of section 81.09 shall be fined \$100.00 and the pocket bike shall be impounded in accordance with section 81.09. Any person's second, and each subsequent, violation of section 81.09 shall result in a fine of \$125.00 and the pocket bike shall be impounded in accordance with section 81.09.

(E) Any person using a moped and found to be in violation of transporting or carrying a child below the age of 15 years, in violation of subsection 81.05(G), shall be fined \$100.00 and the moped shall be impounded in accordance with subsection 81.03(C). Any person's second, and each subsequent, violation of subsection 81.05(G) shall result in a fine of \$125.00 and the moped shall be impounded in accordance with section 81.03. The parent or guardian of a minor passenger below the age of 15 years discovered to be in violation of subsection 81.05(G) shall be fined \$100.00. The parent or guardian of a minor passenger below the age of 15 years discovered to have violated subsection 81.05(G) shall be fined \$125.00 for the minor passenger's second and each subsequent offense.

(F) It shall be the duty of the police officers of the city to issue tickets for violations of this chapter. The tickets shall include the name of the owner or operator if 18 years or older, or the parent or guardian of a minor who is the owner, operator, or passenger of a moped, his or her address, the section number of this chapter which was violated or the violation number shown on the reverse side of the ticket, and the date, time, and place of the violation.

(G) All fines imposed by this chapter shall be paid to the ordinance violation clerk.

(H) Any fine not paid within 30 days of the date shown on the ticket shall be doubled.

(I) Failure to pay a fine within 45 days of the date shown on the ticket shall result in an enforcement action being filed in court.  
(Ord. No. 35-10, § 1, 9-13-10)

**CHAPTER 97. TREE ORDINANCE\***

- Sec. 97.01. Purpose and intent.
- Sec. 97.02. Muncie Urban Forestry Committee.
- Sec. 97.03. Applicability.
- Sec. 97.04. Definitions.
- Sec. 97.05. Arborist license.
- Sec. 97.06. Development and redevelopment.
- Sec. 97.07. City and street trees.
- Sec. 97.08. Maintenance requirements.
- Sec. 97.09. Tree and stump removal.
- Sec. 97.10. Public nuisance.
- Sec. 97.11. Tree protection.
- Sec. 97.12. Trees in historic districts.
- Sec. 97.13. Administrative provisions.

**Sec. 97.01. Purpose and intent.**

The purpose of this chapter is to promote and protect the public health, safety, and general welfare of the City of Muncie by providing for the regulation of planting, maintenance, and removal of trees, shrubs, and other vegetation within the city.

(Ord. No. 12-10, § 1, 7-12-10)

**Sec. 97.02. Muncie Urban Forestry Committee.**

(A) There is hereby reestablished the Muncie Urban Forestry Committee as an official part of the city government, which shall consist of nine members. Preference shall be given to professionals working in the green industry. All appointed members shall serve without compensation.

- (1) Three members shall be appointed by Community Enhancement Projects, Inc.
- (2) One member shall be appointed by Muncie-Delaware County Clean and Beautiful.
- (3) Three members at large shall be appointed by the mayor.
- (4) Two members shall be appointed by the mayor to represent the city department of public works and the city parks and recreation department.

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\***Editor's note**—Ord. No. 12-10, § 1, adopted July 12, 2010, amended former Ch. 97, §§ 97.01—97.18, in its entirety, which pertained to similar subject matter and derived from Ord. No. 23-96, §§ 1—18, adopted June 10, 1996; Ord. No. 5-03, adopted March 3, 2003.

(B) Each member will serve for a three-year term or until such member no longer represents the entity from which they were appointed or the appointing officer or group elects to replace such person. No more than four members' terms will normally expire at the end of any one calendar year. Committee vacancies shall be filled prior to the expiring committee member's term. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. Any member may be reappointed for another three-year term. Member status shall be maintained by attending at least seven meetings per calendar year and missing no more than three consecutive meetings.

(C) The duty of the urban forestry committee is to support and uphold the tree ordinance and established standards. The urban forestry committee shall, primarily through the urban forester, maintain a current tree inventory, tree planting standards, recommended street tree list, approved street tree list and tree removal standards. It shall also maintain a five-year plan for an urban forestry program, seek funding, cooperate and assist city departments in connection with urban forestry programs, develop an educational program concerning proper tree care, maintenance and benefits, and serve other functions beneficial to tree appreciation in the city.

(Ord. No. 12-10, § 1, 7-12-10)

**Sec. 97.03. Applicability.**

This chapter provides regulations governing all trees, shrubs and other vegetation located within the public right-of-way, and on city property; and all trees, shrubs and other vegetation located on private property that constitute a public nuisance as described herein.

