***MONTGOMERY COUNTY, INDIANA***

***CODE OF ORDINANCES***

**Revised January 1, 2013**

**MONTGOMERY COUNTY OFFICIALS**

**2013**

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Aaron Morgan, Vice President Richard Chastain

Tom Utley Howard Rippy, Jr.

John Frey

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Terry Hockersmith, Vice President

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Auditor…................ Michelle Cash

Clerk of Courts. . . . . . . . . . . . Jennifer Bentley

Coroner. ….............. David Hunt

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Superior Court 2. …....... Peggy Q. Lohorn

MONTGOMERY COUNTY, INDIANA

CODE OF ORDINANCES

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**§10.01 TITLE OF CODE.**

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

**§10.02 INTERPRETATION**.

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

**§10.03 APPLICATION TO FUTURE ORDINANCES.**

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

Title I: General Provisions

**§10.04 CONSTRUCTION OF CODE.**

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existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under law reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

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

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

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

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

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

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

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

**§10.05 RULES OF INTERPRETATION; DEFINITIONS.**

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

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

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

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

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

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

***COUNTY.***Montgomery County, Indiana

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

***MONTH.*** One calendar month.

***PERSON***. Extends to and includes person, persons, firm, corporation, co-partnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms ***PERSON*** or ***WHOEVER*** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

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

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

WRITTEN and IN WRITING.

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

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

***YEAR.*** One calendar year unless otherwise expressly provided.

(I.C. 1-1-4-5)

**§10.06 SEVERABILITY.**

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

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

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

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

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

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

**§10.07 REFERENCE TO OTHER SECTIONS.**

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

**§10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS**.

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

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

(I.C. 1-1-6-1)

**§10.09 ERRORS AND OMISSIONS.**

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

**§10.10 REASONABLE TIME.**

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

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

**§10.11 REPEAL OR MODIFICATION OF CODE SECTION.**

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

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

**§10.12 LIMITATION PERIODS.**

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

Statutory reference:

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

**§10.13 ORDINANCES UNEFFECTED.**

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

**§10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE**.

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

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

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

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

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

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

**§39.01 PUBLIC RECORDS AVAILABLE**.

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

Statutory reference:

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

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

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

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

**§10.99 GENERAL PENALTY.**

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

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

Title I: General Provisions

CHAPTER 11: COUNTY BOUNDARIES

Section

11.01 Boundaries

**§11.01 BOUNDARIES**.

The boundaries of the county are as follows: beginning at the northeast corner of Section 1, Township20 North, Range 3 West; thence west to the northwest corner of Section3, Township 20 North, Range 6 West; thence south to the southwest corner of Section 34, Township 17 North, Range 6 West; thence east to the southeast corner of Section 36, Township 17 North, Range 3 West; thence north to the northeast corner of Section 1, Township 20 North, Range 3 West, being the point of beginning, containing approximately 504 square miles. (1982 Code, §1-2-1)

TITLE III: ADMINISTRATION

Chapter

30. ELECTION PROCEDURES

31. BOARD OF COMMISSIONERS

32. COUNTY COUNCIL

33. BOARDS, COMMISSIONS AND DEPARTMENTS

34. COUNTY EMPLOYEES

35. FINANCE AND TAXATION

36. COUNTY POLICIES

37. EMERGENCY MANAGEMENT

**Title III: Administration**

**CHAPTER 30: ELECTION PROCEDURES**

Section

30.01 Purpose

30.02 Commissioner districts

30.03 Councilman districts

**§30.01 PURPOSE**

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

(1982 Code, § 1-3-1)

**§30.02 COMMISSIONER DISTRICTS**

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

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

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

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

(3) *District Three.* All that part of the county bounded and described by a line running as follows, to wit: beginning at the northeast corner of Section 3, Township 20 North, Range 5

West, on the north boundary line of the county; thence west to the northwest corner of the county; thence with the west boundary line thereof south to the southwest corner of the county; thence east to the southeast corner of Section 34, Township 17 North, Range 5 West; thence north to the place of beginning shall form and constitute District Three for the purposes. (1982 Code, § 1-3-2)

Statutory reference:

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

**§30.03 COUNCILMAN DISTRICTS**

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

(B) Single member districts must:

(1) Be compact, subject only to natural boundary lines, such as railroads, major highways, rivers, creeks, parks and major industrial complexes;

(2) Contain, as nearly as possible, equal population; and

(3) Include whole townships, except when a division is clearly necessary to accomplish districting under this section.

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

(D) The county is divided into four Councilman election districts, designated numerically as follows:

(1) *District One.* Coal Creek One and Two; Wayne One and Two; Union One; Crawfordsville Ward One, Precincts One, Two and Three; and Ward Five, Precinct Two.

(2) *District Two.* Ripley Township; Brown One and Two; Union Four and Five; Crawfordsville Ward Two, Precincts One, Two and Three; and Ward Five, Precinct One.

(3) *District Three.* Madison Township; Sugar Creek Township; Franklin One and Two; Union Two; Crawfordsville Ward Three, Precincts One, Two and Three; and Ward Five, Precinct Three.

(4) *District Four.* Walnut One and Two; Union Three; Scott Township; Clark One and Two; Union Six; Crawfordsville Ward Four; Precincts One, Two and Three.

(1982 Code, § 1-3-3)

Statutory reference:

Similar provisions, see I.C. 36-2-3-4

**CHAPTER 31: BOARD OF COMMISSIONERS**

Section

31.01 Board of Commissioners; executive officers

31.02 Meetings

31.03 Legislative procedures

**§31.01 BOARD OF COMMISSIONERS; EXECUTIVE OFFICERS**

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

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

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

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

(1982 Code, § 1-4-1)

**§31.02 MEETINGS**

(A) The Regular meetings of the Executive shall be held on the first, second and fourth Tuesdays of each month at 8:00 a.m. All meetings shall be held in the Commissioners Room in the Montgomery County Courthouse. When any meeting falls on a legal holiday, it shall be held at the same hour and place on the next day that is not a legal holiday.

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

**§31.03 LEGISLATIVE PROCEDURES.**

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

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

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

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

(1982 Code, § 1-4-3)

Statutory reference:

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

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

**CHAPTER 32: COUNTY COUNCIL**

Section

32.01 County Council; Fiscal Body

32.02 Meetings

**§32.01 COUNTY COUNCIL; FISCAL BODY.**

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

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

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

(1) Preserve the Council’s records in his or her office;

(2) Keep an accurate record of the Council’s proceedings;

(3) Record the ayes and nays on each vote appropriating money or fixing the rate of a tax levy; and

(4) Record the ayes and nays on other votes when requested to do so by two or more members.

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

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

(1982 Code, § 1-6-1)

**§32.02 MEETINGS**

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

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

I.C. 5-14-1.5-5.

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

(1982 Code, §1-6-2)

**CHAPTER 33: BOARDS, COMMISSIONS AND DEPARTMENTS**

Section

33.01 Drainage Board

33.02 Economic Development Commission

33.03 Sheriff’s Merit Board

33.04 Plan Commission

33.05 Sheriffs Reserve Unit

33.06 Corrections Advisory Board

33.07 Sugar Creek and Wabash Trail Authority

33.08 Public Defender Board

33.09 Floodplain Commission

33.10 Coroner

33.11 Redevelopment Commission

Cross-reference:

Board of Zoning Appeals, see § 153.36

Emergency Management, see Chapter 37

Visitor and Convention Commission, see § 110.03

**§33.01 DRAINAGE BOARD.**

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

Statutory reference:

Indiana Drainage Law, see IC 36-9-27

(Am. Commissioners Ord. 2005-6, passed 9-6-05; Am. Ord. 2006-05, passed 3-14-06; Am. Ord. 2006-06, passed 3-14-06; Am. Commissioners Ord. 2006-20, passed 12-19-06; Am. Commissioners Ord. 2008-9, passed 6-9-08)

**§33.02 ECONOMIC DEVELOPMENT COMMISSION.**

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

(B) Following enactment of this section, the County Auditor shall promptly notify the Board of Commissioners. A member of the Council is nominated for membership on the Commission. The County Auditor shall also notify the Crawfordsville Common Council and the Board of Commissioners to each make nominations for the remaining two members of the

Commission, as by law provided, in order that the Commission hereby established may be appointed and organized by the Board of County Commissioners. The Economic Development Commission shall have the powers and duties as are now or hereafter prescribed by law. (1982 Code, § 1-10-1)

Cross-reference:

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

**§33.03 SHERIFF’S MERIT BOARD.**

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

(B) The Sheriff’s Merit Board shall consist of four members, to be appointed by the Sheriff and for respective terms of one, two, three and four years, with renewal of expiring terms to be a term of four years. Payment for services shall be pursuant to statute or every day or fraction thereof and members shall meet upon call of the Sheriff or the Chairperson of the Merit Board and the Board shall be and it is hereby empowered and authorized to establishing rules and regulations, define qualifications for members of the Sheriff’s force and/or county police force, discipline the Sheriff’s or county policy forces, establish policy for the Sheriff’s Department and all other necessary functions of a directory, advisory and appointing board, all subject to the terms and conditions of the Chapter 285, Acts of the General Assembly for 1961, as amended, including amendments enacted by Senate Enrolled Bill 223, General Assembly for 1971.

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

(D) All records, books, accounts and reports are ordered transferred to the custody and control of the Merit Board, subject to the supervision of the County Sheriff, all as provided for by law.

(1982 Code, § 1-10-2)

**§33.04 PLAN COMMISSION**.

(A) (1) There is created and established the advisory Plan Commission to be known as the County Planning Commission, which shall have the duties and powers, as established by I.C. 36-7-4-400 et seq. and other responsibilities as may be assigned to it from time to time by the Board of County Commissioners. The Commission shall consist of nine members, appointed as follows:

(a) One member appointed by the Board of County Commissioners from

Its membership;

(b) One member appointed by the County Council from its membership.

(c) The County Surveyor or a qualified Deputy Surveyor appointed by the Surveyor;

(d) The County Agricultural Agent; and

(e) Five citizen members appointed by the Board of County Commissioners in accordance with I.C. 36-7-4-208(a)(5)(B). No more than three of these members can be of the same political party.

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

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

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

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

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

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

**§33.05 SHERIFF’S RESERVE UNIT.**

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

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

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

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

**§33.06 CORRECTIONS ADVISORY BOARD**.

The Board of County Commissioners and the state hereby establish a Community Corrections Advisory Board, consisting of the members, as mandated in I.C. 11-12-2-2 S2(b).

(Res. 91-2, passed 2-2-91)

**§33.07 SUGAR CREEK AND WABASH TRAIL AUTHORITY.**

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

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

(Ord. 94-2, passed – 94)

Cross-reference:

Sugar Creek Zoning, see Chapter 153

**§33.08 PUBLIC DEFENDER BOARD**

The Board of Commissioners establishes the County Public Defender Board, pursuant to I.C. 33-40-7-3. Further, the appointment of members, their terms in office, their duties and responsibilities shall be governed by I.C. 33-40-7. This Board shall continue as constituted until termination as determined under I.C. 33-40-7-3(f).

(Ord, 94-3, passed –94; Am. Commissioners Ord. 2008-1, passed 2-11-08)

**§33.09 FLOODPLAIN COMMISSION**

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

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

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

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

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

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

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

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

(I) The Commission may institute the following:

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

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

(3) If the Commission is successful in the Commissioner’s suit, the respondent shall pay the costs of the action including the Commission’s attorney fees incurred to prosecute the action.

(Ord. 99-5, passed 12-7-99)

**§33.10 CORONER**

(A) Election.

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

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

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

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

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

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

(3) Performance of autopsies when requested or required as provided for by I.C. 36-2-14-6(d) and issue verdicts and written reports;

(4) Maintenance of confidential records as provided by Indiana law;

(5) Taking possession of, maintaining and disposing of property found on a deceased person or at the scene of death, as provided for in ­I.C. 36-2-14-11;

(6) Issuance of warrants for felony arrests relating to deaths;

(7) Attendance at meetings of the commission of forensic sciences for consultation on matters concerning the interest of the commission, the office of coroner, or both

(8) Making available to the public certain documents as provided for by the Indiana law;

(9) Recovering from other counties the costs of the autopsies, including physicians fees, when person die in Montgomery County as a result of incidents which occur in another county;

(10) Performance of the duties of the Sheriff of Montgomery County in cases where the Sheriff is interest or incapacitated from serving and has no chief deputy who may perform his duties;

(11) Service upon the Montgomery County Sheriff a warrant for his or her arrest commitment of the Sheriff to the county jail and the exercise of custody of the jail and its prisoners during the imprisonment of the Sheriff.

(C) Autopsies.

(1) *Investigations.* Whenever the coroner is notified that a person in Montgomery County has died from violence, died by casualty, died when apparently in good health, died in an apparently suspicious, unusual, or unnatural manner, or been found dead, the coroner shall, before the scene of death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death.

(2) *Certificate of Death.* Within 72 hours after being notified of the death, the coroner shall file with the person in charge of interment a coroner’s certificate of death. If the cause of death is not established with reasonable certainty within 72 hours, the coroner shall file with the person in charge of internment a coroner’s certificate of death, with the cause of death designated as “deferred pending further action”. As soon as the coroner determines the cause of death, the coroner shall file a supplemental report indicating his exact findings with the local health officer having jurisdiction, who shall make it part of his or her official records. A coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is at least one week old and not more than three years old unless an autopsy is performed at a county expense or an autopsy is not required under I.C. 36-2-14-6(e).

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

(4) *Physicians.* If the coroner considers it necessary to have an autopsy performed, is required to perform an autopsy in the case of a sudden and unexpected death of a child as provided for in I.C. 36-2-14-6(1), or is requested by the prosecuting attorney to perform an autopsy, the coroner shall employ a physician who is certified by the American Board of Pathology or who holds an unlimited license to practice medicine in Indiana and acts under the

direction of a physician certified by the American Board of Pathology. The physician performing the autopsy shall be paid a fee of at least $50 from the county treasury. A coroner may employ the services of the medical examiner system as provided for in I.C. 4-23-6-6.

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

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

(F) Finances.

(1) *Funds.* The coroner may establish, with the approval of the County Council, funds necessary to operate his or her office. All such funds shall be created by ordinances adopted by the County Council, and the ordinance shall provide for the source and use of such funds.

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

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

**§33.11 MONTGOMERY COUNTY REDEVLOPMENT COMMISSION**

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

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

(C) The members of the Montgomery County Redevelopment Commission shall be appointed by the Board of Commissioners of Montgomery County for terms of one (1) year except that the original commissioner shall serve from the date of their appointment until, except that the original commissioners shall serve from the date of their appointment until January 1, 2009. All commission members must be at least eighteen (18) years of age and residents of the special taxing district.

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

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

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

(Commissioners Ord. 2007-4, passed 9-24-07)

**§33.12 CENTRAL COMMUNICATIONS CENTER**

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

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

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

(1) Governing Board: The Governing Board shall:

(a) appoint and supervise the Director of the Center,

approve all budgets and contracts, appoint certain

members of the Operations Board, and take other

action necessary for the operation of the Center;

(b) be comprised of five members:

(i) President of the Board of County Commissioners:

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

(iii) the Mayor of Crawfordsville;

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

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

(c ) meet at least three times per year:

(i) in January to appoint the Director;

(ii) in June to approve the budget; and

(iii) in October to evaluate the Director.

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

(2) Operations Board: The Operations Board shall:

(a) have three purposes:

(i) establish written policies, procedures and protocols for the operation of the Center;

(ii) establish written policies designed to ensure that in the hiring, promotion, discipline and termination of employees, the employees shall have legal protections similar to those established for police and firefighters under Indiana’s merit systems and serve as the merit board;

(iii) make recommendations to the Director regarding the operations of the Center.

(b) be comprised of seven voting members:

(i) one township or town Fire Chief, nominated by the Township and Town fire chiefs in Montgomery County and appointed by the Governing Board;

(ii) one representative of an ambulance service provider who is nominated by the ambulance service provider and appointed by the Governing Board.;

(iii) one town marshal nominated by the town marshals in Montgomery County and appointed by the Governing Board;

(iv) the Crawfordsville Fire Chief or his or her designee;

(v) the Crawfordsville Police Chief or his or her designee;

(vi) the Montgomery County Sheriff or his or her designee; and

(vii) one representative of the public and private agencies that provide emergency services in Montgomery County who is appointed by the Governing Board.

(c) have five non-voting members:

(i) the County Commissioner appointed by the Board of County Commissioners to the Operations Board; (ii) the Center Director;

(iii) the County Information Technology Director or designee;

(iv) the County Emergency Management Director;

(v) the County Mapping Director

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

(e) elect a Vice President.

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

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

IT IS FURTHER ORDAINED that this ordinance shall become effective July 1, 2011.

Adopted this 27th day of June, 2011.

CHAPTER 34: COUNTY EMPLOYEES

Section

34.01 Personnel policy manual

34.02 Pay period

34.03 Sick leave (deleted)

34.04 Personal business (deleted)

34.05 Payroll withholding

34.06 Grievance procedure for certain employees

34.07 Sheriff’s Department Deferred Compensation Plan

34.08 Credit Card Rules

Appendix A: Montgomery County Employees Personnel Policy Manual

**§34.01 PERSONNEL POLICY MANUAL**

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

Section 2. This Ordinance shall be effective from and after the date of its adoption.

This ordinance is hereby adopted this 23rd day of May, 2011.

**§34.02 PAY PERIOD**

The pay period for all County employees shall be biweekly, ending every other Wednesday.

(Am. Commissioners Ord. 2008-1, passed 2-25-08; Am. Commissioners Ord. 2009-8, passed 10-26-09; Am. Commissioners Ord. 2009-09)

**§34.03 SICK LEAVE**

[Deleted by Council Ord. 2006-8, passed 12-11-06; Commissioners Ord. 2006-18, passed 10-24-06]

**§34.04 PERSONAL BUSINESS**

[Deleted by Council Ord. 2006-8, passed 12-11-06; Commissioners Ord. 2006-18, passed 10-24-06]

**§34.05 PAYROLL WITHHOLDING**

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

***DISPOSABLE EARNINGS*** means that part of the earnings of a County employee, including wages or salary, remaining after the deduction from those earnings of amounts required by law to

be withhold, including without limitation the following: (i) Federal Insurance Contributions Act (FICA) or income taxes required to be withheld; (ii) amounts withheld pursuant to compulsory retirement, health insurance or similar plans imposed by law; and (iii) amounts withheld because of a Support Withholding or Garnishment order.

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

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

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

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

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

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

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

**§34.06 GRIEVANCE PROCDURE FOR CERTAIN EMPLOYEES**

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

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

ADVERSE JOB ACTION.

(a) Demotion;

(b) Failure to receive a promotion;

(c) Disciplinary action resulting in loss of pay or unpaid time off of work; or

(d) Termination.

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

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

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

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

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

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

(Ord. 2006-09, pass 5-9-06)

**§34.07 SHERIFF’S DEPARTMENT DEFERRED COMPENSATION PLAN**

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

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

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

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

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

**§34.08 CREDIT CARD RULES**

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

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

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

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

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

(1) Purchasing of supplies and equipment for the use and benefit of the department;

(2) Travel and lodging expenses of departmental personnel while traveling on approved County business;

(3) Meal expenses of departmental personnel while traveling on approved County business, provided that any such expense may not exceed any authorized per diem for meals. Reasonable tips and/or gratuities are allowed as meal expenses if service is provided as part of the meal;

(4) Approved training and education costs for departmental personnel, and

(5) Any other use required for the efficient operation of the department when use of vouchers, checks, or other means of credit are not possible, provided that said use had been approved by the department head.

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

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

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

(1) a claim form for the charges made signed by the employee;

(2) original receipts and/or invoices for the charges; and

(3) any other documentation requested by the County which supports the claim.

(4) if the employee loses the original receipt and/or invoice, the employee shall provide a duplicate receipt and/or invoice or an affidavit of lost receipt.

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

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

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

(1) personal use;

(2) purchase of alcohol;

(3) any illegal purpose;

(4) to bypass, the County’s accounting system or purchasing policies.”

SECTION II: All provisions of the employee handbook regarding credit card use, contained in Chapter 3, Section Q, are hereby replaced by the following:

“Credit Cards: Employees and officers using credit cards shall comply with the County credit Card policy as provided in Section 34.08 of Chapter 34 of the County Code.”

SECTION III: This ordinance shall be effective on January 1, 2012.

Adopted this 28th day of November, 2011.

APPENDIX A: MONTGOMERY COUNTY EMPLOYEES PERSONNEL POLICY MANUAL

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

MONTGOMERY COUNTY EMPLOYEES’

PERSONNEL POLICY MANUAL

Adopted By

Montgomery County Board of Commissioners

December 30, 2010

And

Montgomery County Council

October 24, 2006

Original effective: January 1, 2007

Amended: January 1, 2011

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CHAPTER 1

GENERAL PROVISIONS

The Board of Commissioners of the County of Montgomery (Commissioners) shall direct and supervise all administrative and technical activities related to personnel in Montgomery County, except as provided by law. The Commissioners will administer a system of personnel administration based on proven methods and principles governing the appointment, transfer, removal, discipline, and other conditions of employment of County Employees. All employees are considered at will, meaning that both the County and the employee may terminate the work relationship at any time for any reason. No County official has the authority to enter into an employment contact and only the Commissioners can enter into a written employment contract.

SECTION A – PURPOSE

The purpose of this Personnel Policy Manual is to bring into Montgomery County government a high degree of understanding, cooperation, efficiency, service, and unity that come through the systematic activities. The fundamental objectives of personnel administration are:

A. To promote a spirit de corps that comes with discipline.

B. To promote and increase economy and efficiency in County service.

C. To provide fair and equal opportunity to all qualified people to enter County

employment

D. To develop a program of recruitment and advancement that will make County service

Attractive as a career, and encourage each employee to give his best service to the County.

SECTION B – POSITION COVERED

These personnel policies shall apply to all employees of Montgomery County unless otherwise provided.

SECTION C - ADMINISTRATION AND REVISION OF PERSONNEL POLICIES

Except for the administration of employee classification and compensation, these personnel policies shall be administered by the Commissioners or by a person designated by the Commissioners, under their direction and in conformity with applicable County ordinances and state statutes governing civil service in counties in Indiana. The Montgomery County Council (Council) shall administer employee classification and compensation, as provided for by law.

Revisions may be proposed from time to time by the Commissioners, Council, Personnel Committee, Personnel Review Board or any employee. It is desirable that advanced notice be given to employees on any revisions to become effective upon formal approval by the Commissioners and/or the Council. All such proposals shall be referred to the Personnel Committee for advice and comment. The Personnel Committee shall consist of three (3) elected officials of the County, two appointed by the Commissioners and one appointed by the County Council. The term of appointment shall be two years with the terms to be staggered so that only one member goes off the Committee each year. No member of the committee shall be eligible to serve consecutive terms. The Personnel Committee shall elect a Chair to convene and chair meetings of the Committee and the Chair shall have his/her term carry over to the year following election as Chair. State-Funded local elected officials shall not be eligible to be appointed to the Personnel Committee.

The Personnel Committee shall within thirty (30) days deliver to the Personnel Review Board a written report regarding the proposed changes. The Personnel Review Board shall then consider such proposed changes and shall within thirty (30) days of its receipt of the Personnel Committee report provide to the Commissioners and/or Council (depending upon the subject matter for the proposed changes) a written recommendation. This recommendation shall be either a favorable, unfavorable or no recommendation.

CHAPTER 2

DEFINITION OF TERMS

As used in these rules, unless the context clearly requires otherwise.

ALLOCATION: The assignment of an individual position to an appropriate class on the basis of the kind, difficult, and responsibility of the work actually performed in the position.

CLASS: A position or group of positions that: (a) have similar duties and responsibilities, (b) require like qualifications and (c) can be equitably compensated by the same salary range.

COMPENSATORY TIME & COMPENSATORY TIME OFF: Hours worked by an eligible employee is excess of 40 hours per week and that employee receives time off in lieu of paid compensation. These compensatory hours are not counted as hours worked in the week in which they are paid.

DEMOTION: A transfer of an employee from a position in one class to a position in another class having a lower classification level. A demotion may occur due to a demonstrated lack of skill or ability in a previous position.

DEPARTMENT: Defines County Department

DEPARTMENT HEAD: Either an elected or appointed person who is responsible for the entire operation of a department.

DISHCARGE: The involuntary separation or removal of any employee and the termination of all employee benefits.

FULL-TIME EMPLOYEE: An employee working in a full-time position. This generally refers to one working a consistently scheduled work week of more than 30 hours per week, year after year with no breaks.

GAP TIME: Time worked in excess of the normal workweek which less than 40 hours per week. Work during such hours are compensated at the same rate as the other time worked which is less than 40 hours per week.

LAYOFF: A separation from the County service because of a shortage of funds or materials, the abolishment of a position for other reasons beyond the control of an employee and not reflecting discredit on the employee.

PERSONNEL TRANSACTION: Any action affecting the status of an employee, such as: employment, compensation, promotion, demotion, transfer, layoff, or dismissal.

PROMOTION: A transfer of an employee from one position to another position having a higher maximum salary rate.

OVERTIME: Straight time is paid for the first 40 paid hours. Time and one-half is paid for paid hours in excess of 40 paid hours in the work week. Authorized vacation, sick and holiday leave shall be considered as paid hours.

SUPERVISOR: Any person responsible for or directing the work of others.

TEMPORARY EMPLOYEE: An employee whose length of actual work is limited.

TRANSFER: The movement of an employee from one position to another within the same class.

CHAPTER 3

CONDITIONS OF EMPLOYMENT

SECTION A – HOURS OF WORK AND ATTENDANCE

1. The established work pattern for full-time employees, except as designated in paragraph 6, shall be seven and one-half hours for a normal days’ work; and thirty-seven and one-half (37.5) hours for a normal week’s work to be completed in five (5) days, Monday through Friday.

2. The offices of the Assessor, Auditor, Treasurer, Recorder, Clerk, Surveyor, Health Department and Building Department will be open to the public from 8:00 a.m. to 4:30 p.m. Other department heads may establish a flexible beginning and ending time for their department’s work day.

3. Lunch breaks will be one (1) hour in length and should be taken so as not to be disruptive to the department work operations. Each employee shall be relieved of all duties and be free to leave his/her post. Lunch hours may not be worked in lieu of shortened work days.

4. Two (2) fifteen (15) minute break periods are allowed, provided that only one is used per half day, before and after lunch periods. Break periods are not to be used for late arrivals, extended lunch or for early dismissals, and are to be taken in a manner that is not disruptive to department work operations.

5. Each department is to set a dress code that will a) provide for a safe working environment for the employee, co-workers, and public b) Each employee is to be professional in appearance and present himself or herself in a professional image while providing the highest quality of customer service to both internal and external customers at all times.

6. The work day and work week of the Highway Department shall be as set forth in Appendix B of this manual. The Sheriff’s Department’s work hours are determined by the Sheriff. The work hours of the Central Communications Center are determined by the Center Director.”

SECTION B- HOLIDAYS

1. There will be eleven (11) paid holidays each year. The following days are designated as regular holidays:

New Year’s Day

Martin Luther King Day Veteran’s Day

Good Friday Thanksgiving Day

Memorial Day Friday after Thanksgiving

Independence Day Christmas Eve

Labor Day Christmas Day

In the years when an election is conducted, employees will have election days off of work with pay in addition to the holidays listed above.

2. Other days may be declared holidays by the County Commissioners at their discretion. All full-time employees shall receive their regular daily salary or wage for the above mentioned holidays or substitute when the holidays are worked, providing they have worked the regularly scheduled day before and after the holiday unless officially excused. Holidays which occur during vacation shall not be charged against accrued vacation time.

3. The Sheriff will have the authority to determine which days constitute holidays for the Sheriff’s Department. The Director of the Central Communications Center shall have the authority to determine which days constitute holidays for the Center. Both the Sheriff and the Center Director shall also have the authority to allow substitute holidays for their employees who work on such holidays.”

4. If a holiday occurs on a day of temporary or part-time employee is scheduled to work, the employee will be paid for that day at their regular rate provided they have worked the regularly scheduled day before and after the holiday unless officially excused.

3. Lunch breaks will be one (1) hour in length and should be taken so as not to be disruptive to the department work operations. Each employee shall be relieved of all duties and be free to leave his/her post. Lunch hours may not be worked in lieu of shortened work days.

4. Two (2) fifteen (15) minutes break periods are allowed, provided that only one is used per half day, before and after lunch periods. Break periods are not used for late arrivals, extended lunch or for early dismissals, and are to be taken in a manner that is not disruptive to department work operations.

5. Each department is to set a dress code that will a) provide for a safe working environment for the employee, co-workers, and public b) Each employee is to be professional in appearance and present himself or herself in a professional image while providing the highest quality of customer service to both internal and external customers at all times.

6. The work day and work week of the Highway Department shall be as set forth on Appendix B of this manual. The Sheriff’s Department’s work hours are determined by the Sheriff.

(Am. Commissioners Ord. 2008- \_\_\_\_, passed 6-23-08; Am Commissioners Ord. 2008-17, passed 12-22-08, effective 1-1-09; Am Commissioners Ord. 2009-1, passed 1-5-09)

SECTION C – ATTENDANCE

1. Each Department Head shall be responsible for the attendance of all employees in their department and shall keep complete attendance records. Records of attendance shall be reported to the payroll section of the Auditor’s Office every two (2) weeks. Each department will maintain the official leave balance of each employee. Vacation or leave shall be computed in units of days and hours only.

2. The County Commissioners shall, from time to time, audit leave accounts and records and make adjustments.

SECTION D- VACATION

1. Vacation benefits for full-time employees shall be earned annually as follows:

|  |  |
| --- | --- |
| **WORK DAYS OF ANNUAL VACATION ALLOWED** | **TOTAL COUNTY SERVICE** |
| **(FULL – TIME)** |  |
| 5 days | After first 6 months to one year, at the discretion of the Department Head |
| 10 days | After one year (anniversary date) through 10 years. |
| 15 days | After 10 years through 20 years |
| 20 days | After 20 years. |

2. Vacation time cannot be used during an employee’s first six (6) months of full time employment.

3. Beginning January 1, 2007, vacation time may be accumulated for one year. Accrued vacation days which exist on December 31, 2006, shall carry over to future years. Each Department Head shall maintain a record of accrued vacation which includes an itemization of pre-2007 vacation days and regular accrued vacation days. The Department Heads shall report accrued vacation to the Council and Commissioner on January 15, and July 15 of each year.

4. Payment of unused vacation. When an employee is separated from the service they shall be paid for accrued vacation leave unless:

a. The employee is involuntarily separated from employment, or fails to give the required two (2)

b. An employee is terminated during their first six months of employment.

5. Vacation scheduling. A request for vacation shall be submitted in writing to the employee’s immediate Department Head and may be taken only after written approval by the Department Head. All vacation requests must be submitted no less than one (1) week from requested time off. The vacation schedule shall be arranged as to provide minimum disruption of services. Holidays which occur during vacation shall not be charged against accrued vacation time.

SECTION E – WORKMAN’S COMPENSATION

1. An employee who is injured while performing his/her job or becomes ill as result of performing their job shall immediately report the injury or illness to his/her Department Head. Failure to report an injury or illness may result in discipline action, up to and including discharge. The Department Head shall provide to the employee a written notice of injury/illness form required by the County insurance carrier. The form shall then be forwarded to the County Human Resources Administrator for processing with the County insurance carrier. The Department Head shall also assist the employee in obtaining any immediate medical attention. The employee shall have all of the rights, obligations and benefits provided for by the Indiana Workman’s Compensation Act.

SECTION F – COMPENSATORY TIME OFF

“SECTION F – COMPENSATORY TIME OFF

1. The Department Head may authorize a non-exempt employee to work more than 40 hours per week and to receive unpaid compensatory time off in lieu of paid compensation, subject to the requirements of this section. The compensatory time shall be one and one-half hours off for each hour of work which exceeds 40 hours per week. The authorization for compensatory time must be in writing and approved prior to the performance of the work. No compensatory time off or additional compensation will be awarded or paid for hours worked in excess of an employee’s normal work week but less than 40 hours per week. No compensatory time off shall be awarded or paid for lunch periods worked or time worked prior to regular work hours if the employee works less than 40 hours in a week.

2. The maximum compensatory time which a regular, full-time employee may accrue is as follows:

a. 80 hours for employees of the Sheriff’s Department;

b. 80 hours for employees of the Montgomery County Central Communications Center; and

c. 40 hours for all other County employees.

3. Payment for accrued compensatory time upon termination of employment shall be calculated at the employee’s final regular rate of pay.

4. The Department Head may require an employee with accrued compensatory time to use the compensatory time rather than vacation or other leave in order to reduce the amount of accrued compensatory time.

5. The Department Head shall maintain a record of all compensatory time and shall report to the Council and Commissioners the accrued compensatory time for each employee in the department each pay period.

6. For those employees having more than the maximum number of accrued hours of compensatory time, the Department Head shall require that the employee take off sufficient compensatory time on or before December 31 of each year in order to reduce the number of hours to a number which complies with the maximum number of hours provided for in paragraph 2.

7. In his/her annual proposed budget, the Department Head shall include a line item for compensatory time liability which is equal to ten percent of the amount the County would be required to pay if on July 1 of the year of submission all employees of the department with accrued compensatory time terminated their employment.

8. Exempt employees, as that term is defined under the Fair Labor and Standard Act, are not entitled to compensatory time.”

SECTION G – CIVIL DUTY

County employees who have been subpoenaed for jury duty or as a witness will receive their regular wages. The employee shall notify the Department Head within twenty-four (24) hours after the receipt of notice of selection for duty. Also, the employee must furnish a written statement from the appropriate public showing the date and time served, and the amount of pay received. Any jury duty pay the employee is entitled to receive shall be assigned to the County and deposited into the County General Fund.

SECTION H – RESIGNATION/RE-EMPLOYMENT

1. To resign in good standing an employee shall submit a resignation in writing stating the reason(s) for their resignation to the Department Head at least two (2) weeks before the effective date of resignation.

2. Failure to provide the required two (2) weeks’ notice shall result in the forfeiture of accrued vacation and compensatory time.

3. Any full time employee of Montgomery County who is re-employed to a full time position and no more than ten (10) calendar months have expired since their termination of employment by the county may apply to the Board of Review to have his/her years of service restored as if he/she had not left employment. Likewise the amount of vacation will be based on their total years of service and sick leave will be restored to the amount of days and hours’ accrued and unused when employment was terminated. In considering whether to restore the employer’s years of service, the Board shall determine whether the employee was terminated for just cause in his or her previous employment with the County. If the Board determines that the employee was terminated previously for just cause, it shall deny the application for restoration of the years of service. If the Board determines that the employees was not terminated for just case, then the Board shall restore the employee’s years of service.

SECTION 1 – MILITARY LEAVE

Montgomery County will abide by all the provisions of the Uniformed Services Employment and

Re-Employment Rights Act (USERRA) and will grant military leave to all eligible full-time and

part-time employees. Military leave may be granted to full-time and part-time employees for a

period of four years plus one-year voluntary extension of active duty (five years total) if this is at the request and for the convenience of the United States government.

As with any leave of absence, employees must provide advance notice to their supervisor of their intent to take a military leave and must provide appropriate documentation unless giving such notice is impossible, unreasonable, or precluded by military necessity. An employee’s salary will not continue during a military leave unless required by law. However, employees may request to use any vacation or personal leave time accrued during military leave. Benefit coverage will continue for 31 days as long as employees pay their normal portion of the cost of benefits. For leaves lasting longer than 31 days, employees will be eligible to continue health benefits under COBRA and will be required to pay 102 percent of the total cost of their health benefits if they wish to continue benefits.

Upon return from military leave, employees will be reinstated with the same seniority, pay, status, and benefit rights that they would have had if they had worked continuously. Employees must apply for employment within 90 days of discharge from the military. Employees who fail to report for work within the prescribed time after completion of military service will be considered to the voluntarily terminated their employment. If employees were participants in any retirement plan at the time they left for military duty, they will be permitted to make additional payments as of their re-employment date and continue them for the period of time permitted by law.

If employees are reservist in any branch of the Armed Forces or members of the National Guard, they will be granted time off for military training. Such time off will not be considered vacation time. However, employees may elect to have their reserve duty period be considered as vacation time to the extent they have such time available.

SECTION J- UNAUTHORIZED ABSENCE

The absence of an employee from duty, including any absence for a single day that is not authorized in accordance with the policies contained in this manual shall be deemed an unauthorized absence.

1. Any such absence shall be without pay and may be subject to disciplinary action.

2. Any employee who is absent for three (3) consecutive days without authorization shall be deemed to have resigned unless the employee later gives evidence of extenuating circumstances to the Department Head and it will be the Department Head’s determination of what constitutes an extenuating circumstance.

SECTION K – ABUSE OF LEAVE

Abuse of leave privileges are grounds for dismissal, dismissal or suspension at the discretion of the Department Head.

SECTION L – FUNERAL LEAVE

1. The purpose of funeral leave is to provide time to attend the funeral of an immediate family member and to handle personal affairs without disrupting one’s income.

2. Funeral leave shall be granted to all employees, regarding the death of an immediate family member.

3. An employee may be granted up to three (3) working days with pay.

4. Immediate family member shall be defined as spouse, child, step-child, father, mother, step-parents, brother, sister, step-brother, step-sister, grandmother, grandfather, grandchild, niece, nephew, father-in-law, mother-in-law, brother-in-law, sister-in-law.

5. Arrangements for time off may be made with the employee’s supervisor concerning the attendance of a funeral for other individuals who are not included in the definition of an immediate family member. Time off will be charges to sick, vacation or compensatory leave or time off without pay.

6. The employee’s supervisor may ask the employee to supply the name and relationship of the deceased and the name of the funeral home that handles the arrangements.

SECTION M – OVERTIME PAY

1. In order to a Department Head to authorize overtime work for non-exempt employees, there must be sufficient funds appropriated in the Department budget for overtime. Straight time is paid for the first forty (40) hours worked. Time and one-half is paid for hours in excess of forty (40) hours worked in the workweek. Authorized vacation and holiday leave shall not be considered as hours worked overtime pay shall be based on actual hours worked during the workweek. All overtime must be pre-approved by the Department Head before the employee works over their scheduled work time and approved on the payroll schedule.

2. A Department Head may require overtime work for employees, subject to the conditions contained in this Section.

SECTION N – SNOW DAY

These rules apply when the Board of County Commissioners declares a snow emergency.

Whenever the Board of Commissioners declares a snow emergency in the County only (and a snow emergency is not declared in the City of Crawfordsville) and county residents as part of the snow emergency order are prohibited from traveling on county roads, it is the policy of Montgomery County that operations of the County Courthouse and all County Officers are essential public services which should be open to the public at regular business hours if at all possible.

THEREFORE:

1. Any employee who resides in the county must travel by county roads to work should not report to work but they shall be paid their regular daily salary or wage that day.

2. Any employee who resided in the City of Crawfordsville or who does not travel by county roads to work should report to work as normal, and they shall receive one (1) day compensatory time for every day worked.

3. If a snow emergency is declared for the County and City of Crawfordsville, employees should not report to work but they shall be paid their regular daily salary or wage for that day.

SECTION O – SICK LEAVE

1. Sick leave shall be allowed to a full-time employee only in cases of actual employee sickness or disability. Sick leave shall be allowed for medical, dental, or eye examinations or treatment for which arrangements cannot be made outside of normal working hours.

2.Except for employees of the Central Communications Center on January 1, 2012, sick leave will be granted to all full-time employees on the basis of one (1) day earned each calendar month worked, not to exceed twenty-one (21) days accumulated sick leave. For 2012 only, employees of the Central Communications Center on January 1, 2012 will be entitled to twelve (12) days of sick leave as of January 1, 2012. All employees hired by the Center after January 1, 2012 will accrue sick days on the basis of one (1) day earned each calendar month worked. No employee of the Center may accumulate more than twenty-one (21) days of sick leave. For those employees having more than twenty-one (21) days of accumulated sick leave on December 31, 2006, the employees may carry forward all accumulated days of sick leave and use them for sick leave only. Except as provided for herein, no employee will accumulate a sick day in any calendar month in which he or she uses one (1) or more sick days.”

3. One (1) sick leave day will be charged for each seven (7) hours of sick leave taken.

4. Temporary employees will not accrue any sick leave or vacation time.

5. Notification of sick leave use. Except in case of medical emergencies, employees must notify their Department Head at least two (2) weeks prior to taking sick leave in excess of seven (7) hours, and must have the approval of the Department Head before leave can be taken. Employees are required to notify the Department Head no more than one (1) hour after the start of their normal work time that the employee will be taking an emergency sick day. The employee must speak directly to the Department Head or First Deputy, no messages will be allowed. Extenuating circumstances will be the exception to the notification requirement and it will be the Department Head’s determination of what constitutes an extenuating circumstance. The Department Head may require a written doctor’s statement for any amount of time of sick leave requested or granted. Emergencies are exceptions to this rule due to their nature. In the case that the use of sick leave will exceed three (3) days, the Department Head shall require a written doctor’s statement concerning the necessity of the leave. The Department Head is responsible for notifying the Auditor’s Office of any leave taken by an employee during a pay period.

6. No employee will be compensated for any unused sick leave when an employee’s employment is terminated for whatever reason.

7. Vacation may be used to supplement sick leave, but sick leave may not, under any circumstances, be used to supplement or add to vacation.

(Am. Commissioners Ord. 2008-17, passed 12-22-08, effective 1-1-09)

SECTION P – FAMILY MEDICAL LEAVE ACT

Employees of the County are eligible for family and medical leave if they have at least 12 months of service, have worked at least 1,250 hours within the preceding 12-month period, a work at a worksite where there are at least 50 employees within a 75-mile radius. If eligible, and employee may be able to take up to 12 weeks of unpaid leave during a rolling 12 month calendar period for the following reasons.

* The birth of a child or to care for a child within the first 12 months after birth;
* The placement of a child with the employee for adoption or foster care and to bond with and care for the child (within the first 12 months after placement);
* To care for immediate family member who has a serious health condition;
* For a serious health condition that makes the employee unable to perform the functions of his/her position; or
* If the employee experiences a qualifying exigency that arises out of the fact that a spouse, parent, or child has been called to or is on active military duty as a member of the National Guard or military reserves.

**Military Caregiver Leave.** In addition, an employee who is the spouse, parent, child, or next of kin of a current member of the armed forces (including the regular armed forces) who was injured while on active duty may be eligible for up to 26 weeks of FMLA leave listed above.

**Notice of Leave.** When requesting leave, the employee must:

* Supply sufficient information for the County to be aware that FMLA may apply to the leave request, as well as information regarding the anticipated timing and duration of leave;
* Provide notice of the need to leave at least 30 days in advance or as soon as practicable;
* Cooperate with all requests for information regarding whether absences are FMLA-qualifying.

Failure to comply may result in leave being delayed or denied.

**Intermittent Leave.** When medically necessary, employees may take FMLA leave intermittently or on a reduced schedule basis for their own serious health condition, the serious health condition of a family member, or for military caregiver leave. Employees are required to cooperate with the County to arrange reduced work schedules or intermittent leave as to minimize disruption of business operations.

Qualifying exigency leave may be taken intermittently without regard to medical necessity or disruption of business operations.

