

TITLE I: GENERAL PROVISIONS

Chapter: 10. RULES OF CONSTRUCTION; GENERAL PENALTY

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§10.01 TITLE OF CODE

All ordinances of a permanent and general nature of the county, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “Montgomery County Code,” for which designation “Code of Ordnances,” “Codified Ordinances” or “Code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

§10.02 INTERPRETATION

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§10.03 APPLICATION TO FUTURE ORDINANCES

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§10.04 CONSTRUCTION OF CODE

(A) This code is a codification of previously existing laws, amendments thereto and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under law reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of the code, as originally enacted, or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section unless otherwise provided.

(I.C. 1-1-1-5)

§10.05 RULES OF INTERPRETATION; DEFINITIONS

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

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

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of person, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

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

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicated or requires a different meaning.

COUNTY. Montgomery County, Indiana

HIGHWAY. Bridges, roads and streets unless otherwise expressly provided.

MONTH. One calendar month.

PERSON. Extends to and includes person, persons, firm, corporation, co-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.

PRECEDING and **FOLLOWING.** When referring to sections or divisions in this code, the sections or divisions next following or next preceding that in which the words occur unless some other section is designated.

TOWNSHIP. The township or townships in which the county is located.

WRITTEN and **IN WRITING.**

(1) Printing, lithographing or other modes of representing words and letters.

(2) Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

YEAR. One calendar year unless otherwise expressly provided.
(I.C. 1-1-4-5)

§10.06 SEVERABILITY

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with an so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

(I.C. 1-1-1-8)

§10.07 REFERENCE TO OTHER SECTIONS

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

§10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS

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

(B) Name Designations. Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority or instrumentality of any government, and that name designation is incorrectly stated; or at the time of the effective date of that ordinance or subsequent thereto, the rights, powers, duties or liabilities placed with the entity were transferred to a different entity; then the names board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers and rights were transferred. (I.C. 1-1-6-1)

§10.09 ERRORS AND OMISSIONS

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. Not alteration shall be made or permitted if any questions exists regarding the nature or extent of the error.

§10.10 REASONABLE TIME

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday or a state holiday, it shall be excluded.

§10.11 REPEAL OR MODIFICATION OF CODE SECTION

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability. (I.C 1-1-5-1)

§10.12 LIMITATION PERIODS

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, to the prosecution of offenses or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code shall not be affected by the repeal and reenactment. All suits, proceedings and prosecutions for causes arising or acts committed prior to be effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

Statutory reference:

Period of limitation, see **I.C. 1-1-1-7**

§10.13 ORDINANCES UNAFFECTED

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

§10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section, in addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§10.15 SECTION HISTORIES; STATUTORY REFERENCES

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any are listed following the text of the code section. Example: (ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am Ord. 20, passed 1-80; Am. Ord. 25, passed 1-1-850)

(1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (I.C. 36-5-2-2)(Ord. 10, passed 1-17-80; Am. Ord., passed 1-1-85)

(2) If a statutory cites is set for the as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

“§39.01 PUBLIC RECORDS AVAILABLE

This municipality shall make available to any person for inspection or copying all public records unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see I.C. 5-14-3-1 et seq.”

§10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code.

(B) The liabilities, proceedings and rights are continued. Punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts, entered into or franchises granted, the acceptance, established or vacation of any highway and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§10.99 GENERAL PENALTY

Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Power to prescribe fines up to \$2,500 granted, see (I.C. 36-1-3-8(a)(10))

CHAPTER 11: COUNTY BOUNDARIES

Section

11.01 Boundaries

§11.01 BOUNDARIES

The boundaries of the county are as follows: beginning at the northeast corner of Section 1, Township 20 North, Range 3 West; thence west to the northwest corner of Section 3, Township 20 North, Range 6 West; thence south to the southwest corner of Section 34, Township 17 North, Range 6 West; thence east to the southeast corner of Section 36, Township 17 North, Range 3 West; thence north to the northeast corner of Section 1, Township 20 North, Range 3 West, being the point of beginning, containing approximately 504 square miles. (1982 Code, §1-2-1)

TITLE III: ADMINISTRATION

Chapter

- 30. **ELECTION PROCEDURES**
- 31. **BOARD OF COMMISSIONERS**
- 32. **COUNTY COUNCIL**
- 33. **BOARDS, COMMISSIONS AND DEPARTMENTS**
- 34. **COUNTY EMPLOYEES**
- 35. **FINANCE AND TAXATION**
- 36. **COUNTY POLICIES**
- 37. **EMERGENCY MANAGEMENT**

TITLE III: ADMINISTRATION

CHAPTER 30: ELECTION PROCEDURES

Section

- 30.01 Purpose
- 30.02 Commissioner districts
- 30.03 Councilman districts

§30.01 PURPOSE

The purpose of this chapter is to establish County Commissioner and Council member election districts.

(1982 Code, § 1-3-1)

§30.02 COMMISSIONER DISTRICTS

(A) The County Executive shall divide the county into three districts that are composed of contiguous territory and are reasonably compact. The Executive may not divide precincts and may divide townships only when a division is clearly necessary to accomplish redistricting. If it is necessary to do so, the County Auditor shall call a special meeting of the Executive to establish or revise districts.

(B) The county is divided into three Commissioner election districts, designated numerically as follows:

(1) *District One.* All that part of the county bounded and described by a line running as follows, to wit: beginning at the northeast corner of the county at the northeast corner of Section 1, Township 20 North, Range 3 West; thence west to the northeast corner of Section 2, Township 20 North, Range 4 West; thence south to the south boundary line of the county to the southeast corner of Section 35, Township 17 North, Range 4 West; thence east to the southeast corner of the county; thence due north to the place of beginning shall form and constitute District One for the purpose.

(2) *District Two.* All that part of the county bounded and described by a line running as follows, to wit: beginning at the northeast corner of Section 2, Township 20 North, Range 4 West, on the north boundary line of the county; thence west to the northeast corner of Section 3, Township 20 North, Range 5 West; thence south to the south county line to the southeast corner of Section 34, Township 17 North, Range 5 West, thence east on the line to the southeast corner of Section 35, Township 17 North, Range 4 West; thence north to the place of beginning shall form and constitute District Two for the purposes.

(3) *District Three.* All that part of the county bounded and described by a line running as follows, to wit: beginning at the northeast corner of Section 3, Township 20 North, Range 5 West, on the north boundary line of the county; thence west to the northwest corner of the county; thence with the west boundary line thereof south to the southwest corner of the county; thence east to the southeast corner of Section 34, Township 17 North, Range 5 West; thence north to the place of beginning shall form and constitute District Three for the purposes. (1982 Code, § 1-3-2) **Statutory reference:**

Similar provisions, see I.C. 36-2-2-4

§30.03 COUNCIL DISTRICTS

(A) Establishment of Districts. The County Executive shall, by ordinance, divide the county into four contiguous, single-member districts. The Executive may not divide precincts when redistricting. If it is necessary to do so, the County Auditor shall call a special meeting of the Executive to establish or revise districts. One member of the fiscal body shall be elected by the voters of each of the four districts. Three at-large members of the fiscal body shall be elected by the voters of the whole county.

(B) Criteria for Single-Member Districts. Single-member districts must:

- (1) Be compact, subject only to natural boundary lines, such as railroads, major highways, rivers, creeks, parks and major industrial complexes
- (2) Contain, as nearly as possible, equal population; and
- (3) Include whole townships, except when a division is clearly necessary to accomplish districting under this section.

(C) Changing Districts. A division shall be made every ten years and may also be made in any other odd-numbered year.

(D) Four Council Districts. The county is divided into four Council election districts, designated by Township or numerically as designated by the County Election Board, as follows:

- (1) *District One.* Coal Creek Township; Wayne Township; Union One and Two; and Crawfordsville One, Two and Nine.
- (2) *District Two.* Ripley Township; Brown Township; Scott Township; Union Five, Six, and Seven; and Crawfordsville Eight.
- (3) *District Three.* Madison Township; Sugar Creek Township; Franklin Township; Union Three; and Crawfordsville Three, Four, and Ten.
- (4) *District Four.* Walnut Township; Clark Township; Union Four; and Crawfordsville Five, Six, and Seven.

(Similar provisions, see I.C. 36-2-3-4; Ord 2016-10, passed 3-28-16)

CHAPTER 31: BOARD OF COMMISSIONERS

Section

- 31.01 Board of Commissioners; executive officers
- 31.02 Meetings
- 31.03 Legislative procedures

§31.01 BOARD OF COMMISSIONERS; EXECUTIVE OFFICERS

(A) The three-member Board of Commissioners, elected under I.C. 36-2-2-2, is the County Executive.

(B) A member of the Executive who wants to resign must send written notice to the President of the County Council. The Council shall then declare the office vacant.

(C) The County Executive will meet during the first week of January each year to elect its President and Vice-President by a majority of the whole Executive and to conduct other business as may come before it.

(D) The President and Vice-President shall serve for one year and until the election and qualification of their successors. The President shall preside over all meetings of the Executive and, by his or her signature thereto, shall authenticate all ordinances passed by the Executive in his or her presence. (1982 Code, § 1-4-1)

§31.02 MEETINGS

(A) The Regular meetings of the Executive shall be held on the second and fourth Monday of each month at 9:00 a.m. All meetings shall be held in the Commissioners Room in the Montgomery County Courthouse. When any meeting falls on a legal holiday, it shall be held at the same hour and place on the next day that is not a legal holiday.

(B) Special meetings may be called by the Executive if the public interest requires. At least six days' notice of the special meeting will be given unless the meeting is called to deal with an emergency under I.C. 5-14-1.5-5. The notice must include a specific statement of purpose of the meeting and the Executive may not conduct any unrelated business at the meeting. (1982 Code, § 1-4-2) (Am.Ord. 2005-01, passed 1-18-05; Am. Ord. 2006-01, passed 1-10-06; Am. Order 2016-11, passed 3-28-16)

§31.03 LEGISLATIVE PROCEDURES

The County Executive adopting an ordinance, order, resolution or motion for the government of the county for the transaction of county business, pursuant to I.C. 36-2-4-2, will adhere to the following legislative procedures:

(A) Two members of the Board shall constitute a quorum;

(B) A majority vote is required to pass an ordinance;

(C) If only two members of the County Executive are present at a meeting of the Executive and they disagree on a question that is before the Executive, the question shall be continued until the next meeting. (1982 Code, § 1-4-3)

Statutory reference:

Continuance of question, see I.C. 36-2-4-6

Passage of ordinances, see I.C. 36-2-4-5

CHAPTER 32: COUNTY COUNCIL

Section

- 32.01 County Council; Fiscal Body
- 32.02 Meetings

§32.01 COUNTY COUNCIL; FISCAL BODY

(A) The seven-member County Council, elected under I.C. 36-2-3-3, is the fiscal body. The fiscal body shall act in the name of the County Council.

(B) The fiscal body will meet during the first week of January each year to elect the President and President Pro-Tempore from its members.

(C) The County Auditor is the Council Clerk and shall:

- (1) Preserve the Council's records in his or her office;
- (2) Keep an accurate record of the Council's proceedings;
- (3) Record the ayes and nays on each vote appropriating money or fixing the rate of a tax levy; and
- (4) Record the ayes and nays on other votes when requested to do so by two or more members.

(5)

(D) The County Sheriff or the Deputy shall attend the meetings of the fiscal body, if requested by the fiscal body, and shall execute its orders.

(E) The fiscal body may employ legal and administrative personnel necessary to assist and advise it in the performance of its functions and duties.

(1982 Code, § 1-6-1)

§32.02 MEETINGS

(A) The fiscal body shall hold a regular annual meeting, as prescribed by I.C. 6-1.1-17, to adopt the county's annual budget and tax rate.

(B) Special meetings may be called by the County Auditor, President of fiscal body or by a majority of the members of the fiscal body. At least 48 hours before the meeting, the Auditor, President or members calling the meeting shall give written notice of the meeting to each member of the fiscal body and publish, at least one day before the meeting, the notice in accord with I.C. 5-3-1. This does not apply to a meeting called to deal with an emergency under I.C. 5-14-1.5-5.

(C) If a court orders the County Auditor to make an expenditure of county money for a purpose for which an appropriation has not been made, the Auditor shall immediately call an emergency meeting of the fiscal body to discuss the matter. The meeting shall be held within three working days of the receipt of the order by the Auditor, and notice of the meeting day, time and place is sufficient if given by phone to the members of the fiscal body and given according to I.C. 5-14-1.5. (1982 Code, § 1-6-2)

CHAPTER 33: BOARDS, COMMISSIONS AND DEPARTMENTS

Section

- 33.01 Drainage Board
- 33.02 Economic Development Commission
- 33.03 Sheriff's Merit Board
- 33.04 Plan Commission
- 33.05 Sheriffs Reserve Unit
- 33.06 Corrections Advisory Board
- 33.07 Sugar Creek and Wabash Trail Authority
- 33.08 Public Defender Board
- 33.09 Floodplain Commission
- 33.10 Coroner
- 33.11 Montgomery County Redevelopment Commission
- 33.12 Central Communications Center

Cross-reference:

- Board of Zoning Appeals, see § 153.36
- Emergency Management, see Chapter 37
- Visitor and Convention Commission, see § 110.03

§33.01 DRAINAGE BOARD

The Montgomery County Drainage Board, established by IC 36-9-27-4, shall consist of five (5) members appointed by the Board of Commissioners. One (1) member shall be a member of the Board of Commissioners, appointed annually by the Commissioners. Four (4) members shall be residents freeholders of Montgomery County at least one shall be recommended to the Board of Commissioners by the Board of Montgomery County Soil and Water Conservation District (provided, however, the Board of Commissioners shall have complete discretion whether to appoint or reject the recommended person); at least one shall be a resident freeholder of Coal Creek, Madison, Sugar Creek, Wayne, North Union or Franklin townships; and at least one shall be a resident freeholder of Ripley, South Union, Walnut, Brown, Scott or Clark townships. The four resident freeholders shall serve for terms of three (3) years with their initial appointments made so as to provide for staggering of terms on an annual basis. In addition, the Montgomery County Surveyor shall serve as a member of the Drainage Board as an ex officio, nonvoting member.

Statutory reference:

Indiana Drainage Law, see IC 36-9-27
(Am. Commissioners Ord. 2005-6, passed 9-6-05; Am. Ord. 2006-05, passed 3-14-06; Am. Ord.

2006-06, passed 3-14-06; Am. Commissioners Ord. 2006-20, passed 12-19-06; Am. Commissioners Ord. 2008-9, passed 6-9-08)

§33.02 ECONOMIC DEVELOPMENT COMMISSION

(A) Whereas a need exists in the county for the financing of economic development or pollution control facilities, as authorized by I.C. 36-7-12-1 and 36-7-12-4, together with statutory amendments and additions thereto, there is hereby created a department of development which shall be under the control of a commission to be known as the Economic Development Commission.

(B) Following enactment of this section, the County Auditor shall promptly notify the Board of Commissioners. A member of the Council is nominated for membership on the Commission. The County Auditor shall also notify the Crawfordsville Common Council and the Board of Commissioners to each make nominations for the remaining two members of the Commission, as by law provided, in order that the Commission hereby established may be appointed and organized by the Board of County Commissioners. The Economic Development Commission shall have the powers and duties as are now or hereafter prescribed by law. (1982 Code, § 1-10-1)

Cross-reference:

Economic Revitalization Areas, see T.S.O. Table 1

§33.03 SHERIFF'S MERIT BOARD

(A) The County Council does hereby create, by this section, the Sheriff's Merit Board, hereinafter called and known as the "County Sheriff's Merit Board," which shall have all the powers and duties set out in the original enactment of the Legislature of the state creating merit boards, Chapter 285 of the Acts of the General Assembly of the state and that the provisions of the statutes and this section shall be binding upon the Sheriff of this county and his or her successors and any county police force, as may hereinafter be created and defined pursuant to statute.

(B) The Sheriff's Merit Board shall consist of five members, with three members appointed by the Sheriff and two members elected by a majority of members of the Sheriff's Department. All members shall serve for respective terms of one, two, three and four years, with renewal of expiring terms to be a term of four years. Payment for services shall be pursuant to statute or every day or fraction thereof and members shall meet upon call of the Sheriff or the Chairperson of the Merit Board and the Board shall be and it is hereby empowered and authorized to establishing rules and regulations, define qualifications for members of the Sheriff's force and/or county police force, discipline the Sheriff's or county policy forces, establish policy for the Sheriff's Department and all other necessary functions

of a directory, advisory and appointing board, all subject to the terms and conditions of the Chapter 285, Acts of the General Assembly for 1961, as amended, including amendments enacted by Senate Enrolled Bill 223, General Assembly for 1971.

(C) Nothing in this section shall effect present appointments or abrogate any terms of appointment, obligation or rights under preexisting statutes.

(D) All records, books, accounts and reports are ordered transferred to the custody and control of the Merit Board, subject to the supervision of the County Sheriff, all as provided for by law. (1982 Code, § 1-10-2; Am. Council Ord. 2016-03, passed 7-12-2016)

§33.04 PLAN COMMISSION

(A) (1) There is created and established the advisory Plan Commission to be known as the County Planning Commission, which shall have the duties and powers, as established by I.C. 367-4-400 et seq. and other responsibilities as may be assigned to it from time to time by the Board of County Commissioners. The Commission shall consist of nine members, appointed as follows:

- (a) One member appointed by the Board of County Commissioners from Its membership;
- (b) One member appointed by the County Council from its membership.
- (c) The County Surveyor or a qualified Deputy Surveyor appointed by the Surveyor;
- (d) The County Agricultural Agent; and
- (e) Five citizen members appointed by the Board of County Commissioners in accordance with I.C. 36-7-4-208(a)(5)(B). No more than three of these members can be of the same political party.

(2) Initially, one citizen member shall be appointed for a term of one year; one citizen member shall be appointed for a term of two years; one citizen member shall be appointed for a term of three years; and the other two shall be appointed for terms of four years. Each member's term expires on the first Monday of January of the first, second, third or fourth year, respectively after the year of the member's appointment. Thereafter, each term shall be for four years, expiring on the first Monday of January after the fourth year.

(3) The term of office on the Commission for a member who is an elected official shall be coextensive with the member's term for that office.

(B) Each citizen member shall be appointed because of his or her knowledge and experience in community affairs, awareness of the social, economic, agricultural and industrial problems of the area and his or her interest in the development and integration of the area. A citizen member may not hold other elective or appointive office in municipal, county or state government.

(C) If a vacancy occurs among the members of the Plan Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member.

(D) The appointing authority may remove a member from the Plan Commission for cause. The appointing authority must mail notice of the removal, along with written reasons for removal, to the member at his or her residence address. A member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the County Circuit or Superior Court. The Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

(Ord. 11-1993, passed 12-21-93; Am. Commissioners Ord. 2008-1, passed 2-11-08)

§33.05 SHERIFF'S RESERVE UNIT

(A) There is hereby established, pursuant to I.C. 36-8-3-20, the County Police Reserves, which shall be known as the County Sheriff's Reserve Unit.

(B) The County Sheriff's Reserve Unit shall operate in accordance with I.C. 36-8-3-20 and those rules and regulations adopted by the County Sheriff, as authorized specifically in I.C. 36-83-20(e) and I.C. 36-8-3-20(h).

(C) The County Sheriff's Reserve Unit shall be under the direct supervision of the County Sheriff.

(Ord. 1-84, passed 2-21-84)

§33.06 CORRECTIONS ADVISORY BOARD

The Board of County Commissioners hereby establishes a Community Corrections Advisory Board.

(A) The Board consists of the following members as required by I.C. 11-12-2-2:

- (1) The county sheriff or the sheriff's designee;
- (2) The prosecuting attorney or the prosecuting attorney's designee;
- (3) The director of the county office of the division of family resources or the director's designee;
- (4) The City of Crawfordsville Mayor, or the Mayor's designee;
- (5) Two judges having criminal jurisdiction, if available, appointed by the circuit court judge or the judges' designee;
- (6) One judge having juvenile jurisdiction, appointed by the circuit court judge;
- (7) One public defender or the public defender's designee, if available, or one attorney with a substantial criminal defense practice appointed by the county executive;
- (8) One victim, or victim advocate if available, appointed by the county executive;
- (9) One ex-offender, if available, appointed by the county executive;
- (10) The following members appointed by the county executive:
 - (a) One member of the County Council or the member's designee;
 - (b) One probation officer;
 - (c) One educational administrator;
 - (d) One representative of a private correctional agency, if such an agency exists in the county;
 - (e) One mental health administrator, or, if there is none available in the county, one psychiatrist, psychologist, or physician;
 - (f) Four lay persons, at least one of whom must be a member of a minority race if a racial minority resides in the county and a member of that minority is willing to serve.

(B) Designees of officials appointed under sections (A)(1)-(7) and A(10) serve at the pleasure of the designating official. Members appointed by the county executive, the criminal defense attorney, the ex-offender, and the victim or victim advocate serve four year terms. Other members serve only while holding the office or position held at the time of appointment. The circuit court judge may fill the position of the judge having juvenile court jurisdiction by self-appointment if the circuit court judge is otherwise qualified. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the unexpired term. Members may be reappointed.

(C) The Board's duties shall include those provided in I.C. 11-12-2-3 and any other applicable law.

(Res. 91-2, passed 2-2-91; Amd Ord. 2016-12, passed 3-28-16)

§33.07 SUGAR CREEK AND WABASH TRAIL AUTHORITY

(A) The County Commissioners and the Mayor of Crawfordsville agree to create a single entity to jointly manage, construct, maintain, control, report and exercise all necessary powers for the uniform operations of that certain rail trail (linear park or greenway) in the county, commonly referred to as the "Sugar Creek and Wabash River Trail." The park shall be owned, in part, by the county and in part by Crawfordsville and be operated by the Authority. This section shall in no way effect Crawfordsville's current park board system, but shall in fact be a separate Authority constituted to deal solely with the new rail park.

(B) This Authority shall elect officers and shall have open and public meetings at regular times and locations to be determined and published by the Authority. The Authority shall report directly to the County Commissioners and the Crawfordsville City Council as directed or decisions as management and construction of the trail may require. (Ord. 94-2, passed – 94)

Cross-reference:

Sugar Creek Zoning, see Chapter 153

§33.08 PUBLIC DEFENDER BOARD

(A) The Board of Commissioners establishes the County Public Defender Board, pursuant to I.C. 33-40-7-3. The Board consists of 3 members: 1 appointed by the county executive and 2 appointed by a majority vote of the judges who exercise felony or juvenile jurisdiction in Montgomery County. The members appointed by the judges may not be from the same political party. The members must be persons who have demonstrated an interest in high quality legal representation for indigent persons. However, a member may not be a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.

(B) Each Board member serves a 3 year term beginning with the date of the member's appointment. A member appointed to fill a vacancy holds office for the remainder of the previous member's term. If a successor has not been appointed by the end of a member's 3 year term, the member continues in office until the member's successor takes office.

(C) The Board shall be governed by I.C. 33-40-7 and any other applicable law. (Ord, 94-3, passed -94; Am. Commissioners Ord. 2008-1, passed 2-11-08' Am Ord. 2016-12, passed 3-28-16)

§33.09 FLOODPLAIN COMMISSION

(A) There is hereby established the County Floodplain Commission.

(B) The Floodplain Commission shall consist of three members appointed by the Board of Commissioners. The members shall be one County Commissioner and two county citizens who do not hold an elective public office.

(C) Commission members serve terms of one year, beginning with the first Monday of January of each year. The initial members serve from the date of establishment of the Commission until the first Monday of January of the following year. If a vacancy occurs the Board of Commissioners shall appoint a new member to fill the unexpired term.

(D) At the first regular meeting of each year, the Commission shall elect the President, Vice President and Secretary. A majority of the members constitutes a quorum. To be official, an action of the Commission must be authorized by a majority of the Commission at a regular or special meeting.

(E) The Commission shall fix the time for holding regular meetings, but the Commission shall meet at least one time in January, April, July and October.

(F) The Commission has the powers granted in I.C. 14-28-4-11.

(G) The Commission shall approve and supervise the administration of Chapters 151 and 153 of this code of ordinances and any other ordinance which may be adopted by the Board of Commissioners to assure the promotion of public health, safety, convenience and the general welfare within the Commission's jurisdiction.

(H) The County Surveyor shall serve as the Administrator who issues improvement location

permits within the jurisdiction of the Commission and in conformance with Chapters 151 and 153 of this code of ordinances. The Surveyor may appoint the Building Administrator as his or her administrator to issue improvement location permits.

(I) The Commission may institute the following:

(1) A suit for injunction in the County Circuit Court to restrain an individual or entity from violating any ordinance approved by the Commission and adopted by the Board of Commissioners;

(2) A suite for injunction directing an individual or entity to remove a structure erected in violation of any ordinance approved by the Commission and adopted by the Board of Commissioners; and

(3) If the Commission is successful in the Commissioner's suit, the respondent shall pay the costs of the action including the Commission's attorney fees incurred to prosecute the action. (Ord. 99-5, passed 12-7-99)

§33.10 CORONER

(A) Election.

(1) *Eligibility.* In order to be eligible for election as coroner, a person must reside within Montgomery County as provided for in Article 6, Section 6 of the Constitution of the State of Indiana. A coroner forfeits the office if he or she ceases to be resident of Montgomery County.

(2) *Term.* The term of the office of coroner is four years. The coroner continues to serve until a successor is elected and qualified.

(3) *Commission.* The governor of the State of Indiana commissions the coroner.

(B) *Duties.* The coroner has the following duties:

(1) Investigation of deaths as provided for in I.C. 36-2-14-6;

(2) Issuance of certificates of death, as provided for in I.C. 36-2-14-6(b).;

- (3) Performance of autopsies when requested or required as provided for by I.C. 36-214-6(d) and issue verdicts and written reports;
- (4) Maintenance of confidential records as provided by Indiana law;
- (5) Taking possession of, maintaining and disposing of property found on a deceased person or at the scene of death, as provided for in I.C. 36-2-14-11;
- (6) Issuance of warrants for felony arrests relating to deaths;
- (7) Attendance at meetings of the commission of forensic sciences for consultation on matters concerning the interest of the commission, the office of coroner, or both
- (8) Making available to the public certain documents as provided for by the Indiana law;
- (9) Recovering from other counties the costs of the autopsies, including physicians fees, when person die in Montgomery County as a result of incidents which occur in another county;
- (10) Performance of the duties of the Sheriff of Montgomery County in cases where the Sheriff is interest or incapacitated from serving and has no chief deputy who may perform his duties;
- (11) Service upon the Montgomery County Sheriff a warrant for his or her arrest commitment of the Sheriff to the county jail and the exercise of custody of the jail and its prisoners during the imprisonment of the Sheriff.

(C) Autopsies.

- (1) *Investigations.* Whenever the coroner is notified that a person in Montgomery County has died from violence, died by casualty, died when apparently in good health, died in an apparently suspicious, unusual, or unnatural manner, or been found dead, the coroner shall, before the scene of death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death.
- (2) *Certificate of Death.* Within 72 hours after being notified of the death, the coroner shall file with the person in charge of interment a coroner's certificate of death. If the cause of death is not established with reasonable certainty within 72 hours, the coroner

shall file with the person in charge of internment a coroner's certificate of death, with the cause of death designated as "deferred pending further action". As soon as the coroner determines the cause of death, the coroner shall file a supplemental report indicating his exact findings with the local health officer having jurisdiction, who shall make it part of his or her official records. A coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is at least one week old and not more than three years old unless an autopsy is performed at a county expense or an autopsy is not required under I.C. 36-2-14-6(e).

(3) Verdicts. At an investigation, the coroner shall examine persons wanting to testify and may examine persons summoned by the coroner's subpoena. After viewing the body, hearing the evidence, and making all necessary inquiries, the coroner shall draw up and sign his or her verdict on the death under consideration and make a written report giving an accurate description of the deceased person, the name of the deceased person if determined, and the amount of money and property found with the body.

(4) Physicians. If the coroner considers it necessary to have an autopsy performed, is required to perform an autopsy in the case of a sudden and unexpected death of a child as provided for in I.C. 36-2-14-6(1), or is requested by the prosecuting attorney to perform an autopsy, the coroner shall employ a physician who is certified by the American Board of Pathology or who holds an unlimited license to practice medicine in Indiana and acts under the direction of a physician certified by the American Board of Pathology. The physician performing the autopsy shall be paid a fee of at least \$50 from the county treasury. A coroner may employ the services of the medical examiner system as provided for in I.C. 4-23-6-6.

(D) Immunity. A person who in good faith orders or performs a medical examination or autopsy under statutory authority is immune from civil liability for damages for ordering or performing the examination or autopsy.

(E) Compensation. When fixing the compensation of the coroner and his or her officers, the County Council shall, as provided for by I.C. 36-2-14-15, fix compensation for the coroner by reference to whether he or she is licensed to practice medicine in Indiana. The compensation of coroners licensed to practice medicine must be one and one-half times that fixed for coroners who are not so licensed.

(F) Finances.

(1) Funds. The coroner may establish, with the approval of the County Council, funds

necessary to operate his or her office. All such funds shall be created by ordinances adopted by the County Council, and the ordinance shall provide for the source and use of such funds.

(2) *Fees.* The coroner may, with the approval of the County Council, establish user fees to defray the cost of providing certain services. These fees must be reasonable in light of the actual cost of providing such services.

(Ord. 2005-08, passed 9-20-05).

§33.11 MONTGOMERY COUNTY REDEVELOPMENT COMMISSION

(A) *Establishment of Redevelopment Commission.* There is hereby established a department of redevelopment controlled by a board of five (5) members, to be known as “Montgomery County Redevelopment Commission.”

(B) *Establishment of Special Taxing District.* All of the territory within Montgomery County, Indiana, except the territory within a municipality in the County that has its own redevelopment commission, constitutes a “special taxing district” for the purpose levying and collecting special benefit taxes for redevelopment purposes as provided in I.C. 36-7-14.

(C) *Appointments to Commission.*

(1) *Redevelopment Commissioners.* The Board of County Commissioners shall appoint three (3) members of the Redevelopment Commission, and the County Council shall appoint two (2) members. Each Redevelopment Commissioner shall serve for one (1) year from the first day of January after his appointment and until his successor is appointed and has qualified.

(2) *Nonvoting Adviser.* The County Commissioners shall also appoint one (1) person to serve as a non-voting adviser to the Redevelopment Commission. This person must be a school board member of one of the school corporations located in Montgomery County or an individual recommended by one of the school boards located in Montgomery County. This advisor is not considered a member of the Commission but is entitled to attend and participate in the proceedings of all Commission meetings. The non-voting adviser is not entitled to a salary, per diem, or reimbursement of expenses. The adviser serves a term of two (2) years and until a successor is appointed, and serves at the pleasure of the County Commissioners.

(D) *Qualifications.* All commission members must be at least eighteen (18) years of age and

residents of the special taxing district. If a commission member ceases to be qualified, he or she forfeits his or her office.

(E) Oath. Before beginning his or her duties, each commissioner shall take and subscribe an oath of office, to be endorsed on the certificate of his or her appointment, and filed with the Clerk of the Montgomery Circuit Court.

(F) Bond. Also before beginning his or her duties, each commissioner shall execute a bond in the penal sum of Fifteen Thousand Dollars (\$15,000.00), payable to the State of Indiana, with surety to be approved by the Board of Commissioners of Montgomery County. Such bond shall be conditioned on the faithful performance of the commissioner's duties of office and the account for all monies and property that may come into the commissioner's hands or under his or her control. The cost of the bond shall be paid by the special taxing district.

(G) Salaries and Reimbursement. Redevelopment commissioners who are holders of a lucrative office for purposes of Article 2, Section 9 of the Indiana Constitution are not entitled to salaries, but they are entitled to reimbursement for expenses necessarily incurred in the performance of their duties. A redevelopment commissioner who does not hold a lucrative office for purposes of Article 2, Section 9 of the Indiana Constitution may receive a salary or a per diem and is entitled to reimbursement for expenses necessarily incurred in the performance of his or her duties.

(H) Removal. The appointing authority may at any time summarily remove a redevelopment commissioner by providing written notice of such removal to the Secretary of the Commission.

(I) Prohibition. Neither a redevelopment commissioner nor a nonvoting adviser may have a pecuniary interest in any contract, employment, purchase, or sale made under Indiana Code 36-714. However, any property required for redevelopment purposes in which a redevelopment commissioner or nonvoting adviser has a pecuniary interest may be acquired, but only by gift or condemnation. A transaction made in violation of this prohibition is void.

(J) Compliance and Authority. The Montgomery County Redevelopment Commission shall comply with all statutes applicable to redevelopment commissions generally, including without limitation I.C. 36-7-14.

(Commissioners Ord. 2007-4, passed 9-24-07; Amended, Ord. 2014-7, 1-13-15; Amd. Ord. 2016-23, passed 8-22-16)

§33.12 CENTRAL COMMUNICATIONS CENTER

(A) There is established the Montgomery County Central Communications Center.

(B) The purpose of this department is to administer the countywide enhanced emergency telephone system, as provided for in Indiana Code 36-8-16, commonly referred to as the E-911 System.

(C) The Center will be administered by two boards:

(1) *Governing Board:* The Governing Board shall:

(a) appoint and supervise the Director of the Center, approve all budgets and contracts, appoint certain members of the Operations Board, and take other action necessary for the operation of the Center;

(b) be comprised of five members:

(i) President of the Board of County Commissioners;

(ii) One County Commissioner who is appointed by the President of the Board of County Commissioners;

(iii) the Mayor of Crawfordsville;

(iv) A member of the Crawfordsville City Council who is appointed by the City Council;

(v) A member of the County Council who is appointed by the County Council;

(c) Meet at least three times per year:

(i) In January to appoint the Director;

(ii) In June to approve the budget; and

(iii) In October to evaluate the Director.

The Board may also meet at any other time as required.

(2) *Operations Board:* The Operations Board shall:

(a) Have three purposes:

- (i)** Establish written policies, procedures and protocols for the operation of the Center;
- (ii)** Establish written policies designed to ensure that in the hiring, promotion, discipline and termination of employees, the employees shall have legal protections similar to those established for police and firefighters under Indiana's merit systems and serve as the merit board;
- (iii)** Make recommendations to the Director regarding the operations of the Center.

(b) be comprised of seven voting members:

- (i)** One township or town Fire Chief, nominated by the Township and Town fire chiefs in Montgomery County and appointed by the Governing Board;
- (ii)** One representative of an ambulance service provider who is nominated by the ambulance service provider and appointed by the Governing Board;
- (iii)** One town marshal nominated by the town marshals in Montgomery County and appointed by the Governing Board;
- (iv)** The Crawfordsville Fire Chief or his or her designee;
- (v)** The Crawfordsville Police Chief or his or her designee;
- (vi)** The Montgomery County Sheriff or his or her designee; and
- (vii)** One representative of the public and private agencies that provide emergency services in Montgomery County who is appointed by the Governing Board.

(c) Have five non-voting members:

- (i) the County Commissioner appointed by the Board of County Commissioners to the Operations Board;
- (ii) the Center Director;
- (iii) the County Information Technology Director or designee;
- (iv) the County Emergency Management Director;
- (v) the County Mapping Director

(d) have as its Chair the County Commissioner serving on the Operations Board.

(e) elect a Vice President.

(D) The Center shall be funded by revenues from E-911 fees, contributions by the County and City of Crawfordsville and other sources as provided for either by agreement or by Indiana law.

(E) The Center shall have a Director who shall be appointed by the Governing Board. The Director shall be responsible to and be supervised by the Governing Board. The Director shall supervise all employees of the Center. The Director is not a merit officer and shall not be entitled to the merit protections of merit officers.

(Ord. 2011-___, passed 6-27-11)

CHAPTER 34: COUNTY EMPLOYEES

Section

- 34.01 Employee Handbook
- 34.02 Pay period
- 34.03 Sick leave (deleted)
- 34.04 Personal business (deleted)
- 34.05 Payroll withholding
- 34.06 Grievance procedure for certain employees
- 34.07 Sheriff's Department Deferred Compensation Plan
- 34.08 Credit Card Rules

Appendix A: Montgomery County Employees Personnel Policy Manual

§34.01 EMPLOYEE HANDBOOK

The personnel policy of the County is contained in the Employee Handbook. This handbook must be adopted by the Board of Commissioners regarding personnel matters and the County Council regarding compensation, job description, and job classification matters. The manual is attached to this Chapter as Appendix A. The Sheriff also has a Personnel Policy Manual for employees of his Department. This Manual is attached to this Chapter as Appendix B.

§34.02 PAY PERIOD

The pay period for all County employees shall be biweekly, ending every other Wednesday. (Am. Commissioners Ord. 2008-1, passed 2-25-08; Am. Commissioners Ord. 2009-8, passed 10-26-09; Am. Commissioners Ord. 2009-09)

§34.03 SICK LEAVE

[Deleted by Council Ord. 2006-8, passed 12-11-06; Commissioners Ord. 2006-18, passed 1024-06]

§34.04 PERSONAL BUSINESS

[Deleted by Council Ord. 2006-8, passed 12-11-06; Commissioners Ord. 2006-18, passed 1024-06]

§34.05 PAYROLL WITHHOLDING

(A) *Definitions.* For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

DISPOSABLE EARNINGS means that part of the earnings of a County employee, including wages or salary, remaining after the deduction from those earnings of amounts required by law to be withheld, including without limitation the following: (i) Federal Insurance Contributions Act (FICA) or income taxes required to be withheld; (ii) amounts withheld pursuant to compulsory retirement, health insurance or similar plans imposed by law; and (iii) amounts withheld because of a Support Withholding or Garnishment order.

GARNISHMENT means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by any other person for the payment of a judgment.

SUPPORT WITHHOLDING means that part of the earning that are withheld from an individual for child support in accordance with the laws of this state.

(B) *Withholding for Delinquent Taxes.* The auditor shall withhold from the wages and salaries of any employee who has been certified by the Treasurer as owing delinquent property taxes, penalties, or interest to the County. The amount withheld from any employee's wages or salary for any bi-weekly pay period may not exceed:

(1) twenty-five percent (25%) of the employee's Disposable Earnings for that bi-weekly pay period; or

(2) the amount by which the employee's Disposable Earnings for that bi-weekly pay period exceed sixty (60) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time such wages or salary are payable; whichever is less.

(C) *Prepaid Legal Services.* The Auditor is authorized to withhold from the wages and salaries of employees who execute written authorizations which provide for payment for prepaid legal services through Pre-Paid Legal Services.

(Ord. 2006-02, passed 1-10-06; Am. Commissioners Ord. 2008-2, passed 2-25-08)

§34.06 GRIEVANCE PROCEDURE FOR CERTAIN EMPLOYEES

(A) *Employees Covered.* Any employee of Highway Department, Building Department, and Building Maintenance Department shall have the right to file with the County Commissioners a grievance concerning their discipline, demotion, reprimand or other adverse job action taken by the Department Head.

(B) *Definition.* For purposes of this section, the following definition shall apply unless the context early indicates or requires a different meaning.

ADVERSE JOB ACTION.

- (a)** Demotion;
- (b)** Failure to receive a promotion;
- (c)** Disciplinary action resulting in loss of pay or unpaid time off of work; or
- (d)** Termination.

(C) *Procedure.* Any employee filing a grievance must do so in writing by delivering the grievance to the Commissioners' administrative assistant within 30 days of the adverse job action. The grievance must be signed by the employee and must state the date of the adverse job action, the reasons for his or her disagreement with the adverse job action and his or her recommendation regarding the matter. Within ten days of receipt of this grievance, the Commissioners shall schedule a grievance hearing, which may be heard in executive session, and shall deliver a copy of the grievance to the Department Head.

(D) *Hearings.* At the grievance hearing, the employee shall have the opportunity to present to the Commissioners any and all relevant evidence regarding the adverse job action. The Department Head shall then have the opportunity to present evidence which supports the adverse job action.

(E) *Rulings.* Within ten days of the hearing, the Commissioners shall enter their decision to either affirm the adverse job action, overrule the adverse job action or modify the adverse job action. The decision shall be made in writing, be delivered to the employee and Department Head, and placed in the employee's file.

(F) *Finality of Rulings.* The decision of the Commissioners concerning a grievance is final. No right of appeal or rehearing exists.

(G) *Waiver.* If an employee fails to file a grievance within 30 days of an adverse job action, the employee is deemed to have waived his or her right to a hearing.

(H) *Exclusive Procedure.* The grievance procedure provided for in this section shall be the exclusive procedure for review of adverse job actions for employees covered by this procedure. The procedure does not create any contract or other rights of the employees in their employment other than the right to a hearing before the Commissioners as described in this section. (Ord. 2006-09, pass 5-9-06)

§34.07 SHERIFF'S DEPARTMENT DEFERRED COMPENSATION PLAN

(A) *Establishment of Plan.* There is hereby established a Deferred Compensation Plan for the Montgomery County Sheriff's Department to allow for the voluntary participation of employees of such Department.

(B) *Group Plan.* The Sheriff's Department will utilize the deferred compensation plan established by county sheriff's departments in Indiana known as the "Indiana Sheriff's 457(b) Plan" and participate in the group trust arrangement established by that deferred compensation plan. The Montgomery County Sheriff is authorized to sign the Adoption Agreement to participate in the Indiana Sheriffs 457(b) Plan.

(C) *Voluntary Deductions.* The Montgomery County Auditor is authorized to make deductions from the pay of employees of the Montgomery County Sheriff's Department who voluntarily participate in the Indiana Sheriffs 457(b) Plan, and to deposit deferrals in the group trust of such Plan.

(D) *Administrative Committee.* The Committee made up of the representatives of Sheriff's Departments participating in the Indiana Sheriffs 457(b) Plan (as determined by participating departments) to make such other arrangements as are necessary to implement such Plan, *provided, however,* that other than the incidental expenses related to collecting the employees' deferrals and other minor administrative matter, participation in the Plan shall be without cost to the County.

(Commissioners Ord. 2008-16, passed 9-30-08)

§34.08 CREDIT CARD RULES

(A) The issuance and use of credit cards by the various departments and other units of the County is hereby authorized and allowed.

(B) As authorized by the County Commissioners, the Auditor shall negotiate with banks and other financial institutions and with suppliers and service providers to the County to obtain credit cards and purchasing cards (collectively “credit cards”) for the use and benefit of any and all departments and other operating units of the County that may require them to operate efficiently. The Auditor is further authorized and empowered to apply for and execute on behalf of the County credit applications and any other documentation required to obtain those cards for those departments and operating units. The Auditor is further authorized to pay all annual fees assessed for the use of these credit cards. For purposes of this ordinance, the term “annual fees” includes, but is not limited to, membership fees, service fees, and renewal fees.

(C) Unless a higher limit is authorized by the County Commissioners, the credit limit for such cards shall be \$5,000 per department.

(D) The regulation and usage of credit cards shall be the responsibility of the director, chief, superintendent, or other department head of each of the various departments and operating units of the County, and that person shall be the custodian and any departmental credit card(s).

(E) Departmental credit cards may be used only for lawful charges of expenses related to and necessary for the effective operation of that department. Such uses include but are not limited to:

- (1)** Purchasing of supplies and equipment for the use and benefit of the department;
- (2)** Travel and lodging expenses of departmental personnel while traveling on approved County business;
- (3)** Meal expenses of departmental personnel while traveling on approved County business, provided that any such expense may not exceed any authorized per diem for meals. Reasonable tips and/or gratuities are allowed as meal expenses if service is provided as part of the meal;
- (4)** Approved training and education costs for departmental personnel, and
- (5)** Any other use required for the efficient operation of the department when use of vouchers, checks, or other means of credit are not possible, provided that said use had been approved by the department head.

(G) When the purpose for which credit has been used is accomplished, the card must be returned to the authorized custodian of the card.

(H) The authorized custodian of any credit cards must maintain an accounting

system concerning their use, which shall include the names of the individuals requesting and using the cards, their positions, the estimated amount and purpose of any charges, and the date and time the card is taken returned. The custodian shall also obtain and keep all charge receipts and other documentation supporting the charges.

(I) Within seven (7) days of use of a County credit card, the employee using the credit card shall deliver to the authorized custodian of the card the following documents:

- (1)** a claim form for the charges made signed by the employee;
- (2)** original receipts and/or invoices for the charges; and
- (3)** any other documentation requested by the County which supports the claim.
- (4)** if the employee loses the original receipt and/or invoice, the employee shall provide a duplicate receipt and/or invoice or an affidavit of lost receipt.

(J) Within seven (7) days of receiving the required documentation, the authorized custodian shall deliver the documentation to the Auditor for processing.

(K) Any interest, late charges, or other fees resulting from the tardy submission of credit card receipts by any officer or employee shall be the personal responsibility of that officer or employee to pay.

(L) The credit cards may not be used for the following:

- (1)** personal use;
- (2)** purchase of alcohol;
- (3)** any illegal purpose;
- (4)** to bypass, the County's accounting system or purchasing policies.

(Ord. 2011-____, passed 11-28-11)

**APPENDIX A: MONTGOMERY COUNTY EMPLOYEES PERSONNEL POLICY
MANUAL**

(Amended Commissioners Ord. 2010-5, adopted 12-30-10;)

MONTGOMERY COUNTY EMPLOYEES' PERSONNEL POLICY MANUAL

Adopted By: Montgomery County Board of Commissioners

December 30, 2010

And

Montgomery County Council

October 24, 2006

Original effective: January 1, 2007

Amended: January 1, 2011

Amended: May 9, 2016

Amended: December 5, 2016

IMPORTANT NOTICE

The information contained in this handbook is designed to provide employees with an overview of the employment policies for Montgomery County. The contents of this handbook apply to employees of Montgomery County. Certain provisions of the handbook apply only to employees of the County who are not regular members of the County Police Department, and these provisions are delineated in the handbook. The County Police Department has Standard Operating Procedures and other General Orders and Rules which apply to its officers. For these Officers, the provisions of this handbook and all procedures, orders and rules of the Police Department apply. Where special rules apply to members of the Police Department, these provisions are noted. Employees of the Montgomery County Courts are also subject to a handbook which applies to them, and therefore certain provision of this handbook do not apply to them. All statements are intended as general in nature.

The Board Commissioners reserves the right to make changes, additions or deletions to the handbook at any time, with or without notice. Accordingly, nothing in this handbook should be construed as a promise or guarantee of employment or specific treatment in a specific situation.

This handbook is not an employment agreement or contract for employment. With the exception of uniformed officers who are subject to Merit Board rules and procedures regarding promotion and disciplinary matters, all other County employees are employees at will and may be terminated by Montgomery County at any time, with or without notice. No County official, officer, representative or employee, except for the Board of Commissioners has the authority to enter into any agreement or make any representations contrary to these employment-at-will terms.

The policies contained herein have been adopted with the intent to fully comply with all applicable laws governing employment practices and procedures. Nonetheless, if any policy contained in this handbook conflicts in any way with a federal, state, or local law, it is Montgomery County's intent to fully comply with the applicable law.

You should read, understand, and comply with all of the provisions of the handbook. It describes many of your responsibilities as an employee and outlines the programs developed by Montgomery County to benefit employees. Question about this handbook may be directed to your supervisor or to the Board of Commissioners.

USE OF THIS HANDBOOK

Montgomery County is committed to the establishment of sound personnel practices. As a result, this Employee Handbook has been developed to explain employee responsibilities, employee benefits, and policies and procedures for the County. It shall be the purpose of this Employee Handbook to promote the efficiency and economy of government, the morale and well-being of employees, and equal employment opportunity for all County employees and candidates.

The Board of Commissioners shall adopt and amend the Employee Handbook. Department Heads and supervisors are responsible for administration and maintenance of the personnel rules and regulations in their respective Departments.

All previously issued rules and procedures governing County personnel policies are hereby rescinded and superseded by this Employee Handbook. County ordinances related to County employees are not rescinded and superseded unless expressly covered, by the adoption of this Employee Handbook.

Individual departments may adopt additional policies as needed to ensure the achievement of the County's commitment to service. These policies may not conflict with the provisions of this Employee Handbook, however, and shall be developed with the guidance and approval of the Board of Commissioners for the Administrative Department, the Judges for the Judicial Branch, and the Sheriff for the Police Department. Amendments to this Employee Handbook shall only be made by the Board of Commissioners and no department or office of the County may amend or alter this Employee Handbook.

The contents of this Employee Handbook summarize current County policies and programs and are intended as guidelines only. The Board of Commissioners retains the right to change, modify, suspend, interpret, or cancel in whole or in part any of the published or unpublished policies or practices of the County, without advance notice, at its sole discretion without having to give cause or justification to any employee.

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1. THE EMPLOYMENT RELATIONSHIP

1.01 EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of Montgomery County that there shall be equal employment opportunity for all employees and applicants without regard to race, color, religion, sex, sexual preference, national origin, age, disability, genetic information or ancestry. Montgomery County provides for fair treatment of employees. All employment and advancement opportunities will be based on merit, qualifications, and abilities. In addition, Montgomery County will make reasonable accommodations for qualified individuals with known disabilities unless doing so will result in an undue hardship. Montgomery County complies with all applicable federal, state, and local labor laws.

1.02 IMMIGRATION LAW COMPLIANCE

Montgomery County is committed to employing only United States citizens and aliens who are authorized to work in the United States. Montgomery County does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form, I-9, and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with the County within the past three years, or if their previous I-9 is no longer retained or valid.

Employees with questions or seeking more information on immigration law issues are encouraged to contact the Board of Commissioners. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

1.03 HIRING PROCESS

1.03.1 New Hires: Montgomery County is committed to hiring only qualified applicants. Qualifications considered include education, training, experience, ability and skills. All hiring is conducted in accordance with the County's commitment to equal employment opportunity and in compliance with the Americans with Disabilities Act.

To be considered for employment with the County, all applicants must:

- Complete a County standard application for employment; and

- Provide proof of a valid Indiana Driver’s License.

Once a candidate receives a conditional offer of employment, the candidate must:

- Complete Employment Eligibility Verification Form, I-9 and/or show proof of the right to work;
- Complete a Nepotism Affidavit;
- Complete all tests and other screening procedures relevant to the position. These screenings may include fingerprinting, testing, background investigation, driver’s license check;
- Pass a physical examination for positions requiring certain physical abilities; and
- Complete and satisfy any other conditions of the offer.

1.03.2 Rehires – Former employees who seek reemployment with the County must apply and be processed as any other applicant. Applicants who are reemployed within 180 days of separation retain their original longevity and leave rights.

1.03.3 Police Officer Hiring – The hiring of police officers is governed by Indiana Merit Law, the Rules of Procedure of the Montgomery County Merit Commission, County Code, and the Standard Operating Procedures of the County Police Department.

1.04 EMPLOYMENT AT WILL

1.04.1 Administrative Employees --Employment with the County is entered into voluntarily, and the employee is free to resign at will at any time, with or without cause and with or without notice. Similarly, the County may terminate the employment relationship at will at any time, with or without cause and with or without notice.

1.04.2 Police Officers – The employment relationship of police officers and the County is governed by the Indiana Merit Law, the Rules of Procedure of the Montgomery County Merit Commission, County Code, and the Standard Operating Procedures of the Montgomery County Police Department.

1.05 EMPLOYEE CLASSIFICATIONS

1.05.1 Fair Labor Standard Act Classification: Each employee shall be categorized as exempt or non-exempt for purposes of overtime and compensatory time rules and such status shall be indicated on the employee’s job description.

1.05.1.1 NON-EXEMPT – Non-exempt employees are eligible for overtime pay and/or compensatory time under the specific provisions of federal and state laws.

1.05.1.2 EXEMPT – Exempt employees are not eligible for overtime or compensatory time according to specific provisions of federal and state wage and hour laws. Exempt employees are typically paid on a salary basis and include executive, administrative and professional employees, and certain highly skilled computer employees.

1.05.2 Other Classifications: In addition to the above categories, each employee will belong to one other employment category:

1.05.2.1 FULL TIME – Full time employees are those who regularly work thirty-seven and one-half (37.5) hours per week and who are employed on a year-round basis. Full time employees are eligible for County benefits subject to the terms, conditions and limitations of each benefit program.

1.05.2.2 PART TIME – Part time employees are those who are regularly scheduled to work less than thirty-seven and one-half (37.5) hours per week. While they do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they are not eligible for most County benefits, unless specifically provided for in the County's salary ordinance.

1.05.2.3 TEMPORARY/SEASONAL – Temporary/seasonal employees are those who are hired for a predetermined or limited period of time or for a project. Interns and summer employees are part of this group. While they do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), temporary/seasonal employees are not eligible for most County benefits. Temporary/seasonal employees are not guaranteed re-employment at the end of the season or their temporary period of employment and must re-apply for employment.

1.05.2.4 ADMINISTRATIVE – All employees of the County who are not County police officers. This classification includes all employees, except County Police Officers, who report to elected and appointed officials and civilian employees of the County Police Department.

1.06 NEPOTISM

1.06.1 Definitions: The following definitions apply to the County's Nepotism Policy:

1.06.1.1 Direct Line of Supervision: The phrase "direct line of supervision" means an elected officer or employee who is in a position to affect

the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The phrase does not include the responsibilities of the County Council to make decisions regarding salary ordinances, budgets or personnel policies of the County;

1.06.1.2 Employed: The term "employed" means an individual who is employed by the County on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the County;

1.06.1.3 Relative: The term "relative" means any of the following:

- (a) a spouse;
- (b) a parent or stepparent;
- (c) a child, an adopted child or stepchild;
- (d) a brother, sister, stepbrother, stepsister, or a brother or sister by the half blood;
- (e) a niece or nephew;
- (f) an aunt or uncle; and,
- (g) a daughter-in-law or son-in-law.

1.06.2 Nepotism Prohibited: The County may not employ individuals who are relatives, as defined in § 1.06.1, in a position that results in one relative being in the direct line of supervision of the other relative.

1.06.3 Application of Policy to Relatives of Elected Officials: Unless a specific exemption applies, this policy applies to an individual who is employed by the County on the date the individual's relative begins serving a term of an elected officer of the County. When the elected official begins serving a term of elected office, the relative employed by the County may remain employed by the County and maintain his or her position or rank. However, the relative of the elected official may not be promoted to a position that results in one relative being in the direct line of supervision of the other relative. For an individual who is a member of a merit police department, the individual

may not be promoted to a position that is not within the merit ranks if the promotion would result in the individual being in the direct line of supervision of the other relative. This policy does not abrogate or affect an employment contract with the County that an individual is a party to and is in effect on the date the individual's relative begins serving a term of an elected office of the County.

1.06.4 Exceptions: The following exceptions apply to the County's Nepotism Policy:

1.06.4.1 Employees on July 1, 2012: an individual who is employed by the County on or before July 1, 2012 is not subject to the nepotism prohibition unless after July 1, 2012 the individual has a break in employment with the County. The following are not considered to be a break in employment with the County:

- (a) the individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave or worker's compensation;
- (b) the individual's employment with the County is terminated followed by the immediate reemployment with the County, without loss of payroll time;

1.06.4.2 Precinct Election Officers: the performance of duties of a precinct election officer, as defined by Indiana Code § 3-5-2-40.1, that are imposed by Title 3 is not considered employment by the County;

1.06.4.3 Volunteer Firefighters: the performance of duties of a volunteer firefighter is not considered employment by the County;

1.06.5 Annual Reports: Each year, the following officials must file the following annual reports:

1.06.5.1 Annual Filing: The President of the Board of Commissioners will file with the annual report filed by the County with the State Board of Accounts under Indiana Code § 5-11-13-1 a statement that the County has implemented a Nepotism Policy under Indiana Code § 36-1-20.2 and § 36-1-21.

1.06.5.2 Annual Certification: Each elected official of the County will annually certify in writing, subject to the penalties of

perjury, that the officer has not violated Indiana Code § 36-1-20.2. This certification will be submitted to the President of the Board of Commissioners not later than December 31 of each year;

1.06.6 Violation Reporting: Each member of the Board of Commissioners and County Council shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated Indiana Code § 36-1-21. This certification shall be submitted to the President of the Board of Commissioners not later than December 31 of each year.

1.06.7 Contracting With the County: The County may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with an individual who is a relative of a Board of Commissioners or a business entity that is wholly or partially owned by a Relative of a Board member only if the requirements of the County's Policy are satisfied and the Commissioner does not violate the Indiana Conflicts of Interest rules as contained in Indiana Code § 35-44-1-3.

1.06.7.1 Disclosure: The County may enter into a contract or renew a contract with an individual or business described in 1.06.7 if:

- (a) The Commissioner files with the Auditor at a public meeting of the Board of Commissioners prior to final action on the contract or purchase a full disclosure which must:
 - (i) be in writing;
 - (ii) describe the contract or purchase to be made by the -County;
 - (iii) describe the relationship that the Commissioner has to the individual or business entity that contracts or purchases;
 - (iv) be affirmed under the penalty for perjury;
 - (v) be filed, not later that fifteen (15) days after final action on the contract or purchase, with the State Board of Accounts and the Clerk of the Circuit Court of the County;

- (b) The appropriate County agency makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered or makes a certified statement of the reasons why the vendor or contractor was selected;
- (c) The Board of Commissioners accepts in a public meeting the disclosure prior to final action on the contract or purchase;
- (d) The County satisfies any other requirements under the public purchasing and bidding laws contained in Indiana Code § 5-22 or § 36-1-12;
- (e) The Commissioner must also comply with the disclosure laws of Indiana Code § 35-44-1-3, if applicable.

1.06.7.2 Existing Contracts: These rules do not affect the initial term of a contract in existence at the term of office of the Commissioner begins.

1.07 JOB DUTIES

Employees will receive an explanation of their job responsibilities and performance standards. Job responsibilities may change at any time during the course of employment and employees may be asked to work on special projects or to assist with other work necessary or important to the operation of the County. The County reserves the right, at any time, with or without notice, to alter or change job responsibilities, reassign or transfer job positions, or assign additional job responsibilities.

1.08 PERFORMANCE MANAGEMENT

Employees, other than regular members of the Montgomery County Police Department, shall have a quarterly meeting with their supervisors to discuss the status of projects, address areas of concern and set goals for the next quarter. Employees shall also have an annual performance evaluation. Employees will be evaluated on factors including job competence, work quality, attendance, initiative and attitude. Evaluations should assist employees in identifying areas of needed improvement and establishing objectives for future performance. Positive performance evaluations do not guarantee promotion or

increases in compensation. After the annual performance evaluation, both the employee and the supervisor will be required to sign and date an evaluation report. Performance Management for regular members of the Montgomery County Police Department will be governed by the rules of the Police Department and applicable Indiana law. Police Officers receive two (2) evaluations each year, as provided for by Indiana Sheriff Merit Law.

2. COMPENSATION

2.01 HOURS OF WORK

2.01.1 General: Hours of work for County employees will be determined in accordance with the reasonable needs of County services and the reasonable needs of the public. The Board of Commissioners and Department Heads shall normally establish the hours of work for each employee under the Board or Department Head's supervision. Supervisors will normally establish the hours of work for each employee under his/her supervision.

2.01.2 Administrative Employees: Regular hours for non-police full-time employees is thirty-seven and one-half (37.5) hours per work week. The work week shall be from 12:00 a.m. on Monday through 11:59 p.m. on Sunday. County Offices will be

open from 8:00 a.m. to 4:30 p.m. Monday through Friday. Supervisors shall ensure that there is adequate office coverage during these hours.

2.01.3 Police Officers: Regular hours for Police Officers will vary number of hours each week, but should not exceed 80 hours in a fourteen (14) day period. The Police Department is open at all times, but the office will be open from 8:00 a.m. to 4:30 p.m. Monday through Friday. The Sheriff will ensure that there is adequate coverage in the Police Department.

2.01.4 Breaks: Employees shall be entitled to a one (1) hour lunch break and two 15 minute breaks for each 7.5 hours of employment. Administrative employees are compensated for breaks but not entitled to compensation for lunch breaks. Non-exempt police officers are entitled to compensation for these breaks and lunch breaks since, because of the relatively small number of officers on duty at any time, they regularly answer calls for service during these periods. Breaks may not be used at the beginning or end of a shift or work day.

2.02 TIMEKEEPING REQUIREMENTS AND PAYDAYS

Accurate recording of time worked is the responsibility of every employee. All employees must accurately record time worked on a time sheet at the beginning and end of each work period. Employees also must record their time whenever they are not working for the County during their regular work period. Filling out another employee's timesheet, allowing another employee to fill out your timesheet, altering any timesheet, failing to comply with timekeeping rules or reporting will be grounds for discipline up to and including termination of employment. Any errors on a timesheet should be reported immediately to your supervisor, who will attempt to promptly correct the legitimate errors. Supervisors will review the timesheets of their employees and make corrections as required by law or County policy. The County pays its employees every other Friday. Each paycheck represents wages earned by the employee during the two-week period ending on the previous Sunday. Immediate supervisors should be notified of any errors in pay. The supervisor will in turn take steps to review the situation. A lost check should be reported immediately so that payment may be stopped at the bank and another check can be issued.

2.03 OVERTIME

2.03.1 Administrative Employees: The Department Head or Supervisor shall establish the hours of work for each employee under his/her supervision which shall be determined in accordance with the needs of the County services, and which shall take

into account the reasonable needs of the public, who may be required to do business with various County departments. Supervisors shall establish the hours of work for each employee under his/her supervision. The work week consists of 37.5 hours from Monday through Sunday. Authorized work greater than 37.5 hours but less than 40 hours each week is known as “gap time.” Non-exempt employees who work gap time will be paid at their normal hourly rate for the hours worked or awarded compensatory time equal to the number of hours worked. Authorized overtime for non-exempt employees is time worked over forty (40) hours in the work week and may be taken either in pay or compensatory time, subject to the election of employees as provided for in Subsection (C)(3) of this Section, as determined by the supervisors. The overtime compensation is determined by multiplying the hours exceeding forty (40) hours in the work week by 1.5. Overtime requests shall use the County overtime form. Exempt employees are not eligible for gap time compensation, overtime compensation or compensatory time.

2.03.2 Police Officers: The Sheriff shall establish the hours of work for each police officer. Authorized overtime for all non-exempt police officers is time worked in excess of 80 hours in a 14 day period and may be taken either in pay or compensatory time, subject to the election of officers provided for in Subsection (C)(3) of this Section. The overtime rate is determined by multiplying the hours exceeding 80 hours in a 14 day period by 1.5.

2.03.3 Election By Employees To Decline Compensatory Time.

2.03.3.1 Administrative Employees: On or before January 1st of each year, the Board of Commissioners shall provide to all non-exempt administrative employees a Notice of Overtime Compensation (hereinafter the “Notice”). The Notice shall advise eligible employees that compensatory time will be provided for all authorized overtime in lieu of paid overtime. The Notice shall further advise eligible employees that their consent to receive compensatory time in lieu of paid overtime will be assumed, as a condition of employment, unless written notice of objection is received by the Board of Commissioners.

2.03.3.2 Police Officers: On or before January 1st of each year, the Sheriff shall provide to all non-exempt police officers a Notice of Overtime Compensation (hereinafter the “Notice”). The Notice shall advise eligible police officers that compensatory time will be provided for all authorized overtime in lieu of paid overtime. The Notice shall further advise eligible police officers who consent to receive compensatory time in lieu of paid overtime will be assumed, as

a condition of employment, unless written notice of objection is received by the Sheriff.

2.03.4 Hours Counting Toward Overtime and Compensatory Time: For purposes of a determination of the number of hours worked when calculating eligibility for overtime or compensatory time, the following hours count as “hours worked:”

1. hours worked;
2. vacation leave;
3. sick leave;
4. bereavement leave;
5. jury duty leave;
6. holiday leave; and,
7. paid-time-off (beginning January 1, 2017).

The following hours do not count as “hours worked:”

1. compensatory time used;
2. Family Medical Act Leave; and,
3. military leave.

h For non-exempt police officers, the following additional rules apply:

2.03.4.1 Substitution Time: When an officer substitutes time with another officer by mutual agreement, the time worked by the substitute counts;

2.03.4.2 On-Call Duty: Time spent on-call does not count. If the on-call officer is called to duty and works, the time actually worked counts;

2.03.4.3 Training: Time spent at the police academy in training or other training, and travel to and from such training, counts. Time spent by officers at the academy or other training which is outside of training or class, including but not limited to time sleeping or free time, does not count;

2.03.4.4 Travel to and from Work: Time spent traveling to and from an officer’s home to the police station or duty area does not count unless the officer has marked on duty and is discharging his or her official duties. Officers may not mark on duty outside of the County limits unless they are engaged in law enforcement activities. If the officer is required to travel to places other than the police station or duty area for work, the travel time counts to the extent that it exceeds the officer’s normal travel time from home to the police station or duty area.

2.03.5 Compensatory Time Limitation and Carry Forward: Accrued compensatory time may be accumulated up to 40 hours for administrative employees and

80 hours for police officers and employees of the Central Communications Center. Accrued compensatory time should be used by the end of each calendar year. If work demands prevent the use of accrued compensatory time by the end of the calendar year, employees may carry unused compensatory time to the next calendar year, but supervisors should schedule work in the following year in a manner to use the compensatory time carried over within the first six months of the next calendar year. All accrued compensatory time at the time of retirement, resignation, promotion to an exempt position or termination will be paid in the next payroll cycle.

2.04 FLEXIBLE SCHEDULING

The County recognizes that the duties of some employees may necessitate work schedules different than the County's normal working hours. In those special cases, the Department Head, Supervisor or Sheriff may authorize flexible scheduling to the extent these changes are in the best interests of the County. As a result, the following procedures will be followed in the implementation of flexible time:

2.04.1. Approval of Flexible Scheduling: Each employee's flexible time work schedule must be approved in writing by the Department Head, Supervisor or Sheriff, or their designees. In situations where job responsibilities or emergency situations require an employee to work on a weekend or holiday, the Department Head, Supervisor or Sheriff, or their designees, may grant the employee corresponding time off at a time mutually agreeable to the employee and the Department Head, Supervisor or Sheriff.

2.04.2. Coverage: Adequate personnel, including supervisory personnel, must be available to carry out work activities without creating any loss in services to the public.

2.04.3. Abuse of Privilege: If it is determined that the flexible time option is hindering operations or is being abused, the Department Head, Supervisor or Sheriff may discontinue flexible time on an individual or work group basis at any time.

2.04.4. Permanent Changes: Permanent changes in the employee's work schedule require the prior approval of the Department Head, Supervisor or Sheriff.

2.05 DIRECT DEPOSIT

Employees will have their paychecks deposited into their personal bank account by making arrangements with the Auditor.

2.06 EMERGENCY DUTY PAY

The County Council may establish emergency duty pay in the Salary Ordinance.

2.07 LONGEVITY PAY

All full-time employees of all departments of the County may be paid a longevity bonus as established by the County Council.

2.08 PAYROLL DEDUCTIONS

Deductions will be made from each employee's pay for required withholding taxes and for certain other items for which the County has been specifically authorized to withhold.

The deductions are made as required by Federal, State and Local governments or for the convenience of both the employee and the employer in the administration of certain employee benefit plans made available by the employer.

It is the policy of the County that employees will not have improper deductions from their compensation. If an employee believes that an improper deduction has been made from his or her compensation, the employee must report the improper deduction to his or her supervisor and the Auditor within seven (7) days of becoming aware of the improper deduction. If the deduction the County makes is improper, the County will promptly reimburse the employee for the improper deduction.

2.09 COMPENSATION WHEN OFFICES CLOSED

If the Commissioners close County Offices because of inclement weather or other emergencies, employees will be compensated for the days of closing as if they worked. If County Offices are open but an employee cannot report to work because of road conditions, the employee will not be compensated.

3. EMPLOYEE BENEFITS

3.01 INTRODUCTION

The County has established a variety of employee benefit programs. The descriptions of benefits in this Employee Handbook are intended as summaries for informational purposes only. This Employee Handbook does not change or otherwise interpret the terms of the official plan documents. In the event any information contained in this Employee Handbook is inconsistent with official plan documents, the provisions of the official document will govern in all cases. If federal or state law, rules, orders or regulations require a change to the benefits provided by the Town to employees, changes will be made to the benefits provided, and the provisions of this handbook will be deemed to have changed in order to comply with such law, rule, order or regulation.

For more complete information regarding any of the benefit programs available, contact the Auditor's office for a copy of the applicable plan document.

3.02 INSURANCE

The County provides a comprehensive group insurance program that includes medical, dental, and other benefits. Employees seeking more information regarding these benefits may contact the Auditor.

In the event that two or more members of the same immediate family are employed by the County, all are eligible for coverage. If spouses are employed by the County, the insured will be based on the spouse whose birthday comes first in the calendar year.

3.03 RETIREMENT PLAN

3.03.1 Public Employees Retirement Fund (PERF): The County has elected to participate in PERF. The County will make the statutorily required contribution for its employees other than Police Officers who are covered by their own retirement plan.

3.03.2 Police Retirement Fund: Qualifying police officers may under Indiana law participate in the Police Retirement Fund. The County will make contributions required by law to the accounts of officers participating in the Police Retirement Fund.

3.04 SUPPLEMENTAL INSURANCE

Supplemental insurance policies such as disability, life and cancer insurance, and many others, may be offered to employees from agents who hold an open enrollment period each year for all County employees. These policies are personal and voluntary. The County will not pay any premium or other expense related to these supplemental insurance policies and payments shall be the sole responsibility of the individual employee choosing to purchase such a policy. Payment may be made through payroll deductions.

3.05 WORKERS COMPENSATION

In the event of a work-related injury or illness, the County has Worker's Compensation Insurance, which will pay the injured or sick employee at the rate of sixty-six and two-thirds percent (66 2/3%) of his average weekly wage in accordance with the Indiana Worker's Compensation Act. However, at no time shall the employee collect in excess of 100% of his or her weekly wage. Employees may use Paid-Time-Off (PTO) in order to supplement their income while receiving worker's compensation benefits. When PTO benefits are used to supplement worker's compensation benefits or disability benefits, they will be charged as outlined above.

All work-related injuries and illnesses must be reported to the injured employee's supervisor and the Board of Commissioners as soon as possible even though medical attention may not be needed at the time. If the severity of injury or illness prevents immediate notification of the employee's supervisor and/or Board of Commissioners, notification shall occur no later than 24 hours of the injury or illness. Employees will be required to complete a written statement of the injury or illness and to cooperate fully in the investigation of the matter. Employees who fail to promptly notify their supervisor and the Board of Commissioners or who fail to fully cooperate in the investigation may lose their rights to benefits under Indiana's Workers' Compensation laws and be subject to disciplinary action. Employees are expected to report promptly to management any apparent health or safety hazards.

Workers compensation benefits are not available for injuries, illnesses or death which arise from an employee's intentional self-inflicted acts, intoxication, horseplay, commission of a crime, willful failure or refusal to perform a statutory duty, and/or refusal to follow a plan of medical care as prescribed by law.

Under Indiana law, the County has the right to direct medical care and choose an employee's doctor for treatment of a work-related injury. If an employee refuses to comply with the doctor's treatment plan and requirements, or if he/she refuses to be treated by the doctor selected by the County, that employee may lose the rights to benefits under Indiana's Worker's Compensation laws.

In order to protect all employees, an employee must present to his/her supervisor a physician's statement releasing that employee to return to work following any injury or illness for which three or more consecutive scheduled working days have been missed. This release must state whether the employee is able to work either (a) without limitation; or (b) with limitations, listing each limitation specifically.

3.06 OTHER BENEFITS

At the discretion of the Board of Commissioners and County Council, employees may be eligible for additional benefits.

4. POLICIES

4.01 CODE OF CONDUCT.

Employees of the County are employed to provide service to the citizens of the County and the public in general and are expected to conduct themselves in a manner that will reflect positively on the County government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or failing to be impartial in conducting public business.

Employees shall not use or permit the use of any funds or property belonging to the County for private benefit including, but not limited to, office supplies, tools, machinery, office equipment, etc.

Employees may deal with plans, programs and information of significant public interest. Employees must not use this privileged information for their own financial advantage. If an employee finds that he/she has an outside financial interest which could be affected by County's plans or activities, he/she must immediately report the situation to his or her supervisor. Use of privileged information for private gain is just cause for disciplinary action up to and including termination of employment.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of unacceptable conduct that may result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate use, removal or possession of property.
- Falsification or unauthorized tampering of County records or any records kept by the County.
- Working under the influence of alcohol or illegal drugs.

- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating County vehicles or equipment and/or any violation of the County's Drug and Alcohol Abuse Policy and Rules.
- Fighting or threatening employees or others while on the job.
- Boisterous or disruptive activity in the workplace.
- Insubordination or other disrespectful conduct.
- Careless or inappropriate operation of County vehicles or other equipment which risks or results in injury or damage to the property of the County or others.
- Violation of federal, state or local safety or health rules.
- Smoking in prohibited areas.
- Sexual or other unlawful or unwelcome harassment.
- Possession of dangerous or unauthorized materials, such as explosives, in the workplace.
- Violation of County ordinances or of federal or state laws.
- Making false or base statements, written or verbal, about other employees or County officials.
- Gambling during work hours or on County property.
- Receipt of any gifts or compensation, other than that received from the County, for services rendered on behalf of the County or during scheduled working hours.
- Engaging in any election activities or political campaign-related functions while on duty or while wearing a uniform of the County.
- Excessive absenteeism or tardiness or absence without notice.
- Unauthorized use of County equipment.
- Violation of departmental policies
- Unsatisfactory performance or conduct.
- Representing oneself as a County employee in order to aid in committing or attempting to commit a felony or misdemeanor.
- Unauthorized disclosure of any confidential County information.
- Immoral or indecent conduct or use of abusive language while on the job.
- Violation of the County's security rules, orders, regulations and directives.

Police officers are subject to additional rules of conduct which are contained in the Police Department's Standard Operating Procedures, rules and general orders.

4.02 PRINCIPLES OF EMPLOYMENT.

The job performance and personal conduct of each employee directly impacts the public's trust and the County's ability to achieve its mission of service to the community.

Therefore, the following guidelines and principles have been adopted on a county-wide basis.

- Personnel actions, including recruitment, selection and advancement of employees shall be made on the basis of an individual's relative knowledge, skills and abilities.
- Employees are expected to render their best service to the County by reporting for work on time with the necessary equipment and by being properly attired to conduct their business.
- Employees are expected to notify their supervisors of conditions that would affect the performance of their duties. Employees who are unable to report to work as scheduled should contact their supervisor prior to the start of their work period. If employees must leave the work area during working hours, prior authorization should be obtained from their supervisor. Employees must receive permission from their supervisor before working overtime.
- While on the job, at the work site or while on County property or in a County vehicle, employees may not drink alcohol, possess an open alcohol container, be under the influence of alcohol, smoke a tobacco product, or use, possess or test positive for a non-prescribed controlled substance. Using any other substance that inhibits the satisfactory performance of essential job functions should be brought to the supervisor's attention immediately.
- Employees are expected to be productive in the performance of their duties. They must demonstrate the ability and willingness to perform those duties in a satisfactory manner that conforms to the established standards, County policies and reasonable supervisory orders.
- Employees are expected to safeguard County equipment, facilities, records, supplies and funds against misuse, abuse, loss, damage, destruction or unauthorized use. Incurring a liability or expense in the name of the County without proper authorization is unacceptable.
- Employees of the County shall not use influence or position for the private advantage or personal gain of employee. Furthermore, employees shall not use physical County property or information for personal gain.
- Employees are protected against coercion for partisan political purposes and are free to exercise their rights as citizens. Employee shall refrain from participation in the management, affairs, or political campaign of any candidate for political office during work hours.

- Supervisors are expected to provide a positive work environment for employees. Supervisors should guide and direct employees in a manner that complies with established work standards and County policies. They are expected to take prompt corrective action when they observe improper performance or conduct.
- Public service and community expectations require compliance with federal, state, and local laws and regulations during both working and non-working hours. Non-compliance can damage the reputation of the County and have other serious consequences and will not be accepted.
- Employees must protect the security of confidential County information while conforming to public record laws. When questions arise, employees should ask their supervisor for assistance. Only the appointed spokesperson for the County should release information to the media.
- Employees shall not submit letters of endorsement for vendors doing business with the County.
- Employees are responsible for thoroughly acquainting themselves with the provisions of the Employee Handbook. Employees are expected to conduct themselves at all times in a way so as to effectively and efficiently carry out their responsibilities to the County and to the public.

Police officers are subject to additional rules regarding their employment that are contained the Police Department's Standard Operating Procedures, rules and general orders.

4.03 CONFIDENTIAL NATURE OF WORK.

It is the responsibility of all County employees to safeguard confidential County information. Continued employment with the County is contingent upon compliance with this policy. Confidential information is defined as, but not limited to, trade secrets or confidential information relating to processes, customers, designs, drawings, marketing data, accounting, employee records, salary information, business plans and strategies, negotiations and contracts. No County employee may disclose confidential information or remove such information from the municipal building without written permission of the Board of Commissioners.

Unless otherwise identified by management, all employees shall assume that such information is confidential. Employees who are unsure about the confidential nature of any particular record or information should ask the Board of Commissioners for clarification. Employees will be subject to appropriate disciplinary action, up to and including termination, for knowingly or unknowingly divulging or releasing information or records of a confidential nature.

Police officers are subject to the rules of confidentiality contained in the Police Department's Standard Operating Procedures, rules and general orders.

4.04 CONFLICTS OF INTEREST AND GRATUITIES

The County's successful operation and reputation is built upon the principles of fair dealing and ethical conduct of employees. The County's reputation for integrity and excellence requires careful observation of the spirit and letter of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity. Thus, employees owe a duty to the County and to the general public to act in a way that will merit trust and confidence. The following examples are considered to involve a conflict of interest that violates this policy:

1. Serving as an employee, officer, director, consultant or hold an elected office for any supplier of materials or services.
2. Soliciting or accepting anything of value, including a gift, loan, reward, promise of future employment, favor or service that is based upon any understanding that the action or judgment by the employee would be included.
3. Disclosing or using information not available to the general public, and gained by reason of an employee's official position or benefit, for the personal gain of any other person or business entity.
4. Using or attempting to use an employee's official position or any property or resource which may be within his or her trust, or perform his or her official duties to secure a special privilege, benefit, or exemption for himself or herself or others.
5. Accepting any compensation, payment, or thing of value when the Employee knows or should have known that it was given to influence the action in which the employee was expected to participate in her or her official capacity. This includes items given to family members as well.
6. Accepting gifts, entertainment, or anything of value from any customer, or supplier of materials or services other than minor holiday gifts of a nominal nature. (Acceptance of nominal gifts in keeping with special occasions such as marriages, retirement, illness, unsolicited advertising or promotional materials or social courtesies which promote good public relations is permitted.)

7. Engaging in any business other than his or her regular County Duties during working hours.
8. Supervisors must avoid placing themselves in a position which could Interfere with, or create the impression of interfering with, the objective evaluation and direction of their subordinates. No supervisor shall accept gifts from subordinates, other than those of nominal value for special occasions, and no supervisor shall borrow money or accept favors from subordinates.

It is important to avoid not only any situation that is an obvious conflict or interest such as those above, but also any situation that might give the appearance of being a conflict of interest. If a situation arises in which it is difficult to determine the proper course of action, the matter should be discussed openly with your immediate supervisor, and if necessary, with the Board of Commissioners, Department Head, Supervisor or Sheriff for advice and consultation.

Compliance with the expected level of ethics and conduct is the responsibility of every employee. Disregarding or failing to comply with this standard could lead to disciplinary action, up to and including possible termination of employment.

Police officers are subject to additional rules regarding their employment that are contained the Police Department's Standard Operating Procedures, rules and general orders.

4.05 ATTENDANCE

To maintain a safe and productive work environment, Administrative employees are expected to be reliable and punctual in reporting to work. Absenteeism and tardiness place a burden on other employees and the County. An employee must fill in his or her own attendance records/time sheets when work starts and ends. Anyone attempting to sign any sheet or card other than his or her own may be subject to disciplinary action, up to and including termination. An employee who is absent without proper notification may be subject to disciplinary action. An employee is expected to be in his or her work area and be ready to work at the designated time. Chronic lateness will not be tolerated and may result in disciplinary action, up to and including termination. In any unavoidable delay in reporting to work the employee shall call his or her supervisor or designee prior to the start of work. Punctuality is a critical part of performance and an employee who is late may be subject to disciplinary action up to and including termination. Supervisors are responsible for the attendance of all persons in their departments in accordance with the provisions of these Rules and Regulations. Attendance reports and time cards shall be submitted to the Department Head for Administrative Employees and to the Sheriff for

employees of the Police Department for each party period. The Department Heads and Sheriff shall maintain complete attendance records for all employees and provide a copy to the Auditor for payroll purposes.

Police Officers are subject to attendance rules contained in the Police Department's Standard Operating Procedures, rules and general orders.

4.06 APPEARANCE, DRESS CODE/UNIFORM, DEMEANOR AND PERSON PROPERTY

4.06.1 Administrative Employees:

4.06.1.1 General Guidelines: Appearance is a reflection of professionalism. The public responds positively to a professional presence. Acceptable personal appearance is an ongoing requirement of employment. Discretion in style of dress and behavior is essential to the efficient operation of County government. Employees should conduct themselves at all times in a way that best represents them and the County. Professional dress is expected at all times. Employees that report to work improperly dressed may be instructed to return home to change. Time spent traveling to and from home to change clothing will be unpaid.

4.06.1.2 Uniforms: Employees in certain departments of the County are furnished with uniforms which must be worn at all times during the employee's normal work day. It is the responsibility of the employee to make sure that the uniform is kept clean and neat. An employee may not wear a uniform off-duty except when directly traveling to and from work. When in uniform, employees shall not enter bars, lounges, taverns, casinos or other places where alcoholic beverages are served. Employees shall wear identification badges when working outside the office. Employees shall wear safety vests, per OSHA, when working in the right of way.

4.06.1.3 Hair: Hair must be neat and combed in a natural style that is appropriate in the work environment. Unconventional or extreme colors of hair and/or styles are not acceptable. Beards and mustaches must be neat and trimmed.

4.06.1.4 Accommodations: When brought to the attention of the Department Head or Sheriff, reasonable accommodations will be made for those employees whose religious beliefs or medical conditions require deviations from this policy.

4.06.1.5 Safety Rule Reservation: The County reserves the right to adopt safety rules regarding jewelry and hair.

4.06.1.6 Personal Hygiene: Employees must follow all reasonable personal grooming standards, including regular bathing and use of deodorant. Employees failing to adhere to these standards may be subject to disciplinary action, up to and including termination.

4.06.1.7 Personal Property: Employees are responsible for his/her personal property. The County is not responsible for personal property.

4.06.2 Police Rules: Police officers are subject to the rules regarding appearance and uniforms that are contained in the Department's Standard Operating Procedures, rules and general orders.

4.07 EMPLOYEE RECORDS

The Department Heads and the Sheriff maintain the official record file for each employee under their respective supervision. This file contains information needed to conduct County business, comply with legal requirements and adhere to governmental regulations.