(Ord. No. 12-10, § 1, 7-12-10)

**Sec. 97.04. Definitions.**

*City* means the City of Muncie.

*City property* means property owned by the City of Muncie, or any of its related departments or commissions.

*City tree* means a tree on property owned by the City of Muncie.

*Emergency* means a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action.

*Foliage* means plant leaves, collectively.

*Large tree* means a tree that reaches a mature height greater than 50 feet.

*License* means an arborist license issued under section 97.05 of this chapter.

*Medium tree* means a tree that reaches a mature height greater than 20 feet and no more than 50 feet.

*Person* means any individual, group, company, firm, corporation, partnership, association, society or any other combination of human beings whether legal or natural, including utility companies.

*Planting pit* is a tree-planting site that is surrounded on all sides by paved surfaces. A typical planting pit is an opening in the sidewalk of an otherwise paved boulevard or plaza. It may be raised, sunken, or at the same level as the surrounding pavement.

*Planting strip* is a strip of land between two curbs or between a curb and a sidewalk on which trees, grass or other vegetation is planted.

*Pollarding* is a pruning system in which the tree is headed back (tree stem or minor branches removed) every year. The tree is allowed to regrow after the initial cutting, but once begun; pollarding requires regular maintenance by pruning. This will eventually result in a somewhat expanded (or swollen) top to the tree trunk with multiple new side and top shoots growing from it.

*Private tree* means a tree growing on private property that is not owned by the city and that is not located within or abutting the public right-of-way within the city.

*Proper pruning* means safely removing branches in accordance with accepted ANSI standards (American National Standards Institute) that could cause injury or property damage, interfere with lines of sight, grow into utility lines, are diseased

or insect infested, crossing or rubbing, enhance the natural form and character of the tree, or encourage fruit production.

*Public nuisance*, solely for purposes of this chapter, means any tree, shrub or other vegetation which harbors insects or disease; any tree, shrub or other vegetation which is dead; any tree, shrub or other vegetation which is obstructing a street, intersection, utility line, traffic lights and/or signs; a tree, shrub, or other vegetation blocking the free passage of pedestrians and/or vehicles; a tree, shrub, or other vegetation that poses a threat to public health and safety.

*Public street and/or right-of-way* means the entire area between the boundary liens of every right-of-way open to the use of the public, as a matter of right, for the purpose of vehicular and pedestrian traffic within the corporate limits of the city.

*Root flare* means the transition zone between the main stem and the root system; the swelling of tree roots where they join the tree trunk at the soil surface. This root flare is also called the trunk flare, root crown, or root collar and should be visible on trees planted in landscapes.

*Safety* means the protection of residents and the city from personal injury and/or property damage caused or threatened by the improper planting, maintenance, or removal of trees within the city.

*Shrub* means a woody plant which is characteristically below 20 feet in height and is multi-stemmed supporting mainly leafy growth.

*Small tree* means a tree that reaches a mature height of no more than 20 feet.

*Street tree* means a tree that is located within any public right-of-way.

*Topping* means the removal of the central leader and/or severe cutting back to stubs of limbs larger than three inches in diameter within the trees crown so as to remove the normal canopy and disfigure the tree.

*Urban forester* means a person trained, educated, or skilled in forestry, horticulture,

arboriculture, or landscape architecture, who is employed by and reports to the Muncie Parks and Recreation Department.

*Urban forestry committee* and/or *committee* means the Muncie Urban Forestry Committee (see section 97.02).

*Website* means the Muncie Urban Forestry website, [www.muncieurbanforestry.com](http://www.muncieurbanforestry.com); which can be accessed by visiting the City of Muncie website, [www.cityofmuncie.com](http://www.cityofmuncie.com). (Ord. No. 12-10, § 1, 7-12-10)

**Sec. 97.05. Arborist license.**

(A) It shall be a violation of this chapter for any person working for hire to plant, prune or remove trees within the city without first procuring an annual arborist's license from the urban forester.

(B) Prior to a license being issued, an applicant shall demonstrate that he or she has adequate knowledge and experience of arboriculture. To demonstrate adequate knowledge the person must demonstrate that they have done one of the following:

- (1) Hold a current arborist certification through the International Society of Arboriculture (ISA).
- (2) Show proof (receipt, invoice, or certificate) of attending a tree care workshop or similar professional development opportunity through ISA, Indiana Arborist Association, Indiana Department of Natural Resources, or another professional entity within the last two years of applying for the certificate.
- (3) Attend an education session offered by the urban forester, or his or her designee. This session shall be free of charge and offered as needed.

