

## CHAPTER 70: GENERAL PROVISIONS

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### **GENERAL PROVISIONS**

#### **§ 70.01 TITLE.**

This title shall be known as the “Traffic and Parking Laws of the city,” and shall regulate the traffic, parking, and use of streets within the city limits.

(`83 Code, § 8-1)

#### **§ 70.02 DEFINITIONS.**

(A) Whenever any words or phrases used herein are not defined herein, but are defined in the state laws regulating the operation of the vehicles, any definition therein shall be deemed to apply to those words and phrases used herein.

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

***AUTHORIZED EMERGENCY VEHICLE.*** Police and Fire Department vehicles, city ambulances and emergency vehicles, and vehicles designated or authorized by the Chief of Police to serve as emergency vehicles.

***BICYCLE.*** Every device propelled by human power upon which any person may ride, having tandem wheels, either of which is more than 12 inches in diameter.

***BOARD.*** The Board of Public Works and Safety of the city.

***BUSINESS DISTRICT.*** The territory contiguous to and including a highway when within any 600 feet along that highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet collectively on both sides of the highway.

***CENTRAL BUSINESS DISTRICT.*** All streets and portions thereof within the area described as follows: All that area bounded on the north by the north line of Walnut Street; on the south by the south line of Baltimore & Ohio Railroad right-of-way; on the east by the east line of North and South Elm Street; and on the west by the west line of North and South Clark Street.

***COMMERCIAL VEHICLE.*** Every vehicle designed, maintained, or used primarily for the transportation of property.

***CROSSWALK.*** The part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway, or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other marking on the surface.

***CURB LOADING ZONE.*** A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

***DRIVER.*** Every person who drives or is in actual physical control of a vehicle.

***HIGHWAY.*** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

***INDIVIDUAL PARKING SPACE.*** A portion of the paved surface of the street of sufficient length and depth from the sidewalk curb to accommodate a vehicle to be parked, as shall be specified and marked off by the Board of Public Works and Safety.

***INTERSECTION.*** The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of the two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict, or where a highway includes two roadways

30 feet or more apart, then every crossing of each roadway of separate *INTERSECTION*. In the event an intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of these highways shall be regarded as a separate *INTERSECTION*.

***LANED ROADWAY.*** A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

***MOTOR VEHICLE.*** Every vehicle which is self-propelled, including farm tractors and implements of husbandry.

***MOTORCYCLE.*** Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

***OFFICIAL TIME STANDARD.*** Whenever certain hours are named herein, they shall mean Eastern Standard Time or Daylight Saving Time as may be in current use in this city.

***OFFICIAL TRAFFIC-CONTROL DEVICES.*** All signs, signals, markings, and devices not inconsistent with this code placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

***PARKING.*** The standing of a vehicle upon a street whether that vehicle is occupied or not and whether the vehicle be accompanied or not by an operator for a period of time in excess of two minutes.

***PEDESTRIAN.*** Any person afoot.

***PERSON.*** Extends to and includes: an individual or other entity, including but not limited to, a firm, corporation, limited liability company, partnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms *PERSON* or *WHOEVER* as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

***POLICE OFFICER.*** Every officer of the municipal Police Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

***PRIVATE ROAD OR DRIVEWAY.*** Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

***RESIDENCE DISTRICT.*** The territory contiguous to and including a highway not comprising a business district when the property on that highway for a distance of 300 feet or more is in the main improved with residences and buildings in use for residences.

***RIGHT-OF-WAY.*** The privilege of the immediate use of the roadway.

**ROADWAY.** The portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate **ROADWAYS**, the term **ROADWAY**, as used herein, shall refer to any one **ROADWAY** separately but not to all those **ROADWAYS** collectively.

**SAFETY ZONE.** The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times which set it apart as a **SAFETY ZONE**.

**SIDEWALK.** The portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

**STAND** or **STANDING.** The halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

**STOP.** When required, means complete cessation from movement.

**STOP** or **STOPPING.** When prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

**STREET** or **HIGHWAY.** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**THROUGH HIGHWAY.** Every highway or portion thereof on which vehicular traffic is given preferential right-of-way and at the entrance to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on that highway in obedience to either a stop sign or yield sign when the sign is erected as provided in this title.

**TRAFFIC.** Pedestrians, vehicles, bicycles, and other conveyances, either singly or together, while using any highway for purposes of travel.

**TRAFFIC-CONTROL SIGNAL.** Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and proceed.

**VEHICLE.** Any device in or upon which any person or property is or may be transported upon a public highway, except such as are used exclusively by human power.

(`83 Code, § 8-2)

**§ 70.03 USE OF GOLF CARTS.**

(A) The use of a golf cart or off-road vehicle (ORV) upon the streets and alleys of the city is permitted upon satisfaction of the terms and requirements of this section with the specific exception that said vehicle shall not be operated on any highway within the corporate boundaries of the city which is designated as part of the Indiana State Highway System (S.R. 19 and U.S. 6) other than to cross any such state highway at its intersection with a local street under the jurisdiction of the city in accordance with I.C. 9-21-1-3.3.

