

# WASHINGTON COUNTY, INDIANA

## CODE OF ORDINANCES

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## **PUBLISHER'S ACKNOWLEDGMENT**

In the publication of this Code of Ordinances, every effort was made to provide easy access to applicable law by county officials, the citizens of this county, and members of the business community.

We want to express our grateful appreciation to all county officials for their untiring efforts in the preparation of this Code of Ordinances.

**AMERICAN LEGAL PUBLISHING CORPORATION**

Stephen G. Wolf, Esq.  
President

**WASHINGTON COUNTY, INDIANA  
TABLE OF CONTENTS**

Chapter

**TITLE I: GENERAL PROVISIONS**

- 10. General Code Construction; General Penalty

**TITLE III: ADMINISTRATION**

- 30. County Officials
- 31. County Council and Board of Commissioners
- 32. Departments, Boards, and Commissions
- 33. County Sheriff; Fire Districts
- 34. Emergency Management
- 35. Personnel Policies
- 36. Finance and Revenue
- 37. Courts and Court Officers
- 38. Elections
- 39. County Policies
- Appendix A: Rules, Forms and Policy Concerning Credit Cards
- 40. Code Enforcement

**TITLE V: PUBLIC WORKS**

- 50. Garbage
- 51. Private Sewage Disposal

**TITLE VII: TRAFFIC CODE**

- 70. General Provisions
- 71. Traffic Rules
- 72. Traffic Schedules

**TITLE IX: GENERAL REGULATIONS**

- 90. Animals
- 91. Emergency Services
- 92. Fair Housing
- 93. Food
- 94. Public Property
- 95. Streets and Sidewalks
- Appendix A: Right-of-way Permit Provisions and Application
- 96. Weed Control

**Washington County - Table of Contents**

**TITLE XI: BUSINESS REGULATIONS**

- 110. Cable Television
- 111. Tattoo and Body Piercing
- 112. Bed and Breakfast Establishments

**TITLE XIII: GENERAL OFFENSES**

- 130. Synthetic Cannabinoids

**TITLE XV: LAND USAGE**

- 150. Building Regulations
- 151. Floodplain Management Regulations
- 152. Manufactured Homes
- 153. Planning and Development
- 154. Zoning Regulations

**TABLE OF SPECIAL ORDINANCES**

Table

- I. Acceptances
- II. Real Estate Transactions
- III. Franchises
- IV. Agreements
- V. Streets, Sidewalks, and Public Ways
- VI. Dissolutions

**PARALLEL REFERENCES**

- References to Indiana Code
- References to 1985 Code
- References to County Council Resolutions
- References to Board of County Commissioners Resolutions
- References to County Council Ordinances
- References to Board of County Commissioners Ordinances

**INDEX**

**TITLE I  
GENERAL PROVISIONS**

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY**



## CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

### Section

- 10.01 Title of code
- 10.02 Legislative intent to exercise general powers
- 10.03 Reenacted or restated provisions; continuity of effect
- 10.04 Publication of county code
- 10.05 Ordinances repealed
- 10.06 Ordinances or parts saved from general repeal; ordinances unaffected
- 10.07 Definitions
- 10.08 Rules of interpretation
- 10.09 Legal citations
- 10.10 Status of captions and headings
- 10.11 Status of derivational references
- 10.12 Incorporation of material by reference
- 10.13 Conflicting or contradictory provisions
- 10.14 Amendment and repeal of code
- 10.15 Code supplements; publication
- 10.16 Effectiveness of supplementary ordinances
- 10.17 Severability
- 10.18 Interpretation
- 10.19 Application to future ordinances
- 10.20 Reference to other sections
- 10.21 Errors and omissions
- 10.22 Official time
- 10.23 Reasonable time
- 10.24 Effective date of ordinances
- 10.25 Repeal or modification of ordinance
- 10.26 Section histories; statutory references
  
- 10.99 General penalty

### **§ 10.01 TITLE OF CODE.**

This codification of ordinances by and for Washington County, Indiana shall be designated as “the Washington County Code”, and may be so cited. Any such citation or reference shall mean and include all supplements, supplementary ordinances and amendments thereto.  
(1985 Code, § 1-1-1)

### **§ 10.02 LEGISLATIVE INTENT TO EXERCISE GENERAL POWERS.**

It is declared to be the legislative intent of the Board of Commissioners and County Council, pursuant to the enactment of this code, to invoke and exercise all lawful powers vested in or incumbent on the governing bodies of a county to enact ordinances and to provide through legislation for the governance of the political corporation and its governmental jurisdiction, including, but not necessarily limited to, the following powers:

(A) All powers vested expressly by the Constitution and laws of the state;

(B) All general or residual powers conferred on the governing bodies of a county by I.C. 36-1-3, 36-1-4, 36-7-2, 36-8-2, 36-9-2, and 36-10-2, or by any other law; and

(C) All implied powers incumbent on a county through the operation of common law, such as are necessary or dispensable to the purposes for which a county corporation is created.  
(1985 Code, § 1-1-3)

**§ 10.03 REENACTED OR RESTATED PROVISIONS; CONTINUITY OF EFFECT.**

(A) All provisions included in this code which are followed by a derivational reference in parentheses [( )] are reenacted or restated provisions of ordinances in effect at the time of the adoption of this code. Except as provided in § 10.02 above, the reenacted or restated provisions are included in and adopted as part of this code with the legislative intent to preserve the original meaning and effect of all the provisions without a substantive change therein. For purposes of interpretation, construction, or resolution of any dispute over the meaning and application of any reenacted or restated provision, it shall be valid to refer to and rely upon the text and context of the original ordinance or ordinances from which the reenacted or restated provision, or part thereof, derives, but including all ordinances amendatory thereto, notwithstanding the fact that the original ordinances may have been repealed pursuant to § 10.05 of this chapter. The designation "BCC" indicates an ordinance originally enacted by the Board of Commissioners, while "CC" indicates an ordinance originally enacted by the County Council. (1985 Code, § 1-1-4)

(B) It is the legislative intent of the governing bodies in adopting this code to preserve the continuity of effect, as generally understood, of all reenacted or restated provisions included herein. (1985 Code, § 1-1-5)

**§ 10.04 PUBLICATION OF COUNTY CODE.**

This code is declared to be a public document, and the County Auditor shall provide for the making of copies thereof, so that any person who desires to obtain a copy for his or her own use and information may do so. If the Auditor decides that code copies are to be printed and made available by and through a private publisher, the private publisher shall establish a reasonable price per copy. If the Auditor decides that the county is to publish the code, then the charge per copy shall be in conformance with the county's fee schedule or policy, as set by ordinance or resolution from time to time. Pursuant to the provisions of I.C. 5-14-3, any person may copy the county code. The

options herein described are for the purpose of and shall be construed to fulfill all printing and publication requirements as provided by I.C. 36-1-5-5. At least one copy of the printed code shall be filed and kept in the office of the County Auditor for the use of any person wishing to examine or copy the code. (1985 Code, § 1-1-6)

**§ 10.05 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code, excepting those set forth and expressly saved in § 10.06 of this chapter, shall be deemed repealed from and after the effective date of this code. (1985 Code, § 1-1-7)

**§ 10.06 ORDINANCES OR PARTS SAVED FROM GENERAL REPEAL; ORDINANCES UNAFFECTED.**

(A) The following enumerated or described ordinances or parts of ordinances are not repealed by § 10.05, and shall remain in full force and effect until their natural expiration or until they are expressly repealed by another ordinance:

(1) The ordinance for appropriations and tax levies for the current year, including any additional appropriations made subsequent to the original adoption thereof;

(2) The ordinance for appropriations and tax levies for the ensuing year, if the same has already been adopted at the time this code takes effect;

(3) The ordinance or other act, including any amendments thereto, fixing the salaries and wages of the officers and employees of the county or any subsidiary corporation or agency for the current or ensuing fiscal year;

(4) Any ordinance or portion thereof governing the administration and repayment of any

unretired bonds or other debt obligations of the county or of any subsidiary corporation or agency;

(5) Any ordinance or other act establishing any cumulative fund and tax rate, except as expressly repealed or amended by another ordinance or act;

(6) Any ordinance or portion thereof expressly enumerated or described and incorporated by reference or saved by a provision of this code; and

(7) Any ordinance incorporating a municipality.  
(1985 Code, § 1-1-8)

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

**§ 10.07 DEFINITIONS.**

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

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

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** This county code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

**COUNTY.**

(a) When used in a governmental or corporate sense means and refers to Washington County, Indiana, a political corporation and body politic organized under the laws of Indiana; and includes, with respect to any particular matter and by representation, its Board of Commissioners or such other officials, boards, commissions, departments, agencies, or other authorities which by act of the

Board of Commissioners or by general law are empowered to exercise governmental or corporate authority on behalf of Washington County with respect to that particular matter.

(b) When used in a territorial or geographic sense, means or refers to that unincorporated area included within the lawful boundaries of Washington County, at that time in question, irrespective of the boundaries in existence at the time this code or any included provision or amendment takes effect; but with respect to any particular matter over which Washington County exercises any governmental or corporate jurisdiction beyond the unincorporated boundaries under authority of any law or an intergovernmental cooperative agreement, the term shall also include the area within the extraterritorial jurisdiction.

**GOVERNING BODY.** The Board of Commissioners or the County Council, as one or the other has been given legislative or executive power over a particular matter by state law.

**LAW.** Any provision of the United States, or Indiana Constitutions, federal or state statute, any applicable and enforceable federal or state regulations or administrative law, any applicable local ordinance or enforceable regulation, and the common law.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT.** An officer, office, employee, commission, or department of this county unless the context clearly requires otherwise.

**PERSON.** Extends to and includes person, persons, firm, corporation, partnership, trustee, lessee, receiver, or any other entity. 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** or **FOLLOWING**. Next before or next after, respectively.

**SHALL**. The act referred to is mandatory.

**SIGNATURE** or **SUBSCRIPTION**. Includes a mark when the person cannot write, and includes all forms of power of attorney.

**STATE**. The State of Indiana in the senses analogous to those in which the term "county" is used as described above.

**SUBCHAPTER**. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

**WRITTEN**. Any representation of words, letters, or numbers, geometric figures, international characters, or drawings, whether by printing, writing or otherwise.

**YEAR**. A calendar year, unless otherwise expressed; equivalent to the words **YEAR OF OUR LORD**.

(1985 Code, § 1-2-1)

#### § 10.08 RULES OF INTERPRETATION.

Other construction or interpretation of terms or usages of words shall be governed by the following rules, except where clearly inapplicable by virtue of the context.

(A) *Gender*. All words having a masculine, feminine, or neuter connotation shall be construed to, mutually entail and include each other.

(B) *Singular/plural*. The use of a singular form shall be construed to include the plural form, and vice versa.

(C) *Tense*. The use of past, present, or future tenses mutually entail and include each other.

(D) *Use of official titles*. Wherever an official title (e.g., County Auditor) is used, it means or refers to a person or body ex officio, and not to an individual personality or particular membership or constituency.

(E) *Mandatory/permissive terms*. "Shall" or "must" are mandatory, while "may" is permissive or conditional. The use of negative terms such as "not" and "no" is prohibitory.  
(1985 Code, § 1-2-2)

#### § 10.09 LEGAL CITATIONS.

A citation designated "I.C." refers to the title, article, chapter, and section, as denoted by the numerals following the reference, of the Indiana Code; and unless otherwise noted is a reference to the Indiana Code of 1993, and also refers implicitly to any supplements or act of the General Assembly amendatory thereto. Other legal citations used in this code include citations to the Indiana Administrative Code (I.A.C.) and the Indiana Acts ("Acts 19--"). In general, all legal citations are of common and generally understood form and shall be construed to have their usual meanings for purposes of reference.  
(1985 Code, § 1-2-3)

#### § 10.10 STATUS OF CAPTIONS AND HEADINGS.

(A) The captions and headings provided for any chapter, subchapter, section, or division of this code are intended for guidance and reference purposes only, and are not substantive parts of the code or individual provision to which they apply.

(B) A caption or heading shall not be construed to limit, govern, or condition the scope or meaning of

the substantive text included within the chapter, subchapter, section, or division to which the caption or heading applies.

(1985 Code, § 1-2-4)

#### **§ 10.11 STATUS OF DERIVATIONAL REFERENCES.**

Derivational references included in parentheses at the end of any provision of this code are for purposes of reference only and indicate that the provision is a reenacted or restated provision of an ordinance previously adopted and in effect at the time the provision was incorporated into and adopted as part of this code, as described by I.C. 36-1-5-6. However, the inclusion of the provision and enactment thereof as part of this code is sufficient in itself, and any error in, omission from, or any other fault in a derivational reference shall not be construed to invalidate nor impair the operation of any substantive provision included in this code.

(1985 Code, § 1-2-5)

#### **§ 10.12 INCORPORATION OF MATERIAL BY REFERENCE.**

When the text of any materials are incorporated into and made a substantive part of any provision of this code or a supplementary ordinance by reference, rather than being directly set forth, the materials are declared to be and are made public documents, and two copies of each complete document or of that portion thereof so incorporated by reference shall be kept on file in the office of the County Auditor and made available for public inspection and copying in the same manner as other public documents. However, this requirement does not apply to instances where a statute or similar law or written regulation, already being a promulgated public document, is cited or referenced merely for the purpose of establishing legal basis or authority, legal procedure, or legal precedent incident to the implementation or administration of a provision of, this code; nor to instances where some such document or portion thereof is not incorporated as an actual substantive part of the provision, but is cited or referred to merely for the purpose of establishing administrative

guidelines, standards, or procedures incidental to the administration of the substantive parts of the provision.

(1985 Code, § 1-2-6)

#### **§ 10.13 CONFLICTING OR CONTRADICTORY PROVISIONS.**

(A) In the event that two provisions of this code or any supplementary ordinance are conflicting, mutually contradictory, or cannot consistently stand together and be coherently applied, either in general or with respect to any particular matter, then the most recently enacted provision shall prevail and be applied until by ordinance the appropriate legislative body shall resolve the conflict. In the case of any two such conflicting provisions of this code which are reenacted or restated provisions of any prior ordinances, the most recently enacted provision is that provision which was formerly part of the most recently adopted prior ordinance, notwithstanding the fact that the prior ordinance per se may have been repealed.

(1985 Code, § 1-2-7)

(B) This code is in all respects subordinate to the laws of the state, except to the extent that any law expressly makes a provision of this code superior; and except in such case, if any provision of this code is found to be prohibited by or in conflict with a provision of any state statute, whether the statute was enacted prior or subsequent to the enactment of the prohibited or conflicting code provision, then the provision of the statute shall prevail. However, nothing in this section shall be construed to prevent the governing body from enacting any provision which is collateral or supplementary to a statute, and any such provision shall be invalid only if and to the extent that it is overtly inconsistent with a prescriptive or proscriptive provision of the statute, preempts the actual field of operation of a statute, impairs or denies a right, privilege, or power conferred on any person by a statute, prevents or impairs any person from performing a duty or other act required to be performed by a statute, or contravenes the purpose for which a statute was enacted by the General Assembly; but provided further that no such collateral or supplementary provision shall fix or apply a penalty of

fine or other forfeiture for any act or condition which is also a penal violation of any statute.  
(1985 Code, § 1-2-8)

#### **§ 10.14 AMENDMENT AND REPEAL OF CODE.**

The Board of Commissioners or County Council, as appropriately empowered, may add, amend, or repeal any chapter, section, or other part of this code by adopting a supplementary ordinance setting forth the addition, amendment, or repeal and specifying the chapter, section, or other part of the code to which the addition, amendment, or repeal applies. The repeal of any chapter, section, or other part shall be specific and not generally phrased; and any supplementary provision enacted with the intent to replace any existing provision of the code shall include or be accompanied by a provision expressly identifying and repealing the provision intended to be replaced. The repeal of any current provision does not work to revive any prior provision which was repealed and replaced by the current provision being repealed; nor does the amendment or repeal of a provision serve to nullify, invalidate, terminate, or render unlawful any official act performed, proceeding begun, transaction made, contract or other legal obligation entered into, or liability incurred by or to the county by virtue of the proper operation of the amended or repealed provision prior to the taking effect of the amendment or repeal. A supplementary ordinance adding, amending, or repealing a provision of this code shall be adopted in the same manner as other ordinances, except to the extent that an applicable special procedure for adoption is prescribed by this code or statute.  
(1985 Code, § 1-2-9)

#### **§ 10.15 CODE SUPPLEMENTS; PUBLICATION.**

The Board of Commissioners shall from time to time provide for the compilation of supplement volumes incorporating or reflecting any additions to, amendments, or repeals of the provisions of this code enacted subsequent to its original adoption. A code supplement volume shall be published in the same

manner as the original code as provided by § 10.04 of this chapter.  
(1985 Code, § 1-2-10)

#### **§ 10.16 EFFECTIVENESS OF SUPPLEMENTARY ORDINANCES.**

Unless a supplementary ordinance includes a provision delaying its effectiveness to a specified date, or provides for or increases the penalty for violation of any penal provision of this code and is so required to be published before taking effect pursuant to I.C. 36-2-4-8(b), then the supplementary ordinance shall be effective and the code shall be considered as concurrently amended, upon the passage, signature, and recording of the supplementary ordinance as provided by law. If a supplementary ordinance is required to be published in accordance with I.C. 36-2-4-8(b), it shall not be effective until the ordinance or substantive digest thereof setting forth the penalties is published in accordance with I.C. 36-2-4-8(b) and I.C. 5-3-1.  
(1985 Code, § 1-2-11)

#### **§ 10.17 SEVERABILITY.**

All articles, chapters, sections, divisions, paragraphs, sentences, phrases, or words contained in this code are severable from each other, and if any such article, chapter, section, division, paragraph, phrase, or word is found to be unconstitutional, legally invalid, inoperative, or erroneous or faulty in any way, or is repealed or deleted, the status or action shall not be construed to invalidate or affect any other portion of this code insofar as that other portion can be applied and sensibly operate in the absence of the unconstitutional, invalid, inoperative, erroneous, faulty, repealed, or deleted portion of the code.  
(1985 Code, § 1-2-12)

#### **§ 10.18 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.

#### **§ 10.19 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.

#### **§ 10.20 REFERENCE TO OTHER SECTIONS.**

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

#### **§ 10.21 ERRORS AND OMISSIONS.**

(A) 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 such 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.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

#### **§ 10.22 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within this county for the transaction of all county business.

#### **§ 10.23 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 Sunday, it shall be excluded.

#### **§ 10.24 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

#### **§ 10.25 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself

repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

**§ 10.26 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) (1) As histories for the code sections, the specific number and passage date of the original ordinance, and any and all amending ordinances, if any, are listed following the text of the code section. Example: (BCC Ord. 10, passed 5-13-1960; BCC Ord. 15, passed 1-1-1970; BCC Ord. 20, passed 1-1-1980; BCC Ord. 25, passed 1-1-1985)

(2) The designation "BCC" indicates an ordinance originally enacted by the Board of Commissioners, while "CC" indicates an ordinance originally enacted by the County Council.  
(1985 Code, § 1-1-4)

(B) (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. 5-14-3-1) (CC Ord. 10, passed 1-17-1980; CC Ord. 20, passed 1-1-1985)

(2) If a statutory cite is set forth 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 county 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.*

(C) If a section of this code is derived from the previous code of ordinances of the county published in 1985, and subsequently amended, the 1985 code section number shall be indicated in the history by "(1985 Code, § \_\_\_)".

**§ 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; however, no penalty shall exceed that provided under state law for the same or similar offense. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

**TITLE III  
ADMINISTRATION**

**TITLE III: ADMINISTRATION**

Chapter

- 30. COUNTY OFFICIALS
- 31. COUNTY COUNCIL AND BOARD OF COMMISSIONERS
- 32. DEPARTMENTS, BOARDS, AND COMMISSIONS
- 33. COUNTY SHERIFF; FIRE DISTRICTS
- 34. EMERGENCY MANAGEMENT
- 35. PERSONNEL POLICIES
- 36. FINANCE AND REVENUE
- 37. COURTS AND COURT OFFICERS
- 38. ELECTIONS
- 39. COUNTY POLICIES  
APPENDIX: RULES, FORMS AND POLICY CONCERNING  
CREDIT CARDS
- 40. CODE ENFORCEMENT



## CHAPTER 30: COUNTY OFFICIALS

### Section

- 30.01 Powers and duties of county officials
- 30.02 Official agency
- 30.03 Memberships in professional associations

### **§ 30.01 POWERS AND DUTIES OF COUNTY OFFICIALS.**

(A) All officers, officials, boards, commissions, or other official entities of the county government shall be construed to have:

(1) All powers or duties prescribed for or conferred on any particular officer, official, board, commission, or other official entity by statute;

(2) All powers or duties expressly prescribed or conferred thereon by a provision of this code; and

(3) All powers or duties implied by the nature of and necessary or dispensable to the proper and efficient fulfillment of their governmental or corporate function or duties of office, including, but not necessarily limited to, the power to prescribe administrative rules or procedures for the governance of their respective offices, departments, agencies, or functions to the extent not inconsistent with nor preempted by a provision of this code or statute, or by an applicable and mandatory state or federal administrative regulation.

(B) To the extent provided by this section, the fact that a particular power or duty is not expressly set forth in this code and conferred on an officer, official, board, commission, or other official entity does not of itself imply that the power or duty does not exist or has been considerably denied or withheld.

(1985 Code, § 1-4-1)

### **§ 30.02 OFFICIAL AGENCY.**

Any purely ministerial power or function vested in any officer, board, commission, or other entity by a provision of this code may be delegated to and exercised or performed by a deputy or other authorized agent or representative of the authority in whom the ministerial power or function is vested, except that no person shall be permitted to receive or handle public funds or other monies in the custody of the county unless they are properly bonded or expressly so authorized by law. The delegation of a ministerial power or function does not relieve the principal authority in whom it is vested of responsibility for proper and timely performance. Any power or function vested in an officer, board, commission, or other entity which involves the exercise of official discretion shall be performed or exercised only by or under the immediate supervision of the authority in whom it was vested, and it may not be delegated unless a provision of this code or law expressly so permits.

(1985 Code, § 1-4-2)

### **§ 30.03 MEMBERSHIPS IN PROFESSIONAL ASSOCIATIONS.**

If officials, officers, and employees of the county deem it necessary to join professional organizations or attend conferences that are specifically beneficial and of assistance in the performance of official duties and functions, they may do so, provided that the daily execution of their official duties and functions will not suffer in their absence. Applicable membership fees and all specifically necessary and actual expenses of the officials, officers and employees shall, where reasonably feasible, be arranged in advance through normal budgetary and appropriation processes and

may be paid from public funds in the way of reimbursement upon the presentation to the appropriate supervisor, fiscal or administrative body of paid receipts and certificates of attendance or completion.

**CHAPTER 31: COUNTY COUNCIL AND BOARD OF COMMISSIONERS**

Section

*County Council*

31.01 Districts established for election of District Council members

(D) District 4 shall be comprised of the following precincts: Washington IV, Franklin, Gibson and Polk.  
(BCC Ord. 2005-01, passed 1-17-2005; BCC Ord. 2021-07, passed 12-21-2021)

*Board of County Commissioners*

31.15 County Commissioner districts  
31.16 Periodic review of Commissioner districts

**BOARD OF COUNTY COMMISSIONERS**

**§ 31.15 COUNTY COMMISSIONER DISTRICTS.**

**COUNTY COUNCIL**

**§ 31.01 DISTRICTS ESTABLISHED FOR ELECTION OF DISTRICT COUNCIL MEMBERS.**

The Council Districts for Washington County, Indiana are hereby amended and shall be described as follows:

(A) District 1 shall be comprised of the following precincts: Salem I, Salem IV, Washington I and Pierce.

(B) District 2 shall be comprised of the following precincts: Salem II, Jackson, Howard, Madison and Posey.

(C) District 3 shall be comprised of the following precincts: Salem III, Washington III, Brown, Jefferson, Monroe and Vernon.

(A) Pursuant to I.C. 36-2-2-1 et seq., the County Commissioner districts for the county are hereby reestablished in 1991 and remain the same as they have been.

(1) *First district.* District 1 shall consist of Gibson Township, Franklin Township, Polk Township, and Jackson Township.

(2) *Second district.* District 2 shall consist of Jefferson Township, Monroe Township, Washington Township, and Pierce Township.

(3) *Third district.* District 3 shall consist of Brown Township, Vernon Township, Madison Township, Howard Township, and Posey Township.

(B) These Commissioners districts shall be in full force and effect from January 1, 1992 through

December 31, 2001 or until changed pursuant to statute or otherwise.

(1985 Code, § 5-6-1) (BCC Ord. 1985-C9, passed - -1985; BCC Ord. 91-07, passed 12-16-1991; BCC Ord. 2021-07, passed 12-21-2021)

***Statutory reference:***

*County Commissioner election districts, see I.C. 36-2-2-4*

**§ 31.16 PERIODIC REVIEW OF COMMISSIONER DISTRICTS.**

The Board of Commissioners may, in any odd-numbered year, adopt an ordinance amending the districts as established in § 31.15. At some time after January 1, 1991, and on or before December 31, 1991, and every tenth year thereafter, the Board shall review the districts as established under § 31.15 (as amended, if applicable), and shall either:

(A) Adopt a resolution or order entered of record in the Commissioners Record Book specifically reaffirming the districts; or

(B) Adopt at that time an ordinance amending § 31.15 and revising districts as may be necessary to comply with I.C. 36-2-2-4(a) or as otherwise deemed desirable for the purposes of the county.

(1985 Code, § 5-6-2) (BCC Ord. 1985-C9, passed - -1985)

## CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

Section

- General Organizations*
- 32.001 County participation in Blue River Commission
  - 32.002 Economic Development Commission
  - 32.003 Department of Redevelopment
  - 32.004 Capital Projects Board
  - 32.005 Community Corrections Advisory Board

*County Health Department*

- 32.015 Health Department; Board of Health
- 32.016 Board of Health service fees
- 32.017 Accounting and disposition of collected fees

*Department of Parks and Recreation*

- 32.030 Definitions
- 32.031 Department of Parks and Recreation established
- 32.032 Appointment and terms of members of Parks and Recreation Board
- 32.033 Vacancies in Board membership
- 32.034 Compensation of Board members
- 32.035 Meetings
- 32.036 Superintendent
- 32.037 Parks and Recreation Non-reverting Capital Fund

*Public Defender Boards*

- 32.050 Board established
- 32.051 Definitions
- 32.052 Membership and appointment
- 32.053 Powers and duties of the Board
- 32.054 Authority of judges
- 32.055 Scope of subchapter

*Plan Commission*

- 32.065 Title
- 32.066 Purpose
- 32.067 Function
- 32.068 Membership
- 32.069 Vacancies
- 32.070 Attendance at meetings
- 32.071 Quorum
- 32.072 Mileage; compensation
- 32.073 Official action
- 32.074 Election of officers
- 32.075 Appointment of Secretary
- 32.076 Regular meetings and minutes
- 32.077 Special meetings
- 32.078 Duties of Plan Commission
- 32.079 Adoption of state statutes

*Ambulance Services Authority*

- 32.090 Establishment of authority
- 32.091 Definitions
- 32.092 Establishment of the Washington County Ambulance Services Authority
- 32.093 Washington County Ambulance Services Board established
- 32.094 Executive Director: qualifications and tenure
- 32.095 Executive Director: general powers and duties
- 32.096 Establishment of Ambulance Services Authority Fund
- 32.097 Restriction on emergency ambulance service providers

*Cross-reference:*

*Emergency Services, see Chapter 91*  
*Washington County Tourism Commission, see § 36.05(D)*

**GENERAL ORGANIZATIONS****§ 32.001 COUNTY PARTICIPATION IN BLUE RIVER COMMISSION.**

(A) The county shall participate in the establishment and operation of the Blue River Commission pursuant to the provisions of I.C. 14-25-1 and all acts amendatory or supplemental thereto.

(B) The Board of Commissioners shall appoint two representatives of the county to serve on the Blue River Commission.

(C) The persons appointed shall be owners of land within the county which is contiguous to Blue

River. Representatives shall initially be appointed for four-year terms, running from September 18, 1978, until September 18, 1982, or until their successors are appointed and qualified. Thereafter, as each successive term expires, representatives shall be appointed or reappointed for four-year terms expiring September 18 of the fourth year following the expiration of the prior term. However, if no new representative should be appointed within 30 days after the expiration of any representative's term, that representative shall be automatically deemed to have been reappointed for a new term.

(1985 Code, § 4-3-1) (BCC Ord. passed 9-18-1978; BCC Ord. 1985-C4, passed - -1985)

**§ 32.002 ECONOMIC DEVELOPMENT COMMISSION.**

(A) This County Council hereby finds it necessary to finance economic development or pollution control facilities under the Act.

(B) This County Council hereby establishes a department of economic development, to be controlled by a commission known as "Washington County Economic Development Commission".

(C) After the adoption of this section, the County Auditor is hereby authorized and directed to promptly notify the County Commissioners, this County Council, and the fiscal body of the most populous municipality located in the county.

(D) Any officer of the county is hereby authorized and directed, for and on behalf of the county, to execute and deliver any instrument or take any other action as the officer determines to be necessary or desirable to accomplish the purposes of this section, the determination to be conclusively evidenced by the officers having executed the instrument or having taken action, and any officers having executed and delivered any like instrument or having taken any action is hereby ratified and approved.

(CC Ord. 2001-04, passed 6-4-2001)

**§ 32.003 DEPARTMENT OF REDEVELOPMENT.**

(A) The Board of Commissioners of the county deems it to be in the best interest of the county and its citizens to afford a maximum opportunity for rehabilitation, redevelopment, or economic development of areas by private enterprise and the county by establishing a Department of Redevelopment.

(B) The Board of Commissioners hereby establishes the Department of Redevelopment of the county. The Department will be controlled by a board of five members known as the "Washington County Redevelopment Commission".

(C) Pursuant to the Act, all of the territory within the corporate boundaries of the county will be a taxing district to be known as the "Washington County Redevelopment District" for the purpose of levying and collecting special benefit taxes for redevelopment and economic development purposes as provided in the Act. The Board of Commissioners finds and determines that all of the taxable property within this special taxing district will be considered to be benefitted by the redevelopment projects and

economic development projects carried out under the Act to the extent of the special taxes levied under the Act.

(D) (1) The Board of Commissioners of the county shall appoint all five of the members of the County Redevelopment Commission.

(2) The term of office of the members of the County Redevelopment Commission shall commence from the date of their appointment and expire on January 1, 2007.  
(BCC Ord. 2005-06, passed 12-5-2005)

**§ 32.004 CAPITAL PROJECTS BOARD.**

This section is adopted by the County Council to prohibit the Capital Projects Board from reviewing, revising and reducing the budget, tax rate and tax levy of each political subdivision located in the county.  
(CC Ord. 2008-01, passed 12-3-2007)

**§ 32.005 COMMUNITY CORRECTIONS ADVISORY BOARD.**

The Board of County Commissioners of the County of Washington, State of Indiana, do hereby establish a Community Corrections Advisory Board, consisting of such members as mandated in I.C. 11-12-2-2-(a), for such terms as mandated in I.C. 11-12-2-2-(b).  
(BCC Res. 2021-01, passed 6-1-2021)

***COUNTY HEALTH DEPARTMENT***

**§ 32.015 HEALTH DEPARTMENT; BOARD OF HEALTH.**

(A) Pursuant to I.C. 16-20-2-2 et seq., the Board of County Commissioners establishes the County Health Department, which shall be managed by the County Board of Health.

(B) The Board of Health shall be composed of seven members appointed by the County Commissioners for a term of four years:

(1) All members of the Board of Health shall:

(a) Be citizens of the United States;

and

(b) Reside within the county.

(2) Not more than four members may be of the same political party, as provided by I.C. 36-1-8-10;

(3) Not less than four members shall be specifically knowledgeable in public health; and of these, not less than two shall be licensed physicians;

(4) Not less than two, nor more than three members shall be representatives of the general public;

(5) None of the members may have a vested interest in, nor stand to gain financially from any activity of the Health Department or any policy decision of the Board of Health; and

(6) All members may receive compensation for the performance of their duties as determined by the County Council.

(C) The County Commissioners may remove a member of the Board of Health if that member:

(1) Is absent from three consecutive Board meetings;

(2) Is absent from four regular Board meetings during a calendar year; or

(3) Fails to perform the statutory duties of the office.

(D) A majority of the members constitutes a quorum for the transaction of business.

(E) At the first meeting of each year, the members shall elect a Chairperson.

(F) The Board of Health shall meet regularly each quarter; however, a special meeting may be called by:

- (1) The Chairperson;
- (2) Any four other members; or
- (3) The local Health Officer.

(G) The Board of Health shall appoint a local Health Officer who is a licensed physician to serve for a term of four years as the executive officers of the Health Department and the Secretary of the Board of Health. The appointment shall be certified by the County Commissioners to the State Department of Health.

(H) The Board of Health shall publish an annual report within 90 days after January 1, in form and content as required under I.C. 16-20-1-7.

(I) The Health Officer shall make a monthly report of the work done by the Health Department to the Board of Health, which report upon approval shall become a permanent part of the public record.

**§ 32.016 BOARD OF HEALTH SERVICE FEES.**

(A) The County Board of Health may charge a service fee not in excess of the cost for providing to any person the following services. The Board shall collect fees as established in accordance with the following schedule.

(1) *Vital record services.*

(a) The County Board of Health is hereby authorized to establish and collect fees for the search of its records to provide genealogical information with specific reference to birth certificates and death certificates, with the fees to be \$4 for each

birth certificate and \$5 for each death certificate for each name requested to be searched.

(b) The Board of Health is hereby authorized to charge a fee of \$5 for processing and providing to any applicant a laminated wallet size birth certificate. This fee shall be for each laminated wallet size birth certificate furnished.

(c) The County Board of Health is hereby authorized to establish and collect fees for the search, acquisition, compilation and reproduction of records, with the fees to be as follows:

- 1. Standard size birth certificates shall be \$10;
- 2. Combination birth certificates (one standard sized and one wallet sized, laminated/pouch) shall be \$15;
- 3. Death certificates each shall be \$15;
- 4. Amendments to birth certificates (this includes one corrected birth certificate) shall be \$25;
- 5. Certificates of paternity/paternity upon marriage shall be \$25;
- 6. Genealogical sheets shall be \$5; and
- 7. Department of State/Center for Disease Control foreign travel document package shall be \$5.

(2) *Environmental health services.* The Washington County Board of Health is hereby authorized to establish and collect fees for the issuance of environmental permits as follows:

- (a) Septic permit fee shall be \$100.
- (b) Existing system inspection fee shall be \$75.

(c) Any entity installing septic systems in Washington County shall pay an annual fee of \$25.

(d) No fee shall be charged for a repair permit.

(e) No fee shall be charged for record search.  
(1985 Code, § 4-5-1)

(3) *Vaccinations.*

(a) 1. The County Board of Health is hereby authorized to establish and collect fees for the procurement and administration of the following vaccines, with fees as adopted by ordinance from time to time: Hepatitis A, Hepatitis B, Combination Hepatitis A and B, Polio, MMR (measles/mumps/rubella), MMR/V (measles/mumps/rubella/vericella), Tetanus/ diphtheria/pertussive, Tetanus/diphtheria, Meningococcal, Pneumonia, Human Papillomavirus (HPV), Zostavax (Shingles vaccine), Typhoid, Yellow Fever Influenza, and any other vaccine that may be made available; each of the above vaccines shall be made available to the general public at a charge not to exceed \$5 in excess of the cost of the vaccine to the County Health Department.

2. The County Board of Health Health is hereby authorized to establish and collect a fee of \$10 for the administration of a TB/PPD intradermal skin test.

(b) 1. The County Board of Health is hereby authorized to establish and collect fees for vaccinations from citizens who have coverage for such under a plan of insurance, for the procurement and administration of all vaccines.

2. The fees chargeable by County Department of Health for the vaccines will be billed at a rate not to exceed the average reimbursement for the immunization plus 20% and those without insurance, who qualify as a hardship

case, will be billed at the cost of the immunization plus an additional \$10. The initial fee schedule is attached to the ordinance codified herein and incorporated into this section.

3. It is the unanimous consent of the County Board of Commissioners that division (A)(3)(b) be effective the date of passage, pursuant to I.C. 36-2-4-7(b).

(B) Fees collected for health services provided individuals in other county health jurisdictions and involving payment from county tax revenue shall be collected in accordance with an agreement pursuant to I.C. 16-20-1-8.

(1985 Code, § 4-5-2) (BCC Ord. 1980-1, passed 4-7-1980; BCC Ord. 90-09, passed 10-22-1990; BCC Ord. 92-07, passed - -1992; BCC Ord. 96-08, passed 7-1-1996; BCC Ord. 2000-04, passed 11-20-2000; BCC Ord. 2007-02, passed 1-17-2007; BCC Ord. 2007-03, passed 4-4-2007; BCC Ord. 2011-02, passed 5-16-2011; BCC Ord. 2011-05, passed 11-21-2011; BCC Ord. 2013-02, passed 2-18-2013; BCC Ord. 2013-10, passed 8-1-2013; BCC Ord. 2018-09, passed 1-1-2019; BCC Ord. 2019-03, passed 7-1-2019)

**§ 32.017 ACCOUNTING AND DISPOSITION OF COLLECTED FEES.**

All fees collected by the Board of Health shall be accounted for in detail for each program service area. All fees collected under this subchapter shall be transferred to the County Health Fund, which shall be used only for the purposes permitted under I.C. Title 16, to be drawn upon by the proper officers of the county upon the properly authenticated vouchers of the local health department, as provided by I.C. 16-20-2-17. The county fiscal body shall appropriate from the County Health Fund money necessary to maintain the local health department.

(1985 Code, § 4-5-3) (BCC Ord. 1980-1, passed 4-7-1980; BCC Ord. 1985-C4, passed - -1985)

**DEPARTMENT OF PARKS AND RECREATION****§ 32.030 DEFINITIONS.**

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

**BOARD.** The Washington County Board of Parks and Recreation as hereinafter created.

**SUPERINTENDENT.** The chief administrative officer of the Department of Parks and Recreation herein created, as appointed by the Board, irrespective of whether the Board designates the person by the title "Superintendent" or by some other title.  
(1985 Code, § 3-3-1) (CC Ord. 1985-1C, passed - -1985)

**§ 32.031 DEPARTMENT OF PARKS AND RECREATION ESTABLISHED.**

In accordance with I.C. 36-10-3, there is hereby established a Department of Parks and Recreation for the county, which Department shall consist of a Board of Parks and Recreation as its immediate governing body, a Superintendent, and other employees as the Board may hereafter authorize subject to the County Council's appropriations. The Board, Superintendent, and Department shall have all powers and duties provided or implied and shall in all respects be governed by the provisions of I.C. 36-10-3, as ever amended.  
(1985 Code, § 3-3-2) (CC Ord. 1985-1C, passed - -1985)

**§ 32.032 APPOINTMENT AND TERMS OF MEMBERS OF PARKS AND RECREATION BOARD.**

The Parks and Recreation Board shall consist of seven members.

(A) Five of these members shall be appointed pursuant to the provisions of I.C. 36-10-3-4(b) and I.C. 36-1-8-10 as follows.

(1) Two members shall be appointed by the Judge of the County Circuit Court. No more than one member appointed by the Judge of the Circuit Court may be affiliated with the same political party.

(2) One member shall be appointed by the Board of Commissioners.

(3) Two members shall be appointed by the County Council. No more than one member appointed by the County Council may be affiliated with the same political party.

(B) Pursuant to I.C. 36-10-3-4(e), in addition to the five members mentioned above, the County Extension Committee shall select a sixth member to the Parks and Recreation Board from among the following:

(1) The County Cooperative Extension Coordinator;

(2) The county Extension Educator; or

(3) A member of the County Extension Committee. This member shall serve as an ex-officio member, having all the rights of regular members including the right to vote.

(C) Pursuant to I.C. 36-10-3-4(f), a seventh member of the parks and Recreation Board shall be selected by the Board of Supervisors of the County Soil and Water Conservation District.

(D) After the expiration of the initial terms of members as provided above, each designated appointing authority shall appoint a new member or reappoint the existing member for a term of four years as reckoned from the expiration date of the original term, the new appointees or reappointees to serve until the first Monday in January of the next succeeding fourth year. However, if any appointing authority

should fail to appoint a new member on or before the expiration date of an existing member's term, the existing member shall continue to serve until his or her successor is appointed and qualified; and if no successor is appointed and qualified by the first Monday in April following the expiration of the existing member's term, the existing member shall be automatically deemed to have been reappointed for a new term. All members appointed under this division shall be residents of the area or special taxing district wherein property taxes or special benefits taxes are levied and appropriated to support the programs of the Department of Parks and Recreation.

(1985 Code, § 3-3-3) (CC Ord. 1985-1C, passed - -1985; CC Ord. 1990-04, passed 5-7-1990)

**§ 32.033 VACANCIES IN BOARD MEMBERSHIP.**

If a vacancy shall occur for any reason in a membership appointed under § 32.032, the appropriate appointing authority shall promptly be given notice of the vacancy by the Superintendent, and shall within ten days thereafter appoint a person, qualified as the original member, to fill the vacating member's term. If a vacancy shall occur for any reason in an ex-officio membership designated under § 32.032, the County Extension Committee shall either within ten days designate a new person as described under § 32.032(B)(1) through (3) to serve as its representative, or else the person thereafter appointed to fill the vacating representative's office shall be presumed to also assume the vacating representative's ex-officio membership on the Board. (1985 Code, § 3-3-4) (CC Ord. 1985-1C, passed - -1985)

**§ 32.034 COMPENSATION OF BOARD MEMBERS.**

The County Council may fix for Board members an annual salary, not to exceed the amount permitted by I.C. 36-10-3-9, and/or a per diem allowance per Board meeting attended. Any compensation shall be budgeted by the Department and appropriated by the

Council in the same manner as salaries and compensation paid to other county personnel. In addition, subject to appropriations, members may be reimbursed for necessary travel expenses, including travel by private vehicle at the rate applicable to county officers under I.C. 36-2-7-3.

(1985 Code, § 3-3-5) (CC Ord. 1985-1C, passed - -1985)

**§ 32.035 MEETINGS.**

The Board may establish its own rules and policies for the conduct of meetings as it deems necessary for the purposes of the Department, to the extent not in conflict with I.C. 36-10-3-8 or other



statutes. Meetings shall be governed by the requirements of I.C. 5-14-1.5.

(1985 Code, § 3-3-6) (CC Ord. 1985-1C, passed - -1985)

**§ 32.036 SUPERINTENDENT.**

(A) The Board shall appoint a Superintendent of the Department of Parks and Recreation, who shall serve at the pleasure of the Board, and whose political affiliation may not be considered.

(B) The Superintendent, as prescribed by I.C. 36-10-3-13, must at the time of appointment:

(1) Be qualified by training or experience in the field of parks and recreation; or

(2) Have a certification or an advanced degree in the field of parks and recreation.

(C) An incumbent performing park and recreation functions in a supervisory capacity at the time the county adopts this subchapter is eligible for appointment as Superintendent or as an assistant to the Superintendent, but the incumbent must have the required training, experience, or certification at the time of appointment.

(D) The salary of the Superintendent shall be fixed by the Board subject to appropriations by the County Council.

(1985 Code, § 3-3-7) (CC Ord. 1985-1C, passed - -1985)

**§ 32.037 PARKS AND RECREATION NON-REVERTING CAPITAL FUND.**

(A) Pursuant to I.C. 36-10-3-20, there is hereby created a Parks and Recreation Non-reverting Capital Fund into which the following revenues shall be credited and deposited:

(1) Monies derived from fees charged for park and recreation services, unless directed by the

Board to be deposited in a special non-reverting operating fund, if any such fund has been created;

(2) Monies from the sale of surplus park and recreation properties;

(3) Monies from gifts, subsidies, or grants specified by the donor to be used for acquiring land or making capital improvements for park and recreation purposes; and

(4) Proceeds from bonds or loans for acquisition of land or capital improvements for park and recreation purposes, unless another special fund is created for the proceeds.

(B) Monies in the Park and Recreation Non-reverting Capital Fund may only be used for acquisition of land or other capital improvements for park and recreation purposes, unless the County Council passes an ordinance abolishing the fund.

(C) Pursuant to I.C. 36-10-3-16, every park officer and employee who handles money in the performance of duties shall execute an official bond before entering upon the duties of office or employment. The bond shall be filed and recorded in the office of the County Recorder.

(1985 Code, § 3-3-8) (CC Ord. 1985-1C, passed - -1985)

***PUBLIC DEFENDER BOARDS***

**§ 32.050 BOARD ESTABLISHED.**

The County Public Defender Board is hereby established for the purpose of providing legal representation to indigent defendants/respondents in criminal, juvenile, probation violation, extradition, child support, civil commitments, and other proceedings where the right to counsel has been established by law.

(BCC Ord. 2000-02, passed - -2000)

**§ 32.051 DEFINITIONS.**

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

**BOARD.** The County Public Defender Board created by this subchapter.

**INDIGENT DEFENDANT/RESPONDENT.** A person who requests legal representation and is determined by the court to be entitled to legal representation at public expense.

**LEGAL REPRESENTATION.**

(1) The services of an attorney provided to a defendant/respondent in a matter originating in a state court in the county involving:

(a) A person charged with a crime as defined in I.C. 35-41-1-6;

(b) An act of delinquency as defined in I.C. 31-37-1-2;

(c) A violation of a condition of probation established as a part of a sentence in a juvenile or criminal matter;

(d) Detention of a person subject to extradition to another jurisdiction;

(e) Proceedings to collect unpaid child support pursuant to I.C. 31-16-17-2;

(f) Civil commitment and contempt proceedings; or

(g) Other proceedings where the right to counsel at public expense has been established by law.

(2) The term **LEGAL REPRESENTATION** includes services in connection with all pretrial, trial and appellate proceedings in which an indigent defendant/respondent has a right to counsel. (BCC Ord. 2000-02, passed - -2000)

**§ 32.052 MEMBERSHIP AND APPOINTMENT.**

(A) The Board shall consist of three members; one member appointed by the County Commissioners; and two members from different political parties appointed by majority vote of the judges who exercise felony or juvenile jurisdiction.

(B) The initial term of the member appointed by the County Commissioners shall expire on December 31, 2000. The initial term of one member appointed by the judges shall expire on December 31, 2002 and the initial term of the other member appointed by the judges shall expire on December 31, 2003.

(C) (1) After the initial term of each member, appointments shall be for three-year terms. Members of the Board shall serve until their successor is appointed.

(2) An appointment to fill a vacancy shall be made by the authority appointing the member vacating the position and shall be for the remainder of the unexpired term.

(D) The following persons shall be ineligible to serve as members of the Board: a city, town or county attorney, a law enforcement officer, a judge or a court employee.

(E) Board members shall serve without pay but may receive reimbursement for expenses incurred in connection with the members' duties if approved by the Board.

(F) Two members of the Board shall constitute a quorum for the purpose of conducting the business of the Board. Decisions of the Board shall be approved by a majority of the members present.

(G) The Board shall meet at least quarterly or upon call of its Chairperson or any two members of the Board.

(H) The Board shall elect its Chairperson by a majority vote of the Board. (BCC Ord. 2000-02, passed - -2000)

**§ 32.053 POWERS AND DUTIES OF THE BOARD.**

The Board shall have the following powers and duties:

(A) Prepare a comprehensive plan for providing legal representation to indigent defendants/respondents in the county in accordance with I.C. 33-40-5-4. The comprehensive plan shall, at a minimum, provide for:

(1) Legal representation to an indigent defendant/respondent at the earliest possible point in time;

(2) By the same attorney or attorneys through the pendency of the matter to the greatest extent possible; and

(3) Professional development, continuing legal education and malpractice coverage for public defenders.

(B) Establish policies and procedure for the provision of competent legal representation for indigent defendants/respondents in criminal, juvenile, probation violation, extradition, child support, and criminal contempt and other matters pursuant to the comprehensive plan;

(C) Establish guidelines and procedures for the determination of indigency and for the appropriate reimbursement for legal representation provided at public expense in accordance with I.C. 33-40-5-4;

(D) Recommend an annual operating budget for the Agency and monitor the expenditures of funds; and

(E) Prepare and submit to the County Council and the general public an annual report on the operation of the Agency.  
(BCC Ord. 2000-02, passed - -2000)

**§ 32.054 AUTHORITY OF JUDGES.**

Nothing contained herein shall be deemed to abridge the authority of any judge of a state court of

this county from appointing counsel for any person entitled thereto under the Constitution of the United States or the Constitution of the state.  
(BCC Ord. 2000-02, passed - -2000)

**§ 32.055 SCOPE OF SUBCHAPTER.**

Nothing contained herein shall be deemed to create a right of reimbursement pursuant to I.C. 33-40-6, except to the extent that any claims for reimbursement comply with I.C. 33-40-6 and the Standards of the State Public Defender Commission.  
(BCC Ord. 2000-02, passed - -2000)

***PLAN COMMISSION***

**§ 32.065 TITLE.**

This subchapter shall be known and may be cited as the “Plan Commission Ordinance of Washington County, Indiana”. All previous ordinances establishing a Plan Commission for the county, including Ord. 2009-04, are hereby abolished and repealed in favor hereof.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.066 PURPOSE.**

The purpose of this subchapter, pursuant to the provisions of the preamble of the ordinance codified herein, is for the county to develop to the ends that:

(A) Highway systems be carefully planned;

(B) New communities grow only with adequate public way, utility, health, educational, and recreational facilities;

(C) The needs of agriculture, industry, and business be recognized in future growth;

(D) Residential areas provide healthful surroundings for family life; and

(E) The growth of the community be commensurate with, and promotive of, the efficient and economic use of public funds.  
(BCC Ord. 2010-05, passed 10-20-2010)

#### § 32.067 FUNCTION.

Upon its establishment under this subchapter, County Plan Commission shall exercise exclusive planning functions of the county, excepting those areas under the jurisdiction of the City of Salem Planning and Zoning Ordinances, the jurisdiction of the Town of Livonia Planning and Zoning Ordinances, and any other jurisdiction subject to a valid planning and zoning by another local governmental unit within the county.  
(BCC Ord. 2010-05, passed 10-20-2010)

#### § 32.068 MEMBERSHIP.

(A) The County Plan Commission, pursuant to the provisions of I.C. 36-7-4-208, shall consist of nine members as follows:

- (1) One member appointed by the County Commissioners from its membership;
- (2) One member appointed by the County Council from its membership;
- (3) The County Surveyor or a qualified deputy surveyor appointed by the Surveyor;
- (4) The county agriculture extension educator; and
- (5) Five citizen members, of whom not more than three may be of the same political party. Each of the five members must be:
  - (a) A resident of an unincorporated area of the county; or

(b) A resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county; appointed by the county executive. However, at least

two members must be residents of the unincorporated area of the county. Although geographic districts are not established from which to select members of the Plan Commission, geographic representation from across the county is encouraged.

(B) The term of the appointment of the citizen members shall be for four years, except that the initial term of the members shall be staggered as follows: one designated initial member's term shall expire on the first Monday of January 2014; one designated initial member's term shall expire on the first Monday of January 2014; one designated initial member's term shall expire on the first Monday of January 2011; one designated initial member's term shall expire on the first Monday of January 2013; one designated initial member's term shall expire on the first Monday of January 2012; the term expirations to be the same for specific appointees as previously designated under previous Ord. 2009-04.

(C) Each citizen member shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agriculture, and industrial problems of the area, and the member's 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, except in the case of an area Plan Commission membership on the School Board, the Park Board, or the Board of Directors for Public Utilities or Board of Trustees for Utilities created under I.C. 8-1-11.1.

(D) Pursuant to I.C. 36-7-4-213, because the City of Salem has a Municipal Plan Commission located within the county, which hereby establishes its own Plan Commission:

(1) A designated representative of the County Plan Commission shall serve as an advisory member of the Municipal Plan Commission; and

(2) A designated representative of the Municipal Plan Commission shall serve as an advisory member of the County Plan Commission. Each advisory member has all the privileges of membership, except the right to vote. If the County

Plan Commission fails to make a designation, the county executive shall make the designation.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.069 VACANCIES.**

If a vacancy occurs among the Plan Commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member, using the same criteria as set forth above.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.070 ATTENDANCE AT MEETINGS.**

A member who misses three consecutive regular meetings or more than five meetings in a calendar year of the County Plan Commission shall be treated as if he or she has resigned. The appointing authority may then either appoint a new member to complete the unexpired term, or may reaffirm the appointment of the member who has missed the meetings.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.071 QUORUM.**

A quorum consists of a majority of the entire membership of the County Plan Commission, who are qualified under this subchapter to vote.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.072 MILEAGE; COMPENSATION.**

A member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor who is also a member of a Plan Commission is entitled to receive the following:

(A) A sum for mileage for each mile necessarily traveled while performing the duties of a Plan Commission member in an amount that is equal to the amount paid to state employees for mileage; and/or

(B) A sum for compensation for services as a member of the Plan Commission in an amount that the county fiscal body may determine for attendance at meetings of the Plan Commission.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.073 OFFICIAL ACTION.**

Action of the County Plan Commission is not official, unless it is authorized, at regular or special meeting, by a majority of the entire membership of the County Plan Commission.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.074 ELECTION OF OFFICERS.**

At its first regular meeting in each year, the County Plan Commission shall elect from its members a President and Vice President. The Vice President may act as president of the Plan Commission during the absence or disability of the President.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.075 APPOINTMENT OF SECRETARY.**

The Plan Commission may appoint and fix the duties of a Secretary who is not required to be a member of the Commission.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.076 REGULAR MEETINGS AND MINUTES.**

The Plan Commission shall fix time for holding regular meetings each month or as necessary. The Commission shall keep minutes of its meetings. The minutes of commissioned meetings and all records shall be filed on the office of the Plan Commission, which location is to be determined by the Plan Commission, and are public records.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.077 SPECIAL MEETINGS.**

(A) Special meetings of the Plan Commission may be called by the President or by two members of the Commission upon written request to the Secretary.

(B) The Secretary shall send to all members, at least three days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if:

(1) The date, time, and place of a special meeting are fixed during a regular meeting; and

(2) All members of the Commission are present at the regular meeting.  
(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.078 DUTIES OF PLAN COMMISSION.**

The Plan Commission shall:

(A) Supervise, and make rules for, the administration of the affairs of the Commission;

(B) Prescribe uniform rules pertaining to investigations and hearings;

(C) Keep complete records of all departmental proceedings;

(D) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Commission;

(E) Prepare, publish, and distribute reports, ordinances and other material relating to the activities authorized under this chapter;

(F) Adopt a seal;

(G) Certify to all official acts;

(H) Supervise the fiscal affairs of the Commission; and

(I) Prepare and submit an annual budget in the manner as other departments of county government, and be limited in all expenditures by the fiscal body of the county.

(BCC Ord. 2010-05, passed 10-20-2010)

**§ 32.079 ADOPTION OF STATE STATUTES.**

By this subchapter, the Board of Commissioners specifically incorporates by reference I.C. 36-7-4-100 through 36-7-4-511, generally cited as the Indiana Code on local planning and zoning. All provisions of this subchapter or any ensuing comprehensive plan or zoning law that may conflict with one or more provisions of the Indiana Code are to be in favor of the Indiana Code.

(BCC Ord. 2010-05, passed 10-20-2010)

***AMBULANCES SERVICES AUTHORITY*****§ 32.090 ESTABLISHMENT OF AUTHORITY.**

The Washington County Ambulance Services Authority is hereby established pursuant to I.C. 16-31-5-1.

(BCC Ord. 2013-14, passed 12-17-2013; BCC Ord. 2014-03, passed 1-7-2014)

**§ 32.091 DEFINITIONS.**

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

***AMBULANCE.*** Any motorized vehicular conveyance on land, water or air that is used or is intended to be used for the purpose of responding to emergency life-threatening situations and providing emergency transportation service.

***AMBULANCE SERVICES BOARD.*** The Washington County Ambulance Services Board established hereunder.

**AUTHORITY.** The newly established Washington County Ambulance Services Authority established by this subchapter.

**BOARD OF COMMISSIONERS.** The Board of Commissioners, County of Washington, Indiana.

**EMERGENCY AMBULANCE SERVICES.** The transportation of emergency patients by ambulance and the administration of emergency medical care to emergency patients before or during the transportation.

**EMERGENCY MEDICAL CARE.**

- (1) Assessment of emergency patients;
- (2) Administration of oxygen;
- (3) Utilization of mechanical breathing devices;
- (4) Application of anti-shock trousers;
- (5) Performance of cardiopulmonary resuscitation;
- (6) Application of dressings and bandage materials;
- (7) Application of splinting and immobilization services;
- (8) Utilization of lifting and moving devices to ensure safe transport;
- (9) Utilization of an automatic or a semi-automatic defibrillator if the defibrillator is used in accordance with training procedures established by the Indiana EMS Commission;
- (10) Other procedures authorized by the Indiana EMS Commission.

The term does not include invasive medical care techniques but does include advanced life support.

**EMERGENCY MEDICAL SERVICE FACILITY.** Those facilities that are licensed and operated under I.C. § 16-18-2-111 and are equipped, prepared, and staffed to provide medical care for emergency patients.

**EMERGENCY MEDICAL SERVICES.** The provision of emergency ambulance services or other services, including extrication and rescue services, utilized in serving an individual's need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

**EMERGENCY MEDICAL TECHNICIAN.** An individual who is certified by the Indiana EMS Commission to provide emergency medical care at the scene of an accident, illness, or during transport.

**EMERGENCY PATIENT.** An individual who is acutely ill, injured, or otherwise incapacitated or helpless and who requires emergency medical services. The term includes an individual who:

- (1) Requires transportation on a litter or cot; or
- (2) Is transported in a vehicle certified by the Indiana EMS Commissions as an ambulance.

**INDIANA EMS COMMISSION.** The Indiana Emergency Medical Services Commission created by former I.C. 16-1-39, now I.C. 16-31-2.

**PERSON.** Any natural person or persons, firm, partnership, corporation, company, association, and the person's legal successors, including any governmental agency or instrumentality other than an agency or instrumentality of the United States. (BCC Ord. 2013-14, passed 12-17-2013; BCC Ord. 2014-03, passed 1-7-2014)

**§ 32.092 ESTABLISHMENT OF THE WASHINGTON COUNTY AMBULANCE SERVICES AUTHORITY.**

There is hereby established a Washington County Ambulance Services Authority within the executive branch of Washington County government for the purpose of establishing, operating, maintaining and regulating emergency ambulance services in Washington County. The County Commissioners and Washington County Ambulance Services Authority Board shall be responsible for the organization, administration and operation of the Authority. An advisory committee may also be utilized for this purpose or any other purpose by the Board of Commissioners.

(BCC Ord. 2013-14, passed 12-17-2013; BCC Ord. 2014-03, passed 1-7-2014)

**§ 32.093 WASHINGTON COUNTY AMBULANCE SERVICES BOARD ESTABLISHED.**

(A) There is hereby established a Washington County Ambulance Services Board ("Ambulance Service Board"), which shall consist of eight members, five voting, and three non-voting, appointed as follows:

(1) The five voting members shall consist of all three Washington County Commissioners, and two members of the Washington County Council, appointed annually by the membership of the Washington County Council at the first meeting of each calendar year.

(2) The three non-voting members shall consist of:

(a) One of the following:

(i) Washington County Sheriff;

(ii) Director of the Washington County Emergency Management Department; or

(iii) Director of the Washington County 911 call system;

(b) One Washington County medical doctor; and

(c) The current Executive Director of the local Emergency Medical Services.

(3) Term of the non-voting medical doctor shall be for one year and shall appointed by the Washington County Commissioners at the first meeting in January of each year. This person may be removed prior to the end of the annual term for just cause. The Washington County Sheriff, Director of the local 911/emergency medical services, and the Executive Director of the Washington County Ambulance Services Authority shall serve as nonvoting members of the committee as long as each continues to hold their respective office. In the event of the death, resignation, disability, or removal of either from his or her respective position, a vacancy shall exist in such non-voting position until a replacement is made to that position.

(4) In the event of the death, resignation, disability, or removal from office of a voting Council person or Commissioner, the president of each respective body shall make an immediate appointment of an interim from its membership until the entire body can meet and appoint a replacement. Should any voting member's term as an elected official end as Counsel person or Commissioner, his or her duties shall continue until a replacement is made at the first meeting of January the following year of each body.

(B) The members of the Ambulance Services Board shall as soon as possible after the last initial appointment is made, meet and elect one member as Chairman and another member as Vice Chairman and shall appoint a Secretary Treasurer who need not be a member of the Board. The officers of the Ambulance Services Board shall be elected by the Ambulance Services Board and serve for one year terms.

(C) For the purposes of transacting business, a majority of the voting membership of the Ambulance

Services Board constitutes a quorum. A vacancy in the membership does not impair the right of the quorum to transact business.

(D) *Duties of the Washington County Ambulance Services Board.*

(1) The Ambulance Services Board shall actively oversee the operation of the Washington County Ambulance Services Authority.

(2) The Ambulance Services Board shall establish, operate, maintain and regulate emergency ambulance services in Washington County (subject to adequate funding);

(3) No later than March 15 of each calendar year, the Ambulance Services Board shall make a written annual report to the Board of County Commissioners and County Council concerning:

(a) An accounting of all receipts and expenditures;

(b) Any proposed capital expenditures for the coming year;

(c) An evaluation of the effectiveness of the provision of ambulance services in Washington County;

(d) Any recommendations concerning improvement, modification, and continuance or discontinuance of such program. In addition, the Ambulance Services Board shall provide interim updates on those same topics at least quarterly to both entities.

(4) The Ambulance Services Board shall adopt by-laws for the conduct of its own business and submit a copy of said by-laws to the Washington County Board of Commissioners and keep the Board of Commissioners informed of any amendments to said by-laws.

(5) The Ambulance Services Board may maintain an office, and employ an Executive Director

and other employees that may be required for an effective operation of the Authority. The Ambulance Services Board may employ attorneys, accountants, and other professionals to assist them in operating the Authority.

(6) The Ambulance Services Board shall meet at least once quarterly; however, the frequency, time and place of such meetings shall be determined by the Ambulance Services Board.

(7) The Ambulance Services Board shall prepare an annual budget for the Authority. The Washington County Council may appropriate such funds as it may deem necessary for funding the activities of the Authority.

(E) Notwithstanding any other provision of this section, no compensated position may be established within the Washington County Ambulance Services Authority without the prior approval of the Board of Commissioners and without the authorization of the Washington County Council and the making of sufficient appropriations to pay such compensation. This provision does not give the Washington County Council any power of approval over the candidates for any positions and adopting schedules of compensation. In addition, it is the intent of this section that any compensated positions under the Washington County Ambulance Services Authority shall be county employees and shall work under the provisions of the Washington County Personnel Policy established in the Washington County Code.

(F) The Ambulance Services Board is a "Public Agency" as defined in Title 5, Article 14 of the Indiana Code relating to public meetings and access to public records. However, medical records of patients shall not be considered public records; their disclosure being specifically exempted under said law as a violation of Federal privacy laws.

(BCC Ord. 2013-14, passed 12-17-2013; BCC Ord. 2014-03, passed 1-7-2014; BCC Ord. 2020-06, passed 8- -2020)

**§ 32.094 EXECUTIVE DIRECTOR:  
QUALIFICATIONS AND TENURE.**

(A) The Executive Director of the Authority shall be appointed by the Ambulance Services Board. Qualifications for the Executive Director will be determined by the Ambulance Services Board. The Executive Director may hold no other local, state or federal office.

(B) The appointment of the Executive Director shall be at-will of the Executive Director and the Ambulance Services Board. The person appointed to the position shall be subject to an annual performance review, which shall take place within 30 days prior to the end of each calendar year.

(BCC Ord. 2013-14, passed 12-17-2013; BCC Ord. 2014-03, passed 1-7-2014)

(4) The Executive Director may seek, negotiate and enter into (with the approval or ratification of the Board Commissioners) mutual aid agreements with other public and private agencies concerned with providing ambulance services to residents of Washington County, and ambulances from Washington County providing services outside the county.

(5) On behalf of the County, the Executive Director may seek and accept from any person, firm, or corporation, any gratuitous offers to provide

**§ 32.095 EXECUTIVE DIRECTOR: GENERAL  
POWERS AND DUTIES.**

(A) The Executive Director, subject to the directions and control of the Ambulance Services Board shall be the executive head of the Authority and shall have responsibility for the day-to-day administration and operation of the Authority, including the following specific powers and duties:

(1) The Executive Director shall be responsible for the public relations, information and education concerning ambulance services in Washington County.

(2) The Executive Director shall coordinate within Washington County all activities concerning providing ambulance services and shall maintain liaison and coordinate with all other affected agencies, public and private.

(3) The Executive Director shall coordinate the recruitment and training of all personnel of the Authority and shall oversee employee scheduling, dispute resolution, and disciplinary matters of employees of the Authority.

services, equipment, supplies, materials, funds or privileges to use real estate or other premises for ambulance service purposes.

(6) The Executive Director shall issue proper identification and papers to Authority personnel and other people directly concerned with providing ambulance services in Washington County.

(7) The Executive Director shall annually prepare and present a proposed budget for the next fiscal year to the Washington County Ambulance Services Board at least 21 days prior to the announced annual due date for initial budget submissions to the Washington County Auditor.

(8) The Executive Director shall comply with all state laws and regulations concerning ambulance service providers and shall monitor and maintain issues of vehicular and facilities and equipment maintenance.

(9) The Executive Director, with prior approval of the Ambulance Services Board, shall establish fees to be charged for emergency ambulance services provided by the Authority. (BCC Ord. 2013-14, passed 12-17-2013; BCC Ord. 2014-03, passed 1-7-2014)

**§ 32.096 ESTABLISHMENT OF AMBULANCE SERVICES AUTHORITY FUND.**

(A) There is hereby established a non-reverting fund known as the "Washington County Ambulance Services Authority Fund", to be maintained by the Washington County Auditor.

(B) Revenues for this fund shall consist of profits from services rendered. All such funds received by the Authority shall be remitted to the Washington County Auditor and shall be deposited in the fund.

(C) This fund shall be invested as other public monies are invested. The fund and all earnings thereon shall be used solely for the purposes of

providing ambulance services and paying expenses incurred by the Authority.

(D) Any money remaining in this fund at the end of the year shall not revert to any other fund.

(E) The Washington County Auditor shall handle disbursements from this fund in the same fashion as other funds are handled.

(BCC Ord. 2013-14, passed 12-17-2013; BCC Ord. 2014-03, passed 1-7-2014)

**§ 32.097 RESTRICTION ON EMERGENCY AMBULANCE SERVICE PROVIDERS.**

(A) After February 1, 2013, a person may not furnish, operate, conduct, maintain, advertise, or otherwise be engaged in providing emergency ambulance services or non-emergent convalescent transport services in Washington County, either paid or voluntary, unless such person is specifically authorized to do so by the Ambulance Services Board, or unless:

(1) The Washington County Ambulance Services Board specifically authorizes or requests the provision of such services from a particular provider.

(2) There is a mutual aid agreement established between the Washington County Ambulance Services Authority and another such provider, subject to the terms of the mutual aid agreement, which shall not include regular, ongoing operations.

(3) The provider is authorized to provide emergency ambulance services in any part of another county; and

(a) Is traveling through Washington County on a run that did not originate in Washington County; or

(b) Encounters an emergency while passing through Washington County and is under a professional obligation to render services under the Laws of the State of Indiana; or

(4) In the case of an emergency 911 call, the original emergency 911 call was first routed to that outside provider rather than to the Washington County Ambulance Services Authority.

(B) The Ambulance Services Board may penalize a provider or person who violates this section up to \$500 per occurrence for each violation that shall be established. A civil penalty may be imposed only after a hearing on the imposition of the penalty has been held by the Executive Director or his or her designee. Notice of this hearing must be mailed ten days before the date set for the hearing. A provider or person who is penalized under this chapter is entitled to:

- (1) Be represented by an attorney;
- (2) Present evidence on that person's behalf; and
- (3) Cross examine witnesses.

(C) The Ambulance Services Board may seek injunctions through the court system against persons who violate this section.  
(BCC Ord. 2013-14, passed 12-17-2013; BCC Ord. 2014-03, passed 1-7-2014)

## CHAPTER 33: COUNTY SHERIFF; FIRE DISTRICTS

### Section

#### *County Sheriff*

- 33.01 Sheriff's Merit Board
- 33.02 Sheriff's Reserve Unit
- 33.03 Sheriff's sale program; service fee
- 33.04 User fees; motor vehicle accident services
- 33.05 Authorization to permit retirees to retain service weapon
- 33.06 Deferred compensation plan
- 33.07 Vehicle tow fee

#### *Fire Protection Districts*

- 33.15 Southwest Washington Fire District
- 33.16 Blue River Fire Protection District
- 33.17 Brown-Vernon Fire District

#### **COUNTY SHERIFF**

### **§ 33.01 SHERIFF'S MERIT BOARD.**

Pursuant to the provisions of I.C. 36-8-10-3, there is hereby created in and for the county the County Sheriff's Merit Board. The Board shall function, be governed by and shall operate within and under the terms of the statute as it now exists or may be hereafter amended.

(1985 Code, § 5-9-1) (CC Res. passed 7-2-1971)

### **§ 33.02 SHERIFF'S RESERVE UNIT.**

(A) *Established; limitation on number of reserves.* The County Police Reserves, which shall be

known as the Sheriff's Reserve Unit, is hereby authorized and established. The maximum number of members of the Sheriff's Reserve Unit shall be 25 persons.

(1985 Code, § 5-9-2)

#### *(B) Appointment and qualifications of members.*

Those persons designated to be members of the Sheriff's Reserve Unit shall be appointed by the Sheriff's Merit Board upon recommendation by the Sheriff pursuant to appropriate residency, age, and educational qualifications. No person may be appointed to the Sheriff's Reserve Unit until he or she has completed a program of training and probationary period as established by rules of the Sheriff's Department. Members of the Sheriff's Reserve Unit shall serve at the pleasure of the Sheriff after their appointment by the Police Merit Board, and shall not have tenure rights attached to their appointment and service.

(1985 Code, § 5-9-4)

#### *(C) Compensation and benefits.*

(1) Any member of the Sheriff's Reserve Unit shall serve without compensation except that sums for the following benefits may be appropriated by the County Council: a uniform allowance.

(2) Members of the Sheriff's Reserve Unit are not eligible to participate in any pension program provided by the state or for regular members of the County Police Department.

(1985 Code, § 5-9-5)

(BCC Ord. 1982-4, passed 10-18-1982)

**§ 33.03 SHERIFF'S SALE PROGRAM; SERVICE FEE.**

(A) The Sheriff's Sale Program is approved and established to provide authority for the Sheriff to contract for those administrative, technical, clerical, and related services that are reasonable and appropriate for the Sheriff to effectively prepare for, manage and implement foreclosure sales.

(B) The Commissioners hereby establish a fund to be titled the Sheriff Sale Fund into which all collections of foreclosure costs fees, as hereafter defined, shall be deposited and from which the appropriate expenses of the Sheriff Sale Program shall be appropriated and paid. The Sheriff Sale Fund shall be a non-reverting fund to be used only for the purposes set forth herein and shall not revert to the county general fund at year end.

(C) The Sheriff is authorized to negotiate and execute a contract with a provider to obtain such administrative, technical, clerical and related services (the "Sheriff Sale Services") in order for the Sheriff to conduct the Sheriffs Sale Program.

(D) The Sheriff Sale Services contract shall provide for the delivery of the services by a contractor (the "contractor") in compliance with all applicable statutory provisions for the conduct of foreclosure sale proceedings and the Sheriff's Sale Program. The Sheriff Sale Services contract shall also provide for the payment of a fee not to exceed the amount indicated in division (H) below for each cause number scheduled in the Sheriff's Sale Program, to the contractor for the services.

(E) The Sheriff is hereby authorized to charge a fee of the amount indicated in division (H) below per cause number of property in the Sheriff's Sale Program (the "Foreclosure Costs Fees") and to deposit the foreclosure costs fee collected by or on behalf of the Sheriff in the Sheriff Sale Fund.

(F) The foreclosure costs fee shall be payable at the time of filing the praecipe under I.C. 32-29-7-3(j),

which shall be a charge for the Sheriffs Sale in addition to other statutory costs and fees.

(G) The Sheriff's Sale Program contract shall provide for a complete and accurate accounting of all Sheriff Sale Program proceeds and compliance with any reporting or record requirements as set forth by the State Board of Accounts.

(H) The estimated costs herein are estimates of the county sheriff for the administration of foreclosure sales as required by I.C. 32-29-7. The fees are authorized by I.C. 32-29-7-3.

(1) Contractual services: \$180 per cause number.

(2) Employee time defined.

(3) Employee cost per, definition in (2) above.

(4) Other defined costs ie: service of notice, cost of paper, envelopes, phone calls. (BCC Ord. 2004-02, passed 6-21-2004; BCC Ord. 2018-02, passed 4-10-2018; BCC Ord. 2023-08, passed 10-3-2023)

**§ 33.04 USER FEES; MOTOR VEHICLE ACCIDENT SERVICES.**

(A) The County Sheriff's Department shall initiate user fees for the delivery of police services, personnel, supplies, and equipment to the scene of motor vehicle accidents. The rate of the user fees shall be that which is the usual, customary, and reasonable costs (UCR), which includes any services, personnel, supplies, and equipment and may fluctuate based on the needs of the accident.

(B) The user fees shall be initially filed to the motor vehicle insurance, representing an add-on-cost of the claim for damages of the vehicles, property, and/or injuries. The claim costs shall be filed to the insurance company, the owner of a vehicle, owner of property, or other responsible parties.

(C) The Board of Commissioners may make rules or regulations and from time-to-time may amend, revoke, or add rules and regulations, not consistent with this section as they may deem necessary or expedient in respect to billing for these fees or the collection thereof.

(D) All amounts collected as a result of this section shall be placed into a non-reverting Sheriff's Operating Fund, to be used exclusively for the operation of the Sheriff's Department and the County Detention Center.

(E) It is found and determined that all formal actions of the County Board of Commissioners concerning and relating to the adoption of this section were adopted in open meetings of the Board of Commissioners, and that all deliberations that resulted in the formal actions were in compliance with all legal requirements, and the codified ordinances of the county.

(BCC Ord. 2006-01, passed 1-16-2006)

**§ 33.05 AUTHORIZATION TO PERMIT RETIREES TO RETAIN SERVICE WEAPON.**

(A) *Purpose.* The purpose of this section shall be to authorize the Sheriff of Washington County to permit eligible merit police employees to retain his or her standard service weapon upon retirement. The purpose of this section is to show appreciation to merit police employees of Washington County, Indiana, who retire after age 55 and at least ten years of service or at least 20 years of service.

(B) *Specification.* When an eligible merit police employee, as determined by the Sheriff, of Washington County Sheriff's Department retires after age 55 and at least ten years of service or at least 20 years of service, he or she is authorized to retain his or her standard service weapon (handgun) and receive a "retired" badge in recognition of his or her service to the department and the public. Upon his or her retirement, the department shall issue to him or her an identification card that gives his or her name and rank,

signifies that he or she is retired, and notes his or her authority to retain his or her service weapon.

(BCC Ord. 2013-01, passed 1-22-2013)

**§ 33.06 DEFERRED COMPENSATION PLAN.**

There is hereby established a deferred compensation plan for the Washington County Sheriff's Department to allow for the voluntary participation of employees of such Sheriff's Department.

(A) 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; and the Sheriff is authorized to sign the adoption agreement to participate in the deferred compensation plan.