The following provisions apply with respect to the County's standards for establishing, maintaining and handling employee personnel files:

- A. All official records concerning an employee will be kept up to date insofar as possible, and all employees shall promptly report all pertinent personal information and data changes to the Department Head or Sheriff, and to the Auditor's office. All information in the employee personnel files is considered confidential, with any disclosure to third parties made as required by law. This information will only be available to the Department Heads, Sheriff and Auditor, the employee, and the employee's direct supervisor.
- B. The above named individuals will be permitted to review the personnel files as permitted by applicable laws in the presence of their supervisor, Department Head or Sheriff. Employees may submit their request in writing to the Department Head, Sheriff or Auditor.
- C. Information regarding the medical condition or history of an employee will be maintained in accordance with applicable federal and state laws and will be maintained in a separate file under the supervision of the Auditor.

- D. The personnel file of a terminated employee will be maintained in accordance with applicable state and federal laws.

4.08 CHANGES TO PERSONAL INFORMATION

The County maintains records of each employee's home address, contact telephone numbers and emergency contact information. This information needs to be accurate for insurance, pay, and tax purposes, for emergencies and to ensure that the employee received important notices sent to his or her home address. Therefore, it is very important that an employee notify his or her supervisor of any change in this information so that the County's records can be kept up to date. Supervisors should forward such information to the offices of the Department Head, Sheriff and Auditor.

4.09 HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA) POLICY

The County will comply with all applicable portions of the Health Insurance Portability & Accountability Act (HIPAA). In order to do so, the County will take all steps necessary to reasonably safeguard protected health information from any intentional or unintentional use or disclosure that is in violation of the standards of HIPAA. The County has implemented a plan to reasonably safeguard protected health information. Employees who have complaints regarding the County's policies or procedures or conduct regarding its duties under HIPAA should submit a written complaint to his or her department head and to the Board of Commissioners. Upon receipt of the complaint, the department head will notify the County Attorney. The County will properly document its receipt of the complaint and then respond to any such complaint within ten (10) days. The County's response will be in writing and will be delivered to the employee filing the complaint. Employees violating the County's policies, procedures and/or HIPAA will be subject to discipline for such violation. To the extent that the County discovers a harmful effect of its policies and/or procedure, the County will take all necessary action to mitigate such effects. The County will not retaliate or intimidate any employee who exercises his or her rights under the County's policies, procedures of HIPAA. The County will not require an employee to waive his or her rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan or eligibility for benefits. In order to ensure that no waiver of rights is required under the County's health insurance plan, the County will review all enrollment materials.

4.10 DRIVING RELATED EXPENSE – MILEAGE & CDL – REIMBURSEMENT, COUNTY VEHICLES

4.10.1 Administrative Employees: The County pays the expenses of employees required to obtain a Commercial Driver’s License. In the event an employee of the County is required to use his or her personal vehicle for County business, the employee shall be reimbursed for mileage at a rate equal of the State of Indiana approved rate upon completion of proper documentation. Employees shall receive authorization from his/her supervisor prior to using their personal vehicle for County business. Employees shall use County vehicles for County business whenever possible.

4.10.2 Police Department. The Sheriff allows police officers to take their police vehicles home. Officers are subject to the take-home car policy contained in the Police Department’s Standard Operating procedures, rules and general orders.

4.11 USE OF COUNTY PROPERTY

It is expected that all employees use common sense and sound judgment when utilizing County-owned equipment. Equipment includes, but is not limited to, office and cellular telephones, computers, laptops, pagers, facsimile, vehicles, trimmers, mowers, power tools, chain saws, digging equipment, etc.

Duplication of any software or any other use that would violate software licenses is prohibited. Employees are prohibited from using or allowing the use of County property of any kind for other than official duties. All employees guilty of violating this policy may be subject to disciplinary action up to and including discharge.

4.12 INTERNET USAGE AND ELECTRONIC MESSAGING

The County encourages the use of electronic mail, internet and messaging programs as a tool to help accomplish the County’s legitimate business objectives by enhancing the quality and efficiency of communication. Employees are expressly prohibited from sending any messages or materials containing obscene, profane, lewd, derogatory, or otherwise potentially offensive language or images. The use of material containing racial, sexual or similar comments or jokes is forbidden. Users should respect the rights and sensitivities of recipients or potential recipients or viewers and should ensure that all

messages reflect the professional image that the County wishes to portray. Employees, however, may not text while driving County vehicles.

Accordingly, employees are strictly prohibited from using the County's email system or Internet access for any of the following purposes:

- Personal gain, including the solicitation of or engagement in any non-County business.
- Viewing, transmitting, retrieving or storing material that may in any way be considered obscene or offensive.
- Transmitting any messages containing derogatory, harassing, or inflammatory remarks about an individual or group's race, color, religion, national origin, age, disability or other characteristic or attribute not related to their job performance.
- Transmitting any abusive, profane, or offensive language.
- Transmitting any information which the employee knows or has reason to believe may be false, misleading or libelous.
- Sending or posting chain letters, jokes, solicitations or advertisements, not directly related to some business purpose or activity or for any other purposes which are legal, may damage the County's reputation or is otherwise contrary to the County's best interest.
- Using the County's email system or Internet access for any political or religious causes or activities.
- Posting to non-County sponsored blogs or other Internet websites.

Employees may respond to personal email during their lunch break or other breaks during the day.

Personal cell phone calls should be limited. Employees should not allow private phone calls to interfere with the performance of work.

Users should be aware that messaging systems and networks cannot be considered private and may be monitored by the County. Such messages also may be subject to public records requests and disclosure to third parties, such as courts or law enforcement agencies. Employees should always ensure that the business information contained in Internet electronic mail messages and other transmissions are accurate, appropriate, ethical, and lawful.

All equipment, services and technologies provided to employees as part of the County's computer system constitute the exclusive property of the County. Similarly, all information composed, transmitted, received or stored via the County's computer system is also considered the property of the County. The County reserves the right to monitor

Internet traffic and retrieve and read any data composed, sent, or received through our online connections and stored in our computer systems.

Copyrighted materials belonging to entities other than the County, including software, publications, articles, graphics or other proprietary information may not be transmitted on the County's email system or via the County's Internet access.

Violators of this policy will be subject to appropriate disciplinary action up to and including termination of employment. Any known or suspected violations of the policy should be reported immediately to management.

4.13 CRIMINALLY CHARGED EMPLOYEES

An employee who is charged with a criminal offense or who is under criminal investigation is required to immediately report the matter to his or her supervisor and Department Head. The existence of the criminal charge or investigation involving an employee will not in and of itself result in a corrective measure against the employee. However, the County must be informed so that it may independently address the allegations and determine the appropriate response, including but not limited to suspension or termination. The employee shall notify his or her supervisor about any charges in the criminal charges and about the resolution of any charges. Criminal charges may be grounds for immediate termination and failure to notify the County of the pending charges may be grounds for immediate dismissal.

4.14 POLITICAL ACTIVITIES

The County recognizes the right of employees to engage in political activities and participate in community, state, and national programs provided that such participation does not prevent the full discharge of the employee's job responsibilities.

Employees covered under this handbook shall not:

- Participate in the management, affairs, or political campaign of any candidate for political office during work hours.
- Solicit any assessments, contributions or service for any political party during work hours.

- Use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office.

4.15 OUTSIDE EMPLOYMENT

Circumstances may arise in which a County employee desires employment in addition to County employment. The County allows employees to be employed outside of their employment with the County as long as the employee adheres to the following guidelines:

- The hours of outside employment do not coincide or conflict with scheduled hours of work for the County in a normal work week.
- The outside employment does not conflict with the County job responsibilities and/or affect the ability to satisfactorily perform the County job in the normal work week.
- The outside employment does not cause an employee to arrive late or leave early from scheduled work hours of the County job.
- The outside employment does not constitute a conflict with County interests;
- If outside employment is affecting the employee's ability to perform his/her duties or if a conflict arises from the outside employment, the Department Head will instruct the employee to discontinue the outside employment. Failure to discontinue the outside employment as directed may lead to corrective action, up to and including termination.
- All exempt employees must have approval of the Department Head or Sheriff before taking secondary employment. Special rules apply to outside employment for Police Officers, and all Officers seeking outside employment must follow these rules.

4.16 NO SOLICITATION/DISTRIBUTION POLICY

Posting or distributing notices or other written materials on County property at any time, without prior approval from the Board of Commissioners is strictly prohibited. Employees are further prohibited from soliciting other employees or non-employees on County property during the working time of either the soliciting employee or the employees being solicited. The only exception that may apply to this policy is when an employee is engaging in distribution or solicitation related to a County sponsored event or activity.

Persons not employed by the County are at all times prohibited from selling, soliciting, distributing or posting written materials on County premises.

4.17 NON-DISCRIMINATION ON BASIS OF DISABILITIES

It is the policy of the County to employ, advance and otherwise treat qualified individuals without regard to their disability in all employment practices. In accordance with the provisions of the Americans with Disabilities Act (ADA), no program or activity administered by the County shall exclude from participation, deny benefits to or subject to discrimination any individual solely by reason of his or her recognized disability.

The County is committed to ensuring that there is no discrimination under any terms, conditions or privileges of employment and to making reasonable accommodations for qualified employees with physical or mental disabilities. The County will afford reasonable accommodation to qualified applicants and employees with a known disability in order to enable them to perform the essential functions of their jobs in a safe and efficient manner, provided that the accommodations will not cause undue hardship to the County. Applicants may inform the Board of Commissioners and employees may inform their supervisor of the disability and may suggest, on a confidential basis, how the County may reasonably accommodate such individual.

4.18 NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY

The County does not accept, condone or tolerate actions of harassment on the basis of any personal characteristic, including but not limited to, race, color, religion, sex, sexual preference, national origin, age, disability, genetic information or ancestry or any other classification protected by federal, state or local law. Harassment includes unwelcome conduct, whether verbal, physical or visual.

4.18.1 Sexual harassment defined: Sexual harassment prohibited by this policy includes any unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

- (a) Submission to or rejection of such conduct is used as a basis for employment decisions affecting the employee; or
- (b) Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

4.18.2 Examples of harassing conduct include:

- Unwanted physical contact or conduct, sexual flirtations, touching, advances or propositions.
- Verbal harassment of a sexual nature, lewd comments, sexual jokes or references, offensive personal references or degrading or slang terms.
- Demeaning, insulting, intimidating or sexually suggestive comments about an individual's personal appearance.
- Insulting or degrading jokes, comments or references to a person's mental or physical capabilities whether work related or personal.
- Insulting or degrading jokes, comments or references to a person's sex, race, religion, or ethnic background.
- Displaying of demeaning, insulting, intimidating or sexually suggestive objects, messages, pictures or photographs.
- Creating or forwarding demeaning, insulting, intimidating or sexually suggestive written, recorded, or electronically transmitted messages, including screensavers.
- Making or threatening retaliation after a negative response to sexual advances.

It is the policy of the County that sexual harassment can occur between employees of the same sex. It is unlawful for a male to sexually harass either females or males or for a female to sexually harass either males or females.

Procedures for Handling Occurrences of Discrimination or Harassment.

Employees with questions or concerns about discrimination or harassment in the workplace should bring these issues to the attention of his or her supervisor. Any employee uncomfortable reporting an incident to his or her supervisor should report harassment or concerns to the Department Head or Board of Commissioners for administrative employees or Sheriff for employees of the Police Department. Under no circumstances shall an employee be required to make a report of discrimination or harassment to the person he/she is accusing of the discrimination or harassment.

Any employee who receives a complaint of discrimination or harassment or who becomes aware of an incident of discrimination or harassment must report the matter to his or her supervisor. Supervisors who receive a complaint of discrimination or harassment or who become aware of an incident of discrimination or harassment must report the matter to the Department Head and Board of Commissioners immediately. The failure to make such any report may subject the employee or supervisor to discipline. Anyone found to be engaging in unlawful discrimination or harassment will be subject to disciplinary action, including possible termination of employment.

The Department Head shall conduct an investigation into any report of discrimination or may request another outside entity to conduct the investigation. If the claim is against the Department Head, reports shall be made with the Board of Commissioners. In that event, an alternate discrimination investigator (ADI), shall investigate the claim. The investigation shall include a preliminary report within 3 business days.

Either the Department Head or, in the event of the appointment of an ADI, the ADI, will immediately take steps to separate the complainant and person accused of harassment. Separation may include temporary relocation of office to another location where the individuals cannot interact or paid time off for the accused until the preliminary investigation is complete.

Discipline

Appropriate action will be taken against any employee found to have engaged in prohibited harassment to ensure that the conduct will not reoccur. Appropriate action will be taken against any employee who makes any report of harassment in bad faith. Any employee found in violation of this policy may be subject to corrective action up to and including termination of employment. The type of corrective action taken will depend on the severity of the conduct as well as any other factors presented.

All attempts are made to protect the privacy of the parties involved. The County treats allegation of discrimination and harassment seriously and with confidentiality. All employees are expected to do the same. Complaints are treated in strict confidence and only those people with a 'need to know' will be involved in the investigation. Under no circumstances will the County permit retaliation in any fashion against the complaining employee or others for raising or confirming the accusation of harassment. Employees, including supervisors, may be held personally liable for actions that violate this policy.

4.19 TRAVEL POLICY

4.19.1 Business Travel: The County is responsible for authorizing employee business travel and reimbursement of reasonable travel expenses including overnight lodging, parking, meals and other travel expenses. All employees must obtain authorization from their direct supervisor before business travel. In order to be reimbursed for travel expenses, employees must provide to the Auditor a claim form, original receipts and any other documents necessary to properly document the claim within seven (7) days of the employee's return. The Board of Commissioners is vested with authority to approve or disapprove of any such claims for reimbursement, and the Commissioners may adopt rules governing the determination of whether a travel expense is reasonable and/or prohibited.

4.19.2 Prohibited Expenses. Certain travel related and business expenses are prohibited, and the County will not reimburse employees for such expenses. Prohibited expenses include the following:

- (1) personal expenses;
- (2) purchase of alcohol;
- (3) any illegal purpose;
- (4) purchases made to bypass the County's accounting system or purchasing policies.

5. HEALTH AND SAFETY POLICIES

5.01 SAFETY PROGRAMS

The County will continue to make reasonable provisions for the safety and health of its employees at its facilities during the hours of their employment. Protective devices and other equipment necessary to protect employees from injury will be provided by the County in accordance with applicable laws and safety needs. All employees are required to use equipment properly, and are responsible for safety and other equipment issued to them. Equipment will be replaced only upon return of the item that needs to be replaced. All employees are responsible for following safety procedures as established by County policy.

On-the-job accidents, injuries, and illnesses, regardless of how minor, must be reported to a supervisor and Board of Commissioners immediately. Employees that witness a failure to follow the safety rules shall report the incident to his or her supervisor. Failure to do so

may disqualify an employee from receiving worker's compensation benefits or an excused absence and may result in disciplinary action.

Drivers of County vehicles must not use alcohol or drugs when performing safety-sensitive functions or perform safety-sensitive functions within four (4) hours after using alcohol. Safety-sensitive functions are defined as:

- All time spent at a facility or on any public property, waiting to be dispatched, unless the employee/driver has been relieved from duty by the County.
- All time spent inspecting equipment or otherwise inspecting, servicing or conditioning any motor vehicle at any time.
- All time spent at the driving controls of a motor vehicle either while in operation or not in operation.
- All time loading and unloading a motor vehicle, supervising or assisting in the loading, attending a vehicle, being loaded or unloaded or remaining in readiness to operate the vehicle.
- All time spent performing the driver requirements relating to an accident.
- All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

5.02 DRUG, ALCOHOL AND SMOKE FREE WORKPLACE

The County is committed to providing a safe working environment and, likewise, expects its employees to report to their jobs physically and mentally fit for work. Furthermore, the County is committed to assuring its continued representation as a quality enterprise. This policy is intended to ensure a drug-free work environment for the benefit of employees and customers in the County. It is also this County's policy to assist employees who have a problem with drug and alcohol abuse. Our goal is to eliminate the abuse, not the abuser. Our goal is to help, not apprehend. No one will be disciplined for requesting assistance.

Reporting to work or being at work under the influence of alcohol or non-prescription drugs is absolutely prohibited. The County reserves the right as a condition of initial or continued employment to administer a physical examination, alcohol or drug test to applicants or employees.

The County Code forbids smoking of tobacco on County property except in designated areas.

5.02.1 POLICY REQUIREMENTS

.02.1.1. The use, possession, sale, or transfer of an illegal drug by any employee on County premises, in the performance of County business, or at County-sponsored events, is strictly prohibited.

5.02.1.2. The use of any legally obtained drug by any employee while performing County business or while on County premises is prohibited to the extent that such use may adversely affect the safety of the employee or others, the employee's job performance, or the County's regard or reputation in the community. Employees who have been informed or have discovered that the use of a legal drug may adversely affect job performance or behavior are to report such drug use and possible side effects to management.

5.02.1.3. The unauthorized use, possession, sale or transfer of alcohol on County premises is prohibited. The use of alcohol by employees while conducting County business, attending County-sponsored business or social functions, or otherwise representing the County off County premises is permitted only to the extent that it is not unlawful and does not adversely affect the safety of the employee or others, the employee's job performance, or the County's regard or reputation in the community.

5.02.1.4. The presence of any illegal drug or alcohol in an employee's system while on County premises or while otherwise performing County business is prohibited.

5.02.2 TESTING:

The County may require an employee to submit to any one of four drug and/or alcohol tests depending on various circumstances as defined in this policy.

1. POST ACCIDENT: This section applies to all employees who are involved in an accident while driving a County owned vehicle or the employee's vehicle while engaged in county business.

- A. When a driver is involved in an accident where a fatality is involved, the driver shall submit to a post-accident drug and alcohol screening.

- B. When a driver is involved in a recordable accident and receives a citation for a moving violation the driver must submit to a drug and alcohol screening.
- C. When a driver is involved in a recordable accident, if either vehicle involved requires towing away from the scene or if any person involved requires medical treatment, the driver must submit to a drug and alcohol screening.
- D. In the event a driver is so seriously injured that he or she is unable to provide a urine or breath specimen at the time of the accident, the driver must provide the necessary authorization for the Town to obtain hospital records or other documentation that would indicate whether there were controlled substances or alcohol in the driver's system at the time of the accident.
- E. Any employee involved in an on the job accident requiring medical treatment, may be asked to submit to a post-accident drug and alcohol screening.

All sworn personnel are subject to the Standard Operating Procedures of the Police Department.

2. REASONABLE SUSPICION TESTING: Reasonable suspicion to screen an employee exists when an employee manifests symptoms or reactions commonly attributed to the use of a controlled substance or alcohol.

3. RETURN TO DUTY FOLLOW-UP: A drug and alcohol screen may be required when an employee has violated this policy and has received disciplinary action resulting in a suspension from duty. The employee's supervisor may require the employee to submit to a drug and alcohol screen prior to the employee being reinstated.

4. **RANDOM TESTS:** Employees in the County Police Department and Highway Department are subject to random drug testing at any time with or without cause or suspicion in order to assure compliance with federal, state and county policies, rules and laws.

5.02.3 REFUSAL TO TEST – Refusal to submit to drug and alcohol screens may be grounds for termination of an existing employee. A refusal to test may be defined as conduct that would obstruct the proper administration of a test and may constitute a failure. A delay in providing a sample may also constitute an obstruction in the proper administration of a screen and may constitute a failure.

5.02.4 TESTING AGENCY – All testing shall be done by a qualified testing agency of the County's choosing and at the County's expense. The only exception is that the

County will only pay for one Return to Duty Follow-up test. An employee who fails the initial Return to Duty Follow-up test must bear the cost of each subsequent test until the employee passes and is reinstated.

5.02.5 CONSEQUENCES FOR POLICY VIOLATION – Any employee who violates this policy will be subject to disciplinary action up to and including termination.

1. **Disciplinary Action:** Depending upon the seriousness of the offense, any violation of the policy requirements of this policy will result in discipline up to and including termination.
2. The failure or refusal to complete the necessary paperwork or to submit to a drug test or to undergo treatment pursuant to this policy will be grounds for immediate termination.
3. All performance shortcomings, prohibited conduct, and attendance problems will result in discipline pursuant to the County's policies independently of any drug or alcohol implications or causes.
4. If an employee is aggrieved by the disciplinary process under this policy, he or she may appeal the action to the Board of Commissioners by submitting the appeal in writing within ten days to the Auditor. The Auditor shall notify the Board of Commissioners, and the Board will schedule a meeting within 20 days of the written appeal. The Board shall issue a written findings of fact. The employee may appeal the Board's decision to the Circuit Court of Montgomery County.

EMPLOYEE ACKNOWLEDGMENT

certify that I have received a copy of, and have read the above policy on drugs and alcohol testing procedures. I understand that as a condition of employment, I must comply with these guidelines. If I develop a problem with drugs and/or alcohol abuse during my employment with the County, I will seek assistance through the current drug and alcohol testing program administrator.

Employee signature

Date

5.03 PREVENTION OF VIOLENCE IN THE WORKPLACE

The County is committed to preventing violence in the workplace and maintaining a safe working environment. Given the increasing violence in society, the County has adopted the following guidelines to deal with intimidation, harassment or other threats of violence that may occur on its premises.

The County will not tolerate any conduct that threatens, intimidates or coerces an employee, customer or member of the public at any time, including off-duty periods. Additionally, firearms, weapons, and other dangerous or hazardous devices or substances are strictly prohibited on the premises of the County without proper authorization.

All suspicious individuals or activities, including actual violence or threats of violence, both direct and indirect, should be reported immediately to an employee's supervisor, a member of management or to the Sheriff. This includes threats by employees, as well as threats by customers, vendors, solicitors or members of the public. Employees should not attempt to intercede or otherwise become involved with any actual or potentially intimidating, harassing or violent situation.

Any employee determined to have participated in any threatened or actual violence, or other conduct that violates these guidelines will be subject to disciplinary action, up to and including termination of employment.

5.04 WEAPONS

The County strictly prohibits employees, other than police officers, from possessing any weapon in or on County property or while on duty unless authorized by the Sheriff to carry the weapon. For purpose of this policy, a weapon is broadly defined to include a firearm, knife, baseball bat or any item as otherwise provided by the criminal code.

5.05 SECURITY

The County has adopted various rules, orders, regulations and directives relating to promoting the security of County facilities and a safe workplace for employees and elected officials. The rules, orders, regulations and directives, including but not limited to, access to County buildings, reporting of security violations, responding to emergency and security circumstances, are a condition of employment, and employees may be required to show identification, subject themselves to screening or searches, and otherwise submit to various security measures. Employees may also be required to participate in security training, to assume certain responsibilities for implementation of such policies, and otherwise assist in the furtherance of the County's security plan. Employees failing to comply with these rules, orders, regulations and directives will be subject to discipline or termination.

6. LEAVE POLICIES

6.01 VACATION LEAVE

Until December 31, 2016, employees will receive paid vacation leave as follows:

Length of Employment	Paid Hours of Vacation
0 to 6 months	0
6 months to 1 year	37.5 hours
1 year to 10 years	75.0 hours
10 years to 20 years	112.5 hours
20 + years	150 hours

After December 31, 2016 employees will receive Paid-Time-Off (PTO), as provided in Section 6.03. Employees should take their vacation each year. If scheduling difficulties prevent the employee from using all his/her accrued vacation time, the employee may carry over to 2017 up to 37.5 hours of unused 2016 vacation pay. If an employee's employment is terminated for any reason in 2016, the County will pay the employee all of the unused and accrued vacation time.

6.02 HOLIDAYS

6.02.1 Determination of County Holidays: Holidays are determined by the Board of Commissioners on a yearly basis.

6.02.2 Administrative Employees: Administrative employees may request to work on a scheduled holiday and exchange it for another paid day off. The Department Head may approve or disapprove any such request in his or her discretion. All approvals must be in writing. If approved, this day must be used by the end of the year and it cannot be turned into PTO. Holidays are equal to the scheduled hours which would have been worked if not for the holiday. Department Heads who maintain offices in the courthouse must verify the availability of Courthouse Security prior to allowing work on a holiday.

6.02.3 Police Officers: Police officers who work on a County holiday will receive compensation at their normal rate and a paid day of holiday leave that can be used at any time during the calendar year of the award of the substitute holiday leave. The number of hours of such substitute holiday leave will be equal to number of hours actually worked on the scheduled work day that was a County holiday.

6.02.4 Termination Prior To Use of Substitute Time: If the employee earning substitute holiday leave has his or her employment terminated prior to using the substitute holiday leave, the employee will be compensated for this unused substitute holiday.

6.02.5 No Holiday Leave Earned: Employees on FMLA leave, disability leave or suspension do not earn holiday leave.

6.03 PAID TIME OFF (PTO)

6.03.1 Accrual of PTO: Beginning January 1, 2017, County employees will receive Paid Time Off (PTO) rather than paid vacation and sick leave.

A Paid Time Off (PTO) Bank will be created for each employee. The amount of PTO will vary depending upon whether the employee regularly works a 37.5-hour work week or a 40-hour week. Beginning January 1, 2017, each employee will receive the following PTO:

Years of Employment	Annual PTO for 37.5-hour work week	Annual PTO for 40-hour work week
0-1	75	80
2-5	109	116
6-10	128	137
11-15	147	157
16-20	165	176
20+	184	196

As used in this section, the phrase “regularly works” means the regularly scheduled work week for employees of the department. For example, employees of the Highway Department currently are scheduled to work a 40-hour work week, and all other administrative employees are scheduled to work a 37.5-hour work week. The phrase does not mean the actual number of hours worked.

For existing employees, PTO will be awarded on January 1, 2017, with each employee’s years of service rounded to the next year. Thereafter, PTO will be awarded on January 1st of each year.

For new employees, PTO will be awarded on a pro-rata basis, as follows:

Month of Hire	PTO Hours Awarded – 37.5-hour work week	PTO Hours Awarded – 40-hour work week
January	68.75	73.33
February	62.50	66.67
March	56.25	60.00

April	50.00	53.33
May	43.75	46.67
June	37.50	40.00
July	31.25	33.33
August	25.00	26.67
September	18.75	20.00
October	12.50	13.33
November	6.25	6.67

On January 1 of the year following hiring, the new employee will be treated as having two years of service and will be awarded 109 hours of PTO if the employee regularly works a 37.5-hour work week and 116 hours of PTO if the employee regularly works a 40-hour work week.

Although PTO will be awarded on January 1, or for a new employee on the date of hiring, PTO for all employees accrues on the first day of each month in an amount equal to 1/12th of the annual amount shown above. Therefore, if an employee leaves his or her employment, due to resignation, termination, death or any other reason, he or she will receive payment for accrued PTO which has not been used. If the employee has used more PTO than has been accrued, the Auditor will withhold from the employee's final paycheck an amount equal to the number of hours used in excess of accrual multiplied times the employee's normal hourly rate of pay.

Employees of the Sheriff's Department will receive PTO rather than paid vacation and sick leave pursuant to a leave plan approved by the Sheriff and the Board of Commissioners. This leave plan will be contained in the Standard Operating Procedures of the Sheriff's Office.

6.03.2 Use and Approval of PTO: PTO hours may be used/scheduled for any reason and requests to use PTO hours must be approved by the employee's supervisor on the PTO form prior to use. Supervisors may require employees to use PTO hours. In the event that County operations prevent an employee from using PTO, their Department Head may approve the carryover of up to 40 hours of PTO to the next year.

6.03.3 Termination of Employment: If an employee terminates his or her employment before the end of the year, his or her PTO balance will not be paid out except for what has been earned. All PTO that is used before it is earned prior to termination will be deducted from employee's final paycheck. Unused PTO shall be paid out upon termination within 30 days of separation. Payment shall be in a separate check.

6.04 SICK LEAVE

6.04.1 Sick Leave: In 2016, all employees will receive 90 hours of paid sick leave each year, with 7.5 hours accruing each calendar month worked. Consistent with the County's current policy, employees using a sick day in any given month do not accrue a sick for that month.

6.04.1.1 Accrued Sick Leave: Employees may not accumulate more Than 157.5 hours of sick time. This limitation will not apply after December 31, 2016.

6.04.1.2 Documentation for Sick Leave: If an employee uses more than 15 hours of sick time in consecutive days, he or she will provide to his or her Department Head written documentation from a physician supporting the leave.

6.04.1.3 Termination of Employment: Upon termination of employment, no compensation will be paid to the employee for accrued, unused sick time.

6.04.2 Sick Bank: Beginning January 1, 2017, employees with unused, accrued sick time as of December 31, 2016, will be allowed to retain all of those hours and use them for sick leave in addition to PTO. The limitation of accrued sick time contained in 6.04.1.1 does not apply in 2017 and later years. Employees may carry forward to 2017 all unused sick time which existed on December 31, 2016.

6.04.3 Implementation of PTO: Beginning January 1, 2017, no sick leave will be granted. However, employees will be able to use any and all unused sick time which existed on December 31, 2016 as provided for in the Sick Bank provisions contained in 6.04.2.

6.05 LEAVE UNDER THE FAMILY MEDICAL LEAVE ACT (FMLA)

The County recognizes an employee's rights and obligations under FMLA. This section shall be in supplement to all other benefit policies of the County and shall be referred to as the "Family and Medical Leave Policy."

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

SERIOUS HEALTH CONDITION” The Department of Labor has defined a “serious health condition” as involving any illness, injury, or physical or mental condition that involves:

- In-patient care in a medical facility; or
- Incapacity requiring three (3) days’ absence from work, school, or other daily activities; and, supervision or continuing treatment by a health care provider; or
- A chronic, long-term, or incurable condition which is under the care, supervision, or treatment of a health care provider and if untreated would result in at least three (3) days’ incapacity from work or other daily activities.

The County shall allow up to twelve (12) weeks of unpaid leave during any twelve (12) - month period to an employee who requests the leave:

- To care for a newborn child, or a child who is newly placed in the employee’s custody through adoption or foster care;
- To care for a spouse, child, stepchild, foster child or parent (but not a parent-in-law) who has a “serious health condition,” or
- Because the employee has a “serious health condition,” that makes the employee unable to perform his/her job.

The twelve month period starts the first day that the employee takes the leave. The provisions of this policy shall not apply to any employee of the County who has been employed for less than twelve (12) months or who has worked less than one thousand two hundred and fifty (1,250) hours during the preceding twelve (12) -month period. Any leave taken by an eligible employee for one or more of these reasons will be counted against that employee’s annual FMLA leave entitlement.

An employee who seeks to obtain leave pursuant to this policy shall give at least 30 calendar days’ notice of the leave, if possible. He or she shall also schedule medical treatment to cause as little disruption to his or her employment as possible.

6.05.1 Compensation for FMLA Leave

Employees will be required to first use any PTO leave before taking unpaid family leave. An eligible employee shall take any accrued PTO prior to taking unpaid leave under the FMLA. Such paid leave will be counted toward the employee’s 12 weeks of FMLA leave granted per leave year. For example, if an employee has one (1) week of PTO that can be applied toward the twelve (12) weeks leave, then only eleven (11) weeks unpaid leave needs to be provided.

6.05.2 Intermittent or Reduced Hours Leave

Under normal circumstances, any leave obtained pursuant to this policy shall be taken in consecutive days unless the Department Head and the employee agree to another

arrangement. In the case of leave taken to care for a seriously ill spouse, child, or parent, or due to the employee's own serious health condition, an employee may take leave intermittently (i.e., periodically) or on a reduced hours schedule (i.e., reduced number of working hours per day or per week) only when such leave is medically necessary, as certified by the employee's or family member's health-care provider. Otherwise, such leave is not permitted except at the sole discretion of the County. An employee who takes leave intermittently or on a reduced leave schedule may be temporarily transferred to another position for which the employee is qualified to better accommodate that leave.

6.05.3 Health Care Provider Authorization

In cases of leave to be taken to care for a seriously ill family member or due to the employee's own serious health condition, an eligible employee must provide the County with a completed and signed health care provider certification indicating that the employee requires FMLA leave. This certification must be returned to the County within 15 days after the employee gives notice of his or her intent to take FMLA leave, and must contain the following information:

- The date on which the eligible event commenced.
- The probable duration of the condition.
- The treatment regimen prescribed.
- Any appropriate medical facts within the health-care provider's knowledge regarding the condition.
- If applicable, a statement that the employee is needed to provide care for his or her spouse, child, or parent and an estimated duration of such need.
- If applicable, a statement regarding the medical necessity of intermittent or reduced hours schedule leaves.

Failure to return this certification in a timely manner may result in delays in securing authorization for leave, and failure to return the certification at all will preclude the employee from taking leave.

The County may also require, at its own expense, a second and third health care provider opinion if there is a question as to the validity of the certification provided by the employee.

An eligible employee also may be asked to furnish the County with subsequent health care provider certifications on a reasonable basis during the employee's leave period. An eligible employee's failure to furnish subsequent certifications may result in termination of the employee's right to leave.

An eligible employee on FMLA leave must submit to the County a medical release (i.e., fitness-for-duty certification) indicating that the employee is able to return to work. Failure to submit such a release will preclude the employee from being restored to his or her employment with the County.

6.05.4 Job and Benefits Security

An eligible employee who takes leave under the FMLA and who returns to work before his or her annual FMLA entitlement has expired, will be restored to the position he or she held when the leave commenced, or to an otherwise equivalent position with respect to pay, benefits, and other terms and condition of employment, unless the employee would no longer have been employed in such a position had the employee not taken such leave. Additionally, any unused employment benefits that had accrued to an eligible employee prior to the commencement of leave will be restored upon return from FMLA leave.

6.05.5 Continuation of Group Health Plan Coverage

Group health plan coverage will be maintained by the County during an eligible employee's period of FMLA leave to the extent and under the same circumstances as it ordinarily is furnished to that employee. The employee's portion of premium payments should be paid by the employee to the Auditor's office on the 1st and 15th of each month. The Auditor's office will notify eligible employees concerning the amount of each premium payment. Failure to pay such premiums during leave will result in the loss of health coverage. An eligible employee who fails to return to work after the expiration of the FMLA leave period for reasons that are not beyond his or her control will be expected to reimburse the County for health-care premiums paid by the County during the leave period. Insurance coverage provided as required herein during the course of a leave is not to be counted as COBRA coverage.

NON-DISCRIMINATION/NON-RETALIATION POLICY STATEMENT

The County will not (1) interfere with, restrain, or deny the exercise of any right provided under the FMLA; (2) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA; or (3) discharge or discriminate against any person for his or her involvement in any proceeding under or relating to the FMLA.

6.06 MILITARY LEAVE

6.06.1 Military Leave

Military leave is granted in accordance with federal and state laws. Employees who are called to active duty or drafted into military service of the United States shall receive

compensation from the County during active duty period of service based on the following formula:

$$\text{Compensation} = \text{County salary} (-) \text{military pay}$$

If the military pay meets or exceeds the County salary, the County will not pay compensation to the employee while on military leave.

6.06.2 Retirement Contributions

The County shall continue to contribute retirement benefits during the active duty period of service.

6.06.3 Health Insurance

If the employee has family or spouse health insurance benefits, those benefits shall continue for his or her family members during the period of service unless the County's contract for health insurance prohibits such continuation.

6.06.4 Exceptions

This paid military leave shall not apply to a period of re-enlistment that occurs during the involuntary service period.

6.06.5 Condition for Benefits

This payment of salary, pension contributions and health insurance contributions is conditioned upon three conditions:

1. The employee's return to work within 14 days or within the time prescribed by the Uniformed Services Employment and Re-employment Act of 1994, whichever period is greater;
2. The employee's honorable discharge from the military service or a regular de-activation status; and
3. The employee being able to perform the essential functions of his or her position with the County.

6.06.6 Definitions

"Uniformed Services" means the Armed Forces of the United States, a ready reserve component of the Armed Forces, Indiana National Guard Units, the commissioned core

of the public health service, and any other service designated by the President of the United States in time of war or emergency.

6.06.7 Right to Reinstatement

Employees absent from their respective positions because of service in the uniformed services are, if honorably discharged, entitled to reinstatement, provided that the period of absence does not exceed five (5) years. If an absence exceeds five (5) years, reinstatement shall be available only under the exceptions set forth in 38 U.S.C. §4312(c). An employee is entitled to reinstatement only if the employee had, prior to the time of commencing uniformed service, given notice to the County of the anticipated service, and has at the conclusion of the military service reported for work, or made application for reinstatement as follows:

- if the uniformed service period is for thirty (30) days or less, the employee must report to work by the next regularly scheduled workday after allowing sixteen (16) hours for travel.
- if uniformed service is for more than thirty (30) days but less than 181 days, the employee must submit an application for reinstatement not later than 14 days after completion of uniformed service;
- if uniformed service is for more than 180 days, the employee must submit an application for reinstatement within the ninety (90) day period following completion of uniformed service.

Exceptions to these reinstatement time periods will be made when, because of a disability or hospitalization caused by uniformed service, or because of events beyond the control of the employee, the employee was unable to report to make application within the prescribed period of time.

Reinstatement shall be to the position last held by the employee, unless such position no longer exists, or the requirements of such position has so substantially changed that reasonable training will not qualify the employee for such position. In such circumstances, reinstatement shall be to a position similar in pay and duties. Reinstatement shall not be available, if during the period of military service, the employee would have been laid off from such position had the employee remained in public employment, and recall has not yet occurred.

6.06.8 Other Benefits

Benefit accruals, such as vacation, PTO, or holiday benefits will be suspended during the leave and will resume upon the employee's return to active employment.

6.06.9 Rights of Employees Related to Military Personnel

If an employee is the spouse, grandparent or sibling of a person who is ordered to active duty in the United States armed forces or the National Guard, they are eligible for up to ten (10) days of an unpaid leave of absence each year. These days can include anywhere from thirty (30) days prior to active duty, during the time of active duty, or thirty (30) days after active duty. Employees will be required to provide written notice and a copy of the active duty orders, if available, before taking the leave. Employees who have vacation or PTO will be required to use those days prior to taking unpaid leave. Upon return from the leave, employees will be restored to their position. Employees will continue to participate in all benefit plans during the period of absence.

6.07 JURY DUTY

It is the policy of the County to support our employee's civic responsibility to serve for jury duty. Employees who present a copy of the subpoena for jury duty to their supervisor are excused from their work schedule on the days required for participation in jury duty. Employees that are called to jury duty shall be paid their regular salary or wage, less any jury duty pay, during jury duty days that would normally be a work day.

6.08 MATERNITY LEAVE

An employee who is unable to work because of pregnancy, child delivery, or other pregnancy-related causes, shall be treated for purposes of sick leave, vacation leave, leaves of absence, and other benefits as any other employee with a medical disability.

6.09 NURSING MOTHERS

Employees who are nursing mothers of children up to one (1) year old will be provided with reasonable breaks to express breast milk as frequently as needed. Employees will be provided a place for the break, other than a bathroom, that is shielded from view and free from intrusion. Employees who wish to express breast milk during the workday must notify their department supervisor/manager, either before or after returning to work following their maternity leave. Breaks taken by employees in order to express their breast milk will be paid.

Employees are responsible for providing their own breast pump. Employees may use refrigerators on the premises to store breast milk during work if such refrigerators are available. If no such refrigerators are available, employees will be responsible for their own storage of breast milk. Employees are also responsible for cleaning up the area

provided for the expression of breast milk and to take reasonable efforts to keep the area free from contamination and illness transmission.

6.10 VOLUNTARY FIREFIGHTERS

If an employee of the County also serves as a volunteer firefighter for any entity or serves as a volunteer member of any fire department, such employee shall notify the County in writing of his/her volunteer status by completing the Notice of Volunteer Firefighting Services (Appendix A-3). Such Notice shall be provided to the employee's supervisors.

No employee who has provided the Notice of Volunteer Firefighting Services to his/her supervisor shall be subject to discipline for the following actions:

- 1) For performing his/her volunteer firefighting duties in response to a fire or emergency call when the employee receives notice of such fire or emergency call prior to the time in which he/she is required to report to his services as a County employee.
- 2) For temporarily leaving his/her place of employment with the County during his/her working hours in order to respond to and/or provide volunteer firefighting services in response to a fire or emergency call provided the supervisor of such employee has provided approval to the request to leave his/her place of employment.

In addition, no employee who has provided the Notice of Volunteer Firefighting Services to his/her supervisor shall be subject to discipline for an injury or for an absence from his/her employment with the County as the result of an injury when such injury occurs as the result of the employee performing emergency duties as a volunteer firefighter provided the following has occurred:

- 1) The absence from the employee's place of employment with the County does not exceed six (6) months from the date of injury; and
- 2) The employee provides his/her County supervisor with written statement from the fire chief, other officer in charge of the volunteer fire department or other officer in charge of the volunteer emergency medical services association. This statement should indicate that the employee was injured while performing duties as a volunteer firefighter in response to emergency firefighting or other emergency activity; and
- 3) The employee further provides his/her County supervisor with a written statement from a physician or other medical care provider which shows the injury incurred is related to the employee's emergency firefighting or other emergency response activities and which indicates the type of treatment received for such injury. Any

information obtained by the County as the result of this requirement shall be kept by the County in a separate medical file for such employee and treated as a confidential medical record.

7. DISCIPLINE POLICIES

7.01 DISCIPLINARY POLICY

7.01.1 Administrative Employees: The discipline policy for inappropriate behavior, performance shortcomings, or attendance problems is generally progressive. That is, minor offenses or performance issues will generally be handled through the following progressive steps: oral warning, written warning, suspension without pay, and termination; however, depending on the seriousness of the offense, one or more of the progressive steps may be bypassed. Certain violations of County Policies or protocol may be so severe or egregious as to compel termination of employment even for the first offense. Additionally, there may be situations where transfer or demotion is used in lieu of suspension or termination.

A supervisor may discipline an employee who violates work rules including provisions of this handbook and may impose any of the following disciplinary actions without a hearing:

1. Verbal warning
2. Written reprimand
3. Suspension from work (with or without pay)
4. Discharge.

Supervisors shall meet with his or her employee to discuss the disciplinary measure. Email communications shall not be used for this purpose.

All disciplinary actions shall be documented on the Notice of Discipline Form. The employee and supervisor shall sign and date the Form and a copy shall be placed in the employee's personnel file.

These offenses are illustrative and not all-inclusive.

- Willful neglect in the performance of the duties of the position to which the employee is assigned.
- Disregard of or failure to report violations of County ordinances, policies and regulations, including safety rules.

- Willful misuse, misappropriation, negligence or destruction of County property or conversion of County property for personal use or gain.
- Tardiness or absence from duty without prior approval from the supervisor.
- Violation of any official order, refusal to carry out lawful directions given by his or her supervisor, or other acts of insubordination.
- The use of alcoholic beverages, narcotics, drugs, or other controlled substances either while on duty or use that causes interference with job performance or efficiency of County service.
- Criminal, dishonest, or other conduct which interferes with job performance or has an effect on the efficiency of County service.
- Unauthorized release of privileged or confidential information or its use for private gain.
- Incompetent or unsatisfactory performance of duties.
- Conviction of a crime, including but not limited to charges such as DWI, Public Intoxication, and Reckless Driving.
- Knowingly giving false statements to supervisors or other officials.
- Any conduct, on or off-duty, that reflects unfavorably on the County as an employer.
- Membership in any organization which advocates the overthrow of the government of the United States by force or violence.
- Making of a false statement in an application or in any other document used to obtain employment which had not been previously discovered.
- Acceptance of gratuities in violation of County policy.
- Refusal to be examined by a designated physician when so directed by proper authority.
- The loss or suspension, inability to obtain, or restrictions upon an Indiana Operator or CDL License which prohibits or limits the employee's ability to operate a County motor vehicle or otherwise interferes with an employee's job performance.
- Failure to wear the designated uniform provided by the County.
- Any other conduct or action of such seriousness that disciplinary action is considered warranted.

7.01.2 Police Officers: Police officers are subject to the disciplinary rules required by Indiana Merit Law and the Department's Standard Operating Procedures, rules and general orders.

7.02 IMMEDIATE DISMISSAL/MISCONDUCT

7.02.1 Administrative Employees: Any employee whose conduct, actions or performance violates or conflicts with the County's policies may be terminated immediately and without warning.

The following are some examples of grounds for immediate dismissal of an employee:

- Breach of trust or dishonesty
- Conviction of a felony
- Willful violation of an established policy or rule
- Falsification of County records
- Gross negligence
- Insubordination
- Recordkeeping falsifications
- Undue or unauthorized absence from duty
- Deliberate non-performance of work
- Larceny or unauthorized possession of, or use of, property belonging to the County, a co-worker, visitor, or customer of the County
- Possession of dangerous weapons on County property
- Excessive absenteeism or lateness
- Marring, defacing or other willful destruction of supplied, equipment or property of the County
- Fighting or serious breach of acceptable behavior
- Violation of the alcohol or drug policy
- Violation of the Smoke Free Ordinance pertaining to municipal property
- Theft
- Violation of the County's conflict of interest/outside employment policy and or confidentiality policy
- Leaving work premises without authorization during working hours
- Sleeping on duty

This list is intended to be representative of the types of activities that may result in disciplinary action. It is not exhaustive, and is not intended to be comprehensive and does not change the employment-at-will relationship between the County and its employees.

In the event of dismissal for misconduct, all benefits end effective the day of dismissal. COBRA may not be available to anyone dismissed for gross misconduct.

7.02.2 Police Officers: Police officers are subject to the disciplinary rules required by Indiana Merit Law and the Department's Standard Operating Procedures, rules and general orders.

8. SEPARATION POLICIES

8.01 TERMINATION OF EMPLOYMENT

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Department Heads will schedule exit interviews for their employees at the time of employment termination. The supervisor shall conduct an exit interview on the approved exit interview form

8.02 VOLUNTARY RESIGNATION

An employee should provide his or her supervisor with two weeks written notice if choosing to resign from employment with the County.

8.03 REDUCTION IN FORCE

An employee may lose employment as a result of a reduction in force action taken by the County.

8.04 RETURN OF COUNTY PROPERTY

Employees are responsible for all property, materials, or written information issued to them or in their possession or control. An employee must return all County property to his or her supervisor on or before the last day of work. County property may include, but is not limited to:

- County identification and/or security access cards
- County issued uniforms
- Keys to County properties or equipment

- County provided vehicles, equipment, radios, cellular phones, computers, tools, etc.
- Any additional County-owned or issued property
- For police officers, all badges, seals of the County, and patches that identify the officer as a sworn officer of the County must be returned to the Sheriff or his designee, subject to the Department's Standard Operating Procedures, rules and general orders.

8.05 COMPENSATION UPON TERMINATION

Employees who terminate their employment from the County will be paid for all time worked and compensatory time, less appropriate deductions on the next regular pay day according to the applicable federal and state laws. The amount of unused compensatory time will be calculated at the average regular rate received by such employee during the last three years of the employee's employment or at the final regular rate received by such employment, whichever is higher.

8.06 IMPACT ON BENEFITS

When an employee separates from employment with the County and when enrolled in the County medical, dental and/or life insurance plans, the employee's participation in these plans will end on the last day of active employment. The separating employee may be eligible to continue health care coverage after leaving. A notice summarizing the right to elect continued health care coverage (COBRA) and a summary of the cost will be sent to the employee's home a short time after coverage ends. Updated mailing information should be given to the Auditor.

8.07 BENEFITS UPON SEPARATION OF EMPLOYMENT: CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985 (COBRA)

8.07.1 COBRA Coverage

Employer sponsored group health plans may be continued at the expense of the insured for qualified persons under certain circumstances as provided by COBRA or applicable state laws when coverage might otherwise be terminated.

8.07.2 COBRA Qualifying Events

The qualifying events under COBRA are as follows:

- Termination of employment (except for gross misconduct) or reduction in the covered employee's scheduled work hours if it results in loss of coverage;
- Death of a covered employee;
- Divorce or legal separation of the covered employee from the employee's spouse;

- The employee's eligibility for Medicare benefits (the employee's qualified beneficiaries are then entitled to continuation of coverage, not the employee); or
- Bankruptcy of the employer on or after July 1, 1986, with respect to a covered employee who has retired at any time. Loss of coverage includes a substantial elimination of coverage within one year before or after the date of commencement of bankruptcy proceedings.

The employee must notify the Auditor's office within three (3) days of a qualifying event.

9. REPEALER

9.01. EFFECT OF ADOPTION OF RULES

Upon adoption by the Board of Commissioners and County Council, these rules shall govern the employees of the County. Employees of the Police Department shall also be subject to the General Orders, Standard Operating Procedure and rules of the Police Department. All terms of the handbook are effective _____, 2016, except as otherwise noted.

Form A-1
EMPLOYEE HANDBOOK ACKNOWLEDGEMENT

(PLEASE COMPLETE THIS FORM, REMOVE THIS PAGE AND RETURN IT TO THE AUDITOR'S OFFICE).

This Employee Handbook summarizes the County's policies, procedures, and benefits for its employees. The Police Department may also have additional policies outlined in the Standard Operating Procedure Manual. It is not intended to cover everything, nor is it a contract of employment. From time to time, changes may be needed and the County reserves the right to make such changes and communicate those changes to employees.

By signing below, I acknowledge that I have received a copy of the County Employee Handbook, revised _____, 2016. I agree that, as an employee, it is my responsibility to read this manual, to ask questions of my supervisor if I need additional information regarding items covered in this manual, and to abide by and observe any and all of the information, policies, and procedures explained in this manual. I also understand that the County may periodically change policies, benefits and procedures and that I will be responsible to abide by and observe such changes.

Civilian Employees

_____ I have entered into my employment relationship with the County voluntarily and acknowledge that there is no specific length of employment. Accordingly, either the County or I can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law.

Police Officers

_____ I have entered into my employment relationship with the County voluntarily and acknowledge that The Sheriff Merit Board is responsible for hiring, firing and disciplinary measures for Police Officers.

Employee Signature

Date Signed

Printed Name

Department

Division

Form A-2

AUTOMATIC ENROLLMENT NOTICE

All full-time employees are automatically enrolled in a comprehensive group insurance program that includes medical, dental, life, and accidental death and dismemberment. Automatic enrollment may be subject to a waiting period.

If you wish to opt out of enrollment in comprehensive group insurance, please sign below and return this form immediately for processing. If you opt out of the comprehensive group insurance program, you are required to provide proof of alternative coverage.

Notice of Opt-Out:

I opt-out of being automatically enrolled in the County's comprehensive group insurance program. I understand that I am required to provide proof of alternative coverage and that by opting-out of the County's insurance coverage; I may be subject to tax penalties if I do not have alternative coverage.

Employee

Date

Form A-3
NOTICE OF VOLUNTEER
FIREFIGHTING SERVICES

I hereby affirm that I am a volunteer firefighter for or a volunteer member of the
_____ Fire Department.

As required by the terms and provisions of the County Employee Handbook, I hereby agree to provide prompt notice to the County of all such circumstances in which my services as a volunteer with the above-named Department shall impact any obligations or duties I have as an employee of the County, including but not limited to any time in which I may be absent from my employment as a County employee as the result of such volunteer services.

Date: _____

Printed:

Received by _____ on _____, 20__.

TITLE III: ADMINISTRATION

CHAPTER 35: FINANCE AND TAXATION

Section

- 35.01 Not-for-profit organizations
- 35.02 Vehicle excise surtax
- 35.03 County option dog tax

Funds and Accounts

- 35.10 Stormwater Review Account
- 35.11 Flood Ordinance Review Account
- 35.12 Electrical Inspection Account
- 35.13 Recorder Identification Security Protection Fund
- 35.14 County Elected Officials Training Fund
- 35.15 Cumulative Capital Development Fund
- 35.16 Recorder's Records Perpetuation Fund
- 35.19 County User Fee Fund
- 35.20 Railroad Grade Crossing
- 35.21 Disaster Response Reimbursement Fund
- 35.22 E-911 Fund
- 35.23 Sheriff's Social Security Reimbursement Fund
- 35.24 Title IV-D Incentive Fund
- 35.25 Homestead Verification Deduction Fund
- 35.26 Veteran's Court Grant Fund
- 35.27 Veteran's Court Fee Fund
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- 35.29 Sheriff's Fingerprinting Fee Fund
- 35.30 Crawfordsville Ordinance Deferral Fee Fund
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- 35.41 Montgomery County Health Department Donation Fund
- 35.42 Family Mediation Grant Fund
- 35.43 State Criminal Alien Assistance Program Fund
- 35.44 Indiana Department of Corrections County Community Corrections Fund
- 35.45 Law Enforcement Recording Fee Fund
- 35.50 Major Moves Fund
- 35.60 Rainy Day Fund
- 35.70 Electronic Map Generation Fund
- 35.71 Building Department Cash Change Fund

- 35.72 Montgomery County Sheriff Department Drug Buy & Covert Investigations Cash Fund
- 35.80 Sex Offender Fund
- 35.85 Montgomery County Courthouse Clock Tower Project Fund
- 35.86 IJC Alcohol Drug Grant Fund
- 35.87 Montgomery County Courthouse Improvement Donation Fund
- 35.90 Emergency Management Performance Grants Program Fund
- 35.91 Pre-Disaster Mitigation Grant Program Fund
- 35.92 Homeland Security Grant – Projects Program Fund
- 35.93 Homeland Security Grant Program Fund
- 35.94 JABG – YSB Alternative School Fund
- 35.95 2016 ZIKA Grant Fund
- 35.96 Community Crossings Matching Grant Fund
- 35.97 Public Health Education Program Fund
- 35.98 Country Club Road Reconstruction Fund
- 35.99 Redevelopment Commission 2012 Bond Ongoing Expense Account Fund
- 35.100 Redevelopment Commission 2012 Bond Excess Account Fund

Cross-reference:

Innkeeper’s Tax, see Chapter 110

Flood Hazard Areas, see Chapter 151

Stormwater Drainage, see Chapter 154

§35.01 NOT-FOR-PROFIT ORGANIZATIONS

(A) All not-for-profit organizations which have qualified as charitable organizations under applicable regulations of the Internal Revenue Code and all government subdivisions or agencies are exempt from the payment of any fee which may be required by Chapters 150, 151, and 154 of this code and any other county ordinance in effect or which may be enacted in the future.

(B) The provisions of division (A) above do not apply to any penalty or fine which may be imposed as the result of any noncompliance or violation of any county ordinance. (Res. 99-4, passed 8-3-99)

§35.02 VEHICLE EXCISE SURTAX

(A) All passenger vehicles, trucks with a declared gross vehicle weight that does not exceed

11,000 pounds and motorcycles, registered in the county, that are now subject to an excise tax shall also be subject to an annual excise surtax of \$25 to be paid with the registration of said motor vehicle.

(B) (1) All of the following six classes of motor vehicles, registered in the county, shall be subject to an annual wheel tax as set out in the following schedule, to be paid with the registration of said motor vehicles:

<i>Motor Vehicle Classification</i>	<i>Declared Gross Weight (Vehicle Weight and Maximum Anticipated Load)</i>	<i>Annual Wheel Tax</i>
Buses		\$20.00
Recreational vehicles		20.00
Semitrailers		40.00
Tractors	20,000 – 78,000 lbs.	20.00
	More than 78,000 lbs.	40.00
Trailers	3,000 lbs.	5.00
	5,000 lbs.	10.00
	7,000 lbs.	15.00
	9,000 lbs.	20.00
	12,000 lbs.	25.00
	16,000 lbs.	30.00
	22,000 lbs.	35.00
	More than 22,000 lbs.	40.00
Trucks	16,000 – 26,000 lbs.	20.00
	30,000 – 66,000 lbs.	30.00
	More than 66,000 lbs.	40.00

(2) As provided by law, the following motor vehicles are exempt from the annual wheel tax:

- (a)** Vehicles owned by the state, a state agency or a political subdivision;
- (b)** Church buses;
- (c)** Vehicles subject to the annual excise surtax.

(C) All of the excise surtax and wheel tax collected on motor vehicles registered in the county shall be distributed, as provided by law, to the county, city and town units of the

county by the County Auditor and shall be used only to construct, reconstruct, repair or maintain streets and roads under their jurisdiction.

(Ord. 93-5, passed 6-1-93; Am. Ord. passed – 97; Am. Ord. 96-2, passed 6-28-96; Am. Council Ord. 2006-2, passed 4-____-06; Am. Council Ord. 2007-2, passed 4-17-07)

§ 35.03 COUNTY OPTION DOG TAX

(A) Dog Tax. Beginning January 1, 2007, and until further amended by ordinance, all owners of dogs shall pay the annual sum of \$5.00 per “taxable dog” per year. Any person who harbors or keeps a taxable dog in or near the person’s premises in the county, regardless of who owns the taxable dog, is liable for the tax. Said County Option Dog Tax shall be due and payable on or before May 10 of each year.

(B) Kennel Tax. Every person that shall own, operate, lease, control or otherwise maintain a kennel, shall pay a county option dog tax in which:

- (1)** more than six (6) taxable dogs are kept for breeding, boarding, training or sale, fifty dollars (\$50.00); or
- (2)** not more than six (6) taxable dogs are kept for breeding, boarding, training, or sale, thirty dollars (\$30).

(C) Collection of Tax. The following persons and/or entities are authorized to collect the county option dog tax:

(D) Collection Fee. The Animal Welfare League may retain a fee from the tax collected for each taxable dog in an amount of seventy-five cents (\$0.75). The Animal Welfare League shall remit to the county treasurer by the tenth day of each month the balance of the tax collected.

(E) Tax Form. The county treasurer shall include a county option dog tax return form with every property tax statement that is mailed to a person under I.C. 6-1.1-22-8(a)(1). The County Treasurer shall use a form prescribed by the Department of Local Government Finance.

(F) Proof of Payment. A person who harbors or keeps a taxable dog must retain proof of payment of the tax and present it to the local officer requesting proof. If a person fails to provide proof of payment, he or she will be required to pay the fine as provided for in (J).

(G) County Option Dog Tax Fund.

- (1)** The county treasurer shall establish a county option dog tax fund.
- (2)** At the time a county option dog tax fund is established under subsection (1), the county treasurer shall establish a canine research and education account within the county option dog tax fund.
- (3)** Interest and investment income derived from money in a county option dog tax fund becomes part of the county option dog tax fund.
- (4)** Money in a county's county option dog tax fund at the end of a calendar year does not revert to the county's general fund.
- (5)** The county treasurer shall deposit the tax into the county option dog tax fund according to the following allocation:
 - (a)** Twenty percent (20%) for the canine research and education account;
 - (b)** Eighty percent (80%) for the uses designated by the County Council.
- (6)** The county treasurer shall include the county option dog tax revenue received by the county treasurer in the settlement procedures described in I.C. 6-1.1-27. Amounts accumulated in the county canine research and education account shall be paid to the state treasurer in accordance with the procedure described under I.C. 6-1.1-27-3.

(H) Use of Tax Revenues. The money in the County Option Dog Tax fund may be used or, other than money allocated to the canine research and education account established, for any of the following purposes:

- (1)** The use of animal care facilities.
- (2)** Animal control, including dead animal disposal.
- (3)** Reimbursement to farmers for livestock kills.
- (4)** Reimbursement to people who have undergone rabies post-exposure prophylaxis.

(I) Claims for Funds. In order for any person, firm or entity to obtain any money from the

County Option Dog Tax fund, the person, firm or entity shall:

- (1)** Submit a claim on an approved form for the total amount of the amount requested from the County Option Dog Tax Fund.
 - (2)** Provide to the Auditor the following:

 - (a)** A detailed description of the facts concerning the animals that are killed, including the name of the owner of the animal (if any) that committed the acts leading to the death of the animals, and

 - (i)** A list of the animals by age, type and breed which killed in which a person, firm or entity is seeking reimbursement; or
 - (ii)** A copy of a statement from a medical professional indicating the medical necessity for a person to undergo rabies post-exposure prophylaxis;
 - (b)** A copy of all medical bills incurred for those persons that have undergone rabies post-exposure prophylaxis; and
 - (c)** A statement that the claimant has paid to the County any and all property tax, dog tax and other taxes due.
 - (3)** Have the claim approved by the County Commissioners.
 - (4)** Have funds appropriated by the County Council
- (J) Failure to Pay Tax.** Any person who harbors or keeps a taxable dog as provided for in (A), who fail to pay the tax by the due date, commits an infraction and and is subject to a fine in the amount of \$25 per dog per year. Provided, however, in 2007, no person shall be subject to a fine until after July 1, 2007. The Sheriff, and his designees, and animal control officers of the Animal Welfare League shall have the authority to issue citations for this fine. If unpaid, the infraction will be prosecuted by the County Prosecutor in the same manner as other infractions.
- (K) Detention of Dog.** In the event that any dog is confined by Montgomery County in any of its facilities owned or leased and the owner has not paid the County Option Dog Tax, then the owner shall pay to the County the sum of \$40 per day in which the dog is detained in its

facilities. In the event that any dog is confined by Montgomery County in any of its facilities owned or leased and the owner has paid the County Option Dog Tax, then the owner shall pay to the County the sum of \$25 per day in which the dog is detained in its facilities.

(L) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

TAXABLE DOG means any dog at least six (6) months of age who is not a service dog for the sight impaired or a police or fire rescue dog.

ANIMAL CARE FACILITY means an animal control center, an animal shelter, a humane society, or another animal impounding facility that has as its purpose the humane treatment of animals. (Council Ord. 2006-07)

FUNDS AND ACCOUNTS

§35.10 **STORMWATER REVIEW ACCOUNT**

(A) There is established a Stormwater Review Fund. This is a non-reverting fund. All fees collected by the County for stormwater reviews and inspections shall be deposited in this fund.

(B) The fees deposited into this account may be used for the following purposes:

(1) one-half (1/2) of the fees may be used to pay for the following expenses of the Building Department:

(a) To pay claims for the payment of stormwater reviews, the study of stormwater problems, engineering services for stormwater problems and other services which are related to county stormwater drainage problems; and

(b) To pay the operating expenses related to the provision of stormwater reviews and inspections, including but not limited to wages, salaries and benefits of its employees, equipment used in such reviews, and other costs of providing this service.

(2) one-half (1/2) of the fees may be used to pay for the following expenses of the Surveyor's Office:

(a) To pay claims for the payment of stormwater reviews, the study of stormwater problems, engineering services for stormwater problems and other services which are related to county stormwater drainage problems; and

(b) To pay the operating expenses related to the provision of stormwater reviews and inspections, including but not limited to wages, salaries and benefits of its employees, equipment used in such reviews, and other costs of providing this service.

(Ord. 2011-11, passed 10-10-11)

§ 35.11 FLOOD ORDINANCE REVIEW ACCOUNT

(A) The County Council establishes a Flood Ordinance Review Account. This is a nonreverting fund. All fees collected by the County for flood ordinance reviews shall be deposited into this account.

(B) The fees deposited into this account may be used for following purposes:

(1) To pay claims for payment of flood plain mapping, engineering for flood plain projects and other services which are related to county flood plain problems; and

(2) To pay the operating expenses of the Building Department related to the provision of flood plain ordinance reviews, including but not limited to wages, salaries and benefits of its employees, equipment used in such reviews, and other costs of providing this service. (Ord. 2000-8, passed 12-19-00; Am Council Ord. 2005-07, passed 7-19-05)

§ 35.12 ELECTRICAL INSPECTION ACCOUNT

(A) The County Council establishes an Electrical Inspection Account. This is a non-reverting fund. All fees collected by the County for electrical inspections or services performed by either Crawfordsville Electric Light and Power Company on behalf of the county or by the County Building Administrator shall be deposited into this account.

(B) The fees deposited into this account may be used for the following purposes:

(1) To pay claims for payment of inspections and other services related to electrical inspections by Crawfordsville Electric Light & Power Company and other third parties which provide such services at the request of and on behalf of the County; and

(2) To pay the operating expenses of the Building Department related to the provision of electrical inspections, including but not limited to wages, salaries and benefits of its employees, equipment used in such inspections, and other costs of providing this service. (Ord. 2000-8, passed 12-19-00; Am. Council Ord. 2005-06, passed 7-19-05)

§ 35.13 RECORDER IDENTIFICATION SECURITY PROTECTION FUND

(A) There is established a Recorder Identification Security Protection Fund. Pursuant to Indiana Code §36-2-7.5-6, the Recorder shall charge a two dollar (\$2) county identification security protection fee for recording or filing a document in addition to the fees required by

Indiana Code §36-2-7-10(b)(1) through §36-2-7-10(b)(11). The Recorder shall deposit this fee in the following manner:

- (1) One dollar (\$1) shall be deposited in the Recorder's Records Perpetuation Fund established under Indiana Code § 36-2-710(d);
- (2) Fifty cents (\$0.50) shall be deposited in the Recorder Identification Security Protection Fund established under Indiana Code §36-2-7-11; and
- (3) Fifty cents (\$0.50) shall be deposited in the County Elected Officials Training Fund established under Indiana Code §36-27-19.

(B) The fees deposited into this Fund may be used, pursuant to Indiana Code §36-2-7.5-11(d), only to purchase, upgrade, implement or maintain redacting technology used in the Office of the Recorder.

(C) This is a non-reverting fund.

§ 35.14 COUNTY ELECTED OFFICIALS TRAINING FUND

(A) There is established a County Elected Officials Training Fund. This Fund shall consist of money deposited by the Recorder, pursuant to Indiana Code §36-2-7.5-6(c) (3), from the County Identification Security Protection Fee.

(B) The fees deposited into this fund may be used, pursuant to Indiana Code 36-2-7-19, solely to provide training to county elected officials as required for recorders under Indiana Code §36-2-11-2.5, surveyors under Indiana Code §36-212-2.5, and other similar laws.

(C) This is a non-reverting fund.

§ 35.15 CUMULATIVE CAPITAL DEVELOPMENT FUND

There is established a Cumulative Capital Development Fund. Such funds may be used for lease payments for or purchase of equipment and for all other purposes provided for in I.C. 36-914.5-2.

(Ord. 2006-15, passed 7-11-06; Re-established in Ord. 2016-15, passed 7-12-16)

§35.16 RECORDER'S RECORDS PERPETUATION FUND

(A) There is established a Recorder's Records Perpetuation Fund. This Fund shall consist of money deposited by the Recorder, pursuant to Indiana Code §36-2-7.5-6(c)(1), from the county identification security protection fee and revenue received under Indiana Code §36-2-7-10.1, §36-2-7-10(b)(5), §36-2-7-10(b)(8), §36-2-7-10(b)(9), §36-2-7-10(b)(10), and fifty cents (\$0.50) of revenue from §36-2-7-10(b)(11).

(B) The fees deposited into this Fund may be used by the Recorder without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(C) This is a non-reverting fund.
(Ord. 2011-__, passed 6-27-11)

§35.19 COUNTY USER FEE FUND

(A) *Source of Funds.* Indiana Code §33-37-8-5 establishes a County User Fee Fund. This fund shall consist of the following fees collected by the Clerk or Probation Department:

- (1) pre-trial diversion fees;
- (2) informal adjustment fees;
- (3) marijuana eradication fees;
- (4) alcohol and drug services fees;
- (5) law enforcement continuing education fees;
- (6) jury fees; and
- (7) problem solving court fees.

(B) *Use of Funds.* Except as provided for in Subsection (C), all fees deposited into the County User Fee Fund shall be used for the benefit of the program from which the fees are derived. The fees deposited into this fund shall be appropriated by the County Council upon submission by the program officer of a proper claim for funds. The moneys in the fund may be used to support the specific program as provided for by Indiana law.

(C) *Deferral and Jury Fees Limitations.* All of the jury fees and Two Dollars (\$2.00) of each deferral program fee shall be deposited into the jury pay fund.

(D) *Non-reverting Fund.* This is a non-reverting fund.

§35.20 RAILROAD GRADE CROSSING FUND

(A) *Source of Funds.* The Board of Commissioners hereby establishes a Railroad Grade Crossing Fund pursuant to I.C. §8-6-7.7-6.1. The fund shall consist of monies received from a lump sum payment grant under a program managed by the Indiana Department of Transportation (INDOT) Rail Office for railroad grade crossing projects

(B) *Use of Funds.* All money deposited into the Railroad Grade Crossing Fund shall be appropriated by the County Council upon submission by the Board of Commissioners of a proper claim for funds to be used by local jurisdictions for active and passive railroad crossing safety improvement projects in Montgomery County, Indiana.

(C) *Non-Reverting Fund.* This is a non-reverting fund.

(Ord. 2012-1, passed 1-10-12)

§35.21 DISASTER RESPONSE REIMBURSEMENT FUND

(A) *Source of Funds.* The Board of Commissioners hereby establishes a Disaster Response Reimbursement Fund. The fund shall consist of monies received from the Federal Emergency Management Agency, State Emergency Management Agency, other units of Indiana government to reimburse Montgomery County for expenses it incurs because of loss of or damage to equipment provided, labor expenses for County employees or officers responding to a disaster, and other qualifying expenses related to a response to a disaster, whether provided directly by Montgomery County or indirectly through a mobile support unit.

(B) *Use of Funds.* All money deposited into the Disaster Response Reimbursement Fund shall be appropriated by the County Council upon submission by the Board of Commissioners of a proper claim for funds to be used to reimbursement the County's various funds for expenses incurred by the County for direct or indirect disaster response, as provided for by Indiana Code §10-14-4-5, §10-14-3-10.7, §10-14-3-19, or any other Indiana law, as amended from time to time. Such reimbursements include expenses for loss of or damage to equipment, labor provided by County employees and officers, travel, food, lodging and maintenance expenses, and payments for death, disability or injury to such employees and officers while responding to such disasters.

(C) *Non-Reverting Fund.* This is a non-reverting fund.

(Ord. 2012-2, passed 4-9-12)

§35.22 MONTGOMERY COUNTY 911 FUND

(A) *Source of Funds.* The Board of Commissioners hereby establishes the Montgomery County 911 Fund, pursuant to Indiana Code §36-8-16.7. The fund shall consist of monies in the Montgomery County Wireless Fund on June 30, 2012, monies in the Montgomery County Emergency Telephone System Fund on June 30, 2012, and distributions received from the Statewide 911 Fund after June 30, 2012. Income from the investment of monies in this Fund must be held in a separate fund, known as the Montgomery County 911 Income Fund.

(B) *Use of Funds.* All money deposited into the Montgomery County 911 Fund shall be used for the following:

- (1) lease, purchase or maintenance of communication services;
- (2) necessary system hardware and software and data base equipment;
- (3) personnel expenses, including wages, benefits, training, and continuing education, only to the extent reasonable and necessary for the provision and maintenance of
 - (i) the Statewide 911 system; or
 - (ii) a wireless enhanced emergency system funded under Indiana Code §36-8-16, before its repeal on July 1, 2012.
- (4) operating costs, including costs associated with:
 - (i) utilities;
 - (ii) maintenance;
 - (iii) equipment designed to provide backup power or system redundancy, including generators; and
 - (iv) call logging equipment.
- (5) an emergency notification system that is approved by the Statewide 911 Board under Indiana Code §36-8-16.7-40;
- (6) connectivity to Indiana Data and Communications System (IDACS);

- (7) rates associated with communications service providers' enhanced emergency communications system network services;
- (8) mobile radio equipment used by first responders, other than radio equipment purchase under subsection (9) as a result of the narrow banding requirements of the Federal Communications Commission;
- (9) up to fifty percent (50%) of the costs associated with the narrow banding or replacement of radios or other equipment as a result of the narrow banding requirements specified by the Federal Communications Commission.

The Fund may not be used for the construction, purchase, renovation or furnishing of PSAP buildings or for vehicles.

(C) *Non-Reverting Fund.* This is a non-reverting fund.

(Ord. 2012-8, passed 6-25-12)

§35.23 SHERIFF'S SOCIAL SECURITY INCENTIVE FUND

(A) *Source of Funds.* The Board of Commissioners hereby establishes a Sheriff's Social Security Incentive Fund. The fund shall consist of monies received from the Social Security Administration as incentive payments for the provision of information by the Sheriff to the Social Security Administration.

(B) *Use of Funds.* All money deposited into the Sheriff's Social Security Incentive Fund shall be appropriated by the County Council upon submission by the Board of Commissioners of a proper claim for funds to be used to support and pay for the administration of the agreement with the Social Security Administration and the Sheriff and for any and expenses associated with the operation of the jail, including but not limited to salaries, equipment, employee benefits, supplies and other operational expenses.

(C) *Non Reverting Fund.* This is a non-reverting fund.

(Ord. 2012-10, passed 8-13-12)

§35.24 TITLE IV-D INCENTIVE FUND

(A) *Source of Funds.* There is hereby created a new fund, the Title IV-D Incentive Fund. The source of monies in this fund is incentive payments paid by the Title IV-D agency

directly to Montgomery County, Indiana, deposited into the county treasury for distribution to the Title IV-D Incentive Fund.

(B) Use of Funds. The Court may use the monies in the fund only for child support enforcement purposes. Notwithstanding I.C. 36-2-5-2(b), the distribution from the county treasury shall be made without the necessity of first obtaining an appropriation from the Montgomery County Council.

(C) Non-Reverting Fund. Any money remaining in the Title IV-D Incentive Fund at the end of the year does not revert to any other fund, but continues in the Title IV-D Incentive Fund. This is a non-reverting fund.

(Ord. 2012-17, passed 11-26-12)

§35.25 HOMESTEAD VERIFICATION DEDUCTION FUND

(A) Source of Funds. There is hereby created a new fund, the Homestead Verification Deduction Fund. The source of monies in this fund is taxes, interest and penalties collected by the County in the first year of collections after the Auditor determines that properties were not eligible for a standard deduction under Indiana Code §6-1.1-12-37 or a homestead credit under Indiana Code §6-1.1-20.9.

(B) Use of Funds. All monies deposited into the Homestead Verification Deduction Fund shall be treated as miscellaneous revenue, and distributions from the Fund shall, upon appropriation by the County Council, be made only for the following purposes:

- (1)** fees and other costs incurred by the Auditor to discover property that is eligible for a standard deduction under Indiana Code §6-1.1-12-37 or a homestead credit under Indiana Code §6-1.1-20.9;
- (2)** other expenses of the Office of the Auditor; and
- (3)** the cost of preparing, sending, and processing notices described in Indiana Code §6-1.1-22-8.1(b)(9) and checklists or notices described in Indiana Code §6-1.122.5-12(d).

(C) Non-Reverting Fund. Any money remaining in the Homestead Verification Deduction Fund at the end of the year does not revert to any other fund, but continues in the Homestead Verification Deduction Fund. This is a non-reverting fund.

(D) Consideration of Funds. The amount of deposits in the Fund, the balance of the Fund, and expenditures in the Fund may not be considered in establishing the budget of the Auditor or in setting property tax levies that will be used in any part of the Office of the Auditor.

(Ord. 2012-16, passed, 11-26-12)

§35.26 VETERAN'S COURT GRANT FUND

(A) *Source of Funds.* There is hereby created a new fund, the Veteran's Court Grant Fund. The source of monies in this fund is grants and donations made for the purpose of assisting the Montgomery Superior Court II in the operation of the Veteran's Court.

(B) *Use of Funds.* All monies deposited into the Veteran's Court Grant Fund will be used to defray the expenses of the Veteran's Court in Montgomery Superior Court II, including but not limited to the payment of wages and salaries, office supplies, contractual services, and capital expenses.

(C) *Non-Reverting Fund.* Any money remaining in the Veteran's Court Grant Fund at the end of the year does not revert to any other fund, but continues in the Veteran's Court Grant Fund. This is a non-reverting fund.

(Commissioners Ord. 2014-01, passed April 11, 2014)

§35.27 VETERAN'S COURT FEE FUND

(A) *Source of Funds.* There is hereby created a new fund, the Veteran's Court Fee Fund. The source of monies in this fund is fees paid by participants in the Veteran's Court's programs.

(B) *Use of Funds.* All monies deposited into the Veteran's Court Fee Fund will be used to defray the expenses of the Veteran's Court in Montgomery Superior Court II, including but not limited to the payment of wages and salaries, office supplies, contractual services, and capital expenses.

(C) *Non-Reverting Fund.* Any money remaining in the Veteran's Court Grant Fund at the end of the year does not revert to any other fund, but continues in the Veteran's Court Grant Fund. This is a non-reverting fund.

(Commissioners Ord. 2014-02, passed April 11, 2014)

§35.28 PRESCRIPTION DRUG PROGRAM FUND

(A) *Source of Funds.* There is hereby created a new fund, the Prescription Drug

Program Fund (Fund #9169). The source of monies in this fund is grants, donations and other monies for the purpose of assisting the Montgomery County in the administration of the program.

(B) Use of Funds. All monies deposited into the Prescription Drug Program Fund will be used to defray the expenses of the administration of the Prescription Drug Program, including but not limited to the payment of wages and salaries, education and community awareness, office supplies, contractual services, and capital expenses.

(C) Non-Reverting Fund. Any money remaining in the Prescription Drug Program Fund at the end of the year does not revert to any other fund, but continues in the Prescription Drug Program Fund. This is a non-reverting fund.

(Commissioners Ord. 2014-03, passed June 23, 2014)

§35.29 SHERIFF’S FINGERPRINTING FEE FUND

(A) Source of Funds. There is hereby created a new fund, the Sheriff’s Fingerprinting Fee Fund. The source of monies in this fund is fees paid to the Sheriff for fingerprinting services and fees paid to the Sheriff by third party vendors providing fingerprinting services.

(B) Use of Funds. Monies deposited into the Sheriff’s Fingerprinting Fee Fund may be used to pay third party vendors providing fingerprinting services, to purchase equipment, to pay salaries and other necessary expenses of providing fingerprinting services, and to pay other expenses of the Sheriff’s Department.

(C) Non-Reverting Fund. This is a non-reverting fund. Any money remaining in the Sheriff’s Fingerprinting Fee Fund at the end of the year does not revert to any other fund, but continues in the Sheriff’s Fingerprinting Fee Fund.

(Commissioners Ord. 2014-09, passed January 13, 2015)

§35.30 CRAWFORDSVILLE ORDINANCE DEFERRAL FEE FUND

(A) Source of Funds. There is hereby created a new fund, the Crawfordsville Ordinance Deferral Fee Fund. The source of monies in this fund is fees paid to the Montgomery County Clerk by participants in the Crawfordsville Ordinance Deferral Program.

(B) Use of Funds. All monies deposited into the Crawfordsville Ordinance Deferral Fee

Fund will be paid to the City of Crawfordsville in order to defray the expenses of the administration of the deferral program. The Clerk will pay these funds to the City upon the City Clerk-Treasurer's written request on a quarterly basis.

(C) *Non-Reverting Fund.* Any money remaining in the Crawfordsville Ordinance Deferral Fee Fund at the end of the year does not revert to any other fund, but continues in the Crawfordsville Ordinance Deferral Fee Fund. This is a non-reverting fund.

(Commissioners Ord. 2014-8, passed January 13, 2015)

**§35.31 CRAWFORDSVILLE TRAFFIC ORDINANCE VIOLATION
PAYMENT FUND**

(A) *Source of Funds.* There is hereby created a new fund, the Crawfordsville Traffic Ordinance Violation Payment Fund. The source of monies in this fund is the City's share of fines and costs drivers pay to the Montgomery County Clerk for violations of City traffic ordinance violations.

(B) *Use of Funds.* All monies deposited into the Crawfordsville Traffic Ordinance Violation Payment Fund will be paid to the City of Crawfordsville under Indiana law. The Clerk will pay these funds to the City upon the City Clerk-Treasurer's written request on a quarterly basis.

(C) *Non-Reverting Fund.* Any money remaining in the Crawfordsville Traffic Ordinance Violation Payment Fund at the end of the year does not revert to any other fund, but continues in the Crawfordsville Traffic Ordinance Violation Payment Fund. This is a non-reverting fund. (Ord.2015-6, passed 3-___-15)

**§35.41 MONTGOMERY COUNTY HEALTH DEPARTMENT DONATION
FUND**

(A) *Source of Funds.* There is hereby created a new fund, the Montgomery County Health Department Donation Fund. The source of monies in this fund includes donations received from individuals, entities and others for the purpose of funding the health summit, community health improvement and strategic plan, and other initiatives of the Health Department.

(B) *Use of Funds.* All monies deposited into the Montgomery County Health Department Donation Fund will be used only for the payment of the costs associated with the health summit, community health improvement and strategic plan, and other initiatives.

(C) Non-Reverting Fund. Any money remaining in the Montgomery County Health Department Donation Fund at the end of the year does not revert to any other fund, but continues in the Health Department Donation Fund. This is a non-reverting fund. (Est Ord. 2016-7, passed 2-22-16)

§35.42 FAMILY MEDIATION GRANT FUND

(A) Source of Funds. There is hereby created a new fund, the Family Mediation Grant Fund. The source of monies in this fund is the grant received from the Indiana Supreme Court.

(B) Use of Funds. Monies deposited into this fund may be used to pay for alternative dispute resolution services for litigants in family law cases, under the rules established by the Montgomery County Courts and the terms and conditions of its grant.

(C) Non-Reverting Fund. This is a non-reverting fund. Any money remaining in the fund at the end of the year does not revert to any other fund, but continues in the fund. (Commissioners Ord 2016-8, passed 2-22-16)

§35.43 STATE CRIMINAL ALIEN ASSISTANCE PROGRAM FUND

(A) Source of Funds. There is hereby created a new fund, the State Criminal Alien Assistance Program Fund. The source of monies in this fund is reimbursement awards from the Department of Justice for the costs of incarcerating unauthorized immigrants for at least four days in the County Jail.

(B) Use of Funds. Monies deposited into this fund may be used to pay for the medical and mental health expenses of persons incarcerated in the Montgomery County Jail and other expenses authorized by the terms and conditions of the award.

(C) Non-Reverting Fund. This is a non-reverting fund. Any money remaining in the fund at the end of the year does not revert to any other fund, but continues in the fund. (Commissioner Ord. 2016-13, passed 3-28-16)

§35.44 INDIANA DEPARTMENT OF CORRECTIONS COUNTY COMMUNITY CORRECTIONS FUND

(A) Source of Funds. There is hereby created a new fund, the Indiana Department of Corrections County Community Corrections Fund. The source of monies in this fund is grants made from the Indiana Department of Corrections to counties for the establishment and operations of community corrections programs and transfers to the Indiana Judicial Conference to be used to provide financial aid for the support of court probation services under the program established under Indiana Code §11-13-2.

(B) Use of Funds. Monies deposited into this fund may be used to pay for the salaries,

benefits, office supplies, contract services, capital expenses and other operational expenses of the community corrections program and court probations services under the program established under Indiana §11-13-2.

(C) *Non-Reverting Fund*. This is a non-reverting fund. Any money remaining in the fund at the end of the year does not revert to any other fund, but continues in the fund. (Ord. 2016-16, adopted 6/13/16).

§35.45 LAW ENFORCEMENT RECORDING FEE FUND

(A) *Source of Funds*. The Board of Commissioners hereby establishes the Law Enforcement Recording Fee Fund. The fund shall consist of fees received by the Sheriff for provisions of copies of law enforcement recordings.

(B) *Use of Funds*. All money deposited into the Law Enforcement Recording Fee Fund will be used, without appropriation, to purchase cameras and other equipment for use in connection with the Sheriff's law enforcement recording program, for training concerning law enforcement recordings, and to defray the expenses of storing, producing, and copying law enforcement recordings.