(C) Before a license shall be issued, each applicant shall first file with the city parks and recreation department evidence of possession of commercial general liability insurance, sent directly by the insurer, covering bodily injury and property damage in the amount equal to one \$1,000,000.00 per occurrence. Additionally, evi-

dence of worker's compensation insurance shall be provided. Cancellation or other termination of any insurance policy issued for or in compliance with the provision hereof shall automatically terminate any certificate, unless replaced with another policy complying with the provisions hereof. Each applicant shall also sign an agreement indemnifying the city from any claims that may arise from work performed by the applicant.

(D) The license fee shall be \$100.00 per year and shall be renewed annually at a renewal rate of \$75.00. After February 15 of the renewal year, the fee will be increased to \$150.00. The license fee shall be paid in advance and shall be deposited in the urban forestry nonreverting operating fund (Revenue Account No. 212-00321053).

(Ord. No. 12-10, § 1, 7-12-10)

**State law reference**—Authority, IC 36-8-2-10.

**Sec. 97.06. Development and redevelopment of property**

In accordance with the city comprehensive zoning ordinance, subdivision control ordinance, and other ordinances that regulate development, the urban forester or his or her designee shall review and enforce the landscape portion of any site plan and may require the usage of trees found on the recommended street tree list or the deletion of plant material in such site plan.

(Ord. No. 12-10, § 1, 7-12-10)

**Sec. 97.07. City and street trees.**

(A) [*Permission required.*] It shall be a violation of this chapter for any person to plant, prune or remove a city or street tree without first obtaining permission from the urban forester, or his or her designee.

(B) *Planting requirements:* The orderly planting of trees in the city is encouraged. Any tree planted on city property or within the public right-of-way shall be planted in accordance with the tree planting standards adopted by the urban forestry committee. A copy of said standards shall be available on the website and for copy and inspection at the city parks and recreation department. The list of recommended and prohibited trees is on the website and is available for inspection at the parks and recreation department.

(C) *Spacing*: The spacing of city or street trees shall be in accordance with the three species size classes listed in this chapter (small, medium, and large), and no trees may be planted closer together than the following: small trees, 15 feet; medium trees, 25 feet; and large trees, 35 feet except in special plantings designed or approved by the urban forester or his or her designee. The urban forester, or his or her designee, reserves the right to revise spacing requirements on a case by case basis based upon the local conditions, species and/or cultivars used and expected height and spread at maturity. All plantings prior to the adoption of the ordinance from which this chapter derives are exempt.

(D) *Planting strips and planting pits*: Where there is a planting strip or pit of at least four feet wide a small tree may be planted. Medium trees shall not be planted in a planting strip or pit of less than six feet wide. Large trees shall not be planted in a planting strip or pit of less than eight feet wide. On streets with planting strips that are three feet or less, consideration should be given to planting trees on private property. Exceptions may be made by the urban forester or his or her designee. All plantings prior to the passing of the ordinance from which this chapter derives are exempt.

(E) *Distance from street corners or fire hydrants*: No city or street tree may be planted closer than 50 feet to any street corner, measured from the point of the nearest intersecting curbs or curb liens. No street tree may be planted closer than 15 feet to any fire hydrant. Exceptions may be made with the approval of the urban forester or his or her designee.

(F) *Utilities*: No street tree shall be planted nearer than ten feet from any overhead utility wire unless planting a small tree. No street trees shall be planted within five lateral feet of any underground utility line. Utility companies shall carry out tree maintenance work in accordance with accepted ANSI standards (American National Standards Institute) including, but not limited to, ANSI A300 and/or any other applications regulations or standards. The pruning method

for utility trees shall be directional pruning. Indiana Underground (phone 811) shall be called two working days before any digging occurs. (Ord. No. 12-10, § 1, 7-12-10)

#### **Sec. 97.08. Maintenance requirements.**

(A) *Sidewalk and street clearance*: There shall be a clear space free of branches at least ten feet above the surface of any public sidewalk and 14.5 feet above any public street. When maintaining a tree to achieve a height above the street of 14.5 feet, the sidewalk side of the tree shall be pruned to the same height so as to maintain a balanced crown. All trees, plants, shrubs, and other vegetation adjacent to a street intersection shall not be allowed to grow higher than 40 inches tall. All trees, shrubs and other vegetation growing or planted adjacent to the public right-of-way must have foliage trimmed by the owner in a manner which does not interfere with adequate vision by drivers and pedestrians (see Streets and Sidewalks Chapter 96).