(B) The County Auditor is authorized to make deductions from the pay of employees of the Sheriff's Department who voluntarily participate in the deferred compensation plan and to deposit the deferrals in the trust. The County Commissioners also authorize the Committee made up of representatives of the Sheriff's Departments participating in the plan (as determined by participating Sheriff's Departments) to make such other arrangements as are necessary to implement the plan. It is understood that, other than the incidental expenses related to collecting the employees' deferrals, there is to be no cost to or contribution by the county to this plan.

(BCC Ord. 2017-01, passed 1-17-2017)

**§ 33.07 VEHICLE TOW FEE.**

(A) The Washington County Sheriffs Department may assess a \$35 tow-in fee for each vehicle the Department orders towed.

(B) The Washington County Sheriffs Department shall collect a tow-in fee along with the Department's

fees prior to releasing any towed vehicle to its owners and shall forward the Department's tow-in fees to the Washington County Auditor at least quarterly. The Auditor is hereby directed to deposit any such revenues received into the Sheriffs Fund.  
(BCC Ord. 2018-03, passed 4-17-2018)

### *FIRE PROTECTION DISTRICTS*

#### **§ 33.15 SOUTHWEST WASHINGTON FIRE DISTRICT.**

(A) There is hereby established a fire protection district, which includes all of Howard Township, all of Posey Township, all of Madison Township, all in Washington County, and further including all of the Town of Fredericksburg, Indiana, and all of the Town of Livonia, Indiana located in the townships. The name of the fire protection district is Southwest Washington Fire District.

(B) The fire district shall be granted and operate pursuant to the authority of I.C. 36-8-11, Fire Protection Districts.

(C) Pursuant to the provisions of I.C. 36-8-11-14(d), the Board of Commissioners of the county now orders that the Board of Trustees of the Southwest Washington Fire District shall maintain its offices at the office of the Secretary/Treasurer of the Board of Trustees as elected at its organizational meeting.

(D) Pursuant to the statute, the fire protection district named Southwest Washington Fire District shall be operated by a Board of Trustees to be appointed by the County Commissioners, which Trustee shall serve from the following geographic areas and shall be appointed pursuant to and under the terms of the code:

- (1) Trustee from Madison Township;
- (2) Trustee from Howard Township;
- (3) Trustee from Posey Township;
- (4) Trustee from Livonia, Indiana;
- (5) Repealed;
- (6) Trustee from Fredericksburg, Indiana;

and

- (7) Trustee at large from the district.

(BCC Ord. 92-04, passed 3-16-1992; BCC Ord. 2022-08, passed 9-8-2022; BCC Ord. 2022-10, passed 10-1-2022)

**§ 33.16 BLUE RIVER FIRE PROTECTION DISTRICT.**

(A) There is hereby established a fire protection district which includes all of Howard Township, in the county. The name of the fire protection district is Blue River Fire Protection District.

(B) The fire district shall be granted and operate pursuant to the authority of I.C. 36-8-11, Fire Protection District.

(C) Pursuant to the statute, the fire protection district named Blue River Fire Protection District shall be operated by a Board of Trustees to be appointed by the County Commissioners which trustees shall serve for four years. All terms expire on the first Monday in January of the year their appointments expire. As terms expire, each new appointment is for a term of four years.

(BCC Ord. 94-03, passed - -1994)

**§ 33.17 BROWN-VERNON FIRE DISTRICT.**

(A) There is hereby established a fire protection district which includes all of Brown Township, and all of Vernon Township, both in the county, and includes all of the Town of Sattilo and all of the Town of Campbellsburg, Indiana, located in the townships. The name of the fire protection district is Brown-Vernon Fire Department.

(B) The fire district shall be granted and operate pursuant to the authority of I.C. 36-8-11, Fire Protection District.

(C) Pursuant to the statute, the fire protection district named Brown-Vernon Fire Department shall be operated by a Board of Trustees to be appointed by the County Commissioners which Trustees shall serve from the following geographic areas for a term of four years:

- (1) Trustee from Sattilo, Indiana;
- (2) Trustee from Brown Township;
- (3) Trustee from South Vernon Township;
- (4) Trustee from Campbellsburg, Indiana;

and

- (5) Trustee from North Vernon Township.

(BCC Ord. 91-02, passed 4-15-1991)



**CHAPTER 34: EMERGENCY MANAGEMENT**

Section

- General Provisions*
- 34.01 Purpose
  - 34.02 Definitions
  - 34.03 Liberal construction of powers
  - 34.04 Nonsuppression of emergency powers of County Sheriff or incorporated municipalities

- Administration*
- 34.15 Emergency Management Advisory Council
  - 34.16 Department of Emergency Management
  - 34.17 Director of Emergency Management
  - 34.18 Deputy Director
  - 34.19 Powers and duties of County Commissioners
  - 34.20 Qualifications and appointment of emergency management volunteers
  - 34.21 Departmental budgeting and finance
  - 34.22 Emergency operations plan
  - 34.23 Countywide jurisdiction of Department and application of plan
  - 34.24 Local Emergency Planning Committee
  - 34.25 Local Emergency Planning Committee Fund

***Emergency Powers, Regulations and Procedures***

- 34.40 Application
- 34.41 Pre-disaster responsibilities of Department
- 34.42 Declaration of local disaster emergency
- 34.43 Emergency meeting of Board of Commissioners

- 34.44 Special emergency powers and duties of Board of Commissioners
- 34.45 Powers of Director during presumptive state of emergency
- 34.46 Cooperation of county officers and employees
- 34.47 Priority of emergency orders, rules and regulations
- 34.48 Violations
- 34.49 Limitation of liability
- 34.50 Reimbursement for use of property commandeered during emergency
- 34.51 Power to establish travel advisories in emergency conditions
- 34.99 Penalty

***GENERAL PROVISIONS***

**§ 34.01 PURPOSE.**

It is the purpose of this chapter to establish in the county a Department of Civil Defense and Emergency Management and to provide for the exercise of necessary powers during emergencies. (BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.02 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 Washington County Emergency Management Advisory Council as established under this chapter.

**CHIEF EXECUTIVE OFFICER.** As referred to in I.C. 10-14-3-29-(a) for purposes of declaring a local disaster emergency, and as referred to hereinafter, means the presiding officer of the Board of Commissioners. The presiding officer shall be considered as the regularly designated President of the Board, except if he or she is absent or incapacitated, and the Board has a regularly designated President Pro Tem, then the President Pro Tem shall be considered as the **CHIEF EXECUTIVE OFFICER**. If the President is absent or incapacitated and there is no designated President Pro Tem, then the remaining two Commissioners shall select among themselves one to be presiding 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 presiding officer.

**DIRECTOR.** Refers to the County Director of Emergency Management as established and appointed pursuant to this chapter.

**EMERGENCY.** A condition resulting from enemy attack, or other hostile action; or from natural disaster, human-made disaster, or technological disaster, which cannot be handled by normal operating personnel or facilities.

**EMERGENCY MANAGEMENT.** The preparation for and the execution of all emergency functions, other than functions for which the military forces are primarily responsible, for protection against and to minimize and repair injury and damage resulting from enemy attack, sabotage, or other hostile action or by natural disaster.

**EMERGENCY MANAGEMENT VOLUNTEER.** Any person who serves without compensation in the Department of Emergency Management, being first duly registered, identified, sworn and appointed by the Director, including persons and private agencies or government units offering services to the county during emergency situations or mutual aid to other emergency services who request assistance.

**HUMAN-MADE DISASTERS.** Any condition of civil disturbance, such as riots, illegal or unauthorized strikes, insurrections and other assemblages of persons that are clearly a threat to public health, safety or welfare, and are clearly outside the guarantees afforded by the state constitution.

**NATURAL DISASTER.** Any condition affecting or threatening public health, welfare, or security as a result of flood, tornado, blizzard or other natural cause.

**PARTICIPATING EMERGENCY SERVICE.**

(1) Any county departments or agency designated by the Commissioners to participate in emergency activities pursuant to § 34.44(A)(1)(d); and

(2) Any department or agency of the state, another county, a municipal corporation, or a volunteer organization designated to participate in the county's emergency management programs and activities pursuant to a cooperative or mutual aid agreement entered into pursuant to I.C. 10-4-1-0 and § 34.17(C)(5) of this chapter.

**PERSONNEL.** County officers and employees and emergency management volunteers, unless otherwise indicated.

**TECHNOLOGICAL DISASTER.** Any incidents such as severe fire, explosions, hazardous material spills, radiological problems which are beyond the control of regular forces.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.03 LIBERAL CONSTRUCTION OF POWERS.**

The general intent of this chapter is to provide for all necessary and dispensable powers and procedure reasonable needed to prevent, cope with, or make more tolerable emergency conditions. For this and all powers, both ministerial and discretionary, as conferred herein shall be liberally construed and shall

be construed as intending to supplement and augment, and not to limit, any other powers or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, departments and agencies. (BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.04 NONSUPPRESSION OF EMERGENCY POWERS OF COUNTY SHERIFF OR INCORPORATED MUNICIPALITIES.**

(A) Nothing in this chapter is intended to supersede or delimit any statutory powers of the County Sheriff to determine, respond to and provide for the control of public disasters and other emergency situations under the provisions I.C. 10-14-3-29 and 36-2-13-5.6.

(B) Nothing in this chapter is intended to supersede or delimit the powers of any incorporated municipality under I.C. 10-14-3-17 to adopt and implement emergency plans, and promulgate and enforce special emergency regulations and procedures in the event of an actual emergency affecting the municipality; however, pursuant to I.C. 10-14-3-14, the regulations and procedures as promulgated by the municipal authorities may not be inconsistent with the county emergency regulations and procedures. (BCC Ord. 1996-04, passed 2-5-1996)

**ADMINISTRATION**

**§ 34.15 EMERGENCY MANAGEMENT ADVISORY COUNCIL.**

(A) *Appointment and terms of members.* In accordance with I.C. 10-14-3-17, there is established a County Emergency Management Advisory Council, which shall consist of the following persons or their designees who shall be comparably qualified:

(1) The President of the county executive or other current County Commissioner;

(2) The President of the county fiscal body or other current County Commissioner;

(3) The mayor of each city located in the county or other current County Commissioner;

(4) An elected official from the legislative of each town board located within the county;

(5) Representatives of the private and public agencies or organizations which can be of assistance in emergencies, as the Director considers appropriate, or as may be added later by the County Emergency Management Advisory Council, which shall include the following:

(a) The County Sheriff or designee;

(b) The Chairperson of the Local Emergency Planning Council;

(c) The Police Chief of any city in the county, or a designee;

(d) The President of the Volunteer Fire Chiefs Association, or another designated fire chief; and

(e) Director of the Washington County Memorial Hospital.

(6) One commander of a local civil air patrol unit in the county or a representative of the Washington County Pilot's Association.

(B) *Officers.* The Advisory Council shall have a Chairperson, Vice Chairperson, and Recording Secretary, and a Vice Recording Secretary, the last three of which are to be elected by the Advisory Council for two-year terms.

(C) *Duties.*

(1) The Advisory Council shall exercise general supervision over the emergency management and disaster program of the county. The Advisory Council alone shall recommend a person to serve as County Emergency Management Director, subject to the approval and appointment of the County Commissioners. The Director shall have direct responsibility for the organization, administration, and

operation of the county's emergency management program, and shall be responsible to the Chairperson of the Advisory Council. The office of Emergency Management Director is not a political or partisan appointment, and the person who serves as Director shall not hold any other lucrative local or state government office.

(2) The Advisory Council shall meet at least semi-annually; the frequency, time and place being determined by the Council.  
(BCC Ord. 1996-04, passed 2-5-1996)

#### **§ 34.16 DEPARTMENT OF EMERGENCY MANAGEMENT.**

(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 emergency 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) A Director as executive head, appointed in accordance with § 34.15(C);

(2) A Deputy Director, whose qualifications shall be determined by the Director, and 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 with § 34.20;

(4) The employees, equipment and facilities of all county departments and agencies suitable for, or adaptable to emergency management, as recommended to the Director and designated by the County Commissioners;

(5) Staff officers appointed by the Director with responsibility for warning and communications,

radiological, health, emergency care, police, fire and rescue, public works, and public information; 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.

(B) Notwithstanding any other provision of this chapter, no compensated position may be established within the Department of Emergency Management nor any person appointed to the position without the authorization of the County Council pursuant to I.C. 36-2-5-3(a) and the making of sufficient appropriations to pay the compensation.

(1) This provision does not give the County Council any power of approval over particular candidates for any positions, but refers only to their general statutory powers to determine the numbers of officers, deputies, and employees of county departments, classify positions, and adopt schedules of compensation.

(2) In addition, it is also the intent of this section that emergency management and disaster assignments shall be as nearly consistent with normal duty assignments as possible.

(C) In general, any paid employees of the Department of Emergency Management shall have the same employment status and shall be governed by the same uniform personnel policies, rules, and procedures that apply to other county employees; however, in the event that, and during such times as, the County Emergency Management Program may hereafter be fully and directly supported by federal funding, the Board of Commissioners shall adopt and implement a special merit system applicable only to paid employees of the Department other than the Director. The merit system shall conform to the standards, and comply with other requirements, as set forth in CPG 1-3: Federal Assistance Handbook: *Emergency Management Direction and Control Programs* (January, 1984), or subsequent editions thereof as may be in effect at the time.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.17 DIRECTOR OF EMERGENCY MANAGEMENT.**

(A) The Director of the Emergency Management shall be appointed by the County Emergency Management Advisory Council with the approval of the county executive, pursuant to I.C. 10-14-3. Qualifications for Director shall be determined by the Advisory Council, with input from the State Emergency Management Director. The Director may hold no other local, state or federal office.

(B) Subject to the annual approval of the County Commissioners, the appointment of the Director shall be continuous, unless the Advisory Council determines that the Director is incapable of fulfilling his or her responsibilities, which shall include dereliction of duties (including failure to provide the State Emergency Management Director required annual reports and documentation), malfeasance in office, incompetence, insubordination or deliberate disregard of the directives of superior county or state authorities, or physical or mental incapacity to perform his or her duties.

(C) The Director, subject to the direction and general supervision of the Advisory Council, shall be executive head of the Department of Emergency Management, shall report directly to the Chairperson of the Advisory Council, and shall be directly responsible for the organization, administration and operation of the emergency management organization, including the following specific powers and duties:

(1) The Director shall be responsible for public relations, information, and education regarding all phases of emergency management;

(2) The Director shall be responsible for the development of a County Emergency Operation Plan, and upon adoption, shall be responsible for the implementation and revision of the plan as to maintain it on a current state of readiness at all times. This plan shall include all major cities within the county;

(3) The Director shall coordinate, within the county, all activities for emergency management and shall maintain liaison and coordinate with all other affected agencies, public and private;

(4) The Director shall coordinate the recruitment and training for volunteer personnel and agencies to augment the personnel and facilities of the county for emergency management purposes;

(5) The Director may seek, negotiate and enter into (subject to the review of the Advisory council, and where necessary, with the approval or ratification of the Commissioners and to the extent consistent with the State Emergency Operations Plan and Program) mutual-aid arrangements with other public and private agencies for emergency management purposes and take all steps in accordance with the arrangements to comply with or take advantage thereof in the event of an actual emergency affecting the parties;

(6) The Director may, when the offer has been approved by the Governor, accept any offer of the federal government to provide for the use of the county any services, equipment, supplies, materials, or funds for emergency management purposes by way of gift, grant, or loan;

(7) The Director may seek and accept from any person, firm or corporation, any gratuitous offers to provide services, equipment, supplies, materials, funds, or licenses, or privileges to use real estate or other premises, to the county for emergency management purposes;

(8) The Director may issue proper insignia and papers to emergency management workers and other people directly concerned with emergency management; and

(9) The Director, in addition to the powers and duties expressly provided above, shall be construed to have all powers and duties of a local emergency management director as provided under I.C. 10-4-1-1 et seq. In particular, but not by limitation, the Director, through the State Emergency Management Agency, may perform or cause to be performed with respect to the county, any function parallel or analogous to those performed on a statewide basis by the State Emergency Management Agency under I.C. 10-4-1-1 et seq.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.18 DEPUTY DIRECTOR.**

If a Deputy Director has been appointed pursuant to § 34.16(A)(2) of this chapter, he or she shall during normal times, assist the Director in the performance of his or her duties. During an emergency, the Deputy Director shall assist the Director and fulfill the duties of the Director in the absence or inability of the Director to serve.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.19 POWERS AND DUTIES OF COUNTY COMMISSIONERS.**

The powers and duties of the County Commissioners pertaining to emergency management in time of normal county operations include:

(A) Ensuring that there is a functioning Advisory Council, Director, and Deputy Director for the Department of Emergency Management;

(B) Formally adopting for the county the emergency management and disaster plans as formulated by the Director and approved by the Advisory Council; and

(C) Coordinating the emergency management activities and making assignments of emergency management activities and duties to county forces in order to meet situations not covered in the normal duties and powers of the agencies.

(1) In addition, the County Commissioners may take all necessary action to conduct tests of the emergency management plans.

(2) Emergency management tests may be conducted at any time with or without prior notification. All emergency tests conducted within the boundaries of the county shall be coordinated with the Department of Emergency Management.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.20 QUALIFICATIONS AND APPOINTMENT OF EMERGENCY MANAGEMENT VOLUNTEERS.**

(A) The Director shall make sure that all volunteer personnel meet the following qualifications prior to appointment:

(1) Be at least 18 years of age or older;

(2) Have no criminal record;

(3) Complete and have on file an application form; and

(4) Swear or affirm, and have on file a signed and certified copy of the loyalty oath, pursuant to I.C. 10-14-3-27(b).

(B) Upon satisfaction of the above requirements, the applicant may officially be appointed by the Director as a volunteer member of the Emergency Management.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.21 DEPARTMENTAL BUDGETING AND FINANCE.**

The Advisory Council shall review the budget as presented and prepared by the Director. 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, in the same manner as provided by statute or ordinance for other county funds.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.22 EMERGENCY OPERATIONS PLAN.**

(A) A county emergency operations plan shall be adopted by resolution of the County Commissioners. In the preparation of this 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.

(1) The plan content shall include the following:

- (a) Purpose;
- (b) Situation/assumption;
- (c) Concept of operations;
- (d) Assignment of responsibilities;
- (e) Direction and control;
- (f) Continuity of government;
- (g) Administration and logistics; and
- (h) Execution.

(2) The following appendices are also required:

- (a) Direction and control (warning and communication);
- (b) Radiological protection;
- (c) Law enforcement;
- (d) Fire and rescue;
- (e) Health and medical;
- (f) Welfare (human services);
- (g) Shelter;
- (h) Evacuation;
- (i) Public works; and
- (j) Resource and supply.

(B) (1) In addition, all participating emergency services who develop internal plans shall coordinate those plans with the Department of Emergency Management, in order to include the plans within the county's comprehensive emergency management plan.

(2) When approved by the County Commissioners, it shall be the duty of all county departments and all agencies to perform the functions and duties assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.23 COUNTYWIDE JURISDICTION OF DEPARTMENT AND APPLICATION OF PLAN.**

Except as provided by § 34.04 of this chapter, the jurisdiction of the County Department of Emergency Management, and the jurisdiction and applicability of the county's comprehensive emergency management and disaster plan as adopted pursuant to § 34.22, and the exercise of any powers of the chief executive officer of the county and the County Commissioners under § 34.19, shall be comprehensive and inclusive countywide and effective in both the incorporated and unincorporated areas of the county.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.24 LOCAL EMERGENCY PLANNING COMMITTEE.**

(A) The Local Emergency Planning Committee shall include, at a minimum, representatives from each of the following:

- (1) Local elected officials;
- (2) Law enforcement;
- (3) Emergency management;
- (4) Firefighting;

(5) First aid;

(6) Health;

(7) Environmental;

(8) Hospital;

(9) Transportation;

(10) Media;

(11) Community organizations; and

(12) Owners and operators of facilities where hazardous chemicals are found in amounts exceeding threshold quantities.

(B) The Committee shall select a chairperson and establish rules and procedures for its functioning, including provisions for public notification of Committee activities, meetings, public comments, response to public comments, dissemination of the emergency plan, a public information officer, and a format to processing public information requests.

**EMERGENCY POWERS, REGULATIONS AND PROCEDURES**

**§ 34.40 APPLICATION.**

This subchapter applies whenever:

(A) A state of emergency affecting all or part of the county has been declared by the Governor pursuant to I.C. 10-14-3-13;

(B) A state of emergency affecting all or part of the county has been declared by the chief executive officer of the county pursuant to I.C. 10-14-3-29(a) and § 34.42;

(C) 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 with § 34.45; or

(D) The Board of Commissioners has implemented a test of the county's emergency plans and procedures.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.25 LOCAL EMERGENCY PLANNING COMMITTEE FUND.**

(A) The county's Local Emergency Planning Committee Fund is established as a non-reverting fund administered by the County Commissioners, subject to normal appropriation procedures by the County Council.

(B) The County Local Emergency Planning Committee Fund is authorized to receive revenues from appropriations from the State Emergency Planning and Right to Know Fund, based upon fees collected by the Emergency Planning and Right to Know Fund from facilities within the county that must submit emergency and hazardous chemical inventory forms.

**§ 34.41 PRE-DISASTER RESPONSIBILITIES OF DEPARTMENT.**

The Department of Emergency Management's primary pre-disaster responsibility shall be the warning function as prescribed in the warning plan, and emergency communications as prescribed in the communications plan for the entire county, including all cities and towns.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.42 DECLARATION OF LOCAL DISASTER EMERGENCY.**

(A) In the event of actual or threatened enemy attack or disaster affecting the county, the chief executive officer of the county may declare a local

disaster emergency pursuant to I.C. 10-14-3-29(a) for any period not to exceed seven days.

(B) The declaration shall be in writing and indicate the nature of the disaster and the conditions which have brought it about, and the area or areas threatened and to which the state of emergency applies (which may include the entire county or only designated parts thereof).

(C) The declaration shall be filed as soon as possible in the offices of the County Clerk, the County Auditor, and the clerk of any incorporated municipality included in the declared disaster area and shall be announced or disseminated to the general public by the best means available; however, the declaration is not invalidated nor ineffective if any of the filing and dissemination requirements cannot immediately be complied with due to the prevailing adverse circumstances.

(D) Such a declaration is not necessary if the Governor, pursuant to I.C. 10-14-3-13 has already proclaimed a state-wide or area-wide state of emergency including the county.  
(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.43 EMERGENCY MEETING OF BOARD OF COMMISSIONERS.**

(A) As soon as possible after a disaster emergency affecting the county is declared either by the Governor or by the chief executive officer of the county, the chief 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. If the chief executive officer fails or is unable to perform the above duty, the meeting shall be convened by some other member of the Board of Commissioners, or by the Auditor or the successively empowered county officers, in accordance with I.C. 36-2-2-8(A).

(B) Any such meeting of the Commissioners shall automatically be deemed an emergency meeting subject only to the procedural provisions of law as govern emergency meetings of County

Commissioners, including relaxation of any applicable notice requirements pursuant to I.C. 5-14-1.5-5(d), and may be held in any convenient and available place.

(C) The meeting shall continue without adjournment for the duration of the disaster emergency, but may be recessed for reasonable periods of time as necessary and permitted by the circumstances.

(D) In the event that a quorum of the Board of Commissioners cannot be assembled for purposes of the meeting required under this section, the chief executive officer of the county shall be considered a plenipotentiary representative of the Board and shall have all powers and may take all actions of the full Board under § 34.19 until the assemblage of a quorum is possible.  
(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.44 SPECIAL EMERGENCY POWERS AND DUTIES OF BOARD OF COMMISSIONERS.**

(A) *Special emergency powers and duties of Board of Commissioners.*

(1) At the meeting convened under § 34.43, the Commissioners may exercise any of their normal executive and legislative powers to the extent related to the emergency and necessary to deal therewith. In addition, however, they 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 to § 34.42, to last more than seven days if necessary.

(b) The chief executive officer as plenipotentiary representative or the Commissioners may terminate the state of emergency, except for a state of emergency declared by the Governor.

(c) The Commissioners may order the activation and implementation of the county's comprehensive emergency management and disaster

control plan that has been adopted pursuant to § 34.22 or such several component parts thereof as may be relevant to the emergency.

(d) The Commissioners may assemble and utilize emergency management forces, including personnel of the Department of Emergency Management, participating emergency services, and any other forces at the disposal of the Commissioners hereunder for emergency management purposes.

(e) The Commissioners may request additional volunteer forces to the aid of the county, state or political subdivisions thereof as soon as practicable. Those volunteer forces will be under the direction of the Department of Emergency Management.

(f) The Commissioners, and other persons formally predesignated by the Commissioners at a regular meeting, may, to the extent permitted specifically by local ordinance and subject to such provisions and to the constitutional requirements of available and just compensation for the taking of services and property, command services from and/or requisition the use of equipment, facilities, supplies, or other property belonging to other organizations, corporations, or private persons as necessary to control the emergency and protect and provide for the public safety and welfare.

(g) The Commissioners may order the evacuation of all or part of the population from stricken areas of the county, and prescribe routes, modes of transportation and destinations of the evacuation.

(h) The Commissioners may make 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.

(i) 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 would be impractical during the emergency, would interfere with the implementation and carrying out of emergency plans, or would be inimical to actions necessary to protect the public safety and welfare; provided, however, that except in accordance with division (A)(1)(l) below the Commissioners may not suspend any provisions of ordinances or procedures which are mandated by statute.

(j) In the event of enemy attack, or when the state of emergency has been proclaimed by the Governor, the Commissioners may also in accordance with I.C. 10-14-3-12 waive any procedures or requirements of statute, or of county ordinances reflecting statutory requirements and mandates, and pertaining to the appropriation and expenditure of public funds, the incurrence of obligations, the performance of public works, the entering into contracts, the employment of permanent or temporary workers or utilization of volunteer workers, the rental of equipment, or the purchase and distribution of supplies, materials and facilities.

(k) In the event of a national security emergency or state of emergency as provided in I.C. 10-14-3-13, the Commissioners may assign special emergency duties and functions to any county offices, departments, and agencies irrespective of their usual duties and functions, and any unexpended and unencumbered monies budgeted and appropriated for the operation of the offices, departments and agencies and not otherwise dedicated by law to different and specified 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 the special emergency duties and functions.

(l) The Commissioners may make and promulgate emergency orders, rules, and regulations as may be deemed necessary to protect life and property, preserve order, conserve critical resources, or implement and carry out the provisions of the county's or state's disaster plans, including but not limited to the power to order the roads closed, establish curfews, close business, or any action that

they deem necessary to save lives and recover from a declared emergency. This power also includes the power to supplement, modify, or suspend any general contingency regulations which may have been incorporated as part of the county's previously adopted emergency operations plan. Any emergency regulations adopted under this division shall not be effective until promulgated, which promulgation shall be by written filing in the office of the County Clerk as required by I.C. 10-14-3-22(b)(2).

(m) The Commissioners may request the state or the United States or 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.

(2) All emergency actions and regulations under this section shall be by ordinance, resolution, or motion of the Board of Commissioners, unless the circumstances are so compelling as to make executive orders necessary. In that event, the person acting as plenipotentiary or the Board of Commissioners may issue executive orders, which are subject to alteration, revocation, or ratification by regular action of the Board of Commissioners as soon as practicable. The orders shall be consistent with and subordinate to any actions, orders, or regulations made by the Governor or a state agency implementing state emergency operations plans.

(B) *Director*. It shall be the duty of the Director to make recommendations and advise the Board of Commissioners or the chief executive officer on any actions which it would be necessary or desirable to take under division (A) above in the event of any emergency.

(BCC Ord. 1996-04, passed 2-5-1996)

#### **§ 34.45 POWERS OF DIRECTOR DURING PRESUMPTIVE STATE OF EMERGENCY.**

(A) In the event that an 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 chief executive officer of the county present to declare such an

emergency pursuant to § 34.42, the Director may temporarily presume the existence of a state of emergency even though not officially declared and may, as his or her own judgement dictates, invoke, implement, and carry out the provisions of the county's adopted comprehensive emergency management and disaster control plan as are necessary to cope with the emergency and protect the public safety and welfare, and shall 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 a time as a chief executive officer becomes available. This section also applies to the Deputy Director to the extent that the Deputy Director is required to assume the duties of the Director, as provided by § 34.18, in the latter's absence or incapacitation during the emergency.

(B) Assistance from the Department of Emergency Management may be rendered without a declaration of an emergency in order to assist local emergency services in time of need.

(BCC Ord. 1996-04, passed 2-5-1996)

#### **§ 34.46 COOPERATION OF COUNTY OFFICERS AND EMPLOYEES.**

All officers and employees of the county shall cooperate with and give active support to the County Commissioners and the County Emergency Management Director in all emergency operations, and shall comply with all orders of the Commissioners and County Emergency Management Director issued pursuant to this chapter.

(BCC Ord. 1996-04, passed 2-5-1996)

#### **§ 34.47 PRIORITY OF EMERGENCY ORDERS, RULES AND REGULATIONS.**

At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.48 VIOLATIONS.**

(A) Whenever this chapter applies, it shall be unlawful and a penal ordinance violation for any person to:

(1) Willfully obstruct, hinder or delay the Commissioners, the Director of Emergency Management, participating emergency services, authorized emergency management volunteers or other authorities from implementing, carrying out and enforcing emergency plans and procedures;

(2) Fail 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

(3) Falsely wear or carry identification as a member of the County Department of Emergency Management, or to otherwise falsely identify or purport himself or herself to be a county emergency management authority.

(B) Any regular or reserve police officer of the state or any of its political subdivisions, or any member of the County Department of Emergency Management or a participating emergency service is hereby empowered to issue and serve a civil citation against any person found to be committing an offense described above.

(BCC Ord. 1996-04, passed 2-5-1996) Penalty, see § 34.99

**§ 34.49 LIMITATION OF LIABILITY.**

The county, its assigned personnel, and participating emergency services, shall, within the limits of I.C. 10-14-3-15, be held blameless and without responsibility for the loss of life or injury to persons or the destruction of any property during an emergency management test or emergency as performed under the direction of the Emergency Management Director, and pursuant to the provisions of this chapter.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.50 REIMBURSEMENT FOR USE OF PROPERTY COMMANDEERED DURING EMERGENCY**

Persons whose services or property are commandeered for the use in any emergency by a member of the Department of Emergency Management, by the County Commissioners, or by any other authorized person formally predesignated by the Commissioners as having the power to commandeer, shall be reimbursed for its use by the county in a manner approved by the County Council and consistent with the State Constitution reimbursement shall include payment for services, use of equipment, damage thereto, and destruction thereof.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.51 POWER TO ESTABLISH TRAVEL ADVISORIES IN EMERGENCY CONDITIONS.**

(A) Under I.C. 10-14-3-29.5, there are three travel advisory levels. If the Sheriff, emergency management agency director and the principal executive officer of a political subdivision determine that conditions within the political subdivision have created the need for travel advisory restrictions without a local disaster emergency declaration, the Sheriff, emergency management agency director and the principal executive officer may issue an "advisory" or a "watch" level travel advisory. A "warning" level travel advisory may be issued only after a local disaster emergency is declared under I.C. 10-14-3-29.

(1) **ADVISORY.** The lowest level of local travel advisory. It means that routine travel or activities may be restricted in areas because of a hazardous situation. Citizens should use caution or avoid these areas. Schools and businesses may begin to implement their emergency action plans.

(2) **WATCH.** Conditions are threatening to the safety of the public. Only essential travel is recommended (i.e. to and from work, emergency situation, and the like). Emergency action plans have

been or should now be implemented by businesses, schools, government agencies and other organizations. The emergency management agency director or the principal executive officer of a political subdivision may determine that conditions within the political subdivision have created the need for travel advisory restrictions without a local disaster emergency being declared under I.C. 10-14-3-29. The emergency management agency director or the principal executive officer may issue travel advisory restrictions, but such restrictions shall be limited to the travel advisory levels "advisory" and "watch".

(3) **WARNING.** Travel may be restricted to emergency personnel only. During a "Warning" Emergency, all citizens are called upon and directed to refrain from all travel, to comply with necessary emergency measures, to cooperate with public officials and disaster services forces in executing emergency operations plans, and to obey and comply with the lawful directions of properly identified officers. Under I.C. 10-14-3-29.5(d), further and more specific restrictions may be included in a "warning" local travel advisory.

(B) Pursuant to I.C. 10-14-3-29, a local disaster emergency declaration may not be continued or renewed for more than seven days except by or with the consent of the governing body of the political subdivision.

(C) All public officers and employees of Washington County are hereby designated as emergency management workers for the duration of this emergency but are hereby directed to limit their travel to that which is essential to the discharge their public safety and essential service duties. Such employees are also hereby directed to exercise the utmost diligence in the discharge of duties required of them for the duration of the emergency and in execution of emergency laws, regulations, and directives, state and local.

(D) In accordance with I.C. 10-14-3-29.5(a)(3) and I.C. 10-14-3-29(d), this declaration does not prohibit emergency management workers, as defined

in I.C. 10-14-3-3, individuals engaged in employment necessary to maintain a safe rail system, restore a public utility or provide any other emergency public service from traveling within the county during this local disaster emergency.

(E) All operating forces will direct their communications and requests for assistance and operations directly to the Washington County Sheriff's Department and or Washington County Emergency Operations Center.  
(BCC Ord. 2013-05, passed 6-18-2013)

#### § 34.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who commits an offense as described in § 34.48 shall be fined an amount not to exceed \$2,500. The fine shall be subject, however, to the discretion of the court of jurisdiction.  
(BCC Ord. 1996-04, passed 2-5-1996)



they deem necessary to save lives and recover from a declared emergency. This power also includes the power to supplement, modify, or suspend any general contingency regulations which may have been incorporated as part of the county's previously adopted emergency operations plan. Any emergency regulations adopted under this division shall not be effective until promulgated, which promulgation shall be by written filing in the office of the County Clerk as required by I.C. 10-14-3-22(b)(2).

(m) The Commissioners may request the state or the United States or 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.

(2) All emergency actions and regulations under this section shall be by ordinance, resolution, or motion of the Board of Commissioners, unless the circumstances are so compelling as to make executive orders necessary. In that event, the person acting as plenipotentiary or the Board of Commissioners may issue executive orders, which are subject to alteration, revocation, or ratification by regular action of the Board of Commissioners as soon as practicable. The orders shall be consistent with and subordinate to any actions, orders, or regulations made by the Governor or a state agency implementing state emergency operations plans.

(B) *Director*. It shall be the duty of the Director to make recommendations and advise the Board of Commissioners or the chief executive officer on any actions which it would be necessary or desirable to take under division (A) above in the event of any emergency.

(BCC Ord. 1996-04, passed 2-5-1996)

#### **§ 34.45 POWERS OF DIRECTOR DURING PRESUMPTIVE STATE OF EMERGENCY.**

(A) In the event that an 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 chief executive officer of the county present to declare such an

emergency pursuant to § 34.42, the Director may temporarily presume the existence of a state of emergency even though not officially declared and may, as his or her own judgement dictates, invoke, implement, and carry out the provisions of the county's adopted comprehensive emergency management and disaster control plan as are necessary to cope with the emergency and protect the public safety and welfare, and shall 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 a time as a chief executive officer becomes available. This section also applies to the Deputy Director to the extent that the Deputy Director is required to assume the duties of the Director, as provided by § 34.18, in the latter's absence or incapacitation during the emergency.

(B) Assistance from the Department of Emergency Management may be rendered without a declaration of an emergency in order to assist local emergency services in time of need.

(BCC Ord. 1996-04, passed 2-5-1996)

#### **§ 34.46 COOPERATION OF COUNTY OFFICERS AND EMPLOYEES.**

All officers and employees of the county shall cooperate with and give active support to the County Commissioners and the County Emergency Management Director in all emergency operations, and shall comply with all orders of the Commissioners and County Emergency Management Director issued pursuant to this chapter.

(BCC Ord. 1996-04, passed 2-5-1996)

#### **§ 34.47 PRIORITY OF EMERGENCY ORDERS, RULES AND REGULATIONS.**

At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.48 VIOLATIONS.**

(A) Whenever this chapter applies, it shall be unlawful and a penal ordinance violation for any person to:

(1) Willfully obstruct, hinder or delay the Commissioners, the Director of Emergency Management, participating emergency services, authorized emergency management volunteers or other authorities from implementing, carrying out and enforcing emergency plans and procedures;

(2) Fail 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

(3) Falsely wear or carry identification as a member of the County Department of Emergency Management, or to otherwise falsely identify or purport himself or herself to be a county emergency management authority.

(B) Any regular or reserve police officer of the state or any of its political subdivisions, or any member of the County Department of Emergency Management or a participating emergency service is hereby empowered to issue and serve a civil citation against any person found to be committing an offense described above.

(BCC Ord. 1996-04, passed 2-5-1996) Penalty, see § 34.99

**§ 34.49 LIMITATION OF LIABILITY.**

The county, its assigned personnel, and participating emergency services, shall, within the limits of I.C. 10-14-3-15, be held blameless and without responsibility for the loss of life or injury to persons or the destruction of any property during an emergency management test or emergency as performed under the direction of the Emergency Management Director, and pursuant to the provisions of this chapter.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.50 REIMBURSEMENT FOR USE OF PROPERTY COMMANDEERED DURING EMERGENCY**

Persons whose services or property are commandeered for the use in any emergency by a member of the Department of Emergency Management, by the County Commissioners, or by any other authorized person formally predesignated by the Commissioners as having the power to commandeer, shall be reimbursed for its use by the county in a manner approved by the County Council and consistent with the State Constitution reimbursement shall include payment for services, use of equipment, damage thereto, and destruction thereof.

(BCC Ord. 1996-04, passed 2-5-1996)

**§ 34.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99. .

(B) Any person who commits an offense as described in § 34.48 shall be fined an amount not to exceed \$2,500. The fine shall be subject, however, to the discretion of the court of jurisdiction.

(BCC Ord. 1996-04, passed 2-5-1996)

## CHAPTER 35: PERSONNEL POLICIES

### Section

- 35.01 Personnel policies adopted by  
reference

### **§ 35.01 PERSONNEL POLICIES ADOPTED BY REFERENCE.**

The personnel policies for the county are hereby adopted by reference and made a part of this code as if set forth in full. The policies shall be available for public inspection at the office of the County Auditor during regular business hours.



## CHAPTER 36: FINANCE AND REVENUE

Section

	<i>General Provisions</i>		
36.01	Investment of monies authorized	36.27	Non-reverting Insurance Fund
36.02	Appropriations and expenditures for organizational memberships and purposes beneficial to county government	36.28	Highway Department Petty Cash Fund
36.03	Income tax	36.29	Cumulative Bridge Fund
36.04	Distribution of unallocated Social Security receipts	36.30	Sheriff's Drug Investigation Fund
36.05	Innkeepers tax	36.31	Clerk's Record Perpetuation Fund
36.06	Inventory tax repeal; economic development income tax; apportionment	36.32	Enhanced 911 Fund and Wireless 911 Fund
36.07	Reduction of six-month balance; special account	36.33	Fees for electronic map data
36.08	Auditor may make claim payments in advance of Board allowance for certain expenses	36.34	Identification Security Protection Fund
36.09	Electronic transmission of statements and other information for property taxes and special assessments	36.35	Fees for drainage culverts; Highway Department
36.10	Acceptance of delinquent tax payments	36.36	Building permit fee schedule
36.11	Local income tax for public safety	36.37	Fees for issuing a mobile home permit
36.12	Materiality policy	36.38	Building or Remodeling and Fire Equipment Fund
36.13	Cost principles with respect to spending federal funds	36.39	Plat Book Maintenance Fund
		36.40	Fees for copies of plats
		36.41	County Elected Officials Training Fund
		36.42	Cumulative Capital Development Fund
		36.43	Dishonored checks
		36.44	Local service fee
		36.45	LOIT Distribution Fund
		36.46	Sex or Violent Offender Administration Fund
		36.47	Bulk form copies; fees
		36.48	Town of Hardinsburg Restricted Fund
		36.49	ARP Grant Fund
			<i>Cross-reference:</i>
			<i>Ambulance Services Authority Fund, see § 32.096</i>
			<i>Bad check collection service, see § 37.03</i>
			<i>Capital asset policy, see § 39.11</i>
			<i>County credit card issuance and use policy, see § 39.25</i>
36.20	County User Fee Fund		
36.21	Levy Excess Fund		
36.22	Cumulative Jail Fund		
36.23	County Correction Fund		
36.24	Special non-reverting operating fund for park purposes		
36.25	Prosecutor's Drug Investigation Fund		
36.26	Washington County Memorial Hospital Fund		

**GENERAL PROVISIONS****§ 36.01 INVESTMENT OF MONIES AUTHORIZED.**

(A) Pursuant to the provisions of I.C. 5-13-9, the Treasurer of the county may:

(1) Invest tax collections made and held by the county on behalf of any municipality, township, school corporation, special municipal corporation, taxing district, or other taxing unit within the county in the manner provided by I.C. 5-13-9-1 et seq.; and

(2) Invest any other monies of the county or on deposit with the county, such as money raised by bonds issued for future specific purposes, sinking funds, depreciation reserve funds, gift, bequest, or endowment funds, excepting monies held on deposit with the Clerk of the Circuit Court; which monies are not required for immediate expenditure or distribution.

(B) The Clerk of the Circuit Court may invest monies held on deposit with the Clerk in accordance with those same provisions of I.C. 5-13-9.

(1) All investments made under this section shall be made in authorized interest-bearing deposits or securities.

(2) The investing officer may sell, liquidate, withdraw, exchange, or reinvest investments or invested monies as necessary or desirable, in the investing officer's discretion, to protect the financial position of the county or its trustors, to permit timely payment of obligations or distribution of monies, or to provide more advantageous returns on investments.

(3) Unless otherwise provided by a statute, an applicable state or federal administrative regulation, or a county ordinance, all investments made under this section shall be deemed to have been made from total monies on deposit, and all earnings or capital gains realized from the investments shall

accrue to the General Fund of the county; however, any transaction fees or financial institution service charges owing pursuant to the making, sale, or liquidation of an investment shall be deemed part of and payable from the principal of the investment, and any such payments out of principal shall be restored to the principal amount from the amounts of earnings and capital gains when the principal is redistributed to the original fund or funds from which it derived, at the time of final liquidation of the investment.

(4) The Auditor and Treasurer may draw warrants or make fund transfers as necessary to carry out the purposes and requirements of this section without further authorization or appropriation.

(5) When investments are made, sold, or liquidated in good faith, and in accordance with this section and applicable laws governing investment of public funds, an investing officer shall not be held personally liable for any loss of principal which may incidentally result from the proper making, sale, or liquidation of the investment.

(1985 Code, § 5-4-3) (BCC Ord. 1985-C8, passed - -1985)

**§ 36.02 APPROPRIATIONS AND EXPENDITURES FOR ORGANIZATIONAL MEMBERSHIPS AND PURPOSES BENEFICIAL TO COUNTY GOVERNMENT.**

Subject to all general requirements governing budgets and appropriations, county officers and departments may include in their annual budget requests, and the County Council may make appropriations for the following expenditures:

(A) Membership dues for the county or its several officers, boards, departments, and the like, in state, regional, national, or international organizations having as their purpose the betterment of county government or development of the official capabilities of county personnel;

(B) Tuition and related fees to participate in educational programs designed to improve the knowledge and official capabilities of county personnel;

(C) Expenses for travel, meals, and lodging necessary to attend meetings or programs related to purposes described under divisions (A) and/or (B) above; and

(D) Subscriptions to periodical publications having as their purpose the betterment of county government or which provide information needed for or conducive to the improvement of county government operations.

(1985 Code, § 5-4-5) (BCC Ord. 1985-C8, passed - 1985)

### § 36.03 INCOME TAX.

(A) *County Economic Development Income Tax (CEDIT)*.

(1) The County Council is the county fiscal body.

(2) The County Council imposes the county economic development income tax on the county taxpayers and the tax is imposed at a rate of 0.25% on the county taxpayers.

(3) The county economic development income tax takes effect on July 1, 1989.

(B) *County Adjusted Income Tax (CAGIT)*. The County Council hereby imposes the county adjusted gross income tax on the county taxpayers. The county adjusted gross income tax is imposed at a rate of 1% on the resident county taxpayers and 0.25% on the nonresident county taxpayers. This tax takes effect July 1, 1986.

(CC Ord. passed 5-19-1986; CC Ord. 89-01, passed 3-13-1989)

### § 36.04 DISTRIBUTION OF UNALLOCATED SOCIAL SECURITY RECEIPTS

The one-third share distributed to the County General Fund from the Title IV-D of Social Security Act, being 42 U.S.C. §§ 401 et seq., incentive payments distributed to the county shall be distributed as miscellaneous revenue to the operating budget of the County Auditor.

(1985 Code, § 5-4-2) (BCC Ord. 1984-3, passed 4-2-1984)

### § 36.05 INNKEEPERS TAX.

(A) The County Council hereby levies a tax of 5% of the gross retail income derived from lodging income on every person or entity engaged in the business of renting or furnishing, for periods of less than 30 days, any room or rooms, lodgings or accommodations in any hotel, motel, boat motel, inn or tourist cabin located within the county. This tax shall not apply to gross income received in the transaction in which a person rents a room, lodging or accommodation for a period of 30 days or more.

(B) The rate of the tax shall be 4% on the gross retail income derived from the lodging only. This tax is in addition to the state gross retail tax imposed by I.C. 6-2.5.

(C) The County Council further adopts this ordinance to require that the collection of the tax and remittance thereof be reported on forms approved by the County Treasurer and that the tax shall be paid by those individuals or entities collecting the tax to be paid monthly to the County Treasurer. Further, this tax shall be paid to the County Treasurer not more than 20 days after the end of each month that the tax is collected.

(D) *Washington County Tourism Commission*.

(1) Pursuant to I.C. 6-9-18-5, there is hereby established a Washington County Tourism Commission.

(2) *Purpose.* The purpose of the Washington County Tourism Commission shall be to promote the development and growth of the convention, recreation and visitor industry within Washington County, Indiana.

(3) *Organization.* The membership of the Washington County Tourism Commission shall be seven members. A simple majority of the members must be engaged in a convention, visitor, or tourism business; or involved in or promoting conventions, visitors, or tourism.

(4) *Terms of Board Members.* A member appointed to the Commission under division (3) above need not be a resident of the county if the member is an owner or an executive level employee of a convention, visitor, or tourism business that is located within the county. However, the member must be a resident of Indiana. If available and willing to serve, at least two of the members must be engaged in the business of renting or furnishing rooms, lodging, or accommodations. Not more than one member may be affiliated with the same business entity. Except as otherwise provided in this section, each member must reside in the county.

(a) The Washington County Board of Commissioners shall also determine who will make the appointments to the Washington County Tourism Commission, except that the Mayor of Salem, Indiana shall appoint a number of members which shall be in the same ratio to the total size of the Washington County Tourism Commission (rounded off to the nearest whole number) that the population of Salem bears to the total population of Washington County.

(b) If a municipality other than Salem collects 50% or more of the tax revenue collected during the three-month period following imposition of the tax, the executive of the municipality shall appoint the same number of members of the commission that the Mayor of Salem appoints.

(c) All terms of office for commission members begin on January 1. Initial appointments must be for staggered terms, with subsequent appointments for two-year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term.

(d) A member of the commission may be removed for cause by the member's appointing authority.

(e) 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.

(f) Each commission member, before entering the member's duties, shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(g) The commission shall meet after January 1 each year for the purpose of organization. It shall elect one of its members president, another vice president, another secretary, and another treasurer. The members elected to those offices shall

perform the duties pertaining to the offices. The first officers chosen shall serve from the date of their election until their successors are elected and qualified. A majority of the commission constitutes a quorum, and the concurrence of a majority of the commission is necessary to authorize any action.

(5) *Powers.* The Washington County Tourism Commission has all the powers authorized by I.C. 6-9-18-6 and related laws and shall follow the directives of the laws of the State of Indiana for organizing and carrying out its duties.

(E) The tax levied by this section may be expended only to promote and encourage conventions, visitors and tourism within the county, and no other expenditure of the funds may be allowed.

(F) The Commission hereby to be established by the county executive shall annually prepare a budget and submit the budget to the county fiscal body for its review and approval.

(G) Expenditure may not be made against a budget of the Commission unless the expenditure is made in accordance with an appropriation made by the county fiscal body in the manner provided by law under the statutes of the state.

(H) All money coming into the commission which is to be created by the county executive shall be deposited, held, secured, invested, and paid in accordance with the statutes relating to the handling of public funds as called for by the statutes of the state, and that the funds shall be subject to an audit and supervision by the State Board of Accounts.

(I) This section is passed to be in substantial compliance with I.C. 6-9-18 known as the Uniform County Innkeepers Tax, which gives the county fiscal body, being the County Council, the authority to levy an innkeepers tax.

(CC Ord. 2002-02, passed 8-5-2002; CC Ord. 2014-05, passed 5-4-2015; BCC Ord. 2019-14, passed 10-1-2019)

**§ 36.06 INVENTORY TAX REPEAL;  
ECONOMIC DEVELOPMENT INCOME TAX;  
APPORTIONMENT.**

(A) *Repeal inventory tax.*

(1) The term *INVENTORY* as used in this division (A) shall have the same meaning as set forth in I.C. 26-1-9.1-102(48).

(2) It is the intent of the County Council in the passage of this division (A) to exercise the authority provided to the County Council to authorize 100% deduction of the assessed value of inventory located in the county.

(3) The County Council is the proper entity to pass an ordinance to effectively eliminate what is commonly called the inventory tax within the county as the county is a county that has a county adjusted gross income tax in effect in the county on January 1 of the year in which this section is adopted.

(4) The County Council hereby passes this division (A) to provide that the taxpayers of the county shall have an assessed value deduction equal to 100% of the assessed value of inventory located in the county for assessments beginning January 1, 2003 and thereafter.

(5) The County Council shall consider passage of an additional rate of a county economic development income tax in an amount not to exceed 0.25% to provide homestead credits to mitigate the effect on homeowners of the 100% deduction in the assessed value of inventory.

(6) Should the County Council not adopt, an ordinance to increase the economic development income tax rate as provided in House Enrolled Act 1001-Special Session 2002 of the Indiana General Assembly then this division (A) shall expire by the fact that the County Council does not take action to implement the additional rate.

(B) *Economic development income tax in conjunction with repeal of inventory tax (edit II).*

(1) It is the intent of the County Council in the passage of this division (B) to comply with State House Enrolled Act 1001- Special Session 2002 of the State General Assembly to provide the passage of an Economic Development Income Tax, II to provide homestead credits to the residents of the county to offset the 100% deduction of the assessed value of inventory located in the county.

(2) The County Council hereby enacts an income tax known as the Economic Development Income Tax, II within the county, at a rate not to exceed 0.25% and to be levied at the rate determined by the taxing authorities of the state to provide for the necessary monies to provide homestead credits to the residents of the county, to offset from those parcels of real estate that qualify any increase in real estate taxes as a result of the 100% deduction of the assessed value of inventory located in the county. At the time of the passage of this division the rate is expected, based upon projections from the taxing authorities of the state, to be 0.18%, but that the rate may fluctuate as is necessary to provide funding for the homestead credits as provided for in State House Enrolled Act 1001- Special Session 2002 of the State General Assembly.

(C) *Directing the apportionment of homestead credit/economic development income tax II.*

(1) Pursuant to the ordinance passed March 3, 2004 by the County Council, the Council has adopted the economic development income tax in conjunction with the repeal of the inventory tax of the county, which provides for homestead credits to the residents of the county, to offset the 100% deduction of the assessed value of inventory located in the county.

(2) The County Council hereby determines that the increased percentage of homestead credit determined by the County Auditor based upon the increase in the homestead credit to residents of the county, based upon the passage of an Economic Development Income Tax, II as approved March 3, 2004, shall be applied uniformly in the county in the calendar year for which the increased percentage is first determined and shall be applied uniformly by the County Auditor thereafter.

increase in the homestead credit to residents of the county, based upon the passage of an Economic Development Income Tax, II as approved March 3, 2004, shall be applied uniformly in the county in the calendar year for which the increased percentage is first determined and shall be applied uniformly by the County Auditor thereafter.

(3) The County Auditor shall do all things necessary and required by the appropriate provisions of House Enrolled Act 1001 Special Session 2002, also known as I.C. 6-1.1-20-9 et seq. to carry out the intent and purposes of this division (C).

(4) This division (C) shall be effective immediately upon its passage so that the County Auditor may determine the homestead credits to be applied to the property tax collections of the county for the tax year 2003, due and payable in 2004 and thereafter.

(CC Ord. 2002-05, passed 12-27-2002; CC Ord. 2003-01, passed 3-3-2003; CC Ord. 2004-03, passed 6-6-2004)

**§ 36.07 REDUCTION OF SIX-MONTH BALANCE; SPECIAL ACCOUNT.**

(A) The County Council adopts this section wherein the County Council elects to reduce the required county income tax special account balance from a six-month balance to a three-month balance within 90 days after the adoption of this section.

(B) Not less than 30 days after the adoption of this section, a copy of this section shall be delivered to the State Budget Agency located at 212 State House, Indianapolis, Indiana to the attention of Mr. Bob Lain.

(C) Pursuant to I.C. 6-3.5-1.1-9.5, the County Council would request the State Budget Agency to comply with subsections (d) through (g) and distribute those monies from the special account balance to the Auditor of the county so that the State Budget Agency in its special account balance does not hold more than a three-month balance of the county adjusted gross income tax.

(CC Ord. 2001-06, passed 7-2-2001)

**§ 36.08 AUDITOR MAY MAKE CLAIM PAYMENTS IN ADVANCE OF BOARD ALLOWANCE FOR CERTAIN EXPENSES.**

(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) License or permit fees;
- (3) Insurance premiums;
- (4) Utility payments or utility connection charges;
- (5) General grant programs where funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced;
- (6) Grants of state funds authorized by statute;
- (7) Maintenance or service agreements;
- (8) Leases or rental agreements;
- (9) Bond or coupon payments;
- (10) Payroll;
- (11) State or federal taxes;
- (12) Expenses that must be paid because of emergency circumstances;
- (13) Available discount if paid by early due date;
- (14) Postage; and
- (15) Expenses described in an ordinance.

(B) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the County Auditor.

(C) The County Commissioners review and allow the claim at its next regular or special meeting following the pre-approved payment of the expense. (BCC Ord. 2008-03, passed 6-4-2008)

**§ 36.09 ELECTRONIC TRANSMISSION OF STATEMENTS AND OTHER INFORMATION FOR PROPERTY TAXES AND SPECIAL ASSESSMENTS.**

(A) The county hereby authorizes the electronic transmission of statements and other information for property taxes and special assessments first due and payable after 2009.

(B) The county hereby authorizes each county taxpayer (hereafter the "person") to direct the County Treasurer and County Auditor to transmit the following to the person by electronic mail and as applicable:

(1) A statement that would otherwise be sent by the County Treasurer to the person by regular mail under I.C. 6-1.1-22-8.1(a)(1), including a statement that reflects installment payment due dates under I.C. 6-1.1-22-9.5 or I.C. 6-1.1-22-9.7;

(2) A provisional tax statement that would otherwise be sent by the County Treasurer to the person by regular mail under I.C. 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:

(a) I.C. 6-1.1-22-9;

(b) I.C. 6-1.1-22-9.7; or

(c) I.C. 6-1.1-22.5-12, including a statement that reflects installment payment due dates under I.C. 6-1.1-22.5-18.5.

(4) A statement that would otherwise be sent by the County Auditor to the person by regular mail under I.C. 6-1.1-17-3(b); and

(5) Any other information that:

(a) Concerns the property taxes or special assessments; and

(b) Would otherwise be sent:

1. By the County Treasurer or the County Auditor to the person by regular mail; and

2. Before the last date the property taxes or special assessments may be paid without becoming delinquent.

(C) This section takes effect with the first installment of property taxes of the 2011 tax billing year (2010 taxes payable in 2011) and shall continue indefinitely.

(D) Notice shall be given to county taxpayers of the option to direct electronic transmission of statements and other information for property taxes and special assessments in compliance with all applicable statutory provisions.

(E) The County Treasurer and County Auditor shall have the authority to electronically submit to county taxpayers their statements and other information for property taxes and special assessments first due and payable after 2009.

(F) The County Auditor and County Treasurer are authorized to negotiate and execute a contract with a provider to obtain the administrative, technical, clerical, and related services ("E-Billing Services") in order to implement a program for the electronic transmission of statements and other information for property taxes and special assessments.

(G) The E-Billing Services contract shall provide for the delivery of the services by a contractor in compliance with all applicable statutory provisions for the electronic transmission of statements and other

information for property taxes and special assessments. The E-Billing Services contract shall also provide for the payment of fee(s) for each parcel that a county taxpayer elects to participate in the electronic transmission of statements and other information for property taxes and special assessments.

(H) Pursuant to I.C. 36-2-4-8(a) and by unanimous consent of the County Commissioners, this section shall be considered effective immediately upon the adoption and signature by the presiding officer. (BCC Ord. 2011-01, passed 2-22-2011)

**§ 36.10 ACCEPTANCE OF DELINQUENT TAX PAYMENTS.**

The Washington County office of the Treasurer by and through its Board of Commissioners, establishes the following mandatory policy:

(A) All real estate is eligible for tax sale resulting from taxpayer delinquency shall continue to be placed on the tax sale list in accordance with existing parameters.

(B) The Office of the Washington County Treasurer shall not enter into prescribed payment schedules with delinquent taxpayers.

(C) The Office of the Washington County Treasurer will accept periodic payments of delinquent taxes at the election of the delinquent taxpayer.

(D) Should the delinquent taxpayer bring the entire delinquency current, the Washington County Treasurer and Washington County Auditor shall remove the property from the tax sale list. (BCC Ord. 2013-06, passed 6-18-2013)

**§ 36.11 LOCAL INCOME TAX FOR PUBLIC SAFETY.**

(A) As used in this section, the term **PUBLIC SAFETY** refers to that definition as cited in I.C. 6-3.5-1.1-25 and includes, but is not limited to, the following:

(1) A police and law enforcement system to preserve public peace and order;

(2) A firefighting and fire prevention system;

(3) Emergency ambulance services as defined in I.C. 16-18-2-107, as amended by the Indiana General Assembly;

(4) Emergency medical services as defined in I.C. 16-18-2-110, as amended by the Indiana General Assembly;

(5) Emergency action as defined in I.C. 13-11-2-65, as amended by the Indiana General Assembly;

(6) A probation department of a Court located in Washington County, Indiana;

(7) Confinement supervision services under a community corrections program as defined in I.C. 35-38-2.6-1, as amended by the Indiana General Assembly, or other correctional services for a person who has been:

(a) Diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person or person's custodian, guardian, or parent and that provides for confinement, supervision, community correction services or other correction services instead of a final action as described in divisions (A)(7)(b) or (c) of this section;

(b) Convicted of a crime; or

(c) Adjudicated as a delinquent child or a child in need of services.

(8) A juvenile detention facility under I.C. 31-38-8, as amended by the Indiana General Assembly;

(9) A juvenile detention center under I.C. 31-38-9, as amended by the Indiana General Assembly;

(10) A county jail of Washington County, Indiana;

(11) A communications system as defined in I.C. 36-8-15-3, as amended by the Indiana General Assembly, or an enhanced emergency telephone system as defined in I.C. 36-8-16-2, as amended by the Indiana General Assembly;

(12) Medical and health expenses for jail inmates and other confined persons;

(13) Pension payments for any of the following:

(a) A member of the Fire Department as defined in I.C. 36-8-1-8, as amended by the Indiana General Assembly or any other employee of a Fire Department;

(b) A member of the Police Department as defined in I.C. 36-8-18-9, as amended by the Indiana General Assembly;

(c) A Police Chief hired under a waiver as defined in I.C. 36-8-4-6.5, as amended by the Indiana General Assembly or any other employee hired by a Police Department;

(d) a County Sheriff or any other member of the office of the County Sheriff;

(e) All other personnel employed to provide a service described as a law enforcement action.

(B) There is imposed upon the income of any individual earning income and who is a resident of Washington County, Indiana, (as determined by I.C. 6-3.5-1.1-16 as may be amended by the Indiana General Assembly) or who maintains the taxpayer's principal place of business or employment in Washington County, Indiana on the date specified in I.C. 6-3.5-1.1-16, as amended by the Indiana General Assembly, and who does not on that same date reside in another county in which the county adjusted gross

income tax, the county option income tax, or the county economic development income tax is in effect an income tax rate of 25/100 of 1% (0.25%) beginning with that income earned January 1, 2014 and thereafter.

(C) The Washington County Auditor shall send a copy of the ordinance codified herein to the Commissioner of the Indiana Department of Revenue, the Director of the Indiana State Budget Agency and to the Commissioner of the Department of Local Government Finance by certified mail or in electronic format approved by the Director of the Budget Agency which copy shall be a certified copy of the ordinance and shall be sent within ten days after the date of the vote of the ordinance codified herein.

(D) It is the intent, direction and ordinance of the Washington County Council that in the passage of the ordinance codified herein, that the ordinance codified herein and the affects thereof are to be governed by I.C. 6-3.5-1.1-25 in the implementation of a county option income tax for the purposes of public safety as provided in I.C. 6-3.5-1.1-25, as may be amended by the Indiana General Assembly.

(CC Ord. 2013-07, passed 8-5-2013)

### ***FEES AND FUNDS***

#### **§ 36.20 COUNTY USER FEE FUND.**

Pursuant to I.C. 33-37-8-5, a county User Fee Fund is hereby established for the purpose of financing various program services. The Fund shall be administered by the County Auditor, and shall consist of the following fees collected by the County Clerk under I.C. 33-37, and by the Probation Department for the Juvenile Court under I.C. 31-6-4-12(h), if applicable, which shall be transferred to the County Auditor within 30 days of collection:

(A) The Pretrial Division Program Fee;

(B) The Informal Adjustment Program Fee;

(3) A value of \$500 for a one-time loss of assets; or

(4) A creation of additional liabilities of at least \$ 1,000 average per month.

(C) All items not reported to the State Board of Accounts shall be resolved at the Board of Commissioner level with appropriate documentation retained by the County Auditor.

(D) When an irregular variance, loss, shortage, or theft is determined material pursuant to county's policy on materiality, the Auditor and/or the Treasurer shall report the incident to the State Board of Accounts. On the State Board of Accounts' website there is a notification link, which allows public officials to report via-email material irregular variances, losses, shortages, or thefts. Telephone and in person reporting is also acceptable. Reports will be followed up with a return e-mail or call to gather additional information as necessary. All reports of irregular variances, losses, shortages, or thefts are maintained by the State Board of Accounts. (BCC Ord. 2016-04, passed 6-7-2016)

**§ 36.13 COST PRINCIPLES WITH RESPECT TO SPENDING FEDERAL FUNDS.**

(A) *Cost principles.* Except where otherwise authorized by statute, costs shall meet the following general criteria in order to be allowable under federal awards:

(1) Be necessary and reasonable for proper and efficient performance and administration of the federal award and be allocable thereto under these principles.

(a) To determine whether a cost is reasonable, consideration shall be given to:

1. Whether a cost is a type generally recognized as ordinary and necessary for the operation of Washington County, Indiana (the

“county”) or the proper and efficient performance of the federal award;

2. The restraints or requirements imposed by such factors as sound business practices, arm's length bargaining, federal, state, local, tribal and other laws and regulations;

3. Market prices for comparable goods or services for the geographic area;

4. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities; and

5. Whether the cost represents any significant deviation from the established practices of the county which may increase the expense.

(b) While federal regulations do not provide specific descriptions of what satisfies the “necessary” element beyond its inclusion in the reasonableness analysis above, whether a cost is necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the county can demonstrate that the cost addresses an existing need, and can prove it.

(c) When determining whether a cost is necessary, consideration may be given to whether:

1. The cost is needed for the proper and efficient performance of the grant program;

2. The cost is identified in the approved budget or application;

3. There is a benefit associated with the cost;

4. The cost aligns with identified needs based on results and findings from a needs assessment; and

5. The cost addresses program goals and objectives and is based on program data.

(d) A cost is allocable to the federal award if the goods or services involved are chargeable or assignable to the federal award in accordance with the relative benefit received.

(2) Conform to any limitations or exclusions set forth as cost principles in Part 200 or in the terms and conditions of the federal award.

(3) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the county.

(4) Be afforded consistent treatment. A cost cannot be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned as an indirect cost under another award.

(5) Be determined in accordance with generally accepted accounting principles.

(6) Be representative of actual cost, net of all applicable credits or offsets. The term **APPLICABLE CREDITS** refers to those receipts or reductions of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the state relate to the federal award, they shall be credited to the federal award, either as a cost reduction or a cash refund, as appropriate.

(7) Not be included as a match or cost-share, unless the specific federal program authorizes federal costs to be treated as such.

(8) Be adequately documented:

(a) In the case of costs of county projects, the county shall use remaining funds that

have been invested to fund a new Washington County Highway Department project.

(b) in the case of other costs, all receipts and other invoice materials shall be retained, along with any documentation identifying the need and purpose for such expenditure if not otherwise clear.

(B) *Selected items of cost.* The county shall follow the rules for selected items of cost at 2 C.F.R. Part 200, Subpart E when charging these specific expenditures to a federal grant. When applicable, county staff shall check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, state, county, and program-specific rules, including the terms and conditions of the award, may deem a cost as unallowable, and county elected officials and personnel shall follow those rules as well.

(C) *Cost compliance.* The county shall require that grant program funds are expended and are accounted for consistent with the requirements of the specific program and as identified in the grant application. Compliance monitoring includes accounting for direct or indirect costs and reporting them as permitted or required by each grant.

(D) *Determining whether a cost is direct or indirect.*

(1) Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. These costs may include: salaries and fringe benefits of employees working directly on a grant-funded project; purchased services contracted for performance under the grant; travel of employees working directly on a grant-funded project; materials, supplies, and equipment purchased for use on a specific grant; and infrastructure costs directly attributable to the program (such as long distance telephone calls specific to the program, etc.).

(2) Indirect costs are those that have been incurred for a common or joint purpose benefitting more than one cost objective and are not readily assignable to the cost objectives specifically benefitted without effort disproportionate to the results achieved. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs.

(3) All obligations must occur on or between the beginning and ending dates of the grant project. This period of time is known as the period of performance. The period of performance is dictated by statute and will be indicated in the grant award notification (“GAN”). As a general rule, state-administered federal funds are available for obligation within the year that Congress appropriates the funds for.

(4) In the case of a state-administered grant, obligations under a grant may not be made until the grant funding period begins or all necessary materials are submitted to the granting agency, whichever is later. In the case of a direct grant, obligations may begin when the grant is approved.

(5) For both state-administered and direct grants, regardless of the period of availability, the county shall liquidate all obligations incurred under the award not later than 90 days after the end of the funding period unless an extension is authorized. Any funds not obligated within the period of performance or liquidated within the appropriate timeframe are said to lapse and shall be returned to the awarding agency. Consequently, the County shall closely monitor grant spending throughout the grant cycle.  
(BCC Ord. 2023-03, passed 6-6-2023)

**FEES AND FUNDS**

**§ 36.20 COUNTY USER FEE FUND.**

Pursuant to I.C. 33-37-8-5, a county User Fee Fund is hereby established for the purpose of

financing various program services. The Fund shall be administered by the County Auditor, and shall consist of the following fees collected by the County Clerk under I.C. 33-37, and by the Probation Department for the Juvenile Court under I.C. 31-6-4-12(h), if applicable, which shall be transferred to the County Auditor within 30 days of collection:

- (A) The Pretrial Division Program Fee;
- (B) The Informal Adjustment Program Fee;
- (C) The Marijuana Eradication Program Fee;
- (D) The Alcohol and Drug Services Program Fee;
- (E) The Law Enforcement Continuing Education Program Fee;
- (F) The Deferral Program Fee; and
- (G) The Jury Fee.

**§ 36.21 LEVY EXCESS FUND.**

(A) Pursuant to I.C. 6-1.1-18.5-17 as amended by 1985, H.B. 1558, there is hereby established a special non-reverting fund to be known as the Levy Excess Fund into which monies shall be deposited as follows:

(1) For tax years after 1979 but prior to 1985, any property tax receipts of the county from the county’s own property tax levies which exceed 102% of the total estimated property tax levy for the year as finally fixed in the approved and certified county budget for that year shall be credited to and deposited in the Levy Excess Fund.

(2) For tax years 1985 and subsequently, there shall be credited to the Levy Excess Fund the lesser of:

- (a) The actual amount of any levy excess as determined in the manner described under division (A)(1) above; or

(b) One hundred dollars.

(B) In the event that property tax collections credited to any other fund or funds of the county must be refunded to the taxpayer in accordance with I.C. 6-1.1-26 because they were excessive or erroneous collections, the Auditor and Treasurer shall reimburse the amount of the refund to the appropriate fund or funds from unappropriated monies in the Levy Excess Fund, unless the County Council shall have concurrently reduced appropriations from other fund or funds in the amount necessary to offset the required refund; however, if unappropriated monies in the Levy Excess Fund are insufficient to completely reimburse any required refund, reimbursement to each affected fund shall be made proportionately as to the amount of refund paid from each such fund. Otherwise, monies in the Levy Excess Fund may only be budgeted, appropriated, and expended for purposes authorized by the State Board of Tax Commissioners in accordance with I.C. 6-1.1-18.5-17(e). Monies in the Levy Excess Fund may be invested by the Treasurer, but all proceeds shall be receipted back to the fund.

(1985 Code, § 5-4-4) (BCC Ord. 1985-C8, passed - -1985)

### § 36.22 CUMULATIVE JAIL FUND.

(A) Pursuant to I.C. 36-9-15-2, it is desired and deemed necessary to proceed with the proposed plan to establish a Cumulative Jail Fund, to be used for the purposes of construction, repair, or improvement of the county jail.

(1985 Code, § 3-6-1)

(B) A property tax shall be levied within the taxing district for the Cumulative Jail Fund in each tax year at a rate of \$.0100 per \$100 assessed valuation. (1985 Code, § 3-6-2) (CC Res. passed 7-16-1984)

### § 36.23 COUNTY CORRECTION FUND.

The county shall participate in the County Corrections Fund, under I.C. 11-12-6 at level three

funding, being that the county shall house 100% of all misdemeanant prisoners.

(BCC Ord. 96-02, passed 1-15-1996; BCC Ord. 97-02, passed 1-20-1997; BCC Ord. 98-01, passed 1-19-1998; BCC Ord. 2001-02, passed 2-5-2001)

### § 36.24 SPECIAL NON-REVERTING OPERATING FUND FOR PARK PURPOSES.

A special non-reverting operating fund shall be established pursuant to I.C 36-10-3-22 as follows.

(A) The fund shall be funded at the beginning of each operating season by its revenues from the previous year to a maximum of \$500.

(B) On a monthly basis this fund shall be drawn down to a maximum of \$500.

(C) No money shall be withdrawn from this special non-reverting fund unless it shall be used for the purchase of merchandise, goods or supplies necessary for the continuation and success of the snack concession and boat and cabin rental.

(D) Money obtained from fees or received from the sale of surplus property under this section in excess of \$500 shall be deposited at least once each month with the County Treasurer.

(E) No creditor shall receive compensation for services, merchandise, supplies or equipment from this fund in excess of \$300 without prior approval by the Board of Parks and Recreation.

(F) All disbursements from this fund are subject to review by the Board and must be approved and ratified in writing by the President and Secretary of the Board.

(CC Ord. passed 9-2-1986)

### § 36.25 PROSECUTOR'S DRUG INVESTIGATION FUND.

(A) The Board of Commissioners does hereby authorize the Auditor to create and maintain a fund to

be known as the County Prosecutor Drug Investigation Fund (P.D.I.F.).

(B) The purpose of the P.D.I.F. shall be to provide monies for the use of all law enforcement agencies in the county, to aid and assist in the furtherance of criminal investigations.

(C) The County Auditor is hereby authorized to accept funds, whether by way of voluntary contributions, court order, restitution, or the assessments of fines and costs, specifically designated for use as P.D.I.F. monies; the Auditor shall accept the monies, and the monies shall be made available for use by the Prosecuting Attorney subject to the Prosecuting Attorney making a claim for the monies to the County Commissioners by setting forth on the claim that the purpose thereof is to obtain P.D.I.F. monies.

(D) The Prosecuting Attorney shall deposit warrants paid by the County Commissioners into the checking account to be known as the Prosecutor's



Drug Investigation Fund Checking Account, which this section authorized the Prosecutor to establish, and shall be disbursed therefrom in accordance with the procedures, guidelines, rules, and regulations adopted by the Office of the Prosecuting Attorney; but the Prosecuting Attorney shall not maintain a balance in the checking account in excess of \$5,000 at any one time.

(E) The Prosecuting Attorney is hereby authorized to invest those funds held in the Prosecutor's Drug Investigation Fund Checking Account, in a NOW account or similar account which shall bear interest; the Prosecuting Attorney shall account to the County Auditor for all interest earned on the account; the interest earned on the account need not be turned over to Washington County by the Prosecuting Attorney, but may be kept and retained in the Prosecutor's Drug Investigation Fund and Checking Account and used for the purposes and in the manner as are other funds deposited to the Prosecutor's Drug Investigation Fund Checking Account.

(F) The Board of Commissioners of the county previously authorized the Auditor of the county to create and maintain a fund to be known as the Washington County Prosecutor Drug Investigation Fund (P.D.I.F. hereinafter).

(G) The purpose of the P.D.I.F. shall be expanded so as to provide monies for the use of all law enforcement agencies in the county, to aid and assist not only in the furtherance of criminal investigations, but for matters of training, prevention, and treatment, as the prosecutor in his or her sound discretion may deem appropriate under circumstances. (BCC Ord. C2A-1986, passed 3-17-1986; BCC Ord. C2AB-1986, passed 6-2-1986; BCC Ord. 2009-02, passed 3-18-2009)

### **§ 36.26 WASHINGTON COUNTY MEMORIAL HOSPITAL FUND.**

(A) Pursuant to I.C. 16-22-3-27.5, there shall be established the County Memorial Hospital Fund.

(B) Pursuant to I.C. 16-22-3-27.5, the County Council shall annually, beginning in 1996, levy a tax upon the real estate of the property owners of the county to raise the sum of \$207,000 per year for the next 20 years or until the year 2015, to be applied toward payment of the construction loan for County Memorial Hospital (\$207,000 x 20 years = \$4,140,000).

(C) Pursuant to I.C. 16-22-3-27.5, one-half of the annual lease or loan payment of the County Memorial Hospital shall be paid semi-annually to the state authority after the semi-annual settlement of tax collections.

(D) The tax levy provided in this section shall be reviewable in the same manner that other taxes are reviewable to ascertain that the tax levy is sufficient to produce the amount of the loan payment that is required to be paid from taxes.  
(CC Res. 1996-01, passed 1-2-1996)

### **§ 36.27 NON-REVERTING INSURANCE FUND.**

(A) This section shall be known as the Non-reverting Insurance Fund.

(B) The adoption of this section is authorized by the laws of the state and action of the Board of Commissioners.

(C) This Non-Reverting Insurance Fund is to be used solely for the administration of the health insurance premium of the employees of the county, and for the handling of budgeted insurance funds and payment of claims.

(D) Balances maintained in this fund from year to year shall remain and carry over for continuing usages under the purposes outlined hereunder exclusively.

(E) The operation of this Non-Reverting Insurance Fund shall be, consistent with state law, the

County Auditor and shall be subject to the state law for administration and claims procedures.  
(CC Ord. 1996-03, passed 2-5-1996)

**§ 36.28 HIGHWAY DEPARTMENT PETTY CASH FUND.**

(A) There is hereby created in the County Highway Department a "Petty Cash Fund," which Petty Cash Fund is hereby created for the purpose of making cash monies available for the payment of freight, express and drayage, for minor office supplies and for minor repairs of equipment.