(C) *Non Reverting Fund*. This is a non-reverting fund.

(Ord. 2016-21, passed 8-22-16)

§35.50 MAJOR MOVES FUND

(A) The County Council establishes a Major Moves Fund. This is a non-reverting fund. The sources of funds for this Fund shall be any and all moneys distributed by the State of Indiana to Montgomery County as provided for in I.C. 8-14-14, as amended from time to time, and all other funding sources specified by ordinance or the Montgomery County Council not otherwise prohibited by law which are transferred to the Fund by the Council.

(B) The funds transferred into this Fund may be used for the construction, reconstruction and maintenance of highways in Montgomery County as provided for I.C. 8-14-1 and for any other purpose allowed by Indiana law. Provided, however, no part of the funds shall be used for personnel, equipment or routine maintenance of the highways in Montgomery County (Council Ord. 2006-06, passed 7-19-06; Commissioners Ord. 2006-16, passed 7-25-06)

§35.60 RAINY DAY FUND

(A) The County Council establishes a Rainy Day Fund. This is a non-reverting fund. The sources of funds for this Fund shall be any unused and unencumbered funds allowed to be used by I.C. 36-1-8-5.1(b)(2), as amended from time to time, and all other funding sources specified by the Council not otherwise prohibited by law which are transferred to the Fund by the Council.

(B) The funds transferred into this Fund may be used for the following purposes:

(1) To be transferred to the County General Fund in order to allow the County to meet its needs in the event of a revenue shortfall, budget cut or other financial difficulty; and

(2) To be appropriated for any other purpose allowed by Indiana law.

Council Ord. 2006-03, passed ___-__2006)

§35.70 ELECTRONIC MAP GENERATION FUND

(A) The County Council establishes an Electronic Map Generation Fund. This is a nonreverting fund. The sources of funds for this Fund shall be any and all fees paid to the Montgomery County Building Department for maps and other information under Chapter 155 for mapping fees.

(B) The monies deposited into this Fund may be used for the expense of providing mapping services in Montgomery County by the Building Department, including the cost of the purchase and maintenance of equipment and machinery, the cost of supplies, the cost of personnel necessary to provide these services, including salaries and benefits for the employees, the cost of acquisition of the digital, electronic photographic and other information used in the creation of the maps, and other expenses associated with the provision of these services. (Council Ord. 2007-05, passed 8-21-07)

§35.71 BUILDING DEPARTMENT CASH CHANGE FUND

(A) The County Council establishes a Building Department Cash Change Fund. This is a nonreverting fund. The sources of funds for this Fund shall be an initial transfer of funds from another line item in the Building Department budget.

(B) The monies deposited into this Fund may be used by the Building Department to make change for those persons conducting transactions with the Department. (Council Ord. 2007-06, passed 8-21-07)

§35.72 MONTGOMERY COUNTY SHERIFF DEPARTMENT DRUG BUY & COVERT INVESTIGATIONS CASH FUND

(A) There is established in the County a Special Non-Reverting Fund, to be known as the “Montgomery County Sheriff Department Drug Buy & Covert Investigations Cash Fund”, into which shall be deposited One Thousand Dollars (\$1,000.00). This amount shall be maintained throughout the period of the fund’s existence.

(B) The Montgomery County Sheriff Department Drug Buy & Covert Investigations Cash Fund will exist until terminated by Ordinance of the Montgomery County Commissioners. (Commissioners Ord. 2010-2, passed 7-26-10)

§35.80 LOCAL ANNUAL SEX OR VIOLENT OFFENDER REGISTRATION AND ADDRESS CHANGE FEES – COUNTY SEX AND VIOLENT OFFENDER ADMINISTRATION FUND.

(A) There is hereby established a County Sex And Violent Offender Administration Fund. The Montgomery County Sheriff shall:

- (1) Collect from persons required to register an annual sex or violent offender regulation fee in an amount not to exceed fifty dollars (\$50);
- (2) Collect from persons required to register a sex or violent offender address change fee in an amount not to exceed five dollars(\$5) per address change;

The annual sex or violent offender registration fee may be collected only one (1) time per year. The sex or violent offender address change fee may be collected each time a sex or violent offender registers an address change with the local law enforcement authority.

(B) The Sheriff shall transfer fees collected to the County Auditor, and the Auditor shall monthly:

- (1) Deposit ninety percent (90%) of any fees collected under this section in the County Sex And Violent Offender Administration Fund; and

(2) Transfer ten percent (10%) of any fees collected under this section to the Treasurer of the State of Indiana for deposit in the State Sex And Violent Offender Administration Fund, as provided for by Indiana Code §11-8-8-21.

(C) The Montgomery County Council may appropriate money from the County Sex And Violent Offender Administration Fund to an agency or organization involved in the administration of the sex and violent offender registry to defray the expense of administering or ensuring compliance with the laws concerning the Indiana Sex And Violent Offender Registry. These appropriations may include appropriations for any expenses associated with the administering or ensuring compliance with the laws of the Registry, including but not limited to salaries, wages, benefits, supplies, equipment, transportation and other expenses.

(D) This is a non-reverting fund.

(Ord. 2011-2, passed 2-14-11)

§35.85 MONTGOMERY COUNTY COURTHOUSE CLOCK TOWER PROJECT FUND

(A) *Source of Funds.* There is hereby created a new fund, the Montgomery County Courthouse Clock Tower Project Fund. The source of monies in this fund includes donations received from the Clock Tower Fund of the Montgomery County Historical Society, private donations received by the Board of Commissioners for the project, contributions by the City of Crawfordsville for the project, and Montgomery County funds appropriated to this Fund by the Montgomery County Council for the project.

(B) *Use of Funds.* All monies deposited into the Montgomery County Courthouse Clock Tower Project Fund will be used for the costs associated with the study, design, construction and completion of the Courthouse Clock Tower project. After completion of the project, remaining funds may be used for the costs of maintenance, repair, inspection, reconstruction and restoration of the Courthouse clock tower.

(C) *Non-Reverting Fund.* Any money remaining in the Montgomery County Courthouse Clock Tower Project Fund at the end of the year does not revert to any other fund, but continues in the Courthouse Clock Tower Project Fund. **This is a non-reverting fund.**
(Ord. 2015-8, passed 5-____-15)

§35.86 IJC ALCOHOL DRUG GRANT FUND

(A) *Source of Funds.* There is hereby created a new fund, the IJC Alcohol Drug Grant Fund. The source of monies in this fund is grant funds from the Indiana Judicial Conference.

(B) *Use of Funds.* All monies deposited into the IJC Alcohol Drug Grant Fund will be used to reimburse the Probation Department for the purchase computers, cords and other equipment for use in the administration of its alcohol and drug programs, as defined by the grant.

(C) *Non-Reverting Fund.* Any money remaining in the IJC Alcohol Drug Grant Fund at the end of the year does not revert to any other fund, but continues in the IJC Alcohol Drug Grant Fund. This is a non-reverting fund.

(Ord. 2015-9, passed 5-____-15)

§35.87 MONTGOMERY COUNTY COURTHOUSE IMPROVEMENT DONATION FUND

(A) *Source of Funds.* There is hereby created a new fund, the Montgomery County Courthouse Improvement Donation Fund. The source of monies in this fund includes donations received from the City of Crawfordsville, citizens of the County, local businesses, and others for the purpose of funding the enhancements to the Courthouse Security, Stormwater, and ADA project for the parking lot’s amenities, landscaping and fencing.

(B) *Use of Funds.* All monies deposited into the Montgomery County Courthouse Improvement Donation Fund will be used only for the payment of the costs associated with the construction, reconstruction, installation and design of enhancements for the Montgomery County Security, Stormwater and ADA Project which provides for improvements to the courthouse parking lot’s amenities, landscaping and fencing.

(C) *Non-Reverting Fund.* Any money remaining in the Montgomery County Courthouse Improvement Donation Fund at the end of the year does not revert to any other fund, but continues in the Courthouse Improvement Donation Fund. This is a non-reverting fund.

(Ord. 2016-4, passed 1-25-16)

§35.90 EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM FUND

(A) *Source of Funds.* There is hereby created a new fund, the Indiana Emergency Management Performance Grants Program Fund. The source of monies in this fund is the

Fiscal Year 2014 Emergency Management Performance Grants Program, Award Number EMW-2014-EP-00030.

(B) *Use of Funds.* Monies deposited into this fund may be used for all legal purposes which are permitted by the grant, which may include but may not be limited to emergency management equipment.

(C) *Non-Reverting Fund.* This is a non-reverting fund. Any money remaining in the fund at the end of the year does not revert to any other fund, but continues in the fund. (Ord. 2015-13, passed 6-22-15)

§35.91 PRE-DISASTER MITIGATION GRANT PROGRAM FUND

(A) *Source of Funds.* There is hereby created a new fund, the Pre-Disaster Mitigation Grant Program Fund. The source of monies in this fund is the Fiscal Year 2012 Pre-Disaster Mitigation Grant Program, Award Number EMC-2013-PC-0001.

(B) *Use of Funds.* Monies deposited into this fund may be used for all legal purposes which are allowable costs under the grant relating to the project of updating the County's Multi-hazard Mitigation Plan, which may include but may not be limited to the expenses for consultants, supplies, and travel relating to updating and implementing the county's pre-disaster mitigation plan.

(C) *Non-Reverting Fund.* This is a non-reverting fund. Any money remaining in the fund at the end of the year does not revert to any other fund, but continues in the fund. (Ord. 2015-14, passed 6-22-15)

§35.92 2013 HOMELAND SECURITY GRANT – PROJECTS PROGRAM FUND

(A) *Source of Funds.* There is hereby created a new fund, the 2013 Homeland Security Grant – Projects Program Fund. The source of monies in this fund is the Fiscal Year 2013 Homeland Security Grant Program, Award Number EMW-2013-SS-00017.

(B) *Use of Funds.* Monies deposited into this fund may be used for all legal purposes which are permitted by the grant, which may include but may not be limited to security equipment for the county courthouse and equipment, training, and related expenses for planning and training for security and emergency response in the county buildings.

(C) *Non-Reverting Fund.* This is a non-reverting fund. Any money remaining in the fund at the end of the year does not revert to any other fund, but continues in the fund. (Ord. 2015-11, passed 6-22-15)

§35.93 2014 HOMELAND SECURITY GRANT PROGRAM FUND

(A) *Source of Funds.* There is hereby created a new fund, the 2014 Homeland Security Grant Program Fund. The source of monies in this fund is the Fiscal Year 2014 Homeland Security Grant Program, Award Number EMW-2014-SS-00138.

(B) *Use of Funds.* Monies deposited into this fund may be used for all legal purposes which are permitted by the grant, which may include but may not be limited to emergency management and response equipment, planning, and training.

(C) *Non-Reverting Fund.* This is a non-reverting fund. Any money remaining in the fund at the end of the year does not revert to any other fund, but continues in the fund.

§35.94 JABG – YSB ALTERNATIVE SCHOOL FUND

(A) *Source of Funds.* There is hereby created a new fund, the JABG – YSB Alternative School Fund. The source of monies in this fund is the Juvenile Accountability Block Grant, as reflected in the Grant Agreement entered into between the Indiana Criminal Justice Institute and the Montgomery County Probation Department commencing July 1, 2015, and any amendments or extension to that Agreement.

(B) *Use of Funds.* Monies deposited into this fund may be used for all legal purposes which are permitted by the grant, which may include but may not be limited to salaries, benefits, supplies, and occupancy costs relating to the alternative school program.

(C) *Non-Reverting Fund.* This is a non-reverting fund. Any money remaining in the fund at the end of the year does not revert to any other fund, but continues in the fund.

§35.95 2016 ZIKA GRANT FUND

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2016 Zika Grant Fund. The funds shall consist of grant monies received by the Montgomery County Health Department from the Indiana State Department of Health for Vector Control (Zika Funding).

(B) *Use of Funds.* All money of the 2016 Zika Grant Fund will be used, without appropriation,

solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana State Department of Health and the Montgomery County Health Department.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.

(Comm. Ord. 2016-27, passed 9/26/16)

§35.96 2016 COMMUNITY CROSSINGS MATCHING GRANT FUND

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2016 Community Crossings Matching Grant Fund. The funds shall consist of the County’s 2016 Special LOIT Distribution designated for use for road and street projects (the local match) and grant monies received from the Indiana 2016 Community Crossings Matching Grant (the State match).

(B) *Use of Funds.* All money of the 2016 Community Crossings Matching Grant Fund will be used for road and street projects approved in the grant and will be used as provided for in the grant approval.

(C) *Disposition of Unused Funds.* After completion of the approved projects, any unused funds will be disposed of based upon the pro-rata share of the local match and the State match. The portion of unused funds which represents the share of the local match will revert to the County General Fund. The portion of unused funds which represents the share of the State match will be paid by the Auditor to the State Treasurer.

(Comm. Ord. 2016-28; passed)

§ 35.97 PUBLIC HEALTH EDUCATION PROGRAM FUND

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Public Health Education Program Fund. The fund shall consist of funds awarded to the Montgomery County Health Department by the Montgomery County Community Foundation specifically to assist in the funding of the public health education program.

(B) *Use of Funds.* All money of the Public Health Education Program Fund will be used by the Montgomery County Health Department for the expenses of the public health education program, including the expenses of interns, equipment, advertising and other expenses which are consistent with the terms and conditions of the grant from the Montgomery County Community Foundation.

(C) *Non-Reverting Fund.* This is a non-reverting fund. No portion of the monies in this Fund will revert to the Montgomery County General Fund.

(Comm. Ord. 2016-29; adopted 12-5-16)

§35.98 COUNTRY CLUB ROAD RECONSTRUCTION FUND

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Country Club Road Reconstruction Fund. The fund shall consist of funds awarded to Montgomery County by the Federal Highway Administration, administered by the Indiana Department of Transportation (Designation Number 1600764), for the Country Club Road Reconstruction Project.

(B) *Use of Funds.* All money of the Country Club Road Reconstruction Fund will be used by the Montgomery County Highway Department for reimbursement of expenses of the Country Club Road Reconstruction Project, subject to the terms and conditions of the award by the Federal Highway Administration.

(C) *Non-Reverting Fund.* This is a non-reverting fund. No portion of the monies in this Fund will revert to the Montgomery County General Fund.

(Comm. Ord. 2016-30; adopted 12-5-16)

§ 35.99 REDEVELOPMENT COMMISSION 2012 BOND OPERATING EXPENSE ACCOUNT FUND

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Montgomery County Redevelopment Commission 2012 Bond Ongoing Expense Account Fund. The fund shall consist of funds transferred from the TIF Allocation Fund, established by the Series 2012A and 2012B bonds, as required by the 2012 Bonds.

(B) *Use of Funds.* All money in the Redevelopment Commission 2012 Bond Ongoing Expense Account Fund will be used by the Montgomery County Redevelopment Commission for professional and similar expenses of the Commission.

(C) *Non-Reverting Fund.* This is a non-reverting fund. No portion of the monies in this Fund will revert to the Montgomery County General Fund

(Comm. Ord. 2017-07; adopted 4-24-17)

§ 35.100 REDEVELOPMENT COMMISSION 2012 BOND EXCESS ACCOUNT FUND

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Montgomery County Redevelopment Commission 2012 Bond Excess Account Fund. The fund shall consist of funds transferred from the TIF Allocation Fund, established by the Series 2012A and 2012B bonds, as required by the 2012 Bonds.

(B) *Use of Funds.* All money in the Redevelopment Commission 2012 Bond Excess Account Fund will be used by the Montgomery County Redevelopment Commission for any purposes permitted under Indiana Code 36-7-14 and 36-7-25 and the Nucor Road Economic Development Plan.

(C) *Non-Reverting Fund.* This is a non-reverting fund. No portion of the monies in this Fund will revert to the Montgomery County General Fund

CHAPTER 36: COUNTY POLICIES

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§36.01 MEMBERSHIP IN ORGANIZATIONS

(A) The purpose of this section is to authorize participation in certain organizations that provide information and services necessary for efficient operation of the county. (1982 Code, § 1-11-1)

(B) (1) The Board of Commissioners is authorized to budget, and the County Council is authorized to appropriate funds from the general fund or from other funds to provide membership for the county and for elected and appointed officials and members of the county's boards, council, departments or agencies in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of county government operations.

(2) The Board of Commissioners is further authorized to budget and the County Council is further authorized to appropriate funds to pay the expenses of duly authorized representatives to attend the meetings and functions of organizations to which the county belongs. (1982 Code, § 1-11-2)

§36.02 ENHANCED EMERGENCY TELEPHONE 911 SYSTEM

(A) The purpose of this section shall be to establish pursuant to the authority granted by the General Assembly of the state in House Enrolled Act 1062 of the 1988 Session, subsequently designated P.L. 91-1988 § 5, which became codified as I.C. 36-8-16-1 et seq., a countywide enhanced emergency telephone system and to impose a monthly enhanced emergency telephone system fee to comply with I.C. 36-8-16-5 and I.C. 36-8-16-6.

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

ENHANCED EMERGENCY TELEPHONE SYSTEM. A telephone system that utilizes the three digit number 911 to send automatic number identification, automatic location identification and any other relevant automatic information deemed necessary by the Board of County Commissioners for reporting police, fire, medical or other emergency situations.

EXCHANGE ACCESS FACILITY.

(1) The access from a particular service user's premises to a telephone system including:

(a) An access line;

(b) A private branch exchange (PBX) trunk; and

(c) A centrex line trunk equivalent that is provided by the service supplier.

(2) The term also includes a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a radio common carrier.

(3) The term does not include:

- (a) A service supplier owned and operated telephone pay station line;
- (b) A wide area telecommunication service (WATS) line;
- (c) A foreign exchange (FX) line; or
- (d) An incoming only line.

SERVICE SUPPLIER. A person who provides exchange telephone service to a service user.

SERVICE USER. A person to whom exchange telephone service is provided.

(C) (1) Each service supplier providing service in Montgomery County shall on behalf of the County collect a fee of \$1.60 per month from those service users to whom it provides exchange telephone service in the County. The service supplier shall collect the fee, for each month or part of a month an exchange access facility is in service, as part of its normal billing process. The service provider may list the fee as a separate entry on each bill. If the service supplier receives partial payment from the service user, the service supplier shall apply the payment against the amount the service user owes the service supplier first.

(2) During January of each year, each service supplier that is required to collect the fee for the county shall provide the County Treasurer with a delinquent fee report. The service supplier shall list, on the report, the name and address of each service user who is two or more months delinquent in paying the fee. The service supplier shall also indicate the amount of delinquent fees for which each person included on the list is liable. If it becomes necessary to file a legal action to enforce the collection of the monthly enhanced emergency telephone system fee, either the service supplier or the County Treasurer may initiate such action in any court of competent jurisdiction to enforce collection of fees for which any service user is liable. The service supplier is not obligated to file an action, however, the service provided shall simultaneously collect in the same manner the delinquent enhanced emergency telephone system fee on any service user which the service provider chooses to pursue collection of account for its services.

(3) Each service supplier that collects the enhanced emergency telephone system fee on behalf of the county is entitled to a 3% administrative fee as compensation for

collecting the fees. The service supplier shall remit the rest of the fees it collects to the County Treasurer within ten days after the last day of the month. At the same time the collected fees are remitted, the service supplier shall provide a fee collection report to the County Auditor. The service supplier shall prepare the report on a form provided by the County Auditor.

(D) There is hereby established a separate fund which shall be known as the County Emergency Telephone System Fund. The County Treasurer, on receipt of the fees remitted to the county pursuant to this section, shall deposit the fees in the Emergency Telephone System Fund. The Treasurer may invest the money in the Fund in the same manner other moneys are invested with the interest earned from the investment to be deposited in that Fund, taking into account the sums of money necessary to go to the Tri-County Bank and Trust Company for payment of bonds.

(E) (1) The county may use the emergency telephone system fees only to pay for those services, materials and personnel in accordance with I.C. 36-8-16-14 and as may be otherwise provided by state law.

(2) The Board of Commissioners may appropriate money in the Fund only for such an expenditure.

(3) The Board of Commissioners may contract with a service supplier over any term negotiated between the unit and the service supplier and may make payments from the Emergency Telephone System Fund to provide any payments required by the contract. The Commissioners are further authorized to exercise all the powers provided to the unit of government as set forth and in accordance with I.C. 36-8-16-15, as amended. (Ord. 93-2, passed 4-6-93; Am. Ord. 2005-05, passed 3-18-05)

§36.03 RECORDING DOCUMENTS; FEES

(A) A supplemental fee for recording a document in the amount of \$2 per document shall be charged by the County Recorder's Office.

(B) All revenue received by the Recorder pursuant to this section shall be deposited in the County Recorder's Records Perpetuation Fund. The County Recorder shall post the fee set forth in this section in a prominent place within the Recorder's Office where the fee schedule is readily accessible to the public.

(Ord. 95-1A, passed 9-12-95)

§36.04 SMOKING PROHIBITED IN COUNTY BUILDINGS

The Board of Commissioners hereby prohibits smoking in all county buildings or within 8 feet of any public entrance to such buildings, as provided by IC 7.1-5-12-4. The Commissioners shall designate areas outside of the County buildings in which smoking is allowed, and smoking is prohibited in any location on the county property other than the designated areas. The designated areas are as follows:

- (a) Courthouse: Parking lot north of courthouse;
- (b) South Boulevard: Parking lot north of building;
- (c) Milligan Center: Parking lot south of building; and
- (d) Highway Building: Parking lot south of building.

Violation of this section is punishable by a fine of \$100.

(Ord. 4-87, passed - - 87; Am. Ord. 2015-2, passed 3-9-15)

§36.05 PRISONER TRANSPORTATION COSTS

The Sheriff may request and receive a travel advance for transportation of prisoners from out-of-state, as provided under I.C. 35-33-10-3, from the Sheriff's budget under "designated prisoner transportation". Upon completion of the transportation of prisoners, the Sheriff shall submit receipts for all travel expenses incurred and return any monies not used in the travel. (Ord. 88-6, passed - -88; Amended Ord. 2015-3, passed 2-____-15)

§36.06 TRAVEL EXPENSES

The county allows travel expenses in an amount per mile as set by the County Council from time to time.

(Ord. passed 8-10-93, Ord. 2015-2 Established the mileage rate at \$0.44 per mile, effective October 1, 2015)

§36.07 REAL PROPERTY ENDORSEMENTS

The Board of Commissioners, pursuant to I.C. 36-2-9-18(d), or the County Auditor shall collect \$1 for each real property endorsement that the County Auditor makes. (Ord. 89-9, passed -89)

§36.08 HEALTH DEPARTMENT SERVICES; FEES

(A) The Board requires that, under I.C. 16-46-10-4(c), the County Health Department:

- (1) Charge individuals for services on a sliding fee schedule based on income that is adopted by the State Board under rules adopted under I.C. 4-22-2; and
- (2) Charge corporations, partnerships and other commercial concerns for services funded under this section.

(B) Fees for services collected shall be used only for public health purposes and shall be used in addition to, and not in place of, funds allocated for public health purposes. (Ord. 12-1993, effective 1-1-94)

§36.09 PURCHASING PROCEDURES

(A) Pursuant to the provisions of I.C. 5-22 *et seq.*, the Board of County Commissioners is the purchasing agency for the county government.

(B) The County Commissioners designate as purchasing agents for the county the County Commissioners. The County Commissioners designate each elected county office holder, county judges, Highway Superintendent, Highway Engineer and Building Administrator as an additional purchasing agent for the office to which that officeholder was elected or appointed.

(C) Any purchasing agent designated under this section may make purchases on the open market without notice or bids if the purchase is less than \$5,000. This \$5,000 limitations shall not apply to purchases made by the Highway Department for annual bid items, repair, parts and labor, maintenance of equipment and motors, equipment rental, road striping, chemicals, grader blades, and snow plow blades. For purposes of this paragraph, annual bid items shall mean aggregates, box culverts, calcium chloride, culverts and erosion control, gas fuel and oil, guard rails, labor & equipment, signs, steel bridges, bituminous, timer bridges and tires.

(Am. Commissioners Ord. 2005-4, passed 7-26-05)

(D) The County Commissioners may adopt any rule or policy consistent with I.C. 5-22 for small purchases and for services.

(E) Each purchasing agent may purchase services in any manner the purchasing agent determines to be appropriate. The purchasing agents shall purchase supplies manufactured in the United States unless any of the following applies:

(1) The supplies are not manufactured in the United States in reasonably available quantities;

(2) The price of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States;

(3) The quality of the supplies is substantially less than the quality of comparably priced available supplies manufactured outside the United States; and/or

(4) The purchase of supplies manufactured in the United States is not in the public interest.

(Ord. 98-2, passed 6-16-98)

(F) In making purchases of good and supplies not governed by other provisions of Indiana law, purchasing agents of the County shall consider the following factors in making purchases decisions:

(1) *Price.* In most circumstances the lowest price available should be used. Purchasing agents should obtain more than one bid or price for the purchase unless unusual circumstances exist, such as the existence of one vendor for a particular item. If the purchasing agent does not choose the vendor offering the lowest price, the agent should document the reasons for the decision, noting which of the other appropriate factors contained in this policy justified this decision, and forward to the Board of Commissioners a report of the decision.

(2) *Quality.* The quality of goods or supplies should be considered.

(3) *Past History.* The experience the County or Department has with a vendor should also be considered.

(4) *Ability to Deliver.* The ability of the vendor to deliver the goods or supplies in a timely manner should also be considered.

(5) *Locality.* In an effort to promote the local economy and local businesses, the location of a vendor's business in Montgomery County should be considered. For purposes of this policy, a business is located in Montgomery County if it has its principal office in the County or has an office in Montgomery County which is open to the public for business and which employs at least one employee at least 32 hours per week.

(6) *Other Relevant Factors.* Other relevant factors, appropriate under the circumstances, should also be considered.
(Am. Commissioners Ord. 2005-04, passed 7-26-05)

§36.10 RETURN CHECK PROCESSING FEE

Any person who tenders an insufficient funds or account- closed check to any county office shall pay a return check processing fee of \$20 to the county office.
(Ord. 2001-1, passed 1-30-01)

§36.11 DISPOSITION OF WORTHLESS PROPERTY

(A) *Worthless Property Defined.* Worthless property means any property no longer needed by the County which has a value less than the estimated cost of sale of transportation of the property.

(B) *Procedure.* If at any time, a County employee believes that he/she has in his/her possession property which is not needed by the County, he/she shall determine and document the value and estimated cost of sale and transportation of the property. If the property is worthless, as defined in (A), it may be demolished, junked, or made available to the public only as approved by the Commissioners. The employee shall demolish and/or dispose of the property only as specifically approved by the Commissioners.

(C) *Records.* The County employee disposing of worthless property shall maintain complete and accurate records of the disposal of the property. These records shall include, but not be limited to, a description of the property disposed of, the name and address of the person taking the property, a verification regarding any price paid for the property, a description of the process used to ensure that the public was aware of the opportunity to acquire the property, and other such information which evidences compliance with this policy.

(D) *Highest Offer.* The property will be turned over to the person or entity offering the most money for the property, unless the highest offer is unacceptable. If the disposing employee determines the highest offer unacceptable, he/she shall state the reasons therefor in his/her report to the Commissioners. If no offers are received, the employee may make the property available to the public on a first-come, first-served basis as long as the process used is fair and open.

(E) *No Rights Created.* This policy mirrors Indiana law, and the adoption of this policy does not create any rights or confer to any person or entity any rights which do not exist under Indiana law.

(Commissioners Ord. 2006-19, passed 10-10-06)

§36.12 CLAIM PAYMENTS IN ADVANCE OF BOARD ALLOWANCE

(A) The County Auditor may make claim payments in advance of Board Allowance for the following kinds of expenses:

- (1) Property or services purchased or leased from the United States Government, its agencies, or its political subdivisions;
- (2) Insurance premiums
- (3) Utility payments or utility connection charges;
- (4) Bond or coupon payments;
- (5) Maintenance or service agreements including credit card statements;
- (6) State or Federal taxes;
- (7) Expenses that must be paid because of emergency circumstances.

(B) Each payment of expenses under this Ordinance must be supported by a fully itemized invoice or bill and certification by the County Auditor.

(C) The Board of Commissioners shall review and allow the claim at its next regular or special meeting following the pre-approved payment of the expense.

(D) Any payment of expenses under this Section must be published in the manner provided under I.C. 36-2-6-3.

(Commissioners Ord. 2009-2, passed 5-11-09)

§36.13 SHERIFF SALE PROGRAM

(A) *Establishment of Program.* The Board of Commissioners hereby establishes the Sheriff

Sale Program. The Sheriff may enter into one or more contracts for administrative, technical, clerical and related services that are reasonable and appropriate for the Sheriff to effectively prepare for, manage, administer and implement a foreclosure sale program. In the alternative, the Sheriff may administer the program using the resources available in his Department.

(B) Services Contracts. Any and all service contracts shall provide for the delivery of such services by a contractor in compliance with all applicable statutory provisions for the conduct of foreclosure sale proceedings and the Sheriff Sale Program.

(C) Fees. All service contracts shall provide for the payment of a fee not to exceed statutory limitations for each sale in the Sheriff Sale Program, and the fees shall be paid directly to the service provider if a contractor provides these services. The Sheriff is also authorized to charge a fee (Foreclosure Costs Fee) for each cause number in the Sheriff Sale Program, and all such fees shall be deposited into the Sheriff Sale Fund. The Foreclosure Costs Fee shall be payable at the time of filing of the praecipe under Indiana Code 32-29-7-3(h), and this fee shall be in addition to the other statutory costs and fees of the sale. The fees are:

- (1) Administrative Fee:** \$13.50 per hour
- (2) Civil Process:** \$19.00 per hour, plus \$0.55 per mile, \$13.00 statutory fee for first defendant and \$3.00 fee for additional defendants.
- (3) Sheriff's Fee:** \$75.50 per cause number
- (4) Contractual Service Fee:** \$100 per parcel

(D) Accounting. The Sheriff shall account for all proceeds and fees in compliance with any and all reporting requirements as set forth by the Indiana State Board of Accounts, and any service contract shall obligate the provider to render such accounting in compliance with the laws applicable to the Sheriff .

(Ord. 2012-3, passed 4-30-12)

§36.14 NEPOTISM POLICY

(A) Definitions: The following definitions apply to the County’s Nepotism Policy:

(1) Direct Line of Supervision: The phrase “direct line of supervision” means an elected officer or employee who is in a position to affect the terms and conditions of another individual’s employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The phrase does not include the responsibilities of the County Commissioners of County Council to make decisions regarding salary ordinances, budgets or personnel policies of the County;

(2) Employed: The term “employed” means an individual who is employed by the County on a full–time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the County;

(3) Relative: The term “relative” means any of the following:

(i)a spouse;

(ii)a parent or stepparent; and,

(iii)child, an adopted child or stepchild;

(iv)a brother, sister, stepbrother, stepsister, or a brother or sister by the half blood;

(v)a niece or nephew;

(vi)an aunt or uncle; and,

(vii)a daughter-in-law or son-in-law.

(B) Nepotism Prohibited: The County may not employ individuals who are relatives, as defined in § 36.13(A)(3), in a position that results in one relative being in the direct line of supervision of the other relative.

(C) Application of Policy to Relatives of Elected Officials: Unless a specific exemption applies, this policy applies to an individual who is employed by the County on the date the individual’s relative begins serving a term of an elected officer of the County. When the elected official begins serving a term of elected office, the relative employed by the County

may remain employed by the County and maintain his or her position or rank. However, the relative of the elected official may not be promoted to a position that results in one relative being in the direct line of supervision of the other relative. For an individual who is a member of a merit police department, the individual may not be promoted to a position that is not within the merit ranks if the promotion would result in the individual being in the direct line of supervision of the other relative. This policy does not abrogate or affect an employment contract with the County that an individual is a party to and is in effect on the date the individual's relative begins serving a term of an elected office of the County.

(D) Exceptions: The following exceptions apply to the County's Nepotism Policy:

- (1) *Employees on July 1, 2012:*** an individual who is employed by the County on or before July 1, 2012 is not subject to the nepotism prohibition unless after July 1, 2012 the individual has a break in employment with the County. The following are not considered to be a break in employment with the County:
 - (a)** the individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave or worker's compensation;
 - (b)** the individual's employment with the County is terminated followed by the immediate reemployment with the County, without loss of payroll time;
- (2) *Precinct Election Officers:*** the performance of duties of a precinct election officer, as defined by Indiana Code § 3-5-2-40.1, that are imposed by Title 3 is not considered employment by the County;
- (3) *Volunteer Firefighters:*** the performance of duties of a volunteer firefighter is not considered employment by the County;
- (4) *Sheriff's Spouse as Prison Matron:*** a sheriff's spouse may be employed as a prison matron for the County under Indiana Code § 36-8-10-5, and the sheriff's spouse may be in the sheriff's direct line of supervision;
- (5) *Term-Limited Coroners:*** an individual who has served as coroner, who is currently ineligible to serve as coroner under Article 6, Section 2(B) of the Constitution of the State of Indiana, who, as coroner, received certification under Indiana Code § 36-2-14-22.3, and whose successor in the office of coroner is a relative of the individual, may be hired in the position of deputy coroner and be in the coroner's direct line of supervision;

(E) *Annual Reports:* Each year, the following officials must file the following annual

reports:

- (1) The President of the Board of Commissioners will file with the annual report filed by the County with the State Board of Accounts under Indiana Code § 5-11-13-1 a statement that the County has implemented a Nepotism Policy under Indiana Code § 36-1-20.2 and § 36-1-21.
- (2) Each elected official of the County will annually certify in writing, subject to the penalties of perjury, that the officer has not violated Indiana Code § 36-1-20.2. This certification will be submitted to the President of the Board of Commissioners not later than December 31 of each year;
- (3) Each Commissioner and County Council member annually certify in writing, subject to the penalties for perjury, that the officer has not violated Indiana Code § 36-1-21. This certification shall be submitted to the President of the Board of Commissioners not later than December 31 of each year.

(F) *Contracting With the County:* The County may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with an individual who is a relative of a County Commissioner or County Council member or a business entity that is wholly or partially owned by a relative of a County Commissioner or County Council member only if the requirements of the County's policy are satisfied and the County Commissioner or County Council member does not violate the Indiana Conflicts of Interest rules are contained in Indiana Code § 35-44-1-3.

- (1) Disclosure: The County may enter into a contract or renew a contract with an individual or business described in Section 36.13(F) if:
 - (a) The County Commissioner or County Council member files with the County Auditor at a public meeting of the Board of County Commissioners prior to final action on the contract or purchase a full disclosure which must:
 - (i) be in writing;
 - (ii) describe the contract or purchase to be made by the County;
 - (iii) describe the relationship that the Commissioner or Council Member has to the individual or business entity that contracts or purchases;

- (iv) be affirmed under the penalty for perjury;
 - (v) to be filed, not later than fifteen (15) days after final action on the contract or purchase, with the State Board of Accounts and the Clerk of the Circuit Court of the County;
 - (b) The appropriate County agency makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered or makes a certified statement of the reasons why the vendor or contractor was selected;
 - (c) The Board of County Commissioners accepts in a public meeting the disclosure prior to final action on the contract or purchase;
 - (d) The County satisfies any other requirements under the public purchasing and bidding laws contained in Indiana Code § 5-22 or § 36-1-12;
 - (e) The Commissioner or Council member must also comply with the disclosure laws of Indiana Code § 35-44-1-3, if applicable.
- (2) *Existing Contracts:* These rules do not affect the initial term of a contract in existence at the term of office of the Commissioner or Council Member of the County begins.”

§36.15 PRISONER REIMBURSEMENT

- (A) Beginning March 1, 2011, the Sheriff will assess reimbursement costs from each person the Sheriff holds in the County Jail who in
- (1) Sentenced under a felony or misdemeanor;
 - (2) Subject to lawful detention in the County Jail for more than 72 hours;
 - (3) Not a member of a family that makes less than 150% of the federal income poverty level; and
 - (4) Not a child detained under a juvenile court’s jurisdiction.
- (B) These reimbursement costs to be assessed by the Sheriff includes:

- (1) \$30 multiplied by each day or part of day that the person is lawfully detained in the County Jail;
- (2) The direct cost of investigating a person's potential indigent status; and
- (3) The cost of collecting the amount for which the person is responsible under this section.

(C) The Sheriff may collect the amounts a person owes under this section from the inmate's remaining commissary account balance before the Sheriff releases the person from custody and issue to the person a bill for the remaining balance. The person must pay the invoice within 180 days of his or her receipt of the invoice. If the Sheriff does not receive the amount due, the County Attorney may collect the amount due in a civil proceeding.

§36.16 SHERIFF'S OFFICE PRISONER PROCESSING FEE

(Ord. 2011-3, adopted 2-28-11, repealed 2015-3, passed _____, 2015)
(Reserved for Future Use)

§36.17 PRISONER HEALTHCARE CO-PAYMENTS

- (A) This section does not apply to a person confined to a county jail who:
- (1) Maintains a policy of insurance from a private company covering:
 - (a) Medical care;
 - (b) Dental care;
 - (c) Eye care; or
 - (d) Any other health care related service.
 - (2) Is willing and able to pay for the person's own medical, dental, eye, or health care; or
 - (3) Is committed to the Department of Correction.
- (B) Except as provided in division (C) below, a person confined to the Montgomery County jail may be required to make a co-payment in an amount of not more than Fifteen Dollars (\$15) for each provision of any of the following services:
- (1) Medicare care;
 - (2) Dental care;
 - (3) Eye care; and
 - (4) Any other health care related service.

- (C) A person confined to the Montgomery County jail is not required to make the co-payment under division (B) above if:
- (1) The person does not have funds in the person's commissary account or trust account at the time the service is provided;
 - (2) The person does not have funds in the person's commissary account or trust account within 60 days after the service is provided;
 - (3) The service is provided in an emergency;
 - (4) The service is provided as a result of an injury received in the county jail; or
 - (5) The service is provided at the request of the Sheriff or Jail Administrator.
- (D) The County Sheriff shall:
- (1) Collect up to Fifteen Dollars (\$15) from the commissary account or inmate trust account within 60 days from the date the services are provided;
 - (2) Deposit these funds in a separate account and forward these funds to the County Auditor on a monthly basis; and
 - (3) Maintain records of all transactions and make those records available to the County Auditor upon request.
- (E) The County Auditor shall deposit all funds received under this section into the County Medical Care for Inmates Fund.
- (F)
- (G) The County Medical Care for Inmates Fund shall be used solely to offset county expenditures from the County General Fund for Inmate Medical Care.
(Ord. 95-1, passed 2-21-95; Amended Ord. 2011-4; Revised Ord 2015-3, passed 3-92-____-15)

§36.18 FEES FOR COPYING AND CERTIFICATION OF DOCUMENTS

(A) *Authorized Fees:* The following fees will be charged for all copies, unless subject to an exception, as provided for in (B):

Document	Fee
Cost of non-color documents	\$.10 per page
Cost of color copies	\$.25 per page
Cost to certify a document	\$5 per document
Electronic copying (CD-ROM, diskette, cassette tapes)	Cost of materials (no charge if provide own disk)

Electronic Maps	Fee, as approved by the Montgomery County Council, based upon reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser
Law Enforcement Recordings	The fee for copying a Law Enforcement Recording (as defined by Indiana Code 5-14-3-2(k)) shall be \$150.00.

(B) Exceptions: The following fees are exceptions to the general copying fee provided for above, and these fees are authorized by Indiana law:

- (1) Recorder:** The County Recorder shall charge \$1 for each page not larger than 8 ½ inches by 14 inches for furnishing copies of records and \$2 for each page that is larger than 8 ½ inches by 14 inches. These fees are required under Indiana Code 36-2-7-10;
- (2) Health Department:** The Health Department is exempted such that its board may establish and collect fees for special services and records;
- (3) Clerk:** The County Clerk shall charge \$1 for each certification under seal that is attached in authentication of a copy of a record, paper or transcript. The Clerk shall also charge \$1 for each page copied in preparation of a transcript or record; and
- (4) Statutory Fees:** Any other fee provided for by Indiana law.

This schedule shall not supersede any other certification, copying, facsimile machine transmission, or search fee specified by statute or court order to be collected by a public agency. (Ord. 2015-4, passed 3-9-15, Am. Ord 2016-20, passed 8-22-16)

§ 36.19 DOCUMENT RETENTION

(A) Disposal of Records: There are two approved methods to dispose of public records: (1)

by request to the Montgomery County Commission of Public Records; and (2) through use of retention schedules. The County has approved eight retention schedules (See Appendix A), seven of these are specific to county offices and the eighth is a general retention schedule. County officials must first reference their office-specific retention schedule for disposal of records, then reference the general retention schedule if the office-specific schedule does not apply. If neither the office-specific nor general retention schedules apply then the county official must submit a request to the Montgomery County Commission of Public Records for destruction or transfer of public records.

(B) Limitations on Disposal: No records may be destroyed until a period of at least 3 years has elapsed from the time when the records were originally filed except that some records may be destroyed before 3 years have elapsed under certain circumstances. Two requirements must be met for records to be destroyed before 3 years have elapsed since the time the records were originally filed. First, the records must be allowed to be destroyed before 3 years according to an approved retention schedule. Second, no financial records or records relating thereto may be destroyed until the audit of the records by the State Board of Accounts has been completed, report filed, and any exceptions set out in the report satisfied.

(C) Procedure for Destruction of Records Using Retention Schedule:
When an office plans to destroy public records in accordance with an office-specific or the general retention schedule under Appendix A, the official must complete a Notice of Destruction (Indiana State Form 44905) and provide the original to the Clerk of the Montgomery Circuit Court and a copy to the Indiana Commission on Public Records. Thereafter, the destruction must be delayed 30 days; if there is no contact from the Commission on Public Records during the 30 day period the records may then be destroyed.” (Ord. 2015-5, passed 3-9-15)

§36.20 ELECTRONIC TRANSMISSION OF PROPERTY TAXES AND SPECIAL ASSESSMENT STATEMENTS

(A) Authorization for Electronic Transmission. The County Treasurer and County Auditor have the authority to electronically submit to County taxpayers their statements and other information for property taxes and special assessments (hereafter “E-billing”) first due and payable after 2014.

(B) Documents That May be Transmitted Electronically. Each County taxpayer may direct the County Treasurer and County Auditor to transmit the following to the taxpayer by electronic mail: (1) a statement that would otherwise be sent by the county treasurer to the person by regular mail under Indiana Code 6-1.1-22-8.1(a)(1), including a statement that reflects instalment payment due dates under Indiana Code 6-1.1-22-9.5 or 9.7; (2) a

provisional tax statement that would otherwise be sent by the County treasurer to the person by regular mail under Indiana Code 6-1.1-22.5-6; (3) a reconciling tax statement that would otherwise be sent by the County treasurer to the person by regular mail under any of the following: Indiana Code 61.1-22-9, Indiana Code 6-1.1-22- 9.7, or Indiana Code 6-1.1-22.5-12, including a statement that reflect installment payment due dates; (4) a statement that would otherwise be sent by the County auditor to the person by regular mail under Indiana Code 6-1.1-17-3(b); and (5) any other information that concerns the property taxes or special assessments, and would otherwise be sent by the County treasurer or the County auditor to the person by regular mail before the last date the property taxes and special assessments may be paid without becoming delinquent. After receiving a properly filled-out and timely filed Request form as outlined below, the County Auditor or County Treasurer will transmit the information listed in this section to the taxpayer by electronic mail that provides a secure Internet link to the information.

(C) Manner of Request for E-Billing. The taxpayer may submit request for E-billing by using a Request form “Request for Electronic Transmission of Statements and Other Information” available at offices of the County Auditor and County Treasurer or on Department of Local Government Finance (“DLGF”) website. The Request form may be submitted in person, by regular mail, or an online format developed by the County and approved by DLGF. The Request form must be submitted on or before March 15th of each year. The Request form is considered filed on the postmark date or on the date it is electronically submitted. The taxpayer must follow all additional instructions listed on the Request form that may be updated from time to time. The taxpayer must provide to the County Auditor or County Treasurer any changes in e-mail address provided in the original or last request for electronic transmission.

(D) Notice and Publicizing. The County Treasurer and County Auditor must notify the County taxpayers of the option to request E-billing. The County Treasurer and County Auditor must make the Request form available to the public and publicize the availability of the E-billing option through appropriate media in a manner reasonably designed to reach members of the public.

(E) Multiple Persons Liable for Property Taxes. If more than one person is liable for property taxes, all such persons must designate one person authorized to secure the statements and other information via E-billing.

(F) Record Keeping. The County Treasurer must maintain a record that shows at least the following: (1) each person to whom a statement or other information is transmitted using Ebilling; (2) the information included in the statement; and (3) whether the County Treasurer received a notice that the person’s e-mail was undeliverable.

(G) E-Billing Service. The County Auditor and County Treasurer are authorized to negotiate and execute contracts with a provider necessary to obtain such administrative, technical, clerical and related services (“E-billing Services”) to implement E-billing. Any E-billing Services contract shall provide for the delivery of such services by a contractor in compliance with all applicable statutory provisions for E-billing.

(Ord. 2015-1, adopted _____, 2015)

§36.21 AMERICANS WITH DISABILITIES ACT POLICY

(A) *Policy Against Discrimination:* It is the policy of Montgomery County that it will not discriminate against persons with disabilities in access to jobs, public accommodations, and government programs, public transportation and telecommunications;

(B) *Intention To Comply with ADA:* It is the policy of Montgomery County to comply with the Americans With Disabilities Act of 1990 (ADA). If a policy of the County and a provision of the ADA conflict, the ADA provision will be deemed to be the policy of the County and will be enforceable as if specifically written in this policy;

(C) *Importance of Accessibility:* Montgomery County recognizes that it is important for its facilities, programs and services to be available to all of its citizens and to the general public;

(D) *Transition Plan:* Montgomery County understands that some of its facilities, programs and services comply with the ADA and that some may not now, or may not in the future, comply with the ADA because the standards of compliance have or will be revised, changed or added. In order to comply with the ADA, the Board of Commissioners developed in May 2014 an ADA Transition Plan which now guides future planning and implementation of accessibility improvements. Montgomery County is committed to implementing the Transition Plan as soon as possible, administratively, physically and financially. Montgomery County will, as it works toward reducing accessibility barriers within County-owned facilities, infrastructure, programming and services, be guided by public and/or employee requests and its initial or revised prioritization of the Transition Plan items. Montgomery County will strive to include annual budget appropriations to remove accessibility barriers such that its facilities, programs and services will be accessible as is reasonably possible.

(E) *Alternate Access:* To the extent Montgomery County cannot provide access to its facilities, programs and services, it will provide alternate means for the same opportunities to persons with disabilities;

(F) *Notice of Rights:* Montgomery County has and will continue to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of their rights and protections afforded by the ADA and the regulations promulgated thereunder;

(G) ADA Coordinator: Montgomery County has designated an ADA Coordinator, and the Coordinator is responsible for the development and implementation of the ADA Transition Plan and for overall compliance with the ADA;

(H) Accommodation Requests and Grievance Procedures: Montgomery County has established procedures for requests for accommodation, issued annual reports regarding implementation of the Transition Plan, requests for reasonable accommodation and grievances, and adopted and implemented a grievance procedure, all as required by the ADA. These procedures are contained in the Transition Plan which can be accessed at the County website or can be provided upon request;

(I) *Other Power-Driven Mobility Devices*: It is the policy of Montgomery County that Other Power-Driven Mobility Devices (OPDMD) are allowed on County Roads and in County-Owned Facilities to the same extent as members of the public are allowed.

(1) definition of OPDMD: Other Power-Driven Mobility Device is any mobility device powered by battery, fuel or other engines that is used by an individual with a disability for the purpose of locomotion, including but not limited to golf cars, electric scooters, electronic personal assistance mobility devices, such as Segway®, or any mobility device designed to operate in areas without defined pedestrian routes.

(2) OPDMDs Authorized: OPDMDs are allowed in all areas where members of the public are allowed, unless a particular OPDMD cannot be accommodated because of legitimate safety requirements.

(3) Alternate Accommodation: If OPDMDs are not allowed in certain areas because of legitimate safety requirements, Montgomery County will provide alternative service if possible.

(4) No Exclusion From County Roads: OPDMDs will not be excluded from County Roads because of legitimate safety requirements or any other reason. Section 72.01 of the County Code will not be construed to exclude OPDMDs from County roads.

§ 36.22 Title VI of the Civil Rights Act of 1964 Policy

(A) *Policy Against Discrimination*: It is the policy of Montgomery County that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance;

(B) *Intention to Comply with Title VI of the Civil Rights Act of 1964:* It is the policy of Montgomery County to comply with Title VI of the Civil Rights Act of 1964. If a policy of the County and a provision of Title VI of the Civil Rights Act of 1964 conflict, the Title VI provision will be deemed to be the policy of the County and will be enforceable as if specifically written in this policy;

(C) *Importance of Equal Treatment:* Montgomery County recognizes that it is important to expel all racial discrimination and to ensure that public funds are not spent in a way which encourages, subsidizes, or results in racial discrimination;

(D) *Notice of Rights:* Montgomery County has and will continue to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of their rights and protections afforded by Title VI of the Civil Rights Act of 1964;

(E) *Grievance Procedure:* Montgomery County has adopted and implemented a grievance procedure for complaints under § 36.22 of the Montgomery County Code of Ordinances. The grievance procedure was established to meet the requirements of Title VI of the Civil Rights Act of 1964. It may be used by anyone who wishes to file a complaint alleging Montgomery County discriminated on the basis of race, color, or national origin regarding the exclusion from participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving Federal financial assistance.

(1) The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date and description of the problem.

(2) The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Lori Dossett
Title VI Grievance Coordinator
Montgomery County Commissioners Office
110 W. South Boulevard
Crawfordsville, IN 47933
(765) 361-2623
Lori.dossett@montgomeryco.net

(3) Within 15 calendar days after receipt of the complaint, Lori Dossett or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, Lori Dossett or her designee will respond in writing and where appropriate in a format accessible to

the complainant. The response will explain the position of Montgomery County and offer options for substantive resolution of the complaint.

- (4) If the response of Lori Dossett or her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Montgomery County Board of Commissioners.
- (5) Within 15 calendar days after receipt of the appeal, the Montgomery County Board of Commissioners will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after that meeting, the Montgomery County Commissioners or their designee will respond in writing and where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.
- (6) All written complaints received by Lori Dossett or her designee, appeals to the Montgomery County Board of Commissioners and responses from these two offices will be retained by Montgomery County for at least three years.”

§ 36.23 Bond Policy

(A) Authorization: The County may purchase individual bonds, blanket bonds, or crime insurance policies endorsed to cover the faithful performance of all employees, commission members, and persons acting on behalf of the local government unit, including the Auditor, Treasurer Recorder, Surveyor, Sheriff, Coroner, Assessor, Clerk, and those employees required by law or directed to file an individual bond.

(B) County Treasurer, County Sheriff and Circuit Court Clerk's Bond: Montgomery County fixes the amount of a bond for the county Treasurer, County Sheriff and Circuit Court Clerk at \$30,000 for each \$1,000,000 of receipts of the officer's office during the last complete fiscal year before the purchase of a blanket bond, provided that this amount may not be less than \$30,000 nor more than \$300,000. The Montgomery County Council must approve the bond if sufficient. The County Auditor shall not file bonds in amounts less than \$30,000, as fixed by the Montgomery County Council.

(C) Other Officials, Appointees and Employees: Every elected or appointed officer, official, deputy, employee, or contractor of Montgomery County who is required to file a bond for the faithful performance of their duty, must file the bond in the office of the Auditor and the County Recorder. The County Recorder and deputies and employees of the recorder must file their bonds with the county Auditor and in the office of the Clerk of the circuit court. Bonds must be filed with the Recorder within 10 days of their issuance.

(D) Oath of Office: Every county officer required to give a bond must have a copy of the oath of officer recorded with the bond.

(E) Filing With State Board of Accounts: The Auditor must file a copy of the bonds with the state board of accounts contemporaneously with the filing of the County's annual financial report and electrically in the manner prescribed by I.C. § 5-14-3.8-7.

(F) Time of Bonding: An officer required to give a bond must give the bond before the commencement of his or her term of office. The officer may not take office until the policy *Payee* is given.

(G) Payment of Bond: All bonds must be payable to the state of Indiana. Every such bond shall be obligatory to such state, upon the principal and sureties, for the faithful discharge of all duties required of such officer by any law, then or subsequently in force, for the use of any person injured by any breach of the condition thereof.

(H) Validity of Bonds: No policy shall be void on a first recovery, but suits may be instituted thereon, from time to time, until the penalty thereof is exhausted. No bond shall be void because of defects in form or substance or in the approval and filing thereof, but, upon the suggestions of such defects, such policy shall be obligatory as is property executed, filed and approved.

(I) Forms: The commissioner of insurance shall prescribe the form of the bonds as required by I.C. § 5-4-1-18, in consultation with the Indiana archives and records administration under I.C. § 5-15-5.1-6.

(J) Effectiveness: Unless the bond is canceled, the bond must continue in force for the terms of office of the individual who files the bond or policy. The aggregate liability of the surety or insurer is the amount specified in the bond.

(K) Intent to Comply: It is the policy of Montgomery County to comply with all provisions of the Indiana Code. If a policy of the County and a provision of the Indiana Code regarding bonds under I.C. § 5-4-1 conflict, the Indiana Code will be deemed to be the policy of the County and will be enforceable as if specifically written in this policy.

§ 36.24 INTERNAL CONTROLS

Montgomery County adopts, as policy, the internal controls standards as set forth by the Indiana State Board of Accounts Uniform Internal Control Standards for Indiana Political Subdivisions manual as expressly written and published by the Indiana State Board of Accounts in September 2015, as amended from time to time. In order to implement these standards, there is established an Internal Control Standards Oversight Committee. This Committee will consist of a Commissioner selected by the Board of Commissioners, a

member of the County Council selected by the County Council, the Auditor, the Treasurer, the Recorder, the Clerk, the Health Department Director, Building Commissioner, the Sheriff, Chief Probation Officer and County Attorney. All officers, elected officials and employees are required to comply with the policy. Employees who fail to comply with this policy are subject to discipline, including but not limited to termination of their employment. (Ord 2016-01, passed 1-25-16)

§36.25 MATERIALITY POLICY

(A) Reporting to Auditor: If an elected official, appointed official or employee discovers any material irregular variances, losses, shortages, or thefts of cash or other assets, the official or employee will immediately report the irregularity or theft to the Board of County Commissioners and to the Indiana State Board of Accounts.

(B) Discovery of Irregularities By Auditor: If the Auditor discovers any material irregular variances, losses, shortages, or thefts of cash or other assets, the Auditor will immediately report the irregularity or theft to the Board of County Commissioners and to the Indiana State Board of Accounts.

(C) Procedure: Upon receipt of a report of any material irregular variance, loss, shortage, or theft, the Auditor must:

- (1) Maintenance of Record:** Log all reports into a spreadsheet that is permanently maintained by Montgomery County;
- (2) Confirmation:** Confirm the dollar amount of the variance, loss, shortage, or theft;
- (3) Definition of Materiality:** For purposes of this policy, the term “material” means a variance, loss, shortage, or theft of cash which exceeds \$0.00 and a variance, loss, shortage, or theft of any other (non-cash) asset which exceeds \$0.00.
- (4) Investigation:** Investigate the cause of any variance, loss, shortage, or theft and document all findings;
- (5) Corrective Action:** Document and implement corrective actions or internal control procedures to correct the causes of the variance, loss, shortage, or theft; and
- (6) Record Keeping:** Maintain copies of all relevant documentation, resolution of incidents, and any report to the State Board of Accounts in a centralized folder.

(D) Duty of Public Officials to Report Misappropriation of Public Funds: All public officials

who have actual knowledge of, or reasonable cause to believe, there has been a misappropriation of public funds must immediately send written notice of the misappropriation to the State Board of Accounts and the prosecuting attorney pursuant to Indiana Code § 5-11-1-27(I) and to the Board of County Commissioners pursuant to this policy.

(Ord 2016-09, passed 3-14-16)

§36.26 PROHIBITION ON ANIMALS IN THE MONTGOMERY COUNTY COURTHOUSE

(A) Prohibited Animals. No individual may bring an animal, domesticated or otherwise, into the Montgomery County Courthouse for any purpose. Prohibited animals include “Comfort Animals/Dogs” and “Other Emotional Support Animals” as defined by the Americans with Disability Act of 1990 (“ADA”).

(B) Exceptions.

(1) Service Dogs.

(i) An individual may enter the Montgomery County Courthouse with a “Service Dog” which is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, as defined by the ADA.

(ii) Service dogs must be harnessed, leashed, or tethered, unless these devices interfere with the service animal’s work, or the individual’s disability prevents using these devices. If these device do interfere, the individual must exercise control of the service dog by either voice, signal, or other effective controls.

(iii) In the event a service dog becomes out of control, and the individual fails to take effective action to bring the dog under control, or if the service dog is not housebroken, employees of Montgomery County are permitted to ask for the service dog to be removed from the Courthouse. If a service dog is removed, Montgomery County employees shall offer the person the opportunity to continue his/her business in the Courthouse and provide other reasonable accommodations to that individual.

(2) Miniature Horses.

(i) An individual may enter the Montgomery County Courthouse with a miniature horse which is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, as defined by the ADA. A

miniature horse does not typically exceed 34 inches in height and does not typically weigh more than 100 pounds.

(ii) Montgomery County may determine that a miniature horse cannot be accommodated by the Courthouse based the following factors:

- (a) Whether the miniature horse is housebroken;
- (b) Whether the miniature horse is under the owner's control;
- (c) Whether the facility can accommodate the miniature horse's type, size, and weight; and
- (d) Whether the miniature horse's presence will compromise legitimate safety requirements necessary for safe operation of the Courthouse.

(iii) In the event a Montgomery County employee determines that the Courthouse cannot accommodate a miniature horse based on the above factors, Montgomery County employees shall offer the person the opportunity to continue his/her business in the Courthouse and provide other reasonable accommodations to that individual.

(Ord. 2016-25, passed 9-12-16)

§ 36.27 PROHIBITION ON USE OF PUBLIC RECORDS FOR COMMERCIAL PURPOSES

(A) *Use Prohibition.* Any person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity receiving public records or information, pursuant to a request made under Indiana Code 5-14-3-3(d), may not use the records or information for commercial purposes. For purposes of this section, the term 'commercial purposes' means using the record or information to sell, loan, give away or otherwise deliver the record for information obtained by a public records request to any other person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity for these purposes.

(B) *Exemption.* This prohibition does not apply to records or information used in connection with the preparation or publication of news, used for nonprofit activities, or used in academic research.

(C) *Use in Violation of Prohibition:* Any person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity using the

record or information in a manner contrary to the prohibition contained in this section is prohibited from obtaining further records and data under Indiana Code 5-14-3-3(d).

(Commiss. Ord 2017-03, passed 1-23-17)

APPENDIX A – RETENTION SCHEDULES

County General Retention Schedule

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
ADMINISTRATIVE		
GEN 10-1	<p>MINUTES</p> <p>Official minutes of any county/local agency, board, commission, or of any division. THIS IS A CRITICAL RECORD.</p> <p>[IC 5-15-6-2.5]; [IC 5-15-5.1-12]</p>	<p>PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
GEN 10-2	<p>COUNTY/LOCAL AGENCY, BOARD OR COMMISSION MEETING RECORDINGS</p> <p>For offices, boards or commissions that record their meetings and used the recordings to complete the minutes of the meetings.</p>	<p>ERASE or DESTROY after official minutes derived from them are approved.</p>
GEN 10-3	<p>POLICY FILES – OFFICE HOLDERS, DEPUTIES, AND DIVISION DIRECTORS.</p> <p>These office files document substantive actions of the county or local government unit and constitute the official record of the unit’s performance of its functions and the formation of policy and program initiatives. This series may include various types of records such as correspondence, memos, and reports concerning policy and procedures, organization, program development and reviews. THIS IS A CRITICAL RECORD. Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b) (6).</p> <p>[IC 5-15-6-2.5]; [IC 5-15-5.1-12]</p>	<p>PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
GEN 10-4	<p>GENERAL FILES</p> <p>Office records that are not related to policy implementation. This series includes correspondence, memos, and routine staff files.</p>	<p>DESTROY after three (3) calendar years.</p>

<p>GEN 10-5</p>	<p>LEGAL FILES</p> <p>(Also called Litigation Files) All records pertaining to litigation with the county/local government and all supporting documentation. This includes the Notice of Tort Claim for Property Damage and/or Personal Injury, SF 54668, if a claim is brought against the political subdivision. (See GEN 14-1 if no claim is brought.) Disclosure of these records may be affected by IC 5-143-4(a) (1), (3), and (8), and also by the discretion of a public agency, IC 5-143-4(b) (6).</p> <p>Retention consistent with IC 34-11-2-6, IC 35-41-4-2(a), and IC 3411-2-4</p>	<p>RETAIN in office five (5) calendar years after adjudication of litigation. Evaluate and transfer to County Archives, or INDIANA COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, only those files that have been determined to have historical or legal significance.</p>
<p>GEN 10-6</p>	<p>ORDINANCES AND RESOLUTIONS</p> <p>Includes records created by a county/local agency related to the legislature’s review of proposed laws or adoption of administrative rule(s). Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(6).</p>	<p>PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
<p>GEN 10-7</p>	<p>BUILDING PERMITS</p> <p>[IC 36-7-4-1109]</p>	<p>DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
<p>GEN 10-8</p>	<p>DISASTER RECOVERY AND CONTINUITY PLANS</p> <p>The copy of all Disaster Recovery/Continuity Plans, including those for electronic systems, as well as supporting documentation used in the development of the plans.</p> <p>Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(19).</p>	<p>TRANSFER one copy of each plan to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, for permanent archival retention, upon its approval by the county/local agency. DESTROY remaining copies when outdated or replaced.</p> <p>DESTROY supporting documentation three (3) years after current plan is outdated or replaced.</p>

GEN 10-9	NOTICES & CERTIFICATES Excludes Form 100R – Certified Report of Names, Addresses, Duties and Compensation of Employees [PERMANENT]	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 14-1	NOTICE OF TORT CLAIM FOR PROPERTY DAMAGE AND/OR PERSONAL INJURY, SF 54668 This form is included in GEN 10-5, Legal Files, if a claim is brought against the political subdivision. Retention based on IC 34-11-2-4	DESTROY after three (3) calendar years if a claim is not brought against the political subdivision within the statute of limitations.
ACCOUNTING & FINANCE		
GEN 10-10	RECEIPTS/QUIETUS/RECEIPT REGISTER/QUIETUS REGISTER Retention based on IC 34-11-2-6	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-11	VOUCHERS/CLAIMS & PURCHASE ORDERS Includes all claims and requisitions submitted by all county offices and departments, including all supporting documentation. Retention based on IC 34-11-1-2	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-12	POOR RELIEF VOUCHERS/CLAIMS Retention based on IC 34-11-1-2	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-13	REGISTER OF POOR RELIEF CLAIMS	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

GEN 10-14	<p>CANCELLED CHECKS/WARRANTS</p> <p>Retention based on IC 34-11-1-2</p>	<p>DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p> <p>-OR-</p> <p>DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges if GEN 10-19, Bank Statements, includes scanned copies of checks and bank retains physical check copies for ten (10) or more calendar years.</p>
GEN 10-15	<p>CHECK REGISTER/WARRANT REGISTER</p> <p>Retention based on IC 34-11-1-2</p>	<p>DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
GEN 10-16	<p>PAYROLL RECORDS</p> <p>Applies to Forms 99A, 99B and 99C</p>	<p>PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
GEN 10-17	<p>TIME CARDS</p> <p>Includes Weekly Earning Record, work period.</p> <p>Retention based on IC 34-11-2-1</p>	<p>DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>

GEN 10-18	BANK RECONCILIATION RECORDS AND REPORTS	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-19	BANK STATEMENTS, DEPOSIT TICKETS, RECORD OF DEPOSITORY BALANCES	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
GEN 10-20	FEE BOOK	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-21	ACCOUNTS PAYABLE JOURNAL	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-22	ACCOUNTS PAYABLE VOUCHER REGISTER	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-23	TRANSMITTALS Retention based on IC 34-11-2-6	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

GEN 10-24	<p>INVESTMENTS/INSURANCE REGISTER</p> <p>Form 350 – Register of Investments Form 351 – Register of Insurance</p>	<p>PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
GEN 10-25	<p>BONDS, BIDS, CONTRACTS AND LEASES</p> <p>All contracts with vendors or other units of government to provide goods or services. Files also include working papers and similar attachments used by the agency in this process. This record series also applies to an administrative entity receiving revenue through a contract or lease.</p>	<p>DESTROY ten (10) years after expiration of the contract and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
	<p>Retention based on IC 34-13-1-1</p>	
GEN 10-26	<p>AS-SUBMITTED BUDGETS</p> <p>Includes new programs requested, justifications, breakdown of money requested, estimates, reports, and taxpayer notice</p>	<p>DESTROY after five (5) calendar years.</p>
GEN 12-1	<p>PAPER CHECKS & REMOTE-CAPTURE CHECKS</p> <p>Checks deposited with a bank by a governmental entity through the regular deposit process or the digital remote-capture process.</p> <p>Disclosure of these records may be affected by IC 5-14-3-4(a)(5) and IC 5-14-3-4(a)(12)</p> <p>Retention based on IC 34-11-2-6</p>	<p>DESTROY paper upon receipt of deposit report from bank acknowledging the bank's acceptance. RETAIN digital image locally or through bank provided access for six (6) years and until receipt of STATE BOARD OF ACCOUNTS audit report and satisfaction of unsettled charges.</p>
PERSONNEL		

GEN 10-27	<p>PERSONNEL FILES</p> <p>Personnel records containing documentation of the employee's working career and application for employment with the county/local government unit. Employment application shall include examination records.</p> <p>Personnel files shall be created and maintained for fulltime, part-time, and temporary employees, as well as paid and unpaid interns.</p> <p>Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(2)(3)(4) and (6), and IC 5-14-3-4(b)(8).</p>	DESTROY 75 years after employee is no longer employed by the county/local government unit.
GEN 10-28	<p>EMPLOYEE MEDICAL RECORDS</p> <p>Typical record series could include Employer's Report of Injury, Report of Attending Physician, other medical information used to document work-related illnesses or injuries, and drug test results. Pursuant to United States Equal Opportunity Commission rules, this information "...shall be collected and maintained...in separate medical files..."</p> <p>Disclosure of these records may be affected by IC 5-143-4(a)(9) and the discretion of a public agency per IC 514-3-4(b)(8) and 29 CFR 1630.14(b)(1).</p>	DESTROY seven (7) years after the employee leaves county/local government.
GEN 10-29	<p>INMATE MEDICAL RECORDS</p> <p>Disclosure of these records may be affected by IC 5-143-4(a)(9) and the discretion of a public agency per IC 514-3-4(b)(8) and 29 CFR 1630.14(b)(1).</p>	DESTROY seven (7) years after the inmate is released from the jail facility.

GEN 10-30	<p>FAMILY AND MEDICAL LEAVE ACT OF 1993 RECORDS</p> <p>Records may contain applications for Family and Medical Leave (State Form 48370 or its equivalent), and any information related to use the Family and Medical Leave Act (FMLA).</p> <p>Disclosure of these records may be affected by 29 CFR 825.500(g). Retention based on 29 CFR 825.400(b).</p>	<p>DESTROY records after three (3) calendar years if no other Record Series with a longer retention period applies to them. If records are part of another Record Series with a longer retention, follow the retention instruction for that Record Series.</p>
GEN 10-31	<p>EMPLOYMENT APPLICATIONS-NOT HIRED</p> <p>Series includes applications from persons seeking employment who are not hired. Series also contains vacancy notices, job information bulletins, unsolicited resumes, rejection correspondence, examination material, drug test results, and other related materials. Disclosure of these records may be affected by the discretion of a public agency per IC 5-14-3-4 (b)(8)(b). Retention based on IC 4-15-2-15 (b)(4).</p>	<p>DESTROY three (3) calendar years after the decision not to hire.</p>
GEN 10-32	<p>EMPLOYEE HAZARDOUS EXPOSURE RECORDS</p> <p>Typical records could include employee exposure records and/or analyses using exposure or medical records. Disclosure of these records may be affected by IC 5-14-3-4(a) (9).</p>	<p>DESTROY Thirty-five (35) calendar years after employee termination.</p>
GEN 10-33	<p>LOG OF WORK-RELATED INJURIES AND ILLNESSES, OSHA FORM 300 (REVISED 01/2004)</p> <p>In accordance with 29 CFR 1904.0, et seq., every private and public employer with more than ten (10) employees must confidentially record every workrelated death and work-related injury and illness meeting specific recording criteria in this federal rule. Electronic (computer) maintenance and retention is permitted. Any medical information attached or included with the OSHA form</p>	<p>DESTROY five (5) years after the end of the calendar year that the records cover.</p>

County Auditor Retention Schedule

RECORD	TITLE/DESCRIPTION	RETENTION PERIOD
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SERIES		
	NOTICES, CERTIFICATES AND CERTIFICATION	
AU 10-3	Form 100R – Certified Report of Names, Addresses, Duties and Compensation of Public Employees	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
AU 10-4	Tax Sale Certificate – (Statutory) [IC 34-11-2-5]	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
	TAX RECORDS	
AU 10-5	Form 9 – Tax Duplicate Form 35 – Transfer Book Form 63 – Ditch Tax Duplicate Tax Deed – (Statutory) IC 6-1.1-25-5 Form 137 – Tax Sale Record Form 137C – Tax Title Deed to County	PERMANENT . MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS
AU 10-6	Form 24ET – County Auditor's Allocation of License Excise Tax	DESTROY after ten calendar years and after receipt of STATE BOARD OF
	Form 24F – Record of Annual License Excise Tax Form 102 – Apportionment of Taxes Collected	ACCOUNTS Audit Report and satisfaction of unsettled charges

AU 10-7	<p>Indiana Property Tax Benefits (Deductions)</p> <p>Homestead Standard Deduction [IC 6-1.1-12-37] Supplemental Homestead Deduction [IC 6-1.1-12-37.5] Solar Energy Heating or Cooling Systems [6-1.1-1226] Wind Power Device [IC 6-1.1-12-29] Hydroelectric Power Device [6-1.1-12-33] Geothermal Device [6-1.1-12-34] Mortgage Deduction [IC 6-1.1-12-1] Over 65 Deduction [IC 6-1.1-12-9] Blind Deduction [IC 6-1.1-12-11; 12] Over 65 Circuit Breaker Credit [IC 6-1.1-20.6-8.5] Disabled Deduction [IC 6-1.1-12-11; 12] Disabled Veteran Deduction [IC 6-1.1-12-14; 15] Veteran with Service Connected [IC 6-1.1-12-13; 15] Veteran World War One [IC 6-1.1-12-17.4] Surviving Spouse of World War One Veteran [IC 61.1-12-16; 17]</p>	DESTROY three years after sale of property, death, refinance, or other termination of mortgage and after receipt of STATE BOARD OF ACCOUNT Audit Report and satisfaction of unsettled charges
REPORTS, STATEMENTS AND PETITIONS		
AU 10-8	<p>Form PR-6 – County Auditor's Report of Poor Relief Expenditures and Budget Estimates Form 61 – Monthly Financial Statements</p>	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
AU 10-9	<p>Form 137B – Statement of Costs Paid on Tax Sale Property</p> <p>Form 137W – Petition: For Waiver of Delinquent Taxes, Special Assessments, Interest , Penalties and Costs Assessed Against Property and Transfer of Title of Property of Petitioner</p>	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
BONDS, BIDS AND CONTRACT		
AU10-10	Form 115 – Bidder’s Record	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON

		PUBLIC RECORDS
	BUDGET ESTIMATE AND FUND ENCUMBRANCES	
AU 10-11	Form 63G – Authorization for Encumbrances of General Drain Improvement Fund	DESTROY after ten calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
AU 10-12	Form 132M – School Fund Mortgage	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
	ASSET INVENTORY	
AU 10-13	Form 146 – General Fixed Asset Account Group	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
AU 10-14	Form 315A – Inventory Sheet	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

County Assessor Retention Schedule

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
	APPEALS PROCESS FORMS	

AS 12-1	SF 12483 – Petition for Correction of an Error (Form 133) SF 20916 – Notification of Final Assessment Determination	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and
	(Form 115) SF 21513 – Petition for Review of Assessment by Local Assessing Official – Property Tax Assessment Board of Appeals (Form 130) SF 21522 – Notice of Hearing on Petition – Personal Property SF 43087 – Notice of Defect in Completion of Assessment Appeal Form SF 49149 – Notice of Hearing on Petition – Real Property – County Tax Assessment Board of Appeals SF 53165 – Petition for Waiver of Penalties Against a Taxpayer or Taxpayers Representative on Real or Personal Property (Form 137 TP) SF 53626 – Joint Report by Taxpayer/Assessor to the County Board of Appeals of a Preliminary Informal Meeting (Form 134) SF 53958 – Short – Taxpayer’s Notice to Initiate Appeal (Form 130)	satisfaction of unsettled charges.
ASSESSMENT FORMS		

AS 12-2	<p>SF 466 – Notice of Assessment of Mobile Home (Form 2)</p> <p>SF 786 – Notice of Assessment Registration</p> <p>SF 7878 – Mobile Home Permit</p> <p>SF 9931 – Property Schedule for Gas and Oil Well Assessment (Form G&O-1)</p> <p>SF 9283 – Report of Assessment for Omitted or Undervalued Property Assessment and Assessment Penalty (Form 122)</p> <p>SF 17592 – Petition for Survey and Reassessment – Real and personal Property Partially or Totally Destroyed by Disaster (Form 137R)</p> <p>SF 18158 – Real Property Assessor’s Book</p> <p>SF 18160 – Personal Property Assessor’s Book</p> <p>SF 18602 – Certification by County Assessor (of Railroad and Public Utility Assessments)</p> <p>SF 18603 – Certification by Township Assessor (of Railroad and Public Utility Assessments)</p> <p>SF 21366 – Notice of Assessment of Land and Structures (Form 11 R/A)</p> <p>SF 21368 – Township Report to County Assessor</p> <p>SF 21519 – Notice of Review of Current Year’s Assessment (Form 111/PP)</p>	<p>DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
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	<p>SF 21521 – Notice of Assessment/Change (By an Assessing Official) (Form 113/PP)</p> <p>SF 22691 – Report to County Auditor of Added Assessments and Assessment Penalties (Form 122A)</p> <p>SF 45650 – Notice of Assessment of Land and Structures (Form 11 C/I)</p> <p>SF 46725 – Notice of Assessment by Assessing Official (Form 113)</p> <p>SF 46885 – Application for Wetland Adjustment to Land Assessed Using the Agricultural Soil Productivity Method</p> <p>SF 49865 – Annually Assessed Mobile Home Assessor’s Book (Form 29MH)</p> <p>SF 51536 – Affidavit of Destroyed or Removed Property (Form 135)</p> <p>SF 51766 – Compliance with Statement of Benefits – Real Estate Improvements (Form CF-1/Real Property)</p> <p>SF 53949 – Petition for Review of Order Making Annual Adjustments to Assessed Valuation</p> <p>SF 53950 – Permanently Flooded or Access is Permanently Prevented by Flooding (Form 137PF)</p>	
AS 12-3	SF 51767 – Statement of Benefits – Real Estate Improvements (Form SB-1/Real Property)	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
	DEDUCTION FORMS	

AS 12-4	<p>SF 12662 – Application for Tax Deduction for Disabled Veterans, WWI Veterans and Surviving Spouses of Certain Veterans</p> <p>SF 18379 – Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE)(ERA)</p> <p>SF 45651 – Statement for Deduction of Assessed Valuation (Fertilizer and Pesticide Storage Improvements)</p> <p>SF 52500 – Statement for Deduction of Assessed</p>	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
	<p>Valuation Building Constructed of Coal Combustion Products (Form RE-CCP)</p> <p>SF 53179 – Application for Deduction from Assessed Valuation – Real Property Vacant Building Deduction (Form 322/VBD)</p> <p>SF 53812 – Application for Model Residence Deduction</p>	
AS 12-5	<p>SF 5473 – Claim for Homestead Property Tax Standard/Supplemental Deduction (Form HC10)</p> <p>SF 18865 – Statement for Deduction of Assessed Valuation (Attributed to Solar Energy System/Wind, Geothermal or Hydroelectric Power Device) (Form SES/WPD)</p> <p>SF 43708 – Application for Senior Citizen Property Tax Benefits</p> <p>SF 43709 – Statement of Mortgage of Contract Indebtedness for Deduction from Assessed Valuation</p> <p>SF 43710 – Application for Blind or Disabled Person’s Deduction from Assessed Valuation</p> <p>SF 49567 – Application for Deduction from Assessed Valuation of Rehabilitated Property (Form 322A)</p> <p>SF 49568 – Application for Deduction from Assessment of Rehabilitated Property (Form 322)</p> <p>SF 52501 – Enterprise Zone Investment Deduction Application (Form EZ-2)</p>	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
EXEMPTION FORMS		

AS 12-6	SF 49585 – Notice of Action on Exemption Application (Form 120) SF 54173 – Notice of Change of Ownership of Exempt Property	DESTROY after five calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
AS 12-7	SF 9284 – Application for Property Tax Exemption (Form 136)	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
PERSONAL PROPERTY FORMS		
AS 12-8	SF 10068 – Business Tangible Personal Property Return (Form 104) SF 11274 – Business Tangible Personal Property Return (Form 103-Short) SF 11405 – Business Tangible Personal Property Assessment Return (Form 103-Long) SF 12980 – Schedule of Adjustments to Business Tangible Personal Property Return (Form 106)	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

	<p>SF 22649 – Return for Interstate Carriers (Form 103-I) SF 22667 – Return of Special Tools (Form 103-T) SF 23000 – Information Return of Not Owned Personal Property (Form 103-N Schedule I) SF 24056 – Claim for Exemption of Air or Water Pollution Control Facilities (Form 103-P) SF 24057 – Information Return of Owned Personal Property (Form 103-O) SF 34608 – Report to Department of Local Government Finance by County Assessor (Form 15) SF 42963 – Application for Deduction from Assessed Valuation – Maritime Opportunity District (Form MOD-1) SF 50006 – Farmer’s Tangible Personal Property Assessment Return (Form 102) SF 51765 – Compliance with Statement of Benefits Personal Property (Form CF-1/PP) SF 52497 – Business Tangible Personal Property Depreciable Assets in Pool 5 (Form 103-PS) SF 52498 – Schedule of Deduction from Assessed Value Pool 5 Property in Economic Revitalization Area (Form 103PS/ERA) SF 52499 – Statement for Deduction of Assessed Valuation (Investment Property Purchased by Manufacturers of Recycled Coal Combustion Products) (Form PP-CCP) SF 53854 – Business Tangible Personal Property (Form 103-SR – Single Return) SF 53855 – Business Tangible Personal Property (Form 104SR – Single Return) SF 54182 – Claim for Exemption of Enterprise Information Technology Equipment (Form 103-IT) SF 54484 – Equipment List for New Additions to CTP Deduction Personal Property in Certified Technology Park (Form 103-CTP/EL)</p>	
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AS 12-9	<p>SF 51764 – Statement of Benefits Personal Property (Form SB-1/PP)</p> <p>SF 52503 – Schedule of Deduction from Assessed Valuation Personal Property in Economic Revitalization Area (Form 103-ERA)</p> <p>SF 52515 – Equipment List for New Additions to ERA Deduction Personal Property in Economic Revitalization Area (Form 103-EL)</p> <p>SF 54483 – Schedule of Deduction from Assessed Valuation Personal Property in Certified Technology Park (Form 103-</p>	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
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UTILITY FORMS		
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AS 12-10	<p>SF 31289 – Annual Report – Railroad Property (U.D. Form 32)</p> <p>SF 40408 – Annual Report (U.D. Form 45)</p> <p>SF 46373 – Report of Railcar Tax (DLGF RC-1)</p> <p>SF 47336 – Water Pollution Control Equipment (Schedule A4)</p> <p>SF 47337 – Air Pollution Control Equipment (Schedule A-3)</p> <p>SF 47338 – REMC Schedule (Schedule A-5)</p> <p>SF 47339 – Pipe Valuation (Schedule A-6)</p> <p>SF 47340 – Utility Distributable Property of Pipeline Companies (Schedule A-7)</p> <p>SF 47341 – Value of Buses and Tires (Schedule A-8)</p> <p>SF 52446 – Statement of Benefits – Utility Distributable Property (Form SB-1/UD)</p> <p>SF 52447 – Schedule of Deduction from Assessed Valuation Utility Distributable Property in Economic Revitalization Area (Form UD-ERA)</p> <p>SF 52448 – Compliance with Statement of Benefits – Utility Distributable Property (Form CF-1/UD)</p>	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
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MISCELLANEOUS		
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AS 12-11	SF 23261 – Power of Attorney SF 23341 – Notice of Placing of Mobile Home Upon Land or Lot – Form 1 SF 43779 – Commercial Vessel Tonnage Tax Return SF 46021 – Sales Disclosure Form (IC 6-1.1-5.5-3(c)) SF 52694 – County Option Dog Tax SF 53569 – Tax Statement (Form TS-1A) SF 53915 – Tax Statement (Form TS-1P) SF 53954 – Authorization for Receipt of Electronic Property Tax Statements SF 54060 – Tax Statement (Form TS-1L) SF 54193 – Certificate of Net Assessed Valuations to the Department of Local Government Finance	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
AS 12-12	SF 50055 – Indiana Residential Property Record Card SF 50056 – Indiana Commercial and Industrial Property Record Card SF 50057 – Indiana Agricultural Property Record Card	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
AS 12-13	Inheritance Tax	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
OBSOLETE FORMS		
AS 12-14	SF 1882 – Fixed Personal Property of Public Utilities (Form 1 – Tax Return) SF 46062 – Information Return of Not Owned Locally Assessed Personal Property (Form 1-N) SF 22671 – Individual’s Tangible Personal Property Assessment Return (Form 101)	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

County Clerk Retention Schedule for Non-Judicial Records Only

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
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CL 10-1	<p>RETAIL DISTRESS SALE APPLICATION & LICENSE</p> <p>Licensing of Retail Distress Sales – includes original inventory.</p> <p>Application for Going Out of Business, Removal and Fire Sale License. [IC 25-18-1-7]</p> <p>Copy of License also retained by Auditor.</p>	<p>DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges. FILE Application and Inventory together as a Unique Record in a Separate File System.</p>
CL 10-2	<p>RETAIL DISTRESS SALE COPY OF INVENTORY</p> <p>Form 16 Form 16-W Form 16 pr</p> <p>[IC 25-18-1-5]</p>	<p>DESTROY after one (1) calendar year. FILE Application and Inventory together as a Unique Record in a Separate File System.</p>
CL 10-3	<p>RETAIL DISTRESS SALES BOOK</p> <p>(Licensing of Retail Distress Sales)</p> <p>[IC 25-18-1-7]</p>	<p>TRANSFER to the INDIANA STATE ARCHIVES, COMMISSION ON PUBLIC RECORDS, for EVALUATION WEEDING and SAMPLING three (3) years after completion of book. FILE Application and Inventory together as a Unique Record in a Separate File System.</p>
CL 10-4	<p>CONFLICT OF INTEREST DISCLOSURE</p> <p>[IC 35-44-1-3(d)(6)(B)]</p>	<p>DESTROY after four (4) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges. FILE as a Unique Record in a Separate File System.</p>

CL 10-5	<p>CORONER'S INQUEST-VERDICT AND WRITTEN REPORT OF DEATH</p> <p>Copy sent to Clerk's Office prior to 07/01/1994.</p> <p>[IC 36-2-14-10(a)]</p>	<p>PERMANENT. RETAIN in office or TRANSFER after twelve (12) calendar years to COUNTY ARCHIVES or INDIANA STATE ARCHIVES, COMMISSION ON PUBLIC RECORDS.</p>
CL 10-6	<p>OATHS/CERTIFICATES OF PUBLIC OFFICIALS</p> <p>(Certificate of Appointment and Election, SF 31228 and SF 32229)</p> <p>SF 47857(96) [IC 5-4-1-4(b)] (Originals)</p> <p>Examples include: County Officers: Auditor, Clerk, Recorder, Treasurer, Sheriff, Surveyor, and Assessor. Other Public Officials: Constables, Small Claims Court.</p> <p>Oaths of Deputy Clerks of Circuit Court, Local Alcoholic Beverage Commission Appointed Members. [IC 7.1-2-4-20] Library Board Members. [IC 36-12-2-19 (c)];[IC 36-12-7-4(d)]</p>	<p>TRANSFER to the INDIANA STATE ARCHIVES, COMMISSION ON PUBLIC RECORDS, for EVALUATION, WEEDING and SAMPLING one (1) year after completion of term (if public official has not retained this record and if on file as a public record).</p>
CL 10-7	<p>LIST OF LICENSED CHILD PLACING AGENCIES</p> <p>Compiled by Division of Family and Children, FSSA. [IC 31-19-8]</p>	<p>DESTROY two (2) calendar years after expiration of list. FILE as a Unique Record in a Separate File System.</p>
CL 10-8	<p>MEDIATORS LISTS</p> <p>(Provided by Supreme Court of Indiana) Listing of approved alternative dispute mediators and type of case in which they are authorized to serve. (Supreme Court Alternative Dispute Resolution Rule 2.3)</p>	<p>DESTROY after five (5) calendar years. FILE as a Unique Record in a Separate File System</p>
CL 10-9	<p>NOTARY PUBLICS MONTHLY LIST</p>	<p>DESTROY after one (1) calendar year and when</p>

	<p>Monthly list of newly commissioned Notaries in a county. Published monthly by Secretary of State.</p> <p>[IC 33-42-2-8]</p>	replaced by Annual List (see COCLK 2010-10).
CL 10-10	<p>NOTARY PUBLICS ANNUAL LIST</p> <p>Annual List of newly commissioned Notaries in a county. Published yearly by Secretary of State.</p> <p>[IC 33-42-2-8]</p>	DESTROY after four (4) calendar years. FILE as a Unique Record in a Separate File System
CL 10-11	<p>PERPETUAL CARE OF CEMETERY ENDOWMENT ACCOUNTING AND REPORT</p> <p>(prior to July 1, 1994) [IC 23-14-48]</p>	RECORD in Non-Judicial Order Book. FILE with County Recorder after July 1, 1994. See Administrative Rule 7 for retention instructions for the Non-Judicial Order Book [AR7, 85-11-19.1R].
CL 10-12	<p>RESOLUTIONS OR MEMORIALS FROM LOCAL BAR ASSOCIATIONS</p> <p>(Traditional practice by members of Local Bar and Judiciary)</p>	TRANSFER to the INDIANA STATE ARCHIVES, COMMISSION ON PUBLIC RECORDS, for EVALUATION, WEEDING and SAMPLING after three (3) years, if not placed in NonJudicial Order Book.
CL 10-13	<p>DECLARATION OF LOCAL DISASTER.</p> <p>[IC 10-14-3-29(a)(2)]</p>	RECORD in Non-Judicial Order Book. See Administrative Rule 7 for retention instructions for the Non-Judicial Order Book [AR7, 85-1.119.1R].
CL 10-14	<p>ORDERS CREATING OR AMENDING RULES OF PROCEDURE</p> <p>(Supreme Court Order)</p>	DESTROY upon publication of annual rules. POST as required by order. MAINTAIN Original as Unique Record.
CL 10-15	<p>OFFICIAL SEAL OF RECORDER-IMPRESSION AND VERIFIED DESCRIPTION.</p> <p>[IC 36-2-11-23(a)]</p>	RECORD in Non-Judicial Order Book. See Administrative Rule 7 for retention instructions for the Non-Judicial Order Book [AR7, 85-1.119.1R].