(B) *Topping*: It shall be unlawful for any person or city department to top any city tree or street tree. (Ord. No. 12-10, § 1, 7-12-10)

#### **Sec. 97.09. Tree and stump removal.**

(A) *Tree removal*: The removal of any city tree or street tree shall be conducted in accordance with the tree manual adopted by the urban forestry committee. This manual shall be available for inspection at the parks and recreation department.

(B) *Stump removal*: All tree stumps on city property or within the city right-of-way shall be removed below ground surface level to a minimum depth of six inches. (Ord. No. 12-10, § 1, 7-12-10)

#### **Sec. 97.10. Public nuisance.**

It shall be a violation of this chapter to permit the existence of a tree, shrub or other vegetation which constitutes a public nuisance as defined in this chapter. The owner of the property on which there exists any tree, shrub, or other vegetation which constitutes a public nuisance shall be noti-

fied in writing and granted between ten and 30 days, depending on the nature of the nuisance, to prune or otherwise remove the public nuisance. In the event an emergency exists, the urban forester, or his or her designee, shall take immediate action to abate the nuisance. Persons are prohibited from interfering with the urban forester, or his or her designee, when in performance of their duties. In the event corrective action is not taken within the time prescribed, the city shall take action to abate the nuisance and, in addition to other remedies provided in section 97.13, charge the cost to the property owner. Failure to tender payment for costs incurred by the city in abating a nuisance under this chapter may become a lien upon the property.

(Ord. No. 12-10, § 1, 7-12-10)

**State law reference**—Authority, IC 36-1-6-2.

#### **Sec. 97.11. Tree protection.**

(A) It shall be a violation of this chapter to damage, cut, carve, injure, attach any sign, wire, or injurious material; cause or permit any charged electrical wire to come in contact with; or remove or destroy any city or street tree without approval from the urban forester or his or her designee. No person may place or maintain on the ground in any public way, any stone, cement or other impervious material or substance so as to obstruct the free access of air and water to the roots of any tree on city property unless approved by the urban forester or his or her designee. Exceptions include such necessary wires to stabilize trees upon approval of the urban forester or his or her designee. Any person found to have willfully or negligently mutilated, disfigured, or destroyed a city or street tree shall be charged the value of the tree as determined by the city's insurance carrier.

(B) In connection with the erection, alteration, or repair of any building, structure, or other construction activity, the owner thereof or his or her designee shall take all necessary precautions to prevent injury to any city tree or street tree. In the event of construction on or near city property or near any city or street tree, the urban forester, or his or her designee, shall be contacted prior to any work to assess all plans that may impact city or street trees. Any directives from the urban

forester, or his or her agent, to protect and limit the construction impact on trees shall be implemented.

(Ord. No. 12-10, § 1, 7-12-10)

#### **Sec. 97.12. Trees in historic districts.**

Before any work on any tree in locally designated historic districts or on properties designated as local historic landmarks the property owner, contractor, private citizen or city employee shall comply with the provisions of the historic preservation ordinance (see preservation ordinance sections 34.100—34.102). If required by the ordinance, approval of work in these areas shall require a certificate of appropriateness from the Muncie Historic Preservation and Rehabilitation Commission. In an emergency situation the certificate process is waived but the property owner, contractor, private citizen or city employee shall notify the historic preservation officer as far in advance as soon as possible.

(Ord. No. 12-10, § 1, 7-12-10)

#### **Sec. 97.13 Administrative provisions.**

(A) For services provided in the enforcement of this chapter, the following administrative fees shall apply and be deposited in the urban forestry nonreverting fund (Revenue Account No. 212-00-321053):

- (1) \$20.00 for each inspection that reveals a violation of this chapter.
- (2) Actual costs incurred for publication of any notice.
- (3) Actual costs incurred in recording or releasing any lien with the Delaware County Recorder.
- (4) Actual postage charges for any violation notice mailed to the owner(s).
- (5) \$50.00 per man hour, or fraction thereof, for services provided and equipment utilized in the abatement of a violation.
- (6) The actual costs incurred to hire a contractor, if necessary, to abate a violation.

(B) The urban forester or his or her designee shall have the power to enforce the rules and regulations set forth in this chapter. The provi-

sions of this chapter may be enforced by the filing of an action for ordinance violation in the Muncie City Court, or any other court of competent jurisdiction.

(C) In addition to any other remedy provide, any person found to have violated any provision in this chapter shall be fined no more than \$2,500.00 per violation. Each day that a violation exists shall be considered a separate violation.