(B) The Petty Cash Fund is now created in the amount of \$300, and the County Commissioners are now authorized to approve and allow a claim to the Petty Cash Fund.

(C) The Petty Cash Fund shall be used for the purposes herein expressed, and each withdrawal from the Petty Cash fund shall be evidenced by a voucher thereon, approved in advance by the County Highway Superintendent.

(D) The Petty Cash Fund may be reimbursed from time to time by a claim to the credit of the Petty Cash Fund from the various appropriations hereinbefore described, which claims shall be filed by the County Highway Superintendent as other claims are filed, advertised, and presented to the Board of County Commissioners for approval, and the Petty Cash Fund shall be reimbursed from the various appropriations so approved by the County Commissioners.

(1985 Code, § 6-4-2) (CC Ord. adopted 2-14-1972)  
*Statutory reference:*

*Petty cash funds authorized, see I.C. 36-1-8-3*

**§ 36.29 CUMULATIVE BRIDGE FUND.**

(A) A need now exists for the reestablishment of a Cumulative Bridge Fund for the following purposes: for all purposes as set forth in I.C. 8-16-3-1 which includes, but not limited to, cost of construction,

maintenance, and repair of bridges, approaches, and grade separations.

(1) The County Executive is responsible for providing funds for all bridges, including those in municipalities, within the county except those bridges on the state highway system.

(2) The County Executive may use this fund for making county wide bridge inspection and safety ratings of all bridges in a county not on the state highway system. The inspection and safety ratings shall meet all the criteria of the National Bridge Inspection Standards promulgated by the Federal Highway Administration, U.S. Department of Transportation and shall be supervised and approved by a competent qualified engineer, registered in the state; or under I.C. 8-16-3-1.5.

(B) This Board will adhere to the provisions of I.C. 8-16-3-1 and 8-16-3-1.5. The proposed fund will not exceed \$0.1000 on each \$100 of assessed valuation. Said tax rate will be levied beginning with taxes for 2022 payable 2023.

(C) Proofs of publication of the public hearing held on the fifth day of April, 2022 and a certified copy of Ordinance 2022-06 shall be submitted to the Department of Local Government Finance of the State of Indiana as provided by law. This Cumulative Bridge Fund is subject to the approval of the Department of Local Government Finance.

(1985 Code, § 6-4-3) (BCC Res. passed 6-20-1977; BCC Ord. 2022-06, passed 4-5-2022)

**§ 36.30 SHERIFF'S DRUG INVESTIGATION FUND.**

(A) The Board of Commissioners does hereby authorize the Auditor of the county to create and maintain a fund to be known as the County Sheriff's Drug Investigation Fund (S.D.I.F. hereinafter).

(B) The purpose of the S.D.I.F. shall be to provide monies for the use of all law enforcement

agencies in the county, to aid and assist in the furtherance of criminal investigations.

(C) The Auditor of the county is hereby authorized to accept funds, whether by way of voluntary contributions, court order, restitution, or the assessments of fines and costs, specifically designated for use as S.D.I.F. monies; the Auditor shall accept the monies, and the monies shall be made available for use by the Sheriff subject to the Sheriff making a claim for the monies to the County Commissioners by setting forth on the claim that the purpose thereof is to obtain S.D.I.F. monies.

(D) The Sheriff shall deposit warrants paid by the County Commissioners into the checking account to be known as the Sheriff's Drug Investigation Fund Checking Account, which this section authorizes the Sheriff to establish, and shall be disbursed therefrom in accordance with the procedures, guidelines, rules, and regulations adopted by the office of the Sheriff; but that by this section the Sheriff shall not maintain a balance in the checking account in excess of \$20,000 at any one time.

(E) The Sheriff is hereby authorized to invest those funds held in the Sheriff's Drug Investigation Fund Checking Account, in an interest bearing account; the Sheriff shall account to the Auditor of the county for all interest earned on the account; the interest earned on the account need not be turned over to the county by the Sheriff, but may be kept and retained in the Sheriff's Drug investigation Fund and Checking Account and used for the purposes and in the manner as are other funds deposited to the Sheriff's Drug Investigation Fund Checking Account. (BCC Ord. 2000-01, passed 7-3-2000)

### **§ 36.31 CLERK'S RECORD PERPETUATION FUND.**

(A) The County Council hereby directs the County Auditor to deposit 40% of the late payment fees collected under I.C. 33-37-5-22 in the Clerk's Record Perpetuation Fund established under I.C.

33-19-6-1.5 and 60% of the late payment fees collected under I.C. 33-19-6-20 in the County General Fund.

(B) This section applies to late payment fees distributed to the County Auditor after January 1, 2002.  
(CC Ord. 2001-10, passed 12-3-2001)

### **§ 36.32 ENHANCED 911 FUND AND WIRELESS 911 FUND.**

(A) The Auditor of the county shall merge the Enhanced 911 Fund of the county and the Wireless 911 Fund of the county together so that the two funds are combined into one Fund.

(B) The use of monies in the Wireless 911 Fund upon it being merged with the Enhanced 911 Fund may both be used for the same purposes and to meet the expenditures necessary to maintain a 911 Emergency Response System within the county.  
(CC Ord. 2002-03, passed 11-4-2002)

### **§ 36.33 FEES FOR ELECTRONIC MAP DATA.**

(A) *Title and definitions.* This section and any parts herein shall be known as the "Washington County Electronic Map Ordinance". In accordance with I.C. 5-14-3-2, **PERSON**, as used in this agreement, is defined as an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity, and **ELECTRONIC MAP DATA** as used in this agreement, is defined as copyrighted data provided by a public agency from an electronic geographic information system.

(B) *Fee schedule.*

(1) Pursuant to I.C. 5-14-3-8(j) the county may charge a fee, uniform to all persons for providing electronic map data that is based upon a reasonable percentage of the county'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 person(s).

(2) In the case where disposable and nondisclosable electronic map data are combined, I.C. 5-14-3-6 provides that the county may charge a reasonable fee for the county's direct cost of computer programming to separate disclosable from nondisclosable electronic map.

(3) It is hereby established by the County Commissioners and County Council that the initial fee schedule for electronic map data shall be as follows:

(a) An annual fee of \$ 1,500, paid in advance, for the transmission of available and disclosable countywide electronic map data;

(b) A fee of \$75 per hour for the preparation of one time specifically requested subsets of county electronic map data; and

(c) A fee of \$150 per hour for computer programming required to separate disclosable and nondisclosable electronic map information if this is required as a part of a one time map data request.

(4) If the county contracts with a third party contractor to handle the transmission of county electronic map data the third party contractor shall receive two-thirds, and the county one-third of the fees charged the person for electronic map data.

(5) This fee schedule shall be reviewed on an annual basis and may be changed on an annual basis to reflect the change in the cost of providing electronic map data.

(C) *Exceptions to fee schedule.* Pursuant to I.C. 5-14-3-8(k), the fee charged by a county to cover the costs for maintaining, upgrading, and enhancing an electronic map may be waived by the Board of Commissioners, in whole or in part at its discretion if the use of the electronic map data will be used for a noncommercial purpose, including the following:

public agency program support, nonprofit activities, journalism, and/or academic research.

(D) *Third party contractor.*

(1) In accordance with I.C. 5-14-3-3.6, electronic map information may be provided to person(s) through the county's own computer gateway, or by agreement through a computer gateway of a third party contractor. I.C. 5-14-3-3.6(e) provides that a contract entered into under this section may require the payment of a reasonable fee to either the third party contractor, the county, or both.

(2) In accordance with I.C. 5-14-3-4, neither the county nor the third party contractor shall disclose electronic map data that is specifically excepted from disclosure requirements.

(E) *Payment.* Where the county is using its own computer gateway for the provision to person(s) of electronic map data, payment shall be made by the person(s) at the time of delivery. Where the county has entered into an agreement with a third party contractor to provide electronic map data through the third party contractor's computer gateway, the third party contractor shall handle the billing and invoicing of the fees charged and shall agree to send by U.S. mail that portion of the fee due the county to the County's Electronic Map Generation Fund within ten business days of the receipt of payment of fees to the third party contractor by the person(s) making the purchase.

(F) *Compliance with state statutes.* Nothing herein shall compel any office or their contracted third party contractor to charge a fee for copies if the fee imposed by this section is contrary to state law. In the event the fees in this section are contrary to any charges established by state statute, the state statute shall apply.

(G) *Use restrictions and notice.*

(1) Pursuant to the provisions of I.C. 5-14-3-3(e), no person, other than those authorized in writing by the Board of Commissioners, may use the

electronic map data provided by the county for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by request to any other person for these purposes. This includes the repackaging or assimilation of electronic map data for a commercial purpose in paper or electronic media.

(2) A person who uses information in a manner contrary to this section or a rule or ordinance adopted under I.C. 5-14-3-3 may be prohibited by the county from obtaining any electronic map data.

(3) The following notice regarding data ownership, restrictions, and qualifications shall be provided to every person that receives a copy of the county's electronic map data.

Washington County electronic map data is the property of Washington County, Indiana, all constantly undergoing change and is not warranted for content or accuracy. The county does not guarantee the positional or thematic accuracy of the data. The cartographic digital file server is not a legal representation of any of the features depicted, and the county disclaims any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be and/or expressly excluded. The data represents an actual reproduction of data contained in the county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. Therefore, the county cannot be held liable for errors or omissions in the data. The recipient's uses and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify Washington County and its employees and officers. This indemnity covers reasonable attorney's fees and all court costs associated with the defense of Washington County arising out of this disclaimer. The recipient may copy this data into computer memory or onto computer storage devices and

prepare derivative works from it for the recipient's own use.

(4) Pursuant to the provisions of I.C. 5-14-3-3(e), no person, other than those authorized in writing by the Board of Commissioners may use the electronic map data provided by the county for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by request to any other person for these purposes. A person who uses information in a manner contrary to a rule or ordinance adopted under I.C. 5-14-3-3(e) may be prohibited by the Board of Commissioners from obtaining any electronic map data.

(5) A copy of the language contained in this section shall be conspicuously posted in all offices where electronic map data is sold in the county, and shall be provided to any person(s) (as defined by I.C. 5-14-3-2) who desires to purchase electronic map data from the county.

(H) *Use violation penalty.*

(1) Any person(s) who violates the terms and conditions of this section by failing to pay for purchased electronic map data shall be liable for total fee charged for the electronic map data plus attorney's fees and the cost of collection.

(2) Any person(s) who violates the restrictions on the use of electronic map data as set forth in division (G) above shall be guilty of an infraction and may be fined by the county up to \$2,500, and each violation shall be deemed a separate offense.

(3) Also, in the event that there is an improper use of electronic map data as set forth in division (G) above or in violation of state or federal law, the county may prohibit the person(s) (as defined by I.C. 5-14-3-2) from obtaining any electronic map data and seek injunctive relief from any misuse of electronic map data by the person(s) who originally

purchased the electronic map data or any other person(s) who has received a copy of the electronic map data.

(I) *Electronic Map Generation Fund.* Pursuant to I.C. 5-14-3-8.5, the County Council hereby establishes the County Electronic Map Generation Fund. The Electronic Map Generation Fund shall consist of fees charged for providing electronic map data to person(s) in accordance with I.C. 5-14-3-8(j) and be subject to the appropriation by the County Council. In accordance with I.C. 5-14-3-8.5(b), all funds collected in the Electronic Map Generation Fund shall be specifically dedicated to the following purposes:

(1) The maintenance, upgrading, and enhancement of the electronic map; and

(2) The reimbursement of expenses incurred by a public agency in supplying an electronic map in the form requested by the person(s).

(J) *Dispute resolution.* Any person who has a dispute, or seeks relief from the terms of this section may seek resolution of that dispute or relief from the County Board of Commissioners.  
(BCC Ord. 2004-01, passed 3-15-2004)

**§ 36.34 IDENTIFICATION SECURITY PROTECTION FUND.**

(A) *Fund.* Pursuant to I.C. 36-2-7.5, the County Identification Security Protection Fund (“Fund”) is hereby established on October 3, 2005.

(B) *Administration.* The fund shall be administered by the County Recorder.

(C) *Appropriations.* Expenditures from the fund shall be subject to appropriation by the County Council.

(D) *Deposits.* The funds shall consist of the fees deposited in the Fund by the County Recorder pursuant to I.C. 36-2-7.5-6.

(E) *Use of fund.* The County Recorder may use money in the Funds only to purchase, upgrade, implement, or maintain redacting technology used in the office of the County Recorder.

(F) *Reversion.* Money in the Fund does not revert to the County General Fund.

(G) *Governing law.* The Fund shall be governed by and subject to the provisions of I.C. 36-2-7.5, as amended.  
(BCC Ord. 2005-05, passed 10-3-2005)

**§ 36.35 FEES FOR DRAINAGE CULVERTS; HIGHWAY DEPARTMENT.**

The County Highway Department is hereby authorized to sell and install drainage culverts to citizens of the county, for an amount equal to the Highway Department’s cost of the culvert, plus \$300 for additional expenses and costs of installing the culverts on properties abutting county roadways.  
(BCC Ord. 2007-05, passed 5-16-2007; BCC Ord. 2019-01, passed 5-21-2019)

**§ 36.36 BUILDING PERMIT FEE SCHEDULE.**

<i>Building Permit Fee Schedule</i>	
<i>Square Foot</i>	<i>Permit Fee</i>
0 up to 500 feet	\$50
501 to 1,000	\$100
1,001 to 1,500	\$150
1,501 to 2,000	\$200
2,001 to 2,500	\$250
2,501 to 3,000	\$300
3,001 to 4,000	\$350
4,001 to 5,000	\$400
5,001 to 6,000	\$500

<i>Building Permit Fee Schedule</i>	
<i>Square Foot</i>	<i>Permit Fee</i>
6,001 to 7,000	\$600
7,001 and above	\$700
*Gross square footage of enclosed areas includes basements and garages.	
*Make checks payable to: "Treasure of Washington County".	
*A birth date is required on each check.	

(BCC Ord. 2009-03, passed - -2009)

**§ 36.37 FEES FOR ISSUING A MOBILE HOME PERMIT.**

The County Treasurer is authorized to assess and collect a \$10 fee from the applying party for each mobile home permit for moving or transferring title, which fees shall be deposited by the County Treasurer into the County General Fund.

(BCC Ord. 2010-03, passed 9-15-2010)

**§ 36.38 BUILDING OR REMODELING AND FIRE EQUIPMENT FUND.**

(A) The Blue River Fire District has established a basis for the development and funding of a Cumulative Fire Fund and that the establishment of such a cumulative fund is in the best interests of the citizens of the Blue River Fire District.

(B) The Blue River Fire District may establish a Cumulative Fire Fund at a tax rate of 0.0333 as permitted by I.C. 36-8-14-4(a).

(C) There is hereby established the "Blue River Fire District Building or Remodeling and Fire Equipment Fund" for the collection of the taxes for the Blue River Fire District.

(D) The Auditor of the county shall publish notice and advertisement of the proposed rate,

schedule public hearing, and establish the Fund in accordance with the laws of the state.

(BCC Ord. 2011-04, passed 10-17-2011)

**§ 36.39 PLAT BOOK MAINTENANCE FUND.**

(A) The County Auditor shall collect a fee of \$10 for each deed for which the Auditor makes a real property endorsement pursuant to I.C. 36-2-9-18.

(B) The County Auditor shall create and place the revenue received for this enforcement in a dedicated Plat Book Maintenance Fund for use in maintaining plat books.

(BCC Ord. 2012-06, passed 10-2-2012; BCC Ord. 2019-05, passed 6-18-2019)

**§ 36.40 FEES FOR COPIES OF PLATS.**

The County Surveyor's office is authorized to establish and collect fees for the search and reproduction of records, with such fees to be as follows:

(A) Standard size 8½ x 11" map shall be \$3.

(B) Large 20" x 24" black and white plat shall be \$5.

(C) Large 20" x 24" color plat shall be \$10.  
(BCC Ord. 2012-01, passed 2-21-2012)

**§ 36.41 COUNTY ELECTED OFFICIALS TRAINING FUND.**

(A) A need now exists for the establishment of a County Elected Officials Training Fund as required by I.C. 36-2-7-19.

(B) The purpose of the County Elected Officials Training Fund shall be for the purposes specified in I.C. 36-2-7-19 allowing the Fund to receive monies deposited within Washington County pursuant to I.C. 36-2-7.5-6(b)(3) and as may be amended by the

legislature hereafter, and any other sources required or permitted by law.

(C) The monies deposited in the Washington County Elected Officials Training Fund shall be used for the purposes of providing training for county elected officials as required by particular Indiana Code provisions and similar laws that may require county officials to attend mandatory training from time to time.

(D) The monies deposited in the Washington County Elected Officials Training Fund shall not revert to the Washington County General Fund.

(E) The establishment of the Washington County Elected Officials Training Fund is required by law and does not involve the deposit of new tax receipts upon the taxpayers of Washington County, Indiana. (BCC Ord. 2013-03, passed 6-18-2013)

#### **§ 36.42 CUMULATIVE CAPITAL DEVELOPMENT FUND.**

(A) A need now exists for the reestablishment of a Cumulative Capital Development Fund for all purposes as set forth in I.C. 36-9-14.5-2 which includes, but not limited to, voting system purchases, bridge work, major bridge work, cumulative maintenance for conservancy districts, county courthouse expenses, jail funds, drainage board funds, park and recreation cumulative fund expenses and may be spent for other purposes if emergency is declared concerning public health, welfare or safety; or under I.C. 36-7-23.

(B) This Board will adhere to the provisions of I.C. 36-9-14.5-2 and 36-7-23. The proposed fund will not exceed 0.0333 on each \$100 of assessed valuation. The tax rate will be levied with the taxes for 2022 payable 2023. (BCC Ord. 2013-04, passed 6-18-2013; BCC Ord. 2022-05, passed 3-15-2022)

#### **§ 36.43 DISHONORED CHECKS.**

(A) Any individual, person, group, or entity who delivers a check, draft, or order on a credit institution for the payment of money to, or to acquire money or other property from, any county office, department, or entity, which check, draft, or order is not paid or honored by the credit institution upon presentment in the usual course of business, will be responsible for and be charged a service fee of \$35 by the applicable county office, department, agency, or division.

(B) After notice to the applicable county office that the check, draft, or order has not been paid by the credit institution, it shall be the responsibility of said county office, department, agency, or division, if it desires to collect said service charge, to send a notice to either the address printed or written on the check, draft, or order or to the address given by the person in writing to the payee at the time the check, draft, or order was issued, that the check draft, or order has not been paid by the credit institution. (BCC Ord. 2015-06, passed 11-3-2015)

#### **§ 36.44 REPEALED.**

#### **§ 36.45 LOIT DISTRIBUTION FUND.**

The Washington County Auditor shall establish a county fund under Fund #1229 for the purpose of receiving from the State of Indiana and/or its agencies special distributions of local option income tax also known as LOIT Special Distributions and that Fund #1229 shall be entitled LOIT Special Distribution Fund.

(CC Ord. 2016-03, passed 6-6-2016)

#### **§ 36.46 SEX OR VIOLENT OFFENDER ADMINISTRATION FUND.**

(A) *Establishment of Sex or Violent Offender Administration Fund.* The Washington County Sex or Violent Offender Administration Fund is hereby established. The purpose of the Fund is to defray the

expense of administering or ensuring compliance with the laws concerning the Indiana Sex and Violent Offender Registry.

(B) *Fees.*

(1) *Registration fee.* The annual fee for sex and violent offenders registering in Washington County shall be \$50. Payment of the fee shall be made upon the offender's initial registration in Washington County and subsequently on or before each annual registration date.

(2) *Change of address fee.* A fee of \$5 shall be charged and collected each time a sex or violent offender registers an address change with the County Sheriff's Department.

(C) *Payment of fees.* All fees collected under this section shall be collected by the County Sheriff's Department when a sex or violent offender registers with the Sheriff's Department.

(D) *Procedures.* All fees collected under this section by the County Sheriff's Department shall be transferred to the County Auditor in a timely manner. On a monthly basis, the County Auditor shall:

(1) Deposit 90% of any fees collected under this section in the Sex or Violent Offender Administration Fund; and

(2) Transfer 10% of any fees collected under this section to the State of Indiana for deposit in the state Sex and Violent Offender Administration Fund under I.C. 11-8-8-21.

(E) *Administration of Fund.* A county fiscal body shall appropriate money from the county Sex Offender Registry Fund to offset or defray any administrative costs that may occur while handling the state law regarding sex offenders.

(BCC Ord. 2017-03, passed 6-20-2017)

§ 36.47 **BULK FORM COPIES; FEES.**

(A) *Definitions.* The following definitions shall apply throughout this section:

(1) **BULK FORM COPY.** Means an aggregation of:

(a) Copies of all recorded documents received by the County Recorder for recording in a calendar day, week, month, or year;

(b) The indices for finding, retrieving, and viewing all recorded documents received by the County Recorder for recording in a calendar day, week, month, or year; or

(c) Both subdivisions (a) and (b) above.

(2) **BULK USER** means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that receives bulk form copies under a contract with the County Recorder.

(3) **COPY.** A reproduction, including an image of a recorded document or indices created by:

(a) Duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or

(b) Reproducing on microfilm.

(4) **INDICES** means all of the indexing information used by the County Recorder for finding, retrieving, and viewing a recorded document.

(5) **RECORDED DOCUMENT** means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the County Recorder or the County Recorder's designee.

(B) *Manner and form of production.* It is hereby established that the County Recorder shall provide bulk form copies to a bulk user only by electronically transmitting the copies using an electronic transfer process.

(C) *Procedure for requesting bulk form copies.* A bulk user must submit a written request to the County Recorder that identifies the requested bulk form copies with reasonable particularity. Unless the request is refused under division (F) below of this section, upon receipt of a valid written request the County Recorder or the County Recorder's designee shall provide the bulk form copies to the bulk user by the method or methods established by ordinance. The bulk form copies shall be provided within a reasonable time after the later of the following events:

(1) The Recorder's archival process is completed and bulk form copies become available in the County Recorder's Office.

(2) The bulk form user executes a contract that meets the requirements of division (E) below with:

(a) The County Recorder; and

(b) If the County Recorder uses a third party to provide bulk copy services, the County Recorder's designee.

(3) The County Recorder or the County Recorder's designee shall work with reasonable diligence to ensure that bulk form copies are timely produced to the bulk user.

(D) *Fees charged for bulk form copies.*

(1) Based on a cost study dated May 1, 2018 and performed by the County Recorder (which is incorporated herein by reference), this Board finds and determines that the costs incurred by the County Recorder of producing bulk form copies (including applying a watermark or other protective feature) substantially exceed both the standard fee of ten cents (\$0.10) per page or per recorded document fixed by

subsection (d) of I.C. 36-2-7-10.1, and the fee hereafter fixed. Accordingly, the following fee schedule is hereby adopted:

(a) Twenty cents (\$0.20) per page for a copy of a recorded document, including the instrument's book and page, if applicable.

(b) Twenty cents (\$0.20) per recorded document for a copy of the indices used by the County Recorder for finding, retrieving, and viewing a recorded document.

(2) The fees charged by the County Recorder are subject to the following requirements:

(a) The County Recorder shall pay the fees into the County Treasury at the end of each calendar month.

(b) The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the County Recorder to bulk users.

(c) All revenue generated by the County Recorder under this section shall be deposited in the County Recorder's records perpetuation fund and used by the Recorder in accordance with I.C. 36-2-7-10(f).

(d) The Recorder shall periodically update and verify the cost study referred to in division (D)(1) above.

(E) *Bulk user contract-termination.*

(1) A bulk user must enter into a contract with the County Recorder and if the County Recorder uses a third party to provide bulk copy services, the County Recorder's designee, in order to receive bulk form copies. The contract must be in writing and must require that the bulk user agree not to do any of the following:

(a) Except as provided in division (F) below, provide, transfer, or allow the transfer of any

copy of a recorded document obtained by the bulk user under this section to a third party.

(b) Engage in unauthorized access to recorded documents.

(c) Engage in unauthorized alteration of recorded documents.

(2) A contract required under this division (E) may not include any restrictions on a bulk form user's use of the bulk form copies other than those contained in this section.

(3) If a bulk user does not comply with a contract, the County Recorder may terminate the contract, immediately stop providing bulk form copies to the bulk user, and refuse to provide the bulk form copies required by the bulk user if all termination provisions and procedures in the contract have been met by the County Recorder. The County Recorder may refuse subsequent requests from a bulk user for bulk form copies in the following circumstances:

(a) The bulk user is a person that has had a previous bulk form copy contract terminated by the County Recorder because the Recorder determined that the bulk user failed to comply with the contract.

(b) The bulk user is a corporation or limited liability company in which a person has a majority or controlling interest and:

1. The person requested bulk form copies under a previous contract with the County Recorder; and

2. The contract was terminated by the County Recorder because the County Recorder determined that the person failed to comply with the contract.

(F) *Resale of bulk form copies by bulk user.*

(1) A bulk user that is licensed under I.C. 27-1-15.6-6(d) or holds a certificate of authority under

I.C. 27-7-3-6 may provide bulk form copies related to the specific order for a title search (as defined in I.C. 27-7-3-2) when operating as:

(a) A title plant for the issuance of title insurance (as defined in I.C. 27-7-3-2); or

(b) Title company (as defined in I.C. 27-7-3-2).

(2) A bulk user that meets the requirements of this division (F) may charge its customers a fee for using the bulk form copies obtained by the bulk user that may not exceed the costs incurred by the bulk user for obtaining the bulk form copies. A bulk user that meets the requirements of this division (F) may not resell, provide, transfer, or allow the transfer of any copy of a recorded document, whether in bulk form or as individual copies or images, to any other bulk user or title plant.

(3) A bulk user that does not meet the requirements of division (F)(1) above is prohibited from selling, offering for sale, advertising for sale, soliciting a purchase of, loaning, giving away, allowing subscription service to, or otherwise transferring, providing, or allowing the transfer of bulk form copies for commercial purposes to a third party, whether the copies are in bulk form or individual copies or images.

(G) *Enhanced access not affected.* This section does not apply to enhanced access authorized under I.C. 5-14-3-3 and any Washington County Ordinances promulgated thereunder.  
(BCC Ord. 2018-04, passed 7-17-2018)

### **§ 36.48 TOWN OF HARDINBURG RESTRICTED FUND.**

(A) The Washington County Auditor shall establish a fund entitled Town of Hardinsburg Restricted (Fund No. 4952) to hold all funds of the Town of Hardinsburg.

(B) The expenditure of said funds shall require an additional appropriation of the Washington County Council.

(C) The fund shall remain active for a period of two years after which time the funds will be deposited into the Washington County General Fund.

(D) Washington County intends to pay for outstanding and pending liabilities of the Town of Hardinsburg until December 31, 2022. The Town of Hardinsburg bank account will remain open until all checks have cleared the account which is anticipated to be October 31, 2022.

(E) Washington County intends to contract with Steven L. Anderson, owner of Anderson Consulting, to complete year-end closing reports which will include, but not limited to, bank reconciliations, 100R, AFR, W-2's, 1099's. Anderson Consulting will also be responsible to attend the entrance/exit conferences and complete all the necessary audit documents.

(F) All real property owned by the Town of Hardinsburg will be transferred to county ownership as of the date of dissolution.

(G) Washington County will maintain the records of the Town of Hardinsburg until such time as the records can be properly disposed or transferred to the IARA.

(H) Neither Washington County or its Officials had input on accounting and management procedures prior to September 30, 2022.

(BCC Ord. 2022-11, passed 10-3-2022)

### § 36.49 ARP GRANT FUND.

(A) There is created a new fund(s) with the Auditor's Office that shall be entitled "ARP Grant Fund", and the Auditor has issued a fund number of 8950 with respect to these funds and such funds shall be non-reverting.

(B) The purpose of the funds is to be used for only the following reasons as set forth in §603(C) of the ARP in accordance with the US Treasury Guidance:

(1) To respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or to aid the impacted industries such as tourism, travel, and hospitality.

(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible works of the metropolitan city, nonentitlement unit of local government or county that are performing such essential, or by providing grants to eligible employers that eligible workers who perform essential work.

(3) For the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government or county prior to the emergency; or

(4) To make necessary investments in water, sewer or broadband infrastructure as approved by the US Treasury.

(C) The funds shall be appropriated by the county's fiscal body before use.

(D) All expenditure of funds shall be approved by the Board of Commissioners with any and all claims to be paid from the county's ARP fund.

(E) The Board of Commissioners will establish the plan, conditions, and rules upon which the funds are to be requested and used.

(F) Any unused funds shall be paid back to the United States Treasury when required.

(G) The Auditor shall keep accurate and complete financial records of the receipt and expenditure of any and all funds deposited and paid from this new fund.

(H) No money received in the ARP fund shall be used for any type of deposit into any pension fund.  
(BCC Ord. 2021-01, passed 4-20-2021)



## CHAPTER 37: COURTS AND COURT OFFICERS

### Section

- 37.01 Prosecuting Attorney authorized to perform extra-statutory functions
- 37.02 Fees and charges to be assessed by Prosecutor's Office; special fund established
- 37.03 Bad check collection service

under their general powers, but that certain extra-statutory functions or services of the Prosecuting Attorney would potentially be of sufficient benefit and convenience to the residents of the county to justify the nonobligatory expenditure of county funds and/or would produce revenues to the county sufficient to offset any additional expenditures.

### **§ 37.01 PROSECUTING ATTORNEY AUTHORIZED TO PERFORM EXTRA-STATUTORY FUNCTIONS.**

(A) It is hereby recognized that:

(1) The Prosecuting Attorney of the 42nd Judicial Circuit of the state may from time to time wish and be able to perform certain functions and provide certain services to the public which are beyond the statutorily-defined duties and functions of the Prosecuting Attorney and his or her office;

(2) The performance of the extra-statutory functions and provision of the extra-statutory services may, in the course thereof, involve the expense of funds and an increase in the operating costs of the Prosecutor's Office;

(3) A county or counties within a judicial circuit are obliged by law to fund the general operating expenses of the Prosecutor's Office as essential to permit the office to perform its necessary and dispensable functions as provided by law, but have no funding liabilities beyond that point; and

(4) The funding of extra-statutory functions or services would therefore be at the discretion of the executive and fiscal bodies of any affected county

(B) Pursuant to its powers under I.C. 36-1-3, the Board of Commissioners hereby provides that the Board may by ordinance authorize the Prosecuting Attorney to perform extra-statutory functions and provide the extra-statutory services to the public as the Board deems to be in the public interest, notwithstanding the fact the expenditure of additional county monies may be required therefor.

(1) Any additional expenses may be paid out of existing appropriations to the Prosecutor's Office in suitable budget categories, or the County Council may make further appropriations or additional appropriations to the Prosecutor's Office for purposes authorized by the Board of Commissioners pursuant to this section.

(2) This section may not be construed to permit the Board of Commissioners or County Council any greater control than they would otherwise have by law over the functions of the Prosecutor's Office in respect to its statutory duties and functions, but applies only to those functions and services performed or provided by the Prosecutor's Office above and beyond its expressed or necessarily implied statutory authority and which incur expenses to be paid by the county.

(1985 Code, § 9-1-1) (BCC Ord. 1985-C17-A, passed 12-2-1985)

**§ 37.02 FEES AND CHARGES TO BE ASSESSED BY PROSECUTOR'S OFFICE; SPECIAL FUND ESTABLISHED.**

(A) The Board of Commissioners, as a condition of authorizing the Prosecuting Attorney to perform any extra-statutory functions and services contemplated under § 37.01 which involve expenditure of county monies, may stipulate that the Prosecuting Attorney assess a reasonable fee, payable to the county, in connection with functions or services so as to reimburse the county for all or part of the added expense. The Board of Commissioners may either set the fee itself, or may authorize the Prosecuting Attorney to set a fee on some uniform basis. A current schedule of all the Prosecutor's special service fees shall be filed with the County Auditor and available for public examination. (1985 Code, § 9-1-2)

(B) There is hereby established a special non-reverting fund to be known as the "Prosecutor's Special Fee Fund", which fund shall be set up by the Auditor and Treasurer in the books of the county. All fees of the Prosecutor's Office as authorized under division (A) above shall be deposited into the Prosecutor's Special Fee Fund. For this purpose, the Prosecuting Attorney or his or her authorized designee may collect the fee, and the Auditor shall provide the Prosecuting Attorney with standard fee and cash books of the type provided to county officers under I.C. 36-2-7-15, in which shall be recorded all such fees as collected, along with other information as described by I.C. 36-2-7-15. The Prosecutor's Office shall give a receipt for all the fees to the person paying the same. All fees collected by the Prosecutor's Office under division (A) above shall be regularly delivered to the County Treasurer, not less than monthly, in the manner of fees collected by county officers. The County Council may only appropriate monies on deposit in the Prosecutor's Special Fee Fund for purposes of the Prosecutor's Office, although the appropriations may be made for any purpose for which county monies may lawfully be appropriated to the Prosecutor's Office and need not necessarily be limited to attributable costs of the functions and services from which the fees derive. (1985 Code, § 9-1-3) (BCC Ord. 1985-C17-A, passed 12-2-1985)

**§ 37.03 BAD CHECK COLLECTION SERVICE.**

(A) Pursuant to I.C. 35-43-5-5, a person who knowingly or intentionally issues or delivers a check, draft, or order on a credit institution for the payment of debt, or to acquire money or other property, knowing that the instrument will not be paid or honored by the credit institution upon presentation in the usual course of business, commits check deception, which is a Class A misdemeanor. The stamped or otherwise dishonored instrument is prima facie evidence that the instrument was presented and properly dishonored, and that the person knew that he had insufficient funds or that he or she had no account with the credit institution. At the time of making or signing the instrument, to obtain the following two items of information is sufficient to establish prima facie evidence of the person's identity:

(1) Residence, business, or mailing address of the maker, including the maker's name; and

(2) Either the maker's motor vehicle operator's license number, Social Security number, home telephone number, or place of employment.

(B) However, if the person makes good the check, draft, or order and pays all late charges that do not exceed 5% or \$250 of the face amount, within ten days of receiving notice of insufficient funds, then the person has provided a proper defense and is not guilty of check deception. In addition, no crime is committed if the payee or holder knows that the person has insufficient funds or accepts a postdated instrument, or if the insufficiency of funds or credit results from an adjustment to the person's account by the credit institution without notice to the person.

(C) The Prosecuting Attorney may establish through his or her office a program whereby the holder of a bad instrument who intends to prosecute may:

(1) Authorize the Prosecuting Attorney to contact the issuer of the bad check to determine if the person wishes and intends to make the check good in accordance with I.C. 35-43-5-5(e) in lieu of suffering prosecution;

(2) Authorize the Prosecuting Attorney to collect, on behalf of the payee or holder of the bad check, a protest and service fee in an amount as the Prosecuting Attorney may stipulate and fix on a uniform basis (which may be a fixed dollar amount or a percentage of the value of the bad check) but which may not exceed the amount permitted under I.C. 35-43-5-5(e); and

(3) Authorize the Prosecuting Attorney to retain, or agree to pay over to the Prosecuting Attorney, for the benefit of the county, all protest and service fees collected by the Prosecuting Attorney pursuant to division (C)(2) above in consideration of the services provided to the payee or holder by the Prosecutor's Office.

(D) All receipts of protest and service fees collected under this section shall be administered by the Prosecuting Attorney in accordance with § 37.02, and shall be turned over to the County Treasurer for deposit in the Prosecutor's Special Fee Fund established under § 37.02(B). However, the Prosecuting Attorney may waive collection of the fee if he or she finds that probable cause for prosecution no longer exists in the case.

(1985 Code, § 9-1-4)

(E) When the Prosecuting Attorney has implemented a bad check collection service as authorized under divisions (A) and (B) above, he or she may establish and maintain a public funds checking account (trust account) into which he or she shall deposit the principal amount of any bad check which he or she collects from the issuer thereof on behalf of the payee or holder. Checks from the account may be written to the payee or holder of the bad check to whom the money is lawfully due without appropriation.

(1985 Code, § 9-1-5) (BCC Ord. 1985-C17-A, passed 12-2-1985)



## CHAPTER 38: ELECTIONS

### Section

<i>Election Precincts</i>		
38.01	Single precinct townships	(H) Monroe Township;
38.02	Precincts established in Pierce Township	(I) Polk Township; and
38.03	Precincts established in Posey Township	(J) Vernon Township.
38.04	Precincts established in Washington Township	(1985 Code, § 5-3-1)
38.05	Precincts established in City of Salem	<i>Statutory reference:</i>
38.06	Polling places	<i>Precincts, see I.C. 3-11-1.5</i>
38.07	Precinct election judges to perform duties; rights	

### § 38.02 PRECINCTS ESTABLISHED IN PIERCE TOWNSHIP.

Pierce Township is divided into two election precincts denominated and described as follows.

### *ELECTION PRECINCTS*

#### § 38.01 SINGLE PRECINCT TOWNSHIPS.

The following townships have one precinct, the boundaries of which coincide with the boundaries of the respective township:

- (A) Brown Township;
- (B) Franklin Township;
- (C) Gibson Township;
- (D) Howard Township;
- (E) Jackson Township;
- (F) Jefferson Township;
- (G) Madison Township;

(A) *East Pierce Township.* The boundary of the East Pierce Township election precinct is described as follows: beginning at a point in the middle of Washington County Highway No. 51, also known as Martinsburg Road, which is located on the north Pierce Township line; thence east along the north Pierce Township line to the northeast corner of Section 1, Township 1 North, Range 4 East, being the northeast corner of the township; thence south along the east Pierce Township line to the southeast corner of Section 36, Township 1 North, Range 4 East, being the southeast corner of the township; thence west along the south Pierce Township line to a point in the middle of Indiana State Highway 335; thence northerly along the center line of the state highway to a point being the intersection of Indiana State Highway 335 and, Washington County Highway 51; thence northwesterly along the center line of Washington County Highway 51 to the place of beginning.

(B) *West Pierce Township*. The boundary of the West Pierce Township election precinct is described as follows: beginning at a point located in the middle of Washington County Highway No. 51, known as the Martinsburg Road; thence west along the Pierce Township line to the northwest corner of Section 6, Township 1 North, Range 4 East, being the northwest corner of the township; thence south along the west Pierce Township line to the southwest corner of Section 31, Township 1 North, Range 4 East, being the southwest corner of the township; thence east along the south line of Pierce Township to the middle of Indiana State Highway No. 335; thence north along the center line of the state highway to the center line of its point of intersection with Washington County Highway No. 51; thence in a northwesterly direction along the center line of the Washington County Highway No. 51 to the place of beginning. (1985 Code, § 5-3-2) (BCC Ord. passed 2-5-1980)

#### § 38.03 PRECINCTS ESTABLISHED IN POSEY TOWNSHIP.

Posey Township is divided into two election precincts denominated and described as follows.

(A) *East Posey Township*. The area included in East Posey Township election precinct is described as follows: the portion of the township on the east of Kays Chapel Road, on the north side of Highway 150 from Kays Chapel Road to the county road running just east of the Lawrence Radcliff property. Also, the portion of the township on the east of that county road from Highway 150 to the boundary with Harrison County.

(B) *West Posey Township*. The area included in West Posey Township election precinct is described as follows: the portion of the township on the south side of Highway 150 from Kays Chapel Road to the county road running just east of the Lawrence Radcliff property. Also, the portion of the township on the west of that county road from Highway 150 to the boundary with Harrison County. (1985 Code, § 5-3-3)

#### § 38.04 PRECINCTS ESTABLISHED IN WASHINGTON TOWNSHIP.

Election precincts are established in Washington Township (outside of the corporate limits of the City of Salem) as follows.

(A) *Washington 1*. Washington Township Election Precinct Number 1 is hereby established, and shall consist of all that part of Washington Township located outside the municipal corporation limits of the City of Salem and that lies east of Indiana State Highway 135 and that lies south of Indiana State Highway 160.

(B) *Washington 2*. Washington Township Election Precinct Number 2 is hereby established, and shall consist of all that part of Washington Township located outside the municipal corporation limits of the City of Salem and that lies west of Indiana State Highway 135 and that lies south of Indiana State Highway 56 to its intersection with Mount Tabor Road and that lies south of Mount Tabor Road.

(C) *Washington 3*. Washington Township Election Precinct Number 3 is hereby established and shall consist of all that part of Washington Township located outside the municipal corporation limits of the City of Salem and that lies west of Indiana State Highway 135 and that lies north of Indiana State Highway 56 to its intersection with Mount Tabor Road and that lies north of Mount Tabor Road.

(D) *Washington 4*. Washington Township Election Precinct Number 4 is hereby established, and shall consist of all that part of Washington Township located outside the municipal corporation limits of the City of Salem that lies east of Indiana State Highway 135 and that lies north of Indiana State Highway 160. (1985 Code, § 5-3-4) (BCC Ord. 1982-1, passed 2-1-1982)

#### § 38.05 PRECINCTS ESTABLISHED IN CITY OF SALEM.

Election precincts are established within the corporate limits of the City of Salem as follows.

(A) *Salem 1.* Salem Election Precinct Number 1 is hereby established, and shall consist of that area presently comprising Salem City Council District Number 1 which is all that area located within the municipal corporation limits of the city that lies south of East Market Street in the city; that lies east of South Main Street to its intersection with Tucker Street; that lies north of Tucker Street to its intersection with Martinsburg Road; and that lies east of Martinsburg Road to its intersection with the corporate limits of the City of Salem.

(B) *Salem 2.* Salem Election Precinct Number 2 is hereby established, and shall consist of the area presently comprising Salem City Council District Number 2 which is all that area located within the municipal corporation limits of the city that lies south of West Market Street to its intersection with South Harrison Street; that lies west of Harrison Street to its intersection with Bristol Street; that lies south of Bristol Street to its intersection with West Mulberry Street and Cox Ferry Road; that lies south of the Cox Ferry Road to its intersection with the corporate limit of the City of Salem; and that lies west of South Main Street to its intersection with Tucker Street; that lies south of Tucker Street to its intersection with Martinsburg Road; that lies west of Martinsburg Road to its intersection with the corporate limit of the City of Salem.

(C) *Salem 3.* Salem Election Precinct Number 3 is hereby established, and shall consist of the area presently comprising Salem City Council District Number 3 which is all that area located within the municipal corporation limits of the city that lies west of North Main Street and that lies north of West Market Street to its intersection with South Harrison Street; that lies east of Harrison Street to its intersection with Bristol Street; that lies north of Bristol Street to its intersection with West Mulberry Street and Cox Ferry Road; that lies north of Cox Ferry Road to its intersection with the corporate limit of the City of Salem.

(D) *Salem 4.* Salem Election Precinct Number 4 is hereby established, and shall consist of the area presently comprising Salem City Council District Number 4 which is all that area located within the municipal corporation limits of the city that lies east of

North Main Street and that lies north of East Market Street.

(1985 Code, § 5-3-5) (BCC Ord. 1982-1, passed 2-1-1982)

### § 38.06 POLLING PLACES.

The County Clerk shall maintain a current list of all polling places for each of the county's 22 election precincts. The list shall be posted in the Clerk's office; and copies of the list shall be made available to anyone upon request.

### § 38.07 PRECINCT ELECTION JUDGES TO PERFORM DUTIES; RIGHTS.

(A) *Purpose.* The purpose of this section is to order judges of each precinct named herein to perform duties and have the rights of elections sheriffs within the precincts hereinafter named pursuant to I.C. 3-6-6-5(b).

(B) *Order.* The Board of Commissioners hereby orders that judges in each precinct of the county shall perform the duties and shall have the rights of the election sheriffs within the following named precincts:

- (1) Salem 1;
- (2) Salem 2;
- (3) Salem 3;
- (4) Salem 4;
- (5) Washington 1;
- (6) Washington 2;
- (7) Washington 3;
- (8) Washington 4;
- (9) Brown;
- (10) Franklin;

- (11) Gibson;
- (12) Howard;
- (13) Jackson;
- (14) Jefferson;
- (15) Madison;
- (16) Monroe;
- (17) East Pierce;
- (18) West Pierce;
- (19) Polk;
- (20) East Posey;
- (21) West Posey; and
- (22) Vernon.

(BCC Ord. 2002-01, passed 1-7-2002)

CHAPTER 39: COUNTY POLICIES

Section

*Policies Generally*

**POLICIES GENERALLY**

- 39.01 Americans with Disabilities Act; notice and grievance procedure
- 39.02 Equal opportunity policy
- 39.03 Fees
- 39.04 Healthcare co-payments by inmates
- 39.05 Reward for theft or destruction of county property
- 39.06 Poor relief
- 39.07 Contracts with relatives
- 39.08 Nepotism
- 39.09 Multi-Hazard Mitigation Plan
- 39.10 Conflict of interest policy
- 39.11 Capital asset policy
- 39.12 Adoption of the build-operate-transfer statute
- 39.13 Protection of second amendment rights

**§ 39.01 AMERICANS WITH DISABILITIES ACT; NOTICE AND GRIEVANCE PROCEDURE.**

(A) *Notice under the Americans With Disabilities Act (ADA).*

(1) Washington County adopts the 2010 Americans with Disabilities Act Standards for Accessible Design and the 2005 Guidelines for Accessible Public Rights. In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 (“ADA”), Washington County, Indiana will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

*Purchasing Practices and Policies*

(2) *Employment.* Washington County, Indiana does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

- 39.20 Designation of Purchasing Agency
- 39.21 Powers of the Purchasing Agency
- 39.22 Small purchase procedures
- 39.23 Preference for supplies manufactured in the United States
- 39.24 Purchase of services
- 39.25 County credit card issuance and use policy
- Appendix A: Rules, forms and policy concerning credit cards

(3) *Effective communication.* Washington County, Indiana will generally, upon request, provide appropriate aids and services leading to effective communication for Washington County's programs, services, and activities, including qualified sign language interpreters, people who have speech, hearing, or vision impairments.

(4) *Modifications to policies and procedures.* Washington County will make all reasonable modifications to policies and programs to

ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Washington County offices, even where pets are generally prohibited.

(5) Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program service, or activity of Washington County should contact Deputy Auditor Malea Fordyce at the Washington County Auditor's Office at 812-883-4805, as soon as possible but no later than 48 hours before the scheduled event.

(6) The ADA does not require Washington County to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

(7) Complaints that a program, service, or activity of Washington County is not accessible to persons with disabilities should be directed to Deputy Auditor Malea Fordyce at the Washington County Auditor's Office at 812-883-4805. Washington County will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

*(B) Grievance procedure under The Americans with Disabilities Act.*

(1) This grievance procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by Washington County. Washington County Personnel Policy governs employment-related complaints of disability discrimination.

(2) 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. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

(3) 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:

(4) Within 15 calendar days after receipt of the complaint, the Executive Director or his/her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the Executive Director or (his/her) designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of Washington County and offer options for substantive resolution of the complaint.

(5) If the response by the Executive Director or his/her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision with 15 calendar days after the receipt of the response to the Washington County Commissioners, 812-883-4805 or his/her designee.

(6) Within 15 calendar days after receipt of the appeal, the Washington County Commissioners or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Washington County Commissioners or his/her designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

(7) All written complaints received by the Executive Director or his/her designee, appeals to the

Washington County Commissioners, or his/her designee, and responses from these two offices will be retained by Washington County for at least three years.

(BCC Res. 2019-05, passed 9-17-2019)

**§ 39.02 EQUAL OPPORTUNITY POLICY.**

(A) It is the public policy of the county to support and encourage equal education and employment opportunities and equal access to and use of public accommodations, and equal opportunity for the acquisition of real property in accordance with the State Civil Rights Law (I.C. 22-9-1).

(B) The county designates the State Civil Rights Commission as the agency appropriated to implement the purposes and objectives of the State Civil Rights Law and to enforce the provisions thereof.

(BCC Ord. 92-03, passed 3-2-1992)

**Cross-reference:**

*Fair Housing, see Chapter 92*

**§ 39.03 FEES.**

The county shall charge fees for records searches and copying records in amounts, if any, as may be set from time to time by county ordinance or resolution. Copies of fees schedules shall be available for public inspection in the office of the County Clerk.

**§ 39.04 HEALTHCARE CO-PAYMENTS BY INMATES.**

(A) *Title.* This section, and all ordinances supplemental or amendatory hereto shall be known as healthcare co-payments by inmates of the County Detention Center.

(B) *Purpose.* The purpose of this section is to establish healthcare co-payments by inmates who are confined to the County Detention Center pursuant to the provisions of I.C. 11-12-5-5.

(C) *Authority.* This section is authorized by I.C. 11-12-5-5 which requires that the rules for the implementation of the healthcare co-payments by inmates of the County Detention Center be approved by the county legislative body.

(D) *Provisions.*

(1) There is hereby established a \$15 co-pay requirement for all county inmates, who do not have and maintain a policy of insurance covering the following:

- (a) Medical care;
- (b) Dental care;
- (c) Eye care; or
- (d) Any other health care related services.

(2) Further, this \$15 co-pay is not required of a person confined to a county jail if:

- (a) The person does not have funds in the person's commissary account or trust account at the time the service is provided;
- (b) The person does not have funds in the person's commissary account or trust account within 60 days after the service is provided;
- (c) The service is provided in an emergency;
- (d) The service is provided as a result of an injury received in the county jail; or
- (e) The service is provided at the request of the Sheriff or jail administrator.

(3) All monies collected pursuant to this division (D) shall be deposited into the Washington County Medical Care for Inmates Fund.

(E) *Deposit of funds.* Money collected under this co-payment provision must be deposited into the County Medical Care for Inmates Fund established and administered in the office of the County Auditor.

(F) *Administration.* Administration and application of this section and the health care co-payments provided herein shall be the responsibility of the County Sheriff.

(BCC Ord. 96-05, passed 3-4-1996; BCC Ord. 2003-07, passed 10-6-2003)

(C) *State law.* The State Criminal Law provides that the theft of any property is a Class D felony and that the destruction of property is also a criminal violation.

(D) *Scope.* The scope of this section is to include a reward to be granted by the county to any person or persons who will produce evidence to law enforcement officers of the county or the prosecutor's office of the county which information will lead to the arrest and conviction of that person or persons for the theft of property which belongs to the county or the destruction of property which belongs to the county.

(E) *Amount of reward.* The Board of Commissioners does now establish a reward of \$1,000 per incident to be granted to the person or persons who produce evidence to the law enforcement officers of the county or the prosecutor's office of the county which evidence leads to the arrest and conviction of any persons responsible for the theft of county property or the destruction of county property.

(F) *Restitution amount.* The Board of Commissioners by this section does request that the prosecuting attorney of the county pursue as part of any criminal penalty for such person convicted of the theft of county property or the destruction of county property a restitution figure adequate to cover the cost of materials and labor, but not to exceed a total of \$1,000, to be payable into the county General Fund. (BCC Ord. 96-11, passed 10-7-1996)

#### § 39.06 POOR RELIEF.

(A) If a township trustee denies poor relief to an applicant for assistance, that applicant may, within 15 days of the issuance of the trustee's written denial, appeal to the Board of County Commissioners.

(B) The County Commissioners shall, within ten days of receiving a notice of appeal, hold a hearing and make a decision pursuant to I.C. 12-20-15-6.

(C) The County Commissioners may hold the hearing themselves, or may appoint a qualified hearing officer who is a resident of the county.

(D) Pursuant to I.C. 12-20-15-3(b), the County Commissioners shall develop uniform written hearing procedures, which are available from the hearing officer or the County Auditor. An appeal hearing shall be governed by the township's poor relief standards for determining eligibility, provided that the standards are legally sufficient. Otherwise, the hearing shall be guided by the circumstances in each case.

### **PURCHASING PRACTICES AND POLICIES**

#### **§ 39.20 DESIGNATION OF PURCHASING AGENCY.**

The County Board of Commissioners is hereby designated as the Purchasing Agency for all boards, offices, commissions, councils, departments, or other establishments of the county. The County Board of Commissioners hereby designates the following Purchasing Agents:

(A) The County Highway Superintendent is hereby designated as the Purchasing Agent for the County Highway Department;

(B) The County Auditor is hereby designated as the Purchasing Agent for the County Court House and Court House Annex;

(C) The Sheriff of the county is hereby designated as the Purchasing Agent for the County Detention Center;

(D) All elected officers and elected office holders are hereby designated as the Purchasing Agent for the office held;

(E) The County Prosecutor is hereby designated as the Purchasing Agent for the County Prosecutor's Office;

(F) The County Probation Officer is hereby-designated as the Purchasing Agent for the County Probation Office;

(G) The County Circuit Court Judge is hereby designated as the Purchasing Agent for the County Circuit Court;

(H) The County Superior Court Judge is hereby designated as the Purchasing Agent for the County Superior Court;

(I) The Emergency Management Officer is hereby designated as the Purchasing Agent for the Emergency Management Office;

(J) The Veteran's Officer is hereby designated as the Purchasing Agent for the Veteran's Office; and

(K) The Building Commissioner is hereby designated as the Purchasing Agent for the Building Commissioner's Office.  
(BCC Ord. 98-04, passed 8-3-1998)

#### **§ 39.21 POWERS OF THE PURCHASING AGENCY.**

The Purchasing Agency designated in § 39.20 shall:

(A) Assume the duties, powers and responsibilities assigned to purchasing agencies under the Act;

(B) Establish procedures, not inconsistent with the Act or this subchapter, for obtaining supplies or services in a manner which will obtain the greatest economic value for the county;

(C) Prepare specifications and notice to bidders and ascertain that required notices are published where bidding and publication of notices are required by law;

(D) Designate in writing a Purchasing Agent to carry out the purposes of this subchapter. The Purchasing Agent shall act as the agent for the Purchasing Agency in the administration of the duties of the Purchasing Agency under the Act. The Purchasing Agent may not make purchases except as provided in § 39.22(C); and

(E) Designate in writing the "Limited Purchasing Agents" as the Purchasing Agency deems appropriate and define in writing the limitations of their authority consistent with § 39.21(D).  
(BCC Ord. 98-04, passed 8-3-1998)

#### **§ 39.22 SMALL PURCHASE PROCEDURES.**

(A) A "small purchase" is a purchase of supplies with an estimated cost of less than \$25,000.

(B) The Purchasing Agency may make a small purchase on the open market without inviting or receiving quotes or bids.

(C) A Purchasing Agent is authorized to purchase supplies with an estimated cost of less than \$25,000 on the open market without inviting or recovering quotes or bids.  
(BCC Ord. 98-04, passed 8-3-1998)

#### **§ 39.23 PREFERENCE FOR SUPPLIES MANUFACTURED IN THE UNITED STATES.**

Supplies manufactured in the United States shall be specified for all purchases by the Purchasing Agency and shall be purchased unless the Purchasing Agency determines in writing that:

(A) The supplies are not manufactured in the United States in reasonably available quantities;

(B) The price of supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

(C) The quality of the supplies manufactured in the United States is substantially less than quality of comparably priced available supplies manufactured elsewhere; or

(D) The purchase of supplies manufactured in the United States is not in the public interest.  
(BCC Ord. 98-04, passed 8-3-1998)

***DIRECT LINE OF SUPERVISION.*** 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 term does not include the responsibilities of the County Council or Board of County Commissioners to make decisions regarding salary ordinances, budgets or personnel policies of the county.

***RELATIVE.***

- (a) Any of the following:
  - 1. Spouse;
  - 2. Parent or step parent;
  - 3. A child or step child;
  - 4. Brother, sister, step brother or step sister;
  - 5. A niece or nephew;
  - 6. An aunt or uncle; or
  - 7. A daughter-in-law or son-in-law.

(b) An adopted child of an individual is treated as a natural child of the individual. The terms "brother" and "sister" shall include half-brothers and half-sisters (individuals sharing a common parent).

***(B) Nepotism prohibited.***

(1) Individuals who are relatives shall not be employed by the county in a position that results in one relative being in the direct line of supervision of the other relative.

(2) An individual shall not be promoted to a position if the new position would cause their relative to be in the direct line of supervision of that individual.

***(C) Exceptions to prohibition against nepotism.***

(1) This section 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 service a term of an elected office of the county.

(2) This section does not apply to individuals who are employed by the county on the date the individual's relative begins serving a term of an elected office in the county and the individual is in the direct line of supervision of the newly elected official.

(3) This section does not apply to a spouse of the County Sheriff employed by the county as prison matron for the county under I.C. § 36-8-10-5.

(4) This section does not apply to an individual who served as County Coroner, is currently ineligible to serve due to term limits under Article 6 Section 2(b) of the Constitution of the State of Indiana, has receive certification under I.C. § 36-2-14-22.3, and whose successor in the office of County Coroner is a relative.

***(D) Impact.*** An individual who is employed by the county on July 1, 2012, is not subject to this section unless the individual has a break in employment with the county. The following are not considered a break in employment with the county:

(1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.

(2) The individual's employment with the unit is terminated following by immediate reemployment by the unit, without loss of payroll time.

(E) *Certification by elected officers of the county.* Each elected officer of the county shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this section. An elected officer shall submit the certification to the Board of County Commissioners not later than December 31 of each year.  
(BCC Res. 2012-06, passed 6-19-2012)

### § 39.09 MULTI-HAZARD MITIGATION PLAN.

(A) The County Commissioners hereby adopt the Washington County Multi-Hazard Mitigation Plan as an official plan.

(B) The County Emergency Management Agency will submit on behalf of the participating municipalities the adopted Multi-Hazard Mitigation Plan to the Indiana Department of Homeland Security and the Federal Emergency Management Agency for final review and approval.  
(BCC Ord. 2013-06, passed 5-21-2013)

### § 39.10 CONFLICT OF INTEREST POLICY.

(A) The dollar value of \$100 below which any financial interest or value of any gratuity is not substantial and may be accepted per this Policy.

(B) The Board of Commissioners establishes and adopts the Conflict of Interest Policy, which is attached to Ordinance 2017-07 and incorporated by reference as if fully set forth herein.

(C) This Policy shall be effective upon signing by the Board of Commissioners.  
(BCC Ord. 2017-07, passed 8-1-2017)

### § 39.11 CAPITAL ASSET POLICY.

(A) *Purpose and definition.*

(1) *Purpose of a capital asset policy.* The purpose of establishing a capital asset policy is to:

(a) Safeguard the investments of the taxpayers of Washington County;

(b) Comply with the standards of the Government Accounts Standards Board Statement 34;

(c) Fix responsibility for the custody of the assets;

(d) Maintain accurate records of all fixed assets that are capitalized, including infrastructure;

(e) Provide data for financial reporting for increased accuracy and clarity; and

(f) Demonstrate appropriate stewardship responsibility for public assets.

(2) Definition of **CAPITAL ASSETS**.

(a) **CAPITAL ASSETS** are defined as assets having a useful life of more than one year and an acquisition cost of \$500 or more. **CAPITAL ASSETS** include land, land improvements, buildings, building improvements, machinery and equipment, vehicles, construction work in progress, works of art, historical treasures, and infrastructure, the latter of which are long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly great number of years than most capital assets.

(b) All items with a useful life of more than one year and a cost of \$500 or more shall be capitalized, including acquisitions by lease-purchase agreements and donated items. All land will be capitalized but not depreciated. Construction work in progress will be included in the capital asset inventory

and will be depreciated once the project is complete and transferred to the appropriate county department. Items costing less than \$500 that are permanently installed as part of the cost of the original construction or installation of a larger building or equipment unit, or that prolong a fixed asset's economic life or expand its usefulness, will be included in the cost of the larger unit.

(c) All capital assets meeting the criteria will be included in the county's fixed asset inventory and reporting in the county's financial statements. Assets that are not capitalized are expensed in the year of acquisition. Departments must maintain an inventory of capital assets under their supervision.

(B) *Capitalization threshold and inventory.*

(1) *Capitalization threshold.*

(a) To be considered a fixed asset for financial reporting purposes, an item must be at or above the capitalization threshold and have a cost greater than \$500. The cost of the asset will include all expenses necessary to make the asset fully operational. Assets acquired through lease purchase agreements that meet these specifications are to be capitalized. This cost will be determined as the present value or discounted value of the future stream of lease payments, not the total lease.

(b) Capital assets are recorded at historical cost. Normally the cost recorded is the purchase price or construction cost of the asset but may also include any other reasonable and necessary costs incurred to place the asset in its intended location and intended use, including:

1. Legal and title fees and closing costs;
2. Appraisal and negotiation fees, surveying costs;
3. Land preparation costs, demolition costs;

4. Architect, engineering and accounting fees; and

5. Transportation charges.

(c) Donated or contributed assets should be recorded at the fair market value on the date donated. If no cost is available for a fixed asset, a replacement cost or a historic cost index may be used. Items that do not meet the definition of capital assets are to be expensed in the year the asset is acquired.

(2) *Capital assets valuation.* Capital assets are defined by the following categories:

(a) *Land.* Land is defined as specified land, lots, parcels or acreage including right-of way owned by Washington County.

(b) *Buildings and improvements.* All structures designed and erected to house equipment, services, or functions are included. This includes systems and fixtures within the buildings and attachments such as stairs, fire escapes, canopies, lighting fixtures, flagpoles, and other items that serve the building. Plumbing systems, lighting systems, heating, cooling, ventilating and air handling systems, sound systems, surveillance systems, elevators, built-in casework, walk-in coolers and freezers, fixed shelving, and other fixed equipment are included as building components.

(c) *Equipment.* Equipment includes all other types of physical property, such as mechanical equipment, heavy equipment, office furniture, appliances, furnishings, machinery items, maintenance equipment, communication equipment, laboratory equipment, and data processing equipment. Supplies that typically get used within one year are not included.

(d) *Vehicles.* Motor vehicles include all vehicles for which title and license must be obtained including cars, trucks, buses, road-going trailers, dump trucks, and highway trucks. Vehicle accessories will be identified as a component asset of the vehicle to which they are attached.

(e) *Infrastructure.* Infrastructure assets are long-lived capital assets that normally can be preserved for a significantly greater number of years than most capital and that are normally stationary in nature. Examples include roads, bridges, storm water and drainage systems.

(C) *Responsibilities for inventory and reporting of capital assets.*

(1) *Responsibilities of county departments.*

(a) Department heads are the stewards for each piece of property utilized by their department. The steward will be the focal point for questions for availability, condition, and usage of the asset.

(b) The steward shall be designated as the person to record the receipt of the asset, to examine the asset to make sure no damage was incurred during shipment, and to make sure the asset was received in working order. The steward is also responsible for arranging the necessary preventative maintenance and any needed repairs to keep the asset in working condition. The steward also ensures that the asset is used for the purpose for which it was acquired and that there is no personal or unauthorized use. The steward is responsible for reporting any loss, theft, or damage to the assets.

(c) Departments are to maintain inventories of all capital assets, including:

1. Those that are capitalized and reported on the county's capital asset inventory; and

2. Controllable assets with an acquisition cost of \$499.99 or less and which are tracked and inventoried.

(d) Department heads are to report newly acquired assets, retired assets, transferred assets, and assets in use that previously were not included in the county's asset inventory to the Washington County Auditor's Office. Department heads are required to use the Auditor's Office's

prescribed forms and to meet with the Auditor's Office, or its designee, if necessary for the proper preparation of the capital asset reports. Department heads must abide by all Auditor Office deadlines for the reporting. Typically, asset reporting is to be completed by the first Friday of the first full week in January each year.

(e) Assets below capitalization threshold but considered sensitive may include, but are not limited to, weapons, radios, computers, chain saws, small motor equipment and power tools. These minor but sensitive items shall be inventoried and controlled at the department level by the head of the operating department. Stated inventory shall be conducted annually. The County Auditor's office is to receive a copy of the inventory and/or updated inventories for minor but sensitive items.

(f) Department heads are responsible for ensuring that the acquisitions of capital assets follow all policies, statutes, and regulations, including proper advertising, use of proper budgetary codes and accounting forms, and all required appropriation approvals.

(g) The Washington County Commissioners and the Auditor's Office may conduct spot checks of the asset inventory and condition on a random, unannounced basis.

(2) *Responsibilities of the County Auditor's Office.* The Washington County Auditor's Office is responsible for ensuring that accounting for capital assets is being exercised by establishing a capital asset inventory that is updated annually for additions, retirements, transfers, and items retroactively added. The Auditor's Office is responsible for securing a fixed asset advisor for the county, if deemed necessary, and for the financial reporting of the capital assets, including depreciation expense and assets included in the inventory but not depreciated.

(D) *Depreciation methods.* Washington County will depreciate capital assets by using the straight-line method. Salvage value will be determined on an asset-by-asset basis. Assets will be depreciated based on the estimated useful life of each asset. The

following are the estimated useful lives for each asset class:

- (1) Buildings - 50 years;
- (2) Infrastructure being depreciated - 50 years;
- (3) Building components and improvements - 20 to 50 years;
- (4) Machinery and equipment - Five to 15 years; and
- (5) Vehicles - Five to ten years  
(BCC Ord. 2023-09, Passed 11-21-2023)

**§ 39.12 ADOPTION OF THE BUILD-OPERATE-TRANSFER STATUTE.**

The Washington County Board of Commissioners, as the legislative body within Washington County, hereby adopt by ordinance, the terms of I.C. 5-23 authorizing the governing bodies of Washington County to enter into Build-Operate-Transfer agreements upon the terms provided herein.  
(BCC Ord. 2023-01, passed 3-7-2023)

**§ 39.13 PROTECTION OF SECOND AMENDMENT RIGHTS.**

(A) The Board of Commissioners declare Washington County, State of Indiana, to be a defender of Second Amendment Rights.

(B) The Board of Commissioners support and intend to protect the rights granted to Washington County residents under the Second Amendment of the United States Constitution and Article I, Section 32 of the Indiana Constitution.

(C) The Board of Commissioners expresses the intention to oppose and prevent the expenditure of Washington County public funds for purposes serving

to promote the unconstitutional infringement upon each Washington County citizens' right to keep and bear arms.  
(BCC Res. 2020-03, passed 3-17-2020)

***PURCHASING PRACTICES AND POLICIES***

**§ 39.20 DESIGNATION OF PURCHASING AGENCY.**

The County Board of Commissioners is hereby designated as the Purchasing Agency for all boards, offices, commissions, councils, departments, or other establishments of the county. The County Board of Commissioners hereby designates the following Purchasing Agents:

(A) The County Highway Superintendent is hereby designated as the Purchasing Agent for the County Highway Department;

(B) The County Auditor is hereby designated as the Purchasing Agent for the County Court House and Court House Annex;

(C) The Sheriff of the county is hereby designated as the Purchasing Agent for the County Detention Center;

(D) All elected officers and elected office holders are hereby designated as the Purchasing Agent for the office held;

(E) The County Prosecutor is hereby designated as the Purchasing Agent for the County Prosecutor's Office;

(F) The County Probation Officer is hereby-designated as the Purchasing Agent for the County Probation Office;

(G) The County Circuit Court Judge is hereby designated as the Purchasing Agent for the County Circuit Court;

(H) The County Superior Court Judge is hereby designated as the Purchasing Agent for the County Superior Court;

(I) The Emergency Management Officer is hereby designated as the Purchasing Agent for the Emergency Management Office;

(J) The Veteran's Officer is hereby designated as the Purchasing Agent for the Veteran's Office; and

(K) The Building Commissioner is hereby designated as the Purchasing Agent for the Building Commissioner's Office.  
(BCC Ord. 98-04, passed 8-3-1998)

#### **§ 39.21 POWERS OF THE PURCHASING AGENCY.**

The Purchasing Agency designated in § 39.20 shall:

(A) Assume the duties, powers and responsibilities assigned to purchasing agencies under the Act;

(B) Establish procedures, not inconsistent with the Act or this subchapter, for obtaining supplies or services in a manner which will obtain the greatest economic value for the county;

(C) Prepare specifications and notice to bidders and ascertain that required notices are published where bidding and publication of notices are required by law;

(D) Designate in writing a Purchasing Agent to carry out the purposes of this subchapter. The Purchasing Agent shall act as the agent for the Purchasing Agency in the administration of the duties of the Purchasing Agency under the Act. The Purchasing Agent may not make purchases except as provided in § 39.22(C); and

(E) Designate in writing the "Limited Purchasing Agents" as the Purchasing Agency deems

appropriate and define in writing the limitations of their authority consistent with § 39.21(D).  
(BCC Ord. 98-04, passed 8-3-1998)

#### **§ 39.22 SMALL PURCHASE PROCEDURES.**

(A) A "small purchase" is a purchase of supplies with an estimated cost of less than \$25,000.

(B) The Purchasing Agency may make a small purchase on the open market without inviting or receiving quotes or bids.

(C) A Purchasing Agent is authorized to purchase supplies with an estimated cost of less than \$25,000 on the open market without inviting or recovering quotes or bids.  
(BCC Ord. 98-04, passed 8-3-1998)

#### **§ 39.23 PREFERENCE FOR SUPPLIES MANUFACTURED IN THE UNITED STATES.**

Supplies manufactured in the United States shall be specified for all purchases by the Purchasing Agency and shall be purchased unless the Purchasing Agency determines in writing that:

(A) The supplies are not manufactured in the United States in reasonably available quantities;

(B) The price of supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

(C) The quality of the supplies manufactured in the United States is substantially less than quality of comparably priced available supplies manufactured elsewhere; or

(D) The purchase of supplies manufactured in the United States is not in the public interest.  
(BCC Ord. 98-04, passed 8-3-1998)

**§ 39.24 PURCHASE OF SERVICES.**

As used in this section, the term *SERVICES* means the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance, including, but not limited to, legal, medical, architectural, accounting, engineering, appraisal and insurance services. The Purchasing Agency may purchase services in whatever manner the Purchasing Agency determines to be reasonable and appropriate. (BCC Ord. 98-04, passed 8-3-1998)

**§ 39.25 COUNTY CREDIT CARD ISSUANCE AND USE POLICY.**

(A) *Oversight of credit card use issued to Washington County generally.* The Washington County Auditor is responsible for issuing, accounting for, monitoring, and generally overseeing compliance with this policy. All credit card applications must be approved and issued by the Auditor. The Auditor may be asked to provide a list of credit card users, account limits, etc. to the Board of Finance at their annual meeting.

(B) *Requests for credit cards.* Request for credit cards by county employees, including elected office holders, must be submitted in writing to the Auditor. The request must identify the person to whom the credit card will be issued and include a proposed monthly total credit limit.

(C) *Review of credit card applications.* Upon receiving a request for a credit card from an employee, the Auditor shall present the request to the Commissioners for review. The Commissioners shall approve or deny each credit card request.

(D) *Persons authorized to use credit cards.* A card issued to an employee is to be used by that employee only. The Auditor or the Commissioners may, at any time and without notice to the employee and with or without cause, cancel the credit card.

(E) *Record keeping.* The Auditor shall maintain a list of all credit cards issued to elected county officials. Each county official shall maintain a list of the employee(s) who the credit card is used by. Each official and/or employee shall sign a form acknowledging receipt of the credit card, and that the employee has received, read and understands this policy.

(F) *Authorized uses.* County credit cards are the property of Washington County, and may be used only for the purchase of goods or services for the official business of the county. Personal use of county credit cards is expressly prohibited, even if the employee later reimburses the county for purchases made for personal use.

(G) *Identification as government employees.* Employees who use a credit card have a duty to present themselves as government employees to the point of purchase and present sales tax exemption from ST-105 to ensure that the county is not charged state sales tax.

(H) *Documentation of purchases.* County employees who use a credit card shall submit the vendor's itemized receipt to the Auditor, and a claim voucher signed by the employee's department head indicating that the purchase should be approved for payment, the nature of the official business that required the transaction, the credit card number, and the budget line item to which the transaction is to be charged. The credit card cannot be used to bypass the county's accounting system.

(I) *Review of credit card statements.* The Auditor's office shall review each credit card statement and all documentation submitted by county employees to ensure that transactions comply with this policy. Any transactions that are not documented with an itemized credit card original receipt and a signed claim voucher shall be immediately investigated. Transactions that do not appear to comply with this policy shall be reported to the Commissioners.

(J) *Approval for payment.* The Commissioners shall not approve a payment to the entity issuing the credit card until all transactions have been verified.

back bonus or discounts for personal use or de minimis fringe benefits and/or gifts.  
(BCC Ord. 2020-03, passed 2-18-2020)

(K) *Payment of credit cards.* Each month, the balance due on the credit cards for all verified transactions shall be paid in full when due to avoid the assessment of interest and late charges.

(L) *Lost or stolen credit cards.* An employee who is issued a credit card is responsible for its protection and custody. If a credit card is lost or stolen, the official or employee shall notify the Auditor immediately, (see Appendix A § 1(E)(6)) The Auditor shall contact the entity (PNC Bank) issuing the lost or stolen credit card immediately and request it be canceled.

(M) *Return of credit card upon termination of employment.* An employee issued a credit card shall return the credit card to the Auditor upon termination of his or her employment or service with the county.

(N) *Responsibility for credit card misuse.* County employees shall have personal liability for the payment of transactions that do not comply with this policy.

(O) *Credit card issued to the Washington County Sheriffs Department.* The Washington County Sheriff and Washington County Auditor shall be responsible for the issuing accounting, for monitoring, and generally overseeing compliance with this policy. A credit card application by the Washington County Sheriff/Sheriffs Department must be approved and co-signed with the Washington County Sheriff. The same requirements shall apply as set forth above for any deputies utilizing the credit card issued to the Washington County Sheriff/Sheriffs Department.

(P) *Rewards points and/or card use benefits.* Any reward points, benefits, cash back bonus or discounts, if applicable, shall be utilized solely for the purchase of goods or services for official Washington County business. No elected official, employee or deputy, shall utilize the reward points, benefits, cash

**APPENDIX A: RULES, FORMS AND POLICY CONCERNING CREDIT CARDS**

## Section

1. Rules of credit card use
2. Credit card acknowledgment form
3. Washington County Auditor's credit card processing policy

**§ 1 RULES OF CREDIT CARD USE.****COUNTY CREDIT CARDS PURPOSE**

The purpose of this policy is to provide user information to those employees who have been approved by the Washington County Board of Commissioners to do business for Washington County using a credit card issued in the county's name. The use of credit cards for county financial transactions is limited and carefully controlled. While the use of credit cards is an accepted practice and, in some cases, the only permitted practice, their use is allowed only for specific purposes and situations to transact Washington County business.

**AUTHORITY TO ESTABLISH**

Washington County Commissioners may authorize the use of a credit card by any county employee, elected official or department head otherwise authorized to make a purchase on behalf of the county. If a county officer or employee makes a purchase by credit card that is not approved by the County Commissioners, the employee, elected official or department head is personally liable for, the amount of the purchase. A purchase by credit card must otherwise comply with all statutes, rules or county policy applicable to county purchases.

**SCOPE**

It is the policy of Washington County to allow the use of a credit card by departments and commissioners for certain expenses as outlined below. Department Heads are responsible for all cards issued to their department and use of those cards by their employees. Personal use is prohibited, must be reimbursed immediately and will be subject to discipline. Each department wishing to obtain a credit card will complete a credit card user agreement form. This form will then be kept on record in the Auditor's office.

**AUTHORIZATION**

When a Department Head is interested in obtaining a credit card for use within his/her department, a credit card agreement form should be completed and returned to the Auditor's office. The request will then be forwarded to the Commissioner's office to receive approval from the County Board of Commissioner's. Once approved, the department will be notified. The original request will be on file in the Auditor's office.

- A. Commissioner approval is necessary for a Department Head to obtain a credit card.
- B. A card issued to an employee is to be used by that employee only.
- C. Department Head may, at any time and without notice to the employee, cancel credit card use authorization for any of their employees through the Auditor's office.

- D. The County Auditor shall review credit card use randomly.
- E. If it is determined that the credit card privileges are not used in the best interest of Washington County, Indiana, the Board of Commissioners may discontinue credit card privileges.
- F. When applying for a credit card, the County Auditor will complete and sign the application for credit, after the request is approved.