Leave because of the birth or adoption of a child may not be taken intermittently and must be completed within the 12-month period beginning on the date of birth or placement of the child.

**Medical and other Certifications.** Employees will be require to provide a medical certification if the leave request is: 1) for the employee’s own serious health condition, 2) to care for a family member’s serious health condition, or 3) military caregiver leave. Failure to provide and requested certification in a timely manner may result in denial of the leave until it is provided. If an employee refuses to provide a certification, his/her leave request may be denied and the employee may be disciplined.

The County, at its expense, may require a medical examination by health care provider of its own choosing if it has a reasonable question regarding the medical certification provided by the employee. In lieu of a second opinion, the County may contact the health care provider directly to clarify or authenticate a medical certification, including certifications for military caregiver leave. Second opinions may not be required for military caregiver leave.

Separate certification may also be required regarding the nature of the family member’s military service and/or the existence of a qualifying exigency.

**Fitness for Duty Certifications.** Because the County wishes to ensure the well-being of all employees, and employee returning from FMLA leave for his/her own serious health conditions will need to provide a Fitness for Duty (FFD) certification signed by his/her health care provider. An employee who fails to provide an FFD certification will be prohibited for returning to work until it is provided. An employee who fails to provide an FFD certification may be disciplined or terminated.

FFD certifications may be required when an employee returns from intermittent FMLA leave if serious concerns exist regarding the employee’s ability to resume his/her duties safely.

**Maintenance of Benefits.** The County will maintain health care benefits for the employee while on FMLA leave, but the employee is responsible for paying the normal monthly contribution. If the employee elects not return to work at the end of the leave period, the employee will be required to reimburse the County for the cost of premiums paid for maintaining coverage during the leave period. All other benefits cease to accrue during the unpaid portion of the leave.

**Concurrent Leave.** Employees must use any accumulated sick leave, vacation time, or paid time off (PTO) to the extent available during FMLA leave unless such lease is covered under workers’ compensation, in which case the employee may use accumulated leave time only for the purpose of satisfying any waiting period. Absences in excess of these accumulated days will be treated as FMLA leave without pay.

**Married Couples Who Work for Montgomery County.** If an employee and his/her spouse both work for the County, they are both eligible for leave. The employee and employee spouse may be limite4d to a combined total of 12 weeks of FMLA leave in a 12-month period if the leave is taken for:

* The birth, adoption, or foster placement of a child;
* To care for and bond with such child who does not suffer from a serious health condition;
* To care for a parent with a serious health condition; or
* A combination of the above.

For military caregiver leave, the employee and employee spouse may be limited to a combined total of 26 weeks of leave in a 12-month period, including the types of leave listed above in this paragraph.

**Absenteeism.** FMLA leave may be counted as an absence under the County’s attendance policy.

**Return from Leave.** Upon return from leave, the employee will be restored to his/her original or an equivalent position. An employee who fails to return at the end of FMLA will in most cases be considered to have voluntarily resigned his/her position with the County. Employees who do not return to work at the end of their leave will be terminated unless they are entitled to additional leave as a reasonable accommodation under the American with Disabilities Act.

**State and Local Laws.** When state and local laws offer more protection or benefits, the protection or benefits provided by those laws will apply.

SECTION Q – BUSINESS TRAVEL EXPENSES

Montgomery County believes that it is important that all employees have some assurance that any monies they expend traveling on behalf of the County will be reimbursed to them. In addition, Montgomery County wishes to ensure that equitable standards and effective procedures are in place for controlling travel costs.

Travel Authorizations: All employees must receive written permission to travel before any in-state business is undertaken. Employees may not undertake business travel outside the state of Indiana unless pre-approved by the County Commissioners or emergency circumstances exist. Unless emergency circumstances exist beyond the employee’s control, employees should submit their travel request at least 10 days prior to departure and obtain their department head’s written authorizations for the trip. The written authorization certifies that the travel has been approved and that expenses will be paid by the County with the proper documentation. A written request to travel must contain the following information:

* Employee’s name;
* Destination and purpose of the trip;
* The dates of departure and return;
* The type of transportation requested; and
* Department head’s written approval

It is the responsibility of the employee traveling to acquire all necessary signature approvals.

Company Credit Cards: Department Heads may be issued a county-sponsored credit card. These cards should be used for business charges only. The County will receive a monthly report detailing charges to each account from the credit card company. The credit card must be returned to County upon termination of employment. Employees who use personal credit cards for County expenses must follow the provisions of this policy in order to reimbursed, and employees are responsible for paying the charges on their own personal accounts with funds received from expense reports. Credit cards may be used only for lawful charges of expenses related to and necessary for the effective operation of the employee’s department. Such uses include, but are not limited to:

(1) purchasing of supplies and equipment for the use and benefit of the department;

(2) travel and lodging expenses of department personnel while traveling on approved County business;

(3) meal expenses of department personnel while traveling on approved County business, provided that any such expense may not exceed any authorized per diem for meals. Reasonable tips and/or gratuities are allowed as meal expenses if service is provided as part of the meal;

(4) approved training and education costs for department personnel; and

(5) any other use required for the efficient operation of the department when use of vouchers, checks, or other means of credit are not possible, provided that said use has been approved by the department head.

Credit cards may not be used for the following:

(1) personal use;

(2) purchase of alcohol;

(3) any illegal purpose; or

(4) to bypass the County’s accounting system or purchasing policies.

Travel Arrangements: Whenever possible, travel should be made via common carrier or company vehicle. All air travel will be provided or reimbursed at the coach fare cost. No travel is authorized on weekends to and from destinations; there shall be no reimbursement of travel expenses.

All travel arrangements, including airline tickets, hotel reservations, and rental cars, are the responsibility or the employee. Employee may utilize the benefits of any frequent flier bonus programs that may accrue from business-related travel for seating upgrades or for personal travel. Employees should be aware that the IRS has not yet addressed the issues concerning the tax treatment of frequent flyer programs. Montgomery County intends to comply fully with regulations as they are issued, so the frequent flyer bonus policy may change in the future.

Documentation Requirements: Documentary evidence, such as receipts or paid invoices, is required of all expenses. In addition, within seven (7) days of use of a County credit card, the employee using the card will deliver to the authorized custodian of the card the following documents:

(1) a claim form for the charges signed by the authorized custodian;

(2) original receipts and/or invoices for the charges;

(3) any other documentation requested by the custodian or Auditor which supports the claim; and

(4) if the employee loses the original receipt and/or invoice, the duplicate receipt and/or invoice or an affidavit of lost receipt within seven days of receiving the required documents from the employee, the custodian will deliver the documentation to the Auditor for processing. Any interest, late charges, or other fees resulting for the tardy submission of credit card receipts shall be the personal responsibility of that employee.

Lodging: Reasonable costs of lodging will be reimbursed with a valid receipt. Hotel movies, health clubs, spas, salons, shoeshines, or haircut expenses are not reimbursable. Apartment rental allowances may be established for assignments of exceptional length. Lodging with friends is not directly reimbursable, but reasonable restaurant expense for dinner with friends will be reimbursed as an expression of gratitude for lodging. The expense report should describe this cost as “in lieu of lodging.”

Meals: Reasonable expenses for breakfast, lunch, and dinner will be reimbursed. Tips should be included in the meal charges on the expense report. Meals prior to departure and after return from a trip will not be reimbursed. Also, drinks and snacks between meals will not be reimbursed.

Entertainment: Entertainment, amusement, or recreation expenses for employees will not be reimbursed. No alcohol expenses will be reimbursed.

Taxis and Car Services: Taxi fares and car service costs for business purposes will be reimbursed to the extent that the fares do not exceed the cost of renting a car to cover the same distance.

Telephone Charges: Telephone charges will be reimbursed if they are incurred in connection with the County’s business. Employees, who are issued cell phones, should use their cell phones to make any telephone calls while traveling. Reasonable telephone charges for personal calls while traveling overnight also will be reimbursed.

Laundry: Reasonable laundry and dry cleaning charges will be reimbursed if the traveling employee is traveling overnight for at least five nights.

Mileage: Personal car mileage will be reimbursed at the rate authorized by the County Council for business purposes. The amount reimbursed will not exceed the equivalent common carrier fare or the cost of renting a car. If employees choose to use their personal vehicle, they must possess a valid driver’s license and carry a minimum of $100,000/$300,000/$100,000 (per person/accident/property damage) or $300,000 combined single-limit liability insurance coverage. A certificate of insurance or other proof of insurance must be provided to your department head prior to travel. Employees receiving a car allowance will not receive mileage reimbursement except in unusual circumstances. Any fines incurred as a result of driving or parking violations while on company business will be reimbursed.

Automobile Tolls and Parking: Automobile tolls and parking expenses incurred for business purposes will be reimbursed. Long-term parking at all airports should be used due to the expense of short-term parking.

Travel with Spouse: Montgomery County will not reimburse an employee for the travel expenses of the employee’s spouse.

SECTION R – SEXUAL HARASSMENT POLICY

It has been and continues to be policy of Montgomery County, Indiana, to prohibit any type of sexual harassment on any level in the workplace. 42 U.S.C. Section 200e(2)(a)(i) provides as follows:

“It shall be an unlawful employment practice for an employer –(i) to fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges or employment because of such individual’s race, color, religion, set or national origin.”

Under existing case law a succinct definition of what constitutes sexual harassment is impossible. However, for sexual favors or other verbal of physical conduct of a sexual nature may constitute harassment when such conduct is made, explicitly or implicitly, a terms or conditions of an individual’s employment; submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual; or such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or created an intimidating, hostile, or offensive working environment. See generally 29 CFR Section 1604.11 (a).

This policy is intended to deal with any claim of sexual harassment by way of three-step process:

(1) Reporting;

(2) Investigation;

(3) Disciplinary or remedial action.

REPORTING OF SEXUAL HARASSMENT

A. Any employee who feels that he or she has been the victim of sexual harassment shall promptly make a report, in writing, to the Board of Commissioners of Montgomery County, Indiana, and the employee’s supervisor or Department Head who shall forward a copy of the Board of Commissioners. If the alleged abuser is the Department Head, the employee need not submit a written report to the Department Head. If the alleged abuser is a Commissioner, the victim shall make the report to the County Attorney. The report should contain the following all pertinent facts which will allow the investigatory agency begin an investigation.

B. The first step in the reconciliation process will be to separately interview the person making the charge and the person against whom the charges are made in an effort to reconcile the positions of the individuals.

C. If reconciliation is reached, then the reconciliation will be reduced to writing and signed by the individuals involved.

HEARING

In the event that reconciliation cannot be accomplished, then the investigation will take the form of a hearing at which time the complainant, respondent, and any other witnesses will be asked to give testimony which may be recorded either by way of audio tape, videotape or stenographic reporting.

DISCIPLINARY MEASURES

After the investigation is completed, and based upon the testimony given, the board of Commissioners will make a recommendation for action which may include a finding that no action is warranted; remedial measures in the workplace to alleviate problems; probation or suspension of the individual involved; or termination.

If an individual desires the advice of counsel, then that must be done by the individual himself of herself at his or her own expense.

SECTION S – DIRECT DEPOSIT.

Beginning with the biweekly pay period ending April 4, 2008, the County will pay all employees by direct deposit to employees’ accounts in financial institutions, in lieu of issuing paper checks. Beginning with such pay period, it shall be a condition of employment that all County employees designate at least one, by not more than two, deposit accounts at a financial institution which is eligible to receive direct deposit of payroll, as the account(s) to receive direct deposit of their periodic compensation from the County. If an employee fails to designate a financial institution, the County may establish a savings account in that employee’s name and deposit compensation into that account for the benefit of the employee. Any employee who fails, refuses or neglects to designate a deposit account at an eligible financial institution to receive direct deposit of his or her compensation shall be subject to discipline up to and including termination of employment, notwithstanding any other provision of this policy manual.

(Am. Commissioners Ord. 2008-5, passed 3-24-08)

SECTION T – ACCEPTABLE USE POLICY

1. The responsibility for all County Information Technology (IT) decisions resides with the County Commissioners through the IT Committee. All County purchases of computers, hardware, software and related IT equipment shall be done after consultation and approval of the IT Committee. If any IT equipment experiences problems or needs repair, all Department Heads, or his/her designee, must first contact the IT Coordinator or Facilitator before contacting any outside third parties regarding the problems.

2. Employee’s use of County computers, software, electronic media and files, and peripheral devises is subject to the Acceptable Use Policy which is attached to this Policy Manual as Appendix F and made part of it by reference.

3. Each existing employee who is subject to these personnel policies at the time this Section T is adopted shall be given a copy of the Acceptable Use Policy and shall acknowledge receipt of it in writing.

4. Each new employee who is subject to these personnel policies shall be given a copy of the Acceptable Use Policy at the time of his or her employment, and shall acknowledge receipt of it in writing. (Am. Commissioners Ord. 23009-4, passed 6-22-09)

SECTION U – TAKE HOME VEHICLE POLICY

1. The personal use of County vehicles is strictly prohibited except as expressly authorized under this policy. All County employees who are subject to these personnel policies are required to abide by the following vehicle policies:

a. All County owned vehicles may be used for county business only, with the exception of vehicles specifically authorized by the Montgomery County Board of Commissioners to be used for commuting purposes.

b. When County owned vehicles are not in use, these vehicles are to be kept on County property, or an area designated for County vehicle storage except when these vehicles are elsewhere for repairs or service. Vehicles permitted by the County to be used for commuting purposes may be stored at the employee’s residence on evenings or weekends.

c. Any employee taking home a County owned vehicle is not allowed to use the vehicle for personal purposes, other than commuting or de minimis personal use. An example of de minimis use would be stopping for a personal use. An example of de minimis use would be stopping for a personal errand on the way between a job-related trip and the employee’s home. Employees that take home a County owned vehicle will be taxed an income benefit of $1.50 per one way commute, from home to work or from work to home. There are no record keeping requirements with respect to the commuting use of a County owned vehicle.

d. It is required that any employee driving a county owned vehicle will obey all local, state, and federal traffic regulations. Payment of any speeding and/or parking tickets is the responsibility of the employee driving the County owned vehicle. Failure to address or otherwise pay such tickets prior to notification to the County by law enforcement agencies may result in corrective action up to and including termination.

e. The following types of vehicles are exempted from both record keeping and taxation requirements;

(1) Clearly marked police and fire vehicles;

(2) Unmarked law enforcement vehicles when used for authorized purposes and operated by full time law enforcement officers;

(3) Delivery trucks with seating only for the driver, or only for the driver plus a folding seat;

(4) Flat bed trucks;

(5) Cargo trucks with over a 14,000 pound capacity;

(6) School and passenger busses with over a 20 person capacity;

(7) Ambulances and hearses;

(8) Bucket trucks;

(9) Cranes and derricks;

(10) Forklifts;

(11) Cement mixers;

(12) Dump trucks;

(13) Garbage trucks;

(14) Specialized utility repair trucks;

(15) Tractors;

(16) Certain pickup trucks and vans not over 14,000 pound loaded gross weight and clearly marked with permanently affixed decals or special paintings or other advertising, equipped with at least one of the following:

A hydraulic lift gate, permanently installed tanks or drums, permanently installed side boards or panels materially raising the level of side of the sides of the truck or other heavy equipment such as an electric generator, welder, boom or crane.

A van must have a seat only for the driver or the driver and one other person, and either permanent shelving has been installed that fills most of the cargo area, or the cargo area is open and the van constantly caries merchandise, material, or equipment used in the County’s trade business or function.

f. Clearly marked law enforcement vehicles used to commute, which are owned or leased by the County will be excluded from the law enforcement officer’s income if the officer is on call at all times. However, it will be prohibited for personal use (other than commuting) outside the limit of the law enforcement officer’s arrest power. Any law enforcement officer employed by the County must be authorized by the Board of Commissioners or Sheriff for personal use of an unmarked law enforcement vehicle owned or leased by the County. The personal use must be necessary to help enforce the law, such as being able to report directly from home to a stake out site or to an emergency. Use for vacation or recreational trips is not an authorized use.

2. Failure to follow the provisions of this Take Home Vehicle Policy subjects an employee to discipline, up to and including discharge.

SECTION V – HEALTH INSURANCE

1. Eligibility: Full-time employees are entitled to participate in the group health insurance program maintained by the County as follows:
   1. General: Newly hired full-time employees, except for employees of the Central Communications Center on January 1, 2012, become eligible to participate in the County’s group health insurance program after the first 30 days of employment; and
   2. Employees of the Montgomery County Central Communications Center: Full-Time employees of the Center who begin work for the County on January 1, 2012 are immediately eligible to participate in the County’s group health insurance program. Full-time employees of the Center hired after January 1, 2012 become eligible to participate in the County’s group health insurance program after the first 30 days of employment.
2. Application of Withholding For Employee’s Share of Health Insurance Premiums: The Auditor shall apply withholding for the employee’s share of health insurance premiums as follows:
   1. General: For all employees except new employees of the Central Communications Center on January 1, 2012, the Auditor shall withhold the employee’s share during the first month of employment and apply these withheld premiums to the health insurance premiums for the following month and continue to apply such withholdings in the same manner so long as the employee participates in the County’s health insurance program; and
   2. Employees of Central Communications Center on January 1, 2012: For employees of the Central Communications Center who begin work for the County on January 1, 2012 and participate in the County’s group health insurance program, the Auditor shall withhold the employee’s share during the first month of employment and apply these withheld premiums to the health insurance premiums for January 2012 and continue to apply such withholdings in the same manner so long as the employee participates in the County’s health insurance program. The Auditor shall not withhold two (2) months of the employee’s share in order to collect these premiums prospectively. For employees of the Center employed after January 1, 2012, the Auditor shall withhold the employee’s share during the first month of employment and apply these withheld premiums to the health insurance premiums for the following month and continue to apply such withholdings in the same manner so long as the employee participates in the County’s health insurance program.”
3. SECTION W – CLOTHING ALLOWANCE

Employees of the Montgomery County Central Communications Center are entitled to a $250.00 annual clothing allowance to be paid by the County Auditor each year on or before January 30.”

CHAPTER 4

CLASSIFICATION SYSTEM

The County Council shall determine job descriptions, number of positions, and compensation of employees. It shall classify employees using the classification system adopted by the Council which is shown in Appendix E.

(Am. Council Ord. 2007-13, effective 1-1-08)

CHAPTER 5

NEPOTISM POLICY

(A) General Policy: The County may not employ individuals who are relatives, as defined by §36.13(A)(3) of the County Code, in a position that results in one relative being in the direct line of supervision of the other relative.

(B) Affidavits: Beginning July 1, 2012, all newly hired employees and newly promoted employees must submit to his or her department head a nepotism affidavit which states that he or she is not in a position that results in him or her being in the direct line of supervision of a relative, as that term is defined in §36.13(A)(3) of the County Code.

(C) Exception: If on or before June 30, 2012, an employee held a position that resulted in the employee being in the direct line of supervision of a relative, as that term is defined in §36.13(A)(3) of the County Code, the employee is not in violation of the County nepotism policy as long as the employee remains in that position, unless the employee has a break in employment with the County as provided for in §36.13(D)(1).

CHAPTER 6

SEPARATION

An employee of Montgomery County is considered an at will employee and works at the will of the Elected Official or Department Head. Employees may be separated from the classified service of Montgomery County by any one of the following methods, or any other method permitted by law:

1. RESIGNATION. A resignation in good standing shall comply with the information in Chapter 3, Section H and, if less than two (2) weeks notice is given, be subject to the penalties defined in Chapter 3, Section D – Vacation, subsection. Failure to give at least two (2) full weeks of notice will be entered on the service record of an employee will result in the denial of re-employment rights and will result in the forfeiture of any accrued vacation or compensatory time pay.

2. COMPULSORY RESIGNATION. An employee who without valid reason fails to report to work for three (3) consecutive work days without authorized leave shall be separated from the payroll and reported as a compulsory resignation.

3. LOSS OF ACCEPTABLE POSITION REQUIREMENTS. Any employee who is unable to adequately perform the duties and responsibilities of the position, because of loss of a necessary license or other requirement, shall be separated.

4. DISCHARGE. The County and elected officeholders retain full discretion in determining when discharge is appropriate. Examples of actions that may result in discharge include incompetence, arrest for criminal activity, insubordination, misconduct in or outside the workplace, delinquency, criminal conduct in or outside the workplace, or general inability to perform the duties and responsibilities of the position satisfactorily.

5. DEATH. When a regular employee dies, his estate shall be eligible to receive the monetary equivalent of his accumulated annual vacation and other benefits entitled to the estate.

6. RETIREMENT. Retirement is when an employee concludes their working career with Montgomery County through the retirement process.

7. TERMINATION OF MEDICAL INSURANCE. Upon separation from employment by the County for any of the reasons set forth in this Chapter, a separated employee’s county-paid medical insurance coverage shall terminate on the 15th day of the following calendar month if the employee separates from service on the 1st through the 15th day of a calendar month, and shall terminate on the last day of the following calendar month if the employee separates from service on the 15th day through the last day of a calendar month.

(Am. Ord. 2007-08, passed by Commissioners 4-4-07, passed by Council 9-18-07)

CHAPTER 7

RECORDS AND REPORTS

SECTION A – PERSONAL HISTORY FILE

The Department Head shall maintain a personal history file of all employees. The file may include, but not necessarily be limited, employee’s name, addresses, training and experience, medical data, salary and any changes in any of these items.

SECTION B – PERSONNEL TRANSACTIONS

All appointments, promotions, separations and other personnel transactions shall be made on forms designated by the County Commissioners and shall be held by the Department Head for inspection by the County Commissioners.

SECTION C – PUBLIC INSPECTION

The following information related to employees and former employees is available for public inspection at reasonable times and in accordance with such procedures as the County Commissioners may prescribe: name, position, title, and salary of each employee. Examination records, performance evaluations forms, personal history, eligibility list, and such other confidential papers as may be specified in these rules are accessible only to the Elected Official, the Department Head concerned and the employee involved. Other personnel information may be made available for official purposes at the discretion of the County Commissioners.

SECTION D – DESTRUCTION OF RECORDS

Employee service records shall be kept permanently after termination of employment, by the Department Head. All other records for individual applicants who were not hired by the County, including correspondence, applications and examinations will be destroyed after two (2) years or as otherwise specified by the County Commissioners.

SECTION E – JOB APPLICATIONS

Department Heads shall use the Uniform Job Application From, Shown in Appendix A. This application shall be retained by the Department Head for a period of 12 months, beginning when the position is filled.

SECTION F – JOB DESCRIPTIONS

On or before July 1 of each year, each Department Head shall submit to the County Auditor and County Council a job description for each position in the department. Each description shall contain at a minimum a basic description of the duties of the position, the essential job functions, special skills required to perform the job functions, the direct reports to and from the position, the level of independence enjoyed by the position, certification or license requirements, election requirements, name, years of service and education/experience of the person currently working in the position, whether a driver’s license is an essential job function, whether work at home is allowed, whether attendance is an essential job function, whether the position is exempt or non-exempt under the Fair Labor & Standards Act, and other relevant information.

SECTION G – EXIT INTERVIEWS

Whenever an employee’s employment is terminated for any reason, the Department Head shall conduct an exit interview of the employee.

The Department Head shall complete the Exit Interview Form, Shown in Appendix C, and have the terminated employee sign the form at the interview.

CHAPTER 8

EQUAL OPPORTUNITY

Montgomery County provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, sex, national origin, age, genetic information, disability status as a veteran or any other basis that would be in violation of applicable federal, state or local law. This policy applies to all terms and conditions of employment, including hiring, placement, recruitment, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

Employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring those issues to the attention of their immediate supervisor. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

CHAPTER 9

CONDUCT OF EMPLOYEES

SECTION A – ETHICS OF PUBLIC EMPLOYMENT

1. The proper operation of democratic government required that actions of public officials and employees be impartial; that government decisions and policy be made in proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Re cognition of these goals establishes a code of Ethics as follows for all officials and employees appointed and employed by the county.

2. No employee shall use their official position for personal gain or shall engage in any business or transaction or shall have a financial or other interest, direct or indirect, which is in conflict with the proper discharge of their official duties.

3. No employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the County. Nor shall they use such information to advance the financial or other private interests of themselves or others.

4. No employee shall accept any gift, favor or item of value that may tend to influence an employee in the discharge of their favor, service, or item of value.

5. Any employee offered a gift or favor who is not sure if its acceptance is a violation of the Code of Ethics should inform their Department Head of the gift offer. The Department head will made a decision or refer the individual to the County Commissioners.

6. No employee shall represent private interests in any action or proceedings against the interest of the County in any matter in which the County is a part.

7. State law prohibits employees and officials from having a financial interest in companies which do business with public agencies with minor exceptions. Employees who have any doubt concerning possible violation of these statutes are advised to consult their own attorney.

8. No employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of their official duties. Any employee having doubt as to the applicability of a provision of this code to a particular situation should consult their supervisor or Department head. If the supervisor or Department Head is in doubt, they will refer the employee to the County Commissioners, since violations of this code may constitute a cause of disciplinary action.

SECTION B – POLITICAL ACTIVITY

1. Employees may voluntarily participate in political activities of their choice and freely express their views as a citizen.

2. Employees may not use their official position for coercion of other employees for political purposes.

3. No employee subject to the provisions of the Federal Hatch Act may run for partisan political office.

4. If an employee has any question concerning political activity, of whether they are subject to the hatch Act, should consult the County Commissioners Office for an opinion.

SECTION C – USE OF COUNTY PROPERTY

No County employee shall use or allow to be used any County property such as vehicles, telephones, mailing privileges, material etc ., for personal use.

SECTION D – WORK RULES

These Work Rules are deemed necessary to safe, orderly operations and shall govern the conduct of all employees.

THESE ACTS VIOLATE WORK RULES:

1. UNSATISFACTORY ATTENDANCE. Any unexcused absence or excessive absences, whether or not excused, refusal to work overtime and/or tardiness. Tardiness shall be addressed as follows:

Standards must be set to establish reasonable limits for employee punctuality. This is the purpose of Montgomery County’s Tardiness policy. This policy is meant to provide understanding as to what is considered to be unacceptable conduct, and to promote consistent disciplinary action for attendance infractions.

Records will be kept and appropriate action taken based upon an employee’s accumulated tardiness within any consecutive, rolling twelve (12) month period.

Arriving late or leaving early will count as 1 point.

The point schedule, which is based on a rolling twelve (12) month period, is as follows:

2 POINTS Verbal notification

4 POINTS Written warning

5 – 7 POINTS Written warning and 3-day unpaid suspension

8 POINTS Termination

The Department Head may excuse tardiness for good cause. If in the opinion of the Department Head an employee’s continued pattern of tardiness (or leaving the job early) interferes with the operations of the Department, the employee may be terminated at any time not withstanding the employee’s annual accumulated point total.

2. ABSENCE WITHOUT PROPER NOTIFICATION. To the County on the first date, and, unless excused, every day thereafter. Any absence for three (3) days without proper notification shall be deemed a quit.

3. INATTENTION TO DUTY. Includes such misconduct as loafing, socializing during work time, leaving work station during work time, engaging in personal telephone calls, etc.

4. SLEEPING ON THE JOB.

5. UNSATISFACTORY PERFORMANCE. Failure to achieve quality or quantity standards.

6. DAMAGING PROPERTY. Includes deliberately or carelessly damaging County property of any kind, another employee’s property or any person’s property for which the County may be responsible.

7. UNAUTHORIZED USE. Of County tools, equipment, machines, vehicles or other property.

8. INSUBORDINATION. Refusal to obey a supervisor’s order or disrespectful conduct toward a supervisor.

9. DISORDERLY CONDUCT ON COUNTY PROPERTY. Includes such misconduct as horseplay, pranks, fighting, threats, lewd statements, racial taunts, abusive language, indecent conduct, malicious statements, gambling, possession of a weapon or similar acts.

10. TAKING OF ANY PROPERTY WITHOUT EXPRESS PERMISSION. Including scrap and the property of the County, another employee, a supplier or a customer.

11. UNAUTHORIZED USE OF COUNTY INFORMATION.

12. IMPROPER RECORD KEEPING. For example, careless recording, failure to punch own time card, punching another employee’s time card or falsification of personnel, production or other County’s records.

13. USED, POSSESSION, OR BEING UNDER THE INFLUENCE OF DRUGS, INTOXICATING BEVERAGES OR MARIJUANA ON COUNTY PROPERTY.

14. SMOKING. Except in designated area and at authorized times.

15. SOLICIATION. Of any kind during an employee’s working time.

16. REMOVING OR DEFACING NOTICES POSTED BY THE COUNTY OR POSTING UNAUTHORIZED NOTICES ON COUNTY PROPERTY.

17. FAILURE TO REPORT SAFETY RULES, COMMON SAFETY PRACTICES, OR THE SAFETY OF OTHERS.

18. DISREGARD OF SAFETY RULES, COMMON SAFETY PRACTICES, OR THE SAFETY OF OTHERS, including, among other things, creation of an unsafe condition.

19. SERIOUS DISREGARD OF THE EMPLOYER’S LEGITIMATE INTEREST including, among other things, off-duty misconduct affecting the employer-employee relationship.

20. LEAVING the job area during working hours without authorization.

21. FAILURE TO KNOW AND COMPLY WITH PERSONNEL POLICY MANUAL.

22. FAILURE TO FOLLOW COUNTY DRUG-FREE WORKPLACE RULES.

Montgomery County certifies and agrees that it will provide a drug-free workplace by:

(a) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the County’s workplace and specifying the actions that will be taken against employees for violations of such prohibitions; and

(b) Establishing a drug-free awareness program to inform employees about (1) the dangers of drug abuse in the workplace; (2) the County’s policy of maintaining a drug-free workplace; (3) assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

(c) Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the employer of any criminal drug use conviction for a violation occurring in the work place no later than five (5) days after such a conviction;

(d) Within thirty (3) days after receiving notice under subdivision (c) (2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is guilty of drug abuse violations occurring in the workplace; (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitative program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and

(e) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraph (a) through (d) above.

23. FAILURE TO SIGN ACKNOWLEDGMENT OF RECEIPT OF COPY OF PERSONNEL POLICY MANUAL.

CHAPTER 10

EXCEPTIONS AND SPECIAL CONDITIONS

SECTION A – EMPLOYEES EXCLUDED FROM PERSONNEL SYSTEM

1. All Elected Officials are excluded from the provisions of these County Personnel Policies, including the Fair Labor Standards Act.

2. All Sheriff’s Deputies under the coverage of the Sheriff’s Merit Board are excluded from the provisions of this County Personnel Policies, except the Fair Labor Standards Act.

3. All Court employees (Judges, Bailiff, Reporter and Secretary) are excluded from the provisions of these County Personnel Policies, unless a specific Court has requested inclusion and has been included by the County Commissioners. Court Employees are included under the Fair Labor Standards Act.

4. All County/Purdue Extension Educators are excluded from the provisions of these County personnel policies.

5. Employees of the Probation Department of the County Court System are excluded from the provisions of the County Personnel Policies, unless a specific request for inclusion has been requested by the judge of the Circuit Court and has been adopted by the County Commissioners. Employees of the Probation Department are included under the Fair Labor Standards Act.

6. All employees in the prosecutor’s Office, except the Prosecutor and the Deputy Prosecutors are included in these Personnel Policies.

7. All employees of the IFSSA are excluded from the provisions of these County Personnel Policies.

8. These County Personnel Policies do apply to Montgomery County Jail Officers, Matrons, and Administrative Staff of the Montgomery County Sheriff, provided however, the Sheriff shall have the authority to fix work schedules for these employees and adopt other policies with the prior approval of the Board of Commissioners that may be necessary for the safety and security of all County Jail Employees and Inmates. If any such policies adopted by the Sheriff and approved by the board of Commissioners conflict with these County Personnel Policies, the Sheriff’s policies shall control.

9. Employees of the Montgomery County Highway Department are subject to these County Personnel Policies as modified for the County Highway Employees by Appendix B.

APPENDIX A

UNIFORM JOB APPLICATION FORM

Use State Form 48245 – Master Job Application, a copy of which follows on pages A-2 and A-3.

This form may also be downloaded on-line at:

<http://www.in.gov/icpr/webfile/formsdiv/48245.pdf>

APPENDIX B

SPECIAL PROVISIONS APPLICABLE FOR

MONTGOMERY COUNTY HIGHWAY EMPLOYEES

1. The normal work day for County Highway Department Employees shall be 7:30 a.m. to 4:00 p.m., Monday through Friday, for a normal 40-hour work week. However, the County Highway Director may from time to time, with the approval of the Commissioners, place the Department on a 4-day work week, beginning the work day at 6:00 a.m. and ending at 4:30 p.m., Monday through Thursday.

(Am. Commissioners Ord 2008-\_\_\_, passed 6-23-08)

2. County Highway Employees shall have one-half (1/2) hour for lunch every work day.

3. Part-time employees of the County Highway Department are not entitled to compensation for holidays.

4. On those days declared to be snow emergencies by the Board of Commissioners, if other county employees are not required to report to work, but County Highway Employees do work to abate the snow emergencies then those County Highway Employees who work on these “snow emergency” days shall receive one (1) day of compensatory time for every day worked.

5. The Employee Salary/Title Categorization Schedule on Pages 11a and 12 does not apply to the County Highway Employees.

APPENDIX C

EXIT INTERVIEW FORM

The purpose of this form is to memorialize the exit interview.

The employee:

□ voluntarily quit his/her employment

□ was terminated.

If voluntarily quit, the employee stated his/her reasons for the quit were: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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If an involuntary termination, the department head advised the employee that the reasons for his/her termination were:

1.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The employee □ agrees □ disagrees with the reasons given by the department head.

Is the employee aware of any claims he/she has against the County, any County officers or agents or any other persons arising from his/her employment? If so, please list:

1.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If not, then please check: □ has / □ has not surrendered all county property. If the employee has not, please state arrangements made for the return:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other matters discussed:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

We acknowledge this to be a complete and accurate summary of the exit interview.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employee Department Head

I do not believe this is an accurate summary because of the reasons listed below:

1.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employee

Witnesses:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPENDIX D

RECEIPT AND ACKNOWLEDGMENT FORM

I acknowledge receipt of a copy of Montgomery County’s Personnel Policy Manual and have read it. I understand that if I wish to have a tape recording of this handbook, one will be made available to me.

I understand all of the manual’s rules, policies, terms and conditions, and agree to abide by them realizing that failure to do so may result in disciplinary action and/or termination. I understand and agree that my employment is terminable-at-will, meaning that both the County and I remain free to end our work relationship at any time for any reason. Similarly, I understand that no County official has the authority to enter into an oral employment contract, and only the Montgomery County Board of Commissioners can enter into a written employment contract.

I understand that nothing contained in this handbook in any way creates an express or implied contract of employment between the County and me, but rather is intended only to provide useful information for the purpose of fostering a better working atmosphere while the employment relationship exists.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employee’s Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employee’s Name (Printed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Company Representative Date

APPENDIX E

JOB CLASSIFICATION SYSTEM

The purpose of the job classification system is to provide for an equitable pay structure for County employees. The system shall be administered by the Council with input from the Board of Review Committee (BRC) and the Employee Personnel Committee (EPC). The BRC is compromised of two (2) Council members and one (1) Commissioner. The BRC provides directly to the Council recommendations regarding compensation matters. The EPC is comprised of two (2) elected officials appointed by the Council and three (3) elected officials appointed by the Commissioners.

Step 1: Series

The Council shall classify each position by series and grade. Based upon its review of job descriptions and other information regarding each position, the Council shall classify each position by general job classification or series. Each position will be classified as one of the following series:

1. Series 11: Experienced Advanced Degree: A position requiring an advanced degree, such as a law or medical degree, master’s degree or doctorate degree as a prerequisite to being eligible to serve. In addition, the employee serving in this position has at least seven (7) years of experience in his or her professional field. It is not necessary that this experience be in government or with the County.

2. Series 10: Advanced Degree: A position requiring an advanced degree, such as a law or medical degree, master’s degree, or doctorate degree as a prerequisite to being eligible to serve.

3. Series 9: Professional: A position requiring a college degree and/or license, such as an engineer or registered nurse.

4. Series 8: Managerial: A position responsible for overall management of a department or branch of government. Examples of such positions are those held by elected officials and department heads.

5. Series 7: Public Safety: A position requiring extensive training in public safety such as police officers and fire fighters.

6. Series 6: Supervisory: A position having as a substantial part of its essential job function the supervision of others. This position usually reports to the managerial position and includes chief deputies and job supervisors.

7. Series 5: Special Skills. A position requiring special training or skills to perform the essential job functions. Examples of this type of position are inspectors.

8. Series 4: Advanced Clerical: A position requiring advanced clerical skills to perform the essential functions of the job. Examples of this type of position are paralegals and court reporters.

9. Series 3: Clerical. A position requiring general clerical skills to perform the essential job functions. Examples of this type of position are secretaries, administrative assistants, and receptionists.

10. Series 2: General: A position requiring no specific special skills other than general labor. Full-time positions which do not satisfy the criteria of series 3 through 9 will be classified as general. Examples of this type of position are laborers.

11. Series 1: Part-Time: Positions which are not full-time will be considered on a case-by-case basis and classified individually based upon the criteria used for the classification system as a whole.

The classification by series for each position is shown in Exhibit E-1.

During each budget cycle, the Council will assign a value to each series. This value will be the first step in determining salary for each position.

Step 2: Grade

Once the series has been determined, the Council will assign a grade for each position. Grade is determined by weighing for each position the education or skills required, nature and degree of difficulty, extent of supervisory skills required, and other relevant factors and then comparing the position to other positions in the same series. Grade levels will be assigned from 1 to 9, with 9 being the highest position in the series.

The classification by grade for each position is shown in Exhibit E-1.

On or before February 1 of each year, the Employee Personnel Committee shall review all job descriptions and recommend adjustments to grade based upon changes. On or before March 1 of each year, the Board of Review shall consider the recommendations of the Personnel Committee, review the job descriptions, and make its recommendations to the Council regarding adjustments for the next budget cycle. During each budget cycle, the Council will assign a value to each grade level. This value will be the second step in determining salary for each position.

(Am. Council Ord. 2008-5, effective 1-1-09)

Step 3: Performance

Once the series and grade have been determined, job performance will be considered. This rating will be assigned by each employee’s supervisor in writing on a form formulated by the Council. These ratings will be for the 12 month period ending June 1 and will be provided to the   
Council on or before July 1. The performance will be rated on a scale of 0 to 5, with each level being as follows:

Level Description

0 Should not be retained

1 marginal

2 average

3 excellent

4 superior

5 outstanding

Elected officials will not be rated for performance; rather, they will be given a 3 rating since it is the mid-point rating of the system. Merit officers in the Sheriff’s department will be excluded from the performance rating system as their performance is controlled by the Merit Law.

During each budget cycle, the Council will assign a value for each performance level. This value will be the third step in determining salary for each position.

Step 4: Longevity

Once the series, grade and performance ratings have been determined, longevity will be considered for each employee. On or before July 1, the Auditor shall certify longevity for each County employee. For purposes of this system, longevity is as of July 1st of each year, expressed in whole numbers, controls.

Longevity will include total service to the County government, regardless of position and regardless of employment interruptions. Merit Officers in the Sheriff’s department will be excluded from this calculation as their longevity pay is controlled by the Merit Law.

During each budget cycle, the Council shall assign a value for each year of longevity. This value is the fourth and final step in determining salary for each position.

Appeals

Employees wishing to appeal the classification of their position may do so by completing a written request form and delivering it to the Auditor. The Auditor shall notify both the EPC and Council of the appeal. The EPC shall convene within 30 days of the filing of the appeal and conduct a hearing. The EPC shall make written findings, within 10 days of the hearing, make a recommendation to the BRC, and notify the employee of its findings and recommendation. Within 30 days of its receipt of the EPC’s findings and recommendations, the BRC shall conduct a hearing on the appeal. Within 10 days of the hearing, the BRC shall enter written findings, make a recommendation to the Council and notify the employee of its findings and recommendation. Within 30 days of receipt of the BRC’s findings, the Council shall conduct a hearing on the appeal. Within 10 days of the hearing, the Council shall enter its findings and decision on the appeal.

(Am. Council Ord. 2007-13, effective 1-1-08)

**EXHIBIT E-1**

**Montgomery County Personnel Board of Review**

**Employee Classification Matrix**

**2008**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Position | Series | Grade | Performance | Longevity |
| Assessor | 8 | 3 |  |  |
| 1st Deputy Assessor/Chief Deputy | 6 | 2.5 |  |  |
| 2nd Deputy Assessor | 3 | 2.5 |  |  |
|  |  |  |  |  |
| Auditor |  |  |  |  |
| Auditor | 8 | 4 |  |  |
| Chief Deputy | 6 | 3 |  |  |
| 1st Deputy | 3 | 3.5 |  |  |
| 2nd Deputy | 3 | 2 |  |  |
| 3rd Deputy | 3 | 1.5 |  |  |
| 4th Deputy | 3 | 1.5 |  |  |
|  |  |  |  |  |
| Building |  |  |  |  |
| Administrator | 8 | 3.5 |  |  |
| Technical Assist | 6 | 2 |  |  |
| Building Inspector | 5 | 2 |  |  |
| AA | 3 | 4 |  |  |
| Mapper | 5 | 3 |  |  |
| GIS/CAD Operator | 5 | 2 |  |  |
| Clerk |  |  |  |  |
| Clerk | 8 | 3 |  |  |
| Chief Deputy | 6 | 2.5 |  |  |
| 1st Deputy | 6 | 2 |  |  |
| Bookkeeper/Support Dept | 3 | 1.5 |  |  |
| Micrographics | 3 | 1.5 |  |  |
| Order Book | 3 | 1.5 |  |  |
| Traffic Off | 3 | 1.5 |  |  |
|  |  |  |  |  |
| Commissioners |  |  |  |  |
| Executive Assistant | 3 | 3 |  |  |
| Courthouse Maintenance | 2 | 5 |  |  |
|  |  |  |  |  |
| Court Referral |  |  |  |  |
| Director (Probation Officer) |  |  |  |  |
| Office Manager | 3 | 1.5 |  |  |
| Part-Time | 1 |  |  |  |
|  |  |  |  |  |
| Courts |  |  |  |  |
| Court Reporter | 4 | 2 |  |  |
| Administrative Assistant | 4 | 1.5 |  |  |
| Receptionist | 3 | 1.5 |  |  |
|  |  |  |  |  |
| Drainage Board |  |  |  |  |
| Administrator/Surveyor | 5 | 3.5 |  |  |
|  |  |  |  |  |
| Health |  |  |  |  |
| Officer | 8 | 3 |  |  |
| PHPC | 9 | 2 |  |  |
| Part-time Rec. | 1 |  |  |  |
| Office Adm. | 3 | 2 |  |  |
| Asst. Sanitarian | 5 | 1.5 |  |  |
| Food Insp. | 5 | 1.5 |  |  |
| Nurse | 9 | 1.5 |  |  |
|  |  |  |  |  |
| Highway |  |  |  |  |
| Director | 8 | 4 |  |  |
| Personnel Director | 6 | 2.5 |  |  |
| Assistant Highway Manager | 6 | 2 |  |  |
| Foreman | 6 | 1.5 |  |  |
| Maintainer | 2 | 2 |  |  |
| Signs | 2 | 3 |  |  |
| Truck Drivers | 2 | 2.5 |  |  |
| Mechanics | 2 | 3 |  |  |
| Laborers | 2 | 2 |  |  |
| Operators | 2 | 4 |  |  |
| Office Manager | 3 | 3 |  |  |
| Inventory Clerk | 3 | 2 |  |  |
| Administrative Assistant | 3 | 2.5 |  |  |
|  |  |  |  |  |
| Probation |  |  |  |  |
| Receptionists | 3 | 1.5 |  |  |
| Bookkeeper | 3 | 1.5 |  |  |
|  |  |  |  |  |
| Prosecutor |  |  |  |  |
| Deputy Prosecutor | 10 | 3 |  |  |
| Office Administrator | 3 | 3 |  |  |
| Assistant Office Administrator | 3 | 2.5 |  |  |
| Pre-trial Administrator | 3 | 3.5 |  |  |
| Pre-trial Assistant Administrator | 3 | 2 |  |  |
|  |  |  |  |  |
| Recorder |  |  |  |  |
| Recorder | 8 | 2 |  |  |
| 1st Deputy | 6 | 1.5 |  |  |
|  |  |  |  |  |
| Sheriff |  |  |  |  |
| Sheriff | \*\* |  |  |  |
| Chief Deputy | 7 | 7.5 |  |  |
| Officers | 7 | 3.5 |  |  |
| Clerical | 3 | 1.5 |  |  |
| Matron/Nurse | 7 | 3 |  |  |
| Office – Dare | 7 | 4 |  |  |
| Receptionist | 3 | 1 |  |  |
| Cook | 2 | 1.5 |  |  |
| Maintenance Supervisor |  |  |  |  |
|  |  |  |  |  |
| Soil and Water |  |  |  |  |
| Clerical | 3 | 1.5 |  |  |
| Technician | 3 | 2 |  |  |
|  |  |  |  |  |
| Title IV-D |  |  |  |  |
| Deputy Prosecutor | 10 | 2 |  |  |
| Administrator | 6 | 4 |  |  |
| Caseworker | 3 | 3.5 |  |  |
| Secretary | 3 | 1 |  |  |
| Part-time | 1 |  |  |  |
|  |  |  |  |  |
| Treasurer | 8 | 3 |  |  |
| First Deputy | 6 | 2 |  |  |
| 2nd Deputy | 3 | 1.5 |  |  |
| Part-time | 1 | 1 |  |  |
|  |  |  |  |  |
| Union Township Assessor |  |  |  |  |
| Assessor | 8 | 2 |  |  |
| 1st Deputy | 6 | 1.5 |  |  |
| 2nd Deputy | 3 | 1.5 |  |  |
|  |  |  |  |  |
| Work Release |  |  |  |  |
| Coordinator | 7 | 3.5 |  |  |
| Officer | 7 | 3 |  |  |

APPENDIX F

Montgomery County Acceptable Use Policy

The following constitutes the Acceptable Use Policy of Montgomery County, Indiana, with respect to County computers, software, electronic media and files, and peripheral devices. These rules are in place to protect employees as well as the County.