(D) Any decision of the urban forester, or his or her designee, may be appealed to the urban forestry committee. The committee shall establish a subcommittee to review appeals and make recommendations to the committee. Any appeal of a decision of the urban forestry committee shall be brought in a court of competent jurisdiction. (Ord. No. 12-10, § 1, 7-12-10)

**CHAPTER 117. TAXICABS AND BUSES\***

Division 1. Taxicabs

- Sec. 117.01. Authority.
- Sec. 117.02. Definitions.
- Sec. 117.03. Permit required.
- Sec. 117.04. Permit application.
- Sec. 117.05. Insurance requirements.
- Sec. 117.06. Condition of taxicabs; inspection required.
- Sec. 117.07. Taxicab signs; business location.
- Sec. 117.08. Taxicab driver qualifications; list of approved drivers; driver card required.
- Sec. 117.09. Driver card application.
- Sec. 117.10. Display of permit and driver card.
- Sec. 117.11. Schedule of rates; information to passengers.
- Sec. 117.12. Compliance with laws; subject to inspection
- Sec. 117.13. Expiration; fees; renewal.
- Sec. 117.14. Suspension or revocation.
- Sec. 117.15. Appeal procedure.
- Sec. 117.16. Penalty.
- Sec. 117.17. Previously issued permits.
- Secs. 117.18—117.49. Reserved.

Division 2. Buses

- Sec. 117.50. Bus defined.
- Sec. 117.51. Franchise required for operation of buses.

**DIVISION 1. TAXICABS†**

**Sec. 117.01. Authority.**

Pursuant to IC 36-9-2-4, the City of Muncie may regulate services offered by persons who hold out for public hire the use of vehicles.  
(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.02. Definitions.**

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

(A) *Owner* shall mean a person, firm or corporation which holds title, other than for purposes of security, to a taxicab or multiple taxicabs.

\*State law reference—City's power to regulate, IC 18-1-1.5-13.

†Editor's note—Ord. No. 57-09, § 1, Nov. 2, 2009, amended former Div. 1, §§ 117.01—117.17, in its entirety which pertained to similar subject matter and derived from the Code of 1968 and the following: Ord. No. 472-79, 5-14-79; Ord. No. 633-80, 9-8-90; Ord. No. 15-2000, § 1, 5-8-00.

(B) *Taxicab* shall mean a motor vehicle that is designed and constructed to accommodate and transport not more than six passengers in addition to the driver; does not operate over any definite and designated routes within the corporate boundaries of a city or town and the suburban territory of a city or town; and transports passengers to the destination designated by the passengers at the time of their transportation.

(C) *Taxicab driver* shall mean any person in actual physical control of a taxicab while the taxicab is available to carry passengers for hire.  
(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.03. Permit required.**

No taxicab shall be operated within the City of Muncie unless the owner shall have obtained a taxicab permit issued by the City of Muncie Police Department. Each taxicab shall be issued a separate taxicab permit.  
(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.04. Permit application.**

(A) A written application for a taxicab permit authorized by this chapter shall be made and signed by the owner, or the owner's authorized agent ("applicant"). The application shall be on a form provided by the Muncie Police Department and require the following:

- (1) The name, address and telephone number of the applicant.
- (2) The number of taxicabs for which the application seeks a permit.
- (3) The manufacturer's vehicle identification number, seating capacity, make and model, year of manufacture, and current Indiana license plate number for each taxicab for which the applicant seeks a permit.
- (4) Copies of current certificates of registration for each vehicle for which the applicant seeks a permit.
- (5) A description of the sign designating the name of the entity operating the taxicab(s) as required by section 117.07 herein.
- (6) The schedule of rates to be charged by the applicant.

(7) If the applicant is a corporation or LLC, proof that it is registered to conduct business, and in good standing in the State of Indiana.

(8) Any other information required by the Muncie Police Department.

(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.05. Insurance requirements.**

(A) Prior to the issuance of a permit, the applicant shall file with the Muncie Police Department and, continue in force, during the term of the permit, a certificate of insurance issued by an insurance carrier licensed to do business in the State of Indiana, insuring the applicant and each vehicle for which the applicant seeks to obtain a permit for liability insurance with minimum coverage for a combined single limit of \$1,000,000.00 per occurrence.

(B) The certificate of insurance shall name the City of Muncie as an additional named insured and shall further provide that the city will receive notice of any cancellation of said policy.

(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.06. Condition of taxicabs; inspection required.**

(A) No permit shall be issued to any motor vehicle which does not have four doors, a rigid roof, a rear trunk or a rear seat designed to seat three persons comfortably with seat belts that are operable and in full compliance with state law, or which is older than ten years. All taxicabs shall be mechanically sound and safe and shall be kept in good repair and in clean and sanitary condition so as to be capable of safely and comfortably transporting passengers.