## CONTROLS

- 1. The County Board of Commissioners will approve or deny each credit card request.
- 2. A credit limit of \$3,000 is the maximum allowed per department per billing cycle. [Exceptions for higher credit limits to: Sheriff's Dept., Desi-EM, Auditor, Highway Dept, and County Park & Rec. Dept.]
  - a. Approval must be sought from the County Commissioners to request a larger credit limit prior to purchase of any item that will place the card over its limit.
- 3. All existing purchasing policies apply to purchases made on credit card.
- 4. All original receipts must be obtained by the person(s) using the card and presented to their Department Head for reconciliation of the billing.
- 5. It will be the responsibility of the Department Head to notify the Auditor's office immediately if card is lost or stolen.
- 6. A copy of the original credit card user agreement will be kept in the employee's payroll file in the Auditor's office. With the original user agreement retained in the Auditor's credit card file.

## ELIGIBLE USES OF THE CREDIT CARD

- 1. The credit card may be used for:
  - a. Guaranteeing rooms for conferences and or meeting attendance.
  - b. Conference registration fees.
  - c. Purchasing lodging and meal expenses (**GRATUITY/TIPS EXCLUDED AND IS THE PERSONAL RESPONSIBILITY OF THE CREDIT CARD USER**) during overnight stays while attending authorized meeting or training sessions.
  - d. Purchasing supplies and or materials when purchase of the items by credit card is more time and cost efficient if purchased by a county warrant.
  - e. Purchasing gasoline only when using a county vehicle. Gasoline credit cards are used only when there is not access to county facilities and only to purchase self-service gasoline or minor maintenance items such as oil and wiper blades. Other fuel reimbursements will be done through mileage claim voucher to Auditor.

The cardholder will present the credit card at the time of purchase. As a governmental agency, Washington County is exempt from sales tax and the cardholder must take appropriate measures to ensure that the County is not charged tax on purchase. Tax exemption forms ST-105 are available from the Auditor. Form St-105 are presented to merchants and should be noted prior to completing the sale to insure that no taxes are charged.

The cardholder may also place an order over the telephone or internet. When a telephone or internet order is placed, the cardholder should print a copy of both the order confirmation and the invoice receipt showing prices and shipping charges.

### SHIPPING AND RECEIVING

The cardholder must provide the vendor/supplier with the appropriate shipping information. All goods must be shipped to an official County business address.

Incorrect Shipments or Returns: If a shipment is incorrect, the cardholder should promptly contact the vendor/supplier to arrange for a return, exchange or credit. If the vendor/supplier agrees to issue a credit, it should be noted on the cardholder's Monthly Credit Card Statement and a copy of any credit memo should be kept and filed with the Monthly Credit Card Statement. The cardholder should verify that the credit is properly reflected on the next monthly statement.

### INELIGIBLE USES OF THE CREDIT CARD/CARD BENEFITS

1. The credit card may not be used for:
  - a. Personal purchases. Absolutely no personal use of the card is allowed.
  - b. NO Gratuities OR Tips.
  - c. Alcoholic beverages OR Tobacco products.
  - d. Gasoline for personal vehicle. *Purchasing gasoline only when using a county vehicle. Gasoline credit cards are used only when there is not access to county facilities and only to purchase self-service gasoline or minor maintenance items such as oil and wiper blades.*  
*\*Other fuel reimbursements will be done through mileage claim voucher to Auditor, I.C. 5-11-14-1 Sec. 1(b)(g)*
  - e. Back ordered items.
  - f. Cash advances.
2. Any non-allowable expenses charged on a credit card will be the responsibility of the employee making the purchase and the department head. It is the Department Head's responsibility to ensure that only reimbursable expenses are charged on a card.
3. Any cash back bonus, rewards points redemption, etc. must be used for official county use and shall not be utilized for personal use, personal benefit or gifts to employees, that may be considered de minimis benefits to the Internal Revenue Service.

### MONTHLY RECONCILIATION

1. It is the personal responsibility of each Department Head to submit the proper receipts along with the claim voucher request form to the Auditor's office in a timely manner (within 5 business days of receipt of bill) for the purpose of paying the bill and to avoid service charges.
2. **All original receipts must be attached. Receipts handed in must be provided with the following: date, name of establishment, itemized detail of items bought.**  
*\*Without itemized detail documentation employee is responsible for payment, by virtue of the State Board of Accounts. I.C. 5-11-10-1.6(c)*

**Washington County - Administration**

3. No fees or interest charged by a card company because of late payments due to untimely submission of record to the Auditor's office will be paid from county funds.
    - a. The Department Head will be personally responsible for those fees if they appear on the billing for their department.
  
  4. When using a credit card for meals, the Meal Reimbursement Policy must be followed.
    - a. If the meal purchased above the daily meal allowance, the employee must include a personal funds/check to cover the difference with the claims voucher and receipts.
    - b. No alcoholic beverages or tobacco products. [The county will not pay for alcoholic beverages. This expense will be covered by the employee personally.]
    - c. NO Gratuity or Tips shall not be paid for with the credit card.
- (BCC Ord. 2020-03, passed 2-18-2020)

§ 2. CREDIT CARD ACKNOWLEDGMENT FORM.

CREDIT CARD ACKNOWLEDGMENT FORM

Washington County Ordinance 2020-03, the County's policy governing the issuance and use of county credit cards. I understand that I should consult with the County Auditor or the Board of Commissioners with any questions I may have with, regard to my use of a county credit card.

The policy may be changed from time to time. All changes will be communicated in writing by the County Auditor or the Commissioners.

I acknowledge that I have received a copy of the Ordinance governing the use of the county credit card issued in my name, and I understand that it is my responsibility to read, understand, and strictly comply with the Policy set forth therein and any subsequent changes.

\_\_\_\_\_  
Employee's/Official's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Name (Printed) and Title/Department

\_\_\_\_\_  
Credit Card Number

\_\_\_\_\_  
Date Issued                      By:

\_\_\_\_\_  
Approved by Commissioner

\_\_\_\_\_  
Date approved

\_\_\_\_\_  
Auditor, Washington County

\_\_\_\_\_  
Dated:

(BCC Ord. 2020-03, passed 2-18-2020)

### § 3 WASHINGTON COUNTY AUDITORS' CREDIT CARD PROCESSING POLICY.

#### Department Credit Cards:

The Washington County Board of Commissioners have developed the following policy for the users of county issued credit cards.

Credit cards will be issued to each department in county government that wish to take part in the policy. The elected official /department head will be required to manage and account for the use of the credit card assigned to his or her department. This policy will reduce the number of accounting and management problems inherent in a single credit card policy. Elected officials and department heads will need to follow the following procedures and policies.

1. **Budget** - The credit card shall only be used to purchase those items and services contained in the approved budget of the department as approved by the Washington County Council and accounted for in a specific line item of the budget.
  - o Conference/Meeting/Training purposes - Registrations.
  - o Hotel - for conference/meetings; over 50 miles from county seat. I.C. 5-11-14-1.
  - o Meals - \$30.00 per day. See County Personnel Policy, page 73-74.
  - o Mileage/Travel - At the rate set by Indiana State Dept, of Administration.  
<http://www.in.gov/idoa>
  - o Office Supplies (i.e. paper, pens, tape, etc.)
  - o Other:
2. **Original Receipts** - Original receipts or supporting documentation **MUST** be attached to the county claim form signed by the elected official or the department head before processing the claim form is submitted to the County Auditor for payment processing. **NO EXCEPTIONS!** Claims must be submitted in a timely manner to the County Auditor upon use or purchase(s) with the county credit card. I.C. 5-11-10-1.6 per State Board of Accounts.
3. **Line Item Number** - On each of the receipts identify the line number to be used in paying for the item or service.
4. **Payments** - Immediately submit county claim form to Accounts Payable of the Auditor's Office. All itemized invoices and claims are to be submitted on or before the 15th day of the month to the Auditor. If an elected official or department head has caused a late fee/penalty and interest is to be accessed these added fees will be charged to the elected official/department head budget. If further occurrences/incidents continue, the County Commissioners will decline use of that departments credit card activities, until further notice.
5. **Staff Use** - Staff members in the various departments may use the card for those items and services approved by the elected official /department head. Any unauthorized use will result in appropriate disciplinary action being taken. All credit card users must be on file with the County Auditor. Staff changes may be made at any time by reporting changes to the County Auditor.
6. **Revoking Credit Card** - It is recognized that credit cards are almost a necessity in today's society. However, the County Commissioners' approval of the use of a credit card should be considered a convenience and if the use of a card is abused by an elected official, a department head or staff member

the County Commissioners may revoke the use of the credit card. All issued credit cards are the property of Washington County and upon termination of employment, regardless of the reason for leaving employment with Washington County government, the credit card shall be returned immediately to the Washington County Auditor. In the case of an Elected Official leaving employment the credit card shall be returned to the Washington County Auditor.

7. **Maximum limit** set on each credit card will be up to \$3,000, unless otherwise authorized by the Board of Commissioners of Washington County.

(BCC Ord. 2020-03, passed 2-18-2020)



## CHAPTER 40: CODE ENFORCEMENT

### Section

- 40.01 Enforcement policy
- 40.02 Enforcement responsibility of County Sheriff; other enforcement officers
- 40.03 Procedure for issuance of citation; service in person
- 40.04 Issuance and service of citation by mail
- 40.05 Notice to appear; refusal to sign; security for release
- 40.06 Conditional citation
- 40.07 Warning instead of official citation
- 40.08 Statute of limitations on issuance of citation
- 40.09 Form of citation and summons
- 40.10 Administrative procedure on issuance of citation
- 40.11 Procedure for fixing requested fine
- 40.12 Compromise and settlement of complaint without trial
- 40.13 Filing and prosecution of violation complaint
- 40.14 Appearance for defendant and for the county
- 40.15 Payment of fines, other costs and prosecutor's fee
- 40.16 Records of conviction or compromise
- 40.17 Further or collateral actions
- 40.18 Allocation and deposit of receipted fines, fees and costs
- 40.19 Other rules and procedures

### § 40.01 ENFORCEMENT POLICY.

(A) Whenever any provision of this code requires or mandates any person to perform some act or to bring about or maintain some circumstance or state of affairs; or prohibits, restrains, or regulates the behavior of any person or the commission of any act

or the bringing about or maintaining of any circumstance or state of affairs on the part of any person; and a penalty of fine or some other procedure to compel compliance with the provision is prescribed in this code, then the provision shall be considered an enforcement provision.

(B) Unless some different procedure is expressly set forth and prescribed by the particular article, chapter, or section of this code containing the enforcement provision, the enforcement of any such provision shall be administered in accordance with the provisions of this chapter.  
(1985 Code, § 1-3-1)

### § 40.02 ENFORCEMENT RESPONSIBILITY OF COUNTY SHERIFF; OTHER ENFORCEMENT OFFICERS.

(A) Unless some other official, board, commission, or similar entity is expressly designated as the primary enforcement officer or authority responsible for the administration and enforcement of a particular enforcement provision, it is the duty of the Sheriff, acting himself or herself or through the county police, to take all steps necessary for the effective enforcement and bringing about of compliance with all enforcement provisions. Whenever the Sheriff, based upon his or her own vigilance or upon the information or complaint of any other official or any citizen, has probable cause to believe that a violation or failure to comply with any enforcement provision has occurred or is occurring, he or she shall with due diligence investigate the matter, ascertain the facts, and collect the testimony, information, or other evidence as in his or her judgment may be necessary to support the facts. If,

incident upon the investigation, the Sheriff determines with a degree of certainty sustained by a preponderance of the evidence that some known person has violated or failed to comply with, or is violating or failing to comply with, any enforcement provision, he or she shall issue and serve upon the alleged offender, in person or by mail if so provided, a citation for the violation comprising a complaint and summons to appear and answer to the charge of the violation as hereafter prescribed in this chapter; or else he or she shall initiate or cause to be initiated other enforcement procedures as may alternatively be prescribed in the event of a violation of the particular enforcement provision.

(1985 Code, § 1-3-2)

(B) Whenever in this code any official, board, commission, or similar entity is given responsibility instead of or concurrent with that of the Sheriff for the administration and enforcement of any enforcement provision, he or she or they shall perform the same duties and functions with respect to the enforcement of the provision as are prescribed for the Sheriff under division (A) of this section, and the term "enforcement officer" shall mean and include other officials, boards, commissions, or similar entities or their properly authorized agents.

(1985 Code, § 1-3-3)

#### **§ 40.03 PROCEDURE FOR ISSUANCE OF CITATION; SERVICE IN PERSON.**

(A) Whenever an enforcement officer issues a citation for violation of any enforcement provision, the enforcement officer may, pursuant to I.C. 34-28-5-3, detain the person for a sufficient time to:

(1) Inform the person of the allegation;

(2) Obtain the person's name, address, and date of birth, or driver's license if in his or her possession, for purposes of identification;

(3) Allow the person to execute a notice to appear in court to answer the charges of the violation, except as provided in § 40.06 of this chapter.

(B) If the person being charged refuses to provide the information or driver's license as required by division (A)(2) above, the enforcement officer shall inform the person that the refusal constitutes a violation of state law and commits a Class C misdemeanor pursuant to I.C. 34-28-5-3, and may subject the person to arrest and further penalties as may be provided for the offense. If the person continues to refuse to provide the information or driver's license, the enforcement officer, if a duly constituted police officer, may immediately arrest the person on a charge of having committed a Class C misdemeanor; if the enforcement officer is not a duly constituted police officer authorized to exercise power of arrest, he or she shall continue to detain the person for a period of time as is reasonably necessary to summon the duly constituted police officer, who shall arrest the person on a charge of having committed a Class C misdemeanor.

(C) If the person being charged with a violation is a corporation, partnership, company, or other organization, other than a natural person, the enforcement officer shall serve the citation upon the resident agent for a service of process, a director, principal, or principal officer of the corporation, company or other organization having the power and authority under the organizing documents, charter, or rules of the corporation, company or other organization to accept process and execute a notice to appear on behalf of the organization.

(D) If the offense charged is one arising out of the condition or use of any real or personal property for which the person owning or holding the property is made liable, and the property is owned or held by more than one person in joint tenancy or partnership, it shall be sufficient to issue and serve the citation on any one of the joint tenants or partners.

(E) If the person being charged with a violation is a minor child and in the opinion of the enforcement officer, the child is of a young age or immature character so as not to fully understand the significance of the citation and notice to appear and his or her responsibilities and obligations thereunder, the enforcement officer shall ascertain the name and

address of a parent or legal guardian of the child and shall serve the citation upon and cause the parent or legal guardian to execute the notice to appear on behalf of the child.

(1985 Code, § 1-3-4)

**§ 40.04 ISSUANCE AND SERVICE OF CITATION BY MAIL.**

(A) Whenever it is found by an enforcement officer that any identifiable person has violated or is violating any enforcement provision, or is liable and accountable for the violation, but the person cannot be conveniently confronted and served in person with a citation as provided in § 40.03, then it is permissible for the enforcement officer to issue the citation for violation and cause it to be served by registered or certified mail with return receipt of delivery to the last known address of the alleged offender.

(B) When a citation is served in this manner, the person upon whom it is served is not required to execute a notice to appear nor to deposit any security as guarantee for appearance as would or might otherwise be required pursuant to § 40.05, but in addition to any other information and notices to be included with the citation as hereafter provided, a citation served by mail shall include a statement that failure to appear in court at the time and place indicated to answer the charge or to compromise and settle the complaint within the allotted time may subject the offender to further proceeding and additional costs.

(1985 Code, § 1-3-5)

**§ 40.05 NOTICE TO APPEAR; REFUSAL TO SIGN; SECURITY FOR RELEASE.**

Any person who is a resident of the state and is detained by an enforcement officer for the purpose of issuing and serving a citation for violation of an enforcement provision, and who provides the enforcement officer with a satisfactory identification in accordance with § 40.03(A)(2) and executes a signed notice to appear in court in accordance with § 40.03(A)(3), shall thereupon be released from the

detention without other bond or security for appearance; however, if the person is not a resident of the state and/or refuses to sign a notice to appear in court, the following additional procedures and requirements apply before the enforcement officer releases the person from detention, as the appropriate case may be.

(A) If the person is a resident of the state and the offense charged is violation of an enforcement provision constituting a moving traffic offense or a nonmoving traffic offense required by law or regulation to be reported to the State Commissioner of Motor Vehicles, and the person refuses to sign the notice to appear, the enforcement officer before releasing the person shall inform him or her that notwithstanding his or her refusal to sign the notice, he or she is obliged by law to appear at the time and place indicated in the citation or to previously compromise and settle the complaint in the manner hereafter provided, and that failure to do so will result in his or her arrest on warrant of the court and/or suspension of his or her driver's license in accordance with I.C. 9-30-3-8(a) and 9-30-3-8(c), respectively.

(B) If the person is a nonresident of the state and the offense charged is violation of an enforcement provision constituting a moving traffic offense or a nonmoving traffic offense required by law or regulation to be reported to the State Commissioner of Motor Vehicles, the enforcement officer shall, before releasing the person:

(1) Require the person to deposit a security for appearance and to execute a security deposit agreement, in accordance with the provisions of I.C. 9-30-2-5, unless the person is exempt from the requirements under I.C. 9-28-2; and

(2) If the person refuses to sign a notice to appear, the enforcement officer shall also inform the person that notwithstanding his or her refusal to sign the notice, he or she is obliged by law to appear at the time and place indicated in the citation or to previously compromise and settle the complaint in the manner hereafter provided, and that failure to do so will result not only in the forfeiture of the security provided but will also cause the court to notify the Commissioner of Motor Vehicles of his or her failure

to appear which will result in the suspension of driving privileges in the state and that a copy of the order of suspension will also be sent to the equivalent authority of the person's home state in accordance with I.C. 9-30-3-8-(b) and (d); or else

(3) The enforcement officer shall accompany the offender to the nearest U.S. Postal Service receptacle and see that the offender mails to the Clerk of the Circuit Court:

(a) A copy of the citation with a signed admission of guilt; and

(b) A check or money order in the amount of fine requested, as determined pursuant to § 40.11 of this chapter, plus court costs; thus compromising and settling the complaint in accordance with § 40.12(B).

(C) If the person is a nonresident of the state, or is a resident of the state, but refuses to sign a notice to appear in court, and the offense charged is of a kind other than a traffic offense required to be reported to the State Commissioner of Motor Vehicles, the person shall be released upon either:

(1) Depositing with the County Clerk (either directly or by mail) a security as guarantee for appearance, the security being a deposit of cash, traveler's checks, or other valuable securities or property acceptable to the Clerk and at least equal in value to the amount of fine requested in the complaint plus costs which could be imposed by the court were the person to appear and be convicted, for which security the person shall be provided with a proper receipt and shall sign an agreement that should he or she fail to appear to answer the charge or fail to compromise and settle the complaint before the appearance as hereafter provided, the security thus deposited will be forfeit in favor of the county and in settlement of the complaint, but will be fully refunded or restored to the person if he or she does appear at the place and time prescribed or does previously compromise and settle the complaint; or

(2) Compromising and settling the complaint at the time in the manner provided by § 40.12(A) of this chapter.  
(1985 Code, § 1-3-6)

#### § 40.06 CONDITIONAL CITATION.

Notwithstanding any other provisions of this chapter, whenever any enforcement provision of this code stipulates that a person cited for violation of the enforcement provision is allowed some definite period of time to correct the violation and comply with the enforcement provision before being subject to any penalty; or the person cited for the violation is entitled to an administrative appeal or investigatory hearing before any administrative officer, board, or similar entity to determine whether the citation is valid and justified; then the citation or a written notice attached thereto shall, as the case may be, state the period of time permitted for compliance or the procedure to be followed to exercise the right to administrative, appeal or investigatory hearing, and the complaint be filed and docketed with the court, nor shall the time period permitted for compromise and settlement of the complaint under § 40.12(A) of this chapter commence until, as appropriate:

(A) The time period allowed for compliance has elapsed, and it is found that the person has not complied;

(B) The person has waived the right to administrative appeal or investigatory hearing, or has failed to invoke and exercise that right within any applicable time period; or

(C) The administrative appeal proceeding or investigatory hearing has been conducted and has affirmed the citation.  
(1985 Code, § 1-3-7)

#### § 40.07 WARNING INSTEAD OF OFFICIAL CITATION.

(A) Notwithstanding the provisions of § 40.02(A) of this chapter, if any enforcement officer

has cause to believe that a person has violated or is violating an enforcement provision of this code, but also has cause to believe that the person is of law-abiding character and has not knowingly, wantonly, or repeatedly violated the provision, and the violation is a minor violation not posing imminent jeopardy to life, limb, property, or the public welfare, the enforcement officer at his or her discretion may issue a warning instead of an official citation.

(B) The warning shall inform the person that they are in violation of an enforcement provision and the enforcement officer shall order the person to forthwith cease or correct the violation.

(C) At the discretion of the enforcement officer, the warning may be either an informal verbal warning or a formal written warning.

(D) A formal written warning shall be issued on the same form ordinarily used for an official citation of the offense committed, but all copies thereof shall be clearly marked "Warning Only".

(E) Issuance of a warning shall not require the offender to pay any fine or compromise any settlement, nor to appear in court; however, if a formal written warning is issued, a copy shall be kept on file for at least one year in the office of the County Clerk and the office of the enforcement officer.

(F) The issuance of a warning shall in no way bar the subsequent issuance of an official citation for the same offense if it should later be determined that the offender in fact did knowingly or wantonly violate the enforcement provision, is a repeat offender, or has failed to comply with the warning order.

(1985 Code, § 1-3-8)

#### **§ 40.08 STATUTE OF LIMITATIONS ON ISSUANCE OF CITATION.**

Pursuant to the provisions of I.C. 34-28-5-1(d)(2), no citation for the violation of any enforcement provision of this code shall be issued and served if more than two years have elapsed since the alleged violation has occurred.

(1985 Code, § 1-3-9)

#### **§ 40.09 FORM OF CITATION AND SUMMONS.**

The form of citation and summons used for an ordinance violation shall be in accordance with this section, as appropriate to the nature of the violation.

(A) *Traffic offenses.* In all cases where a citation is issued and served for the violation of an ordinance constituting a moving traffic offense or a nonmoving traffic offense required by law or regulation to be reported to the State Commissioner of Motor Vehicles, the form of complaint and summons prescribed by I.C. 9-4-7-4(b) shall be used for the purpose of issuing the citation; provided, however, that the enforcement officer shall clearly indicate in the space provided on the form that the violation charged is a violation of a county ordinance and not of state law, and provided further that in that section of the form dealing with "Court Action and Other Orders" and in that subsection thereof concerning the finding of the court, the enforcement officer shall delete the word "state" and substitute the word "county" so that the form shall read "Judgment for the County" rather than "Judgment for the State" in the event that the form has not been already so modified and preprinted.

(B) *Other cases.* In all other cases where a citation is issued and served for violation of an enforcement provision of this code, the form of complaint and summons prescribed by I.C. 9-30-3-6 may be used for the purpose of issuing the citation, subject to the same stipulations and modifications as when the form is used for a traffic offense as described above; however, if the traffic citation form is not deemed suitable and convenient for use with respect to any other enforcement provision, the chief officer of the department or other agency responsible for enforcement may prescribe an alternative form of complaint and summons to be used for issuing the citation; provided that any such alternative form of complaint and summons shall consist of at least four copies as required for the administration of § 40.10 of this chapter, and that the form shall be examined and approved by the County Attorney who shall ascertain that it is of proper legal form and satisfies all necessities for judicial processing in accordance with the rules and regulations of the court for the filing of

ordinance violation complaints, and that it meets all administrative requirements as stipulated in this chapter or in the particular enforcement provision to which it pertains.

(1985 Code, § 1-3-10)

**§ 40.10 ADMINISTRATIVE PROCEDURE ON ISSUANCE OF CITATION.**

Whenever a citation is issued for violation of any enforcement provision of this code, the enforcement officer issuing the citation shall provide one copy thereof to the offender, including or accompanied by the notices as prescribed in § 40.06 and § 40.12 of this chapter, as appropriate; shall retain one copy for the records of his or her own department or agency; and as soon after issuance as possible shall deliver all other copies to the County Clerk for the purpose of administering the further provisions of this section. The Clerk shall examine each such citation so received and shall determine from the records available whether or not the person charged with the violation has previously been convicted of or has admitted guilt to a violation of the same provision or of a substantially similar provision of any ordinance in effect prior to the implementation of this code, and shall note this information on the citation for the information of the court, and shall accordingly fix or adjust, as may be necessary, the amount of fine to be requested in the complaint in accordance with § 40.11 of this chapter, if the amount has not been previously determined accurately and entered in the citation by the enforcement officer issuing the same. The amount of fine so determined shall be entered on the complaint form by the enforcement officer or by the Clerk in the space provided, if any, or else shall be clearly noted and firmly attached to the copies of the complaint to be filed with the court or kept by the Clerk. Thereupon:

(A) If the violation cited in the complaint is a violation of any enforcement provision other than a moving traffic offense or a nonmoving traffic offense required by a law or regulation to be reported to the State Commissioner of Motor Vehicles, the Clerk shall retain the citation for the period of time allowed for the offender to compromise and settle the complaint as provided by § 40.12(A) of this chapter;

and if the complaint is not compromised and settled within that period of time, the Clerk shall as soon as possible thereafter docket the complaint for prosecution in accordance with § 40.13 of this chapter; or

(B) If the violation cited in the complaint is a violation of an enforcement provision constituting a moving or nonmoving traffic offense required by law or regulation to be reported to the Indiana Commissioner of Motor Vehicles, the Clerk shall forthwith docket the complaint with the court in accordance with § 40.13 of this chapter.

(1985 Code, § 1-3-11)

**§ 40.11 PROCEDURE FOR FIXING REQUESTED FINE.**

(A) When an enforcement officer issues and serves a citation, other than a warning citation, for the violation of any enforcement provision, he or she shall if practicable determine from the records available the status of the person under this section and shall determine and fix a fine to be requested in accordance with the provisions of this section, and shall enter the amount of the fine on the copy of the citation given to the offender or on a written attachment thereto and also on all other copies of the citation; however, if it is not practicable for the enforcement officer to check the available records at the time, or if doing so would require detaining the person cited for an unreasonable period of time, the enforcement officer may inquire of the person being cited if he or she has previously been convicted or has admitted guilt to the same offense being charged (exclusive of similar offenses committed in other jurisdictions), and the enforcement officer may rely on the response of the person for the purpose of this section until a time as the available records can be consulted by the enforcement officer, or by the Clerk, pursuant to § 40.10; however, should it subsequently prove that the person has given the enforcement officer inaccurate information as to his previous convictions or admissions of guilt, the enforcement officer or the Clerk shall adjust the fine requested to accord with the provisions of this section, and the Clerk shall mail to the offender written notice of the adjustment. The amount of fine to be requested

in the complaint shall be determined in the following manner:

(1) If any provision of this code establishes a fixed penalty for violation of the provision or of a related provision, then the amount of fine requested in the complaint shall be the fixed amount so specified; however, if no fixed amount is specified but a minimum and maximum penalty are provided, then;

(2) If the violation is a first offense against the provision, the fine requested in the complaint shall be the minimum penalty so established or \$1, whichever is greater;

(3) If the violation is a second offense in violation of the same provision, then the fine requested in the complaint shall be the minimum penalty so established plus 50% of the difference between the maximum penalty provided for violation of the provision and the minimum penalty; and

(4) If the violation is a third or subsequent offense in violation of the same provision, then the fine requested in the complaint shall be the maximum penalty provided for violation of the provision.

(B) Should any person commit two or more separate offenses against any one enforcement provision by virtue of any singular and substantially simultaneous act or circumstance, and singular and simultaneous act or circumstance is the person's first or second instance of committing any offense against the particular provision, then each separate offense shall be severally treated as a first offense or as a second offense, as the case may be, for purposes of fixing a requested fine for each offense in accordance with this section, irrespective of the other offenses concurrently committed.

(1985 Code, § 1-3-12)

#### **§ 40.12 COMPROMISE AND SETTLEMENT OF COMPLAINT WITHOUT TRIAL.**

Any person who has been cited for violation of any enforcement provision of this code, whether or not having signed a notice to appear in court, shall have a right to compromise and settle the complaint

without trial or appearance in court in accordance with the following procedures.

(A) If the offense cited is other than a moving or nonmoving traffic offense of the kind described in § 40.10(A) of this chapter, the offender may compromise and settle the complaint in accordance with the provisions of a notice, which shall be imprinted on or attached to the copy of the citation provided to the person cited.

(B) If the offense cited is a moving or nonmoving traffic offense of the kind described in § 40.10(B) of this chapter, the offender may compromise and settle the complaint in the manner prescribed by I.C. 34-28-5-11, and a notice and compromise execution form or a substantially similar notice and form serving the same purpose as may be prescribed by the court or other competent authority shall be imprinted on or attached to the copy of the citation provided to the person cited.

#### **§ 40.13 FILING AND PROSECUTION OF VIOLATION COMPLAINT.**

(A) When a citation has been issued for violation of an enforcement provision of this code and the violation is a traffic offense as described in § 40.10(B), or is some other kind of offense and the time period allowed for compromise and settlement of the complaint as provided by § 40.12(A) and § 40.06 has elapsed, the County Clerk shall file and docket the complaint in the name of the county with the County Circuit Court or other court of competent jurisdiction, and shall give notice to the County Attorney that the complaint is pending prosecution.

(B) It shall be the duty of the County Attorney to prosecute the complaint in accordance with I.C. 13-30 and applicable rules of the court. For the services and functions of the County Attorney as provided in this section, the court, upon conviction of the offender, shall assess a part of the judgment in favor of the county, and in addition to any fine imposed, a prosecutor's fee in the amount prescribed by I.C. 33-37.

(C) The prosecutor's fee shall be assessed whether or not the County Attorney actually makes a personal appearance at the trial of the cause of the complaint.

(1985 Code, § 1-3-14)

**§ 40.14 APPEARANCE FOR DEFENDANT AND FOR THE COUNTY.**

(A) Unless the court pursuant to I.C. 9-30-2-5 or other applicable law orders otherwise, the defendant in the trial for violation of an enforcement provision may appear in person or by attorney, and an appearance by attorney satisfies any notice to appear signed by the defendant.

(B) Appearance on behalf of the county may be made by the County Attorney personally or, with his or her consent and approval, another attorney who is retained by the County or by the County Attorney for that purpose, or who is retained as counsel by any board, commission, or similar authority responsible for the enforcement of the enforcement provisions.

(1985 Code, § 1-3-15)

**§ 40.15 PAYMENT OF FINES, OTHER COSTS AND PROSECUTOR'S FEE.**

(A) Whenever a court enters judgment in favor of the county in the trial of an ordinance violation complaint, the court shall fine the violator in an amount not exceeding the penalty requested in the complaint; however, the judge of the court shall have discretion to impose a lesser fine than that requested if, in the judgment of the court, there exist extenuating or mitigating circumstances warranting a lesser penalty; but if the judgment is entered by the clerk of the court upon waiver of trial and admission of guilt by the defendant, the clerk does not have discretion to impose a lesser penalty unless so ordered by the judge.

(B) The court shall also tax and assess as part of the judgment in favor of the county the prosecutor's fee as prescribed by § 40.13 and by law, and any other costs incurred and stipulated by the county in connection with the filing and prosecution of the

complaint and which are recoverable pursuant to any statute or ordinance. The Clerk of the court shall regularly pay to the Auditor for forwarding to the Treasurer all fines, costs, and that portion of the prosecutor's fee owing to the county and collected by the Clerk, and the Auditor and Treasurer shall allocate and deposit the monies in accordance with § 40.18.

(1985 Code, § 1-3-16)

**§ 40.16 RECORDS OF CONVICTION OR COMPROMISE.**

(A) Whenever a person is charged with the violation of an enforcement provision and either compromises and settles the complaint pursuant to § 40.12, or is found guilty by a court in accordance with § 40.15, the Clerk shall make and keep a record of the compromise or conviction, organized for reference by name of the offender and according to any other means of identification which the Clerk deems dispensable for the purpose of administering § 40.11 of this chapter.

(B) The record constitutes presumptive evidence of guilt of any violation whether or not the offender has made any admission to a violation for purposes of fixing a fine pursuant to § 40.15, and no such offender shall be permitted to plead for a lesser fine than any subsequently requested on the advent of a repeat violation on the grounds that he or she was not in fact guilty of any prior offense which he or she has compromised or of which he or she has had judgment entered against him or her by a court.

(1985 Code, § 1-3-17)

**§ 40.17 FURTHER OR COLLATERAL ACTIONS.**

(A) The compromise and settlement of a complaint for the violation of any enforcement provision of this code pursuant to § 40.12 of this chapter, or an action upon the complaint initiated and prosecuted pursuant to § 40.13, and any fines, fees, or costs imposed and collected in connection therewith are in consequence of the penal violation of the respective enforcement provision per se, and the compromise and settlement of any such complaint or

judgment of a court in favor of the county does not prevent the county from initiating and pursuing any or all of the following further or collateral civil actions:

(1) An action to recover costs incurred by the county to bring any property or the use thereof into compliance with an enforcement provision pursuant to I.C. 36-1-6-2;

(2) An action seeking a civil injunction against a violator to ensure current or future enforcement of and compliance with any enforcement provision pursuant to I.C. 36-1-6-4;

(3) An action to recover damages to county property or any other pecuniary loss to the county arising out of the violation of any enforcement provision; and/or

(4) An action to recover stipulated costs incurred by the county in any action described in divisions (A)(1), (2), or (3), including but not limited to attorney's fees and any filing fees paid by the county in any such action.

(B) It shall be the duty of the County Attorney if so instructed by the Board of Commissioners to initiate and prosecute any such further actions as the case may warrant.

(1985 Code, § 1-3-18)

#### **§ 40.18 ALLOCATION AND DEPOSIT OF RECEIPTED FINES, FEES AND COSTS.**

When the Auditor and Treasurer for violation of an enforcement provision receives payment of any fines, fees, or costs pursuant to §§ 40.12, 40.15, and 40.17(A)(1) or (4) of this chapter; or possesses on behalf of the county any forfeited security deposit as undischarged bond for appearance pursuant to § 40.05(B)(1) or (C)(1) of this chapter; or receives payment of recovered damages or loss pursuant to § 40.17(A)(3) of this chapter and to the extent that any such payment does not escheat to an insurance company which has previously made compensatory payment to the county; the monies or property so received shall be administered and allocated by the

Auditor and Treasurer in accordance with the following provisions of this section:

(A) In the case of monies paid as fines for penal violations of any enforcement provisions, or the county's portion of applicable court costs, such monies shall be deposited in the General Fund unless the particular enforcement provision stipulates that any fines be deposited in some other designated fund.

(B) In the case of any forfeited security deposit, the Clerk shall record the complaint as having been compromised and settled upon taking possession thereof, and disposition shall be made of the possessed security as provided in this division:

(1) If the deposit has been made and forfeited pursuant to § 40.05(C)(1) of this chapter, and;

(a) The security is a deposit of cash or a directly depositable cash instrument such as a traveler's check or certified check, then the Treasurer shall allocate and deposit the possessed security as though it were an ordinary payment of the fine and costs owing, in the same manner as provided in division (A) of this section, and notwithstanding the fact that the cash value of the security deposit may exceed the amount of fine originally requested in the complaint plus applicable costs; or

(b) If the security deposit is a negotiable instrument such as a bond, note, or debenture, having a convertible cash value but which is not directly depositable, the Treasurer shall proceed to convert the instrument, or may sell the instrument on the securities market for the price as it will bring, and the net proceeds from the conversion or sale after deduction of any applicable sale commissions or transaction fees shall be allocated and deposited as though they were an ordinary payment of the fine and costs owing, in the same manner as provided in division (A) of this section, and notwithstanding the fact that the net proceeds may exceed the amount of fine originally requested in the complaint plus applicable costs; provided further, however, that if the security is an investment instrument of the kind which it is lawful for the county to own and hold as an

investment of public funds pursuant to I.C. 5-13-9 or any other law authorizing the investment of public funds, and the Treasurer determines that it would be of greater financial advantage and benefit to the county, the Treasurer may keep the security as an investment asset of the county instead of converting or selling the security, and the principal amount thereof shall be allocated and credited to the appropriate fund or funds to which a cash receipt would be allocated and deposited pursuant to division (A), and the interest or other earnings therefrom shall be allocated and deposited in the fund or funds as would ordinarily be the case for other county investments; or if,

(c) The security deposit is any other valuable personal or real property, the Treasurer shall provide for the same to be offered for sale as surplus property of the county in accordance with the provisions of I.C. 36-1-11, and the net proceeds of such sale after deduction of the costs of conducting the sale shall be allocated and deposited as though they were an ordinary payment of the fine and costs owing in the same manner as provided in division (A) of this section, and notwithstanding the fact that such net proceeds of the sale may exceed the amount of fine originally requested in the complaint plus applicable costs.

(2) In all events there shall either initially be retained by the Clerk, or shall be paid back to the Clerk out of the proceeds of liquidation of a security deposit or out of the appropriate fund or funds as a credit against the cash value of a security retained pursuant to division (B)(1)(b) above, an amount sufficient to permit the Clerk to remit to the state all state docket, motor vehicle, and judicial fees owing by law, and that portion of the prosecutor's fee owing pursuant to I.C. 33-37-7-10.

(C) In the case of a payment of stipulated costs recovered pursuant to §§ 40.15 and 40.17(A)(1) or (A)(4) of this chapter, the payments shall be allocated and deposited to the fund or funds from which the stipulated costs themselves were originally paid or obligated.

(D) In the case of a payment for recovery of damage or loss occasioned by the violation of an enforcement provision pursuant to § 40.17(A)(3) of

this chapter, any such payment shall be proportionally allocated to the fund or funds from which:

(1) Payment will or has been made to repair or replace the damaged property, or to the General Fund if the property will not be repaired or replaced; or

(2) Any other pecuniary loss has occurred, has or will be debited, or from which the loss has or will be made up, if the specific fund or funds are identifiable; and if not, to the General Fund.  
(1985 Code, § 1-3-19)

#### § 40.19 OTHER RULES AND PROCEDURES.

The County Clerk, Circuit Court Judge, County Attorney, Sheriff, and the chief officer of any other department, board, commission, or similar agency which has been given responsibility for the administration and enforcement of any enforcement provision of this code, may stipulate or prescribe any other rules or procedures, not inconsistent with law, applicable state regulations, or the expressed provisions of this chapter, as they may deem necessary or desirable to promote the orderly, efficient, and expeditious carrying out of their respective enforcement duties; and the rules and procedures so stipulated and prescribed by the officers shall have the same effect and force as if they had been expressly adopted and made a part of the provisions of this chapter.

(1985 Code, § 1-3-20)

**TITLE V  
PUBLIC WORKS**

**TITLE V: PUBLIC WORKS**

Chapter

**50. GARBAGE**

**51. PRIVATE SEWAGE DISPOSAL**



**CHAPTER 50: GARBAGE**

Section

*General Provisions*

50.01 Solid Waste Management District

(2) One member of the County Council, appointed by the County Council;

*Landfill Control*

(3) The serving Mayor of the City of Salem;

50.15 Material which may not be accepted

(4) One member of the Salem City Council to be appointed by the Salem City Council; and

50.16 Fee schedule

50.17 Additional landfills prohibited

(5) A serving member of the Town Board of Pekin, Indiana, which member is to be appointed by the Washington County Commissioners.

*Refuse Hauling*

50.30 Definitions

50.31 Vehicle requirements

50.32 Inspection of loads

50.33 Liability for violations

50.34 Transportation of hazardous waste

(C) The Board of Directors consisting of seven members shall operate pursuant to the provisions of I.C. 13-21-3 and further the Manager of the Solid Waste Management District and the District's Attorney shall attend all meetings and have the opportunity to participate in all discussion. (BCC Ord. 90-06, passed 8-20-1990)

50.99 Penalty

**GENERAL PROVISIONS**

**LANDFILL CONTROL**

**§ 50.01 SOLID WASTE MANAGEMENT DISTRICT.**

(A) Pursuant to the provisions of I.C. 13-21-3-1 the county does now designate itself as a county solid waste management district and the official title of the district shall be "Washington County Solid Waste Management District".

(B) The Solid Waste Management District shall be governed by a Board of Directors, pursuant to I.C. 13-21-3-5, as follows:

- (1) Three serving County Commissioners;

**§ 50.15 MATERIAL WHICH MAY NOT BE ACCEPTED.**

(A) Full drums are hereby prohibited from being placed in the county landfill.

(B) The duly appointed landfill operators may exercise their discretion in refusing to accept any material or other quantities of material that they deem unsuitable.

(C) Trash, garbage, refuse, and all other materials which come from or generate or originate in

any county, state, or country other than Washington County, Indiana, U.S.A., shall be prohibited in the county landfill and shall not be transported thereto or accepted therein.

(BCC Ord. 2-1987, passed 5-4-1987; BCC Ord. 91-06, passed 11-4-1991) Penalty, see § 50.99

#### § 50.16 FEE SCHEDULE.

(A) All commercial haulers shall pay \$7.50 per ton for materials furnished in the landfill.

(B) All noncommercial haulers having excess of two cubic yards per trip, per vehicle shall be charged \$7.50 per ton.

(C) There shall be exempt from these charges all trucks which are rated three-quarter ton or less, and which are hauling individual trash on a noncommercial basis from within the county to the landfill.

(D) There shall be a flat monthly charge to the City of Salem for the use of the landfill of \$2,300.

(E) On all loads, in which a charge is appropriate, there shall be a minimum charge of \$7.50.

(F) The charge for all demolition material shall be \$7.50 per ton.  
(BCC Ord. 04-1994, passed 3-10-1994)

#### § 50.17 ADDITIONAL LANDFILLS PROHIBITED.

The county hereby prohibits the creation of any additional landfills within the parameters of the county.

(BCC Ord. 97-08, passed 6-16-1997)

### *REFUSE HAULING*

#### § 50.30 DEFINITIONS.

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

**GARBAGE.** Rejected food wastes including every waste, accumulation of animal, fruit or vegetable matter used or intended for food or that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables.

**REFUSE.** Any combination of garbage and rubbish, and also includes any putrid, foul, toxic, or unwholesome liquid, semisolid, or solid waste products, except manure/fertilizers used for agriculture.

**RUBBISH.** Such matter as ashes, cans, metal ware, broken glass or crockery, dirt, sweepings, boxes, papers, scrap wood, grass, weeds, brush, or litter of any kind.

**VEHICLE.** Any motor vehicle, automobile, motorcycle, pick-up truck, truck-trailer, farm tractor, or any other self-propelled vehicle or machine, or trailer connected to the above.

(1985 Code, § 4-2-1) (BCC Ord. 1985-C2, passed - -1985)

*Statutory reference:*

*Regulations for public health authorized,  
see I.C. 36-8-2-4*

#### § 50.31 VEHICLE REQUIREMENTS.

(A) It shall be unlawful for any commercial hauler to transport, carry or haul any garbage, rubbish, or refuse in or through the jurisdiction of the county, unless all vehicles used to transport the garbage, rubbish or refuse shall be covered and watertight as may be necessary to prevent nuisances and health hazards.

(B) A commercial or non-commercial hauler shall take the necessary steps to prevent any load from scattering, spilling, dribbling, falling, or blowing any part of the load out of or off of the vehicle. (1985 Code, § 4-2-2) (BCC Ord. 1985-C2, passed - -1985) Penalty, see § 50.99

### § 50.32 INSPECTION OF LOADS.

The County Health Officer or his or her authorized agent, or any law enforcement officer, shall have the right to stop and inspect the load of any vehicle hauling, or reasonably believed to be hauling, garbage, rubbish or refuse in or through the county. The powers granted under this section to stop and inspect vehicles is intended to be preventative, and may be exercised whenever it appears that a vehicle may not be adequately covered as required under § 50.31, whether or not the vehicle is observed to be actually spilling any refuse at the time. (1985 Code, § 4-2-3) (BCC Ord. 1985-C2, passed - -1985)

### § 50.33 LIABILITY FOR VIOLATIONS.

In general, the driver of any vehicle found to be in violation of § 50.31 shall be held liable for the violation; however, if the vehicle is operated by a commercial refuse hauling company, and it is shown that the owner, operator, or management of the company directed or permitted the vehicle to be used for hauling refuse in knowing violation of § 50.31, then the owner, operator, or corporation (if incorporated) may be held equally liable with the driver and severally subject to citation, prosecution, and liability for penalties and costs as provided by § 50.99. (1985 Code, § 4-2-5) (BCC Ord. 1985-C2, passed - -1985)

### § 50.34 TRANSPORTATION OF HAZARDOUS WASTE.

(A) *Title.* This section shall be known and may be cited as the ordinance prohibiting the transportation, delivery or movement of hazardous

waste, toxic waste, and sewage into the county landfill.

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

**GARBAGE.** All putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

**HAZARDOUS WASTE.** A solid waste or combination of solid wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(a) Cause or significantly contribute to an increase in mortality or increase in serious irreversible, or incapacitating reversible, illness; or

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**PERSON.** An individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, municipal corporation, city, school city, town, school town, school district, school corporation, county, any consolidated unit of government, political subdivision, state agency, or any other legal entity.

**SEWAGE.** All refuse, human excreta, garbage, waste or waste products, or any combination of these substances that:

(a) Is potentially capable of contaminating the environment; and

(b) May be collected and carried off in a pipe, ditch or channel.

**TOXIC WASTE.** Any substance which acts as a poison, thus causing illness or death when ingested, inhaled, absorbed through or injected into the skin, even in relatively small quantities.

(C) *Violation.* It shall be illegal for any person to transport, deliver or move any hazardous waste, toxic waste or sewage into the county landfill from any county in the state or from any other state, and it shall further be illegal for any person to participate in, conspire to, or agree to any such transportation, delivery or movement.

(D) *Variance.* There shall be no variance of this section without the specific approval of the Board of Commissioners, which variance may only be granted upon hearing at public meeting, advertised as required for publication of other meetings and only upon the expressed approval by all three County Commissioners.

(BCC Ord. 88-2, passed 7-18-1988)

#### § 50.99 PENALTY.

(A) Any person violating any provisions of this chapter shall, upon conviction, be fined not more than \$2,500 for each offense. The violator shall additionally be liable to the county for any costs that are incurred to clean up spillage on highways or other public property as may incidentally result in consequence of a violation.

(B) Nothing in this chapter is intended to stand in lieu of enforcement of I.C. 35-45-3-2 when applicable to a violation. A person who has violated I.C. 35-45-3-2 but has also failed to comply with the requirements of § 50.31 may be severally cited, prosecuted, and penalized for both offenses.

(1985 Code, § 4-2-4) (BCC Ord. 1985-C2, passed - -1985)

**CHAPTER 51: PRIVATE SEWAGE DISPOSAL**

Section

- General Provisions*
- 51.01 Definitions
  - 51.02 Pollution of waters prohibited
  - 51.03 Connection to public sewers required for certain buildings; private sewage disposal
  - 51.04 Prohibited use of private sewage disposal systems
  - 51.05 Minimum standards
  - 51.06 Exemptions

*Construction Requirements*

- 51.20 Permit required for private sewage disposal system; registration of installers
- 51.21 Commencement of construction; time limits; expiration of permit
- 51.22 Site requirements; Indiana Board of Health Regulations
- 51.23 Building sewer design and construction standards
- 51.24 Septic tank design and construction; location requirements
- 51.25 Distribution boxes required between septic tank and absorption field
- 51.26 Subsurface absorption fields; location, ground, and soil requirements
- 51.27 Construction over system
- 51.28 Final inspection or contractor's certificate in lieu of inspection
- 51.29 Maintenance; repair of defects

*Enforcement*

- 51.40 Right of entry of Health Officer
- 51.41 Order to abate violation

51.42 Enforcement proceedings on failure to comply

51.99 Penalty

**GENERAL PROVISIONS**

**§ 51.01 DEFINITIONS.**

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

**BOARD OF HEALTH.** The Board of Health having jurisdiction in Washington County.

**BUILDING DRAIN.** The part of the lowest horizontal piping of a house drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of any building and conveys the same to the building sewer beginning two feet outside the building.

**BUILDING SEWER.** The part of the horizontal piping from the end of the building drain to its connection with the main sewer or private sewage disposal system and conveying the drainage of but one building site.

**BUILDING SITE.** All areas, regardless of size or acreage, that are proposed for a building that will utilize private on-site sewage disposal.

**COMMUNITY WATER SYSTEM SOURCE.** The starting point of the distribution system of a

public water system which serves at least 15 service connections used by year-round residents, or which regularly serves at least 25 year-round individuals.

**DISTRIBUTION BOX.** A structure designed to distribute the effluent from a septic tank equally into the various sections of pipe of an absorption system.

**DWELLING.** Any house or place used or intended to be used by human occupants as a place of residence.

**FOUNDATION DRAIN.** That portion of a building drainage system provided to drain ground water from the outside of the foundation or under the basement floor, not including any sewage.

**HEALTH OFFICER.** The Health Officer having jurisdiction in the county, or his or her authorized representative.

**LIMITING LAYER.** Any layer of soil with a stabilized percolation rate exceeding 60 minutes for the water to fall one inch.

**NON-COMMUNITY WATER SYSTEM SOURCE.** The starting point of the distribution system of a public water system that is not a community water system.

**PRIVATE SEWAGE DISPOSAL SYSTEM.** Any sewage disposal system not constructed, installed, maintained, operated and owned by a municipality or taxing district established for that purpose.

**PRIVATE WATER SYSTEM SOURCE.** The starting point of the distribution system that is not a public water supply system.

**PUBLIC SEWER.** Any sewage system constructed, installed, maintained, operated and owned by a municipality or taxing district established for the purpose of receiving, treating and disposing of sewage.

**PUBLIC WATER SYSTEM.** A system for the provision to the public of piped water for human

consumption, if the system has at least 15 service connections or regularly services an average of at least 25 individuals daily at least 60 days out of the year.

(1) The term includes:

(a) Any collection, treatment, storage, and distribution facilities under control of the operator of the system; and

(b) Any collection of pretreatment storage facilities not under such control which are used primarily in connection with the system.

(2) A **PUBLIC WATER SYSTEM** is either a "community water system" or a "non-community water system".

**RESIDENTIAL SEWAGE DISPOSAL SYSTEM.** All equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of sewage from a one or two family dwelling. Included within but not limited to the scope of this definition are building sewers, septic tanks, subsurface absorption fields, and privy vaults.

**SANITARY PRIVY.** A fly-tight, rodent-proof structure erected on or over a properly constructed vault or pit and shall conform to the standards as set forth in State Board of Health Bulletin No. S.E.-11.

**SANITARY SEWAGE SYSTEM.** For the purpose of this chapter, a system of sewers which conveys sewage away from the lot on which it originates for treatment.

**SEPTIC TANK.** A water-tight structure into which sewage is discharged for settling and solids digestion.

**SEWAGE.** The water-carried waste derived from ordinary living processes.

**SLUDGE.** The digested or partially digested solid material accumulated in a sewage treatment facility.

**SOIL PROFILE OBSERVATION.** Observation of the physical characteristics of the soil horizons or layers to a depth of at least five feet.

**SUBSURFACE ABSORPTION FIELD.** Open-jointed or perforated pipes laid in a system of trenches into which the effluent from the distribution box is discharged for direct absorption into the soil.

(1985 Code, § 4-1-1) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

### **§ 51.02 POLLUTION OF WATERS PROHIBITED.**

No person shall throw, run, drain, seep, or otherwise dispose into any of the streams or waters of this state, or cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise dispose into the waters, any organic or inorganic matter that shall cause or contribute to a polluted condition of the waters unless a permit for the disposal has been obtained as authorized by I.C. 13-13 or I.C. 13-18. (1985 Code, § 4-1-2) (BCC Ord. passed 7-5-83; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985) Penalty, see § 51.99

### **§ 51.03 CONNECTION TO PUBLIC SEWERS REQUIRED FOR CERTAIN BUILDINGS; PRIVATE SEWAGE DISPOSAL.**

At such a time when a new house, building, or structure is constructed for use for human occupancy, employment, recreation or other purpose, and the structure comes within 150 feet of a public sewer, a direct connection shall be made to the sewer and, a septic field or private disposal system shall not be permitted. Any building producing sewage not connected to a sanitary sewage system shall be provided with a private sewage disposal system. The design, construction, installation, location, maintenance and operation of private sewage disposal systems shall comply with the provisions of this chapter.

(1985 Code, § 4-1-3) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985) Penalty, see § 51.99

### **§ 51.04 PROHIBITED USE OF PRIVATE SEWAGE DISPOSAL SYSTEMS.**

Private sewage disposal systems shall not be used for the disposal of:

(A) Chemical wastes in quantities which will be detrimental to the bacterial action in the tank;

(B) Waters from roof, foundation, or area drains; or

(C) Other wastes which may be determined by the Health Officer as possibly detrimental to the operation of the system.

(1985 Code, § 4-1-23) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985) Penalty, see § 51.99

### **§ 51.05 MINIMUM STANDARDS.**

(A) The standards and requirements for private sewage disposal systems as set forth in this chapter are deemed to be only the minimum standards necessary to protect the public health, safety, and welfare.

(B) Nothing in this chapter is intended to supersede nor subrogate any further or stricter standards as may be applicable through the incidental operation of other county or municipal ordinances, state or federal laws, nor through the applicability of duly adopted administrative rules and regulations of any other governmental agencies having jurisdiction, including (without limitation) those adopted by the State Board of Health, Environmental Management Board, Stream Pollution Control Board, U.S. Environmental Protection Agency, or the Fire Prevention and Building Safety Commission of the state.

(C) When any other such regulations apply governing the same matters as this chapter, the strictest standard shall prevail and be enforced.

(1985 Code, § 4-1-29) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

**§ 51.06 EXEMPTIONS.**

An on-site residential sewage disposal system the plans for which were approved in writing, by the Health Officer prior to July 5, 1983, is exempt from the provisions of this chapter relating to design and installation of residential sewage disposal systems. (1985 Code, § 4-1-28) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

**CONSTRUCTION REQUIREMENTS****§ 51.20 PERMIT REQUIRED FOR PRIVATE SEWAGE DISPOSAL SYSTEM; REGISTRATION OF INSTALLERS.**

(A) No person shall construct, install, alter, or repair a private sewage disposal system within the county without first having filed a written application and having obtained a written permit from the Health Officer.

(1) Before commencement of construction of any building where a private sewage disposal system or privy is to be installed or where any alteration, repair, or addition of an existing private sewage disposal system is planned, the owner or agent of the owner shall first obtain a written permit signed by the Health Officer.

(2) The application for such a permit shall be made on a form approved by the State Board of Health, which application shall be supplemented by any plans, specifications and other information as deemed necessary by the Health Officer.

(3) The Health Officer shall deny a permit if the information on the application is incomplete, inaccurate, or indicates that the provisions of this chapter cannot be met.

(4) The Health Officer may require that plans and specifications for private sewage disposal systems be submitted to the State Board of Health for approval.

(5) A fee shall be paid for each permit application in the amount stipulated for septic system permits under the provisions of § 32.010 of this code. All fees collected under this section shall be receipted monthly into the County Health Fund for services rendered in enforcing this chapter. (1985 Code, § 4-1-4)

(B) Any person engaged in or intending to engage in the installation or repair of sewage disposal systems within the county shall make application to the Health Officer to have his or her name placed on the County Register.

(1) Upon receipt of the applicant's application, the County Health Officer or his or her representative will insure that the applicant is knowledgeable of state and county rules and requirements. The applicant will complete a written test of these requirements. Upon satisfactory completion of this requirement, the County Health Officer will place the applicant's name on the register of persons engaged in the installation, construction or repair of sewage disposal systems within the county. The Health Officer may require those applicants who have never installed a septic system, who wish to install for anyone other than themselves, must work with a certified installer for at least five installations to become certified.

(2) The County Health Officer may remove the name of any person or firm from the register of persons engaged in the installation, construction and repair of sewage disposal system, who have demonstrated inability or unwillingness to comply with these rules and requirements. The individual or firm so removed may reapply after a 60-day period by demonstration of ability or willingness to comply with state and county requirements.

(3) Once registered, an installer must maintain his or her registration by the completion of an annual address correction and file update card. These cards will be mailed and must be returned during January of each year following registration.

(4) A fee shall be paid for all F.H.A., real estate, or privately requested dye testing and/or site

evaluations. This fee shall be collected at the time of request for service.

(BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985; BCC Ord. 92-07, passed - -1992) Penalty, see § 51.99

**§ 51.21 COMMENCEMENT OF CONSTRUCTION; TIME LIMITS; EXPIRATION OF PERMIT.**

(A) Installation of private sewage disposal systems which may be subjected to traffic of heavy construction vehicles shall not be started until the traffic has completed its final purpose, or until a definite route has been established, whereby the traffic will not travel over the system.

(B) Once the initial underground portions of a private sewage disposal system have been started, the entire system shall be completed as soon as possible.

(C) The Health Officer may require that a system be covered and graded within a specified period of time.

(D) If the private sewage disposal system has not been constructed, installed, altered, or repaired within one year from the date of the application, the application and any permit that may have been issued shall automatically be terminated.

(1985 Code, § 4-1-5) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985) Penalty, see § 51.99

**§ 51.22 SITE REQUIREMENTS; INDIANA BOARD OF HEALTH REGULATIONS.**

(A) Properties of the soil profile of each site shall be evaluated using guidelines as set forth in the soil manuals and handbooks of the Soil Conservation Service, U.S. Department of Agriculture.

(1) No portion of a private sewage disposal system shall be located upon another property or lot other than that property or lot upon which the sewage originates unless easements to that affect are legally

recorded and approved by the proper authority or commission.

(2) Sites to be considered for a private sewage disposal system, if served with community water distribution systems, shall be a minimum size of 38,670 square feet (three-quarter-acre). If the sites are served with individual water supply systems, a minimum of 43,560 square feet (one acre) shall be required.

(1985 Code, § 4-1-6)

(B) Any private sewage disposal systems utilizing sanitary privies shall conform to the standards of the State Board of Health.

(1985 Code, § 4-1-7)

(BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

**§ 51.23 BUILDING SEWER DESIGN AND CONSTRUCTION STANDARDS.**

The building sewer shall be located at least 50 feet from any water supply well or pump suction line serving a residence; however, sewers constructed of waterworks grade cast iron having mechanical or push type joints or of waterworks grade pressure-type plastic with an SDR rating of 26 having gasket or push-type joints may be located within the 50-foot distance, but not closer than 20 feet to dug and bored wells, and not closer than ten feet to drilled and driven wells or underground pump suction lines. The building sewer shall be so designed and constructed to give mean velocities, when flowing full, of not less than two feet per second, based on Kutter's formula using an N value of 0.013.

(1985 Code, § 4-1-8) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

**§ 51.24 SEPTIC TANK DESIGN AND CONSTRUCTION; LOCATION REQUIREMENTS.**

(A) *Location requirements.* All septic tanks shall be located in accordance with the distances in the following table:

<i>Adjacent Property/Facility</i>	<i>Minimum Distance From Tank (ft.)</i>
Private water systems source	50
Non-community water system source	100
Community water system source (Lake Salinda and Lake John Hay)	400
Lake or reservoir	50
Stream, ditch, or drainage tile	25
Dwelling or other structure	10
Side or rear lot lines	10
Front lot lines	10
Water lines continually under pressure	10
Suction water lines	50

(1985 Code, § 4-1-9)

(B) *Minimum capacity.*

(1) The minimum size tank shall be 1,000 gallons liquid capacity. Minimum water depth in any compartment shall be 32 inches. Maximum depth of water for calculating capacity of the tank shall not exceed six feet. Every septic tank shall have a minimum capacity below the waterline as specified in the following table:

<i>Required Minimum Capacities for Septic Tanks</i>	
<i>No. of Bedrooms in Dwelling</i>	<i>Normal Liquid Capacity of Tank in Gallons</i>
3 or less	1,000
4 or 5	1,250
6	1,500

(2) In the case of a septic tank intended to serve a building to be used other than as a dwelling, the Health Officer, at the time a permit is applied for, shall specify a suitable minimum tank capacity based

on number of anticipated employees or other occupants, volume of customers, proposed use of the building, or other reasonable criteria indicative of the probable volume and character of sewage to be received by the septic tank. (1985 Code, § 4-1-10)

(C) *Materials and construction standards.*

(1) Material for construction shall be watertight concrete, metal or other impervious material. Minimum wall and bottom thickness of tanks shall conform to the following specifications:

<i>Material</i>	<i>Minimum Thickness</i>
Steel	1/4 inch
Fiberglass	1/4 inch
Segmented blocks, bricks, and the like	8 inches
Poured concrete	6 inches
Reinforced poured concrete (4,000 PSI or less)	4 inches
Reinforced pre-cast concrete (greater than 4,000 PSI)	2-1/2 inches

(2) Concrete septic tank tops shall be a minimum of four inches in thickness and reinforced with one-half inch reinforcing rods in a six-inch grid or equivalent. All concrete surfaces above the water line inside septic tanks shall be given a protective coating of bituminous or similar material. (1985 Code, § 4-1-11)

(D) *Access requirements.* Access must be provided to all parts of septic tanks where necessary to enable adequate inspection, operation, and maintenance. All septic tanks shall contain an access opening which shall be so located that sludge and scum measurements may be readily ascertained in each compartment of the tank. This access opening shall be a minimum of eight inches in its least dimension, and shall be located close to the ground surface. In the event the tank is covered by 24 inches or more of earth backfill, a riser with a suitable

manhole cover shall be extended to within a minimum of six inches of the ground surface. The riser shall be at least 30 inches in diameter and placed over the access opening in the top of the tank. The Health Officer may require that the riser manhole cover be extended to the ground surface or above.  
(1985 Code, § 4-1-12)

(E) *Standards for inlets, outlets and interconnecting pipes.* Either tees or baffles shall be used as inlet and outlet fixtures. Inlet baffles shall extend above the water level a distance of at least eight inches and below the water level a distance of 40% of the liquid depth. A minimum clearance of one inch shall be provided between the lid of the tank and the top of the baffle or tee. The invert of the inlet pipe shall be a minimum of three inches higher than the invert of the outlet pipe. All inlet and outlet connection at the septic tanks shall be sealed with an appropriate material. The pipes connecting septic tanks installed in series shall be four inches minimum diameter. The pipe connecting septic tanks installed in series, the septic tank to the distribution box and the pipe connecting the distribution box to the absorption system must be water-tight and be constructed of cast iron, vitrified clay tile, concrete sewer tile, asbestos cement, copper (hard drawn, type K or L) or plastic sewer pipe or equivalent. These shall be materials approved by the State Board of Health.  
(1985 Code, § 4-1-13)  
(BCC Ord. passed 7-5-83; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985; BCC Ord. 2001-03, passed 5-21-2001)

#### **§ 51.25 DISTRIBUTION BOXES REQUIRED BETWEEN SEPTIC TANK AND ABSORPTION FIELD.**

A distribution box or series of distribution boxes shall be installed between the septic tank and the subsurface absorption system, and each absorption line shall connect directly thereto. It shall be installed in a manner so that it will remain level and provide equal distribution of flow to the individual lines of the subsurface absorption field. Distribution boxes shall be constructed of water-tight concrete, metal or other

impervious material. Distribution boxes shall be provided with an opening, such as a removable lid, which will serve as a ready access for inspection, cleaning, and general maintenance.  
(1985 Code, § 4-1-14) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

#### **§ 51.26 SUBSURFACE ABSORPTION FIELDS; LOCATION, GROUND, AND SOIL REQUIREMENTS.**

(A) *Exceptions permitted with approval of State Board of Health.* All septic tank effluent shall discharge into a subsurface absorption field or other treatment system as approved in accordance with this chapter; however, where soil conditions preclude the installation of a subsurface absorption field sewage disposal system, the State Board of Health, after consultations with the local health agency, may approve alternative uses of the equipment, facilities or pollution control devices as is deemed necessary.  
(1985 Code, § 4-1-15)

(B) *Location, ground, and soil requirements.*

(1) Subsurface absorption fields shall not be constructed in soils rated as having severe or very severe limitations for subsurface sewage disposal by the Soil Conservation Service, U.S. Department of Agriculture, unless that limitation is not present as shown by field investigation or can be overcome.

(a) Examples of severe or very severe limitations are soils with a seasonal high ground water level, bed rock, slope greater than 15%, or where a limiting layer exists within three feet of the proposed trench bottom.

(b) A greater vertical distance is desirable and may be required where aquifers are in danger of contamination.

(c) Subsurface absorption fields shall not be constructed in areas where the land surface gradient is greater than 15%.

(d) All subsurface absorption fields shall be located in accordance with the distances shown in the following table:

<i>Adjacent Property/Facility</i>	<i>Minimum Distance from Field (ft.)</i>
Private water systems source	50
Non-community water system source	100
Community water system source (Lake Salinda and Lake John Hay)	400
Lake or reservoir	50
Stream, ditch, or drainage tile	25
Dwelling or other structure	10
Side or rear lot lines	10
Front lot lines	10
Water lines continually under pressure	10
Suction water lines	50

(2) In soils underlain by fissured or creviced rock formations or by sand or gravel, greater separation distances may be necessary to minimize the possibility of water contamination. No absorption field lateral shall be installed in unstable ground such as unconsolidated fills.  
(1985 Code, § 4-1-16)

*(C) Design and construction of trenches.*

(1) There shall be a minimum separation of seven and one-half feet, on center, between the absorption field trenches.

(2) The trench width shall be a minimum of 18 inches, with a maximum width of 36 inches.

(3) The trench depth shall be a maximum of 48 inches. Depths of 18 inches to the top of the tile are satisfactory.

(4) Three hundred and thirty square feet of trench bottom area per bedroom shall be required for dwellings. For buildings other than dwellings, the Health Officer, at the time a permit is applied for, shall specify a minimum trench bottom area based on anticipated volume and character of effluent to be filtered through the absorption field.  
(1985 Code, § 4-1-17)

*(D) Design and construction of distribution lines.* Absorption lines shall be individually connected to a distribution box to ensure equal distribution to the entire field.

(1) No single lateral shall exceed 100 feet in length. A maximum grade of four inches per 100 feet of run shall be given the distribution tile. Field tile shall be laid with one-quarter inch separation between the ends of joints.

(2) All open joints in the distribution lines which would permit entry of material into the tile shall be covered with paper treated to prevent its decomposition.

(3) The absorption tile or perforated pipe shall be completely surrounded by coarse gravel stone or other approved materials with at least six inches below the tile or pipe and, extending upward to at least two inches above the tile or pipe; however, absorption lines located near trees or shrubs should have at least 12 inches of coarse gravel, stone, or other approved materials below the pipe or tile.

(4) The gravel, stone or other approved materials shall be a mixture ranging in size from one-half to two and one-half inches.

(5) Fines, dust, sand and clay must be removed from the material before placing in the trench.

(6) The top of the stone shall be covered with untreated building paper, two-inch layer of straw, or other like material in a manner so as to prevent the stone becoming clogged with the earth fill.  
(1985 Code, § 4-1-18)

(E) *Discharge of unpolluted waters.* Roof, foundation and storm water drains shall not discharge into nor upon subsurface absorption systems.

(1985 Code, § 4-1-19)

(BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985; Ord. 2001-03, passed 5-21-2001) Penalty, see § 51.99

#### **§ 51.27 CONSTRUCTION OVER SYSTEM.**

There shall be no construction of any kind, including driveways, covering any portion of a private sewage disposal system; however, the connecting sewers between the building and the septic tank (building sewer), between the septic tank and the distribution box, and between the distribution box and the absorption lines may be installed under driveways if the sewer is constructed of cast iron.

(1985 Code, § 4-1-20) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985) Penalty, see § 51.99

#### **§ 51.28 FINAL INSPECTION OR CONTRACTOR'S CERTIFICATE IN LIEU OF INSPECTION.**

(A) The provisions of the permit for the construction, installation, alteration, or repair of a private sewage disposal system or privy shall not be considered to be fulfilled until the work is completed, and has been inspected and approved by the Health Officer.

(B) The contractor who constructs, installs, alters, or repairs a private sewage disposal system shall notify the Health Officer at least 24 hours in advance as to when the work is ready for final inspection, and before any underground portions are covered. However, in lieu of an on-site inspection, the contractor may, at the option of the Health Officer, file a certificate that the work has been designed and constructed to comply with each and all of the applicable provisions and limitations of this chapter, and also that the work has been completed in

accordance with the approved plans and specifications as submitted with the application.

(1985 Code, § 4-1-21) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

#### **§ 51.29 MAINTENANCE; REPAIR 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 and cause an unsanitary condition, the defect shall be corrected by the owner or agent of the owner, occupant or agent of the occupant within the time limit set by the Health Officer.

(1985 Code, § 4-1-22) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985) Penalty, see § 51.99

### ***ENFORCEMENT***

#### **§ 51.40 RIGHT OF ENTRY OF HEALTH OFFICER.**

The Health Officer shall be permitted to enter upon all properties at the proper time for purposes of inspection, measurement, observation, sampling and testing necessary to carry out the provisions of this chapter.

(1985 Code, § 4-1-24) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

#### **§ 51.41 ORDER TO ABATE VIOLATION.**

(A) Any person found to be violating any provision of this chapter may be served by the Health Officer with a written order stating the nature of the violation and providing a time limit for satisfactory correction thereof.

(B) The order shall be served on the owner or the agent of the owner, but may be served on any person who, by contract with the owner, has assumed the duty of complying with the provisions of an order. After receiving an order in writing from the Health Officer, the owner, agent of the owner, the occupant or agent of the occupant of the property shall comply with the provisions of this chapter as set forth in the order and within the time limit included therein.

(1985 Code, § 4-1-25) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

#### **§ 51.42 ENFORCEMENT PROCEEDINGS ON FAILURE TO COMPLY.**

If an owner, occupant, or agent subject to an order of the Health Officer to correct a violation fails to do so within the allowed period of time, the order may be enforced by any or a combination of the following means as the appropriate county authorities deem most suitable in the circumstances:

(A) The County Board of Health or Health Officer may, through the Prosecuting Attorney for the county, seek a prohibitory or mandatory injunction in the manner provided by I.C. 16-20-1-6;

(B) The Board of Health or Health Officer may bring the complaint to the Commissioners, whereupon the Commissioners may:

(1) Subject to the provisions of I.C. 36-1-6-2, direct appropriate officers and employees or agents of the county to enter upon the property and correct the noncomplying condition, the expense thereof to be made a lien against the property until paid by the owner; or

(2) Direct the County Attorney to bring a civil action for injunction to require compliance, as provided by I.C. 36-1-6-4.

(C) The Health Officer or a county police officer may cite the violator for a penal county ordinance violation and cause the violator to be prosecuted

therefor in accordance with I.C. 13-30 and to be subject to a fine as fixed under § 51.99 of this chapter and as provided by I.C. 34-4-32-4(d).

(1985 Code, § 4-1-26) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

#### **§ 51.99 PENALTY.**

Any person who is convicted of violating a provision of this chapter shall be fined not less than \$100 nor more than \$2,500, and each day after the expiration of the time limit for abating noncomplying conditions as ordered by the County Board of Health or the Health Officer shall constitute a distinct and separate offense.

(1985 Code, § 4-1-27) (BCC Ord. passed 7-5-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C6, passed - -1985)

**TITLE VII  
TRAFFIC CODE**

**TITLE VII: TRAFFIC CODE**

Chapter

**70. GENERAL PROVISIONS**

**71. TRAFFIC RULES**

**72. TRAFFIC SCHEDULES**



**CHAPTER 70: GENERAL PROVISIONS**

Section

*General Provisions*

- 70.01 Application; scope of jurisdiction
- 70.02 Exempt vehicles
- 70.03 Authority to erect traffic signs
- 70.04 Regulations or amendments to be adopted by ordinance
- 70.05 Tampering with official traffic-control devices prohibited
- 70.06 Gross weight limit on bridges
- 70.07 Use of county roads by off-road vehicles
- 70.08 Speed limits on all roads of the county road systems

*Administration*

- 70.20 Classification of violations
- 70.21 Liability for violation; service
- 70.99 Penalty

**GENERAL PROVISIONS**

**§ 70.01 APPLICATION; SCOPE OF JURISDICTION.**

(A) The provisions, procedures, and regulations adopted under this title apply only to highways, roads, streets, and other vehicular thoroughfares under county jurisdiction.

(B) They do not apply to nor govern traffic on state highways or state-maintained routes, nor on streets, alleys, and other thoroughfares within the jurisdiction of incorporated municipalities, nor upon

privately owned and operated thoroughfares, unless the county has a contract with the owner to provide and enforce traffic regulations pursuant to I.C. 9-21-18-2 through 9-21-18-8; however, this title does apply to public streets and roadways in unincorporated towns and subdivisions.

(1985 Code, § 6-1-1) (BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985)

**§ 70.02 EXEMPT VEHICLES.**

Unless otherwise specifically provided, publicly owned vehicles, road maintenance vehicles, and authorized emergency vehicles are exempt from the requirements of any county traffic-control regulation to the same degree and under the same circumstances that the vehicles are exempt from state traffic laws and regulations under I.C. 9-21-1-6 through 9-21-1-8. Actions of vehicles directed by the police are also exempt.

(1985 Code, § 6-1-2) (BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985)

**§ 70.03 AUTHORITY TO ERECT TRAFFIC SIGNS.**

The County Highway Superintendent, or the owner or operator of a private entrance if so required, is hereby authorized and directed to erect and maintain the traffic-control devices, of a type and in a manner as prescribed in the *Uniform Traffic Control Manual* of the state, when and where the devices are required under I.C. 9-21-1-3, 9-21-1-4, 9-21-5-6, 9-21-5-7, 9-21-5-9, 9-21-8-12, 9-21-8-13, 9-20-1-3, 9-21-1-4, and 9-21-4-7 through 9-21-4-10, or any other law so

as to permit the enforcement of any county traffic regulation as now or hereafter adopted.

(1985 Code, § 6-1-3) (BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985)

**§ 70.04 REGULATIONS OR AMENDMENTS TO BE ADOPTED BY ORDINANCE.**

(A) Hereafter, any further enforceable traffic regulations to be imposed on county roads and streets, or any changes in or deletion of any regulations as ratified and re-adopted under § 71.01 or as hereafter adopted, must be specifically set forth or enacted through ordinances duly adopted by the Board of Commissioners in the manner provided by law.

(B) The ordinances shall make specific additions to or changes in the appropriate schedules, or, if the regulation is of a type not covered, the ordinance shall create a new section and schedule as appropriate.

(C) In the latter case, the ordinance or a separate ordinance shall also make an addition to the schedule of uniform county traffic violation penalties to include and establish penalties for violation of the new type of regulation; however, the Highway Department may, without adoption of an ordinance, erect traffic-control signs as deemed necessary for information purposes to better secure observance and enforcement of an applicable state traffic law, as, for example, a prima facie speed limit or a statutory “no parking” area as defined under I.C. 9-4-1-114(a).

(1985 Code, § 6-1-5) (BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985)

**§ 70.05 TAMPERING WITH OFFICIAL TRAFFIC-CONTROL DEVICES PROHIBITED.**

(A) It shall be unlawful for any person not so authorized by the county to remove, move, alter, deface, or otherwise tamper with any official traffic-control sign, signal, marking, or other device erected or established on the right-of-way of any highway or road under county jurisdiction.

(B) A reward may be offered by the county for information leading to the arrest and conviction of persons responsible for damage to county property.

(1985 Code, § 6-4-1) (BCC Ord. 1985-C10, passed 8-5-1985) Penalty, see § 70.99

**§ 70.06 GROSS WEIGHT LIMIT ON BRIDGES.**

(A) *Title.* This section shall be known and may be cited as the “Bridge Weight Ordinance”.