This policy applies to all employees, temporaries, vendors, consultants and any other workers. This policy applies to all County owned or leased equipment. However, this policy does not restrict the authority of any County elected official or department head to adopt and enforce more restrictive rules regarding employee access to and use of County computers or information technology. This policy shall not be construed so as to permit unauthorized access to confidential information, including without limitation criminal investigative files, records of juvenile proceedings or records of adoption proceedings.

Under no circumstances is an employee of Montgomery County authorized to engage in any activity that is illegal under local, state, federal or international law while utilizing County owned resources.

All information stored on Montgomery County’s computers is the property of Montgomery County and shall not be copied and taken outside the department.

ANY duplication of licensed software or in-house developed software, except for backup purposes, is a violation of Montgomery County policy and may violate federal copyright Law. Licensed software includes any software that Montgomery County has purchased, is leasing or otherwise has responsibility for. Software brought from home is a violation of Montgomery County policy.

Only County-owned or County-licensed software will be permitted on your computer. Personal software, when discovered, will be immediately removed. Violations may be grounds for termination.

The software that is loaded on a County hard disk may not be duplicated for use on any other personal computer.

Any employee found copying software will be subject to termination. Any employee giving unauthorized software to any outside third party, including clients or customers, without prior approval, is also subject to termination.

Programs or any executable files (including but not limited to \*.exe, \*.com, \*.bat or \*.vbs) files shall not be added to County computers without the authorization of the County Information Technology (“IT”) Committee. Programs downloaded from the internet or emailed could contain viruses or affect the performance of the computer or network.

Programs shall not be added to County computers without the authorization of the IT Committee.

Do not modify the contents of any system files without the authorization of the IT Committee.

All computer work to be performed for County business shall be performed on County-owned or County-leased computer equipment so that data may be shared and backed up.

Do not move or tamper with any computer or network equipment. If computer equipment needs to be moved, contact IT Support. Do not bind up any spare network cabling. If cabling is in the way or needs to be moved, contact IT Support and have them move it.

Internet usage is subject to monitoring by the IT Department, IT Committee & Department heads.

Employees are encouraged to use the Internet for business use only. Downloading music, personal files, streaming media (such as internet radio and live cams), and the like are strictly prohibited and could be a federal copyright law infringement. Viewing, printing or downloading of pornography or anything that could offend another employee is strictly prohibited.

Employees are discouraged from using Instant Message for communications outside County business. E-mail should be used for electronic communications between employees, customers and vendors only.

Computer wallpaper (desktop) background) can be selected by the user. However, the wallpaper should not contain anything that could be considered offensive to another employee.

Any attempt to modify or access network resources or any computer usage beyond what is necessary for the performance of your work is prohibited.

Any application running in the background/foreground or as a service not used for work-related items is strictly prohibited. These applications can use up valuable resources on the computer and can hinder the performance of work-related programs.

Computers, electronic devices or media purchased by Montgomery County and all information on them are property of Montgomery County and can be searched and monitored at any time by authorized IT personnel and/or Elected/Appointed officials.

Incidental and occasional use of the County’s electronic communication systems for personal use is permitted when such use does not generate a direct cost to the County including the cost of loss of time during work hours.

Any employee found in violation of these policies is subject to disciplinary action, up to and including immediate termination of employment.

The IT Committee reserves the right to add, delete or modify any provision of this Policy at any time without notice subject to Commissioner approval. The Acceptable Use Policy can be found online at: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. If any provision of this Acceptable Use Policy or part thereof shall be void for whatever reason, the offending words shall be deemed deleted and the remaining provisions shall continue in full force and effect.

Due to the rapidly changing nature of the use of electronic communication systems, this policy cannot address every possible situation. Instead, it expresses the County’s philosophy and sets forth general principles to be applied to the use of electronic communication systems and other technical resources.

RECEIPT OF ACCEPTABLE USE POLICY

I have this day received my copy of the Acceptable Use Policy for Montgomery County, Indiana. I have read and understand it. Furthermore, I understand that it is the job of every employee to know these guidelines, and conduct their activities accordingly. Additionally, changing circumstances may require modifications to this policy, and the County reserves the right to modify, delete or improve any of the policies at any time without notice.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employee Signature Date

(Am. Commissioners Ord. 2009-4, passed 6-22-09)

**Title III: Administration**

**CHAPTER 35: FINANCE AND TAXATION**

Section

35.01 Not-for-profit organizations

35.02 Vehicle excise surtax

35.03 County option dog tax

***Funds and Accounts***

35.10 Stormwater Review Account

35.11 Flood Ordinance Review Account

35.12 Electrical Inspection Account

35.13 Recorder Identification Security Protection Fund

35.14 County Elected Officials Training Fund

35.15 Cumulative Capital Development Fund

35.16 Recorder’s Records Perpetuation Fund

35.20 Railroad Grade Crossing Fund

35.21 Disaster Response Reimbursement Fund

35.50 Major Moves Fund

35.60 Rainy Day Fund

35.70 Electronic Map Generation Fund

35.71 Building Department Cash Change Fund

35.72 Montgomery County Sheriff Department Drug Buy & Covert

Investigations Cash Fund

*Cross-reference:*

*Innkeeper’s Tax, see Chapter 110*

*Flood Hazard Areas, see Chapter 151*

*Stormwater Drainage, see Chapter 154*

**§35.01 NOT-FOR-PROFIT ORGANIZATIONS**

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

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

**§35.02 VEHICLE EXCISE SURTAX**

(A) All passenger vehicles, trucks with a declared gross vehicle weight that does not exceed 11,000 pounds and motorcycles, registered in the county, that are now subject to an excise tax shall also be subject to an annual excise surtax of $25 to be paid with the registration of said motor vehicle.

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

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

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

(a) Vehicles owned by the state, a state agency or a political subdivision;

(b) Church buses;

(c) Vehicles subject to the annual excise surtax.

(C) All of the excise surtax and wheel tax collected on motor vehicles registered in the county shall be distributed, as provided by law, to the county, city and town units of the county by the County Auditor and shall be used only to construct, reconstruct, repair or maintain streets and roads under their jurisdiction.

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

**§ 35.03 COUNTY OPTION DOG TAX**

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

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

(1) more than six (6) taxable dogs are kept for breeding, boarding, training or sale, fifty dollars ($50.00); or

(2) not more than six (6) taxable dogs are kept for breeding, boarding, training, or sale, thirty dollars ($30).

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

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

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

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

(G) *County Option Dog Tax Fund.*

(1) The county treasurer shall establish a county option dog tax fund.

(2) At the time a county option dog tax fund is established under subsection (1), the county treasurer shall establish a canine research and education account within the county option dog tax fund.

(3) Interest and investment income derived from money in a county option dog tax fund becomes part of the county option dog tax fund.

(4) Money in a county’s county option dog tax fund at the end of a calendar year does not revert to the county’s general fund.

(5) The county treasurer shall deposit the tax into the county option dog tax fund according to the following allocation:

(a) Twenty percent (20%) for the canine research and education account;

(b) Eighty percent (80%) for the uses designated by the County Council.

(6) The county treasurer shall include the county option dog tax revenue received by the county treasurer in the settlement procedures described in I.C. 6-1.1-27. Amounts accumulated in the county canine research and education account shall be paid to the state treasurer in accordance with the procedure described under I.C. 6-1.1-27-3.

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

(1) The use of animal care facilities.

(2) Animal control, including dead animal disposal.

(3) Reimbursement to farmers for livestock kills.

(4) Reimbursement to people who have undergone rabies post-exposure prophylaxis.

(I) *Claims for Funds.* In order for any person, firm or entity to obtain any money from the County Option Dog Tax fund, the person, firm or entity shall:

(1) Submit a claim on an approved form for the total amount of the amount requested from the County Option Dog Tax Fund.

(2) Provide to the Auditor the following:

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

(b) (i) A list of the animals by age, type and breed which killed in which a person, firm or entity is seeking reimbursement or

(ii) A copy of a statement from a medical professional indicating the medical necessity for a person to undergo rabies post-exposure prophylaxis;

(c) A copy of all medical bills incurred for those persons that have undergone rabies post-exposure prophylaxis; and

(d) A statement that the claimant has paid to the County any and all property tax, dog tax and other taxes due.

3. Have the claim approved by the County Commissioners.

4. Have funds appropriated by the County Council

(J) *Failure to Pay Tax*. Any person who harbors or keeps a taxable dog as provided for in (A), who fail to pay the tax by the due date, commits an infraction and and is subject to a fine in the amount of $25 per dog per year. Provided, however, in 2007, no person shall be subject to a fine until after July 1, 2007. The Sheriff, and his designees, and animal control officers of the Animal Welfare League shall have the authority to issue citations for this fine. If unpaid, the infraction will be prosecuted by the County Prosecutor in the same manner as other infractions.

(K) *Detention of Dog.* In the event that any dog is confined by Montgomery County in any of its facilities owned or leased and the owner has not paid the County Option Dog Tax, then the owner shall pay to the County the sum of $40 per day in which the dog is detained in its facilities. In the event that any dog is confined by Montgomery County in any of its facilities owned or leased and the owner has paid the County Option Dog Tax, then the owner shall pay to the County the sum of $25 per day in which the dog is detained in its facilities.

(L) *Effective Date.* This section shall become effective January 1, 2007.

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

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

***ANIMAL CARE FACILITY*** means an animal control center, an animal shelter, a humane society, or another animal impounding facility that has as its purpose the humane treatment of animals.

(Council Ord. 2006-07)

***FUNDS AND ACCOUNTS***

**§35.10 STORMWATER REVIEW ACCOUNT**

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

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

(1) one-half (1/2) of the fees may be used to pay for the

following expenses of the Building Department:

(a) To pay claims for the payment of stormwater

reviews, the study of stormwater problems, engineering services for stormwater problems and other services which are related to county stormwater drainage problems; and

(b) To pay the operating expenses related to the provision of stormwater reviews and inspections, including but not limited to wages, salaries and

benefits of its employees, equipment used in such reviews, and other costs of providing this service.

(2) one-half (1/2) of the fees may be used to pay for the

following expenses of the Surveyor’s Office:

(a) To pay claims for the payment of stormwater

reviews, the study of stormwater problems, engineering services for stormwater problems and other services which are related to county stormwater drainage problems; and

(b) To pay the operating expenses related to the provision of stormwater reviews and inspections, including but not limited to wages, salaries and

benefits of its employees, equipment used in suchreviews, and other costs of providing this service.’’

IT IS FURTHER ORDAINED that this ordinance shall become effective on October 15, 2011.

Adopted this 10th day of October, 2011.

**§ 35.11 FLOOD ORDINANCE REVIEW ACCOUNT**

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

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

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

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

**§ 35.12 ELECTRICAL INSPECTION ACCOUNT**

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

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

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

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

**§ 35.13 RECORDER IDENTIFICATION SECURITY PROTECTION FUND**

(A) There is established a Recorder Identification Security Protection Fund. Pursuant

to Indiana Code §36-2-7.5-6, the Recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document in addition to the fees required by Indiana Code §36-2-7-10(b)(1) through §36-2-7-10(b)(11). The Recorder shall deposit this fee in the following manner:

(1) One dollar ($1) shall be deposited in the Recorder’s Records Perpetuation Fund established under Indiana Code § 36-2-7-10(d);

(2) Fifty cents ($0.50) shall be deposited in the Recorder Identification Security Protection Fund established under Indiana Code §36-2-7-11; and

(3) Fifty cents ($0.50) shall be deposited in the County Elected Officials Training Fund established under Indiana Code §36-2-7-19.

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

(C) This is a non-reverting fund.”

**§ 35.14 COUNTY ELECTED OFFICIALS TRAINING FUND**

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

(B) The fees deposited into this fund may be used, pursuant to Indiana Code 36-2-7-19, solely to provide training to county elected officials as required for recorders under Indiana Code §36-2-11-2.5, surveyors under Indiana Code §36-2-12-2.5, and other similar laws.

(C ) This is a non-reverting fund.”

**§ 35.15 CUMULATIVE CAPITAL DEVELOPMENT FUND**

There is established a Cumulative Capital Development Fund. Such funds may be used for lease payments for or purchase of equipment and for all other purposes provided for in I.C. 36-9-14.5-2.

(Ord. 2006-15, passed 7-11-06)

**§35.16 RECORDER’S RECORDS PERPETUATION FUND**

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

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

( C) This is a non-reverting fund.”

IT IS FURTHER ORDAINED that Section 36.03 of the Montgomery County Code is hereby deleted and reserved for future use.

IT IS FURTHER ORDAINED that this ordinance shall become effective on July 1, 2011.

Adopted this 27th day of June, 2011.

**§35.19 COUNTY USER FEE FUND**

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

(1) pre-trial diversion fees;

(2) informal adjustment fees;

(3) marijuana eradication fees;

(4) alcohol and drug services fees;

(5) law enforcement continuing education fees;

(6) jury fees; and

(7) problem solving court fees.

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

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

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

**§35.20 RAILROAD GRADE CROSSING FUND**

(A) SOURCE OF FUNDS.

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

.

(B) USE OF FUNDS.

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

(C) NON-REVERTING FUND.

This is a non-reverting fund.”

IT IS FURTHER ORDAINED that this Ordinance shall be effective on upon adoption.

Adopted this 10th day of January, 2012.

**§35.21 DISASTER RESPONSE REIMBURSEMENT FUND**

(A) SOURCE OF FUNDS.

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

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(B) USE OF FUNDS.

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

(C) NON-REVERTING FUND.

This is a non-reverting fund.”

IT IS FURTHER ORDAINED that this Ordinance shall be effective on upon adoption.

Adopted this 9th day of April, 2012.

**§35.22**  **MONTGOMERY COUNTY 911 FUND**

(A) SOURCE OF FUNDS.

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

.

(B) USE OF FUNDS.

All money deposited into the Montgomery County 911 Fund shall be used for the following:

(1) lease, purchase or maintenance of communication services;

(2) necessary system hardware and software and data base

equipment;

(3) personnel expenses, including wages, benefits, training, and

continuing education, only to the extent reasonable and

necessary for the provision and maintenance of

(a) the Statewide 911 system; or

(b) a wireless enhanced emergency system funded under

Indiana Code §36-8-16, before its repeal on July 1,

2012.

(4) operating costs, including costs associated with:

(a) utilities;

(b) maintenance;

(c) equipment designed to provide backup power or system

redundancy, including generators; and

(d) call logging equipment.

(5) an emergency notification system that is approved by the

Statewide 911 Board under Indiana Code §36-8-16.7-40;

(6) connectivity to Indiana Data and Communications System

(IDACS);

(7) rates associated with communications service providers’

enhanced emergency communications system network

services;

(8) mobile radio equipment used by first responders, other than

radio equipment purchase under subsection (9) as a result of

the narrow banding requirements of the Federal

Communications Commission;

(9) up to fifty percent (50%) of the costs associated with the narrow

banding or replacement of radios or other equipment as a

result of the narrow banding requirements specified by the

Federal Communications Commission.

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

(C) NON-REVERTING FUND.

This is a non-reverting fund.”

IT IS FURTHER ORDAINED THAT effective July 1, 2012, all funds in the County’s Wireless Fund and Emergency Telephone System Fund shall be transferred to the Montgomery County 911 Fund, pursuant to Indiana Code §36-8-16.7.

IT IS FURTHER ORDAINED that this Ordinance shall be effective on July 1, 2012.

Adopted this 25th day of June, 2012.

**§35.23 SHERIFF’S SOCIAL SECURITY INCENTIVE FUND**

(A) SOURCE OF FUNDS.

The Board of Commissioners hereby establishes a Sheriff’s Social Security Incentive Fund. The fund shall consist of monies received from the Social Security Administration as incentive payments for the provision of information by the Sheriff to the Social Security Administration.

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(B) USE OF FUNDS.

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

(C) NON-REVERTING FUND.

This is a non-reverting fund.”

IT IS FURTHER ORDAINED that this Ordinance shall be effective on upon adoption.

Adopted this 13th day of August, 2012.

**§35.24 TITLE IV-D INCENTIVE FUND**

(A) *Source of Funds*. There is hereby created a new fund, the Title IV-D Incentive Fund. The source of monies in this fund is incentive payments paid by the Title IV-D agency directly to Montgomery County, Indiana, deposited into the county treasury for distribution to the Title IV-D Incentive Fund.

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

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

Section 2. This Ordinance shall be in full force and effect from and after its adoption.

Adopted this 26th day of November, 2012.

**§35.25**  **HOMESTEAD VERIFICATION DEDUCTION FUND**

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

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

(1) fees and other costs incurred by the Auditor to discover property that is eligible for a standard deduction under Indiana Code §6-1.1-12-37 or a homestead credit under Indiana Code §6-1.1-20.9;

(2) other expenses of the Office of the Auditor; and

(3) the cost of preparing, sending, and processing notices described in Indiana Code §6-1.1-22-8.1(b)(9) and checklists or notices described in Indiana Code §6-1.1-22.5-12(d).

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

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

Section 2. This Ordinance shall be in full force and effect from and after its adoption.

Adopted this 26th day of November, 2012.

**§35.50 MAJOR MOVES FUND.**

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

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

**§35.60 RAINY DAY FUND**

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

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

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

(2) To be appropriated for any other purpose allowed by Indiana law. (Council Ord. 2006-03, passed \_\_\_-\_\_2006)

**§35.70 ELECTRONIC MAP GENERATION FUND**

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

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

**§35.71 BUILDING DEPARTMENT CASH CHANGE FUND**

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

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

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

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

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

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

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

(1) Collect from persons required to register an annual sex

or violent offender regulation fee in an amount not to exceed fifty

dollars ($50);

(2) Collect from persons required to register a sex or violent

offender address change fee in an amount not to exceed five dollars($5) per address change;

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

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

(1) Deposit ninety percent (90%) of any fees collected under

this section in the County Sex And Violent Offender Administration Fund; and

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

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

(D) This is a non-reverting fund.”

IT IS FURTHER ORDAINED that this ordinance shall become effective upon its adoption.

This ordinance is hereby adopted this 14th day of February, 2011.

**CHAPTER 36: COUNTY POLICIES**

Section

36.01 Membership in organizations

36.02 Enhanced emergency telephone 911 system

36.03 Recording documents; fees

36.04 Smoking prohibited in county buildings

36.05 County prisoners

36.06 Travel expenses

36.07 Real property endorsements

36.08 Health Department services; fees

36.09 Purchasing procedures

36.10 Return check processing fee

36.11 Disposition of Worthless Property

36.12 Claim Payments in Advance of Board Allowance

36.13 Nepotism Policy

**§36.01 MEMBERSHIP IN ORGANIZATIONS**

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

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

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

(1982 Code, § 1-11-2)

**§36.02 ENHANCED EMERGENCY TELEPHONE 911 SYSTEM**

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

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

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

***EXCHANGE ACCESS FACILITY.***

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

(a) An access line;

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

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

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

(3) The term does not include:

(a) A service supplier owned and operated telephone pay station line;

(b) A wide area telecommunication service (WATS) line;

(c) A foreign exchange (FX) line; or

(d) An incoming only line.

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

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

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

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

(3) Each service supplier that collects the enhanced emergency telephone system fee on behalf of the county is entitled to a 3% administrative fee as compensation for collecting the fees. The service supplier shall remit the rest of the fees it collects to the County Treasurer within ten days after the last day of the month. At the same time the collected fees are remitted, the service supplier shall provide a fee collection report to the County Auditor. The service supplier shall prepare the report on a form provided by the County Auditor.

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

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

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

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

(Ord. 93-2, passed 4-6-93; Am. Ord. 2005-05, passed 3-18-05)

**§36.03 RECORDING DOCUMENTS; FEES**

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

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

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

**§36.04 SMOKING PROHIBITED IN COUNTY BUILDINGS**

The Board of Commissioners hereby prohibits smoking in all county buildings of the county, except in areas which are designated smoking areas.

(Ord. 4-87, passed - - 87)

**§36.05 COUNTY PRISONERS**

(A) The Sheriff may request and receive a travel advance for transportation of prisoners from out-of-state, as provided under I.C. 35-33-10-3, from the Sheriff’s budget under “designated prisoner transportation.” Upon completion of the transportation or prisoners, the Sheriff shall submit receipts for all travel expenses incurred and return any monies not used in the travel. (Ord. 88-6, passed - -88)

(B)(1) This section does not apply to a person confined to a county jail who:

(a) Maintains a policy of insurance from a private company covering:

1. Medicare care;

2. Dental care;

3. Eye care; or

4. Any other health care related service.

(b) Is willing to pay for the person’s own medical care; or

(c) Is committed to the Department of Correction.

(1) “Except as provided in division (B)(3) below, a person confined to a county jail may be required to make a co-payment in an amount of not more than Fifteen Dollars ($15) for each provision of any of the following services:”.

(2) The person does not have funds in the person’s commissary account or trust account within sixty (60) days after the service is provided;”

(a) Medicare care;

(b) Dental care;

(c) Eye care; and

(d) Any other health care related service.

(3) A person confined to a county jail is not required to make the co-payment under division (B)(2) above 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 30 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 Mail Administrator.

(4) The County Sheriff shall:

(a) Collect up to $10 from the commissary account or inmate trust account within 30 days from the date the services are provided;

(b) Deposit these funds in a separate account and forward these funds to the County Auditor on a monthly basis; and

(c) Maintain records of all transactions and make those records available to the County Auditor upon request.

(5) The County Auditor shall deposit all funds received into the County Medical Care for Inmates Fund.

(6) The County Medicare Care for Inmates Fund shall be used solely to offset county expenditures from the County General Fund for Inmate Medical Care.

(Ord. 95-1, passed 2-21-95)

This Ordinance shall be effective from and after the date of its adoption.

This ordinance is hereby adopted this 14th day of February, 2011.

**§36.06 TRAVEL EXPENSES**

The county allows travel expenses in an amount per mile as set by the County Council from time to time.

(Ord. passed 8-10-93)

**§36.07 REAL PROPERTY ENDORSEMENTS**

The Board of Commissioners, pursuant to I.C. 36-2-9-18(d), or the County Auditor shall collect $1 for each real property endorsement that the County Auditor makes.

(Ord. 89-9, passed –89)

**§36.08 HEALTH DEPARTMENT SERVICES; FEES**

(A) The Board requires that, under I.C. 16-46-10-4(c), the County Health Department:

(1) Charge individuals for services on a sliding fee schedule based on income that is adopted by the State Board under rules adopted under I.C. 4-22-2; and

(2) Charge corporations, partnerships and other commercial concerns for services funded under this section.

(B) Fees for services collected shall be used only for public health purposes and shall be used in addition to, and not in place of, funds allocated for public health purposes.

(Ord. 12-1993, effective 1-1-94)

**§36.09 PURCHASING PROCEDURES**

(A) Pursuant to the provisions of I.C. 5-22 *et seq.,* the Board of County Commissioners is the purchasing agency for the county government.

(B) The County Commissioners designate as purchasing agents for the county the County Commissioners. The County Commissioners designate each elected county office holder, county judges, Highway Superintendent, Highway Engineer and Building Administrator as an additional purchasing agent for the office to which that officeholder was elected or appointed.

(C) Any purchasing agent designated under this section may make purchases on the open market without notice or bids if the purchase is less than $5,000. This $5,000 limitations shall not apply to purchases made by the Highway Department for annual bid items, repair, parts and labor, maintenance of equipment and motors, equipment rental, road striping, chemicals, grader blades, and snow plow blades. For purposes of this paragraph, annual bid items shall mean aggregates, box culverts, calcium chloride, culverts and erosion control, gas fuel and oil, guard rails, labor & equipment, signs, steel bridges, bituminous, timer bridges and tires.

(Am. Commissioners Ord. 2005-4, passed 7-26-05)

(D) The County Commissioners may adopt any rule or policy consistent with I.C. 5-22 for small purchases and for services.

(E) Each purchasing agent may purchase services in any manner the purchasing agent determines to be appropriate. The purchasing agents shall purchase supplies manufactured in the United States unless any of the following applies:

(1) The supplies are not manufactured in the United States in reasonably available quantities;

(2) The price of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States;

(3) The quality of the supplies is substantially less than the quality of comparably priced available supplies manufactured outside the United States; and/or

(4) The purchase of supplies manufactured in the United States is not in the public interest.

(Ord. 98-2, passed 6-16-98)

(F) In making purchases of good and supplies not governed by other provisions of Indiana law, purchasing agents of the County shall consider the following factors in making purchases decisions:

(1) *Price.* In most circumstances the lowest price available should be used. Purchasing agents should obtain more than one bid or price for the purchase unless unusual circumstances exist, such as the existence of one vendor for a particular item. If the purchasing agent does not choose the vendor offering the lowest price, the agent should document the reasons for the decision, noting which of the other appropriate factors contained in this policy justified this decision, and forward to the Board of Commissioners a report of the decision.

(2) *Quality.* The quality of goods or supplies should be considered.

(3) *Past History.* The experience the County or Department has with a vendor should also be considered.

(4) *Ability to Deliver.* The ability of the vendor to deliver the goods or supplies in a timely manner should also be considered.

(5) *Locality.* In an effort to promote the local economy and local businesses, the location of a vendor’s business in Montgomery County should be considered. For purposes of this policy, a business is located in Montgomery County if it has its principal office in the County or has an office in Montgomery County which is open to the public for business and which employs at least one employee at least 32 hours per week.

(6) *Other Relevant Factors.* Other relevant factors, appropriate under the circumstances, should also be considered.

(Am. Commissioners Ord. 2005-04, passed 7-26-05)

**§36.10 RETURN CHECK PROCESSING FEE**

Any person who tenders an insufficient funds or account- closed check to any county office shall pay a return check processing fee of $20 to the county office.

(Ord. 2001-1, passed 1-30-01)

**§36.11 DISPOSITION OF WORTHLESS PROPERTY**

(A) *Worthless Property Defined.* Worthless property means any property no longer needed by the County which has a value less than the estimated cost of sale of transportation of the property.

(B) *Procedure.* If at any time, a County employee believes that he/she has in his/her possession property which is not needed by the County, he/she shall determine and document the value and estimated cost of sale and transportation of the property. If the property is worthless, as defined in (A), it may be demolished, junked, or made available to the public only as approved by the Commissioners. The employee shall demolish and/or dispose of the property only as specifically approved by the Commissioners.

(C) *Records.* The County employee disposing of worthless property shall maintain complete and accurate records of the disposal of the property. These records shall include, but not be limited to, a description of the property disposed of, the name and address of the person taking the property, a verification regarding any price paid for the property, a description of the process used to ensure that the public was aware of the opportunity to acquire the property, and other such information which evidences compliance with this policy.

(D) *Highest Offer.* The property will be turned over to the person or entity offering the most money for the property, unless the highest offer is unacceptable. If the disposing employee determines the highest offer unacceptable, he/she shall state the reasons therefor in his/her report to the Commissioners. If no offers are received, the employee may make the property available to the public on a first-come, first-served basis as long as the process used in fair and open.

(E) *No Rights Created.* This policy mirrors Indiana law, and the adoption of this policy does not create any rights or confer to any person or entity any rights which do not exist under Indiana law.

(Commissioners Ord. 2006-19, passed 10-10-06)

**§36.12 CLAIM PAYMENTS IN ADVANCE OF BOARD ALLOWANCE**

(A) The County Auditor may make claim payments in advance of Board Allowance for the following kinds of expenses:

(1) Property or services purchased or leased from the United States Government, its agencies, or its political subdivisions;

(2) Insurance premiums

(3) Utility payments or utility connection charges;

(4) Bond or coupon payments;

(5) Maintenance or service agreements including credit card statements;

(6) State or Federal taxes;

(7) Expenses that must be paid because of emergency circumstances.

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

(C) The Board of Commissioners shall review and allow the claim at its next regular or special meeting following the pre-approved payment of the expense.

(D) Any payment of expenses under this Section must be published in the manner provided under I.C. 36-2-6-3.

(Commissioners Ord. 2009-2, passed 5-11-09)

**§36.13 SHERIFF SALE PROGRAM**

(A) ESTABLISHMENT OF PROGRAM.

The Board of Commissioners hereby establishes the Sheriff Sale Program. The Sheriff may enter into one or more contracts for administrative, technical, clerical and related services that are reasonable and appropriate for the Sheriff to effectively prepare for, manage, administer and implement a foreclosure sale program. In the alternative, the Sheriff may administer the program using the resources available in his Department.

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(B) SERVICES CONTRACTS.

Any and all service contracts shall provide for the delivery of such services by a contractor in compliance with all applicable statutory provisions for the conduct of foreclosure sale proceedings and the Sheriff Sale Program.

(C) FEES.

All service contracts shall provide for the payment of a fee not to exceed statutory limitations for each sale in the Sheriff Sale Program, and the fees shall be paid directly to the service provider if a contractor provides these services. The Sheriff is also authorized to charge a fee (Foreclosure Costs Fee) for each cause number in the Sheriff Sale Program, and all such fees shall be deposited into the Sheriff Sale Fund. The Foreclosure Costs Fee shall be payable at the time of filing of the praecipe under Indiana Code 32-29-7-3(h), and this fee shall be in addition to the other statutory costs and fees of the sale. The fees are:

Administrative Fee: $13.50 per hour

Civil Process: $19.00 per hour, plus $0.55 per mile, $13.00

statutory fee for first defendant and $3.00 fee for additional

defendants.

Sheriff’s Fee: $75.50 per cause number

Contractual Service Fee: $100 per parcel

(D) ACCOUNTING.

The Sheriff shall account for all proceeds and fees in compliance with any and all reporting requirements as set forth by the Indiana State Board of Accounts, and any service contract shall obligate the provider to render such accounting in compliance with the laws applicable to the Sheriff .”

IT IS FURTHER ORDAINED that all other provisions of Chapter 36 remain unchanged by this Ordinance.

IT IS ALSO ORDAINED that this Ordinance shall be effective on upon adoption.

Adopted this 30th day of April, 2012.

**§36.14 NEPOTISM POLICY**

(A) **Definitions**: The following definitions apply to the County’s Nepotism Policy:

(1) **Direct Line of Supervision**: The phrase “direct line of supervision” means an elected officer or employee who is in a position to affect the terms and conditions of another individual’s employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The phrase does not include the responsibilities of the County Commissioners of County Council to make decisions regarding salary ordinances, budgets or personnel policies of the County;

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

(3) **Relative**: The term “relative” means any of the following:

(a) a spouse;

(b) a parent or stepparent; and,

(c) a child, an adopted child or stepchild;

(d) a brother, sister, stepbrother, stepsister, or a brother or sister by the half blood;

(e) a niece or nephew;

(f) an aunt or uncle; and,

(g) a daughter-in-law or son-in-law.

(B) **Nepotism Prohibited**: The County may not employ individuals who are relatives, as defined in § 36.13(A)(3), in a position that results in one relative being in the direct line of supervision of the other relative.

(C) **Application of Policy to Relatives of Elected Officials**: Unless a specific exemption applies, this policy applies to an individual who is employed by the County on the date the individual’s relative begins serving a term of an elected officer of the County. When the elected official begins serving a term of elected office, the relative employed by the County may remain employed by the County and maintain his or her position or rank. However, the relative of the elected official may not be promoted to a position that results in one relative being in the direct line of supervision of the other relative. For an individual who is a member of a merit police department, the individual may not be promoted to a position that is not within the merit ranks if the promotion would result in the individual being in the direct line of supervision of the other relative. This policy does not abrogate or affect an employment contract with the County that an individual is a party to and is in effect on the date the individual’s relative begins serving a term of an elected office of the County.

(D) **Exceptions**: The following exceptions apply to the County’s Nepotism Policy:

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

(a) the individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave or worker’s compensation;

(b) the individual’s employment with the County is terminated followed by the immediate reemployment with the County, without loss of payroll time;

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

(3) **Volunteer Firefighters**: the performance of duties of a volunteer firefighter is not considered employment by the County;

(4) **Sheriff’s Spouse as Prison Matron**: a sheriff’s spouse may be employed as a prison matron for the County under Indiana Code § 36-8-10-5, and the sheriff’s spouse may be in the sheriff’s direct line of supervision;

(5) **Term-Limited Coroners**: an individual who has served as coroner, who is currently ineligible to serve as coroner under Article 6, Section 2(B) of the Constitution of the State of Indiana, who, as coroner, received certification under Indiana Code § 36-2-14-22.3, and whose successor in the office of coroner is a relative of the individual, may be hired in the position of deputy coroner and be in the coroner’s direct line of supervision;

(E) **Annual Reports**: Each year, the following officials must file the following annual reports:

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

(2) Each elected official of the County will annually certify in writing, subject to the penalties of perjury, that the officer has not violated Indiana Code § 36-1-20.2. This certification will be submitted to the President of the Board of Commissioners not later than December 31 of each year;

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

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

(1) Disclosure: The County may enter into a contract or renew a contract with an individual or business described in Section 36.13(F) if:

(a) The County Commissioner or County Council member files with the County Auditor at a public meeting of the Board of County Commissioners prior to final action on the contract or purchase a full disclosure which must:

(i) be in writing;

(ii) describe the contract or purchase to be made by the County;

(iii) describe the relationship that the Commissioner or Council Member has to the individual or business entity that contracts or purchases;

(iv) be affirmed under the penalty for perjury;

(v) to be filed, not later than fifteen (15) days after final action on the contract or purchase, with the State Board of Accounts and the Clerk of the Circuit Court of the County;

(b) The appropriate County agency makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered or makes a certified statement of the reasons why the vendor or contractor was selected;

(c) The Board of County Commissioners accepts in a public meeting the disclosure prior to final action on the contract or purchase;

(d) The County satisfies any other requirements under the public purchasing and bidding laws contained in Indiana Code § 5-22 or § 36-1-12;

(e) The Commissioner or Council member must also comply with the disclosure laws of Indiana Code § 35-44-1-3, if applicable.

(2) **Existing Contracts**: These rules do not affect the initial term of a contract in existence at the term of office of the Commissioner or Council Member of the County begins.”

IT IS FURTHER ORDAINED that all other provisions of Chapter 36 remain unchanged by this Ordinance, and that all provisions of the Employee Handbook regarding nepotism are amended by replacing the existing language of the nepotism policy with the new policy as provided for in this ordinance.

IT IS ALSO ORDAINED that this Ordinance shall be effective on July 1, 2012.

Adopted this 25th day of June, 2012.

**§36.15 PRISONER REIMBURSEMENT**

(A) Beginning March 1, 2011 , the Sheriff will assess reimbursement costs from each person the Sheriff holds in the County Jail who in

(1) Sentenced under a felony or misdemeanor;

(2) Subject to lawful detention in the County Jail for more than 72 hours;

(3) Not a member of a family that makes less than 150% of the fderal income poverty level; and

(4) Not a child detained under a juvenile court’s jurisdiction.

(B) These reimbursement costs to be assessed by the Sheriff includes:

(1) $30 multiplied by each day or part of day that the person is lawfully detained in the County Jail.;

(2) The direct cost of investigating a person’s potential indigent status; and

(3) The cost of collecting the amount for which the person is responsible under this section.

(C) The Sheriff may collect the amounts a person owes under this section from the inmate’s remaining commissary account balance before the Sheriff releases the person from custody and issue to the person a bill for the remaining balance. The person must pay the invoice within 1870 days of his or her receipt of the invoice. If the Sheriff does not receive the amount due, the County Attorney may collect the amount due in a civil proceeding.

**§36.16 SHERIFF’S OFFICE PRISONER- PROCESSING FEE**

(A) Beginning March 1, 2011, the sheriff will assess a $25 processing fee each time the sheriff processes a person taken into custody into the Montgomery County Jail.

(B) The sheriff’s processing fee must be collected before sheriff releases the prisoner from jail or the fee must be deducted from the inmate’s jail-commissary fund. These funds must be deposited into the Montgomery County General Fund. But the Montgomery County Council may appropriate these funds to the Montgomery County Sheriff’s office for any expenses associated with administrating or complying with I.C. §36-2-13-5(8) including, not limited to, salaries, wages, benefits, supplies, equipment, transportation and other expenses.

(Ord. 2011-3, adopted 2-28-11)

**Title III: Administration**

**CHAPTER 37: EMERGENCY MANAGEMENT**

Section

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***GENERAL PROVISIONS***

**§37.01 PURPOSE**

The purpose of this chapter is to establish in the county a Department of Emergency Management and to provide for the exercise of necessary powers during emergencies. (Ord. 1996-4, passed 10-22-96)

**§37.02 DEFINITIONS**

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

***ADVISORY COUNCIL.*** The County Emergency Management Advisory Council, as established under this chapter, pursuant to I.C. 10-14-3-17.

***BOARD.*** The Board of County Commissioners, as elected pursuant to I.C. 36-2-2.

***CHAIRPERSON.*** The Chairperson of the County Emergency Management Advisory Council as established under this chapter, pursuant to I.C. 10-14-3-17.

***EMERGENCY MANAGEMENT.*** The preparation for and the execution of all emergency functions, to include mitigation, preparedness, response and recovery.

***DEPARTMENT.*** The Department of Emergency Management as established under this chapter, pursuant to I.C. 10-4-3-17.

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

***DISASTER.*** The occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, other water contamination requiring emergency action to avert danger or damage, hazardous materials spill or contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot, or hostile military or paramilitary action which cannot be handled by normal operating personnel, procedures, resources or facilities.

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

***MANMADE DISASTER.*** Any incidents, including, but not limited to riots, strikes, insurrections, terrorist acts, civil disturbances, threats to national security or other manmade cause.

***NATURAL DISASTER.*** Any incident affecting or threatening public health, welfare, safety or security including, but not limited to flood, tornado, earthquake, wind, storm, winter storm or other natural cause.

***PARTICIPATING EMERGENCY SERVICE.***

(1) Any county department or agency designated in the emergency operations plan to participate in emergency management activities pursuant hereto; and

(2) Any department or agency of the state, another county, a municipal corporation or a volunteer organization designated to participate to a cooperative or mutual aid agreement entered into pursuant to I.C. 10-14-3-17 and this chapter.

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

***PLAN*** or ***EMERGENCY PLAN.*** The current local emergency plan whose preparation and updating are mandated by I.C. 10-14-3-17(j).

***PRINCIPAL EXECUTIVE OFFICER.***

(1) As referred to in I.C. 10-4-1-23(a) for purposes of declaring a local disaster emergency, and as referred to hereinafter, the regularly designated President of the Board of County Commissioners, except if he or she is unavailable or incapacitated, and the Board has a regularly designated President Pro-Tem, then the President Pro-Tem shall be the ***PRINCIPAL EXECUTIVE OFFICER***. If the President is unavailable or incapacitated and there is no designated President Pro-Tem, then the remaining two Commissioners shall select among themselves one to be the ***PRINCIPAL EXECUTIVE OFFICER*** in the same manner as when an ordinary business meeting needs to be conducted in the absence of the President. If both the President and another Commissioner are absent or incapacitated, then the remaining Commissioner shall be considered the ***PRINCIPAL EXECUTIVE OFFICER***. In the absence or incapacity of all County Commissioners, the Office of PRINCIPAL EXECUTIVE OFFICER shall devolve upon first the County Auditor, second, upon the County Clerk, third, upon the County Recorder and fourth, the Director.

(2) The ***PRINCIPAL EXECUTIVE OFFICER*** of the county selected by the above procedure, if not a member of the County Commission, shall exercise all powers and fulfill all duties of the ***PRINCIPAL EXECUTIVE OFFICER*** under I.C. 10-4-1-23, until the time as a County Commissioner shall no longer by unavailable or incapacitated at which time the County Commissioner, or the regularly designated President of the Board if he or she is no longer unavailable or incapacitated, shall assume all the powers and duties associated with the Office of President of the Board. The ***PRINCIPAL EXECUTIVE OFFICER*** selected by the above procedure, if a member of the County Commission, shall exercise all powers and fulfill all duties of the ***PRINCIPAL EXECUTIVE OFFICER*** under I.C. 10-4-1-23(a) until the time as the regularly designated President of the Board shall no longer be unavailable or incapacitated, at which time the regularly designated President of the Board shall resume all the powers and duties associated with his or her office.

***SEMA.*** The State Emergency Management Agency established under I.C. 10-8-2-1.

***TECHNOLOGICAL DISASTER.*** Any incidents including, but not limited to severe fire, explosions, hazardous material spills, radiological problems or other technological cause.