(B) Prior to the issuance of any permit(s), a designated representative of the Muncie Police Department shall conduct a safety inspection of each vehicle for which the applicant seeks a permit. The Muncie Police Department may, in its discretion, require the applicant to submit current maintenance records for any motor vehicle for which an applicant seeks a taxicab permit.

(C) The Muncie Police Department reserves the right to suspend a taxicab permit issued to a vehicle which is determined to be in an unsafe condition until adequate repairs are made.

(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.07. Taxicab signs; business location.**

(A) All properly permitted taxicabs within the city shall be designated by the name of the company as it appears on the taxicab permit(s) and the name shall be displayed on each side of the taxicab in such a manner as to be legible to a reasonable person.

(B) A permit to operate a taxicab shall not be issued unless the applicant has a permanent office from which to control the operation of the taxicab(s).

(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.08. Taxicab driver qualifications; list of approved drivers; driver card required.**

(A) No driver shall operate a taxicab within the City of Muncie until it has been determined that the driver meets the following qualifications:

- (1) Is the holder of a valid Indiana chauffeur license;
- (2) Has not been convicted of a felony; and
- (3) Has not been convicted of a misdemeanor which the chief of the City of Muncie Police Department, in the chief's discretion, determines to be sufficient to disqualify the driver from operating a taxicab in the best interests of the citizens of the city.

(B) The Muncie Police Department shall maintain a list of approved drivers and the owner for which each driver is operating a taxicab.

(C) Each approved driver shall be issued a driver card by the city containing the driver's name and photograph. The photograph shall be taken by the Muncie Police Department.

(Ord. No. 57-09, § 1, 11-2-09; Ord. No. 18-10, § 1, 8-2-10)

**Sec. 117.09. Driver card application.**

(A) Prior to the issuance of a driver card, a taxicab driver shall submit, on a form provided by the Muncie Police Department, an application containing the following information:

- (1) The taxicab driver's name, drivers license numbers, and date of birth.
- (2) If not filing contemporaneously with an application for a taxicab permit, the name of the owner for which the taxicab driver will be operating a taxicab.
- (3) A copy of the taxicab driver's Indiana chauffeur license.
- (4) A copy of a limited criminal history check for the taxicab driver which shall be obtained by the taxicab driver from the Indiana State Police.
- (5) Any other information required by the Muncie Police Department.

(B) The drivers license numbers and date of birth of an applicant for a driver card shall be maintained as a confidential record, not subject to public disclosure under Indiana law.  
(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.10. Display of permit and driver card.**

Each taxicab shall have displayed in a prominent place inside the vehicle a copy of the taxicab permit and the taxicab driver card issued to the driver then operating the taxicab.  
(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.11. Schedule of rates; information to passengers.**

(A) Each owner shall file with the Muncie Police Department a schedule of rates to be charged for the operation of its taxicab(s) which shall be open to public inspection at all reasonable times. The schedule of rates shall be posted in a prominent place within the taxicab at all times.

(B) Every taxicab driver, upon request by any person who is, has been, or is about to become a passenger in the taxicab, shall provide to such

person his name, taxicab driver card number, state chauffeur's license number, and permit number for the vehicle.

(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.12. Compliance with laws; subject to inspection**

(A) All taxicabs shall be operated in compliance with this chapter and the laws of the State of Indiana.

(B) Upon acceptance of a permit or driver card issued under this chapter, the owner and/or driver acknowledge and agree that a taxicab shall be subject to a safety inspection at all times by the City of Muncie Police Department to ensure compliance with this chapter.

(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.13. Expiration; fees; renewal.**

(A) A taxicab permit issued under this chapter shall be valid for a period of one year from the date of its issuance. The annual fee for a single taxicab permit shall be \$100.00. A single taxicab owner with multiple vehicles shall not be charged more than \$500.00 in a single year to obtain permits for all taxicabs owned by that single owner.

(B) A drivers' card issued under this chapter shall be valid for a period of one year from the date of its issuance. The annual fee for a single driver's card shall be \$25.00.

(C) Upon expiration of a permit or driver card, the owner or taxicab driver shall either reapply to the Muncie Police Department or cease activity. The same procedure followed for the issuance of an initial pennit and/or driver card shall be followed for the renewal of such. It shall be the sole responsibility of the owner or taxicab driver to reapply for arenewal in a timely manner and the Muncie Police Department is not required to notify the owner or taxicab driver prior to the expiration of the permit or driver card.