CL 10-16	INDIANA DEPARTMENT OF TRANSPORTATION/NOTICE OF OFFICIAL ACTION (Speed Zones, Flashing Lights, etc.)	DESTROY after three (3) calendar years when outdated or superseded
CL 10-17	BAIL AGENT LICENSE/POWER OF ATTORNEY [IC 27-10-3]	DESTROY three (3) calendar years after expiration of license.
CL 10-18	CASH BOND RECORD	DESTROY six (6) calendar years after bond becomes distributable and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
CL 10-19	MONTHLY NOTICE OF ALCOHOLIC BEVERAGE COMMISSION (ABC) MEETING	DESTROY after one (1) calendar year and when replaced by Annual List (see CL 10-20).
CL 10-20	YEARLY REGISTRY OF ALCOHOLIC BEVERAGE PERMITS [IC 7.1-2-3-9.1]	DESTROY after the new registry is available for public inspection.
CL 10-21	CHILD SUPPORT DOCKETS Form 45 – Support Docket Form 45L – Support Docket-Loose Leaf	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS
	SETS RECORDS (INDIANA SUPPORT ENHANCED TRACKING SYSTEM)	

CL 10-22	<u>SETS FORM #</u> WEAAD631 Name And Address Notification Report WEAAD564 Agency Disbursement Report WEAAC224 Daily Balance Report WEAAC200 Receipt Balance Report WEAAD561	<u>COUNTY FORM #</u> N/A 245 ADR Agency Disbursement Report 246 DCB-Daily Support Cash Book 247 DRR-Daily Receipts Register N/A 245 DCR Daily Check Register 245 VCR-Voided and Reissued Checks (Daily and Monthly)	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
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	<p>Disbursement Report</p> <p>FSASECWD Check Register</p> <p>WEAAC223 Voided And Reissued Report</p> <p>WEAAD302 Undistributed Receipt Report</p> <p>WEAAC205 Reconciliation Report</p> <p>WEACC920 Outstanding Check Report</p> <p>WEACC921 Tape Reconciliation Report</p> <p>* Including all other supporting documents as determined by the Indiana Department of Child Services</p>	<p>244 DUR-Daily Undistributed Receipts</p> <p>247SAB-Summary of Approved Receipt Batches</p> <p>245 MCC-Cleared Checks</p> <p>250 ARR-Accounts Receivable Recoupment's</p> <p>246 MBR-Clerk's Support Bank Reconciliation</p> <p>245OSC- Outstanding Check Report</p> <p>245-Tape Reconciliation of Checks</p>	
CL 10-23	<p>CHECK FORM</p> <p>245 Check Form</p>	<p>DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>	

CL 10-24	WEAAD310 TRIAL BALANCE REPORT	NOTE: This form will be discontinued, except for counties that find the report useful. If generated: DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
CL 10-25	WEAAD REPORTS	These report forms have been, or will be, routed to the County

	WEAAD418 Potential Refund Report WEAAD904 Aging of Paternity Reports WEAAD905 Aging of Established Cases (EOM) WEAAD923 Delinquency Reports	Prosecutor. These reports are maintained by the County Prosecuting Attorney.
	CLERK'S FEE & CASH BOOK	
CL 10-26	FEE AND CASH BOOK ISSUE DOCKET 1790-1913	Destroy per Administrative Rule 7, 85-1.1-02.
CL 10-27	ENTRY, ISSUE DOCKET & FEE BOOK (Civil Docket, 1970 +) - 1913 – 1990	PERMANENT. Maintain per Administrative Rule 7, 85-1.103R.
CL 10-28	REVISED FORM 41 - 1990 + FORM 44 - Register of Fees and Funds Held in Trust	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
CL 10-29	CLERK'S CASH BOOK OF RECEIPTS AND DISPURSEMENTS FORM 27A Form 27CC - County Court Cash Book of Receipts	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
	ELECTION RECORDS	
CL 10-30	Poll lists, absentee ballot applications, ballot envelopes, tally sheets, ballots and computer programs used to tabulate votes [IC 3-10-1-31; IC 3-10-1-31.1; IC 3-12-4-13]	DESTROY twenty-two (22) months after the election for which the records were produced

CL 10-31	Unused Ballots NOTE: Any record concerning an issue in litigation must be retained until the controversy is resolved, subject to orders of the court	DESTROY after filing deadline for recount petition. Retain one copy for election record.
CL 10-32	Voter Registration Records Canceled registration records Voter declination records [IC 3-7-27-6 (b)]	DESTROY two (2) years after the date of the previous general election.
CL 10-33	Campaign Finance Records - General [IC 3-9-4-6]	DESTROY four (4) years from December 1 following the election to which they pertain unless the records are in litigation.
CL 10-34	Campaign Finance Records – Judicial	DESTROY six (6) years from December 1 following the
		election to which they pertain unless the records are in litigation.
CL 11-01	PASSPORT APPLICATION TRANSMITTAL	DESTROY two (2) years after creation. Destruction must meet standards determined by U.S. Department of State.
CL 13-01	MARRIAGE RECORDS Includes Application for Marriage License, Record of Marriage, Marriage Index, Marriage Licenses and other related records. [Applications for Marriage may be PARTIALLY CONFIDENTIAL beginning in 1958. Disclosure of these records is subject to IC 5-14-3-4(a)(12) and IC 5-15-6-7(c)(6)].	PERMANENT. May be MICROFILMED according to 60 IAC 2 STANDARDS. Original may be retained in office or may be transferred to the County Archives or State Archives upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

County Coroner Retention Schedule

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
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CO 10-1	<p>CORONER'S VERDICT AND WRITTEN REPORT</p> <p>IC 36-2-14-10(a)</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
CO 10-2	<p>MEDIA RELEASE</p>	<p>DESTROY after one (1) calendar year.</p>
CO 10-3	<p>CORONER'S REPORT</p> <p>Identification of deceased, time and date of death, officers and officials present.</p> <p>IC 36-2-14-18(a)</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
CO 10-4	<p>CORONER'S AUTOPSY REPORT</p> <p>Written document of complete autopsy and finding of Pathologist. Produced by Pathologist. Includes autopsy photos.</p> <p>Full autopsy report non-disclosable at discretion of agency, if applicable (when Coroner has investigated a crime).</p> <p>Autopsy: 1. Photos; 2. Video recordings; and 3. Audio are CONFIDENTIAL under IC 5-14-3-4(a)(11); IC 36-214-10(b).</p> <p>Any health records obtained under IC 36-2-14-21 are CONFIDENTIAL. IC 36-2-14-21(d)</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
CO 10-5	<p>SCENE PHOTOS</p> <p>Non-disclosable at discretion of agency, if applicable (when Coroner has investigated a crime) under IC 5-14-34(b)(1)</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>

		RECORDS.
CO 10-6	<p>TOXICOLOGY REPORT</p> <p>Non-disclosable at discretion of agency, if applicable (when Coroner has investigated a crime) under IC 5-14-34(b)(1)</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
CO 10-7	<p>EVIDENCE GENERATED BY CORONER'S OFFICE</p> <p>DNA Stain Card, Suicide Notes</p> <p>Non-disclosable at discretion of agency, if applicable (when Coroner has investigated a crime) under IC 5-14-34(b)(1)</p>	<p>DESTROY after 100 Years.</p>
CO 10-8	<p>INVESTIGATIVE REPORT (Investigation Notes)</p> <p>Non-disclosable at discretion of agency under IC 5-14-3-4(b)(1)</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA</p>
		<p>COMMISSION ON PUBLIC RECORDS.</p>
CO 10-9	<p>CORONER'S RELEASE FOR CREMATION</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>

CO 10-10	CHAIN OF CUSTODY AND PROPERTY RELEASE FORM Non-disclosable at discretion of agency under IC 5-143-4(b)(1) if applicable (when Coroner has investigated a crime)	PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
CO 10-11	CLOTHING AND PERSONAL PROPERTY FORM	DESTROY after ten (10) years.

County Prosecutor Retention Schedule

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
PR 12-1	DEPARTMENT OF CHILD SERVICES CASE HISTORIES Includes information on all Indiana child support cases (both Title IV-D and non Title IV-D) and any out of state child support cases where Indiana is involved. Supporting documents include state and/or federal forms, memos and correspondence. Disclosure of these records may be affected by 45 CFR 303.15. Retention based on 45 CFR 302.15	DESTROY individual records three (3) calendar years after closure of the case, which happens when the noncustodial party's payment obligation has officially ended.

County Recorder Retention Schedule

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
	ENTRY OF INSTRUMENTS FOR RECORDING	
RE 10-1	ENTRY BOOK [IC 32-21-2-10]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2

		STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
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RE 10-2	<p>ORIGINAL INSTRUMENTS NOT RETURNED TO THE PUBLIC</p> <p>These may include leases, wills and testaments, bills of sale, powers of attorney, articles of incorporation, deeds, mortgages, chattel mortgages, and other instruments.</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
LAND TRANSFERS		
RE 10-3	<p>ORIGINAL/OFFICIAL DEED RECORD & INDEX TO ORIGINAL/INDEX TO OFFICIAL DEED RECORD</p> <p>[IC 32-21-4-1]; [IC 32-21-2-6]</p> <p>Official is original or copy of original deed record</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-4	<p>CEMETERY DEED RECORD</p> <p>[IC 14-21-3-1]</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-5	<p>SHERIFF'S DEED RECORD</p> <p>[IC 36-2-11-8]</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>

RE 10-6	TAX [SALE] DEED RECORD [IC 36-2-11-8]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-7	QUIET TITLE RECORD/INDEX TO QUIET TITLE RECORD [IC 32-30-3-17]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-8	TRACT BOOK This is an abstract to land grants made by the federal government, showing dates of grant and filings; location and description of tract; and name, age, and nationality of patentee; also known as Letters Patent Land and Lists of Land Entries.	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-9	PLAT BOOK/PLAT BOOK GENERAL INDEX/PLATS [IC 36-7-3-3]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-10	INDEX OF NOTICES OF CLAIM TO REAL PROPERTY [IC 32-20-4-2]	DESTROY fifty-five (55) years after satisfaction of lien.

RE 10-11	DORMANT MINERAL INTEREST RECORD [IC 32-23-10-7]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2
		STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
	MORTGAGE TRANSACTIONS	
RE 10-12	ORIGINAL/OFFICIAL MORTGAGE RECORD & INDEX TO ORIGINAL/INDEX TO OFFICIAL MORTGAGE RECORD [IC 36-2-11-8]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-13	SCHOOL FUND MORTGAGE RECORD [IC 36-2-11-8]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-14	RELEASE OF MORTGAGE RECORD [IC 32-29-6-9]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
	LIENS	

RE 10-15	MECHANIC'S LIEN RECORD/INDEX TO MECHANIC'S LIEN RECORD [IC 32-28-3]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON
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		PUBLIC RECORDS.
RE 10-16	NOTICE OF FEDERAL TAX LIEN Form 668 (Y) (c) 1993.	DESTROY after ten (10) calendar years.
	OLD AGE ASSISTANCE	
RE 10-17	ABSTRACT OF OLD-AGE CERTIFICATES -- LEDGER [IC 12-14-13-5 (3); 1936-1945 and 1947-present]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-18	CERTIFICATE FOR SUPPLEMENTAL ASSISTANCE TO AGED PERSONS [IC 12-14-13-5 (3)]	DESTROY twenty-five (25) years after satisfaction of lien.
	MILITARY RECORDS	
RE 10-19	ARMED FORCES DISCHARGE RECORD (DD214) [IC 10-17-2-1] These records include any military discharge record 1864 to present.	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
	BUSINESS ASSOCIATIONS	

RE 10-20	ARTICLES OF ASSOCIATION AND INCORPORATION RECORD [IC 23-1-38-6]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-21	INCREASE AND DECREASE OF CAPITAL STOCK These are the original filings of papers pertaining to increase and decrease of capital stock of companies.	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of

		written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-22	RESOLUTIONS OF CORPORATIONS AND ASSOCIATIONS These are the original filings of resolutions made by corporations and associations regarding business agreements.	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-23	REVOCATIONS These are the original filings of certificates issued by Secretary of State and filed with Recorder, revoking the business privileges of various incorporated firms.	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

RE 10-24	CO-PARTNERSHIP RECORD / PARTNERSHIP AGREEMENTS [IC 23-15-1-1]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
	MISCELLANEOUS INSTRUMENTS	
RE 10-25	MISCELLANEOUS RECORD These include transcripts of miscellaneous instruments such as affidavits, wills, agreements, articles of association and incorporation, amended articles, bills of sale, certificates, contracts, liens, dissolutions, inventions, leases, powers of attorney, and resolutions. [IC 36-211-8]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-26	REGISTER OF FARM NAMES [IC 36-2-11-17]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may

		be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-27	FENCE MARKS RECORD [IC 32-26-7-1]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

RE 10-28	OFFICIAL BOND REGISTER [IC 5-4-1-5.1]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-29	OFFICIAL BONDS This series includes official bond, computer index, and paper index.	DESTROY after ten (10) calendar years.
	UNIFORM COMMERCIAL CODE	
RE 10-30	UNIFORM COMMERCIAL CODE INFORMATION REQUESTS UCC FORM 11	DESTROY six (6) calendar years after lapse or termination.
RE 10-31	UNIFORM COMMERCIAL CODE FINANCING STATEMENT FILES Alpha files. [IC 26-1-9.1-501 (d)]	DESTROY six (6) calendar years after lapse or termination.
RE 10-32	UNIFORM COMMERCIAL CODE FINANCING STATEMENT INDEX Numerical file. [IC 26-1-9.1-502]	DESTROY six (6) calendar years after lapse or termination.
RE 10-33	UNIFORM COMMERCIAL CODE TERMINATION FILE [IC 26-1-501 (i) (1)]	DESTROY six (6) calendar years after lapse or termination.
RE 10-34	RECORD OF INSTRUMENTS COPIED OR PROOFED County Form 138.	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
	OFFICE ADMINISTRATION	

RE 10-35	FEE AND CASH BOOK	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
RE 10-36	MONTHLY MORTGAGE RELEASE REPORT TO COUNTY AUDITOR [IC 36-2-11-24]	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
RE 10-37	PICK-UP CARDS [PLATS] Form 26-5-1 [IC 36-7-3-3]	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
RE 10-38	STATISTICS BOOK These may include any or all of the following: monthly totals, front counter annual totals, UCC annual totals, copy department annual statistics, CD revenue, general fund revenue.	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
RE 10-39	LOGS These may include any or all of the following: express and postal mail; plats/survey sheet and change of custody form; re-scan listing, correction, and tracking sheet; receipts list, pickup and mail-out book, township and surveyor pick-up list; CD and microfilm pick-up sheet.	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
RE 10-40	INVOICES AND PACKING LISTS	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

County Treasurer Retention Schedule

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
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<p>TR 10-1</p>	<p>PERMANENT TAX RECORDS</p> <p>Form 9 (R 1991) Tax Duplicate. Form 63 (R 1967) Ditch Duplicate. Form 63M (1972) Ditch Duplicate for Maintenance Assessments.</p> <p>Form 74T (1977) Treasurers Record of Delinquent Personal Property Tax and Judgment Docket.</p> <p>Form 137 (1988) Tax Sale Record. Delinquent Tax Duplicates (through 1876; now obsolete).</p>	<p>PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
<p>TR 10-2</p>	<p>NON-PERMANENT TAX RECORDS</p> <p>Form 18 (R 1989) Real Estate Tax Statement/Receipt. Form 18CD (R 1978) Conservancy District Tax Statement/Receipt. Form 18P (R 1988) Personal Property Tax Statement/Receipt. Form 18TJ (R1988) Personal Property Tax Judgment/Receipt. Form 63A Drainage Maintenance Tax Statement/Receipt. Form 135 (R 1988) Mobile Home Tax Statement/Receipt. Form 137B (1992) Statement of Costs Paid on Tax Sale Property.</p> <p>Form 143 (R 1977) County Treasurers Record of Demands for Payment of Delinquent Personal Property, Levies on and Sales of Personal Property, Certification to Clerk of Circuit Court, and Record of Notice Precedent to Executions.</p> <p>Form 143B (R 1991) Demand Notice, Personal Property Taxes. SF 13 (R 1957) Inheritance Tax Report. SF 14 (R 1973) Inheritance Tax Receipt.</p>	<p>DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>

TR 10-3	BANKRUPTCY FILES May contain Notice of Commencement of Case/ Notice of Pendency, Discharge of Debtors/Discharge in Bankruptcy, and other related information for court.	DESTROY five (5) calendar years after Discharge of Debtors/Discharge in Bankruptcy, and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
TR 10-4	INDEX CARDS TO BANKRUPTCY FILES Open Files	RETAIN in office until moved to Closed Files. DESTROY in conjunction with bankruptcy files after five (5) calendar years.
TR 10-5	NONPERMANENT REGISTERS Form 63B (1953) Register of Ditch Assessments Collected. Form 65 (R 1967) Register of Taxes Collected. Form 65STF (1949) Surplus Tax Fund Ledger.	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
TR 10-6	PERMITS SF 7878 - Mobile Home Permit for Moving or Transferring Title (Copies only; originals given to customer; copies also retained by county assessor).	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
TR 10-7	RECORD OF APPROPRIATION & DISBURSEMENTS (Applies to combined form after 1925.)	DESTROY after one (1) year only if county auditor retains a copy.

County Sheriff Retention Schedule

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
SH 10-1	LAW ENFORCEMENT RECORDINGS	190 days unless: (1) If requested by a third party to be retained within 180 days of recording, then retained 2 years after recording; (2) If a complaint is filed regarding law enforcement activity, as defined in Indiana Code 5-14-3-2(j), within 180 days of recording, then retained 2 years after

		<p>recording;</p> <p>(3) If recording is used in any criminal, civil or administrative proceeding, then retained until final disposition of all appeals and a court order is obtained authorizing the destruction; and</p> <p>(4) If a recording is used by the Sheriff for training purposes, it may be retained for longer than 190 days.</p>
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(Ord. 2015-5, passed 3-9-15, Am. Ord. 2016-22, passed 8-22-16)

CHAPTER 37: EMERGENCY MANAGEMENT

Section

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GENERAL PROVISIONS

§37.01 PURPOSE

The purpose of this chapter is to establish in the county a Department of Emergency Management and to provide for the exercise of necessary powers during emergencies. (Ord. 1996-4, passed 10-22-96)

§37.02 DEFINITIONS

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

ADVISORY COUNCIL. The County Emergency Management Advisory Council, as established under this chapter, pursuant to I.C. 10-14-3-17.

BOARD. The Board of County Commissioners, as elected pursuant to I.C. 36-2-2.

CHAIRPERSON. The Chairperson of the County Emergency Management Advisory Council as established under this chapter, pursuant to I.C. 10-14-3-17.

EMERGENCY MANAGEMENT. The preparation for and the execution of all emergency functions, to include mitigation, preparedness, response and recovery.

DEPARTMENT. The Department of Emergency Management as established under this chapter, pursuant to I.C. 10-4-3-17.

DIRECTOR. The County Director of Emergency Management, as established and appointed pursuant to this chapter.

DISASTER. The occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, other water contamination requiring emergency action to avert danger or damage, hazardous materials spill or contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot, or hostile military or paramilitary action which cannot be handled by normal operating personnel, procedures, resources or facilities.

EMERGENCY MANAGEMENT VOLUNTEER. Any person who serves without compensation in the Department of Emergency Management, being first duly rostered, identified and appointed by the Director, including persons and private agencies or governmental units offering services to the county during emergency situations or mutual aid to other emergency services who request assistance.

MANMADE DISASTER. Any incidents, including, but not limited to riots, strikes, insurrections, terrorist acts, civil disturbances, threats to national security or other manmade cause.

NATURAL DISASTER. Any incident affecting or threatening public health, welfare, safety or security including, but not limited to flood, tornado, earthquake, wind, storm, winter storm or other natural cause.

PARTICIPATING EMERGENCY SERVICE.

- (1) Any county department or agency designated in the emergency operations plan to participate in emergency management activities pursuant hereto; and
- (2) Any department or agency of the state, another county, a municipal corporation or a volunteer organization designated to participate to a cooperative or mutual aid agreement entered into pursuant to I.C. 10-14-3-17 and this chapter.

PERSONNEL. County officers and employees and emergency management volunteers, unless otherwise indicated.

PLAN or EMERGENCY PLAN. The current local emergency plan whose preparation and updating are mandated by I.C. 10-14-3-17(j).

PRINCIPAL EXECUTIVE OFFICER.

(1) As referred to in I.C. 10-4-1-23(a) for purposes of declaring a local disaster emergency, and as referred to hereinafter, the regularly designated President of the Board of County Commissioners, except if he or she is unavailable or incapacitated, and the Board has a regularly designated President Pro-Tem, then the President Pro-Tem shall be the **PRINCIPAL EXECUTIVE OFFICER**. If the President is unavailable or incapacitated and there is no designated President Pro-Tem, then the remaining two Commissioners shall select among themselves one to be the **PRINCIPAL EXECUTIVE OFFICER** in the same manner as when an ordinary business meeting needs to be conducted in the absence of the President. If both the President and another Commissioner are absent or incapacitated, then the remaining Commissioner shall be considered the **PRINCIPAL EXECUTIVE OFFICER**. In the absence or incapacity of all County Commissioners, the Office of PRINCIPAL EXECUTIVE OFFICER shall devolve upon first the County Auditor, second, upon the County Clerk, third, upon the County Recorder and fourth, the Director.

(2) The **PRINCIPAL EXECUTIVE OFFICER** of the county selected by the above procedure, if not a member of the County Commission, shall exercise all powers and fulfill all duties of the **PRINCIPAL EXECUTIVE OFFICER** under I.C. 10-4-1-23, until the time as a County Commissioner shall no longer be unavailable or incapacitated at which time the County Commissioner, or the regularly designated President of the Board if he or she is no longer unavailable or incapacitated, shall assume all the powers and duties associated with the Office of President of the Board. The **PRINCIPAL EXECUTIVE OFFICER** selected by the above procedure, if a member of the County Commission, shall exercise all powers and fulfill all duties of the **PRINCIPAL EXECUTIVE OFFICER** under I.C. 10-4-1-23(a) until the time as the regularly designated President of the Board shall no longer be unavailable or incapacitated, at which time the regularly designated President of the Board shall resume all the powers and duties associated with his or her office.

SEMA. The State Emergency Management Agency established under I.C. 10-8-2-1.

TECHNOLOGICAL DISASTER. Any incidents including, but not limited to severe fire, explosions, hazardous material spills, radiological problems or other technological cause.

§37.03 SCOPE AND INTENT.

The general intent of this chapter is to provide for all necessary and indispensable powers and procedures reasonably needed to mitigate, prepare for, respond to and recover from emergency conditions. To this end, all powers, both ministerial and discretionary, as conferred herein shall be liberally construed and shall be construed as intending to supplement, augment and not to limit any other power or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, department and agencies.

§37.04 LIMITATIONS; NONSUPERSESSION OF POWERS

(A) Nothing in this chapter is intended to supersede or delimit any statutory powers of the County Sheriff to request assistance of the National Guard under the circumstances delineated in I.C. 10-2-4-6.

(B) Nothing in this chapter is intended to supersede or delimit the powers of any incorporated municipality under I.C. 10-4-3-17 to adopt and implement emergency plans and promulgate and enforce special emergency regulations and procedures in the advent of an actual emergency affecting the county. However, pursuant to I.C. 10-5-1-15, the regulations and procedures as promulgated by the municipal authorities may not be inconsistent with the county emergency regulations and procedures as established in this chapter.
(Ord. 1996-4, passed 10-22-96)

ADMINISTRATION AND ENFORCEMENT

§37.15 DEPARTMENT ORGANIZATION AND ADMINISTRATION

(A) In accordance with I.C. 10-14-3-17(d), there is established the County Emergency Management Advisory Council which shall consist of the following persons or their designees.

- (1) The President of the County Executive;
- (2) The President of the county fiscal body;
- (3) The Mayor of each city located in the county;
- (4) An individual representing the legislative bodies of all towns located within the county;
- (5) Representatives of private and public agencies or organizations which can be of assistance to emergency management as the organizing group considers appropriate,

or as may be added later by the County Emergency Management Advisory Council;
and

- (6) One commander of a local civil air patrol unit in the county or the commander's designee.

(B) *Officers.* The Advisory Council shall have the following officers:

- (1) *President* – The President of the Board of County Commissioners shall serve as the President of the Advisory Council;
- (2) *Vice President:* the members of the Advisory Council shall elect at the organizational meeting each year a Vice President; and
- (3) *Secretary:* the members of the Advisory Council shall elect at the organizational meeting each year as a Secretary

(C) *Terms:* Members of the Advisory Council shall have the following terms:

- (1) The President of the Board of County Commissioners, the President of the County fiscal body, the mayor of each city located in the County, and the Commander of the local civil air patrol unit in the County shall serve by virtue of holding their respective offices;
- (2) If the Commander of the local civil air patrol unit in the County designates a representative to serve as the Commander's representative, the representative serves at the pleasure of the Commander and may be removed and replaced by the Commander at any time with or without cause; and
- (3) All other members have a term of one (1) year, beginning January 1 and ending December 31 of each year. These members may serve no more than two (2) consecutive terms.

§37.16 ADVISORY COUNCIL

(A) The Emergency Management Advisory Council shall exercise general supervision and control over the emergency management and disaster program of the County and shall select and terminate, with the approval of the County Executive, a County Emergency and Disaster Management Director.

(B) All meetings of the Advisory Council shall be open to the public, and notice of meetings shall be provided as required by Indiana law.

§37.17 DEPARTMENT ESTABLISHED

(A) There is hereby established a Department of Emergency Management within the executive branch of the county government for the purpose of utilizing to the fullest extent possible the personnel and facilities of existing county departments and agencies to prepare for and meet any disaster, as defined in this chapter. The County Commissioners and Director of Emergency Management shall be responsible for its organization, administration and operation. The Department shall consist of the following:

- (1) An executive head of the Department of Emergency Management, who shall be known as the Director of Emergency Management appointed in accordance hereto;
- (2) A Deputy Director, who shall be appointed by the Director with the approval of the Advisory Council;
- (3) Emergency management volunteers, as deemed necessary and appointed by the Director in accordance herewith and in accordance with the plan;
- (4) The employees, equipment and facilities of all county departments and agencies suitable for or adaptable to emergency management and designated by the plan to participate in emergency management activity;
- (5) Staff officers with the responsibility for warning and communications, radiological, health, emergency care, police, fire and rescue, public works and public information in accordance with the plan; and,
- (6) The assistants, clerical help and other employees as deemed necessary to the proper functioning of the Department who may be appointed by the Director in accordance with the proper plan.

(B) Notwithstanding any other provisions of this chapter, no compensated position may be established within the Department of Emergency Management nor any person appointed to the position without:

- (1) The authorization of the County Council, pursuant to I.C. 36-2-5-3(a); and
- (2) The making of sufficient appropriations to pay the compensation.

(C) The County Council shall not have any power of approval over particular candidates for any position, but the County Council shall have general statutory powers to determine the number of officers, deputies and employees of county departments, classify positions and adopt schedules of compensation.

(D) It is the intent of this section that emergency management and disaster assignments under the plan shall be as nearly consistent with normal duty assignments as possible. (Ord. 1996-4, passed 10-22-96)

§37.18 DIRECTOR OR EMERGENCY MANAGEMENT

(A) *Appointment:* The Director shall be appointed by the Advisory Council with the approval of the County Executive.

(B) *Termination:* The Director may be terminated by the Advisory Council, with the approval of the County Executive.

(C) *Dual Office Holding Prohibited:* The Director may not hold any other local, state or federal office.

(D) *Duties:* the Director shall have the following duties:

- (1) Direct the organization, administration and operation of the emergency management and disaster program;
- (2) Be responsible to the President of the County Executive;
- (3) Seek, negotiate and enter into mutual aid agreements, with approval or ratification by the County Commissioners; and
- (4) Perform other duties which are either assigned by the Advisory Council or required by law.

§37.19 DEPUTY DIRECTOR

(A) If a Deputy Director has been appointed pursuant hereto, he or she shall, during normal times, assist the Director in the performance of his or her duties.

(B) During an emergency, the Deputy Director shall assist the Director and shall fulfill the duties of the Director in the absence or incapacity of the Director to serve. (Ord. 1996-4, passed 10-22-96)

§37.20 PRINCIPAL EXECUTIVE OFFICER; BOARD OF COMMISSIONERS

(A) In time of normal county operations, powers and duties of the Principal Executive Officer pertaining to emergency management shall be:

- (1)** Seeking the advice and input of the Director as to the advisability of declaring a local disaster emergency; and
- (2)** Declaring, pursuant to I.C. 10-4-1-23(a), a local disaster emergency.

(B) In time of normal county operations, powers and duties of the County Commissioners pertaining to emergency management shall be:

- (1)** Maintaining general supervision over the planning and administration for the Department.
- (2)** Prepare, adopt and keep current a local disaster emergency plan as provided for in Section 37.35. The Agency shall also prepare and distribute to all appropriate officials a clear and complete written statement of:
 - (a)** The emergency responsibilities of all local agencies and officials: and
 - (b)** The disaster chain of command.
- (3)** Coordinating emergency management activities consistent with the plan;
- (4)** Making assignments of county personnel to emergency management activities consistent with the plan;
- (5)** Making assignments of county personnel to emergency management duties in order to meet situations not covered in the normal duties and powers of the agencies consistent with the plan;
- (6)** Taking all necessary action in coordination with the Department to conduct tests of the plan; and
- (7)** Educating themselves as to their responsibilities under the plan.

- (C) (1) Emergency management test may be conducted at any time with or without prior notifications to persons other than the Director.
- (2) All emergency tests conducted within the boundaries of the county shall be coordinated with the Department.
- (D) In the administration of the Agency, the County Commissioners may:
- (1) Appropriate and expend funds;
 - (2) Make contracts;
 - (3) Obtain and distribute equipment, materials and supplies for emergency management and disaster purposes;
 - (4) Provide for the health and safety of persons and property, including emergency assistance to victims of a disaster resulting from enemy attack;
 - (5) Provide for a comprehensive insurance program for its emergency management volunteers;
 - (6) Direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set forth by the Federal Emergency Management Agency and the Indiana Department of Homeland security;
 - (7) Appoint, employ, remove or provide, with or without compensation
 - (a) Rescue teams
 - (b) Auxiliary fire and police personnel; and
 - (c) Other emergency management and disaster workers.
 - (8) Establish a primary and one or more secondary control centers to serve as command posts during an emergency;
 - (9) Subject to the order of the Governor of the State of Indiana or the County Commissioners, order, assign and make available for duty employees, property or equipment of the County relating to:

- 1 Firefighting;
- 1 Engineering;
- 1 Rescue;
- 1 Health, medical and related services;
- 1 Police;
- 1 Transportation;
- 1 Construction;
- 1 Similar items of service for emergency management and disaster purposes;
and

(10) In the event of a national security emergency or disaster as provided for in Indiana Code §10-14-3-12, waive procedures and formalities required by County Code, ordinances, resolution or rules.

(Ord. 2012-__, passed 5-1-12)

§37.21 VOLUNTEERS

(A) The Director shall assure that all volunteer personnel meet the following qualifications before being placed on the roster as a member of the Department:

- (1) Be at least 18 years of age or older;
- (2) Not be convicted of a felony; and
- (3) Have completed and have on file with the Department an application form.

(B) Upon satisfaction of the above requirements and formal entry upon the Department's roster of volunteers, the applicant is officially a member of the County Department of Emergency Management.

(Ord. 1996-4, passed 10-22-96)

§37.22 BUDGETING AND FINANCE

The Advisory Council shall advise the Director in the preparation of the budget. The County Council shall appropriate funds as it may deem necessary for the purpose of emergency management. All funds appropriated or otherwise available to the Department of Emergency Management shall be Administered by the Director.
(Ord. 1996-4, passed 10-22-96)

EMERGENCY MANAGEMENT PLAN

§37.35 FORMULATION, CONTENT AND ADOPTION

(A) (1) A county emergency operations plan shall be adopted by resolution of the County Commissioners.

(1) In the preparation of the plan, as it pertains to county organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent possible.

(B) The Plan shall have, at minimum, the following contents:

(1) Basic plan, to include:

- (a)** Purpose;
- (b)** Situation/assumptions;
- (c)** Concept of operations;
- (d)** Assignment of Responsibilities;
- (e)** Direction and control;
- (f)** Continuity of government;
- (g)** Administration and logistics; and
- (h)** Execution.

(2) Annexes, to include:

- (a)** Direction and control, warning and communications;
- (b)** Radiological protection;
- (c)** Law Enforcement;

- (d) Fire and rescue;
- (e) Health and medical;
- (f) Hazardous materials response for SARA Title in Releases (to be drafted by the Local Emergency Planning Committee, pursuant to I.C. 13-25-2-5);
- (g) Hazardous materials response for non-SARA Title III releases;
- (h) Welfare and human services;
- (i) Shelter;
- (j) Evacuation;
- (k) Public works; and
- (l) Resource and supply.

(2) In addition, all emergency services within the county shall:

- (a) If they develop internal plans, assure that those plans are drafted subject to the requirements of the plan;
 - (b) Coordinate internal plans with the Department of Emergency Management;
 - (c) Assure inclusion of internal plans within the county plan;
 - (d) Perform the functions and duties assigned by the county plan; and
 - (e) Maintain their portion of the plan in a current state of readiness at all times.
- (Ord. 1996-4, passed 10-22-96)

§37.36 COUNTYWIDE JURISDICTION

(A) Except as provided by this chapter, the jurisdiction of the county Department of Emergency Management shall be:

- (1) Comprehensive and inclusive countywide; and
- (2) Effective in both the incorporated and unincorporated areas of the county.

(B) The jurisdiction and applicability of the county's comprehensive emergency management and disaster plan, as adopted pursuant hereto, and the exercise of any powers of the Principal Executive Officer of the county and the County Commissioners under § 37.37 shall be:

- (1) Comprehensive and inclusive countywide; and
- (2) Effective in both the corporate and unincorporated areas of the county.

(C) All incorporated areas of the county shall:

- (1) If they develop internal plans, assure that those plans are drafted subject to the requirements of the plan;
- (2) Coordinate internal plans with the Department of Emergency Management;
- (3) Assure inclusion of internal plans within the county plan;
- (4) Perform the functions and duties assigned by the county plan; and
- (5) Maintain their portion of the plan in a current state of readiness at all times. (Ord. 1996-4, passed 10-22-96)

§37.37 POWERS, REGULATIONS AND PROCEDURES

(A) This section shall apply whenever:

- (1) A state of emergency affecting all or part of the county has been declared by the Governor, pursuant to I.C. 10-4-1-7;
- (2) A state of emergency affecting all or part of the county has been declared by the Principal Executive Officer of the county, pursuant to I.C. 10-4-1-23(a);
- (3) A presumptive state of emergency is deemed to exist affecting all or part of the county causing the Director to invoke and implement emergency plans and procedures in accordance herewith; or

(4) When the Board of Commissioners has implemented a test of the county's emergency plan and procedures in accordance with and to the extent necessary or dispensable to the test.

(B) The Department of Emergency Management shall have the following responsibilities prior to declaration of a disaster:

- (1)** The warning function as prescribed in the portion of the plan;
- (2)** Assuring proper functioning of emergency communications throughout the county, including all cities and towns, as prescribed in the communications portion of the plan; and
- (3)** Assuring the mitigation, training and exercising have been performed.

(C) (1) In the event of actual or threatened enemy attack or disaster the county, the Principal Executive Officer of the county may declare a local disaster emergency pursuant to I.C. 10-4-23(a) for any period not to exceed seven days.

(1) The declaration shall:

- (a)** Be in writing;
- (b)** Indicate the nature of the disaster;
- (c)** Indicate the conditions which have brought the disaster about;
- (d)** Indicate the area or areas threatened;
- (e)** Indicate the area or areas to which the state of emergency applies, which may include the entire county or only designated parts thereof; and
- (f)** Be announced or disseminated to the general public by the best means available.

(2) The declaration shall be filed in the offices of:

- (a)** The County Clerk;
- (b)** The County Auditor; and

- (c) The Clerk of any incorporated municipality included in the declared disaster area.
 - (3) The declaration shall not be invalidated nor ineffective if any of the filing and dissemination requirements cannot be complied with due to the prevailing adverse circumstances.
 - (4) Upon a declaration, the county's comprehensive emergency management and disaster control plan which has been adopted pursuant hereto or the several component parts thereof as may be relevant to the emergency shall be activated and implemented.
 - (5) A declaration shall not be necessary if the Governor, pursuant to I.C. 10-4-1-7, has already proclaimed a statewide or area-wide state of emergency including the county.
- (D)** (1) As soon as possible after a disaster emergency affecting the county is declared either by the Governor or by the Principal Executive Officer of the county shall convene a meeting of the County Commissioners to perform their legislative and administrative functions as the situation may demand.
- (1) If the Principal Executive Officer fails or is unable to convene a meeting as mandated above, the meeting shall be convened in accordance with I.C. 36-2-2-3(a).
 - (2) Any meeting of the Commissioners shall:
 - (a) Be deemed an emergency meeting;
 - (b) Be subject only to such procedural provisions of law as govern emergency meetings of County Commissioners;
 - (c) Include relaxation of any applicable notice requirements, pursuant to I.C. 5-14-1.5-5(d);
 - (d) Be held in any convenient and available place;
 - (e) Continue, without adjournment, for the duration of the disaster emergency; and

- (f) Be recessed for reasonable periods of time as necessary and permitted by the circumstances.
- (E) (1) In the event that a quorum of the Board of Commissioners cannot be assembled for purposes of the meeting required hereunder, the Principal Executive Officer of the county shall:
- (a) Be considered a plenipotentiary representative of the Board;
 - (b) Have all powers of the full Board; and
 - (c) Take all actions of the full Board.
- (1) When a quorum is assembled, the plenipotentiary powers shall cease.
- (F) (1) At the meeting convened hereunder, the Commissioners may exercise any of their normal executive and legislative powers to the extent related to the emergency and necessary to deal herewith.
- (1) In addition to the powers enumerated herein, the Board may also exercise any of the following special and extraordinary powers;
- (a) The Commissioners may extend the period of a state of emergency declared by the chief executive officer pursuant hereto, to last more than seven days if necessary.
 - (b) The Commissioners may terminate the state of emergency, except for a state of emergency declared by the Governor.
 - (c) The Commissioners may assemble and utilize emergency management forces including:
 - (i) Personnel of the Department of Emergency Management
 - (ii) Participating emergency services; and
 - (iii) Any other forces at the disposal of the Commissioners hereunder for emergency management purposes.
 - (d) The Commissioners may order volunteer forces which have been activated pursuant to the plan to the aid of the county, state or political

subdivisions thereof as soon as practicable. These volunteer forces shall be under the direction of the Department of Emergency Management.

(e) In order to control the local disaster emergency and provide for public health, safety and welfare, the Commissioners may, to the extent permitted by I.C. 10-4-1-25 and subject to its provisions, command services and/or requisition the use of:

- (i) Equipment;
- (ii) Facilities;
- (iii) Supplies; or
- (iv) Other property.

(f) The Commissioners may order the evacuation of all or part of the population from stricken areas of the county and prescribe:

- (i) Routes;
- (ii) Modes of transportation; and
- (iii) Evacuation destinations.
 - i. The Commissioners may mark provision for availability and use of temporary emergency housing, which housing need not necessarily comply with any minimum housing standards, building or zoning regulations and the like, which would govern the use and location of premises for housing purposes during normal times.
 - ii. The Commissioners may suspend, for the duration of the state of emergency or for a lesser period as they determine, any provisions of or procedures prescribed by ordinances of the county if they:
 - (i) Would be impractical during the emergency;
 - (ii) Would interfere with the implementation and carrying out of

emergency plans; or

(iii) Would be inimical to actions necessary to protect the public safety and welfare.

i. Except in accordance herewith, hereinafter the Commissioners shall not suspend any provisions of ordinances or procedures which are mandated by statute.

ii. In the event of enemy attack, or when the state of emergency has been proclaimed by the Governor, the Commissioners, in accordance with I.C. 10-14-3-17(j)(5), may waive any procedures or requirements of statute or of county ordinances reflecting statutory requirements and mandates and pertaining to:

1. The appropriation and expenditure of public funds;
2. The incurring of obligations;
3. The performance of public works;
4. The entering into contracts;
5. The employment of workers whose employment may be either:

- a.** Permanent; or
- b.** Temporary.

6. The utilization of volunteer workers;
7. The rental of equipment;
8. The purchase and distribution of:

- a.** Offices;
- b.** Materials; and
- c.** Facilities.

i. The Commissioners may assign any special emergency duties and functions to county:

1. Offices;
2. Departments; and

3. Agencies.

- ii.** Any unexpended and unencumbered monies budgeted and appropriated or otherwise dedicated by law to different purposes may, within the scope of each major budget and appropriation category (major object classification), be utilized and expended for the purpose of carrying out special emergency duties and functions.
- iii.** The Commissioners may make and promulgate emergency regulations as may be deemed necessary to implement and carry out the provisions of the county's or state's plans.

1. The regulations shall not be effective until promulgated, through either:

a. Written filing in the Offices of the County Clerk and County Auditor, as required by I.C. 10-4-1-15(b); or

b. If filing is impossible, through conspicuous posting at two public locations within the county.

iv. The Commissioners may, in accordance with the plan, request the state or the country of their agencies and political subdivisions to send aid (including financial assistance) if the situation is beyond the control of the regular and emergency county forces and resources.

(G) All actions and regulations under the section shall be:

(1) Adopted by ordinance or resolution;

(2) Consistent with, and subordinate to, any actions, orders or regulations made by the Governor or a state agency implementing the state emergency operations plan.

(H) **(1)** The Director shall make recommendations and advise the Board of Commissioners or the Principal Executive Officer on any actions which it would be necessary or desirable to take hereunder in the event of any emergency.

(1) In the event that any emergency clearly exists or is imminent within the County, and

a state of emergency has not been declared by the Governor nor is any person having the powers of the Principal Executive Officer of the county present to declare an emergency pursuant hereto, the Director may temporarily presume the existence of a state of emergency.

(2) When Director temporarily presumes the existence of a state of emergency, the Director shall:

(a) Put into effect those portions of the plan as necessary:

(i) To cope with the emergency; and

(ii) Protect the public safety and welfare.

(b) Be construed to have all powers necessary and dispensable to doing so to the extent not specifically limited by statute or specifically limited herein, until the time as the Chief Executive Officer becomes available;

(c) Have his or her functions performed by the Deputy Director to the extent that the Deputy Director is required to assume the duties of the Director, as provided hereby in the latter's absence or incapacitation during the emergency.

(3) Assistance from the Department of Emergency Management may be rendered without a declaration of an emergency I order to assist local emergency services in time of need.

(I) During a declared emergency, all officers and employees of incorporated and unincorporated areas of the county shall:

(1) Cooperate with and give active support to:

(a) The County Commissioners; and

(b) The County Emergency Management Director.

(2) Comply with all orders issued pursuant to this chapter by:

(c) The Commissioners; and

(d) The County Emergency Management Director.

(J) At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all existing inconsistent:

- (1)** Ordinances;
- (2)** Orders;
- (3)** Rules; and
- (4)** Regulations.

(K)(1) Whenever this chapter applies, it shall be unlawful and a penal ordinance violation for any person to:

- (a)** Willfully obstruct, hinder or delay the Commissioners, the Director or Emergency Management, participating emergency services, authorized emergency management volunteers or other authorities from implementing, carrying out and enforcing emergency plans and procedures;
- (b)** Failure to observe, abide by and comply with any emergency management duties, orders, regulations and procedures as made applicable to the person by the appropriate authorities; or
- (c)** Falsely wear or carry identification as a member of the Department of Emergency Management or to otherwise falsely identify or purport to be a county emergency management authority.

(1) Any person who commits an offense as described above shall be liable to a fine of \$2,500; the fine to be subject, however, to the discretion of the court of jurisdiction.

(2) Any regular or reserve police officer of the state or any of its political subdivisions is hereby empowered to issue and serve a civil citation against any person found to be committing an offense described above.

(L) During an emergency management test or declared emergency, the following shall be immune from liability, to the extent provided by I.C. 10-14-3-17 and any other applicable law:

- (1)** The county;

- (2) Its assigned personnel;
- (3) Participating emergency services; and
- (4) Rostered volunteers.

(M) Owners of property commandeered for the use in any county official shall be reimbursed for its use by the county as the County Council shall approve with regard to:

- (1) Manner of compensation; and
- (2) Amount of compensation.

(N) The effect of a declaration of a local disaster emergency is to:

- (1) activate the response and recovery aspects of all applicable local or interjurisdictional disaster emergency plans; and
- (2) authorize the furnishing of aid and assistance under the plans.

(Ord. 1996-4, passed 10-22-96. Amended Ord. 2013-5, passed 6-24-13).

LOCAL DISASTER EMERGENCY

§37.45 ORDER OR PROCLAMATION OF LOCAL DISASTER EMERGENCY AFFECTING COUNTY ROADS WHEN COUNTY ROADS ARE NOT CLOSED

Any order or proclamation of a local disaster emergency, which does not order the closing of county roads, shall provide that:

- (A) The risk of travel on county roads is upon the person traveling upon such road or roads;
- (B) The driver or person in charge of a vehicle, whether or not stalled, that impedes or interferes with highway snow removal crews or emergency vehicles responding to an emergency may be directed to remove the vehicle from the county road by any law enforcement officer or county highway employee;
- (C) If an unoccupied vehicle impedes or interferes with highway snow removal crews or emergency vehicles and the driver or person in charge of such vehicle cannot be found, the Sheriff, County Emergency Management Director or county highway employee may order the vehicle to be towed to place of safety at the owner's expense;
- (D) A person who stops, parks or leaves a vehicle shall leave a sufficient unobstructed width of the roadway opposite the vehicle for the free passage of other vehicles and a clear view of the stopped vehicle from a distance of 300 feet in each direction upon the highway;
- (E) The driver of each vehicle shall drive at a reduced speed appropriate to the weather and highway conditions; (I.C. 9-21-5-4).
- (F) It is unlawful for a person to knowingly fail to comply with an order or direction of a law enforcement officer, county highway employee or Emergency Management Director directing, controlling or regulating traffic under this chapter.
(Ord. 2000-3, passed 1-18-00).

§37.46 ORDER OR PROCLAMATION OF LOCAL DISASTER EMERGENCY CLOSING COUNTY ROADS

(A) Local Travel Advisory Defined. As used in this section, the term "Local Travel Advisory" shall mean the level of emergency declared under Indiana Code §10-14-3-29 by the principal executive officer or Emergency Management Agency Director or the Director's

designee to alert the traveling public of emergency conditions that may require the imposition of travel restrictions.

(B) All Local travel Advisories shall be one (1) of the following:

- (1) *Advisory*:** This is the lowest level of local travel advisory and means that routine travel or activities may be restricted in areas because of a hazardous situation. Individuals traveling during an advisory should use caution or avoid these areas.
- (2) *Watch*:** This is the mid-level local travel advisory and means that conditions are threatening to the safety of the public. During a watch, only essential travel, such as travel to and from work or in emergency situations is recommended. During a watch, emergency action plans should be implemented by businesses, schools, government agencies and other organizations.
- (3) *Warning*:** This is the highest level of local travel advisory and means that travel may be restricted to emergency workers and public safety or health officials only. During a warning, individuals are directed to:
 - (a)** refrain from all travel;
 - (b)** comply with all necessary emergency measures;
 - (c)** cooperate with public officials and disaster service forces in Executing emergency operation plans; and
 - (d)** obey and comply with the lawful directions of properly identified Officers.

Further and more specific restrictions, including parking restrictions, may be included in a warning.

(C) *Advisories Without Declaration.* If the Emergency Management Director or Board of Commissioners determines that conditions in the County have created the need for travel advisory restrictions without a local disaster emergency declaration, the Director or Board may issue an advisory or watch travel advisory. If the Director issues an advisory or watch travel advisory, the Director shall promptly notify the Board.

(D) If a local travel advisory is issued under this section, the County may not prohibit individuals engaged in employment necessary to:

- (1) Maintain a safe rail system;
- (2) Restore utility service;
- (3) Provide any other emergency public service;

From traveling on the highways in the County.

(E) The driver or person in charge of a vehicle, whether or not stalled, that impedes or interferes with highway snow removal crews or emergency personnel and vehicles responding to an emergency may be directed to remove the vehicle from the county road by any law enforcement officer or county highway employee;

(F) If an unoccupied vehicle impedes or interferes with highway snow removal crews or emergency vehicles and the driver or person in charge of such vehicle cannot be found, the Sheriff or Emergency Management Director or county highway employee may order the vehicle to be towed to a place of safety at the owner's expense;

(G) A person who stops, parks or leaves a vehicle shall leave a sufficient unobstructed width of the roadway opposite the vehicle for the free passage of other vehicles and clear view of the stopped vehicle from a distance of 300 feet in each direction upon the highway;

(H) It is unlawful for a person to knowingly fail to comply with a lawful order or direction of a law enforcement officer, county highway employee or Emergency Management Director directing, controlling or regulating traffic under this chapter.

(Ord. 200-3, passed 1-18-00; Am. Ord. passed 11-13-01. Amended Ord. 2013-5, passed 6-24-13).

§37.47 MEDIA NOTICE

Upon issuance of an order declaring a local disaster a local disaster emergency the president of the Board of Commissioners of the county shall cause the local media to be promptly notified. (Ord. 200-3, passed 1-18-11)

§37.48 FILING OF ORDER

As soon as possible, the president of the Board of Commissioners shall cause the local disaster emergency order to be filed with County Auditor.

(Ord. 200-3, passed 1-18-00)

§37.49 ENFORCEMENT

(A) The driver or person in charge of a vehicle who violates §§37.45(B), 37.45(D), 37.46(C), or 37.46(E) may be directed to move the vehicle off the traveled portion of the road. (I.C. 9-211-3)

(B) A vehicle stopped, parked or left in violation of §§37.45(B), 37.45(C), 37.45(D), 37.46(B), 37.46(D), or 37.46(E) may be towed to the nearest place of safety at owner's expense. (I.C. 9-21-16-3).

(C) (1) Violation of the provisions of §§37.45(B), 37.45(C), 37.45(F), 37.46(C), or 37.46(F) is cause for an action to enforce state statute and may result in the entry of a judgment of up to \$500 for a Class C Infraction. (I.C. 9-21-5-13, I.C. 9-21-16-9, and I.C. 9-21-8-49)

(2) In the alternative, the violation may be charged as a Class C ordinance violation for which a judgment may include the amount necessary to reimburse the county for any towing or storage fee which it has incurred in addition to the prescribed fine and court costs.

(D) Violation of the provisions of §§37.01(D) or 37.03(E) is a Class C ordinance violation for which a judgment may also include the amount to reimburse the county for any towing or storage fee which it has incurred, in addition to the prescribed fine and court costs. (Ord. 2000-3, passed 1-18-00).”

TITLE V: PUBLIC WORKS

Chapter

50 ILLEGAL DUMPING

TITLE V: PUBLIC WORKS CHAPTER 50: ILLEGAL DUMPING

Section

- 50.01 Title
- 50.02 Purpose
- 50.03 Definitions
- 50.04 Prohibited acts
- 50.05 Property owners' rights and responsibilities
- 50.06 Enforcement and abatement
- 50.07 Hearings

Cross-reference:

Interlocal Agreements, see T.S.O. Table TV

Transportation of waste materials, see § 130.04

§50.01 TITLE

This chapter shall be titled "Illegal Dumping Chapter" and may be cited as such. (Ord. 1993-6, passed 7-7-93)

§50.02 PURPOSE

The purpose of this chapter is to prohibit illegal dumping of solid waste materials in the county, to establish penalties for violations therefor, and to provide for the method of clean-up of open dumps. Improper disposal at recycling stations shall also be prohibited. (Ord. 1993-6, passed 7-7-93) Penalty, see § 10.99

§50.03 DEFINITIONS

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

CONSTRUCTION/DEMOLITION DEBRIS. Any discarded construction or demolition materials including, but not limited to untreated lumber, paneling, drywall, roofing, shingles, siding, plumbing and electrical components, doors, windows, floor coverings and cabinets.

CONTAMINANT: The same meaning as that term is defined by I.C. 13-11-2-42. (Am. Commissioners Ord. 2008-1, passed 2-11-08)

DISCARDING. To abandon, deposit, desert, discharge, dispose, drop, dump, eliminate, emit, jettison, leave, pitch, place, put, scrap, spill, throw or toss any item, any solid waste or derivative thereof, or any inherently wastelike material in a manner such that the discarded substance remains upon the land as solid waste.

DUMPING.

(1) The discarding or long-term storage of any items of solid waste commonly known as garbage, rubbish, refuse construction and demolition debris, household trash, appliances, diapers, food service wastes, tires, scrap metal, vehicle parts, implement parts, fence wire and all other items and materials defined as “solid waste” below and in I.C. 13-11-2-205; and

(2) The discarding of any vehicle which do not have value beyond scrap value and which are inoperable and unlicensed or which are condensed abandoned due to the surrounding conditions.

GARBAGE. All putrescible animal solid, vegetable solid and semi-solid wastes from the processing, handling, preparation, cooking, serving or consumption of food or food materials.

GENERATION. The act or process of producing solid waste.

GENERATOR. The person whose actions or processes result in the production of solid waste.

HEALTH OFFICER. The same meaning as the term “local health officer,” as used in I.C. 1618-2-212, and shall include his or her authorized agent.

INERT SOLID WASTE. Earth, rocks, concrete, bricks, tiles or aged asphalt, natural wood, brush, leaves, wood chips or sawdust, any and all of which is free from contaminants.

OPEN DUMP. The consolidation of solid waste from one or more sources or the disposal of solid waste at a single disposal site that does not fulfill the requirements of a sanitary landfill or other land disposal method as prescribed by law or regulations, and that exists without daily cover and without regard to the possibilities of contamination or surface or subsurface water resources, air, land or other hazard or threat of hazard to the environment or safety.

PERSON. Any individual, partnership, corporation, firm, company, organization, joint stock company, municipal corporation, city, school district or corporation, county, town, association, trust, estate, government unit or other legal entity.

SCAVENGING. The uncontrolled and unauthorized removal of materials from solid waste at any point in the waste management system.

SOLID WASTE. Any yard waste, garbage, refuse, rubbish, sludge or other discarded or disposed materials, including solid, liquid or semi-solid or contained gaseous material resulting from any operation, activity or source.

STORAGE. Proper temporary containment of waste materials for a period of no more than 15 days or the standard interval of local commercial collection service, whichever is less.

WASTE STORAGE CONTAINER.

(1) A proper and suitable receptacle used for the temporary storage of solid waste while awaiting collection.

(2) Containers shall be designed to prevent escape or leakage of contents and should be resistant to scavenging animals.

WEST CENTRAL SOLID WASTE DISTRICT. The legally constituted solid waste district of which the county is a member pursuant to I.C. 13-26-2.

§50.04 PROHIBITED ACTS

(A) (1) No person shall discard any materials other than recyclables in any facility or contained intended for collecting designated recyclable materials.

(2) No person shall conduct scavenging at any facility or container intended for collecting materials with value as a designated recyclable material.

(B) (1) No person shall discard any solid waste along any roadway within the county unless it be in a proper solid waste storage container and is intended for collection and removal to a facility approved for handling the materials.

(2) No person shall discard for final disposal or for use as fill material any inert solid waste without express consent of the property owner of the final disposal site, including county road rights-of-way.

(3) No person shall discard for final disposal or for use as fill material any inert solid waste which is mixed or adulterated with any contaminants.

(4) No person shall do any dumping or permit any dumping to take place at any location in the county unless the location is an approved and properly permitted landfill site.

(5) Fill material, defined in §50.03 as *inert solid waste*, and other materials shall require an application to be filed with the County Health Department and County Highway Office and evaluated before any dumping or filling takes place.
(Ord. 1993-6, passed 7-7-93; Am. Ord. passed 5-1-96) Penalty, see § 10.99

§ 50.05 PROPERTY OWNERS' RIGHTS AND RESPONSIBILITIES

(A) (1) It is the responsibility of all persons owning real property in the county to sustain diligent and good faith efforts to protect the natural environment and prevent illegal dumping on their property.

(2) Persons owning real property in the county shall not cause or allow the disposal upon their property of any solid waste materials.

(B) Except as otherwise provided herein, no enforcement action may be taken under this chapter against a landowner on whose land waste has been improperly disposed without the landowner's consent, unless there has been made a diligent and good faith effort to identify, locate and take enforcement action against a person or persons who appear likely to have committed or caused the improper disposal acts.

(C) Any landowner who in good faith provides information concerning a name, an address or any other evidence of a responsible person's identify found in wastes improperly disposed on the landowner's property is not liable to the person for an action taken by enforcement authorities under this chapter against the person as a result of information provided by the landowner.

(D) The owner of property on which improper disposal acts have occurred may be included as a party of any enforcement action against a person who allegedly committed the violation so that the landowner may be ordered to allow the violator access to the land to remove and properly dispose of the wastes allegedly disposed in violation of this chapter.

(E) A landowner on whose land waste has been disposed in violation of this chapter without the landowner's consent may, in addition to any other legal or equitable remedy available to the landowner, recover from the person responsible for the improper disposal reasonable expenses incurred by the landowner in removal.

(F) A landowner who consents to or allows disposal of wastes generated by others upon his or her property, without making a diligent and good faith effort to prevent the improper disposal of wastes, and who fails to notify proper authorities of the improper acts of disposal within a reasonable period of time shall be subject to enforcement procedures, and shall be deemed the responsible party and shall be served notice for clean-up of all wastes deposited upon his or her property and removal for final disposal at an approved sanitary landfill, at the landowner's expense.

(G) If a diligent and good faith effort by the Health Officer to identify, locate and take enforcement action against a person or persons who committed prohibited acts of waste disposal has been made by county authorities, and has failed to identify violators of acts prohibited herein, the owner of real estate upon which an open dump is located shall be held responsible for correcting and controlling any nuisance conditions which may occur as a result of the open dump.

(H) Materials which provide identifying information regarding the generator shall constitute a rebuttable presumption that the generator has deposited solid waste without the express consent of the landowner and in violation of this chapter. The presumption can be rebutted by proof that:

- (1) The person obtained the express consent of the landowner; or
- (2) The person properly placed solid waste in a waste storage container for pick-up by a licensed waste hauler. (Ord. 1993-6, passed 7-7-93)

§50.06 ENFORCEMENT AND ABATEMENT

(A) It shall be the duty of the County Health Officer to enforce this chapter. The Health Officer is authorized to perform inspections in the furtherance of fulfilling his or her duty to enforce this chapter. Any person violating any provision of this chapter shall be subject to fines or other injunctive action as specified in this chapter.

(B) Violators of this chapter shall be served a written initial notice of violation either in person or by any other manner reasonably calculated to result in actual notice, including certified mail. The order shall state the violation complained of, order the abatement of the violation, indicate a method of abatement, which if satisfactorily completed will adequately abate the offending violation and provide a reasonable time for abatement.

(C) Abatement of a violation must be accomplished in an environmentally safe and lawful manner pre-approved by the Health Officer by disposal of solid waste in an approved and properly permitted landfill.

(D) If the violation is not satisfactorily abated within the specified time allowed, a second notice shall be served, in the same manner as specified for initial notices and containing the same information specified for initial notices. If the conditions prevail following the specified period of time, the matter shall be referred to the attorney for the County Health Officer for appropriate legal action.

(E) If the Health Officer identifies an emergency condition presented by the violation which condition presents an imminent health and safety hazard to the citizens of the county, the Health Officer may, without notice or hearing, issue a notice reciting the existence of the emergency and requiring immediate abatement by the responsible person.

(Ord. 1993-6, passed 7-7-93)

§50.07 HEARINGS

Any person receiving any notice of violation as described herein may demand and shall be granted a hearing on the matter before the Health Board. Conduct of the hearing shall be prescribed by regulations promulgated by the Health Board. The Health Board shall hear testimony and take evidence on the matter, following which the Board shall sustain, modify or revoke the notice of violation issued by the Health Officer.

(Ord. 1993-6, passed 7-7-93)

TITLE VII: TRAFFIC CODE

Chapter

- 70. TRAFFIC SCHEDULES
- 71. COURTHOUSE PARKING
- 72. TRAFFIC REGULATIONS

CHAPTER 70: TRAFFIC SCHEDULES

Schedule

- I. Weight Limits
- II. Bridge load limits
- III. Stop intersections
- IV. Speed limits

SCHEDULE I. WEIGHT LIMITS.

(A) This schedule is authorized pursuant to the provisions of I.C. 9-21-1-3 and I.C. 9-20-1-3 and for the reason that the highways under control of the Board of Commissioners, by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles is prohibited or permissible weight of vehicle is reduced.

(B) No vehicle with a gross weight of over eight tons shall be allowed on any road contained in the county highway system, excepting the following.

Weight Limits Over Eight Tons
Ladoga – Crawfordsville Road
Old State Highway 55 from Crawfordsville to Wingate

1100 North, from New Richmond to Indiana Highway 25
Russellville Road from Russellville to Indiana Highway 47
Nucor Road from 500 South to State Road 32
1000 North from Linden to New Richmond
600 South from State Road 47 to U.S. 231
Ladoga – Roachdale Road (550E)
400 South from Nucor Road to ½ mile east of Nucor Road

(Ord. 92-1, passed 2-3-02; Ord. 2013-3, passed 4-22--13) Penalty, see § 10.99

(C) No vehicle with a gross weight over five tons shall be allowed to travel upon County Road 150 South between State Road 47 and State Road 231, County Road 150 South between State Road 231 and Ladoga Road, or County Road 625 East between Indiana Highway 47 and Indiana Highway 32, with local deliveries and agricultural vehicles and machinery used for farms along this portion of County Roads 150 and 625 excepted. The County Highway Director shall cause signs to be placed at appropriate locations to inform the public of this restriction.

(1) The violation of this Ordinance shall be subject to monetary fines in the following amounts:

- (a) First violation: \$100
- (b) Second violation within 12 months \$250
- (c) Each subsequent violation within a 12 month period \$500

(Ord. 2015-7, passed 4-__-15, Am. Ord. 2015-10, passed _____, 2015, Am. Ord 2016-19, passed 7-11-16)

SCHEDULE II. BRIDGE LOAD LIMITS.

(A) The purpose of this schedule is to establish maximum load limits for certain bridges within the county. (1982 Code, § 5-82-1)

(B) There shall be no maximum weight limit for any bridges with the following exceptions.

<i>Bridge</i>	<i>Location</i>	<i>Weight Limit/Truck Suitability</i>
Bridge 12	550 East, north of 850 North	NA
Bridge 30	1100 North, west of 850 East	NA
Bridge 36	150 North, east of 800 East	NA
Bridge 52	550 North, east of 1000 East	NA
Bridge 61	Division Road, one mile east of SR 136	NA
Bridge 69	200 South, west of 1025 East	NA
Bridge 71	450 East, south of 136	NA
Bridge 76	400 North, west of SR 43	NA
Bridge 83	275 West, north of 400 North	NA
Bridge 85	400 West, one mile south of SR 136	NA
Bridge 98	100 North, east of 650 West	NA
Bridge 103	500 North, west of 600 West	NA
Bridge 104	825 West, north of SR 136	NA
Bridge 121	825 West, north of 300 South	NA
Bridge 122	450 West, one-half mile south of 250 South	NA
Bridge 129	900 West, south of SR 32	NA
Bridge 139	200 West, south of 200 South	NA
Bridge 153	300 East, south of 300 South	NA
Bridge 167	550 East, south of SR 136	NA
Bridge 169	900 South, east of 800 East	NA
Bridge 171	1100 South, east of 550 East	NA
Bridge 184	50 South, north of 136	NA
Bridge 198	South City Line Road, west of 550 East	NA
Bridge 199	1100 South, west of 550 East	NA
Bridge 218	950 South, west of 750 West	NA
Bridge 240	900 North, west of 350 East	NA
Bridge 251	1025 East, north of SR 234	NA
Bridge 266	675 East, west of 700 East	NA
Bridge 268	600 West, north of 1000 South	NA
Bridge 269	950 East, north of 700 South	NA
Bridge 270	750 North, east of 400 West	NA
Bridge 501	Chestnut Street at Danville Avenue	NA
Bridge 502	John Street, John and Chestnut	NA
Bridge 506	Wabash Avenue at Mill Street	NA

Bridge 511	South Boulevard east of Mill Street	NA
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(1982 Code, § 5-82-2; Am. Commissioners Ord. 2008-13, passed 7-28-08)
 Penalty, see § 10.99

SCHEDULE III. STOP INTERSECTIONS.

(A) (1) A person who drives a vehicle in the county shall stop and yield the right-of-way as required under this schedule at the entrance to a through county road. A person who drives a vehicle in the county shall stop at an intersection where a stop sign is erected and yield to vehicles that are not required to stop. A person who drives a vehicle in the county shall obey all official traffic-control devices placed in accordance with any county ordinance unless otherwise directed by a law enforcement officer. A person who violates any provision of this schedule commits a Class C infraction.

(2) For any intersection not specifically covered in this schedule, or marked with stop signs, north/south traffic will have the right-of-way.

(B) (1) Nothing in this schedule shall be construed to relieve any motorist from disobeying any traffic-control devices placed by the County Highway Department or State Highway Department whether or not the device is placed in accordance with the specific provisions of this schedule.

(2) Motor vehicles in intersections not listed herein will not be forced to stop.

(C) For the purpose of this schedule, the county is divided into four districts and the county road intersections in each district designated as stop intersections, in separate sections are described herein. Section Two includes intersections south of Base Road West and west of Base Road South. Section Three includes intersections north of Base Road West and west of Base Road North. Section Four includes intersections north of Base Road East and east of Base Road North. Section Five includes intersections south of Base Road East and east of Base Road South.

(1) Section Two: Southwest

Street	Direction	Intersection
Big Four Drive	North	CR 50 South
Country Club Court	South	Country Club Road
Country Club Meadow		Country Club Road

Country Club Terrace	South	County Club Road
CR 50 south	West	Country Club Road
CR 50 South	East	Schenck Road
CR 100 West	North and South	CR 500 South
CR125 West	North and South	CR 900 South
CR 150 South	East and West	CR 200 West
CR 150 West	North and South	CR 1150 South
CR 175 West	North	CR 1150 South
CR 200 West	North and South	CR 50 South
CR 200 West	North and South	CR 150 South
CR 200 West	North and South	CR 300 South
CR 200 West	North and South	CR 600 South
CR 200 West	North and South	CR 1150 South
CR 225 West	North and South	Country Club Road
CR 225 West	North and South	CR 950 South
CR 300 West	North	CR 1100 South
CR 300 West	North and South	CR 1200 South
CR 325 West	North and South	CR 950 South
CR325 West	North and South	CR 1050 South
CR 400 South	East and West	CR 275 West
CR 400 West	North and South	CR 450 South
CR 400 West	North and South	CR 600 South
CR 450 West	North and South	CR 600 South
CR 450 West	North and South	CR 700 South
CR 475 West	North and South	CR 700 South
CR 475 West	North and South	CR 950 South
CR 500 West	North and South	Division Road
CR 525 West	North and South	Fall Creek Road
CR550 West	North and South	Davis Bridge Road
CR 575 West	North and South	CR 1150 South
CR 600 West	North and South	CR 600 South
CR 600 West	North and South	CR 950 South
CR 600 West	North and South	Division Road
CR 625 West	North and South	CR 950 South
CR 650 West	North and South	CR 575 South
CR 675 West	North and South	CR 400 South
CR 700 West	North and South	CR 400 South
CR 700 West	North and South	CR 1150 South
CR 800 West	North and South	CR 950 South
CR 825 West	North and West	CR 450 South

CR 830 West	North	CR 400 South
CR 875 West	North and South	CR 450 South
CR 890 West	North and South	CR 800 South
CR 900 West	North	CR300 South
CR 900 West	North	CR 800 South
CR 900 West	South	CR950 South
CR 900 West	North and South	Division Road
CR925 West	North and South	CR 150 South
CR 925 West	North and South	CR 300 South
CR 1000 West	North and South	CR 400 South
CR 1200 South	North and South	Putnam County Road 750 West
Crown Street	East and West	CR 475 West
Davis Bridge Road	North and South	CR 600 South
Delmar Drive East	Country Club Road	
Franklin Street	Cross Street	
Franklin Street	Crown Street	
Main Street	North and South	CR 950 South
Main Street	Cross Street	
Main Street	Crown Street	
Manning Place East	Schenck Road	
Maple Street	Crown Street	
Maple Street	North and South	CR 950 South
Monroy Circle East	Schenck Road	
Putnam County Rd 750 West	North and South	CR 1200 South
Rock River Ridge Road	South and East	Country Club Road
Rock River Ridge Road	South and East	CR 225 West
Sugar Cliff Drive	South	Country Club Road
Watson Drive East	Schenck Road	
Winslow Drive	Country Club Road	

(2) Big Four Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Big Four Drive		Big Four – Arch Road
1 Big Four Drive		Chicago Drive

(3) Golf View Estates.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Eagles Way		Country Club Road
Golf Boulevard		Eagles Way

(4) Carrington Hills.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Greenlea Boulevard		Burning Tree Road
Greenlea Boulevard		Country Club Road
Singing Hills Drive		Burning Tree Road

(5) Section Three: Northwest.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Base Road		CR 650 West
Base Road West		CR 600 West
CR 100 West	North and South	CR 400 North
CR 100 West	North and South	CR 700 North
CR 100 West	North and South	CR 1000 North
CR 125 West		Oak Hill Road
CR 150 West		CR 575 North
CR 150 West		CR 650 North
CR 150 West		CR 700 North
CR 175 West		CR 300 North
CR 175 West		Oak Hill Road
CR 200 West		CR 1100 North
CR 225 West		CR 100 North
CR 225 West		CR 400 North
CR 275 West		CR 400 North
CR 275 West		CR 500 North
CR 275 West		CR 650 North
CR 275 West		CR 750 North
CR 275 West		Old State Road 55
CR 300 West		Black Creek Valley Road
CR 300 West		CR 500 North
CR 300 West		CR 650 North

CR 350 West		New Richmond Road
CR 400 West		New Richmond Road
CR 450 East		CR 1200 North
CR 500 West		CR 100 North
CR 500 West		CR 300 North
CR 500 West		CR 450 North
CR 500 West		CR 750 North
CR 500 West		CR 1050 North
CR 500 West		Division Road
CR 500 West		Old State Road 55
CR 525 West	North and South	CR 1050 North
CR 550 West		CR 100 North
CR 575 West		CR 900 North
CR 600 West	North and South	CR 600 North
CR 600 West		CR 900 North
CR 600 West		Old State Road 55
CR 610 West		CR 450 North
CR 610 West		CR 500 North
CR 625 West		CR 450 North
CR 625 West		CR 900 North
CR 625 West		CR 970 North
CR 650 West		Division Road
CR 700 West		CR 775 North
CR 700 West		CR 900 North
CR 700 West		CR 1125 North
CR 750 West		CR 150 North
CR 750 West		CR 650 North
CR 750 West		Division Road
CR 775 West		CR 450 North
CR 775 West		CR 650 North
CR 800 West		CR 1123 North
CR 830 West		CR 400 North
CR 875 West		CR 150 North
CR 925 West		CR 100 North
CR 925 West		CR 150 North
CR 950 West		CR 200 North
CR 950 West		CR 1125 North
CR 950 West		Old State Road 55

CR 975 West		Division Road
CR 1000 North	All directions	CR 100 West
CR 1000 West		CR 150 North
CR 1000 West		CR 700 North
CR 1000 West		CR 900 North
CR 1000 West		CR 1125 North
CR 1000 West		Old State Road 55
Farmington Hills Road		Oak Hill Road
Glen Creek Heights Road		Old Indiana 55
Lake Terrace Drive		CR 100 North
Lincoln Drive Road		CR 125 West
Mt. Zion Court		CR 100 North
New Richmond Road	North	CR 1000 North
Oak Hill Crossing		Oak Hill Lane
Oak Hill Lane		Oak Hill Road
Oak Hill Road		Lafayette Avenue
Oak Hill Road		Old State Road 55
Old State Road 55		All intersections
Twin Oaks		CR 100 North
Waynetown Road		CR 100 North

(6) Sugar Cliff Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Sugar Cliff Drive		Country Club Road
Sugar Cliff Drive	West	Sugar Cliff Drive

(7) Twin Oaks Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Blue Beach Lane		Poplar Avenue
Poplar Avenue		CR 100 North
Poplar Avenue		Poplar Avenue "C"
Poplar Avenue "A"		Poplar Avenue
Poplar Avenue "B"		Poplar Avenue
Tulip Lane		Poplar Avenue "D"
Tulip Lane "A"		Tulip Lane

(8) Cox Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Crescent Drive		Lake Vista Drive
Glenwood Drive		Lake Vista Drive
Lake Terrace Drive		CR 100 North
Lake Terrace Drive		Lake Vista Drive
Lake Vista Drive		Old Waynetown Road
Ridge Drive		Lake Vista Drive
Ridge Road		Glenwood Drive

(9) Section Four: NorthEast.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Base Road East		CR 400 East
Concord Road		CR 400 North
CR 100 East		CR 400 North
CR 100 East		CR 550 North
CR 100 East		CR 900 North
CR 100 East		CR 1000 North
CR 150 East		CR 550 North
CR 150 East		CR 800 North
CR 150 East		CR 900 North
CR 150 East		CR 1000 North
CR 150 East		CR 1200 North

CR 175 East		CR 300 North
CR 175 East		CR 400 North
CR 175 East		CR 800 North
CR 200 East	North	CR 550 North
CR 200 East	South	CR 800 North
CR 225 East		CR 1000 North
CR 250 East		CR 1200 North
CR 250 East	South	CR 1000 North
CR 275 East		CR 300 North
CR 275 East		CR 500 North
CR 300 North		CR 625 East
CR 325 East		CR 1000 North
CR 325 East		CR 1100 North

CR 350 East		CR 300 North
CR 350 East		CR 650 North
CR 350 East		CR 1200 North
CR 350 East	North	CR 1000 North
CR 350 East	North and South	CR 550 North
CR 350 East	South	CR 500 North
CR 350 East	South	CR 800 North
CR 350 East	South	CR 1100 North
CR 360 East		CR 500 North
CR 400 East		CR 500 North
CR 400 East		CR 570 North
CR 425 East		CR 500 North
CR 450 East		CR 1000 North
CR 450 East	South	CR 570 North
CR 500 East		CR 500 North
CR 500 East		CR 570 North
CR 500 East	South	CR 150 North
CR 500 East	South	CR 900 North
CR 550 East		CR 150 North
CR 550 East		CR 500 North
CR 575 East		CR 500 North
CR 575 East		CR 850 North
CR 575 East		CR 900 North
CR 575 East		CR 1000 North
CR 575 East		CR 1200 North
CR 590 East		CR 500 North
CR 625 East		CR 300 North
CR 625 East		CR 500 North
CR 650 North		CR 575 East
CR 675 East		CR 300 North
CR 675 East		CR 400 North
CR 680 East	South	CR 400 North
CR 775 East		CR 150 North
CR 800 East		CR 150 North
CR 800 East		CR 300 North
CR 800 East		CR 1000 North
CR 850 East		CR 900 North
CR 850 East		CR 1000 North
CR 850 East		CR 1200 North

CR 875 East		CR 150 North
CR 900 East		Bower Road
CR 900 East		CR 700 North
CR 900 East		CR 900 North
CR 925 East	South	CR 400 North
CR 950 East	North	CR 400 North
CR 1000 East	North and South	CR 1050 North
CR 1000 East	South	CR 450 North
CR 1000 East	South	CR 750 North
CR 1100 East	North and South	CR 400 North

(10) Kiger Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Kiger Road		CR 425 East

(11) Walnut Fork Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Brenda Avenue		Shayne Drive
Freddie Switzer Lane		Brenda Avenue
Freddie Switzer Lane		Campbell Street
Shayne Drive		Campbell Street

(12) Eastern Acres Subdivision.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Center Lane		Placid Place
Placid Place		Pleasant Run
Placid Place		Tranquil Trail
Pleasant Run		Traction Road
Tranquil Trail		Traction Road

(13) Section Five: SouthEast.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Base Road		CR 400 East
Cornstalk Creek Road		CR 350 East

CR 75 East		CR 1050 South
CR 75 East		CR 1150 South
CR 100 East		CR 300 South
CR 100 East		CR 400 South
CR 100 East		CR 600 South
CR 100 East		CR 700 South
CR 100 East		CR 900 South
CR 200 East		CR 900 South
CR 200 East		Ladoga Road
CR 240 East		CR 1150 South
CR 240 East		CR 1200 South
CR 250 East		CR 150 South
CR 250 East		CR 280 South
CR 300 East		CR 350 South
CR 300 South	East and West	CR 550 East
CR 325 East		Ladoga Road
CR 310 East		Ladoga Road
CR 350 East		CR 100 South
CR 350 East		CR 200 South
CR 350 East		CR 500 South
CR 350 East		CR 600 South
CR 350 East	North	CR 750 South
CR 350 East	South	CR 1000 South
CR 375 East	North	CR 1000 South
CR 375 East		CR 1100 South
CR 375 East		CR 1200 South
CR 400 East		CR 500 South
CR 400 East		CR 750 South
CR 400 East	South	Nucor Road
CR 475 East		CR 300 South
CR 475 East		CR 400 South
CR 500 East		CR 400 South
CR 500 East	South	CR 900 South
CR 500 East	North and South	Ladoga Road
CR 500 South		New Ross Road
CR 550 East		CR 500 South
CR 600 East		CR 400 South
CR 625 East	North	CR 400 South
CR 625 East	North and South	CR 500 South

CR 650 East		CR 900 South
CR 675 East		CR 100 South
CR 675 East		CR 200 South
CR 675 East		CR 300 South
CR 675 East		CR 400 South
CR 700 East	North and South	CR 500 South
CR 700 East		CR 750 South
CR 750 South		CR 750 East
CR 775 East		CR 100 South
CR 775 East		CR 200 South
CR 775 East		CR 300 South
CR 775 East	North and South	CR 500 South
CR 775 East		CR 700 South
CR 825 East		CR 700 South
CR 875 East		CR 200 South
CR 875 East		CR 1000 South
CR875 East		CR 1200 South
CR 900 East	South	CR 100 South
CR 900 East	North	CR 130 South
CR 900 East	South	CR 400 South
CR 925 East		CR 500 South
CR 925 East		CR 1000 South
CR 975 East		CR 1100 South
CR 975 East		CR 1200 South
CR 1000 East		CR 100 South
CR 1000 South		CR 1025 East
CR 1025 East		CR 1000 South
CR 1025 East		CR 1100 South
CR 1025 East		CR 1200 South
CR 1050 East		CR 800 South
CR 1050 East	North	New Ross Road
CR 1075 East	South	CR 200 South
CR 1075 East	North	CR 450 South
CR 1075 East	South	CR 500 South
CR 1100 East		CR 1000 South
CR 1100 South		CR 1025 East
Daugherty Lane		Traction Road
Ladoga Road		CR 500 South

Ladoga Road	North	CR 500 South
Nucor Road		CR 500 South
Willowbrook Road		CR 300 South

(14) Chigger Hollow Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Barbara Drive		Chigger Hollow Drive
Barbara Drive		Nucor Road
Connie Drive		Barbara Hollow Drive
Leland Drive		Chigger Hollow Drive

(Ord. 98-9, passed 12-15-98; Am. Ord. passed 11-23-99; Am. Ord. passed 11-23-99; Am. Ord. passed 11-23-99; Am. Ord. passed 12-19-00; Am. Ord. passed 3-27-01; Am. Ord. 1-14-03; Am. Ord. passed 10-21-03; Am. Ord. 2005-10, passed 4-12-05; Am. Ord. 2005-12, passed 4-12-05; Am. Ord. 2005-13, passed 8-16-05; Am. Ord. 2006-03, passed 1-3-06; Am. Commissioners Ord. 2009-3, passed 5-11-09; Am. Ord. 2016, passed 1-25-16)) Penalty, see § 10.99. Am. Commissioners Ord. 2016-18, passed 6-27-16.