**§37.03 SCOPE AND INTENT.**

The general intent of this chapter is to provide for all necessary and indispensable powers and procedures reasonably needed to mitigate, prepare for, respond to and recover from emergency conditions. To this end, all powers, both ministerial and discretionary, as conferred herein shall be liberally construed and shall be construed as intending to supplement, augment and not to limit any other power or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, department and agencies.

**§37.04 LIMITATIONS; NONSUPERSESSION OF POWERS**

(A) Nothing in this chapter is intended to supersede or delimit any statutory powers of the County Sheriff to request assistance of the National Guard under the circumstances delineated in I.C. 10-2-4-6.

(B) Nothing in this chapter is intended to supersede or delimit the powers of any incorporated municipality under I.C. 10-4-3-17 to adopt and implement emergency plans and promulgate and enforce special emergency regulations and procedures in the advent of an actual emergency affecting the county. However, pursuant to I.C. 10-5-1-15, the regulations and procedures as promulgated by the municipal authorities may not be inconsistent with the county emergency regulations and procedures as established in this chapter.

(Ord. 1996-4, passed 10-22-96)

***ADMINISTRATION AND ENFORCEMENT***

**§37.15 DEPARTMENT ORGANIZATION AND ADMINISTRATION**

(A) In accordance with I.C. 10-14-3-17(d), there is established the County Emergency Management Advisory Council which shall consist of the following persons or their designees.

(1) The President of the County Executive;

(2) The President of the county fiscal body;

(3) The Mayor of each city located in the county;

(4) An individual representing the legislative bodies of all towns located within the county;

(5) Representatives of private and public agencies or organizations which can be of assistance to emergency management as the organizing group considers appropriate, or as may be added later by the County Emergency Management Advisory Council; and

(6) One commander of a local civil air patrol unit in the county or the commander’s designee.

(B) Officers. The Advisory Council shall have the following officers:

(1) President – The President of the Board of County Commissioners shall serve as the President of the Advisory Council;

(2) Vice President: the members of the Advisory Council shall elect at the organizational meeting each year a Vice President; and

(3) Secretary: the members of the Advisory Council shall elect at the organizational meeting each year as a Secretary”

“(C) Terms: Members of the Advisory Council shall have the following terms:

(1) The President of the Board of County Commissioners, the President of the County fiscal body, the mayor of each city located in the County, and the Commander of the local civil air patrol unit in the County shall serve by virtue of holding their respective offices;

(2) If the Commander of the local civil air patrol unit in the County designates a representative to serve as the Commander’s representative, the representative serves at the pleasure of the Commander and may be removed and replaced by the Commander at any time with or without cause; and

(3) All other members have a term of one (1) year, beginning January 1 and ending December 31 of each year. These members may serve no more than two (2) consecutive terms.”

**§37.16 ADVISORY COUNCIL**

(A) The Emergency Management Advisory Council shall exercise general supervision and control over the emergency management and disaster program of the County and shall select and terminate, with the approval of the County Executive, a County Emergency and Disaster Management Director.

(B) All meetings of the Advisory Council shall be open to the public, and notice of meetings shall be provided as required by Indiana law.”

**§37.17 DEPARTMENT ESTABLISHED**

(A) There is hereby established a Department of Emergency Management within the executive branch of the county government for the purpose of utilizing to the fullest extent possible the personnel and facilities of existing county departments and agencies to prepare for and meet any disaster, as defined in this chapter. The County Commissioners and Director of Emergency Management shall be responsible for its organization, administration and operation. The Department shall consist of the following:

(1) An executive head of the Department of Emergency Management, who shall be known as the Director of Emergency Management appointed in accordance hereto;

(2) A Deputy Director, who shall be appointed by the Director with the approval of the Advisory Council;

(3) Emergency management volunteers, as deemed necessary and appointed by the Director in accordance herewith and in accordance with the plan;

(4) The employees, equipment and facilities of all county departments and agencies suitable for or adaptable to emergency management and designated by the plan to participate in emergency management activity;

(5) Staff officers with the responsibility for warning and communications, radiological, health, emergency care, police, fire and rescue, public works and public information in accordance with the plan; and,

(6) The assistants, clerical help and other employees as deemed necessary to the proper functioning of the Department who may be appointed by the Director in accordance with the proper plan.

(B) Notwithstanding any other provisions of this chapter, no compensated position may be established within the Department of Emergency Management nor any person appointed to the position without:

(1) The authorization of the County Council, pursuant to I.C. 36-2-5-3(a); and

(2) The making of sufficient appropriations to pay the compensation.

(C) The County Council shall not have any power of approval over particular candidates for any position, but the County Council shall have general statutory powers to determine the number of officers, deputies and employees of county departments, classify positions and adopt schedules of compensation.

(D) It is the intent of this section that emergency management and disaster assignments under the plan shall be as nearly consistent with normal duty assignments as possible.

(Ord. 1996-4, passed 10-22-96)

**§37.18 DIRECTOR OR EMERGENCY MANAGEMENT**

(A) Appointment: The Director shall be appointed by the Advisory Council with the approval of the County Executive.

(B) Termination: The Director may be terminated by the Advisory Council, with the approval of the County Executive.

(C) Dual Office Holding Prohibited: The Director may not hold any other local, state or federal office.

(D) Duties: the Director shall have the following duties:

(1) Direct the organization, administration and operation of the emergency management and disaster program;

(2) Be responsible to the President of the County Executive;

(3) Seek, negotiate and enter into mutual aid agreements, with approval or ratification by the County Commissioners; and

(4) Perform other duties which are either assigned by the Advisory Council or required by law.”

**§37.19 DEPUTY DIRECTOR**

(A) If a Deputy Director has been appointed pursuant hereto, he or she shall, during normal times, assist the Director in the performance of his or her duties.

(B) During an emergency, the Deputy Director shall assist the Director and shall fulfill the duties of the Director in the absence or incapacity of the Director to serve.

(Ord. 1996-4, passed 10-22-96)

**§37.20 PRINCIPAL EXECUTIVE OFFICER; BOARD OF COMMISSIONERS**

(A) In time of normal county operations, powers and duties of the Principal Executive Officer pertaining to emergency management shall be:

(1) Seeking the advice and input of the Director as to the advisability of declaring a local disaster emergency; and

(2) Declaring, pursuant to I.C. 10-4-1-23(a), a local disaster emergency.

(B) In time of normal county operations, powers and duties of the County Commissioners pertaining to emergency management shall be:

(1) Maintaining general supervision over the planning and administration for the Department (2) Prepare, adopt and keep current a local disaster emergency plan as provided for in Section 37.35. The Agency shall also prepare and distribute to all appropriate officials a clear and complete written statement of:

(a) The emergency responsibilities of all local agencies and officials: and

(b) The disaster chain of command.”

(3) Coordinating emergency management activities consistent with the plan;

(4) Making assignments of county personnel to emergency management activities consistent with the plan;

(5) Making assignments of county personnel to emergency management duties in order to meet situations not covered in the normal duties and powers of the agencies consistent with the plan;

(6) Taking all necessary action in coordination with the Department to conduct tests of the plan; and

(7) Educating themselves as to their responsibilities under the plan.

(C) (1) Emergency management test may be conducted at any time with or without prior notifications to persons other than the Director.

(2) All emergency tests conducted within the boundaries of the county shall be coordinated with the Department.

(D) In the administration of the Agency, the County Commissioners may:

(1) Appropriate and expend funds;

(2) Make contracts;

(3) Obtain and distribute equipment, materials and supplies for emergency management and disaster purposes;

(4) Provide for the health and safety of persons and property, including emergency assistance to victims of a disaster resulting from enemy attack;

(5) Provide for a comprehensive insurance program for its emergency management volunteers;

(6) Direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set forth by the Federal Emergency Management Agency and the Indiana Department of Homeland security;

(7) Appoint, employ, remove or provide, with or without compensation

(a) Rescue teams

(b) Auxiliary fire and police personnel; and

(c) Other emergency management and disaster workers.

(8) Establish a primary and one or more secondary control centers to serve as command posts during an emergency;

(9) Subject to the order of the Governor of the State of Indiana or the County Commissioners, order, assign and make available for duty employees, property or equipment of the County relating to:

a. Firefighting;

b. Engineering;

c. Rescue;

d. Health, medical and related services;

Police;

e. Transportation;

f. Construction;

g. Similar items of service

For emergency management and disaster purposes; and

(10) In the event of a national security emergency or disaster as provided for in Indiana Code §10-14-3-12, waive procedures and formalities required by County Code, ordinances, resolution or rules.”

IT IS FURTHER ORDAINED that all other provisions of Chapter 37 which are not expressly amended by this ordinance shall remain in full force and effect.

IT IS FURTHER ORDAINED that this ordinance shall take effect upon adoption.

Adopted: May 9, 2012.

**§37.21 VOLUNTEERS**

(A) The Director shall assure that all volunteer personnel meet the following qualifications before being placed on the roster as a member of the Department:

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

(2) Not be convicted of a felony; and

(3) Have completed and have on file with the Department an application form.

(B) Upon satisfaction of the above requirements and formal entry upon the Department’s roster of volunteers, the applicant is officially a member of the County Department of Emergency Management.

(Ord. 1996-4, passed 10-22-96)

**§37.22 BUDGETING AND FINANCE**

The Advisory Council shall advise the Director in the preparation of the budget. The County Council shall appropriate funds as it may deem necessary for the purpose of emergency management. All funds appropriated or otherwise available to the Department of Emergency Management shall be Administered by the Director.

(Ord. 1996-4, passed 10-22-96)

**EMERGENCY MANAGEMENT PLAN**

**§37.35 FORMULATION, CONTENT AND ADOPTION**

(A) (1) A county emergency operations plan shall be adopted by resolution of the County Commissioners.

(2) In the preparation of the plan, as it pertains to county organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent possible.

(B) The Plan shall have, at minimum, the following contents:

(1) Basic plan, to include:

(a) Purpose;

(b) Situation/assumptions;

(c) Concept of operations;

(d) Assignment of Responsibilities;

(e) Direction and control;

(f) Continuity of government;

(g) Administration and logistics; and

(h) Execution.

(2) Annexes, to include:

(a) Direction and control, warning and communications;

(b) Radiological protection;

(c) Law Enforcement;

(d) Fire and rescue;

(e) Health and medical;

(f) Hazardous materials response for SARA Title in Releases (to be drafted by the Local Emergency Planning Committee, pursuant to I.C. 13-25-2-5);

(g) Hazardous materials response for non-SARA Title III releases;

(h) Welfare and human services;

(i) Shelter;

(j) Evacuation;

(k) Public works; and

(l) Resource and supply.

(3) In addition, all emergency services within the county shall:

(a) If they develop internal plans, assure that those plans are drafted subject to the requirements of the plan;

(b) Coordinate internal plans with the Department of Emergency Management;

(c) Assure inclusion of internal plans within the county plan;

(d) Perform the functions and duties assigned by the county plan; and

(e) Maintain their portion of the plan in a current state of readiness at all times.

(Ord. 1996-4, passed 10-22-96)

**§37.36 COUNTYWIDE JURISDICTION**

(A) Except as provided by this chapter, the jurisdiction of the county Department of Emergency Management shall be:

(1) Comprehensive and inclusive countywide; and

(2) Effective in both the incorporated and unincorporated areas of the county.

(B) The jurisdiction and applicability of the county’s comprehensive emergency management and disaster plan, as adopted pursuant hereto, and the exercise of any powers of the Principal Executive Officer of the county and the County Commissioners under § 37.37 shall be:

(1) Comprehensive and inclusive countywide; and

(2) Effective in both the corporate and unincorporated areas of the county.

(C) All incorporated areas of the county shall:

(1) If they develop internal plans, assure that those plans are drafted subject to the requirements of the plan;

(2) Coordinate internal plans with the Department of Emergency Management;

(3) Assure inclusion of internal plans within the county plan;

(4) Perform the functions and duties assigned by the county plan; and

(5) Maintain their portion of the plan in a current state of readiness at all times.

(Ord. 1996-4, passed 10-22-96)

**§37.37 POWERS, REGULATIONS AND PROCEDURES**

(A) This section shall apply whenever:

(1) A state of emergency affecting all or part of the county has been declared by the Governor, pursuant to I.C. 10-4-1-7;

(2) A state of emergency affecting all or part of the county has been declared by the Principal Executive Officer of the county, pursuant to I.C. 10-4-1-23(a);

(3) A presumptive state of emergency is deemed to exist affecting all or part of the county causing the Director to invoke and implement emergency plans and procedures in accordance herewith; or

(4) When the Board of Commissioners has implemented a test of the county’s emergency plan and procedures in accordance with and to the extent necessary or dispensable to the test.

(B) The Department of Emergency Management shall have the following responsibilities prior to declaration of a disaster:

(1) The warning function as prescribed in the portion of the plan;

(2) Assuring proper functioning of emergency communications throughout the county, including all cities and towns, as prescribed in the communications portion of the plan; and

(3) Assuring the mitigation, training and exercising have been performed.

(C) (1) In the event of actual or threatened enemy attach or disaster the county, the Principal Executive Officer of the county may declare a local disaster emergency pursuant to I.C. 10-4-2-3(a) for any period not to exceed seven days.

(2) The declaration shall:

(a) Be in writing;

(b) Indicate the nature of the disaster;

(c) Indicate the conditions which have brought the disaster about;

(d) Indicate the area or areas threatened;

(e) Indicate the area or areas to which the state of emergency applies, which may include the entire county or only designated parts thereof; and

(f) Be announced or disseminated to the general public by the best means available.

(3) The declaration shall be filed in the offices of:

(a) The County Clerk;

(b) The County Auditor; and

(c) The Clerk of any incorporated municipality included in the declared disaster area.

(4) The declaration shall not be invalidated nor ineffective if any of the filing and dissemination requirements cannot be complied with due to the prevailing adverse circumstances.

(5) Upon a declaration, the county’s comprehensive emergency management and disaster control plan which has been adopted pursuant hereto or the several component parts thereof as may be relevant to the emergency shall be inactivated and implemented.

(6) A declaration shall not be necessary if the Governor, pursuant to I.C. 10-4-1-7, has already proclaimed a statewide or areawide state of emergency including the county.

(D) (1) As soon as possible after a disaster emergency affecting the county is declared either by the Governor or by the Principal Executive Officer of the county shall convene a meeting of the County Commissioners to perform their legislative and administrative functions as the situation may demand.

(2) If the Principal Executive Officer fails or is unable to convene a meeting as mandated above, the meeting shall be convened in accordance with I.C. 36-2-2-3(a).

(3) Any meeting of the Commissioners shall:

(a) Be deemed an emergency meeting;

(b) Be subject only to such procedural provisions of law as govern emergency meetings of County Commissioners;

(c) Include relaxation of any applicable notice requirements, pursuant to I.C. 5-14-1.5-5(d);

(d) Be held in any convenient and available place;

(e) Continue, without adjournment, for the duration of the disaster emergency; and

(f) Be recessed for reasonable periods of time as necessary and permitted by the circumstances.

(E)(1) In the event that a quorum of the Board of Commissioners cannot be assembled for purposes of the meeting required hereunder, the Principal Executive Officer of the county shall:

(a) Be considered a plenipotentiary representative of the Board;

(b) Have all powers of the full Board; and

(c) Take all actions of the full Board.

(2) When a quorum is assembled, the plenipotentiary powers shall cease.

(F)(1) At the meeting convened hereunder, the Commissioners may exercise any of their normal executive and legislative powers to the extent related to the emergency and necessary to deal herewith.

(2) In addition to the powers enumerated herein, the Board may also exercise any of the following special and extraordinary powers;

(a) The Commissioners may extend the period of a state of emergency declared by the chief executive officer pursuant hereto, to last more than seven days if necessary.

(b) The Commissioners may terminate the state of emergency, except for a state of emergency declared by the Governor.

(c) The Commissioners may assemble and utilize emergency management forces including:

1. Personnel of the Department of Emergency Management;

2. Participating emergency services; and

3. Any other forces at the disposal of the Commissioners hereunder for emergency management purposes.

(d) The Commissioners may order volunteer forces which have been activated pursuant to the plan to the aid of the county, state or political subdivisions thereof as soon as practicable. These volunteer forces shall be under the direction of the Department of Emergency Management.

(e) In order to control the local disaster emergency and provide for public health, safety and welfare, the Commissioners may, to the extent permitted by I.C. 10-4-1-25 and subject to its provisions, command services and/or requisition the use of:

1. Equipment;

2. Facilities;

3. Supplies; or

4. Other property.

(f) The Commissioners may order the evacuation of all or part of the population from stricken areas of the county and prescribe:

1. Routes;

2. Modes of transportation; and

3. Evacuation destinations.

(g) The Commissioners may mark provision for availability and use of temporary emergency housing, which housing need not necessarily comply with any minimum housing standards, building or zoning regulations and the like, which would govern the use and location of premises for housing purposes during normal times.

(h) 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:

1. Would be impractical during the emergency;

2. Would interfere with the implementation and carrying out of emergency plans; or

3. Would be inimical to actions necessary to protect the public safety and welfare.

(i) Except in accordance herewith, hereinafter the Commissioners shall not suspend any provisions of ordinances or procedures which are mandated by statute.

(j) In the event of enemy attack, or when the state of emergency has been proclaimed by the Governor, the Commissioners, in accordance with I.C. 10-14-3-17(j)(5), may waive any procedures or requirements of statute or of county ordinances reflecting statutory requirements and mandates and pertaining to:

1. The appropriation and expenditure of public funds;

2. The incurring of obligations;

3. The performance of public works;

4. The entering into contracts;

5. The employment of workers whose employment may be either:

a. Permanent; or

b. Temporary.

6. The utilization of volunteer workers;

7. The rental of equipment;

8. The purchase and distribution of:

a. Offices;

b. Materials; and

c. Facilities.

(k) The Commissioners may assign any special emergency duties and functions to county:

1. Offices;

2. Departments; and

3. Agencies.

(l) Any unexpended and unencumbered monies budgeted and appropriated nto otherwise dedicated by law to different purposes may, within the scope of each major budget and appropriation category (major object classification), be utilized and expended for the purpose of carrying out special emergency duties and functions.

(m) The Commissioners may make and promulgate emergency regulations as may be deemed necessary to implement and carry out the provisions of the county’s or state’s plans.

1. The regulations shall not be effective until promulgated, through either:

a. Written filing in the Offices of the County Clerk and County Auditor, as required by I.C. 10-4-1-15(b); or

b. If filing is impossible, through conspicuous posting at two public locations within the county.

(n) The Commissioners may, in accordance with the plan, request the state or the country of their agencies and political subdivisions to send aid (including financial assistance) if the situation is beyond the control of the regular and emergency county forces and resources.

(3) All actions and regulations under the section shall be:

(a) Adopted by ordinance or resolution;

(b) Consistent with, and subordinate to, any actions, orders or regulations made by the Governor or a state agency implementing the state emergency operations plan.

(G) (1) The Director shall make recommendations and advise the Board of Commissioners or the Principal Executive Officer on any actions which it would be necessary or desirable to take hereunder in the event of any emergency.

(2) In the event that any emergency clearly exists or is imminent within the ounty, and a state of emergency has not been declared by the Governor nor is any person having the powers of the Principal Executive Officer of the county present to declare an emergency pursuant hereto, the Director may temporarily presume the existence of a state of emergency.

(3) When Director temporarily presumes the existence of a state of emergency, the Direct shall:

(a) Put into effect those portions of the plan as necessary:

1. To cope with the emergency; and

2. Protect the public safety and welfare.

(b) Be construed to have all powers necessary and dispensable to doing so to the extent not specifically limited by statute or specifically limited herein, until the time as the Chief Executive Officer becomes available;

(c) Have his or her functions performed by the Deputy Director to the extent that the Deputy Director is required to assume the duties of the Director, as provided hereby in the latter’s absence or incapacitation during the emergency.

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

(H) During a declared emergency, all officers and employees of incorporated and unincorporated areas of the county shall:

(1) Cooperate with and five active support to:

(a) The County Commissioners; and

(b) The County Emergency Management Director.

(2) Comply with all orders issued pursuant to this chapter by:

(a) The Commissioners; and

(b) The County Emergency Management Director.

(I) At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all existing inconsistent:

(1) Ordinances;

(2) Orders;

(3) Rules; and

(4) Regulations.

(J) (1) Whenever this chapter applies, it shall be unlawful and a penal ordinance violation for any person to:

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

(b) Failure to observe, abide by and comply with any emergency management duties, orders, regulations and procedures as made applicable to the person by the appropriate authorities; or

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

(2) Any person who commits an offense as described above shall be liable to a fine of $2,500; the fine to be subject, however, to the discretion of the court of jurisdiction.

(3) Any regular or reserve police officer of the state or any of its political subdivisions is hereby empowered to issue and serve a civil citation against any person found to be committing an offense described above.

(K) During an emergency management test or declared emergency, the following shall be immune from liability, to the extent provided by I.C. 10-14-3-17 and any other applicable law:

(1) The county;

(2) Its assigned personnel;

(3) Participating emergency services; and

(4) Rostered volunteers.

(L) Owners of property commandeered for the use in any county official shall be reimbursed for its use by the county as the County Council shall approve with regard to:

(1) Manner of compensation; and

(2) Amount of compensation.

(Ord. 1996-4, passed 10-22-96)

***LOCAL DISASTER EMERGENCY***

**§37.45 ORDER OR PROLAMATION OF LOCAL DISASTER EMERGENCY AFFECTING COUNTY ROADS WHEN COUNTY ROADS ARE NOT CLOSED**

Any order or proclamation of a local disaster emergency, which does not order the closing of county roads, shall provide that:

(A) The risk of travel on county roads is upon the person traveling upon such road or roads;

(B) The driver or person in charge of a vehicle, whether or not stalled, that impedes or interferes with highway snow removal crews or emergency vehicles responding to an emergency may be directed to remove the vehicle from the county road by any law enforcement officer or county highway employee;

(C) If an unoccupied vehicle impedes or interferes with highway snow removal crews or emergency vehicles and the driver or person in charge of such vehicle cannot be found, the Sheriff, County Emergency Management Director or county highway employee may order the vehicle to be towed to place of safety at the owner’s expense;

(D) A person who stops, parks or leaves a vehicle shall leave a sufficient unobstructed width of the roadway opposite the vehicle for the free passage of other vehicles and a clear view of the stopped vehicle from a distance of 300 feet in each direction upon the highway;

(E) The direct of each vehicle shall drive at a reduced speed appropriate to the weather and highway conditions; (I.C. 9-21-5-4).

(F) It is unlawful for a person to knowingly fail to comply with an order or direction of a law enforcement officer, county highway employee or Emergency Management Director directing, controlling or regulating traffic under this chapter.

(Ord. 2000-3, passed 1-18-00)

**§37.46 ORDER OR PROCLAMATION OF LOCAL DISASTER EMERGENCY CLOSING COUNTY ROADS**

Any order or proclamation of a local disaster emergency closing the county roads shall provide that:

(A) The Board of Commissioners have consulted with the Sheriff, Highway Superintendant, and Emergency Management Director and determined that travel on county roads would cause a substantial risk to life and/or property, and that the county cannot assure adequate emergency assistance for stranded motorists or disabled vehicles;

(B) No travel is permitted on county roads until the order closing the roads has been terminated by the Board of Commissioners of the county, provided that the order does not prohibit travel on county roads by individuals if the travel is necessary to:

(1) Maintain a safe rail system;

(2) Restore utility service;

(3) Provide any other emergency public service;

(4) Provide food, water, health care or other emergency services to people or animals;

(5) As may be allowed by order of the Emergency Management Director;

(6) Transportation of teachers and children on Country Club Road and Rock River Ridge Road to and from school if the Crawfordsville School Corporation opens its schools;

(C) The driver or person in charge of a vehicle, whether or not stalled, that impedes or interferes with highway snow removal crews or emergency personnel and vehicles responding to an emergency may be directed to remove the vehicle from the county road by any law enforcement officer or county highway employee;

(D) If an unoccupied vehicle impedes or interferes with highway snow removal crews or emergency vehicles and the driver or person in charge of such vehicle cannot be found, the Sheriff or Emergency Management Director or county highway employee may order the vehicle to be towed to a place of safety at the owner’s expense;

(E) A person who stops, parks or leaves a vehicle shall leave a sufficient unobstructed width of the roadway opposite the vehicle for the free passage of other vehicles and clear view of the stopped vehicle from a distance of 300 feet in each direction upon the highway;

(F) It is unlawful for a person to knowingly fail to comply with a lawful order or direction of a law enforcement officer, county highway employee or Emergency Management Director directing, controlling or regulating traffic under this chapter.

(Ord. 200-3, passed 1-18-00; Am. Ord. passed 11-13-01)

**§37.47 MEDIA NOTICE**

Upon issuance of an order declaring a local disaster a local disaster emergency the president of the Board of Commissioners of the county shall cause the local media to be promptly notified.

(Ord. 200-3, passed 1-18-11)

**§37.48 FILING OF ORDER**

As soon as possible, the president of the Board of Commissioners shall cause the local disaster emergency order to be filed with County Auditor.

(Ord. 200-3, passed 1-18-00)

**§37.49 ENFORCEMENT**

(A) The driver or person in charge of a vehicle who violates §§37.45(B), 37.45(D), 37.46(C), or 37.46(E) may be directed to move the vehicle off the traveled portion of the road. (I.C. 9-21-1-3)

(B) A vehicle stopped, parked or left in violation of §§37.45(B), 37.45(C), 37.45(D), 37.46(B), 37.46(D), or 37.46(E) may be towed to the nearest place of safety at owner’s expense. (I.C. 9-21-16-3).

(C) (1) Violation of the provisions of §§37.45(B), 37.45(C), 37.45(F), 37.46(C), or 37.46(F) is cause for an action to enforce state statute and may result in the entry of a judgment of up to $500 for a Class C Infraction. (I.C. 9-21-5-13, I.C. 9-21-16-9, and I.C. 9-21-8-49)

(2) In the alternative, the violation may be charged as a Class C ordinance violation for which a judgment may include the amount necessary to reimburse the county for any towing or storage fee which it has incurred in addition to the prescribed fine and court costs.

(D) Violation of the provisions of §§37.01(D) or 37.03(E) is a Class C ordinance violation for which a judgment may also include the amount to reimburse the county for any towing or storage fee which it has incurred, in addition to the prescribed fine and court costs.

(Ord. 2000-3, passed1-18-00)

**TITLE V: PUBLIC WORKS**

Chapter

**50. ILLEGAL DUMPING**

**Title V: Public Works**

**CHAPTER 50: ILLEGAL DUMPING**

Section

50.01 Title

50.02 Purpose

50.03 Definitions

50.04 Prohibited acts

50.05 Property owners’ rights and responsibilities

50.06 Enforcement and abatement

50.07 Hearings

*Cross-reference:*

*Interlocal Agreements, see T.S.O. Table TV*

*Transportation of waste materials, see § 130.04*

**§50.01 TITLE**

This chapter shall be titled “Illegal Dumping Chapter” and may be cited as such.

(Ord. 1993-6, passed 7-7-93)

**§50.02 PURPOSE**

The purpose of this chapter is to prohibit illegal dumping of solid waste materials in the county, to establish penalties for violations therefor, and to provide for the method of clean-up of open dumps. Improper disposal at recycling stations shall also be prohibited.

(Ord. 1993-6, passed 7-7-93) Penalty, see § 10.99

**§50.03 DEFINITIONS**

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

***CONSTRUCTION/DEMOLITION DEBRIS.*** Any discarded construction or demolition materials including, but not limited to untreated lumber, paneling, drywall, roofing, shingles, siding, plumbing and electrical components, doors, windows, floor coverings and cabinets.

***CONTAMINANT:*** The same meaning as that term is defined by I.C. 13-11-2-42. (Am. Commissioners Ord. 2008-1, passed 2-11-08)

***DISCARDING.***To abandon, deposit, desert, discharge, dispose, drop, dump, eliminate, emit, jettison, leave, pitch, place, put, scrap, spill, throw or toss any item, any solid waste or derivative thereof, or any inherently wastelike material in a manner such that the discarded substance remains upon the land as solid waste.

***DUMPING.***

(1) The discarding or long-term storage of any items of solid waste commonly known as garbage, rubbish, refuse construction and demolition debris, household trash, appliances, diapers, food service wastes, tires, scrap metal, vehicle parts, implement parts, fence wire and all other items and materials defined as “solid waste” below and in I.C. 13-11-2-205; and

(2) The discarding of any vehicle which do not have value beyond scrap value and which are inoperable and unlicensed or which are condensed abandoned due to the surrounding conditions.

***GARBAGE.*** All putrescible animal solid, vegetable solid and semi-solid wastes from the processing, handling, preparation, cooking, serving or consumption of food or food materials.

***GENERATION.*** The act or process of producing solid waste.

***GENERATOR.*** The person whose actions or processes result in the production of solid waste.

***HEALTH OFFICER.*** The same meaning as the term “local health officer,” as used in I.C. 16-18-2-212, and shall include his or her authorized agent.

***INERT SOLID WASTE.*** Earth, rocks, concrete, bricks, tiles or aged asphalt, natural wood, brush, leaves, wood chips or sawdust, any and all of which is free from contaminants.

***OPEN DUMP.*** The consolidation of solid waste from one or more sources or the disposal of solid waste at a single disposal site that does not fulfill the requirements of a sanitary landfill or other land disposal method as prescribed by law or regulations, and that exists without daily cover and without regard to the possibilities of contamination or surface or subsurface water resources, air, land or other hazard or threat of hazard to the environment or safety.

***PERSON.*** Any individual, partnership, corporation, firm, company, organization, joint stock company, municipal corporation, city, school district or corporation, county, town, association, trust, estate, government unit or other legal entity.

***SCAVENGING.*** The uncontrolled and unauthorized removal of materials from solid waste at any point in the waste management system.

***SOLID WASTE.*** Any yard waste, garbage, refuse, rubbish, sludge or other discarded or disposed materials, including solid, liquid or semi-solid or contained gaseous material resulting from any operation, activity or source.

***STORAGE.*** Proper temporary containment of waste materials for a period of no more than 15 days or the standard interval of local commercial collection service, whichever is less.

***WASTE STORAGE CONTAINER.***

(1) A proper and suitable receptacle used for the temporary storage of solid waste while awaiting collection.

(2) Containers shall be designed to prevent escape or leakage of contents and should be resistant to scavenging animals.

***WEST CENTRAL SOLID WASTE DISTRICT.*** The legally constituted solid waste district of which the county is a member pursuant to I.C. 13-26-2.

**§50.04 PROHIBITED ACTS**

(A) (1) No person shall discard any materials other than recyclables in any facility or contained intended for collecting designated recyclable materials.

(2) No person shall conduct scavenging at any facility or container intended for collecting materials with value as a designated recyclable material.

(B) (1) No person shall discard any solid waste along any roadway within the county unless it be in a proper solid waste storage container and is intended for collection and removal to a facility approved for handling the materials.

(2) No person shall discard for final disposal or for use as fill material any inert solid waste without express consent of the property owner of the final disposal site, including county road rights-of-way.

(3) No person shall discard for final disposal or for us as fill material any inert solid waste which is mixed or adulterated with any contaminants.

(4) No person shall do any dumping or permit any dumping to take place at any location in the county unless the location is an approved and properly permitted landfill site.

(5) Fill material, defined in §50.03 as ***inert solid waste***, and other materials shall require an application to be filed with the County Health Department and County Highway Office and evaluated before any dumping or filling takes place.

(Ord. 1993-6, passed 7-7-93; Am. Ord. passed 5-1-96) Penalty, see § 10.99

**§ 50.05 PROPERTY OWNERS’ RIGHTS AND RESPONSIBILITIES**

(A) (1) It is the responsibility of all persons owning real property in the county to sustain diligent and good faith efforts to protect the natural environment and prevent illegal dumping on their property.

(2) Persons owning real property in the county shall not cause or allow the disposal upon their property of any solid waste materials.

(B) Except as otherwise provided herein, no enforcement action may be taken under this chapter against a landowner on whose land waste has been improperly disposed without the landowner’s consent, unless there has been made a diligent and good faith effort to identify, locate and take enforcement action against a person or persons who appear likely to have committed or caused the improper disposal acts.

(C) Any landowner who in good faith provides information concerning a name, an address or any other evidence of a responsible person’s identify found in wastes improperly disposed on the landowner’s property is not liable to the person for an action taken by enforcement authorities under this chapter against the person as a result of information provided by the landowner.

(D) The owner of property on which improper disposal acts have occurred may be included as a party of any enforcement action against a person who allegedly committed the violation so that the landowner may be ordered to allow the violator access to the land to remove and properly dispose of the wastes allegedly disposed in violation of this chapter.

(E) A landowner on whose land waste has been disposed in violation of this chapter without the landowner’s consent may, in addition to any other legal or equitable remedy available to the landowner, recover from the person responsible for the improper disposal reasonable expenses incurred by the landowner in removal.

(F) A landowner who consents to or allows disposal of wastes generated by others upon his or her property, without making a diligent and good faith effort to prevent the improper disposal of wastes, and who to fails to notify proper authorities of the improper acts of disposal within a reasonable period of time shall be subject to enforcement procedures, and shall be deemed the responsible party and shall be served notice for clean-up of all wastes deposited upon his or her property and removal for final disposal at an approved sanitary landfill, at the landowner’s expense.

(G) If a diligent and good faith effort by the Health Officer to identify, locate and take enforcement action against a person or persons who committed prohibited acts of waste disposal has been made by county authorities, and has failed to indentify violators of acts prohibited herein, the owner of real estate upon which an open dump is located shall be held responsible for correcting and controlling any nuisance conditions which may occur as a result of the open dump.

(H) Materials which provide identifying information regarding the generator shall constitute a rebuttable presumption that the generator has deposited solid waste without the express consent of the landowner and in violation of this chapter. The presumption can be rebutted by proof that:

(1) The person obtained the express consent of the landowner; or

(2) The person properly placed solid waste in a waste storage container for pick-up by a licensed waste hauler.

(Ord. 1993-6, passed 7-7-93)

**§50.06 ENFORCEMENT AND ABATEMENT**

(A) It shall be the duty of the County Health Officer to enforce this chapter. The Health Officer is authorized to perform inspections in the furtherance of fulfilling his or her duty to enforce this chapter. Any person violating any provision of this chapter shall be subject to fines or other injunctive action as specified in this chapter.

(B) Violators of this chapter shall be served a written initial notice of violation either in person or by any other manner reasonably calculated to result in actual notice, including certified mail. The order shall state the violation complained of, order the abatement of the violation, indicate a method of abatement, which if satisfactorily completed will adequately abate the offending violation and provide a reasonable time for abatement.

(C) Abatement of a violation must be accomplished in an environmentally safe and lawful manner pre-approved by the Health Officer by disposal of solid waste in an approved and properly permitted landfill.

(D) If the violation is not satisfactorily abated within the specified time allowed, a second notice shall be served, in the same manner as specified for initial notices and containing the same information specified for initial notices. If the conditions prevail following the specified period of time, the matter shall be referred to the attorney for the County Health Officer for appropriate legal action.

(E) If the Health Officer identifies an emergency condition presented by the violation which condition presents an imminent health and safety hazard to the citizens of the county, the Health Officer may, without notice or hearing, issue a notice reciting the existence of the emergency and requiring immediate abatement by the responsible person.

(Ord. 1993-6, passed 7-7-93)

**§50.07 HEARINGS**

Any person receiving any notice of violation as described herein may demand and shall be granted a hearing on the matter before the Health Board. Conduct of the hearing shall be prescribed by regulations promulgated by the Health Board. The Health Board shall hear testimony and take evidence on the matter, following which the Board shall sustain, modify or revoke the notice of violation issued by the Health Officer.

(Ord. 1993-6, passed 7-7-93)

**TITLE VII: TRAFFIC CODE**

Chapter

**70. TRAFFIC SCHEDULES**

**71. COURTHOUSE PARKING**

**72. TRAFFIC REGULATIONS**

**Title VII: Traffic Code**

**CHAPTER 70: TRAFFIC SCHEDULES**

Schedule

I. Weight Limits

II. Bridge load limits

III. Stop intersections

IV. Speed limits

**SCHEDULE I. WEIGHT LIMITS.**

(A) This schedule is authorized pursuant to the provisions of I.C. 9-21-1-3 and I.C. 9-20-1-3 and for the reason that the highways under control of the Board of Commissioners, by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles is prohibited or permissible weight of vehicle is reduced.

(B) No vehicle with a gross weight of over eight tons shall be allowed on any road contained in the county highway system, excepting the following.

|  |
| --- |
| ***Weight Limits Over Eight Tons*** |
| Ladoga – Crawfordsville Road |
| Old State Highway 55 from Crawfordsville to Wingate |
| 1100 North, from New Richmond to Indiana Highway 25 |
| Russellville Road from Russellville to Indiana Highway 47 |
| Nucor Road from 500 South to State Road 32 |
| 1000 North from Linden to New Richmond |
| 600 South from State Road 47 to U.S. 231 |
| Ladoga – Roachdale Road (550E) |

(Ord. 92-1, passed 2-3-02) Penalty, see § 10.99

**SCHEDULE II. BRIDGE LOAD LIMITS.**

(A) The purpose of this schedule is to establish maximum load limits for certain bridges within the county. (1982 Code, § 5-82-1)

(B) There shall be no maximum weight limit for any bridges with the following exceptions.

|  |  |  |
| --- | --- | --- |
| ***Bridge*** | ***Location*** | ***Weight***  ***Limit/Truck***  ***Suitability*** |
| Bridge 12 | 550 East, north of 850 North | NA |
| Bridge 30 | 1100 North, west of 850 East | NA |
| Bridge 36 | 150 North, east of 800 East | NA |
| Bridge 52 | 550 North, east of 1000 East | NA |
| Bridge 61 | Division Road, one mile east of SR 136 | NA |
| Bridge 69 | 200 South, west of 1025 East | NA |
| Bridge 71 | 450 East, south of 136 | NA |
| Bridge 76 | 400 North, west of SR 43 | NA |
| Bridge 83 | 275 West, north of 400 North | NA |
| Bridge 85 | 400 West, one mile south of SR 136 | NA |
| Bridge 98 | 100 North, east of 650 West | NA |
| Bridge 103 | 500 North, west of 600 West | NA |
| Bridge 104 | 825 West, north of SR 136 | NA |
| Bridge 121 | 825 West, north of 300 South | NA |
| Bridge 122 | 450 West, one-half mile south of 250 South | NA |
| Bridge 129 | 900 West, south of SR 32 | NA |
| Bridge 139 | 200 West, south of 200 South | NA |
| Bridge 153 | 300 East, south of 300 South | NA |
| Bridge 167 | 550 East, south of SR 136 | NA |
| Bridge 169 | 900 South, east of 800 East | NA |
| Bridge 171 | 1100 South, east of 550 East | NA |
| Bridge 184 | 50 South, north of 136 | NA |
| Bridge 198 | South City Line Road, west of 550 East | NA |
| Bridge 199 | 1100 South, west of 550 East | NA |
| Bridge 218 | 950 South, west of 750 West | NA |
| Bridge 240 | 900 North, west of 350 East | NA |
| Bridge 251 | 1025 East, north of SR 234 | NA |
| Bridge 266 | 675 East, west of 700 East | NA |
| Bridge 268 | 600 West, north of 1000 South | NA |
| Bridge 269 | 950 East, north of 700 South | NA |
| Bridge 270 | 750 North, east of 400 West | NA |
| Bridge 501 | Chestnut Street at Danville Avenue | NA |
| Bridge 502 | John Street, John and Chestnut | NA |
| Bridge 506 | Wabash Avenue at Mill Street | NA |
| Bridge 511 | South Boulevard east of Mill Street | NA |

(1982 Code, § 5-82-2; Am. Commissioners Ord. 2008-13, passed 7-28-08)

Penalty, see § 10.99

**SCHEDULE III. STOP INTERSECTIONS.**

(A) (1) A person who drives a vehicle in the county shall stop and yield the right-of-way as required under this schedule at the entrance to a through county road. A person who drives a vehicle in the county shall stop at an intersection where a stop sign is erected and yield to vehicles that are not required to stop. A person who drives a vehicle in the county shall obey all official traffic-control devices placed in accordance with any county ordinance unless otherwise directed by a law enforcement officer. A person who violates any provision of this schedule commits a Class C infraction.

(2) For any intersection not specifically covered in this schedule, or marked with stop signs, north/south traffic will have the right-of-way.

(B) (1) Nothing in this schedule shall be construed to relieve any motorist from disobeying any traffic-control devices placed by the County Highway Department or State Highway Department whether or not the device is placed in accordance with the specific provisions of this schedule.

(2) Motor vehicles in intersections not listed herein will not be forced to stop.

(C) For the purpose of this schedule, the county is divided into four districts and the county road intersections in each district designated as stop intersections, in separate sections are described herein. Section Two includes intersections south of Base Road West and west of Base Road South. Section Three includes intersections north of Base Road West and west of Base Road North. Section Four includes intersections north of Base Road East and east of Base Road North. Section Five includes intersections south of Base Road East and east of Base Road South.