(D) All funds collected through the administration of this chapter by the Muncie Police Department shall be deposited into the Muncie Police Department Training Equipment Fund.

(Ord. No. 57-09, § 1, 11-2-09; Ord. No. 18-10, §§ 2, 3, 8-2-10)

**Sec. 117.14. Suspension or revocation.**

Any owner or taxicab driver who violates any provision of this chapter or provides any false statement in the application for a permit and/or driver card shall be subject to suspension or revocation of a permit and/or driver card by the Muncie Police Department. Any notice of suspension or revocation shall be in writing and delivered to the owner or taxicab driver at the address on file with the application submitted to the Muncie Police Department.  
(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.15. Appeal procedure.**

Any owner or driver which is aggrieved by a decision of the Muncie Police Department made pursuant to this chapter may appeal that decision to the city board of public works and safety. The owner or driver must request an appeal to the board of public works and safety within ten days of the decision. A hearing shall be held at the next regularly scheduled meeting of the board of public works and safety.  
(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.16. Penalty.**

Any owner and/or taxicab driver who violates any terms of this chapter, in addition to the revocation and suspension provisions outlined above, shall be subject to a fine for a first offense of up to \$1,000.00 and for any subsequent offenses up to \$2,500.00. Each day on which a violation occurs shall be considered a separate offense.  
(Ord. No. 57-09, § 1, 11-2-09)

**Sec. 117.17. Previously issued permits.**

All previously issued permits or licenses to operate a taxicab shall be null and void. Any unexpired licenses or permits shall be returned at the time of application to receive a credit for fees paid in obtaining the unexpired license.  
(Ord. No. 57-09, § 1, 11-2-09)

**Secs. 117.18—117.49. Reserved.**

**DIVISION 2. BUSES**

**Sec. 117.50. Bus defined.**

As used in this chapter the term "bus" shall mean, any self-propelled motor vehicle traversing the streets or public highways of the city along a definite route for the purpose of carrying passengers for hire. The term "bus" shall not include any motor vehicle known as a taxicab, operated only upon call under special contract for hire, the destination or route of which is under the direction of a passenger transported therein, or any common carrier operating under authority of any state or federal commission or board.  
(Code 1968, § 118.50)

**Sec. 117.51. Franchise required for operation of buses.**

Except as otherwise provided in this chapter, no person shall operate a bus upon any street or highway in the city except pursuant to a franchise contract duly entered into with the board of public works and safety and ratified by the common council.  
(Code 1968, § 118.51)

**CHAPTER 121. ALARM SYSTEMS**

Sec. 121.01.	Definitions.
Sec. 121.02.	Duties of responding police or fire department officer.
Sec. 121.03.	False alarms.
Sec. 121.04.	Alarm silencer required.
Sec. 121.05.	Penalties.
Sec. 121.06.	Proceeds of fines.

**Sec. 121.01. Definitions.**

As used in this chapter the following words shall have the meaning ascribed to them as follows:

*Alarm system* means any natural person, firm, association, partnership, limited partnership, sole proprietorship, corporation, governmental unit, or school corporation, which is in control of any building, structure or facility wherein an alarm system is installed, operated or maintained.

*Alarm user* means any natural person, firm, association, partnership, limited partnership, sole proprietorship or corporation, which is in control of any building, structure or facility wherein an alarm system is installed, operated or maintained.

*False alarm* means the activation of an alarm system eliciting a any response by the police or fire department which is not in response to actual or threatened danger to person or damage to property. "False alarm" also means the activation of an alarm system through mechanical failure, malfunction, improper installation or maintenance or negligence of the alarm user or his employees or agents; but it does not include alarm activations caused by violent conditions, of a nature or other extraordinary circumstances not reasonably subject to control by an alarm user or alarm system installer or service.

*Local alarm system* means a signaling system which when activated causes an audible and/or visible signaling device to be activated only in or on the premise in which the system is installed, operated or maintained. *Notice* means written notice either by certified mail, return receipt requested, or by personal service upon the addressee at his last known address.

(Ord. No. 10-00, § 1, 4-3-00; Ord. No. 4-03, § 1, 2-3-03)

**Sec. 121.02. Duties of responding police or fire department officer.**

The police or fire department officer in charge at the scene shall be responsible to do the following:

- (A) Whenever an alarm system is activated in the City of Muncie which results in an emergency response by the police or fire department, the first officer on the scene of the activated alarm shall inspect the area protected by the system and shall determine whether the emergency response was required or was a false alarm.
- (B) If the officer at the scene of the activated alarm system determines the alarm to be false, the officer shall make a report of the false alarm, notice of which shall be sent to the alarm user at the address of the premise, or at the last known address of the alarm user, if different from the premise address. A copy of the report shall be filed with the chief of the fire and police departments.
- (C) The police chief or fire chief, or his designee, shall have the right to inspect the premise to which a response has been made and may cause such inspection to be made at any reasonable time after the occurrence of a false alarm.