(B) *Authority.* The Board of Commission as the local authority do hereby establish that the maximum load permitted on any bridge, causeway or viaduct may be reduced when it is determined by the County Highway Engineer or the County Highway Superintendent that the maximum load on the bridge should be reduced in order to protect serious damage or safety to vehicles crossing the same or to the bridge structure itself.

(C) *Effective notice.* A reduction in the maximum gross weight allowed over a bridge, causeway or viaduct shall be effective when an order making the reduction is signed by the County Highway Engineer or the County Superintendent and placed in the records at the County Highway Department and further when signs indicating a reduction in the gross weight are placed pursuant to the Indiana Code.

(D) *Enforcement.* This section shall be enforced by the Sheriff’s Department of the county, the state police and all other law enforcement who have jurisdiction over the location of the particular bridge involved.

(BCC Ord. 98-02, passed 2-16-1998) Penalty, see § 70.99

**§ 70.07 USE OF COUNTY ROADS BY OFF-ROAD VEHICLES.**

(A) *Authority.* I.C. 14-16-1-22 allows a county to pass an ordinance regulating the use and operation of off-road vehicles.

(B) *Compliance with I.C. 14-16-1-1 et seq.*

(1) Off-road vehicles, as defined in I.C. 14-16-1-4 et seq., may use the county roads, outside the corporate limits of any city or town.

(2) No person shall operate an off-road vehicle, as defined in I.C. 14-16-1-20 et seq., without a valid motor vehicle driver's license.

(3) No person shall operate an off-road vehicle without having properly registered the vehicle, pursuant to I.C. 14-16-1-9.

(4) No use otherwise prohibited by state law shall be permitted on county roads, including, but not limited to, the prohibitions found under I.C. 14-16-1-23.

(5) A person who operates an off-road vehicle on county roads shall comply with all conditions of I.C. 14-16-1-1 et seq.

(6) A person who operates an off-road vehicle on county roads as permitted under this chapter shall have in effect at all times the minimum amount of liability insurance coverage for the off-road vehicle as required by state law for the operation of an automobile. Proof of the insurance coverage must be filed with the Auditor of the county before permitting the operation of an off-road vehicle on the county roads of the county.

(7) Any off-road vehicle operating pursuant to this statute shall not exceed the legal speed limit or the posted speed limit. The legal speed limit on the county highway systems is 45 mph, unless otherwise posted.

(8) Any law enforcement officer including, but not limited to, the County Sheriff's Department, state police and state conservation officers may enforce this chapter.  
(BCC Ord. 2002-04, passed 12-2-2002) Penalty, see § 70.99

**§ 70.08 SPEED LIMITS ON ALL ROADS OF THE COUNTY ROAD SYSTEMS.**

(A) Except when a special hazard exist that requires lower speed for compliance, the speed limit specified in this section is the maximum lawful speed limit on county highways. A person may not drive a vehicle on a county highway at a speed in excess of the following maximum limits:

(1) Forty-five mph;

(2) Conditions requiring driving at a reduced speed:

(a) When approaching and crossing an intersection or railroad crossing;

(b) When approaching and going around a curve;

(c) When going over a hillcrest;

(d) When traveling on a narrow or winding roadway; and

(e) When special hazards exist with respect to pedestrians or other traffic or by reason of weather or the condition of the roadway.

(B) A person who violates this section commits a Class C infraction, as defined in I.C. 34-28-5-1 and the procedures thereunder as amended from time to time by the state legislature.

(C) A person who is charged in violation of this speed regulation, pursuant to I.C. 9-21-8-53 the affidavit, summons or notice to appear must include the following:

(1) The speed at which the defendant is alleged to have driven; and

(2) A statement that all county highways in the county, pursuant to this section, have a speed limit of 45 mph, unless otherwise posted.

(D) Pursuant to state statute all alleged violations shall be filed in the Circuit Court. (BCC Ord. 2004-04, passed 7-19-2004)

**ADMINISTRATION**

**§ 70.20 CLASSIFICATION OF VIOLATIONS.**

(A) An officer enforcing traffic regulations as established by this title shall, whenever practicable and except as hereafter provided, classify the offense and mark the Uniform Traffic Citation form as a local ordinance violation so that the county will be eligible to collect or receive the respective fine into the county treasury in accordance with I.C. 9-21-1-2(b). However, in the following instances the violation shall be classified and marked on the form as a state law violation:

(1) Where the violation is disobedience of a traffic-control sign or signal established, erected, and maintained by the State Department of Highways with respect to a state highway or state-maintained route, and which governs traffic proceeding along or entering or exiting the highway or route; or

(2) Where the violation is disobedience of a traffic-control sign or signal which has been erected by the county (whether under authority of an ordinance or otherwise) merely for information purposes so as to better secure the observance and enforcement of an applicable general state traffic law, as, for example, with respect to a statutory "no parking" area as defined under I.C. 9-21-17-5; or

(3) In those places, or under those circumstances, where the application and effect of a county traffic regulation, except a regulation lawfully altering the prima facie speed limits, would serve to duplicate the provisions of a general traffic statute (other than I.C. 9-21-1-3) whereby the same act would also be unlawful and punishable as a misdemeanor or infraction, or any other state law, even if there were no such county ordinance.

(B) With respect to violations of traffic signs or

signals established, erected, and maintained by the county, the enforcement officer may, subject to any contrary directives of the Board of Commissioners or Sheriff, cite the violation as a state offense if he or she believes that doing so is necessary for effective and expeditious enforcement.

(1985 Code, § 6-1-18) (BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985)

**§ 70.21 LIABILITY FOR VIOLATION; SERVICE.**

(A) In the case of any moving violation, the operator of a vehicle at the time the violation occurs shall be cited and held liable for the violation.

(B) In the case of a nonmoving violation, the operator of the vehicle having caused the violation shall be cited and held liable if the person is present and can be identified; otherwise, the registered or acknowledged owner or lessee of the offending vehicle shall be presumed liable for the violation.

(C) If the owner or operator of a vehicle which is in nonmoving violation is not present at the scene when the violation is discovered, the citation may be served by securely attaching the violator's copy of same in a conspicuous location on the vehicle.

(1985 Code, § 6-1-19) (BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985)

**§ 70.99 PENALTY.**

(A) (1) When proper signs, signals, markings, or other traffic-control devices are erected and maintained indicating the existence of county traffic regulations, the driver of a vehicle who disregards the traffic-control device and violates the regulation shall be liable to a fine in accordance with the following schedule.

(2) In addition to the fine, the violator may also be held liable for any damage to county property arising out of the violation.

<i>Violation</i>	<i>Minimum Penalty</i>	<i>Maximum Penalty</i>
Stop or yield sign/signal	\$25	\$500
Speed limit:		
less than 10 mph over	\$10	\$20
10 to 25 mph over	\$20	\$50
more than 25 mph over	\$50	\$500
Direction control	\$25	\$500
No passing	\$25	\$500
Turn restriction	\$25	\$500
Weight limit	\$20	\$500
Other use restriction	\$20	\$100
Illegal parking/standing	\$10	\$20
Overtime parking	\$5	\$10

(1985 Code, § 6-1-20)

(B) A person who violates § 70.05 shall be fined not less than \$100 nor more than \$500 for each offense, and shall additionally be liable for the cost of replacing or restoring the affected traffic-control device.

(1985 Code, § 6-4-1)

(C) Anyone violating the prescribed gross vehicle weight as effective under § 70.06 over a bridge, causeway or viaduct shall be guilty of an infraction and may be fined not less than \$200 or more than \$1,000 for each occurrence.

(BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985; BCC Ord. 98-02, passed 2-16-1998)



## CHAPTER 71: TRAFFIC RULES

### Section

#### *Traffic Regulation Schedules*

- 71.01 Adoption and ratification of county traffic regulations; incorporation into schedules
- 71.02 Regulation of traffic from private entrances

#### *Animal-Drawn Vehicles*

- 71.20 Authority and applicability
- 71.21 Definitions
- 71.22 License required
- 71.23 Application and fee
- 71.24 Issuance and term; certificate to be carried in vehicle
- 71.25 License plate or tag
- 71.26 Compliance with motor vehicle traffic regulations
- 71.27 Horseshoe regulations
- 71.28 Violations
- 71.29 Disposition of license fees and fines
  
- 71.99 Penalty

#### **TRAFFIC REGULATION SCHEDULES**

##### **§ 71.01 ADOPTION AND RATIFICATION OF COUNTY TRAFFIC REGULATIONS; INCORPORATION INTO SCHEDULES.**

(A) Whereas I.C. 9-21-1-2 grants to local authorities permission within their jurisdictions to adopt traffic regulations by ordinance; and whereas I.C. 36-1-4-16 permits the ratification of actions that

could have been approved in advance, it is now and herein provided that:

(1) Whenever by order or motion of the Board of Commissioners or by action of the County Highway Department or other county officer, there has been established any traffic regulation on county roads which have been and are now evidenced by the erection of proper traffic-control signs such actions of county officers are hereby validated and legalized, and all those regulations are hereby fully validated, ratified, legalized, re-confirmed, readopted and made fully forceful and effective retroactively to the time when they were originally established; and

(2) All actions of police officers, courts, and other officers having enforced any proper traffic regulations are hereby fully ratified, legalized, and validated.

(B) It shall be the duty of the County Highway Superintendent to cause to be made a survey of all enforceable traffic-control regulations now in effect and evidenced by proper traffic control signs on all county roads and streets under county jurisdiction, and to cause the information to be compiled into a sign-verification file to be kept in the office of the County Highway Superintendent, and open to public inspection upon request. This section applies only to locally-imposed traffic regulations.

(1985 Code, § 6-1-4) (BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985)

##### **§ 71.02 REGULATION OF TRAFFIC FROM PRIVATE ENTRANCES.**

All public roads in the county highway system shall be considered prima facie as preferential roads

with respect to any privately owned, operated, and maintained conjoining roads, driveways, and other vehicular entrances. With the exception of driveways leading from one- and two-family dwellings, but including roads or driveways from multi-family dwellings, privately operated common roads in residential subdivisions, commercial and industrial drives and roads, the Board of Commissioners, upon the recommendation of the County Highway Superintendent or County Sheriff, may adopt and serve a written order requiring the operator of the conjoining private road, and at his or her expense, to erect and maintain thereon, at the entrance to the county highway system and in accordance with the *Uniform Traffic Control Manual of Indiana*, the stop or yield, turn restriction, or directional control signs or signals as may be deemed necessary to regulate traffic traveling on the private roadway, protect the safety and convenience of traffic on the public highway, and enforce the preferentiality of the public highway. When an order is issued in accordance with this section, the traffic regulations shall be considered to have been established under authority of this section and any further ordinance is not necessary; however, the required regulation shall be entered into and included as part of Schedule "C", "D", "E", or "G" as appropriate. When signs are erected, the county police authorities shall enforce regulations applicable under this section in the same manner as other county traffic regulations. In fulfillment of any requirement under this section, the operator of the affected private entrance may himself erect and maintain the required sign or signal, or may elect to have the county do so upon payment of appropriate costs as determined by the Commissioners. If necessary, compliance with the order may be enforced in accordance with I.C. 36-1-6-2 or I.C. 36-1-6-4(a). (1985 Code, § 6-1-16) (BCC Ord. 1985-C10, passed 8-5-1985; BCC Ord. 1985-C11, passed 8-5-1985)

### ***ANIMAL-DRAWN VEHICLES***

#### **§ 71.20 AUTHORITY AND APPLICABILITY.**

This act is adopted under authority of I.C. 8-17-1-40, I.C. 36-1-3-6(b)(1), and I.C. 36-9-2-7,

and applies to the use of horse-drawn vehicles on all county roads, unless otherwise specifically limited herein.

(1985 Code, § 6-2-1) (BCC Ord. 1985-C15, passed - -1985)

#### **§ 71.21 DEFINITIONS.**

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

***COUNTY ROAD.*** Any public vehicular thoroughfare or public way owned, operated, or maintained by Washington County, Indiana. The term does not include privately owned and maintained roadways or drives, nor public ways owned, operated, or maintained by the state or an incorporated municipality.

***HORSE.*** Has its usual meaning, but also includes similarly employed draft animals such as mules, ponies, oxen, and the like.

#### ***HORSE-DRAWN VEHICLE.***

(1) A buggy, carriage, dray, wagon, or similar vehicle designed and intended to use one or more horses as motive power and used for the purpose of transporting persons or cargo.

(2) The term does not include field wagons (i.e., wagons used primarily for field work and not typically used in the conveyance of persons or commodities on the roads), nor horse-drawn agricultural implements relative to the code sections pertaining to fees, but shall include the field wagons and agricultural implements in sections which pertain to horseshoes.

***OWNER.*** Any person, individual, partnership, corporation, association, or quasi-legal entity that owns, rents, leases, or otherwise has primary use or control over a horse-drawn vehicle for any period of 30 days or more.

(1985 Code, § 6-2-2) (BCC Ord. 1985-C15, passed - -1985)

**§ 71.22 LICENSE REQUIRED.**

It shall be unlawful and a penal violation of this title for any person to drive, or for any owner to permit to be driven, any horse-drawn vehicle upon or across a county road unless the vehicle is properly licensed as hereinafter provided.

(1985 Code, § 6-2-3) (BCC Ord. 1985-C15, passed - -1985) Penalty, see § 71.99

**§ 71.23 APPLICATION AND FEE.**

Any owner of a horse-drawn vehicle wishing to obtain a license to operate the vehicle on the county roads may apply for the license at the office of the County Assessor. The applicant shall pay, and the Assessor or an authorized designee shall collect, a non-proratable and nonrefundable license fee of \$12.50 per vehicle at the time application is made, for which the applicant shall be given a proper receipt. The application, and the license itself when issued, shall include on its face the following:

- (A) A description of the vehicle;
  - (B) The name and address of the owner;
  - (C) The amount of license fee paid and the receipt number;
  - (D) The expiration date of the license, in accordance with § 71.24;
  - (E) The signature of the owner; and
  - (F) If applicable, the number of the license tag or sticker if required and issued pursuant to § 71.25.
- (1985 Code, § 6-2-4) (BCC Ord. 1985-C15, passed - -1985)

**§ 71.24 ISSUANCE AND TERM; CERTIFICATE TO BE CARRIED IN VEHICLE.**

When application is made, fee paid, and all other requirements of § 71.23 are fulfilled, the Assessor or designee shall prepare and give to the applicant a written license certificate signed and validated by the

Assessor or designee. All licenses, irrespective of when issued, shall be valid only through the next succeeding May 9. The owner shall be liable for providing that the license certificate be carried in the vehicle at all times when the same is being driven on county roads, failure to do so being a penal violation of this title. The license is issued and shall be held conditionally on operation of the licensed vehicle in accordance with all requirements of this title and any subsequent amendments, and unreasonable failure to comply therewith shall be cause for revocation of the license upon a finding and order of the Board of Commissioners or a court and notice to the licensee.

(1985 Code, § 6-2-5) (BCC Ord. 1985-C15, passed - -1985)

**§ 71.25 LICENSE PLATE OR TAG.**

If the Board of Commissioners finds that it is reasonably necessary for the suitable and convenient enforcement of the provisions of this title, they may direct that the Assessor provide a numbered license plate, tag, or sticker for each vehicle licensed pursuant to § 71.23. If so required, the plate, tag, or sticker shall be of sturdy weather-resistant material suitable for affixture to the rear or left side of the licensed vehicle in a readily visible location (and shall be so affixed by the owner), and shall be of sufficient size that it may be easily observed by a police officer following at a safe distance or passing the horse-drawn vehicle in a motor vehicle. The plate, tag, or sticker may contain numerical denotations or color coding to indicate the expiration date of the vehicle's license. When a license plate, tag, or sticker is required and provided pursuant to this section, the Assessor shall collect, in addition to the license fee prescribed by § 71.23, a license fee surcharge in an amount equal to the costs incurred by the county to supply the plate, tag, or sticker.

(1985 Code, § 6-2-6) (BCC Ord. 1985-C15, passed - -1985)

**§ 71.26 COMPLIANCE WITH MOTOR VEHICLE TRAFFIC REGULATIONS.**

Unless clearly inapplicable because of the nature of the vehicle, or unless specifically exempted by

statute or ordinance, a person operating a horse-drawn vehicle upon a county road shall do so in accordance with and in observance of all traffic regulations applicable to motor vehicles using county roads as provided by state law or county ordinances, including but not limited to stopping or yielding right-of-way, speed limits, parking restrictions, and the like.

(1985 Code, § 6-2-8) (BCC Ord. 1985-C15, passed - -1985)

### § 71.27 HORSESHOE REGULATIONS.

#### (A) *Horseshoe types allowed.*

(1) It shall be unlawful for any person to be an operator or to cause any horse or horse-drawn vehicle to be operated on any asphalt, concrete, or other hard-surfaced road or highway of the county, which has been fitted with any horseshoe which has protrusions or corks.

(2) Smooth horseshoes, or horseshoes reinforced with a material like borum, of a solid rubber composition without protrusions or corks shall be permitted. It shall be unlawful for any horseshoer or other person to affix to the hoof of any horse which is operating under the terms of this section any horseshoe not in compliance with this section.

(B) *Prohibition on newly blacktopped roads.* It shall be unlawful for any person to be an operator or to cause any horse or horse-drawn vehicle to be operated on any newly surfaced, resurfaced or repaired road or highway of the county until sufficient time for pavement curing has elapsed, as determined from consultation with officials of the Highway Department.

#### (C) *Enforcement.*

(1) It shall be the duty of the County Sheriff's Department to enforce this section.

(2) Any duly qualified and acting law enforcement officer may enforce the terms of this section.

(BCC Ord. 91-08, passed 12-30-1991) Penalty, see § 71.99

### § 71.28 VIOLATIONS.

(A) No person shall operate or no owner shall permit the operation of a horse-drawn vehicle on a county road:

(1) Without a license when required under § 71.22; or

(2) Without the license being carried in the vehicle as required by § 71.24;

(3) Without a properly affixed license plate, tag, or sticker if required under § 71.25; or

(4) In violation of any regulation governing the operation of horse-drawn vehicles as provided herein, except under § 71.26.

(B) Whoever violates this section shall be subject to the penalty provided in § 71.99. In addition to the fine, a person liable for a violation of § 71.27 shall also be liable for any costs incurred and stipulated by the county for restoring pavement or repairing any other damage to county roads shown to have directly resulted from the violation. A person operating a horse-drawn vehicle in violation of traffic regulations as made applicable under § 71.26 shall be liable for the same penalty as would be applicable to the driver of a motor vehicle committing the respective offense, as provided by law or ordinance.

(1985 Code, § 6-2-9) (BCC Ord. 1985-C15, passed - -1985)

### § 71.29 DISPOSITION OF LICENSE FEES AND FINES.

The County Assessor shall keep records of all license fees and fee surcharges collected pursuant to § 71.33 and/or § 71.25 (if applicable), and shall pay the fees over to the county treasury, in the same manner as provided by law for fees collected by other county officers. All the fees, and all fines and stipulated costs awarded to the county pursuant to § 71.28 by virtue of a violation of this subchapter (excepting a violation of traffic regulations under § 71.26), shall be deposited in the County Highway

Fund and credited to a special subsidiary account to be known as the "Horse-Drawn Vehicle Account". Monies credited to the Horse-Drawn Vehicle Account shall be used only for repair and maintenance of county roads; provided, however, that the County Council may appropriate from the Highway Fund (and from the Horse-Drawn Vehicle Account specifically) sufficient monies for the use of the County Assessor's Office to cover costs of issuing horse-drawn vehicle licenses, providing license plates or tags (if required pursuant to § 71.25), or any other costs of the office directly attributable to administering the provisions of this subchapter. Fines assessed for violation of traffic laws or ordinances by drivers of horse-drawn vehicles, as made applicable under § 71.26, shall be deposited as follows:

(A) If the violation is of a traffic statute which applies per se to and governs the operation of a horse-drawn vehicle on county roads, the fine shall be deposited in the General Fund of the state; however,

(B) If the violation is of either of the following, then the fine shall be deposited in the County General Fund:

(1) A state traffic regulation which by statute applies to and governs the operation only of motor vehicles, and is made applicable to horse-drawn vehicles only by the effect of § 71.26 of this subchapter; or

(2) Is a violation of any local traffic regulation established and existing only by county ordinance in the first instance, and is made applicable to horse-drawn vehicles by § 71.26 of this subchapter; (1985 Code, § 6-2-10) (BCC Ord. 1985-C15, passed - -1985)

(B) Whoever violates the provisions of § 71.28 shall be liable to a fine of not less than \$25 nor more than \$50 for each violation, and each day that any violation occurs shall be deemed to be a separate offense.

(1985 Code, § 6-2-9) (BCC Ord. 1985-C15, passed - -1985)

#### § 71.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty provided in § 70.99.



## **CHAPTER 72: TRAFFIC SCHEDULES**

### Schedule

#### I. Four-way stops

#### **SCHEDULE I. FOUR-WAY STOPS.**

The Washington County Highway Department is hereby authorized to institute a four-way stop at the intersection of Orchard Road and Quarry Road.  
(BCC Ord. 2008-02, passed 6-4-2008)



**SCHEDULE II. THREE-WAY STOPS.**

(A) The Washington County Highway Department is hereby authorized to institute a three-way stop at the intersection of Big Springs Road and West End Road by adding one additional stop sign at the intersection.

(B) The Washington County Highway Department is hereby authorized to institute a three-way stop at the intersection of Palmyra Lake Road and County Line Road by adding two additional stop signs at the intersection. (BCC Ord. 2017-09, passed 9-6-2017; BCC 2021-06, passed 11-2-2021)





**TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. ANIMALS
- 91. EMERGENCY SERVICES
- 92. FAIR HOUSING
- 93. FOOD
- 94. PUBLIC PROPERTY
- 95. STREETS AND SIDEWALKS  
APPENDIX A: RIGHT-OF-WAY PERMIT PROVISIONS AND  
APPLICATION
- 96. WEED CONTROL



## CHAPTER 90: ANIMALS

### Section

90.01	Definitions
90.02	Duty and responsibility of animal owners
90.03	Vicious animals
90.04	Restraint of animals
90.05	Public nuisance animal
90.06	Prohibited animals
90.07	Damage to property
90.08	Jurisdiction and enforcement
90.99	Penalty

human beings, pets, companion animals or livestock or which, because of temperament, conditioning, or training, has a known propensity to attack, bite or injure human beings, pets, companion animals or livestock. No dog may be declared **DANGEROUS** if a threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog or was teasing, tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime. The definition shall not be construed to include dogs that are part of a governmental organization or a trained guard dog in performance of its duties.

(BCC Ord. 2006-03, passed 12-4-2006)

### § 90.01 DEFINITIONS.

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

**ANIMAL.** Every living dumb creature, both domestic and wild.

**DOG RUNNING AT LARGE.** Any dog not under immediate control, not on a leash, not at heel, not beside a competent person, not in a vehicle driven or parked, or not confined within the property limits of his or her owner. Hunting dogs are considered to be under the control of the owner (and not **RUNNING AT LARGE**) when the owner is hunting with the dog.

**DOMESTIC ANIMAL.** A dog, cat, or any other animal such as a rabbit, guinea pig, lizard, iguana, hamster, ferret, mouse, snake, spider, bird, or gerbil, which may normally be held, sold, or maintained as a pet.

**VICIOUS ANIMAL** and **DANGEROUS ANIMAL.** Any animal that attacks, bites or injures

### § 90.02 DUTY AND RESPONSIBILITY OF ANIMAL OWNERS.

Every owner of every animal kept in the county shall see that the animal:

(A) Is kept in a clean and sanitary and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement. The person responsible for the animal shall regularly and as often as necessary maintain all animal areas or areas of animal contact to prevent odor or health and sanitation problems;

(B) Shall have proper and adequate food that is nutritionally appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water, shelter and ventilation, including quarters that are protected from excessive heat and

cold and are of sufficient size to permit the animal to exercise and move about freely;

(C) Shall not be tethered unattended by use of a choke collar nor by any rope, chain or cord directly attached to the animal's neck (without a separate collar), nor by a leash less than 12 feet in length or of an unreasonable weight as to prevent the animal from moving about freely;

(D) Is protected against abuse, cruelty, neglect, torment, overload, overwork, or any other mistreatment;

(E) Shall provide reasonable necessary medical care, in addition to the required rabies vaccination, which shall include distemper, parvo virus inoculations; if diseased or exhibiting symptoms of disease, receives proper medical care and is segregated from other animals so as to prevent transmittal of the disease; and

(F) Is maintained in compliance with all applicable federal, state and local laws and all regulations respecting animal care and control as are adopted by the county and in effect from time to time. (BCC Ord. 2006-03, passed 12-4-2006) Penalty, see § 90.99

### § 90.03 VICIOUS ANIMALS.

(A) It shall be unlawful for any person to cause, permit, accompany or be responsible for the presence of any vicious dog, cat, or other animal on the streets or public places of the county or allow the animal to run on the premises of another at any time, unless, in addition to the other retirements of this chapter, the dog, cat or other animal shall be securely muzzled to effectively prevent it from biting any person or other animal. Upon impounding a vicious animal for any reason, the animal control officer may, for reasons of public safety, retain the animal at the impoundment facility until disposition by the appropriate court.

(B) This section shall not apply to law enforcement dogs.  
(BCC Ord. 2006-03, passed 12-4-2006) Penalty, see § 90.99

### § 90.04 RESTRAINT OF ANIMALS.

(A) It shall be unlawful for any owner or possessor of any dog to allow the dog to run at large, whether wearing a collar and tag or not, within the incorporated or unincorporated areas of the county. Any and all dogs found running at large, whether wearing a collar and tag or not, may be immediately impounded by officers of the animal control unit or any police officer. The officers may pursue the animal onto private property to effect capture of the animal. Nothing in this chapter should be construed to interpret an animal on the property of its owner to be considered "at large".

(B) The owner or possessor of the animal can be issued a summons into court for that county ordinance violation.

(C) It shall be the duty of every owner or custodian of any animal to exercise reasonable care and take all necessary steps and precautions to protect other people, property, and animals from injuries or damage which might result from the animal's behavior. If the owner or custodian of any animal is a minor, the parent or guardian of the minor shall be jointly responsible for the minor's violation of this chapter.

(D) It shall be the duty of every owner or custodian of any dog to ensure that the dog is kept under restraint and that reasonable care and precautions are taken to prevent the dog from leaving the real property limits of its owner, possessor, or custodian, and ensure that it is:

(1) Securely and humanely enclosed within a house, building, fence, pen or other enclosure out of which it cannot climb, dig, jump, or otherwise escape on its own volition; and that the enclosure is securely locked at any time the animal is left unattended;

(2) Securely and humanely restrained by chain, cable or trolley, or other tether of sufficient strength to prevent escape; and/or

(3) On a leash and under the control of a competent person; or off a leash and obedient to that

person's command and that person is present with the animal any time it is not restrained as provided for in division (D)(1) or (D)(2) above while on the owner's property.

(E) The following additional precautions shall be taken by the owners, possessors, or custodians of vicious or dangerous animals.

(1) In addition to the requirements in division (D)(1) above, the owner of a dangerous or vicious dog who maintains the dog out-of-doors shall fence a portion of the property with a second perimeter or area fence. Within this perimeter or area fence, the vicious or dangerous animal must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides and a secure top attached to all sides. The sides must either be buried two feet into the ground, sunken into a concrete pad, or securely attached to a wire bottom. The gate to the kennel shall be of the inward-opening type and shall be kept locked except when tending to the animal's needs such as cleaning the kennel or providing food and water.

(2) Whenever the dog is outside of its enclosure as provided for in this division (E)(2), but on the owner's property, it must be attended by the owner and restrained by a secure collar and leash of sufficient strength to prevent escape. The leash shall be no longer than ten feet, and the animal must be kept at least 15 feet within the perimeter boundaries of the property unless the perimeter boundary is securely fenced.

(3) No vicious or dangerous dog shall be chained, tethered, or otherwise tied to any inanimate object such as a tree, post or building, outside of its own enclosure as provided for in this section. (BCC Ord. 2006-03, passed 12-4-2006; BCC Ord. 2023-10, passed 12-19-2023) Penalty, see § 90.99

#### § 90.05 PUBLIC NUISANCE ANIMAL.

(A) A **PUBLIC NUISANCE ANIMAL** shall mean and include any animal that:

(1) Damages the property of anyone other than the owner;

(2) Is vicious;

(3) Attacks without provocation;

(4) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept; or

(5) Creates unsanitary conditions or offensive and objectionable odors in enclosures or surroundings and thereby creates unreasonable disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept.

(B) Any public nuisance animal may be impounded and the owner or possessor charged for a violation of this chapter. (BCC Ord. 2006-03, passed 12-4-2006) Penalty, see § 90.99

#### § 90.06 PROHIBITED ANIMALS.

(A) *Prohibition.* Ownership, possession or maintenance of the following animals is prohibited, except by special application to the Board of Commissioners for scientific or educational programs:

(1) Mammals.

(a) Any North American non-domesticated mammal; and

(b) Any exotic mammals, including but not limited to, all species of monkeys, marmosets and similar animals; all species of wild felines, canines, bears and similar animals; and hooved mammals such as antelope and similar species.

(2) Birds. All birds, except those species identified division (B) or those maintained under federal or state permit.

Washington County - General Regulations

(3) Reptiles and amphibians.

(a) All exotic reptiles and amphibians, subject to the exceptions in division (B) below.

(b) All venomous reptiles and amphibians.

(4) Invertebrates. All venomous invertebrates included but not limited to, black widow spiders, scorpions and similar animals.

(B) The following animals may be owned, possessed or maintained without a license, pursuant to division (A).

(1) Mammals.

(a) Hamsters;

(b) Mice;

(c) Rats;

(d) Gerbils;

(e) Guinea Pigs; or

(f) Any other similar mammal commonly considered and sold as a pet and is safe for handling.

(2) Birds.

(a) Parrots;

(b) Parakeets;

(c) Cockatiels;

(d) Myna birds;

(e) Finches;

(f) Canaries;

(g) Pigeons and doves; or

(h) Any other bird commonly considered and sold as a pet and is safe for handling.

(3) Reptiles and amphibians.

(a) Non-poisonous snakes (including boa constrictors, pythons, and other constrictor snakes);

(b) Non-poisonous lizards;

(c) Turtles;

(d) Salamanders;

(e) Frogs and toads; and

(f) Any other reptile or amphibian that is commonly considered and sold as a pet and is safe for handling.

(BCC Ord. 2012-02, passed 5-1-2012) Penalty, see § 90.99

§ 90.07 DAMAGE TO PROPERTY.

No person shall, without the consent of the owner of the property concerned, permit any animal, including dogs and cats in his or her custody and control to enter upon the premises of another within the county, or permit any animal in his or her custody or control to injure, destroy, or carry away any property belonging to another person or entity.

(BCC Ord. 2006-03, passed 12-4-2006) Penalty, see § 90.99

§ 90.08 JURISDICTION AND ENFORCEMENT.

(A) The County Board of Commissioners finds that the terms and conditions of this chapter are in the best interests of all citizens of the county. Therefore, this chapter shall be in full force and effect in both the incorporated and unincorporated parts of the county unless or until a municipality within the county passes an ordinance:

(1) Prohibiting enforcement of this chapter within the boundaries of the municipality; or

(2) Regulating and prohibiting acts or omissions substantially similar to those acts or omissions set out in this chapter.

(B) Enforcement of this chapter shall be by the County Sheriff's Department.  
(BCC Ord. 2006-03, passed 12-4-2006)

**§ 90.99 PENALTY.**

(A) Any person violating any section of this chapter shall commit a Class C infraction and shall be subject to a fine of \$100, plus costs, per occurrence.

(B) In the event that an animal is impounded by the county pursuant to this chapter, and in addition to any other penalty set out in division (A) above or court costs, the owner shall reimburse the county for the cost associated with providing shelter for each impounded animal at an animal control facility or the humane society.

(C) If a person violates a section of this chapter listed in division (B) above, and if the person proves to the court, within 20 days of the violation, that the violation has met both of the following criteria, the charge shall be dismissed upon payment of a deferral fee of \$50:

(1) Has been remedied; and

(2) The person has no prior violations of this chapter.

(D) The sections of this chapter are intended to encourage the humane treatment of animals. Therefore, any court having jurisdiction of violations of this chapter is encouraged to use the court's deferral procedures to assist the public to conform the treatment of animals within the county to the terms of this chapter.

(E) A violation of a section of this chapter shall be cited by adding the appropriate section or division to the citation.

(BCC Ord. 2006-03, passed 12-4-2006)



## CHAPTER 91: EMERGENCY SERVICES

### Section

#### *Ambulance Services*

- 91.01 Purpose
- 91.02 Definitions
- 91.03 Restrictions on emergency ambulance service providers

#### *Enhanced Emergency Telephone System*

- 91.15 System established
- 91.16 Definitions
- 91.17 Fee

#### *Cross-reference:*

*Civil Defense and Emergency Management, see Chapter 34*

*Ambulance Services Authority, see Chapter 32*

### **AMBULANCE SERVICES**

#### **§ 91.01 PURPOSE.**

(A) The purpose of this subchapter is to establish that the Board of Commissioners will control the operation of ambulance services in the county, pursuant to the provisions of state statutes.

(B) The county's citizens demand and deserve the best available emergency medical care. The Authority established under this subchapter will be expected to provide an efficient and top quality ambulance service to all the citizens of the county in the most cost-effective fashion. Due to the distinctive geographic configuration of the county and its population density variations, the most effective method of providing quality ambulance service to all

of the area of the county, is for the county to provide ambulance service through an independent contract operated by and through the personnel of the Washington County Memorial Hospital. (BCC Ord. 93-03, passed 3-1-1993)

#### **§ 91.02 DEFINITIONS.**

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

**AMBULANCE.** Any conveyance on land, water or air that is used or is intended to be used for the purpose of responding to emergency life-threatening situations and providing emergency transportation service.

**AUTHORITY.** The County Board of Commissioners.

**BOARD OF COMMISSIONERS.** The Board of Commissioners of Washington County, Indiana.

**EMERGENCY AMBULANCE SERVICES.** The transportation of emergency patients by ambulance and the administration of emergency medical care to emergency patients before or during the transportation.

#### **EMERGENCY MEDICAL CARE.**

- (1) Assessment of emergency patients;
- (2) Administration of oxygen;
- (3) Utilization of mechanical breathing devices;

## Washington County - General Regulations

- (4) Application of anti-shock trousers;
- (5) Performance of cardiopulmonary resuscitation;
- (6) Application of dressing and bandage materials;
- (7) Application of splinting and immobilization services;
- (8) Utilization of lifting and moving devices to ensure safe transport;
- (9) Utilization of an automatic or a semi-automatic defibrillator if the defibrillator is used in accordance with training procedures established by the State EMS Commission;
- (10) Other procedures authorized by the State EMS Commission; and
- (11) The term does not include invasive medical care techniques or advanced life support.

**EMERGENCY MEDICAL SERVICE FACILITY.** Those facilities that are licensed and operated under I.C. 16-21-2 and are equipped, prepared, and staffed to provide medical care for emergency patients.

**EMERGENCY MEDICAL SERVICES.** The provision of emergency ambulance services or other services, including extrication and rescue services, utilized in serving an individual's need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

**EMERGENCY MEDICAL TECHNICIAN.** An individual who is certified by the State EMS Commission to provide emergency medical care at the scene of an accident, illness, or during transport.

**EMERGENCY PATIENT.** An individual who is acutely ill, injured, or otherwise incapacitated or helpless and who requires emergency medical services. The term includes an individual who:

- (1) Requires transportation on a litter or cot; or
- (2) Is transported in a vehicle certified by the State EMS Commission as an ambulance.

**INDIANA EMS COMMISSION.** The State Emergency Medical Services Commission created by I.C. 16-31-2.

**PERSON.** Any natural person or persons, firm, partnership, corporation, company, association, or joint stock association, and the person's legal successors, including any governmental agency or instrumentality other than an agency or instrumentality of the United States.  
(BCC Ord. 93-03, passed 3-1-1993)

### § 91.03 RESTRICTIONS ON EMERGENCY AMBULANCE SERVICE PROVIDERS.

(A) A person may not furnish, operate, conduct, maintain, advertise, or otherwise be engaged in providing emergency ambulance services in the county, either paid or voluntary, unless the person is authorized to do so by the Board of Commissioners or unless:

- (1) The person is authorized to provide emergency ambulance services in any part of another county; and
- (2) The person has been requested to provide emergency ambulance services:
  - (a) To the county in which the person is authorized to provide ambulance services, and those services will originate in another county; or
  - (b) From the county in which the person is authorized to provide emergency ambulance services, and those services will terminate in another county.

(B) The Board of Commissioners may penalize a provider or person who violates this section up to \$500 per occurrence for each violation that shall be established. A civil penalty may be imposed only

after a hearing on the imposition of the penalty has been held by the Board of Commissioners. Notice of this hearing must be mailed to the provider or alleged violator at least ten days before the date set for the hearing. A provider or person who is penalized under this chapter is entitled to:

- (1) Be represented by an attorney;
- (2) Present evidence on that person's behalf; and
- (3) Cross-examine witnesses.

(C) The Board of Commissioners of the county may seek injunctions through the court system against persons who violate this section.  
(BCC Ord. 93-03, passed 3-1-1993)

**§ 91.04 FEES.**

The following fees are adopted for ambulance services provided by the Washington County Ambulance Service.

<i>Ambulance Service Rates August 15, 2023</i>	
Mileage	\$18 per loaded mile
ALS-1 Non-Emergency	\$1,000
ALS-1 Emergency	\$1,300
ALS-2 Emergency	\$1,500
BLS Non-Emergency	\$800
BLS Emergency	\$950
Specialty Care Transport	\$2,000
Refusal Fee	\$100
Refusal Fee with Interventions	\$300

(BCC Ord. 2018-01, passed 2-6-2018; BCC Ord. 2021-02, passed 5-18-2021; BCC Ord. 2023-05, passed 8-14-2023)

***ENHANCED EMERGENCY TELEPHONE SYSTEM***

**§ 91.15 SYSTEM ESTABLISHED.**

Under the authority of and subject to I.C. 36-8-16-5 and I.C. 36-8-16-6 and the other provisions of I.C. 36-8-16, an enhanced emergency telephone system is hereby established, together with a fee system to provide for the funding of an enhanced emergency telephone system to serve the county, and to serve all public emergency response agencies within the county.  
(CC Ord. 1993-05, passed 6-7-1993)

**§ 91.16 DEFINITIONS.**

For the purpose of this subchapter, 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 and automatic location identification for reporting police, fire, medical, or other emergency situations to the appropriate responding agencies.

***EXCHANGE ACCESS FACILITY.***

(1) The access from a particular service user's premises to a telephone system. The term shall include an access line, a private branch exchange (commonly known as a PBX trunk), and a centrex line trunk equivalent that is provided by the service provider. The term shall also include a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a common carrier.

(2) The term does not include a service supplier owned and operated telephone pay station

line, a wide area telecommunications service (commonly known as a WATS) line, a foreign exchange (commonly known as an FX) line, or 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, subject however to the use of the term "person" to mean an individual, business entity, or any other organization, institution, or facility to whom exchange telephone service is provided.

(CC Ord. 1993-05, passed 6-7-1993)

#### § 91.17 FEE.

(A) The enhanced emergency telephone system fee shall be imposed upon each exchange access facility used in the county.

(B) A monthly fee of \$1.52 per telephone access line or other exchange access facility will be collected by the service supplier of the county. The county shall use the monies of the enhanced emergency telephone system to pay for the lease, purchase, or maintenance of enhanced emergency telephone equipment, including, but not limited to, necessary computer, hardware, software, data base provisioning, and to pay for the rates associated with the service suppliers' enhanced emergency telephone system network services, to pay the personnel expenses of the emergency telephone system, and other additional expenses of the county.

(C) The service provider(s) shall be entitled to retain a 3% administrative fee as compensation for collecting the enhanced emergency telephone system fees. The supplier(s) shall remit the rest of the fees it collects during a calendar quarter to the County Treasurer within ten days after the last day of the quarter.

(D) At the time the enhanced emergency telephone service fees are remitted to the county by the service supplier(s), the service supplier(s) shall provide a fee collection report to the County Auditor, which fee collection report shall be on a form provided by the County Auditor.

(E) The County Treasurer shall deposit the remitted fees in a separate fund, named the Washington County Emergency Telephone Service Fund. The Treasurer may invest monies in the fund in the same manner that other monies of the county are invested with the income earned from such investment to be deposited in the Washington County Emergency Telephone Service Fund.

(F) During January of each year, each service supplier that collects the enhanced emergency telephone system service fee for the county shall provide a delinquent fee report to the County Auditor. The report shall list the name, address, and amount due for each service user who is two or more months delinquent in paying the enhanced emergency service fee to the service supplier.

(CC Ord. 1993-05, passed 6-7-1993)

## CHAPTER 92: FAIR HOUSING

### Section

92.01	Policy statement	discriminatory housing practice; or
92.02	Definitions	
92.03	Unlawful practice	(2) Believes that the person will be injured
92.04	Discrimination in the sale or rental of housing	by a discriminatory housing practice that is about to occur.
92.05	Discrimination in residential real estate related transactions	(I.C. 22-9.5-2-2)
92.06	Discrimination in the provision of brokerage services	<b>COMMISSION.</b> The State Civil Rights Commission created pursuant to I.C. 22-9-1-4 et seq.
92.07	Interference, coercion, or intimidation	(I.C. 22-9.5-2-3)
92.08	Prevention of intimidation in fair housing cases	<b>COMPLAINANT.</b> A person, including the Commission, who files a complaint under I.C. 22-9.5-6. (I.C. 22-9.5-2-4).
92.09	Exemptions	
92.10	Administrative enforcement	

### § 92.01 POLICY STATEMENT.

It shall be the policy of the county to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, being 42 U.S.C. §§ 1404a et seq., as amended, the Federal Housing and Community Development Act of 1974, being 42 U.S.C. §§ 5301 et seq., as amended, and I.C. 22-9.5-1 et seq.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012)

### § 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

### **DISABLED.**

- (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 such an impairment;

- (c) Being regarded as having such an impairment;

- (d) An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990; or

- (e) Any other impairment defined under I.C. 22-9-5-6.

- (2) The term **DISABLED** 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 include an individual solely because that individual is a transvestite (I.C. 22-9-5-6).

***DISCRIMINATORY HOUSING PRACTICE.***

An act that is unlawful under §§ 92.04 through 92.08 of this chapter or I.C. 22-9.5-5.

***DWELLING.*** Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one or more families. (I.C. 22-9.5-8)

***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 of age 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.*** Includes a single individual, with the status of the family being further defined in the definition of ***FAMILIAL STATUS*** of this section. Also pursuant to 24 C.F.R. Part 5, the definition is revised to include families regardless of the actual or perceived sexual orientation, gender identity or material status of its members. (I.C. 22-9.5-2-9)

***PERSON.*** Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under U.S.C. Title 11, receivers, and fiduciaries (I.C. 22-9.5-2-11).

***TO RENT.*** Includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy the premises owned by the lessor (I.C. 22-9.5-2-13). (BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012)

**§ 92.03 UNLAWFUL PRACTICE.**

Subject to the provisions of division (B) below, § 92.09 of this chapter and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 92.04 of this chapter shall apply to:

(A) All dwellings except as exempted by division (B) 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; provided that in the sale of the single-family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one sale within any 24-month period. The private individual owner may not 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 exempted 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 salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesperson, or person; and

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 92.04(C) of this chapter, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other professional assistance as necessary to perfect or transfer this title.

(2) Rooms or units in dwellings 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.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012)

#### **§ 92.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by § 92.03 and except as exempted by §§ 92.03(B) and 92.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or 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, disability, 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 a particular race, color, religion, sex, disability, familial status or national origin; and/or

(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) The 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) The 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 (F), 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 the condition that existed before the modifications, 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 after the date that is 30 months after September 13, 1998, 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 persons with disabilities;

2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with disabilities 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; and

c. Reinforcements in bathroom such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the Americans With Disabilities Act of 1990, being 42 U.S.C. §§ 12101 et seq., and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically disabled people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of division (3)(C)3 above.

(5) Nothing in this division (F) 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.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012) Penalty, see § 10.99

#### **§ 92.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS.**

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such 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 purchasing 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 appraisal of real

property to take into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012) Penalty, see § 10.99

#### **§ 92.06 DISCRIMINATION IN THE PROVISION OF 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 such access, membership, or participation, on account of race, color, religion, sex, disability, familial status, or national origin.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012) Penalty, see § 10.99

#### **§ 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 §§ 92.03 through 92.06 of this chapter.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012) Penalty, see § 10.99

#### **§ 92.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.**

Whoever, whether or not acting under code or 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;

(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 in division (A) above; or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any citizen because he or she is or 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 in division (A) above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012) Penalty, see § 10.99

#### **§ 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 divisions (B) and (C) of this section.

(B) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit 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 of 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.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012)

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 for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the Board of Commissioners shall refer all the 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 Board of Commissioners and the Commission to further those purposes.

(D) The Board of County Commissioners or the Commissioner’s designee, shall provide information on remedies available to any aggrieved person or complainant requesting the information.

(BCC Ord. 93-02, passed 2-1-1993; BCC Ord. 2012-05, passed 9-18-2012)

**§ 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) hereof shall be vested in the Board of County Commissioners.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the county, because of a lack of financial

## CHAPTER 93: FOOD

### Section

- 93.01 Definitions
- 93.02 Permit requirements; fees
- 93.03 Revocation of permit
- 93.04 Compliance with State Health Board requirements
- 93.05 Inspections
- 93.06 Meat products processed from game animals
  
- 93.99 Penalty

**FOOD MARKET.** Retail grocery, meat market, poultry market, fish market, fresh fruit and vegetable market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any other establishment, whether fixed or moveable, where food intended for human consumption off the premises is manufactured, produced, stored, prepared, processed, handled, transported, sold, or offered for sale at retail.

**FOOD SERVICE ESTABLISHMENT.** Any restaurant, coffee shop, cafeteria, short order café, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, industrial feeding establishment, private, public or nonprofit organization or institution routinely serving food, a catering kitchen, a commissary or similar place in which food or drink are prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for human consumption with or without charge. The term **FOOD ESTABLISHMENT** however, shall not include an establishment licensed by the State Board of Health or one that is known as a food market.

### § 93.01 DEFINITIONS.

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

**BOARD OF HEALTH.** The Board membership of the County Health Department.

**DEPARTMENT OF PUBLIC HEALTH.** The County Health Department.

**FOOD.** Any raw, cooked, or processed edible substances, beverage or ingredient used or intended for use or for sale in whole or part for human consumption.

**FOOD HANDLER.** Includes, but is not necessarily limited to, any person who may come in contact with food during exposure by sale, processing, preparation, packaging, serving, or who comes in contact with any utensil or equipment of any kind during any like exposure, or who is employed in a room or rooms in which food is being processed, prepared, served, or sold.

**HEALTH OFFICER.** The health authority having jurisdiction in the County of Washington, State of Indiana, or his or her authorized representatives.

**MOBILE FOOD SERVICE ESTABLISHMENT.** Any food service establishment capable of being readily moved from location to location, one without a fixed location.

**POTENTIALLY HAZARDOUS FOOD.** Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other

food capable of supporting growth of infectious toxigenic micro-organisms.

**SANITIZE.** Effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved as being effective in destroying micro-organisms, including pathogens.

**TEMPORARY FOOD SERVICE ESTABLISHMENT.** Any food service establishment which operates for a temporary period of time, not to exceed two weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering.

(BCC Ord. 88-04, passed 11-21-1988)

### § 93.02 PERMIT REQUIREMENTS; FEES.

(A) *Permit requirements.* No person or owner or person in possession shall operate a food service establishment, temporary food service establishment, food market, or temporary food market in the county without obtaining, possessing, and displaying a valid permit from the Health Officer. The provisions of this chapter shall not apply to fruit and vegetable stands maintained and operated by a person who sells direct to consumers, raw, unprocessed fruits and vegetables, obtained from grown and sold on land owned or controlled by him or her. The permit shall be posted in a conspicuous place in each food service establishment, temporary food service establishment, food market, temporary food market, or mobile food service establishment.

(1) Only persons who comply with the applicable requirements of the State Board of Health regulations 410 I.A.C. 7-15.1 and 410 I.A.C. 7-16.1 shall be entitled to receive and retain such a permit.

(2) The permit fee for a food service establishment or food market shall be due and payable by January 31 each year. Failure to pay the same will be assessed a delinquent fee of \$35. All permit fees due during the calendar year 2022 shall be prorated for the calendar year 2022 and shall expire on December 31, 2022. Beginning January 1, 2023, and

for all subsequent calendar years all permit fees shall be due and payable by January 31. The purpose and intent of this amendment is to make all annual dues for all food entities due during the month of January so all establishments' annual dues are due at the same time.

(3) Any permit issued by the Health Officer shall contain the name, signature and address of the person to whom the permit is granted, the address of the premises for which the same is issued, the expiration date and other pertinent data as may be required by the Health Officer.

(4) A separate permit shall be required for each food service establishment, temporary food service establishment, food market and temporary food market.

(5) A permit shall be issued subsequent to inspection and upon determination by the Health Officer, that the applicant for the food service establishment, temporary food service establishment, food market, temporary food market has complied with all the State Board of Health regulation, and can maintain a minimum of 75% on each inspection for two consecutive inspections, and has tendered the appropriate permit fee hereinafter specified.

(6) Under this chapter, no permit issued to any person shall be transferable to another person.

(7) Permits will be effective from January 1 of the current year to December 31 of the current year. A new permit will be issued at the beginning of every year.

(B) *Permit fees.* Permit fee or fees shall be required for all applicants to operate a food service, temporary food service, food market, temporary food market, and the fee or fees shall be tendered to the Health Department and shall be deposited into the Health Fund of the county. Amount of the fee or fees shall be in accordance with the schedule of fees in division (C) below.

(C) *Schedule of fees.* Inspection and processing fees shall be paid annually or for the lesser period

hereafter specified in accordance with the following classifications.

(1) *Food service establishments and food markets.*

(a) One through ten employees: \$25;  
and

(b) Eleven or more employees: \$50.

(2) *Temporary food service establishments and temporary food markets.* \$10.

(D) *Permit and fee exemptions.*

(1) No fee or no permit shall be required for any establishment operated by religious, educational, charitable, or not for profit organizations.

(2) No permit or fee shall be required for any establishment which is already licensed for operation by the State Board of Health. (BCC Ord. 88-04, passed 11-21-1988; BCC Ord. 2022-02, passed 1-4-2022) Penalty, see § 93.99

**§ 93.03 REVOCATION OF PERMIT.**

Failure to maintain a 75% inspection rating constitutes a violation, which shall be corrected as soon as possible, but no later than ten days. Failure to do so may lead to an inspection by the State Board of Health, and subsequent revocation of permit. Should a permit be revoked, a new permit must be applied for under § 93.02, with applicable fees to again be paid in full. (BCC Ord. 88-04, passed 11-21-1988)

**§ 93.04 COMPLIANCE WITH STATE HEALTH BOARD REQUIREMENTS.**

All food service establishments, temporary food service establishments, food markets, and temporary food markets shall comply with the minimum requirements specified by the State Board of Health as

now provided in its regulations, but not limited to, 410 I.A.C. 7-15.1 and 410 I.A.C. 7-16.1.

(BCC Ord. 88-04, passed 11-21-88) Penalty, see § 93.99

**§ 93.05 INSPECTIONS.**

(A) Any person operating a food service establishment, temporary food service establishment, food market, and temporary food market shall permit the Health Officer or his or her authorized representatives access to all parts of the establishment for inspection.

(B) Inspection schedule:

(1) Permanent establishments: once every six months;

(2) Temporary establishments: once within a five-day period; and

(3) Mobile food service: once every six months. (BCC Ord. 88-04, passed 11-21-1988)

**§ 93.06 MEAT PRODUCTS PROCESSED FROM GAME ANIMALS.**

There shall not be sold in the county, for purpose of human consumption, any meat product processed from game animals unless the same has been inspected and approved pursuant to the procedure established by the State Board of Health and/or U.S. Department of Agriculture except that meat products processed from game animals may be sold for human consumption without the inspection only at the location where that particular meat product was raised and processed. It is specific intent to permit the sale of certain meat products at the location of where the game animals were raised and processed for the purpose of sale to the public for direct consumption and not for resale purposes.

(BCC Ord. 90-10, passed 11-5-1990) Penalty, see § 93.99

**§ 93.99 PENALTY.**

(A) Any person, owner or person in possession found operating an establishment without a valid permit is guilty of a misdemeanor. On conviction, the violator shall be punished on the first offense by a fine of not more than \$1,000, and each day after the expiration of the time limit for abating insanitary conditions and completing improvements to abate those conditions as ordered by the County Board of Health, or by the duly appointed Health Officer of the county, shall constitute a distinct and separate offense.

(B) Whoever violates § 93.06 shall be subject to the penalty provisions of § 10.99.

(BCC Ord. 88-04, passed 11-21-1988; BCC Ord. 2022-02, passed 1-4-2022)

**CHAPTER 94: PUBLIC PROPERTY**

Section

*Cemetery Maintenance*

- 94.01 Cemetery Commission
- 94.02 Annual plan, budget and report
- 94.03 Funding of cemetery restoration and maintenance
- 94.04 Maintenance of cemeteries created after 1850

*County Courthouse and Grounds*

- 94.15 Hours property closed to the public
- 94.16 Public notice of regulations; posting of signs
- 94.17 Limitations of applicability and exceptions

*County Hospital*

- 94.30 County Hospital established
- 94.99 Penalty

**CEMETERY MAINTENANCE**

**§ 94.01 CEMETERY COMMISSION.**

(A) Pursuant to the provisions of I.C. 23-14-67-2, there is hereby established the County Cemetery Commission, which Commission shall have as its function the maintenance, restoration and care of all cemeteries created in the county prior to 1850 that have no funds or sources of funds for their reasonable maintenance. The Cemetery Commission is hereby

given and granted all the powers and authorities provided by I.C. 23-14-26. (1985 Code, § 3-2-1)

(B) The Commission shall consist of five residents of the county to be appointed by the Board of Commissioners, the original appointment to be of a nature and to be staggered by the Commissioners so as to permit an appointment or a reappointment of one Commission member each year. If an appointee recommends an alternate to fill in at meetings or perform cemetery work, the alternate shall be approved by the County Commissioners.

(1985 Code, § 3-2-2)

(BCC Res. passed 6-1-1970; BCC Ord. 1985-C3, passed - -1985)

**§ 94.02 ANNUAL PLAN, BUDGET AND REPORT.**

As provided by law, the County Cemetery Commission shall annually present to the County Commissioners and the County Council a plan for the restoration and maintenance of the cemeteries, and a budget for the approval of the County Commissioners and the County Council. Before December 31 each year, the County Cemetery Commission shall make its annual report to the County Commissioners and the County Council, specifying the budgeted expenditures from each funding source for each item in the plan, and specifying by location any cemetery needs that cannot be funded by monies derived from property taxes.

(1985 Code, § 3-2-3) (BCC Res. passed 6-1-1970; BCC Ord. 1985-C3, passed - -1985)

**§ 94.03 FUNDING OF CEMETERY RESTORATION AND MAINTENANCE.**

(A) Pursuant to I.C. 23-14-67-3 and a budget and plan submitted by the Cemetery Commission in accordance with § 94.02, the Commissioners may request, and the County Council may levy and appropriate, an annual property tax levy not to exceed \$0.50 per \$100 assessed valuation to be used to carry out the purposes of § 94.01.

(B) In addition, the Commissioners may recommend and the Council may appropriate other monies of the county not derived from property taxes and not dedicated by law or ordinance to other purposes for the purposes of § 94.01.

(C) The Cemetery Commission may also accept specific gifts, endowments, grants, or bequests to be used for purposes of § 94.01.

(D) The use of all the additional, non-property tax monies shall be reflected in the Cemetery Commission's plan and budget, thereby reducing the reliance on property taxes.  
(1985 Code, § 3-2-4) (BCC Res. passed 6-1-1970; BCC Ord. 1985-C3, passed - -1985)

**§ 94.04 MAINTENANCE OF CEMETERIES CREATED AFTER 1850.**

(A) Nothing in § 94.01 shall be necessarily construed to limit restoration and maintenance of cemeteries by the county to those established prior to 1850. The Board of Commissioners may by resolution elect to bring any other cemetery under the provisions of this act if it finds that the cemetery:

(1) Is without sources of funds for reasonable maintenance;

(2) Has suffered neglect and deterioration; and

(3) Is or may be a place of burial for state pioneer leaders or veterans of any American war.

(B) No part of any property tax levy authorized under § 94.03 may be expended for restoration of a cemetery established later than 1849, and funding for restoration and maintenance of any more recently established cemetery must be limited to other sources as described in § 94.03.

(1985 Code, § 3-2-5) (BCC Res. passed 6-1-1970; BCC Ord. 1985-C3, passed - -1985)

**COUNTY COURTHOUSE AND GROUNDS**

**§ 94.15 HOURS PROPERTY CLOSED TO THE PUBLIC.**

(A) The county courthouse and the county courthouse annex shall be closed to the public from 4:00 p.m. local time until 8:30 a.m. on Monday, Tuesday, Wednesday, Thursday, and Friday; and shall be closed to the public on weekends from 6:00 p.m. on Friday until 8:30 a.m. the following Monday morning.

(1985 Code, § 3-1-1)

(B) The courtyard of the county courthouse shall be closed to the public daily from 12:00 midnight to 7:00 a.m. The courtyard is hereby defined to include all that part of the Salem Public Square located within the perimeter of the parking spaces on the interior of the paved public street portions of the Salem Public Square.

(1985 Code, § 3-1-2)

(BCC Ord. 1982-2, passed - -1982; BCC Ord. 1985-C6, passed - -1985) Penalty, see § 94.99

**§ 94.16 PUBLIC NOTICE OF REGULATIONS; POSTING OF SIGNS.**

The county shall place and maintain signs so as to afford adequate notice to the public stating the hours that the county courthouse and courtyard are closed to the public.

(1985 Code, § 3-1-3) (BCC Ord. 1982-2, passed - -1982; BCC Ord. 1985-C6, passed - -1985)

**§ 94.17 LIMITATIONS OF APPLICABILITY AND EXCEPTIONS.**

The provisions of this chapter do not apply to any person who is:

(A) An elected official, employee, or officer of the county, if the person is engaged in the performance of official duties of his or her position or office;

(B) Any officer of the County Circuit Court engaged in the use of the law library and legal research facilities of the County Circuit Court;

(C) Attending a public meeting of any governing body of an administrative agency or department of any unit of government in the county that meets in the county courthouse; or

(D) Attending any other meeting or assembly in the County Courthouse for which a permit has been issued by the Board of Commissioners.

(1985 Code, § 3-1-5) (BCC Ord. 1982-2, passed - -1982; BCC Ord. 1985-C6, passed - -1985)

**§ 94.18 SIGNS AND HANDBILLS BANNED.**

(A) No person shall paint, mark or write on, or post or otherwise affix any handbill or sign ("sign(s)") to or upon any sidewalk, crosswalk, curb, curbstone, street lamp post, hydrant, tree, shrub, tree stake or guard, electric light or power or telephone pole, or wire appurtenance thereof or upon any fixture of the fire alarm or police telegraph system or upon any lighting system, drinking fountain, street sign or traffic sign, or within or on the premise at 99 Public Square, Salem, Indiana (frequently known as the Washington County Courthouse), the Washington County Justice Center, the Washington County Government Building, Washington County EMS, the Washington County Williams Building, the Washington County Highway Department and any and all other property currently owned by Washington

County or acquired by Washington County in the future.

(B) Furthermore, no person shall place any building or other temporary structure within or on the premise at 99 Public Square, Salem, Indiana (frequently known as the Washington County Courthouse), the Washington County Justice Center, the Washington County Government Building, Washington County EMS, the Washington County Williams Building, the Washington County Highway Department and any and all other property currently owned by Washington County or acquired by Washington County in the future.

(C) Nothing in this section shall apply to the use of the flag of the United States of America, the flag of the State of Indiana, the flag of Prisoners of War, and Indiana's Bicentennial flag, or for any other sign for which the Washington County Board of Commissioners has granted prior authorization via a majority vote at a public meeting.

(D) Any sign (as defined above) found posted, or otherwise affixed to or upon the Washington County Courthouse premises, the Washington County Justice Center, the Washington County Government Building, Washington County EMS, the Washington County Williams Building, the Washington County Highway Department and any and all other property currently owned by Washington County or acquired by Washington County in the future, contrary to the provisions of this section, shall be promptly removed by the Washington County Auditor or his/her designee. The person responsible for any such illegal posting shall be liable for the cost incurred in the removal thereof and the Washington County Board of Commissioners is authorized, but not required, to effect the collection of said cost.

(BCC Ord. 2016-05, passed 7-19-2016; BCC Ord. 2022-12, passed 10-18-2022)

**COUNTY HOSPITAL****§ 94.45 COUNTY HOSPITAL ESTABLISHED.**

The question of whether a county hospital should be established and maintained by the county was submitted to the legal voters of the county, at an election duly held on March 23, 1946, and the Board now finds that the ballot used in the election complied in all respects with the provisions of the governing statutes, and that the vote on the question, as shown by the certificate of the Board of Election Commissioners having charge of the election was 3,280 for the hospital and 149 against the project; it is hereby ordered by the Board of Commissioners that the County Hospital be established, and that the county proceed with the acquisition of the necessary land and the construction of the hospital.

(1985 Code, § 3-4-1) (BCC Ord. passed 4-1-1946)

**Statutory reference:**

*County hospitals, see I.C. 16-22-2  
through 16-22-13*

**§ 94.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who is found to have violated §§ 94.15 through 94.17 shall be subject to a fine not more than \$2,500.

(1985 Code, § 3-1-4) (BCC Ord. 1982-2, passed - -1982; BCC Ord. 1985-C6, passed - -1985)

CHAPTER 95: STREETS AND SIDEWALKS

Section

*Building and Roads  
Numbering and Naming System*

- 95.01 Title
- 95.02 Adoption of system, road numbers and road names
- 95.03 Changes in road numbers and names
- 95.04 Principles for numbering and naming roads
- 95.05 Adoption of building numbering system
- 95.06 Principles for numbering buildings
- 95.07 Display of building numbers
- 95.08 Administration
- 95.09 Enforcement; judicial review

*Egress and Ingress on County Roads*

- 95.20 Title
- 95.21 Purpose
- 95.22 Permit required; specifications
- 95.23 Sewer infrastructure
- 95.24 Limitations
- 95.25 Enforcement

*Easement Provisions*

- 95.35 Easement granted
- 95.36 Contractor’s bond required
- 95.37 Method of burying conveyance and conductive materials
- 95.38 Liability of utility to provide barriers and safeguards; indemnification of county
- 95.39 Requirement to restore disturbed highway facilities
- 95.40 Excavations and road cuts

- 95.99 Penalty  
Appendix A: Right-of-way permit provisions and application

***BUILDING AND ROADS NUMBERING  
AND NAMING SYSTEM***

**§ 95.01 TITLE.**

This subchapter shall be known as the “Building and Roads Numbering and Naming System of Washington County, Indiana”.  
(BCC Ord. 05-1994, passed 5-2-1994)

**§ 95.02 ADOPTION OF SYSTEM, ROAD NUMBERS AND ROAD NAMES.**

For purposes of numbering and naming the roads in the county, the Board of Commissioners hereby acknowledge that there is more than one system which can be used for establishing the unified street road and block numbering system. This subchapter specifically does not select any one system or combination of systems, but rather authorized the County 911 Coordinator to continue his or her evaluation of the various systems available and to report to the Board of Commissioners his or her recommendations on that matter.  
(BCC Ord. 05-1994, passed 5-2-1994)

**§ 95.03 CHANGES IN ROAD NUMBERS AND NAMES.**

(A) There is hereby established a County Street and Road-Renaming Committee, consisting of the

Postmaster of the City of Salem, Indiana Post Office, the 911 Coordinator, and members of the Board of Commissioners, a member of the County Council and the County Attorney. The Committee shall meet periodically to consider changes in the numbering and naming of county roads. The Committee, upon determining that a change in the number or name of a particular road is necessary, shall recommend the change to the County Board of Commissioners.

(B) The recommended change shall be placed on the Board of Commissioner's agenda for consideration and shall be advertised in the same manner as other matters coming before the Board of Commissioners for consideration.

(BCC Ord. 05-1994, passed 5-2-1994)

#### **§ 95.04 PRINCIPLES FOR NUMBERING AND NAMING ROADS.**

(A) All roads shall be numbered in accordance with the system as selected under § 95.02 whenever practical.

(B) Roads that run at an angle of 45 degrees or less east or west of true north or true south shall be designated, and numbered where appropriate, as north-south roads.

(C) Roads that run at an angle of more than 45 degrees east or west of true north or true south shall be designated, and numbered where appropriate, as east-west roads.

(D) Roads may be named rather than numbered when, for reasons of length, variable direction or location, such a name designation is more appropriate and convenient for reference purposes.

(E) Numbered roads that curve in several directions shall be numbered for the entire length of the roads based upon the majority tendency of the road running north to south or east or west.

(F) Roads which are broken in continuity shall be numbered or named in the same manner as if they ran continuously.

(BCC Ord. 05-1994, passed 5-2-1994)

#### **§ 95.05 ADOPTION OF BUILDING NUMBERING SYSTEM.**

(A) All buildings within the county, whether used for residential, business, industrial or governmental purposes, shall be numbered according to the selected system. The addressing system shall be the system commonly called the "Lyman/Purdue University, Prevailing Direction Method". The baselines for the system shall be State Road 135 and a line running east-west through Base Road.

(B) Odd numbered addresses shall be assigned to structures on the right side of the road as addresses increase from the baselines. Even numbered addresses shall be assigned to structures on the left side of the road as addresses increase from the baselines.

(BCC Ord. 05-1994, passed 5-2-1994)

#### **§ 95.06 PRINCIPLES FOR NUMBERING BUILDINGS.**

(A) All buildings shall be numbered in a consistent manner in accordance with rules, procedures and guidelines established and modified from time to time by the Board of Commissioners.

(B) The rules, procedures and guidelines shall be available in the office of the County Surveyor for inspection by the general public at all reasonable times.

(BCC Ord. 05-1994, passed 5-2-1994)

#### **§ 95.07 DISPLAY OF BUILDING NUMBERS.**

(A) All owners or occupants of buildings within the county which have been assigned a number shall cause to be permanently attached in some public and conspicuous place near the outside front entrance of

the building, a number plainly indicating by appropriate figures the number assigned to the building.

(B) If a building is not visible from a road or if a building is 200 feet or more from a road, the assigned number shall be displayed at the entrance to the access road or driveway to the building by means of separate marker or by means of a mailbox as set forth below.

(C) All numbers attached to a building or placed on a separate marker indicating the number assigned to the building shall be of durable, weatherproof material and of a size not less than three by three inches.

(D) The assigned numbers shall also be placed on each side of any mailbox serving the building.

(E) Where mailboxes are grouped, the numbers shall be displayed on the front or lid of each box.

(F) Where a mailbox is on a different road than the building, the number of the building and the appropriate road name or number shall also be displayed on the mailbox.

(BCC Ord. 05-1994, passed 5-2-1994)

**§ 95.08 ADMINISTRATION.**

(A) The 911 Coordinator and the County Board of Commissioners shall be responsible for assigning numbers to buildings in accordance with the building numbering system set forth in this subchapter. At the time of the construction of a new home, building or structure requiring a number hereunder, or at a time thereafter, as the 911 Coordinator or the County Surveyor shall deem appropriate, the person, firm or corporation constructing the building shall provide the County Surveyor a site plan for the building, indicating:

(1) The exact location of the building or buildings;

(2) The exact location of any access road or driveway serving the building or buildings; and

(3) The distance in feet from the center of each building to the nearest county road.

(B) Upon being informed of the exact existing or proposed location of a building, the 911 Coordinator or County Surveyor shall designate and verify to the owner, occupant or builder of any existing or proposed building the proper number of the building.

(1) Any decision of the 911 Coordinator or County Surveyor concerning the numbering of a building may be appealed to the County Board of Commissioners for review.

(2) In order for any such appeal to be considered by the Board of Commissioners, the person, firm or corporation seeking the review shall submit a written statement setting forth in appropriate detail the reason for the appeal.

(3) The Board of Commissioners shall have the authority to overturn and change any decision of the 911 Coordinator or County Surveyor concerning the numbering of a building.

(4) No owner or occupant of a building may change the number of the building without first obtaining the approval of the 911 Coordinator or the County Surveyor.

(5) The Surveyor shall maintain a current set of reproducible maps, covering all of the county showing the numbers assigned to buildings.

(6) Copies of the maps may be made available to persons, firms or corporations requesting the copies upon the approval of the Board of Commissioners.

(7) In order for any request to be considered by the Board of Commissioners, the person, firm or corporation making the request shall submit a written statement setting forth in appropriate detail the reason for the request.

(8) The Board of Commissioners, with the advice of the 911 Coordinator, shall determine the fee to be charged to any person, firm, or corporation receiving copies of the maps.

(BCC Ord. 05-1994, passed 5-2-1994)

**§ 95.09 ENFORCEMENT; JUDICIAL REVIEW.**

(A) The Board of Commissioners may institute a suit for injunction in the courts of the county to restrain any person, firm, or corporation who shall take down, alter, deface, destroy, or conceal any number assigned to or placed upon any building in compliance with this subchapter, or who shall place or substitute or permit to be placed or substituted upon any building an erroneous or improper number not in compliance with this subchapter.

(1) The Board of Commissioners may institute a suit for mandatory injunction directing a person, firm or corporation to correct any violation of the provisions of this subchapter.

(2) If the Board of Commissioners is successful in any such suit, the defendant or respondent shall bear the costs of the action, including reasonable attorney's fees.

(B) Any decision of the Board of Commissioners under this subchapter shall be subject to review by certiorari procedures.

(1) Any person, firm or corporation aggrieved by a decision of the Board of Commissioners under this subchapter may present to the County Circuit Court a petition, duly verified, setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality.

(2) The petition shall be presented to the court within 30 days after the entry of the decision of the Board of Commissioners in question.

(BCC Ord. 05-1994, passed 5-2-1994)

***EGRESS AND INGRESS ON COUNTY ROADS***

**§ 95.20 TITLE.**

This subchapter shall be known as the "Ordinance Controlling Entrances for Egress and Ingress on County Roads".

(BCC Ord. 93-04, passed 4-19-1993)

**§ 95.21 PURPOSE.**

The purpose of this subchapter is to establish a procedure whereby control and notification can be accomplished for the provisions of entrances onto county roads and to establish appropriate procedures and payments required for the installation of required sewage infrastructures at these entrances being used by private individuals for egress and ingress purposes.

(BCC Ord. 93-04, passed 4-19-1993)

**§ 95.22 PERMIT REQUIRED; SPECIFICATIONS.**

(A) It is specifically provided that before a private landowner may create an entrance on the road system of the county, that private individual must apply for and receive a permit from the County Highway Department at the Highway Department with no fee for this permit; however, the private individual must provide the exact location of the entrance and a time frame in which its construction shall occur.

(B) No driveway or entrance shall be located within 300 feet of the entrance to any subdivision, business, industry, or the intersection of any road, street, or highway; nor in any location which, in the judgment of the County Highway Department or the County Sheriffs Department, creates a hazard to passing traffic.

(C) (1) A minimum of 200 feet sight distance is required, in both directions, from any entrance along a public road or within a subdivision;

(2) A minimum of 300 feet sight distance is required, in both directions, for the entrance to a subdivision, any business, industry, or private drive located near the intersection of any road, street or highway.

(D) For all new and existing driveways the posting of appropriate warning signs in either or both directions may be required by county officials, the cost of which shall be borne by the property owner.

(E) (1) The driveway must be graveled or paved to the satisfaction of the County Highway Department for a distance of at least 100 feet from where the driveway intersects with the county highway, so as to minimize the hazards associated with the tracking of mud out onto the highway.

(2) All costs associated with the gravel shall be borne by the property owner.

(F) A driveway must have a sufficient turn-around area so that no vehicle of any size is required to back out onto the driveway. (BCC Ord. 93-04, passed 4-19-1993; BCC Ord. 97-05, passed 4-16-1997; BCC Ord. 2021-05, passed 8-17-2021) Penalty, see § 95.99

**§ 95.23 SEWER INFRASTRUCTURE.**

(A) The County Highway Department shall advise the landowner of the size, type and length of the sewer infrastructure required at the proposed entrance way.

(B) The installation must include any necessary structures to prevent the crushing of any legal magnitude.

(C) The landowner is responsible for the purchase of the initial sewer infrastructure required which purchase shall be paid to the County Auditor to reimburse the county for cost only for the sewer infrastructure or may be purchased by the landowner individually.

(D) The cost of the installation for the sewer infrastructure shall be borne by the county; however, it is the responsibility of the property owner to make provision for and pay for the relocation of any utilities which are in conflict with the driveway, whether the driveway is for a single residence or is a subdivision road.

(BCC Ord. 93-04, passed 4-19-1993; BCC Ord. 97-05, passed 4-16-1997)

**§ 95.24 LIMITATIONS.**

Nothing in this subchapter shall be interpreted to impose any obligations on the county to maintain private entrances or driveways beyond the entrance of the sewer infrastructure as provided herein.

(BCC Ord. 93-04, passed 4-19-1993)

**§ 95.25 ENFORCEMENT.**

The provisions of this subchapter are enforceable in any court of competent jurisdiction, and if legal action is required to enforce the provisions of this subchapter then the landowner will be responsible for reasonable attorney fees for that purpose.

(BCC Ord. 93-04, passed 4-19-1993)

***EASEMENT PROVISIONS***

**§ 95.35 EASEMENT GRANTED.**

(A) The county, by and through its legally constituted Board of Commissioners, does now give, grant and permit any public utility company with a franchise to service areas in the county.

(B) The county also grants an easement and right-of-way to bury conveyance or conductive materials upon, along and over any county highway right-of-way located in the county, and over which the county has jurisdiction under the following specific conditions contained in this subchapter.

(1985 Code, § 2-1-1)

**§ 95.36 CONTRACTOR'S BOND REQUIRED.**

(A) Whenever any such utility elects to bury conveyance or conductive materials upon a county highway right-of-way, it shall require its contractor to post bond for the faithful performance of its plans and specifications, a copy of which bond shall be furnished to the county for the purpose of affording it protection in the fulfillment of the conditions contained in this general grant of easement.

(B) In the event the work should be done by the utility with its own labor force, the utility shall provide a bond for the faithful performance of its plans and specifications, a copy of which bond shall be furnished to the county for the purpose of protecting it under all the conditions of this general grant of easement.  
(1985 Code, § 2-1-2)

**§ 95.37 METHODS OF BURYING CONVEYANCE AND CONDUCTIVE MATERIALS.**

(A) The cable shall be buried on the right-of-way of the county under generally accepted construction procedures so as not to damage or disturb, as well as reasonably may be done, existing blacktop berms or ditch lines.

(B) All cable shall be buried at a sufficient depth so as not to interfere with the general construction, maintenance, operation and repair of the county roads, it being understood that, except in unusual situations, the cable will be buried to a depth of at least 24 inches.

(C) No county blacktop highway shall be ditched across, and any such installation of buried cable under blacktop highways shall be augered under the blacktop highway, except in those instances where to do so would be impractical and then the blacktop may be cut only upon the specific permission of the Superintendent of the County Highway Department and only under circumstances as the blacktop will be

restored to the condition in which it existed prior to the construction.