(1) Section Two: Southwest.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Big Four Drive | North | CR 50 South |
| Country Club Court |  | Country Club Road |
| Country Club Meadow |  | Country Club Road |
| Country Club Terrace |  | Country Club Road |
| CR 50 South | West | Country Club Road |
| CR 50 South | East | Schenck Road |
| CR 100 West |  | CR 500 South |
| CR 125 West |  | CR 900 South |
| CR 150 West |  | CR 1150 South |
| CR 175 West | North | CR 1150 South |
| CR 200 West |  | CR 50 South |
| CR 200 West |  | CR 300 South |
| CR 200 West |  | CR 600 South |
| CR 200 West |  | CR 1150 South |
| CR 225 West |  | Country Club Road |
| CR 225 West |  | CR 950 South |
| CR 300 West | North | CR 1100 South |
| CR 300 West |  | CR 1200 South |
| CR 325 West |  | CR 950 South |
| CR 325 West |  | CR 1050 South |
| CR 400 South |  | CR 275 West |
| CR 400 West |  | CR 450 South |
| CR 400 West |  | CR 600 South |
| CR 450 West |  | CR 600 South |
| CR 450 West |  | CR 700 South |
| CR 475 West |  | CR 700 South |
| CR 475 West |  | CR 950 South |
| CR 500 West |  | Division Road |
| CR 525 West |  | Fall Creek Road |
| CR 550 West |  | Davis Bridge Road |
| CR 575 West |  | CR 1150 South |
| CR 600 West |  | CR 600 South |
| CR 600 West |  | CR 950 South |
| CR 600 West |  | Division Road |
| CR 625 West |  | CR 950 South |
| CR 650 West |  | CR 575 South |
| CR 675 West |  | CR 400 South |
| CR 700 West |  | CR 400 South |
| CR 700 West |  | CR 1150 South |
| CR 800 West |  | CR 950 South |
| CR 825 West | North and West | CR 450 South |
| CR 830 West | North | CR 400 South |
| CR 875 West |  | CR 450 South |
| CR 890 West |  | CR 800 South |
| CR 900 West | North | CR 300 South |
| CR 900 West | North | CR 800 South |
| CR 900 West | South | CR 950 South |
| CR 900 West |  | Division Road |
| CR 925 West |  | CR 150 South |
| CR 925 West |  | CR 300 South |
| CR 1000 West |  | CR 400 South |
| CR 1200 South |  | Putnam County Road  750 West |
| Crown Street |  | CR 475 West |
| Davis Bridge Road |  | CR 600 South |
| Delmar Drive |  | Country Club Road |
| Franklin Street |  | Cross Street |
| Franklin Street |  | Crown Street |
| Main Street |  | CR 950 South |
| Main Street |  | Cross Street |
| Main Street |  | Crown Street |
| Manning Place |  | Schneck Road |
| Maple Street |  | CR 950 South |
| Maple Street |  | Crown Street |
| Monroy Circle |  | Schneck Road |
| Putnam County Road 750 West |  | CR 1200 South |
| Rock River Ridge Road | South and East | Country Club Road |
| Rock River Ridge Road | South and East | CR 225 West |
| Sugar Cliff Drive |  | Country Club Road |
| Watson Drive |  | Schenck Road |
| Winslow Drive |  | Country Club Road |

(2) Big Four Addition.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Big Four Drive |  | Big Four – Arch Road |
| 1 Big Four Drive |  | Chicago Drive |

(3) Golf View Estates.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Eagles Way |  | Country Club Road |
| Golf Boulevard |  | Eagles Way |

(4) Carringdon Hills.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Greenlea Boulevard |  | Burning Tree Road |
| Greenlea Boulevard |  | Country Club Road |
| Singing Hills Drive |  | Burning Tree Road |

(5) Section Three: Northwest.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Base Road |  | CR 650 West |
| Base Road West |  | CR 600 West |
| CR 100 West | North and South | CR 400 North |
| CR 100 West | North and South | CR 700 North |
| CR 100 West | North and South | CR 1000 North |
| CR 125 West |  | Oak Hill Road |
| CR 150 West |  | CR 575 North |
| CR 150 West |  | CR 650 North |
| CR 150 West |  | CR 700 North |
| CR 175 West |  | CR 300 North |
| CR 175 West |  | Oak Hill Road |
| CR 200 West |  | CR 1100 North |
| CR 225 West |  | CR 100 North |
| CR 225 West |  | CR 400 North |
| CR 275 West |  | CR 400 North |
| CR 275 West |  | CR 500 North |
| CR 275 West |  | CR 650 North |
| CR 275 West |  | CR 750 North |
| CR 275 West |  | Old State Road 55 |
| CR 300 West |  | Black Creek Valley Road |
| CR 300 West |  | CR 500 North |
| CR 300 West |  | CR 650 North |
| CR 350 West |  | New Richmond Road |
| CR 400 West |  | New Richmond Road |
| CR 450 East |  | CR 1200 North |
| CR 500 West |  | CR 100 North |
| CR 500 West |  | CR 300 North |
| CR 500 West |  | CR 450 North |
| CR 500 West |  | CR 750 North |
| CR 500 West |  | CR 1050 North |
| CR 500 West |  | Division Road |
| CR 500 West |  | Old State Road 55 |
| CR 525 West | North and South | CR 1050 North |
| CR 550 West |  | CR 100 North |
| CR 575 West |  | CR 900 North |
| CR 600 West | North and South | CR 600 North |
| CR 600 West |  | CR 900 North |
| CR 600 West |  | Old State Road 55 |
| CR 610 West |  | CR 450 North |
| CR 610 West |  | CR 500 North |
| CR 625 West |  | CR 450 North |
| CR 625 West |  | CR 900 North |
| CR 625 West |  | CR 970 North |
| CR 650 West |  | Division Road |
| CR 700 West |  | CR 775 North |
| CR 700 West |  | CR 900 North |
| CR 700 West |  | CR 1125 North |
| CR 750 West |  | CR 150 North |
| CR 750 West |  | CR 650 North |
| CR 750 West |  | Division Road |
| CR 775 West |  | CR 450 North |
| CR 775 West |  | CR 650 North |
| CR 800 West |  | CR 1123 North |
| CR 830 West |  | CR 400 North |
| CR 875 West |  | CR 150 North |
| CR 925 West |  | CR 100 North |
| CR 925 West |  | CR 150 North |
| CR 950 West |  | CR 200 North |
| CR 950 West |  | CR 1125 North |
| CR 950 West |  | Old State Road 55 |
| CR 975 West |  | Division Road |
| CR 1000 North | All directions | CR 100 West |
| CR 1000 West |  | CR 150 North |
| CR 1000 West |  | CR 700 North |
| CR 1000 West |  | CR 900 North |
| CR 1000 West |  | CR 1125 North |
| CR 1000 West |  | Old State Road 55 |
| Farmington Hills Road |  | Oak Hill Road |
| Glen Creek Heights Road |  | Old Indiana 55 |
| Lake Terrace Drive |  | CR 100 North |
| Lincoln Drive Road |  | CR 125 West |
| Mt. Zion Court |  | CR 100 North |
| New Richmond Road | North | CR 1000 North |
| Oak Hill Crossing |  | Oak Hill Lane |
| Oak Hill Lane |  | Oak Hill Road |
| Oak Hill Road |  | Lafayette Avenue |
| Oak Hill Road |  | Old State Road 55 |
| Old State Road 55 |  | All intersections |
| Twin Oaks |  | CR 100 North |
| Waynetown Road |  | CR 100 North |

(6) Sugar Cliff Housing Addition.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Sugar Cliff Drive |  | Country Club Road |
| Sugar Cliff Drive | West | Sugar Cliff Drive |

(7) Twin Oaks Housing Addition.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Blue Beach Lane |  | Poplar Avenue |
| Poplar Avenue |  | CR 100 North |
| Poplar Avenue |  | Poplar Avenue “C” |
| Poplar Avenue “A” |  | Poplar Avenue |
| Poplar Avenue “B” |  | Poplar Avenue |
| Tulip Lane |  | Poplar Avenue “D” |
| Tulip Lane “A” |  | Tulip Lane |

(8) Cox Housing Addition.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Crescent Drive |  | Lake Vista Drive |
| Glenwood Drive |  | Lake Vista Drive |
| Lake Terrace Drive |  | CR 100 North |
| Lake Terrace Drive |  | Lake Vista Drive |
| Lake Vista Drive |  | Old Waynetown Road |
| Ridge Drive |  | Lake Vista Drive |
| Ridge Road |  | Glenwood Drive |

(9) Section Four: NorthEast.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Base Road East |  | CR 400 East |
| Concord Road |  | CR 400 North |
| CR 100 East |  | CR 400 North |
| CR 100 East |  | CR 550 North |
| CR 100 East |  | CR 900 North |
| CR 100 East |  | CR 1000 North |
| CR 150 East |  | CR 550 North |
| CR 150 East |  | CR 800 North |
| CR 150 East |  | CR 900 North |
| CR 150 East |  | CR 1000 North |
| CR 150 East |  | CR 1200 North |
| CR 175 East |  | CR 300 North |
| CR 175 East |  | CR 400 North |
| CR 175 East |  | CR 800 North |
| CR 200 East | North | CR 550 North |
| CR 200 East | South | CR 800 North |
| CR 225 East |  | CR 1000 North |
| CR 250 East |  | CR 1200 North |
| CR 250 East | South | CR 1000 North |
| CR 275 East |  | CR 300 North |
| CR 275 East |  | CR 500 North |
| CR 300 North |  | CR 625 East |
| CR 325 East |  | CR 1000 North |
| CR 325 East |  | CR 1100 North |
| CR 350 East |  | CR 300 North |
| CR 350 East |  | CR 650 North |
| CR 350 East |  | CR 1200 North |
| CR 350 East | North | CR 1000 North |
| CR 350 East | North and South | CR 550 North |
| CR 350 East | South | CR 500 North |
| CR 350 East | South | CR 800 North |
| CR 350 East | South | CR 1100 North |
| CR 360 East |  | CR 500 North |
| CR 400 East |  | CR 500 North |
| CR 400 East |  | CR 570 North |
| CR 425 East |  | CR 500 North |
| CR 450 East |  | CR 1000 North |
| CR 450 East | South | CR 570 North |
| CR 500 East |  | CR 500 North |
| CR 500 East |  | CR 570 North |
| CR 500 East | South | CR 150 North |
| CR 500 East | South | CR 900 North |
| CR 550 East |  | CR 150 North |
| CR 550 East |  | CR 500 North |
| CR 575 East |  | CR 500 North |
| CR 575 East |  | CR 850 North |
| CR 575 East |  | CR 900 North |
| CR 575 East |  | CR 1000 North |
| CR 575 East |  | CR 1200 North |
| CR 590 East |  | CR 500 North |
| CR 625 East |  | CR 300 North |
| CR 625 East |  | CR 500 North |
| CR 650 North |  | CR 575 East |
| CR 675 East |  | CR 300 North |
| CR 675 East |  | CR 400 North |
| CR 680 East | South | CR 400 North |
| CR 775 East |  | CR 150 North |
| CR 800 East |  | CR 150 North |
| CR 800 East |  | CR 300 North |
| CR 800 East |  | CR 1000 North |
| CR 850 East |  | CR 900 North |
| CR 850 East |  | CR 1000 North |
| CR 850 East |  | CR 1200 North |
| CR 875 East |  | CR 150 North |
| CR 900 East |  | Bower Road |
| CR 900 East |  | CR 700 North |
| CR 900 East |  | CR 900 North |
| CR 925 East | South | CR 400 North |
| CR 950 East | North | CR 400 North |
| CR 1000 East | North and South | CR 1050 North |
| CR 1000 East | South | CR 450 North |
| CR 1000 East | South | CR 750 North |
| CR 1100 East | North and South | CR 400 North |

(10) Kiger Addition.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Kiger Road |  | CR 425 East |

(11) Walnut Fork Housing Addition.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Brenda Avenue |  | Shayne Drive |
| Freddie Switzer Lane |  | Brenda Avenue |
| Freddie Switzer Lane |  | Campbell Street |
| Shayne Drive |  | Campbell Street |

(12) Eastern Acres Subdivision.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Center Lane |  | Placid Place |
| Placid Place |  | Pleasant Run |
| Placid Place |  | Tranquil Trail |
| Pleasant Run |  | Traction Road |
| Tranquil Trail |  | Traction Road |

(13) Section Five: SouthEast.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Base Road |  | CR 400 East |
| Cornstalk Creek Road |  | CR 350 East |
| CR 75 East |  | CR 1050 South |
| CR 75 East |  | CR 1150 South |
| CR 100 East |  | CR 300 South |
| CR 100 East |  | CR 400 South |
| CR 100 East |  | CR 600 South |
| CR 100 East |  | CR 700 South |
| CR 100 East |  | CR 900 South |
| CR 200 East |  | CR 900 South |
| CR 200 East |  | Ladoga Road |
| CR 240 East |  | CR 1150 South |
| CR 240 East |  | CR 1200 South |
| CR 250 East |  | CR 150 South |
| CR 250 East |  | CR 280 South |
| CR 300 East |  | CR 350 South |
| CR 300 South | East and West | CR 550 East |
| CR 325 East |  | Ladoga Road |
| CR 310 East |  | Ladoga Road |
| CR 350 East |  | CR 100 South |
| CR 350 East |  | CR 200 South |
| CR 350 East |  | CR 500 South |
| CR 350 East |  | CR 600 South |
| CR 350 East | North | CR 750 South |
| CR 350 East | South | CR 1000 South |
| CR 375 East | North | CR 1000 South |
| CR 375 East |  | CR 1100 South |
| CR 375 East |  | CR 1200 South |
| CR 400 East |  | CR 500 South |
| CR 400 East |  | CR 750 South |
| CR 400 East | South | Nucor Road |
| CR 475 East |  | CR 300 South |
| CR 475 East |  | CR 400 South |
| CR 500 East |  | CR 400 South |
| CR 500 East | South | CR 900 South |
| CR 500 East | North and South | Ladoga Road |
| CR 500 South |  | New Ross Road |
| CR 550 East | North and South | CR 300 South |
| CR 550 East |  | CR 500 South |
| CR 600 East |  | CR 400 South |
| CR 625 East | North | CR 400 South |
| CR 625 East | North and South | CR 500 South |
| CR 650 East |  | CR 900 South |
| CR 675 East |  | CR 100 South |
| CR 675 East |  | CR 200 South |
| CR 675 East |  | CR 300 South |
| CR 675 East |  | CR 400 South |
| CR 700 East | North and South | CR 500 South |
| CR 700 East |  | CR 750 South |
| CR 750 South |  | CR 750 East |
| CR 775 East |  | CR 100 South |
| CR 775 East |  | CR 200 South |
| CR 775 East |  | CR 300 South |
| CR 775 East | North and South | CR 500 South |
| CR 775 East |  | CR 700 South |
| CR 825 East |  | CR 700 South |
| CR 875 East |  | CR 200 South |
| CR 875 East |  | CR 1000 South |
| CR875 East |  | CR 1200 South |
| CR 900 East | South | CR 100 South |
| CR 900 East | North | CR 130 South |
| CR 900 East | South | CR 400 South |
| CR 925 East |  | CR 500 South |
| CR 925 East |  | CR 1000 South |
| CR 975 East |  | CR 1100 South |
| CR 975 East |  | CR 1200 South |
| CR 1000 East |  | CR 100 South |
| CR 1000 South |  | CR 1025 East |
| CR 1025 East |  | CR 1000 South |
| CR 1025 East |  | CR 1100 South |
| CR 1025 East |  | CR 1200 South |
| CR 1050 East |  | CR 800 South |
| CR 1050 East | North | New Ross Road |
| CR 1075 East | South | CR 200 South |
| CR 1075 East | North | CR 450 South |
| CR 1075 East | South | CR 500 South |
| CR 1100 East |  | CR 1000 South |
| CR 1100 South |  | CR 1025 East |
| Daugherty Lane |  | Traction Road |
| Ladoga Road |  | CR 500 South |
| Ladoga Road | North | CR 500 South |
| Nucor Road |  | CR 500 South |

(14) Chigger Hollow Housing Addition.

|  |  |  |
| --- | --- | --- |
| ***Street*** | ***Direction*** | ***Intersection*** |
| Barbara Drive |  | Chigger Hollow Drive |
| Barbara Drive |  | Nucor Road |
| Connie Drive |  | Barbara Hollow Drive |
| Leland Drive |  | Chigger Hollow Drive |

(Ord. 98-9, passed 12-15-98; Am. Ord. passed 11-23-99; Am. Ord. passed 11-23-99; Am. Ord. passed 11-23-99; Am. Ord. passed 12-19-00; Am. Ord. passed 3-27-01; Am. Ord. 1-14-03; Am. Ord. passed 10-21-03; Am. Ord. 2005-10, passed 4-12-05; Am. Ord. 2005-12, passed 4-12-05; Am. Ord. 2005-13, passed 8-16-05; Am. Ord. 2006-03, passed 1-3-06; Am. Commissioners Ord. 2009-3, passed 5-11-09) Penalty, see § 10.99.

**SCHEDULE IV. SPEED LIMITS.**

(A) A person who drives any type vehicle in the county shall obey all posted speed limits on all roads.

(B) Any person who violates posted speed limits commits a Class C infraction.

|  |  |  |
| --- | --- | --- |
| ***Road*** | ***Location*** | ***Speed Limit*** |
| All county school zones |  | 30 mph |
| All public roads in Eastern Acres subdivision |  | 20 mph |
| Bowers Road | From CR 1000 east to CR 900 east | 30 mph |
| Brenda Avenue |  | 20 mph |
| Bruce Street |  | 30 mph |
| Cadillac Drive |  | 30 mph |
| Campbell Street |  | 20 mph |
| Center Lane |  | 20 mph |
| College Street |  | 30 mph |
| Concord Road | From base line north (U.S. 231 ) to CR 400 north | 40 mph |
| Country Club Court |  | 30 mph |
| Country Club Road |  | 30 mph |
| CR 50 south | From Schenck Road to county road Country Club Road | 30 mph |
| CR 100 west | From CR 400 north to CR 1000 north | 40 mph |
| CR 150 south | From Ladoga Road to Nucor Road | 35 mph |
| CR 150 south | From Ladoga Road to SR 47 | 30 mph |
| CR 275 west | From CR 400 south to CR 450 south | 40 mph |
| CR 300 south | Between SR 47 and Keller Road | 40 mph |
| CR 300 south | From U.S. 231 to SR 47 | 30 mph |
| CR 300 south | From U.S. 231 east to Ladoga Road | 30 mph |
| CR 300 south | From U.S. 231 east to Ladoga Road | 30 mph |
| CR 325 west | From SR 32 west to CR 300 south | 40 mph |
| CR 450 south | From CR 275 west to CR 400 west | 40 mph |
| CR 400 south | From SR 47 south to CR 275 west | 40 mph |
| CR 400 south | Between SR 231 and CR 200 East | 40 mph |
| CR 400 east | From SR 32 East to Traction Road | 30 mph |
| CR 400 west | From CR 450 south to CR 600 south | 40 mph |
| CR 500 north | From CR 275 east to Darlington City limits | 40 mph |
| CR 500 south | From Ladoga Road to State 136 | 40 mph |
| CR 550 east | From U.S. 136 to south to CR 500 south | 30 mph |
| CR 550 north | From U.S. 231 to CR 275 east | 50 mph |
| CR 550 south | From State Road 47 to dead end | 35 mph |
| CR 570 north | From 450 east 500 east | 35 mph |
| CR 600 south | From SR 47 to CR 400 west | 40 mph |
| CR 600 south | From US 231 to New Market city limits | 40 mph |
| CR 600 south | From west New Market city limits to SR 47 | 40 mph |
| CR 625 east | From SR 47 to SR 32 | 40 mph |
| CR 700 east | From Darlington city limits to CR 575 north | 40 mph |
| CR 700 east | From CR 575 north to CR 1200 north | 50 mph |
| CR 700 west | From CR 1150 S. to Old Waveland Road | 30 mph |
| CR 750 west | From CR 1150 south to county line | 30 mph |
| CR 800 south | From SR 234 to CR 950 west | 40 mph |
| CR 950 west |  | 40 mph |
| CR 975 east |  | 40 mph |
| CR 1000 east | North of U.S. 32 | 40 mph |
| Division Road | From CR 400 west to CR 600 west | 40 mph |
| Garden Street |  | 30 mph |
| Ladoga Road | From CR 150 south to CR 200 south | 45 mph |
| Ladoga Road | From CR 200 south to CR 400 south | 50 mph |
| Ladoga Road | From CR 400 south to Nucor Road | 40 mph |
| Ladoga Road | From Nucor Road to CR 500 east | 50 mph |
| Ladoga Road | From CR 500 south to Garden Street | 50 mph |
| Little Turtle Trail |  | 20 mph |
| Meahme Trail |  | 20 mph |
| Mt. Zion Road |  | 30 mph |
| Nucor Road |  | 45 mph |
| Nucor Road | From U.S. 32 south to CR 500 south | 40 mph |
| Oak Hill Road | From city limits of Crawfordsville to Old State Road 55 | 30 mph |
| Placid Place |  | 20 mph |
| Pleasant Run |  | 20 mph |
| Rock River Ridge Road |  | 30 mph |
| Stoneybrook Lane | Stone Crest Subdivision | 30 mph |
| Traction Road | Base line east | 30 mph |
| Tranquil Trail |  | 20 mph |
| Wade Court | Stone Crest Subdivision | 30 mph |
| Weemiak Trail |  | 20 mph |

(Ord. passed 10-20-98; Ord. passed 10-20-98; Ord. 98-8, passed 12-15-98; Am. Ord. passed 11-23-99; Am. Ord. passed 12-7-99; Am. Ord. passed 12-7-99; Am. Ord. passed 12-5-00; Am. Ord. passed 12-19-00; Am. Ord. passed 12-11-01; Am. Ord. passed 12-28-01; Am. Ord. passed 4-9-02; Am. Ord. passed 5-28-02; Am. Ord. passed 8-12-03; Am. Ord. passed 1-14-03; Am. Ord. 2005-11, passed 7-28-08; Am. Commissioners Ord. 2008-14, passed 8-25-08); Am. Commissioners Ord. 2009-7, passed 9-14-09 Penalty, see § 10.99

**CHAPTER 71: COURTHOUSE PARKING**

Section

71.01 Courthouse parking lot regulations

71.02 Definitions

71.03 Application of rules and regulations

71.04 County employee parking

71.05 Public parking

71.06 Overnight parking prohibited

71.07 Towing of motor vehicles

71.08 Enforcement

71.99 Penalty

**§71.01 COURTHOUSE PARKING LOT REGULATIONS**

The purpose of this chapter is to establish rules and regulations for the use of the county parking lot north of the Courthouse. (Ord. 2005-03, passed 3-15-05)

**§71.02 DEFINITIONS**

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

***NORTH COURTHOUSE PARKING LOT.*** The parking lot located north of and across the alley from the Montgomery County Courthouse in Crawfordsville, Indiana.

***COURTHOUSE PARKING.*** The parking spaces marked on the north side of the Montgomery County Courthouse. These spaces are south of and across the alley from the North Courthouse Parking Lot.

(Ord. 2005-03, passed 3-15-05)

**§71.03 APPLICATION OF RULES AND REGULATIONS**

(A) The rules and regulations contained in this chapter apply to any and all persons parking in the North Courthouse Parking Lot and/or Courthouse Parking area.

(B) Persons parking in the North Courthouse Parking Lot and/or the Courthouse Parking area agree as a precondition of using the lot or area to follow all rules and regulations contained in this chapter.

(C) The Board of County Commissioners shall post on the North Courthouse Parking Lot and Courthouse Parking area signs and other information sufficient to inform the public of the rules and regulations contained in this chapter.

(Ord. 2005-03, passed 3-15-05)

**§71.04 COUNTY EMPLOYEE PARKING**

(A) The Board of County Commissioners shall from time-to-time assign to certain county employees designated parking spaces in the North Courthouse Parking Lot. These assignments shall be posted in the Montgomery County Courthouse, distributed to all county elected officials and department heads, and made available to the public upon request made to the Auditor.

(B) The Board of County Commissioners shall distribute to all persons assigned designated parking places in the North Courthouse Parking Lot parking permit tags, stickers, or other identifying markers. These markers shall be prominently displayed in the front window of motor vehicles of these persons.

(C) The Board of County Commissioners shall also from time-to-time designate certain parking places in the North Courthouse Parking Lot as unassigned parking spaces. County employees shall be allowed to park in these unassigned parking spaces on a first-come, first-served basis.

(D) No county employee shall park in an assigned parking space in the North Courthouse Parking Lot without a parking permit tag, sticker or other identifying marker prominently displayed in the front window of his or her motor vehicle.

(E) No county employee shall park in an assigned parking space in the North Courthouse Parking Lot other than the space assigned to him or her by the Board of County Commissioners.

(F) No county employee shall park in a parking space in the North Courthouse Parking Lot designed for public parking.

(G) No County employee shall park in the Courthouse Parking area, except the Montgomery County Sheriff or his designees who transport prisoners, detainees, juveniles, and other person to appearances, hearings, trials and conferences in the Montgomery County Courthouse.

(Ord. 2005-03, passed 3-15-05)

**§71.05 PUBLIC PARKING**

(A) The Board of County Commissioners shall from time-to-time designate certain parking spaces in the North Courthouse Parking Lot as public parking spaces. Members of the public, other than county employees, shall be allowed to use these parking spaces on a first-come, first-served basis.

(B) No person other than a county employee may park in the parking spaces in the North Courthouse Parking Lot which have been designated for county employee parking.

(C) No person shall park in the Courthouse Parking area, except for those service providers, deliverymen and others who are specifically authorized by the Board of County Commissioners to park there and who are issued a temporary parking permit by the Commissioners.

(Ord. 2005-03, passed 3-15-05)

(D) Courthouse security officers shall keep a log of towed vehicles in order to verify towing to owners. This log shall include, but not be limited to, the make, model and year of the motor vehicle, the license plate number, the violation date and description, time of tow, and address and telephone number of the towing service. This log may be purged after one year of the violation.

(Ord. 2005-03, passed 3-15-05)

**§71.06 OVERNIGHT PARKING PROHIBITED**

No person may park his or her motor vehicle in the North Courthouse Parking Lot after 10:00 p.m. or before 5:00 a.m.

(Ord. 2005-03, passed 3-15-05)

**§71.07 TOWING OF MOTOR VEHICLES**

(A) The Board of County Commissioners shall have the authority to cause motor vehicles parked in violation of this chapter towed from the county property by a private towing service to a storage facility.

(B) In the event a motor vehicle parked in violation of this section is towed, the owner of the motor vehicle shall be liable to the towing service for the expense of towing and storage of the motor vehicle. The owner shall pay these expenses prior to being entitled to recover the motor vehicle from the towing service.

(C) In the event the owner of a towed motor vehicle fails or effuses to pay these expenses and recover his or her motor vehicle, the towing service may dispose of the motor vehicle in order to pay these expenses as provided for by Indiana law.

(D) Courthouse security officers shall keep a log of towed vehicles in order to verify towing to owners. This log shall include, but not be limited to, the make, model and year of the motor vehicle, the license plate number, the violation date and description, time of tow, and address and telephone number of the towing service. This log may be purged after one year of the violation.

(Ord. 2005-03, passed 3-15-05)

**§71.08 ENFORCEMENT**

(A) These rules and regulations shall be enforced by the Montgomery County Sheriff and his designees, including Courthouse security officers.

(B) If a person who violates the rules and regulations of this section and fails or refuses to pay the fines provided for by § 71.99(B) in a timely manner as provided for by § 71.99(C), the County Attorney may prosecute the violation as an ordinance violation for which a judgment may include the penalty provided for in § 71.99(B), court costs, attorney’s fees, and other costs incurred by the county in the enforcement of this chapter.

(Ord. 2005-03, passed 3-15-05)

**§71.99 PENALTY**

(A) It shall be unlawful for any person to violate the rules and regulations contained in this section.

(B) A county employee who violates the rules and regulations of this section shall be subject to and pay to the Clerk a fine in the amount of $25 for his or her first offense, $50 for his or her second offense, and $100 of subsequent offenses.

(C) All fines for violation of this section shall be paid to the Clerk within ten days of the violation.

(D) A separate offense shall be deemed committed each day during which a violation occurs or continues.

(Ord. 2005-03, passed 3-15-05)

**CHAPTER 72: TRAFFIC REGULATIONS**

**§72.01 REGULATION OF OFF ROAD VEHICLES**

(A) As used in this section ***OFF ROAD VEHICLES*** means a motor driven vehicle capable of cross country travel.

(a) Without benefit of a road or trail; and

(b) On or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(2) The term includes the following:

(a) A multi-wheel drive or low pressure tire vehicle.

(b) An amphibious machine.

(c) A ground effect air cushion vehicle.

(3) The term does not include the following:

(a) Any vehicle including an off road vehicle being used for agricultural purposes.

(b) Any vehicle including an off road vehicle being used by a state licensed surveyor or engineer in the course of conducting his/her official duties as a surveyor or engineer.

(c) A vehicle being used for military or law enforcement purposes.

(d) A construction, mining, or other industrial related vehicle used in performance of the vehicle’s common function.

(e) A snowmobile.

(f) A registered aircraft.

(g) Any other vehicle properly registered by the bureau of motor vehicles.

(h) Any water craft that is registered under Indiana statutes.

(i) A golf cart vehicle.

(j) Any vehicle including an off road vehicle that is being used by a person suffering from a handicap or disability, if the handicapped or disabled person is using the vehicle as a necessary means of transportation.

(B) As used in this section COUNTY ROAD OR RIGHT-OF-WAY means the entire width between the boundary lines of any way that is publicly maintained by Montgomery County and open for purposes of vehicular traffic located anywhere in Montgomery County, except federal interstates and highways, state roads and highways, and streets and alleys in incorporated towns in Montgomery County.

(C) An individual may not operate an off-road vehicle on any county road or right-of-way except under the following circumstances

(1) The operator of an off road vehicle may cross a county road or right-of-way at right angles for the purpose of getting from one area to another when the operation can be done in safety.

(2) A law or fire enforcement officer of a city, town, county or state may authorize use of an off road vehicle on the county road or right-of-way during emergencies.

(3) An off road vehicle may be operated on a county road or right-of-way for a special event if a prearranged schedule has been approved by the appropriate county, city or town law enforcement agency.

(D) An individual may not operate an off road vehicle on a county road or right-of-way without a valid motor vehicle driver’s license.

(E) Any individual operating an off road vehicle on a county road or right of way must have proof of liability insurance in the minimum amount required by the State of Indiana. The off road vehicle must be registered with the Indiana Department of Natural Resources.

(F) Any individual operating an off road vehicle on a county road or right of way shall operate the vehicle at a reasonable and safe speed and obey all traffic rules of the State of Indiana and Montgomery County.

(G) A law enforcement officer may operate an off road vehicle on any county road or right-of-way in order to discharge the law enforcement officer’s official duties. An appropriate insignia decal should be fixed to the vehicle designating that the vehicle is a law enforcement vehicle or the officer riding the vehicle should be wearing clothing that readily identifies the rider as a law enforcement officer.

(H) Violation of this section is a Class A infraction. This section shall be enforced in the same manner as other traffic ordinances.

(Ord. passed 4-1-03; Am. Commissioners Ord. 2007-03, passed 6-25-07. Ord. 2012-15, passed 12-10-12) .”

IT IS FURTHER ORDAINED that this Ordinance shall be effective on upon adoption.

Adopted this 10th day of December, 2012.

**TITLE IX: GENERAL REGULATIONS**

Chapter

**90. STREETS AND SIDEWALKS**

**91. NUISANCES**

**92. FAIR HOUSING**

**93. UNSAFE BUILDING LAW**

**94. OBSTRUCTIONS ON PUBLIC ROADS, STREETS,**

**EASEMENTS AND RIGHTS-OF-WAY**

**95. DRUG NUISANCES**

**96. INOPERABLE AND UNREGISTERED MOTOR**

**VEHICLES**

**97. ANIMAL CONTROL**

**CHAPTER 90: STREETS AND SIDEWALKS**

Section

***General Provisions***

90.01 Rights-of-way

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***GENERAL PROVISIONS***

**§90.01 RIGHTS-OF-WAY**

(A) The purpose of this section is to establish procedures for obtaining permission to use any part of the right-of-way of the roads of the county for laying pipe or cable or to cross any of the roads with pipe or cable. (1982 Code, § 5-84-1)

(B) (1) Any person or corporation wishing to use any part of the right-of-way or cross any roads to lay pipe or cable shall obtain permission in writing from the County Highway Department using the form as set out by the county. (1982 Code, § 5-81-2)

**§90.02 IMPROVEMENTS; MINIMUM CONSTRUCTION**

(A) These are the minimum construction standards which must be met before any improvement, road, culvert or other structure is accepted into the county maintenance system. These standards maybe modified from time to time as may be approved by the Board of Commissioners. If any individual or entity constructs or installs any structure or improvement in any county right-of-way that does not meet the minimum specifications of the county standards, the county shall have the right to remove the nonconforming structure or improvement and replace it, if necessary, at the expense of the landowner.

(B) The costs incurred by the county may be taxed against the landowner’s real estate upon which the improvement is located and collected by the county in the same manner that real estate taxes are taxed and collected.

(C) Drives shall match the pavement section of the adjacent roadway.

(D) If a pipe is required, it shall be the State Department of Transportation’s Group “D” or superior. Capacity shall be by rational calculation with a 15-inch minimum, equal to downstream pipe size, or one size larger than adjacent upstream pipes, as minimum criteria. Appropriate end treatment shall be required.

(E) Slopes from the public road to private property shall begin at the shoulder break. Grades should not exceed 10%. Side slopes should match adjacent highway construction.

(F) (1) Turning movements by the class of traffic planned for use of the drive should be possible from or to the adjacent lane without crossing the centerline. Thus, the State Department of Transportation’s standard providing a 20-foot minimum width with a 20-foot radius shall be observed.

(2) Those constructing the drive shall provide information showing the actual drive size, based upon turning improvements by the vehicles planned for use, for approval by the county. (Ord. 89-5, passed 8-15-89)

**§90.03 COMMERCIAL DRIVES**

(A) The purpose of this section is to establish standards for installation of commercial drives connecting to county paved rights-of-way.

(B) The property owner shall pave this class of drive to the pavement section of the adjacent roadway at the time of construction.

(C) Drives shall match the pavement section of the adjacent roadway.

(D) If a pipe is required, it shall be the State Department of Transportation’s Group “D” or superior. Capacity shall be by rational calculation with a 15-inch minimum, equal to downstream pipe size, or one size larger than adjacent upstream pipes, as minimum criteria. Appropriate end treatment shall be required.

(E) Slopes from the public road to private property shall begin at the shoulder break. Grades should not exceed 10%. Side slopes should match adjacent highway construction.

(F) (1) Turning movements by the class of traffic planned for use of the drive should be possible from or to the adjacent lane without crossing the centerline. Thus, the State Department of Transportation’s standard providing a 20-foot minimum width with a 20-foot radius shall be observed.

(2) Those constructing the drive shall provide information showing the actual drive size, based upon turning improvements by the vehicles planned for use, for approval by the county. (Ord. 89-5, passed 8-15-89)

**ADDRESS NUMBERING SYSTEM**

**§90.15 TITLE**

This subchapter shall be known and may be cited as the “Addressing Subchapter of the County.”

(Ord. 2000-7, passed 12-19-00)

**§90.16 COMPLIANCE**

No structure shall be assigned an address or street named in any manner whatsoever in the unincorporated areas of the county, except in full compliance with all provisions of this subchapter.

(Ord. 2000-7, passed 12-19-00)

**§90.17 PURPOSE**

(A) The purpose of this subchapter shall be to set standards for residences and other structures numbering and road naming in the county and establish the authority and methods to be used when assigning addresses to properties in the county. These standards shall be used to establish residence locations which will be used in the implementation of an enhanced 911 emergency response system in the county.

(B) It is intended to provide continuity, avoid duplication and prevent general confusion regarding the location of developed parcels of land in the county.

(Ord. 2000-7, passed 12-19-00)

**§90.18 APPLICATION**

It is not intended by this subchapter to interfere with, abrogate or amend any covenants or other agreements between parties, nor is it intended by this subchapter to repeal, nor abrogate, nor annul or in any way interfere with existing provisions of laws or ordinances not specifically repealed by this subchapter, or any rules or regulations previously adopted or issued pursuant to law relating to the listing of contractors.

(Ord. 2000-7, passed 12-19-00)

**§90.19 JURISDICTION**

This subchapter shall apply to all land in Montgomery County, including the City of Crawfordsville, all incorporated towns and all unincorporated towns and areas.”

This subchapter shall apply to all unincorporated land within the county.

(Ord. 2000-7, passed 12-19-00)

**§90.20 DEFINITIONS**

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

***ADDRESS PLANNING AUTHORITY.*** The County Commissioners shall serve as the coordinating body in the county with the responsibility for assigning street addresses within its jurisdiction. The agency shall coordinate its addressing efforts with the County Building Administration (MCBA), County Sheriff, local postmasters and large mailers in the county such as utilities, government and the like.

***BASELINES.*** Existing recognizable lines which divide the county into quadrants or sectors. The intersection of Division Line Road and State Road 231 is the center point of the county for addressing purposes. Division Line Road and State Road 231 generally form the BASE LINES for the county.

***BLOCK INTERVAL.*** The hundred number interval is the distance between grid lines or the point where the next highest block number designation is used.

***CUSTOMER*** or ***ADDRESSEE.*** A family, individual, residence, business or industry which receives mail or emergency service at a delivery point.

***FRONTAGE INTERVAL.*** The distance in foot frontage along a street, highway or county road which is used to assign consecutive property numbers, beginning from the nearest grid or base line. The address system used by the county assumes a FRONTAGE INTERVAL of 10.56 feet.

***GRID LINES.***  Imaginary lines or actual county roads which are located a specific distance from and perpendicular or parallel to base lines. These lines indicate the point where block numbers change from one hundred to the next higher hundred. GRID LINES are used to standardize the numbering of parallel blocks at the same distance from the base lines.

***LOT.*** A lot is a designated parcel, tract, development or area of land which is either not being or will be used eventually for construction of a structure.

***OUT-OF-BOUNDS ADDRESS.***  A term used by the U.S. Postal Service to designate addresses that are out of sequence with other surrounding addresses. Often this occurs when mailboxes are located on the back street of a property that faces another street or on corner lots.

***PRIMARY ADDRESS NUMBER*** OR ***CITY-TYPE ADDRESS.*** The numeric or alphanumeric component, which precedes the street name.

***STRUCTURE.*** A residential home, apartment building, business or commercial building, industrial or manufacturing building or publicly-owned building which fronts onto a public street or road. (Ord. 2000-7, passed 12-19-00)

**§90.21 ADVANTAGES OF SYSTEM; COUNTY COORDINATION**

(A) A street numbering system and corresponding property addresses provide individual structures which an exact geographic location in the county. City-type street-road addresses are necessary in order to provide a structure with a specific and more accurate identification for efficient mail delivery; to provide an easily identifiable geographic reference point for quick dispatch of police, fire and emergency rescue equipment; to provide utility companies with a permanent address record for billing and service calls tied to a specific structure; and to provide ease of location identification for friends, service vehicles or other individuals trying to locate a specific structure or a county road. A numbering system should make it easy for anyone to find the location of a county road or residential property in a short period of time and allow for a systematic expansion of address numbers as community growth occurs.

(B) The county will structure the naming of its road system and the issuance of property address based on the “Lyman/Purdue Street Numbering System.” The system is better known as the “Grid Coordinate System.” The system utilizes two base lines which run at approximate right angles to each other to divide the county into quadrants. Most of the county roads are number based on their distance from the north/south and east/west base lines.

(C) Existing county road/street names will be retained where feasible. Some names will have to be changed to correct duplications, multiple naming of the same road and other factors causing confusion. Road names will be used to delineate an assumed distance from the base line. For example, County Road 250 South delineates that the road runs east/west at a distance of two and one-half miles south of the center of the county.

(D) Street addresses are assigned in increasing order from each base and grid line. In the county, 1,000 potential property addresses exist for each 5,280 feet of distance from the base lines. There are approximately 50 address numbers that will be available for each side of the street/road within each tenth of a mile. All of those available numbers will probably not be needed, depending on the density of development along the street/road. Therefore, possible addresses occur at each 10.56-foot interval. A specific street/road address is determined by measuring the number of 10.56-foot intervals between the grid line to the front entrance of a structure. Crooked roads and roads running at angles (not true north/south or east-west) will be addressed with the predominant north/south or east/west direction and may be named rather than numbered. Interval between address numbers will increase in these cases.

(Ord. 2000-7, passed 12-19-00)

**§90.22 PROPERTY ADDRESSING**

(A) (1) All residences, commercial, industrial and public structures located in the county shall be assigned a permanent city-type street address. Structures located on the south side of an east/west street/road and those located on the west side of north/south street/road shall be an odd numbered property. Structures located on the north side of an east/west street/road and those located on the east side of a north/south street/road shall have an even number.

(2) In all situations the Address Planning Authority shall make the final determination of which street/road will be used for an address. The criteria for this determination will be based on the layout of the property, layout of the structure and other factors that may affect emergency services and mail delivery.

(3) Street addresses are to be assigned based on a measurement of the distance from the grid line to a line perpendicular to the address road/street that intersects either the structure or the entrance to the property that contains the structure.

(B) An official street address shall contain no more than five digits with the first digit or the first two digits if the structure is located ten or more miles from the baseline, indicating the milepost or distance from the baselines. The third digit from the right shall indicate the block number which will change each 528 linear feet. The last two digits indicate the number of 10.56-foot intervals from the structure to the nearest block or grid line.

(C) Once a property address has been assigned by the MCBA to a specific structure, it shall be the responsibility of the property owner to provide visible and current address numbers on both the structure and on the mailbox. The letters and numbers on the mailbox shall be in compliance with U.S. Postal service regulations and recommendations. Letters and numbers placed on structures shall be at least three inches in height. The color of the numbering shall be in contrast to its background. The address shall be placed on both sides of the mailbox. In cases where an address is considered an “out of bounds” address, the address name of the road/street shall also be placed on both sides of the mailbox. The letters and numbers shall be placed on the mail level in a location which faces the street upon which it is addressed and near a main entry way and placed at or higher than the height of the entry way. The color of the lettering shall be in contract to its background. If side or back entryways open to a street, road or alley different from the address, the side of the structure shall also have the full address, including address road/street name, properly displayed.

(D) (1) In the event that private roads are assigned names or numbers that are used for addressing purposes, it will be responsibility of the property owner(s) to install and maintain a street name sign that meets the typical street sign requirements section of the county standards.

(2) Signs shall be installed within 180 days of the signing of this subchapter or within 90 days of the issuance of a new or changed street or road name. Penalties for failure to comply are outlined in § 90.26.

(Ord. 2000-7, passed 12-19-00)

**§90.23 RESPONSIBILITY**

(A)(1) The responsibility for the issuance of street addresses shall be delegated to the staff of the County Building Administration. The MCBA shall issue and keep a permanent record of all issued property addresses within its jurisdiction and share the addresses with local postal authorities and E-911 personnel. Determination of county road or highway names or changes in the names shall be the sole responsibility of the County Commissioners.

(2) The Commissioners shall have a final approval in the naming of streets in platted subdivisions, mobile home parks, commercial or industrial business parks and the like under its jurisdiction.

(B) Local incorporated communities shall have final approval in the naming of roads and subdivisions streets located within their corporate boundaries.”

(Ord. 2000-7, passed 12-19-00)

IT IS FURTHER ORDAINED, that all of these provisions of Chapter 90 which are not expressly amended or modified by this ordinance shall remain in full force and effect.

IT IS FURTHER ORDAINED, that this ordinance shall become effective on January 1, 2013.

Adopted this \_\_\_\_\_\_ day of December, 2012.

**§90.24 OBTAINING STREET ADDRESSES.**

(A) A person or business who submits an application to build a new structure in the county shall submit a plat or site plan as is normally required to obtain a building permit. Prior to issuance of an official building permit, an official address shall be assigned to the structure. The official address shall be forwarded to postal officials, the County Auditor and E-911 office. No other address shall be used for identification of the structure.

(B) In no case shall an individual or business be permitted to assign an address to their property or a structure on that property.

(Ord. 2000-7, passed 12-19-00)

**§90.25 INCORPORATED CITIES AND TOWNS**

(A)(1) The Building Administration and the County Commissioners do not have jurisdiction over the implementation of numbering systems within the incorporated cities and towns in the county. Numbering in these communities shall be the responsibility of the local plan commission, town board or city council. However, the County Commissioners can require that city-type addresses be implemented in these communities for purposes of defining structures for E-911 identification.

(2) All structures in the county shall be required to have city-type property addresses including those in incorporated communities.

(B) The rural route and box system now in place in some incorporated communities shall be eliminated and city-type addresses shall be assigned to all structures in the communities.

(Ord. 2000-7, passed 12-19-00)

**§90.26 ENFORCEMENT**

(A) Upon completion, all properties within the jurisdiction of the county shall be required to be in full compliance of this subchapter within six months of completion of the entire project if not assigned a new address.