(Ord. No. 10-00, § 2, 4-3-00)

**Sec. 121.03. False alarms.**

(A) Whenever an alarm user issues, causes to be issued or permits the issuance of a false alarm, this section shall apply; provided, however, that this section shall not apply to residential alarm users who are natural persons aged 65 or older.

(B) It shall be a violation of this chapter to cause the police and/or fire departments to respond to a false alarm at the same address in a calendar year in excess of the following number of times:

- (1) 1—50 alarm devices: Two responses per calendar year;
- (2) 51—250 alarm devices: Six responses per calendar year;

- (3) More than 251 alarm devices: Nine responses per calendar year.

(C) Any alarm user that exceeds the number of false alarms established in subsection (B) above may avoid the issuance of a citation by providing documentation from the alarm company stating that the false alarm was the result of a maintenance or service issue. Such documentation must be provided to the false alarm desk within 30 days of the violation.

(Ord. No. 10-00, § 3, 4-3-00; Ord. No. 2-02, § 1, 2-4-02; Ord. No. 17-10, § 1, 8-2-10)

**Sec. 121.04. Alarm silencer required.**

It is a violation of this chapter for any person, company, corporation, or entity to install on any premise in the City of Muncie a local alarm system or alarm system which does not have an operable automatic resetting device to silence the audible sounder within 15 minutes after activation and to prevent the alarm sounding again as a result of the same event that caused the original activation.

(Ord. No. 10-00, § 4, 4-3-00)

**Sec. 121.05. Penalties.**

A person, company, corporation or entity who violates the provisions of this ordinance are subject to the following fines:

- (A) The occupier of premises who permits the issuance of more than the number of false alarms set forth in subsection 121.03(B) above in any calendar year shall be subject to a fine of not more than \$150.00, plus court costs, for each false alarm exceeding the schedule in any calendar year. However, the occupier may avoid court costs by paying \$150.00 directly to the false alarm desk at the Muncie Police Department Records Division within 30 days of the date of citation. Failure to pay within the 30-day period following the citation shall result in the citation being filed with the Clerk of Muncie City Court.
- (B) The installer of any alarm system or local alarm system that does not have an oper-

able automatic resetting device in violation of section 121.04 is subject to a fine of not more than \$500.00 per installation.

(Ord. No. 10-00, § 5, 4-3-00; Ord. No. 2-02, § 2, 2-4-02; Ord. No. 17-10, § 2, 8-2-10)

**Sec. 121.06. Proceeds of fines.**

The proceeds of all fines levied pursuant to this chapter shall be distributed as follows: 25 percent to the City of Muncie General Fund; 25 percent to the Muncie Fire Department Training Fund; and 50 percent to the Muncie Police Department Training Fund.

(Ord. No. 10-00, § 6, 4-3-00; Ord. No. 17-10, § 3, 8-2-10)

REFERENCES TO ORDINANCES

Ord. No.	Date Passed		Code Sec.
41-06	7-10-06		77.30, 77.99(F), (G)
4-93	3- 1-93		Ch. 80, Sched. IV
53-06	12- 4-06		Ch. 80, Sched. XIII
54-06	1- 9-07		34.102(C)(1.5)
56-06	12- 4-06		90.01, 90.28
57-06	12- 4-06		90.07(B)
58-06	12- 4-06		90.29
21-07	7- 9-07		Ch. 80, Sched. XIII
26-07	8- 6-07		70.99
28-07	9-10-07		31.100—31.105
		Rpld	31.100—31.105
		Added	31.100—31.105
1-08	2- 4-08		Ch. 80, Sched. V
14-08	7- 7-08		90.01
15-08	7- 7-08		90.28
33-08	10- 6-08		Ch. 80, Sched. IV
34-08	10- 6-08		Ch. 80, Sched. IV
40-08	10- 6-08		Ch. 80, Sched. V
47-08	12- 1-08	Added	102.01—102.05
1-09	3- 2-09		152.02(B)
2-09	3- 2-09		152.07
			152.30—152.32
3-09	3- 2-09		152.15(C)(2)(k)
4-09	3- 2-09		152.34
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27-09	5- 4-09	Rpld	98.05—98.15
		Added	98.01—98.07
55-09	11- 2-09		152.15(C)(3)
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