(D) Where, in burying the cable to existing bridges on the county highway system, the attachment shall be made in a form as not to damage the basic construction of any such bridge and in a generally accepted construction manner.  
(1985 Code, § 2-1-3)

**§ 95.38 LIABILITY OF UTILITY TO PROVIDE BARRIERS AND SAFEGUARDS; INDEMNIFICATION OF COUNTY.**

During any construction, the contractor and/or the utility involved, shall provide all barriers, markers, warning signs and all other material which may be reasonably necessary to protect the public from damage during the construction period and the contractor and public utility, by the act of using the county highway right-of-way for burying cable, assumes all liability and responsibility which may result from damage to the traveling public by reason of the construction, and must agree to indemnify the county because of any loss or claim made against it by reason of any such work, including, without limitation, court costs, attorney fees and all other costs of defending the claim.  
(1985 Code, § 2-1-4)

**§ 95.39 REQUIREMENT TO RESTORE DISTURBED HIGHWAY FACILITIES.**

(A) The plans and specifications for all the work shall provide, and each utility and its contractor, if any, shall be required, as a condition of this general easement, to restore all berms, rights-of-way, ditch lines or other portions of the county highway right-of-way to the same condition as the same existed prior to the commencement of the work.  
(1985 Code, § 2-1-5)

(B) Upon the completion of any such work, the public utility shall provide the county with a set of as-

built plans in order that the county may be fully advised as to the exact location of any buried cable. At no time shall the county be responsible or liable for any damage caused to any such cable by reason of cutting the same or otherwise disturbing the same by any act of the county, its Highway Department or any employer or employee thereof resulting from work on any county roads of whatever form or character. (1985 Code, § 2-1-6)

**§ 95.40 EXCAVATIONS AND ROAD CUTS.**

Any person, firm or corporation desiring to cut, dig, trench, excavate, grade, tunnel, bore, install any pole, or disturb any road, roadside ditch, or right-of-way shall make application for a permit therefor and pay an administrative application fee of \$200 per excavation site. The application (See the Appendix following this chapter) shall be presented to the Highway Superintendent for approval at least three business days in advance of beginning the work, unless the situation is identified as an emergency.

(A) All excavated material, including utility poles, shall be hauled off-site to an approved disposal site. Pipe, wire or conduit shall be placed on proper bedding.

(B) Utility trenches in roadway and five feet beyond, if disturbed, shall be backfilled with flowable fill.

(C) Flowable fill shall be for utility trench backfill and shall have minimum 14 day strength of 75 psi and a 14 day maximum strength of 250 psi. Applicant shall submit mix design and cylinder tests for the flowable fill to be supplied for the project.

(D) Trenches shall be filled with flowable fill to the top of the pavement subgrade. The balance of the trench shall be filled with asphalt or concrete to match the existing road surface. In no case shall the asphalt depth be less than three inches, and the concrete depth shall be a minimum of eight inches. All asphalt and concrete used to restore the road surface shall meet the INDOT current specifications.

(E) For blacktop road cuts, all joints between the existing asphalt roadway and the replacement asphalt shall be sealed with tar and sanded.

(F) Final blacktopping and sealing of pavement shall be completed by the applicant. The applicant shall notify the Highway Superintendent for final inspection.

(G) The applicant is responsible for the supply, placement, and maintenance of barriers and warning devices necessary for public safety.

(H) Any utility pole, conveyance or other conductive material to be placed on the Washington County right-of-way shall be placed at the back edge of said right-of-way to allow room for Washington County Highway maintenance. It is the responsibility of the applicant to know the limits of the right-of-way on each jobsite. (BCC Ord. 2020-01, passed 1-21-2020)

**§ 95.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, firm or corporation who violates any provision of this chapter for which no other specific penalty is provided shall be fined a sum of not more than \$2,500 for each day's violation. (BCC Ord. 05-1994, passed 5-2-1994; BCC Ord. 2020-01, passed 1-21-2020)



**APPENDIX A: RIGHT-OF-WAY PERMIT PROVISIONS AND APPLICATION****General Provisions**

1. All work described in the permit shall be subject to the inspection of the Washington County Highway Department.
2. The permit may be rescinded at any time by the Washington County Highway Department at its discretion or for noncompliance with any and/or all provisions of said permit.
3. The permittee shall notify the Washington County Highway Department three (3) working days in advance of beginning any work activity.
4. The permittee shall notify the Washington County Highway Department that the work is complete and this notice is to be provided within seven (7) days from the completion of all work on this permit.
5. The permittee shall have the permit complete with drawings and special provisions in their possession during work operations.
6. This issuance of a Right-of-Way permit is a method of guaranteeing there is no adverse impact to the County's infrastructure interests. Most of Washington County's right-of-way is prescriptive in nature, not fee-simple right-of-way owned by the County. In areas where only prescriptive easements exist, the applicant may also need to contact adjacent property owners prior to encroaching onto private property. A Right-of-Way permit does not take the place of any separate easement that should be required for encroachment onto private property. It is the applicant's sole responsibility to determine if private easements are necessary in addition to a Right-of-Way permit from the County.
7. The permit is valid through the stated expiration date. If work is not completed within the allotted time, the permit is automatically cancelled unless an extension is requested prior to the expiration date and said request is approved by the Washington County Highway Department. If a permit is cancelled, a new application must be submitted and approved before the proposed work can be accomplished.
8. All maintenance of traffic shall be in accordance with the Indiana Manual on Uniform Traffic Control Devices.
9. All construction and materials used within the highway right-of-way must conform to the current Indiana Department of Transportation "Standard Specifications" with the permittee being considered in the same status as the CONTACTOR unless approved otherwise by the County.
10. The permitted operations shall not interfere with any existing structure on the Washington County Highway right-of-way without specific permission in writing from the Washington County Highway Department.

WASHINGTON COUNTY  
UTILITY CUT/EXCAVATION PERMIT

PAID \$200.00  
BY: \_\_\_\_\_

PERMIT APPLICATION FOR CONSTRUCTION IN A PUBLIC RIGHT OF WAY

TYPE OF CONSTRUCTION (CHECK ALL THAT APPLY):

ROAD BORE \_\_\_\_\_ OPEN CUT/DIG \_\_\_\_\_ DITCH EXCAVATION \_\_\_\_\_

POLE ON ROW \_\_\_\_\_ Other \_\_\_\_\_

THE WASHINGTON COUNTY HIGHWAY DEPARTMENT DECIDES IF AN OPEN CUT IS ALLOWED. THE ROAD MUST BE BORED WHEN AN OPEN CUT IS NOT ALLOWED. WHEN A BORE IS NOT POSSIBLE, THE EXCAVATION SITE MAY NEED TO BE MOVED.

APPLICANT'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

APPLICATION DATE: \_\_\_\_\_

PROPOSED CONSTRUCTION START & END DATE: \_\_\_\_\_

IF AN EMERGENCY, PLEASE EXPLAIN: \_\_\_\_\_

\_\_\_\_\_

LOCATION OF CONSTRUCTION: \_\_\_\_\_

\_\_\_\_\_

I, \_\_\_\_\_, HAVE BEEN GIVEN A COPY OF ORDINANCE NO. 2020-01, AN ORDINANCE REVISING THE PROCESS AND REGULATION OF UTILITY CUTS AND EXCAVATIONS OF ROADS, ROADSIDE DITCHES, OR RIGHT OF WAYS WITHIN THE COUNTY OF WASHINGTON, INDIANA.

=====

**(FOR HIGHWAY DEPARTMENT USE ONLY)**

SPECIAL CONDITIONS: \_\_\_\_\_

\_\_\_\_\_

AUTHORIZED BY: \_\_\_\_\_  
WASHINGTON COUNTY HIGHWAY SUPERINTENDENT

ISSUE DATE: \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_

(BCC Ord. 2020-01, passed 1-21-2020)

**CHAPTER 96: WEED CONTROL**

Section

- 96.01 Definitions
  - 96.02 Weed Control Board membership and appointment
  - 96.03 Powers and duties of Board
  - 96.04 Marijuana eradication program
- (2) A supervisor from the County Soil and Water Conservation District;
  - (3) A representative of the agricultural community of the county;

**§ 96.01 DEFINITIONS.**

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

***NOXIOUS WEED.***

- (1) Canada thistle (*Cirsium Arvense*);
- (2) Johnson grass;
- (3) Sorghum almun (*Sorghum halepense*);

or

- (4) Any other plant hereafter defined as a noxious weed.  
(1985 Code, § 4-4-1) (BCC Ord. 1983-1, passed 3-21-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C13, passed - -1985)

**§ 96.02 WEED CONTROL BOARD MEMBERSHIP AND APPOINTMENT.**

(A) The County Weed Control Board is hereby established. The Weed Control Board shall consist of members as follows:

- (1) A trustee of a township in the county;

(4) A representative appointed by the Board of Commissioners, who may be a person from the County Highway Department or another county officer or employee, or any resident of the county; and

(5) The County Cooperative Extension Service Agent, who shall be a nonvoting advisory member.

(B) The members described, in divisions (A)(1) through (4) above shall all be appointed by the Board of Commissioners, and shall serve for four-year terms. The Cooperative Extension Service agent shall serve ex officio.

(1985 Code, § 4-4-2) (BCC Ord. 1983-1, passed 3-21-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C13, passed - -1985)

**§ 96.03 POWERS AND DUTIES OF BOARD.**

The County Weed Control Board shall have all powers and duties as set out in I.C. 15-6-7 and all acts amendatory thereof and supplemental thereto, with the powers and duties to include the following:

(A) Taking all necessary and proper steps to control and contain noxious weeds which have adverse significance on agricultural production in this state;

(B) Entering upon any land, public or private, at any reasonable time after giving 48 hours notice to the

person in possession of the land to inspect for noxious weeds, unless permission is granted to enter earlier;

(C) Purchasing supplies, material, and equipment;

(D) Acquiring by gift or purchase, holding, or disposing of, any real property in the name of the Board, to include such facilities as offices, laboratories, operational buildings, rights-of-way, and easements;

(E) Making contracts for the purpose of carrying out the duties of the Board;

(F) Entering into cooperative agreements with appropriate organizations for the purpose of assuring technical assistance in developing and carrying out the purposes of the Board;

(G) Identifying problems determined to be of importance to the public welfare and developing control programs appropriate to each situation;

(H) Undertaking investigations to determine the extent of infestation of noxious weed species, along with their effect on agricultural production in the county;

(I) Employing the latest technological advances to control and contain noxious weeds in the county;

(J) Accepting gifts and grants of money, services or property for any use consistent with the objectives of the Board;

(K) Exercising all of the powers necessary to carry out the purposes of I.C. 15-16-7-1 et seq.; and

(L) Performing additional duties as the County Commissioners may prescribe.  
(1985 Code, § 4-4-3) (BCC Ord. 1983-1, passed 3-21-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C13, passed - -1985)

#### **§ 96.04 MARIJUANA ERADICATION PROGRAM.**

(A) Pursuant to I.C. 15-16-7-8, there is established, in addition to the powers as provided in § 96.03, the power of the County Weed Control Board to establish a marijuana eradication program designed to eliminate and destroy wild marijuana plants found within the county.

(B) The costs of the marijuana eradication program shall be paid out of a fund hereby established and entitled the Marijuana Eradication Fund.

(C) The costs of the establishment of the marijuana eradication program and the use of the Marijuana Eradication Fund shall be by the receipt of additional court costs ordered by the judges of all courts of competent jurisdiction in criminal cases involving violations of I.C. 35-48-4 that are prosecuted in any court of competent jurisdiction in the county.

(D) The clerk of the courts of competent jurisdiction shall, from the assessment of the fee as added to court costs, collect the fee and deposit it with the County Auditor, to be carried in the special Marijuana Eradication Fund as herein established.  
(1985 Code, § 4-4-5) (BCC Ord. 1983-1, passed 3-21-1983; BCC Ord. 1985-C4, passed - -1985; BCC Ord. 1985-C13, passed - -1985)



**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110. CABLE TELEVISION**

**111. TATTOO AND BODY PIERCING**

**112. BED AND BREAKFAST ESTABLISHMENTS**



**CHAPTER 110: CABLE TELEVISION**

Section

*General Provisions*

- 110.01 Grant of franchise
- 110.02 Forfeiture for noncompliance with terms and conditions
- 110.03 Nonexclusive franchise
- 110.04 Easements and permits required; compliance with regulations
- 110.05 Area to be served
- 110.06 Franchise fee

*Construction and Maintenance of System*

- 110.20 Initial construction schedule and requirements
- 110.21 Minimum interference; liability for restoration
- 110.22 Requirement to use existing utility systems when practicable
- 110.23 General construction and maintenance requirements
- 110.24 Relocation of facilities on demand of county
- 110.25 Insurance requirements; indemnification of county

*Subscriber Service*

- 110.40 Commencement of service
- 110.41 Initial rates and charges
- 110.42 Amendment of rates and charges
- 110.43 Adjustment of charges upon interruption of service
- 110.44 Operator's office; resolution of complaints
- 110.45 Privacy provisions

*Administration*

- 110.60 Non-assignment of rights without consent of Commissioners
- 110.61 Termination; removal of facilities and restoration of property

*Statutory reference:*

*Authority to grant franchises, see I.C. 36-2-2-23*

**GENERAL PROVISIONS**

**§ 110.01 GRANT OF FRANCHISE.**

(A) Pursuant to the provisions of I.C. 36-2-2-23, which authorizes a non-exclusive grant of franchise by the County Executive, and in consideration of the faithful performance and the faithful observation of the conditions, terms and agreements contained herein, there may be hereby granted to an operator a nonexclusive right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways, and other public places in the county wires, poles, cables and other conductors and fixtures as necessary for the maintenance and operation of a cable television system.

(B) The term of this franchise shall be for a period of 15 years. No operator may offer cable television services to subscribers living within the unincorporated areas of the county without a valid franchise, nor without the timely payments of franchise fees as per agreement.

(1985 Code, § 2-2-1) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

**§ 110.02 FORFEITURE FOR NONCOMPLIANCE WITH TERMS AND CONDITIONS.**

This franchise is subject to forfeiture by the company if for any reason the company fails to abide by the terms hereof.

(1985 Code, § 2-2-2) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

**§ 110.03 NONEXCLUSIVE FRANCHISE.**

(A) The right and privilege granted herein is nonexclusive. The county reserves the following rights, powers and authorities under this chapter:

(1) To grant similar franchises to other persons, firms or corporations at any time in the future;

(2) To fix the location of any and all poles, wires, cables and other conductors, fixtures and structures; and

(3) To demand that any such fixtures and/or structures be removed at the expense of the operator in the future for public convenience.

(B) In addition, the right by the operator to engage in the transmission of messages between two or more parties as a commercial enterprise is specifically excluded from the grant of this franchise.

(1985 Code, § 2-2-3) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

**§ 110.04 EASEMENTS AND PERMITS REQUIRED; COMPLIANCE WITH REGULATIONS.**

(A) It shall be the sole responsibility of the operator to secure easements necessary for the operation of the cable television system and to obtain permission to use poles and equipment which is the property of any public utility, all at no expense to the county.

(1985 Code, § 2-2-4)

(B) The operator shall at all times be subject to the lawful police powers of the county and to other regulation as the county shall from time to time impose. The operator shall at all times operate in compliance with any and all federal and state rules and regulations as may from time to time be promulgated. It shall be the sole responsibility of the operator to acquire any permits as may be necessary from any regulatory agencies prior to furnishing service and/or operating its business in the county.

(1985 Code, § 2-2-5) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

**§ 110.05 AREA TO BE SERVED.**

(A) The area subject to franchise and contractual agreement is the entire unincorporated area of the county, not including the geographical territory within the physical limits of any municipality.

(B) Service shall be provided to, but not limited to, all areas of the franchise community having a density of 20 dwelling units per cable-bearing strand mile as measured from the central distribution point.

(C) The operator agrees to extend the cable system to serve any future subdivisions or other newly developed areas in the county as each subdivision or area is completed or within six months of the installation of telephone and electric utility services whichever is less, provided that the operator is able to obtain from property owners any necessary easements and/or permits at no cost in order to provide the system extension, and provided that the operator is able to project at least 20 potential subscribers per mile of cable line extension in these future subdivisions or other newly developed areas.

(1985 Code, § 2-2-6) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

**§ 110.06 FRANCHISE FEE.**

(A) In consideration of the rights, privileges and authority hereby granted, and in compensation to the county for the use of its public places, the operator shall agree to pay to the county a sum equal to 3% of

the gross revenues received by the operator, from the users of the cable television system within the area of the county described in § 110.05 above.

(B) All payments shall be made in quarterly installments due and payable within 30 days following the end of each calendar quarter.

(C) **GROSS SUBSCRIBER REVENUES** shall mean those revenues derived from the monthly service charges paid by subscribers served by the operator for regular cable television reception service, which includes the transmission of broadcast signals and the programming presented on the required access and origination channels, if any. **GROSS SUBSCRIBER REVENUES** shall not include any revenues received as advertising payments; or revenues from per channel, per program, or pay for view programs; or revenues from installation charges and fees for reconnections, inspections, repairs or modifications of installments; or for premium channels; or channels not included in basic subscription services.

(D) The quarterly payments shall be subject to adjustment, if necessary, within 120 days after the end of each fiscal year of the operator based upon any annual statement to be filed by the operator with the county.

(E) Not later than 120 days after the end of the operators fiscal year, a copy of its report to its stockholders, if any; an income statement applicable to its operation within the county during the preceding 12-month period; and a balance sheet as of the end of the fiscal year; shall be filed by the operator with the county.

(F) These reports shall be prepared or approved by a certified public accountant as being in accordance with generally accepted accounting practices.

(G) The operator shall furnish to the county upon request by the county the reports, documents, and information reasonably necessary to enable the county to verify the accuracy of the payments made to it by the operator.

(1985 Code, § 2-2-13) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

### **CONSTRUCTION AND MAINTENANCE OF SYSTEM**

#### **§ 110.20 INITIAL CONSTRUCTION SCHEDULE AND REQUIREMENTS.**

(A) Full scale construction of the cable system shall begin immediately after the final license is granted by the county.

(B) It is specifically understood that it is the responsibility of the operator to seek and obtain all variances, permits, easements, and authorizations for construction.

(C) The operator shall submit monthly construction status reports to the Board of Commissioners.

(D) Construction of the entire cable system shall be completed and energized and available for installation in the subscribers' homes two years from the date of execution of the franchise.

(E) Time is deemed to be of the essence to the extent that the construction schedule is within the reasonable control of the operator.

(F) Notwithstanding the above, upon written application by the operator to the Commissioners at least 15 days prior to the construction deadline or any extension thereof, the Commissioners shall grant a reasonable extension of time under the circumstances to comply with the conditions of this section; provided that the written application sufficiently states and documents that the need for the delay is for good cause and due to circumstances beyond the reasonable control of the operator.

(G) Among events or circumstances deemed to be beyond the reasonable control of the operator are: the timely performance of make-ready and the location of utilities by the telephone and/or electric utility companies; the timely delivery of equipment by suppliers, provided the operator exercises due diligence in placing purchase orders for the equipment; the timely performance of contractual

obligations by subcontractors, providing the operator exercises due diligence in selecting subcontractors, supervising their performance and seeking compliance of any and all agreements with them; labor disputes, providing the operator exercises due diligence in seeking settlement of the disputes; and acts of God, including severe weather conditions.

(H) The area to be served shall be wired and activated throughout the entire area within the period specified in this section.

(I) Operators are encouraged to approach the county Commissioners at a regular meeting as a scheduled agenda item to discuss or announce intentions to expand the service area or the services offered.

(J) Moreover, the operator may assume the reasonable assurance that if subscribers are satisfied with the services provided and the rates, and the operator is otherwise in compliance with the provisions of this chapter, the County Commissioners, in order to protect the considerable investment of said operator, may reasonably deny franchise access to other providers of cable television services.

(K) Wherever practicable the operator shall provide service to parts of the area to be served prior to the period specified in this section.  
(1985 Code, § 2-2-7) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.21 MINIMUM INTERFERENCE; LIABILITY FOR RESTORATION.**

(A) All construction by the operator shall at all times be in a good and workmanlike manner and shall be in compliance with all safety codes currently in effect in the state.

(B) No construction shall be made in any public street, sidewalk, or public place or grounds without prior notice to and approval of the Board of Commissioners.

(C) All structures, lines, and equipment erected by the operator within the county shall be so located as to cause minimum interference with the proper use of streets, alleys, public utility easements, and other public rights-of-way, public ways, and places and to cause minimum interference with the rights or reasonable convenience of property owners.

(D) The operator shall comply with all reasonable, proper and lawful ordinances of the county now or hereafter in force.

(E) All of the fixtures and structures shall be erected so as not to interfere with traffic or use of public property.

(F) In case of disturbance by the operator of any pavement, sidewalk, driveway, or other surfacing, operator shall at its own cost and expense, replace and restore all the paving, sidewalk, driveway or surface so disturbed in at least as good condition as before work was commenced.

(1985 Code, § 2-2-8) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.22 REQUIREMENT TO USE EXISTING UTILITY SYSTEMS WHEN PRACTICABLE.**

(A) Existing poles, posts, conduits, and other structures of any electric power system, telephone company or other public utility located in the county shall be contacted by the operator for leasing or licensing upon reasonable terms and rates, and shall be used to the extent practicable in order to minimize interference with travel and avoid unnecessary duplication of facilities.

(B) It is specifically understood that it is the sole responsibility of the operator to contact the utility companies and to obtain authorization for the utilization of the facilities of the utility companies, and the Commissioners shall have no obligation or responsibility for obtaining joint pole or joint conduit use agreements with utility companies.

(C) To the extent that the existing poles, posts, conduits, and other structures are not available, or are not available under reasonable terms and conditions, including excessive costs or unreasonable limitations upon the use by the operator's cable television, the operator shall have the right to purchase, lease, or in any other manner acquire land, rights-of-way, or public utility easements upon or under which to erect and maintain its own poles, conduits and other structures as may be necessary for the construction and maintenance of its cable television system.

(1985 Code, § 2-2-9) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.23 GENERAL CONSTRUCTION AND MAINTENANCE REQUIREMENTS.**

The construction, maintenance, and operation of the cable system for which this franchise is granted shall be done in compliance with OSHA, the National Electrical Safety Code, and the rules and regulations of the CATV Commission, and the FCC as the same exist or as the same may be hereafter changed or amended, and applicable local codes. The operator shall maintain and operate a state-of-the-art cable system and render efficient service to subscribers during the term of this agreement consistent with the operators proposal. Inoperable equipment will be promptly replaced by the operator. All poles, lines, structures and other facilities of the operator in, on, over and under the streets, sidewalks, alleys, public utility easements, and public grounds or places of the county shall be kept by the operator at all times in a safe and substantial condition and in good order and repair. The operator shall have the authority to trim trees upon and overhanging all streets, alleys, public utility easements, sidewalks and public places of the county so as to prevent the branches of the trees from coming into contact with the operator's facilities.

(1985 Code, § 2-2-10) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.24 RELOCATION OF FACILITIES ON DEMAND OF COUNTY.**

In the event that at any time during the period of this franchise the county shall lawfully elect to alter or

change any street, alley, public way, or public utility easement, requiring the relocation of the operators facilities, then, in that event, the operator, upon reasonable notice by the county, shall remove, relay, and relocate the same at its own expense, provided however that where public funds are available for the relocation pursuant to law, the operator shall not be required to pay the cost.

(1985 Code, § 2-2-11) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.25 INSURANCE REQUIREMENTS; INDEMNIFICATION OF COUNTY.**

(A) The operator shall agree to indemnify, protect and hold the county harmless from any and all claims, damages, judgments, losses, costs, and expenses of every kind arising out of the construction, maintenance, presence, use, operation, and/or termination of the cable television system, and arising out of any act of the operator, its officers, agents, and employees.

(B) The operator shall also pay for all costs and expenses associated with the county's defense of any court action brought against the county in which it is claimed that the injury or damage arose from the operators activities in the operation of its cable television system.

(C) The operator shall agree to purchase and keep in full force and effect at all times during the term of the franchise a contract or contracts of general comprehensive liability insurance coverage with a company or companies authorized to do business in the state of Indiana, by which both the operator and the county, its boards, commissions, officers, agents and employees are insured against any claim, demand or loss for injury to persons, or damage to property, resulting from, growing out of, or connected with the construction, operation or maintenance of the cable television system within the county.

(D) The operator shall furnish to the county as many copies of the insurance contracts and certificates of insurance as requested, by the county. The insurance contract(s) shall contain a provision that written notice of any cancellation or reduction in

coverage of the policy shall be delivered to the county ten days in advance of the effective date. If the insurance is provided in either case by a policy which also covers the operator or any other entity or person, the policy shall contain the standard cross-liability endorsement.

(E) The insurance contract(s) shall have minimum limits in the following amounts, which shall remain in effect and in force for the entire term of the franchise:

(1) Property damage liability insurance of not less than \$50,000 as to any one occurrence;

(2) Personal injury liability insurance for bodily injury or death not less than \$250,000 as to any one person and not less than \$500,000 as to any one occurrence;

(3) Excess umbrella liability coverage of not less than \$1,000,000; and

(4) During the actual construction of the electronic system, the operator shall carry the insurance to protect it from all claims under any worker's compensation laws in effect that may apply to the operator.

(1985 Code, § 2-2-12) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

### ***SUBSCRIBER SERVICE***

#### **§ 110.35 COMMENCEMENT OF SERVICE.**

At the time of the completion of the system, the operator shall submit to the Commissioners a marketing plan which shall include a schedule providing for phased installation of subscriber drops within 30 days of acceptance of an application for service. After the initial marketing and installation of subscriber drops and for the remainder of the term of the franchise, service shall be provided to all subscriber applicants within the service area within 30 days of application therefor. The operator shall use its best efforts to comply within 30 days, but shall not

be bound thereto if the delay is due to factors beyond the reasonable control of the operator.

(1985 Code, § 2-2-14) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.36 INITIAL RATES AND CHARGES.**

The rates and charges to subscribers for signals distributed shall be as set forth in the "Schedule of Rates and Charges" (Schedule A), which is incorporated herein by reference.

(1985 Code, § 2-2-15) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.37 AMENDMENT OF RATES AND CHARGES.**

(A) The operator shall make changes to the rates and charges in accordance with the following procedures.

(1) The operator shall file with the Board of Commissioners of the county an amended schedule of rates and charges including the operator's justification for the proposed schedule.

(2) Within ten days notification by the Board of the date, place and time established for a hearing on the amended schedule, the operator shall notify its subscribers of the hearing by announcement on at least one channel of its system between the hours of 7:00 p.m. and 9:00 p.m. for five consecutive days, or by written notice conspicuously printed and mailed with two consecutive regular subscriber billings. Additionally, the date, time, and place of the public hearing and the text of the amended schedule shall be published at the operator's expense in one newspaper of general circulation in the county at least five days before the date of the hearing. Following all proper notice, but in no event later than 90 days from the date the amended schedule is filed, the Board shall hold an appropriate public hearing to consider the proposed amended schedule, at which hearing all parties desiring to be heard, including the operator, shall be heard on any matters relating to the performance of this franchise, the operators services, and the proposed amended schedule.

(3) Within 30 days after the hearing, the Board shall consider the amended schedule and may hold additional public hearings, at the conclusion of which the Board shall make a decision either accepting, rejecting or modifying the proposed rates and charges contained in the amended schedule. The operator may place the rates and charges as have been approved by the Board into effect.

(4) If the Board fails to act within three months of the filing of the amended schedule, the operator shall thereafter be entitled to put its proposed rates and charges into effect on a provisional basis, provided, that it shall keep a full and accurate accounting of all income resulting from the provisional rates and charges, and shall be obliged for a period of six months thereafter to refund the amount by which the provisional rates exceed the rates ultimately established by the Board. Upon request by the Board, the operator shall provide a bond or other reasonable surety to ensure that possible refunds due under this division (A)(4) shall be promptly made. The bond or surety shall be in an amount not to exceed the difference between the amount of revenues generated in six months at the previous existing rates and charges and the amount of the revenues expected to be generated in six months at the provisional rates and charges.

(5) The criteria for the Board's decision shall be the establishment of rates and charges which are fair, reasonable and non-discriminatory. Fair and reasonable shall mean what is fair and reasonable both to the operator and the subscribers, and shall be generally defined as the minimum rates and charges necessary to meet all applicable costs of service, including fair return on all invested capital, assuming efficient and economical management of the system.

(6) Any disagreement between the county and the operator concerning interpretations and calculations of the financial and statistical information provided by the operator may be submitted to a court of competent jurisdiction.

(7) A rate for extension of the system to new subscribers shall be deemed to be non-discriminatory if it is not less than the average rate prevailing for existing subscribers, except that rates

for commercial subscribers may be set in the manner set forth in "Schedule A".

(B) However, in accordance with the Federal Cable Communications Policy Act of 1984, being 47 U.S.C. §§ 521 et seq., and notwithstanding any other provision of this section, the operator may increase any subscriber rates and charges by an amount not to exceed 5% in any one year without any applicability of the procedures and requirements set forth in divisions (A)(2) through (7) of this section. After December 29, 1986, the operator may also increase any subscriber rates and charges by an amount greater than 5% in any year without the procedures, and requirements of divisions (A)(2) through (7) above applying, unless at any such time it shall be determined that the operator is providing its cable television services without effective competition as defined in accordance with criteria established by the Federal Communications Commission. (1985 Code, § 2-2-16) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.38 ADJUSTMENT OF CHARGES UPON INTERRUPTION OF SERVICE.**

In the event that the operator's service to any subscriber is interrupted for 24 or more consecutive hours, it will grant the subscriber a pro rata credit or rebate on a daily basis, of that portion of the service charge during the next consecutive billing cycle, or at its option, apply the credit to any outstanding balance then currently due.

(1985 Code, § 2-2-17) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### **§ 110.39 OPERATOR'S OFFICE; RESOLUTION OF COMPLAINTS.**

(A) The operator shall maintain an office open during regular business hours which subscribers may call, without incurring additional fees.

(B) Upon reasonable notice the operator shall expeditiously investigate and resolve complaints regarding the quality of service, equipment, malfunctions, and similar matters.

(C) The operator shall also maintain records of all reported complaints and action taken to respond to the complaints and shall make the records available to the Commissioners for inspection upon request. (1985 Code, § 2-2-18) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### § 110.40 PRIVACY PROVISIONS.

(A) The operator shall inform the county of the nature of any information it will obtain regarding subscribers and the manner in which the information will be used. The operator shall not collect, store, use, or make available to any third party data relating to any individual subscriber households without obtaining the prior written consent of the subscriber.

(B) The only exception to this prohibition is information that is necessary for billing, the provision of service to subscribers, and reports to the Commissioners or other governmental agency required by statute, regulation, or this chapter.

(C) The operator shall inform the subscriber when two-way equipment is installed that would permit the monitoring or recording of information from the subscriber household. To further protect individual rights of privacy, any two-way equipment will have a switch that must be activated by the subscriber before a signal can be transmitted from the subscriber household.

(D) No interactive data will originate from the subscriber household television set, if connected to cable, unless the subscriber has specifically requested and authorized that this be done.

(E) Upon written request, any subscriber may examine all records maintained by the operator pertaining to that subscriber or which are associated with that subscriber's name, and any improper use of this information upon discovery shall be reported to the Commissioners.

(F) The operator shall ensure that all information relating to billing and service requests is accurate and up-to-date.

(G) The operator shall also report to the Commissioners any instances of unauthorized recording, tapping, monitoring or data collection of which it has knowledge.

(H) Pursuant to § 110.25 of this chapter, the operator shall indemnify, protect and hold the county harmless of any and all claims, damages, judgments, losses, costs, and expenses based upon violations of these privacy provisions.

(I) Nothing contained in this section shall be interpreted as rendering § 110.03 of this chapter null and void. Nothing contained in this section shall be interpreted as allowing the operator to install two-way equipment for commercial reasons. If a conflict exists between this section and § 110.03, the provisions of § 110.03 shall prevail.

(1985 Code, § 2-2-19) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

#### ADMINISTRATION

#### § 110.50 NON-ASSIGNMENT OF RIGHTS WITHOUT CONSENT OF COMMISSIONERS.

(A) All rights and privileges granted under this franchise are appurtenant to the original franchisee only, and may not be transferred or assigned without the written consent of the Board of Commissioners, which consent shall not be unreasonably withheld.

(B) The consent is hereby granted and may be presumed in case of assignment on foreclosure of any mortgage indenture secured in whole or in part by the assignability of the franchisee's rights and privileges hereunder and entered into for the purpose of obtaining funding necessary for the construction, expansion, maintenance, upgrading, or operation of the franchisee's cable television system within the county; or in case of assignment in receivership as may be ordered by a court.

(C) In other cases, a franchisee wishing to assign the rights and privileges must give prior written notice of the proposal to the Commissioners, with the

reasons and circumstances therefor and the identity of the proposed assign, and other information and particulars as the Commissioners may require.

(D) All assigns shall be bound by the provisions of this franchise, as the same may from time to time be lawfully amended, to the same degree as the original franchisee.

(1985 Code, § 2-2-20) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

**§ 110.51 TERMINATION; REMOVAL OF FACILITIES AND RESTORATION OF PROPERTY.**

Upon the termination of the period of the franchise, unless extended, the operator shall remove, at its own cost, its supporting structures, poles, transmission and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, and other public places, in, over, under and along which they are installed, and shall restore the areas to their original condition. If the removal is not completed within six months of the termination, the county may deem the property not removed as having been abandoned.

(1985 Code, § 2-2-21) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)



## CHAPTER 111: TATTOO AND BODY PIERCING

### Section

- 111.01 Sanitary operation of tattoo parlors
- 111.02 Definitions
- 111.03 Operating training responsibilities
- 111.04 Operator responsibilities
- 111.05 Operator policies
- 111.06 Tattoo artist and body piercer;  
minimum training and certification  
requirements
- 111.07 Patron records
- 111.08 Illness
- 111.09 Handwashing
- 111.10 Personal protective equipment
- 111.11 Tattooing equipment
- 111.12 Needles
- 111.13 Reusable equipment
- 111.14 Dyes or pigments
- 111.15 Work environment
- 111.16 Infectious waste containment
- 111.17 Treatment and transport of infectious  
waste
- 111.18 Permits
- 111.19 Inspections
- 111.20 Procedures when violations are noted
- 111.21 Permit suspension/revocation
- 111.22 Other permit suspension, revocation  
and immediate closure orders
- 111.23 Hearing
- 111.24 Appeal
- 111.25 Enforcement
- 111.26 Violations
- 111.27 Injunction
- 111.28 Remedies cumulative
- 111.29 Prohibited acts
  
- 111.99 Penalty

### § 111.01 SANITARY OPERATION OF TATTOO PARLORS.

All places, individuals, and businesses that offer to affix any type of permanent tattoo or body piercing to a person shall be regulated by the ordinance and shall maintain the premises in which tattoos or body piercing are performed and equipment used in the tattoo or body piercing process in a sanitary manner. (BCC Ord. 2009-05, passed 9-16-2009)

### § 111.02 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
- (3) HIV.

**BODY PIERCER.** Any person who performs body piercing on an individual.

**BODY PIERCING.** The perforation of any human body part other than ear lobe for the purpose

of inserting jewelry or other decoration or for any other non-medical purpose.

**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 and the surface or item is rendered safe for handling, use, or disposal.

**DEPARTMENT.** The Washington County Health Department.

**FACILITY.** A tattoo parlor or body piercing facility, or both, which is any room or space that is mobile or stationary where tattooing or body piercing, or both, is provided or where the business of tattooing or body piercing, or both, is conducted.

**HBV.** The hepatitis B virus.

**HCV.** The hepatitis C virus.

**HIV.** The human immunodeficiency virus.

**HEALTH COMMISSIONER.** The duly appointed Health Commissioner as set forth in I.C. 16-20-2-16. The Washington County **HEALTH COMMISSIONER** or designee shall be designated as the official in charge of enforcing this chapter. The **HEALTH COMMISSIONER** may designate a representative in the County Health Department to perform those duties and responsibilities of the **HEALTH COMMISSIONER**.

**HIGH LEVEL DISINFECTION.** A process that destroys all microorganisms, with the exception of high numbers of bacterial spores.

**INFECTIOUS WASTE.** Waste the 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 biologicals, 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, and bedding of laboratory animals; and

(6) Other waste that has been intermingled with infectious waste.

**INTERMEDIATE LEVEL DISINFECTION.** A process that inactivates the following, but does not necessarily kill bacterial spores:

(1) Mycobacterium tuberculosis;

(2) Vegetative bacteria;

(3) Most viruses; and

(4) Most fungi.

**MOBILE FACILITY.** A tattoo parlor or body piercing facility, or both, which is any moveable room or space where tattooing or body piercing, or both, is provided or where the business of tattooing or body piercing, or both, is conducted.

**OPERATOR.** Any person who controls, operates, manages, or owns any facility.

**OTHER POTENTIALLY INFECTIOUS MATERIALS** or **OPIM.** The following:

(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
- (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 of the skin barrier through such events as needle sticks, human bites, cuts, or abrasions.

**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 PRODUCTS.** Blood, blood products that have intermediate fluid properties and are capable of flowing in a manner similar to liquid.

**STERILIZE.** The use of a 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, or symbol done by scarring upon or under the skin; or

(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 of the mucus membranes or the skin through which needles or other objects are inserted for temporary or permanent placement.

**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 for HIV, HBV, HCV, and other blood borne pathogens.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.03 OPERATING TRAINING RESPONSIBILITIES.**

An individual or entity that is an operator shall comply with the following training responsibilities:

(A) Ensure that the training described in the State Occupational Safety and Health Administration's Blood Borne Pathogens Standard (as found in 29 C.F.R. § 1910.1030) is provided to all tattoo artists and body piercers, anyone employed by the facility, or anyone acting on behalf of the facility, 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 and body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM; and

(C) Ensure that a record of training described in divisions (A) and (B) above is maintained, as required under State Occupational Safety and Health Administration's Bloodborne Pathogens Standard (as found in 29 C.F.R. § 1910.1030) of and individuals participation in the training that is provided. The record shall be made available to the department for inspection upon request.

(BCC Ord. 2009-05, passed 9-16-2009)

#### **§ 111.04 OPERATOR RESPONSIBILITIES.**

(A) The operator shall ensure that tattoo artists, body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk of 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 State Occupational Safety and Health Administration's Blood borne Pathogens Standard (as found in 29 C.F.R. § 1910.1030).

(B) The operator shall ensure that tattoo artists, body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk of skin, eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in § 111.06.

(C) The operator shall display a description of compliance with the requirements contained in division (D) below.

(D) The 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.

(BCC Ord. 2009-05, passed 9-16-2009)

#### **§ 111.05 OPERATOR POLICIES.**

The operator shall develop a written policy in compliance with this rule and the requirements of the State Occupational Safety and Health Administration's Blood Borne Pathogens Standard (as found in 29 C.F.R. § 1910.1030) that:

(A) Requires the use of universal precautions when performing tattooing or body piercing and any activity or duty that includes any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM;

(B) Requires disinfection or sterilization of contaminated reusable items;

(C) Includes the safe handling of infectious waste;

(D) Provides sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions and/or handle waste safely;

(E) Prohibiting the medical procedures, tongue splitting, tattoo removal and use of anesthesia; and

(F) Prohibiting of industrial piercing bars.  
(BCC Ord. 2009-05, passed 9-16-2009; BCC Ord. 2019-04, passed 6-4-2019)

#### **§ 111.06 TATTOO ARTIST AND BODY PIERCER; MINIMUM TRAINING AND CERTIFICATION REQUIREMENTS.**

(A) All tattoo artists, body piercers, anyone employed by the facility, and anyone acting on behalf

of the facility 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 requirements of the State Occupational Safety and Health Administration's Blood borne Pathogens Standard (as found in 29 C.F.R. § 1910.1030).



(B) The programs under this section shall be as follows:

(1) A bloodborne pathogen training session provided by the operator meeting the requirements under the State Occupational Safety and Health Administration's Blood borne Pathogens Standard (as found in 29 C.F.R. § 1910.1030); and

(2) Any blood borne pathogen continuing education program accredited by a health care licensing entity.

(C) All tattoo artists, body piercers, anyone employed by the facility, and anyone acting on the behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM must be trained in the facility's policies on the handling of infectious waste.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.07 PATRON 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 which must be valid government issued identification;
- (D) Date of the tattoo or body piercing;
- (E) Design of the tattoo or body piercing;
- (F) Location of the tattoo or body piercing on the patron's body;
- (G) The name of the tattoo artist or body piercer who performed the work;

(H) Jewelry or other decoration used; and

(I) Parental consent must be in writing when performed on any minor as required by law.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.08 ILLNESS.**

Tattoo artists or body piercers who are experiencing symptoms of acute disease that include, but are not limited to the following, shall refrain from providing tattoos or body piercing:

- (A) Diarrhea;
- (B) Vomiting;
- (C) Fever;
- (D) Rash;
- (E) Productive cough;
- (F) Jaundice; or
- (G) Draining (or open) skin infections, boils, impetigo, or scabies.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.09 HANDWASHING.**

- (A) Handwashing facilities shall be readily accessible in the same room where tattooing or body piercing 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.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.10 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 a solid side or chin length face shield, shall be worn whenever splashes, spray, splatter, or droplets of blood or OPIM may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(C) Disposable gloves, such as surgical or examination type, shall be worn during the tattooing or body piercing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo or body piercing, when the gloves become torn or punctured, or whenever the ability to function as a barrier is compromised. The disposable gloves shall not be reused.

(D) Gloves shall be worn when decontaminating environmental surfaces and equipment.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.11 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.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.12 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.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.13 REUSABLE EQUIPMENT.**

(A) Heating procedures capable of sterilization must be used when heat stable, non-disposable equipment is sterilized.

(B) Equipment that is to be sterilized shall be put in single-use packaging.

(C) 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; and

(4) 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 which are:

(a) Labeled with bio-hazard symbol; and

(b) Leak proof on both sides and bottom.

(2) 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 or disinfection.

(F) Any reusable contaminated equipment that comes into direct contact, or is likely to come into direct contact, with an instrument that penetrates the skin or other than a piercing gun shall be effectively cleaned and sterilized prior to use.

(G) All sterilized equipment shall not be removed from wrappers or sterilizer packaging until immediately prior to use.

(H) Any reusable equipment that comes into contact with mucus membranes shall be effectively cleaned and sterilized prior to use.

(I) Piercing guns shall be cleaned and undergo, at a minimum, high level disinfection after each use and whenever visibly contaminated.

(J) All reusable equipment that has contact with intact skin shall undergo, at a minimum, intermediate level disinfection.

(K) All other equipment used during the tattooing or body piercing procedure shall be single use, including corks.

(L) All body piercers and tattoo artists shall comply with all other equipment manufacturer's recommendations.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.14 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 dyes or pigments to be used by tattoo artists, only non-toxic sterile materials shall be

used. Single use or individual portions of dyes or pigments in clean, single-use 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.

(D) Any object placed under the skin shall be sterile.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.15 WORK ENVIRONMENT.**

(A) No tattooing or body piercing 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 or body piercing is being conducted. This exclusion does not apply to the following:

(1) Patrol dogs accompanying security or police officers; or

(2) Guide dogs accompanying the following:

- (a) Blind persons;
- (b) Partially blind persons;
- (c) Physically disabled persons;
- (d) Guide dog trainers; and/or
- (e) Persons with impaired hearing.

(C) Eating, drinking, smoking, applying cosmetics, or handling contact lenses shall not be allowed in 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 disinfected after contact with blood or OPIM.

(F) Environmental surfaces and equipment not requiring sterilization, that have been contaminated by blood, shall be cleaned and disinfected.

(G) All work surfaces shall be:

- (1) Nonabsorbent;
- (2) Easily cleanable;
- (3) Smooth; and
- (4) Free of:
  - (a) Breaks;
  - (b) Open seams;
  - (c) Cracks;
  - (d) Chips;
  - (e) Pits; and
  - (f) Similar imperfections.

(H) Disinfectant solutions shall be:

(1) A hospital grade, tuberculocidal Environmental Protection Agency (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.

(BCC Ord. 2009-05, passed 9-16-2009)

#### **§ 111.16 INFECTIOUS WASTE CONTAINMENT.**

(A) Contaminated disposable needles or instruments shall be stored in leak-resistant,

puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the bio-hazard 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 sharps shall be placed in containers that:

- (1) Shall be impervious to moisture;
- (2) Shall be of sufficient strength and thickness to prevent expulsion;
- (3) Shall be secured to prevent leakage expulsion;
- (4) Shall be labeled with the bio-hazard symbol; and
- (5) Shall be effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

(C) 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 bio-hazard symbol.

(D) 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.

(E) Disinfectant reusable containers for infectious waste 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.

(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.17 TREATMENT AND TRANSPORT OF INFECTIOUS WASTE.**

(A) All 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) Irradiation; or
- (5) 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 operator shall ensure that infectious waste, effectively treated or not, is transported off-site in compliance with 410 I.A.C. 1-3. (BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.18 PERMITS.**

(A) *Business.* Each tattoo/body piercing facility

operation shall obtain a permit from the County Health Department. The permit shall provide the name and address of the owner of the business and the name and address of each tattoo artist and body piercer located at each location.

- (1) The cost for this permit shall be \$100 and shall not be transferable.
- (2) The permit expires on December 31 of each year.
- (3) Should an establishment fail to obtain the permit prior to the opening of a tattoo and/or body piercing facility or should any permittee fail to renew his or her permit on or before the expiration date of December 31, then the annual fee shall be 125% of the annual fee set forth above for the tattoo and or body piercing facility.
- (4) Any holder of a permit shall be subject to inspection as set forth herein.
- (5) The County Health Department shall provide the appropriate forms for this permit.
- (6) The permit shall be posted at the facility in the area where the tattoo and/or body piercing services are performed and shall be clearly visible to the public.
- (7) Each applicant must be at least 21 years of age.

(B) *Mobile facility.* Each mobile tattoo/body piercing facility operation shall obtain a permit from the County Health Department.

- (1) The permit shall provide the name and address of the owner of the business and the name and address of each tattoo artist and body piercer operating at each location.
- (2) The cost of this permit shall be \$50 and shall not be transferable.
- (3) The permit expires on December 31 of each year.

(4) Should an establishment fail to obtain the permit prior to the opening of a mobile tattoo and/or body piercing facility or should any permittee fail to renew his or her permit on or before the expiration date of December 31, then the annual fee shall be 125% of the annual fee set forth above for the tattoo and/or body piercing facility.

(5) Any holder of a permit shall be subject to inspection as set forth herein.

(6) The County Health Department shall provide the appropriate forms for this permit.

(7) The permit shall be posted at the mobile facility in the area where the tattoo or body piercing services are performed and shall be clearly visible to the public.

(8) In addition, the date, time, and location of the event where the mobile facility will be used shall be submitted at least 48 hours prior to the start time of the event to the County Health Department.

(C) *Tattoo artist or body piercer.*

(1) Every person that desires to perform any tattoo or body piercing shall obtain a tattoo artist permit, body piercer permit, or a tattoo artist-body piercer permit from the County Health Department.

(2) This permit must be obtained before any tattoos are affixed or body piercing done to any person and after the requisite training.

(3) The applicant must satisfy the minimum requirements as set forth herein in § 111.06.

(4) The cost of the permit shall be \$50 and shall not be transferable.

(5) The permit expires on December 31, of each year.

(6) Should a tattoo artist or body piercer fail to obtain the permit prior to performing any tattoo or body piercing or should any permittee fail to renew

his or her permit on or before the expiration date of December 31, then the annual fee shall be 125% of the annual fee set forth above for the tattoo artist or body piercer.

(7) Any holder of a permit shall be subject to inspection as set forth herein.

(8) The County Health Department shall provide the appropriate forms for this permit.

(9) The permits shall be posted at the facility in the place where the tattoos or body piercing are performed and shall be clearly visible to the public.

(D) *Owner/operator.* In the event that a tattoo or body piercing facility is a sole proprietorship and the owner shall also perform tattooing or body piercing for their business, the owner shall only be required to obtain a business permit as described in this section.

(E) *Guest tattoo artist or body piercer.*

(1) Every person that desires to perform any tattoo or body piercing services within the county on a temporary basis shall obtain a guest tattoo artist permit, guest body piercer permit, or a guest tattoo-body piercer permit from the County Health Department.

(2) This permit must be obtained before any tattoos are affixed or body piercing is done to any person and after the required training.

(3) The applicant must satisfy the minimum requirements as set forth herein in § 111.06.

(4) The cost of the permit shall be \$25 and shall not be transferable.

(5) The permit shall expire 30 days after the date of issuance.

(6) Any holder of a permit shall be subject to inspection as set forth herein.

(7) The County Health Department shall provide the appropriate forms for this permit.

(8) The permits shall be posted at the facility in the area where the tattoo or body piercing services are performed and shall be clearly visible to the public.

(F) *Prorating of fees.*

(1) In the event that a business, mobile facility, tattoo artist, and/or body piercer shall apply for a permit any time prior to July 1 of any year, he or she or it or they shall be responsible for the total annual fee as described in this section.

(2) In the event that a business, mobile facility, tattoo artist, and/or a body piercer shall apply for a permit any time after June 30 of any year, he or she or it or they shall be required to pay one half of the annual fee. All permits, however, shall expire on December 31 of the year in which they were issued. (BCC Ord. 2009-05, passed 9-16-2009; BCC Ord. 2019-04, passed 6-4-2019)

**§ 111.19 INSPECTIONS.**

(A) The County Health Department shall conduct inspections of each and every facility and mobile facility located in the county.

(B) The County Health Department shall conduct a minimum of two inspections per year for facilities and one inspection per year for mobile facilities.

(C) Additional inspections may be conducted by the County Health Department as it determines and/or in responses to complaints submitted.

(D) The results of the inspection shall be provided to each operator. Violations noted by the County Health Department shall be corrected immediately. The County Health Department shall conduct follow-up inspections to determine compliance with this chapter. (BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.20 PROCEDURES WHEN VIOLATIONS ARE NOTED.**

(A) If, during an inspection of any facility, the Health Commissioner discovers the violation of any provision of this chapter, he or she shall issue a written report listing the violations and the remedial action(s) to be taken.

(B) A copy of the report shall be delivered to the permittee by hand delivering the report to him or her on-site, or by mailing notice by certified mail to the address listed by the permittee as his or her or its mailing address on the permit application.

(C) A copy of the written order shall be filed in the records of the County Health Department after appropriate review by supervisory personnel and then shall be made available to the public. (BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.21 PERMIT SUSPENSION/REVOCAATION.**

The Health Commissioner may order the suspension or revocation of any permit issued for a facility, which order shall include the prohibition of any further operation for the following reasons:

(A) Interference with the Health Commissioner, or his or her authorized representatives, in the performance of his or her duties. Interference shall be defined as the process of obstructing, hampering, or blocking the Health Commissioner in the performance of his or her duties; and/or

(B) As a result of the willful and/or continued violation of the provisions of this chapter. (BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.22 OTHER PERMIT SUSPENSION, REVOCATION AND IMMEDIATE CLOSURE ORDERS.**

(A) Except as set forth as follows, no suspension or revocation shall be ordered by the Health

Commissioner except after a hearing is held as set forth in § 111.23.

(B) Notwithstanding the provisions above, whenever the Health Commissioner, or his or her authorized representatives find unsanitary or other conditions, involving the operation of any facility which, in his or her reasonable belief, constitutes an imminent health hazard, he or she shall without notice or hearing, issue and serve a written order upon the permittee requiring the immediate closure of its operations, shall cite the existence of the unsanitary conditions and shall specify the corrective actions to be taken.

(1) The order shall be effective immediately.

(2) Upon written request to the Health Commissioner, the permittee shall be afforded a hearing on the next business day as set forth § 111.23.

(3) The Health Commissioner shall make a re-inspection upon the request of the permittee. When the Health Commissioner determines that the necessary corrective action(s) have been taken, operation of the facility may be resumed.  
(BCC Ord. 2009-05, passed 9-16-2009)

### § 111.23 HEARING.

(A) All hearings required under this section, except those set forth in § 111.22, shall be held only upon at least ten days written notice to the permittee of time, place, and nature thereof. 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 other address as the permittee shall designate in writing to the Health Commissioner.

(B) At any hearing required under this chapter, the Hearing Officer shall be the Health Commissioner or the Health Commissioner's designee. Every person who is a party to the proceedings shall have the right to submit evidence, to cross-examine witnesses and to

be represented by legal counsel. All the hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.

(C) Upon the conclusion of the hearing, the Hearing Officer shall enter a final order, subject to the right of appeal in accordance with § 111.24.  
(BCC Ord. 2009-05, passed 9-16-2009)

### § 111.24 APPEAL.

(A) Any permittee aggrieved by any final order of the Health Commissioner shall be entitled to a review of the final order before the County Board of Health (Board) by filing a written request therefor with the Secretary of the Board within 15 days after the final order is issued.

(B) Upon the Health Commissioner's receipt of the request, the Board shall hear the matter de novo in an open hearing after at least ten days written notice of the time, place and nature thereof. (The Health Commissioner and permittee may agree to a shorter period of time, if requested by either party.) The notice shall be issued by the Secretary of the Board to the permittee filing the request.

(C) 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 other as the permittee shall designate in writing to the Secretary of the Board.

(D) At the hearing, the same rules of production shall apply as set forth in § 111.23, provided that upon written request by the permittee or the Health Commissioner, the Board shall cause the proceedings before it to be recorded by a reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall, at the request of either party, be reproduced by the Board in the form of a transcript, a copy of which shall be available to any party.

(E) The expense of the proceedings shall be charged to the permittee who applied for the review, except that copies of the transcripts shall be at the expense of the party requesting the same. At the time the transcript is requested, the Board may require the permittee to pay a deposit in an amount determined by the Board to be necessary to secure the expense(s).

(F) The Board shall make written the findings of facts and shall enter its final order or determination of the matter in writing.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.25 ENFORCEMENT.**

It shall be the duty of the Health Commissioner 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 Commissioner or Board shall be considered to be a violation of this chapter.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.26 VIOLATIONS.**

Whenever the Health Commissioner determines that any facility, or any other person, is in willful violation of any of the provisions of this chapter, the Health Commissioner shall furnish evidence of the willful violation to the Prosecuting Attorney of the county, or the attorney for the Board who shall seek all appropriate legal remedies against the person(s) violating the provisions of this chapter.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.27 INJUNCTION.**

The Health Commissioner may bring an action for an injunction in the Circuit or Superior Court of the county, to restrain any person from violating the provisions of this chapter, to cause the violation(s) to be prevented, abated, or removed.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.28 REMEDIES 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.  
(BCC Ord. 2009-05, passed 9-16-2009)

**§ 111.29 PROHIBITED ACTS.**

Any medical procedures shall be prohibited, including but not limited to, tongue splitting, tattoo removal and uses of anesthesia.  
(BCC Ord. 2019-04, passed 6-4-2019)

**§ 111.99 PENALTY.**

(A) Any person who willfully violates any of this chapter shall be subject to a fine of not more than \$500 for each violation. Each day of the existence of any violation of this chapter shall be considered to be a separate offense.

(B) Any person violating any of the provisions of this chapter shall be liable to the County Health Department for the expense, loss, or damage occasioned by reason of the violation, including reasonable attorney's fees and costs.  
(BCC Ord. 2009-05, passed 9-16-2009)



**CHAPTER 112: BED AND BREAKFAST ESTABLISHMENTS**

Section

- 112.01 Definitions
- 112.02 Permits
- 112.03 Permit fees
- 112.04 Inspection
- 112.05 Compliance and enforcement
- 112.06 Appeals
- 112.07 Conflict of interest

official’s judgment in the performance of a public duty. (Note: The County Health Department officials should follow the code of ethics if a code of ethics was established for County Health Department officials.)

**HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) PLAN.** As defined in 410 I.A.C. 7-24, a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

**§ 112.01 DEFINITIONS.**

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

**BED AND BREAKFAST ESTABLISHMENT.** As defined in 410 I.A.C. 7-15.5, an operator-occupied residence that:

- (1) Provides sleeping accommodations to the public for a fee;
- (2) Has no more than 14 guestrooms;
- (3) Provides breakfast to its guests as part of the fee; and
- (4) Provides sleeping accommodations for no more than 30 consecutive days to a particular guest.

**HEALTH OFFICER.** The person, appointed as specified in I.C. 16-20-2-16, or his or her duly authorized representative, as specified in I.C. 16-2-1-14, who may conduct inspections and make a final decision on an enforcement action.

**HEARING OFFICER.** An individual or panel of individuals acting in the capacity of a Hearing Officer in proceedings. The **HEARING OFFICER** is not the Health Officer or any other employee of the County Health Department. (Examples of **HEARING OFFICER** could be the County Health Board, a subcommittee of County Health Board, a subcommittee of health professionals from the community or other non-bias third party appointed by the County Health Board.)

**CONFLICT OF INTEREST.** Derived from 68 I.A.C. 9-1-1(b)(2), a situation in which the private financial interest of County Health Department official, County Health Department official’s spouse, siblings, in-laws, children, and/or unemancipated child, may influence the County Health Department

**IMMINENT HEALTH HAZARD.** A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on the number of potential injuries and the

nature, severity and duration of the anticipated injury or illness (e.g., sewage backing up in a food preparation area or contamination of food products with toxic materials).

**INSPECTION REPORT.** The document prepared by the County Health Department that is completed as the result of the inspection and provided to the operator.

**OPERATOR.** The person who has a primary oversight responsibility for operation of the establishment through ownership, or lease or contractual agreement, and who is responsible for storage, preparation, display, transportation, or serving of food to the public.

**ORDER.** Derived from I.C. 4-21.5-1-9, a County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons. The term includes a **PERMIT**.

**PERMIT.** The document issued by the County Health Department that authorizes a person to operate a bed and breakfast establishment.

**PERSON.** An association; a corporation; an individual; partnership; or other legal entity, or government subdivision or agency.

**WASHINGTON COUNTY HEALTH DEPARTMENT** or **COUNTY HEALTH DEPARTMENT.** The local health department in the county or authorized representative having jurisdiction over a bed and breakfast establishment.

**WASHINGTON COUNTY HEALTH DEPARTMENT OFFICIAL.** Any official of Washington County, Indiana.  
(BCC Ord. 2009-06, passed 10-7-2009; BCC Ord. 2022-01, passed 1-4-2022)

## § 112.02 PERMITS.

### (A) *General.*

(1) It is unlawful for a person to operate any bed and breakfast establishment in the county, without first obtaining a valid permit from the Health Officer.

(2) The valid permit must be posted in a conspicuous location in the bed and breakfast establishment.

(3) Only persons who comply with the applicable requirements of 410 I.A.C. 7-15.5 and/or 410 I.A.C. 7-24 will be entitled to obtain and keep a permit.

(4) A permit shall be required for each bed and breakfast establishment operated or to be operated by any person.

(5) A permit issued under this chapter is not transferable.

(6) A bed and breakfast establishment permitted by the County Health Department shall be considered registered as required in I.C. 16-42-1-6.

(B) *Permit period.* The permit fee for a bed and breakfast establishment shall be due and payable by January 31 each year. Failure to pay the same will be assessed a delinquent fee of \$35. All permit fees due during the calendar year 2022 shall be prorated for the calendar year 2022 and shall expire on December 31, 2022. Beginning January 1, 2023, and for all subsequent calendar years all permit fees shall be due and payable by January 31.

(C) *Permit content.* Any permit issued by the Health Officer shall contain:

(1) The name and address of the person and/or owner to whom the permit is granted;

(2) The location of the establishment for which the permit is issued;

(3) The issuance and expiration date; and

(4) Other pertinent data as may be required by the County Health Officer.

(D) *Application.* A person desiring to operate a bed and breakfast establishment shall submit to the County Health Department a written application for a permit on a form provided by the County Health Department.

(E) *Content of application.* The application shall include:

(1) The name, mailing address, telephone number, and original signature of the person and/or operator applying for the permit and the name, mailing address, and location of the bed and breakfast establishment;

(2) Information specifying whether the bed and breakfast establishment is owned by an association, corporation, individual, partnership; or other legal entity;

(3) A statement specifying whether the bed and breakfast establishment includes one or more of the following:

(a) Prepares, offers for sale, or serves potentially hazardous food:

1. Only to order upon a consumer's request;

2. In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency;

3. Using time, rather than temperature, as public health control as specified under 410 I.A.C. 7-24; and

4. Prepares acidified foods as defined in 410 I.A.C. 7-21-3.

(b) Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;

(c) Prepares food as specified under division (C) above for delivery to and consumption at a location off the premises of the bed and breakfast establishment and/or food establishment where it is prepared;

(d) Prepares food as specified under division (C) above for service to a highly susceptible population, as defined in 410 I.A.C. 7-24;

(e) Prepares only food that is not potentially hazardous; and/or

(f) Does not prepare, but offers for sale only prepackaged food that is not potentially hazardous.

(4) The name, title, address, and telephone number of the operator directly responsible for the bed and breakfast establishment;

(5) The name, title, address, and telephone number of the person who functions as the immediate supervisor of the person specified under division (E)(4) above, such as the zone, district, or regional supervisor;

(6) The names, title, and addresses of:

(a) The person comprising the legal ownership as specified under division (E)(2) above, including the owners and operators; and

(b) The local resident agent if one is required based on the type of legal ownership.

(7) A statement signed by the applicant that:

(a) Attests to the accuracy of the information provided in the application; and

(b) Affirms that the applicant will:

1. Comply with this chapter; and

2. Allow the County Health Department access to the bed and breakfast establishment and records as specified in 410 I.A.C. 7-15.5 and 410 I.A.C. 7-24;

(8) Other information required by the County Health Department.

(F) *Qualification.* To qualify for a permit, an applicant must:

(1) Be an owner and/or operator of the bed and breakfast establishment.

(2) Comply with the requirements of this chapter;

(3) Agree to allow access to the bed and breakfast establishment and provide required information; and

(4) Pay the applicable permit fees at the time the application is submitted.

(G) *Plan requirements.*

(1) The owner or other authorized agent of an existing or proposed bed and breakfast establishment shall submit to the County Health Department properly prepared plans and specification for review and approval before:

(a) The construction of a bed and breakfast establishment.

(b) The conversion of an existing structure for the use as a bed and breakfast establishment; or

(c) The remodeling of a bed and breakfast establishment or a change of type of bed and breakfast establishment or food operation if the County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

(2) The plans and specifications for a bed and breakfast establishment shall include, the type of operation, type of food preparation (as specified in Appendix A of published version of 410 I.A.C. 7-24), and the menu.

(3) The plans and specifications shall be deemed satisfactory and approved by County Health Department before a permit can be issued.

(4) A pre-operational inspection shows that the bed and breakfast establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this chapter, 410 I.A.C. 7-24, and/or 410 I.A.C. 7-15.5.

(H) *Change of ownership.* The County Health Department may renew a permit for an existing bed and breakfast establishment or may issue a permit to a new owner of an existing bed and breakfast establishment after a properly completed application is submitted, reviewed, and approved, the fees paid, and an inspection shows that the establishment is in compliance with this chapter.

(I) *Responsibilities of the owner.* Upon acceptance of the permit issued by the County Health Department, the operator in order to retain the permit shall:

(1) Comply with the provisions of this chapter and all laws and rules adopted by reference herein and the conditions of any variances granted by the State Department of Health;

(2) Immediately discontinue affected operations and notify the County Health Department if an imminent health hazard may exist;

(3) Allow representatives of the County Health Department access to the bed and breakfast establishment at all reasonable times;

(4) Comply with the directives of the County Health Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the County Health Department in regard to the operator's bed and breakfast establishment or in response to community emergencies;

(5) Accept notices issued and served by the County Health Department;

(6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter or a directive of the County Health Department; and

(7) Post the permit in a location in the bed and breakfast establishment that is conspicuous to consumers;  
(BCC Ord. 2009-06, passed 10-7-2009; BCC Ord. 2022-01, passed 1-4-2022) Penalty, see § 10.99

**§ 112.03 PERMIT FEES.**

(A) *Generally.*

(1) It shall be unlawful for any person to operate a bed and breakfast establishment in the county, who has not paid the permit fee required to be paid for the operation of the establishment.

(2) The fee shall be paid for a term of one year from the date of issuance and shall be applied by the person and/or operator annually.

(3) Permit fees for the issuance of a permit under this chapter to a bed and breakfast establishment shall be set by the County Health Department, as provided by the statutes of the state (I.C. 16-20-1-27).

(4) A receipt for the payment of such fee shall be provided by the County Health Department.

(5) The payment of the fees shall be required for each bed and breakfast establishment operated or to be operated by any person.

(B) *Exemption from permit fees.*

(1) An organization that is exempt from the state gross income tax under I.C. 6-3-2-2.8 and offers food sale to the final consumer at an event held for the benefit of the organization is exempt from the payment of fees.

(2) This exemption only applies to organization(s) that meet the criteria addressed by state statute.

(3) The Health Officer shall be provided, upon request, proof of an organization's tax exemption.

(C) *Late fees.*

(1) A late fee for failure to pay the permit fee prior to the operation of the bed and breakfast establishment or the late fee for failure to renew a permit after the expiration of the permit to operate bed and breakfast establishment shall be assessed a \$25 late fee by the County Health Board.

(2) The payment of fees under this chapter is not transferable or refundable.  
(BCC Ord. 2009-06, passed 10-7-2009; BCC Ord. 2022-01, passed 1-4-2022) Penalty, see § 10.99

**§ 112.04 INSPECTION.**

(A) *Generally.*

(1) The County Health Department shall inspect a bed and breakfast establishment at least once every six months, unless a system of risk based inspections is utilized as stated below.

(2) The County Health Department may modify the interval between inspections beyond six months if:

(a) Bed and breakfast establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s);

(b) The bed and breakfast establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction; and/or

(c) The County Health Department contacts the operator to determine that the nature of the food operation has not changed.

(B) *Temporary food establishment.* The County Health Department shall periodically inspect throughout its permit period a temporary food establishment that prepares, sells, or serves potentially hazardous food and may inspect a temporary food establishment that prepares, sells or severs unpackaged, non-potentially hazardous food that:

(1) Has improvised rather than permanent facilities or equipment for accomplishing functions such as hand washing, food preparation and protection, food temperature control, ware washing, providing drinking water, waste retention and disposal, and insect and rodent control; or

(2) Has untrained food employees.

(C) *Performance and risk based inspections.* Within the parameters specified in the above inspection divisions(s) of this chapter, the County Health Department shall prioritize, and conduct more frequent inspections based upon its assessment of a bed and breakfast establishment's history of compliance with this chapter and the bed and breakfast establishment's potential as a vector of food borne illness by evaluating:

(1) Past performance, for violations of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24, and/or 410 I.A.C. 7-22 and/or HACCP plan requirements that are critical or non-critical;

(2) Past performance, for numerous or repeat violations of 410 I.A.C. 7-15.5 and/or 410 I.A.C. 7-24 and/or HACCP plan requirements that are critical or non-critical;

(3) Past performance, for complaints investigated and found to be valid;

(4) The hazards associated with the particular foods that are prepared, stored, or served;

(5) The type of operation including the methods and extent of food storage, preparation, and service;

(6) The number of people served; and

(7) Whether the population served is a highly susceptible population.

(D) *Access allowed at reasonable times after due notice.*

(1) After the County Health Department presents official credentials and provides notice of the purpose of an intent to conduct an inspection, the operator shall allow the County Health Department to determine if the bed and breakfast establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter.

(2) The County Health Department is entitled the information and records according to I.C. 16-42-1-13 and I.C. 16-42-5-23, during the bed and breakfast establishment's hours of operation and other reasonable times.

(3) Access is a condition of the acceptance and retention of a food establishment permit to operate.

(4) If access is denied, an order issued by the appropriate authority allowing access may be obtained according to law (I.C. 16-20-1-26).

(E) *Inspection reports.* At the conclusion of the inspection, the County Health Department shall provide a copy of the completed inspection report and the notice to correct violations to the operator or to the Person in charge, as required under I.C. 16-20-8.

(F) *Timely correction of critical violations.*

(1) Except as specified in the next paragraph, an operator shall at the time of inspection correct a critical violation of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24, and/or 410 I.A.C. 7-22 and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(2) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the County Health Department may agree to or specify a longer time frame after the inspection, for the operator to correct critical code violations or HACCP plan deviations.

(3) After receiving notification that the operator has corrected a critical violation or HACCP plan deviation, or at the end of the specified period of time, the County Health Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the County Health Department's records.

(G) *Refusal to sign acknowledgment.*

(1) Refusal to sign an acknowledgment of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frame specified.

(2) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the County Health Department historical record for the bed and breakfast establishment.

(3) The operator is not necessarily in agreement with the findings of the County Health Department inspection by acknowledgment of receipt.

(H) *Public information.* Except as specified in § 194 (Trade Secrets) of 410 I.A.C. 7-24, the County Health Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided by law (I.C. 16-20-8).

(BCC Ord. 2009-06, passed 10-7-2009; BCC Ord. 2022-01, passed 1-4-2022)

**§ 112.05 COMPLIANCE AND ENFORCEMENT.**

(A) *Application denial.* If an application for a plan review and/or permit to operate a bed and breakfast establishment is denied, the County Health Department shall provide the applicant with a notice that includes:

(1) The specific reasons and rule citations for the application and/or permit denial;

(2) The actions, if any, that the applicant must take to qualify for the application and/or permit; and

(3) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

(B) *Permit revocation.* The County Health Department may revoke a permit to operate a bed and breakfast establishment for a period not to exceed 90 calendar days. If the permit has been revoked in the past and a clear demonstration of noncompliance is demonstrated by the permit holder then the permit may be revoked for a longer period of time as determined by the Health Officer.

(C) *Permit suspension.*

(1) The County Health Department may suspend a permit to operate a bed and breakfast

establishment if it determines through inspection, or examination of employee, food, records, or other means as specified in this chapter, that an imminent health hazard exists.

(2) A suspension shall not exceed 30 calendar days.

(3) The permit may be suspended for a longer period of time as determined by the Health Officer.

(D) *Ceasing operation and contacting the County Health Department.*

(1) An operator of a bed and breakfast establishment shall immediately discontinue operations and notify the County Health Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food-borne illness outbreak, gross unsanitary occurrence condition, or other circumstance that may endanger public health.

(2) An operator need not discontinue operations in an area of an establishment that is unaffected by the imminent hazard.

(E) *Resuming operation.* If a bed and breakfast establishment has discontinued operations for the reasons stated above or otherwise according to law, the operator must obtain approval from the County Health Department before resuming operations.

(F) *Outstanding fees.* Any outstanding fees may be a condition upon which a permit may not be issued.

(G) *Enforcement options.* The following are options available to County Health Department for consideration:

(1) Establish a process for the issuing of tickets based on violation of the bed and breakfast establishment requirements (See I.C. 16-42-5-28(g)

and I.C. 33-6-3-1 as well as appeals section of this chapter to ensure that due process is followed);

(2) Conduct administrative proceeding for suspension and/or revocation of the bed and breakfast establishment permit in front of the Health Officer;

(3) The County Health Officer may issue an "order to abate" based on a condition that may transmit, generate, or promote disease. Failure on the part of the operator to comply with the order could result in the enforcement of the order in the court of jurisdiction by the initiation of an action by the county attorney or county prosecuting attorney. (See I.C. 16-20-1-25 as well as § 112.06 to ensure that due process is followed);

(4) If the action concerning public health is a criminal offense, request the county attorney or county prosecuting attorney to institute a proceeding in the courts for the enforcement of the ordinance violation (I.C. 34-28-5-1); and

(5) If the action concerning public health is a criminal offense, request the county attorney or prosecuting attorney to institute a proceeding in the courts for enforcement (I.C. 16-20-1-25(c)). (BCC Ord. 2009-06, passed 10-7-2009; BCC Ord. 2022-01, passed 1-4-2022)

#### § 112.06 APPEALS.

(A) Any person(s) aggrieved by orders issued under enforcement options in § 112.05(A) through (C) shall be entitled to a review of the final order before a Hearing Officer by filing an administrative written request therefor with the Health Officer (Secretary of the County Board of Health (I.C. 16-20-1-10)). The written request must be mailed or hand delivered to Health Officer, County Health Department, 806 Martinsburg Road, Suite 100, Salem, Indiana, 47167, and must be received within 15 days after a final order is issued.

(B) Upon the Health Officer receipt of the request, the Hearing Officer shall hear the matter

again in an open hearing after at least five days written notice of the time, place, and nature thereof. The time shall be measured pursuant to the rules of the court of the jurisdiction. (A shorter period of time may be granted, if requested by either party and agreed upon.)

(C) The notice of hearing shall be served upon the person requesting the review by hand delivery or mailing by certified mail the notice to the address listed on the permit application as the person's mailing address or other address, as the person shall designate in the letter of request to the Health Officer.

(D) The Hearing Officer establishes the rules of procedure and advises the parties prior to the start of the proceedings.

(E) The Hearing Officer shall make written findings of facts and shall enter its final administrative order or determination of this matter in writing.

(F) The administrative order completes the administrative appeals procedure.  
(BCC Ord. 2009-06, passed 10-7-2009)

**§ 112.07 CONFLICT OF INTEREST.**

No County Health Department Official shall conduct himself or herself in a manner that is or could have the appearance of a conflict of interest.  
(BCC Ord. 2009-06, passed 10-7-2009)



**TITLE XIII  
GENERAL OFFENSES**

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. SYNTHETIC CANNABINOIDS**



## CHAPTER 130: SYNTHETIC CANNABINOIDS

### Section

- 130.01 General provisions
- 130.02 Violations; enforcement

Accordingly, this chapter shall be enforced by the provisions of I.C. 34-28-5.  
(BCC Ord. 2010-04, passed 9-15-2010)

### § 130.01 GENERAL PROVISIONS.

(A) Products containing synthetic cannabinoids (products), such as K2/Spice, or similar products which contain one or more of the following chemical compounds shall not be sold, marketed, or offered for sale within the county:

(1) (6aR, 10aR-(hydroxymethyl)-6, 6-dimethyl-3-(nonyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;

(2) 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018;

(3) 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073; and/or

(4) Any other equivalent compound or derivative.

(B) Products containing synthetic cannabinoids (products) may not be burned, incinerated, or ignited in any public place or on any property owned, leased, or controlled by the county.

(BCC Ord. 2010-04, passed 9-15-2010) Penalty, see § 10.99

### § 130.02 VIOLATIONS; ENFORCEMENT.

Persons or entities violating the provisions of this chapter shall be subject to the penalty imposed for a Class B infraction, as set forth in I.C. 34-28-5-4.