(B) It is the duty of the owner or occupant of each house, business structure or other structure within the unincorporated areas of the county, now existing or hereafter erected to place on the structure and on the mailbox in front of structure, within six months from the date of passage of this subchapter, in accordance with § 90.22.

(C) In the event that the owner or occupant of any structure, as herein described, fails to comply with the terms and conditions of this subchapter, the owner or occupant, upon conviction, shall be guilty of an infraction and subject to a fine for every day that the violation is not rectified after receiving a written citation from one of the authorized agencies. All fines collected by this subchapter shall be returned the emergency telephone system budget.

(D) Authority to issue citations for violation of this subchapter hereby are granted to duly authorized personnel of the Building Administration, County Sheriff’s Department, all county and city fire departments and town marshals.

(E) Copies of all citations issued will be forwarded to the County Attorney for collection in a manner consistent with other ordinances. Jurisdiction for the collection of the fines shall be the County Court.

(Ord. 2000-7, passed 12-19-00)

**CHAPTER 91: NUISANCES**

Section

91.01 Public nuisances prohibited

91.02 Definition

91.03 Duties of Sanitarian or other officer

91.04 Violations

91.05 Injunction

**§91.01 PUBLIC NUISANCES PROHIBITED**

No person shall create, cause, continue, allow or maintain any nuisance as that term is defined in this chapter.

(Ord. 1996-1, passed - - 96; Am. Ord. 2006-07, passed 6-13-06)

**§91.02 DEFINITION**

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

***NUISANCE.*** A public nuisance is whatever is injurious to health, incident, offensive to the senses or an obstruction to the free use of property so as essentially to interfere with comfortable enjoyment of life or property.

(Ord. 1996-1, passed – 96; Am. Ord. 2006-07, passed 6-13-06)

**§91.03 DUTIES OF SANITARIAN OR OTHER OFFICER**

(A) *Investigations.* Whenever the County Sanitarian, County Building Superintendent, County Highway Superintendent, County Law Enforcement Officer or other authorized enforcement officer has reason to believe that a nuisance exists on any property in the county, he or she shall conduct an investigation of the nuisance and report the nuisance to the Montgomery County Board of Commissioners for hearing.

(B) *Inspections.* Whenever the enforcement officer has reason to believe that a nuisance exists but is unable to determine conclusively that such a nuisance exists based upon observations of the property as it appears in plain view, the officer may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

(C) *Notice of Violation.* Whenever an enforcement officer determines that a nuisance exists, the officer shall provide to the owner and occupant, if any, of the property written notice of a violation. This notice shall contain the address of the property, a description of the nuisance, the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the nuisance, the time period in which the nuisance must be abated, the procedure for appeal by the landowner or the occupant if he or she disagrees with the enforcement officer’s determination that a nuisance exists, and the action available to the county if the nuisance is not abated.

(D) *Time for Abatement.* The time period in which the nuisance must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner/occupant or posted on the property, whichever occurs first.

(E) *Appeal of Initial Determination.* If the property owner or occupant disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether a nuisance exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.

(F) *Compliance Report.* Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

(G) *Noncompliance Hearing.* In the event the landowner or occupant fails to abate the nuisance, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioners’ receipt of the report. The Board shall provide notice of the hearing to the landowner and occupant. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the nuisance. The landowner and occupant will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the landowner and occupant.

(H) *Judicial Review.* If the owner or occupant disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its order. The court may overturn the Commissioners’ order if it finds that, based upon the evidence as a whole, the findings of act were arbitrary, capricious, an abuse of discretion, unsupported by the evidence or in excess of statutory authority. The landowner or occupant has the burden of proof.

(I) *Remedies.* If the Board of Commissioners finds that a nuisance exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the nuisance, to hire private contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

(J) *Costs of Abatement Incurred by County.* The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the Country Treasurer and any other appropriate county official to be taxed against the real estate where the nuisance existed and collected as other real or personal property taxes are collected.

(Ord. 1996-1, passed –96; Am. Ord. 2006-07, passed 6-13-06)

**§91.04 VIOLATIONS**

Any person, firm or corporation who creates, causes, continues, allows or maintains any public nuisance in the county commits a Class C infraction and is subject to a fine in the amount of $100 for each day until the nuisance is abated. Each day of violation shall constitute a separate violation. The liability for the expense of removing or abating any nuisance shall be in addition to any penalty for violation of this chapter.

(Ord. 1996-1, passed –96; Am. Ord. 2006-07, passed 6-13-06)

**§91.05 INJUNCTION**

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the landowner or occupant ordering the landowner and occupant to abate the nuisance upon terms and within the time periods consistent with this chapter.

(Ord. 1996-1, passed –96, Am. Ord. 2006-07, passed 6-13-06)

**CHAPTER 92: FAIR HOUSING**

Section

92.01 Policy

92.02 Definitions

92.03 Unlawful practice

92.04 Discrimination in sales or rentals

92.05 Discrimination in real estate transactions

92.06 Discrimination in brokerage services

92.07 Interference, coercion and intimidation

92.08 Prevention of intimidation

92.09 Exemptions

92.10 Administrative enforcement

**§92.01 POLICY**

It shall be the policy of the Commissioners to provide, within constitutional limitation, for fair housing throughout its corporate limits, as provided for under the Federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 et seq.

(Ord. 93-9, passed 9-28-93)

**§92.02 DEFINITIONS**

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

***AGGRIEVED PERSON***. Any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that the person will be injured by a discriminatory housing practice that is about to occur.

(I.C. 22-9.5-2-2)

***COMMISSION.*** The Indiana Civil Rights Commission, created pursuant to I.C. 22-9-1-4 et seq.

(I.C. 22-9.5-2-2)

***COMPLAINANT.*** A person, including the Commission, who files a complaint under I.C. 22-9.5-6.

(I.C. 22-9.5-2-4)

***DISABILITY.***

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits one or more of the person’ major life activities;

(b) A record of having an impairment;

(c) Being regarding as having an impairment;

(d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; and

(2) The term ***DISABILITY*** shall not include current illegal use of or addiction to a controlled substance, as defined in 21 U.S.C. 802; nor does the term ***DISABILITY*** include an individual solely because that individual is a transvestite.

(Am. Commissioners Ord. 2008-1, passed 2-11-08)

***DISCRIMINATORY HOUSING PRACTICE.*** An act that is unlawful under §§ 92.03 through 92.08 or I.C. 22-9.5-5.

***DWELLING.*** Any building, structure or part of a building or structure that is occupied as, or signed or intended for occupancy as, a residence by one or more families or any vacant land which offered for sale or lease for the construction or location of a building structure that is occupied as, or designed or intended for occupancy as a residence by one or more families.

(I.C. 22-9.5-2-8).

***FAMILIAL STATUS.*** Discrimination on the basis of familial status means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 years in regard to whom the person is (a) the parent or legal custodian or (b) has the written permission of the parent or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

***FAMILY.*** An individual (I.C. 22-9.5-2-9) or individuals having familial status as that term is defined in this section.

***PERSON.*** One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, nonincorporated organizations, trustees, trustees in cases under Title 11 U.S.C., receivers and fiduciaries. (I.C. 22-9.5-2-11)

***TO RENT.*** To lease, to sublease to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant. (I.C. 22-9.5-2-13)

(Ord. 93-9, passed 9-28-93)

**§92.03 UNLAWFUL PRACTICE**

Subject to the provisions of division (B) below, § 92.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in § 92.04 shall apply to:

(A) All dwellings, except as exempted by division (B) below and I.C. 22-9.5-3;

(B) Other than the provisions of division (C) below, nothing in § 92.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three single-family houses at any one time. In the sale of the single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one sale within any 24-month period. The private individual own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from application of this section only if the house is sold or rented:

(a) Without the use, in any manner, of the sales or rental facilities or services of any real estate broker, agent or salesman or any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesperson or person; and

(b) Without the publication, posting or mail after notice of advertisement or written notice in violation of § 92.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other professional assistance as necessary to perfect or transfer this title.

(2) Rooms or units in dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence.

(C) For the purposes of division (B) above, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 93-9, passed 9-29-93)

**§92.04 DISCRIMINATION IN SALES OR RENTALS**

As made applicable by § 92.03 and except as exempted hereby, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status or national origin;

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status or national origin;

(C) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make any preference, limitation or discrimination;

(D) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available;

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of particular race, color, religion, sex, disability, familial status or national origin;

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

(c) Any person associated with that person.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of a disability of:

(a) That person;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

(c) Any person associated with that person.

(3) For purposes of this division, “discrimination” includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy, a failure to design and construct those dwellings in a manner that:

1. The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within the dwellings contain the following features of adaptive design:

a. An accessible route into and through the dwelling;

b. Light, switches, electrical outlets, thermostats and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements Americans With Disabilities Act of 1990 and of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people, commonly cited as “ANSI A117.1P,” suffices to satisfy the requirements of this section.

(5) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

(Ord. 93-9, passed 9-28-93)

**§92.05 DISCRIMINATION IN REAL ESTATE TRANSACTIONS**

(A) It shall be unlawful for any person or other entity whose business includes engaging residential real estate-related transactions to discriminate against any person in making available a transaction, or in the terms or conditions of a transaction, because of race, color, religion, sex, disability, familial status or national origin.

(B) As used in this section, the term “residential real estate-related transaction” means any of the following:

(1) The making or purchase of loans or providing other financial assistance:

(a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(b) Secured by residential real estate.

(2) The selling, brokering or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability or familial status.

(Ord. 93-9, passed 9-28-93)

**§92.06 DISCRIMINATION IN BROKERAGE SERVICES**

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of the access, membership or participation, on account of race, color, religion, sex, disability, familial status or national origin.

(Ord. 93-9, passed 9-28-93)

**§92.07 INTERFERENCE, COERCION OR INTIMIDATION**

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by §§ 92.04 through 92.06.

(Ord. 93-9, passed 9-28-93).

**§92.08 PREVENTION OF INTIMIDATION**

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, disability, familial status or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(B) Any person because he or she is or has been, or in order to intimidate the person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described herein; or

(2) Affording another person or class of persons opportunity or protection so to participate.

(C) Any citizen because he or she is nor has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described herein, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than $1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than $10,000, or imprisoned for not more than ten years, or both, and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 93-9, passed 9-28-93)

**§92.09 EXEMPTIONS**

(A) Exemptions defined or set forth under I.C. 22-9.5-3 et seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under division (B) and (C) below.

(B) Nothing in this chapter shall prohibit a religious organization, association or society, or any not- for-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to the persons, unless membership in the religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, “housing for older persons” means housing:

(a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 93-9, passed 9-28-93)

**§92.10 ADMINISTRATIVE ENFORCEMENT**

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission, as set forth in division (B) below, shall be vested in the Chief Executive Officer of the County Commissioners.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the County Commissioners, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of this chapter by complainants to the State Civil Rights Commission, hereafter the “Commission,” for administrative enforcement actions pursuant to I.C. 22-9.5-6 and Chief Elected Officer of the County Commissioners, shall refer all complaints to the Commission as provided for under division (A) above to the Commission for purposes of investigation, resolution and appropriate relief, as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of the county shall administer their departments, programs, and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Executive Officer and the Commission to further the purposes.

(D) The Chief Executive Officer of the County Commissioners or the Chief Executive Officer’s designee shall provide information on remedies available to any aggrieved person or complainant requesting the information.

(Ord. 93-9, passed 9-28-93)

**CHAPTER 93: UNSAFE BUILDING LAW**

Section

93.01 Adoption by reference

93.02 Building Administrator

93.99 Penalty

**§93.01 ADOPTION BY REFERENCE**

The Unsafe Building Law, I.C. 36-7-9 et seq., as amended, is hereby adopted by reference and incorporated herein as fully as if set out at length in this code of ordinances.

(Ord. 2006-10, passed 7-3-06)

**§93.02 BUILDING ADMINISTRATOR**

The Building Administrator shall be responsible for the administration of the Unsafe Building Law.

(Ord. 2006-10, passed 7-3-06)

**§93.99 PENALTY**

A person who violates the Unsafe Building Law by any of the following commits a class C infraction and shall be subject to a fine of $500 for each day that the violation continues. Each day that the violation continues constitutes a separate offense:

(A) Remaining in, using or entering a building in violation of an order made under this chapter;

(B) Knowingly interfering with or delaying the carrying out of an order made under this chapter;

(C) Knowingly obstructing, damaging or interfering with persons engaged or property used in the performance of any work or duty under this chapter; or

(D) Failing to comply with the provisions of this chapter articulated in I.C. 36-7-9-27. (Ord. 2006-10, passed 7-3-06)

**CHAPTER 94: OBSTRUCTIONS ON PUBLIC ROADS, STREETS, EASEMENTS,**

**AND RIGHTS-OF-WAY**

Section

94.01 Obstructions prohibited

94.02 Definition

94.03 Duties of Sanitarian or other officer

94.04 Injunction

94.99 Penalty

*Cross-reference:*

*Streets and sidewalks, see Ch. 90*

**§94.01 OBSTRUCTIONS PROHIBITED**

No person shall create, cause, continue, allow or maintain any obstruction which interferes with the public safety or lawful use of or obstructs the vision of persons traveling on public roads, streets, easements or rights-of-way.

(Ord. 2006-11, passed 7-3-06)

**§94.02 DEFINITION**

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

***OBSTRUCTION.*** Any vegetation, tree, shrub, vine or other object which because of its size, condition or location interferes with the public safety or lawful use of or hinders in the vision of a person traveling on public roads, streets, easements or rights-of-way. Provided, however, crops growing on private property and not on the road, street, easement or right-of-way shall not be considered an ***OBSTRUCTION*** for purposes of this chapter.

(Ord. 2006-11, passed 7-3-06)

**§94.03 DUTIES OF THE SANITARIAN OR OTHER OFFICER**

(A) *Investigations.* Whenever the County Sanitarian, County Building Superintendent, County Highway Superintendent, County Law Enforcement Officer or other authorized enforcement officer has reason to believe that an obstruction exists on any property in the county, he or she shall conduct an investigation of the obstruction and report the obstruction to the Montgomery County Board of Commissioners for hearing.

(B) *Inspections.* Whenever the enforcement officer has reason to believe that an obstruction exists and believes it is necessary to enter private property in order to complete his or her investigation, the officer may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

(C) *Notice of Violation.* Whenever an enforcement determines that an obstruction exists, the officer shall provide to the owner and occupant, if any, of the property written notice of violation. This notice shall contain the address of the property, a description of the obstruction, the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the obstruction, the time period in which the obstruction must be abated, the procedure for appeal by the landowner or the occupant if he or she disagrees with the enforcement officer’s determination that an obstruction exists, and the action available to the county if the obstruction is not abated.

(D) *Time for Abatement.* The time period in which the obstruction must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner/occupant or posted on the property, whichever occurs first.

(E) *Appeal of Initial Determination.* If the property owner or occupant disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether an obstruction exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.

(F) *Compliance Report.* Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

(G) *Noncompliance Hearing.* In the event the landowner or occupant fails to abate

the obstruction, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioners’ receipt of the report. The Board shall provide notice of the hearing to the landowner and occupant. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the obstruction. The landowner and occupant will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the landowner and occupant.

(H) *Judicial Review.* If the owner or occupant disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its order. The court may overturn the Commissioners’ order if it finds that, based upon the evidence as a whole, the findings of fact were arbitrary, capricious, an abuse of discretion, unsupported by the evidence of in excess of statutory authority. The landowner or occupant has the burden of proof.

(I) *Remedies.* If the Board of Commissioners finds that an obstruction exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the obstruction, to hire private contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

(J) *Costs of Abatement Incurred by County.* The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the County Treasurer and any other collected as other real or personal property taxes are collected.

(Ord. 2006-11, passed 7-3-06)

**§94.04 INJUNCTION**

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the landowner or occupant ordering the landowner and occupant to abate the obstruction upon terms and within the time periods consistent with this chapter.

(Ord. 2006-11, passed 7-3-06)

**§94.99 PENALTY**

Any person, firm or corporation who creates, causes, continues, allows or maintains any obstruction as defined in this chapter in the county commits a Class C infraction and is subject to a fine in the amount of $100 for each day until the obstruction is abated. Each day of violation shall constitute a separation violation. The liability for the expense of removing or abating any obstruction shall be in addition to any penalty for violation of this chapter.

(Ord. 2006-11, passed 7-3-06)

**CHAPTER 95: DRUG NUISANCES**

Section

95.01 Drug nuisances prohibited

95.02 Definitions

95.03 Actions to abate

**§95.01 DRUG NUISANCES PROHIBITED**

No person shall create, cause, continue, allow or maintain any drug nuisance, as defined herein, in the unincorporated areas of Montgomery County.

(Ord. 2006-13, passed 7-3-06)

**§95.02. DEFINITIONS**

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

***DRUG NUISANCE.*** The use of property to commit an act constituting a drug offense under I.C. 35-48-4 or an attempt to commit or a conspiracy to commit a drug offense.

***PROPERTY.*** Any house, mobile home or apartment, including but not limited to improvements to real estate which are leased for residential or commercial purposes.

(Ord. 2006-13, passed 7-3-06)

**§ 95.03 ACTIONS TO ABATE**

(A) Persons Entitled to Initiate Actions. An action to abate a drug nuisance under this chapter may be initiated by the prosecuting attorney of Montgomery County,the County Attorney or the property owner.

(B) *Notice of Drug Nuisance.* A person initiating an action under this chapter shall at least 45 days before filing an action provide notice to each tenant of the property and the owner of record as shown in the records of the County Assessor. This notice must include the date and time the nuisance was first discovered, the location of the property where the nuisance is allegedly occurring, and all evidence in the possession of the person initiating the action regarding the nuisance. The notice must hand delivered or sent by certified mail.

(C) *Filing of Complaint.* After the expiration of the 45-day notice period, a complaint may be filed to obtain legal or equitable remedies from a court. Within 48 hours of filing the complaint, the person filing the complaint shall post a copy of the complaint in a conspicuous place on the property alleged to be a drug nuisance. Service upon the defendant(s) shall comply with I.C. 32-30-8-7 and 32-30-8-8.

(D) *Hearing.* The court shall schedule a hearing on the complaint not later than 20 days after the filing of the complaint. If service of process upon the defendants is not made within five days of the hearing, the court may set a new hearing date.

(E) *Remedies.* The court may enter legal remedies and an injunction or other equitable relief. The Court may also order a tenant that created the drug nuisance on the property to vacate the property within 72 hours of the issuance of an order. If the court finds that the owner of the property knew of the existence of the drug nuisance, the court may order the owner to submit for court approval a plan for correction to ensure, to the extent reasonably possible, that the property will not again be used for a drug nuisance.

(F) *Failure of Tenant to Comply.* In the event a tenant fails to comply with a court order entered at the hearing, the owner may seek an order from the court allowing removal of the tenant and the tenant’s personal property as provided for in I.C. 32-31-4.

(G) *Temporary Abatement.* Evidence that the drug nuisance has been discontinued at the time of filing of the complaint or the time of the hearing does not bar the imposition of appropriate relief by the court under this chapter.

(Ord. 2006-13, passed 7-3-06)

**CHAPTER 96: INOPERABLE AND UNREGISTERED MOTOR VEHICLES**

Section

96.01 Dangerous motor vehicles prohibited

96.02 Definitions

96.03 Duties of Sanitarian or other officer

96.04 Injunction

96.05 Inspection fees

96.99 Penalty

**§96.01 DANGEROUS MOTOR VEHICLES PROHIBITED**

No person shall create, cause, continue, allow or maintain any inoperable and unregistered motor vehicle which endangers the health or safety of the citizens of Montgomery County.

(Ord. 2006-12, passed 7-25-06)

**§96.02 DEFINITIONS**

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

***ENDANGERS HEALTH AND SAFETY.***Any condition which adversely affects public health and safety, as reasonably determined by the County Sanitarian or his/her designee. Such conditions include but are not limited to the existence of gasoline, oils, acids or other liquids or gases which, if released or drained onto the ground or into the air, will adversely affect public health and safety.

***INOPERABLE.*** Any motor vehicle which cannot be used for its intended purpose because of mechanical malfunction or poor condition.

***MOTOR VEHICLE.*** Any automobile, motorcycle , mobile home not placed on a foundation, recreation vehicle or other vehicle as defined by Indiana law which is subject to registration with the Bureau of Motor Vehicles.

***UNREGISTERED.*** Any motor vehicle which is not registered with the Indiana Bureau of Motor Vehicles.

(Ord. 2006-12, passed 7-25-06)

**§96.03 DUTIES OF SANITARIAN OR OTHER OFFICER**

(A) *Investigations.* Whenever the County Sanitarian, or other authorized enforcement officer has reason to believe that an inoperable and unregistered motor vehicle which endangers the health or safety of the citizens of Montgomery County (a dangerous motor vehicle) exists on any property in the county, he or she shall conduct an investigation of the hazard and report the hazard to the Montgomery County Board of Commissioners for hearing.

(B) *Inspections.* The County Sanitarian shall inspect all inoperable and unregistered motor vehicles annually. If the owner will not consent to the inspection and the Sanitarian has reason to believe that the motor vehicle is or may be one which because of its condition endangers public health or safety, he or she may apply to a court for a warrant for the right to conduct an investigatory inspection of the motor vehicle.

(C) *Notice of Violation.* Whenever an enforcement officer determines that a hazard exists, the officer shall provide to the owner written notice of a violation. This notice shall contain the address of the property, a description of the hazard, the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the hazard, the time period in which the hazard must abated, the procedure for appeal by the owner if he or she disagrees with the enforcement officer’s determination that a hazard exists, and the action available to the county if the hazard is not abated.

(D) *Time for Abatement.* The time period in which the hazard must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner or posted on the property, whichever occurs first.

(E) *Appeal of Initial Determination.* If the owner disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether a hazard exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.

(F) *Compliance Report.* Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

(G) *Noncompliance Hearing*. IN the event the owner fails to abate the hazard, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioner’s receipt of the report. The Board shall provide notice of the hearing to the owner. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the hazard. The owner will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the owner.

(H) *Judicial Review.* If the owner disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its order. The court may overturn the Commissioners’ order if it finds that, based upon the evidence as a whole, the finding of fact were arbitrary, capricious, an abuse of discretion, unsupported by the evidence or in excess of statutory authority. The owner has the burden of proof.

(I) *Remedies.* If the Board of Commissioners finds that a hazard exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the hazard, to hire private contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

(J) *Costs of Abatement Incurred by County.* The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the County Treasurer and any other appropriate county official to be taxed against the real estate where the hazard existed and collected as other real or personal property taxes are collected.

(Ord. 2006-12, passed 7-25-06)

**§96.04 INJUNCTION**

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the owner ordering the owner to abate the hazard upon terms and within the time periods consistent with this chapter.

(Ord. 2006-12, passed 7-26-06)

**§96.05 INSPECTION FEES**

The County Sanitarian shall collect a fee for each inspection the amount of $100 for the first inspection of all of the vehicles at a single location. If the Sanitarian is not satisfied that the hazard has been abated, the re-inspection fee shall be the sum of $100 for each vehicle inspected at a single location. This fee shall be deposited into the Dangerous Motor Vehicle Fee Fund. This fund shall be used to pay for the expense of the administration of the chapter, including but not limited to salaries, benefits, supplies, equipment, contractual assistance and other expenses.

(Ord. 2006-12, passed 7-25-06)

**§96.99 PENALTY**

Any person, firm or corporation who violates this chapter commits a Class C infraction and is subject to a fine in the amount of $100 for each day until the hazard is abated. Each day of violation shall constitute a separate violation. The liability for the expense of removing or abating any nuisance shall be in addition to any penalty for violation of this chapter.

(Ord. 2006-12, passed 7-25-06)

**CHAPTER 97: ANIMAL CONTROL**

Section

97.01 Definitions

97.02 Jurisdiction

97.03 Pet Care Standards

97.04 Animal Nuisances

97.05 Wolf Hybrids and Coydogs Prohibited

97.06 Impoundment

97.07 Dangerous Animals

97.08 Other Conditions for Release from Impoundment

97.09 Animal Control Fund

97.99 Penalty

**§97.01 DEFINITIONS**

Wherever used in this Chapter, capitalized term shall have the meanings set forth below, unless the context clearly indicates or requires a different meaning:

***AGENT:***Any Individual eighteen (18) years of age or older who is authorized by an animal’s Owner to have temporary or permanent custody of, shelter, have charge of, harbor, exercise control over, or otherwise act on such Owner’s behalf with respect to such animal.

***ANIMAL CONTROL AGNECY:*** Animal Welfare League of Montgomery County, Inc. or any other governmental or private entity charged or contracted with for the implementation of animal control services for and on behalf of Montgomery County.

***ANIMAL CONTROL AGENT:*** A civilian Individual employed or appointed by an Animal Control Agency for the purposes of carrying out the provisions of this Chapter or any contract for animal control services.

***ANIMAL CONTROL FACILITY:*** A facility, shelter or vehicle operated by an Animal Control Agency for promoting animal welfare and humane treatment of animals.

***ANIMAL NUISANCE:*** Any animal that:

(1) is an At Large animal;

(2) molests passers-by or passing vehicles on public property without provocation;

(3) attacks Individuals or other animals without provocation; or

(4) otherwise unreasonably interferes with the free us and comfortable enjoyment of life or property.

***AT LARGE:*** An animal that is:

(1) not on a leash and is off the property of its Owner or the Owner’s Agent;

(2) on a leash that does not adequately confine the animal to the property of the Owner or the Owner’s Agent;

(3) on a leash that is not otherwise under the immediate control of an Individual physically capable of restraining the animal; or

(4) otherwise not under the direct control of the Owner or Owner’s Agent.

Nothwithstanding the foregoing, an animal that is engaged in legal hunting or farming activities and is under the control and supervision of the Owner or the Owner’s Agent is not considered to be At Large under this Chapter.

***COYDOG:*** “Coydog” shall have the meaning prescribed by I.C. 15-20-1-5(a)(1), as amended or recodified from time to time.

***DANGEROUS ANIMAL:*** The term “Dangerous Animal” includes any of the following:

(1) Any animal which, when unprovoked, or two (2) separate occasions within the prior thirty-six (36) month period, engages in any behavior that requires a defensive action by any Individual to prevent Serious Bodily Injury when the Individual and the animal are off of the property of Owner or harborer of the animal.

(2) Any animal which, when unprovoked, attacks or bites an Individual causing Serious Bodily Injury;

(3) Any animal which within the prior thirty-six (36) month period, when unprovoked and off the property of the Owner or keeper of the animal , has bitten or otherwise caused Severe Injury to Domestic Livestock or Domestic Pet without provocation; or

(4) Any animal which, when unprovoked and off the property of the Owner or keeper of the animal has cause the death of Domestic Livestock or Domestic Pet, or Severe Injury to multiple Domestic Livestock or Domestic Pets, without provocation;

(5) Any Wolf Hybrid or Coydog.

Notwithstanding the foregoing, the term “Dangerous Animal” exclude any K-9 dog or police dot that is owned, used or maintained by a law enforcement agency.

***DOMESTIC LIVESTOCK:*** Any animal, other than a Domestic Pet, that is kept for agricultural or commercial purposes, or in connection with a 4-H or FFA activity, and is one (1) of the following: alpaca, bison, elk, cattle, donkey, goat, horse, llama, mule, ostrich, emu, swine, poultry (chicken, turkey, duck or goose), rabbit or sheep.

***DOMESTIC PET.*** Any animal that is commonly kept for pleasure rather than for commercial purposes, including without limitation the following species:

(1) Dogs (*canis lupus familiaris*);

(2) Domestic cats (*felis catus*);

(3) Guinea pigs (*cavia pocellus*);

(4) Hamsters (any species of the genus *mesocricetus*);

(5) Gerbils (any species of the genus *gerbillus)*; and

(6) Ferrets (*mustela putorius furo*)

***INDIVIDUAL:*** A human being.

***LAW ENFORCMENT OFFICER.*** A county sheriff; a state, county or city police officer; a town marshal; a prosecuting attorney; a conservation officer; or a deputy of any of such persons.

***MICROCHIP:*** A computer chip implanted underneath the skin of an animal that contains identification information relating to that animal.

***NON-DANGEROUS ANIMAL:*** Any animal which is not a Dangerous Animal.

***OWNER:*** Any Person owning, keeping or harboring one (1) or more animals.

***PERSON:*** Any Individual, firm, association, partnership, limited liability company, corporation, trust or estate.

***SERIOUS BODILY INJURY:*** Any injury to an Individual that (1) results in death of the Individual; (2) creates a substantial risk of the Individual’s death; or (3) causes serious permanent disfigurement, unconsciousness, extreme pain, permanent or protracted loss or impairment of the function of a bodily member or organ, or loss of human fetus.

***SEVERE INJURY:*** Any physical injury to a Domestic Pet or Domestic Livestock that results in multiple bites, broken bones, muscle tears or disfiguring lacerations, or requires multiple sutures or corrective or cosmetic surgery.

***STRAY:*** Any animal that does not appear, upon reasonable inquiry, to have an Owner.

***WOLF HYBRID:*** “Wolf Hybrid: shall have the meaning prescribed by I.C. 15-20-1-5(a)(3), as amended or recodified from time to time.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.02 JURISDICTION**

The provisions of this Chapter shall apply to all areas in Montgomery County outside the corporate limits of the City of Crawfordsville and of any incorporated towns.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.03 DOMESTIC PET CARE STANDARDS**

Each Owner or Agent having custody or charge of, harboring, or exercising control over any Domestic Pet shall provide the following minimum standards of care for each such animal:

(A) Each Domestic Pet shall have access to a shelter which will protect it from the weather and allow it to stand, sit, turn around, and lie down without restriction. The shelter must be structurally sound, moisture proof and windproof, and provide adequate protection from the cold and heat, including bedding to provide insulation and protection against cold and dampness and promote the retention of body heat in cold weather. The shelter must be placed in a dry area free of debris, feces, and standing water.

(B) Each Domestic Pet shall have sufficient and wholesome food and water, which is proper and nutritional for that species of animal.

(C) If a Domestic Pet is ill, diseased or injured, it shall receive proper veterinary care as necessary to promote the good health of the Domestic Pet and prevent the transmittal of disease to the other animals or humans.

(D) No Domestic Pet shall be abandoned, beaten, ill-treated, tormented, or otherwise abused or neglected, or involved in any dog fight, or other fight between animals or between animals and humans.

(E) A Domestic Pet shall be kept under restraint when in heat so as to prevent unintentional breeding.

(F) If a Domestic Pet is chained or tethered, the chain or tether shall not weigh more than one-eighth (1/8) of the animal’s body weight, shall be at least ten (10) feet in length and have swivels on both ends, so as to reduce the likelihood of entanglement. A chain or tether used to restrain a Domestic Pet must, by design and placement, be unlikely to become entangled.

(G) No Domestic Pet shall be kept or maintained on a tether for a period of more than ten (10) continuous hours, nor for more than twelve (12) hours in any twenty-four (24) hour period, nor for any duration under conditions which threaten the health or well being of the Domestic Pet.

(H) A muzzle may not be worn by a dog continuously as a means for controlling barking.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.04 ANIMAL NUISANCES**

An animal Owner or Agent shall exercise due care and control of all animals within his care, custody or control, so as to prevent them from becoming Animal Nuisances.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.05 WOLF HYBRIDS AND COYDOGS PROHIBITED**

It shall be unlawful for any person to possess or harbor a Wolf Hybrid or Coydog.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.06 IMPOUNDMENT**

(A) *Grounds for Impoundment.* Any Law Enforcement Officer or Animal Control Agent may immediately capture and impound any of the following animals:

(1) Any At Large animal;

(2) Any Stray animal;

(3) Any Wolf Hybrid or Coydog;

(4) Any unattended animal that is ill, or otherwise in need of emergency care;

(5) Any animal that is reasonably suspected of having rabies;

(6) Any unattended animal that is exhibiting aggressive or dangerous behavior is not sufficiently confined to the property of its Owner;

(7) Any animal that a Law Enforcement Officer or Animal Control Agent has probably cause to believe is a Dangerous Animal; or

(8) Any animal that a Law Enforcement Officer or Animal Control Agent has probable cause to believ has been the subject of or involved in a violation under I.C. 15-20-1-4 or I.C. 35-46-3.

(B) *Actions to Prevent Harm to Individuals or Other Animals.* If any animal is found At Large and cannot be safely captured, a Law Enforcement Officer may seek assistance from an Animal Control Agent, or take other action deemed appropriate, including tranquilizing or killing such animal to prevent Serious Bodily Injury to Individuals, or Severe Injury to Domestic Pets or Domestic Livestock.

(C) *Identification of Impounded Animals; Notice to Owners.*

(1) Any animals which are impounded pursuant to this Chapter shall be scanned or examined by the Animal Control Facility for a Microchip, collar tag or other identification containing the Owner’s name, address and/or phone number, unless doing so presents an unreasonable risk of Serious Bodily Injury to an Animal Control Agent.

(2) If an impounded animal’s Owner can be identified, the Animal Control Facility shall notify the Owner by the end of the next business day that the animal has been impounded, and that unless the animal is claimed by the Owner within ten (10) days from the date of impoundment, the animal may be placed for adoption or humanely euthanized. Notwithstanding the foregoing, in the case of a second or subsequent impoundment, the impounded animal may be placed for adoption or humanely euthanized if not claimed within five (5) days after the Owner is notified.

(3) Stray animals without any means of identification of their Owners shall be held at the Animal Control Facility a minimum of three (3) days in order to permit an Owner adequate time to reclaim them. A Stray animal which is unclaimed after having been impounded for three (3) days may be placed for adoption or humanely euthanized, except that the Stray shall be euthanized if it is a Dangerous Animal.

(D) *Release from Impoundment.*

(1) Subject to the requirements and conditions of § 97.08 of this Chapter, a Non-Dangerous Animal may be returned to its Owner.

(2) The return of a Dangerous Animal to its Owner is subject to the requirements and conditions of both § 97.07 and § 97.08 of this Chapter.

(E) *Treatment or Euthanizing of Sick or Injured Animals.* The Animal Control Facility shall have authority to take whatever action is reasonably necessary, including humane euthanization, to deal with a sick or injured animal, to prevent unnecessary suffering of the animal, or to prevent the spread of communicable diseases. Nothing in this Chapter shall limit the Animal Control Facility’s ability to take whatever action is reasonably necessary to provide veterinary care by a veterinarian for a sick or injured animal.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.07 DANGEROUS ANIMALS**

(A) *Impoundment.* A Dangerous Animal which has been captured and impounded by a Law Enforcement Officer or Animal Control Agent shall remain impounded subject to the requirements of this Section.

(B) *Euthanization of Dangerous Animals.* A Dangerous Animal which has been impounded shall be euthanized if:

(1) The Owner fails to request a hearing before the Board of Commissioners, pursuant to Subsection (C) of this §97.07, within seven (7) days after having been notified of the impoundment;

(2) The Owner fails to satisfy the registration and confinement requirements of subsection (D) of this § 97.07 within fourteen (14) days after the Board of Commissioners’ determination that the animal is a Dangerous Animal;

(3) The Owner waives in writing all ownership interests in the Dangerous Animal;

(4) The Dangerous Animal’s Owner cannot be identified or located, and the animal remains unclaimed for three (3) days after having been impounded; or

(5) The Dangerous Animal is re-impounded after having previously been registered under subsection (D) of this § 97.07 within five (5) days after the Owner is notified of the re-impoundment.

(C) *Hearings and Appeals.* If an Owner makes a timely request for a hearing pursuant to subsection (B)(1) above, the Board of Commissioners shall conduct a public hearing.

(1) At such hearing, a Law Enforcement Officer, Animal Control Officer or Animal Control Agency shall present evidence supporting a determination that the animal is a Dangerous Animal, and the Owner shall have the opportunity to confront and cross-examine the witnesses supporting such determination, and to present evidence opposing the determination.

(2) Following the hearing, the Board of Commissioners shall make a finding whether the animal is a Dangerous Animal.

(3) If the Board of Commissioners determine that the animal is not a Dangerous Animal, they shall order the animal released to the Owner, subject to the requirements of § 97.08 of this Chapter.

(4) If the Board of Commissioners determine that the animal is a Dangerous Animal, the animal may not be released to the Owner until the Owner complies with registration and confinement requirements of subsection (D) of this § 97.07, in addition to the requirements of § 97.08 of this Chapter.

(D) *Dangerous Animal Registration and Confinement Requirements.* A Dangerous Animal may not be released from impoundment until the Owner has registered the Dangerous Animal with the Montgomery County Health Department, and has paid a registration fee of $500.00. As part of the registration process, the registrant shall provide:

(1) Proof of payment of all costs of caring for the Dangerous Animal during the period of impoundment, including the costs of boarding, and veterinary treatment if necessary;

(2) A valid driver’s license or government issued picture identification showing the Owner’s name and current address;

(3) Proof that the applicant owns or has possessory rights to the animal and is eighteen (18) years of age or older;

(4) One copy of the current immunization and health records for a dog, cat or ferret over the age of three (3) months, showing that the animal has a current rabies vaccination;

(5) Proof that the registrant has insurance coverage for not less than $300,000.00 for any injury, damage, or loss caused by the animal;

(6) Four photographs of the animal from four different sides taken not more than one month before the date of the registration. Such photographs shall consist of a front, back, left, and right side view of the animal;

(7) The name, address, and phone number of the animal’s previous Owner, if applicable;

(8) Proof that the animal is spayed or neutered, or otherwise altered to prevent it from procreating; and

(9) Proof of Microchip implanting and the identification information implanted.

(10) Proof that the Dangerous Animal will be confined, at all times, within a habitable locked and secured dwelling and/or a locked and secured kennel, which may be inspected by a Law Enforcement Officer or Animal Control Agent at any time, and shall meet the following minimum requirements:

(a) If chain-link fencing is used for the kennel, it must be made of at least 11-gauge chain-link steel. Other fencing must be of such material that the animal cannot chew, dig, or otherwise free itself from inside the closure.

(b) The top must be chain-link or of an engineered roofing material from which the animal cannot escape;

(c) The floor must be cement, brick, or engineered flooring from which the animal cannot escape;

(d) Sides of the enclosure must be buried at least two feet (2’) into the ground, or securely fastened to the floor;

(e) An outdoor enclosure must include an adequate structure to protect the animal from the elements, such as a doghouse;

(f) The enclosure must be kept locked at all times to prevent both escape and accidental entry; and

(g) Habitable dwellings, such as a house or garage, must be capable of being locked and secured. Such dwellings may be required to me modified on a case-by-case basis to ensure the Dangerous Animal cannot exit the dwelling of its own volition, such as when a door or window screen are the only obstacles that prevent the animal from exiting.

(h) The enclosure for a non-dog Dangerous Animal must be adequate to contain the species of animal kept. It may be inspected on a case-by-case basis to ensure that it is indeed escape-proof, as well as a humane method for the type of animal to be kept. This inspection will be made by or with a person competent to evaluate the type of animal involved.

(i) Except for medical treatment or examination, the Owner will maintain the Dangerous Animal exclusively on the Owner’s property. When taken off of the Owner’s property for medical treatment or examination, a Dangerous Animal shall at all times be fitted with a securely attached muzzle.

(j) The Owner shall post signs on the Owner’s property where the Dangerous Animal will be kept, clearly visible from the public roadway or from fifty feet (50’), whichever is less. These signs shall advise the general public that a Dangerous Animal is on the premises.

(E) *Other Provisions Applicable to Dangerous Animals.*

(1) The Owner and Owner’s agent of a Dangerous Animal under this Section shall notify the Montgomery County Sheriff and the Animal Control Agency immediately if the Dangerous Animal escapes, is running at large, has been stolen, or has attacked an Individual, Domestic Pet or Domestic Livestock.

(2) A Law Enforcement Officer or Animal Control Agent may visually inspect the premises and enclosure where the Dangerous Animal is kept. The inspection may also include the placement of warning signs, the animal leash, the muzzle, and the locks. An Animal Control Agent must be satisfied that the Owner has met all Dangerous Animal requirements. If the Owner refuses to allow access to the premises for an inspection, a Law Enforcement Officer or Animal Control Agent may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

(3) If the Owner or Owner’s Agent of a Dangerous Animal violates any provisions of this Section, the Dangerous Animal may be re-impounded and held pending a court hearing. The Owner must request a court hearing within five (5) days after having been notified of the re-impoundment. At such hearing, the court shall determine whether, in fact, a violation of this Section has occurred. If the court determines that a violation of this Section has occurred, it shall have the authority to impose a fine and/or order the animal humanely euthanized.

(4) In the event that a Dangerous Animal changes Owner, the new Owner must re-register the animal and satisfy the requirements of subsection (D) above. The original Owner shall notify the Montgomery County Health Department that ownership of the animal has been transferred and provide the name and address of the new Owner.

(5) The Owner of a Dangerous Animal shall notify the Montgomery County Health Department if the address changes where the Dangerous Animal will be kept. The Owner must report the new address so an inspection may be made of the premises.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.08 OTHER CONDITIONS FOR RELEASE FROM IMPOUNDMENT**

(A) *Costs of Impoundment.* The Owner of an impounded animal shall be responsible for all costs of impoundment, and must pay such costs in full prior to the animal’s release from impoundment.

(B) *Microchip Implantation.* Prior to the return to its Owner of any impounded dog or cat which at the time of impoundment did not bear a Microchip, collar tag or other means of identification, the Animal Control Agency shall cause a Microchip with a registered identification number to be implanted in the dog or cat at the Owner’s expense. The Animal Control Agency shall be entitled to retain the dog or cat until the microchip implantation fee is paid.

(C) *Payment of County Option Dog Tax.* No dog impounded pursuant to this Chapter shall be released to its Owner until the Owner presents proof of payment of all applicable Countyt Option Dog Tax with respect to such dog, as prescribed by Chapter 35 of this Code of Ordinances. Any dog so impounded shall be considered to be unclaimed until such tax is paid.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.09 ANIMAL CONTROL FUND**

(A) An Animal Control Fund is hereby established.

(B) Fines imposed and collected pursuant to this Chapter shall be deposited into the Animal Control Fund. This shall be a non-reverting fund.

(C) Requests for appropriations from the Animal Control Fund shall be submitted to the Board of Commissioners. The Board of Commissioners will review each request and determine whether to forward the request to the County Council with a recommendation for approval. The Board of Commissioners may also initiate and submit requests for appropriations from the Animal Control Fund to the County Council.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§ 97.99 PENALTY**

Any Person who violates the provisions of §§ 97.03, 97.04 or 97.05 of this Chapter shall be subject to a fine of:

(a)$25.00 for the first offense committed during a 12 month period;

(b)$100.00 for the second offense committed during a 12 month period;

(c)$200.00 for the third offense and each subsequent offense committed during a 12 month period.

Each day of violation shall constitute a separate violation.”

Section II: All other provisions of Chapter 97 of the Code which are not expressly amended or modified by this ordinance shall remain in full force and effect.

Section III: This ordinance shall become effective on January 1, 2012.

Adopted this 29th day of December, 2011.