SCHEDULE IV. SPEED LIMITS.

(A) A person who drives any type vehicle in the county shall obey all posted speed limits on all roads.

(B) Any person who violates posted speed limits commits a Class C infraction.

<i>Road</i>	<i>Location</i>	<i>Speed Limit</i>
All county school zones		30 mph
All public roads in Eastern Acres subdivision		20 mph
Bowers Road	From CR 1000 east to CR 900 east	30 mph
Brenda Avenue		20 mph
Bruce Street		30 mph
Cadillac Drive		30 mph
Campbell Street		20 mph
Center Lane		20 mph
College Street		30 mph

Concord Road	From base line north (U.S. 231) to CR 400 north	40 mph
Country Club Court		30 mph
Country Club Road		30 mph
CR 50 South	From Schenck Road to Country Club Road	30 mph
CR 100 West	From CR 400 north to CR 1000 north	40 mph
CR 150 South	From Ladoga Road to Nucor Road	35 mph
CR 150 South	From Ladoga Road to SR 47	30 mph
CR 275 West	From CR 400 south to CR 450 south	40 mph
CR 300 South	Between SR 47 and Keller Road	40 mph
CR 300 South	From US 231 to SR 47	30 mph
CR 300 South	From US 231 east to Ladoga Road	40 mph
CR 300 South	CR 830 west and CR 1000 West (County Line Road and Mountain Road)	35 mph
CR 325 West	From SR 32 west to CR 300 south	40 mph
CR 400 South	From SR 47 south to CR 275 west	40 mph
CR 400 South	Between SR 231 and CR 200 East	40 mph

CR 400 East	From SR 32 East to Traction Road	30 mph
CR 450 South	From CR 275 west to CR 400 west	40 mph
CR 400 West	From CR 450 south to CR 600 south	40 mph
CR 500 North	From CR 275 east to Darlington City limits	40 mph
CR 500 South	From State Road 136 East to CR 500 east	50 mph
CR 500 South	From CR 500 east to Ladoga Road	40 mph
CR 550 East	From U.S. 136 to south to CR 500 south	30 mph
CR 550 North	From U.S. 231 to CR 275 east	50 mph
CR 550 South	From State Road 47 to dead end	35 mph
CR 570 North	From 450 east to 500 east	35 mph
CR 600 South	From SR 47 to CR 400 west	40 mph
CR 600 South	From US 231 to New Market city limits	40 mph
CR 600 South	From west New Market city limits to SR 47 West	40 mph
CR 625 East	From SR 47 to SR 32	40 mph
CR 700 East	From Darlington city limits to CR 575 north	40 mph
CR 700 East	From CR 575 north to CR 1200 north	50 mph
CR 750 West	From CR 1150 south to county line	30 mph
CR 800 South	From SR 234 to CR 950 west	40 mph
CR 950 West	From CR 800 south to CR 750 south	40 mph
CR 750 South	From CR 950 to Montgomery County Line	40 mph

CR 950 East		40 mph
CR 975 East		40 mph
CR 1000 East	North of US 32	40 mph
Division Road	From CR 400 west to CR 600 west	40 mph
Garden Street		30 mph
Ladoga Road	From CR150 south to CR 200 south	45 mph
Ladoga Road	From CR 200 south to CR 400 south	50 mph
Ladoga Road	From CR 400 south to Nucor Road	40 mph
Ladoga Road	From CR 500 south to Garden Street	50 mph
Little Turtle Trail		20 mph
Meahme Trail		20 mph
Mt. Zion Road		30 mph
Nucor Road		45 mph
Nucor Road	From U.S. 32 south to CR 500 south	40 mph
Oak Hill Road	From city limits of Crawfordsville To Old State Road 55	30 mph
Placid Place		20 mph
Pleasant Run		20 mph
Rock River Ridge Road		30 mph
Stoneybrook Lane	Stone Crest Subdivision	30 mph
Traction Road	Base line east	30 mph
Tranquil Trail		20 mph
Wade Court	Stone Crest Subdivision	30 mph
Weemiak Trail		20 mph
Willowbrook Road		30 mph

(Ord. passed 10-20-98; Ord. passed 10-20-98; Ord. 98-8, passed 12-15-98; Am. Ord. passed 11-23-99;
Am. Ord. passed 12-7-99; Am Ord. passed 12-7-99; Am. Ord. passed 12-5-00; Am. Ord. passed 12-1900; Am. Ord. passed 12-11-01; Am. Ord. passed 12-28-01; Am. Ord. passed 4-9-02; Am Ord. passed 5-28-02; Am Ord. passed 8-12-03; Am. Ord. passed 1-14-03; Am. Ord. 2005-11, passed 4-12-05; Am. Ord. 2006-04, passed 1-10-06; Am. Commissioners Ord. 2008-12, passed 7-28-08; Am. Commissioners Ord. 2008-14, passed 8-25-08); Am. Commissioners Ord. 2009-7, passed 9-14-09. Am. Commissioners Ord. 2012-5, passed 11-24-14. Am. Commissioners Ord. 2014-5, passed 11-24-14. Penalty, see § 10.99; Am Commissioners Ord. 2106-18, passed 6-27-16).

CHAPTER 71: COURTHOUSE PARKING

Section

- 71.01 Courthouse parking lot regulations
- 71.02 Definitions
- 71.03 Application of rules and regulations
- 71.04 County employee parking
- 71.05 Public parking
- 71.06 Overnight parking prohibited
- 71.07 Towing of motor vehicles
- 71.08 Enforcement
- 71.99 Penalty

§71.01 COURTHOUSE PARKING LOT REGULATIONS

The purpose of this chapter is to establish rules and regulations for the use of the county parking lot north of the Courthouse. (Ord. 2005-03, passed 3-15-05)

§71.02 DEFINITIONS

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

COURTHOUSE PARKING LOT. The parking lot located north of the Montgomery County Courthouse in Crawfordsville, Indiana.

(Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

§71.03 APPLICATION OF RULES AND REGULATIONS

(A) The rules and regulations contained in this chapter apply to any and all persons parking in the North Courthouse Parking Lot and/or Courthouse Parking area.

(B) Persons parking in the Courthouse Parking Lot agree as a precondition of using the lot or area to follow all rules and regulations contained in this chapter.

(C) The Board of County Commissioners shall post on the Courthouse Parking Lot signs and other information sufficient to inform the public of the rules and regulations contained in this chapter.

(Ord. 2005-03, passed 3-15-05; Ord. 2016-2, passed 1-25-26)

§71.04 COUNTY EMPLOYEE PARKING

(A) The Board of County Commissioners shall from time-to-time assign to certain county employees designated parking spaces in the Courthouse Parking Lot. These assignments shall be posted in the Montgomery County Courthouse, distributed to all county elected officials and department heads, and made available to the public upon request made to the Auditor.

(B) The Board of County Commissioners shall distribute to all persons assigned designated parking places in the Courthouse Parking Lot parking permit tags, stickers, or other identifying markers. These markers shall be prominently displayed in the front window of motor vehicles of these persons.

(C) No county employee shall park in an assigned parking space in the Courthouse Parking Lot without a parking permit tag, sticker, or other identifying marker prominently displayed in the front window of his or her motor vehicle.

(D) No county employee shall park in an assigned parking space in the Courthouse Parking Lot other than the space assigned to him or her by the Board of County Commissioners.

(E) No county employee shall park in a parking space in the Courthouse Parking Lot designed for public parking.

(F) No County employee shall park in the Courthouse Parking Lot area, except the Montgomery County Sheriff or his designees who transport prisoners, detainees, juveniles, and other person to appearances, hearings, trials and conferences in the Montgomery County Courthouse. (Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

§71.05 PUBLIC PARKING

(A) The Board of County Commissioners shall from time-to-time designate certain parking spaces in the Courthouse Parking Lot as public parking spaces. Members of the public, other than county employees, shall be allowed to use these parking spaces on a first-come, first-served basis.

(B) No person other than a county employee may park in the parking spaces in the Courthouse Parking Lot which have been designated for county employee parking.

(C) Courthouse security officers shall keep a log of towed vehicles in order to verify towing to owners. This log shall include, but not be limited to, the make, model and year of the motor vehicle, the license plate number, the violation date and description, time of tow, and address and telephone number of the towing service. This log may be purged after one year of the violation. (Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

§71.06 OVERNIGHT PARKING PROHIBITED

No person may park his or her motor vehicle in the Courthouse Parking Lot after 10:00 p.m. or before 5:00 a.m. (Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

§71.07 TOWING OF MOTOR VEHICLES

(A) The Board of County Commissioners shall have the authority to cause motor vehicles parked in violation of this chapter towed from the county property by a private towing service to a storage facility.

(B) In the event a motor vehicle parked in violation of this section is towed, the owner of the motor vehicle shall be liable to the towing service for the expense of towing and storage of the motor vehicle. The owner shall pay these expenses prior to being entitled to recover the motor vehicle from the towing service.

(C) In the event the owner of a towed motor vehicle fails or effuses to pay these expenses and recover his or her motor vehicle, the towing service may dispose of the motor vehicle in order to pay these expenses as provided for by Indiana law.

(D) Courthouse security officers shall keep a log of towed vehicles in order to verify towing to owners. This log shall include, but not be limited to, the make, model and year of the motor vehicle, the license plate number, the violation date and description, time of tow, and address and telephone number of the towing service. This log may be purged after one year of the violation. (Ord. 2005-03, passed 3-15-05)

§71.08 ENFORCEMENT

(A) These rules and regulations shall be enforced by the Montgomery County Sheriff and his designees, including Courthouse security officers.

(B) If a person who violates the rules and regulations of this section and fails or refuses to pay the fines provided for by § 71.99(B) in a timely manner as provided for by § 71.99(C), the County Attorney may prosecute the violation as an ordinance violation for which a judgment will include the penalty provided for in § 71.99(B), court costs, attorney's fees, and other costs incurred by the county in the enforcement of this chapter.

(Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

§71.99 PENALTY

(A) It shall be unlawful for any person to violate the rules and regulations contained in this section.

(B) A person who violates the rules and regulations of this section shall be subject to and pay to the Clerk a fine in the amount of \$25 for his or her first offense, \$50 for his or her second offense, and \$100 of subsequent offenses. In addition, if the person's vehicle is towed as provided for in this section, the person is also liable for the cost of towing and storage of the vehicle.

(C) All fines for violation of this section shall be paid to the Clerk within ten days of the violation.

(D) A separate offense shall be deemed committed each day during which a violation occurs or continues.

(Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

CHAPTER 72: TRAFFIC REGULATIONS

§72.01 REGULATION OF OFF ROAD VEHICLES

(A) (1) As used in this section *OFF ROAD VEHICLE* has the definition contained in I.C. §14-8-2-185. It means a motor driven vehicle capable of cross country travel:

- (a) Without benefit of a road or trail; and
- (b) On or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(2) The term includes the following:

- (a) A multiwheel drive or low pressure tire vehicle.
- (b) An amphibious machine.
- (c) A ground effect air cushion vehicle.
- (d) An all-terrain vehicle (as defined in I.C. § 14-8-2-5.7).
- (e) A recreational off-highway vehicle (as defined in I.C. §14-8-2-223.5).

(f) Other means of transportation deriving motive from a source other than muscle or wind.

(3) The term does not include the following:

(a) Any vehicle including an off road vehicle being used for agricultural purposes.

(b) A vehicle being used for military or law enforcement purposes.

(c) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function.

(d) A snowmobile.

(e) A registered aircraft.

(f) Any other vehicle properly registered by the bureau of motor vehicles.

(g) Any water craft that is registered under Indiana statutes.

(h) A golf cart vehicle.

In addition, the term does not include any vehicle including an off-road vehicle that is being used by a person suffering from a handicap or disability, if the handicapped or disabled person is using the vehicle as a necessary means of transportation.

(B) As used in this section COUNTY ROAD OR RIGHT-OF-WAY means the entire width between the boundary lines of any way that is publicly maintained by Montgomery County and open for purposes of vehicular traffic located anywhere in Montgomery County, except federal interstates and highways, state roads and highways, and streets and alleys in incorporated towns in Montgomery County.

(C) An individual may operate an off-road vehicle on a county road or right-of-way only if:

- (1) The individual is at least 18 years old;
- (2) The individual's driving privileges are not currently suspended by any state;
- (3) The individual has proof of liability insurance in at least the minimum amount required by the State of Indiana;
- (4) The off road vehicle is properly registered and displays any plates or decals required by state law; and
- (5) The off road vehicle meets all equipment requirements under state law.

(D) In addition, an individual may operate an off road vehicle:

- (1) To cross a county road or right-of-way at right angles for the purpose of getting from one area to another when the operation can be done in safety.
- (2) As authorized by a law enforcement officer on the county road or right-of-way during emergencies.
- (3) On a county road or right-of-way for a special event if a prearranged schedule has been approved by the appropriate county, city or town law enforcement agency.

(E) Any individual operating an off road vehicle on a county road or right of way shall operate the vehicle at a reasonable and safe speed and obey all traffic rules of the State of Indiana and Montgomery County.

(F) This ordinance authorizes the operation of off road vehicles only on county roads and their rights-of-way; it does not authorize the operation of an off-road vehicle on any federal interstate or highway, any state roads or highways, any street or alley in any

incorporated town or city in Montgomery County, or upon any other property without the owner's consent.

(G) Violation of this section is a Class A infraction. This section shall be enforced in the same manner as other traffic ordinances.

(Ord. passed 4-1-03; Am. Commissioners Ord. 2007-03, passed 6-25-07. Ord. 2012-15, passed 12-10-12; Am Ord. 2017-6, passed 4-24-17)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. **STREETS AND SIDEWALKS**
- 91. **NUISANCES**
- 92. **FAIR HOUSING**
- 93. **UNSAFE BUILDING LAW**
- 94. **OBSTRUCTIONS ON PUBLIC ROADS, STREETS,
EASEMENTS AND RIGHTS-OF-WAY**
- 95. **DRUG NUISANCES**
- 96. **INOPERABLE AND UNREGISTERED MOTOR
VEHICLES**
- 97. **ANIMAL CONTROL**

CHAPTER 90: STREETS AND SIDEWALKS

Section

General Provisions

90.01	Rights-of-way
90.02	Improvements; minimum construction
90.03	Commercial drives

Address Numbering System

90.15	Title
90.16	Compliance
90.17	Purpose
90.18	Application
90.19	Jurisdiction
90.20	Definitions
90.21	Advantages of system; county coordination
90.22	Property addressing
90.23	Responsibility
90.24	Obtaining street addresses
90.25	Incorporated cities and towns
90.26	Enforcement

GENERAL PROVISIONS

§90.01 RIGHTS-OF-WAY

(A) The purpose of this section is to establish procedures for obtaining permission to use any part of the right-of-way of the roads of the county for laying pipe or cable or to cross any of the roads with pipe or cable. (1982 Code, § 5-84-1)

(B) (1) Any person or corporation wishing to use any part of the right-of-way or cross any roads to lay pipe or cable shall obtain permission in writing from the County Highway Department using the form as set out by the county. (1982 Code, § 5-81-2)

§90.02 IMPROVEMENTS; MINIMUM CONSTRUCTION

(A) These are the minimum construction standards which must be met before any improvement, road, culvert or other structure is accepted into the county maintenance system. These standards maybe modified from time to time as may be approved by the Board of Commissioners. If any individual or entity constructs or installs any structure or improvement in any county right-of-way that does not meet the minimum specifications of the county standards, the county shall have the right to remove the nonconforming structure or improvement and replace it, if necessary, at the expense of the landowner.

(B) The costs incurred by the county may be taxed against the landowner's real estate upon which the improvement is located and collected by the county in the same manner that real estate taxes are taxed and collected.

(C) Drives shall match the pavement section of the adjacent roadway.

(D) If a pipe is required, it shall be the State Department of Transportation's Group "D" or superior. Capacity shall be by rational calculation with a 15-inch minimum, equal to downstream pipe size, or one size larger than adjacent upstream pipes, as minimum criteria. Appropriate end treatment shall be required.

(E) Slopes from the public road to private property shall begin at the shoulder break. Grades should not exceed 10%. Side slopes should match adjacent highway construction.

(F) (1) Turning movements by the class of traffic planned for use of the drive should be possible from or to the adjacent lane without crossing the centerline. Thus, the State Department of Transportation's standard providing a 20-foot minimum width with a 20-foot radius shall be observed.

(2) Those constructing the drive shall provide information showing the actual drive size, based upon turning improvements by the vehicles planned for use, for approval by the county. (Ord. 89-5, passed 8-15-89)

§90.03 COMMERCIAL DRIVES

(A) The purpose of this section is to establish standards for installation of commercial drives connecting to county paved rights-of-way.

(B) The property owner shall pave this class of drive to the pavement section of the adjacent roadway at the time of construction.

(C) Drives shall match the pavement section of the adjacent roadway.

(D) If a pipe is required, it shall be the State Department of Transportation's Group "D" or superior. Capacity shall be by rational calculation with a 15-inch minimum, equal to downstream pipe size, or one size larger than adjacent upstream pipes, as minimum criteria. Appropriate end treatment shall be required.

(E) Slopes from the public road to private property shall begin at the shoulder break. Grades should not exceed 10%. Side slopes should match adjacent highway construction.

(F) (1) Turning movements by the class of traffic planned for use of the drive should be possible from or to the adjacent lane without crossing the centerline. Thus, the State Department of Transportation's standard providing a 20-foot minimum width with a 20-foot radius shall be observed.

(2) Those constructing the drive shall provide information showing the actual drive size, based upon turning improvements by the vehicles planned for use, for approval by the county. (Ord. 89-5, passed 8-15-89)

ADDRESS NUMBERING SYSTEM

§90.15 TITLE

This subchapter shall be known and may be cited as the “Addressing Subchapter of the County.”

(Ord. 2000-7, passed 12-19-00)

§90.16 COMPLIANCE

No structure shall be assigned an address or street named in any manner whatsoever in the unincorporated areas of the county, except in full compliance with all provisions of this subchapter.

(Ord. 2000-7, passed 12-19-00)

§90.17 PURPOSE

(A) The purpose of this subchapter shall be to set standards for residences and other structures numbering and road naming in the county and establish the authority and methods to be used when assigning addresses to properties in the county. These standards shall be used to establish residence locations which will be used in the implementation of an enhanced 911 emergency response system in the county.

(B) It is intended to provide continuity, avoid duplication and prevent general confusion regarding the location of developed parcels of land in the county.

(Ord. 2000-7, passed 12-19-00)

§90.18 APPLICATION

It is not intended by this subchapter to interfere with, abrogate or amend any covenants or other agreements between parties, nor is it intended by this subchapter to repeal, nor abrogate, nor annul or in any way interfere with existing provisions of laws or ordinances not specifically repealed by this subchapter, or any rules or regulations previously adopted or issued pursuant to law relating to the listing of contractors.

(Ord. 2000-7, passed 12-19-00)

§90.19 JURISDICTION

This subchapter shall apply to all land in Montgomery County, including the City of

Crawfordsville, all incorporated towns and all unincorporated towns and areas.

This subchapter shall apply to all unincorporated land within the county.

(Ord. 2000-7, passed 12-19-00)

§90.20 DEFINITIONS

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

ADDRESS PLANNING AUTHORITY. The County Commissioners shall serve as the coordinating body in the county with the responsibility for assigning street addresses within its jurisdiction. The agency shall coordinate its addressing efforts with the County Building Administration (MCBA), County Sheriff, local postmasters and large mailers in the county such as utilities, government and the like.

BASELINES. Existing recognizable lines which divide the county into quadrants or sectors. The intersection of Division Line Road and State Road 231 is the center point of the county for addressing purposes. Division Line Road and State Road 231 generally form the BASE LINES for the county.

BLOCK INTERVAL. The hundred number interval is the distance between grid lines or the point where the next highest block number designation is used.

CUSTOMER or ADDRESSEE. A family, individual, residence, business or industry which receives mail or emergency service at a delivery point.

FRONTAGE INTERVAL. The distance in foot frontage along a street, highway or county road which is used to assign consecutive property numbers, beginning from the nearest grid or base line. The address system used by the county assumes a FRONTAGE INTERVAL of 10.56 feet.

GRID LINES. Imaginary lines or actual county roads which are located a specific distance from and perpendicular or parallel to base lines. These lines indicate the point where block numbers change from one hundred to the next higher hundred. GRID LINES are used to standardize the numbering of parallel blocks at the same distance from the base lines.

LOT. A lot is a designated parcel, tract, development or area of land which is either not being or will be used eventually for construction of a structure.

OUT-OF-BOUNDS ADDRESS. A term used by the U.S. Postal Service to designate addresses that are out of sequence with other surrounding addresses. Often this occurs when

mailboxes are located on the back street of a property that faces another street or on corner lots.

PRIMARY ADDRESS NUMBER OR CITY-TYPE ADDRESS. The numeric or alphanumeric component, which precedes the street name.

STRUCTURE. A residential home, apartment building, business or commercial building, industrial or manufacturing building or publicly-owned building which fronts onto a public street or road. (Ord. 2000-7, passed 12-19-00)

§90.21 ADVANTAGES OF SYSTEM; COUNTY COORDINATION

(A) A street numbering system and corresponding property addresses provide individual structures with an exact geographic location in the county. City-type street-road addresses are necessary in order to provide a structure with a specific and more accurate identification for efficient mail delivery; to provide an easily identifiable geographic reference point for quick dispatch of police, fire and emergency rescue equipment; to provide utility companies with a permanent address record for billing and service calls tied to a specific structure; and to provide ease of location identification for friends, service vehicles or other individuals trying to locate a specific structure or a county road. A numbering system should make it easy for anyone to find the location of a county road or residential property in a short period of time and allow for a systematic expansion of address numbers as community growth occurs.

(B) The county will structure the naming of its road system and the issuance of property address based on the “Lyman/Purdue Street Numbering System.” The system is better known as the “Grid Coordinate System.” The system utilizes two base lines which run at approximate right angles to each other to divide the county into quadrants. Most of the county roads are number based on their distance from the north/south and east/west base lines.

(C) Existing county road/street names will be retained where feasible. Some names will have to be changed to correct duplications, multiple naming of the same road and other factors causing confusion. Road names will be used to delineate an assumed distance from the base line. For example, County Road 250 South delineates that the road runs east/west at a distance of two and one-half miles south of the center of the county.

(D) Street addresses are assigned in increasing order from each base and grid line. In the county, 1,000 potential property addresses exist for each 5,280 feet of distance from the base lines. There are approximately 50 address numbers that will be available for each side of the

street/road within each tenth of a mile. All of those available numbers will probably not be needed, depending on the density of development along the street/road. Therefore, possible addresses occur at each 10.56-foot interval. A specific street/road address is determined by measuring the number of 10.56-foot intervals between the grid line to the front entrance of a structure. Crooked roads and roads running at angles (not true north/south or east-west) will be addressed with the predominant north/south or east/west direction and may be named rather than numbered. Interval between address numbers will increase in these cases. (Ord. 2000-7, passed 12-19-00)

§90.22 PROPERTY ADDRESSING

(A) (1) All residences, commercial, industrial and public structures located in the county shall be assigned a permanent city-type street address. Structures located on the south side of an east/west street/road and those located on the west side of north/south street/road shall be an odd numbered property. Structures located on the north side of an east/west street/road and those located on the east side of a north/south street/road shall have an even number.

(2) In all situations the Address Planning Authority shall make the final determination of which street/road will be used for an address. The criteria for this determination will be based on the layout of the property, layout of the structure and other factors that may affect emergency services and mail delivery.

(3) Street addresses are to be assigned based on a measurement of the distance from the grid line to a line perpendicular to the address road/street that intersects either the structure or the entrance to the property that contains the structure.

(B) An official street address shall contain no more than five digits with the first digit or the first two digits if the structure is located ten or more miles from the baseline, indicating the milepost or distance from the baselines. The third digit from the right shall indicate the block number which will change each 528 linear feet. The last two digits indicate the number of 10.56-foot intervals from the structure to the nearest block or grid line.

(C) Once a property address has been assigned by the MCBA to a specific structure, it shall be the responsibility of the property owner to provide visible and current address numbers on both the structure and on the mailbox. The letters and numbers on the mailbox shall be in compliance with U.S. Postal service regulations and recommendations. Letters and numbers placed on structures shall be at least three inches in height. The color of the numbering shall be in contrast to its background. The address shall be placed on both sides of the mailbox. In cases where an address is considered an “out of bounds” address, the address name of the road/street shall also be placed on both sides of the mailbox. The letters and numbers shall be placed on the mail level in a location which faces the street upon which it is addressed and

near a main entry way and placed at or higher than the height of the entry way. The color of the lettering shall be in contrast to its background. If side or back entryways open to a street, road or alley different from the address, the side of the structure shall also have the full address, including address road/street name, properly displayed.

(D) (1) In the event that private roads are assigned names or numbers that are used for addressing purposes, it will be responsibility of the property owner(s) to install and maintain a street name sign that meets the typical street sign requirements section of the county standards.

(2) Signs shall be installed within 180 days of the signing of this subchapter or within 90 days of the issuance of a new or changed street or road name. Penalties for failure to comply are outlined in § 90.26.

(Ord. 2000-7, passed 12-19-00)

§90.23 RESPONSIBILITY

(A) (1) The responsibility for the issuance of street addresses shall be delegated to the staff of the County Building Administration. The MCBA shall issue and keep a permanent record of all issued property addresses within its jurisdiction and share the addresses with local postal authorities and E-911 personnel. Determination of county road or highway names or changes in the names shall be the sole responsibility of the County Commissioners.

(2) The Commissioners shall have a final approval in the naming of streets in platted subdivisions, mobile home parks, commercial or industrial business parks and the like under its jurisdiction.

(B) Local incorporated communities shall have final approval in the naming of roads and subdivisions streets located within their corporate boundaries.”

(Ord. 2000-7, passed 12-19-00)

§90.24 OBTAINING STREET ADDRESSES.

(A) A person or business who submits an application to build a new structure in the county shall submit a plat or site plan as is normally required to obtain a building permit. Prior to issuance of an official building permit, an official address shall be assigned to the structure. The official address shall be forwarded to postal officials, the County Auditor and E-911 office. No other address shall be used for identification of the structure.

(B) In no case shall an individual or business be permitted to assign an address to their property or a structure on that property.
(Ord. 2000-7, passed 12-19-00)

§90.25 INCORPORATED CITIES AND TOWNS

(A) (1) The Building Administration and the County Commissioners do not have jurisdiction over the implementation of numbering systems within the incorporated cities and towns in the county. Numbering in these communities shall be the responsibility of the local plan commission, town board or city council. However, the County Commissioners can require that city-type addresses be implemented in these communities for purposes of defining structures for E-911 identification.

(2) All structures in the county shall be required to have city-type property addresses including those in incorporated communities.

(B) The rural route and box system now in place in some incorporated communities shall be eliminated and city-type addresses shall be assigned to all structures in the communities. (Ord. 2000-7, passed 12-19-00)

§90.26 ENFORCEMENT

(A) Upon completion, all properties within the jurisdiction of the county shall be required to be in full compliance of this subchapter within six months of completion of the entire project if not assigned a new address.

(B) It is the duty of the owner or occupant of each house, business structure or other structure within the unincorporated areas of the county, now existing or hereafter erected to place on the structure and on the mailbox in front of structure, within six months from the date of passage of this subchapter, in accordance with § 90.22.

(C) In the event that the owner or occupant of any structure, as herein described, fails to comply with the terms and conditions of this subchapter, the owner or occupant, upon conviction, shall be guilty of an infraction and subject to a fine for every day that the violation is not rectified after receiving a written citation from one of the authorized agencies. All fines collected by this subchapter shall be returned the emergency telephone system budget.

(D) Authority to issue citations for violation of this subchapter hereby are granted to duly authorized personnel of the Building Administration, County Sheriff's Department, all county and city fire departments and town marshals.

(E) Copies of all citations issued will be forwarded to the County Attorney for collection in a manner consistent with other ordinances. Jurisdiction for the collection of the fines shall be the County Court.

(Ord. 2000-7, passed 12-19-00)

CHAPTER 91: NUISANCES

Section

- 91.01 Public nuisances prohibited
- 91.02 Definition
- 91.03 Duties of Sanitarian or other officer
- 91.04 Violations
- 91.05 Injunction

§91.01 PUBLIC NUISANCES PROHIBITED

No person shall create, cause, continue, allow or maintain any nuisance as that term is defined in this chapter.

(Ord. 1996-1, passed - - 96; Am. Ord. 2006-07, passed 6-13-06)

§91.02 DEFINITION

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

NUISANCE. A public nuisance is whatever is injurious to health, incident, offensive to the senses or an obstruction to the free use of property so as essentially to interfere with comfortable enjoyment of life or property.

(Ord. 1996-1, passed – 96; Am. Ord. 2006-07, passed 6-13-06)

§91.03 DUTIES OF SANITARIAN OR OTHER OFFICER

(A) Investigations. Whenever the County Sanitarian, County Building Superintendent, County Highway Superintendent, County Law Enforcement Officer or other authorized enforcement officer has reason to believe that a nuisance exists on any property in the county, he or she shall conduct an investigation of the nuisance and report the nuisance to the Montgomery County Board of Commissioners for hearing.

(B) Inspections. Whenever the enforcement officer has reason to believe that a nuisance exists but is unable to determine conclusively that such a nuisance exists based upon observations of the property as it appears in plain view, the officer may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

(C) Notice of Violation. Whenever an enforcement officer determines that a nuisance exists, the officer shall provide to the owner and occupant, if any, of the property written notice of a violation. This notice shall contain the address of the property, a description of the nuisance,

the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the nuisance, the time period in which the nuisance must be abated, the procedure for appeal by the landowner or the occupant if he or she disagrees with the enforcement officer's determination that a nuisance exists, and the action available to the county if the nuisance is not abated.

(D) *Time for Abatement.* The time period in which the nuisance must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner/occupant or posted on the property, whichever occurs first.

(E) *Appeal of Initial Determination.* If the property owner or occupant disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether a nuisance exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.

(F) *Compliance Report.* Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

(G) *Noncompliance Hearing.* In the event the landowner or occupant fails to abate the nuisance, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioners' receipt of the report. The Board shall provide notice of the hearing to the landowner and occupant. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the nuisance. The landowner and occupant will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the landowner and occupant.

(H) *Judicial Review.* If the owner or occupant disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its order. The court may overturn the Commissioners' order if it finds that, based upon the evidence as a whole, the findings of act were arbitrary, capricious, an abuse of discretion, unsupported by the evidence or in excess of statutory authority. The landowner or occupant has the burden of proof.

(I) *Remedies.* If the Board of Commissioners finds that a nuisance exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the nuisance, to hire private

contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

(J) *Costs of Abatement Incurred by County.* The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the County Treasurer and any other appropriate county official to be taxed against the real estate where the nuisance existed and collected as other real or personal property taxes are collected. (Ord. 1996-1, passed -96; Am. Ord. 2006-07, passed 6-13-06)

§91.04 VIOLATIONS

Any person, firm or corporation who creates, causes, continues, allows or maintains any public nuisance in the county commits a Class C infraction and is subject to a fine in the amount of \$100 for each day until the nuisance is abated. Each day of violation shall constitute a separate violation. The liability for the expense of removing or abating any nuisance shall be in addition to any penalty for violation of this chapter. (Ord. 1996-1, passed -96; Am. Ord. 2006-07, passed 6-13-06)

§91.05 INJUNCTION

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the landowner or occupant ordering the landowner and occupant to abate the nuisance upon terms and within the time periods consistent with this chapter. (Ord. 1996-1, passed -96, Am. Ord. 2006-07, passed 6-13-06)

CHAPTER 92: FAIR HOUSING

Section

92.01	Policy
92.02	Definitions
92.03	Unlawful practice
92.04	Discrimination in sales or rentals
92.05	Discrimination in real estate transactions
92.06	Discrimination in brokerage services
92.07	Interference, coercion and intimidation
92.08	Prevention of intimidation
92.09	Exemptions
92.10	Administrative enforcement

§92.01 POLICY

It shall be the policy of the Commissioners to provide, within constitutional limitation, for fair housing throughout its corporate limits, as provided for under the Federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 et seq. (Ord. 93-9, passed 9-28-93)

§92.02 DEFINITIONS

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

AGGRIEVED PERSON. Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that the person will be injured by a discriminatory housing practice that is about to occur. (I.C. 22-9.5-2-2)

COMMISSION. The Indiana Civil Rights Commission, created pursuant to I.C. 22-9-1-4 et seq. (I.C. 22-9.5-2-2)

COMPLAINANT. A person, including the Commission, who files a complaint under I.C. 229.5-6.

(I.C. 22-9.5-2-4)

DISABILITY.

(1) With respect to a person:

- (a) A physical or mental impairment which substantially limits one or more of the person's major life activities;
- (b) A record of having an impairment;
- (c) Being regarded as having an impairment;
- (d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; and

(2) The term **DISABILITY** shall not include current illegal use of or addiction to a controlled substance, as defined in 21 U.S.C. 802; nor does the term **DISABILITY** include an individual solely because that individual is a transvestite.

(Am. Commissioners Ord. 2008-1, passed 2-11-08)

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 92.03 through 92.08 or I.C. 22-9.5-5.

DWELLING. Any building, structure or part of a building or structure that is occupied as, or signed or intended for occupancy as, a residence by one or more families or any vacant land which offered for sale or lease for the construction or location of a building structure that is occupied as, or designed or intended for occupancy as a residence by one or more families. (I.C. 22-9.5-2-8).

FAMILIAL STATUS. Discrimination on the basis of familial status means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 years in regard to whom the person is (a) the parent or legal custodian or (b) has the written permission of the parent or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

FAMILY. An individual (I.C. 22-9.5-2-9) or individuals having familial status as that term is defined in this section.

PERSON. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, nonincorporated organizations, trustees, trustees in cases under Title 11 U.S.C., receivers and fiduciaries. (I.C. 22-9.5-2-11)

TO RENT. To lease, to sublease to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant. (I.C. 22-9.5-2-13) (Ord. 93-9, passed 9-28-93).

§92.03 UNLAWFUL PRACTICE

Subject to the provisions of division (B) below, § 92.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in § 92.04 shall apply to:

(A) All dwellings, except as exempted by division (B) below and I.C. 22-9.5-3;

(B) Other than the provisions of division (C) below, nothing in § 92.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three single-family houses at any one time. In the sale of the single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one sale within any 24-month period. The private individual own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from application of this section only if the house is sold or rented:

(a) Without the use, in any manner, of the sales or rental facilities or services of any real estate broker, agent or salesman or any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesperson or person; and

(b) Without the publication, posting or mail after notice of advertisement or written notice in violation of § 92.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other professional assistance as necessary to perfect or transfer this title.

(2) Rooms or units in dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence.

(C) For the purposes of division (B) above, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

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

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 93-9, passed 9-29-93)

§92.04 DISCRIMINATION IN SALES OR RENTALS

As made applicable by § 92.03 and except as exempted hereby, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status or national origin;

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status or national origin;

(C) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make any preference, limitation or discrimination;

(D) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available;

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of particular race, color, religion, sex, disability, familial status or national origin;

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter;

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

(c) Any person associated with that person.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of a disability of:

(a) That person;

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

(c) Any person associated with that person.

(3) For purposes of this division, “discrimination” includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

- (c) In connection with the design and construction of covered multi-family dwellings for first occupancy, a failure to design and construct those dwellings in a manner that:
1. The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons;
 2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 3. All premises within the dwellings contain the following features of adaptive design:
 - a. An accessible route into and through the dwelling;
 - b. Light, switches, electrical outlets, thermostats and other environmental controls in accessible locations;
 - c. Reinforcements in bathroom walls to allow later installation of grab bars; and
 - d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements Americans With Disabilities Act of 1990 and of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people, commonly cited as “ANSI A117.1P,” suffices to satisfy the requirements of this section.

(5) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. (Ord. 93-9, passed 9-28-93)

§92.05 DISCRIMINATION IN REAL ESTATE TRANSACTIONS

(A) It shall be unlawful for any person or other entity whose business includes engaging residential real estate-related transactions to discriminate against any person in making available a transaction, or in the terms or conditions of a transaction, because of race, color, religion, sex, disability, familial status or national origin.

(B) As used in this section, the term “residential real estate-related transaction” means any of the following:

(1) The making or purchase of loans or providing other financial assistance:

- (a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
- (b) Secured by residential real estate.

(2) The selling, brokering or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability or familial status.

(Ord. 93-9, passed 9-28-93)

§92.06 DISCRIMINATION IN BROKERAGE SERVICES

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

(Ord. 93-9, passed 9-28-93)

§92.07 INTERFERENCE, COERCION OR INTIMIDATION

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by §§ 92.04 through 92.06.

(Ord. 93-9, passed 9-28-93).

§92.08 PREVENTION OF INTIMIDATION

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, disability, familial status or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(B) Any person because he or she is or has been, or in order to intimidate the person or any other person or any class of persons from:

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

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

(C) Any citizen because he or she is nor has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described herein, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned for not more than ten years, or both, and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 93-9, passed 9-28-93)

§92.09 EXEMPTIONS

(A) Exemptions defined or set forth under I.C. 22-9.5-3 et seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under division (B) and (C) below.

(B) Nothing in this chapter shall prohibit a religious organization, association or society, or any not- for-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to the persons, unless membership in the religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a

commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

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

(2) As used in this section, “housing for older persons” means housing:

(a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 93-9, passed 9-28-93)

§92.10 ADMINISTRATIVE ENFORCEMENT

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission, as set forth in division (B) below, shall be vested in the Chief Executive Officer of the County Commissioners.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the County Commissioners, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of this chapter by complainants to the State Civil Rights Commission, hereafter the “Commission,” for administrative enforcement actions pursuant to I.C. 22-9.5-6 and Chief Elected Officer of the County Commissioners, shall refer all complaints to the Commission as provided for under division (A) above to the Commission for purposes of investigation, resolution and appropriate relief, as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of the county shall administer their departments, programs, and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Executive Officer and the Commission to further the purposes.

(D) The Chief Executive Officer of the County Commissioners or the Chief Executive Officer's designee shall provide information on remedies available to any aggrieved person or complainant requesting the information.

(Ord. 93-9, passed 9-28-93)

CHAPTER 93: UNSAFE BUILDING LAW

Section

- 93.01 Adoption by reference
- 93.02 Building Administrator
- 93.99 Penalty

§93.01 ADOPTION BY REFERENCE

The Unsafe Building Law, I.C. 36-7-9 et seq., as amended, is hereby adopted by reference and incorporated herein as fully as if set out at length in this code of ordinances. (Ord. 2006-10, passed 7-3-06)

§93.02 BUILDING ADMINISTRATOR

The Building Administrator shall be responsible for the administration of the Unsafe Building Law.

(Ord. 2006-10, passed 7-3-06)

§93.99 PENALTY

A person who violates the Unsafe Building Law by any of the following commits a class C infraction and shall be subject to a fine of \$500 for each day that the violation continues. Each day that the violation continues constitutes a separate offense:

- (A) Remaining in, using or entering a building in violation of an order made under this chapter;
- (B) Knowingly interfering with or delaying the carrying out of an order made under this chapter;
- (C) Knowingly obstructing, damaging or interfering with persons engaged or property used in the performance of any work or duty under this chapter; or
- (D) Failing to comply with the provisions of this chapter articulated in I.C. 36-7-9-27. (Ord. 2006-10, passed 7-3-06)

**CHAPTER 94: OBSTRUCTIONS ON PUBLIC ROADS, STREETS, EASEMENTS,
AND RIGHTS-OF-WAY**

Section

94.01	Obstructions prohibited
94.02	Definition
94.03	Duties of Sanitarian or other officer
94.04	Injunction
94.99	Penalty

Cross-reference:

Streets and sidewalks, see Ch. 90

§94.01 OBSTRUCTIONS PROHIBITED

No person shall create, cause, continue, allow or maintain any obstruction which interferes with the public safety or lawful use of or obstructs the vision of persons traveling on public roads, streets, easements or rights-of-way.

(Ord. 2006-11, passed 7-3-06)

§94.02 DEFINITION

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

OBSTRUCTION. Any vegetation, tree, shrub, vine or other object which because of its size, condition or location interferes with the public safety or lawful use of or hinders in the vision of a person traveling on public roads, streets, easements or rights-of-way. Provided, however, crops growing on private property and not on the road, street, easement or right-of-way shall not be considered an ***OBSTRUCTION*** for purposes of this chapter.

(Ord. 2006-11, passed 7-3-06)

§94.03 DUTIES OF THE SANITARIAN OR OTHER OFFICER

(A) Investigations. Whenever the County Sanitarian, County Building Superintendent, County Highway Superintendent, County Law Enforcement Officer or other authorized enforcement officer has reason to believe that an obstruction exists on any property in the county, he or she shall conduct an investigation of the obstruction and report the obstruction to the Montgomery County Board of Commissioners for hearing.

(B) Inspections. Whenever the enforcement officer has reason to believe that an obstruction exists and believes it is necessary to enter private property in order to complete his or her investigation, the officer may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

(C) Notice of Violation. Whenever an enforcement determines that an obstruction exists, the officer shall provide to the owner and occupant, if any, of the property written notice of violation. This notice shall contain the address of the property, a description of the obstruction, the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the obstruction, the time period in which the obstruction must be abated, the procedure for appeal by the landowner or the occupant if he or she disagrees with the enforcement officer's determination that an obstruction exists, and the action available to the county if the obstruction is not abated.

(D) Time for Abatement. The time period in which the obstruction must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner/occupant or posted on the property, whichever occurs first.

(E) Appeal of Initial Determination. If the property owner or occupant disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether an obstruction exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.

(F) Compliance Report. Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

(G) Noncompliance Hearing. In the event the landowner or occupant fails to abate the obstruction, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioners' receipt of the report. The Board shall provide notice of the hearing to the landowner and occupant. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the obstruction. The landowner and occupant will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the landowner and occupant.

(H) Judicial Review. If the owner or occupant disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its order. The court

may overturn the Commissioners' order if it finds that, based upon the evidence as a whole, the findings of fact were arbitrary, capricious, an abuse of discretion, unsupported by the evidence of in excess of statutory authority. The landowner or occupant has the burden of proof.

(I) Remedies. If the Board of Commissioners finds that an obstruction exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the obstruction, to hire private contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

(J) Costs of Abatement Incurred by County. The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the County Treasurer and any other collected as other real or personal property taxes are collected.

(Ord. 2006-11, passed 7-3-06)

§94.04 INJUNCTION

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the landowner or occupant ordering the landowner and occupant to abate the obstruction upon terms and within the time periods consistent with this chapter. (Ord. 2006-11, passed 7-3-06)

§94.99 PENALTY

Any person, firm or corporation who creates, causes, continues, allows or maintains any obstruction as defined in this chapter in the county commits a Class C infraction and is subject to a fine in the amount of \$100 for each day until the obstruction is abated. Each day of violation shall constitute a separation violation. The liability for the expense of removing or abating any obstruction shall be in addition to any penalty for violation of this chapter.

(Ord. 2006-11, passed 7-3-06)

CHAPTER 95: DRUG NUISANCES

Section

95.01	Drug nuisances prohibited
95.02	Definitions
95.03	Actions to abate

§95.01 DRUG NUISANCES PROHIBITED

No person shall create, cause, continue, allow or maintain any drug nuisance, as defined herein, in the unincorporated areas of Montgomery County.
(Ord. 2006-13, passed 7-3-06)

§95.02. DEFINITIONS

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

DRUG NUISANCE. The use of property to commit an act constituting a drug offense under I.C. 35-48-4 or an attempt to commit or a conspiracy to commit a drug offense.

PROPERTY. Any house, mobile home or apartment, including but not limited to improvements to real estate which are leased for residential or commercial purposes.
(Ord. 2006-13, passed 7-3-06)

§ 95.03 ACTIONS TO ABATE

(A) *Persons Entitled to Initiate Actions.* An action to abate a drug nuisance under this chapter may be initiated by the prosecuting attorney of Montgomery County, the County Attorney or the property owner.

(B) *Notice of Drug Nuisance.* A person initiating an action under this chapter shall at least 45 days before filing an action provide notice to each tenant of the property and the owner of record as shown in the records of the County Assessor. This notice must include the date and time the nuisance was first discovered, the location of the property where the nuisance is allegedly occurring, and all evidence in the possession of the person initiating the action regarding the nuisance. The notice must hand delivered or sent by certified mail.

(C) *Filing of Complaint.* After the expiration of the 45-day notice period, a complaint may be filed to obtain legal or equitable remedies from a court. Within 48 hours of filing the complaint, the person filing the complaint shall post a copy of the complaint in a conspicuous place on the property alleged to be a drug nuisance. Service upon the defendant(s) shall comply with I.C. 3230-8-7 and 32-30-8-8.

(D) *Hearing.* The court shall schedule a hearing on the complaint not later than 20 days after the filing of the complaint. If service of process upon the defendants is not made within five days of the hearing, the court may set a new hearing date.

(E) *Remedies.* The court may enter legal remedies and an injunction or other equitable relief. The Court may also order a tenant that created the drug nuisance on the property to vacate the property within 72 hours of the issuance of an order. If the court finds that the owner of the property knew of the existence of the drug nuisance, the court may order the owner to submit for court approval a plan for correction to ensure, to the extent reasonably possible, that the property will not again be used for a drug nuisance.

(F) *Failure of Tenant to Comply.* In the event a tenant fails to comply with a court order entered at the hearing, the owner may seek an order from the court allowing removal of the tenant and the tenant's personal property as provided for in I.C. 32-31-4.

(G) *Temporary Abatement.* Evidence that the drug nuisance has been discontinued at the time of filing of the complaint or the time of the hearing does not bar the imposition of appropriate relief by the court under this chapter. (Ord. 2006-13, passed 7-3-06)

CHAPTER 96: INOPERABLE AND UNREGISTERED MOTOR VEHICLES

Section

96.01	Dangerous motor vehicles prohibited
96.02	Definitions
96.03	Duties of Sanitarian or other officer
96.04	Injunction
96.05	Inspection fees
96.99	Penalty

§96.01 DANGEROUS MOTOR VEHICLES PROHIBITED

No person shall create, cause, continue, allow or maintain any inoperable and unregistered motor vehicle which endangers the health or safety of the citizens of Montgomery County. (Ord. 2006-12, passed 7-25-06)

§96.02 DEFINITIONS

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

ENDANGERS HEALTH AND SAFETY. Any condition which adversely affects public health and safety, as reasonably determined by the County Sanitarian or his/her designee. Such conditions include but are not limited to the existence of gasoline, oils, acids or other liquids or gases which, if released or drained onto the ground or into the air, will adversely affect public health and safety.

INOPERABLE. Any motor vehicle which cannot be used for its intended purpose because of mechanical malfunction or poor condition.

MOTOR VEHICLE. Any automobile, motorcycle, mobile home not placed on a foundation, recreation vehicle or other vehicle as defined by Indiana law which is subject to registration with the Bureau of Motor Vehicles.

UNREGISTERED. Any motor vehicle which is not registered with the Indiana Bureau of Motor Vehicles.

(Ord. 2006-12, passed 7-25-06)

§96.03

DUTIES OF SANITARIAN OR OTHER OFFICER

(A) *Investigations.* Whenever the County Sanitarian, or other authorized enforcement officer has reason to believe that an inoperable and unregistered motor vehicle which endangers the health or safety of the citizens of Montgomery County (a dangerous motor vehicle) exists on any property in the county, he or she shall conduct an investigation of the hazard and report the hazard to the Montgomery County Board of Commissioners for hearing.

(B) *Inspections.* The County Sanitarian shall inspect all inoperable and unregistered motor vehicles annually. If the owner will not consent to the inspection and the Sanitarian has reason to believe that the motor vehicle is or may be one which because of its condition endangers public health or safety, he or she may apply to a court for a warrant for the right to conduct an investigatory inspection of the motor vehicle.

(C) *Notice of Violation.* Whenever an enforcement officer determines that a hazard exists, the officer shall provide to the owner written notice of a violation. This notice shall contain the address of the property, a description of the hazard, the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the hazard, the time period in which the hazard must be abated, the procedure for appeal by the owner if he or she disagrees with the enforcement officer's determination that a hazard exists, and the action available to the county if the hazard is not abated.

(D) *Time for Abatement.* The time period in which the hazard must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner or posted on the property, whichever occurs first.

(E) *Appeal of Initial Determination.* If the owner disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether a hazard exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.

(F) *Compliance Report.* Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

(G) *Noncompliance Hearing.* IN the event the owner fails to abate the hazard, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioner's receipt of the report. The Board shall provide notice of the hearing to the owner. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the hazard. The owner will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the owner.

(H) *Judicial Review.* If the owner disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its order. The court may overturn the Commissioners' order if it finds that, based upon the evidence as a whole, the finding of fact were arbitrary, capricious, an abuse of discretion, unsupported by the evidence or in excess of statutory authority. The owner has the burden of proof.

(I) *Remedies.* If the Board of Commissioners finds that a hazard exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the hazard, to hire private contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

(J) *Costs of Abatement Incurred by County.* The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the County Treasurer and any other appropriate county official to be taxed against the real estate where the hazard existed and collected as other real or personal property taxes are collected.

(Ord. 2006-12, passed 7-25-06)

§96.04 INJUNCTION

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the owner ordering the owner to abate the hazard upon terms and within the time periods consistent with this chapter.

(Ord. 2006-12, passed 7-26-06)

§96.05 INSPECTION FEES

The County Sanitarian shall collect a fee for each inspection the amount of \$100 for the first inspection of all of the vehicles at a single location. If the Sanitarian is not satisfied that the hazard has been abated, the re-inspection fee shall be the sum of \$100 for each vehicle inspected at a single location. This fee shall be deposited into the Dangerous Motor Vehicle Fee Fund. This fund shall be used to pay for the expense of the administration of the chapter, including but not limited to salaries, benefits, supplies, equipment, contractual assistance and other expenses. (Ord. 2006-12, passed 7-25-06)

§96.99 PENALTY

Any person, firm or corporation who violates this chapter commits a Class C infraction and is subject to a fine in the amount of \$100 for each day until the hazard is abated. Each day of violation shall constitute a separate violation. The liability for the expense of removing or abating any nuisance shall be in addition to any penalty for violation of this chapter. (Ord. 2006-12, passed 7-25-06)

CHAPTER 97: ANIMAL CONTROL

Section

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§97.01 DEFINITIONS

Wherever used in this Chapter, capitalized term shall have the meanings set forth below, unless the context clearly indicates or requires a different meaning:

AGENT: Any Individual eighteen (18) years of age or older who is authorized by an animal's Owner to have temporary or permanent custody of, shelter, have charge of, harbor, exercise control over, or otherwise act on such Owner's behalf with respect to such animal.

ANIMAL CONTROL AGENCY: Animal Welfare League of Montgomery County, Inc. or any other governmental or private entity charged or contracted with for the implementation of animal control services for and on behalf of Montgomery County.

ANIMAL CONTROL AGENT: A civilian Individual employed or appointed by an Animal Control Agency for the purposes of carrying out the provisions of this Chapter or any contract for animal control services.

ANIMAL CONTROL FACILITY: A facility, shelter or vehicle operated by an Animal Control Agency for promoting animal welfare and humane treatment of animals.

ANIMAL NUISANCE: Any animal that:

(1) is an At Large animal;

- (2) molests passers-by or passing vehicles on public property without provocation;
- (3) attacks Individuals or other animals without provocation; or
- (4) otherwise unreasonably interferes with the free use and comfortable enjoyment of life or property.

AT LARGE: An animal that is:

- (1) not on a leash and is off the property of its Owner or the Owner's Agent;
- (2) on a leash that does not adequately confine the animal to the property of the Owner or the Owner's Agent;
- (3) on a leash that is not otherwise under the immediate control of an Individual physically capable of restraining the animal; or
- (4) otherwise not under the direct control of the Owner or Owner's Agent.

Notwithstanding the foregoing, an animal that is engaged in legal hunting or farming activities and is under the control and supervision of the Owner or the Owner's Agent is not considered to be At Large under this Chapter.

COYDOG: "Coydog" shall have the meaning prescribed by I.C. 15-20-1-5(a)(1), as amended or recodified from time to time.

DANGEROUS ANIMAL: The term "Dangerous Animal" includes any of the following:

- (1) Any animal which, when unprovoked, on two (2) separate occasions within the prior thirty-six (36) month period, engages in any behavior that requires a defensive action by any Individual to prevent Serious Bodily Injury when the Individual and the animal are off of the property of Owner or harbored by the animal.
- (2) Any animal which, when unprovoked, attacks or bites an Individual causing Serious Bodily Injury;
- (3) Any animal which within the prior thirty-six (36) month period, when unprovoked and off the property of the Owner or keeper of the animal, has bitten or otherwise caused Severe Injury to Domestic Livestock or Domestic Pet without provocation; or
- (4) Any animal which, when unprovoked and off the property of the Owner or keeper of the animal has caused the death of Domestic Livestock or Domestic Pet, or Severe Injury to multiple Domestic Livestock or Domestic Pets, without provocation;

(5) Any Wolf Hybrid or Coydog.

Notwithstanding the foregoing, the term “Dangerous Animal” exclude any K-9 dog or police dog that is owned, used or maintained by a law enforcement agency.

DOMESTIC LIVESTOCK: Any animal, other than a Domestic Pet, that is kept for agricultural or commercial purposes, or in connection with a 4-H or FFA activity, and is one (1) of the following: alpaca, bison, elk, cattle, donkey, goat, horse, llama, mule, ostrich, emu, swine, poultry (chicken, turkey, duck or goose), rabbit or sheep.

DOMESTIC PET. Any animal that is commonly kept for pleasure rather than for commercial purposes, including without limitation the following species:

- (1) Dogs (*canis lupus familiaris*);
- (2) Domestic cats (*felis catus*);
- (3) Guinea pigs (*cavia pocellus*);
- (4) Hamsters (any species of the genus *mesocricetus*);
- (5) Gerbils (any species of the genus *gerbillus*); and
- (6) Ferrets (*mustela putorius furo*)

INDIVIDUAL: A human being.

LAW ENFORCEMENT OFFICER. A county sheriff; a state, county or city police officer; a town marshal; a prosecuting attorney; a conservation officer; or a deputy of any of such persons.

MICROCHIP: A computer chip implanted underneath the skin of an animal that contains identification information relating to that animal.

NON-DANGEROUS ANIMAL: Any animal which is not a Dangerous Animal.

OWNER: Any Person owning, keeping or harboring one (1) or more animals.

PERSON: Any Individual, firm, association, partnership, limited liability company, corporation, trust or estate.

SERIOUS BODILY INJURY: Any injury to an Individual that (1) results in death of the Individual; (2) creates a substantial risk of the Individual’s death; or (3) causes serious permanent disfigurement, unconsciousness, extreme pain, permanent or protracted loss or impairment of the function of a bodily member or organ, or loss of human fetus.

SEVERE INJURY: Any physical injury to a Domestic Pet or Domestic Livestock that results in multiple bites, broken bones, muscle tears or disfiguring lacerations, or requires multiple sutures or corrective or cosmetic surgery.

STRAY: Any animal that does not appear, upon reasonable inquiry, to have an Owner.

WOLF HYBRID: “Wolf Hybrid: shall have the meaning prescribed by I.C. 15-20-1-5(a)(3), as amended or recodified from time to time. (Commissioners Ord. 2010-1, passed 9-23-10)

§97.02 JURISDICTION

The provisions of this Chapter shall apply to all areas in Montgomery County outside the corporate limits of the City of Crawfordsville and of any incorporated towns. (Commissioners Ord. 2010-1, passed 9-23-10)

97.03 DOMESTIC PET CARE STANDARDS

Each Owner or Agent having custody or charge of, harboring, or exercising control over any Domestic Pet shall provide the following minimum standards of care for each such animal:

(A) Each Domestic Pet shall have access to a shelter which will protect it from the weather and allow it to stand, sit, turn around, and lie down without restriction. The shelter must be structurally sound, moisture proof and windproof, and provide adequate protection from the cold and heat, including bedding to provide insulation and protection against cold and dampness and promote the retention of body heat in cold weather. The shelter must be placed in a dry area free of debris, feces, and standing water.

(B) Each Domestic Pet shall have sufficient and wholesome food and water, which is proper and nutritional for that species of animal.

(C) If a Domestic Pet is ill, diseased or injured, it shall receive proper veterinary care as necessary to promote the good health of the Domestic Pet and prevent the transmittal of disease to the other animals or humans.

(D) No Domestic Pet shall be abandoned, beaten, ill-treated, tormented, or otherwise abused or neglected, or involved in any dog fight, or other fight between animals or between animals and humans.

(E) A Domestic Pet shall be kept under restraint when in heat so as to prevent unintentional breeding.

(F) If a Domestic Pet is chained or tethered, the chain or tether shall not weigh more than one eighth (1/8) of the animal's body weight, shall be at least ten (10) feet in length and have swivels on both ends, so as to reduce the likelihood of entanglement. A chain or tether used to restrain a Domestic Pet must, by design and placement, be unlikely to become entangled.

(G) No Domestic Pet shall be kept or maintained on a tether for a period of more than ten (10) continuous hours, nor for more than twelve (12) hours in any twenty-four (24) hour period, nor for any duration under conditions which threaten the health or well being of the Domestic Pet.

(H) A muzzle may not be worn by a dog continuously as a means for controlling barking. (Commissioners Ord. 2010-1, passed 9-23-10)

§97.04 ANIMAL NUISANCES

An animal Owner or Agent shall exercise due care and control of all animals within his care, custody or control, so as to prevent them from becoming Animal Nuisances. (Commissioners Ord. 2010-1, passed 9-23-10)

§97.05 WOLF HYBRIDS AND COYDOGS PROHIBITED

It shall be unlawful for any person to possess or harbor a Wolf Hybrid or Coydog. (Commissioners Ord. 2010-1, passed 9-23-10)

§97.06 IMPOUNDMENT

(A) *Grounds for Impoundment.* Any Law Enforcement Officer or Animal Control Agent may immediately capture and impound any of the following animals:

- (1) Any At Large animal;
- (2) Any Stray animal;
- (3) Any Wolf Hybrid or Coydog;
- (4) Any unattended animal that is ill, or otherwise in need of emergency care;
- (5) Any animal that is reasonably suspected of having rabies;

(6) Any unattended animal that is exhibiting aggressive or dangerous behavior is not sufficiently confined to the property of its Owner;

(7) Any animal that a Law Enforcement Officer or Animal Control Agent has probably cause to believe is a Dangerous Animal; or

(8) Any animal that a Law Enforcement Officer or Animal Control Agent has probable cause to believe has been the subject of or involved in a violation under I.C. 15-20-1-4 or I.C. 35-46-3.

(B) *Actions to Prevent Harm to Individuals or Other Animals.* If any animal is found At Large and cannot be safely captured, a Law Enforcement Officer may seek assistance from an Animal Control Agent, or take other action deemed appropriate, including tranquilizing or killing such animal to prevent Serious Bodily Injury to Individuals, or Severe Injury to Domestic Pets or Domestic Livestock.

(C) *Identification of Impounded Animals; Notice to Owners.*

(1) Any animals which are impounded pursuant to this Chapter shall be scanned or examined by the Animal Control Facility for a Microchip, collar tag or other identification containing the Owner's name, address and/or phone number, unless doing so presents an unreasonable risk of Serious Bodily Injury to an Animal Control Agent.

(2) If an impounded animal's Owner can be identified, the Animal Control Facility shall notify the Owner by the end of the next business day that the animal has been impounded, and that unless the animal is claimed by the Owner within ten (10) days from the date of impoundment, the animal may be placed for adoption or humanely euthanized. Notwithstanding the foregoing, in the case of a second or subsequent impoundment, the impounded animal may be placed for adoption or humanely euthanized if not claimed within five (5) days after the Owner is notified.

(3) Stray animals without any means of identification of their Owners shall be held at the Animal Control Facility a minimum of three (3) days in order to permit an Owner adequate time to reclaim them. A Stray animal which is unclaimed after having been impounded for three (3) days may be placed for adoption or humanely euthanized, except that the Stray shall be euthanized if it is a Dangerous Animal.

(D) *Release from Impoundment.*

(1) Subject to the requirements and conditions of § 97.08 of this Chapter, a Non-Dangerous Animal may be returned to its Owner.

(2) The return of a Dangerous Animal to its Owner is subject to the requirements and conditions of both § 97.07 and § 97.08 of this Chapter.

(E) *Treatment or Euthanizing of Sick or Injured Animals.* The Animal Control Facility shall have authority to take whatever action is reasonably necessary, including humane euthanization, to deal with a sick or injured animal, to prevent unnecessary suffering of the animal, or to prevent the spread of communicable diseases. Nothing in this Chapter shall limit the Animal Control Facility's ability to take whatever action is reasonably necessary to provide veterinary care by a veterinarian for a sick or injured animal.

(Commissioners Ord. 2010-1, passed 9-23-10)

§97.07 DANGEROUS ANIMALS

(A) *Impoundment.* A Dangerous Animal which has been captured and impounded by a Law Enforcement Officer or Animal Control Agent shall remain impounded subject to the requirements of this Section.

(B) *Euthanization of Dangerous Animals.* A Dangerous Animal which has been impounded shall be euthanized if:

(1) The Owner fails to request a hearing before the Board of Commissioners, pursuant to Subsection (C) of this § 97.07, within seven (7) days after having been notified of the impoundment;

(2) The Owner fails to satisfy the registration and confinement requirements of subsection (D) of this § 97.07 within fourteen (14) days after the Board of Commissioners' determination that the animal is a Dangerous Animal;

(3) The Owner waives in writing all ownership interests in the Dangerous Animal;

(4) The Dangerous Animal's Owner cannot be identified or located, and the animal remains unclaimed for three (3) days after having been impounded; or

(5) The Dangerous Animal is re-impounded after having previously been registered under subsection (D) of this § 97.07 within five (5) days after the Owner is notified of the reimpositionment.

(C) *Hearings and Appeals.* If an Owner makes a timely request for a hearing pursuant to subsection (B)(1) above, the Board of Commissioners shall conduct a public hearing.

(1) At such hearing, a Law Enforcement Officer, Animal Control Officer or Animal Control Agency shall present evidence supporting a determination that the animal is a Dangerous Animal, and the Owner shall have the opportunity to confront and cross-examine the witnesses supporting such determination, and to present evidence opposing the determination.

(2) Following the hearing, the Board of Commissioners shall make a finding whether the animal is a Dangerous Animal.

(3) If the Board of Commissioners determine that the animal is not a Dangerous Animal, they shall order the animal released to the Owner, subject to the requirements of § 97.08 of this Chapter.

(4) If the Board of Commissioners determine that the animal is a Dangerous Animal, the animal may not be released to the Owner until the Owner complies with registration and confinement requirements of subsection (D) of this § 97.07, in addition to the requirements of § 97.08 of this Chapter.

(D) *Dangerous Animal Registration and Confinement Requirements.* A Dangerous Animal may not be released from impoundment until the Owner has registered the Dangerous Animal with the Montgomery County Health Department, and has paid a registration fee of \$500.00. As part of the registration process, the registrant shall provide:

(1) Proof of payment of all costs of caring for the Dangerous Animal during the period of impoundment, including the costs of boarding, and veterinary treatment if necessary;

(2) A valid driver's license or government issued picture identification showing the Owner's name and current address;

(3) Proof that the applicant owns or has possessory rights to the animal and is eighteen (18) years of age or older;

(4) One copy of the current immunization and health records for a dog, cat or ferret over the age of three (3) months, showing that the animal has a current rabies vaccination;

(5) Proof that the registrant has insurance coverage for not less than \$300,000.00 for any injury, damage, or loss caused by the animal;

(6) Four photographs of the animal from four different sides taken not more than one

month before the date of the registration. Such photographs shall consist of a front, back, left, and right side view of the animal;

(7) The name, address, and phone number of the animal's previous Owner, if applicable;

(8) Proof that the animal is spayed or neutered, or otherwise altered to prevent it from procreating; and

(9) Proof of Microchip implanting and the identification information implanted.

(10) Proof that the Dangerous Animal will be confined, at all times, within a habitable locked and secured dwelling and/or a locked and secured kennel, which may be inspected by a Law Enforcement Officer or Animal Control Agent at any time, and shall meet the following minimum requirements:

(a) If chain-link fencing is used for the kennel, it must be made of at least 11 gauge chain-link steel. Other fencing must be of such material that the animal cannot chew, dig, or otherwise free itself from inside the closure.

(b) The top must be chain-link or of an engineered roofing material from which the animal cannot escape;

(c) The floor must be cement, brick, or engineered flooring from which the animal cannot escape;

(d) Sides of the enclosure must be buried at least two feet (2') into the ground, or securely fastened to the floor;

(e) An outdoor enclosure must include an adequate structure to protect the animal from the elements, such as a doghouse;

(f) The enclosure must be kept locked at all times to prevent both escape and accidental entry; and

(g) Habitable dwellings, such as a house or garage, must be capable of being locked and secured. Such dwellings may be required to be modified on a case-by-case basis to ensure the Dangerous Animal cannot exit the dwelling of its own volition, such as when a door or window screen are the only obstacles that prevent the animal from exiting.

(h) The enclosure for a non-dog Dangerous Animal must be adequate to contain the species of animal kept. It may be inspected on a case-by-case basis to ensure that it is indeed escape-proof, as well as a humane method for the type of animal to be kept. This inspection will be made by or with a person competent to evaluate the type of animal involved.

(i) Except for medical treatment or examination, the Owner will maintain the Dangerous Animal exclusively on the Owner's property. When taken off of the Owner's property for medical treatment or examination, a Dangerous Animal shall at all times be fitted with a securely attached muzzle.

(j) The Owner shall post signs on the Owner's property where the Dangerous Animal will be kept, clearly visible from the public roadway or from fifty feet (50'), whichever is less. These signs shall advise the general public that a Dangerous Animal is on the premises.

(E) *Other Provisions Applicable to Dangerous Animals.*

(1) The Owner and Owner's agent of a Dangerous Animal under this Section shall notify the Montgomery County Sheriff and the Animal Control Agency immediately if the Dangerous Animal escapes, is running at large, has been stolen, or has attacked an Individual, Domestic Pet or Domestic Livestock.

(2) A Law Enforcement Officer or Animal Control Agent may visually inspect the premises and enclosure where the Dangerous Animal is kept. The inspection may also include the placement of warning signs, the animal leash, the muzzle, and the locks. An Animal Control Agent must be satisfied that the Owner has met all Dangerous Animal requirements. If the Owner refuses to allow access to the premises for an inspection, a Law Enforcement Officer or Animal Control Agent may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

(3) If the Owner or Owner's Agent of a Dangerous Animal violates any provisions of this Section, the Dangerous Animal may be re-impounded and held pending a court hearing. The Owner must request a court hearing within five (5) days after having been notified of the reimpoundment. At such hearing, the court shall determine whether, in fact, a violation of this Section has occurred. If the court determines that a violation of this Section has occurred, it shall have the authority to impose a fine and/or order the animal humanely euthanized.

(4) In the event that a Dangerous Animal changes Owner, the new Owner must reregister the animal and satisfy the requirements of subsection (D) above. The original

Owner shall notify the Montgomery County Health Department that ownership of the animal has been transferred and provide the name and address of the new Owner.

(5) The Owner of a Dangerous Animal shall notify the Montgomery County Health Department if the address changes where the Dangerous Animal will be kept. The Owner must report the new address so an inspection may be made of the premises. (Commissioners Ord. 2010-1, passed 9-23-10)

§97.08 OTHER CONDITIONS FOR RELEASE FROM IMPOUNDMENT

(A) *Costs of Impoundment.* The Owner of an impounded animal shall be responsible for all costs of impoundment, and must pay such costs in full prior to the animal's release from impoundment.

(B) *Microchip Implantation.* Prior to the return to its Owner of any impounded dog or cat which at the time of impoundment did not bear a Microchip, collar tag or other means of identification, the Animal Control Agency shall cause a Microchip with a registered identification number to be implanted in the dog or cat at the Owner's expense. The Animal Control Agency shall be entitled to retain the dog or cat until the microchip implantation fee is paid.

(C) *Payment of County Option Dog Tax.* No dog impounded pursuant to this Chapter shall be released to its Owner until the Owner presents proof of payment of all applicable County Option Dog Tax with respect to such dog, as prescribed by Chapter 35 of this Code of Ordinances. Any dog so impounded shall be considered to be unclaimed until such tax is paid. (Commissioners Ord. 2010-1, passed 9-23-10)

§97.09 ANIMAL CONTROL FUND

(A) An Animal Control Fund is hereby established.

(B) Fines imposed and collected pursuant to this Chapter shall be deposited into the Animal Control Fund. This shall be a non-reverting fund.

(C) Requests for appropriations from the Animal Control Fund shall be submitted to the Board of Commissioners. The Board of Commissioners will review each request and determine whether to forward the request to the County Council with a recommendation for approval. The Board of Commissioners may also initiate and submit requests for appropriations from the Animal Control Fund to the County Council. (Commissioners Ord. 2010-1, passed 9-23-10)

§97.99 PENALTY

Any Person who violates the provisions of §§ 97.03, 97.04 or 97.05 of this Chapter shall be subject to a fine of:

(a)\$25.00 for the first offense committed during a 12 month period;

(b)\$100.00 for the second offense committed during a 12 month period;

(c)\$200.00 for the third offense and each subsequent offense committed during a 12 month period.

Each day of violation shall constitute a separate violation.”

(Amended Ord. 2011-18, passed 12-29-11)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. INKEEPER'S TAX
- 111. RETAIL FOOD ESTABLISHMENTS
- 112. TATTOO PARLORS
- 113. SYNTHETIC CANNABINOIDS
- 114. DIRECT SELLERS

Section

- 110.01 Innkeeper's tax; collection
- 110.02 Convention and Visitor Promotion Fund
- 110.03 Visitor and Convention Commission
- 110.04 Disposition of monies
- 110.05 Delinquencies; failure to file

Statutory reference:

Innkeeper's Tax Administration, see I.C. 6-9-29-1 through 6-9-29-3

§110.01 INNKEEPERS TAX; COLLECTION

(A) Innkeepers Tax Generally

(1) *Tax Levied.* A tax is hereby levied on every person or corporation engaged in the business of renting or furnishing, for periods of less than 30 days, any room, rooms, lodgings or accommodations in the county.

(2) *Exemptions.* The tax does not apply to gross income received in a transaction in which:

(a) Students rent lodgings in a college or university residency hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or

(b) A person rents a room, lodging or accommodations for a period

of 30 days or more.

(3) *Rate.* The tax shall be levied at the rate of 3% on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under I.C. 6-2.5.

(4) *Payment and Collections.* The tax shall be paid to the County Treasurer as provided for in this Chapter. All rules for the collection of state gross retail tax under Indiana Code §6-2.5, except for payment to the Department of Revenue, shall apply, unless such provisions conflict with this Chapter.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed --. Ord. 2012-18, passed 12-28-12).

§110.02 CONVENTION AND VISITOR PROMOTION FUND

(A) *Source of Funds.* There is established a Convention and Visitor Promotion Fund. This Fund shall consist of monies collected from the Innkeepers Tax which are deposited by the County Treasurer.

(B) *Use of Funds.* The monies deposited into the Fund will be transferred to the Treasurer of the Visitor and Convention Commission by the County Auditor by warrant and may be used only to promote and encourage conventions, visitors and tourism in Montgomery County.

(C) *Non-Reverting Fund.* This Fund is a non-reverting fund.

(Ord. 2012-18, passed 12-28-12).

§110.03 VISITOR AND CONVENTION COMMISSION

(A) *Commission Generally.*

(1) *Establishment of Commission.* There is hereby created the Visitor and Convention Commission, referred to as “the Commission” in this chapter, to promote the development and growth of the convention, visitor and tourism and festival industry in the county.

(2) *Composition.* The Commission will be comprised of seven (7) members. Four (4) members will be appointed by the County Commissioners, and three (3) members will be appointed by the Mayor of the City of Crawfordsville. Of the four (4) members appointed by the County Commissioners, at least one (1) appointee must be

engaged in the business of renting rooms or lodging and at least one (1) appointee must be a member of the Montgomery County Council. Of the three (3) members appointed by the Mayor, one (1) appointee must be engaged in the business of renting rooms or lodging and one (1) appointee must be a member of the Crawfordsville City Council. The appointees who are engaged in the business of renting rooms or lodging cannot be from the same business. Not more than two (2) of the appointees of the County Commissioners may be from the same political party. Not more than two (2) of the appointees of the Mayor may be from the same political party. All appointees must be residents of Montgomery County.

(3) Terms. All terms of office of Commission members begin on January 1. Members of the Commission serve terms of two years, except that three of the original members will have one-year terms in order to stagger the terms. All terms must be staggered. A member whose term expires may be re-appointed to serve one (1) additional term. A member who has served two (2) consecutive terms is not eligible for reappointment until at least one (1) year has elapsed since his or her last term. If an initial appointment is not made by February 1, or a vacancy is not filled within 30 days, the Commission shall appoint a member by majority vote to serve for the remainder of the term.

(4) Removal. A member of the Commission may be removed for cause by his or her appointing authority.

(5) No Salary. Members of the Commission may not receive a salary. However, Commission members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(6) Oaths. All members of the Commission must take an oath prior to serving.

(7) Officers. The Commission shall elect a President, Vice President, Treasurer and Secretary. Each officer shall serve for one year.

(B) Commission Rules and Procedure

(1) Powers Generally. The Commission may:

- (i)** Accept and use gifts, grants and contributions from any public or private source, under terms and conditions that the Commission considers necessary and desirable;

- (ii) Sue and be sued;
- (iii) Enter into contracts and agreements;
- (iv) Make rules necessary for the conduct of its business and the accomplishment of its purposes;
- (v) Receive and approve, alter or reject requests and proposals for funding by corporations qualified under division (B)(1)(f) below;
- (vi) After its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under § 110.02, to any state not-for-profit corporation for the purpose of promotion and encouragement in the county of conventions, trade shows, visitors, tourism, festivals or other special events in the county; and
- (vii) Require financial or other reports from any corporations that receive funds under this chapter.

(2) *Quorum and Majority Action.* A majority of the Commission constitutes a quorum for the transaction of business and the concurrence of a majority of the Commission is necessary to authorize any action.

(3) *Expenses of Commission.* All expenses of the Commission shall be paid from the Fund established under § 110.02.

(C) *Meetings.* The Commission shall meet at least four (4) times per year.

(D) *Budget.* On or before July 31 of each year, the Commission will approve a budget for the following year. This budget must be presented to the Montgomery County Council on or before August 15 of each year, and the Council will review the budget and determine appropriations for the Commission during the Council's annual budget process.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-7-92; Am. Ord. 98-, passed 4-28-98; Am. Ord. 2012-18, passed 12-28-12).

§110.04 DISPOSITION OF MONIES

All money coming into possession of the Commission shall be deposited, held, secured, invested and paid in accordance with statutes relating to the handling of public funds. The

handling and expenditure of money coming into possession of the Commission is subject to audit and supervision of the State Board of Accounts. Expenditures cannot be made without appropriation by the County Council.

(Ord. 2-86 passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-7-92; Am. Ord. 98-, passed 4-28-98. Ord. 2012-18, passed 12-28-12)

§110.05 DELINQUENCIES; FAILURE TO FILE

(A) *Time for Payment of Tax.* The due date for filing the return and paying the tax is the twentieth day of the month immediately following the month of collection. A delinquent return is subject to:

(1) Loss of the collection allowance provided for in Indiana Code §6-2.5-6-10;

(2) A penalty of 10% of the gross tax collected, but not less than \$5; plus

(3) Interest payable on the gross tax due. The time factor will be the number of days delinquent divided by 365. The rate, determined by the Commissioner of the State Department of Revenue, takes effect on January 1 each year.

(B) *Failure To Collect Or Remit Tax.* An individual who has the duty to collect and remit these taxes to the Treasurer, holds these funds in trust and is personally liable for their payment, plus any penalties and interest attributable thereto to the state or political subdivision. The individual who knowingly fails to collect or remit these taxes as prescribed commits a level 6 felony.

(C) *Authority of Treasurer.* Since a section has been adopted requiring payment of the innkeeper's tax to the County Treasurer instead of the Department of State Revenue, the County Treasurer has the same right and powers with respect to collecting this tax as the Department of State Revenue.

(D) *List of Delinquent Taxpayers.* On or before December 31 of each year, the Commission will deliver to the County Treasurer a list of businesses and individuals who have failed to remit the Innkeepers Tax as required by law, and the Treasurer will collect the tax as provided for by law.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12—92; Am. Ord. 98-, passed 4-28-98. Ord 2012-18, passed 12-28-12).

CHAPTER 111: RETAIL FOOD ESTABLISHMENTS

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§111.01 TITLE

This chapter and all ordinances supplemental or amendatory hereto shall be known as the Food Establishments Regulations of Montgomery County, and may be cited as such and will be referred to herein as "this chapter".

§111.02 PURPOSE

The purpose of this chapter is to provide minimum standards for the prevention and suppression of disease and health risks associated with the preparation and distribution of food through food service operations within Montgomery County, and to otherwise promote the mission of the food protection program to protect the health of all persons in Montgomery County, Indiana.

§111.03 AUTHORITY

The Health Officer of Montgomery County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this chapter, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this chapter.

§111.04 ADOPTION OF REGULATIONS BY REFERENCE

(A) The regulations of the Indiana State Department of Health as found in Title 410 IAC 715.5, Title 410 IAC 7-22, Title 410 IAC 7-23, and 410 IAC 7-24, are hereby incorporated by reference in this chapter and shall include any later amendments to those regulations.

(B) Copies of the above referenced regulations are available and on file in the office of the Montgomery County Health Department.

§111.05 DEFINITIONS

Unless the context specifically indicates otherwise, the definitions of the current food service requirements of the Indiana State Department of Health and their interpretations shall apply to the enforcement of this chapter. In addition to or to otherwise supplement or to conveniently provide definitions for interpretation, this chapter shall include the following definitions.

111.05.01 BOARD. The Montgomery County Board of Health of Montgomery County, Indiana.

111.05.02 CERTIFIED FOOD HANDLER. As defined in Rule 410 IAC 7-22 means a food handler who holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program.

111.05.03 CRITICAL VIOLATIONS. Those violations designated as being critical in 410 IAC 7-24, and as amended hereafter.

111.05.04 COMMUNICABLE DISEASE. Includes those diseases which epidemiological evidence indicates can be transmitted through food preparation or service.

111.05.05 DEPARTMENT. The Montgomery County Health Department of Montgomery County, Indiana, and its employees.

111.05.06 FOOD ESTABLISHMENT. As defined in I.C. 16-18-2-137, any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. This definition also includes a retail food establishment as defined in 410 IAC 724; however, it does not include a bed and breakfast establishment.

111.05.07 FOOD PROCESSING ESTABLISHMENT. Any commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.

111.05.08 HEALTH OFFICER. The Health Officer of the Montgomery County Health Department, and his or her authorized representatives.

111.05.09 MICRO MARKET. An unstaffed self-checkout retail food establishment not accessible by the general public; with displays that do not exceed 75 linear feet which

contain an automated payment kiosk, located within a business and only accessed by customers of business, employees, or escorted guests known to business.

111.05.10 MICRO MARKET DISPLAY. An open rack; refrigerator; freezer; vending machine; or beverage dispenser for use of food display

111.05.11 MOBILE FOOD MARKET ESTABLISHMENT. Any food establishment without a fixed location capable of being readily moved intact from location to location where food, intended for human consumption outside of the facility, is stored, sold or offered in prepackaged form, fresh or frozen.

111.05.12 MOBILE FOOD SERVICE ESTABLISHMENT. Any food establishment without a fixed location capable of being readily moved intact from location to location where food, intended for human consumption outside the facility is stored, sold or offered in open form, fresh or frozen.

111.05.13 NEW PERMITTEE. Shall be deemed to be any person, other than an immediate family member, who acquires, through an asset purchase agreement, stock purchase agreement, merger, consolidation, gift or other similar method, more than 50% of the control of a prior permittee's business.

111.05.14 NON-CRITICAL VIOLATIONS. Violations designated as being noncritical in 410 IAC 7-24, and as amended hereafter.

111.05.15 OPERATE (and its derivatives). One that operates a business or operates as a business.

111.05.16 PERMIT. A certificate or a permit number of a size and style previously approved by the Health Officer.

111.05.17 PERMITTEE. Includes the person who is the owner of or responsible for the operation of a food establishment, including a food establishment's authorized representative, and who shall be responsible for the acceptance of all notices at the address listed on the application for any permit issued hereunder.

111.05.18 PERSON. Includes, but not limited to, an individual, corporation, firm, partnership, proprietorship, association, business organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.

111.05.19 PERSON IN CHARGE. Means, as defined in 410 IAC 7-24-60, the individual present at a retail food establishment who is responsible for the operation at the time of inspection.