(B) For purposes of this section, the term **GOLF CART** means a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes that is not capable of exceeding speeds of 25 miles per hour in accordance with I.C. 9-13-2-69.7.

(C) For purposes of this section, the term **ORV** means **OFF-ROAD VEHICLE** and refers to a vehicle manufactured with a standard steering wheel for operation, side-by-side seating arrangement for passengers, seat belts, and roll over protection in accordance with I.C. 9-13-2-94.5 (Low-Speed Vehicle) and I.C. 14-19-1-0.5 (Motorized Cart). The term ORV does not include motorcycles, motor scooters, all terrain vehicles, snowmobiles, or any vehicle capable of being registered and licensed by the state.

(D) The operation of any golf cart or ORV on any city street or alleyway must be done by an individual with a valid state driver's license.

(E) A golf cart or ORV operated on the streets and alleys of the city shall at all times display either a slow moving vehicle emblem in accordance with I.C. 9-21-9-3 as amended from time to time or a red/amber flashing lamp in accordance with I.C. 9-21-9-4, as amended from time to time.

(F) A person shall not operate a golf cart or ORV on the streets and alleys of the city without current financial responsibility in effect on said vehicle. Proof of financial responsibility shall be in accordance with I.C. 9-25-4-4, as amended from time to time. A person who operates a golf cart or ORV on the streets and alleys of the city shall, at all times, maintain the state required minimum amount of financial responsibility for the operation of a motorized vehicle on public rights-of-way. Proof of financial responsibility must be presented at the time the golf cart or ORV is inspected during the application for golf cart or ORV permit.

(G) While operating a golf cart or ORV within the city limits, all federal, state, and local traffic laws shall be obeyed. This includes, but is not limited to, I.C. 9-21-9-1, as amended from time to time, requiring properly displayed slow moving vehicle signs. Additionally, no golf cart or ORV shall be operated within the city limits in excess of 25 mph.

(H) Operation of a golf cart or ORV within the city limits shall be limited to times between sunrise and sunset when visibility is not limited by weather conditions except that any golf cart or ORV may be operated after sunset and before sunrise or in weather conditions limiting visibility, including but not limited to fog, rain, or snow, provided that it possesses and shall utilize operational headlamps, tail lamps, turn signals and brake lights.

(I) No person shall operate a golf cart or ORV within city limits unless any and all passengers of said vehicle are seated in a seat attached to the vehicle. Seatbelt restraints must be properly fastened as specified by the manufacturer.

(J) No golf cart or ORV shall be operated within the city unless the owner of such golf cart or ORV shall have applied for and obtained a valid golf cart/ORV permit from the city. Application for such a permit shall be made to the Police Department utilizing the application form as approved from time to time by the Board of Public Works and Safety. The fee for such application shall be \$50 made payable to the City of Nappanee. Such permit shall have an effective length of the life of the vehicle. Issuance of said permit must include visual inspection of the vehicle by a member of the Police Department to determine compliance. Upon issuance of a permit, the vehicle owner shall be provided a decal, which must be affixed to the left rear of the vehicle at all times.

(K) A person or entity may apply for a variance from the application of this section involving the use of a golf cart or ORV during or in connection with an authorized parade or festival. Any petition for variance must be presented to the Board of Public Works and Safety, which shall have the authority to determine if a variance for specific use and limitations shall be issued; and to issue said variance. Any issuance of variance with limitations approved by Board of Public Works and Safety will have an effective period not longer than five days from the effective start date of the variance, as determined by the Board of Public Works and Safety.

(L) A person who violates this section shall on the first offense be fined an amount of \$100. A person who violates this section a second time within a calendar year of the first offense shall be fined the sum of \$250. For each violation over two times in a two-year period, a person shall be fined a sum not to exceed \$2,500. Each day of violating this policy shall be construed as a separate violation.

(M) All fines collected pursuant to division (L) of this section shall be deposited in the general fund of the city.

(Ord. 1442, passed 9-7-10; Am. Ord. 1462, passed 5-21-12; Am. Ord. 1558, passed 7-15-19)

**ADMINISTRATION AND ENFORCEMENT**

**§ 70.15 POLICE DEPARTMENT DUTIES.**

(A) *Traffic regulations.* It shall be the duty of the Police Department and all of the officers thereof to enforce the street traffic regulations of this city and all of the state vehicle laws applicable to street traffic in this city, to issue citations for traffic violations, to investigate accidents, and to cooperate with other officers of the city in the administration of the traffic laws and development of ways and means to improve traffic conditions, and to carry out those duties specially imposed upon it by this title and the traffic ordinances of the city.