**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110. INKEEPER’S TAX**

**111. RETAIL FOOD ESTABLISHMENTS**

**112. TATTOO PARLORS**

**113. SYNTHETIC CANNABINOIDS**

Section

110.01 Innkeeper’s tax; collection

110.02 Convention and Visitor Promotion Fund

110.03 Visitor and Convention Commission

110.04 Disposition of monies

110.05 Delinquencies; failure to file

*Statutory reference:*

*Innkeeper’s Tax Adminstration, see I.C. 6-9-29-1 through 6-9-29-3*

**§110.01 INNKEEPERS TAX; COLLECTION**

(A) **Innkeepers Tax Generally**

(1) Tax Levied. A tax is hereby levied on every person or corporation engaged in the business of renting or furnishing, for periods of less than 30 days, any room, rooms, lodgings or accommodations in the county.

(2) Exemptions. The tax does not apply to gross income received in a

transaction in which:

(a) Students rent lodgings in a college or university residency hall

while that student participates in a course of study for which the student

receives college credit from a college or university located in the county;

or

(b) A person rents a room, lodging or accommodations for a period

of 30 days or more.

(3) Rate. The tax shall be levied at the rate of 3% on the gross retail

income derived from lodging income only and is in addition to the state gross

retail tax imposed under I.C. 6-2.5.

(4) Payment and Collections. The tax shall be paid to the County

Treasurer as provided for in this Chapter. All rules for the collection of state

gross retail tax under Indiana Code §6-2.5, except for payment to the Department

of Revenue, shall apply, unless such provisions conflict with this Chapter.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed --. Ord. 2012-18, passed 12-28-12).

**§110.02 CONVENTION AND VISITOR PROMOTION FUND**

(A) **Source of Funds**. There is established a Convention and Visitor Promotion Fund. This Fund shall consist of monies collected from the Innkeepers Tax which are deposited by the County Treasurer.

(B) **Use of Funds**. The monies deposited into the Fund will be transferred to the Treasurer of the Visitor and Convention Commission by the County Auditor by warrant and may be used only to promote and encourage conventions, visitors and tourism in Montgomery County.

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

(Ord. 2012-18, passed 12-28-12).

**§110.03 VISITOR AND CONVENTION COMMISSION**

(A) **Commission Generally**.

(1) Establishment of Commission. There is hereby created the Visitor and Convention Commission, referred to as “the Commission” in this chapter, to promote the development and growth of the convention, visitor and tourism and festival industry in the county.

(2) Composition. The Commission will be comprised of seven (7)

members. Four (4) members will be appointed by the County

Commissioners, and three (3) members will be appointed by the Mayor

of the City of Crawfordsville. Of the four (4) members appointed by the

County Commissioners, at least one (1) appointee must be engaged in the

business of renting rooms or lodging and at least one (1) appointee must be a

member of the Montgomery County Council. Of the three (3) members

appointed by the Mayor, one (1) appointee must be engaged in the business of

renting rooms or lodging and one (1) appointee must be a member of the

Crawfordsville City Council. The appointees who are engaged in the business

of renting rooms or lodging cannot be from the same business. Not more than

two (2) of the appointees of the County Commissioners may be from the

same political party. Not more than two (2) of the appointees of the Mayor may

be from the same political party. All appointees must be residents of

Montgomery County.

(3) Terms. All terms of office of Commission members begin on January 1. Members of the Commission serve terms of two years, except that three of the original members will have one-year terms in order to stagger the terms. All terms must be staggered. A member whose term expires may be re-appointed to serve one (1) additional term. A member who has served two (2) consecutive terms is not eligible for reappointment until at least one (1) year has elapsed since his or her last term. If an initial appointment is not made by February 1, or a vacancy is not filled within 30 days, the Commission shall appoint a member by majority vote to serve for the remainder of the term.

(4) Removal. A member of the Commission may be removed for cause by

his or her appointing authority.

(5) No Salary. Members of the Commission may not receive a salary.

However, Commission members are entitled to reimbursement for necessary

expenses incurred in the performance of their respective duties.

(6) Oaths. All members of the Commission must take an oath prior to

serving.

(7) Officers. The Commission shall elect a President, Vice President, Treasurer and Secretary. Each officer shall serve for one year.

(B) **Commission Rules and Procedure**

(1) Powers Generally. The Commission may:

(a) Accept and use gifts, grants and contributions from any public

or private source, under terms and conditions that the Commission

considers necessary and desirable;

(b) Sue and be sued;

(c) Enter into contracts and agreements;

(d) Make rules necessary for the conduct of its business and the

accomplishment of its purposes;

(e) Receive and approve, alter or reject requests and proposals for

funding by corporations qualified under division (B)(1)(f) below;

(f) After its approval of a proposal, transfer money, quarterly or

less frequently, from the fund established under § 110.02, to any state not-

for-profit corporation for the purpose of promotion and encouragement in

the county of conventions, trade shows, visitors, tourism, festivals or other

special events in the county; and

(g) Require financial or other reports from any corporations that

receive funds under this chapter.

(2) Quorum and Majority Action. A majority of the Commission

constitutes a quorum for the transaction of business and the concurrence of a

majority of the Commission is necessary to authorize any action.

(3) Expenses of Commission. All expenses of the Commission shall be

paid from the Fund established under § 110.02.

(C) **Meetings.** The Commission shall meet at least four (4) times per year.

(D) **Budget**. On or before July 31 of each year, the Commission will approve a budget for the following year. This budget must be presented to the Montgomery County Council on or before August 15 of each year, and the Council will review the budget and determine appropriations for the Commission during the Council’s annual budget process.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-7-92; Am. Ord. 98-, passed 4-28-98; Am. Ord. 2012-18, passed 12-28-12).

**§110.04 DISPOSITION OF MONIES**

All money coming into possession of the Commission shall be deposited, held, secured, invested and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money coming into possession of the Commission is subject to audit and supervision of the State Board of Accounts. Expenditures cannot be made without appropriation by the County Council.

(Ord. 2-86 passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-7-92; Am. Ord. 98-, passed 4-28-98. Ord. 2012-18, passed 12-28-12)

**§110.05 DELINQUENCIES; FAILURE TO FILE**

(A) **Time for Payment of Tax**. The due date for filing the return and paying the tax is the twentieth day of the month immediately following the month of collection. A delinquent return is subject to:

(1) Loss of the collection allowance provided for in Indiana Code

§6-2.5-6-10;

(2) A penalty of 10% of the gross tax collected, but not less than $5; plus

(3) Interest payable on the gross tax due. The time factor will be the

number of days delinquent divided by 365. The rate, determined by the

Commissioner of the State Department of Revenue, takes effect on January 1 each

year.

(B) **Failure To Collect Or Remit Tax**. An individual who has the duty to collect and remit these taxes to the Treasurer~~,~~ holds these funds in trust and is personally liable for their payment, plus any penalties and interest attributable thereto to the state or political subdivision. The individual who knowingly fails to collect or remit these taxes as prescribed commits a Class D felony.

(C) **Authority of Treasurer**. Since a section has been adopted requiring payment of the innkeeper’s tax to the County Treasurer instead of the Department of State Revenue, the County Treasurer has the same right and powers with respect to collecting this tax as the Department of State Revenue.

(D) **List of Delinquent Taxpayers**. On or before December 31 of each year, the Commission will deliver to the County Treasurer a list of businesses and individuals who have failed to remit the Innkeepers Tax as required by law, and the Treasurer will collect the tax as provided for by law.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12—92; Am. Ord. 98-, passed 4-28-98. Ord 2012-18, passed 12-28-12).”

Section 2. All other Chapters of Title XI which are not expressly amended by this ordinance shall remain in full force and effect.

Section 3. This Ordinance shall be in full force and effect from and after its adoption.

Adopted this 28th day of December, 2012.

**CHAPTER 111: RETAIL FOOD ESTABLISHMENTS**

Section

111.01 Permits

111.02 Construction, renovation, and alteration of food establishments

111.03 Application and permits fees

111.04 Education

111.05 Inspections

111.06 Violations and enforcement

111.07 Appeal

111.99 Penalty

**§111.01 PERMITS**

(A) *Permit Requirements.* It shall be unlawful for any person to sell food or to operate a retail food establishment who does not possess a valid permit, unless otherwise exempted.

(B) *Posting.* All permits shall be posted in view of the public at all times.

(C) *Application.*

(1) Applicants for a permit must fill out an application provided by the Health Department.

(2) The application shall include the following: the legal name, address, telephone number of the permittee; the name under which said permittee intends to operate; the address of the establishment; the number of food establishment personnel employed; signature of permittee; and any other information required by the Health Department.

(D) *Permit Issuance.* A permit shall be issued subsequent to application and upon determination by the Health Department that the permittee has complied with all the applicable provisions of this chapter, and tendered the appropriate fee.

(E) *Terms.*

(1) Permits shall be for a term of one year beginning upon the date of issue.

(2) Permits shall be renewed annually on or before the last day of the anniversary month which is one year after the issuance of the permit.

(3) A permit for a temporary food service establishment shall be for a term not to exceed 14 consecutive days.

(F) *Permits Not Transferable.* Permits shall not be transferred.

(Ord. 2003-1, passed 1-28-03) Penalty, see § 111.99

**§111.02 CONSTRUCTION, RENOVATION, AND ALTERATION OF FOOD ESTABLISHMENTS**

(A) *Construction.* All food establishments which are constructed or renovated shall conform in their construction to the applicable requirements of 410 I.A.C. 7-24, as amended, as well as with this chapter and all applicable building, zoning, and fire codes.

(B) *Plans.* No construction, renovation, or alteration shall begin without the construction, renovation, or alteration plans being first submitted to and approved by the Health Officer as well as any other permitting authorities required by law.

(C) *Equipment.* All equipment installed in a food establishment for use in cleaning of utensils, or inthe preparation, storing, handling, cleaning, sanitizing, serving, or displaying of any food or beverage products shall be of a type conforming with all applicable requirements with regard to proper holding temperatures, design, construction, location, and materials.

(D) *Compliance.*

(1) All food establishments must fully comply at all times with all local and state building, zoning, and fire codes.

(2) Failure of any permittee to fully comply with any applicable building, zoning, and fire codes shall be the basis for the suspension, immediate closure or revocation of any permit issued.

(Ord. 2003-1, passed 1-28-03; Am. Commissioners Ord. 2008-1, passed 2-11-08)

Penalty, see § 111.99

**§111.03 APPLICATION AND PERMIT FEES**

(A) *Fees.* Prior to the issuance of any permit, each permittee shall first tender to the County Health Department the applicable permit fee fixed by the County Board of Health. The County Board of Health shall have the power to fix any and all fees related to this chapter as deemed appropriate Board.

(B) *Fees.* Fees shall be established according to the attached fee schedule. All fees collected under this section shall be deposited in the county general fund.

(C) *No Permit.* Should any permittee fail to obtain the permit prior to the opening of the food establishment for business, or should any permittee fail to renew his or her permit 14 days past the anniversary date of the permit, then the annual fee shall be 125% of the annual fee set forth above for that particular food establishment.

(D) *Exemptions.*

(1) The permit fee shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer fresh fruits, vegetables, honey, or cider.

(2) Food establishments that comply with terms and provisions of I.C. 16-18-2-137(b) shall be exempt from the provisions of this chapter unless they waive said exemption. Exempt organizations such as sport leagues, church-sponsored soup kitchens, churches, and temporary senior citizen feeding sites are except from the permit provisions.

(3) Food establishments that sell or offer for sale directly to the consume only prepackaged confections such as candy, chewing gum, nuts, potato chips, pretzels, popcorn, coffee, juice, and soft drink beverages shall be exempt from the provisions of this chapter.

(4) Food establishments that meet the criteria as a “retail food establishment” according to 410 I.A.C. 7-24-79 that qualify as “tax-exempt non-profit” and possess a “tax-exempt non-profit” I.D. number from the Internal Revenue Service.

(D) *Withholding Permit if Property Taxes Delinquent.* Prior to issuing any new or renewal permit, the applicant or permittee shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or permittee is not delinquent in the payment of any personal property taxes. If applicant or permittee does not obtain such certificate of compliance, the Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property taxes owed by the applicant or permittee are paid in full, including penalties.

(Ord. 2003-1, passed 1-28-03; Am. Commissioners Ord. 2008-1, passed 2-11-08; Am. Commissioners Ord. 2008-8, passed 6-23-08)

**§111.04 EDUCATION**

A food safety course will be required for all employees of a food establishment if the following conditions occur:

(A) The establishments are subject to immediate closure by the Health Officer;

(B) The Health Officer determines the necessity of a food safety course as the result of violations of this chapter; and /or

(C) Upon inspection it is determined the remedial efforts have not been made to correct prior violations of this chapter.

(Ord. 2003-1, passed 1-28-03)

**§ 111.05 INSPECTIONS**

(A) *Frequency of Inspection.* Each food establishment may be inspected as frequently as deemed appropriate by the Health Department.

(B) *Authority to Inspect and Copy Records.* The permittee shall, upon request of the Health Department, permit access to all areas of every such food establishment and shall permit inspection of, access to, and the copying of any and all records relating to food and beverage sanitation.

(Ord. 2003-1, passed 1-28-03)

**§111.06 VIOLATIONS AND ENFORCEMENT**

(A) The Health Officer may order the suspension of any permit issued for a food establishment, which order shall include the prohibition of any further sale or serving of food or beverages for the following reasons:

(1) Interference with the Health Officer, or his or her authorized representative, in the performance of his or her duties. Interference shall be defined as the process of obstructing, hampering, or blocking the Health Officer in the performance of his or her duties; and/or

(2) As a result of the willful and/or continuous violation of any provision of this chapter or the willful and/or continuous violation of 410 I.A.C. 7-24.

(B) If the Health Department suspends any permit, the permittee must obtain a new permit and pay the fee required.

(C) This chapter and any order of the Health Department may be enforced by injunction and any other remedy available at law or in equity in the County Circuit or Superior Court.

(Ord. 2003-1, passed 1-28-03; Am. Commissioners Ord. 2008-1, passed 2-11-08)

**§111.07 APPEAL**

Any permittee may appeal the decisions of the Health Department. If an appeal occurs, the permittee may request a hearing with the Health Board and Health Officer making the final decision.

(Ord. 2003-1, passed 1-28-03)

**§111.99 PENALTY**

If a food establishment continues to operate without a permit, there will be a penalty of $200 per day that the establishment operates without complying with this chapter or order of the Health Department.

(Ord. 2003-1, passed 1-28-03)

**CHAPTER 112: TATTOO PARLORS**

Section

112.01 Sanitary operation of tattoo parlors

112.02 Definitions

112.03 Tattoo operator training responsibilities

112.04 Tattoo operator responsibilities

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112.06 Tattoo artist minimum training and certification requirements

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112.17 Treatment and transport of infectious waste

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112.99 Penalty

**§112.01 SANITARY OPERATION OF TATTOO PARLORS.**

All places, individuals and businesses that offer to affix any type of permanent tattoo to a person shall be regulated by this chapter and shall maintain the premises in which tattoos are performed and equipment used in the tattoo process in a sanitary manner.

(Ord. 2004-1, passed 10-26-04)

**§112.02 DEFINITIONS.**

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

***BLOOD.*** Human blood.

***BLOOD BORNE PATHOGENS.*** Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to the following:

(1) HBV ;

(2) HCV; and/or

(3) HIV.

***CLEANED.*** Removal of all visible dust, soil, or any other foreign material.

***CONTAMINATED.*** The presence or reasonably anticipated presence of blood or OPIM on an item or surface.

***DECONTAMINATED.*** The use of physical or chemical means to remove, inactivate, or destroy blood borne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles at the surface or items is rendered safe for handling, use, or disposal.

***DEPARTMENT.*** The Montgomery County Department of Health. The Montgomery County Board of Health shall be considered part of the DEPARTMENT except for the purpose of conducting any type of administrative hearing for the appeal of any decision of the DEPARTMENT or Health Officer or appointed representative.

***HBV .*** The hepatitis B virus.

***HCV.*** The hepatitis C virus.

***HEALTH OFFICER.*** The duly appointed ***HEALTH OFFICER*** or appointed representative as set forth in I.C. 16-20-2-16 enforcing this chapter. The ***HEALTH OFFICER*** or appointed representative may designate someone in the health department to perform those duties and responsibilities of the ***HEALTH OFFICER*** or appointed representative.

***HTV.*** The human immunodeficiency virus.

***INFECTIOUS WASTE.*** Waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease. ***INFECTIOUS WASTE*** includes, but is not limited to the following:

(1) Contaminated sharps or contaminated objects that could potentially become contaminated sharps;

(2) Infectious biological cultures, infectious associated biological and infectious agent stock;

(3) Pathological waste;

(4) Blood and blood products in liquid and semi-liquid form;

(5) Carcasses, body parts, blood and body fluids in liquid and semi-liquid form in the bedding of laboratory animals; and/or

(6) Other waste that has been intermingled with ***INFECTIOUS WASTE.***

***OTHER POTENTIALLY INFECTIOUS MATERIALS*** or ***OPIM.***

(1) Human body fluids as follows:

(a) Semen;

(b) Vaginal secretions;

(c) Cerebrospinal fluid;

(d) Synovial fluid;

(e) Pleural fluid;

(f) Pericardial fluid;

(g) Peritoneal fluid;

(h) Amniotic fluid;

(i) Saliva in dental procedures;

(j) Any body fluid that is visibly contaminated with blood; and/or

(k) All body fluids where it is difficult or impossible to differentiate between body fluids.

(2) Any unfixed tissue or organ, other than intact skin, from a human living or dead.

(3) HIV- containing cell or tissue cultures, and HIV- or HBV- containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

***PARENTERAL.*** Piercing the mucous membranes.

***PERSONAL PROTECTIVE EQUIPMENT.*** Specialized clothing or equipment worn for protection against contact with blood or ***OPIM.***

***SECURE AREA.*** An area that is designated and maintained to prevent the entry of unauthorized persons.

***SEMI-LIQUID BLOOD, BLOOD PRODUCT.*** Blood, blood products that have intermediate fluid properties and are capable of flowing in manner similar to liquid.

***STERILIZE.*** The use of physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

***STORE.*** The containment of infectious waste in such a manner as not to constitute collection, treatment, transport, or disposal.

***TATTOO.***

(1) Any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments.

(2) Any design, letter, scroll, figure, symbol done by scarring; upon or under the skin.

(3) Any piercing of the mucous membranes or the skin through which needles or other items are inserted for temporary or permanent placement upon a person.

***TATTOO ARTIST.*** Any person who provides a tattoo to an individual or who performs any type of piercing the mucous membranes or the skin through which needles or other objects are inserted from temporary or permanent placement.

***TATTOO OPERATOR.*** Any person who controls, operates, conducts, manages or owns any tattoo parlor.

***UNIVERSAL PRECAUTIONS.*** An approach to infection control in which all human blood and certain human body fluids are treated as if known to be infectious with HIV, HBV, HCV, and other blood borne pathogens.

(Ord. 2004-01, passed 10-26-04)

**§112.03 TATTOO OPERATOR TRAINING RESPONSIBLITIES.**

An individual or entity that is a tattoo operator shall comply with the following training responsibilities:

(A) Ensure that the training described in the Indiana Occupational Safety and Health Administration’s Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030) is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

(B) Ensure that training on the handling of infectious waste is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated rash for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

(C) Ensure that a record of training described in division (A) is maintained, as required under the Indiana Occupational Safety and Health Administrator’s Blood Borne Pathogens Standard (as found in 29 CFR 1910.1030) of an individual’s participation in the training that is provided. The record shall be made available to the department for inspection upon request.

(D) Ensure that all record of training described in division (B) is maintained.

(Ord. 2004-01, passed 10-26-04)

**§ 112.04 TATTOO OPERATOR RESPONSIBLITIES**

(A) The tattoo operator shall ensure that tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood are provided personal protective equipment and expendables needed to implement the precautions required by this rule and the Indiana Occupational Safety and Health Administration’s Blood Borne Pathogens Standard as found in 29 CFR 1910.1030.

(B) The tattoo operator shall require tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in section 27 of this rule.

(C) The tattoo operator shall display a description of compliance with the requirements contained in division (D).

(D) The tattoo operator shall display written materials prepared or approved by the department explaining universal precautions and patrons’ rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the department’s duties to investigate.

(E) The tattoo operator shall insure that no illicit drugs or alcohol are consumed or permitted in the tattoo parlor.

(F) The tattoo operator shall insure that no tattoo shall be affixed to any person that is intoxicated.

(Ord. 2004-01, passed 10-26-04)

**§112.05 TATTOO OPERATOR POLICIES**

The tattoo operator shall develop a written policy in compliance with this rule and the requirements of the Indiana Occupational Safety and Health Administration’s Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030) that:

(A) Requires the use of universal precautions when performing tattooing and any activity or duty that includes any reasonable anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM;

(B) Includes the safe handling of infectious waste; and

(C) Provide sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions and/or handle infectious waste safely.

(Ord. 2004-01, passed 10-26-04)

**§112.06 TATTOO ARTIST MINIMUM TRAINING AND CERTIFICATION REQUIREMENTS**

(A) All tattoo artists, anyone employed by the tattoo parlor, and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM shall complete the training program that is required under the requirements of the Indiana Occupational Safety and Health Administration’s Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030). The programs under this section shall be as follows:

(1) A blood borne pathogen training session provided by the tattoo operator meeting the requirements under the Indiana Occupational Safety and Health Administration’s Blood Borne Pathogens Standard (as found in 29 CFR 1910.1030).

(2) Any blood borne pathogen continuing education program accredited by a health care licensing entity.

(B) All tattoo artists, anyone employed by the tattoo parlor, and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk of skin, eye, mucous membrane, or parenteral contact with blood or OPIM must be trained in the tattoo parlor’s policies on the handling of infectious waste.

(Ord. 2004-01, passed 10-26-04)

**§112.07 PATRONS RECORDS**

Records of each patron shall be maintained for two years. The record shall include the following:

(A) Patron’s name;

(B) Address;

(C) Age; age must be verified by two items of identification, one of which must be a valid government issued identification;

(D) Date tattooed;

(E) Design of the tattoo;

(F) Location of the tattoo on the patron’s body;

(G) The name of the tattoo artist who performed the work; and

(H) Parental consent must be in writing when performed on any minor as permitted by law.

(Ord. 2004-01, passed 10-26-04)

**§112.08 ILLNESS**

Tattoo artists who are experiencing symptoms of acute disease that include, but are not limited to:

(A) Diarrhea;

(B) Vomiting;

(C) Fever;

(D) Rash;

(E) Productive cough;

(F) Jaundice; or

(G) Draining (or open) skin infections, boils, impetigo, or scabies;

shall refrain from providing tattoos.

(Ord. 2004-01, passed 10-26-04)

**§112.09 HAND WASHING**

(A) Hand washing facilities shall be readily accessible in the same room where tattooing is provided.

(B) Hands shall be washed with soap and running water immediately before putting on gloves and after removal of gloves or other personal protective equipment.

(C) Only single use towels shall be used.

(Ord. 2004-01, passed 10-26-04)

**§112.10 PERSONAL PROTECTIVE EQUIPMENT**

Appropriate personal protective equipment shall be worn as follows:

(A) A clean protective clothing layer shall be worn whenever there is a reasonably anticipated risk of contamination of clothing by blood or OPIM.

(B) Masks in combination with eye protection devices, such as goggles or glasses with solid side shield, or chin length face shield, shall be worn whenever splashes spray splatter, or doubles of blood or OPIM may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(C) Disposable gloves shall be work during the tattooing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo, when the gloves become torn or punctured, or whenever the ability to function as a barrier is compromised. Disposable gloves shall not be reused.

(D) Gloves shall be worn when decontaminating environmental surfaces and equipment.

(Ord. 2004-01, passed 10-26-04)

**§112.11 TATTOOING EQUIPMENT**

(A) Only single use razors shall be used to shave the area to be tattooed.

(B) All stencils shall be properly disposed of after a single use.

(C) If the design is drawn directly onto the skin, it shall be applied with a single use article only.

(Ord. 2004-01, passed 10-26-04)

**§112.12 NEEDLES**

(A) Needles shall be individually packaged and sterilized prior to use.

(B) Needles shall be single use only.

(C) Needles shall be discarded in sharps containers immediately after use.

(D) Contaminated needles shall not be bent or broken or otherwise manipulated by hand.

(Ord. 2004-01, passed 10-26-04)

**§112.13 REUSABLE EQUIPMENT**

(A) Heating procedures capable of sterilization must be used when heat stable, non disposable equipment is sterilized.

(B) Records must be maintained to document the following:

(1) Duration of sterilization technique.

(2) Determination of effective sterility, such as use of a biological indicator, is performed monthly.

(3) Equipment is maintained as recommended by the owner’s manual and proof is available that the owner’s manual recommendations are reviewed monthly.

(C) Reusable contaminated equipment shall not be stored or processed in a manner that requires any person to reach by hand into the containers where these sharp items have been placed.

(D) Reusable contaminated equipment shall be:

(1) Placed in puncture-resistant containers,

(2) Labeled with the biohazard symbol;

(3) Leak proof on both sides and bottom, and

(4) Stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.

(E) Contaminated reusable equipment shall be effectively cleaned prior to sterilization.

(F) Reusable tubes shall be effectively cleaned and sterilized before reuse.

(Ord. 2004-01, passed 10-26-04)

**§112.14 DYES OR PIGMENTS**

(A) All dyes or pigments in tattooing shall be from professional suppliers specifically providing dyes or pigments for the tattooing of human skin.

(B) In preparing dye or pigments to be used by tattoo artists, only nontoxic sterile materials shall be used. Single use or individual portions of dyes or pigments in clean, sterilized containers shall be used for each patron.

(C) After tattooing, the remaining unused dye or pigment in single use or individual containers shall be discarded along with the container.

(Ord. 2004-01, passed 10-26-04)

**§112.15 WORK ENVIRONMENT**

(A) No tattooing shall be conducted in any room used as living quarters or in any room that opens directly into living or sleeping quarters.

(B) Live animals shall be excluded from areas where tattooing is being conducted. This exclusion does not apply to the following:

(1) Patrol dogs accompanying security or police officers.

(2) Guide dogs accompanying the following:

(a) Blind persons;

(b) Partially blind persons;

(c) Physically disabled persons;

(d) Guide dog trainers; or

(e) Persons with impaired hearing.

(C) Eating, drinking, smoking or applying cosmetics shall not be allowed in the work areas where there is a likelihood of exposure to blood or OPIM.

(D) Food and drink shall not be kept in areas where there is a reasonably anticipated risk of exposure to blood or OPIM.

(E) All equipment and environmental surfaces shall be cleaned and decontaminated after contact with blood or OPIM.

(F) Environmental surfaces and equipment not requiring sterilization that have been contaminated by blood shall be cleaned and decontaminated by blood shall be cleaned and decontaminated.

(G) All work surfaces shall be:

(1) Non-absorbent;

(2) Easily cleanable;

(3) Smooth, and

(4) Free of

(a) Breaks;

(b) Open seams;

(c) Cracks;

(d) Chips;

(e) Pits; or

(f) Similar imperfections.

(H) Disinfectant solutions shall be:

(1) A hospital grade, Tuberculocidal Environmental Protections (EPA) registered disinfectant;

or

(2) Sodium hypochlorite, 0.5% concentration, by volume (common household bleach is 10% concentration in water); the solution shall be dated and shall not be used if it is more than 24 hours old.

(Ord. 2004-01, passed 10-26-04)

**§112.16 INFECTIOUS WASTE CONTAINMENT.**

(A) Contaminated disposable needles or instruments shall be:

(1) Stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the biohazard symbol, and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

(B) Infectious wastes that are contaminated sharps or objects that could potentially become contaminated shall be placed in containers that meet the following requirements:

(1) Impervious to moisture;

(2) Sufficient strength and thickness to prevent expulsion;

(3) Secured to prevent leakage expulsion;

(4) Labeled with the biohazard symbol; and

(5) Effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

(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 biohazard symbol.

(D) Infectious waste shall be stored in a manner that preserves the integrity of the container, and is not conductive to rapid microbial growth and putrefaction.

(E) Reusable containers for infectious waste must be disinfected each time that they are emptied unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags or other devices that are removed with the infectious waste.

(Ord. 2004-01, passed 10-26-04)

**§112.17 TREATMENT AND TRANSPORT OF INFECTIOUS WASTE**

(A) All tattoo operators shall ensure that infectious waste is either treated on-site in accordance with this rule or transported off-site for treatment in accordance with this rule.

(B) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:

(1) Incineration in an incinerator designed to accommodate infectious waste;

(2) Steam sterilization;

(3) Chemical disinfection under circumstances where safe handling of the waste is assured;

(4) Thermal inactivation;

(5) Irradiation; or

(6) Discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(C) All persons subject to this rule shall:

(1) Transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and

(2) Effectively treat infectious waste in accordance with this rule before it is compacted.

(D) The tattoo operator shall ensure that infectious waste effectively treated or not is transported off-site in compliance with 410 I.A.C. 1-3.

(Ord. 2004-01, passed 10-26-04)

**§112.18 PERMITS**

(A) *Business.* Each tattoo parlor operation shall obtain a permit from the Montgomery County Health Department. The permit shall provide the name and address of the owner of the business and the name and address of each and every tattoo artist located at each location. The cost for this permit shall be $50 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Montgomery County Health Department shall provide the appropriate forms for this permit. Said permit shall be posted at the tattoo parlor in the places where the tattoos are performed and clearly visible to the public.

(B) *Tattoo Artist.* Every person that desires to perform any tattoo shall obtain a “Tattoo artist permit” from the Montgomery County Health Department. This permit must be obtained before any tattoos are affixed to any person and after the requisite training. The applicant must satisfy the minimum requirements as set forth herein in § 112.06. The cost of said permit shall be $25 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Montgomery County Health Department shall provide the appropriate forms for this permit. Said permits shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public.

(C) *Withholding Permit if Property Taxes Delinquent.* Prior to issuing any new or renewal permit the tattoo parlor or tattoo artist shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the tattoo parlor or tattoo artist is not delinquent in the payment of any personal property taxes. If the tattoo parlor or tattoo artist does not obtain such certificate of compliance, the Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property taxes owed by the tattoo parlor or tattoo artist are paid in full, including penalties.

(Ord. 2004-01, passed 10-26-04; Am. Commissioners Ord. 2008-6, passed 3-24-08); Am. Commissioners Ord. 2008-8, passed 6-23-08)

**§112.19 INSPECTION**

The Montgomery County Health Department shall conduct inspections of each and every tattoo parlor located in Montgomery County, Indiana. The Health Department shall conduct a minimum of three inspections per year. Additional inspections may be conducted by the Health Department as they determine and/or in response to complaints submitted. The results of the inspections shall be provided to each operator. Violations noted by the Health Department shall be corrected immediately. The Department shall conduct follow up inspections to determine compliance with this chapter.

(Ord. 2004-01, passed 10-26-04)

**§112.20 REVOCATION OF PERMIT**

The Health Officer or appointed representative may suspend or revoke the permit of any tattoo artist or operator for any period of time for any violation of this chapter, state or federal regulations concerning blood borne pathogens, tattoos or work place regulations (OSHA). The suspension and/or revocation shall be effective upon issuance by the Health Officer or appointed representative. The operator or artist may have the permit reinstated upon compliance with this chapter, state or federal regulations concerning blood borne pathogens, tattoos or work place regulations (OSHA) and to the satisfaction of the Health Officer or appointed representative. Appeals of orders of revocation shall e conducted pursuant to I.C. 4-21.5-3-1 et seq. The Board of Health shall conduct administrative hearings concerning the suspension or revocation of any permit issued herein as set forth in I.C. 4-21.5-3 et seq.

(Ord. 2004-01, passed 10-26-04)

**§112.99 PENALTY**

(A) If a tattoo artist or operator shall fail to obtain a permit prior to the conduct of their business or at any time after one has been issued, but has expired, that tattoo artist and/or operator may be subject to a fine of not more than $200. Each day the tattoo artist and/or operator shall be in violation of this chapter shall constitute a separate offense.

(B) The Health Officer or appointed representative may bring an action in the Circuit or Superior Court to enforce this chapter. The Health Officer or appointed representative shall be entitled to recover all costs and expenses associated with any action for enforcement of this chapter including reasonable attorney fees.

(Ord. 2004-1, passed 10-26-04; Am. Commissioners Ord. 2008-6, passed 3-24-08)

**CHAPTER 113: SYNTHETIC CANNABINOIDS**

Section

113.01 Definitions

113.02 Sale of Synthetic Cannabinoids Prohibited

113.03 Enforcement

113.04 Defenses

**§113.01 DEFINITION**

***SYNTHETIC CANNABINOID.*** As used in this chapter, the term “synthetic cannabinoid” means any of the following:

(A) All parts of the plant presently classified botanically as Salvia Divinorum, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant its seeds or its extract;

(B) HU-210 a substance also known as (6aR, 10aR)- 9-(Hydroxymethyl) 6,6-dimethyl-3-(2-methyloctan-2-yl)- 6a, 7, 10, 10a-tetrahydrobenzo[c]chromen- 1-ol;

(C) JWH-018, a substance also known as Naphthalen-1 –yl-(1-pentylindol-3-yl) methanone;

(D) JWH-073, a substance also known as 1-yl(1butylindol-3-yl) methanone;

(E) TFMPP, a substance also known as 1-[3-(trifluoromethyl)phenyl]piperazine;

(F) Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol;

(G) CP-47-497, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol;

(H) JWH-250, a substance also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone;

(I) Structural analogs of any of these substances.

(J) Any herbal-based substance sold under the name of K2, Spice, Acapulco Spices, Serenity Now, Spice Gold, Shokotsu, Afghan Incense, Baked, Black Magic, Buzz, Cherry Charm, Fire Bird, Fire “N” Ice, Pulse, Solitude or Voodoo, or any other herbal-based substance containing the foregoing described substances.

(Commissioners Ord. 2010-4, passed 10-25-10)

**§113.02 SALE OF SYNTHETIC CANNABINOIDS PROHIBITED**

A person may not sell, barter, give, publicly display for sale, or attempt to sell, give or barter, or to possess any synthetic cannabinoid.

(Commissioners Ord. 2010-4, passed 10-25-10)

**§113.03 ENFORCEMENT**

(A) The Montgomery County Sheriff’s Department is responsible for the interpretation and civil enforcement of this chapter.

(B) Enforcement personnel from the Montgomery County Sheriff’s Department may seize and destroy synthetic cannabinoids that are in violation of this chapter.

(C) A person in violation of this chapter shall be fined two hundred and fifty dollars ($250.00). Each day a violation occurs or continues constitutes a separate offense.

(Commissioners Ord. 2010-4, passed 10-25-10)

**§113.04 DEFENSES**

(A) It is a defense under this Chapter that a person otherwise in violation is acting at the direction of an authorized agent of the County of Montgomery to enforce or ensure compliance with this Chapter.

(B) It is a defense under this Chapter that a person otherwise in violation is acting, with respect to the violation, under the direction or prescription of a person who holds an unlimited license to practice medicine under I.C. 25-22.5 or a license to practice dentistry under I.C. 25-14.

(C) It is defense under this Chapter that a person otherwise in violation is acting, with respect to the violation, in connection with a bona fide research or scientific endeavor funded by public entities or non-profit organizations.

(Commissioners Ord. 2010-4, passed 10-25-10)

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL OFFENSES**

**CHAPTER 130: GENERAL OFFENSES**

Section

130.01 Operation upon public property

130.02 Deadly weapons; possession

130.03 Law enforcement vehicles; unlawful operation

130.04 Transportation of waste materials

**§130.01 OPERATION UPON PUBLIC PROPERTY**

(A) Skateboards are hereby prohibited upon county real estate. (Ord. 88-3, passed 5-1-88)

(B) No person shall operate a bicycle, roller blades or skateboard upon the sidewalks, steps, lawn or other property of the County Courthouse. (Ord. 99-2, passed 7-6-99)

Penalty, see § 10.99.

**§130.02 DEADLY WEAPONS; POSSESSION**

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

***DEADLY WEAPONS.***

(1) A loaded or unloaded firearm; or

(2) A weapon, device, taser or electronic stun gun, equipment, chemical substance or other material that, in the manner it is used, could ordinarily be used or is intended to be used, is readily capable of causing serious bodily injury.

***FIREARM.*** Any weapon which is capable of, designed to or that may be readily converted to expel a projectile by means of an explosion.

***SERIOUS BODILY INJURY.*** Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, unconsciousness, extreme pain or permanent or protracted loss or impairment of the function of a bodily member or organ. (I.C. 35-41-1-25)

(B) (1) Except as provided in division (C) below, a person shall not possess on or about his or her person within the County Courthouse any deadly weapon.

(2) The County Attorney is hereby authorized to enforce this section trough the County Court.

(C) (1) Division (B) above does not apply to the following persons while on duty or while appearing in Court to testify in an official capacity:

(a) Law enforcement officers;

(b) State Department of Correction officers;

(c) Community Corrections personnel

(d) Court personnel; and/or

(e) Employees of the United States duly authorized to carry deadly weapons.

(2) The persons described in division (C)(1) above as being exempt from the provisions of this section shall not be exempt if they or any of them or any member of the family of one of them is a party to any proceeding taking place in Court.

(3) Officers not a regular duty, but who may be in the Courthouse on special assignment or on business not associated with their official duties, shall also be exempt from the provisions of this section unless they or any one of them come within the provision of the first sentence of this section.

(D) Any person of whom the court security officer or any law enforcement officer on duty in an official capacity has probable cause to believe may have on or about his or her person a deadly weapon in violation of this section may be searched for the deadly weapon and any weapon or illegal contraband found on or about the person shall be seized and held for disposition according to law. The person may be subject to prosecution for any offenses committed beyond the violation of this section.

(Ord. 1994-1, passed –94) Penalty, see § 10.99

**§130.03 LAW ENFORCEMENT VEHICLES; UNLAWFUL OPERATION**

Both marked and unmarked law enforcement vehicles are authorized to be used for activity which is incidental to law enforcement functions, but law enforcement personnel are banned from the use of the vehicles for vacation or recreation trips which is to comply with the regulars of the Internal Revenue Service.

(Ord. 11-85, passed –85) Penalty, see § 10.99

**§130.04 TRANSPORTATION OF WASTE MATERIALS**

(A) It shall be unlawful to transport into the county any garbage, refuse, debris, solid waste, chemicals, hazardous materials or any other substance for the purpose of its ultimate disposal, excepting that the disposal of certain materials shall be allowed upon approval by the County Commissioners of an application submitted in writing to the Commissioners not less than 60 days prior to the time proposed for the commencement of the disposal operations, setting forth the substance to be transported in to the county, the quantity of the substance to be transported , the type of method to be used for the ultimate disposal of the substance, the location of the disposal site, including the legal description and topographical maps, a certification of approval of the disposal from both federal and state agencies, and the posting of a cash and surety bond payable to the county, in an amount sufficient to save the county and its citizens harmless from any damages arising out of the disposal of the material and in compliance with all county, state and federal rules and regulations.

(B) It shall be unlawful for any person or persons to deposit, dump or dispose of any of the materials heretofore set forth in division (A) above transported into the county from any outside area unless the person or persons have complied with the requirement of division (A) above.

(C) In the event of the violation of any of the provisions of this section, the county shall have the right of injunctive relief for the purpose of preventing a continued violation of this section.

(Ord. 3-84, passed 4-17-84) Penalty, see § 10.99

*Cross-reference:*

*Illegal Dumping, see Chapter 50*

**TITLE XV: LAND USAGE**

Chapter

**150. BUILDING REGULATIONS; CONSTRUCTION**

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**CHAPTER 150: BUILDING REGULATIONS CONSTRUCTION**

Section

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**§150.01 TITLE**

This chapter, and all ordinances supplemental or amendatory hereto, shall be known as the “County Building Code,” may be cited as such and will be referred to herein as “this code.”

(Ord. 87-3, passed 8-4-87; Am Ord. passed 9-21-87)

**§150.03 AUTHORITY**

(A) (1) The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of the code.

(2) Whenever in the building regulations it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Board of Commissioners, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with. The provision shall be construed as giving any officer discretionary powers as to what regulations, codes or standards shall be, or power to require conditions not prescribed by ordinances or to enforce ordinance provisions in an arbitrary or discriminatory manner.

(B) The Building Commissioner, after having been designated as the office3r of a single agency to administer and enforce building regulation by mutual agreement by and between the towns and cities of Alamo, Crawfordsville, Darlington, Ladoga, Linden, New Market, New Richmond, New Ross, Waveland, Waynetown and Wingate of the county, shall be authorized to issue building permits, collect permit fees, perform inspections, order correction of violations of building regulations and authorize occupancy of buildings and structures situated within the corporate limits of the above mentioned towns and cities of the county.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

**§150.04 SCOPE**

The provisions of this chapter apply to the construction, alteration, repair, use, occupancy, maintenance and additions to all buildings and structures, other than fences, including but not limited to residences, commercial, agricultural and industrial buildings, signs, towers, pole structures, and tanks in the unincorporated areas of the county and those incorporated towns which have entered into an agreement with the county for services prescribed by this chapter. Provided however, the provisions of this section shall not apply to the City of Crawfordsville and its contiguous two-mile jurisdictional limit surrounding the city.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87; Am. Ord. passed 9-25-01; Am. Ord. 87-3, passed 9-14-04)

**§150.05 REGULATIONS ADOPTED BY REFERENCE**

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following articles of 675 I.A.C. are hereby incorporated by reference in this chapter and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

(1) Article 13, Building Codes:

(a) Fire and Building Safety Standards;

(b) Indiana Building Code;

(2) Article 14, Indiana Residential Code.

(3) Article 16, Indiana Plumbing Code.

(4) Article 17, Indiana Electrical Code.

(5) Article 18, Indiana Mechanical Code.

(6) Article 19, Indiana Energy Conservation Code.

(7) Article 20, Indiana Swimming Pool Code.

(8) Article 22, Indiana Fire Code.

(9) Article 24, Migrant Daycare Nursery Fire Code.

(10) Article 25, Indiana Fuel Gas Code.

(11) Lifting Devices Within Private Residence:

(a) Parts 5.3 and 5.4, ANSI/ASME A 17 1-2000, safety code for elevators and escalators.

(b) Sections 5, 6, 7, ASME A18.1a-2001, safety standard for platform and stairway chair lifts.

(B) Copies of adopted building rules, codes and standards are on file in the office of the Building Commissioner.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87; Am. Ord. 87-3, passed 9-14-04)

**§150.06 PERMIT APPLICATION**

(A) (1) No permits shall be issued for the forgoing purposes, unless the application for the permit is accompanied by plans and specifications showing the work to be done. All plans for building construction under the authority of the State Fire Prevention and Building Safety Commission must also be filed with the State Building Commission must also be filed with the State Building Commissioners if the state permit is required.

(2) No permits shall be issued hereunder until a copy of a release for construction from the State Building Commissioner is received by the County Building Commissioner if the state permit is required.

(3) No permits shall be issued for structures with sanitary facilities until a septic permit or waiver is issued by the Montgomery County Health Department.

(4) No permits shall be issued if the planned construction will violate any other ordinances administered by the Montgomery County Building Administration.

(5) Prior to issuing any new or renewal permit, the applicant or owner of the real estate on which the building or structure will be located, shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or owner is not delinquent in the payment of any personal property, and delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator or Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property, any delinquent personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxes owed by the applicant or owner are paid in full, including penalties. This section shall not apply to permits relating to emergency septic repairs.