111.05.20 RETAIL FOOD MARKET ESTABLISHMENT. Any food establishment, including, but not limited to, a grocery, meat market, poultry market, fish market, egg market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any food establishment, whether fixed or movable, where food, intended for human consumption off the premises, is manufactured, produced, stored, prepared, handled, transported, sold or offered with or without charge. Provided, however, that the provisions of this chapter shall not include meat or poultry slaughterhouses.

111.05.21 SAFE HOLDING TEMPERATURE. As indicated in 410 IAC 7-24, as it may be hereafter amended, and as applied to potentially hazardous foods shall mean food temperatures at 41° Fahrenheit or below, and 135° Fahrenheit or above, and frozen foods at 0° Fahrenheit or below; provided, however, a tolerance of 5° Fahrenheit shall be permitted on frozen foods only.

111.05.22 TEMPORARY FOOD SERVICE ESTABLISHMENT. Any food establishment in any enclosure, stall or other facility, whether fixed or mobile, operating at one site or location for a period of time not in excess of 14 consecutive days, in conjunction with a single event or celebration, where food in open form intended for human consumption on or off the premises is offered with or without charge.

111.05.23 UTENSIL. Any implement used in the storage, preparation, service, consumption, display, transportation, or cleaning of food or drink products.

111.05.24 VENDING MACHINE. Means the same as the same term defined in 410 IAC 7-24-102; and a self-service device that, upon activation, through insertion of coin, paper currency, token card, key, or by manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

PERMITS

§111.06 PERMIT REQUIREMENTS

It shall be unlawful for any person to sell or give away any food or to operate a food establishment or to act, whether actually or ostensibly, as a food establishment operator within Montgomery County, Indiana, without possessing a valid permit for each such operation from the Health Officer, unless otherwise exempted from the provisions of this chapter. Penalty, see § 111.99

§ 111.07 POSTING

All permits shall be posted in a conspicuous place in view of the public in each food establishment. With respect to mobile food service establishments, the name, address and telephone number of the permittee shall be conspicuously displayed on each licensed mobile unit not less than two inches in height. In addition, a copy of the permit must be located in each mobile unit at all times for purposes of identification. Penalty, see § 111.99

§111.08 SEPARATE PERMITS

(A) Separate permits will be required for each food establishment or vending operator regardless of whether or not they are contained in the same building when:

- (1) The management or ownership is separate at the same location; or
- (2) The food establishment is operated by the same management, but as or at separate locations.

(B) Separate permits will not be required for a food establishment that serves alcoholic beverages and is operated under a lease management agreement or similar agreement in which the operator of the food establishment is not the same as the holder of the alcohol license issued by the State of Indiana.

Penalty, see § 111.99

§111.09 APPLICATION FOR PERMIT

(A) The application for a permit shall be made to the Health Officer on forms provided by the Health Officer. Such forms shall show, among other information which may be required by the Health Officer, the legal name, address, and telephone number of the permittee, the name under which said permittee intends to operate, 24 hour emergency contact information, the address of the establishment, and the number of food establishment personnel employed at the establishment (which shall include the permittee's manager, or other supervisory personnel). Said application shall include the signature of the permittee or an authorized representative of the permittee.

(B) Applications for the following list of establishments require additional information:

(1) *Micro Market.* The number of Micro Markets intended to be operated, the locations maintained by the permittee where supplies are kept or where displays are repaired or renovated, and the type and form of the food or beverages to be dispensed from the Micro Market Displays.

(2) *Temporary food service.* The location of any commissary or commissaries and where any supplies will be kept.

§111.10 PERMIT DENIAL

If an application for a permit is denied, the denial shall be in writing and include the specific reasons, with citations to any applicable statute, regulation, or other authority for the denial. In addition, the applicant's right of appeal shall be noted with reference to the section of this chapter providing for appeals.

§111.11 PERMIT ISSUANCE

A permit shall be issued subsequent to application and upon a determination by the Health Officer that the permittee has complied with all of the applicable provisions of this chapter, the permittee has tendered the appropriate fee as hereinafter specified, and after approval by any other applicable regulatory agency or department, including but not limited to the Building Commissioner, City Engineer, and Fire Department and compliance with any other state or local ordinance, statute, or regulation.

§111.12 TERM

(A) (1) The permit for a retail food service establishment, retail food market establishment, mobile food service establishment, mobile food market establishment, bed and breakfast, commissary, or food processing establishment shall be for a term of one year beginning upon the 1st day of January each year.

(2) Said permits shall be renewed annually on or before the last day of December; however, if the day of expiration of the permit falls on a weekend or government-recognized holiday, the permittee will be given until the following business day to renew the permit without late fees being assessed. Permits applied for mid-year will qualify for a proration of fees.

(B) The permit for a temporary food service establishment shall be for a term not to exceed 14 consecutive days.

(C) Any permit for a farmers market shall be for a term of up to one year running from March 1 the year of issue to February 28 the year after issue.

§111.13 PERMIT NOT TRANSFERABLE

No permit issued to any permittee under this chapter shall be transferable between locations or between operators.

CONSTRUCTION, RENOVATION, AND ALTERATION OF FOOD ESTABLISHMENTS

§111.14 CONSTRUCTION

All food establishments which are hereinafter constructed or renovated shall conform in their construction to the applicable requirements of 410 IAC 7-24, as amended, as well as with this chapter and all applicable building, zoning and fire codes.

Penalty, see § 111.99

§111.15 PLANS

No construction, renovation, or alteration for any food establishment shall begin without the construction, renovation, or alteration plans being first submitted to and approved by the Health Officer. Applications, including any specificity required for particular materials required by any regulatory agency, must be filled out in full or the application may be denied. Penalty, see § 111.99

§111.16 EQUIPMENT

All equipment installed in a food establishment for use in the cleansing and bactericidal treatment of utensils, or in the preparation, storing, handling, cleaning, sanitizing, serving, or displaying of any food or beverage products, shall be of a type conforming with all applicable requirements with regard to proper holding temperatures, design, construction, location, and materials.

Penalty, see § 111.99

§111.17 PROHIBITED EQUIPMENT

The Health Officer may prohibit the further use of any equipment that fails to meet the requirements of this chapter or any other rule, regulation, or statute that applies to the purposes of this chapter. Penalty, see § 111.99

§111.18 COMPLIANCE

All individuals and entities regulated by this chapter must fully comply at all times with all local and state building, zoning, and fire codes as a condition of any permit. Failure of any permittee to fully comply with any applicable building, zoning, and fire code shall be the basis for the suspension, immediate closure or revocation or nonrenewal of any permit issued hereunder.

Penalty, see § 111.99

§111.19 GREASE TRAP

Unless exempted by that agency or authority having jurisdiction, all food establishments shall be required to install a grease interceptor in the waste line leading from sinks, drains and other fixtures or equipment where grease may be introduced into the drainage or sewage systems in quantities that can affect line stoppage or hinder sewage treatment. The grease interceptor must be installed in such a manner that meets all applicable requirements of any applicable Building Department and shall be located in such areas as are easily accessible for cleaning. Penalty, see § 111.99

APPLICATION AND PERMIT FEES

§111.20 FEES

Prior to the issuance or renewal of any permit, each permittee shall first tender to the Montgomery County Health Department an application fee and a permit fee for each such operation in accordance with the classification as established in the following schedule of fees.

§111.21 PLAN REVIEW FEES

(A) Each new food establishment or bed and breakfast or any existing food establishment or bed and breakfast desiring to remodel or build any additions requiring a building or other permit which includes renovations to the food preparation area shall be required to pay an initial fee for the review of plans and specifications and for the initial inspection of the food establishment bed and breakfast. This fee is in addition to the permit fee. In the instance where there are multiple food establishments or areas within one building which will require staged final inspections at separate times, an application fee as set out below will be required for each final inspection.

PLAN REVIEW FEE	\$150.00
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(B) Additional inspections or review. In those circumstances where building or remodeling of a food establishment results in more than three inspections of the food establishment's premises or continuing review of or consultations regarding the plans thereof by the Health Officer, and which inspections or review or consultations are necessitated due to failure to have the plans completed or finalized at the time of application for a permit or the failure to implement construction or remodeling consistent with the original plans, or any other cause within the control of the food establishment which results in continuing and extra review of or consultation regarding the plans for the food establishment, there shall be an additional fee of \$100.00 payable prior to opening the food establishment.

§111.22 FEES FOR RENEWAL

Upon renewal or transfer (not requiring plan review) of permits, the following fees will apply:

PERMIT FEES - RETAIL FOOD MARKET ESTABLISHMENT

(a) Up to 10,000 square feet:	\$100.00
(b) 10,001 to 35,000 square feet:	\$150.00
(c) 35,001 to 60,000 square feet:	\$200.00
(d) 60,001 square feet and over:	\$300.00

PERMIT FEES - RETAIL FOOD SERVICE ESTABLISHMENT

(a) 1 through 10 employees:	\$100.00
(b) 11 through 40 employees:	\$150.00
(c) 41 and more employees:	\$225.00

REGISTRATION FEE - FARMERS MARKET

(a) Home Based Vendor	\$5.00
(b) Not-For-Profits	NO FEE - REGISTRATION ONLY

PERMIT FEES – MICRO MARKET

(a) 1 to 20 food or beverage displays	\$100.00
(b) 21 to 50 machines	\$150.00
(c) 51 or more machines	\$175.00

PERMIT FEES - TEMPORARY FOOD SERVICE OR FOOD MARKET ESTABLISHMENT

(a) 3 days or less of operation	\$20.00	
(1) Each additional day		\$5.00
(b) 3 Month	\$30.00	
(c) 6 Month	\$60.00	
(d) 9 Month	\$90.00	

PERMIT FEES – BED AND BREAKFAST – no plan review fee required

(a) One year	\$100.00
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MISCELLANEOUS FEES

- | | |
|--|---------|
| (1) Permit replacement fee | \$10.00 |
| (2) Processing fee (in addition to permit fee)
applicable to any new permit or transfer | \$25.00 |

§111.23 PERMIT REVOKED

A food service establishment permit shall be revoked if false information is given on the application or the application is not properly or accurately completed.

§111.24 NO PERMIT OR LATE RENEWAL

Should any permittee fail to obtain the permit prior to the opening of the food establishment for business, or should any permittee fail to renew a permit as required by this chapter, then said annual fee shall be 125% of the annual fee set forth above for that particular food establishment. Nothing in this section shall prevent the Health Officer from exercising any other rights or duties regarding suspension, closure, or revocation of the permit with regard to any food establishment.

§111.25 EXEMPTIONS

(A) The permit fee provisions of this chapter shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer fresh fruits, vegetables, honey or cider; provided that, nothing herein shall be construed to limit the Health Officer's authority to inspect any such stands in order to insure public health.

(B) Food establishments which comply with the terms and provisions of I.C.16-42-5-4 (as may be recodified and remaining applicable to exempt organizations), shall upon proof of exemption be exempt from the provisions of this chapter unless they waive said exemption. Exempt organizations such as sports leagues, church- sponsored soup kitchens, churches, and temporary senior citizen feeding sites are exempt from the permit provisions of this chapter.

(C) Food establishments which sell or offer for sale directly to the consumer only prepackaged confections such as candy, chewing gum, nut meats, potato chips, pretzels, popcorn, coffee, juice, and soft drink beverages shall be exempt from the provisions of this chapter.

(D) Vending machines which dispense non-potentially hazardous food or drink products in prepackaged or pre-bottled form, shall be exempt from the provisions of this chapter.

§111.26 WITHHOLDING PERMIT DUE TO DELINQUENT PERSONAL PROPERTY TAX

Prior to issuing any new or renewal permit, the applicant or permittee shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or permittee is not delinquent in the payment of any personal property taxes. If applicant or permittee does not obtain such certificate of compliance, the Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property taxes owed by the applicant or permittee are paid in full, including penalties.

(Ord. 2003-1, passed 1-28-03; Am. Commissioners Ord. 2008-1, passed 2-11-08; Am. Commissioners Ord. 2008-8, passed 6-23-08).

§111.27 MINIMUM STANDARDS INSUFFICIENT

The provisions of this chapter are intended to provide standards for licensing for and inspection of food establishments. Nothing contained in this chapter shall be construed to require the Health Officer to issue or prevent the revocation of a permit if, after investigation by the Health Officer, the Health Officer concludes that issuance or continuation of a permit results in unacceptable health risks resulting from the size or configuration of the food establishment, change of use or type of food being served compared with existing facilities for the food establishment, and the likelihood that efforts to ameliorate increased health risks resulting therefrom will be unsuccessful. Any decision by the Health Officer to refuse to issue a permit or to revoke a permit for reasons found in this section shall entitle an aggrieved food establishment to a public hearing as provided in this chapter and a right to appeal as provided herein or by law.

MINIMUM SANITARY REQUIREMENTS

§111.28 SANITARY REQUIREMENTS

All food establishments, retail food markets, farmers markets, bed and breakfasts, vending operators, and food and beverage vending machines shall comply with at least the minimum sanitary requirements specified by the Indiana State Department of Health as provided in 410 IAC 7-24 and 410 IAC 7-22, and as those regulations may be amended or superseded hereafter. Penalty, see § 111.99

EDUCATION

§111.29 FOOD SAFETY

(A) Every person who is employed, or is about to be employed in a food establishment, shall be familiar with the requirements of 410 IAC 7-24. A copy of 410 IAC 7-24 shall be kept on the premises at all times. All food establishment personnel employed by a food establishment may be required to attend a food safety education program for any of the following reasons:

- (1) If the establishment is subjected to immediate closure by the Health Officer and the education program is deemed necessary by the Health Officer.
- (2) If the Health Officer determines the necessity of a food safety education program as a result of a hearing dealing with violations of this chapter.
- (3) If upon inspection it is determined that remedial efforts have not been made to correct prior violations of this chapter.

INSPECTIONS

§111.30 FREQUENCY OF INSPECTION

Each food establishment for which a permit is required under the provisions of this chapter shall, and any other individual or entity which delivers or transfers food, may be inspected as frequently as deemed appropriate by the Health Officer.

§111.31 AUTHORITY TO INSPECT AND COPY RECORDS

The provisions of I.C. 16-20-8-1 et. seq. or any amendment thereof shall apply to inspections and access to records of inspections.

VIOLATIONS

§111.32 PROCEDURES WHEN VIOLATIONS ARE NOTED

(A) At the time of an inspection any violation(s) discovered by the Health Officer shall be recorded on an inspection report that is equivalent to the Indiana State Department of Health inspection report.

(B) A copy of the inspection report stating any violation(s) and their corrective dates shall be given to the person-in-charge of the establishment, or the report shall be delivered by mail to the address of the establishment listed on the permit application, as required under I.C. 16-20-8-5.

(C) The Health Officer, or the Health Officer's authorized representative, shall have the final approval on all food establishment inspection reports and related documents; and shall reserve the right to make changes as deemed necessary in accordance with I.C. 16-20-8-5.

§111.33 EXAMINATION AND CONDEMNATION OF FOOD

The Health Officer may, along with any other enforcement agency (if applicable), upon written notice to the owner or person in charge, place a hold order on any food if that food is in violation of any state laws. A written order must specify the reason for the hold order. The Health Officer or their authorized agent shall tag, label, or otherwise identify any food subject to the order and follow applicable statutes or regulations concerning disposal or future use or disposition of the food.

§111.34 EMERGENCY CLOSURE

(A) The Health Officer shall issue emergency closure for a retail food establishment, bed and breakfast, micro market, and farmers market for any of the following reasons:

- (1) Failure to possess a valid food permit required by this chapter.
- (2) The presence of any condition that poses an imminent health hazard or substantial harm to the public health and safety.

(B) Procedure. Any closure order will be in writing. The order shall identify the food establishment, describe the specified grounds upon which closure is based, direct the immediate closure of the establishment and vacating of the premises by consumers, list the corrective actions necessary to re-open the food establishment, and state that a hearing on the emergency closure may be requested by the owner or operator. The order shall be served in person on the owner, or person in charge of the establishment.

**§111.35 TEMPORARY FOOD SERVICE ESTABLISHMENT PERMIT
SUSPENSION/ CLOSURE**

(A) The Health Officer may suspend a permit for a temporary food establishment for any of the following reasons without prior notice or hearing:

- (1)** The operation of the temporary food establishment is deemed an imminent health hazard by the Health Department due to certain conditions, including but not limited to Title IAC 410 724 or this chapter.
- (2)** Interference with the Health Officer to perform their duties, including denial of access to the premises.

(B) When a permit is suspended the temporary food service establishment shall cease operation immediately. The suspension shall become effective upon service of a written notice to the permit holder or person in charge of the establishment.

(C) The Health Department may end the suspension at any time with or without a hearing if it is determined that the reason of the suspension no longer exists.

§111.36 PERMIT REVOCATION

(A) The Health Officer, after providing an opportunity for a hearing shall permanently revoke a retail food establishment, bed and breakfast establishment, vending machine/ micro market operation, or farmers market establishment permit for serious or repeat violation(s) of any of the requirements of Title IAC 410 7-24 or this chapter; or, interference with the Health Officer or the Health Officer's agent(s) in the performance of their duties.

(B) Prior to such action, the Health Officer shall notify the permittee in writing stating the reasons for the permit revocation and advising that the permit shall be permanently revoked after no less than ten days following service of such notice; unless a written request for a hearing is filed with the Health Department by the permittee prior to the date upon which the

permit revocation is to become effective. The permit may be suspended for cause pending its revocation or a hearing.

(C) If no request for a hearing is filed prior to the date the permit revocation is to become effective, revocation of the permit becomes final.

§111.37 HEARING

(A) All hearings required under this or any other section shall be open to the public and held with sufficient written notice to the permittee of time, place, and nature thereof to enable the permittee to appear and participate in the hearing. The notice of hearing shall be served upon the permittee by leaving or mailing by certified mail the notice to the address listed on the permit application as the permittee's mailing address or such other address as the permittee shall designate in writing to the Health Officer.

(B) At any hearing required under this chapter, the Hearing Officer shall be the Health Officer or the Health Officer's designee. Every person who is a party to such proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.

(C) Upon the conclusion of such hearing, the Health Officer shall enter a final order, subject to the right of appeal to a court having jurisdiction of the parties and of the subject matter of the appeal.

ENFORCEMENT

§111.38 ENFORCEMENT

It shall be the duty of the Health Officer to enforce the provisions of this chapter. Any permit issued in conflict with the provisions of this chapter shall be null and void. A violation of an order issued by the Health Officer shall be considered to be a violation of this chapter and of Indiana law, when applicable.

§111.39 VIOLATIONS

Whenever the Health Officer determines that any entity subject to the provisions of this chapter, is in willful violation of any of the provisions of this chapter, in addition to any other remedy or penalty imposed by this chapter, the Health Officer shall furnish evidence of said willful violation to the Prosecuting Attorney of Montgomery County, Indiana or the attorney

for the Board who shall seek all appropriate legal remedies against the person(s) violating the provisions of this chapter.

§111.40 INJUNCTION

The Health Officer may bring an action for an injunction in the Circuit or any Superior Court of Montgomery County, Indiana, to restrain any person from violating the provisions of this chapter, to cause such violation(s) to be prevented, abated or removed, or to otherwise enforce this chapter.

§111.41 EXPENSE

Any person violating any of the provisions of this chapter shall be liable to the Health Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.

§111.42 CUMULATIVE

The remedies provided in this subchapter shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

§111.43 REQUEST FOR NOTICE

Any entity, which is not a Retail Food Establishment, intending to host an event in Montgomery County which involves providing food to the public for the purpose of fundraising, customer appreciation, grand openings, community dinners, may request a courtesy public service consultation by requesting such a consultation from the Health Department.

§111.99 PENALTY

The provisions of Title 410 IAC 7-23 provides local health departments with authority to assess civil penalties (fines) for violators of laws intended to suppress disease and health risks associated with preparation and distribution of food. For purposes of tracking critical item violations and imposing fines under this chapter the Department shall maintain inspection records for not less than one year from the date of any inspection conducted after the effective date of this chapter. No fine is payable the first time a "critical item" violation is noted within any one year period after the effective date of this chapter. For a second or subsequent "critical item" violation of this chapter after its effective date, or within one year

of the date of an inspection conducted after the effective date of this chapter, a civil penalty is payable as provided in this chapter.

(A) The following civil penalties (fine) shall apply for a "critical item" violation which reoccurs for a second or subsequent time within any one year period after the effective date of this chapter, regardless if that "critical item" can be corrected immediately:

(1) The second time the same "critical item" violation is determined within any one year period, there will be a fine of \$50.

(2) The third time the same "critical item" violation is determined within any one year period, there will be a fine of \$100.

(3) If the same "critical item" reappears as a violation for a fourth (or more) time within any one year period, there will be a fine of \$200.

(B) Each day after the expiration of the time limit for abating any violation of this chapter or completing other actions as ordered by the Health Department or the Health Officer of the county, shall constitute a distinct and separate offense.

(C) All fines shall be payable in full within 30 days of assessment, unless otherwise ordered by the Hearing Officer. Failure to pay fines by the due date will result in an additional 10% late fee. No permit is to be issued or renewed until all fines have been paid in full. Any fines and late fees may be collected in any manner provided herein or as provided by law including any law for collection of debts, along with attorney fees incurred to collect said amounts owing and with all costs of collection.

(D) Any assessment of a civil penalty by this chapter is subject to the right of appeal and a public hearing which will be scheduled, conducted, and concluded as provided in §111.36 of this chapter. Any request for an appeal shall be filed in writing with the Health Officer within ten days of assessment of the civil penalty.

CHAPTER 112: TATTOO PARLORS

Section

- 112.01 Sanitary operation of tattoo parlors
- 112.02 Definitions
- 112.03 Tattoo operator training responsibilities
- 112.04 Tattoo operator responsibilities
- 112.05 Tattoo operator policies
- 112.06 Tattoo artist minimum training and certification requirements
- 112.07 Patrons records
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- 112.09 Handwashing
- 112.10 Personal protective equipment
- 112.11 Tattooing equipment
- 112.12 Needles
- 112.13 Reusable equipment
- 112.14 Dyes or pigments
- 112.15 Work environment
- 112.16 Infectious waste containment
- 112.17 Treatment and transport of infectious waste
- 112.18 Permits
- 112.19 Inspection
- 112.20 Revocation of permit

- 112.99 Penalty

§112.01 SANITARY OPERATION OF TATTOO PARLORS

All places, individuals and businesses that offer to affix any type of permanent tattoo to a person shall be regulated by this chapter and shall maintain the premises in which tattoos are performed and equipment used in the tattoo process in a sanitary manner. (Ord. 2004-1, passed 10-26-04)

§112.02 DEFINITIONS

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

BLOOD. Human blood.

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

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

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

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

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

DEPARTMENT. The Montgomery County Department of Health. The Montgomery County Board of Health shall be considered part of the DEPARTMENT except for the purpose of conducting any type of administrative hearing for the appeal of any decision of the DEPARTMENT or Health Officer or appointed representative.

HBV. The hepatitis B virus.

HCV. The hepatitis C virus.

HEALTH OFFICER. The duly appointed **HEALTH OFFICER** or appointed representative as set forth in I.C. 16-20-2-16 enforcing this chapter. The **HEALTH OFFICER** or appointed representative may designate someone in the health department to perform those duties and responsibilities of the **HEALTH OFFICER** or appointed representative.

HTV. The human immunodeficiency virus.

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

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

***OTHER POTENTIALLY INFECTIOUS MATERIALS* or *OPIM*.**

- (1) Human body fluids as follows:
 - (a) Semen;
 - (b) Vaginal secretions;
 - (c) Cerebrospinal fluid;
 - (d) Synovial fluid;
 - (e) Pleural fluid;
 - (f) Pericardial fluid;
 - (g) Peritoneal fluid;
 - (h) Amniotic fluid;
 - (i) Saliva in dental procedures;
 - (j) Any body fluid that is visibly contaminated with blood; and/or
 - (k) All body fluids where it is difficult or impossible to differentiate between body fluids.
- (2) Any unfixed tissue or organ, other than intact skin, from a human living or dead.

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

PARENTERAL. Piercing the mucous membranes.

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

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

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

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

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

TATTOO.

- (1) Any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments.
- (2) Any design, letter, scroll, figure, symbol done by scarring; upon or under the skin.
- (3) Any piercing of the mucous membranes or the skin through which needles or other items are inserted for temporary or permanent placement upon a person.

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

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

UNIVERSAL PRECAUTIONS. An approach to infection control in which all human blood and certain human body fluids are treated as if known to be infectious with HIV, HBV, HCV, and other blood borne pathogens.
(Ord. 2004-01, passed 10-26-04)

§112.03 TATTOO OPERATOR TRAINING RESPONSIBILITIES.

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

(A) Ensure that the training described in the Indiana Occupational Safety and Health Administration's Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030) is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

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

(C) Ensure that a record of training described in division (A) is maintained, as required under the Indiana Occupational Safety and Health Administrator's Blood Borne Pathogens Standard (as found in 29 CFR 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request.

(D) Ensure that all record of training described in division (B) is maintained. (Ord. 2004-01, passed 10-26-04)

§112.04 TATTOO OPERATOR RESPONSIBILITIES

(A) The tattoo operator shall ensure that tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood are provided personal protective equipment and expendables needed to implement the precautions required by this rule and the Indiana Occupational Safety and Health Administration's Blood Borne Pathogens Standard as found in 29 CFR 1910.1030.

(B) The tattoo operator shall require tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin,

eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in section 27 of this rule.

(C) The tattoo operator shall display a description of compliance with the requirements contained in division (D).

(D) The tattoo operator shall display written materials prepared or approved by the department explaining universal precautions and patrons' rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the department's duties to investigate.

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

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

(Ord. 2004-01, passed 10-26-04)

§112.05 TATTOO OPERATOR POLICIES

The tattoo operator shall develop a written policy in compliance with this rule and the requirements of the Indiana Occupational Safety and Health Administration's Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030) that:

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

(B) Includes the safe handling of infectious waste; and

(C) Provide sanctions, including discipline and dismissal, if warranted, for failure to use

universal precautions and/or handle infectious waste safely.

(Ord. 2004-01, passed 10-26-04)

§112.06 TATTOO ARTIST MINIMUM TRAINING AND CERTIFICATION REQUIREMENTS

(A) All tattoo artists, anyone employed by the tattoo parlor, and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM shall complete the training program that is required under the requirements of the Indiana Occupational Safety and Health Administration's Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030). The programs under this section shall be as follows:

(1) A blood borne pathogen training session provided by the tattoo operator meeting the requirements under the Indiana Occupational Safety and Health Administration's Blood Borne Pathogens Standard (as found in 29 CFR 1910.1030).

(2) Any blood borne pathogen continuing education program accredited by a health care licensing entity.

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

(Ord. 2004-01, passed 10-26-04)

§112.07 PATRONS RECORDS

Records of each patron shall be maintained for two years. The record shall include the following:

(A) Patron's name;

(B) Address;

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

(D) Date tattooed;

(E) Design of the tattoo;

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

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

(H) Parental consent must be in writing when performed on any minor as permitted by law.

(Ord. 2004-01, passed 10-26-04)

§112.08 ILLNESS

Tattoo artists who are experiencing symptoms of acute disease that include, but are not limited to:

(A) Diarrhea;

(B) Vomiting;

(C) Fever;

(D) Rash;

(E) Productive cough;

(F) Jaundice; or

(G) Draining (or open) skin infections, boils, impetigo, or scabies; shall refrain from providing tattoos.

(Ord. 2004-01, passed 10-26-04)

§112.09 HAND WASHING

(A) Hand washing facilities shall be readily accessible in the same room where tattooing is provided.

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

(C) Only single use towels shall be used.

(Ord. 2004-01, passed 10-26-04)

§112.10 PERSONAL PROTECTIVE EQUIPMENT

Appropriate personal protective equipment shall be worn as follows:

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

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

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

(D) Gloves shall be worn when decontaminating environmental surfaces and equipment.
(Ord. 2004-01, passed 10-26-04)

§112.11 TATTOOING EQUIPMENT

(A) Only single use razors shall be used to shave the area to be tattooed.

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

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

(Ord. 2004-01, passed 10-26-04)

§112.12 NEEDLES

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

(B) Needles shall be single use only.

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

(D) Contaminated needles shall not be bent or broken or otherwise manipulated by hand.
(Ord. 2004-01, passed 10-26-04)

§112.13 REUSABLE EQUIPMENT

(A) Heating procedures capable of sterilization must be used when heat stable, non

disposable equipment is sterilized.

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

- (1)** Duration of sterilization technique.
- (2)** Determination of effective sterility, such as use of a biological indicator, is performed monthly.
- (3)** Equipment is maintained as recommended by the owner's manual and proof is available that the owner's manual recommendations are reviewed monthly.

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

(D) Reusable contaminated equipment shall be:

- (1)** Placed in puncture-resistant containers,
- (2)** Labeled with the biohazard symbol;
- (3)** Leak proof on both sides and bottom, and
- (4)** Stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.

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

(F) Reusable tubes shall be effectively cleaned and sterilized before reuse. (Ord. 2004-01, passed 10-26-04)

§112.14 DYES OR PIGMENTS

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

(B) In preparing dye or pigments to be used by tattoo artists, only nontoxic sterile materials shall be used. Single use or individual portions of dyes or pigments in clean, sterilized containers shall be used for each patron.

(C) After tattooing, the remaining unused dye or pigment in single use or individual containers shall be discarded along with the container.

(Ord. 2004-01, passed 10-26-04)

§112.15 WORK ENVIRONMENT

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

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

(1) Patrol dogs accompanying security or police officers.

(2) Guide dogs accompanying the following:

(a) Blind persons;

(b) Partially blind persons;

(c) Physically disabled persons;

(d) Guide dog trainers; or

(e) Persons with impaired hearing.

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

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

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

(F) Environmental surfaces and equipment not requiring sterilization that have been

contaminated by blood shall be cleaned and decontaminated by blood shall be cleaned and decontaminated.

(G) All work surfaces shall be:

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

(H) Disinfectant solutions shall be:

(1) A hospital grade, Tuberculocidal Environmental Protections (EPA) registered disinfectant; or

(2) Sodium hypochlorite, 0.5% concentration, by volume (common household bleach is 10% concentration in water); the solution shall be dated and shall not be used if it is more than 24 hours old.

(Ord. 2004-01, passed 10-26-04)

§112.16 INFECTIOUS WASTE CONTAINMENT.

(A) Contaminated disposable needles or instruments shall be:

(1) Stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the biohazard symbol, and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

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

- (1) Impervious to moisture;
- (2) Sufficient strength and thickness to prevent expulsion;
- (3) Secured to prevent leakage expulsion;
- (4) Labeled with the biohazard symbol; and
- (5) Effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

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

- (1) Is locked or otherwise secured to eliminate access by or exposure to the general public;
- (2) Affords protection from adverse environmental conditions and vermin; and
- (3) Has a prominently displayed biohazard symbol.

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

(F) Reusable containers for infectious waste must be disinfected each time that they are emptied unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags or other devices that are removed with the infectious waste. (Ord. 2004-01, passed 10-26-04)

§112.17 TREATMENT AND TRANSPORT OF INFECTIOUS WASTE

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

(B) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:

- (1) Incineration in an incinerator designed to accommodate infectious waste;
- (2) Steam sterilization;
- (3) Chemical disinfection under circumstances where safe handling of the waste is assured;
- (4) Thermal inactivation;
- (5) Irradiation; or
- (6) Discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(C) All persons subject to this rule shall:

- (1) Transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and
- (2) Effectively treat infectious waste in accordance with this rule before it is compacted. (D) The tattoo operator shall ensure that infectious waste effectively treated or not is transported off-site in compliance with 410 I.A.C. 1-3.

(Ord. 2004-01, passed 10-26-04)

§112.18 PERMITS

(A) *Business.* Each tattoo parlor operation shall obtain a permit from the Montgomery County Health Department. The permit shall provide the name and address of the owner of the business and the name and address of each and every tattoo artist located at each location. The cost for this permit shall be \$50 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Montgomery County Health Department shall provide the appropriate forms for this permit. Said permit shall be posted at the tattoo parlor in the places where the tattoos are performed and clearly visible to the public.

(B) *Tattoo Artist.* Every person that desires to perform any tattoo shall obtain a “Tattoo artist permit” from the Montgomery County Health Department. This permit must be obtained before any tattoos are affixed to any person and after the requisite training. The applicant must satisfy the minimum requirements as set forth herein in § 112.06. The cost of said permit shall be \$25 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Montgomery County Health Department shall provide the appropriate forms for this permit. Said permits shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public.

(C) *Withholding Permit if Property Taxes Delinquent.* Prior to issuing any new or renewal permit the tattoo parlor or tattoo artist shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the tattoo parlor or tattoo artist is not delinquent in the payment of any personal property taxes. If the tattoo parlor or tattoo artist does not obtain such certificate of compliance, the Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property taxes owed by the tattoo parlor or tattoo artist are paid in full, including penalties. (Ord. 2004-01, passed 10-26-04; Am. Commissioners Ord. 2008-6, passed 3-24-08); Am. Commissioners Ord. 2008-8, passed 6-23-08)

§112.19 INSPECTION

The Montgomery County Health Department shall conduct inspections of each and every tattoo parlor located in Montgomery County, Indiana. The Health Department shall conduct a minimum of three inspections per year. Additional inspections may be conducted by the Health Department as they determine and/or in response to complaints submitted. The results of the inspections shall be provided to each operator. Violations noted by the Health Department shall be corrected immediately. The Department shall conduct follow up inspections to determine compliance with this chapter. (Ord. 2004-01, passed 10-26-04)

§112.20 REVOCATION OF PERMIT

The Health Officer or appointed representative may suspend or revoke the permit of any tattoo artist or operator for any period of time for any violation of this chapter, state or federal regulations concerning blood borne pathogens, tattoos or work place regulations (OSHA). The suspension and/or revocation shall be effective upon issuance by the Health Officer or appointed representative. The operator or artist may have the permit reinstated upon compliance with this chapter, state or federal regulations concerning blood borne pathogens, tattoos or work place regulations (OSHA) and to the satisfaction of the Health Officer or appointed representative. Appeals of orders of revocation shall be conducted pursuant to I.C. 4-21.5-3-1 et seq. The Board of Health shall conduct administrative hearings concerning the suspension or revocation of any permit issued herein as set forth in I.C. 4-21.5-3 et seq.

(Ord. 2004-01, passed 10-26-04)

§112.99 PENALTY

(A) If a tattoo artist or operator shall fail to obtain a permit prior to the conduct of their business or at any time after one has been issued, but has expired, that tattoo artist and/or operator may be subject to a fine of not more than \$200. Each day the tattoo artist and/or operator shall be in violation of this chapter shall constitute a separate offense.

(B) The Health Officer or appointed representative may bring an action in the Circuit or Superior Court to enforce this chapter. The Health Officer or appointed representative shall be entitled to recover all costs and expenses associated with any action for enforcement of this chapter including reasonable attorney fees.

(Ord. 2004-1, passed 10-26-04; Am. Commissioners Ord. 2008-6, passed 3-24-08)

CHAPTER 113: SYNTHETIC CANNABINOIDS

Section

- 113.01 Definitions
- 113.02 Sale of Synthetic Cannabinoids Prohibited
- 113.03 Enforcement
- 113.04 Defenses

§113.01 DEFINITION

SYNTHETIC CANNABINOID. As used in this chapter, the term “synthetic cannabinoid” means any of the following:

- (A) All parts of the plant presently classified botanically as *Salvia Divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant its seeds or its extract;
- (B) HU-210 a substance also known as (6aR, 10aR)- 9-(Hydroxymethyl) 6,6-dimethyl-3-(2methyloctan-2-yl)- 6a, 7, 10, 10a-tetrahydrobenzo[c]chromen- 1-ol;
- (C) JWH-018, a substance also known as Naphthalen-1 -yl-(1-pentylindol-3-yl) methanone;
- (D) JWH-073, a substance also known as 1-yl(1butylindol-3-yl) methanone;
- (E) TFMPP, a substance also known as 1-[3-(trifluoromethyl)phenyl]piperazine;
- (F) Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2methylnonan-2-yl)phenol;
- (G) CP-47-497, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2methyloctan-2-yl)phenol;
- (H) JWH-250, a substance also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3yl)ethanone;
- (I) Structural analogs of any of these substances.
- (J) Any herbal-based substance sold under the name of K2, Spice, Acapulco Spices, Serenity

Now, Spice Gold, Shokotsu, Afghan Incense, Baked, Black Magic, Buzz, Cherry Charm, Fire Bird, Fire “N” Ice, Pulse, Solitude or Voodoo, or any other herbal-based substance containing the foregoing described substances.

(Commissioners Ord. 2010-4, passed 10-25-10)

§113.02 SALE OF SYNTHETIC CANNABINOIDS PROHIBITED

A person may not sell, barter, give, publicly display for sale, or attempt to sell, give or barter, or to possess any synthetic cannabinoid. (Commissioners Ord. 2010-4, passed 10-25-10)

§113.03 ENFORCEMENT

(A) The Montgomery County Sheriff’s Department is responsible for the interpretation and civil enforcement of this chapter.

(B) Enforcement personnel from the Montgomery County Sheriff’s Department may seize and destroy synthetic cannabinoids that are in violation of this chapter.

(C) A person in violation of this chapter shall be fined two hundred and fifty dollars (\$250.00). Each day a violation occurs or continues constitutes a separate offense.

(Commissioners Ord. 2010-4, passed 10-25-10)

§113.04 DEFENSES

(A) It is a defense under this Chapter that a person otherwise in violation is acting at the direction of an authorized agent of the County of Montgomery to enforce or ensure compliance with this Chapter.

(B) It is a defense under this Chapter that a person otherwise in violation is acting, with respect to the violation, under the direction or prescription of a person who holds an unlimited license to practice medicine under I.C. 25-22.5 or a license to practice dentistry under I.C. 25-14.

(C) It is defense under this Chapter that a person otherwise in violation is acting, with respect to the violation, in connection with a bona fide research or scientific endeavor funded by public entities or non-profit organizations.

(Commissioners Ord. 2010-4, passed 10-25-10)

§114 DIRECT SELLERS

- Section
- 114.01 Definitions
- 114.02 Exemptions
- 114.03 Registration Requirements
- 114.04 Additional information required
- 114.05 License and license fee
- 114.06 Investigation
- 114.07 Appeal
- 114.08 Conduct regulations
- 114.09 Revocation of registration

§114.01 DEFINITIONS

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

(A) CHARITABLE ORGANIZATION. Any not-for-profit corporation or benevolent or philanthropic organization whose purpose is to promote education, religion or other philanthropic interests.

(B) DIRECT SELLER. Any individual who, individually, or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of the individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(C) GOODS. Personal property of any kind, and shall include goods provided incidental to services offered or sold.

(D) PERMANENT MERCHANT. A direct seller who, for at least one year prior to the consideration of the application of this article to the merchants, has continuously operated an established place of business in this County or has continuously resided in this County and now does business from his residence.

(Comm. Ord 2016-24, passed 9-12-16)

§114.02 EXEMPTIONS

The following shall be exempt from all provisions of this article:

- (A) Any person delivering newspapers, fuel, dairy products or bakery goods to and at the request of regular customers on established routes;
- (B) Any person selling goods at wholesale to dealers in the goods;
- (C) Any person selling agriculture products which the person has grown or produced in the county and is being sold by a resident of the county;
- (D) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by the merchant within the county and who delivers the goods in their regular course of business;
- (E) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by the person;
- (F) Any person who has had, or one who represents a company which has, a prior business transaction, such as a prior sale of credit arrangement, with the prospective customer;
- (G) Any person selling or offering for sale a service unconnected with the sale of goods;
- (H) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law; or
- (I) Any employee, officer or agent of a charitable organization which has secured a permit as provided for elsewhere in this code.

(Comm. Ord 2016-24, passed 9-12-16)

§114.03 REGISTRATION REQUIREMENTS

(A) Applicants must complete and return to the Montgomery County Sheriff’s Office, during the hours of 8 a.m. to 4 p.m. Monday through Friday, at least three days before the applicant shall be authorized to do business, a registration form furnished by the Sheriff which shall require the following information:

- (1) Name, permanent address, telephone number and temporary address, if any;

- (2) Age, height, weight, color of hair and eyes;
- (3) Name, address and telephone number of the person, firm association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
- (4) Temporary address and telephone number from which business will be conducted, if any;
- (5) Nature of business to be conducted and a brief description of the goods and any services offered;
- (6) Make, model and license number of any vehicle to be used by the applicant in the conduct of his business;
- (7) The last three previous cities, counties, or towns where the applicant conducted similar business;
- (8) Place where applicant can be contacted for at least seven days after leaving the county; and
- (9) Statement as to whether applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

(B) Any person, firm or corporation who violates any provision of this article for which another penalty is not specifically provided shall, upon conviction, be subject to a fine in the amount of \$500. Separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.04 ADDITIONAL INFORMATION REQUIRED

Each applicant shall present to the Montgomery County Sheriff's Office for examination:

- (A) A driver's license or some other proof of identity as may be reasonably required;
- (B) A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities; and

(C) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law. The certificate shall state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

(Comm. Ord. 2016-24, passed - -16)

§114.05 INVESTIGATION AND REFUSAL

(A) Upon receipt of each application, the Montgomery County Sheriff will refuse to register the applicant if it is determined pursuant to the investigation above, that:

- (1) The application contains any material omission or materially inaccurate statement;
- (2) Complaints of a material nature have been received and proven against the applicant by authorities in any of the three previous cities, counties and towns in which the applicant conducted similar business;
- (3) The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years the nature of which is directly related to the applicant's fitness to engage in direct selling; or
- (4) The applicant failed to comply with any applicable provisions of § 114.03.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.06 APPEAL OF DENIAL OR REVOCATION

(A) Any person whose registration is denied or revoked may appeal the denial to the Board of County Commissioners by filing with the Auditor within ten (10) days of the denial or revocation a written appeal. This appeal must state the reasons the application or registrant believes that the denial or revocation is contrary to this ordinance or otherwise contrary to law.

(B) Upon receiving the appeal, the Auditor will notify the Board of County Commissioners of the appeal. The Board will conduct a hearing on the appeal within ten (10) days of the Auditor's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

(C) At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross examine witnesses called by the Sheriff in support of the denial or revocation.

(D) Within 10 days of the hearing, the Board will make written findings and conclusions and mail the same to the appellant and the Sheriff.

(E) Either the Sheriff or the appellant may appeal the decision of the Board by filing an appeal with a court of competent jurisdiction within 30 days of the Board's decision.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.07 CONDUCT REGULATIONS

The following regulations shall govern the conduct of the registrant.

(A) It shall be unlawful for any direct seller to:

- (1) Call at any dwelling or other place between the hours of 7:00 p.m. and 9:00 a.m., except by appointment;
- (2) To call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning;
- (3) To call at the rear door of any dwelling place; or
- (4) To remain on any premises after being asked to leave by the owner, occupant or other person having authority over the premises.

(B) It shall be unlawful for a direct seller to misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of the visit, his or her identity or the identity of the organization he or she represents.

(C) It shall be unlawful for any direct seller to impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulation shall be observed.

(D) It shall be unlawful for any direct seller to make any loud noises or use any sound amplifying device to attract customers in the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

(E) It shall be unlawful for any direct seller to allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(F) Any person, firm or corporation who violates any provision of this article for which another penalty is not specifically provided shall, upon conviction, be subject to a fine in the amount of \$500. Separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.08 REVOCATION OF REGISTRATION

The registration of a direct seller may be revoked by the Montgomery County Sheriff for any violation of this article.

(Comm. Ord. 2016-24, passed 9-12-16)

**§114.09 NOTICE OF FINE; APPEAL; PAYMENT OF FINE;
COLLECTION**

(A) In the event the Sheriff determines that a violation of this section has occurred, the Sheriff will deliver to the violator a fine citation. This citation will either be delivered personally to the violator or mailed to the violator.

(B) All fines are payable to the Sheriff within 30 days of the date of the fine citation.

(C) The violator has 10 days from the date of the issuance of the fine citation to appeal the citation to the Board of County Commissioners. The violator must file a written appeal with the Auditor. This appeal must state the reasons the violator believes that the fine is in error.

(D) Upon receiving the appeal, the Auditor will notify the Board of County Commissioners of the appeal. The Board will conduct a hearing on the appeal within ten (10) days of the Auditor's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

(E) At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross examine witnesses called by the Sheriff in support of the denial or revocation.

(D) Within 10 days of the hearing, the Board will make written findings and conclusions and mail the same to the appellant and the Sheriff.

(E) Either the Sheriff or the appellant may appeal the decision of the Board by filing an appeal with a court of competent jurisdiction within 30 days of the Board's decision.

(F) If the violator fails to pay the fine within 30 days of the issuance of the citation, or 30 days from the date of the Board's decision if an appeal is filed, the Sheriff will refer the matter to the County Attorney for collection. If the matter is referred to the County Attorney for collection, the violator is liable to Montgomery County for all court costs, filing fees, and reasonable attorney's fees incurred by the County in the collection of the fine and those expenses incurred by the County in conjunction with any appeal.

(Ord. 2016-24, passed 9-12-16)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Operation upon public property
- 130.02 Weapons Prohibited in County Courthouse
- 130.03 Law enforcement vehicles; unlawful operation
- 130.04 Transportation of waste materials

§130.01 OPERATION UPON PUBLIC PROPERTY

(A) Skateboards are hereby prohibited upon county real estate. (Ord. 88-3, passed 5-1-88)

(B) No person shall operate a bicycle, roller blades or skateboard upon the sidewalks, steps, lawn or other property of the County Courthouse. (Ord. 99-2, passed 7-6-99)
Penalty, see § 10.99.

§130.02 WEAPONS PROHIBITED IN COUNTY COURTHOUSE

§130.03 LAW ENFORCEMENT VEHICLES; UNLAWFUL OPERATION

Both marked and unmarked law enforcement vehicles are authorized to be used for activity which is incidental to law enforcement functions, but law enforcement personnel are banned from the use of the vehicles for vacation or recreation trips which is to comply with the regulars of the Internal Revenue Service.
(Ord. 11-85, passed –85) Penalty, see § 10.99

§130.04 TRANSPORTATION OF WASTE MATERIALS

(A) It shall be unlawful to transport into the county any garbage, refuse, debris, solid waste, chemicals, hazardous materials or any other substance for the purpose of its ultimate disposal, excepting that the disposal of certain materials shall be allowed upon approval by the County Commissioners of an application submitted in writing to the Commissioners not less than 60 days prior to the time proposed for the commencement of the disposal operations, setting forth the substance to be transported in to the county, the quantity of the substance to be transported, the type of method to be used for the ultimate disposal of the substance, the location of the disposal site, including the legal description and topographical maps, a certification of approval of the disposal from both federal and state agencies, and the posting

of a cash and surety bond payable to the county, in an amount sufficient to save the county and its citizens harmless from any damages arising out of the disposal of the material and in compliance with all county, state and federal rules and regulations.

(B) It shall be unlawful for any person or persons to deposit, dump or dispose of any of the materials heretofore set forth in division (A) above transported into the county from any outside area unless the person or persons have complied with the requirement of division (A) above.

(C) In the event of the violation of any of the provisions of this section, the county shall have the right of injunctive relief for the purpose of preventing a continued violation of this section. (Ord. 3-84, passed 4-17-84) Penalty, see § 10.99 *Cross-reference:*
Illegal Dumping, see Chapter 50

TITLE XV: LAND USAGE

Chapter

- 150. **BUILDING REGULATIONS; CONSTRUCTION**
- 151. **FLOOD HAZARD AREAS**
- 152. **SUBDIVISIONS**
- 153. **SUGAR CREEK ZONING**
- 154. **STORMWATER DRAINAGE**
- 155. **WIND ENERGY CONVERSION SYSTEMS**
- 156. **MAPPING FEES**

CHAPTER 150: BUILDING REGULATIONS CONSTRUCTION

Section

150.01	Title
150.02	Purpose
150.03	Authority
150.04	Scope
150.05	Regulations adopted by reference
150.06	Permit application
150.07	Inspections
150.08	Entry
150.09	Stop order
150.10	Certificate of occupancy
150.11	Standards
150.12	Violations
150.13	Right of Appeal
150.14	Remedies
150.99	Penalty

Appendix: Permit fees

§150.01 TITLE

This chapter, and all ordinances supplemental or amendatory hereto, shall be known as the “County Building Code,” may be cited as such and will be referred to herein as “this code.” (Ord. 87-3, passed 8-4-87; Am Ord. passed 9-21-87)

§150.03 AUTHORITY

(A) (1) The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of the code.

(2) Whenever in the building regulations it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Board of Commissioners, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have

been complied with. The provision shall be construed as giving any officer discretionary powers as to what regulations, codes or standards shall be, or power to require conditions not prescribed by ordinances or to enforce ordinance provisions in an arbitrary or discriminatory manner.

(B) The Building Commissioner, after having been designated as the officer of a single agency to administer and enforce building regulation by mutual agreement by and between the towns and cities of Alamo, Crawfordsville, Darlington, Ladoga, Linden, New Market, New Richmond, New Ross, Waveland, Waynetown and Wingate of the county, shall be authorized to issue building permits, collect permit fees, perform inspections, order correction of violations of building regulations and authorize occupancy of buildings and structures situated within the corporate limits of the above mentioned towns and cities of the county. (Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

§150.04 SCOPE

The provisions of this chapter apply to the construction, alteration, repair, use, occupancy, maintenance and additions to all buildings and structures, other than fences, including but not limited to residences, commercial, agricultural and industrial buildings, signs, towers, pole structures, and tanks in the unincorporated areas of the county and those incorporated towns which have entered into an agreement with the county for services prescribed by this chapter. Provided however, the provisions of this section shall not apply to the City of Crawfordsville and its contiguous two-mile jurisdictional limit surrounding the city. (Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87; Am. Ord. passed 9-25-01; Am. Ord. 87-3, passed 9-14-04)

§150.05 REGULATIONS ADOPTED BY REFERENCE

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following articles of 675 I.A.C. are hereby incorporated by reference in this chapter and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

- (1)** Article 13, Building Codes:
 - (a)** Fire and Building Safety Standards;
 - (b)** Indiana Building Code;
- (2)** Article 14, Indiana Residential Code.

- (3) Article 16, Indiana Plumbing Code.
- (4) Article 17, Indiana Electrical Code.
- (5) Article 18, Indiana Mechanical Code.
- (6) Article 19, Indiana Energy Conservation Code.
- (7) Article 20, Indiana Swimming Pool Code.
- (8) Article 22, Indiana Fire Code.
- (9) Article 24, Migrant Daycare Nursery Fire Code.
- (10) Article 25, Indiana Fuel Gas Code.

(11) Lifting Devices Within Private Residence:

- (a) Parts 5.3 and 5.4, ANSI/ASME A 17 1-2000, safety code for elevators and escalators.
- (b) Sections 5, 6, 7, ASME A18.1a-2001, safety standard for platform and stairway chair lifts.

(B) Copies of adopted building rules, codes and standards are on file in the office of the Building Commissioner.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87; Am. Ord. 87-3, passed 9-14-04)

§150.06 PERMIT APPLICATION

(A) (1) No permits shall be issued for the forgoing purposes, unless the application for the permit is accompanied by plans and specifications showing the work to be done. All plans for building construction under the authority of the State Fire Prevention and Building Safety Commission must also be filed with the State Building Commission must also be filed with the State Building Commissioners if the state permit is required.

(2) No permits shall be issued hereunder until a copy of a release for construction from the State Building Commissioner is received by the County Building Commissioner if the state permit is required.

(3) No permits shall be issued for structures with sanitary facilities or required to have sanitary facilities unless a septic permit or waiver is issued by the Montgomery County Health Department, pursuant to Chapter 157 of this Code.

(4) No permits shall be issued if the planned construction will violate any other ordinances administered by the Montgomery County Building Administration.

(5) Prior to issuing any new or renewal permit, the applicant or owner of the real estate on which the building or structure will be located, shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or owner is not delinquent in the payment of any personal property, and delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator or Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property, any delinquent personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxes owed by the applicant or owner are paid in full, including penalties. This section shall not apply to permits relating to emergency septic repairs.

(B) (1) A permit shall be obtained before beginning construction, alteration or repair of any building or structure using forms furnished by the Building Commissioner.

(2) All permits shall be issued by the Building Commissioner and all fees provided for herein shall be paid to the county.

(C) All work done under any permit issued hereunder shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits hereinafter provided for, there shall be paid the fees prescribed in the ordinances and/or appendixes.

(D) Prior to the issuance of any building permit hereunder, the Building Commissioners shall review all building permit applications to determine full compliance with the provisions of this chapter and any other applicable ordinances.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87; Am. Ord. 87-03, passed 9-14-04; Am. Commissioners Ord. 2008-08, passed 6-23-08)

§150.07 INSPECTIONS

(A) After the issuance of any building permit hereunder, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done under the permit as are

necessary to insure full compliance with the provisions of this chapter and the terms of the permit.

(B) Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this chapter.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

§150.08 ENTRY

Upon presentation of proper credentials, the Building Commissioner or his or her duly authorized representative s may enter at reasonable times any building, structure or premises in the county to perform any duty imposed upon him or her by this chapter. (Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

§150.09 STOP ORDER

Whenever any work is being done contrary to the provisions of this chapter, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing the work to be done, and any persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

§150.10 CERTIFICATE OF OCCUPANCY

No final approval of construction for any building or structure erected, altered or repaired after the adoption of this chapter shall be issued unless the building or structure was erected, altered or repaired in compliance with the provisions of this chapter.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

§150.11 STANDARDS

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

§150.12 VIOLATIONS

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sublessee or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the county or

cause or permit the same to be done, contrary to or in violation of the provisions of this chapter. (Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87) Penalty, see § 150.99

§150.13 RIGHT OF APPEAL

All persons shall have the right to appeal the Building Commissioner's decision first through the County Commissioners and then to the State Fire Prevention and Building Safety Commission in accordance with the provisions of I.C. 22-13-2-7 or I.C. 4-21.5-3-7, as applicable.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

§150.14 REMEDIES

The Building Commissioner shall, in the name of the County Commissioners, bring actions in the County Circuit Court for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders, made by the Building Commissioner and any action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

§150.99 PENALTY

If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this chapter, for each violation, failure or refusal, such person, firm or corporation shall be fined in the sum of \$50. Each day of such unlawful activity as is prohibited shall constitute a separate offense.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

APPENDIX: PERMIT FEES

§ 1 Fees.

(A) The fee for all permits (other than WECS Towers or Substations) shall be as follows:

(1) 1&2 Family Dwelling	\$150.00 base rate Plus \$.10/sq ft living space
(2) Multiple Unit (3 or more)	\$200.00 base rate Plus \$.10/sq ft living space Each additional unit \$100.00
(3) Commercial	\$300.00 base rate Plus \$.10/ sq ft (includes Comm Pole Buildings)
(a) Commercial Addition or Remodel	\$200.00 base rate Plus \$.10/sq ft
(4) Manufactured Housing	\$100.00 base rate
(5) Additions (residential)	\$100.00 base rate Plus \$.05/sq ft living space
(6) Garages	\$100 base rate Plus \$.05/sqft
(7) Pole Bldgs	\$100.00 base rate Plus \$.05/sqft
(8) Remodel with structural	\$50.00 base rate
Structural changes	Plus \$.05/sqft
Stormwater Inspection	\$40.00
Stormwater Review	\$80.00/hr
Floodplain Permit	\$100.00
Floodplain Inspection	\$40.00
Electrical Inspection	\$50.00
Demolition Permit	\$30.00
Additional Inspections	\$30.00

(B) Notwithstanding the provisions of paragraph (A) above, the maximum fee for any building permit shall be \$30,000.00. This limit shall not apply to permits for WECS Towers or Substations under paragraph (C) below.

(C) The building permit applicable to “WECS Towers” and “Substations” (as those terms are defined by Chapter 155 of this Code of Ordinances) shall be as follows:

- (1) WECS Tower: \$1,750.00 per megawatt of generating capacity
- (2) Substation: \$300.00

Building Permit Expiration (Permit valid for one year) A re-issue fee of \$20.00 is required after one year from issue date.

Building Permit Exemptions

The following projects are exempt from building permits:

- 1) Portable buildings without electricity
- 2) Roofing projects with no structural changes
- 3) Siding and window replacement projects with no structural changes
- 4) Redecorating projects
- 5) Portable agricultural buildings with no electricity
- 6) Any non-electrical building project under \$2,000.00 in value

(Ord. 87-3, passed 9-14-04; Am. Commissioners Ord. 2007-02, passed 6-29-07; Am. Commissioners Ord. 2008-10, passed 6-9-08; Am. Commissioners Ord. 2009-6, passed 7-27-09)

CHAPTER 151: FLOOD HAZARD AREAS

Section

General Provisions

- 151.01 Statutory authorization
- 151.02 Purpose
- 151.03 Definitions
- 151.04 Administrator; duties
- 151.05 Regulatory flood elevation
- 151.06 Disclaimer of liability
- 151.07 Abrogation and greater restrictions

Flood Damage Prevention

- 151.20 Preventing increased damages
- 151.21 Protecting buildings
- 151.22 Development requirements

Administration and Enforcement

- 151.35 Improvements location permit
- 151.36 Variances
- 151.37 Violations

Cross-reference:

Floodplain Commission, see § 33.09

Stormwater Drainage, see Chapter 154

Flood Ordinance Review Account, see § 35.11

GENERAL PROVISIONS

§151.01 STATUTORY AUTHORIZATION

The Indiana Legislature granted the power to local units of government to control land use within their jurisdictions in order to accomplish the following provisions.

(Ord. 4-1997, passed 4-15-97)

§151.02 PURPOSE

(A) The purpose of this chapter is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards and to reduce the potential for extraordinary public expenditures for flood protection and relief.

(B) Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the County Board of Commissioners hereby adopts the following floodplain management regulations in order to accomplish the following:

- (1) To prevent unwise developments from increasing flood or drainage hazards to others;
- (2) To protect new buildings and major improvements to buildings from flood damage;
- (3) To protect human life and health from the hazards of flooding;
- (4) To lessen the burden on the taxpayer for flood control projects, repairs to flood damaged public facilities and utilities and flood rescue and relief operations;
- (5) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- (6) To make federal subsidized flood insurance available for structures and their contents in the county by fulfilling the requirements of the National Flood Insurance Program.
(Ord. 4-1997, passed 4-15-97)

§151.03 DEFINITIONS

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

BUILDING. See ***STRUCTURE.***

DEVELOPMENT. Any manmade change to improved or unimproved real estate including, but not limited to:

- (1) Construction, reconstruction or placement of a building or any addition to a building;
- (2) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

- (3) Installing utilities, erection of walls and fences, construction of roads or similar projects;
- (4) Constructions of flood control structures such as levees, dikes, dams, channel improvements and the like;
- (5) Mining, dredging, filling, grading, excavation or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Storage of materials; or
- (8) Any other activity that might change the direction, height or velocity of flood or surface waters.

DEVELOPMENT. Does not include activities such as the maintenance of existing buildings and facilities such as painting; re-roofing; resurfacing of roads; or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation or the construction of permanent buildings.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed before the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

FBFM. Flood boundary and floodway map.

FEMA. Federal Emergency Management Agency.

FHBM. Flood hazard boundary map.

FIRM. Flood insurance rate map.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation or the runoff of surface waters from any source.

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The **FLOODPLAIN** includes both the floodway and the floodway fringe districts.

FLOOD PROTECTION GRADE or **FPG.** The elevation of the regulatory flood plus two feet at any given location in the **SFHA**.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FLOODWAY FRINGE. Those portions of the floodplain lying outside the floodway.

LETTER OF MAP AMENDMENT or **LOMA.** An amendment to the currently effective **FEMA** map that establishes that a property is not located in a special flood hazard area. A **LOMA** is only issued by **FEMA**.

LETTER OF MAP REVISION or **LOMR.** An official revision to the currently effective **FEMA** map. It is issued by **FEMA** and changes flood zones, delineations and elevations.

LOWEST FLOOR. The lowest of the following:

- (1) The top of the basement floor;
- (2) The top of the garage floor, if the garage is the lowest level of the building;
- (3) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
- (4) The top of the first floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding (The bottom of all openings shall be no higher than one foot above grade.); and

(b) The enclosed space shall be usable for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or towable by a light truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel or seasonal use.

REGULATORY FLOOD. The flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the State Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 151.05. The **REGULATORY FLOOD** is also known by the term **BASE FLOOD**.

SFHA or **SPECIAL FLOOD HAZARD AREA.** Those lands within the jurisdiction of the county that are subject to inundation by the regulatory flood. The SFHAs of the county are generally identified as such on the flood hazard boundary map of the county prepared by the Federal Emergency Management Agency and dated October 13, 1978.

STRUCTURE. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home or prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not include improvement of structures to correct existing violations of state or local health, sanitary or safety code requirements or any alteration of as “historic structure,” provided that the alteration will not preclude the structures continued designation as a “historic structure.” (Ord. 4-1997, passed 4-15-97)

§151.04 ADMINISTRATOR; DUTIES.

The County Building Administrator is appointed to review all developments and subdivision proposals to ensure compliance with this chapter, including, but not limited to the following duties:

- (A) Ensure that all development activities within the SFHAs of the jurisdiction of the county meet the requirements of this chapter;
- (B) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- (C) Ensure that construction authorization has been granted by the State Natural Resources Commission for all development projects subject to § 151.20 and maintain a record of the authorization, either copy of actual permit or letter of recommendation;
- (D) Maintain a record of the “as built” elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA and inspect the site before, during and after construction;
- (E) Maintain a record of the engineer’s certificate and the “as built” floodproofed elevation of all buildings subject to § 151.21;
- (F) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this chapter and submit reports as required for the National Flood Insurance Program;
- (G) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, LOMAs, LOMRs, copies of DNR permits and letters and recommendation, federal

permit documents and “as built” elevation and floodproofing data for all buildings constructed subject to this chapter; and

(H) Notify adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse and submit copies of the notifications to FEMA. (Ord. 4-1997, passed 4-15-97)

§151.05 REGULATORY FLOOD ELEVATION

(A) This chapter’s protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

(B) The regulatory flood elevation and floodway limits for each of the SFHAs, delineated as “Zone A” on the flood hazard boundary map of the county, shall be according to the best data available as provided by the Department of Natural Resources. (Ord. 4-1997, passed 4-15-97)

§151.06 DISCLAIMER OF LIABILITY

(A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions.

(B) Therefore, this chapter does not create any liability on the part of the community, County Board of Commissioners, Natural Resources Commission or the state for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder. (Ord. 4-1997, passed 4-15-97)

§151.07 ABROGATION AND GREATER RESTRICTIONS

This chapter repeals and replaces other ordinances adopted by the County Board of Commissioners to fulfill the requirements of the National Flood Insurance Program. However, this chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this chapter repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this chapter and other ordinance easements, covenants or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the County Board of Commissioners shall assure that all National Flood Insurance Program regulations and laws, I.C. 14-28-1 and I.C. 14-28-3 are met.

(Ord. 4-1997, passed 4-15-97; Am. Commissioners Ord. 2008-1, passed 2-11-08)

FLOOD DAMAGE PREVENTION

§151.20 PREVENTING INCREASED DAMAGES

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(A) Within the floodway identified on the flood boundary and floodway map, the flood insurance rate map or engineering analysis, as provided in § 151.35, shall apply:

(1) No development shall be allowed which acting alone or in combination with existing or future development will cause any increase in the elevation of the regulatory flood.

(2) For all projects involving channel modifications or fill (including levees), the county shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(B) (1) Within all SFHAs identified as “A Zones” (no 100-year flood elevation and/or or floodway/floodway fringe delineation has been provided) the following standard shall apply.

(2) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth of one foot and will not increase flood damages or potential flood damages.

(C) (1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants or other hazardous or toxic materials below the flood protection grade unless the materials are stored in a floodproofed storage tank or building constructed according to the requirements of § 151.22.

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

(Ord. 4-1997, passed 4-15-97)

§151.21 PROTECTING BUILDINGS

(A) In addition to the damage prevention requirements of § 151.20, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

(B) This building protection requirement applies to the following situations:

- (1)** Construction or placement of any new building having a floor area greater than 400 square feet;
- (2)** Structural alterations made to:
 - (a)** An existing previously unaltered building, the cost of which equals or exceeds 50% of the value of the pre-altered building, excluding the value of the land; and
 - (b)** Any previously altered building.
- (3)** Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building, excluding the value of the land, before damage occurred;
- (4)** Installing a manufactured home on a new site or a new manufactured home on an existing site (This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.); and
- (5)** Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(C) This building protection requirement may be met by one of the following methods. The Building Administrator shall maintain a record of compliance with these building protection standards as required in § 151.04.

- (1)** A residential or nonresidential building may be constructed on a permanent landfill in accordance with the following:
 - (a)** The fill shall be placed in layers no greater than one-foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
 - (b)** The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.
 - (c)** The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The top of the lowest floor including basements shall be at or above the FPG.

(2) A residential or nonresidential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls or other types of similar foundation provided:

1. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings, in addition to doorways and windows, having a total area of one square feet of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade.

2. Any enclosure below the elevated floor is used for storage of vehicles and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice and floating debris.

(c) All areas below the FPG shall be constructed of materials resistant to flood damages. The top of the lowest floor, including basement, and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the FPG.

(3) Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral

movement. This requirement applies to all manufactured homes to be placed on a site:

- (i) Outside a manufactured home park or subdivision;
- (ii) In a new manufactured home park or subdivision;
- (iii) In an expansion to an existing manufactured home park or subdivision; or
- (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.

(4) This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) Recreational vehicles placed on a site shall either:

- (a) Be on the site for less than 180 consecutive days;
- (b) Be fully licensed and ready for highway use, defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions; or
- (c) Meet the requirements for “manufactured homes” herein.

(6) A nonresidential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

- (a) A registered professional engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood.
- (b) The building design shall take into account flood velocities, duration, rate

of rise, hydrostatic pressures and impacts from debris or ice.

(c) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(Ord. 4-1997, passed 4-15-97)

§151.22 DEVELOPMENT REQUIREMENTS

(A) The Building Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Floodplain Administrator finds the subdivision to be so located, the Floodplain Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Floodplain Administrator shall require appropriate changes and modifications in order to assure that:

- (1) It is consistent with the need to minimize flood damages;
- (2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
- (4) Onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(B) Developers shall record the 100-year flood elevation on all subdivision plats containing lands identified elsewhere by this chapter within a flood hazard area prior to submitting the plats for approval by the Board of Commissioners.

(C) All owners of manufactured home parks or subdivisions located within the SFHA, identified as Zone A on the community's FHMB or FIRM, shall develop an evacuation plan for those lots located in the SFHA and file it with the Building Administrator and have it filed with and approved by the appropriate community emergency management authorities.

(Ord. 4-1997, passed 4-15-97)b

ADMINISTRATION AND ENFORCEMENT

§151.35 IMPROVEMENT LOCATION PERMIT

(A) No person, firm, corporation or governmental body not exempted by state law shall commence any “development” in the SFHA without first obtaining an improvement location permit from the Building Administrator. The Building Administrator shall not issue an improvement location permit if the proposed “development” does not meet the requirements of this chapter.

(B) The application for an improvement location permit shall be accompanied by the following:

- (1) A description of the proposed development;
- (2) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
- (3) A legal description of the property site;
- (4) A site development plan showing existing and proposed development locations and existing and proposed land grades; and
- (5) Elevation of the top of the lowest floor, including basement, of all proposed development. Elevation should be in NGVD or NAVD. In either case the conversion formula should be included.

(C) Upon receipt of an application for an improvement location permit, the Building Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.

- (1) If the site is in an identified floodway the Building Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving and the like undertaken before the actual start of construction of the building. No action shall be

taken by the Building Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Building Administrator may issue the local improvement location permit, provided the provisions contained in §§ 151.20 and 151.21 have been met. The improvement location permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) If the site is located in an identified floodway fringe, then the Building Administrator may issue the local improvement location permit provided the provisions contained in §§ 151.20 and 151.21 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(3) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is greater than one square mile, the Building Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment. No action shall be taken by the Building Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended FPG has been received from the Department of Natural Resources. Once the Building Administrator has received the proper permit or letter of recommendation approving the proposed development, an improvement location permit may be issued provided the conditions of the improvement location permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in §§ 151.20 and 151.21 have been met.

(4) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Building Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year elevation for the site. Upon receipt, the Building Administrator may issue the local improvement location permit provided the provisions contained in §§ 151.20 and 151.21 have been met.

(D) Prior to issuing any improvement location permit, the applicant or owner of the real estate on which the “development” will be located, shall be required to obtain from Montgomery County Treasurer a certificate of clearance verifying that the applicant or owner is not delinquent in the payment of any personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator shall withhold issuance of an improvement location permit until any delinquent personal property,

any delinquent real estate taxes, drainage assessments or other special assessments taxes owned by the applicant or owner are paid in full, including penalties.
(Ord. 4-1997, passed 4-15-97; Am. Commissioners Ord. 2008-8, passed 6-23-08)

§151.36 VARIANCES

(A) The Board of County Commissioners may consider issuing a variance to the terms and provisions of this chapter, provided the applicant demonstrates that:

- (1)** There exists a good and sufficient cause for the requested variance;
- (2)** The strict application of the terms of this chapter will constitute an exceptional hardship to the applicant; and
- (3)** The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public or conflict with existing laws or ordinances.

(B) The Board of County Commissioners may issue a variance to the terms and provisions of this chapter subject to the following standards and conditions:

- (1)** No variance or exception for a residential use within a floodway subject to § 151.20 (A) or (B) may be granted.
- (2)** Any variance or exception granted in a floodway subject to § 151.20 (A) or (B) will require a permit from the Natural Resources Commission.
- (3)** Variances or exceptions to § 151.21 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (4)** Variances or exceptions maybe granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects.
- (5)** All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction.
- (6)** The Board of County Commissioners shall issue a written notice to the recipient of a

variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.
(Ord. 4-1997, passed 4-15-97)

§151.37 VIOLATIONS

(A) Failure to obtain an improvement location permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the laws of the state.

(B) A separate offense shall be deemed to occur for each day the violation continues to exist.

(C) The Building Administrator shall inform the owner that any violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(D) Nothing herein shall prevent the county from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible (Ord. 4-1997, passed 4-15-97)

CHAPTER 152: SUBDIVISIONS

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§152.01 PURPOSE

This chapter is enacted to regulate the division of land within the county. The Plan Commission and the county shall have all the powers and duties with respect to preliminary and final plats of subdivisions and the procedures relating thereto which are specified by the laws of the state. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the protection of the public health, safety and general welfare, by providing for the orderly and harmonious development of the county, for the coordination of subdivision streets with existing and planned streets or highways; for the coordination with the extension of community facilities and utilities; for the establishment of similar requirements for the area and dimensions of lots and blocks within subdivisions; and for the provision of adequate and suitably located open space for schools, parks and other recreation and for adequate drainage, and protection of the water table, water sources, and the environment. (Ord. passed 4-21-03)

§152.02 ADMINISTRATION

(A) No plat or re-plat of a subdivision of land located within the jurisdiction of this chapter shall be recorded until it has been approved by the County Plan Commission and such approval has been entered in writing on the plat by the President of the Plan Commission and the Building Administrator.

(B) In determining whether an application for approval of a subdivision plat shall be granted, the Plan Commission shall determine that the plat is in accordance with the principles and standards required in this chapter which shall be deemed as minimal; and whenever the applicable requirements of other adopted ordinances are higher or more restrictive, those requirements shall prevail.

(1) Before granting approval of any subdivision, the Plan Commission shall be satisfied that the proposed subdivision meets the criteria set forth in all other applicable ordinance including, but not limited to the Storm Drainage erosion and Sediment Control Ordinance, the 91-1 Re-addressing Ordinance, Chapter 150, Chapter 151, Chapter 153, local and state building codes, local and state health codes, and county highway specifications, if applicable.

(2) Due consideration shall be given to the prevention of air and stream pollution, proper treatment and disposal of refuse and other waste, pursuant to federal, state, and local guidelines.

(3) Land may be considered by the Plan Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formations, topography, or any other feature harmful to the health and safety of potential residents and/or or the community as a whole.

(4) No land shall be subdivided for residential use unless adequate access to the land over approved streets or thoroughfares exists or will be provided by the subdivider.
(Ord. passed 4-21-03)

§152.03 JURISDICTION

This chapter shall apply to all land in the county except incorporated areas and unincorporated land within the two-mile zone established around the City of Crawfordsville.
(Ord. passed 4-2103)

§152.04 DEFINITIONS

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

AREA LOT. The total square foot of a lot measured from lot line to lot line.

BENCH MARK. A monument for which an accurate elevation has been established and recorded on the plat.

BUILDING. An enclosed structure of a permanent foundation having a roof supported by a permanent foundation, columns or walls for the permanent shelter of persons, animals or property.

BUILDING ADMINISTRATOR. The County Building Administrator or designate.

BUILDING LINE. A line established parallel to a street right-of-way line which defines the area to be provided between the front wall of a building or structure and the street right-of-way line.

BUSINESS OR INDUSTRIAL PURPOSE. Subdivision to facilitate construction of one or more Class I structures as defined by 675 I.A.C. 12-6-2, State Building Code. Generally any building or structure that is intended to be or is occupied or otherwise used in any part by any of the following: the public, three or more tenants, and/or one or more persons who act as employees of another.

COUNTY. Montgomery County, Indiana, excluding the City of Crawfordsville, the two-mile limit and any other incorporated towns or municipalities.

DRAINAGE BOARD. The County Drainage Board.

EASEMENT. A grant by a property owner to the public, a corporation or persons of the use of a strip or an area of land for specified uses and purposes. The easement includes areas set aside for access, drainage, recreational or seating purposes or for utilities.

EASEMENT OF ACCESS. An open, unoccupied space or private way other than a street, alley or place which is permanently reserved as the principal or secondary means of access to abutting property, the terms of which are of public record.

LOT. An undivided tract or area within a subdivision bounded by property lines and fronting on a public street or way designated by the subdivider as a tract to be offered as a unit of land for transfer of ownership, for occupancy or development.

LOT WIDTH. The dimension of a lot as measured between side lot lines at the building line.

PLAT. A map or plan indicating graphically a proposed subdivision or re-subdivision of land.

RECORDER. The County Recorder.

RESIDENTIAL. Subdivision to facilitate construction of Class II structures as defined by the State Residential Code, or manufactured and mobile units. Generally any structure not classified as a Class I structure as defined by 675.I.A.C. 12-6-2, State Building Code.

STREET. A public owned and/or maintained way intended to provide permanent primary and secondary means of access to lots fronting upon it.

SUBDIVIDER. Any individual, firm, association, syndicate, co-partnership, corporation, trustor any other legal entity commencing proceedings under the terms of this chapter to effect a subdivision of land.

SUBDIVISION. The division of a single lot, tract, or parcel of land or part thereof, into four or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of transfer of ownership for residential purposes; or the division of a single lot, tract, or parcel of land or part thereof into two or more lots, tracts, or parcels of land for the purpose, whether

immediate or future, of transfer of ownership for business or industrial purposes. Parcelization for agricultural purposes is excluded.

USE. The purpose for which land or structures are designed, arranged or intended to be occupied, used or for which they are occupied, maintained, rented or leased.
(Ord. passed 4-21-03)

APPLICATION PROCEDURES

§152.15 MODIFICATIONS

Where the rigid enforcement of the requirements, standards and specifications imposed by this chapter would result in extraordinary hardship or deny the reasonable use of the land involved therein due to unusual conditions of topography or other exceptional conditions peculiar to the site, the Plan Commission may modify or vary the requirements of this chapter as they would apply to individual lots or areas of the proposed subdivision.
(Ord. passed 4-21-03)

§152.16 PRE-APPLICATION

From the standpoint of economy of time and money, it is highly recommended that the subdivider consult early and informally with the Building Administrator for advice and assistance. This will enable the subdivider to become familiar with the requirements of these and other regulations as they affect the area and will prevent unnecessary and costly revisions. The subdivider should present a sketch in inexpensive and tentative form showing in a general way the proposed development and the existing conditions within the area proposed for subdivision of all surrounding lands, but this procedure is not mandatory. This shall not require formal application, fee or filing of a preliminary plat, nor shall it be deemed a preliminary plat. (Ord. passed 4-21-03)

§152.17 APPLICATION

A subdivider desiring approval of a plat of a subdivision of any land lying within the county shall submit a written application for a certificate of approval and five copies of a preliminary plat of the subdivision to the Building Administrator at least 20 days before the meeting at which the Commission is expected to consider the application and plat.
(Ord. passed 4-21-03)

§152.18 FEE

At the time of filing an application for approval of the preliminary plat, the application shall be accompanied by an application fee of \$150 for proposed residential subdivision or \$300 for subdivisions for business or industrial purposes. Checks should be made payable to the County Subdivision Fund. No application fees will be refunded.
(Ord. passed 4-21-03)

§152.19 PUBLIC HEARING

If the Plan Commission is satisfied that the standards of this chapter have been met, they shall set a date for hearing for the Commission giving written notice to the applicant and notify by general publications or otherwise, any person or governmental unit having a probable interest in the proposed plat prior to the date set for the hearing. The costs of publishing notice of hearing shall be paid by the applicant prior to the approval of the preliminary plat.
(Ord. passed 4-21-03)

§152.20 IMPACT ASSESSMENTS

After reviewing an application, the Plan Commission may require that impact assessments be done for discussion at the time of the public hearing. Impact assessment shall be performed by qualified professional with training, experience, and expertise in the field relevant to the specific section of the study in which work shall be performed. The Plan Commission shall mandate such studies at the expense of the applicant. Qualified professionals shall be preapproved by the Building Administrator. Such assessment may include any of the following: traffic and transportation; tax base; water and sewer service; fire, police, and emergency services; schools; park; environmental health and natural resources. Any additional expense necessary to ensure adequate information, reports, or plans shall be met by the applicant.
(Ord. passed 4-21-03)

§152.21 STEPS FOR SUBDIVISION APPROVAL

Steps for subdivision approval:

- (A) Application for subdivision submitted to the Building Administrator/Plan Commission.
- (B) General presentation of the proposed development to the Plan Commission.
- (C) Concept approval by the Plan Commission.
- (D) (1) *Storm approval*: Building Department and Drainage Board.

- (2) *Flood Ordinance approval*: Building Department
 - (3) *Sugar Creek Ordinance approval*: Building Department.
 - (4) *Sewer/well approval*: Health Department
 - (5) *Road/street approval*: Highway Department
 - (E) Impact assessment reports, if required.
 - (F) Plan Commission hearing.
 - (G) Preliminary approval or disapproval of Plan Commission.
 - (H) Construction of infrastructure/posting of bonds.
 - (I) Site inspection.
 - (J) Engineer certificate.
 - (K) Final plat approval.
 - (L) Signing of certificates.
 - (M) Recording of final plat.
 - (N) Permits for improvements may be issued.
- (Ord. passed 4-21-03)

PLATTING PROCEDURES

§152.35 PLAT REQUIREMENTS

(A) *Preliminary Plat Plans.* The primary plat shall be required as part of any application for primary plat approval. If applicable, the applicant shall submit proof of secured public sewer and/or public water connection. The plat shall be drawn at a scale of 50 feet to 1 inch, except that when the drawing at the scale requires more than 1 sheet, the plat may be drawn at a scale of 100 feet to 1 inch. Sheets shall not exceed 24 inches by 36 inches in size. The Primary Plat shall be prepared and certified by a land surveyor and/or a professional engineer registered by the state. A primary subdivision plat shall be submitted showing the following, but not limited to:

- (1)** The proposed name of the subdivision.
- (2)** Names and addresses of the owner, subdivider, and consulting engineer, land surveyor, or planning firm that prepared the plan;
- (3)** Legend and notes including the scale, north point, and date;
- (4)** Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners;
- (5)** Existing use of the tract and all contiguous tracts surrounding the proposed subdivision;
- (6)** All section and municipal corporate boundaries lying within or contiguous to the tract;
- (7)** Topographic contours at typical intervals of one foot if the general slope of the tract is less than 5% or intervals of two feet if the slope is in excess of 5%. Said contours shall be referenced to mean sea level elevations;
- (8)** Layout of lots, showing dimensions and numbers and square footage of each lot;
- (9)** Building lines showing setback dimensions throughout the subdivision;
- (10)** Parcels of land proposed to be dedicated or reserved for schools, open space

(indicating its use as park, playground, natural area, or other) or other public, semi-public or community purposes;

(11) Streets, rights-of-way, and driveways within 500 feet of the site of the gradients, types and widths of pavements, curbs, sidewalks, and horizontal curve radii;

(12) Existing and proposed easements including the location, width, and purpose of such easements;

(13) Location, size, and capacity of any public sewer and/or water utilities, if such facilities are available;

(14) Location of natural streams, regulated drains, floodplain, pipelines, power lines, and the like;

(15) A description of the surface drainage system to an approved outlet, including data showing that said outlet is adequate to accommodate the drainage requirements of the finished subdivision. Arrows designated the general drainage of all streets and lots shall be included;

(16) Location of any subsurface drainage required under the County Health Code and/or Chapter 154, or amendments hereto showing the location of all easements and all data pertaining to the size and capacity of such drainage.

(17) The boundaries and numbers of sections shall be shown if the primary plat is to be divided into sections or phases of development;

(18) Protective covenant and restrictions which are properly prepared and legally sound shall be subject to the approval of the Plan Commission; and

(19) Bufferyard, lighting and parking plans, if applicable.

(B) Secondary Plat Plans. The plat shall be drawn at a scale of 50 feet to 1 inch, except that when the drawing at that scale requires more than 1 sheet, the plat may be drawn at a scale of 100 feet to 1 inch. Sheets shall not exceed 34 inches by 44 inches in size. The secondary plat shall be prepared and certified by a land surveyor and/or a professional engineer registered by the state. The secondary plat may include all or only a part of the primary plat which has received approval. The following information shall be shown on the secondary plat, but not limited to:

- (1)** The name of subdivision and section number followed by the words “secondary plat;
- (2)** Accurate boundary lines, with dimension and angles, which provide a legal survey of the tract, closing with an error of not more than 1 foot in 5,000 feet;
- (3)** Accurate distances and directions to the nearest official monument. Reference corners shall be accurately described on the plan;
- (4)** Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;
- (5)** Accurate meters and bounds description of the tract boundary;
- (6)** Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder.
- (7)** Street names;
- (8)** Complete curve data for all curves included in the plan;
- (9)** Street lines with accurate dimensions in feet and hundredths of feet with angels to street, alley, and lot lines;
- (10)** Lot numbers and dimensions including the square footage of each lot;
- (11)** Accurate locations of easements for utilities and any limitations on such semi-public or community use;
- (12)** Accurate dimensions and plans for any property to be dedicated or reserved for open space or other public, semi-public, or common use;
- (13)** Building lines and setback dimensions throughout the subdivision;
- (14)** Location, type, material, and size of all monuments and markers;
- (15)** Plans and specifications for the improvements required in this chapter;
- (16)** Final protective covenants and restrictions which are properly prepared and legally

sound which shall be incorporated into the plat and restrictions of all types which will run with the land and become covenants in the deed for lots;

(17) Name and address of the owner and subdivider;

(18) North point, scale, and date;

(19) Certification of dedication of streets and other public property;

(20) Final landscaping, lighting or parking plans shall be incorporated in secondary plat design plans when requested by the Plan Commission;

(21) Certificate of approval by the Plan Commission;
(Ord. passed 4-21-03)

§152.36 PRELIMINARY PLAT APPROVALS

(A) *Decision by the Plan Commission.* Within 30 days of the public hearing concerning an application for approval of a subdivision plat, the Plan Commission shall notify the applicant in writing stating whether the primary plat is approved or disapproved.