**TITLE XV  
LAND USAGE**

**TITLE XV: LAND USAGE**

Chapter

- 150. BUILDING REGULATIONS**
- 151. FLOOD PREVENTION AND PROTECTION**
- 152. MANUFACTURED HOMES**
- 153. PLANNING AND DEVELOPMENT**

**Washington County - Land Usage**

## CHAPTER 150: BUILDING REGULATIONS

### Section

- General Provisions*
- 150.01 Jurisdiction and general applicability
  - 150.02 Definitions
  - 150.03 Applicability of state-wide building construction and safety regulations
  - 150.04 Applicability of unsafe building law
  - 150.05 Non-effect on further or more stringent standards
  - 150.06 Local building permit
  - 150.07 Variances and appeals
  - 150.08 Enforcement powers
  - 150.09 Criteria for ordering a building sealed
  - 150.10 Violations
  - 150.11 Procedures alternative or supplementary
  - 150.12 Nonliability of county and its officers and employees
  - 150.13 Building Department and Building Commissioner
  - 150.14 Failure to call for required inspections

- General Requirements*
- 150.25 Title
  - 150.26 Purpose
  - 150.27 Definitions
  - 150.28 Scope
  - 150.29 Authority
  - 150.30 Effect of adoption on prior ordinance
  - 150.31 Building permit required
  - 150.32 Application for permit
  - 150.33 Issuance of building permit
  - 150.34 Certificate of occupancy
  - 150.35 General authority to make inspections and investigations
  - 150.36 Inspections by Fire Department
  - 150.37 Withhold issuance of permits
  - 150.38 Permit revocation
  - 150.39 Stop-work order

- 150.40 Civil action
- 150.41 Right of appeal
- 150.42 Adoption of rules by reference
- 150.43 Lifting devices located within a private residence
- 150.44 Site requirements for homes not served by sanitary (city) sewer

### *Minimum Housing Standards*

- 150.55 Title
  - 150.56 Purpose
  - 150.57 Authority
  - 150.58 Structures requiring permit
  - 150.59 Right of appeal
  - 150.60 Specific minimum housing standards adopted
  - 150.61 Remedies
  - 150.99 Penalty
- Appendix A: Schedule of State-Wide Building Construction and Safety Standards

### **GENERAL PROVISIONS**

#### **§ 150.01 JURISDICTION AND GENERAL APPLICABILITY.**

This subchapter applies in general to all one and two family dwellings, accessory buildings, multifamily dwellings, commercial buildings, industrial buildings, and public buildings now or hereafter located within the unincorporated area of the county except as hereinafter otherwise provided; however, pursuant to I.C. 36-7-8-3(d), a single-family dwelling built by a person for his or her own occupancy may be exempt from applicability and enforcement of certain specific

standards as referred to in § 150.03 of this subchapter which govern matters set forth under I.C. 36-7-8-3(a); provided further, however, that any such exemption does not prevent the building from being declared unsafe when conditions are found therein which can be shown to pose actual and present hazards to persons or property.  
(1985 Code, § 7-4-1) (BCC Ord. 1985-C5-A, passed 12-2-1985)

### § 150.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Other words and terms of a technical character as used herein shall generally be construed to have the same meanings as applicable thereto under I.C. 22-12-1-1 et seq.

**ACCESSORY BUILDING.** A detached outbuilding or structure used in connection with a one- or two-family dwelling, including private garages, sheds, barns, and farm service buildings.

**BUILDING AUTHORITY.** The Board of County Commissioners unless otherwise designated, provided, however, that the Board of Commissioners may hereafter create by ordinance or resolution and appoint a separate body to act as the County Building Authority.

**DEPARTMENT OF BUILDINGS.** The Office of the County Surveyor, provided, however, that the Board of Commissioners may hereafter create by ordinance or resolution a separate and distinct Department of Buildings.

**ENFORCEMENT AUTHORITY.** As used herein and as used within the context of I.C. 36-7-9 as hereinafter adopted, includes the Building Authority and Department of Buildings, but also includes (with respect to any law, ordinance, regulation, or condition concerning fire prevention or fire safety of buildings or premises) the chief of any fire department providing fire protection service within the unincorporated parts of the county and within the fire protection jurisdiction of the fire department.

**EXISTING BUILDING.** Any building or structure, and any modifications or included installations made thereto, constructed, established, or made thereto prior to the taking effect of this act. The term does not apply to modifications or included installations made thereafter, nor to conversions from one occupancy class to another, notwithstanding the fact that the primary building or structure may be an **EXISTING BUILDING** within the meaning of this subchapter.

**HEARING AUTHORITY.** As used herein and as used within the context of I.C. 36-7-9 as herein adopted means the operant "Building Authority" as determined under the definition of that term above in this section.

### **INCLUDED INSTALLATION.**

(1) A part of the built-in or permanently installed electrical, plumbing, heating, cooling, ventilating, or mechanical systems appurtenant to a building as originally constructed or subsequently modified.

(2) The term does not include small portable or self-contained appliances such as window air conditioners, space heaters, electrical appliances, and so forth, which are not designed to be a permanent part of a building or structure, except to the extent that the appliances are specifically contemplated and controlled under any applicable regulations.

**OCCUPANCY CLASS.** Refers to the primary use or proposed use of a building or part thereof. The primary occupancy classes of concern under this act are those denominated under § 150.01. **OCCUPANCY CLASSIFICATION** is mainly of importance because different or stricter regulations and standards may apply to one occupancy class rather than another, or may have to be complied with when converting an existing building from one class to another, as provided in § 150.03 of this chapter.

**SUBSTANTIAL PROPERTY INTEREST.** As used within the context of I.C. 36-7-9 as herein adopted has the same meaning as defined therefor under I.C. 36-7-9-2.

**UNSAFE BUILDING OR PREMISES.**

(1) A building or structure, or any part of a building or structure, that is:

- (a) In an impaired structural condition that makes it unsafe to a person or property;
- (b) A fire hazard;
- (c) A hazard to the public health;
- (d) A public nuisance;
- (e) A building which is constructed or maintained in violation of applicable provisions of state-wide building regulations and construction standards as adopted and promulgated by the Fire Prevention and Building Safety Commission pursuant to I.C. 22-13-2-2 as referred to under § 150.03; or
- (f) Is otherwise dangerous to a person or property because of a violation of a statute or county ordinance concerning building condition or maintenance.

(2) An unsafe building and the tract of land on which the unsafe building is located are considered unsafe premises.  
(1985 Code, § 7-4-2) (BCC Ord. 1985-C5-A, passed 12-2-1985)

**§ 150.03 APPLICABILITY OF STATE-WIDE BUILDING CONSTRUCTION AND SAFETY REGULATIONS.**

(A) All persons proposing to construct, modify, repair, remodel, relocate, or convert from one occupancy class to another, any building within the unincorporated area of the county, or make included installations therein, are hereby apprised that there exist certain state-wide building construction and safety standards with which they must comply, as applicable, under state administrative law (675 I.A.C.). At the time this section takes effect, these standards and regulations include those listed in Schedule A, set forth as an appendix to this chapter, which have been adopted and promulgated by the

State Fire Prevention and Building Safety Commission under authority of I.C. 22-13-2-2; however, the requirements of this section also contemplate the inclusion and applicability of any future amendments and additions to the regulations so adopted and promulgated under I.C. 22-13-2-2 or any other statute and having state-wide applicability.

(B) In the case of construction or other work to buildings other than one- or two-family dwellings and accessory buildings, plans and specifications of the proposed work complying with any such regulations (as applicable) must be submitted to and approved by the State Building Commissioner of the state in accordance with I.C. 22-15-3 and I.C. 22-15-3 before work commences.

(C) Complying plans and specifications may also have to be submitted to the local enforcement authority, in accordance with its rules and procedures as adopted, pursuant to §§ 150.06 and/or 150.08(A)(1)(b) hereinafter.

(D) The current (November 5, 1985) regulations specifically referred to are listed in Schedule A set forth as the appendix following this chapter. The Indiana Administrative Code (I.A.C.) and the Indiana Register (IR) as referred to in Schedule A are promulgated public documents which may be obtained from the Legislative Services Agency of the state. Copies of the particular regulations and standards as in effect and applicable at any given time are also available from the State Department of Fire Prevention and Building Safety, 1099 North Meridian Street, Indianapolis, Indiana 46204.  
(1985 Code, § 7-4-3) (BCC Ord. 1985-C5-A, passed 12-2-1985)

**§ 150.04 APPLICABILITY OF UNSAFE BUILDING LAW.**

Any building or structure (except certain single-family residences to the extent provided under § 150.01) which is found by the enforcement authority to have been constructed, modified, repaired, remodeled, relocated, or converted from one occupancy class to another without complying with the state regulations enumerated or referred to in

§ 150.03, as applicable, or with a variance granted as provided under § 150.07, may be declared by the Building Authority to be prima facie an unsafe building or premises subject to corrective measures and abatement in accordance with procedures as hereinafter provided. This section may not be construed to require the modification of any existing building, excepting only insofar as any state regulation referred to above is expressly applicable to existing buildings pursuant to state administrative law or insofar as it is shown upon inspection that any noncomplying condition of a building or premises is such as to engender a clear and present hazard to the safety of persons or property.  
(1985 Code, § 7-4-4) (BCC Ord. 1985-C5-A, passed 12-2-1985)

#### § 150.05 NONEFFECT ON FURTHER OR MORE STRINGENT STANDARDS.

(A) The operation of the state-wide building construction and safety regulations referred to in § 150.03 may not be construed to supersede any further or stricter requirements as may concurrently govern the design, materials, or methods of construction of buildings and included installations through the operation of the following:

(1) By any special regulations or standards as to design, materials, method of construction, use or location of buildings in the designated flood plain districts as required by rules of the Federal Insurance Administration (or any successor body) pursuant to the participation of the county under the National Flood Insurance Program;

(2) By any standards of design, materials, and methods of construction of sanitary sewage disposal systems as provided by county ordinance or by rules of the state or county Board of Health, the U.S. Environmental Protection Agency, or other governmental entities having jurisdiction; and

(3) By any special regulations or requirements as adopted by the appropriate municipal or county utility authorities or by an investor-owned or cooperative utility company respecting the design

and specifications of any utility service connection between the utility service distribution system and a served building or premises or included installations, and which are made a condition of the initial or continuing rendering of the utility service.

(B) Any special regulations and requirements contemplated under this section shall apply only if and to the extent that they set forth more detailed specifications or provide further or more stringent regulations and requirements than the regulations described in § 150.03, and in no instance shall be construed to permit any lesser standard.  
(1985 Code, § 7-4-5) (BCC Ord. 1985-C5-A, passed 12-2-1985)

#### § 150.06 LOCAL BUILDING PERMIT.

(A) *General provisions.* As they shall deem necessary for the purposes of local enforcement of the applicable state regulations as referred to in § 150.03, the Building Authority may adopt a resolution requiring that a local building permit be obtained before any construction or other regulated work (as described under § 150.03) is commenced. The permit requirement may apply to all occupancy classes and types of work, or may be made applicable only to certain occupancy classes and/or types of work, as specified in the resolution. The resolution may also prescribe a schedule of reasonable permit fees for each class of permit required. The issuance of any such permit shall be based upon examination of plans and specifications and their compliance with any applicable requirements under § 150.03, and any further requirements as described by § 150.05 which may be applicable, and shall be conditional on inspection of the permitted work as may be required by the enforcement authority, all as provided under § 150.08 hereinafter.

(B) *Structures requiring permit.* A local building permit shall be required for the following specific instances:

- (1) All new one- and two-family dwellings;
- (2) All new commercial buildings;

(3) All manufactured homes, including modular homes, single wide manufactured homes or double wide manufactured homes and all other preconstructed or manufactured trailers or units, recreation vehicles or otherwise, in which a permanent place of residence is being established and being transported into the county for installation in the county;

(4) All new industrial structures or developments; and

(5) Any new apartment or condominium complex of whatever number of units.

(C) *Exemptions.* The permitting process authorized hereunder is not intended to include the following activities:

(1) The remodeling of existing structures;  
or

(2) The replacement of portions or items of existing structures (including, but not limited to, replacement of windows, walkways, roofs, and the like).

(1985 Code, § 7-4-6) (BCC Ord. 1985-C5-A, passed 12-2-1985; BCC Ord. 97-05, passed 4-16-1997)

**§ 150.07 VARIANCES AND APPEALS.**

The regulations referred to above in § 150.03 and their applicability are not controlled by any local authorities. Variances from any such regulations must be applied for to, and may only be granted by, the State Fire Prevention and Building Safety Commission in accordance with I.C. 22-13-2-11. Any final decisions of the Building Authority or Department of Buildings respecting the application, administration, or enforcement of the regulations with respect to one- and two-family dwellings and accessory buildings may also be appealed to the Fire Prevention and Building Safety Commission in accordance with I.C. 22-12-7. This section applies only to the administration and enforcement of state-wide building construction and safety standards referred to under § 150.03 above,

and has no effect on nor applicability to any other statutes, ordinances, or regulations sought to be administered or enforced under the provisions of this act including in particular (but not by limitation) those referred to under § 150.05.

(1985 Code, § 7-4-7) (BCC Ord. 1985-C5-A, passed 12-2-1985)

**§ 150.08 ENFORCEMENT POWERS.**

(A) *Power to inspect property and examine plans and specifications.*

(1) The enforcement authority or their authorized representatives are, for the purposes of enforcing this chapter, empowered:

(a) To enter at any reasonable hour upon any premises or into any building to inspect any part of same, including work at any stage of progress, to determine compliance with this subchapter or to determine whether the same constitutes an unsafe building or premises; and/or

(b) To require that any person proposing to construct any building, perform modifications thereto, or make included installations therein, submit a copy of all plans and specifications describing the proposed work.

(2) The submission of approved plans and specifications to the Building Authority by the State Department of Fire Prevention and Building Safety for buildings or work governed under § 150.03 shall be considered a sufficient compliance with any requirement under division (A)(1)(b) above, excepting in the case of buildings subject to further and more stringent standards as referred to under § 150.05. Copies of any plans and specifications required under division (A)(1)(b) above shall be filed with the Department of Buildings.

(1985 Code, § 7-4-8)

(B) *Statutory provisions.* This section applies to enforcement of compliance with state-wide regulations referred to in § 150.03, but may also be applied to and used for purposes of enforcing other statutes,

ordinances, or regulations when noncompliance therewith has made buildings or premises unsafe, or when the general condition of the buildings or premises has made them unsafe, as defined under § 150.02. Whereas I.C. 36-7-9-3 authorizes any county to adopt by ordinance and make effective within such county the provisions of I.C. 36-7-9, the statute, excepting § 28 thereof, is hereby adopted and made effective as a procedure for enforcing building standards and abating unsafe buildings and premises within the jurisdictional area defined by § 150.01. The adoption shall include by implication any amendments or additions to I.C. 36-7-9 hereafter enacted by the General Assembly of the state; however, should the General Assembly repeal I.C. 36-7-9 in its entirety, the provisions of the statute in effect immediately prior to the repeal shall continue in effect within the county irrespective of the repeal. Copies of I.C. 36-7-9 shall be available for public examination in the office of the County Auditor. In accordance with I.C. 36-7-9 and subject to its provisions, the enforcement authority shall be construed to have all powers necessary to issue and enforce orders or take other actions as needed to require compliance of buildings or premises with applicable statutes, ordinances, and regulations, or to alleviate or prevent unsafe conditions found to occur or to be likely to occur therein.

(1985 Code, § 7-4-9) (BCC Ord. 1985-C5-A, passed 12-2-1985)

#### **§ 150.09 CRITERIA FOR ORDERING A BUILDING SEALED.**

This section applies to the administration and enforcement of an order of an enforcement authority to seal an unsafe building under I.C. 36-7-9-5(a)(2). An enforcement authority may order a building sealed against intrusion by unauthorized persons if one or more of the following conditions is found to exist in the building:

(A) Imminent or unusual danger of fire or explosion;

(B) Imminent danger of structural collapse, falling objects; or unsound floorings or stairways;

(C) Unguarded or uncontrolled presence of toxic or radioactive substances;

(D) The building is vacant and has become or is deemed likely to become a harborage for vagrants or for the conduct of criminal activities which may pose dangers or nuisances for others in the area; or

(E) There are found to exist in the building any other specific hazards which may endanger the life or health of children or other persons who may unwarily wander into the building.

(1985 Code, § 7-4-10) (BCC Ord. 1985-C5-A, passed 12-2-1985)

#### **§ 150.10 VIOLATIONS.**

This section applies within the county in lieu of I.C. 36-7-9-28. No person shall:

(A) Perform or cause to be performed any work on a building or included installation without the prior approval of the State Department of Fire Prevention and Building Safety and/or a local building permit, when required, or in violation of the expressed or implied laws, ordinances, regulations and covenants made conditional thereto;

(B) Willfully or negligently continue to maintain and fail to remove, remedy, or abate any unsafe condition of a building or premises as required by an order of the enforcement authority under this chapter;

(C) Remain in, use, or enter a building in violation of an order made under authority of this chapter;

(D) Knowingly interfere with or delay the carrying out of an order made under this chapter;

(E) Knowingly obstruct, damage, or interfere with persons engaged or property used in performing any work or duty under this act;

(F) Refuse reasonable access at reasonable times to the authorized enforcement authority for the purpose of making any inspection as required or authorized by this subchapter or under any other

ordinance, statute, or regulation sought to be enforced under the provisions of this act, or attempt to interfere with or obstruct the inspection; or

(G) Fail to comply with applicable notification requirements under I.C. 36-7-9-27, as adopted under § 150.08(B) above.  
(1985 Code, § 7-4-11) (BCC Ord. 1985-C5-A, passed 12-2-1985)

**§ 150.11 PROCEDURES ALTERNATIVE OR SUPPLEMENTARY.**

(A) The procedures set forth or adopted herein are intended to be alternative or supplementary to, and do not supersede, any other lawful enforcement procedures as provided by other county ordinances or by statute whereby requirements, restrictions, and regulations related to the safety, condition, and maintenance of buildings and premises may be enforced and violations abated or penalized. Specifically, but not by limitation, this includes actions for enforcement as provided by:

(1) I.C. 22-12-7, providing procedures for alleviation, or requiring the vacation of dwelling units unfit for human habitation;

(2) I.C. 36-1-6-2, authorizing a municipal corporation to enter onto real property to correct any condition thereof in violation of an ordinance and assessing costs by a property lien; or

(3) I.C. 36-1-6-4(a), authorizing a municipal corporation to bring a civil action to enjoin any person from violating an ordinance regulating or prohibiting a condition or use of property.

(B) When more than one alternative is available, the appropriate county authorities may pursue enforcement through whichever procedure appears to them most suitable, expeditious, and equitable in light of the particular case.

(1985 Code, § 7-4-12) (BCC Ord. 1985-C5-A, passed 12-2-1985)

**§ 150.12 NONLIABILITY OF COUNTY AND ITS OFFICERS AND EMPLOYEES.**

The intent of this chapter is only to provide a means by which the appropriate county officials, in their discretion, may have and exercise powers and functions as they deem necessary to ensure the reasonable safety of buildings and premises within the jurisdictional area defined under § 150.01 and to cooperate with the appropriate state officials as provided by state statute. All the powers and functions are intended to be permissive and discretionary. The county intends to assume no liability for failure to enforce any provision of this chapter or any statute or regulation referred to hereunder; nor respecting the issuance of or refusal to issue any permit; nor respecting the making of or failure to make any inspection; nor for the performance or nonperformance of any other official action as provided or authorized under this chapter. The county, for itself and on behalf of its several officers, employees, and agents operating pursuant to this chapter, hereby specifically claims all immunity from all the liability as provided under I.C. 34-30-2.

(1985 Code, § 7-4-13) (BCC Ord. 1985-C5-A, passed 12-2-1985)

**§ 150.13 BUILDING DEPARTMENT AND BUILDING COMMISSIONER.**

(A) *Generally.*

(1) *Authority.*

(a) The Building Commissioner is hereby authorized to establish and operate a procedure for the issuance of local building permits in his or her office or in any other offices which he or she may designate. It is specifically provided that these permits shall be issued at no charge or fee.

(b) In establishing an operating procedure for the issuance and enforcement of local building permits the Building Commissioner shall include the issuance of a certificate of occupancy. No certificate of occupancy for any dwelling erected after the effective date of this code shall be issued unless the building was erected in compliance with the

provisions of the county code and the laws and regulations of the state. It shall be unlawful to occupy any dwelling unless a full, partial or temporary certificate of occupancy has been issued by the Building Commissioner.

(2) *Right of appeal.* All persons shall have the right to appeal the Building Commissioner's decision through the Board of Commissioners.

(3) *Remedies.* The Building Commissioner shall in the name of the county bring actions in the Circuit or Superior Court of the county, for any mandatory and injunctive relief in the enforcement of and to insure compliance with any order or orders, made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with any action to recover the penalties as provided for in this chapter or other applicable county or state law.

(B) *Application for installation of manufactured homes.* When an application is made to the County Building Department for the installation of manufactured homes for a family residence, there shall be provided with the application, one of the following:

(1) The foundation plan which are provided by the manufacturer of the manufactured home being installed; or

(2) If the manufactured home does not have foundation plans provided by the manufacturer, then the individualized foundation for that particular manufactured home must at the minimum have load points of the structural parts of the unit based upon load points of no less than eight-foot centers.

(C) *Enforcement authority of Building Commissioner.*

(1) The County Board of Commissioners do, hereby, authorize the Building Commissioner to allow electricity hook up on residential dwellings through the local utility companies only if all permits and inspections have been approved by the Health Department and the Building Department.

(2) The Building Commissioner may decline electricity hook-up authorization if requirements from both departments have not been satisfied.

(BCC Ord. 97-01, passed - -1997; BCC Ord. 97-03, passed 2-3-1997; BCC Ord. 2003-02, passed 3-17-2003; BCC Ord. 2003-05, passed 8-18-2003)

#### **§ 150.14 FAILURE TO CALL FOR REQUIRED INSPECTIONS.**

(A) *Title.* This section, and all ordinances supplemental or amendatory hereon, shall be known as "Ordinance Establishing Fines for Failure to Call for Required Inspections Pursuant to the Authority of the Washington County Building Commissioner."

(B) *Purpose.* The purpose of this code is to establish and create a specific fine for the failure by any party to comply with the inspection steps developed and enforced by the County Building Commissioner for the placement or construction of all single- or two-family dwellings.

(C) *Establishment of fines.* It is specifically established that for each violation by a party of the inspection provisions provided under this authority there shall be a fine assessed in the sum of \$250.  
(BCC Ord. 97-10, passed 10-6-1997)

### **GENERAL REQUIREMENTS**

#### **§ 150.25 TITLE.**

This subchapter and all material included herein by reference shall be known as the "Building Code of Washington County, Indiana".  
(Ord. 2007-01, passed 12-4-2006)

#### **§ 150.26 PURPOSE.**

The purpose of this subchapter is to protect the life, public safety, health, and general welfare of the

citizens of the county, and shall be construed in a manner to effectuate this purpose.  
(Ord. 2007-01, passed 12-4-2006)

**§ 150.27 DEFINITIONS.**

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

**BUILDING COMMISSIONER.** The Washington County Building Commissioner and includes individuals employed by the Building Department that are authored to represent the Building Commissioner.

**CLASS 1 STRUCTURE.** Pursuant to I.C. 22-12-1-4:

(1) Any part of the following:

(a) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

1. The public.
2. Three or more tenants.
3. One or more persons who act as the employees of another.

(b) A site improvement affecting access by persons with physical disabilities to a building or structure described in division (1)(a) above.

(c) Outdoor event equipment.

(d) Any class of buildings or structures that the commission determines by rules to affect a building or structure described in division (1)(a) above, except buildings or structures described in divisions (3) through (6) below.

(2) Division (1)(a) above includes a structure that contains three or more condominium units (as defined in I.C. 32-25-2-9) or other units that:

(a) Are intended to be or are used or leased by the owner of the unit; and

(b) Are not completely separated from each other by an unimproved space.

(3) Division (1)(a) above does not include a building or structure that:

(a) Is intended to be or is used only for an agricultural purpose on the land where it is located; and

(b) Is not used for retail trade or is a stand used for retail sales of farm produce for eight or less consecutive months in a calendar year.

(4) Division (1)(a) above does not include a Class 2 structure.

(5) Division (1)(a) above does not include a vehicular bridge.

(6) Division (1)(a) above does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:

(a) The structure; or

(b) Mechanical or electrical equipment located within and affixed to the structure

(7) Pursuant to I.C. 22-12-1 -24, **STRUCTURE** includes **SWIMMING POOL**.

**CLASS 2 STRUCTURE.** Pursuant to I.C. 22-12-1-5, has the following definition:

(1) Any part of the following:

(a) A building or structure that is intended to contain or contains only one dwelling unit or two dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

(b) An outbuilding for a structure described in division (1)(a) above, such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

(2) Division (1) above does not include a vehicular bridge.

(3) Pursuant to I.C. 22-12-1-24, structure includes swimming pool.

**CONSTRUCTION.** Pursuant to I.C. 22-12-1-7, means any of the following:

(1) Fabrication of any part of an industrialized building system or mobile structure for use at another site;

(2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used;

(3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used;

(4) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure; and

(5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

**INDUSTRIALIZED BUILDING SYSTEM.** Pursuant to I.C. 22-12-1-14, any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

**MANUFACTURED HOME.** Pursuant to I.C. 22-12-1-16 has the meaning set forth in 42 U.S.C. § 5402 as it existed on January 1, 2003. This definition is as follows: **MANUFACTURED HOME** means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in

length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this division, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. §§ 5401 et seq. and except that the term shall not include any self-propelled recreational vehicle

**MOBILE STRUCTURE.** Pursuant to I.C. 22-12-1-17, has the following definition:

(1) Any part of a fabricated unit that is designed to be:

(a) Towed on its own chassis; and

(b) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

(2) The term includes the following:

(a) Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; and

(b) Two or more units that are separately towable but designed to be joined into one integral unit.

**PERSON.** Pursuant to I.C. 22-12-1-18, an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity.

**STRUCTURE.** Both Class 1 and Class 2 structures, unless specifically stated otherwise.

**VEHICULAR BRIDGE.** Pursuant to I.C. 22-12-1-26, any bridge that is neither:

(1) A pedestrian walkway; nor

(2) A passageway for light vehicles; suspended between two or more parts of a building or between two or more buildings.  
(Ord. 2007-01, passed 12-4-2006)

**§ 150.28 SCOPE.**

(A) All construction shall be accomplished in compliance with the provisions of this subchapter.

(B) Pursuant to I.C. 22-13-2-6, this subchapter shall not apply to industrialized building systems or mobile structures certified under I.C. 22-15-4; however, the provisions of this subchapter and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under I.C. 22-15-4.

(C) Pursuant to I.C. 22-13-2-9, this subchapter is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

(D) All structures, of whatever type or description, now or hereafter built or constructed, shall be located no closer than 60 feet from the centerline from any public road, highway, or private drive. The Building Commissioner shall have the authority to enforce this requirement in accordance with other procedures set forth in this chapter.  
(Ord. 2007-01, passed 12-4-2006; BCC Ord. 2021-03, passed 6-15-2021)

**§ 150.29 AUTHORITY.**

The Building Commissioner is hereby authorized and directed to administer and enforce the following:

(A) All of the provisions of this subchapter;

(B) Variances granted in accordance with I.C. 22-13-2-11; and

(C) Orders issued under I.C. 22-12-7.  
(Ord. 2007-01, passed 12-4-2006)

**§ 150.30 EFFECT OF ADOPTION ON PRIOR ORDINANCE.**

(A) The expressed or implied repeal or amendment by this subchapter of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this subchapter.

(B) These rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this subchapter had not been adopted.  
(Ord. 2007-01, passed 12-4-2006)

**§ 150.31 BUILDING PERMIT REQUIRED.**

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction.  
(Ord. 2007-01, passed 12-4-2006)

**§ 150.32 APPLICATION FOR BUILDING PERMIT.**

(A) Any person required to have a building permit shall submit a complete application to the Building Commissioner.

(B) This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:

(1) Information that the Building Commissioner determines to be necessary to locate and contact the applicant;

(2) A clear and understandable copy of detailed plans and specifications drawn to scale which

indicate in a precise manner the nature and location of all work to be accomplished;

(3) A plot plan drawn to scale; provided, however, the plot plan shall not be required in the instance where all the construction is to occur entirely within an existing structure. This plot plan shall reflect the location of the structure in relation to existing property lines and show streets, curbs and sidewalks and proposed changes or additions to the streets, curbs and sidewalks;

(4) If required by state law or any rule of the Fire Prevention and Building Safety Commission, a copy of a design release for the work to be done that has been issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3;

(5) Any additional information that the Building Commissioner finds to be necessary to determine that the construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws; and

(6) The fee established by the Building Commissioner.

© Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit. (Ord. 2007-01, passed 12-4-2006)

### **§ 150.33 ISSUANCE OF BUILDING PERMIT.**

The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.

(Ord. 2007-01, passed 12-4-2006)

### **§ 150.34 CERTIFICATE OF OCCUPANCY.**

(A) No certificate of occupancy for any building or structure shall be issued unless the building or structure was constructed in compliance with the provisions of this subchapter.

(B) It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.

(Ord. 2007-01, passed 12-4-2006) Penalty, see § 150.99

### **§ 150.35 GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.**

(A) All construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.

(B) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any structure subject to the provisions of this subchapter or to the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure. The inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this subchapter and the rules of the Fire Prevention And Building Safety Commission. (Ord. 2007-01, passed 12-4-2006)

### **§ 150.36 INSPECTIONS BY FIRE DEPARTMENT.**

The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws (the Fire Department has

independent authority to conduct inspections and take enforcement actions under I.C. 36-8-17).  
(Ord. 2007-01, passed 12-4-2006)

**§ 150.37 WITHHOLD ISSUANCE OF PERMITS.**

(A) Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees owed, or inspection fees owed to the Building Commissioner) the Building Commissioner may withhold the issuance of subsequently requested permits until a time that the debt is satisfied.



(B) Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permits until a time that the property is brought into conformance with applicable ordinances.

(Ord. 2007-01, passed 12-4-2006)

**§ 150.38 PERMIT REVOCATION.**

The Building Commissioner may revoke a building permit when any of the following are applicable:

(A) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact;

(B) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures;

(C) There is failure to comply with this subchapter; and/or

(D) The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use.

(Ord. 2007-01, passed 12-4-2006)

**§ 150.39 STOP-WORK ORDER.**

(A) The Building Commissioner may issue an order requiring suspension of the pertinent construction (stop-work order) in accordance with this section.

(B) The stop-work order shall:

(1) Be in writing;

(2) State with specificity the construction to which it is applicable and the reason for its issuance;

(3) Be posted on the property in a conspicuous place;

(4) If practicable, be given to:

(a) The person doing the construction; and

(b) To the owner of the property or the owner's agent.

(5) The stop-work order shall state the conditions under which construction may be resumed.

(C) The Building Commissioner may issue a stop-work order if:

(1) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this subchapter or any state law pertaining to safety during construction;

(2) Construction is occurring in violation of this subchapter, or in a manner so that if construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation; and/or

(3) Construction for which a building permit is required is proceeding without a building permit being in force.

(D) The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this subchapter.

(Ord. 2007-01, passed 12-4-2006)

**§ 150.40 CIVIL ACTION.**

Pursuant to I.C. 36-1-6-4, the county may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this subchapter.

(Ord. 2007-01, passed 12-4-2006)

**§ 150.41 RIGHT OF APPEAL.**

Any person aggrieved by an order issued under this subchapter shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

(A) Appeal to the Fire Prevention and Building Safety Commission.

(1) A person aggrieved by an order issued under this subchapter may appeal to the Fire Prevention and Building Safety Commission, in accordance with I.C. 22-13-2-7.

(2) The Commission may modify or reverse any order issued by the County that covers a subject governed by I.C. 22-12, I.C. 22-13, I.C. 22-14, I.C. 22-15, a fire safety, or a building rule.

(3) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under I.C. 4-21.5-3-7 within 30 days after the issuance of the order.

(4) The Fire Prevention and Building Safety Commission may review all other orders issued under this subchapter.

(5) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

(B) Appeal to an established local administrative body or court. Pursuant to I.C. 36-7-8-9, a person aggrieved by a decision of the Building Department may appeal as in other civil actions. The appellant must, by registered mail, give the county executive a 15-day written notice of his or her intention to appeal. This notice must concisely state the appellant's grievance. If, pursuant to I.C. 36-1-6-9, the county has established by ordinance to hear appeals of orders issued under ordinances, then a person aggrieved by an order may petition for review with this

administrative body in accordance with this subchapter. If no such administrative body exists, then the person may petition a court for judicial review of the order.

(Ord. 2007-01, passed 12-4-2006)

**§ 150.42 ADOPTION OF RULES BY REFERENCE.**

(A) Pursuant to I.C. 22-13-2-3(b), the rules of the State Fire Prevention and Building Safety Commission as set out in the following I.A.C. Articles of Title 675 are hereby incorporated by reference in this code and shall include any later amendments to those rules.

(1) Article 13 - Building Codes:

(a) Fire and Building Safety Standards;

and

(b) State Building Code.

(2) Article 14, State Residential Code

(3) Article 16, State Plumbing Code

(4) Article 17, State Electrical Code

(5) Article 18, State Mechanical Code

(6) Article 19, State Energy Conservation Code

(7) Article 20, State Swimming Pool Code

(8) Article 22, State Fire Code

(9) Article 24, Migrant Day Care Nursery Fire Safety Code; and

(10) Article 25, State Fuel Gas Code.

(B) Two copies of the above building rules incorporated by reference are on file in the office of the Clerk for the legislative body for public inspection as required by I.C. 36-1-5-4.

(C) The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this subchapter. Pursuant to I.C. 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission.

(Ord. 2007-01, passed 12-4-2006)

**§ 150.43 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.**

(A) Pursuant to I.C. 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:

(1) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016;

(2) Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016;

(3) Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016;

(4) Section 6, Private Residence Inclined Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; and

(5) Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(B) Two copies of the above lifting device standards incorporated by reference are on file in the office of the Clerk for the legislative body for public inspection as required by I.C. 36-1-5-4.

(Ord. 2007-01, passed 12-4-2006)

**§ 150.44 SITE REQUIREMENTS FOR HOMES NOT SERVED BY SANITARY (CITY) SEWER.**

If served with community water distribution systems, there shall be a minimum size of three-quarter acre. If served with individual water supply systems, one acre shall be required.

(BCC Ord. 2023-02, passed 5-16-2023)

***MINIMUM HOUSING STANDARDS***

**§ 150.55 TITLE.**

This subchapter and all ordinances supplemental or amendatory hereto shall be known as an ordinance establishing minimum housing standards in the county.

(BCC Ord. 2005-02, passed 9-6-2005)

**§ 150.56 PURPOSE.**

The purpose of this subchapter establishing minimum housing standards is to enforce the standards and in assisting the Building Commissioner in exercising his or her responsibilities pursuant to the Indiana Code and the county code.

(BCC Ord. 2005-02, passed 9-6-2005)

**§ 150.57 AUTHORITY.**

(A) The Building Commissioner is hereby authorized to establish and operate a procedure for the issuance of local building permits in his or her office or in any other offices which he or she may designate.

(B) In establishing an operating procedure for the issuance and enforcement of local building permits the Building Commissioner shall include the issuance of a certificate of occupancy.

(C) No certificate of occupancy for any dwelling erected after the effective date of this code shall be issued unless the building was erected in compliance with the provisions of the county code and the laws and regulations of the state.

(D) It shall be unlawful to occupy any dwelling unless a full, partial or temporary certificate of occupancy has been issued by the Building Commissioner.  
(BCC Ord. 2005-02, passed 9-6-2005) Penalty, see § 150.99

**§ 150.58 STRUCTURES REQUIRING PERMIT.**

(A) A local building permit shall be required for the following specific instances:

(1) All new one- and two-family dwellings;

(2) All manufactured homes, including modular homes, single wide manufactured homes or double wide manufactured homes and all other preconstructed or manufactured trailers or units, recreation vehicles or otherwise, in which a permanent place of residence is being established and being transported into the county for installation in the county;

(3) Residential parts of mixed occupancy buildings; and

(4) Conversions of buildings from nonresidential to residential or partly residential.

(B) The permitting process authorized hereunder is not intended to include the following activities:

(1) The remodeling of existing structures;  
or

(2) The replacement of portions or items of existing structures (for example, but not limited to, replacement of windows, walkways, roofs, and the like).

(BCC Ord. 2005-02, passed 9-6-2005)

**§ 150.59 RIGHT OF APPEAL.**

All persons shall have the right to appeal the Building Commissioner's decision through the Board of Commissioners of the county.

(BCC Ord. 2005-02, passed 9-6-2005)

**§ 150.60 SPECIFIC MINIMUM HOUSING STANDARDS ADOPTED.**

As used in this subchapter and in this section thereof, the phrase *IRC* shall mean International Residential Code. The following minimum housing standards are specifically adopted herein and the inspections noted below must either meet the specific standards provided or the IRC:

(A) Inspection #1 - Foundations:

(1) Setback lines - The structure must be 60 feet from the center of the county highway or the private road which services the residence; and

(2) Trench and Foundation (IRC).

(B) Inspection #2 - Framing:

(1) Assure that the framing is properly secure to the foundation (IRC); and

(2) In the event of manufactured, pre-manufactured or modular homes, any and all must

be properly secured to the foundation thereof and must be by approved tie-downs (IRC).

(C) Inspection #3 - Rough-In:

(1) Electrical Service to the Residence (IRC); and

(2) Plumbing and sewer hook-ups must be pursuant to the rules and regulations of the County Health Department and IRC; however, the proper installation and location of the septic systems must be pursuant to the rules and regulations of the County Health Department and inspected by their officers.

(D) Inspection #4 - Final:

(1) Culvert (if required) - Application must be submitted to the County Highway Department;

(2) Backfill (IRC);

(3) Decks or Stairs (IRC); and

(4) Gutters to divert water from the roof area of the residence and swales to divert water from the foundation of the residence (IRC). (BCC Ord. 2005-02, passed 9-6-2005)

§ 150.61 REMEDIES.

The Building Commissioner shall in the name of the county bring actions in the Circuit or Superior Courts of the county, for any mandatory and injunctive relief in the enforcement of and to insure compliance with any order or orders, made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with any action to recover the penalties as provided for in this subchapter.

(BCC Ord. 2005-02, passed 9-6-2005)

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Whoever violates any provision of §§ 150.01 through 150.13 commits a penal county ordinance violation and may be cited therefor, and upon conviction shall be liable to a fine of not less than \$100 nor more than \$2,500, and each day a violation continues shall be a separate offense. The fine shall be in addition to any civil forfeiture imposed by a court under I.C. 36-7-9-19, or any other costs of enforcement or abatement assessed by or awarded to the county incident to any action for enforcement.

(C) Any person violating any provision of §§ 150.25 through 150.43 may be subject to a fine in any sum not exceeding \$2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this subchapter.

(D) For the violation of §§ 150.55 through 150.61, the county may seek a fine of \$250 per day with each day being a separate and individual violation.

(E) *Payment of fines.* All fines for violations shall be paid to the Washington County Treasurer, who shall render to the person making the payment a receipt stating the amount and purpose for which the fine has been paid, and duplicate of which shall be made a part of the record of the Washington County Building Commissioner. All fines thus received shall be forwarded to the Washington County Treasurer for deposit in the General Fund.

(F) *Accountability.* The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, realtor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(G) *Cost of attorney, investigation, and other fees.* If the Building Commissioner is required to utilize the services of the County Attorney or any other attorney in investigating a possible violation of this chapter or in enforcing the provisions of this chapter pursuant to this section or any other section; and such investigation results in a determination that a violation has occurred, or if the Building Commissioner is successful in its enforcement of the chapter by way of suit, appeal or other appropriate proceeding; the respondent, defendant or party investigated for a violation shall pay Washington County's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this chapter; unless such attorney fees or the costs are specifically waived by Washington County.

(H) *Waiving fines.* The Building Commissioner may, at his/her discretion, waive the assessed fine for timely correction of the violation.  
(1985 Code, § 7-4-11) (BCC Ord. 1985-C5-A, passed 12-2-1985; BCC Ord. 2005-02, passed 9-6-2005; BCC Ord. 2007-01, passed 12-4-2006; BCC Ord. 2019-07, passed 7-16-2019)

**APPENDIX: SCHEDULE OF STATEWIDE BUILDING CONSTRUCTION  
AND SAFETY STANDARDS**

**SCHEDULE OF STATEWIDE BUILDING CONSTRUCTION AND  
SAFETY STANDARDS IN EFFECT AS OF NOVEMBER 5, 1985**

(1) *Indiana Construction Rules and Regulations*, Volume I, 1980 Edition, 675 IAC 2, originally published as 3 IR 2148, which identifies, amends and incorporates therein the *Uniform Building Code*, 1979 Edition, and the *Uniform Building Code Standards*, 1979 Edition.

(2) *Indiana Electrical Code*, 1984 Edition, 675 IAC 17-1, originally published as 9 IR 50, which identifies, amends and incorporates therein the *National Electrical Code*, 1984 Edition.

(3) *Indiana Safety Code for Health Care Facilities*, 1985 Edition, 675 IAC 17-2, originally published as 9 IR 52, which identifies, amends, and incorporates therein National Fire Protection Association (NFPA) Standard, NFPA 99, 1985 Edition.

(4) *Indiana Plumbing Rules*, 1981 Edition, 675 IAC 5, originally published as 4 IR 2398, which identifies, amends, and incorporates therein the *Uniform Plumbing Code*, 1979 Edition.

(5) *Indiana Mechanical Rules*, 1981 Edition, 675 IAC 7, originally published as 4 IR 1828, which identifies, amends, and incorporates therein the *Uniform Mechanical Code*, 1979 Edition.

(6) *Indiana Flammable and Combustible Liquids and Gases Code*, 1985 Edition, 675 IAC 22-1, originally published as 9 IR 53, which identifies, amends, and incorporates therein eight National Fire Protection Association Standards.

(7) *Indiana One and Two Family Dwelling Code*, 1984 Edition, which identifies, amends and incorporates therein the Council of American Building Officials *One and Two Family Dwelling Code*, 1983 Edition (including also Indiana standards for permanent installation of manufactured homes), all as published and promulgated under 675 IAC 14.

(8) *Indiana Energy Conservation Code*, 1984 Edition, 675 IAC 19, originally published as 7 IR 2525, which identifies, amends and incorporates therein the *Model Energy Code*, 1983 Edition.

(9) *Indiana Swimming Pool Rules*, 1982 Edition, 675 IAC 9, originally published as 5 IR 1829, under this title.

(10) *Indiana Fire and Building Safety Standards*, 675 IAC 13-1, originally published as 8 IR 1301 under that title, which incorporates by reference the following National Fire Protection Association (NFPA) Standards: NFPA 11-1983, except App. C; NFPA 12-1980, except App. C; NFPA 12A-1980, except App. B; NFPA, 12B-1980, except App. B; NFPA 13-1983, except App. D; NFPA 14-1983, except App. B; NFPA 20-1983, except App. C; NFPA 71-1982, except App. B; NFPA 72A-1979, except App. B; NFPA 72B-1979, except App. B; NFPA 72C-1982, except App. B; NFPA 72D-1979, except App. B; NFPA 72E-1984, except Chapter 10;

**Washington County - Land Usage**

NFPA 96-1984, except Chapter 10; NFPA 33-1982, except App. C; NFPA 56F-1983, except App. D; NFPA 61B-1980, except App. E; and NFPA 82-1983, except App. A.  
(1985 Code, Art. 7, Ch. 4, Appendix A) (BCC Ord. 1985-C5-A, passed 12-2-1985)

## CHAPTER 151: FLOOD PREVENTION AND PROTECTION

### Section

- 151.01 Statutory authorization; findings of fact; purpose; objectives
- 151.02 Definitions
- 151.03 General provisions
- 151.04 Administration
- 151.05 Provisions for flood hazard reduction
- 151.06 Variance procedures
  
- 151.99 Penalty

causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

### § 151.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE; OBJECTIVES.

(A) *Statutory authorization.* The Indiana Legislature has in I.C. 36-7-4 and I.C. 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Board of Commissioners of Washington County does hereby adopt the following floodplain management regulations.

#### (B) *Findings of fact.*

(1) The flood hazard areas of Washington County and the Town of Fredericksburg are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and

(6) Make federally subsidized flood insurance available for structures and their contents in Washington County and the Town of Fredericksburg by fulfilling the requirements of the National Flood Insurance Program.

(D) *Objectives.* The objectives of this chapter are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- (7) To ensure that potential homebuyers are notified that property is in a flood area. (BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

#### § 151.02 DEFINITIONS.

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

**A ZONE.** Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In **A ZONES**, floodwaters may move slowly or rapidly, but waves

are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM or FHBM. The definitions are presented below:

**ZONE A.** Areas subject to inundation by the 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.

**ZONE AE AND A1-A30.** Areas subject to inundation by the 1% annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (Zone AE is on new and revised maps in place of Zones A1-A30.)

**ZONE AO.** Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

**ZONE AH.** Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

**ZONE AR.** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.

**ZONE A99.** Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough

progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. **ZONE A99** may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

**ACCESSORY STRUCTURE (APPURTENANT STRUCTURE).** A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

**ADDITION (TO AN EXISTING STRUCTURE).** Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

**APPEAL.** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

**AREA OF SHALLOW FLOODING.** A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**BASE FLOOD ELEVATION (BFE).** The elevation of the 1% annual chance flood.

**BASEMENT.** That portion of a structure having its floor sub-grade (below ground level) on all sides.

**BUILDING.** See "Structure."

**COMMUNITY.** A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**COMMUNITY RATING SYSTEM (CRS).** A program developed by the Federal Insurance Administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

**CRITICAL FACILITY.** A facility for which even a slight chance of flooding might be too great. **CRITICAL FACILITIES** include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

**DEVELOPMENT.** Any man-made change to improved or unimproved real estate including but not limited to:

- (1) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) Installing a manufactured home on a site, preparing a site for a manufactured home or installing 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) Construction 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 structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**ELEVATED STRUCTURE.** A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

**ELEVATION CERTIFICATE.** A certified statement that verifies a structure's elevation information.

**EMERGENCY PROGRAM.** The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

**ENCROACHMENT.** The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**EXISTING CONSTRUCTION.** Any structure for which the "start of construction" commenced before the effective date of the community's first floodplain ordinance.

**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 the community's first floodplain ordinance.

**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).

**FEMA.** The Federal Emergency Management Agency.

**FIVE-HUNDRED YEAR FLOOD (500-YEAR FLOOD).** The flood that has a 0.2% chance of being equaled or exceeded in any year.

**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.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM).** An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

**FLOOD HAZARD BOUNDARY MAP (FHBM).** An official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS).** The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

**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 fringe districts.

**FLOODPLAIN MANAGEMENT.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**FLOODPLAIN MANAGEMENT REGULATIONS.** This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. **FLOODPLAIN MANAGEMENT REGULATIONS** are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

**FLOOD PROTECTION GRADE (FPG).** The elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard").

**FLOODPROOFING (DRY FLOOD PROOFING).** A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

**FLOODPROOFING CERTIFICATE.** A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

**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.

**FREEBOARD.** A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

**FRINGE.** Those portions of the floodplain lying outside the floodway.

**FUNCTIONALLY DEPENDENT FACILITY.** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**HARDSHIP (AS RELATED TO VARIANCES OF THIS CHAPTER).** The exceptional hardship that would result from a failure to grant the requested variance. The Board of Commissioners requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE.** Any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**INCREASED COST OF COMPLIANCE (ICC).** The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

**LETTER OF MAP AMENDMENT (LOMA).** An amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A *LOMA* is only issued by FEMA.

**LETTER OF MAP REVISION (LOMR).** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

**LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** An official revision by letter to an effective NFIP map. A *LOMR-F* provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

**LOWEST ADJACENT GRADE.** The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**LOWEST FLOOR.** The lowest of the following:

- (1) The top of the lowest level of the structure;
- (2) The top of the basement floor;
- (3) The top of the garage floor, if the garage is the lowest level of the structure;

(4) The top of the first floor of a structure elevated on pilings or pillars;

(5) The top of the first floor of a structure constructed with a crawl space, provided that the lowest point of the interior grade is at or above the BFE and construction meets requirements of division (6)(a) of this definition; or

(6) The top of the floor level of any enclosure, other than a basement, below an elevated structure 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 net area of one (1) square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above grade; and

(b) Such enclosed space shall be usable solely 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. The term *MANUFACTURED HOME* does not include a "recreational vehicle."

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MAP AMENDMENT.** A change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

**MAP PANEL NUMBER.** The four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA, the letter “B” is the first revision.)

**MARKET VALUE.** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**MITIGATION.** Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP).** The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

**NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD).** As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION.** Any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.

**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 the community’s first floodplain ordinance.

**NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).** As adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**OBSTRUCTION.** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**ONE-HUNDRED YEAR FLOOD (100-YEAR FLOOD).** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See “Regulatory Flood”.

**ONE-PERCENT ANNUAL CHANCE FLOOD.** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See “Regulatory Flood”.

**PARTICIPATING COMMUNITY.** Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

**PHYSICAL MAP REVISION (PMR).** An official republication of a community’s FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works

or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**POST-FIRM CONSTRUCTION.** Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

**PRE-FIRM CONSTRUCTION.** Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

**PROBATION.** A means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

**PUBLIC SAFETY AND NUISANCE.** Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**RECREATIONAL VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

**REGULAR PROGRAM.** means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

**REGULATORY FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 151.03(B). The **REGULATORY FLOOD** is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**REPETITIVE LOSS.** Flood-related damages sustained by a structure on two separate occasions during a ten-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

**SECTION 1316.** That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**SPECIAL FLOOD HAZARD AREA (SFHA).** Those lands within the jurisdictions of the County subject to inundation by the regulatory flood. The **SFHAs** of Washington County generally identified as such on the Flood Hazard Boundary Map of the County prepared by the Federal Emergency Management Agency and dated April 21, 1978. The **SFHAs** of the Town of Fredericksburg generally identified as such on the Flood insurance Rate Map of the Town prepared by the Federal Emergency Management Agency and dated September 4, 1985. (These areas are shown on a FHBM or FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

**START OF CONSTRUCTION.** Includes substantial improvement, and means the date the

building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation for placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**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 a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

**SUBSTANTIAL DAMAGE.** Damage, of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**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 that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing

violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

**SUSPENSION.** The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

**VARIANCE.** A grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

**VIOLATION.** The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

**WATERCOURSE.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**WATER SURFACE ELEVATION.** The height, in relation to the North American Vertical Datum of 1988 (NAVD 88), or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**X ZONE.** The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

**ZONE.** A geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

**ZONE A.** See definition for A zone.

**ZONE B, C, AND X.** Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.) (BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

### § 151.03 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all SFHAs within the jurisdiction of the Washington County Building Commissioner including Washington County and the Town of Fredericksburg.

(B) *Basis for establishing regulatory flood data.* 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 Indiana Department of Natural Resources for review and approval.

(1) The regulatory flood elevation, floodway, and fringe limits for the SFHAs delineated as an "A Zone" on the FHBM of Washington County prepared by the Federal Emergency Management Agency and dated April 21, 1978 shall be according to the best data available as provided by the Indiana Department of Natural Resources.

(2) The regulatory flood elevation, floodway, and fringe limits for the SFHAs delineated

as an "A Zone" on the FIRM of the Town of Fredericksburg prepared by the Federal Emergency Management Agency and dated September 4, 1985 shall be according to the best data available as provided by the Indiana Department of Natural Resources.

(C) *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(D) *Compliance.* No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(E) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) *Discrepancy between mapped floodplain and actual ground elevations.*

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(3) If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

(G) *Interpretation.* In the interpretation and application of this chapter all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted understate statutes.

(H) *Warning and disclaimer of liability.* 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. Therefore, this chapter does not create any liability on the part of Washington County, the Town of Fredericksburg, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder. (BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

**§ 151.04 ADMINISTRATION.**

(A) *Designation of Administrator.* The Board Commissioners of Washington County hereby appoints the Washington County Building Commissioner to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

(B) *Permit procedures.* Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(1) *Application stage.*

- (a) A description of the proposed development;
- (b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
- (c) A legal description of the property site;
- (d) A site development plan showing existing and proposed development locations and existing and proposed land grades;
- (e) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
- (f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be flood proofed;
- (g) Description of the extent to which any watercourse will be altered or related as a result of proposed development; and

(2) *Construction stage.* Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized-for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to

make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(C) *Duties and responsibilities of the Floodplain Administrator.* The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied;

(2) Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to § 151.055(E) and G(1), and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment.)

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;

(5) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

(6) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters, of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and

“as-built” elevation and floodproofing data for all buildings constructed subject to this chapter.

(7) Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(8) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;

(9) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.04(B);

(10) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with § 151.04(B);

(11) Review certified plans and specifications for compliance.

(12) *Stop work orders.*

(a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(13) *Revocation of permits.*

(a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.  
(BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

**§ 151.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

(A) *General standards.* In all SFHAs the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of “new construction” as contained in this chapter; and

(10) Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not further, extended, or replaced.

(B) *Specific standards.* In all SFHAs, the following provisions are required:

(1) In addition to the requirements of division (A) of this section, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(a) Construction or placement of any new structure having a floor area greater than 400 square feet;

(b) Addition or improvement made to any existing structure:

1. where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);

2. With a previous addition or improvement constructed since the community’s first floodplain ordinance.

(c) Reconstruction or repairs made to a damaged structure where the costs of restoring the

structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;

(d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(e) 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

(f) Reconstruction or repairs made to a repetitive loss structure.

(2) *Residential construction.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (B)(4) of this section.

(3) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured) shall have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(a) A registered professional engineer or architect shall certify that the structure 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. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures,

and impacts from debris or ice. Such certification shall be provided to the official as set forth in § 151.04(C)(10).

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(4) *Elevated structures.*

(a) New construction or substantial improvements of elevated structures that include fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(b) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area; and

2. The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

6. Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage.

(5) *Structures constructed on fill.* A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

(a) The fill shall be placed in layers no greater than nine inches 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 structure 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.

(6) *Standards for structures constructed with a crawlspace.* A residential or nonresidential structure may be constructed with a crawlspace located below the flood protection grade provided that the following conditions are met:

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and

(b) Any enclosed area below the flood protection grade shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. Provide a minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area. The bottom of the openings shall be no more than one foot above grade; and

(c) The interior grade of the crawlspace must be at or above the base flood elevation; and

(d) The interior height of the crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall must not exceed four feet at any point; and

(e) An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event; and

(f) Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage; and

(g) Utility systems within the crawlspace must be elevated above the flood protection grade.

(7) *Standards for manufactured homes and recreational vehicles.* 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 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;

1. Outside a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

(b) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations 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. 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.

(c) Recreational vehicles placed on a site shall either:

1. Be on site for less than 180 days; and

2. 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

3. Meet the requirements for "manufactured homes" as stated earlier in this section.

*(C) Standards for subdivision proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres.

(D) *Critical facility.* Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

*(E) Standards for identified floodways.*

(1) Located within SFHAs, established in § 151.03(B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana 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 for construction in a floodway from the Indiana Department of Natural Resources 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 structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of non-substantial additions/ improvements to residences

in a non-boundary river floodway without obtaining a permit for construction in a floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

(2) No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in a floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in § 151.05 have been met. The Floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(3) No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot; and

(4) For all projects involving channel modifications or fill (including levees) the Floodplain Administrator shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(F) *Standards for identified fringe.* If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in § 151.05 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.

(G) *Standards for SFHAs without established base flood elevation and/or floodways/fringes.*

(1) *Drainage area upstream of the site is greater than one square mile.*

(a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(b) No action shall be taken by the Floodplain Administrator until either a permit for construction in the floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended flood protection grade has been received from the Indiana Department of Natural Resources.

(c) Once the Floodplain Administrator has received the proper construction in a floodway permit or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in § 151.05 have been met.

(2) *Drainage area upstream of the site is less than one square mile.*

(a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, fringe and 100 year flood elevation for the site.

(b) Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in § 151.05 have been met.

(3) The total cumulative effect of the proposed development, when combined with all other

existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

(BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

#### § 151.06 VARIANCE PROCEDURES.

##### (A) *Designation of Variance and Appeals Board.*

The Board of Commissioners as established by Board of Commissioners of Washington County shall hear and decide appeals and requests for variances from requirements of this chapter.

(B) *Duties of Variance and Appeals Board.* The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Board may appeal such decision to the Washington County Circuit Court, as provided by statute.

(C) *Variance procedures.* In passing upon such applications, the Board of Commissioners shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger of life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The importance of the services provided by the proposed facility to the community;

(4) The necessity to the facility of a waterfront location, where applicable;

(5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(6) The compatibility of the proposed use with existing and anticipated development;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

##### (D) *Conditions for variances.*

(1) Variances shall only be issued when there is:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(2) No variance for a residential use within a floodway subject to § 151.05(E) or (G)(1) of this chapter may be granted.

(3) Any variance granted in a floodway subject to § 151.05(E) (G)(1) of this chapter will

require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of § 151.05(B) 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.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(7) Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See division (E) of this section).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See division (E) of this section).

(E) *Variance notification.*

(1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(a) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(b) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(2) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(F) *Historic structure.* Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(G) *Special conditions.* Upon the consideration of the factors listed in this section, and the purposes of this chapter, the Board of Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.  
(BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

§ 151.99 PENALTY.

(A) Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter.

(B) All violations shall be considered a common nuisance. All violations shall be punishable by a fine not exceeding \$100.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(3) Nothing herein shall prevent the County and the Town of Fredericksburg from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

**CHAPTER 152: MANUFACTURED HOMES**

Section

***Skirting and Permanent Perimeter Enclosures***

- 152.01 Title
- 152.02 Purpose
- 152.03 Authority
- 152.04 Scope
- 152.05 Installation
- 152.06 Inspection

**SKIRTING AND PERMANENT PERIMETER ENCLOSURES**

**§ 152.01 TITLE.**

This subchapter and all ordinances supplemental or amendatory hereon shall be known as the “Skirting and Perimeter Enclosure Ordinance for Manufactured Homes”.  
(BCC Ord. 96-12, passed 10-7-1996)

**§ 152.02 PURPOSE.**

The purpose of this subchapter is to provide for a requirement that all manufactured homes have installed with them skirting and permanent perimeter enclosure upon their installation on real estate in the county.  
(BCC Ord. 96-12, passed 10-7-1996)

**§ 152.03 AUTHORITY.**

(A) While the Indiana Code on Installation of One- and Two-Family Dwellings does not make it an Indiana law which requires skirting and permanent

perimeter enclosures, Section C-503 of such One and Two-Family Dwelling Code provides as follows:

C-503.1 Skirting and permanent perimeter enclosures need be installed only where specifically required by other laws or ordinances. Skirting, when installed, shall be of material suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures shall be constructed of materials as required by this code for regular foundation construction.

Skirting shall be installed in accordance with the skirting manufacturer’s installation instructions. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage, and to compensate for possible frost heave.

(B) This section and other provisions of the Indiana law authorize the county to require skirting and permanent perimeter enclosures as noted above.  
(BCC Ord. 96-12, passed 10-7-1996)

**§ 152.04 SCOPE.**

The scope of this subchapter shall apply to the installation and placement of all manufactured homes in the county which require the skirting and permanent perimeter enclosures as outlined herein.  
(BCC Ord. 96-12, passed 10-7-1996)

**§ 152.05 INSTALLATION.**

It is specifically provided that all manufactured homes shall have skirting and permanent perimeter

enclosures installed which skirting shall be adequately secure to assure stability, to minimize vibration and susceptibility to wind damage and to compensate for possible frost heave. The skirting shall be installed in accordance with the skirting manufacturer's installation instruction. Skirting, when installed, shall be of material suitable for exterior exposure and contact with the ground, and permanent perimeter enclosures shall be constructed of materials as required by the One- and Two-Family Dwelling Code for regular foundation construction.

(BCC Ord. 96-12, passed 10-7-1996)

#### **§ 152.06 INSPECTION.**

The County Building Commissioner is hereby authorized and directed to provide for inspection for the enforcement of the provisions of this chapter.

(BCC Ord. 96-12, passed 10-7-1996)

**CHAPTER 153: PLANNING AND DEVELOPMENT**

Section

*Procedures for Subdivision Plat Approvals*

- 153.01 Administrative requirements
- 153.02 Permits required
- 153.03 Filing fees
- 153.04 Definitions
- 153.05 Variance
- 153.06 Separability
- 153.07 Technical review checklist for non-exempt subdivisions

*Regional Development*

- 153.25 County participation in the River Hills Economic Development District and Regional Plan Commission

*Miscellaneous Provisions*

- 153.35 Minimum setback distances for confined feeding operations and confined animal feeding operations

**PROCEDURES FOR SUBDIVISION PLAT APPROVALS**

**§ 153.01 ADMINISTRATIVE REQUIREMENTS.**

(A) The minimum average lot size shall be two acres to allow for undevelopable areas, such as flood plains, utility easements, driveway and/or internal roads, poor soil areas, and the like, and to have adequate space for future needs. The developer shall state on the subdivision plat the total acreage, total number of lots and the average lot size. The developer shall consecutively number the lots in the subdivision.

There shall be no more than one single family residential structure per lot.

(B) Upon the filing of a plat with the Plan Director of the county, there shall be six complete copies, including restrictive covenants filed for use by the County Plan Commission for review.

(C) The developer shall register with the Plan Director prior to the submittal of any subdivision, information providing the company name, address, phone number, fax number, contact person(s) and the history of the subdivision development for the past three years.

(D) A copy of the subdivision plat shall be submitted on Mylar sheet(s) or equivalent for reproduction as required. It is recommended that the County Recorder’s Office be contacted to determine compliance. All required permits and other information shall be on file with the Plan Director before submittal to the County Recorder.

(E) All subdivisions shall have unique names for identification. The subdivision name shall be sufficiently unique as not to be confused with existing approved subdivisions.

(F) The submitted plat for subdivision approval shall show public rights-of-way, utility easements, metes and bounds descriptions of the entire platted real estate and note any restrictive covenants. Public way widths must have a minimum right-of-way width of 40 feet and any cul-de-sac must have a minimum 90 feet right-of-way diameter. Public way curves must have a minimum radius of 75 feet at the center line of the curve. It is recommended that no road grade exceed 15%, and that right-angle intersections are used wherever practicable. Intersections must be approached on all sides by near level areas, and these

level areas must have a minimum length of 50 feet (measured from the intersection of the centerlines) within which no grade may exceed a maximum of 3%.

(G) Each subdivision shall include appropriate easements for water, sewer, and other public utilities. When located along public roads, the easements shall have a minimum width of ten feet. When located along side or rear property lines or interior to any lot, the easements shall have a minimum width of 15 feet or seven and one-half feet on each side of the lot line. Utility easements shall have multiple functions wherever possible, and shall provide reasonable continuity from block to block. The Commission shall require larger easements when necessary for carrying out the purposes of this subchapter.

(H) The formation of a Property Owners Association shall be required if common grounds or maintenance repairs to roads exist and are inclusive of the development. If internal roads are not proposed to be brought up to current county road standards, a comment shall be made on the subdivision plat stating this fact.

(I) If the developer elects to construct an internal road(s), the County 911 Coordinator shall be contacted to coordinate a unique road name and order the required signage.

(1) All material and installation cost for signage shall be paid for by the developer.

(2) If a proposed road is to be accepted by the county, it shall be brought up to current county stone and asphalt standards for roads and must be approved by the County Highway Superintendent.

(3) The developer shall provide proof of conformance to this requirement concerning internal roads and shall further notify the County Highway Superintendent at least five days prior to the actual starting on these roads for each of the following activities:

- (a) Stripping of sod;
- (b) Laying of stone; and

(C) Laying of asphalt.

(4) In the event the developer fails to comply with any provision of this paragraph by failing to notify the 911 Coordinator or failing to notify the County Highway Superintendent, then the developer, at his or her own expense, shall assist in all inspections and be required to place the roads in a status which can be inspected.

(J) All proposed subdivisions of real estate located within the territory within Washington Township, Washington County, Indiana described in Exhibit "A" attached to the ordinance codified herein must be reviewed and approved by the Salem Plan Commission pursuant to the provisions of I.C. 36-7-4-205. (BCC Ord. 2011-03, passed 8-15-2011; BCC Ord. 2013-11, passed 10-1-2013)

**§ 153.02 PERMITS REQUIRED.**

(A) The County Environmentalist shall review all subdivisions for compliance with current Washington County septic system requirements. Soil tests shall be performed, as directed by the County Environmentalist and the approximate location and results of all the tests shall be shown on the subdivision plat. The County Environmentalist shall provide the Plan Director with proof that the required review for subdivision septic systems have been performed.

(B) The Highway Superintendent shall review all subdivisions for ingress and egress route, grades, curves, and public way widths for safety and compatibility and coordinate the subdivision public ways with planned and current public ways. The main entrance to a subdivision shall have a minimum of 300 feet sight distance in each direction and separated by 300 feet from any other entrance, whether private drive or public way. The maximum number of driveway entrances, per mile, shall be ten on each side of the county highway. These requirements shall include existing and proposed new county roads. All driveways located on existing county highways, on

each side, within one quarter mile of the subdivision plat shall be shown in their approximate locations.

(C) There is established herewith a 60-foot setback requirement from the centerline of any public road or highway, to the nearest edge of any residential structure, garage or related structure. There is also established a minimum lot width of 150 feet as measured at the front setback line, a minimum lot depth of 150 feet, and a minimum lot area of 3/4-acre in size (if connected to city water) or one acre in size (if served by a well). Any variance of this provision must be made only by application to the Washington County Plan Commission and only for their consideration.

(D) All ingress and egress, by way of a driveway, from a county road to individual property may only be installed with the installation of a culvert which is to be at a minimum of 12 inches in diameter and 24 feet long and installed with only 16 gauge material. Any variance of this provision must be made only by application to the County Plan Commission and only for its consideration.

(E) A water supply shall be provided for all lots in each subdivision. If the water supply is from a private well field, the actual well log shall be provided for the areas in the subdivision served by the well. The safe yield for any well shall be provided. If the water supply is from an extension to an existing public water system, the IDEM permit or notice of intent number shall be provided with the subdivision plat submittal. The minimum water main line size is three inches. If the water supply is from a service tap, or from an existing water main, then a letter from the water district stating the size and location of all existing and future water mains shall be submitted along with the subdivision plat submittal.

(F) (1) The County Soil Conservation District shall be contacted regarding IDEM Rule 5, Erosion Control. The County Soil Conservation District shall provide the Plan Director with proof that the proposed subdivision has been reviewed for compliance.

(2) If an IDEM permit is required, it shall be provided with the subdivision plat submittal.

(G) The proposed subdivision shall have all drainage ditches, streams, creeks, rivers, sinkholes, caves, springs, closed depressions and related features shown on the subdivision plat. Elevations in ten-foot contour intervals shall also be shown on the subdivision plat, with spot elevations as required. It is required that the 100-year floodplain shall be shown on the plat. In the event the flood plain designation is not available on the flood plain maps available and if the drainage area is more than 640 acres, then the flood plain designation must be determined by application to the State Department of Natural Resources before the plat can be approved. Any bridge or culverts required for internal roads or other reasons with a drainage area equal to or greater than 640 acres shall have an IDNR floodway construction permit. Any bridge or culvert required for internal roads or other reasons with a drainage area less than 640 acres shall be sized and designed by a professional engineer registered in the state. The County Building Commissioner may be contacted to answer questions related to drainage and floodway areas.

(H) The drainage plan for the proposed subdivision shall comply with the following standards.

(1) The plan shall maintain the amount of drainage through the tract that existed when the tract was created. If any tiles are cut, broken down, or rendered useless during the construction activity on the tract, the developer shall be responsible for the repair, replacement or relocation of the tile.

(2) The plan shall not change the locations where surface water enters the tract and exits the tract from the locations that existed when the tract was created.

(3) Water which sheds off of a new structure, especially when the new structure is elevated or near a property line, or both, shall exit the tract in the same location where it did when the tract was created.

(4) The County Plan Commission may approve an alternate plan that does not comply with the standard set forth in division (H) above. (BCC Ord. 2011-03, passed 8-15-2011; BCC Ord. 2021-05, passed 8-17-2021)

### § 153.03 FILING FEES.

At the time the developer shall file his, her or their proposed subdivision plat and the appropriate number of copies with the Office of the Plan Director, he, she or they shall pay to the Office of the Plan Director a non-refundable filing fee as follows:

(A) Seventy-five dollars per lot in the proposed subdivision plat; and

(B) Twenty-five dollars for the costs associated with the notice of public hearing for the proposed subdivision. (BCC Ord. 2011-03, passed 8-15-2011)

### § 153.04 DEFINITIONS.

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

**SUBDIVISION.** The division of a parcel of land into two or more lots, parcels, sites, units, plats or interests, for the purpose of offer, sale, lease, or development, either on the installment plan or on any and all other plans, terms and conditions, including re-subdivision. **SUBDIVISION** includes the division of development of land zoned for residential and non-residential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

#### ***DIVISION, EXEMPT.***

(1) The Plan Commission and County Commissioners have determined that certain types of divisions of land do not require a thorough review and

platting required under the standard provisions of this subchapter.

(2) In order to more appropriately address these types of divisions and ensure that the interests of the County are served certain exemptions are enumerated within this subchapter.

(3) Exempt subdivisions are not subject to the requirements of this subchapter beyond the determination by the Plan Director or staff that they meet requirements for exempt subdivisions set forth herein.

(4) The following subdivisions of land are **EXEMPT** from the provisions of this subchapter:

(a) A division of land for the sale or exchange of tracts between adjoining land owners where the transferred property abuts the recipient's adjoining property in the exchange;

(b) A division of land by a person for any purpose for a child, grandchild, sibling, parents, or grandparents, and which meet all other requirements of the ordinances of the county. In order to prevent evasion of the subdivision control ordinance a property owner will be allowed to create only one lot for transfer to each child, each grandchild, each sibling, the owner's parents, the owner's spouse's parents, and each set of grandparents for the owner or the owner's spouse; and

(c) A division of land for the purpose of single family or agricultural use, which does not involve any new public road, public drainage easement or other new public improvement, and which creates a new lot and a remaining tract which are a minimum of one-half acre each in size (if connected to city water) or one acre each in size (if

**CHAPTER 153: PLANNING AND DEVELOPMENT**

Section

***Procedures for Subdivision Plat Approvals***

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***PROCEDURES FOR SUBDIVISION PLAT APPROVALS***

**§ 153.01 ADMINISTRATIVE REQUIREMENTS.**

(A) The minimum average lot size shall be two acres to allow for undevelopable areas, such as flood plains, utility easements, driveway and/or internal roads, poor soil areas, and the like, and to have adequate space for future needs. The developer shall state on the subdivision plat the total acreage, total number of lots and the average lot size. The developer shall consecutively number the lots in the subdivision.

There shall be no more than one single family residential structure per lot.

(B) Upon the filing of a plat with the Plan Director of the county, there shall be six complete copies, including restrictive covenants filed for use by the County Plan Commission for review.

(C) The developer shall register with the Plan Director prior to the submittal of any subdivision, information providing the company name, address, phone number, fax number, contact person(s) and the history of the subdivision development for the past three years.

(D) A copy of the subdivision plat shall be submitted on Mylar sheet(s) or equivalent for reproduction as required. It is recommended that the County Recorder’s Office be contacted to determine compliance. All required permits and other information shall be on file with the Plan Director before submittal to the County Recorder.

(E) All subdivisions shall have unique names for identification. The subdivision name shall be sufficiently unique as not to be confused with existing approved subdivisions.

(F) The submitted plat for subdivision approval shall show public rights-of-way, utility easements, metes and bounds descriptions of the entire platted real estate and note any restrictive covenants. Public way widths must have a minimum right-of-way width of 40 feet and any cul-de-sac must have a minimum 90 feet right-of-way diameter. Public way curves must have a minimum radius of 75 feet at the center line of the curve. It is recommended that no road grade exceed 15%, and that right-angle intersections are used wherever practicable. Intersections must be approached on all sides by near level areas, and these

level areas must have a minimum length of 50 feet (measured from the intersection of the centerlines) within which no grade may exceed a maximum of 3%.

(G) Each subdivision shall include appropriate easements for water, sewer, and other public utilities. When located along public roads, the easements shall have a minimum width of ten feet. When located along side or rear property lines or interior to any lot, the easements shall have a minimum width of 15 feet or seven and one-half feet on each side of the lot line. Utility easements shall have multiple functions wherever possible, and shall provide reasonable continuity from block to block. The Commission shall require larger easements when necessary for carrying out the purposes of this subchapter.

(H) The formation of a Property Owners Association shall be required if common grounds or maintenance repairs to roads exist and are inclusive of the development. If internal roads are not proposed to be brought up to current county road standards, a comment shall be made on the subdivision plat stating this fact.

(I) If the developer elects to construct an internal road(s), the County 911 Coordinator shall be contacted to coordinate a unique road name and order the required signage.

(1) All material and installation cost for signage shall be paid for by the developer.

(2) If a proposed road is to be accepted by the county, it shall be brought up to current county stone and asphalt standards for roads and must be approved by the County Highway Superintendent.

(3) The developer shall provide proof of conformance to this requirement concerning internal roads and shall further notify the County Highway Superintendent at least five days prior to the actual starting on these roads for each of the following activities:

- (a) Stripping of sod;
- (b) Laying of stone; and

(c) Laying of asphalt.

(4) In the event the developer fails to comply with any provision of this paragraph by failing to notify the 911 Coordinator or failing to notify the County Highway Superintendent, then the developer, at his or her own expense, shall assist in all inspections and be required to place the roads in a status which can be inspected.

(J) All proposed subdivisions of real estate located within the territory within Washington Township, Washington County, Indiana described in Exhibit "A" attached to the ordinance codified herein must be reviewed and approved by the Salem Plan Commission pursuant to the provisions of I.C. 36-7-4-205.

(BCC Ord. 2011-03, passed 8-15-2011; BCC Ord. 2013-11, passed 10-1-2013)

#### **§ 153.02 PERMITS REQUIRED.**

(A) The County Environmentalist shall review all subdivisions for compliance with current Washington County septic system requirements. Soil tests shall be performed, as directed by the County Environmentalist and the approximate location and results of all the tests shall be shown on the subdivision plat. The County Environmentalist shall provide the Plan Director with proof that the required review for subdivision septic systems have been performed.

(B) The Highway Superintendent shall review all subdivisions for ingress and egress route, grades, curves, and public way widths for safety and compatibility and coordinate the subdivision public ways with planned and current public ways. A minimum of 325 feet distance each direction and 325 feet sight distance each direction between driveway entrances is recommended. The maximum number of driveway entrances, per mile, shall be ten on each side of the county highway. These requirements shall include existing and proposed new county roads. All driveways located on the existing county highways, on each side, within 1/4-mile of the subdivision plat shall be shown in their approximate locations. The

Highway Superintendent shall review plans for all driveway entrances, as required for the proposed subdivision. The Highway Superintendent shall provide the Plan Director with proof that the required review for driveway entrances, ingress and egress, grades, curves, and public way widths have been performed.

(C) There is established herewith a 60-foot setback requirement from the centerline of any public road or highway, to the nearest edge of any residential structure, garage or related structure. There is also established a minimum lot width of 150 feet as measured at the front setback line, a minimum lot depth of 150 feet, and a minimum lot area of 3/4-acre in size (if connected to city water) or one acre in size (if served by a well). Any variance of this provision must be made only by application to the Washington County Plan Commission and only for their consideration.

(D) All ingress and egress, by way of a driveway, from a county road to individual property may only be installed with the installation of a culvert which is to be at a minimum of 12 inches in diameter and 24 feet long and installed with only 16 gauge material. Any variance of this provision must be made only by application to the County Plan Commission and only for its consideration.

(E) A water supply shall be provided for all lots in each subdivision. If the water supply is from a private well field, the actual well log shall be provided for the areas in the subdivision served by the well. The safe yield for any well shall be provided. If the water supply is from an extension to an existing public water system, the IDEM permit or notice of intent number shall be provided with the subdivision plat submittal. The minimum water main line size is three inches. If the water supply is from a service tap, or from an existing water main, then a letter from the water district stating the size and location of all existing and future water mains shall be submitted along with the subdivision plat submittal.

(F) (1) The County Soil Conservation District shall be contacted regarding IDEM Rule 5, Erosion Control. The County Soil Conservation District shall provide the Plan Director with proof that the proposed subdivision has been reviewed for compliance.

(2) If an IDEM permit is required, it shall be provided with the subdivision plat submittal.