(B) *Parking violations.*

(1) It shall be the duty of police officers acting in accordance with instructions issued by the Board to report:

(a) The date and location of any parking violation;

(b) The state license number of each vehicle in violation;

(c) The time during which the vehicle is parking in violation of any of the provisions of this title; and

(d) The circumstances attending the violation.

(2) The police officer shall also attach to the vehicle a notice to the owner or operator thereof that the vehicle has been parked in violation of a provision of this title and instructing and advising the owner or operator of the total amount of the penalty for that violation and the mode and manner by which the penalty shall be paid.

(`83 Code, § 8-3)

**§ 70.16 RECORDS.**

(A) *Records of traffic violations.*

(1) The Police Department shall keep a record of all violations of the city traffic ordinances and state vehicle laws of which any person has been charged and the final disposition of all these alleged offenses.

(a) This record shall be so maintained as to show all types of violations and the total of each.

(b) The record shall accumulate during at least a five-year period, and from that time on the record shall be maintained for at least the most recent five-year period.

(2) All forms for records shall be public records.  
(` 83 Code, § 8-4)

(B) *Traffic accident reports.* The Police Department shall maintain a suitable system of filing traffic accident reports.  
(` 83 Code, § 8-5)

(C) *Drivers' files to be maintained.*

(1) The Police Department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions, and complaints reported for each driver which shall be filed alphabetically under the name of the driver concerned.

(2) The Chief of Police shall study the cases of all the drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefor and shall take whatever steps are lawful and reasonable to prevent the same or to have the licenses of these persons suspended or revoked.

(3) These records shall accumulate during at least a five-year period and from that time on the records shall be maintained complete for at least the most recent five-year period.  
(` 83 Code, § 8-6)

(D) *Fee for accident report.* Pursuant to Public Law 174 – House Enrolled Act 1158 – effective July 1, 2006 – Accident Reports – requires all law enforcement agencies to charge a fee for providing accident reports that is fixed by ordinance in an amount not less than \$5:

(1) The Police Department is authorized to charge a fee of \$5 for a photocopy of each accident report furnished upon request to all interested persons, firms, or corporations.

(2) Monies collected shall become a part of the Law Enforcement Continuing Education Fund.  
(` 83 Code, § 4-5) (Am. Ord. 1410, passed 3-19-07)

#### **§ 70.17 ANNUAL TRAFFIC SAFETY REPORT.**

(A) The Chief of Police shall annually prepare a traffic report which shall be filed with the Mayor.

(B) This report shall contain information on traffic matters in this city as follows:

(1) The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;



(2) The number of traffic accidents investigated and other pertinent traffic data on the safety activities of the police; and

(3) The plans and recommendations of the division for future traffic safety activities.  
(`83 Code, § 8-7)

**§ 70.18 CHIEF OF POLICE; TRAFFIC-CONTROL DUTIES.**

It shall be the general duty of the Chief of Police to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analysis of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions, to plan the operation of traffic on the streets and highways of this city, and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of this city.

(`83 Code, § 8-8)

**§ 70.19 EMERGENCY AND EXPERIMENTAL REGULATIONS.**

(A) The Chief of Police is empowered to make regulations necessary to make effective the provisions of the traffic ordinances of this city and to make and enforce temporary or experimental regulations in effect for more than 90 days.

(B) The Chief of Police may test traffic-control devices under actual conditions of traffic.  
(`83 Code, § 8-9)

**§ 70.20 VEHICLE INSPECTIONS.**

(A) Pursuant to I.C. 9-17 *et seq.* and 9-29 *et seq.* and all acts amendatory thereto, the Police Department is authorized to collect a fee for each vehicle inspected upon the request of any person who owns a vehicle which must be inspected prior to registration in the state.

(B) Each police officer of the city, be he or she a full-time or reserve officer, shall collect a fee as specified in § 38.15 for each inspection, by that officer, of a motor vehicle pursuant to the terms and conditions of I.C. 9-17 *et seq.* and 9-29 *et seq.*, as amended by P.L. 29-1988.

(C) The officer inspecting motor vehicles shall make a record of each inspection upon the requisite application form, as prepared by the Bureau of Motor Vehicles, and shall verify the facts set out in that application for use and benefit of the Bureau of Motor Vehicles.

(D) A receipt shall be issued by the officer to the person requesting the inspection for each fee collected. A copy of each receipt shall be kept on file with the records of the Police Department. The funds received for the motor vehicle inspections shall be remitted once a month to the Clerk-Treasurer of the city.

(E) The Clerk-Treasurer of the city shall keep a permanent record of all funds received from these motor vehicle inspections. The Clerk-Treasurer of the city shall receipt the fees derived from motor vehicle inspections into the Law Enforcement Continuing Education Fund, and the funds thus received shall be designated, with appropriation, only for law enforcement purposes.

(`83 Code, § 4-7) (Ord. 939, passed 11-9-83; Am. Ord. 1082, passed 5-16-88)