(B) *Approval.* If the Plan Commission determines that the primary plat complies with the standards set forth in this chapter, it shall make written findings of fact and a decision granting primary approval to the plat.

(1) The Plan Commission may introduce such changes or revisions as are deemed necessary to the best interest and general welfare of the community.

(2) Approval of a primary plat shall be effective for a maximum period of two years unless, upon application of the applicant the Plan Commission grants an extension. The Plan Commission may extend approval of a primary plat to a maximum of four years without further notice, public hearing, or fees.

(3) Approval of a primary plat shall be effective for a maximum period of two years unless, upon application of the applicant the Plan Commission grants an extension. The Plan Commission may extend approval of a primary plat to a maximum of four years without further notice, public hearing, or fees.

(C) *Disapproval.* If the Plan Commission disapproves a primary plat application, the Plan Commission shall make written findings of fact and notify the applicant in writing, stating the specific reasons for disapproval. This written notice shall be signed by the President of the Plan Commission.

(1) The applicant shall be required to observe a one-year waiting period before refilling a primary plat which has been disapproved by the Plan Commission.

(2) The original applicant may submit a new application for primary plat approval in accordance with established rules of procedure.

(Ord. passed 4-21-03)

§152.37 FINAL PLAT APPROVAL

(A) *Decision by the Plan Commission.* Within 60 days after application for approval of the secondary plat, the Plan Commission shall approve or disapprove it.

(B) *Approval.* If the Plan Commission determines that the plat complies with the standards of this chapter, it shall make written findings of fact and a decision granting secondary approval to the plat. After performance surety has been posted, if necessary, the plat shall be certified on behalf of the Plan Commission by the President who shall sign the plat original and all other relevant documents which also may require such a signature. One copy of the certified plat shall be forwarded to each of the following persons:

- (1) The County Building Administration;
- (2) The County Surveyor;
- (3) The County Auditor;
- (4) The appropriate public utilities that may be affected;
- (5) The subdivider or applicant; and
- (6) The file of the Plan Commission.

(C) *Disapproval.* If the Plan Commission disapproves the secondary plat, it shall make written findings of fact and notify the applicant in writing, stating the specific reasons for disapproval. This written notice shall be signed by the President of the Plan Commission.
(Ord. passed 4-21-03)

§152.38 RECORDING

A plat of a subdivision may not be filed with the County Auditor and the County Recorder may not record it, unless it has been granted secondary approval by the Plan Commission and has been properly signed by the President of the Plan Commission. The filing and recording of the plat is without legal effect unless approved by the Plan Commission.
(Ord. passed 4-21-03)

§152.39 BONDING

(A) The final plat shall contain a certificate signed by a registered professional engineer stating that all the improvements have been installed in accordance with the requirements of this chapter and in accordance with the approved preliminary plat; or surety acceptable to the Plan Commission in the form of a bond shall be posted, payable to county and in an amount as determined by the Plan Commission, sufficient to assure completion of all required improvements within two years from date of Plan Commission Approval.

(B) The surety shall not be released until the subdivider has provided the Plan Commission with the certificate specified.
(Ord. passed 4-21-03)

§152.40 REQUIRED CERTIFICATES

(A) A certificate of approval shall be given by the Plan Commission upon completion of a preliminary plat.

(B) A certificate of dedication, certificate of acknowledgement, land surveyor's certificate, certificate of inspection and certificate of approval shall be given to the Plan Commission upon completion of a secondary plat.
(Ord. passed 4-21-03)

REGULATION AND DESIGN

§152.50 UNSUITED LAND

No land shall be subdivided for residential use if the land is considered by the Commission to be unsuitable for the use by reason of flooding or improper drainage for objectionable rock or

earth formation, topography or other features harmful to the health, safety and welfare of possible residents and the community as a whole.
(Ord. passed 4-21-03)

§152.51 PERMANENT MONUMENTS

Permanent monuments should be placed at two adjacent corners of the subdivisions. The monuments are to be at least four inches in diameter and should extend in length to a depth of 36 inches in the ground with a cross or iron pin on top to indicate the corner point. The monuments shall be made to concrete or other weather resisting material.
(Ord. passed 4-21-03)

§152.52 LOTS

(A) Lot Area.

- (1)** A lot in any subdivision as herein defined that is served by a community sanitary sewer system approved by the State Board of Health shall not have a minimum lot area of less than 7,000 square feet.
- (2)** A lot in any subdivision as herein defined that is served by private sewage disposal facilities shall not have a minimum lot area of less than one acre.

(B) Iron Pins. Iron pins shall be placed at all corners of original tract and subdivision where monuments are not placed and also at all lot corners. The pins shall be of solid material at least 30 inches in length and one-half inch in diameter.

(C) Boundary Lines. No lot shall be divided by a city or county boundary line.

(D) Lot Numbers. Lot shall be numbered consecutively throughout the subdivision.

(E) Lot Side Lines. Side lines of all lots, so far as possible, shall be at right angles to the street which the lots face, radial or approximately radial if the street is curved.

(F) Building Setback. Building setback lines from all streets shall be required by the Commission, but in no case shall be less than 25 feet.

(G) Side Yards. A side yard on interior lots from the side building line to the side property line shall be required and in no event shall be less than 8 feet or 10% of the lot width, whichever is less.
(Ord. passed 8-6-02; Ord. passed 04-21-03)

§152.53 ROADS AND STREETS

All constructed roads and streets included as part of a regulated subdivision shall meet the requirements of the Montgomery County Highway specifications.
(Ord. passed 4-21-03)

§152.54 INTERSECTIONS

(A) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 8 feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and line connecting points 25 feet from the intersection of the street lines extended. The same sight-line limitations shall apply to any lot within 10 feet from the intersection of a street line with the edge of a driveway pavement or ally line.

(B) No more than 2% grade within the intersection from 50 feet to 100 feet each way from intersection, it shall not be over 4% grade and 6% maximum between 100 and 150 feet of intersection.

(C) Ninety-degree intersections are preferred and less than sixty degrees prohibited. (Ord. passed 4-21-03)

§152.55 OFF-STREET PARKING

Ample off-street parking facilities shall be provided for each residential or commercial lot of not less than two vehicle spaces for each single-family dwelling unit.
(Ord. passed 4-21-03)

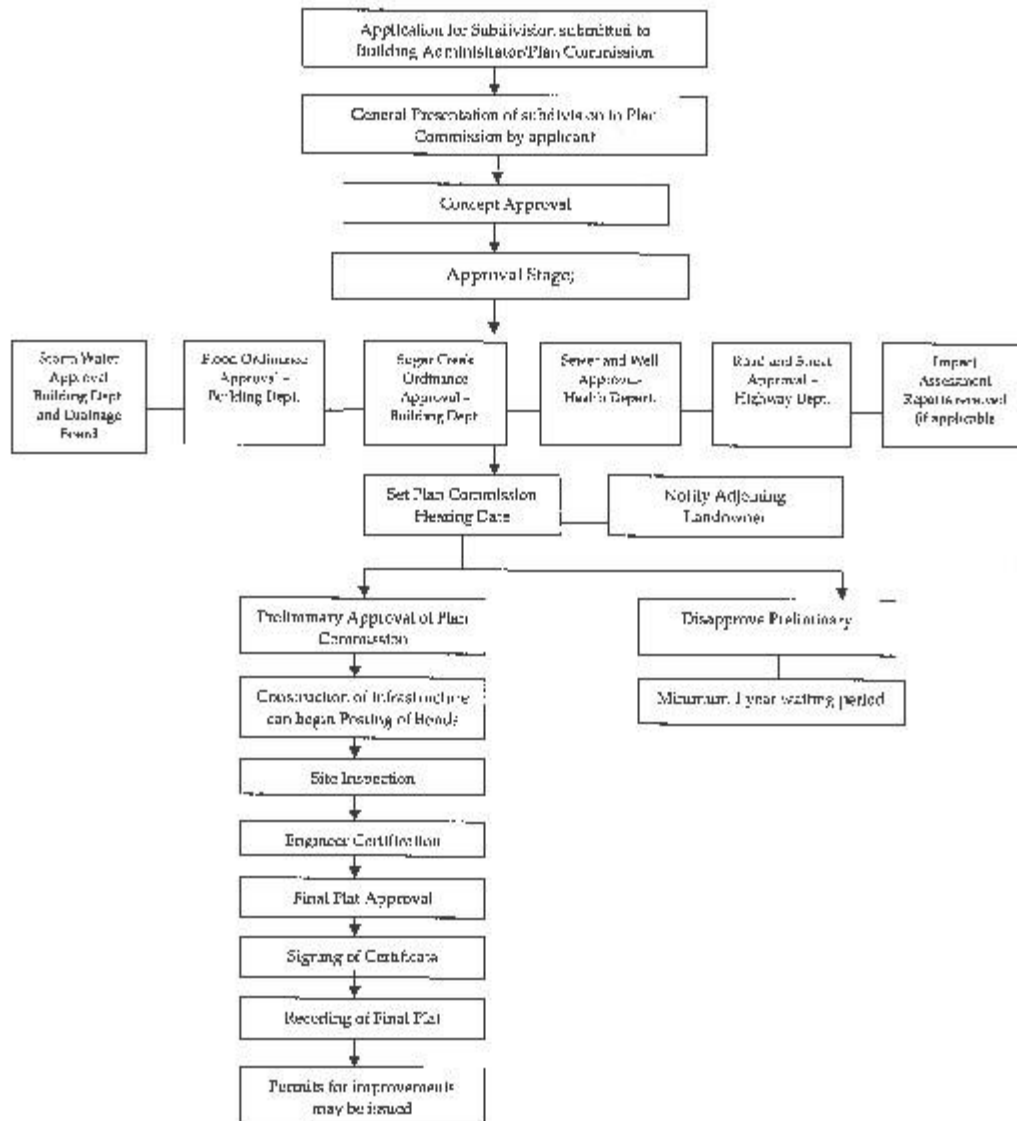
§152.56 EASEMENTS

Proper easements shall be provided for public utility facilities, sewers, water and drainage.
(Ord. passed 4-21-03)

Title XV: Land Usage
APPENDIX: STEPS FOR SUBDIVISION APPROVAL

(Ord. passed 4-21-03)

Steps For Subdivision Approval:



CHAPTER 153: SUGAR CREEK ZONING

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GENERAL PROVISIONS

§153.01 TITLE

The official title of this chapter is “Sugar Creek Ordinance of Montgomery County, Indiana.”
(Ord. passed 5-14-02)

§153.02 COMPLIANCE

No use shall be made, no structure shall be located, constructed, reconstructed, converted, altered, expanded, enlarged and/or moved on land adjoining Sugar Creek in the county, and no creek crossings established, as set for in §153.03, except in full compliance with all of the provisions of this chapter.
(Ord. passed 5-14-02)

§153.03 JURISDICTIONAL AREA

The following area in the county is under the jurisdiction of this chapter: Sugar Creek from creek mile 56.2 to creek mile 22.3 including all of Sugar Creek in the county and the strip of land along each side of the creek which is defined by the ordinary high water mark and a line paralleling the ordinary high water mark; the line paralleling the top of the ordinary high water mark is determined by measuring horizontally (parallel to the creek’s surface) 75 feet from the Ordinary High Water Mark as defined by state law under 312 I.A.C. 1-1-26 and away from the creek. Provided however, any town or city may adopt a more restrictive ordinance within their respective ordinance within their respective jurisdictions. If the jurisdictional area is held invalid then the jurisdictional area shall be the area defined in I.C. 14-28-4.
(Ord. passed 5-14-02)

§153.04 APPLICATION AND INTERPRETATION

(A) In applying and interpreting and provisions of this chapter, they shall be construed as the minimum requirement for the promotion of the public health, safety, comfort, convenience

and general welfare, as well as natural qualities of the creek, esthetic, scenic and to promote flood erosion control.

(B) It is not intended that this chapter shall interfere with or abrogate or annul any ordinances, rules, regulations or permits previously adopted or issued, not in conflict with the provisions of this chapter, except that where this chapter imposes a greater restriction upon land use or structure than is required by such easements, covenants or agreements between parties, or by such ordinances, rules, regulations or permits, the provisions of this chapter shall control. (Ord. passed 5-14-02)

§153.05 DEFINITIONS

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

ADVISORY BOARD. A Board of six members appointed by the County Commissioners and one member appointed by the Director of the Department of Natural Resources to advise the County Commissioners as to the means of protecting and preserving the stream in a scenic and natural state. A majority of the members shall be owners of land abutting Sugar Creek in the county. Also, included on the Board serving in advisory (non-voting) roles are the following: the County Sheriff, the County Building Administrator, a State Department of Natural Resources Conservation Officer and the County Health Officer. The term of the six (6) Board members shall be for three (3) years, with each term beginning on January 1 and expiring on December 31. Because the Board reorganized in 2015 and Board members have staggered terms, two (2) members' terms expire in 2017, two (2) members' terms expire in 2018, and two (2) members' terms expire in 2019. If a vacancy occurs before the expiration of a term, the new member will complete the unexpired term of the prior member. At its first meeting each year the Board shall elect from its members a President, Vice President and Secretary who shall serve for one year or until the next election of officers. The Board shall meet at least quarterly and at such other times as may be necessary to conduct its business.

BUILDING ADMINISTRATOR. That person designated by the Board of County Commissioners as the County Building Administrator.

BUILDING OR STRUCTURE. Includes any building of all types and descriptions including but not limited to dwellings, trailers, campers, garages, barns, sheds, pole buildings, out buildings, any roofed structure whether enclosed or open, bridges, culverts, decks, steps, or docks, or any other permanent improvement or structure but does not include tents (pitched for temporary recreational use)

CERTIFICATE OF OCCUPANCY. A certificate stating that the occupancy improvement and use of land for building or structure referred to therein complies with the provisions of this chapter.

IMPROVEMENT LOCATION PERMIT. A permit stating that the proposed timber cutting, logging, erection, construction, alteration, enlargement and/or moving of a building or structure referred to therein, including but not limited to dams, levies, wells, septic systems and water systems, complies with the provisions of the chapter.

NONCONFORMING USE. An existing use of land or structure which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located

PERSON OR INDIVIDUAL. Any private individual, corporation, partnership, or limited liability company.

VARIANCE. A modification of the specific requirements of this chapter granted by the Appeals Board in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other riparian properties in the same vicinity and district.

(Ord. passed 5-14-02. Am. Ord. 2017-5, adopted 4-10-17).

§153.06 GOVERNMENTAL UNITS

All governmental units are subject to the provisions of this chapter, provided, however, this chapter shall not be construed to impose any restrictions or additional requirements for the construction or reconstruction or repair of any public road or bridge, and all public roads and bridges are hereby exempted from the provisions of this chapter.

(Ord. passed 5-14-02)

NATURAL SCENIC DISTRICT

§153.20 DISTRICTS

The entire geographic area covered by this chapter shall be designated as a natural scenic district and is limited to agricultural and recreational use. It is the purpose of this district to limit and eliminate further development in the Sugar Creek corridor which would tend to reduce or destroy the natural scenic value of this unique are without great economic or environmental benefit to the public as a whole as well as to protect the citizens of the county from the adverse affects of flooding. (Ord. passed 5-14-02)

§153.21 CONSTRUCTION

(A) All construction, enlargement, or moving of structures into the district will require a location improvement permits, which will only be issued after approval by the Building Administrator and a formal recommendation of the Advisory Board. If the Building Administrator does not approve the location improvement permit, then no permit shall be issued and the Advisory Board will not be contacted.

(B) No construction is permitted within 50 feet of the ordinary high water mark as defined by 3121 I.A.C. 1-1-26. It is possible to obtain a building permit for that regulated area landward of the 50-foot line up to the 75-foot line by maintaining or establishing a forested cover to that area from the ordinary high water ark to the 50-foot line. By definition, FORESTED COVER means the following: for trees greater than 2-inches in basal diameter, 40 square feet of basal area per acre; for trees less than 2-inches in basal diameter, forested would mean a minimum of 300 stems per acre (allowing for credit for young planted seedling trees). Provided, however, that nothing in this chapter shall be construed to authorize the Building Administrator or the Appeals Board to order the removal of any existing structure which existed on the effective date of this chapter.
(Ord. passed 5-14-02)

§153.22 CLEARING

A permit is required prior to any logging activity within the zoned area. Logging and clearing activities must leave no less than 40 square feet of basal area per acre of trees over 2 inches in diameter. There shall be no clear cutting of timber or substantial removal of vegetation in the district. Timber may be cut in accordance with best forest management practices after written approval by the Building Administrator. The Building Administrator is encouraged to consult with the State Forester before issuing his or her written approval.

Vegetation in the district may be thinned and trimmed but not completely removed. Unique species of vegetation, designated as such by the Advisory Board, shall not be thinned or trimmed in such a manner as to limit or jeopardize a proliferation. (Ord. passed 5-14-02)

NONCONFORMING USES

§153.35 NONCONFORMING USES

The following provisions shall apply to all nonconforming uses:

(A) A nonconforming use may be continued but may not be extended, expanded, moved or changed unless to a conforming use, except as permitted by the Appeals Board in accordance with the provisions of this chapter.

(B) Any nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is performed within 12 months of such casualty, and if the restored area has no greater coverage and contains no greater cubic content than before such casualty.

(C) In the event that any non-conforming use, conducted in a structure or otherwise, ceases, or is abandoned, for whatever reason, for any period of one year, such nonconforming use shall not be resumed, except with the approval of the Appeals Board.
(Ord. passed 5-14-02)

ADMINISTRATION AND ENFORCEMENT

§153.45 ADMINISTRATOR

The duly appointed and acting County Building Administrator is hereby designated and authorized to enforce this chapter under the authority of the County Surveyor's Office.
(Ord. passed 5-14-02)

§153.46 PERMITS

(A) Any person, persons, firms or corporations which shall make application of any improvement location permit shall furnish the Building Administrator with the documents required to obtain that permit and a site plan of the real estate upon which said application for an improvement location permit is made.

(B) The site plan shall include the following items:

- (1) Legal or site description of the real estate involved;
- (2) Location and size of all buildings and structures;
- (3) Width and length of all entrances and exits to and from said real estate;
- (4) All adjacent and adjoining roads or highways;
- (5) Building information sheets to obtain location improvement permits;
- (6) Erosion control plan; and
- (7) Any other information required by the Building Administrator.

(C) The Building Administrator shall establish a permit and fee schedule necessary to administer this chapter. The schedule of fees shall be approved by the Advisory Board. The fees shall be paid and collected in the same manner as County Building Code fees are paid and collected.

(D) Prior to issuing any improvement location permit for a structure within the Sugar Creek Natural Scenic District the applicant or owner of the real estate on which the structure will be located, shall be required to obtain from the Montgomery County Treasurer a certificate of

clearance verifying that the applicant or owner is not delinquent in the payment of any personal property any delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator shall withhold issuance of an improvement location permit until any delinquent personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxed owed by the applicant or owner are paid in full, including penalties. (Ord. passed 5-14-02; Am. Commissioners Ord. 2008-8, passed 6-23-08)

§153.47 RECORDS

Information so furnished to the Building Administrator shall be filed by the Building Administrator and maintained as other records are kept in his or her office. (Ord. passed 5-14-02)

§153.48 CHANGES

The Building Administrator may require the relocation of any proposed building or structure or property exit or entrance shown on said site plan and/or the location of new exits or entrances not shown on said site plan before issuing an improvement location permit, when such action is necessary to carry out the purpose and intent of this chapter. (Ord. passed 5-14-02)

§153.49 COMMENCEMENT AND COMPLETION.

(A) Any permit holder must accomplish the following:

- (1) Commence construction within 90 days of the permit being issued or as stated in the permit; and
- (2) Complete all work required by the permit within 12 months of the the permit being issued or as stated in the permit.

(B) Failure to perform either (A)(1) or (2) above shall cause the permit to lapse and a new permit must be obtained.

(Ord. passed 5-14-02)

§153.50 COMPLIANCE

No reconstruction, construction or change in use shall be made in any improvement or building, or part thereof, now or hereafter erected, reconstructed or structurally altered, without an improvement location permit having been issued by the Building Administrator

and no such permit shall be issued to make such change unless it is conformity with the provisions of this chapter.

(Ord. passed 5-14-02)

§153.51 OCCUPANCY

(A) No improvement shall be occupied or used after being erected, reconstructed or structurally altered, in whole or in part, for any purpose whatsoever, until a certificate of occupancy shall have been issued by the Building Administrator stating that the improvement and its use comply with all of the provisions of this chapter applicable to the building or premises or the use complies with all of the provisions of this chapter applicable to the building or premises (or the use complies with all the provisions of this chapter applicable to the building or premises) or the use in the area in which it is located.

(B) A record of all certificates of occupancy shall be kept on file in the office of the Building Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

(Ord. passed 5-14-02)

§153.52 ANNUAL REPORT

An annual report will be prepared by the Sugar Creek Advisory Committee to be submitted to the County Commissioners each year. This report will include but not be limited to the following:

(A) Number of permits;

(B) Number of violations;

(C) Changes in land use along the riparian corridor (i.e. building, tree planting, tree harvest, bank stabilization, signage and the like); and

(D) Any other matter that the Advisory Board deems significant.

(Ord. passed 5-14-02)

§153.53 VIOLATIONS

(A) If the Building Administrator finds that real or personal property is in violation of this chapter, he or she may require the owners of the property to take appropriate actions in order

to bring the property into compliance with this chapter. Noncompliance with the order is a separate violation of this chapter in addition to the violation complained of.

(B) The Building Administrator, the Advisory Board, the County Floodplain Commission or County Commissioners may bring enforcement proceedings to enforce this chapter, and should there be a court finding to uphold the charges, then costs and fees will be charged to the offending party and property in question.

(C) Any party, contractor, engineer, or architect who is instrumental in providing services to a property owner in the county, the use of which services by the owner results in a violation of this chapter, will be personally chargeable as a violation of the chapter along with the owner. For any changes in use or improvements, calling for an improvement location permit, the party constructing is jointly liable for any violations of this chapter along with the owner requesting the service construction of change. Contractors as well as owners are responsible for complying with permit and paperwork requirements for improvements they are accomplishing in the county. (Ord. passed 5-14-02)

§153.54 REMEDIES

(A) The Building Administrator, the County Floodplain Commission or the Board of Commissioners may institute a suit for injunction in the County Circuit or Superior Court of the county to restrain an individual from violating the provisions of this chapter or may institute suit to enforce any provisions of this chapter.

(B) The Building Administrator, the County Floodplain Commission or Board of Commissioners may also institute a suit for mandatory injunction directing any individual, a corporation, or governmental unit to remove a structure erected in violation of the provisions of this chapter.

(C) Any building erected, raised or converted, or land or premises used in violation of any provisions of this chapter or the requirements thereof, is hereby declared to be common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under applicable statutes.

(D) Actions under this chapter may be brought by the County Prosecutor or County Attorney. Any injured party or governmental unit may also bring an action under this chapter in the County Circuit or Superior Court.
(Ord. passed 5-14-02)

BOARD OF APPEALS

§153.65 MEMBERSHIP

The County Floodplain Commission shall comprise the Appeals Board. No member may serve on both the Appeals Board and the Advisory Board concurrently.
(Ord. passed 5-14-02)

§153.66 RULES

The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this chapter.
(Ord. passed 5-14-02)

§153.67 MEETINGS

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be public record.
(Ord. passed 5-14-02)

§153.68 APPEALS FROM BUILDING ADMINISTRATOR DECISIONS

(A) Any decision of the Building Administrator in the enforcement of this chapter shall be appealed to the Board by any person claiming to be adversely affected by such decision by filing an appeal in writing and specifying the reasons the appellant believes the action of the Building Administrator does not comply with this chapter.

(B) An appeal must be commenced within 30 days of the Building Administrator's decision or the right to appeal is forfeited.
(Ord. passed 5-14-02)

§153.69 DUTIES

The Board shall have the following powers and it shall be its duty to:

(A) Hear and determine appeals from and review any order, requirement, decision or determination made by the Building Administrator in the enforcement of this chapter.

(B) Hear and decide on permits for special exceptions, or other uses upon which the Board is required to act under this chapter.

(C) Authorize upon appeal in specific cases such variances from the terms of this chapter as will not contrary to the public interest. Such variances shall be issued only where owing to special conditions, fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this chapter shall result in unnecessary hardship and where such issuance shall not violate the spirit of this chapter. The findings of facts relative to the issuance of a variance will be based upon evidence presented and on personal knowledge of the members of the Board relative to the areas and requirements in question.

(Ord. passed 5-14-02)

§153.70 AUTHORITY

In exercising its appeal powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done for the situation at hand, and to that end shall have all the powers of the parties from whom the appeal is taken. A simple majority of the entire Board may uphold the decision or act appealed from, or modify or reverse the act appealed from.

(Ord. passed 5-14-02)

§153.71 APPEALS FROM APPEALS BOARD DECISIONS

Only the decision of the Appeals Board is subject to review by the County Circuit Court.

(Ord. passed 5-14-02)

§153.72 VARIANCES

No variance in the application of the provisions of this chapter shall be made by the Appeals Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Appeals Board shall find:

(A) That there are exceptional or extraordinary circumstances or conditions applicable to the property or the need of the use intended that do not apply generally to the other riparian property or class or use in the same vicinity and are, or are necessary for the general public good of the area.

(B) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other riparian property in the same vicinity and area but which is denied to the property in question.

(C) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and area in which the property is located.

(D) That the granting of such variance will not materially alter the land use characteristics of the vicinity and area, diminish the marketable value of adjacent land and improvements or increase the congestion in the public streets to a detrimental degree to the neighborhood.
(Ord. passed 5-14-02)

§153.73 HEARINGS

Prior to the determination of an appeal, the Board shall fix a reasonable time for the hearing which will be at a regular Board meeting. Public notice shall be given at least ten days prior to the date set for the hearing by publishing a notice thereof in a newspaper of general circulation in the county setting forth the time and place of the hearing and by giving due notice to the interest persons in accordance with the rules of the Board.
(Ord. passed 5-14-02)

§153.74 COSTS

The party taking the appeal or requesting the special exception or variance, shall assume the cost of public notice and due notice to interested persons. Interested persons are those property owners within 400 feet of the property involved in the appeal of in the special exception, or any other county property owner who files a written statement with the Building Administrator of their claim of interest.
(Ord. passed 5-14-02)

§153.75 FINDINGS OF FACT

Prior to the determination of a special exception or variance, the Board shall fix a reasonable time for hearing and public notice given as indicated in §153.74. At the hearing the Board will establish findings of fact after which the Board may at the public hearing act on the special exception, or, if lacking a quorum, or for any other reason, fails to act, may make their decision at a later public meeting of the Board without further notice being issued prior to their decision. After the decision, the interested parties will be notified by ordinary mail. (Ord. passed 5-14-02)

§153.76 CERTIORARI

A petition for certiorari must specify the grounds upon which the petition alleges the illegality of the Building Administrator's action. The petition must be filed in the Circuit Court within 30 days after the Appeals Board's decision or judicial review is forfeited.

(Ord. passed 5-14-02)

§153.99 PENALTY

Any individual or corporation or any other entity who affirmatively or passively allows violation of any of the provisions of this chapter shall be fined an amount of \$100. Each day that violation of this chapter occurs, or continues to occur, shall constitute a separate violation thereof. In addition to the personal liability involved for violations, the amounts shall be treated as though a mechanic's lien against the property involved and may be collected by foreclosure as a mechanic's lien. (Ord. passed 5-14-02)

CHAPTER 154: STORMWATER DRAINAGE

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GENERAL PROVISIONS

§154.01 AUTHORITY AND JURISDICTION

This chapter is adopted pursuant to the authority of I.C. 36-1-3. The rules and regulations contained in this Chapter apply to all unincorporated areas in Montgomery County, Indiana and specifically apply to the two-mile zone established by the City of Crawfordsville under the planning and zoning jurisdiction allowed by Indiana law and exercised by the City under its ordinances.

(Ord. 90.5, passed 8-30-90; Am. Ord. passed 2-16-99; Am. Ord 2016-17, passed 6-27-16)

§154.02 PURPOSE

(A) (1) It is recognized that smaller streams and drainage channels serving the county may not have sufficient capacity to receive any convey stormwater runoff, resulting when land use changes from open or agricultural use to a more urbanized use.

(2) It is further recognized that deposits of sediment from developments during and after construction can reduce capacities of storm sewers and drainage systems and result in damages.

(B) Therefore, it shall be the policy of the Drainage Board that the storage and controlled release of stormwater runoff shall be required of all new development, any redevelopment and other new construction in the county. The release rate of stormwater from developed lands shall not exceed the release rate from the land area in its present land use.

(C) Because topography and the availability and adequacy of outlets for storm runoff vary with almost every site, the requirements for storm drainage tend to be an individual matter for any project. It is recommended that each proposed project be discussed with the County Surveyor's Office at the earliest practical time in the planning stage.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.05 DEFINITIONS

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

BOARD. The Drainage Board of the county and any subordinate employee to whom they shall specifically delegate a responsibility authorized by this chapter.

CAPACITY OF A STORM DRAINAGE FACILITY. The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

CHANNEL. A natural or artificial watercourse which periodically or continuously contains moving water or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

COMPENSATORY STORAGE. An artificial volume of storage within a floodplain used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain.

CONTIGUOUS. Adjoining or in actual contact with.

CULVERT. A closed conduit used for the passage of surface drainage water under a roadway, railroad, canal, or other impediment.

DETENTION BASIN.

(1) A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

(2) A basin designed to be completely dewatered after having provided its planned detention of runoff during a storm event.

DETENTION STORAGE. The temporary detaining or storage of stormwater in storage basins in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of drainage therefrom regulated by appropriately installed devices.

DRAINAGE AREA. The area from which water is carried off by a drainage system, a watershed or catchment area.

DROP MANHOLE. A manhole having a vertical drop pipe connecting the inlet pipe to the outlet pipe. The vertical drop pipe shall be located immediately outside the manhole.

DURATION. The time period of a rainfall event.

EROSION. Wearing away of the land by running water, waves, temperature changes, ice or wind.

FLOOD ELEVATION. The elevation at all locations delineating the maximum level of high waters for a flood of given return period and rainfall duration.

FLOOD or FLOOD WATERS. The water of any watercourse which is above the banks of the watercourse. It also means the water of any lake which is above and outside the banks thereof.

FLOOD HAZARD AREA. Any floodplain, floodway, floodway fringe or any compilation thereof which is subject to inundation by the regulatory flood or any floodplain as delineated by Zone A on a flood hazard boundary map.

FLOODPLAIN. The area adjoining the river or stream which has been or may hereafter be covered by flood waters.

FLOOD PROTECTION GRADE. The elevation of the lowest floor of a building. If a basement is included, the basement floor is considered the lowest floor.

FLOODWAY. See **REGULATORY FLOODWAY.**

FLOODWAY FRINGE. The portion of the floodplain lying outside the floodway, which is inundated by the regulatory flood.

FOOTING DRAIN. A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

GRADE. The inclination or slope of a channel, canal, conduit and the like or natural ground surface usually expressed in terms of the percentage the vertical rise or fall bears to the corresponding horizontal distance.

IMPACT AREAS. Areas defined and mapped by the Board which are unlikely to be easily drained because of one or more factors including but not limited to any of the following: soil type, topography, land where there is not adequate outlet, a floodway or floodplain, land within 75 feet of each bank of any regulated drain or within 75 feet from the centerline of any regulated ditch.

IMPERVIOUS. A term applied to material through which water cannot pass or through which water passes with difficulty.

INLET. An opening into a storm sewer system for the entrance of surface stormwater runoff, more completely described as a storm sewer inlet.

JUNCTION CHAMBER. A converging section of conduit, usually large enough for a person to enter, used to facilitate the flow from one or more conduits into a main conduit.

LATERAL STORM SEWER. A sewer that has inlets connected to it but has no other storm sewer connected.

MANHOLE. Storm sewer structure through which a person may enter to gain access to an underground storm sewer or enclosed structure.

MAJOR DRAINAGE SYSTEM. Drainage system carrying runoff from an area of one or more square miles.

MINOR DRAINAGE SYSTEMS. Drainage systems having an area of less than one or more square miles.

OFF-SITE. Everything not on site.

ON-SITE. Located within the controlled area where runoff originates.

OUTFALL. The point or location where storm runoff discharges from a sewer or drain. Also applies to the outfall sewer or channel which carries the storm runoff to the point of outfall.

PEAK FLOW. The maximum rate of flow of water at a given-point in a channel or conduit resulting from a particular storm or flood.

RADIUS OR CURVATURE. Length of radius of a circle used to define a curve.

RAINFALL INTENSITY. The cumulative depth of rainfall occurring over a given duration, normally expressed in inches per hour.

REACH. Any length of river, channel or storm sewer.

REGULATED AREA. All of the land under the jurisdiction of the Drainage Board. Provided however the provisions of this chapter shall not apply to the City of Crawfordsville and its contiguous two-mile jurisdictional limit surrounding the city.

REGULATORY FLOOD. That flood having a peak discharge which can be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to the Board. If a permit from the National Resource Commission for construction in the floodway is required, then the regulatory flood peak discharge should be calculated by a method acceptable to the Board and the Natural Resources Commission. The REGULATORY FLOOD is equivalent to a flood having a probability of occurrence of 1% in any given year.

REGULATORY FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to carry and discharge the peak flow of the regulatory flood of any river or stream.

RELEASE RATE. The amount of stormwater released from a stormwater control facility per unit of time.

RETENTION BASIN. A basin designed to retain a permanent pool of water after having provided its planned determination of runoff during a storm event.

RETURN PERIOD. The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a RETURN PERIOD of 100 years has a 1% probability of being equaled or exceeded in any one year.

RUNOFF COEFFICIENT. A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drainage system to the total amount of rain falling. A coefficient of 0.5 implies that 50% of the rain falling on a given surface appears as stormwater runoff.

SEDIMENT. Material of soil and rock origin, transported, carried or deposited by water.

SIPHON. A closed conduit or portion of which lies above the hydraulic grade line, resulting in a pressure less than atmospheric and requiring a vacuum within the conduit to start flow. A **SIPHON** utilizes atmospheric pressure to effect or increase the flow of water through a conduit. An **INVERTED SIPHON** is used to carry stormwater flow under an obstruction such as a sanitary sewer.

SPILLWAY. A waterway in or about a hydraulic structure for the escape of excess water.

STILLING BASIN. A basin used to slow water down or dissipate its energy.

STORAGE DURATION. The length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

STORM SEWER. A closed conduit for conveying collected stormwater.

STORMWATER DRAINAGE SYSTEM. All means, natural or manmade, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, stream, culverts, streets and pumping stations.

STORMWATER RUNOFF. The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

TRIBUTARY. Contributing stormwater from upstream land areas.

URBANIZATION. The development, change or improvement of any parcel, of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or manmade drainageway in or into which stormwater runoff or floodwaters flow either regularly or intermittently.

WATERSHED. See **DRAINAGE AREA.**
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 9-25-01)

§154.06 DISCLAIMER OF LIABILITY

(A) The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study.

(B) Larger storms may occur or stormwater runoff depths may be increased by manmade or natural causes. This chapter does not imply that land used permitted will be free from stormwater damage. This chapter shall not create liability on the part of the county or any officer or employee thereof for any damage which may result from reliance on this chapter or on any administrative decisions lawfully made thereunder. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.07 VIOLATIONS

(A) Continuing Violations: A separate offense shall be deemed to occur for each day a violation of this chapter continues to exist.

(B) Notice of Violation. The Surveyor shall inform the owner in writing when a violation has been found. The notice to correct will include a description of the violation, the action necessary to be taken by the violator in order to correct the violation, the reasonable time to be allowed for the correction of the violation, the amount of fines per day which will accrue and be owed by the violator if the violation is not corrected, and the procedure available to the violator to appeal the determination of the Surveyor that a violation exists.

(C) Appeal of Notice of Violation. The person or entity receiving a notice of violation has the right to appeal the Surveyor's determination to the Drainage Board. In order to appeal the determination, the person must file a written appeal with the Secretary of the Drainage Board a statement which states all facts which supports the appeal. This statement must be mailed

or delivered to the Secretary within ten (10) days of the receipt of the notice of violation. If the person or entity receiving the notice of violation fails to file a timely appeal, the person or entity is deemed to have waived the right to appeal and to have admitted the violation.

(D) Hearing on Appeal. Upon receipt of a timely filed appeal, the Secretary of the Drainage Board will notify the Board President of such receipt, and the President will schedule a public hearing on the appeal and conduct the appeal hearing within 30 days of the receipt of the timely filed appeal. The Secretary will provide written notice of the hearing to the party filing the appeal and to the Surveyor. At the hearing, the party appealing the notice of violation may be represented by an attorney, may present evidence which supports the appeal, and may present any legal authority in support of the appeal. After the party filing the appeal concludes this presentation, the Surveyor will be afforded the opportunity to respond to the appeal and present evidence and authority supporting the Surveyor's determination that a violation exists or existed at the time of the issuance of the notice. The Drainage Board will make findings and conclusions supporting its decision on the appeal within 10 days of the hearing, and the Secretary of the Board will mail copies of its decision to the party appealing the determination and to the Surveyor.

(E) Appeal of Board Decision: The party filing the appeal may appeal the decision of the Board by filing with a court of competent jurisdiction a petition for review within 30 days of the party's receipt of the Board's decision.

(F) Fine Citation. If the person receiving the notice of violation does not correct the violation, the Surveyor will mail to the violator a fine citation which states the fine due from the violator. The fine is payable to Montgomery County and is due within 30 days of the date of the citation.

(G) Fines. For each violation of this Chapter, the violator is subject to fine in the amount of \$100 per day.

(H) Enforcement. The Surveyor will have the right to file a case for the collection of any and all unpaid fines. In addition, the Surveyor will have the right to issue a stop work order, obtain injunctive relief in order to prevent the continuing violation of this Chapter, and to obtain any and all other legal relief provided for by Indiana law in order to enforce this Chapter. In addition, in the event that the Surveyor incurs expenses for court costs and/or attorney's fees for the enforcement of this Chapter, the violator will be liable for such court costs and/or attorney's fees.

(I) Other Remedies. Nothing herein shall prevent the county from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall be charged to the person or persons responsible.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.08 EXEMPT PROJECTS

Any residential, commercial or industrial subdivision (major or minor) or construction project thereon, which has had its drainage plan approved by the Board prior to the effective date of this chapter shall be exempt from all of the requirements of this chapter.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.09 FEES

(A) The Drainage Board requires that all plans for development construction, extensions, additions, parking lots, ponds, dams, levees and other improvements be evaluated for stormwater impact and approved by the Surveyor prior to issuing a location improvement permit.

(B) The following user fees shall take effect upon adoption and publication of notice of the adoption in accordance with the law:

(1) Site trip review to see if the impact will require that a plan be submitted, (dimensioned site plan showing existing structures, streams, drainage tile, well and septic and the proposed changes is required): \$40.

(2) Additional trips required because of changes or incomplete information: \$30.

(3) Plan reviews for plans submitted for approval by the Drainage Board: \$100 per hour.

(C) All fees must be paid in full before a location improvement permit can be issued.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

DRAINAGE CONTROL POLICY

§154.20 POLICY

(A) It is recognized that the smaller streams and drainage channels serving the county may not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release rate of excess stormwater runoff shall be required for any development, redevelopment and new construction located within the county.

(B) Possible exceptions to the requirement are minor subdivisions and parcelization as described in Chapter 152. The Drainage Board, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization.

(C) The release rate of stormwater from developments, redevelopments, and new construction may not exceed the stormwater runoff from the land area in its present state of development. The developer must submit to the Board, detailed computations of runoff before and after development, redevelopment or new construction which demonstrate that runoff will not be increased.

(D) These computations must show that the peak runoff rate after development for the 100year return period storm of critical duration must not exceed the three-year return period predevelopment peak runoff rate. The critical duration storm is that storm duration that requires the greatest detention storage.

(E) Computations for areas up to and including 200 acres may be based on the rational method. Typical runoff coefficients are listed herein. For areas larger than 200 acres, hydrograph techniques and/or computer drainage modeling methods may be used.

(F) Hydrograph techniques and computer modeling methods used to determine stormwater runoff shall be proven methods, subject to approval of the Board.
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.21 PERMITS FOR CONSTRUCTION

(A) Chapter 318 of the Acts of 1945, as amended, Sections 17 and 19, require the Natural Resources Commission approval of any construction in a floodway, and of any works for flood control. This includes bridges, dams, levees, dikes, floodwalls, wharves, piers, dolphins, booms, weirs, bulkheads, jetties, groins, excavations, fills or deposits of any kind, utility lines or any other building, structure or obstruction.

(B) Also, any ditch work (new construction, deepening or modification) within one-half mile of a public freshwater lake of ten acres or more in area.

(C) The approval of the Natural Resources Commission, in writing, must be obtained before beginning construction.

(1) Applications for approval should be submitted to the Department of Natural Resources, Division of Water, 2475 Directors Row, Indianapolis, Indiana 46241.

(2) All applications should be made on the standard application form provided by the Commission and should be accompanied by plans, profiles, specifications and other data necessary for the Commission to determine the effect of the proposed construction upon the floodway and on flood control in the state.

(3) Application made to and approved granted by the Natural Resources Commission does not in any way relieve the owner of the necessity of security easements or other property rights, and permits and/or approvals from affected property owners and local, state and federal agencies.

(D) The engineering staff of the Division of Water is available to discuss and offer suggestions regarding requirement sin the design of structures in floodways. High water marks have been set on many of the streams in the state, and information is available from the Division of Water on actual and/or potential flooding. Information regarding bench marks set to Mean Sea Level Datum, General Adjustment of 1929, is available from the Division of Water, Surveying and Mapping Section.

(E) Applications are considered by the Commission at regular meetings usually held each month. After the application and plans have been approved by the Commission, a certificate of approval is forwarded to the applicant.

(F) A fee is charged by the Commission for approvals under the Flood Control Act. Unless stated otherwise in the approval, construction is considered to be a permanent development and no renewals of the approval are necessary, except in the cases where temporary approvals are granted for temporary construction. The right is reserved to require additional data where necessary.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.22 INFORMATION REQUIREMENTS

(A) *Submission Required.* As provided in divisions (B) through (G), the information and data provided by a state-licensed professional engineer or land surveyor engaged in storm drainage design shall be submitted to the Board at the time of application for a building permit for any development, redevelopment or new construction on real estate which lies within the regulated area.

(B) *Topographic and Soils Map.* A soils map of the proposed development indicating soils names and their hydrologic classification must be provided when Soil Conservation Service (SCS) hydrologic methods are used. In addition, a topographic map of the land to be subdivided and adjoining land whose topography may affect the layout or drainage of the development must be provided. The contour intervals shall be one foot when slopes are less

than 4% and shall be two feet when the slope exceeds 4%. On this map, the following shall be shown:

- (1) The location of streams and other flood water runoff channels, the extent of the floodplains at the established 100-year flood elevation where available, regulatory floodway and the limits of the floodway, all properly identified;
- (2) The normal shoreline of lakes, ponds, swamps and detention basins, their floodplains and lines of inflow and outflow, if any;
- (3) The location of regulated drains, farm drains, inlets and outfalls, if any of record;
- (4) Storms, sanitary and combined sewers and outfalls, if any of record;
- (5) Septic tank systems and outlets, if any of record, or as otherwise known to applicant; and
- (6) Seeps, springs, flowing and other wells that are visible or of record.

(C) *Preliminary Drainage Plan.* A comprehensive plan, in preliminary form (or in combined preliminary and final form), designed to handle safely the stormwater runoff and to detain the increased stormwater runoff must be provided. The plan shall provide or be accompanied by maps or other descriptive materials indicating the feasibility of the drainage plan and showing the following:

- (1) The extent and area of each watershed affecting the design of detention facilities as shown on USGS quadrangle maps or other more detailed maps as required by the Board and provide a vicinity map which geographically locates project area within the county;
- (2) The preliminary layout and design of proposed storm sewers, the outfall and outlet locations and approximate elevations, the receiving stream or channel and its 100-year return period water elevation;
- (3) The location and design of proposed street systems used to convey or temporarily store overflow from the heavier rainstorms and the outlets for the overflow;
- (4) The locations, cross sections and profiles of existing streams and floodplains to be maintained and new channels to be constructed;
- (5) The materials, elevations, waterway openings and the basis for design of proposed

culverts and bridges;

(6) Existing detention ponds and basins to be maintained, enlarged or otherwise altered and new ponds or basins to be built and the basis of their design;

(7) The estimated depth and amount of storage required in the new ponds or basins;

(8) The estimated location and percentage of impervious surfaces existing and expected to be constructed when the development is completed; and

(9) Any interim plan which is to be incorporated into the development pending completion of the development and the final drainage plan.

(D) *Valley Cross Section.* One or more typical cross sections must be provided showing all existing and proposed channels or other open drainage facilities carried to a point above the 100-year high water elevation showing the elevation of the existing land and the proposed changes thereto, together with the high water elevations expected from the 100-year storm under the controlled conditions called for by this chapter and showing the relationship of structures, streets and other facilities.

(E) *Site Plan.* A plan drawn to scale showing dimensions of the site with existing and proposed storm drainage facilities must be provided.

(F) *Final Drainage Plans.* Upon approval of the preliminary drainage plans by the Board, final drainage plans shall be submitted to the Board. The final plans shall provide or be accompanied by calculations, maps and/or other descriptive material showing the following:

(1) The extent and area of each watershed tributary to the drainage channels in the development;

(2) The street storm sewers and other storm drains to be built, the basis of their design, outfall and outlet locations and elevations, the receiving stream or channel and its high water elevation, and the functioning of the drains during high water conditions;

(3) The parts of the proposed street system where pavements are planned to be depressed sufficiently to convey or temporarily store overflow from storm sewers and over the curb runoff resulting from the heavier rainstorms and the outlets for the overflow;

(4) Existing streams and floodplains to be maintained and new channels to be constructed their locations, cross section and profiles;

- (5) Proposed culverts and bridges to be built, their materials, elevations, waterway openings and basis of their design;
- (6) Existing detention basins and ponds to be maintained, enlarged or otherwise altered and new basins or ponds to be built and the basis of their design;
- (7) The estimated location and percentage of impervious surfaces existing and expected to be constructed when the development is completed;
- (8) The slope, type and size of all sewers and other waterways; and
- (9) For all detention basins, a plot or tabulation of storage volumes with corresponding water surface elevations and a plot or tabulation of the basin outflow rates for those water surface elevations.

(G) *Submittal; Consideration of Plans.*

(1) Preliminary and final drainage plans and/or construction plans shall be submitted to the Board 20 days prior to their regularly scheduled meeting. All preliminary plans, final plans and/or construction plans in compliance with the standards of this chapter shall be approved by the Board. The Board and/or the County Surveyor shall stamp the approval on a copy of the plans and deliver the same to the applicant. The Board shall approve or disapprove any preliminary plans, final plans and/or construction plans within 60 days of submission unless the applicant consents to a continuance or extensions.

(2) All approvals and disapprovals with written reasons shall be incorporated into the Board minutes. The County Surveyor is authorized to review engineering summaries of projects and based upon the same grant exemptions from any and all requirements of this chapter and/or waive any requirements of this chapter. Any applicant may appeal the decision of the Surveyor to the Board which shall also be authorized to grant exemptions from any and all requirements of this chapter and/or waive any requirements of this chapter at its discretion. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.23 DETERMINATION OF RUNOFF QUANTITIES

(A) Runoff quantities shall be computed for the area of the parcel under development plus the area of the watershed flowing into the parcel under development.

(B) The quantity of runoff which is generated as the result of a given rainfall intensity may be calculated as follows:

(1) (a) For areas up to and including 200 acres, the rational method may be used. In the rational method, the peak rate of runoff, Q , in cubic feet per second is computed as:

$$Q = CIA$$

(i) C equals runoff coefficient, representing the characteristics of the drainage area and defined as the ratio of runoff to rainfall.

(ii) I equals average intensity of rainfall in inches per hour for a duration equal to the time of concentration (t_c) for a selected rainfall frequency.

(iii) A equals tributary drainage area in acres. Guidance to selection of the runoff coefficient “ C ” is provided by the first table below, which show values for different types of surface and local soil characteristics.

(b) The composite “ C ” value used for a given drainage area with various surface types shall be the weighted average value for the total area calculated from a breakdown of individual areas having different surface types.

(c) The second table below provides runoff coefficients and inlet times for different land use classifications. In the instance of undeveloped land situated in an upstream area, a coefficient or coefficients shall be used for this area in its present or existing state of developments.

<i>Urban Runoff</i>	
<i>Type of Surface</i>	<i>Runoff Coefficient "C"</i>
Asphalt	0.82
Concrete	0.85
Roof	0.85
<i>Lawns (Sandy):</i>	
Flat (0-2%)	0.07
Rolling (2-7%)	0.12
Steep (greater than 7%)	0.17
<i>Lawns (Clay):</i>	
Flat (0-2%)	0.16
Rolling (2-7%)	0.21
Steep (greater than 7%)	0.30
<i>Woodland (Sandy):</i>	
Flat (0-5% Slope)	0.10
Rolling (5-10% Slope)	0.25
Steep (greater than 10%)	0.30
<i>Woodland (Clay):</i>	
Flat	0.30
Rolling	0.35
Steep	0.50
<i>Pasture (Sandy):</i>	
Flat	0.10
Rolling	0.16
Steep	0.22

<i>Urban Runoff</i>	
<i>Type of Surface</i>	<i>Runoff Coefficient "C"</i>
<i>Pasture (Clay):</i>	
Flat	0.30
Rolling	0.36
Steep	0.42
<i>Cultivated (Sandy):</i>	
Flat	0.30
Rolling	0.40
Steep	0.52
<i>Cultivated (Clay):</i>	
Flat	0.50
Rolling	0.60
Steep	0.72
NOTES TO TABLE:	
The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies.	
Coefficients for less frequent higher intensity storms shall be modified as follows:	
<u>Return Period (years)</u>	<u>Multiply "C" by</u>
25	1.1
50	1.2
100	1.25

Land Use and Typical Inlet Times

<i>Land Use</i>	<i>Runoff Coefficients</i>			<i>Inlet Times (minutes)</i>
	<i>Flat</i>	<i>Rolling</i>	<i>Steep</i>	
Commercial (CBD)	0.75	0.83	0.91	5
Commercial (Neighborhood)	0.54	0.60	0.66	5 – 10
Industrial	0.63	0.70	0.77	
Garden Apartments	0.54	0.60	0.66	
Churches	0.54	0.60	0.66	
Schools	0.31	0.35	0.39	10 - 15
Semi-Detached Residential	0.45	0.50	0.55	
Quarter-Acre Lots	0.36	0.40	0.44	
Half-Acre Lots	0.31	0.35	0.39	
Parkland	0.18	0.20	0.22	TBC

NOTES TO TABLE:

Flat terrain 0-2% slopes.

Rolling terrain 2-7% slopes.

Steep terrain greater than 7% slopes.

Interpolation, extrapolation and adjustment for local conditions shall be based on engineering experience and judgment.

The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies.

Coefficients for less frequent higher intensity storms shall be modified as follows:

<u>Return Period</u>	<u>Multiply "C" by</u>
25	1.1
50	1.2
100	1.25

(d) Rainfall intensity shall be determined from the rainfall frequency curves shown in § 1 of the appendix to this chapter or from data shown in § 154.58(B). The time of concentration (tc) to be used shall be the sum of the inlet time and flow time in the drainage facility from the most remote part of the drainage area to the point under consideration. The flow time in the storm sewers may be estimated by the distance in feet divided by velocity of flow in feet per second. The velocity shall be determined by the Manning Formula. Inlet time is the combined time required for the runoff to reach the inlet of the storm sewer. It includes overland flow time and flow time through established surface drainage channels such as swales, ditches and sheet flow across such areas as lawns, fields and other graded surfaces. It may be computed by using § 2 of the appendix to this chapter.

(2) The runoff rate for areas in excess of 200 acres shall be determined by methods described herein.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.24 AMOUNT TO BE ACCOMMODATED

Various parts of drainage facility must accommodate runoff water as follows:

(A) The minor drainage system such as inlets, catch basins, street gutters, swales, sewers and small channels which collect stormwater must accommodate peak runoff from a three-year return period storm. Rainfall duration shall be equal to the time of concentration or one hour if the time of concentration is less than one hour. A first quartile storm distribution shall be used for computer modeling. The following additional requirements must be satisfied:

(1) Open channels carrying peak flows greater than 30 cubic feet per second shall be capable of accommodating peak runoff for a 50-year return period storm within the drainage easement.

(2) Culverts shall be capable of accommodating peak runoff from a 50-year return period storm when crossing under a road which is part of the State Department of Highways rural functional classification system and are classified as principal or minor arterial, major or minor collector roads.

(3) Temporary water storage will not be permitted on any local street or road, except by special exception of the Board.

(4) In urban areas first floor elevations of all living units, commercially or industrially used buildings, shall be such that all floors including basements shall two feet of freeboard above the 100-year flood elevation or at the, flood protection grade. In urban areas the land grade at houses shall be based upon the maximum flood of record or upon a flood which may occur once in 100 years, whichever is greater, together with a freeboard of two to three feet.

(B) Major drainage systems are defined herein and shall be designed in accordance with State Department of Natural Resources Standards, as described herein.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

DESIGN STANDARDS

§154.35 GENERAL DESIGN

All storm sewers subject to this chapter, whether private or public and whether constructed on private or public property, shall conform to the design standards and other requirements contained herein.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.36 MANNING EQUATION

(A) The hydraulic capacity of storm sewers shall be determined using Manning's Equations:

$$V = \frac{1.486}{N} R^{2/3} S^{1/2}$$

(1) V equals mean velocity of flow in feet per second.

- (2) **R** equals the hydraulic radius in feet.
- (3) **S** equals the slope of the energy grade line in feet per foot.
- (4) **n** equals roughness coefficient.

(B) The hydraulic radius, **R**, is defined as the cross sectional area of flow divided by the wetted flow surface or wetted perimeter. Typical “n” values and maximum permissible velocities for storm sewer materials are listed herein. Roughness coefficient “n” values for other sewer materials can be found in standard hydraulics texts and references. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.37 MINIMIZE SIZE

The minimum size of all storm sewers shall be 12 inches. The rate of release for detention storage shall be controlled by an orifice plate or other devices, subject to approval of the Board, where the 12-inch pipe will not limit rate of release as required. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.38 GRADE

(A) Sewer grade shall be such that, in general, a minimum of two feet of cover is maintained over the top of the pipe.

(B) Pipe cover less than the minimum may be used only upon approval of the Board. Uniform slopes shall be maintained between inlets, manholes and inlets to manholes.

<i>Typical Values of Manning's</i>		
<i>Material</i>	<i>Manning's</i>	<i>Desirable Maximum Velocities</i>
Closed Conduits:		
Concrete	0.013	15 f.p.s.
Vitrified	0.013	15 f.p.s.
Brick	0.015	15 f.p.s.
Cast Iron	0.013	15 f.p.s.
Circular Corrugated Metal Pipe, Annular Corrugations 2 2/3 x 1/2 inches:		
Unpaved	0.024	7 f.p.s.
25% paved	0.021	7 f.p.s.
50% paved	0.018	7 f.p.s.
100% paved	0.013	7 f.p.s.

Circular Corrugated Metal Pipe, Helical, 2 2/3 x 1/2 inches; Unpaved Corrugations;		
12 inches	0.011	
18 inches	0.013	
24 inches	0.015	
36 inches	0.018	
48 inches	0.020	
60 inches or larger	0.021	
Corrugated polyethylene smooth interior pipe	0.012	15 f.p.s.
Concrete culverts	0.013	
Open Channels:		
Concrete, trowel finish	0.013	
Concrete, broom or float finish	0.015	
Gunite	0.018	
Riprap placed	0.030	
Riprap dumped	0.035	
Gabion	0.028	
New earth (uniform, sodded, clay)	0.025	
Existing earth (fairly uniform With some weeds)	0.030	
Dense growth of weeds	0.040	
Dense weeds and brush	0.040	
Swale with grass	0.035	

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.39 ALIGNMENT

(A) Storm sewers shall be straight between manholes insofar as possible. Where long radius curves are necessary to conform to street layout, the minimum radius of curvature shall be no less than 100 feet for sewers 42 inches and larger in diameter.

(B)(1) Deflection of pipe sections shall not exceed the maximum deflection recommended by the pipe manufacturer.

(2) The deflection shall be uniform and finished installation shall follow a smooth curve. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.40 MANHOLES

(A) Manholes shall be installed to provide access to continuous underground storm sewers for the purpose of inspection and maintenance. Manholes shall be provided at the following locations:

- (1) Where two or more storm sewers converge;
- (2) At the point of beginning or at the end of a curve and at the point of reverse curvature;
- (3) Where pipe size changes;
- (4) Where an abrupt change in alignment occurs;
- (5) Where a change in grade occurs; and/or
- (6) At suitable intervals in straight sections of sewer.

(B) The maximum distance between storm sewer manholes sections of sewer.

<i>Size of Pipe</i>	<i>Maximum Distance</i>
12 inches through 42 inches	400 feet
48 inches and larger	600 feet

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.41 INLETS

(A)(1) Inlets or drainage structures shall be utilized to collect surface water through grated openings and convey it to storm sewers, channels or culverts.

(2) Inlet design and spacing shall be in accordance with § 7-400 of the State Department of Highways' Road Design Manual Volume 1 or other approved design procedure. The inlet grate openings provided must be adequate to pass the design three-year flow with 50% of the sag inlet areas clogged.

(B) An overload channel from sag inlets to the overflow channel or basin shall be provided at sag inlets, so that the maximum depth of water that might be ponded in the street sag shall not exceed six inches.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.42 WORKMANSHIP AND MATERIALS

(A) The specifications for the construction of storm sewers shall not be less stringent than those set forth in the latest edition of the State Department of Highways' Standard Specifications. Additionally, ductile iron pipe shall be laid in accordance with American Society of Testing Materials (ASTM) C-12.8.

(B) Storm sewer manholes and inlets shall be constructed of masonry, cast in place concrete or precast reinforced concrete. Material and construction shall conform to State Department of Highways' Standard Specifications, § 720. Pipe and fittings used in storm sewer construction shall be extra-strength clay pipe (ASTM C-700), ductile iron pipe (AWWA C-151), or concrete pipe (ASTM C-76). Other pipe and fittings not specified herein may be used only when specifically authorized by the Board. Pipe joints shall be flexible and watertight and shall conform to the requirements of § 715.02 of the latest edition of the State Department of Highways' Standard Specifications.

(C) (1) Special hydraulic structures required to control the flow of water in storm runoff drainage systems include junction chambers, drop manholes, inverted siphons, stilling basins and other special structures.

(2) The use of these structures shall be limited to those locations justified by prudent planning and by careful and thorough hydraulic engineering analysis.
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.43 OPEN CHANNELS

(A) All open channels subject to this chapter, whether private or public and whether constructed on private or public land, shall conform to the design standards and other design requirements contained herein.

(B) The waterway for channels shall be determined using Manning's Equation.

$$Q = AV = \underline{1.486} (2/3)(1/2) N(R)(S)$$

(1) A equals waterway area of channel in square feet.

(2) Q equals discharge in cubic feet per second (cfs).

(3) **V, R, S** and **N** are explained herein.

(C) The required channel cross section and grade are determined by the design capacity, the material in which the channel is to be constructed, and the requirements for maintenance. A minimum depth may be required to provide adequate outlets for subsurface drains, tributary ditches or streams. The channel grade shall be such that the velocity in the channel is high enough to prevent siltation but low enough to prevent erosion. Velocities less than one and one-half feet per second should be avoided because siltation will take place and ultimately reduce the channel cross section. The maximum permissible velocities in vegetal-lined channels are shown herein. Developments through which the channel is to be constructed must be considered in design of the channel section. Earthen channel side slopes shall be no steeper than two to one. Flatter slopes may be required to prevent erosion and for ease of maintenance.

(D) Where channels will be lined, side slopes shall be no steeper than one and one-half to one with adequate provision made for weep holes. Side slopes steeper than one and one-half to one may be used for lined channels provided that the side lining and structural retaining wall are designed and constructed with provisions for live and dead load surcharge.

<i>Maximum Permissible Velocities in Vegetal-Lined Channels</i>			
<i>Cover</i>	<i>Slope Range (2%)</i>	<i>Permissible Velocity</i>	
		<i>Erosion Resistant Soils (feet per second)</i>	<i>Easily Eroded Soils (feet per Second)</i>
Bermuda grass	0 – 5	8	6
	5 – 10	7	5
	Over 10	6	4
Bahia Buffalo grass	0 – 5	7	5
	5 – 10	6	4
Kentucky bluegrass Smooth brome Bluegrass	Over 10	5	3
	0 – 5	5	4
Grass mixtures	0 – 5	5	4

Reed canary grass	5 – 10	4	3
Lespedeza Sericea Weeping love grass Yellow bluestem Redtop Alfalfa Red fescue	0 – 5	3.4	2.5
Common Lespedeza(4) Sudangrass (4)	(5)		
	0 – 5	3.5	2.5
NOTES TO TABLE:			
Use velocities exceeding five feet per second only where good covers and proper maintenance can be obtained.			
Do not use on slopes steeper than 10%, except for vegetated side slopes in combination with stone, concrete or highly resistant vegetative center section.			
Do not use on slopes steeper than 5%, except for vegetated side slopes in combination with stone, concrete or highly resistant vegetative center section.			
Annuals use on mild slopes or as temporary protection until permanent covers are established.			
Use on slopes steeper than 5% is not recommended.			

(E) (1) Characteristics of a stable channel are:

- (a) It neither aggrades nor degrades beyond tolerable limits.
- (b) The channel banks do not erode to the extent that the channel cross-section is changed appreciably.
- (c) Excessive sediment bars do not develop.
- (d) Excessive erosion does not occur around culverts, bridges or elsewhere.
- (e) Gullies do not form or enlarge due to the entry of uncontrolled surface flow to the channel.

(2) Channel stability shall be determined for an aged condition and the velocity shall be based on the design flow or the bank full flow, whichever is greater, using “n” values for various channel linings as shows herein. In no case is it necessary to check channel stability for discharges greater than that from a 100-year period storm.

(3) Channel stability must be checked for conditions immediately after construction. For this stability analysis, the velocity shall be calculated for the expected flow from a ten-year return period storm on the watershed, or the bank full flow, whichever is smaller. The “n” value for new constructed channels in fine-grained soils and sands may be determined in accordance with the National Engineering Handbook 5, Supplement 8, Soil Conservation Service and shall not exceed 0.025. The allowable velocity in the newly constructed channel may be increased by a maximum of 20% to reflect the effects of vegetation to be established under the following conditions:

(a) The soil and site in which the channel is to be constructed are suitable for rapid establishment and support of erosion controlling vegetation;

(b) Species of erosion controlling vegetation adapted to the area and proven methods of establishment are shown; and

(c) The channel design includes detailed plans for establishment of vegetation on the channel side slopes.

(F) Vegetated waterways that are subject to low flows of long duration or where wet conditions prevail shall be drained with a tile system or by other means such as paved gutters. The lines may be outlet through a drop structure at the end of the waterway or through a standard tile outlet.

(G) **(1)** When the Board determines it is necessary to establish a new regulated drain, each developer must provide the necessary information and meet the requirements of the 1965 State Drainage Code, as amended, for the establishment of a new regulated drain.

(2) The Board shall determine the necessary easements for adequate maintenance of any new regulated drain.

(H) **(1)** The design of channels will provide all structures required for the proper functioning of the channel and the laterals thereto and travel ways for operation and maintenance.

(2) Recessed inlets and structures needed for entry of surface and subsurface flow into floodway.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.44 CONSTRUCTION AND MATERIALS

(A) Specifications shall be in keeping with the current standards of engineering practice and shall describe the requirements for proper installation of the project to achieve its intended purpose.

(B) Materials acceptable for use as channel lining are:

- (1)** Grass;
- (2)** Reventment riprap;
- (3)** Concrete;
- (4)** Hand-laid riprap;
- (5)** Precast cement concrete riprap;
- (6)** Grouted riprap; and
- (7)** Gabions.

(C) **(1)** Spoil material resulting from clearing, grubbing and channel excavation shall be disposed in a manner which will:

- (a)** Minimize over bank wash;
- (b)** Provide for the free flow of water between the channel and floodplain unless the valley routing and water surface profile are based on continuous dikes being installed;
- (c)** Not hinder the development of travelways for maintenance;
- (d)** Leave the right-of-way in the best condition feasible, consistent with the project purposes, for productive use by the owner;
- (e)** Improve the aesthetic appearance of the site to the extent feasible; and

(f) Be approved by the IDNR or US Army Corps of Engineers (whichever is applicable) if deposited in the channels without significant erosion or degradation shall be included in the design of channel improvements. The design is also to provide the necessary flood gates, water level control devices and any other appurtenance affecting the functioning of the channels and the attainment of the purpose for which they are built.

(2) The effect of channel improvements on existing culverts, bridges, buried cables, pipelines and inlet structures for surface and subsurface drainage on the channel being improved and laterals thereto shall be evaluated to determine the need for modification or replacement. Culverts and bridges which are modified or added as part of channel improvement projects shall meet reasonable standards for the type of structure and shall have a minimum capacity equal to the design discharge or governmental agency design requirements, whichever is greater.

(3) Other lining materials shall receive specific approval of the Board. Materials shall comply with the latest edition of the State Department of Highways' Standard Specifications. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

STORMWATER DETENTION

§154.55 GENERAL DESIGN

The following shall govern the design of any improvement with respect to the detention of stormwater runoff.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.56. ACCEPTABLE METHODS

The increased stormwater runoff resulting from a proposed development shall be detained onsite by the provisions of appropriate detention or retention basins, parking lots, lawns or other acceptable techniques. Measures which further retard the rate of overland flow and the velocity in runoff channels may also be required to partially control the runoff rate. Detention basins shall be sized to store excess flows from storm with a 100-year return period. Control devices shall limit the discharge to a rate not greater than that prescribed by this chapter. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.58 ALLOWABLE RELEASE RATE

(A) The allowable release rate of stormwater originating from a proposed development shall not exceed the amount specified herein. In the event the natural downstream channel or storm sewer system is inadequate to accommodate the release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of the receiving downstream channel or storm sewer system and additional detention as determined by the Board shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers or waterways.

(B) If more than one detention basin is involved in the development of the area upstream of the limiting restriction, the allowable release rate from any one detention basis shall be in direct proportion to the ration of its drainage area to the drainage area of the entire watershed upstream of the restriction.

<i>Rainfall Depths (inches)</i>						
<i>Duration</i>	<i>Return Period (years)</i>					
	2	5	10	25	50	100
5 min.	0.42	0.52	0.59	0.68	0.75	0.82
10 min.	0.64	0.79	0.91	1.04	1.15	1.25

15 min.	0.80	0.99	1.13	1.29	1.43	1.55
20 min.	0.95	1.17	1.34	1.53	1.70	1.85
30 min.	1.11	1.34	1.57	1.79	1.98	2.16
40 min.	1.23	1.52	1.74	1.99	2.20	2.40
50 min.	1.33	1.64	1.87	2.14	2.36	2.58
60 min.	1.40	1.73	1.97	2.26	2.49	2.72
1.5 hrs.	1.70	2.09	2.39	2.73	3.03	3.30
2 hrs.	1.71	2.11	2.41	2.76	3.05	3.33
3 hrs.	1.84	2.27	2.60	2.97	3.29	3.59
4 hrs.	2.06	2.54	2.90	3.31	3.67	4.00
5 hrs.	2.16	2.66	3.04	3.48	3.85	4.20
6 hrs.	2.22	2.74	3.13	3.58	3.96	4.32
7 hrs.	2.31	2.85	3.26	3.72	4.12	4.49
8 hrs.	2.35	2.90	3.32	3.79	4.20	4.58
9 hrs.	2.42	2.99	3.41	3.90	4.32	4.71
10 hrs.	2.49	3.07	3.51	4.01	4.44	4.84
12 hrs.	2.58	3.18	3.63	4.15	4.59	5.01
14 hrs.	2.66	3.29	3.76	4.30	4.75	5.18
16 hrs.	2.75	3.40	3.68	4.44	4.91	5.39
18 hrs.	2.82	3.48	3.98	4.55	5.03	5.49
20 hrs.	2.89	3.56	4.07	4.65	5.15	5.62
24 hrs.	3.00	3.70	4.23	4.83	5.35	5.83

<i>Rainfall Intensity (inches/hour)</i>						
<i>Duration</i>	<i>Return Period (years)</i>					
	2	5	50	25	50	100
5 min.	5.04	6.24	7.08	8.16	9.00	9.84
10 min.	3.84	4.74	5.46	6.24	6.90	7.50
15 min.	3.20	3.96	4.52	5.16	5.72	6.20
20 min.	2.85	3.51	4.02	4.59	5.10	5.55
30 min.	2.22	2.74	3.12	3.58	3.96	4.32
40 min.	1.85	2.28	2.61	2.99	3.30	3.60
50 min.	1.60	1.97	2.24	2.57	2.83	3.10

60 min.	1.40	1.73	1.97	2.25	2.49	2.72
1.5 hrs.	1.13	1.39	1.59	1.82	2.02	2.20
2 hrs.	0.86	1.06	1.21	1.38	1.53	1.67
3 hrs.	0.61	0.76	0.87	0.99	1.10	1.20
4 hrs.	0.52	0.64	0.73	0.83	0.92	1.00
5 hrs.	0.43	0.53	0.61	0.70	0.77	0.84
6 hrs.	0.37	0.46	0.52	0.60	0.66	0.72
7 hrs.	0.33	0.41	0.47	0.53	0.59	0.64
8 hrs.	0.29	0.36	0.42	0.47	0.53	0.57
9 hrs.	0.27	0.33	0.38	0.43	0.48	0.52
10 hrs.	0.25	0.31	0.35	0.40	0.44	0.48
12 hrs.	0.22	0.27	0.30	0.35	0.38	0.42
14 hrs.	0.19	0.24	0.27	0.31	0.34	0.37
16 hrs.	0.17	0.21	0.24	0.28	0.31	0.34
18 hrs.	0.16	0.19	0.22	0.25	0.28	0.31
20 hrs.	0.14	0.18	0.20	0.23	0.26	0.28
24 hrs.	0.13	0.15	0.18	0.20	0.22	0.24

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.59 DRAINAGE SYSTEM OVERFLOW DESIGN

Drainage system shall have adequate capacity to safely and adequately convey the stormwater runoff from all upstream tributary areas through the development under consideration for a storm of 100-year design return period calculated on the basis of the upstream land in its present state of development. An allowance, equivalent to the reduction in flow rate provided, shall be made for upstream detention when the upstream detention and release rate previously been approved by the Board and evidence of its construction can be shown.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.60 DETERMINATION OF STORAGE VOLUME; METHODS

(A) For areas of 200 acres or less, the rational method may be used to determine the required volume of stormwater storage. The following eleven step procedure may be used to determine the required volume of storage. Other design methods may also be used, subject to approval of the Board, and as described herein.

- (1) Determine total drainage area in acres “A;”

- (2) Determine composite runoff coefficient “C” based on-existing land use (undeveloped);
- (3) Determine time of concentration “tc” in minutes based on existing conditions;
- (4) Determine rainfall intensity “I” in inches per hour, based on time of concentration and using data given herein for the three-year return period;
- (5) Compute runoff based on existing land use (undeveloped), and three-year return period:

$$Q_u = CUIUA$$

- (6) Determine composite runoff coefficient “Cd” based on developed conditions and a 100-year return period;
- (7) Determine the 100-year return period rainfall intensity “Id” for various storm durations “td” up through the time of concentration for the developed area using information herein;
- (8) Determine developed inflow rates “Qd” for various storm durations “td” measured in hours;

$$Q_d = C_d I_d A$$

- (9) Compute a storage rate “Std” for various storm durations “td” up through the time of concentration of the developed area; and

$$Std = Q_d - Q_u$$

- (10) Compute required storage volume “Sr” in acre-feet for each storm duration “td” hours;

$$Sr = Std (td/12)$$

- (11) Select the largest storage volume computed in subsection (10) for detention basin design.

(B) Methods other than the rational method for determining runoff and routing of stormwater may be used to determine the storage volume required to control stormwater runoff. The procedures or methods used must receive the prior approval of the Board. The ILLUDAS,

TR20 and TR-55 models are approved by the Board for appropriate use in analysis of the runoff and routing of stormwater. The use of these models or other approved procedures can be defined in a seven step procedure to determine the required storage volume of the detention basin.

- (1) Calibrate the hydrologic/hydraulic model that is to be used for prediction of runoff and routing of stormwater;
- (2) For each storm duration listed herein, perform steps three through six;
- (3) Determine the three-year, undeveloped peak flow. (Denote this flow by Q_u^3);
- (4) Determine the 100-year runoff hydrograph (H_d^{100}) for developed conditions;
- (5) Determine the hydrograph that must be stored (H_d^{100}) by subtracting a flow up to Q_u^3 from the hydrograph (H_d^{100}) found in subsection (4);
- (6) Determine the volume of water (V_5) to be stored by calculating the area under the hydrograph (H_d^{100}); and
- (7) The detention basin must be designed to store the largest volume (V_5) found for any storm duration analyzed in subsection (6).

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.61 BASIN REQUIREMENTS

(A) Basins shall be constructed to detain temporarily the stormwater runoff which exceeds the maximum peak flow rate authorized by this chapter. The volume of storage provided in these basins, together with such storage as may be authorized in other on-site facilities shall be sufficient to control excess runoff from the 100-year storm. The following design principles shall be observed:

- (1) The maximum volume of water stored and subsequently released at the design release rate shall not result in a storage duration in excess of 12 hours unless additional storms occur within the period.
- (2) The maximum planned depth of stormwater stored (without a permanent pool) shall not exceed five feet.

- (3) All stormwater detention facilities shall be separated by not less than 50 feet from any building or structure to be occupied.
 - (4) All excavated excess soil may be spread so as to provide for aesthetic and recreational features such as sliding hills, sports fields and the like. Slopes no steeper than eight horizontal to one vertical for safety, erosion control, stability and ease of maintenance shall be permitted.
 - (5) Safety screens having a maximum opening of four inches shall be provided for any pipe or opening to prevent children or large animals from crawling into the structures.
 - (6) Danger signs shall be mounted at appropriate locations to ward of deep water, possible flooding conditions during storm periods and other dangers that exist. Fencing shall be provided if deemed necessary by the Board.
 - (7) Outlet control structures shall be designed to operate as simply as possible and shall require little or no maintenance and/or attention for proper operation. They shall limit discharges into existing or planned downstream channels or conduits so as not to exceed the predetermined maximum authorized peak flow rate.
 - (8) Emergency overflow facilities such as a weir or spillway shall be provided for the release of exceptional storm runoffs or in emergency conditions should the normal discharge devices become totally or partially inoperative. The overflow facility shall be of the design that its operation is automatic and does not require manual attention.
 - (9) Grass or other suitable vegetative cover shall be provided throughout the entire basin area. Grass should be cut regularly at approximately monthly intervals during the growing season or as required.
 - (10) Debris and trash removal and other necessary maintenance shall be performed on a regular basis to assure continued operation in conformance to design.
 - (11) A report shall be submitted to the Board describing the proposed development; the current land use conditions; the method of hydraulic and hydrologic analysis used, including any assumptions or special conditions; the results of the analysis; and the recommended drainage control facilities. Hydraulic and hydrologic calculations, including input and output files, shall be included as appendices to the report.
- (B) Detention basins which will not contain a permanent pool of water shall comply with the following requirements:

(1) Provisions shall be incorporated to facilitate complete interior drainage of detention basins, to include the provisions of natural grades to outlet structures, longitudinal and transverse grades to perimeter drainage facilities, paved gutters or the installation of subsurface drains.

(2) The detention basin shall, whenever possible, be designed to serve a secondary or multi-purpose function. Recreational facilities, aesthetic qualities (open spaces) or other types of use shall be considered in planning the detention facility.

(C) Since a retention basin by definition will contain a permanent pool of water, all the items required for detention storage shall apply except that the system of drains with a positive gravity outlet required to maintain a detention basin will not be required. A controlled positive outlet will be required to maintain the design water level in the retention basin and provide required detention storage above the design water level. However, the following additional conditions shall apply:

(1) Basins designed with permanent pools or containing permanent ponds shall have a water area of at least one-half acre. If fish are to be maintained in the pond, a minimum depth of approximately ten feet shall be maintained over at least 25% of the pond area. The remaining pond area shall have no extensive shallow areas, except as required by division (C)(3) below.

(2) In excavated ponds, the underwater side slopes in the pond shall be stable. IN the case of valley storage, natural slopes may be considered to be stable.

(3) A safety ledge four to six feet in width is required and must be installed in all ponds approximately 30 to 36 inches below the permanent water level. In addition, a similar maintenance ledge 12 to one inches above the permanent water line shall be provided. The slope between the two ledges shall be stable and of a material such as stone or riprap which will prevent erosion due to wave action.

(4) A safety ramp exit from the pond is required in all cases and shall have a minimum width of 20 feet and exit slope to six horizontal to one vertical. The ramp shall be of a material that will prevent its deterioration due to vehicle use and/or wave action.

(5) Periodic maintenance is required in ponds to control weed and larval growth. The pond shall also be designed to provide for the easy removal of sediment which will

accumulate during periods of pond operation. A means of maintaining the designed water level of the pond during prolonged periods of dry weather is also required.

(6) For emergency use, basin cleaning or shoreline maintenance, facilities shall be provided or plans prepared for auxiliary equipment to permit emptying and drainage.

(7) Facilities to enhance and maintain pond water quality shall be provided, if required to meet applicable water quality standards. Design calculations to substantiate the effectiveness of these aeration facilities shall be submitted with final engineering plans. Agreements for the perpetual operation and maintenance of aeration facilities shall be submitted with final engineering plans. Agreements for the perpetual operation and maintenance of aeration facilities shall be prepared to the satisfaction of the Board. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.62 PARKING LOT STORAGE

Paved parking lots may be designed to provide temporary detention storage of stormwater on all or a portion of their surfaces. Outlets will be designed so as to empty the stored waters slowly. Depth of storage must be limited to a maximum depth of six inches so as to prevent damage to parked vehicles and so that access to parked vehicles is not impaired. Ponding should, in general, be confined to those positions of the parking lots farthest from the area served. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.63 FACILITY FINANCIAL RESPONSIBILITY

The construction cost of stormwater control systems and facilities as required by this chapter shall be accepted as part of the cost of land development. If general public use of the facility can be demonstrated, negotiations for public participation in the cost of such development may be considered.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.64 FACILITY MAINTENANCE RESPONSIBILITY

(A) Facility maintenance responsibility of detention/retention facilities during construction and thereafter, shall be the responsibility of the land developer/owner. Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and shall be determined before the final drainage plans are approved.

(B) Stormwater detention and retention basins may be donated to the county or other unit government designated by the county, for ownership and permanent maintenance providing:

- (1) The county or other governmental unit is willing to accept responsibility;
- (2) The facility has been designed and constructed according to all applicable provisions of this chapter;
- (3) All improvements have been constructed, approved and accepted by the county for the land area served by the drainage basin;
- (4) Retention ponds containing a permanent pool of water have all slopes between the riprap and high water line sodded and the remaining land area hydroseeded; are equipped with electrically driven aeration devices, if required to maintain proper aerobic conditions and sustain aquatic life; have a four-foot wide crushed limestone walkway at the high water line entirely around the body of water; provide suitable public access acceptable to the responsible governmental agency; and have the high water line not closer than 75 feet to any property line; and
- (5) Dry detention ponds shall have all slopes, bottom of the basin and area above the high water line hydroseeded and shall have the high water line not closer than 50 feet to any development boundary. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.65 INSPECTIONS

All public and privately owned detention and retention storage facilities may be inspected by representatives of the county not less than once every two years. A certified inspection report covering physical conditions, available storage capacity and operational condition of key facility elements will be provided to the owner.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.66 CORRECTIVE MEASURES

If deficiencies are found by the Inspector, the persons responsible for the detention/retention facility will be required to take the necessary measures to correct the deficiencies. If the persons responsible fail to do so, the county will undertake the work and collect from the persons responsible using lien rights, if necessary.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.67 JOINT DEVELOPMENT

Stormwater control systems may be planned and constructed jointly by two or more developers as long as compliance with this chapter is maintained. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.68 INSTALLATIONS

(A) Runoff and erosion control system shall be installed as soon as possible during the course of site development. Detention/retention basins shall be designed with an additional 6% of available capacity to allow for sediment accumulation resulting from development and to permit the pond to function for reasonable periods between cleanings.

(B) Basins should be designed to collect sediment and debris in specific locations so that removal costs are kept to a minimum.
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.69 DETENTION FACILITIES IN FLOODPLAINS

If detention storage is provided within a floodplain, only the net increase in storage volume above that which naturally existed on the floodplain shall be credited to the development. No credit will be granted for volumes below the elevation of the regulatory flood at the location unless compensatory storage is also provided. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.70 OFF-SITE DRAINAGE

When the allowable runoff is released in an area that is susceptible to flooding, the developer may be required to construct appropriate storm drains through the area to avert increased flood hazard caused by the concentration of allowable runoff at one point instead of the natural overland distribution. The requirement of off-site drains shall be at the discretion of the Board.
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

PLANS AND DETERMINATIONS

§154.80 CERTIFICATIONS REQUIRED

(A) After completion of the project and before final approval and acceptance can be made, a professionally prepared and certified “record set” of plans shall be submitted to the Board for review.

(B) These plans shall include all pertinent data relevant to the completed storm drainage system and shall include:

- (1) Pipe size and pipe material;
- (2) Invert elevations;
- (3) Top rim elevations;
- (4) Lengths of all pipe structures;
- (5) Data and calculations showing detention basin storage volume; and
- (6) Certified statement on plans stating the completed storm drainage system substantially complies with construction plans as approved by the Board.