(G) The proposed subdivision shall have all drainage ditches, streams, creeks, rivers, sinkholes, caves, springs, closed depressions and related features shown on the subdivision plat. Elevations in ten-foot contour intervals shall also be shown on the subdivision plat, with spot elevations as required. It is required that the 100-year floodplain shall be shown on the plat. In the event the flood plain designation is not available on the flood plain maps available and if the drainage area is more than 640 acres, then the flood plain designation must be determined by application to the State Department of Natural Resources before the plat can be approved. Any bridge or culverts required for internal roads or other reasons with a drainage area equal to or greater than 640 acres shall have an IDNR floodway construction permit. Any bridge or culvert required for internal roads or other reasons with a drainage area less than 640 acres shall be sized and designed by a professional engineer registered in the state. The County Building Commissioner may be contacted to answer questions related to drainage and floodway areas.

(H) The drainage plan for the proposed subdivision shall comply with the following standards.

(1) The plan shall maintain the amount of drainage through the tract that existed when the tract was created. If any tiles are cut, broken down, or rendered useless during the construction activity on the tract, the developer shall be responsible for the repair, replacement or relocation of the tile.

(2) The plan shall not change the locations where surface water enters the tract and exits the tract from the locations that existed when the tract was created.

(3) Water which sheds off of a new structure, especially when the new structure is elevated or near a property line, or both, shall exit the tract in the same location where it did when the tract was created.

(4) The County Plan Commission may approve an alternate plan that does not comply with the standard set forth in division (H) above. (BCC Ord. 2011-03, passed 8-15-2011)

### § 153.03 FILING FEES.

At the time the developer shall file his, her or their proposed subdivision plat and the appropriate number of copies with the Office of the Plan Director, he, she or they shall pay to the Office of the Plan Director a non-refundable filing fee as follows:

(A) Seventy-five dollars per lot in the proposed subdivision plat; and

(B) Twenty-five dollars for the costs associated with the notice of public hearing for the proposed subdivision. (BCC Ord. 2011-03, passed 8-15-2011)

### § 153.04 DEFINITIONS.

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

**SUBDIVISION.** The division of a parcel of land into two or more lots, parcels, sites, units, plats or interests, for the purpose of offer, sale, lease, or development, either on the installment plan or on any and all other plans, terms and conditions, including re-subdivision. **SUBDIVISION** includes the division of development of land zoned for residential and non-residential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

### ***DIVISION, EXEMPT.***

(1) The Plan Commission and County Commissioners have determined that certain types of divisions of land do not require a thorough review and platting required under the standard provisions of this subchapter.

(2) In order to more appropriately address these types of divisions and ensure that the interests of the County are served certain exemptions are enumerated within this subchapter.

(3) Exempt subdivisions are not subject to the requirements of this subchapter beyond the determination by the Plan Director or staff that they meet requirements for exempt subdivisions set forth herein.

(4) The following subdivisions of land are ***EXEMPT*** from the provisions of this subchapter:

(a) A division of land for the sale or exchange of tracts between adjoining land owners where the transferred property abuts the recipient's adjoining property in the exchange;

(b) A division of land by a person for any purpose for a child, grandchild, sibling, parents, or grandparents, and which meet all other requirements of the ordinances of the county. In order to prevent evasion of the subdivision control ordinance a property owner will be allowed to create only one lot for transfer to each child, each grandchild, each sibling, the owner's parents, the owner's spouse's parents, and each set of grandparents for the owner or the owner's spouse; and

(c) A division of land for the purpose of single family or agricultural use, which does not involve any new public road, public drainage easement or other new public improvement, and which creates a new lot and a remaining tract which are a minimum of one-half acre each in size (if connected to city water) or one acre each in size (if

served by a well) and which meet all other requirements of the ordinances of the county. Only two exempt divisions of this type shall be permitted on any tract or contiguous tracts of land under the same ownership and existing on May 1, 2011.

(5) All exempt subdivisions shall be submitted to the Plan Director or Staff for review. If the Plan Director or Staff determines that the proposed subdivision meets the standards to be exempt from the subdivision plat process, he or she shall stamp the exempt subdivision as approved.

(6) The County Auditor shall not accept an exempt subdivision for transfer unless it has been stamped as approved by the Plan Director or Staff.

(7) The County Auditor shall not accept a subdivision for transfer or an exempt subdivision for transfer for real estate described in Exhibit "A" attached to the ordinance codified herein unless it has been stamped as approved by the city of Salem, Indiana Building Inspector.  
(BCC Ord. 2011-03, passed 8-15-2011; BCC Ord. 2013-11, passed 10-1-2013)

**§ 153.05 VARIANCE.**

Application may be made to the County Plan Commission for variance from any one or more of the



restrictions or requirements contained herein. In consideration of application for variance, the Commission shall take into consideration the community health, safety, welfare, goals, and rationale for the restrictions and requirements. (BCC Ord. 2011-03, passed 8-15-2011)

adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in any controversy in which the judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The county hereby declares that it would have enacted the remainder of these regulations even without any part, provision, or application. (BCC Ord. 2011-03, passed 8-15-2011)

**§ 153.06 SEPARABILITY.**

If any part or provision of these regulations or application thereof to any person or circumstances is

**§ 153.07 TECHNICAL REVIEW CHECKLIST FOR NON-EXEMPT SUBDIVISIONS.**

**COUNTY TECHNICAL REVIEW CHECKLIST FOR NON-EXEMPT SUBDIVISIONS**

- All lot dimensions are shown and in mathematical agreement.
- Lots are consecutively numbered.
- Driveways are shown and conform by having 325' distance and sight distance.
- Developer has registered with Plan Director, and paid filing fees.
- Average lot size conforms.
- Minimum lot size conforms.
- Elevations are shown at ten-foot contour interval with spot elevations provided. Also, any drainage ditches, streams, creeks, rivers, sinkholes, caves, springs, and related features shown on submitted subdivision plat. The 100-year flood plain must be shown on all plats.
- New road names conform by non-duplications or similarity with existing roads.
- Restrictive covenants needed (see recommendations).
- Subdivision name conforms by non-duplication or similarity with existing subdivisions.
- All curve data, setbacks, easements, and right-of-way information are shown.
- Signatures by all owners of lot(s) in submitted subdivision plat.
- Field check of driveway sight distance by Washington County Highway Department.
- Proof of review by County Environmentalist along with location shown of all soil borings on the submitted subdivision plat.

- \_\_\_ IDEM permit for water supply or approval from water supplier of all lots on service lines from existing water mains.
- \_\_\_ Proof of review by Washington County Soil Conservation District for compliance with IDEM Rule 5.
- \_\_\_ Any other permit furnished, as required, such as an IDNR permit for floodway construction.

(BCC Ord. 2011-03, passed 8-15-2011)

### **REGIONAL DEVELOPMENT**

#### **§ 153.25 COUNTY PARTICIPATION IN THE RIVER HILLS ECONOMIC DEVELOPMENT DISTRICT AND REGIONAL PLAN COMMISSION.**

(A) The legislative bodies of the counties of Clark, Floyd, Harrison, Scott, and Washington have discussed the desirability of organizing a regional commission so as to increase short-term advantages and long-term best interests of the counties, therefore, pursuant to the authority vested in the County Commissioners by virtue of I.C. 36-7-7-1 et seq., the Board of County Commissioners have requested and received membership in the River Hills Regional Planning Commission. Furthermore, the River Hills Regional Planning Commission has been designated by the federal Economic Development Administration as an Economic Development District, with each county therein designated as a redevelopment area. The Indiana General Assembly has determined that a regional planning commission shall act only in an advisory capacity, and as a review and coordinating agency and clearinghouse so as to facilitate various activities associated with public and private grants-in-aid, the identification of prioritized needs for the region, and other activities of a planning nature. River Hills is not authorized to directly provide administrative or management services to local units of government, or to enter into fee-gathering contracts to provide those services.

(B) The following members of River Hills shall be appointed from Washington County:

(1) A County Commissioner or other person appointed by the Board of Commissioners;

(2) A Councilperson appointed by the County Council; and

(3) One person appointed by the executive of each of the five largest municipalities in the county.

(C) Members shall be appointed or reappointed for one year terms, which expire on December 31 of each year. Commission members shall serve without salary, but may be reimbursed for Commission-related expenses.

(D) At least two-thirds of the Commission members must be elected officials. All appointees shall be knowledgeable about development issues, and must be residents of the municipality, county, or region that they represent.

(E) Commission officers shall be elected annually. The Commission shall meet at least quarterly in regular meetings, with special meetings callable by the Chairperson or by any five other members.

(F) The record of the Commission's resolutions, transactions, findings, and determinations is a public record.

(G) The Commission shall elect from among its members an Executive Board which shall conduct most of the business of the Commission. The Executive Board shall meet at least monthly and shall report all of its actions to the Commission, which shall review and may amend any action.

(H) The majority of the Commission members from a particular county have the statutory right to veto by petition the implementation of any program within its respective county to which the county officially objects.

review by the County Board of Commissioners, or their agent, the applicant shall be furnished a letter confirming compliance with this section within 21 days of submittal of the facility plans. Upon receipt of notice of application from IDEM, the County Board of Commissioners shall furnish to IDEM within 21 days documentation of compliance with this section. (BCC Ord. 2007-07, passed 11-7-2007)

(I) The Commission shall prepare and adopt an annual budget, which shall be apportioned on a pro rata per capita basis to each participating county. The county shall therefore pay \$0.30 per resident annually to River Hills, for as long as the county continues its membership. Any assessed amount greater than \$0.30 per the county resident is subject to the review and approval of the County Council.

**MISCELLANEOUS PROVISIONS**

**§ 153.35 MINIMUM SETBACK DISTANCES FOR CONFINED FEEDING OPERATIONS AND CONFINED ANIMAL FEEDING OPERATIONS.**

(A) This section applies to all confined animal feeding operations (CAFO) and confined feeding operations (CFO) requiring approval by the Indiana Department of Environmental Management for new units and/or expansion to existing units.

(B) The County Board of Commissioners establishes the minimum setback distances for confined animal feeding operations and confined feeding operations as follows:

- Distance from existing dwelling . . . . . 750 feet
- Distance from public/non public schools . . . . . 1,000 feet
- Distance from office or factory . . . . . 500 feet

(C) The minimum distance to an existing dwelling may be reduced with written approval from the owner of the existing dwelling. Dwellings located on property owned by the applicant shall be exempt from the above setback distance.

(D) The applicant for a proposed CAFO or CFO shall submit to the County Board of Commissioners plans of the proposed facility that document compliance with the above minimum distances. Upon



**TABLE OF  
SPECIAL ORDINANCES**

## **TABLE OF SPECIAL ORDINANCES**

Table

- I. ACCEPTANCES**
- II. REAL ESTATE TRANSACTIONS**
- III. FRANCHISES**
- IV. AGREEMENTS**
- V. STREETS, SIDEWALKS, AND PUBLIC WAYS**
- VI. DISSOLUTIONS**

**Washington County - Table of Special Ordinances**

**TABLE I: ACCEPTANCES**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
BCC Res. 1992-7	6-17-1992	Accepting an extension of Webb Street as a public street

**Washington County - Table of Special Ordinances**

**TABLE II: REAL ESTATE TRANSACTIONS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
BCC Ord. -	10-13-1986	Authorizing the sale at public auction of three parcels: (1) The “old” National Guard Armory located at 201 West Mulberry Street; (2) The “old” Washington County Jail building located at 102 South Main Street; and (3) A vacant lot located at the northwest corner of South High and Poplar Streets.
BCC Res. 2015-04	9-1-2015	Transfer of real property to the City of Salem.
BCC Res. 2019-03	3-5-2019	Transferring 25 W. 1 <sup>st</sup> Street, Campbellsburg, Indiana, to the Washington County Board of Commissioners.



**TABLE III: FRANCHISES**

<i>Ord./Res No.</i>	<i>Date Passed</i>	<i>Description</i>
BCC Ord. 99-05	6-21-1999	Grants franchise for a cable television system



**TABLE IV: AGREEMENTS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
CC Ord. 2005-04	9-6-2005	Approves entry into agreement for investment of public funds



**TABLE V: STREETS, SIDEWALKS AND PUBLIC WAYS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
BCC Ord. 2007-04	4-18-2007	Vacates a portion of a 30-foot wide public roadway



**TABLE VI: DISSOLUTIONS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
BCC 2012-03	7-17-2012	Dissolving of the town of Fredericksburg, Indiana
BCC 2022-08; BCC 2022-10	9-8-2022; 10-1-2022	Dissolving of the town of Hardinsburg, Indiana



**PARALLEL  
REFERENCES**

**PARALLEL REFERENCES**

References to Indiana Code

References to 1985 Code

References to County Council Resolutions

References to Board of County Commissioners Resolutions

References to County Council Ordinances

References to Board of County Commissioners Ordinances

**Washington County - Parallel References**

## REFERENCES TO INDIANA CODE

<i>I.C. Section</i>	<i>Code Section</i>
3	39.08
3-5-2-40.1	39.08
3-6-6-5(b)	38.07
3-11-1.5	38.01
4-21.5-1-9	112.01
5-4-1-18(d)	30.04
5-11-10-1.6	Ch. 39, Appendix § 3
5-11-10-1.6(c)	Ch. 39, Appendix § 1
5-11-14-1	Ch. 39, Appendix §§ 1, 3
5-13-1-3	36.01
5-13-9	36.01, 40.18
5-13-9-1 et seq.	150.41
Title 5, Article 14	32.093
5-14-1.5-5(d)	34.43
5-14-3	10.04
5-14-3-1	10.26
5-14-3-2	36.33
5-14-3-3	36.33, 36.47
5-14-3-3(e)	36.33
5-14-3-3.6	36.33
5-14-3-3.6(e)	36.33
5-14-3-4	36.33
5-14-3-6	36.33
5-14-3-8(j)	36.33
5-14-3-8(k)	36.33
5-14-3-8.5	36.33
5-23	39.12
6-1.1-17-3(b)	36.09
6-1.1-18.5-17	36.21
6-1.1-18.5-17(e)	36.21
6-1.1-20-9 et seq.	36.06
6-1.1-22-8.1(a)(1)	36.09
6-1.1-22-9	36.09
6-1.1-22-9.7	36.09
6-1.1-22.5-6	36.09
6-1.1-22.5-12	36.09
6-1.1-26	36.21
6-2.5	36.05

## Washington County - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
6-3-2-2.8	112.03
6-3.5-1.1-25	36.11
6-9-18	36.05
6-9-18-5	36.05
6-9-18-6	36.05
8-1-11.1	32.068
8-16-3-1	36.29
8-16-3-1.5	36.29
8-16-3-3	36.29
8-17-1-40	71.20
8-21-10	154.42
9-20-1-3	70.03
9-21-1-2	71.01
9-21-1-2(b)	70.20
9-21-1-3	70.03, 70.20
9-21-1-4	70.03
9-21-1-6 through 9-21-1-8	70.02
9-21-5-6	70.03
9-21-5-7	70.03
9-21-5-9	70.03
9-21-8-12	70.03
9-21-8-13	70.03
9-21-8-53	70.08
9-21-17-5	70.20
9-21-18-2 through 9-21-18-8	70.01
9-30-2-5	40.05, 40.14
9-30-3-6	40.09
9-30-3-8(a)	40.05
9-30-3-8(b)	40.05
9-30-3-8(c)	40.05
9-30-3-8(d)	40.05
10-4-1-1 et seq.	34.17
10-14-3	34.17
10-14-3-3	34.51
10-14-3-12	34.44
10-14-3-13	34.40, 34.42, 34.44
10-14-3-14	34.04
10-14-3-15	34.49
10-14-3-17	34.04, 34.15
10-14-3-22(b)(2)	34.44
10-14-3-27(b)	34.20
10-14-3-29	34.04, 34.51
10-14-3-29(a)	34.02, 34.40
10-14-3-29.5	34.51

<i>I.C. Section</i>	<i>Code Section</i>
10-14-3-29.5(a)(3)	34.51
10-14-3-29.5(d)	34.51
11-8-8-21	36.46
11-12-2-2	32.005
11-12-5-5	39.04
11-12-6	36.23
12-20-15-3(b)	39.06
12-20-15-6	39.06
13-11-2-65	36.11
13-13	51.02
13-18	51.02
13-21-3	50.01
13-21-3-1	50.01
13-21-3-5	50.01
13-30	40.13, 51.42
14-16-1-1 et seq.	70.07
14-16-1-4 et seq.	70.07
14-16-1-9	70.07
14-16-1-20 et seq.	70.07
14-16-1-22	70.07
14-16-1-23	70.07
14-25-1	32.001
14-28-1	151.34
14-28-1-26	151.34
15-6-7	96.03
15-16-7-1 et seq.	96.03
15-16-7-8	96.04
Title 16	32.017
16-18-2-107	36.11
16-18-2-110	36.11
16-18-2-111	32.091
16-18-2-137	112.01
16-20-1-6	51.42
16-20-1-7	32.015
16-20-1-8	32.016
16-20-1-10	112.06
16-20-1-25	112.05
16-20-1-25(c)	112.05
16-20-1-26	112.04
16-20-1-27	112.03
16-20-2-2 et seq.	32.015
16-20-2-16	112.01
16-20-2-17	32.017
16-20-8	112.04

## Washington County - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
16-21-2	91.02, 94.45
16-22-3-27.5	36.26
16-31-2	32.091, 91.02
16-31-5-1	32.090
16-42-1-6	112.02
16-42-1-13	112.04
16-42-5-28(g)	112.05
22-9-1	39.02
22-9-1-4 et seq.	92.02
22-9-5-6	92.02
22-9.5-1 et seq.	92.01
22-9.5-2-2	92.02
22-9.5-2-9	92.02
22-9.5-2-11	92.02
22-9.5-2-13	92.02
22-9.5-3	92.03
22-9.5-3 et seq.	92.09
22-9.5-4-8	92.10
22-9.5-5	92.02
22-9.5-5-1	92.03
22-9.5-6	92.02, 92.10, 92.20
22-9.5-8	92.02
22-12	150.41
22-12-1-1 et seq.	150.02
22-12-1-4	150.27
22-12-1-5	150.27
22-12-1-7	150.27
22-12-1-14	150.27
22-12-1-16	150.27
22-12-1-17	150.27
22-12-1-18	150.27
22-12-1-22(b)(12)	150.43
22-12-1-24	150.27
22-12-1-26	150.27
22-12-7	150.07, 150.11, 150.29
22-13	150.41
22-13-2-2	150.02, 150.03
22-13-2-3(b)	150.42
22-13-2-6	150.28
22-13-2-7	150.41
22-13-2-7(b)	150.42
22-13-2-9	150.28
22-13-2-11	150.07, 150.29
22-14	150.41

<i>I.C. Section</i>	<i>Code Section</i>
22-15	150.41
22-15-3	150.03, 150.32
22-15-4	150.28
23-14-67-2	94.01
23-14-67-3	94.03
26-1-9.1-102(48)	36.06
27-1-15.6-6(d)	36.47
27-7-3-2	36.47
27-7-3-6	36.47
31-16-17-2	32.051
31-37-1-2	32.051
31-38-8	36.11
31-38-9	36.11
32-25-2-9	150.27
32-29-7	33.03
32-29-7-3	33.03
32-29-7-3(j)	33.03
33-37	36.20, 40.13
33-37-5-22	36.31
33-37-7-10	40.18
33-37-8-5	36.20
33-40-5-4	32.053
33-40-6	32.055
34-28-5-1	70.08, <del>122.05</del> 112.05
34-28-5-1(d)(2)	40.08
34-28-5-3	40.03
34-28-5-4	130.02
34-28-5-11	40.12
34-30-2	150.12
35-38-2.6-1	36.11
35-41-1-6	32.051
35-43-5-5	37.03
35-43-5-5(e)	37.03
35-45-3-2	50.99
35-48-4	96.04
36-1-2	36.05
36-1-3	10.02, 37.01
36-1-3-6(b)(1)	71.20
36-1-4	10.02
36-1-4-16	71.01
36-1-5-4	150.42, 150.43
36-1-5-5	10.04
36-1-5-6	10.11
36-1-6-2	40.17, 51.42, 71.02, 150.11

## Washington County - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
36-1-6-4	40.17, 51.42, 150.40
36-1-6-4(a)	71.02, 150.11
36-1-6-9	150.41
36-1-8-3	36.28
36-1-8-10	32.015
36-1-11	40.18
36-2-2-1 et seq.	31.15
36-2-2-4	31.15
36-2-2-4(a)	31.16
36-2-2-8(a)	34.43
36-2-2-23	Ch. 110, 110.01
36-2-4-7(b)	32.016
36-2-4-8(a)	36.09
36-2-4-8(b)	10.16
36-2-5-3(a)	34.16
36-2-7-3	32.034
36-2-7-10(f)	36.47
36-2-7-10.1	36.47
36-2-7-15	37.02
36-2-7-19	36.41
36-2-7.5	36.34
36-2-7.5-6	36.34
36-2-7.5-6(b)(3)	36.41
36-2-9-18	36.39
36-2-13-5.6	34.04
36-2-14-22.3	39.08
36-7-2	10.02
36-7-4	151.01
36-7-4-100 through 36-7-4-511	32.079
36-7-4-200	154.20
36-7-4-205	153.01
36-7-4-208	32.068
36-7-4-213	32.068
36-7-4-220	154.20
36-7-4-223	154.20
36-7-4-300	154.20
36-7-4-301	154.20
36-7-4-307	154.20
36-7-4-400	154.20
36-7-4-405	154.20
36-7-4-500	154.20
36-7-4-600	154.19, 154.20
36-7-4-602(b)	154.03
36-7-4-602(c)	154.03

<i>I.C. Section</i>	<i>Code Section</i>
36-7-4-607	154.03
36-7-4-608	154.03
36-7-4-700	154.20
36-7-4-701(e)	154.20
36-7-4-900 et seq.	154.15
36-7-4-918.5	154.42
36-7-4-1015	154.19
36-7-7-1 et seq.	153.25
36-7-8-3(a)	150.01
36-7-8-3(d)	150.01
36-7-8-9	150.41
36-7-9	150.02, 150.08
36-7-9-3	150.08
36-7-9-5(a)(2)	150.09
36-7-9-19	150.99
36-7-9-27	150.10
36-7-9-28	150.10
36-7-23	36.42
36-8-1-8	36.11
36-8-2	10.02
36-8-2-4	50.30
36-8-4-6.5	36.11
36-8-10-3	33.01
36-8-10-5	39.08
36-8-11	33.15 through 33.17
36-8-11-14(d)	33.15
36-8-14-4(a)	36.38
36-8-15-3	36.11
36-8-16-2	36.11
36-8-16-5	91.15
36-8-16-6	91.15
36-8-17	150.36
36-8-18-9	36.11
36-9-2	10.02
36-9-14.5	36.42
36-9-14.5-2	36.42
36-9-15-2	36.22
36-10-2	10.02
36-10-3	32.031
36-10-3-4(b)	32.032
36-10-3-4(e)	32.032
36-10-3-4(f)	32.032
36-10-3-8	32.035
36-10-3-9	32.034

Washington County - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
36-10-3-13	32.036
36-10-3-16	32.037
36-10-3-20	32.037

## REFERENCES TO 1985 CODE

<i>1985 Code Section</i>	<i>2013 Code Section</i>
Art. 7, Ch. 4, App. A	150.99
1-1-1	10.01
1-1-3	10.02
1-1-4	10.03, 10.26
1-1-5	10.03
1-1-6	10.04
1-1-7	10.05
1-1-8	10.06
1-2-1	10.07
1-2-2	10.08
1-2-3	10.09
1-2-4	10.10
1-2-5	10.11
1-2-6	10.12
1-2-7	10.13
1-2-8	10.13
1-2-9	10.14
1-2-10	10.15
1-2-11	10.16
1-2-12	10.17
1-3-1	40.01
1-3-2	40.02
1-3-3	40.02
1-3-4	40.03
1-3-5	40.04
1-3-6	40.05
1-3-7	40.06
1-3-8	40.07
1-3-9	40.08
1-3-10	40.09
1-3-11	40.10
1-3-12	40.11
1-3-14	40.13
1-3-15	40.14
1-3-16	40.15
1-3-17	40.16

## Washington County - Parallel References

<i>1985 Code Section</i>	<i>2013 Code Section</i>
1-3-18	40.17
1-3-19	40.18
1-3-20	40.19
1-4-1	30.01
1-4-2	30.02
2-1-1	95.35
2-1-2	95.36
2-1-3	95.37
2-1-4	95.38
2-1-5	95.39
2-1-6	95.39
2-2-1	110.01
2-2-2	110.02
2-2-3	110.03
2-2-4	110.04
2-2-5	110.04
2-2-6	110.05
2-2-7	110.20
2-2-8	110.21
2-2-9	110.22
2-2-10	110.23
2-2-11	110.24
2-2-12	110.25
2-2-13	110.06
2-2-14	110.35
2-2-15	110.36
2-2-16	110.37
2-2-17	110.38
2-2-18	110.39
2-2-19	110.40
2-2-20	110.50
2-2-21	110.51
3-1-1	94.15
3-1-2	94.15
3-1-3	94.16
3-1-4	94.99
3-1-5	94.17
3-2-1	94.01
3-2-2	94.01
3-2-3	94.02
3-2-4	94.03
3-2-5	94.04
3-3-1	32.030
3-3-2	32.031
3-3-3	32.032

<i>1985 Code Section</i>	<i>2013 Code Section</i>
3-3-4	32.033
3-3-5	32.034
3-3-6	32.035
3-3-7	32.036
3-3-8	32.037
3-4-1	94.45
3-6-1	36.22
3-6-2	36.22
4-1-1	51.01
4-1-2	51.02
4-1-3	51.03
4-1-4	51.20
4-1-5	51.21
4-1-6	51.22
4-1-7	51.22
4-1-8	51.23
4-1-9	51.24
4-1-10	51.24
4-1-11	51.24
4-1-12	51.24
4-1-13	51.24
4-1-14	51.25
4-1-15	51.26
4-1-16	51.26
4-1-17	51.26
4-1-18	51.26
4-1-19	51.26
4-1-20	51.27
4-1-21	51.28
4-1-22	51.29
4-1-23	51.04
4-1-24	51.40
4-1-25	51.41
4-1-26	51.42
4-1-27	51.99
4-1-28	51.06
4-1-29	51.05
4-2-1	50.30
4-2-2	50.31
4-2-3	50.32
4-2-4	50.99
4-2-5	50.33
4-3-1	32.001
4-4-1	96.01
4-4-2	96.02

## Washington County - Parallel References

<i>1985 Code Section</i>	<i>2013 Code Section</i>
4-4-3	96.03
4-4-5	96.04
4-5-1	32.016
4-5-2	32.016
4-5-3	32.017
5-2-1	39.01
5-2-2	39.01
5-2-3	39.01
5-3-1	38.01
5-3-2	38.02
5-3-3	38.03
5-3-4	38.04
5-3-5	38.05
5-4-2	36.04
5-4-3	36.01
5-4-4	36.21
5-4-5	36.02
5-6-1	31.15
5-6-2	31.16
5-9-1	33.01
5-9-2	33.02
5-9-4	33.02
5-9-5	33.02
6-1-1	70.01
6-1-2	70.02
6-1-3	70.03
6-1-4	71.01
6-1-5	70.04
6-1-16	71.02
6-1-18	70.20
6-1-19	70.21
6-1-20	70.99
6-2-1	71.20
6-2-2	71.21
6-2-3	71.22
6-2-4	71.23
6-2-5	71.24
6-2-6	71.25
6-2-8	71.26
6-2-9	71.28, 71.99
6-4-1	70.05, 70.99
6-4-2	36.28
6-4-3	36.29
7-4-1	150.01
7-4-2	150.02

<i>1985 Code Section</i>	<i>2013 Code Section</i>
7-4-3	150.03
7-4-4	150.04
7-4-5	150.05
7-4-6	150.06
7-4-7	150.07
7-4-8	150.08
7-4-9	150.08
7-4-10	150.09
7-4-11	150.10, 150.99
7-4-12	150.11
7-4-13	150.12
9-1-1	37.01
9-1-2	37.02
9-1-3	37.02
9-1-4	37.03
9-1-5	37.03



**REFERENCES TO COUNTY COUNCIL RESOLUTIONS**

<i>CC Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	7-2-1971	33.01
-	7-16-1984	36.22
1996-01	1-2-1996	36.26



**REFERENCES TO BOARD OF COUNTY COMMISSIONER RESOLUTIONS**

<i>BCC Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	6-1-1970	94.01 - 94.04
-	6-20-1977	36.29
1992-7	6-17-1992	TSO I
2012-06	6-19-2012	39.08
2012-07	6-19-2012	39.07
2013-06	5-21-2013	39.09
2015-04	9-1-2015	TSO II
2016-05	3-15-2016	TSO VI
2019-03	3-5-2019	TSO II
2019-05	9-17-2019	39.01
2020-03	3-17-2020	39.13
2020-06	8- -2020	32.093
2021-01	6-1-2021	32.005



**REFERENCES TO COUNTY COUNCIL ORDINANCES**

<i>CC Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	2-14-1972	36.28
10	1-17-1980	10.26
1985-1C	- -1985	32.030 - 32.037
20	1-1-1985	10.26
-	5-19-1986	36.03
-	9-2-1986	36.24
89-01	3-13-1989	36.03
1990-04	5-7-1990	32.032
1993-05	6-7-1993	91.15 - 91.17
1996-03	2-5-1996	36.27
2001-04	6-4-2001	32.002
2001-06	7-2-2001	36.07
2001-10	12-3-2001	36.31
2002-02	8-5-2002	36.05
2002-03	11-4-2002	36.32
2002-05	12-27-2002	36.06
2003-01	3-3-2003	36.06
2004-03	6-6-2004	36.06
2005-04	9-6-2005	TSO IV
2008-01	12-3-2007	32.004
2013-07	8-5-2013	36.11
2014-05	5-4-2014	36.05
2015-05	11-2-2015	30.04
2016-03	6-6-2016	36.45



**REFERENCES TO BOARD OF COUNTY COMMISSIONERS ORDINANCES**

<i>BCC Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	4-1-1946	94.45
-	9-18-1978	32.001
-	2-5-1980	38.02
1980-1	4-7-1980	32.016, 32.017
1982-2	--1982	94.15 - 94.17, 94.99
1982-1	2-1-1982	38.04, 38.05
1982-4	10-18-1982	33.02
1983-1	3-21-1983	96.01 - 96.04
-	7-5-1983	51.01 - 51.06, 51.20 - 51.29, 51.40 - 51.42, 51.99
1984-C1	--1984	110.01 - 110.06, 110.20 - 110.25, 110.35 - 110.40, 110.50, 110.51
1984-3	4-2-1984	36.04
1984-1B	6-4-1984	110.01 - 110.06, 110.20 - 110.25, 110.35 - 110.40, 110.50, 110.51
1985-C2	--1985	50.30 - 50.33, 50.99
1985-C3	--1985	94.01 - 94.04
1985-C4	--1985	32.001, 32.017, 51.01 - 51.06, 51.20 - 51.29, 51.40 - 51.42, 51.99, 96.01 - 96.04
1985-C6	--1985	51.01 - 51.06, 51.20 - 51.29, 51.40 - 51.42, 51.99, 94.15 - 94.17, 94.99
1985-C8	--1985	36.01, 36.02, 36.21
1985-C9	--1985	31.15, 31.16
1985-C13	--1985	96.01 - 96.04
1985-C15	--1985	71.20 - 71.29, 71.99
1985-C10	8-5-1985	70.01 - 70.05, 70.20, 70.21, 70.99, 71.01, 71.02
1985-C11	8-5-1985	70.01 - 70.04, 70.20 - 70.21, 70.99, 71.01, 71.02
1985-C5-A	12-2-1985	150.01 - 150.12, 150.99
1985-C17-A	12-2-1985	37.01, 37.02
C2A-1986	3-17-1986	36.25
C2AB-1986	6-2-1986	36.25
-	10-13-1986	TSO II
2-1987	5-4-1987	50.15
88-2	7-18-1988	50.34
88-04	11-21-1988	93.01 - 93.05, 93.99

## Washington County - Parallel References

<i>BCC Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
90-06	8-20-1990	50.01
90-09	10-22-1990	32.016
90-10	11-5-1990	93.06
91-02	4-15-1991	33.17
91-06	11-4-1991	50.15
91-07	12-16-1991	31.15
91-08	12-30-1991	71.27
92-07	--1992	32.016, 51.20
92-03	3-2-1992	39.02
92-04	3-16-1992	33.15
93-02	2-1-1993	92.01 - 92.10
93-03	3-1-1993	91.01 - 91.03
93-04	4-19-1993	95.20 - 92.25
94-03	--1994	33.16
04-1994	3-10-1994	50.16
05-1994	5-2-1994	95.01 - 95.09, 95.99
96-02	1-15-1996	36.23
1996-04	2-5-1996	34.01 - 34.04, 34.15 - 34.23, 34.40 - 34.50, 34.99
96-05	3-4-1996	39.04
96-11	10-7-1996	39.05
96-12	10-7-1996	152.01 - 152.06
97-01	--1997	150.13
97-02	1-20-1997	36.23
97-03	2-3-1997	150.13
97-05	4-16-1997	95.22, 95.23, 150.06
97-08	6-16-1997	50.17
97-10	10-6-1997	150.14
98-01	1-19-1998	36.23
98-02	2-16-1998	70.06, 70.99
98-04	8-3-1998	39.20 - 39.24
99-05	6-21-1999	TSO III
2000-02	--2000	32.050 - 32.055
2000-01	7-3-2000	36.30
2000-04	11-20-2000	32.016
2001-02	2-5-2001	36.23
2001-03	5-21-2001	51.26
2002-01	1-7-2002	38.07
2002-04	12-2-2002	70.07
2003-02	3-17-2003	150.13
2003-05	8-18-2003	150.13
2003-07	10-6-2003	39.04
2004-01	3-15-2004	36.33
2004-02	6-21-2004	33.03

<i>BCC Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2004-04	7-19-2004	70.08
2005-01	1-17-2005	31.01
2005-02	9-6-2005	150.55 - 150.61, 150.99
2005-05	10-3-2005	36.34
2005-06	12-5-2005	32.003
2006-01	1-16-2006	33.04
2006-03	12-4-2006	90.01 - 90.05, 90.07, 90.08, 90.99
2007-01	12-4-2006	150.99
2007-02	1-17-2007	32.016
2007-03	4-4-2007	32.016
2007-04	4-18-2007	TSO V
2007-05	5-16-2007	36.35
2007-07	11-7-2007	153.35
2008-02	6-4-2008	Ch. 72, Sch. I
2008-03	6-4-2008	36.08
2009-03	- -2009	36.36
2009-02	3-18-2009	36.25
2009-05	9-16-2009	111.01 - 111.28, 111.99
2009-06	10-7-2009	112.01 - 112.07
2010-03	9-15-2010	36.37
2010-04	9-15-2010	130.01, 130.02
2010-05	10-20-2010	32.065 - 32.079
2011-01	2-22-2011	36.09
2011-02	5-16-2011	32.016
2011-03	8-15-2011	153.01 - 153.07
2011-04	10-17-2011	36.38
2011-05	11-21-2011	32.016
2012-01	2-21-2012	36.40
2012-02	5-1-2012	90.06
2012-03	7-17-2012	TSO VI
2012-05	9-18-2012	92.01 - 92.10
2012-06	10-2-2012	36.49
2013-01	1-22-2013	33.05
2013-02	2-18-2013	32.016
2013-03	3-5-2013	38.05
2013-03	6-18-2013	36.41
2013-04	6-18-2013	36.42
2013-05	6-18-2013	34.51
2013-06	6-18-2013	36.10
2013-10	8-1-2013	32.016
2013-11	10-1-2013	153.01, 153.04
2013-14	12-17-2013	32.090 - 32.097
2014-03	1-7-2014	32.090 - 32.097
2014-04	3-18-2014	154.01 - 154.06, 154.08 - 154.10, 154.15 - 154.18, 154.22, 154.30 - 154.34, 154.40, 154.41

## Washington County - Parallel References

<i>BCC Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2014-08	7-15-2014	154.41
2014-09	7-15-2014	154.42
2014-10	8-5-2014	38.04, 38.05
2015-01	1-6-2015	Ch. 72, Sch. I
2015-06	11-3-2015	36.43
2016-02	3-1-2016	154.07 - 154.09, 154.15, 154.19 - 154.21
2016-04	6-7-2016	36.12
2016-05	7-19-2016	94.18
2016-06	10-18-2016	Ch. 72, Sch. I
2017-01	1-17-2017	33.06
2017-02	2-21-2017	151.01 - 151.05, 151.10 - 151.17, 151.20 - 151.22, 151.30 - 151.37, 151.40 - 151.46, 151.99
2017-03	6-20-2017	36.46
2017-07	8-1-2017	39.10
2017-09	9-6-2017	Ch. 72, Sch. II
2017-10	10-2-2017	TSO IV
2017-11	12- -2017	70.07
2018-01	2-6-2018	91.04
2018-02	4-10-2018	33.03
2018-03	4-17-2018	33.07
2018-04	7-17-2018	36.47
2018-09	1-1-2019	32.016
2019-01	5-21-2019	36.35
2019-03	7-1-2019	32.016
2019-04	6-4-2019	111.05, 111.18, 111.29
2019-05	6-18-2019	36.39
2019-07	7-16-2019	150.99
2019-14	10-1-2019	36.05
2020-01	1-21-2020	95.40, Ch. 95 Appendix
2020-03	2-18-2020	39.25, Ch. 39 Appendix
2021-01	4-20-2021	36.49
2021-02	5-18-2021	91.04
2021-03	6-15-2021	150.28
2021-05	8-17-2021	95.22, 153.02
2021-06	11-2-2021	Ch. 72, Sch. II
2021-07	12-21-2021	31.01, 31.15
2022-01	1-4-2022	112.01 - 112.05
2022-02	1-4-2022	93.02, 93.99
2022-05	3-15-2022	36.42
2022-06	4-55-2022	36.29
2022-08	9-8-2022	33.15, TSO VI
2022-10	10-1-2022	33.15, TSO VI

<i>BCC Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2022-11	10-3-2022	36.48
2022-12	10-18-2022	94.18
2023-01	3-7-2023	39.12
2023-02	5-16-2023	150.44
2023-03	6-6-2023	36.13
2023-05	8-14-2023	91.04
2023-08	10-3-2023	33.03
2023-09	11-21-2023	39.11
2023-10	12-19-2023	90.04





**INDEX**



## INDEX

911 FUND AND WIRELESS 911 FUND, 36.32

ACCEPTANCES, TSO I

AGREEMENTS, TSO IV

### AMBULANCE SERVICES

Definitions, 91.02

Fees, 91.04

Purpose, 91.01

Restrictions on emergency ambulance service providers, 91.03

### AMBULANCE SERVICES AUTHORITY

Definitions, 32.091

Establishment of Ambulance Services Authority Fund, 32.096

Establishment of authority, 32.090

Establishment of the Washington County Ambulance Services Authority, 32.092

Executive Director

General powers and duties, 32.095

Qualifications and tenure, 32.094

Restriction on emergency ambulance service providers, 32.097

Washington County Ambulance Services Board established, 32.093

### ANIMAL-DRAWN VEHICLES

Application and fee, 71.23

Authority and applicability, 71.20

Compliance with motor vehicle traffic regulations, 71.26

Definitions, 71.21

Disposition of license fees and fines, 71.29

Horseshoe regulations, 71.27

Issuance and term; certificate to be carried in vehicle, 71.24

License plate or tag, 71.25

License required, 71.22

Violations, 71.28

### ANIMALS

Damage to property, 90.07

Definitions, 90.01

Duty and responsibility of animal owners, 90.02

Jurisdiction and enforcement, 90.08

Penalty, 90.99

Prohibited animals, 90.06

## ANIMALS (Cont'd)

- Public nuisance animal, 90.05
- Restraint of animals, 90.04
- Vicious animals, 90.03

APPROPRIATIONS, 36.02

ARP GRANT FUND, 36.49

BAD CHECK COLLECTION SERVICE; COURTS, 37.03

## BED AND BREAKFAST ESTABLISHMENTS

- Appeals, 112.06
- Compliance and enforcement, 112.05
- Conflict of interest, 112.07
- Definitions, 112.01
- Inspection, 112.04
- Permit fees, 112.03
- Permits, 112.02

BLUE RIVER COMMISSION; COUNTY PARTICIPATION, 32.001

BLUE RIVER FIRE PROTECTION DISTRICT, 33.16

## BOARD OF COUNTY COMMISSIONERS

- County Commissioner districts, 31.15
- Periodic review of Commissioner districts, 31.16

## BODY PIERCING

- Appeal, 111.24
- Definitions, 111.02
- Dyes or pigments, 111.14
- Enforcement, 111.25
- Handwashing, 111.09
- Hearing, 111.23
- Illness, 111.08
- Infectious waste containment, 111.16
- Injunction, 111.27
- Inspections, 111.19
- Needles, 111.12
- Operating training responsibilities, 111.03
- Operator policies, 111.05
- Operator responsibilities, 111.04
- Other permit suspension, revocation and immediate closure orders, 111.22
- Patron records, 111.07
- Penalty, 111.99
- Permit suspension/revocation, 111.21

## BODY PIERCING (Cont'd)

- Permits, 111.18
- Personal protective equipment, 111.10
- Procedures when violations are noted, 111.2
- Remedies cumulative, 111.28
- Reusable equipment, 111.13
- Sanitary operation of tattoo parlors, 111.01
- Tattoo artist and body piercer; minimum training and certification requirements, 111.06
- Tattooing equipment, 111.11
- Treatment and transport of infectious waste, 111.17
- Violations, 111.26
- Work environment, 111.15

BRIDGE FUND; CUMULATIVE, 36.29

BROWN-VERNON FIRE DISTRICT, 33.17

BUILD-OPERATE-TRANSFER STATUTE ADOPTED, 39.12

BUILDING COMMISSIONER, (See also BUILDING REGULATIONS)

- Floodplain Administrator, 151.20, 151.21

BUILDING OR REMODELING AND FIRE EQUIPMENT FUND, 36.38

BUILDING PERMIT FEE SCHEDULE, 36.36



## BUILDING REGULATIONS

- Adoption of rules by reference, 150.42
- Applicability of state-wide building construction and safety regulations, 150.03
- Applicability of unsafe building law, 150.04
- Application for permit, 150.32
- Authority, 150.29
- Building Department and Building Commissioner, 150.13
- Building permit required, 150.31
- Certificate of occupancy, 150.34
- Civil action, 150.40
- Criteria for ordering a building sealed, 150.09
- Definitions, 150.02, 150.27
- Effect of adoption on prior ordinance, 150.30
- Enforcement powers, 150.08
- Failure to call for required inspections, 150.14
- General authority to make inspections and investigations, 150.35
- Inspections by Fire Department, 150.36
- Issuance of building permit, 150.33
- Jurisdiction and general applicability, 150.01
- Lifting devices located within a private residence, 150.43
- Local building permit, 150.06
- Minimum Housing Standards
  - Authority, 150.57
  - Purpose, 150.56
  - Remedies, 150.61
  - Right of appeal, 150.59
  - Specific minimum housing standards adopted, 150.60
  - Structures requiring permit, 150.58
  - Title, 150.55
- Non-effect on further or more stringent standards, 150.05
- Nonliability of county and its officers and employees, 150.12
- Penalty, 150.99
- Permit revocation, 150.38
- Procedures alternative or supplementary, 150.11
- Purpose, 150.26
- Right of appeal, 150.41
- Schedule of State-Wide Building Construction and Safety Standards, Ch. 150, App. A
- Scope, 150.28
- Site requirements for homes not served by sanitary (city) sewer, 150.44
- Stop-work order, 150.39
- Title, 150.25
- Variances and appeals, 150.07
- Violations, 150.10
- Withhold issuance of permits, 150.37

**BUILDINGS AND ROADS NUMBERING AND NAMING SYSTEM**

- Administration, 95.08
- Adoption of building numbering system, 95.05
- Adoption of system, road numbers and road names, 95.02
- Changes in road numbers and names, 95.03
- Display of building numbers, 95.07
- Enforcement; judicial review, 95.09
- Principles for numbering and naming roads, 95.04
- Principles for numbering buildings, 95.06
- Title, 95.01

**CABLE TELEVISION**

- Administration
  - Non-assignment of rights without consent of Commissioners, 110.60
  - Termination; removal of facilities and restoration of property, 110.61
- Area to be served, 110.05
- Construction and Maintenance of System
  - General construction and maintenance requirements, 110.23
  - Initial construction schedule and requirements, 110.20
  - Insurance requirements; indemnification of county, 110.25
  - Minimum interference; liability for restoration, 110.21
  - Relocation of facilities on demand of county, 110.24
  - Requirement to use existing utility systems when practicable, 110.22
- Easements and permits required; compliance with regulations, 110.04
- Forfeiture for noncompliance with terms and conditions, 110.02
- Franchise fee, 110.06
- Grant of franchise, 110.01
- Nonexclusive franchise, 110.03
- Subscriber Service
  - Adjustment of charges upon interruption of service, 110.43
  - Amendment of rates and charges, 110.42
  - Commencement of service, 110.40
  - Initial rates and charges, 110.41
  - Operator's office; resolution of complaints, 110.44
  - Privacy provisions, 110.45

**CAPITAL ASSET POLICY, 39.11****CAPITAL PROJECTS BOARD, 32.004****CEMETERY MAINTENANCE**

- Annual plan, budget and report, 94.02
- Cemetery Commission, 94.01
- Funding of cemetery restoration and maintenance, 94.03
- Maintenance of cemeteries created after 1850, 94.04

## CLERK'S RECORD PERPETUATION FUND, 36.31

## CODE ENFORCEMENT

- Administrative procedure on issuance of citation, 40.10
- Allocation and deposit of receipted fines, fees and costs, 40.18
- Appearance for defendant and for the county, 40.14
- Compromise and settlement of complaint without trial, 40.12
- Conditional citation, 40.06
- Enforcement policy, 40.01
- Enforcement responsibility of County Sheriff; other enforcement officers, 40.02
- Filing and prosecution of violation complaint, 40.13
- Form of citation and summons, 40.09
- Further or collateral actions, 40.17
- Issuance and service of citation by mail, 40.04
- Notice to appear; refusal to sign; security for release, 40.05
- Other rules and procedures, 40.19
- Payment of fines, other costs and prosecutor's fee, 40.15
- Procedure for fixing requested fine, 40.11
- Procedure for issuance of citation; service in person, 40.03
- Records of conviction or compromise, 40.16
- Statute of limitations on issuance of citation, 40.08
- Warning instead of official citation, 40.07

## CODE OF ORDINANCES; GENERAL CODE CONSTRUCTION; GENERAL PENALTY

- Amendment and repeal of code, 10.14
- Application to future ordinances, 10.19
- Code supplements; publication, 10.15
- Conflicting or contradictory provisions, 10.13
- Definitions, 10.07
- Effective date of ordinances, 10.24
- Effectiveness of supplementary ordinances, 10.16
- Errors and omissions, 10.21
- General penalty, 10.99
- Incorporation of material by reference, 10.12
- Interpretation, 10.18
- Legal citations, 10.09
- Legislative intent to exercise general powers, 10.02
- Official time, 10.22
- Ordinances or parts saved from general repeal; ordinances unaffected, 10.06
- Ordinances repealed, 10.05
- Publication of county code, 10.04
- Reasonable time, 10.23
- Reenacted or restated provisions; continuity of effect, 10.03
- Reference to other sections, 10.20
- Repeal or modification of ordinance, 10.25
- Rules of interpretation, 10.08
- Section histories; statutory references, 10.26

## CODE OF ORDINANCES; GENERAL CODE CONSTRUCTION; GENERAL PENALTY (Cont'd)

- Severability, 10.17
- Status of captions and headings, 10.10
- Status of derivational references, 10.11
- Title of code, 10.01

## COMMUNITY CORRECTIONS ADVISORY BOARD, 32.005

CONFINED FEEDING OPERATIONS AND CONFINED ANIMAL FEEDING OPERATIONS;  
MINIMUM SETBACK DISTANCES FOR, 153.35

## CONFLICT OF INTEREST POLICY, 39.10

## COPIES OF PLATS; FEES, 36.40

## CORRECTION FUND; COUNTY, 36.23

## COUNTY COMMISSIONERS

- County Commissioner districts, 31.15
- Periodic review of Commissioner districts, 31.16

## COUNTY CORRECTION FUND, 36.23

## COUNTY COUNCIL AND BOARD OF COMMISSIONERS

- Board of County Commissioners
  - County Commissioner districts, 31.15
  - Periodic review of Commissioner districts, 31.16
- County Council
  - Districts established for election of District Council members, 31.01

## COUNTY COURTHOUSE AND GROUNDS

- Hours property closed to the public, 94.15
- Limitations of applicability and exceptions, 94.17
- Public notice of regulations; posting of signs, 94.16
- Signs and handbills, 94.18

## COUNTY HEALTH DEPARTMENT

- Accounting and disposition of collected fees, 32.017
- Board of Health service fees, 32.016
- Health Department; Board of Health, 32.015

## COUNTY HOSPITAL

- County Hospital established, 94.30
- Penalty, 94.99

**COUNTY OFFICIALS**

- Bonding of County Officials, 30.04
- Memberships in professional associations, 30.03
- Official agency, 30.02
- Powers and duties of county officials, 30.01

**COUNTY POLICIES**

- Build-operate-transfer statute adopted, 39.12
- Capital asset policy, 39.11
- Conflict of interest policy, 39.10
- Contracts with relatives, 39.07
- County credit cards, 39.25, Ch. 39 Appendix A
- Equal opportunity policy, 39.02
- Fees, 39.03
- Healthcare co-payments by inmates, 39.04
- Multi-Hazard Mitigation Plan, 39.09
- Nepotism, 39.08
- Nondiscrimination with respect to disabled persons, 39.01
- Poor relief, 39.06
- Protection of second amendment rights, 39.13
- Purchasing Practices and Policies
  - Designation of Purchasing Agency, 39.20
  - Powers of the Purchasing Agency, 39.21
  - Preference for supplies manufactured in the United States, 39.23
  - Purchase of services, 39.24
  - Small purchase procedures, 39.22
- Reward for theft or destruction of county property, 39.05

**COUNTY PROPERTY; REWARD FOR THEFT OR DESTRUCTION, 39.05****COUNTY ROADS; EGRESS AND INGRESS ON**

- Enforcement, 95.25
- Limitations, 95.24
- Permit required; specifications, 95.22
- Purpose, 95.21
- Sewer infrastructure, 95.23
- Title, 95.20

**COUNTY SHERIFF; FIRE DISTRICTS**

- County Sheriff
  - Authorization to permit retirees to retain service weapon, 33.05
  - Deferred compensation plan, 33.06
  - Sheriff's Merit Board, 33.01
  - Sheriff's Reserve Unit, 33.02
  - Sheriff's sale program; service fee, 33.03
  - User fees; motor vehicle accident services, 33.04
  - Vehicle tow fee, 33.07

## COUNTY SHERIFF; FIRE DISTRICTS

## Fire Protection Districts

- Blue River Fire Protection District, 33.16
- Brown-Vernon Fire District, 33.17
- Southwest Washington Fire District, 33.15

## COUNTY USER FEE FUND, 36.20

## COURTHOUSE AND GROUNDS; COUNTY

- Hours property closed to the public, 94.15
- Limitations of applicability and exceptions, 94.17
- Public notice of regulations; posting of signs, 94.16
- Signs and handbills, 94.18

## COURTS AND COURT OFFICERS

- Bad check collection service, 37.03
- Fees and charges to be assessed by Prosecutor's Office; special fund established, 37.02
- Prosecuting Attorney authorized to perform extra-statutory functions, 37.01

## CREDIT CARDS, COUNTY USE OF, 39.25

## CUMULATIVE BRIDGE FUND, 36.29

## CUMULATIVE JAIL FUND, 36.22

## DESTRUCTION OR THEFT OF COUNTY PROPERTY; REWARD FOR, 39.05

## DEVELOPMENT (See PLANNING AND DEVELOPMENT)

## DISABLED PERSONS; NONDISCRIMINATION, 39.01

## DISSOLUTIONS, TSO VI

## DRAINAGE CULVERTS; HIGHWAY DEPARTMENT; FEES, 36.35

## DRUG INVESTIGATION FUND; PROSECUTOR'S, 36.25

## DRUG INVESTIGATION FUND; SHERIFF'S, 36.30

## EASEMENT PROVISIONS

- Contractor's bond required, 95.36
- Easement granted, 95.35
- Liability of utility to provide barriers and safeguards; indemnification of county, 95.38
- Method of burying conveyance and conductive materials, 95.37
- Requirement to restore disturbed highway facilities, 95.39

## ECONOMIC DEVELOPMENT COMMISSION, 32.002

ECONOMIC DEVELOPMENT INCOME TAX; APPORTIONMENT, 36.06

EGRESS AND INGRESS ON COUNTY ROADS

- Enforcement, 95.25
- Limitations, 95.24
- Permit required; specifications, 95.22
- Purpose, 95.21
- Sewer infrastructure, 95.23
- Title, 95.20

ELECTIONS

- Election Precincts
  - Polling places, 38.06
  - Precinct election judges to perform duties; rights, 38.07
  - Precincts established in Washington Township, 38.04
  - Precincts established in City of Salem, 38.05
  - Precincts established in Posey Township, 38.03
  - Precincts established in Pierce Township, 38.02
  - Single precinct townships, 38.01



ELECTRONIC MAP DATA; FEES FOR, 36.33

## EMERGENCY MANAGEMENT

### Administration

- Countywide jurisdiction of Department and application of plan, 34.23
- Department of Emergency Management, 34.16
- Departmental budgeting and finance, 34.21
- Deputy Director, 34.18
- Director of Emergency Management, 34.17
- Emergency Management Advisory Council, 34.15
- Emergency operations plan, 34.22
- Local Emergency Planning Committee, 34.24
- Local Emergency Planning Committee Fund, 34.25
- Powers and duties of County Commissioners, 34.19
- Qualifications and appointment of emergency management volunteers, 34.20

### Definitions, 34.02

### Emergency Powers, Regulations and Procedures

- Application, 34.40
- Cooperation of county officers and employees, 34.46
- Declaration of local disaster emergency, 34.42
- Emergency meeting of Board of Commissioners, 34.43
- Limitation of liability, 34.49
- Power to establish travel advisories in emergency conditions, 34.51
- Powers of Director during presumptive state of emergency, 34.45
- Pre-disaster responsibilities of Department, 34.41
- Priority of emergency orders, rules and regulations, 34.47
- Reimbursement for use of property commandeered during emergency, 34.50
- Special emergency powers and duties of Board of Commissioners, 34.44
- Violations, 34.48

### Liberal construction of powers, 34.03

Nonsuppression of emergency powers of County Sheriff or incorporated municipalities, 34.04

Penalty, 34.99

Purpose, 34.01

## EMERGENCY SERVICES

### Ambulance Services

- Definitions, 91.02
- Fees, 91.04
- Purpose, 91.01
- Restrictions on emergency ambulance service providers, 91.03

### Enhanced Emergency Telephone System

- Definitions, 91.16
- Fee, 91.17
- System established, 91.15

**EMERGENCY TELEPHONE SYSTEM**

- Definitions, 91.16
- Fee, 91.17
- System established, 91.15

**ENHANCED 911 FUND AND WIRELESS 911 FUND, 36.32****ENHANCED EMERGENCY TELEPHONE SYSTEM**

- Definitions, 91.16
- Fee, 91.17
- System established, 91.15

**EQUAL OPPORTUNITY POLICY, 39.02****FAIR HOUSING**

- Administrative enforcement, 92.10
- Definitions, 92.02
- Discrimination in residential real estate related transactions, 92.05
- Discrimination in the provision of brokerage services, 92.06
- Discrimination in the sale or rental of housing, 92.04
- Exemptions, 92.09
- Interference, coercion, or intimidation, 92.07
- Policy statement, 92.01
- Prevention of intimidation in fair housing cases, 92.08
- Unlawful practice, 92.03

**FINANCE AND REVENUE**

- Appropriations and expenditures for organizational memberships and purposes beneficial to county government, 36.02
- ARP Grant Fund, 36.49
- Auditor may make claim payments in advance of Board allowance for certain expenses, 36.08
- Cost principles with respect to spending federal funds, 36.13
- Delinquent tax payments, acceptance of, 36.10
- Distribution of unallocated Social Security receipts, 36.04
- Electronic transmission of statements and other information for property taxes and special assessments, 36.09
- Fees and Funds
  - Ambulance Services Authority Fund, 32.096
  - Building or Remodeling and Fire Equipment Fund, 36.38
  - Building permit fee schedule, 36.36
  - Bulk form copies; fees, 36.47
  - Clerk's Record Perpetuation Fund, 36.31
  - County Correction Fund, 36.23

## FINANCE AND REVENUE (Cont'd)

## Fees and Funds (Cont'd)

- County Corrections Fund, 36.41
- County Elected Officials Training Fund, 36.41
- County User Fee Fund, 36.20
- Cumulative Bridge Fund, 36.29
- Cumulative Capital Development Fund, 36.42
- Cumulative Jail Fund, 36.22
- Dishonored checks, 36.43
- Enhanced 911 Fund and Wireless 911 Fund, 36.32
- Fees for drainage culverts; Highway Department, 36.35
- Fees for electronic map data, 36.33
- Fees for issuing a mobile home permit, 36.37
- Fees for copies of plats, 36.40
- Highway Department Petty Cash Fund, 36.28
- Identification Security Protection Fund, 36.34
- Levy Excess Fund, 36.21
- LOIT Distribution Fund, 36.45
- Non-reverting Insurance Fund, 36.27
- Plat Book Maintenance Fund, 36.39
- Prosecutor's Drug Investigation Fund, 36.25
- Sex or Violent Offender Administration Fund, 36.46
- Sheriff's Drug Investigation Fund, 36.30
- Special non-reverting operating fund for park purposes, 36.24
- Town of Hardinsburg Restricted Fund, 36.48
- Washington County Memorial Hospital Fund, 36.26
- Income tax, 36.03
- Innkeepers tax, 36.05
- Inventory tax repeal; economic development income tax; apportionment, 36.06
- Investment of monies authorized, 36.01
- Local income tax for public safety, 36.11
- Materiality Policy, 36.12
- Reduction of six-month balance; special account, 36.07

## FIRE EQUIPMENT FUND, 36.38

## FIRE PROTECTION DISTRICTS

- Blue River Fire Protection District, 33.16
- Brown-Vernon Fire District, 33.17
- Southwest Washington Fire District, 33.15

## FLOODPLAIN MANAGEMENT REGULATIONS

- Abrogation and greater restrictions, 151.14

## FLOODPLAIN MANAGEMENT REGULATIONS (Cont'd)

## Administration

## Floodplain Administrator

Designation of, 151.20

Duties and responsibilities, 151.22

Permit procedures, 151.21

Compliance, 151.13

Definitions, 151.05

## Development permit

Establishment of, 151.12

Procedures, 151.21

Discrepancy between mapped floodplain and actual ground elevations, 151.15

Findings of fact, 151.02

## Flood Hazard Reduction, Provisions For

Critical facility, 151.33

Flood prone areas, standards for, 151.37

General standards, 151.30

Identified floodways, standards for, 151.34

Identified fringe, standards for, 151.35

SFHAs without established base flood elevation and/or floodways/fringes, standards for, 151.36

Specific standards, 151.31

Subdivision proposals, standards for, 151.32

Interpretation, 151.16

Lands to which chapter applies, 151.10

Objectives, 151.04

Penalty, 151.99

Purpose, statement of, 151.03

Regulatory flood data, basis for establishing, 151.11

Statutory authorization, 151.01

## Variance Procedures

Conditions for variances, 151.43

Historic structure, 151.45

Notification, 151.44

Special conditions, 151.46

## Variance and Appeals Board

Designation of, 151.40

Duties of, 151.41

Variance procedures, 151.32

Warning and disclaimer of liability, 151.17

## FOOD

Compliance with State Health Board requirements, 93.04

Definitions, 93.01

Inspections, 93.05

Meat products processed from game animals, 93.06

Penalty, 93.99

Permit requirements; fees, 93.02

Revocation of permit, 93.03

FOUR-WAY STOPS, Ch. 72, Sch. I

FRANCHISES, TSO III

GARBAGE

Landfill Control

Additional landfills prohibited, 50.17

Fee schedule, 50.16

Material which may not be accepted, 50.15

Penalty, 50.99

Refuse Hauling

Definitions, 50.30

Inspection of loads, 50.32

Liability for violations, 50.33

Transportation of hazardous waste, 50.34

Vehicle requirements, 50.31

Solid Waste Management District, 50.01

HEALTH DEPARTMENT; COUNTY

Accounting and disposition of collected fees, 32.017

Board of Health service fees, 32.016

Health Department; Board of Health, 32.015

HEALTHCARE CO-PAYMENTS BY INMATES, 39.04

HIGHWAY DEPARTMENT

Petty Cash Fund, 36.28

Fees, 36.35

HOSPITAL; COUNTY

County Hospital established, 94.30

Penalty, 94.99

HOUSING STANDARDS; MINIMUM

Authority, 150.57

Purpose, 150.56

## HOUSING STANDARDS; MINIMUM (Cont'd)

- Remedies, 150.61
- Right of appeal, 150.59
- Specific minimum housing standards adopted, 150.60
- Structures requiring permit, 150.58
- Title, 150.55

## HOUSING; FAIR (See FAIR HOUSING)

## IDENTIFICATION SECURITY PROTECTION FUND, 36.34

## INCOME TAX, 36.03

## INGRESS ON COUNTY ROADS

- Enforcement, 95.25
- Limitations, 95.24
- Permit required; specifications, 95.22
- Purpose, 95.21
- Sewer infrastructure, 95.23
- Title, 95.20

## INNKEEPERS TAX, 36.05

## INSURANCE FUND; NON-REVERTING, 36.27

## INVENTORY TAX REPEAL; ECONOMIC DEVELOPMENT INCOME TAX; APPORTIONMENT, 36.06

## JAIL FUND; CUMULATIVE, 36.22

## LANDFILL CONTROL

- Additional landfills prohibited, 50.17
- Fee schedule, 50.16
- Material which may not be accepted, 50.15

## LEVY EXCESS FUND, 36.21

## LOIT DISTRIBUTION FUND, 36.45

## MANUFACTURED HOMES

- Skirting and Permanent Perimeter Enclosures
  - Authority, 152.03
  - Inspection, 152.06
  - Installation, 152.05
  - Purpose, 152.02
  - Scope, 152.04
  - Title, 152.01

## PLANNING AND DEVELOPMENT

Minimum setback distances for confined feeding operations and confined animal feeding operations, 153.35

## Procedures for Subdivision Plat Approvals

Administrative requirements, 153.01

Definitions, 153.04

Filing fees, 153.03

Permits required, 153.02

Separability, 153.06

Technical review checklist for non-exempt subdivisions, 153.07

Variance, 153.05

## Regional Development

County participation in the River Hills Economic Development District and Regional Plan Commission, 153.25

PLAT BOOK MAINTENANCE FUND, 36.39

PLATS COPIES; FEES, 36.40

POLLUTION OF WATERS PROHIBITED, 51.02

POOR RELIEF, 39.06

## PRIVATE SEWAGE DISPOSAL

Connection to public sewers required for certain buildings; private sewage disposal, 51.03

## Construction Requirements

Building sewer design and construction standards, 51.23

Commencement of construction; time limits; expiration of permit, 51.21

Construction over system, 51.27

Distribution boxes required between septic tank and absorption field, 51.25

Final inspection or contractor's certificate in lieu of inspection, 51.28

Maintenance; repair of defects, 51.29

Permit required for private sewage disposal system; registration of installers, 51.20

Septic tank design and construction; location requirements, 51.24

Site requirements; Indiana Board of Health Regulations, 51.22

Subsurface absorption fields; location, ground, and soil requirements, 51.26

Definitions, 51.01

## Enforcement

Enforcement proceedings on failure to comply, 51.42

Order to abate violation, 51.41

Right of entry of Health Officer, 51.40

Exemptions, 51.06

Minimum standards, 51.05

Penalty, 51.99

Pollution of waters prohibited, 51.02

Prohibited use of private sewage disposal systems, 51.04

PROPERTY; PUBLIC (See PUBLIC PROPERTY)

PROPERTY; REWARD FOR THEFT OR DESTRUCTION COUNTY, 39.05

PROSECUTING ATTORNEY AUTHORIZED TO PERFORM EXTRA-STATUTORY FUNCTIONS,  
37.01

PROSECUTOR'S DRUG INVESTIGATION FUND, 36.25

PROSECUTOR'S OFFICE; SPECIAL FUND ESTABLISHED; FEES AND CHARGES TO BE ASSESSED  
BY, 37.02

#### PUBLIC DEFENDER BOARDS

Authority of judges, 32.054

Board established, 32.050

Definitions, 32.051

Membership and appointment, 32.052

Powers and duties of the Board, 32.053

Scope of subchapter, 32.055

#### PUBLIC PROPERTY

##### Cemetery Maintenance

Annual plan, budget and report, 94.02

Cemetery Commission, 94.01

Funding of cemetery restoration and maintenance, 94.03

Maintenance of cemeteries created after 1850, 94.04

##### County Courthouse and Grounds

Hours property closed to the public, 94.15

Limitations of applicability and exceptions, 94.17

Public notice of regulations; posting of signs, 94.16

##### County Hospital

County Hospital established, 94.30

Penalty, 94.99

#### PUBLIC WAYS, TSO V

#### PURCHASING PRACTICES AND POLICIES

Designation of Purchasing Agency, 39.20

Powers of the Purchasing Agency, 39.21

Preference for supplies manufactured in the United States, 39.23

Purchase of services, 39.24

Small purchase procedures, 39.22

#### REAL ESTATE TRANSACTIONS, TSO II

REDEVELOPMENT DEPARTMENT, 32.003

**REFUSE HAULING**

- Definitions, 50.30
- Inspection of loads, 50.32
- Liability for violations, 50.33
- Transportation of hazardous waste, 50.34
- Vehicle requirements, 50.31

**REMODELING AND FIRE EQUIPMENT FUND, 36.38****REVENUE (See FINANCE AND REVENUE)****REWARD FOR THEFT OR DESTRUCTION OF COUNTY PROPERTY, 39.05****RIVER HILLS ECONOMIC DEVELOPMENT DISTRICT AND REGIONAL PLAN COMMISSION;  
COUNTY PARTICIPATION, 153.25****ROADS NUMBERING AND NAMING SYSTEM**

- Administration, 95.08
- Adoption of building numbering system, 95.05
- Adoption of system, road numbers and road names, 95.02
- Changes in road numbers and names, 95.03
- Display of building numbers, 95.07
- Enforcement; judicial review, 95.09
- Principles for numbering and naming roads, 95.04
- Principles for numbering buildings, 95.06
- Title, 95.01

**ROADS; EGRESS AND INGRESS ON COUNTY**

- Enforcement, 95.25
- Limitations, 95.24
- Permit required; specifications, 95.22
- Purpose, 95.21
- Sewer infrastructure, 95.23
- Title, 95.20

**SEWAGE DISPOSAL; PRIVATE (See PRIVATE SEWAGE DISPOSAL)****SHERIFF'S DRUG INVESTIGATION FUND, 36.30****SIDEWALKS (See STREETS AND SIDEWALKS)****SIDEWALKS, AND PUBLIC WAYS, TSO V****SOLID WASTE MANAGEMENT DISTRICT, 50.01****SOUTHWEST WASHINGTON FIRE DISTRICT, 33.15**

## SPEED LIMITS ON ALL ROADS OF THE COUNTY ROAD SYSTEMS, 70.08

## STREETS AND SIDEWALKS

## Buildings and Roads Numbering and Naming System

Administration, 95.08

Adoption of building numbering system, 95.05

Adoption of system, road numbers and road names, 95.02

Changes in road numbers and names, 95.03

Display of building numbers, 95.07

Enforcement; judicial review, 95.09

Principles for numbering and naming roads, 95.04

Principles for numbering buildings, 95.06

Title, 95.01

## Easement Provisions

Contractor's bond required, 95.36

Easement granted, 95.35

Liability of utility to provide barriers and safeguards; indemnification of county, 95.38

Method of burying conveyance and conductive materials, 95.37

Requirement to restore disturbed highway facilities, 95.39

## Egress and Ingress on County Roads

Enforcement, 95.25

Limitations, 95.24

Permit required; specifications, 95.22

Purpose, 95.21

Sewer infrastructure, 95.23

Title, 95.20

Penalty, 95.99

## STREETS, SIDEWALKS, AND PUBLIC WAYS, TSO V

## SUBDIVISION PLAT APPROVALS; PROCEDURES FOR

Administrative requirements, 153.01

Definitions, 153.04

Filing fees, 153.03

Permits required, 153.02

Separability, 153.06

Technical review checklist for non-exempt subdivisions, 153.07

Variance, 153.05

## SYNTHETIC CANNABOIDS

General provisions, 130.01

Violations; enforcement, 130.02

## TATTOO AND BODY PIERCING

Appeal, 111.24

Definitions, 111.02

Dyes or pigments, 111.14

## ROADS NUMBERING AND NAMING SYSTEM (Cont'd)

- Changes in road numbers and names, 95.03
- Display of building numbers, 95.07
- Enforcement; judicial review, 95.09
- Principles for numbering and naming roads, 95.04
- Principles for numbering buildings, 95.06
- Title, 95.01

## ROADS; EGRESS AND INGRESS ON COUNTY

- Enforcement, 95.25
- Limitations, 95.24
- Permit required; specifications, 95.22
- Purpose, 95.21
- Sewer infrastructure, 95.23
- Title, 95.20

## SEWAGE DISPOSAL; PRIVATE (See PRIVATE SEWAGE DISPOSAL)

## SEX OR VIOLENT OFFENDER ADMINISTRATION FUND, 36.46

## SHERIFF'S DRUG INVESTIGATION FUND, 36.30

## SIDEWALKS (See STREETS AND SIDEWALKS)

## SIDEWALKS, AND PUBLIC WAYS, TSO V

## SOLID WASTE MANAGEMENT DISTRICT, 50.01

## SOUTHWEST WASHINGTON FIRE DISTRICT, 33.15

## SPEED LIMITS ON ALL ROADS OF THE COUNTY ROAD SYSTEMS, 70.08

## STREETS AND SIDEWALKS

- Buildings and Roads Numbering and Naming System
  - Administration, 95.08
  - Adoption of building numbering system, 95.05
  - Adoption of system, road numbers and road names, 95.02
  - Changes in road numbers and names, 95.03
  - Display of building numbers, 95.07
  - Enforcement; judicial review, 95.09
  - Principles for numbering and naming roads, 95.04
  - Principles for numbering buildings, 95.06
  - Title, 95.01

## STREETS AND SIDEWALKS (Cont'd)

## Easement Provisions

- Contractor's bond required, 95.36

- Easement granted, 95.35

- Excavations and road cuts, 95.40, Ch. 95 Appendix A

- Liability of utility to provide barriers and safeguards; indemnification of county, 95.38

- Method of burying conveyance and conductive materials, 95.37

- Requirement to restore disturbed highway facilities, 95.39

## Egress and Ingress on County Roads

- Enforcement, 95.25

- Limitations, 95.24

- Permit required; specifications, 95.22

- Purpose, 95.21

- Sewer infrastructure, 95.23

- Title, 95.20

- Penalty, 95.99

## STREETS, SIDEWALKS, AND PUBLIC WAYS, TSO V

## SUBDIVISION PLAT APPROVALS; PROCEDURES FOR

- Administrative requirements, 153.01

- Definitions, 153.04

- Filing fees, 153.03

- Permits required, 153.02

- Separability, 153.06

- Technical review checklist for non-exempt subdivisions, 153.07

- Variance, 153.05

## SYNTHETIC CANNABINOIDS

- General provisions, 130.01

- Violations; enforcement, 130.02

## TATTOO AND BODY PIERCING

- Appeal, 111.24

- Definitions, 111.02

- Dyes or pigments, 111.14

- Enforcement, 111.25

- Handwashing, 111.09

- Hearing, 111.23

- Illness, 111.08

- Infectious waste containment, 111.16

- Injunction, 111.27

- Inspections, 111.19

- Needles, 111.12

- Operating training responsibilities, 111.03

- Operator policies, 111.05

- Operator responsibilities, 111.04

## TATTOO AND BODY PIERCING (Cont'd)

- Other permit suspension, revocation and immediate closure orders, 111.22
- Patron records, 111.07
- Penalty, 111.99
- Permit suspension/revocation, 111.21
- Permits, 111.18
- Personal protective equipment, 111.10
- Procedures when violations are noted, 111.20
- Prohibited acts, 111.29
- Remedies cumulative, 111.28
- Reusable equipment, 111.13
- Sanitary operation of tattoo parlors, 111.01
- Tattoo artist and body piercer; minimum training and certification requirements, 111.06
- Tattooing equipment, 111.11
- Treatment and transport of infectious waste, 111.17
- Violations, 111.26
- Work environment, 111.15

## TAXATION (See FINANCE AND REVENUE)

## THREE-WAY STOPS, Ch. 72, Sch. II

## TOWN OF HARDINSBURG RESTRICTED FUND, 36.48

## TRAFFIC CODE

## Administration

- Classification of violations, 70.20
- Liability for violation; service, 70.21

## Animal-Drawn Vehicles

- Application and fee, 71.23
- Authority and applicability, 71.20
- Compliance with motor vehicle traffic regulations, 71.26
- Definitions, 71.21
- Disposition of license fees and fines, 71.29
- Horseshoe regulations, 71.27
- Issuance and term; certificate to be carried in vehicle, 71.24
- License plate or tag, 71.25
- License required, 71.22
- Violations, 71.28

## Application; scope of jurisdiction, 70.01

## Authority to erect traffic signs, 70.03

## Exempt vehicles, 70.02

## Four-way stops, Ch. 72, Sch. I

## Gross weight limit on bridges, 70.06

## Penalty, 70.99, 71.99

## Regulations or amendments to be adopted by ordinance, 70.04

## Schedules

- Adoption and ratification of county traffic regulations; incorporation into schedules, 71.01
- Regulation of traffic from private entrances, 71.02

## TRAFFIC CODE (Cont'd)

- Speed limits on all roads of the county road systems, 70.08
- Tampering with official traffic-control devices prohibited, 70.05
- Traffic schedules
  - Four-way stops, Ch. 72, Sch. I
  - Three-way stops, Ch. 72, Sch. II
- Use of county roads by off-road vehicles, 70.07

## TRAFFIC SCHEDULES

- Four-way stops, Ch. 72, Sch. I
- Three-way stops, Ch. 72, Sch. II

## TRASH (See GARBAGE)

## USER FEE FUND, 36.20

## VARIANCE AND APPEALS BOARD, 151.40, 151.41

## WASHINGTON COUNTY MEMORIAL HOSPITAL FUND, 36.26

## WASTE MANAGEMENT DISTRICT; SOLID, 50.01

## WATER; POLLUTION OF PROHIBITED, 51.02

## WEED CONTROL

- Definitions, 96.01
- Marijuana eradication program, 96.04
- Powers and duties of Board, 96.03
- Weed Control Board membership and appointment, 96.02

## WEED CONTROL BOARD MEMBERSHIP AND APPOINTMENT, 96.02

## WIRELESS 911 FUND, 36.32

## ZONING REGULATIONS

- Administration
  - Appeals, 154.18
  - Findings and decisions, 154.17
  - Legislative body, 154.19
  - Official zoning map, 154.22
  - Plan Commission, 154.20
  - Plan Director, 154.21
  - Rules of procedures, 154.16
  - Washington County Board of Zoning Appeals, 154.15
- Amendments, 154.03
- Compliance, 154.05