(C) All submitted plans shall be reviewed for compliance within 30 days after submission to the Board or County Surveyor. If notice of noncompliance is not given within 30 days of submission of the plans, the plans shall be construed as approved and accepted. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.81 CHANGES IN PLAN

Any revision, significant change or deviation in the detailed plans and specifications after formal approval by the Board shall be filed in duplicate with and approved by the Board prior to implementation of the revision or change. Copies of the revisions or changes, if approved, shall be attached to the original plans and specifications. (Ord. 90-5, passed 8-30-9-; Am. Ord. passed 2-16-99)

§154.82 DETERMINATION OF IMPACT DRAINAGE AREAS

(A) The Board is authorized, but is not required to classify certain geographical areas as impact drainage areas and to enact and promulgate regulations which are generally applied. In determining impact drainage areas, the Board shall consider the factors as topography, soil type, capacity of existing regulated drains and distance from adequate drainage facility.

(B) The following areas shall be designated as impact drainage areas, unless good reason for not including them is presented to the Drainage Board:

- (1) A floodway or floodplain, as designated by the State Department of Natural Resources;
- (2) Land within 75 feet of each bank of any regulated drain;
- (3) Land within 75 feet of the center line of any regulated drain tile; and
- (4) Land where there is not an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an impact drainage area by resolution of the Board. Special requirements for development within any impact drainage area shall be included in the resolution (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.83 SUMP PUMPS

(A) Sump pumps installed to receive and discharge groundwaters or other stormwaters shall be connected to the storm sewer where possible or discharged into a designated storm drainage channel.

(B) Sump pumps installed to receive and discharge floor drain flow or other sanitary sewage shall be connected to the sanitary sewers. A sump pump shall be used for one function only, either the discharge of stormwaters or the discharge of sanitary sewage.
(Ord. 90-5, passed 8-30-90; Am. Ord. 2-16-99)

§154.84 DOWNSPOUTS

All down spouts or roof drains shall discharge onto the ground or be connected to the storm sewer. No down spouts or roof drains shall be connected to the sanitary sewers.
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

§154.85 FOOTING DRAINS

Footing drains shall be connected to storm sewers where possible or designated storm drainage channels. No footing drains or drainage tile shall be connected to the sanitary sewer. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

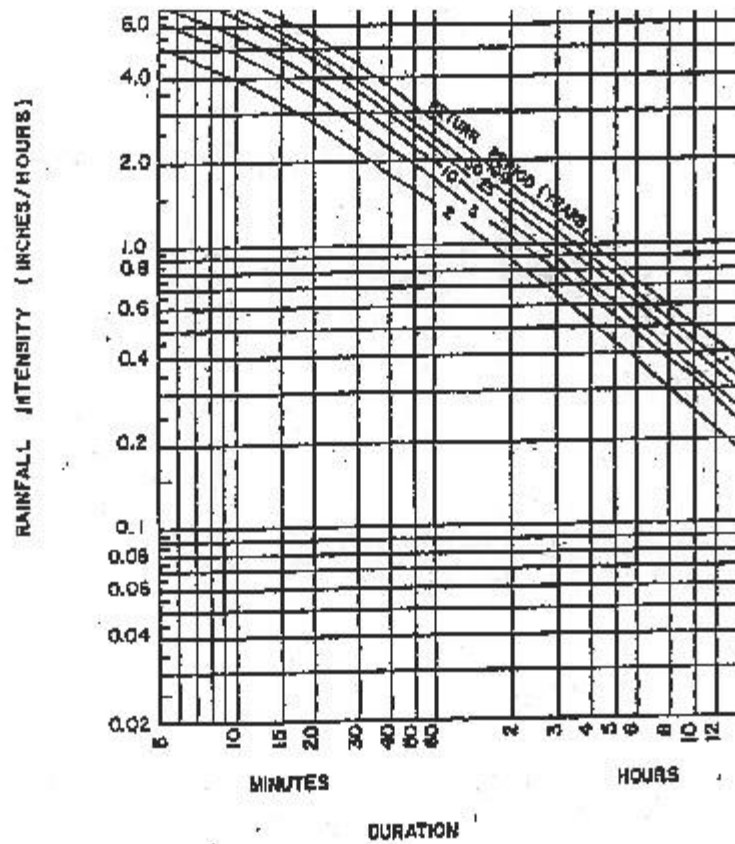
§154.86 BASEMENT FLOOR DRAINS

Basement floor drains shall be connected to the sanitary sewers.
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

Title XV: Land Usage
APPENDIX: RAINFALL DATA

- § 1 Rainfall intensity-duration-frequency curves
- § 2 Nomograph for determining time of concentration

§ 1 RAINFALL INTENSITY-DURATION-FREQUENCY CURVES.



(O
8-30-91)

rel. 90-5, passed

Title XV: Land Usage

§ 2 NOMOGRAPH FOR DETERMINING TIME OF CONCENTRATION.

(Ord. 90-5, passed 8-30-90)

Time of Concentration of Rainfall on Small Drainage Basins

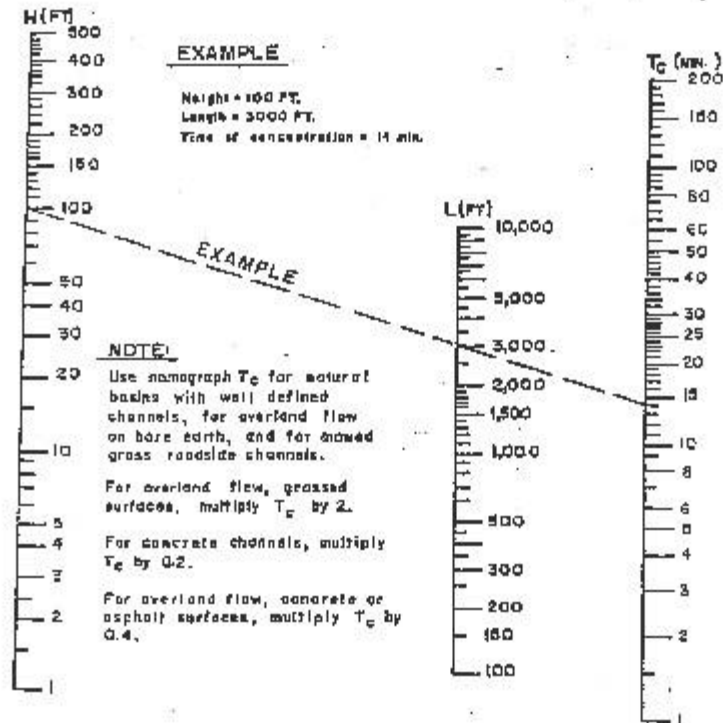


Figure 2. Nomograph for Determining Time of concentration
 (Developed from the Kirpich Equation)

CHAPTER 155: WIND ENERGY CONVERSION SYSTEMS

Section

- 155.01 Statutory Authorization
- 155.02 Purpose
- 155.03 Definitions
- 155.04 Applicability and Scope
- 155.05 Prohibition
- 155.06 Administration
- 155.07 WECS Project Approval
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- 155.09 County Roads and Drainage
- 155.10 WECS Tower Building Permits
- 155.11 Design and Installation Standards
- 155.12 Waste Management
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- 155.14 Liability Insurance
- 155.15 Decommissioning Plan
- 155.16 Variances
- 155.17 Enforcement
- 155.18 Hearings and Appeals
- 155.19 Judicial Review

§155.01 STATUTORY AUTHORIZATION

This Chapter is enacted as an exercise of the County's police power to regulate the use or possession of property that might endanger the public health, safety or welfare, pursuant to I.C. 36-8-2-4 and the Indiana Home Rule Law, I.C. 36-1-3.
(Commissioners Ord. 2009-5, passed 7-29-05)

§155.02 PURPOSE

This Chapter is adopted for the following purposes:

- (A) To assure that any development and production of wind-generated electricity in Montgomery County will preserve the public health, safety and welfare; and

(B) To provide a regulatory scheme for the permitting, construction, operation, maintenance and decommissioning of wind-generated electricity facilities in the County. (Commissioners Ord. 2009-5, passed 7-27-09)

§155.03 DEFINITIONS

For purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

APPLICANT. The entity or person who submits to the Building Commissioner an application for a WECS Project, or a Building Permit for one or more WECS Towers.

BOARD. The Board of Commissioners of Montgomery County, Indiana.

BUILDING COMMISSIONER. The Building Commissioner of Montgomery County, Indiana.

COUNTY. Montgomery County, Indiana.

FAA. The Federal Aviation Administration.

FINANCIAL ASSURANCE. Reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.

LANDOWNER. Any person or entity owning real estate in Montgomery County, Indiana.

NON-PARTICIPATING LANDOWNER. Any Landowner who is neither an “Owner” nor a “Participating Landowner,” as those terms are defined herein.

OPERATOR. The entity or person responsible for the day-to-day operation and maintenance of a WECS, including any third party subcontractors.

OWNER. The entity(ies) or person(s) with an equity interest in a WECS, including its or their respective successors and assigns. Owner does not include (i) a Participating Landowner who owns less than a 5% equity interest in the WECS, or (ii) any person holding a security interest in the WECS solely to secure an extension of credit.

PARTICIPATING LANDOWNER. A Landowner from whom land is leased for locating a WECS.

PRIMARY STRUCTURE. For each property, a structure that one (1) or more persons occupy principally for either business or personal use. Primary Structure includes structure such as Residences and commercial building. Primary Structures excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

PROFESSIONAL ENGINEER. A qualified individual who is licensed as a professional engineer in any state in the United States.

RESIDENCE. A structure that is used or intended for use by one (1) or more persons use as a dwelling place.

SUBSTATION. A structure containing apparatus that connects below- or above-ground electrical collection lines of the WECS to the electric utility grid, with or without increasing the voltage.

WECS PROJECT. A WECS development consisting of two (2) or more WECS Towers.

WECS TOWER. A free-standing or guyed support structure to which the rotor, nacelle and generator are attached.

WECS TOWER HEIGHT. The distance from the rotor blade at its highest point to the top surface of the WECS Tower foundation.

WIND ENERGY CONVERSION SYSTEM(S) (“WECS”). All necessary devices that together convert wind energy into electricity to an electric utility’s transmission lines, including but not limited to one or more rotors, nacelles, generators, WECS Towers, electrical components, WECS Tower foundations, Substations, electrical cabling from WECS Towers to Substations, meteorological towers, communications facilities, and other related facilities and equipment. (Commissioners Ord. 2009-5, passed 7-27-09)

§155.04 APPLICABILITY AND SCOPE

This Chapter governs WECS Projects that generate electricity to be sold to wholesale or retail markets, except owners of WECS with an aggregate generating capacity of 100 kilowatts (KW) or less and a WECS Tower height not exceeding 170 feet, who locate a WECS entirely on their own property. If a WECS Project is located or to be located partly in Montgomery County and partly in another county, this Chapter applies to the part of the Project located in Montgomery County. (Commissioners Ord. 2009-5, passed 7-27-09)

§155.05 PROHIBITION

Except as expressly provided otherwise herein, no person or entity shall construct or operate a WECS in Montgomery County without having fully complied with the provisions of this Chapter. (Commissioners Ord. 2009-5, passed 7-27-09)

§155.06 ADMINISTRATION

(A) *WECS Building Permit Required.* No person may construct or operate a WECS Tower within the corporate boundaries of Montgomery County unless a WECS Building Permit has been approved, financial assurances for decommissioning have been given pursuant to this Chapter, and an Economic Development Agreement and a Road Use Agreement (both as described herein) have been entered into by the Board and the Applicant, Owner or Operator.

(B) *Supercedure.* Nothing in this Chapter is intended to supersede any requirement of state or federal law, except that this Chapter may impose stricter requirements, in whole or in part, that may be imposed by any state or federal authority.

(C) *Powers and Duties of the Building Commissioner.* The Building Commissioner has the following powers and duties:

- (1) To issue WECS Building Permits in accordance with the criteria set forth in this Chapter and Chapter 150 of this Code;
- (2) To administer and enforce the provisions of this Chapter and all orders issued pursuant thereto;
- (3) To conduct investigations and obtain data with respect to any aspect of any WECS regulated under this Chapter, and to collect and disseminate information regarding any WECS;
- (4) To order suspension of operation of any WECS upon any repeated or willful violation of any of the provisions of this Chapter or when there is an imminent threat of substantial harm to the health, safety or welfare of Montgomery County residents, public or private property in Montgomery County, or natural resources;
- (5) To accept grants or funds for purposes of administration of this Chapter and research into wind-generated electricity;
- (6) To cooperate with any other governmental entity to further the purposes of this Chapter; and

(7) To collect fees from Applicants in accordance with this Chapter, as amended from time to time.

(Commissioners Ord. 2009-5, passed 7-27-09)

§155.07 WECS PROJECT APPROVAL

(A) *Requirement.* No entity or person may construct, own or operate a WECS Project in Montgomery County without first obtaining WECS approval process, the following information shall be submitted to the Building Commissioner:

(1) *Project Description.* A narrative description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS Towers, and name plate generating capacity of each wind turbine generator; the maximum height of the WECS Towers and maximum diameter of the WECS rotor(s); the general location and total acreage of the WECS Project; and

(2) *Applicant, Owner and Operator.* Identification of the name, mailing address, email address, telephone number and brief description of each Applicant, Owner, and Operator, including their respective business structures; and

(3) *Property Owners.* Identification of the names, mailing addresses and tax parcel numbers of all property owners who will have WECS Towers, Substations, access roads or underground cabling located on their properties; and

(4) *Topographic Map.* A topographic map of the WECS project site and the surrounding area with contours of not more than five (5) foot intervals. If any WECS Tower is to be constructed within six (6) nautical miles from a public use airport, a map of sufficient scale depicting the airport and Towers shall also be provided; and

(5) *Site Plan.* A site plan submitted both on paper (on one or more 36" x 24" sheets showing individual WECS Tower sites at a scale not greater than 1 inch = 20 feet), and on digital media in shapefile format and coordinate system State Plane Indiana West, NAD83. The site plan shall include:

(a) the proposed location of each WECS Tower, guy lines and anchor bases (if any);

- (b) WECS access roads;
 - (c) Substations;
 - (d) electrical cabling;
 - (e) ancillary equipment;
 - (f) Primary Structures within one quarter (1/4) of one (1) mile of any WECS Tower;
 - (g) property lines, including identification of adjoining properties;
 - (h) setback lines;
 - (i) public roads, bridges, and drainage;
 - (j) location of all above-ground utility lines within a distance of two (2) times the WECS Tower Height of any WECS Tower;
 - (k) recognized historic or heritage sites within the WECS area, as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources;
 - (l) any wetlands within the WECS area, based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines;
 - (m) Location of existing underground utility lines associated with the WECS site;
 - (n) Location of any lay down yard to be used in construction; and
- (6)** *Jobs Estimate.* An estimate of the number of permanent jobs to be created in the County by the WECS Project; and
- (7)** *Estimated Project Budget and Construction Timetable.* A project budget to include the estimated investment in real and personal property, any applicable phasing of construction, and the estimated timetable for construction; and
- (8)** *Decommissioning Plan.* A Decommissioning Plan which satisfies the requirements of §155.15 of this Chapter; and

(9) *Financial Assurance for Property Owners.* An affidavit by the Applicant stating that all easements for WECS, Substations and underground cabling shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the Participating Landowners to ensure that the WECS facilities will be properly decommissioned within twelve (12) months of termination or abandonment of the WECS.

(Commissioners Ord. 2009-5, passed 7-27-09)

§155.08 ECONOMIC DEVELOPMENT AGREEMENT

(A) *Agreement Required.* No WECS Project shall be constructed or substantially modified unless the Applicant or Operator first enters into an Economic Development Agreement with the Board. The Economic Development Agreement shall provide for the following:

- (1) Detailed description of the WECS Project;
- (2) Detail of the timing of project implementation;
- (3) Detail of economic development incentives provided to the Applicant or Operator by the County including, but not limited to:
 - (a) The level of Tax Abatement to be granted, if any, for consideration of the Road Use Agreement, and other benefits accruing to the County; and
 - (b) Other reasonable assistance to be provided by the County.
- (4) Payment(s) to be made by the Applicant or Operator to the County in consideration for the possible elimination or restriction of other new residential, agricultural, recreational or commercial/industrial development resulting from the development of the wind farm (“Economic Development Payments”).
- (5) Allowance for the payment in lieu of property taxes (“PILOT”) in the event of any change in law, rules, or regulations which would exempt any or all of the investment in the WECS by the Applicant or Operator.
- (6) *Jobs Estimate.* An estimate of the number of permanent jobs to be created in the County by the WECS Project; and

- (7) *Estimated Project Budget and Construction Timetable.* A project budget to include the estimated investment in real and personal property, any applicable phasing of construction, and the estimated timetable for construction; and
- (8) *Decommissioning Plan.* A Decommissioning Plan which satisfies the requirements of §155.15 of this Chapter; and
- (9) *Financial Assurance for Property Owners.* An affidavit by the Applicant stating that all easements for WECS, Substations and underground cabling shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the Participating Landowners to ensure that the WECS facilities will be properly decommissioned within twelve (12) months of termination or abandonment of the WECS.

(Commissioners Ord. 2009-5, passed 7-27-09)

§155.09 COUNTY ROADS AND DRAINAGE

(A) *Agreement Required.* No WECS Project shall be constructed or substantially modified unless the Applicant or Operator first enters into a County Road Use and Drainage Repair Agreement with the Board. The County Road Use and Drainage Repair Agreement shall provide for the following:

- (1) A detailed map indicating any County road to be utilized for construction, operation, maintenance, or decommissioning by the Applicant, Owner, or Operator; including any other County-owned or controlled property such as bridges, culverts, road shoulders, and intersections (“Designated Roads”).
- (2) Process for determining the existing condition of each Designated Road prior to any use by the Applicant, Owner, or Operator. Such process may involve video and/or textual narrative for each Designated Road, with the cost of such report to be borne by the Applicant, Owner, or Operator (a “Designated Road Condition Report”).
- (3) Timelines for completing the Designated Road Condition Report, role of the Montgomery County Highway Superintendent (“Highway Superintendent”), and process for settling any disputes as to the Road Condition Report.
- (4) Identification of any County-regulated drains that may be affected (“Drain Location Map”) by the Applicant, Owner, or Operator to be provided to the Montgomery County Drainage Board.
- (5) Allowed Usage of the Designated Roads by the Applicant, Owner, or Operator as

granted by the Board.

(6) Required improvements to the Designated Roads by the Applicant, Owner, or Operator as granted by the Board.

(7) Safety requirements, including:

(a) Speed limits,

(b) Directional and/or warning signage,

(c) Notices to emergency agencies, school corporations, and other entities as deemed necessary for road closures that may be required.

(8) Dust control measures.

(9) Removal of temporary improvements.

(10) Designated road repair identification, repair, and cost responsibility.

(11) Performance assurances required of the Applicant, Owner or Operator.

(12) Applicable fines for non-compliance with the County Road Usage and Drainage Repair Agreement.

(13) Any other provisions deemed necessary and agreed to by the Applicant, Owner, or Operator and the Board.

(B) *Agreement Individually Negotiated.* A county Road Use and Drainage Repair Agreement will be negotiated for each WECS between Applicant, Owner, or Operator and the Board based on the project scope and specifics for each WECS project in the County. And such agreement will contain the following terms:

(1) *Post-Construction Requirements:* Post-construction, the applicants will comply with the following provisions:

(a) *Road Repairs:* Any road damage caused by the transport of any matter or material utilized in any way regarding the WECS, in the construction of the WECS, the installation of the same, and/or the removal and decommissioning of the same, shall be repaired to the satisfaction of the Montgomery County

Highway Department Superintendent (as per the Road Use and Maintenance Agreement). The Superintendent may choose to require other remediation of road(s) upon completion of the WECS or said Superintendent is authorized to collect fees for oversized load permits.

(b) *Performance Bond:* A corporate surety bond in an amount to be determined by a professional highway engineer selected by the Board of County Commissioners will be required by the Superintendent to ensure Montgomery County that future repairs are completed to the satisfaction of the Board of County Commissioners. The cost of such bond shall be paid by the WECS applicant, and/or operator and said bond shall remain in full force and effect until the Decommissioning Plan and Decommissioning Agreement are fully completed as prescribed by this Chapter and the Decommissioning Agreement.

(c) *As-Built Plans Requirement:* Upon completion of all development, the exact measurements of the location of utilities, structures and components erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, and/or operator shall submit a copy of the Final Construction Plans (as build plans), if amended, said Plans shall be submitted as amended, to the Building Commissioner and Highway Superintendent with the exact measurements shown thereon. The Building Commissioner, after being satisfied that the measurements are substantially the same as indicated in the originally approved final plan(s) or as the same were from time to time amended, shall approve, date and sign said Construction Plans for the WECS, which the applicant, owner, and/or operator shall then record.

(d) *Change in Ownership:* It is the duty and responsibility of a WECS applicant, WECS owner or WECS operator, and any subsequent WECS owner and WECS operator, in addition to the notice requirements of any WECS plan(s) and WECS agreement(s) to notify by written affidavit the Building Commissioner of any change in the ownership of the WECS or any part of the ownership thereof, and/or any change of any description whatsoever in the operation of the WECS during the life of the WECS, to and through the time that the final Decommissioning Plan and Decommissioning Agreement are concluded and all applicable acceptances, releases and performance standards of any description have been met, concluded, and accepted by the proper local, state, federal or private authority, department, agency, and person(s), and all financial payments or financial obligations are fully satisfied and all appropriate parties are in receipt thereof. In order for the owner and/or operator to inform said Building Commissioner of the required information regarding changes as herein provided,

said notices shall be sent by certified mail with certified funds for any required recording fees and any other applicable fees to the Building Commissioner.

§155.10 WECS BUILDING PERMITS

(A) *Building Permit Required.* No WECS Tower or Substation shall be constructed or substantially modified unless the Applicant or Operator first obtains a WECS Building Permit from the Building Commissioner, pursuant to Chapter 150 of this Code and the requirements of this Chapter.

(B) *Application for WECS Building Permit.* In addition to the requirements for a Building Permit under Chapter 150 of this Code, the Applicant shall provide the following information to the Building Commissioner.

- (1)** Location of all above-ground utility lines within a radius equal to two (2) times the heights of the proposed WECS Towers.
- (2)** Location of all underground utility lines associated with the WECS Tower sites.
- (3)** Dimensional representation of the structural components of the tower construction including the base and footings.
- (4)** Schematic of electrical systems associated with the WECS Towers including all existing and proposed electrical connections.
- (5)** Certificate(s) of design compliance that the relevant wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party, that the nacelle, rotor, generator and electrical components confirm to industry standards then applicable.
- (6)** Certificate by a Professional Engineer that the foundation and tower design of each WECS Tower is sufficient to withstand wind load requirements for structure as defined by the International Code Council, and is within accepted professional standards, given local soil and climate conditions.
- (7)** Copies of all necessary recorded access easements and necessary recorded utility easements.
- (8)** A fire protection plan for construction and operation of the facility.

(9) To the extent applicable, a drainage plan for construction and operation approved by the Montgomery County Drainage Board.

(10) To the extent applicable, an erosion control plan approved by the Montgomery County Soil and Water Conservation District.

(11) Proof of compliance with the Indiana Tall Structures Act, I.C. 8-21-10.

(12) Any other information reasonably requested by the Building Commissioner.
(Commissioners Ord. 2009-5, passed 7-27-09)

§155.11 DESIGN AND INSTALLATION STANDARDS

(A) *Electrical Components.*

(1) All turbines and other electrical components of the WECS Tower shall conform to applicable local, state, and national codes, and relevant national and international industry standards. Used, experimental or prototype equipment shall not be installed or used as part of a WECS Tower without the prior written approval of the Building Commissioner.

(2) All electrical collection cables between WECS Towers shall be located underground unless they are located on public or utility rights-of-way or with prior written approval of the Building Commissioner. All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the Landowner until the same reach the property line or a Substation adjacent to the property line.

(3) No appurtenances other than those associated with the wind turbine operations shall be connected to any WECS Tower except with express, written permission by the Building Commissioner.

(B) *Controls and Brakes.* All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Stall regulation shall not be considered a sufficient braking system for over-speed protection. All mechanical brakes shall be operated in a fail-safe mode.

(C) *Color.* Except as otherwise required by FAA regulations, towers, and blades shall be painted white or gray or another non-obtrusive color. Finishes shall be matte or non-reflective.

(D) Warnings.

(1) A reasonably visible warning sign concerning voltage must be placed at the based of all pad-mounted transformers and Substations.

(2) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to at least fifteen (15) feet above the ground.

(E) Climb Prevention. All WECS Towers must include features to deter climbing or be protected by anti-climbing devices including at minimum the following:

(1) Locked WECS Tower doors to prevent unauthorized entry; and

(2) No outside ladders or stairways on any WECS Tower.

(F) Blade Clearance. The minimum distance between the ground and any protruding blade(s) utilized on a WECS Tower shall be fifteen (15) feet, as measured at the lowest pint of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

(G) Noise and Vibration. Noise levels generated by the operation of a WECS shall not exceed sixty (60) decibels measured from the nearest Primary Structure. Noise and vibration levels shall comply with all other applicable county, state and federal laws, ordinances or regulations.

(H) Utility Interconnection. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's service regulations applicable to WECS, as amended from time to time.

(I) Setbacks.

(1) Except as otherwise provided herein, no WECS Tower shall be located within any of the following minimum setback distances:

Distance from ...	Minimum Setback Distance
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Property line, measured from the center of the WECS Tower to the property line	1.1 times the WECS Tower Height
Residences, measured from the center of the WECS Tower to the nearest corner of the structure	Not less than: (i) 1,000 feet from Residences of Participating Landowners; or Participating Landowners; or (ii) 1,300 feet from Residences of Non-Participating Landowners
Road or street rights-of-way, measured from the center of the WECS Tower to the nearest edge of the right-of-way	1.1 times the WECS Tower Height, or 350 feet, whichever is greater
Railroad rights-of-way, public utility easements, or underground pipeline easements, measured from the center of the WECS Tower to the nearest edge of the right-of-way or easement	1.1 times the WECS Tower Height, or 350 feet, whichever is greater
Regulated drains subject to jurisdiction of the Montgomery County Drainage Board pursuant to I.C. 36-9-27, measured from the nearest edge of the WECS Tower foundation	75 feet from (i) the center line of any tiled drain or (ii) the top edge of the nearest bank of an open drain
Sugar Creek, measured from the center of the WECS Tower to the nearest ordinary high water mark	2,640 feet (1/2 mile) from the nearest "ordinary high water mark" as defined by 312 IAC 1-1-26
Incorporated limits of a municipality, or boundary of a platted residential subdivision outside the corporate limits of a municipality, measured from the nearest edge of the WECS Tower foundation	1,500 feet
State, county, city or town parks, measured from the center of the WECS Tower to the nearest point on the park boundary	1,500 feet

(2) No Substation shall be located nearer than 1,000 feet from any Residence. Participating Landowners may agree in writing to reduce the 1,000-foot Substation setback from Residences on their property. Any such written agreement shall be executed and acknowledged by all affected Participating Landowners, filed with the

Building Commissioner and recorded in the office of the Recorder of Montgomery County.

(3) No WECS Tower or Substation shall be located within any dedicated public easement or public right-of-way.

(4) Adjacent Landowners may agree in writing to reduce the minimum setbacks from their common property lines. Any such written agreement shall be executed and acknowledged by all affected Landowners, filed with the Building Commissioner and recorded in the office of the Recorder of Montgomery County.

(5) New Residences built adjacent to or within the area of a WECS shall observe the minimum setback requirements set forth above for Residences.

(J) *Lighting.*

(1) Except with respect to lighting required by the FAA all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the WECS facilities.

(2) Any WECS Tower, Substation, underground cabling or other WECS facility declared to be unsafe by the Montgomery County Building Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the County Ordinances governing the removal of nuisances.

(K) *Water Wells and Septic Systems.* All WECS facilities shall comply with applicable septic and well regulation as required by the Montgomery County Health Department and the State of Indiana Department of Public Health.

(L) *Navigable Airspace.* No WECS Tower or Substation shall be located at a location or a height that is determined by the FAA to be an obstruction or a hazard to navigable airspace.

(M) *Compliance with Additional Regulations.* Nothing in this Chapter is intended to preempt other applicable state and federal laws and regulations.

(Commissioners Ord. 2009-5, passed 7-27-09)

§155.12 WASTE MANAGEMENT

All solid waste whether generated from supplies, equipment, parts, packaging used or consumed in the construction, operation or maintenance of a WECS, including retired or replaced parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All hazardous waste generated by the operation and maintenance of a WECS, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.
(Commissioners Ord. 2009-5, passed 7-27-09)

§155.13 OPERATION AND MAINTENANCE

(A) *Interference.* If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the Owner or Operator shall take reasonable steps to respond to resolve the interferences.

(B) *Coordination with Local Fire Department.*

(1) The Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.

(2) Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.

(3) Nothing in this Section shall alleviate the need to comply with all other applicable fire laws and regulations.

(C) *Materials Handling, Storage and Disposal.*

(1) All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

(2) All hazardous materials or waste related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

(Commissioners Ord. 2009-5, passed 7-27-09)

§155.14 LIABILITY INSURANCE

The Owner or Operator of a WECS shall maintain a current general liability policy covering bodily injury and property damage and name the County as an additional insured with limits of at least two million dollars (\$2,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate, with a deductible of no more than five thousand dollars (\$5,000). Such policy or policies shall be issued by insurer(s) reasonably acceptable to the Building Commissioner. The Owner or Operator shall provide the Building Commissioner or certificate or certificates of all such insurance in force from time to time. (Commissioners Ord. 2009-5, passed 7-27-09)

§155.15 DECOMMISSIONING PLAN

(A) Prior to receiving WECS Project approval or a WECS Tower Building Permit under this Chapter, the Applicant, Owner, and/or Operator must formulate a written Decommissioning Plan reasonably acceptable to and approved by the Board, to ensure that the WECS Project is properly decommissioned.

(B) Decommissioning shall include removal of WECS Towers (including foundations to the extent specified in Section 155.15(C) of this Chapter), rotors, nacelles, generators, aboveground wiring or cabling, electrical components, Substations, access roads and any other associated facilities.

(C) A Decommissioning Plan shall provide for removal of all WECS Tower foundations or footings to a depth of forty-eight inches (48”) beneath the soil surface, and restoration of the area occupied by the Project Improvements, including access roads, to as near as practicable to the same condition that existed immediately before construction of such improvements. Participating Landowners may waive in writing the requirement to remove access roads to WECS Towers on their property.

(D) A Decommissioning Plan shall also address the need for and planned use of County roads and infrastructure needed and necessary to carry out the Plan in a prompt manner. In order to protect and preserve the County’s roads and infrastructure, and to the extent not otherwise included in the County Road Use and Drainage Repair Agreement required under Section 155.09 of this Chapter, the Owner or Operator, prior to the commencement of decommissioning pursuant to the approved Decommissioning Plan, shall provide financial assurance in an amount reasonably acceptable to the Board to cover the cost of any damage to or destruction of County roads or infrastructure which may be caused by decommissioning of the WECS Towers or Project in accordance with the Decommissioning Plan.

(E) Prior to receiving WECS Project approval or a WECS Tower Building Permit, the

Applicant, Owner or Operator shall submit to the Building Commissioner a contractor cost estimate for demolition and removal of the WECS improvements, and a detailed estimate of the salvage value of the WECS components. The cost estimate shall be provided by a competent and qualified party such as a Professional Engineer, a contractor capable and experience in WECS decommissioning, or other person(s) with relevant experience or expertise in WECS decommissioning reasonably acceptable to the Building Commissioner.

(F) The Applicant, Owner or Operator must provide financial assurance in an amount at least equal to the 125% of the amount of the demolition and removal contractor cost estimate minus the reasonable salvage value of the WECS components, in the form a surety bond, irrevocable letter of credit or other security reasonably acceptable to the Building Commissioner. No such surety bond or irrevocable letter of credit shall be released until the WECS is properly decommissioned in accordance with the Decommissioning Plan, as determined by the Building Commissioner.

(G) The amount of financial assurance agreed to by the Board and the Applicant, Owner or Operator shall be reviewed on each five-year anniversary of the date of the Decommissioning plan. As part of such review process, the Applicant, Owner or Operator shall submit to the Building Commissioner an updated cost estimate for demolition and removal of the WECS components, in accordance with Section 155.15(f) of this Chapter. If such updated cost estimate is in an amount greater than the original cost estimate submitted pursuant to Section 155.15(E), the Building Commissioner may order the Applicant, Owner or Operator to increase the amount of financial assurance so as to equal at least 125% of such updated cost estimate. If such updated cost estimate is in an amount less than the original cost estimate submitted pursuant to Section 155.15(E) of this Chapter, the Building Commissioner may permit the Applicant, Owner or Operator to decrease the amount of financial assurance, but not to an amount less than 125% of such updated cost estimate.

(H) A WECS, or any WECS Tower within a WECS project, shall be considered abandoned if it has not been operated for the generation of electricity for a continuous period of more than twelve (12) months. Upon abandonment of a WECS or WECS Tower, the Owner or Operator shall promptly proceed with decommissioning in accordance with the Decommissioning Plan approved by the Board.

(I) If an Owner or Operator fails, neglects or refuses to promptly commence or continue with decommissioning in accordance with the approved Decommissioning Plan, the Building Commissioner shall send written notice of such default to the Owner and Operator. Such notice shall provide the Owner and Operator a reasonable time, not to exceed ninety (90) days to either commence or resume decommissioning of the abandoned WECS or WECS Tower. Upon the failure, neglect or refusal of the Owner or Operator to commence or resume decommissioning within the time specified in such notice, the Building Commissioner may demolish and remove the abandoned WECS or WECS Tower according

to the approved Decommissioning Plan, at the expense of the Owner or Operator. For such purposes, the Building Commissioner may enter upon any Participating Landowner's property. To recover the cost of such demolition and removal, the Building Commissioner may proceed against the surety bond or other security provided by the Applicant to secure performance under the Decommissioning Plan. In addition to, and not in lieu of proceeding against the surety bond or other security, the Building Commissioner may, but shall not be required to, sell any salvage WECS property in any commercially reasonable manner, subject to the rights of any secured creditor holding a security interest in such property, and apply the net proceeds of any such sale toward the cost of such demolition and removal.

(Commissioners Ord. 2009-5, passed 7-27-09)

§155.16 VARIANCES

(A) *Prior Approval Required.* No WECS may be constructed, modified or expanded without full and complete compliance with the requirements and standards contained in this Chapter, unless a variance is first granted by the Board.

(B) *Application for Variance.* The Applicant or Operator shall submit an Application for Variance, in the form prescribed by the Building Commissioner, for any variances sought in connection with a WECS. A single Application for Variance may be submitted for all variances sought. The filing fee for an Application for Variance shall be \$250.00. In addition, the Applicant or Operator shall be responsible for all publication fees and postage costs for the publication and service of notices as required by this Chapter, as well as any other direct costs incurred by the County in consideration of the application for variance.

(C) *Action on Application.* All Applications for Variance shall be heard and determined by the Board in accordance with § 155.18. (Commissioners Ord. 2009-5, passed 7-27-09)

§155.17 ENFORCEMENT

(A) The Owner or Operator of a WECS shall submit, on an annual basis, a summary of the operation and maintenance reports to the Building Commissioner. In addition to the above annual summary, the Owner or Operator shall furnish such other operation and maintenance reports as the Building Commissioner reasonably requests.

(B) Any physical modification to a WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with the Building Commissioner to determine whether the physical modification requires re-certification.

(C) The Building Commissioner may and his or her staff, along with licensed professionals retained for the specific purpose of conducting inspections, may inspect any WECS facility upon twenty-four (24) hours prior notice, or without notice in the event of an emergency posing a threat of imminent harm to the environment or to the health, safety or general welfare of the public. If any Owner or Operator refuses the Building Commissioner access to a WECS for purposes of making an inspection, the Building Commissioner may order a suspension all WECS operations until such time as the inspection has occurred and the Building Commissioner is satisfied that no imminent threat of substantial harm to health, human safety or the environment exists, or that such threat has been eliminated.

(D) The fee for each inspection shall as determined by the Board time to time, and shall be payable by the Owner or Operator to the Building Commissioner, in addition to reimbursement to the County of the actual fees charged by licensed professionals retained by the Building Commissioner to conduct or assist with such inspection.

(E) If the Building Commissioner finds that any WECS facility is in violation of the requirements of this Chapter, he or she may order the Owner or Operator to take appropriate actions in order to bring facilities into compliance with this Chapter. Noncompliance with any such order is a separate violation of this Chapter in addition to the violation complained of.

(F) The Building Commissioner may also suspend or revoke a WECS Project approval or WECS Tower Building Permit for repeated or willful violation of any of the terms of the WECS Project approval or Building Permit or the provisions of this Chapter if the Building Commissioner determines there is an imminent threat of irreparable harm to the environment; or of serious hazard to the health, safety, and general welfare of the public.

(G) If a WECS Project Approval or WECS Tower Building Permit is revoked, the Building Commissioner may order the Applicant, Owner or Operator to commence decommissioning of the WECS upon 30 days notice.

(H) It is unlawful to violate any of the provisions of this Chapter, or fail to perform any duty imposed by this Chapter, or any order issued by the Building Commissioner. Any Owner or Operator found to have committed any such violation shall be subject to a penalty to be assessed by the Building Commissioner in an amount not to exceed \$2,500 for each day such violation continues.

(I) In determining the amount of a penalty to assess under this Chapter, the Building Commissioner shall consider the Owner or Operator's history of previous violations with respect to the WECS, the seriousness of the violation, including any irreparable harm to the

environment and hazard to the health, safety, and general welfare of the public, the Owner or Operator's negligence, and the demonstrated good faith of the Owner or Operator to achieve repaid compliance after notification of the violation.

(J) Upon the assessment of a penalty under this Chapter, the Building Commissioner shall immediately inform the Owner or Operator of the amount of the penalty assessed and issue an order to pay the penalty. The Owner or Operator shall have 30 days from the receipt of the order to pay the penalty or appeal the assessment pursuant to §155.18 of this Chapter. (Commissioners Ord. 2009-5, passed 7-27-09)

§155.18 HEARINGS AND APPEALS

The Board shall hear and determine (1) appeals from any order, requirement, decision, or determination made by the Building Commissioner under this Chapter or in relation to its enforcement, and (2) applications for approval of variances from the requirements of this Chapter.

(A) *Appeals from Decisions or Orders of Building Commissioner.*

(1) An appeal from a decision or order of the Building Commissioner must specify the grounds of the appeal and must be filed with the Board within thirty (30) days after the date of the decision or order being appealed.

(2) The Building Commissioner shall, on the request of the Board, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal is taken.

(3) Certified copies of the documents, plans, and papers constituting the record may be transmitted for purposes of subsection (2) above.

(4) Upon appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the Building Commissioner from which the appeal is taken.

(B) *Variances.* In determining whether to approve an Application for Variance, the Board shall make written findings whether the proposed variance satisfies each of the following criteria:

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(3) The need for the variance arises from some condition peculiar to the property involved; and

(4) The strict application of the terms of this Chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought.

(C) *Hearings*

(1) The Board shall fix a reasonable time for the hearing of appeals and Applications for Variances.

(2) Notice by publication in accordance with I.C. 5-3-1, and written notice to interested parties by certified mail, shall be given at least ten (10) days before the date set for the hearing.

(3) Interested persons shall include all Landowners owning real estate located within 1,000 feet of the property involved in the appeal or in the Application for Variance, and any other Landowner who files a written statement with the Building Commissioner of his or her claim of interest at least fourteen (14) days before the hearing. The Board may in its discretion designate additional interested parties.

(4) The party taking the appeal, or applying for the variance, shall assume the cost of publication and mailing of notice of the hearing.

(5) At the hearing, the party appealing or applying for the variance may appear in person, by agent, or by attorney.

(6) The Building Commissioner may appear before the Board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.

(7) Other persons may appear and present relevant evidence.

(8) No person may communicate with any member of the Board before the hearing with intent to influence the member's action on an appeal or Application for Variance pending before the Board. Not less than five (5) days before the hearing, however, the

Building Commissioner or any interested party may file with the Board a written statement setting forth any facts or opinions relating to the matter.

(9) The Board may require any party adverse to any appeal or Application for Variance to enter a written appearance specifying the party's name and address.

(10) The Board shall hear and decide all appeals and Applications for Variance in an open public meeting, and each such decision shall be filed with the minutes of the Board's meetings. (Commissioners Ord. 2009-5, passed 7-27-09)

§155.19 JUDICIAL REVIEW.

Each decision of the Board under §155.18 is subject to judicial review by certiorari. Any person, other than the Building Commissioner, who is aggrieved by a decision of the Board may file a verified petition for judicial review, alleging that the decision is illegal in whole or in part and specifying the grounds of the illegality. All petitions for judicial review must be filed with an Indiana state court of general jurisdiction sitting in Montgomery County, Indiana, within thirty (30) days after the date of the decision of the Board.

CHAPTER 157: PRIVATE SEWAGE DISPOSAL

Section

- 157.01 Definitions
- 157.02 Sewage Disposal
- 157.03 Construction Requirements
- 157.04 Construction Permit
- 157.05 Registration of Installers
- 157.06 Inspections
- 157.07 Maintenance and Sampling
- 157.08 Economic Hardship
- 157.09 Denial, Suspension, Revocation
- 157.10 Penalties

§157.01 DEFINITIONS

The following definitions apply to this Chapter:

STATE DEFINITION means all definitions set forth in 410 IAC 6-8.2, as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference;

BOARD means the Montgomery County Board of Public Health, Montgomery County, Indiana;

BUILDING means a structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy of persons, fixtures or personal property, and from which there emanates any sewage;

COMMERCIAL means any building which is not a one or two family dwelling;

DEPARTMENT means the Montgomery County Health Department, and/or its employees;

DWELLING means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used;

ENVIRONMENTAL HEALTH SPECIALIST means an individual as defined in Indiana Code § 25-32-1-1(B);

HEALTH OFFICER means the Director of Public Health for the Montgomery County Health Department, Montgomery County, Indiana, or his/her authorized representative.

INSTALLER means any person who constructs, installs, replaces, alters, modifies or repairs any residential or commercial sewage disposal system subject to the provisions of this Chapter, other than one which services his/her/its building. In the event that the person is any association of two or more people, then said association shall designate one individual who shall be designated as the installer and responsible for compliance with all provisions hereunder;

LEGAL DRAIN means any tile or drainage-way regulated by the Montgomery County Surveyor;

PERMIT means a certificate of a size and style approved by the Health Officer or his/her designee;

PERMITEE means the person who is the owner of the real estate, his/her/its authorized representative, who is responsible for the application of a construction permit and who shall be responsible for the acceptance of notices at the address listed on the permit applications;

PUBLIC SEWER means any sanitary sewer constructed, installed, maintained, operated or owned by a municipality, sewage district or utility company. A county legal drain, mutual drain or private drain installed for the sole purpose of carrying surface water runoff and subsoil drainage shall not be considered a public sewer under this definition;

RESIDENTIAL means a building used or intended to be used as a one or two-family dwelling.

SEWAGE means all water-carried waste derived from ordinary living processes. This does include grey-water discharge;

SOIL SCIENTIST means an individual who is a Specialist or Classifier of soils, certified by the Indiana Registry of Soil Scientists.

§157.02 SEWAGE DISPOSAL

(A) State Rules: All rules and regulations of 410 IAC 6-8.2, as amended from time to time, of the Indiana State Department of Health are hereby incorporated by reference.

(B) Public/Municipal Sewer Available: Whenever a public sewer is or becomes available within 300 feet of a residential or commercial building, a direct connection shall be made to said public sewer as defined under IC 36-9-23-30 subsection (b), provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks,

sewage pits, outhouses, privy pits and similar sewage disposal systems or treatment facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

(C) *Public/Municipal Sewer Not Available:* All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.

(D) *Construction of Privy:* Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) must be approved by the Health Commissioner and maintained in accordance with this Chapter and Indiana law.

(E) *Correction of Defects:* Should any defect exist or occur in any private sewage disposal system or privy which would cause the sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Officer or his/her designee. Failure to correct the defect within the time table established by the Health Officer or his/her designee shall be considered a violation of this Chapter and shall subject the owner/permittee to the sanctions set forth in Section 157.10, subject, however, to the provisions of Section 157.09.

(F) *Adaptation of Residential System:* Whenever there is any alteration of the structure or significant change in the use or occupancy of a residential building which would affect the functioning of the existing private sewage disposal system, including the addition of a bedroom or bedroom equivalent, then the system shall be modified, enlarged or replaced in accordance with the requirements of this article. Plans for any such changes shall be submitted to the Montgomery County Health Department.

(G) *Adaptation of Commercial System:* Whenever there is any alteration of the structure or significant change in the use or occupancy of a commercial building which would affect the functioning of the existing private sewage disposal system, including but not limited to the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this Chapter. Any such changes will require Indiana State Department of Health approval and/or waiver.

§157.03 CONSTRUCTION REQUIREMENTS OF PRIVATE SEWAGE DISPOSAL SYSTEMS

(A) *Indiana State Department of Health Requirements:* All rules and regulations of 410 IAC 6-8.2 as amended from time to time, of the Indiana State Department of Health are hereby incorporated by reference.

(B) Lot Dimensions: Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated slight or moderate for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service, shall contain a minimum of one (1.0) acre or 43,560 square feet as per Montgomery County Code Section 152.52 (Lots; A;2) and suitable soils and topography to permit compliance with this Chapter.

(C) On Site Evaluation: At least three borings from the proposed septic disposal system location. One boring shall be done with a soil auger. The second sample from the proposed septic disposal system location, and any additional confirmation samples, may be taken with a push probe. Additional borings shall be required if the original proposed septic area soils are disturbed.

(D) Requirements for Septic Tanks: Residential tanks shall be of concrete construction. Residential septic tanks shall have the following capacity in gallons:

	Number of Bedrooms	Size of tank (gallons)
	1, 2 or 3	1,000
a.	1,250	
b.	1,500	
c.	or more	1,500 + 150 for each bedroom greater than 5

(E) Distribution Boxes: All distribution boxes shall be of concrete construction.

(F) Access Openings: All septic tanks shall have at least one (1) access opening per tank (or per compartment in two compartment tanks) of at least eighteen (18) inches in diameter, with a riser that extends to ground level for inspection and cleaning purposes. Such access opening shall be fitted with a safely secured, child proof, gas tight cover.

(G) Abandoned Septic Tanks: Abandoned septic tanks must be pumped, can have the top crushed in and shall be filled with sand or pea-gravel, as not to hold water or shall be removed.

§157.04 CONSTRUCTION PERMITS

(A) Construction Permit Required: An owner or permittee shall first obtain a construction

permit (new, repair) from the Health Department prior to the commencement of any excavation, construction, modification or addition to any existing or new private sewage disposal system.

(B) Permit to be Posted: No person shall perform any work on a private sewage disposal system project unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the private sewage disposal system is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

(C) Application for Permit: The application for such permit shall be submitted to the Health Department on a form provided by the Health Department and shall be supplemented by any building plans, specifications and other information deemed necessary by the Health Department or as required by 410 IAC 6-8.2.

(D) Permit Fees: Prior to the issuance of any permit, each owner/permittee shall first tender to the Montgomery County Health Department, a fee or fees, which shall be deposited into the County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule:

Type of Permit	Fee
Construction – new or replacement	\$150.00
Construction – repair or alteration	\$100.00
Construction – re-inspection	\$25.00
Construction – renewal	\$25.00
Abandonment – inspection	\$25.00

(E) Term and Renewal: A construction permit shall be valid for two (2) years from the date of issuance. If the permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. The construction permit is not transferable.

§157.05 REGISTRATION OF INSTALLERS

(A) Registration Requirements: Except for a person working on his/her own private sewage disposal system which serves as the dwelling in which he/she resides, no person shall construct, install, replace, alter, modify or repair any private sewage disposal system unless that person has first registered with the Montgomery County Health Department as an installer. Application for registration shall be on forms provided by the Health Department.

(B) Conditions for Registration: Every person required to register under this section shall be knowledgeable of all laws, rules and regulations of both the state and county governing private sewage disposal systems. Prior to registration, the applicant must demonstrate knowledge of the applicable laws, rules and regulation by passing a proficiency exam conducted by the Health Department with a score of eighty percent (80%) or higher. The registration exam shall be reviewed from time to time to determine its applicability to current laws, rules and regulations. Where taking a written exam is not feasible, due to language or reading difficulties, arrangements will be made to allow for an oral examination to assure proficiency. Opportunity for re-examination shall be afforded to an applicant upon request, but not more than frequently than once per month.

(C) Seminar: At the request of the Local Board of Health, but not more often than once per year, a person registered under this section shall attend a seminar on sewage disposal conducted by the Montgomery County Health Department, Indiana State Department of Health, or IOWPA. **(D) Expiration:** Registrations under this section shall expire annually on December 31. Each installer shall be required to re-register annually on or before January 15, 2012 and on or before January 15th of each succeeding year.

(D) Annual Fee: An annual registration fee of twenty-five dollars (\$25.00) will be charged which shall be paid no later than January 31 of each year. If the annual fee is not paid on or before January 31 of each year, the fee will be fifty dollars (\$50.00).

(E) Notice of Violation: Whenever the Health Department determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by an installer, the Health Department shall give written notice, in person or by certified mail, of the alleged violation to the installer. Such notice shall include the following:

- (1) A statement of the alleged violation; and
- (2) An order allowing a reasonable time for the performance of any act required to correct the violation.

(F) Suspension or Revocation: If the violation is not corrected within the designated time, the Health Department may suspend or revoke the installer's registration subject to the provisions contained in Sections 157.02, 157.03, 157.04 or 157.09 of this Chapter.

- (1) If the registration is suspended, the installer may be reinstated by the

Health Department upon correction of all violations.

(2) If the registration is revoked, the Health Department shall require, at a minimum, that the installer:

(a) be retested;

(b) pay registration fee; and

(c) correct all outstanding violations to the satisfaction of the Health Department prior to being re-registered.

(G) *Not Registered*: Any person constructing, installing, replacing, altering or repairing, any private sewage disposal system who is not registered as an installer under this section shall be deemed to be in violation of this Chapter and shall be subject to all penalties set forth in this Chapter.

(H) *Testing Fees*: The testing fee is twenty-five dollars (\$25.00). If the installer is IOWPA certified, this fee is waived.

§157.06 INSPECTIONS

(A) *Commencement of Construction*: Upon issuance of a construction permit under Indiana Code §16-41 et seq. and Section 157.04 of this Chapter, the permittee may commence installation and construction of the private sewage disposal system. The Health Department may inspect the work at any state of construction.

(B) *Substantial Completion*: Upon substantial completion of the installation, the permittee shall notify the Health Department that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made.

(1) No portion of the installation shall be used and, when the system serves a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in full compliance.

(2) The inspection shall be made within two (2) working days of the Health Department's receipt of notice that the system is ready for inspection.

(C) *Abandoned Tanks*: Upon substantial completion of the work required for abandonment of a septic tank, and prior to covering the tank, the owner/permittee/installer shall notify the Health Department that the work is ready for inspection and pay the inspection fee.

§157.07 MAINTENANCE AND SAMPLING

(A) Sanitary Condition Mandatory: Every private sewage disposal system will be constructed and maintained so that the effluent leaving the Permittee's system will be sanitary.

(B) Inspection and Sampling: The Health Department will be permitted to enter upon any property at any reasonable time to inspect and take samples from a private sewage disposal system. If said test results should indicate a residential or commercial sewage disposal system failure, said failure will constitute a violation of Indiana Code §16-20 et seq.

§157.08 ECONOMIC HARDSHIP

(A) Economic Hardship: In the event an owner/permittee is unable to comply with the provisions of Section 157.02 of this Chapter due to the economic hardship that might be imposed, then the Health Officer may, upon application and proof of inability to pay the cost of compliance, extend the period within which said owner/permittee shall be required to make the hook-up provided the owner/permittee has an existing private sewage disposal system which is operating properly. No extension or extensions may exceed 12 months in length.

§157.09 DENIAL, SUSPENSION, REVOCATION

(A) Denial and Approval of Permit

(1) In the event the Health Department determines that the application for the Construction Permit does not meet the standards set forth in this article, then the Health Department shall be required to notify the Permittee of such denial in person and/or in writing, within thirty (30) days of the original application, stating the specific reasons for the denial of the permit.

(2) In the event the Health Department issues written directives regarding corrective actions, then the Permittee shall have a reasonable amount of time to address and comply with the items set forth in the directives in order to be able to obtain the Construction Permit.

(B) Suspension of Permit/Registration: The Health Department may order the suspension of a Construction Permit or Installer Registration. The Health Department may order the suspension of a permit or registration for any of the following reasons:

(1) Failure to meet any of the standards of any of the provisions of this Chapter or violations of any of provisions of this Chapter.

(2) Interference with Health Department personnel in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or preventing the Health Department personnel in the performance of his/her duties.

(C) *Revocation of Permit/Registration:* Any Permit and/or registration issued hereunder may be revoked by the Health Department as the result of the willful or continued violation of any provision of this Chapter.

(D) *Immediate Revocation:* Notwithstanding any of the other provisions of this Chapter, whenever the Health Department finds insanitary or other conditions, which, in its opinion constitute an imminent health hazard, the Health Department may, without notice or hearing, issue and serve a written order on the owner/permittee/installer requiring the immediate cessation of operation/installation. Said written order shall state the existence of the imminent health hazard and shall specify the corrective action to be taken. Such order shall be effective immediately.

(E)Appeal

(1) Any owner/permittee/installer aggrieved by any final order of the Health Officer or designee is entitled to a review of the final order before the Commissioners of Montgomery County, Indiana by filing a written request therefor with the Secretary for the Board of Commissioners of Montgomery County within fifteen (15) days of the Health Officer or designee's final order.

(2) The Board of Commissioners shall conduct a hearing on the appeal within 30 days of the receipt of the appeal. The Board shall provide notice to the owner/permittee/installer at least 10 days prior to the hearing. The owner/permittee/installer is entitled to present evidence and be represented by an attorney at the hearing. Within 10 days of the hearing, the Board will make written findings of fact and enter its final order or determination of the matter in writing in its permanent records and mail a copy of its findings and final order or determination to the owner/permittee/installer.

§157.10 PENALTIES

(A) Enforcement: It shall be the duty of the Health Officer or his/her designee to enforce the provisions of this Chapter. Any Permit or registration issued in conflict with the provisions of this Chapter shall be null and void. A violation of an order issued by the Health Officer or designee or Health Board shall be considered to be a violation of this Chapter.

(B) Violations: Whenever the Health Officer or his/her designee determines that any owner, permittee, installer or any other person, is in willful violation of any of the provisions of this Ordinance, the Health Officer or his/her designee shall furnish evidence of said willful violation to the Prosecuting Attorney of Montgomery County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s).

(C) Penalty: Any person who willfully violates any of the provisions of this Chapter shall be subject to a fine of not more than \$500.00 for each violation. Each day of the existence of any violation of this Chapter shall be considered to be a separate offense.

(D) Injunction : The Health Officer or designee may bring an action for an injunction in the Circuit or Superior Court of Montgomery County, Indiana to restrain any person from violating the provisions of this Chapter, or to cause such violation to be prevented, abated or removed.

(E) Expense: Any person violating any of the provisions of this Chapter shall be liable to the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and court costs.

(F) Cumulative: The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

(Ord. 2012-13, passed 9-24-12)

CHAPTER 158: PUBLIC AND SEMI-PUBLIC SWIMMING POOL AND SPA OPERATIONS

Section

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§158.01 TITLE.

This chapter may be referred to as the “Montgomery County Swimming Pool Ordinance.”

(Ord. 2013-4, passed 5-28-2013)

§158.02 ADOPTION BY REFERENCE.

The regulations located at 410 IAC 6-2.1 et seq. entitled “Public and Semi-Publics,” as amended from time to time and promulgated by the Indiana State Department of Health and 675 IAC 20-1.1 et seq., 675 IAC 20-2 et. seq., and 675 IAC 20-3 et seq. entitled “Swimming Pool Code,” as amended from time to time and promulgated by the Indiana Fire Prevention and Building Safety Commission are hereby incorporated and adopted by reference. One copy of these regulations shall be on file with the Montgomery County Health Department.

(Ord. 2013-4, passed 5-28-2013)

§158.03 DEFINITIONS.

Except as provided below, the terms defined in 410 IAC 6-2.1 and 675 IAC 2-1.1 shall carry the same definitions wherever used in this chapter as the definition provided in those regulations. For the purpose of this chapter, the terms below shall be defined as follows:

ALKALINITY. The total amount of bicarbonate, carbonate, and hydroxide compounds present in water. **ALKALINITY** refers to the ability or capacity of water to resist change in pH.

ANNUAL POOLS. Pools that are open all year.

CALCIUM HARDNESS. The amount of calcium dissolved in the water. **CALCIUM HARDNESS** shall be expressed in parts per million of calcium carbonate.

CHLORINE. The chemical element Cl that exists as a gas in its elemental form and which is an oxidant and biocidal agent, used in swimming pool disinfection. **CHLORINE** may be derived from chlorine gas, calcium hypochlorite, sodium hypochlorite, or lithium hypochlorite.

COMBINED CHLORINE (CHLORAMINE). The portion of the total chlorine existing in water in chemical combination with ammonia, nitrogen, and/or organic compounds. **CHLORAMINE** causes eye and skin irritation and has a strong, objectionable odor.

CYANURIC ACID. A chemical family of pool sanitizer products (isocyanurates) that are used to prevent the decomposition of chlorine by ultra-violet light. **CYANURIC ACID** is also referred to as stabilizer, isocyanuric acid, conditioner, or triazinetrione.

DISINFECTANT. A chemical or chemicals used to react with and to kill undesirable or pathogenic organisms and having an easily measured free residual.

FREE CHLORINE. That portion of the total chlorine remaining in chlorinated water that is not combined with ammonia, nitrogen compounds, or other compounds and will react chemically with undesirable or pathogenic organisms.

HEALTH DEPARTMENT. The Montgomery County Health Department.

HEALTH OFFICER. The Montgomery County Health Officer or his/her duly authorized representative.

HEALTH HAZARD. Any condition which in the opinion of the Health Officer may reasonably lead to injury or disease or put the public health at risk. A **HEALTH HAZARD** may include, but shall not be limited to: unacceptable disinfection residuals; unacceptable bacterial levels; water clarity that does not allow viewing all parts of the pool.

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

INSPECTION. A review of any portion of a swimming pool facility and its operations. The facility shall include the swimming pool and surrounding area, water supply, sewage disposal system, mechanical equipment and equipment room, chemical storage facility, safety and testing equipment, bath house, and any other portion of the swimming pool facility as deemed necessary by the Health Officer. The operations shall include bacteriological reports, operating records, and chemical water testing results.

LICENSEE. Any individual, association, company, corporation, partnership, division of government or other group acting as a unit, trust, estate, agent or legal representative thereof who shall hold title to the real estate upon which the pool is placed, or who shall be legally responsible for the operations of the pool, or who shall be so named as the owner on the pool permit application.

MECHANICAL CHEMICAL FEEDER. A device approved by the Health Officer that allows for the continuous (24 hours per day) and automatic addition of a chemical which imparts an easily measured free residual. All such devices must be sized to provide an acceptable chemical residual, sufficiently adjustable to readily increase or decrease the chemical as necessary, and durable enough to operate continuously 24 hours per day.

OPERATING RECORDS. A written record on approved forms, completed daily, outlining hours of operation, and all testing results (including bacterial, disinfectant residual, combined chlorine, pH, alkalinity, cyanuric acid calcium hardness), and any changes to the pool operation.

PERSON(S) IN CHARGE (PIC). The individual(s) who has knowledge of all laws, rules and regulations of both the State of Indiana and Montgomery County governing swimming pools and who supervises compliance with all parts of this chapter. The PIC shall be available to the health department, either in person or by telephone, at all times during normal working hours. In addition, the PIC shall be available within one hour for emergencies during non-working hours.

pH. A measure of the relative acidity or basicity of water as indicated by the hydrogen ion concentration. **pH** is expressed as a number on the scale of 0 to 14.

POOL ENCLOSURE. The barrier between the swimming pool area and the area outside which is intended to deter unauthorized entry from outside the swimming pool area. The

POOL ENCLOSURE shall provide self-closing and self-latching hardware on all gates, doors, or other accesses through the enclosure; and shall be locked when the swimming pool is closed.

PUBLIC POOL. Any pool, other than a semi-public pool defined in this section, which is intended to be used for swimming or bathing and is operated by a concessionaire, owner, lessee, operator, or licensee, regardless of whether a fee is charged for use. Nothing in this Chapter will be construed as applying to any pool constructed at a one (1) or two (2) family dwelling and maintained by an individual for the sole use of the household or house guests.

SEASONAL POOLS. Pools that are open less than all year.

SEMI-PUBLIC POOLS. Any pool restricted for use by residents, members, or registered guests that is intended to be used for swimming or bathing and is operated solely for and in conjunction with

- (1) hotels, motels, apartments, condominiums, bed and breakfast facilities or similar facilities associated with lodging;
- (2) camps or mobile home parks; or
- (3) membership clubs, churches or associations.

STATE HEALTH DEPARTMENT. The Indiana State Department of Health.

STOP WORK ORDER. A written order of the Health Officer to stop all work on a project or construction of a swimming pool until the project is in compliance with all provisions of this chapter.

SUPERCHLORINATE. The practice of adding a sufficient amount of chlorine to water to destroy chlorine demand compounds and any combined chlorine which may be present.

SUPERCHLORINATION is referred to as breakpoint chlorination. Generally, chlorine must be added to ten times the difference between the free chlorine and the total chlorine in the swimming pool water to superchlorinate and achieve breakpoint chlorination.

SWIMMING POOL. An artificial body of water used by individuals primarily for the purposes of swimming, wading, diving, recreation, or instruction, and includes all related equipment, bath houses, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool. **SWIMMING POOLS** shall include any structure,

basin, chamber, or tank containing water for swimming, wading, diving, recreation or instruction and shall include swimming pools, pools, slide pools, spa pools, wave pools, wading pools, diving pools, whirlpools, hot tubes, water slides, and spas. **SWIMMING POOLS** shall not include:

- (4) Residential swimming pools serving one- or two-family dwellings and maintained by an individual for the sole use of the household and house guests;
- (5) Portable hot tubs or other pools or spas operated for medical treatment, physical therapy, or related purposes, or that are drained and cleaned between uses and filled directly prior to use; and
- (6) Natural bathing areas such as streams, lakes, rivers, or man-made lakes.

TEST KIT. A set of devices and reagents used to accurately monitor the disinfectant residual, pH, alkalinity, calcium hardness, combined chlorine, and any other chemical characteristic of the water determined by the Health Officer as important in the control of water quality. A **TEST KIT** shall be durable; shall have the appropriate range of standards which are accurate and stable; shall have fresh reagents; and shall be simple to use. When cyanuric acid is used, a test kit for determining cyanuric acid levels shall be provided.

TOTAL DISSOLVED SOLIDS. The total amount of dissolved matter in water (such as calcium, magnesium, carbonate, bicarbonates, metallic compounds and the like).

(Ord. 2013-4, passed 5-28-2013)

§ 158.04 LICENSE REQUIREMENTS

(A) License Requirement. No person shall operate a swimming pool in Montgomery County without a valid license. A swimming pool license shall be issued for a term of one year commencing May 1st and expiring on April 30th of the subsequent year and must be renewed annually.

(B) Limitations. The person(s) in charge shall only be in charge of one pool for any given facility except for facilities with more than one pool located on the same or contiguous property. The licensee may be the person in charge or must specify a person in charge. At any time the swimming pool is not under the operation of the specified person(s) in charge, the licensee shall find a new person in charge within one week. If the new person in charge is not specified within one week, the swimming pool shall close. Swimming pool licenses are not transferable and shall be conspicuously posted at every swimming pool.

(Ord. 2013-4, passed 5-28-2013)

§ 158.05 ISSUANCE OF LICENSE

- (A) *Application.* Any pool owner wishing to operate a swimming pool in Montgomery County shall make written application for a license to operate the swimming pool on approved forms. The application shall include the name and address of the owner, the location and type of proposed swimming pool, dimensions and volume of pool(s), the signature of the owner, the names, addresses, and phone numbers of the person(s) in charge, the days and hours of operation, and any other information deemed necessary by the Health Officer. Application for licensure must be completed prior to all requests for inspection.
- (B) *Education.* Each applicant must have its Person in Charge participate in a Certified Pool Operator's course or pass a test administered by the Health Department in order to demonstrate the requisite knowledge of operations prior to issuance of a license.
- (C) *Inspection.* Before approving an application for a license to operate a swimming pool, the Health Officer shall inspect the swimming pool to determine compliance with this chapter.
- (D) *Fee.* The applicant shall pay a license fee as required by Section 158.16.
- (E) The Health Officer shall promptly issue a license if the applicant satisfied the conditions of this section and all rules of the Department, the swimming pool is in compliance with this chapter and is designed, constructed, and equipped to be operated in a manner which protects public health.

(Ord. 2013-4, passed 5-28-2013)

§158.06 LICENSE RESTRICTIONS

A swimming pool which has not held a required license to operate for a period of one year, or has had its license revoked by the Health Officer, shall be required to apply for a new license before resuming operations and shall not be issued a license to operate unless it complies

with all of the requirements of this chapter, including the construction, design, equipment, and sanitation requirements applicable to a new swimming pool. Upon change of ownership of a swimming pool, a new license to operate must be obtained from the Health Department prior to operating under the new owner. A license will not be issued to the new owner unless the swimming pool is in compliance with current codes and regulations.

(Ord. 2013-4, passed 5-28-2013)

§158.07 SAMPLING AND TESTING

Bacteriological examination of all swimming pools must be completed prior to opening and at least once per week as outlined in Rule 410 IAC 6-2.1. Sample results must be submitted in writing to the Health Department within seven days of sample collection. Every swimming pool shall be equipped with a chemical test kit. Tests for residual disinfectant and pH in the swimming pool shall be conducted not less than two times per day and recorded on approved forms. These tests shall be conducted prior to opening the pool and spa to swimmers and one other time later in the day when the pool is in use by swimmers. Tests for alkalinity and cyanuric acid shall be conducted as necessary to maintain acceptable chemical balance but not less than once per week. Tests for combined chlorine shall be conducted at least twice per week. The Health Department recommends but does not require that the test for calcium hardness be conducted at least once per month. Results shall be recorded on the approved operating record forms. All such records shall be maintained for at least one year and shall be available for examination by the Health Officer.

(Ord. 2013-4, passed 5-28-2013)

§158.08 ADDITION OF CHEMICALS.

(A) The water chemistry and bactericidal chemical concentrations shall be maintained within the parameters as established in Rule 410 IAC 6-2.1.

Required Disinfectant Levels

	Chlorine		Bromine	
Pool Type	Minimum	Maximum	Minimum	Maximum
Wading pool	3.0 ppm	7.0 ppm	4.0 ppm	10 ppm
Spa pools	2.0 ppm	7.0 ppm	4.0 ppm	10 ppm
Waterslide plunge pool	2.0 ppm	7.0 ppm	3.0 ppm	10 ppm

Wave pool	2.0 ppm	7.0 ppm	3.0 ppm	10 ppm
All other pool	1.0 ppm	7.0 ppm	2.0 ppm	10 ppm

Required Levels of Other Chemical Parameters

	Minimum	Maximum
Ph	7.2	7.8
Cyanuric Acid	NA	60 mg/L
Alkalinity	80 mg/L	NA
Combined Chlorine	NA	0.50 mg/L
NA=not applicable		
Cyanuric Acid shall not be used in any indoor pool		

(B) Where the concentration of combined chlorine is greater than 0.50 mg/L (ppm), the swimming pool shall be superchlorinated or otherwise treated in a manner to oxidize and diminish the concentration of combined chlorine. No harsh or irritating chemical shall be added manually and directly to the water of any swimming pool except under emergency conditions. Should it be necessary to add any such chemical in concentrated form directly into the water of any swimming pool, use of the swimming pool shall be terminated until such time as the chemical is dissolved completely in and is diffused thoroughly throughout the swimming pool. The broadcasting or manual application of chemicals to maintain a disinfectant residual or pH is prohibited except as may be required to superchlorinate the swimming pool. Under no conditions may superchlorination or manual adjustment of pH occur while the swimming pool is in use by swimmers.
(Ord. 2013-4, passed 5-28-2013)

§158.09 INSPECTIONS

The Health Officer may enter upon the swimming pool premises and other property of a person at all reasonable times for the purpose of inspecting the swimming pool, examining records maintained by the operator, and carrying out the requirements of this chapter upon producing proper credentials and identification. No person shall open or place in service any swimming pool without first obtaining a license for such cooperation from the Health Officer. An applicant for licensure shall notify the Health Officer, to request an initial inspection, at least one week prior to the anticipated opening. The Health Officer shall make the inspection within three working days of the receipt of notice from the applicant but only after a

minimum of one satisfactory bacterial sample is received by the Health Department. A minimum of one additional inspection will normally be completed during the swimming pool's regular operating season but inspections may be performed as often as necessary for the efficient and effective enforcement of this chapter.

(Ord. 2013-4, passed 5-28-2013)

§158.10 REPORT OF INSPECTION

Whenever an inspection is made of a swimming pool, the findings shall be recorded on an approved inspection report form. The inspection report form shall summarize the violations of this chapter and shall set forth requirements for correction. A copy of the completed inspection report form shall be presented to the person(s) in charge of the swimming pool at the conclusion of the inspection. The complete inspection report form constitutes an official notice of the inspection findings and an order of the Health Officer to correct all violations found.

(Ord. 2013-4, passed 5-28-2013)

§158.11 CORRECTION OF VIOLATIONS

The completed inspection form shall specify a reasonable period of time for the correction of the noted violations. Correction of all violations shall be accomplished within the period specified in accordance with the following provisions:

(A) If an imminent health hazard is determined by the Health Officer to exist, the swimming pool shall immediately close to all swimmers and guests until the violation can be corrected. Operations shall not be resumed until authorized by the Health Officer.

(B) If the weekly bacterial water tests do not demonstrate acceptable water quality, the swimming pool shall immediately close to all swimmers. The pool may reopen only after a satisfactory bacterial test result is obtained.

(C) If inspection by the Health Officer determines a disinfectant residual below the levels required in 410 IAC 6-2.1 for the type of pool in question, the swimming pool shall immediately close to all swimmers and guests as required by Rule 410 IAC 6-2.1 until disinfectant levels are acceptable. Suitable chlorine levels shall be verified by the Health Officer prior to reopening the swimming pool to swimmers and guests.

(D) All other violations of this chapter shall be corrected in accordance with the Montgomery County Swimming Pool Inspection Form and the following schedule:

- (1) *Water quality*: Corrective action required to commence immediately with compliance required within 24 hours.
- (2) *Water clarity*: Corrective action required to commence immediately with compliance required within 48 hours.
- (3) *Disinfectant residual*: Corrective action required to commence immediately with compliance required within 48 hours.
- (4) *Circulation and filtration*: Compliance required within 30 days if water quality is being maintained. If water quality cannot be maintained, the Health Officer may order closure until repairs are completed.
- (5) *Tests and records*: Corrective action required to commence immediately with compliance required within ten days.
- (6) *Structures and fixtures*: Compliance required within the number of days specified by the Health Officer dependent upon severity, but with compliance always required prior to renewal of the license.
- (7) *Safety*: Corrective action required to commence immediately with compliance required within the number of days specified by the Health Officer.
- (8) *Signs and enclosure*: Compliance required prior to opening; replacements required within 30 days.
- (9) *Cleanliness*: Compliance required within ten days.
- (10) *License*: License to be obtained and posted prior to opening; if licensure cannot be demonstrated, then immediate closure is required until the license is obtained.

(Ord. 2013-4, passed 5-28-2013)

§158.12 SUSPENSION OF LICENSE.

(A) The Health Officer may, upon written notice without prior warning or hearing, suspend any license to operate a swimming pool for any of the following reasons:

(1) The operation, in the opinion of the Health Officer, constitutes an imminent health hazard.

(2) Interference with the Health Officer in the performance of his or her duties;

(3) Failure to correct any specific violation on two or more consecutive routine inspections; or

(4) Failure to comply with the correction schedule established by the Health Officer.

(B) The license shall be promptly reinstated when it has been verified by the Health Officer that the reason for suspension has been corrected. Suspension shall be for a period not exceeding 30 days. Whenever the license to operate a swimming pool is suspended, the licensee or the person(s) in charge shall be notified in writing that the license to operate the swimming pool is, upon serving of the notice, immediately suspended. Opportunity for a hearing will be provided if a written request for a hearing is filed, by the licensee or the person(s) in charge, with the Health Officer shall be afforded within 20 days of receipt of the request. If no written request for hearing is filed within ten days, the suspension is sustained. The Health Officer shall end the suspension the suspension upon request of the licensee or the person(s) in charge if the reason for the suspension no longer exists. If after 30 days the suspension is still in place, the Health Officer shall conduct a hearing for license revocation.

(Ord. 2013-4, passed 5-28-2013)

§158.13 LICENSE REVOCATION

(A) The Health Officer may, after providing opportunity for hearing, revoke a license to operate a swimming pool for any of the following reasons:

(1) Repeated violations of this chapter found in consecutive inspections;

(2) Interference with the Health Officer in the performance of his or her duties; or

(3) As a result of a license suspension which has exceeded 30 days.

(B) Before revocation, the Health Officer shall notify the licensee or the person(s) in charge, in writing, of the reasons for which such license is subject to revocation. The license to operate the swimming pool shall be revoked at the end of ten days following service of such notice unless a written request for a hearing is filed with the

Health Officer within the ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the license to operate the swimming pool becomes final.

(Ord. 2013-4, passed 5-28-2013)

§158.14 SERVICE OF NOTICE

Any notice provided for in this chapter is properly served when it is delivered to the licensee or to the person(s) in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the licensee. A copy of the notice shall be filed in the records of the Health Department.

(Ord. 2013-4, passed 5-28-2013)

§158.15 HEARINGS

(A) The hearings provided for in this chapter shall be conducted by the Health Officer at a time and place designated by the Health Officer. The Health Officer shall make a final finding based upon the complete hearing record and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the licensee, or to the person in charge, by the Health Officer within ten days of the hearing if requested. The licensee and person(s) in charge shall immediately comply with an order or decision of the Health Officer. Should the Health Officer be unable to conduct a hearing or should he consider it in the best interests of Montgomery County to do so, he or she may in his or her discretion request that the Montgomery County Board of Health conduct the hearing.

(B) In the event that the licensee or his or her authorized representative fails to attend any hearing, he or she shall be deemed to have accepted the decision of the Health Officer.

(C) In the event that the licensee or the person(s) in charge fails to abide by the hearing decision or written orders of the Health Officer, the Health Officer may furnish written evidence of the violation to the Montgomery County Prosecutor for prosecution for violation of the provisions of this chapter. The Health Officer may also furnish written evidence of the violation to the office of the Montgomery County Attorney for appropriate action against the licensee including enforcement action for violation of the provisions of this chapter.

(Ord. 2013-4, passed 5-28-2013)

§158.16 LICENSE FEES

(A) *Application Fees.* License fees shall be charged prior to the issuance of a license to operate a swimming pool in Montgomery County. The fees shall be as follows:

- (1) Seasonal Pools: \$100.00;
- (2) Annual Pools: \$125.00;
- (3) Annual Pools and Spas: \$175.00; and
- (4) Schools: Exempt.

(B) *Renewal Fees.* Each year, the holder of a valid license may apply for renewal. The fee for such renewal is the same as the license fee provided for in Section 158.16(A).

(C) *Additional Inspection Fees:* For re-inspection due to violations, closures and revocations, an additional inspection fee in the amount of \$50.00 per inspection shall be paid by the operator. Schools are subject to this fee.

(D) *Pool License Fund.* The fees payable under this Chapter shall be deposited into the Pool License Fund. These funds may be used by the Health Department to pay any and all expenses associated with the regulation of pools as provided for in this section, including but not limited to salaries, supplies, services, and capital equipment. This shall be a non-reverting fund.

(Ord. 2013-4, passed 5-28-2013)

§158.17 LICENSE FEE PENALTY

Any person found to be operating a swimming pool without a valid license shall be assessed a fine in the amount of \$100.00 per day. The Health Officer may not issue a license until the fines arising from this subsection are paid.

(Ord. 2013-4, passed 5-28-2013)

§158.18 PLAN REVIEW

Prior to the construction, rehabilitation, or alteration of any swimming pool in Montgomery County a plan review fee shall be paid, as provided in the Health Department Fee Schedule as amended periodically. The plans and specification sheets stamped with the State of Indiana

Plan Release, shall also be submitted to the Health Officer for plan review. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed and non-fixed equipment and facilities. Failure to submit the appropriate plan review fee and construction plans prior to beginning construction, rehabilitation, or alteration may result in a stop work order.

(Ord. 2013-4, passed 5-28-2013)

§158.19 CONSTRUCTION

(A) In the event that any provision of this chapter is ultimately determined by a court of competent jurisdiction to conflict with any provision of 410 IAC 6-2.1 et seq., 675 IAC 20-1.1 et seq., 675 IAC 20-2 et seq., or 675 IAC 20-3 et seq., then and in any such event the more strict provision shall govern.

(B) In the event that any provision of this chapter is ultimately determined by a court of competent jurisdiction to be preempted by any state or federal law or regulation, this chapter shall automatically be deemed amended by eliminating the pre-empted provision and incorporating in its place the applicable provision of the preempting state or federal law or regulation.

(C) Each provision of this chapter shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, remainder shall continue in full force and effect.

(D) Compliance with the requirements of this chapter does not obviate or eliminate the necessity of complying with any other applicable federal, state or local laws and regulations affecting swimming pools.

(Ord. 2013-4, passed 5-28-2013)

§158.20 AUTHORITY OF HEALTH OFFICER

It is hereby acknowledged, understood, and declared by the Commissioners of the County of Montgomery, Indiana, that under this chapter the Health Officer is required to exercise and is vested with the authority to exercise his or her discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of the County of Montgomery, Indiana in regulating swimming pools. The authority of the Health Officer to issue, deny, suspend, or revoke or fail or refuse to issue, deny, suspend, or revoke any license, approval, order registration or similar authorization under this chapter is hereby declared to be discretionary.

(Ord. 2013-4, passed 5-28-2013)

§158.99 PENALTY

Any person who violates any provision of this chapter shall be deemed to have committed a violation and, upon conviction, shall be fined not more than \$500 for the first offense and not more than \$1,000 for the second and each subsequent offense. Each violation of the chapter shall constitute a separate violation, and each day that a violation continues shall constitute a separate violation. In addition to the specific enforcement mechanisms contained within this chapter, the Health Officer may furnish written evidence of any violation of this chapter to the Montgomery County Prosecutor and/or the Montgomery County Attorney for appropriate action against the licensee and the person(s) in charge, including prosecution and enforcement action for violation of the provisions of this chapter.

(Ord. 2013-4, passed 5-28-2013)

TABLE OF SPECIAL ORDINANCES

Table

I. ECONOMIC REVITALIZATION AREAS

II. PURCHASES

III. VACATIONS OF PUBLIC WAYS

IV. INTERLOCAL AGREEMENTS

V. CUMULATIVE CAPITAL DEVELOPMENT Table of Special Ordinances

TABLE I: ECONOMIC REVITALIZATION AREAS

Res./Ord. No.	Date Passed	Description
Res. -	--	Designation of certain area, petitioned for by Terra Products, Inc., as an economic revitalization area
Res. -	--	Designation of certain area, consisting of 16 acres, as an economic revitalization area
Res. 10-85	12-2-85	Designation of certain area, less than 5% of county territory, as an economic revitalization area
Res. 9-1987	8-24-87	Designation of certain area, petitioned for by O'Brien Manufacturing Company, as an economic revitalization area
Res. 13-1987	10-27-87	Designation of certain area, petitioned for by Raymark Industries, Inc., as an economic revitalization area
Res. 14-1987	10-12-87	Designation of a certain area, petitioned for by Hudson Machine Tool, Inc., as an economic revitalization area

TABLE II: PURCHASES

Res./Ord. No.	Date Passed	Description
Res. -	--	Purchase of real estate for the preservation of public health and safety
2012-6	6-25-12	The right of way along County Road 325 West, between 2717 South, County Road 325 West and 2759 South, 325 West.
2012-9	7-23-12	The alley in the unincorporated Town of Parkersburg, between 11469 South State Road 231 and 11477 South State Road 231.
2012-11	9-24-12	A portion of County Road 550 South, beginning at a point at which the County Road traverses parcel 14 east of the Miles' residence located at 8253 West, County Road 550 South, and ending at the east boundary of the Miles' property.
2012-12	9-24-12	A portion of County Road 550 South and County Road 800 West, beginning at a point on the West boundary of the Sinhas' property and ending at the north boundary of the Sinhas' property.
2012-14	10-29-12	The alley in the unincorporated Town of Linnsburg, west of lots 19 and 20 of Clements & Lee's Addition.
2011-10	07-11-11	A portion of Water Street in the unincorporated area known as Browns' Valley which is immediately west of lot 45 and immediately east of lot 46.
2011-13	10-10-11	A portion of Clay Street in the unincorporated area known as May, which is immediately south of State Road 136 to the southern terminus of Clay Street.

Ord. No.	Date Passed	Description
-		Vacation of county highway
9-85	11-25-85	Vacation of public way
89-10	11-6-89	Vacation of county road
90-2	7-11-88	Vacation of public street
90-3		Vacation of public street
92-3	4-6-92	Vacation of platted easement
98-7	11-17-98	Vacation of public road
99-3	8-3-99	Vacation of county road
4-2003	8-12-03	Vacation of part of public street
2006-08	4-11-06	Vacation of public street
2006-14	6-6-06	Vacation of county road
2008-07	4-14-08	Vacation of public alley in Fredericksburg (Mace)
2017-02	1-23-17	Vacation of portion of ally located in Parkersburg

TABLE III: VACATIONS OF PUBLIC WAYS

TABLE IV: INTERLOCAL AGREEMENTS

Ord. No.	Date Passed	Description
Res. -	--	Purchase of real estate for the Preservation of public health and safety
2-1991	6-17-91	Formation of the West Central Indiana Joint Solid Waste District, including the counties of Montgomery, Hendricks, Morgan, Parke and Putnam
Ord. 2005-05	7-12-05	Amending the West Central Solid Waste District Agreement
Res. 2006-07	12-12-06	Authorizing Intergovernmental Cooperation Agreement for the Provision of Dispatching Services by the City of Crawfordsville
Commissioners Ord. 2008-03	2-25-08	Amending the West Central Solid Waste District Agreement

TABLE V: CUMULATIVE CAPITAL DEVELOPMENT

Ord. No.	Date Passed	Description
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Ord. 2015-1

7-14-15

Re-establishing the Cumulative
Capital Development Fund and
Increasing the Tax Rate for the
Fund

ACCEPTANCE OF DEDICATION OF PUBLIC ROADS

Item	Road	Date Accepted	Ordinance
1	Logan Road	September 28, 2015	2015-16
2	Willowbrook Road	June 27, 2016	2016-18