(B) (1) A permit shall be obtained before beginning construction, alteration or repair of any building or structure using forms burnished by the Building Commissioner.

(2) All permits shall be issued by the Building Commissioner and all fees provided for herein shall be paid to the county.

(C) All work done under any permit issued hereunder shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits hereinafter provided for, there shall be paid the fees prescribed in the ordinances and/or appendixes.

(D) Prior to the issuance of any building permit hereunder, the Building Commissioners shall review all building permit applications to determine full compliance with the provisions of this chapter and any other applicable ordinances.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87; Am. Ord. 87-03, passed 9-14-04; Am. Commissioners Ord. 2008-08, passed 6-23-08)

**§150.07 INSPECTIONS**

(A) After the issuance or any building permit hereunder, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done under the permit as are necessary to insure full compliance with the provisions of this chapter and the terms of the permit.

(B) Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this chapter.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

**§150.08 ENTRY**

Upon presentation of proper credentials, the Building Commissioner or his or her duly authorized representative s may enter at reasonable times any building, structure or premises in the county to perform any duty imposed upon him or her by this chapter.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

**§150.09 STOP ORDER**

Whenever any work is being done contrary to the provisions of this chapter, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing the work to be done, and any persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

**§150.10 CERTIFICATE OF OCCUPANCY**

No final approval of construction for any building or structure erected, altered or repaired after the adoption of this chapter shall be issued unless the building or structure was erected, altered or repaired in compliance with the provisions of this chapter.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

**§150.11 STANDARDS**

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

**§150.12 VIOLATIONS**

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sublessee or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the county or cause or permit the same to be done, contrary to or in violation of the provisions of this chapter.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87) Penalty, see § 150.99

**§150.13 RIGHT OF APPEAL**

All persons shall have the right to appeal the Building Commissioner’s decision first through the County Commissioners and then to the State Fire Prevention and Building Safety Commission in accordance with the provisions of I.C. 22-13-2-7 or I.C. 4-21.5-3-7, as applicable.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

**§150.14 REMEDIES**

The Building Commissioner shall, in the name of the County Commissioners, bring actions in the County Circuit Court for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders, made by the Building Commissioner and any action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.

(Ord. 87-3, passed 8-4-87; Am. Ord, passed 9-21-87)

**§150.99 PENALTY**

If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this chapter, for each violation, failure or refusal, such person, firm or corporation shall be fined in the sum of $50. Each day of such unlawful activity as is prohibited shall constitute a separate offense.

(Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87)

**APPENDIX: PERMIT FEES**

**§ 1 Fees.**

(A) The fee for all permits (other than WECS Towers or Substations) shall be as follows:

(1) 1&2 Family Dwelling $150.00 base rate

Plus $.10/sq ft living space

(2) Multiple Unit (3 or more) $200.00 base rate

Plus $.10/sq ft living space

Each additional unit $100.00

(3) Commercial $300.00 base rate

Plus $.10/ sq ft (includes Comm Pole Buildings)

(a) Commercial Addition

or Remodel $200.00 base rate

Plus $.10/sq ft

(4) Manufactured Housing $100.00 base rate

(5) Additions (residential) $100.00 base rate

Plus $.05/sq ft living space

(6) Garages $100 base rate

Plus $.05/sqft

(7) Pole Bldgs $100.00 base rate

Plus $.05/sqft

(8) Remodel with structural $50.00 base rate

Structural changes Plus $.05/sqft

Stormwater Inspection $40.00

Stormwater Review $80.00/hr

Floodplain Permit $100.00

Floodplain Inspection $40.00

Electrical Inspection $50.00

Demolition Permit $30.00

Additional Inspections $30.00

(B) Notwithstanding the provisions of paragraph (A) above, the maximum fee for any building permit shall be $30,000.00. This limit shall not apply to permits for WECS Towers or Substations under paragraph (C) below.

(C) The building permit applicable to “WECS Towers” and “Substations” (as those terms are defined by Chapter 155 of this Code of Ordinances) shall be as follows:

(1) WECS Tower: $1,750.00 per megawatt of generating capacity

(2) Substation: $300.00

**Building Permit Expiration (Permit valid for one year) A re-issue fee of $20.00 is required after one year from issue date.**

**Building Permit Exemptions**

The following projects are exempt from building permits:

1) Portable buildings without electricity

2) Roofing projects with no structural changes

3) Siding and window replacement projects with no structural changes

4) Redecorating projects

5) Portable agricultural buildings with no electricity

6) Any non-electrical building project under $2,000.00 in value

(Ord. 87-3, passed 9-14-04; Am. Commissioners Ord. 2007-02, passed 6-29-07; Am. Commissioners Ord. 2008-10, passed 6-9-08; Am. Commissioners Ord. 2009-6, passed 7-27-09)

**CHAPTER 151: FLOOD HAZARD AREAS**

Section

***General Provisions***

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*Floodplain Commission, see § 33.09*

*Stormwater Drainage, see Chapter 154*

*Flood Ordinance Review Account, see § 35.11*

***GENERAL PROVISIONS***

**§151.01 STATUTORY AUTHORIZATION**

The Indiana Legislature granted the power to local units of government to control land use within their jurisdictions in order to accomplish the following provisions.

(Ord. 4-1997, passed 4-15-97)

**§151.02 PURPOSE**

(A) The purpose of this chapter is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards and to reduce the potential for extraordinary public expenditures for flood protection and relief.

(B) Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the County Board of Commissioners hereby adopts the following floodplain management regulations in order to accomplish the following:

(1) To prevent unwise developments from increasing flood or drainage hazards to others;

(2) To protect new buildings and major improvements to buildings from flood damage;

(3) To protect human life and health from the hazards of flooding;

(4) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities and flood rescue and relief operations;

(5) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

(6) To make federal subsidized flood insurance available for structures and their contents in the county by fulfilling the requirements of the National Flood Insurance Program.

(Ord. 4-1997, passed 4-15-97)

**§151.03 DEFINITIONS**

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

***BUILDING.*** See ***STRUCTURE.***

***DEVELOPMENT.*** Any manmade change to improved or unimproved real estate including, but not limited to:

(1) Construction, reconstruction or placement of a building or any addition to a building;

(2) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(3) Installing utilities, erection of walls and fences, construction of roads or similar projects;

(4) Constructions of flood control structures such as levees, dikes, dams, channel

improvements and the like;

(5) Mining, dredging, filling, grading, excavation or drilling operations;

(6) Construction and/or reconstruction of bridges or culverts;

(7) Storage of materials; or

(8) Any other activity that might change the direction, height or velocity of flood or surface waters.

***DEVELOPMENT.*** Does not include activities such as the maintenance of existing buildings and facilities such as painting; re-roofing; resurfacing of roads; or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation or the construction of permanent buildings.

***EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.*** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed before the effective date of this chapter.

***EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.*** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

***FBFM.*** Flood boundary and floodway map.

***FEMA.*** Federal Emergency Management Agency.

***FHBM.*** Flood hazard boundary map.

***FIRM.*** Flood insurance rate map.

***FLOOD.*** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation or the runoff of surface waters from any source.

***FLOODPLAIN.*** The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The ***FLOODPLAIN*** includes both the floodway and the floodway fringe districts.

***FLOOD PROTECTION GRADE*** or ***FPG.*** The elevation of the regulatory flood plus two feet at any given location in the ***SFHA.***

***FLOODWAY.*** The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

***FLOODWAY FRINGE.*** Those portions of the floodplain lying outside the floodway. ***LETTER OF MAP AMENDMENT*** or ***LOMA.*** An amendment to the currently effective ***FEMA*** map that establishes that a property is not located in a special flood hazard area. A ***LOMA*** is only issued by ***FEMA.***

***LETTER OF MAP REVISION*** or ***LOMR.*** An official revision to the currently effective ***FEMA*** map. It is issued by ***FEMA*** and changes flood zones, delineations and elevations.

***LOWEST FLOOR.*** The lowest of the following:

(1) The top of the basement floor;

(2) The top of the garage floor, if the garage is the lowest level of the building;

(3) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

(4) The top of the first floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding (The bottom of all openings shall be no higher than one foot above grade.); and

(b) The enclosed space shall be usable for the parking of vehicles and building access.

***MANUFACTURED HOME.*** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. ***MANUFACTURED HOME*** does not include a ***RECREATIONAL VEHICLE.***

***NEW MANUFACTURED HOME PARK OR SUBDIVISION.*** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.

***RECREATIONAL VEHICLE.*** A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or towable by a light truck; and

(4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel or seasonal use.

***REGULATORY FLOOD.*** The flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the State Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 151.05. The ***REGULATORY FLOOD*** is also known by the term ***BASE FLOOD.***

***SFHA*** or ***SPECIAL FLOOD HAZARD AREA.*** Those lands within the jurisdiction of the county that are subject to inundation by the regulatory flood. The SFHAs of the county are generally identified as such on the flood hazard boundary map of the county prepared by the Federal Emergency Management Agency and dated October 13, 1978.

***STRUCTURE.*** A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home or prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

***SUBSTANTIAL IMPROVEMENT.*** Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not include improvement of structures to correct existing violations of state or local health, sanitary or safety code requirements or any alteration of as “historic structure,” provided that the alteration will not preclude the structures continued designation as a “historic structure.”

(Ord. 4-1997, passed 4-15-97)

**§151.04 ADMINISTRATOR; DUTIES.**

The County Building Administrator is appointed to review all developments and subdivision proposals to ensure compliance with this chapter, including, but not limited to the following duties:

(A) Ensure that all development activities within the SFHAs of the jurisdiction of the county meet the requirements of this chapter;

(B) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(C) Ensure that construction authorization has been granted by the State Natural Resources Commission for all development projects subject to § 151.20 and maintain a record of the authorization, either copy of actual permit or letter of recommendation;

(D) Maintain a record of the “as built” elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA and inspect the site before, during and after construction;

(E) Maintain a record of the engineer’s certificate and the “as built” floodproofed elevation of all buildings subject to § 151.21;

(F) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this chapter and submit reports as required for the National Flood Insurance Program;

(G) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, LOMAs, LOMRs, copies of DNR permits and letters and recommendation, federal permit documents and “as built” elevation and floodproofing data for all buildings constructed subject to this chapter; and

(H) Notify adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse and submit copies of the notifications to FEMA.

(Ord. 4-1997, passed 4-15-97)

**§151.05 REGULATORY FLOOD ELEVATION**

(A) This chapter’s protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

(B) The regulatory flood elevation and floodway limits for each of the SFHAs, delineated as “Zone A” on the flood hazard boundary map of the county, shall be according to the best data available as provided by the Department of Natural Resources.

(Ord. 4-1997, passed 4-15-97)

**§151.06 DISCLAIMER OF LIABILITY**

(A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rate occasions.

(B) Therefore, this chapter does not create any liability on the part of the community, County Board of Commissioners, Natural Resources Commission or the state for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(Ord. 4-1997, passed 4-15-97)

**§151.07 ABROGATION AND GREATER RESTRICTIONS**

This chapter repeals and replaces other ordinances adopted by the County Board of Commissioners to fulfill the requirements of the National Flood Insurance Program. However, this chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this chapter repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this chapter and other ordinance easements, covenants or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the County Board of Commissioners shall assure that all National Flood Insurance Program regulations and laws, I.C. 14-28-1 and I.C. 14-28-3 are met.

(Ord. 4-1997, passed 4-15-97; Am. Commissioners Ord. 2008-1, passed 2-11-08)

***FLOOD DAMAGE PREVENTION***

**§151.20 PREVENTING INCREASED DAMAGES**

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(A) Within the floodway identified on the flood boundary and floodway map, the flood insurance rate map or engineering analysis, as provided in § 151.35, shall apply:

(1) No development shall be allowed which acting alone or in combination with existing or future development will cause any increase in the elevation of the regulatory flood.

(2) For all projects involving channel modifications or fill (including levees), the county shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(B)(1) Within all SFHAs identified as “A Zones” (no 100-year flood elevation and/or or floodway/floodway fringe delineation has been provided) the following standard shall apply.

(2) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth of one foot and will not increase flood damages or potential flood damages.

(C)(1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants or other hazardous or toxic materials below the flood protection grade unless the materials are stored in a floodproofed storage tank or building constructed according to the requirements of § 151.22.

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

(Ord. 4-1997, passed 4-15-97)

**§151.21 PROTECTING BUILDINGS**

(A) In addition to the damage prevention requirements of § 151.20, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

(B) This building protection requirement applies to the following situations:

(1) Construction or placement of any new building having a floor area greater than 400 square feet;

(2) Structural alterations made to:

(a) An existing previously unaltered building, the cost of which equals or exceeds 50% of the value of the pre-altered building, excluding the value of the land; and

(b) Any previously altered building.

(3) Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building, excluding the value of the land, before damage occurred;

(4) Installing a manufactured home on a new site or a new manufactured home on an existing site (This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.); and

(5) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(C) This building protection requirement may be met by one of the following methods. The Building Administrator shall maintain a record of compliance with these building protection standards as required in § 151.04.

(1) A residential or nonresidential building may be constructed on a permanent landfill in accordance with the following:

(a) The fill shall be placed in layers no greater than one-feet deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

(b) The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The top of the lowest floor including basements shall be at or above the FPG.

(2) A residential or nonresidential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls or other types of similar foundation provided:

1. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings, in addition to doorways and windows, having a total area of one square feet of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade.

2. Any enclosure below the elevated floor is used for storage of vehicles and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice and floating debris.

(c) All areas below the FPG shall be constructed of materials resistant to flood damages. The top of the lowest floor, including basement, and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the FPG.

(3) Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement applies to all manufactured homes to be placed on a site:

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) This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) Recreational vehicles placed on a site shall either:

(a) Be on the site for less than 180 consecutive days;

(b) Be fully licensed and ready for highway use, defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions; or

(c) Meet the requirements for “manufactured homes” herein.

(5) A nonresidential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

(a) A registered professional engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood.

(b) The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures and impacts from debris or ice.

(c) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(Ord. 4-1997, passed 4-15-97)

**§151.22 DEVELOPMENT REQUIREMENTS**

(A) The Building Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Floodplain Administrator finds the subdivision to be so located, the Floodplain Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Floodplain Administrator shall require appropriate changes and modifications in order to assure that:

(1) It is consistent with the need to minimize flood damages;

(2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) Onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from the m during the occurrence of the regulatory flood.

(B) Developers shall record the 100-year flood elevation on all subdivision plats containing lands identified elsewhere by this chapter within a flood hazard area prior to submitting the plats for approval by the Board of Commissioners.

(C) All owners of manufactured home parks or subdivisions located within the SFHA, identified as Zone A on the community’s FHMB or FIRM, shall develop an evacuation plan for those lots located in the SFHA and file it with the Building Administrator and have it filed with and approved by the appropriate community emergency management authorities.   
(Ord. 4-1997, passed 4-15-97)b

***ADMINISTRATION AND ENFORCEMENT***

**§151.35 IMPROVEMENT LOCATION PERMIT**

(A) No person, firm, corporation or governmental body not exempted by state law shall commence any “development” in the SFHA without first obtaining an improvement location permit from the Building Administrator. The Building Administrator shall not issue an improvement location permit if the proposed “development” does not meet the requirements of this chapter.

(B) The application for an improvement location permit shall be accompanied by the following:

(1) A description of the proposed development;

(2) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;

(3) A legal description of the property site;

(4) A site development plan showing existing and proposed development locations and existing and proposed land grades; and

(5) Elevation of the top of the lowest floor, including basement, of all proposed development. Elevation should be in NGVD or NAVD. In either case the conversion formula should be included.

(C) Upon receipt of an application for an improvement location permit, the Building Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.

(1) If the site is in an identified floodway the Building Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving and the like undertaken before the actual start of construction of the building. No action shall be taken by the Building Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Building Administrator may issue the local improvement location permit, provided the provisions contained in §§ 151.20 and 151.21 have been met. The improvement location permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) If the site is located in an identified floodway fringe, then the Building Administrator may issue the local improvement location permit provided the provisions contained in §§ 151.20 and 151.21 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(3) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is greater than one square mile, the Building Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment. No action shall be taken by the Building Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended FPG has been received from the Department of Natural Resources. Once the Building Administrator has received the proper permit or letter of recommendation approving the proposed development, an improvement location permit may be issued provided the conditions of the improvement location permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in §§ 151.20 and 151.21 have been met.

(4) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Building Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year elevation for the site. Upon receipt, the Building Administrator may issue the local improvement location permit provided the provisions contained in §§ 151.20 and 151.21 have been met.

(D) Prior to issuing any improvement location permit, the applicant or owner of the real estate on which the “development” will be located, shall be required to obtain from Montgomery County Treasurer a certificate of clearance verifying that the applicant or owner is not delinquent in the payment of any personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator shall withhold issuance of an improvement location permit until any delinquent personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxes owned by the applicant or owner are paid in full, including penalties.

(Ord. 4-1997, passed 4-15-97; Am. Commissioners Ord. 2008-8, passed 6-23-08)

**§151.36 VARIANCES**

(A) The Board of County Commissioners may consider issuing a variance to the terms and provisions of this chapter, provided the applicant demonstrates that:

(1) There exists a good and sufficient cause for the requested variance;

(2) The strict application of the terms of this chapter will constitute an exceptional hardship to the applicant; and

(3) The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public or conflict with existing laws or ordinances.

(B) The Board of County Commissioners may issue a variance to the terms and provisions of this chapter subject to the following standards and conditions:

(1) No variance or exception for a residential use within a floodway subject to § 151.20 (A) or (B) may be granted.

(2) Any variance or exception granted in a floodway subject to § 151.20 (A) or (B) will require a permit from the Natural Resources Commission.

(3) Variances or exceptions to § 151.21 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(4) Variances or exceptions maybe granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the State Survey o Historic Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects.

(5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction.

(6) The Board of County Commissioners shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

(Ord. 4-1997, passed 4-15-97)

**§151.37 VIOLATIONS**

(A) Failure to obtain an improvement location permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the laws of the state.

(B) A separate offense shall be deemed to occur for each day the violation continues to exist.

(C) The Building Administrator shall inform the owner that any violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(D) Nothing herein shall prevent the county from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible (Ord. 4-1997, passed 4-15-97)

**Title XV: Land Usage**

**CHAPTER 152: SUBDIVISIONS**

Section

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Appendix: Steps for subdivision approval

**§152.01 PURPOSE**

This chapter is enacted to regulate the division of land within the county. The Plan Commission and the county shall have all the powers and duties with respect to preliminary and final plats of subdivisions and the procedures relating thereto which are specified by the laws of the state. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the protection of the public health, safety and general welfare, by providing for the orderly and harmonious development of the county, for the coordination of subdivision streets with existing and planned streets or highways; for the coordination with the extension of community facilities and utilities; for the establishment of similar requirements for the area and dimensions of lots and blocks within subdivisions; and for the provision of adequate and suitably located open space for schools, parks and other recreation and for adequate drainage, and protection of the water table, water sources, and the environment.

(Ord. passed 4-21-03)

**§152.02 ADMINISTRATION**

(A) No plat or re-plat of a subdivision of land located within the jurisdiction of this chapter shall be recorded until it has been approved by the County Plan Commission and such approval has been entered in writing on the plat by the President of the Plan Commission and the Building Administrator.

(B) In determining whether an application for approval of a subdivision plat shall be granted, the Plan Commission shall determine that the plat is in accordance with the principles and standards required in this chapter which shall be deemed as minimal; and whenever the applicable requirements of other adopted ordinances are higher or more restrictive, those requirements shall prevail.

(1) Before granting approval of any subdivision, the Plan Commission shall be satisfied that the proposed subdivision meets the criteria set forth in all other applicable ordinance including, but not limited to the Storm Drainage erosion and Sediment Control Ordinance, the 9-1-1 Re-addressing Ordinance, Chapter 150, Chapter 151, Chapter 153, local and state building codes, local and state health codes, and county highway specifications, if applicable.

(2) Due consideration shall be given to the prevention of air and stream pollution, proper treatment and disposal of refuse and other waste, pursuant to federal, state, and local guidelines.

(3) Land may be considered by the Plan Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formations, topography, or any other feature harmful to the health and safety of potential residents and/or or the community as a whole.

(4) No land shall be subdivided for residential use unless adequate access to the land over approved streets or thoroughfares exists or will be provided by the subdivider.

(Ord. passed 4-21-03)

**§152.03 JURISDICTION**

This chapter shall apply to all land in the county except incorporated areas and unincorporated land within the two-mile zone established around the City of Crawfordsville. (Ord. passed 4-21-03)

**§152.04 DEFINITIONS**

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

***AREA LOT.*** The total square foot of a lot measured from lot line to lot line.

***BENCH MARK.*** A monument for which an accurate elevation has been established and recorded on the plat.

***BUILDING.*** An enclosed structure of a permanent foundation having a roof supported by a permanent foundation, columns or walls for the permanent shelter of persons, animals or property.

***BUILDING ADMINISTRATOR.*** The County Building Administrator or designate.

***BUILDING LINE.*** A line established parallel to a street right-of-way line which defines the area to be provided between the front wall of a building or structure and the street right-of-way line.

***BUSINESS OR INDUSTRIAL PURPOSE.*** Subdivision to facilitate construction of one or more Class I structures as defined by 675 I.A.C. 12-6-2, State Building Code. Generally any building or structure that is intended to be or is occupied or otherwise used in any part by any of the following: the public, three or more tenants, and/or one or more persons who act as employees of another.

***COUNTY.*** Montgomery County, Indiana, excluding the City of Crawfordsville, the two-mile limit and any other incorporated towns or municipalities.

***DRAINAGE BOARD.*** The County Drainage Board.

***EASEMENT.*** A grant by a property owner to the public, a corporation or persons of the use of a strip or an area of land for specified uses and purposes. The easement includes areas set aside for access, drainage, recreational or seating purposes or for utilities.

***EASEMENT OF ACCESS.*** An open, unoccupied space or private way other than a street, alley or place with is permanently reserved as the principal or secondary means of access to abutting property, the terms of which are of public record.

***LOT.*** An undivided tract or area within a subdivision bounded by property lines and fronting on a public street or way designated by the subdivider as a tract to be offered as a unit of land for transfer of ownership, for occupancy or development.

***LOT WIDTH.*** The dimension of a lot as measured between side lot lines at the building line.

***PLAT.*** A map or plan indicating graphically a proposed subdivision or re-subdivision of land.

***RECORDER.*** The County Recorder.

***RESIDENTIAL.*** Subdivision to facilitate construction of Class II structures as defined by the State Residential Code, or manufactured and mobile units. Generally any structure not classified as a Class I structure as defined by **675.I.A.C. 12-6-2**, State Building Code.

***STREET*.** A public owned and/or maintained way intended to provide permanent primary and secondary means of access to lots fronting upon it.

***SUBDIVIDER.*** Any individual, firm, association, syndicate, co-partnership, corporation, trustor any other legal entity commencing proceedings under the terms of this chapter to effect a subdivision of land.

***SUBDIVISION.*** The division of a single lot, tract, or parcel of land or part thereof, into four or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of transfer of ownership for residential purposes; or the division of a single lot, tract, or parcel of land or part thereof into two or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of transfer of ownership for business or industrial purposes. Parcelization for agricultural purposes is excluded.

***USE.*** The purpose for which land or structures are designed, arranged or intended to be occupied, used or for which they are occupied, maintained, rented or leased.

(Ord. passed 4-21-03)

***APPLICATION PROCEDURES***

**§152.15 MODIFICATIONS**

Where the rigid enforcement of the requirements, standards and specifications imposed by this chapter would result in extraordinary hardship or deny the reasonable use of the land involved therein due to unusual conditions of topography or other exceptional conditions peculiar to the site, the Plan Commission may modify or vary the requirements of this chapter as they would apply to individual lots or areas of the proposed subdivision.

(Ord. passed 4-21-03)

**§152.16 PRE-APPLICATION**

From the standpoint of economy of time and money, it is highly recommended that the subdivider consult early and informally with the Building Administrator for advice and assistance. This will enable the subdivider to become familiar with the requirements of these and other regulations as they affect the area and will prevent unnecessary and costly revisions. The subdivider should present a sketch in inexpensive and tentative form showing in a general way the proposed development and the existing conditions within the area proposed for subdivision of all surrounding lands, but this procedure is not mandatory. This shall not require formal application, fee or filing of a preliminary plat, nor shall it be deemed a preliminary plat.

(Ord. passed 4-21-03)

**§152.17 APPLICATION**

A subdivider desiring approval of a plat of a subdivision of any land lyuing within the county shall submit a written application for a certificate of approval and five copies of a preliminary plat of the subdivision to the Building Administrator at least 20 days before the meeting at which the Commission is expected to consider the application and plat.

(Ord. passed 4-21-03)

**§152.18 FEE**

At the time of fling an application for approval of the preliminary plat, the application shall be accompanied by an application fee of $150 for proposed residential subdivision or $300 for subdivisions for business or industrial purposes. Checks should be made payable to the County Subdivision Fund. No application fees will be refunded.

(Ord. passed 4-21-03)

**§152.19 PUBLIC HEARING**

If the Plan Commission is satisfied that the standards of this chapter have been met, they shall set a date for hearing for the Commission giving written notice to the applicant and notify by general publications or otherwise, any person or governmental unite having a probable interest in the proposed plat prior to the date set for the hearing. The costs of publishing nay notice of hearing shall be paid by the applicant prior to the approval of the preliminary plat.

(Ord. passed 4-21-03)

**§152.20 IMPACT ASSESSMENTS**

After reviewing an application, the Plan Commission may require that impact assessments be done for discussion at the time of the public hearing impact assessment shall be performed by qualified professional with training, experience, and expertise in the field relevant to the specific section of the study in which work shall be performed. The Plan omission shall mandate such studies at the expense of the applicant. Qualified professionals shall be preapproved by the Building Administrator. Such assessment may include any of the following: traffic and transportation; tax base; water and sewer service; fire, police, and emergency services; schools; park; environmental health and natural resources. Any additional expense necessary to ensure adequate information, reports, or plans shall be met by the applicant.

(Ord. passed 4-21-03)

**§152.21 STEPS FOR SUBDIVISION APPROVAL**

Steps for subdivision approval:

(A) Application for subdivision submitted to the Building Administrator/Plan Commission.

(B) General presentation of the proposed development to the Plan Commission.

(C) Concept approval by the Plan Commission.

(D) (1) Storm approval: Building Department and Drainage Board.

(2) Flood Ordinance approval: Building Department

(3) Sugar Creek Ordinance approval: Building Department.

(4) Sewer/well approval: Health Department

(5) Road/street approval: Highway Department

(E) Impact assessment reports, if required.

(F) Plan Commission hearing.

(G) Preliminary approval or disapproval of Plan Commission.

(H) Construction of infrastructure/posting of bonds.

(I) Site inspection.

(J) Engineer certificate.

(K) Final plat approval.

(L) Signing of certificates.

(M) Recording of final plat.

(N) Permits for improvements may be issued.

(Ord. passed 4-21-03)

***PLATTING PROCEDURES***

**§152.35 PLAT REQUIREMENTS**

(A) *Preliminary Plat Plans.* The primary plat shall be required as part of any application for primary plat approval. If applicable, the applicant shall submit proof of secured public sewer and/or public water connection. The plat shall be drawn at a scale of 50 feet to 1 inch, except that when the drawing at the scale requires more than 1 sheet, the plat may be drawn at a scale of 100 feet to 1 inch. Sheets shall not exceed 24 inches by 36 inches in size. The Primary Plat shall be prepared and certified by a land surveyor and/or a professional engineer registered by the state. A primary subdivision plat shall be submitted showing the following, but not limited to:

(1) The proposed name of the subdivision.

(2) Names and addresses of the owner, subdivider, and consulting engineer, land surveyor, or planning firm that prepared the plan;

(3) Legend and notes including the scale, north point, and date;

(4) Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners;

(5) Existing use of the tract and all contiguous tracts surrounding the proposed subdivision;

(6) All section and municipal corporate boundaries lying within or contiguous to the tract;

(7) Topographic contours at typical intervals of one foot if the general slope of the tract is less than 5% or intervals of two feet if the slope is in excess of 5%. Said contours shall be referenced to mean sea level elevations;

(8) Layout of lots, showing dimensions and numbers and square footage of each lot;

(9) Building lines showing setback dimensions throughout the subdivision;

(10) Parcels of land proposed to be dedicated or reserved for schools, open space (indicating its use as park, playground, natural area, or other) or other public, semi-public or community purposes;

(11) Streets, rights-of-way, and driveways within 500 feet of the site of the gradients, types and widths of pavements, curbs, sidewalks, and horizontal curve radii;

(12) Existing and proposed easements including the location , width, and purpose of such easements;

(13) Location, sixe, and capacity of any public sewer and/or water utilities, if such facilities are available;

(14) Location of natural streams, regulated drains, floodplain, pipelines, power lines, and the like;

(15) A description of the surface drainage system to an approved outlet, including data showing that said outlet is adequate to accommodate the drainage requirements of the finished subdivision. Arrows designated the general drainage of all streets and lots shall be included;

(16) Location of any subsurface drainage required under the County Health Code and/or Chapter 154, or amendments hereto showing the location of all easements and all data pertaining to the size and capacity of such drainage.

(17) The boundaries and numbers of sections shall be shown if the primary plat is to be divided into sections or phases of development;

(18) Protective covenant and restrictions which are properly prepared and legally sound shall be subject to the approval of the Plan Commission; and

(19) Bufferyard, lighting and parking plans, if applicable.

(B) *Secondary Plat Plans*. The plat shall be drawn at a scale of 50 feet to 1 inch, except that when the drawing at that scale requires more than 1 sheet, the plat may be drawn at a scale of 100 feet to 1 inch. Sheets shall not exceed 34 inches by 44 inches in size. The secondary plat shall be prepared and certified by a land surveyor and/or a professional engineer registered by the state. The secondary plat may include all or only a part of the primary plat which has received approval. The following information shall be shown on the secondary plat, by not limited to:

(1) The name of subdivision and section number followed by the words “secondary plat”;

(2) Accurate boundary lines, with dimension and angles, which provide a legal survey of the tract, closing with an error of not more than 1 foot in 5,000 feet;

(3) Accurate distances and directions to the nearest official monument. Reference corners shall be accurately described on the plan;

(4) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;

(5) Accurate meters and bounds description of the tract boundary;

(6) Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder.

(7) Street names;

(8) Complete curve data for all curves included in the plan;

(9) Street lines with accurate dimensions in feet and hundredths of feet with angels to street, alley, and lot lines;

(10) Lot numbers and dimensions including the square footage of each lot;

(11) Accurate locations of easements for utilities and any limitations on such semi-public or community use;

(12) Accurate dimensions and plans for any property to be dedicated or reserved for open space or other public, semi-public, or common use;

(13) Building lines and setback dimensions throughout the subdivision;

(14) Location, type, material, and size of all monuments and markers;

(15) Plans and specifications for the improvements required in this chapter;

(16) Final protective covenants and restrictions which are properly prepared and legally sound which shall be incorporated into the plat and restrictions of all types which will run with the land and become covenants in the deed for lots;

(17) Name and address of the owner and subdivider;

(18) North point, scale, and date;

(19) Certification of dedication of streets and other public property;

(20) Final landscaping, lighting or parking plans shall be incorporated in secondary plat design plans when requested by the Plan Commission;

(21) Certificate of approval by the Plan Commission;

(Ord. passed 4-21-03)

**§152.36 PRELMINARY PLAT APPROVALS**

(A) *Decision by the Plan Commission.* Within 30 days of the public hearing concerning an application for approval of a subdivision plat, the Plan Commission shall notify the applicant in writing stating whether the primary plat is approved or disapproved.

(B) *Approval.* If the Plan Commission determines that the primary plat complies with the standards set forth in this chapter, is shall make written findings of fact and a decision granting primary approval to the plat.

(1) The Plan Commission may introduce such changes or revisions as are deemed necessary to the best interest and general welfare of the community.

(2) Approval of a primary plat shall be effective for a maximum period of two years unless, upon application of the applicant the Plan Commission grants an extension. The Plan Commission may extend approval of a primary plat to a maximum of four years without further notice, public hearing, or fees.

(3) Approval of a primary plat shall be effective for a maximum period of two years unless, upon application of the applicant the Plan Commission grants an extension. The Plan Commission may extend approval of a primary plat to a maximum of four years without further notice, public hearing, or fees.

(C) *Disapproval.* If the Plan Commission disapproves a primary plat application, the Plan Commission shall make written findings of fact and notify the applicant in writing, stating the specific reasons for disapproval. This written notice shall be signed by the President of the Plan Commission.

(1) The applicant shall be required to observe a one-year waiting period before refilling a primary plat which has been disapproved by the Plan Commission.

(2) The original applicant may submit a new application for primary plat approval in accordance with established rules of procedure.

(Ord. passed 4-21-03)

**§152.37 FINAL PLAT APPROVAL**

(A) *Decision by the Plan Commission.* Within 60 days after application for approval of the secondary plat, the Plan Commission shall approve or disapprove it.

(B) *Approval.* If the Plan Commission determines that the plat complies with the standards of this chapter, it shall make written findings of fact and a decision granting secondary approval to the plat. After performance surety has been posted, if necessary, the plat shall be certified on behalf of the Plan Commission by the President who shall sign the plat original and all other relevant documents which also may require such a signature. One copy of the certified plat shall be forwarded to each of the following persons:

(1) The County Building Administration;

(2) The County Surveyor;

(3) The County Auditor;

(4) The appropriate public utilities that may be affected;

(5) The subdivider or applicant; and

(6) The file of the Plan Commission.

(C) *Disapproval.* If the Plan Commission disapproves the secondary plat, it shall make written findings of fact and notify the applicant in writing, stating the specific reasons for disapproval. This written notice shall be signed by the President of the Plan Commission.

(Ord. passed 4-21-03)

**§152.38 RECORDING**

A plat of a subdivision may not be filed with the County Auditor and the County Recorder may not record it, unless it has been granted secondary approval by the Plan Commission and has been properly signed by the President of the Plan Commission. The filing and recording of the plat is without legal effect unless approved by the Plan Commission.

(Ord. passed 4-21-03)

**§152.39 BONDING**

(A) The final plat shall contain a certificate signed by a registered professional engineer stating that all the improvements have been installed in accordance with the requirements of this chapter and in accordance with the approved preliminary plat; or surety acceptable to the Plan Commission in the form of a bond shall be posted, payable to county and in an amount as determined by the Plan Commission, sufficient to assure completion of all required improvements within two years from date of Plan Commission Approval.

(B) The surety shall not be released until the subdivider has provided the Plan Commission with the certificate specified.

(Ord. passed 4-21-03)

**§152.40 REQUIRED CERTIFICATES**

(A) A certificate of approval shall be given by the Plan Commission upon completion of a preliminary plat.

(B) A certificate of dedication, certificate of acknowledgement, land surveyor’s certificate, certificate of inspection and certificate of approval shall be given to the Plan Commission upon completion of a secondary plat.

(Ord. passed 4-21-03)

***REGULATION AND DESIGN***

**§152.50 UNSUITED LAND**

No land shall be subdivided for residential use if the land is considered by the Commission to be unsuitable for the use by reason of flooding or improper drainage for objectionable rock or earth formation, topography or other features harmful to the health, safety and welfare of possible residents and the community as a whole.

(Ord. passed 4-21-03)

**§152.51 PERMANENT MONUMENTS**

Permanent monuments should be placed at two adjacent corners of the subdivisions. The monuments are to be at least four inches in diameter and should extend in length to a depth of 36 inches in the ground with a cross or iron pin on top to indicate the corner point. The monuments shall be made to concrete or other weather resisting material.

(Ord. passed 4-21-03)

**§152.52 LOTS**

(A) *Lot Area.*

(1) A lot in any subdivision as herein defined that is served by a community sanitary sewer system approved by the State Board of Health shall not have a minimum lot area of less than 7,000 square feet.

(2) A lot in any subdivision as herein defined that is served by private sewage disposal facilities shall not have a minimum lot area of less than one acre.

(B) *Iron Pins.* Iron pins shall be placed at all corners of original tract and subdivision where monuments are not placed and also at all lot corners. The pins shall be of solid material at least 30 inches in length and one-half inch in diameter.

(C) *Boundary Lines.* No lot shall be divided by a city or county boundary line.

(D) *Lot Numbers.* Lot shall be numbered consecutively throughout the subdivision.

(E) *Lot Side Lines.* Side lines of all lots, so far as possible, shall be at right angles to the street which the lots face, radial or approximately radial if the street is curved.

(F) *Building Setback.* Building setback lines from all streets shall be required by the Commission, but in no case shall be less than 25 feet.

(G) *Side Yards.* A side yard on interior lots from the side building line to the side property line shall be required and in no event shall be less than 8 feet or 10% of the lot width, whichever is less.

(Ord. passed 8-6-02; Ord. passed 04-21-03)

**§152.53 ROADS AND STREETS**

All constructed roads and streets included as part of a regulated subdivision shall meet the requirements of the Montgomery County Highway specifications.

(Ord. passed 4-21-03)

**§152.54 INTERSECTIONS**

(A) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 8 feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and line connecting points 25 feet from the intersection of the street lines extended. The same sight-line limitations shall apply to any lot within 10 feet from the intersection of a street line with the edge of a driveway pavement or ally line.

(B) No more than 2% grade within the intersection from 50 feet to 100 feet each way from intersection, it shall not be over 4% grade and 6% maximum between 100 and 150 feet of intersection.

(C) Ninety-degree intersections are preferred and less than sixty degrees prohibited.

(Ord. passed 4-21-03)

**§152.55 OFF-STREET PARKING**

Ample off-street parking facilities shall be provided for each residential or commercial lot of not less than two vehicle spaces for each single-family dwelling unit.

(Ord. passed 4-21-03)

**§152.56 EASEMENTS**

Proper easements shall be provided for public utility facilities, sewers, water and drainage.

(Ord. passed 4-21-03)



**Title XV: Land Usage**

**CHAPTER 153: SUGAR CREEK ZONING**

Section

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***GENERAL PROVISIONS***

**§153.01 TITLE**

The official title of this chapter is “Sugar Creek Ordinance of Montgomery County, Indiana.”

(Ord. passed 5-14-02)

**§153.02 COMPLIANCE**

No use shall be made, no structure shall be located, constructed, reconstructed, converted, altered, expanded, enlarged and/or moved on land adjoining Sugar Creek in the county, and no creek crossings established, as set for in §153.03, except in full compliance with all of the provisions of this chapter.

(Ord. passed 5-14-02)

**§153.03 JURISDICTIONAL AREA**

The following area in the county is under the jurisdiction of this chapter: Sugar Creek from creek mile 56.2 to creek mile 22.3 including all of Sugar Creek in the county and the strip of land along each side of the creek which is defined by the ordinary high water mark and a line paralleling the ordinary high water mark; the line paralleling the top of the ordinary high water mark is determined by measuring horizontally (parallel to the creek’s surface) 75 feet from the Ordinary High Water Mark as defined by state law under 312 I.A.C. 1-1-26 and away from the creek. Provided however, any town or city may adopt a more restrictive ordinance within their respective ordinance within their respective jurisdictions. If the jurisdictional area is held invalid then the jurisdictional area shall be the area defined in I.C. 14-28-4.

(Ord. passed 5-14-02)

**§153.04 APPLICATION AND INTERPRETATION**

(A) In applying and interpreting and provisions of this chapter, they shall be construed as the minimum requirement for the promotion of the public health, safety, comfort, convenience and general welfare, as well as natural qualities of the creek, esthetic, scenic and to promote flood erosion control.

(B) It is not intended that this chapter shall interfere with or abrogate or annul any ordinances, rules, regulations or permits previously adopted or issued, not in conflict with the provisions of this chapter, except that where this chapter imposes a greater restriction upon land us or structure than is required by such easements, covenants or agreements between parties, or by such ordinances, rules, regulations or permits, the provisions of this chapter shall control.

(Ord. passed 5-14-02)

**§153.05 DEFINITIONS**

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

***ADVISORY BOARD.*** A Board of six members appointed by the County Commissioners and one member appointed by the Director of the Department of Natural Resources to advise the County Commissioners as to the means of protecting and preserving the stream in a scenic and natural state. A majority of the members shall be owners of land abutting Sugar Creek in the county. Also included on the Board serving in advisory (non-voting) roles are the following: the County Sheriff, the County Building Administrator, a State Department of Natural Resources Conservation Officer and the county Sanitarian. The term of the six Commissioner members shall be for three years. No member may serve more than two consecutive terms except for the DNR appointee who shall serve at the pleasure of the Director. The terms shall be staggered so that no more than two appointments are made in any year (unless resignations occur). At its first meeting each year the Board shall elect from its members a President, Vice President and Secretary who shall serve for one year or until the next election of officers. The Board shall meet at least quarterly and at such other times as may be necessary to conduct its business.

***BUILDING ADMINSTRATOR*.** That person designated by the Board of County Commissioners as the County Building Administrator working under the authority of the County Surveyor.

***BUILDING OR STRUCTURE.*** Includes any building of all types and descriptions including but not limited to dwellings, trailers, campers, garages, barns, sheds, pole buildings, out buildings, any roofed structure whether enclosed or open, bridges, culverts, decks, steps, or docks, or any other permanent improvement or structure but does not include tents (pitched for temporary recreational use)

***CERTIFICATE OF OCCUPANCY.*** A certificate stating that the occupancy improvement and use of land for building or structure referred to therein complies with the provisions of this chapter.

***IMPROVEMENT LOCATION PERMIT.*** A permit stating that the proposed timber cutting, logging, erection, construction, alteration, enlargement and/or moving of a building or structure referred to therein, including but not limited to dams, levies, wells, septic systems and water systems, complies with the provisions of the chapter.

***NONCONFORMING USE.*** An existing use of land or structure which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located

***PERSON OR INDIVIDUAL.*** Any private individual, corporation, partnership, or limited liability company.

***VARIANCE.*** A modification of the specific requirements of this chapter granted by the Appeals Board in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other riparian properties in the same vicinity and district.

(Ord. passed 5-14-02)

**§153.06 GOVERNMENTAL UNITS**

All governmental units are subject to the provisions of this chapter, provided, however, this chapter shall not be construed to impose any restrictions or additional requirements for the construction or reconstruction or repair of any public road or bridge, and all public roads and bridges are hereby exempted from the provisions of this chapter.

(Ord. passed 5-14-02)

***NATURAL SCENIC DISTRICT***

**§153.20 DISTRICTS**

The entire geographic area covered by this chapter shall be designated as a natural scenic district and is limited to agricultural and recreational use. It is the purpose of this district to limit and eliminate further development in the Sugar Creek corridor which would tend to reduce or destroy the natural scenic value of this unique are without great economic or environmental benefit to the public as a whole as well as to protect the citizens of the county from the adverse affects of flooding.

(Ord. passed 5-14-02)

**§153.21 CONSTRUCTION**

(A) All construction, enlargement, or moving of structures into the district will require a location improvement permits, which will only be issued after approval by the Building Administrator and a formal recommendation of the Advisory Board. If the Building Administrator does not approve the location improvement permit, then no permit shall be issued and the Advisory Board will not be contacted.

(B) No construction is permitted within 50 feet of the ordinary high water mark as defined by 3121 I.A.C. 1-1-26. It is possible to obtain a building permit for that regulated area landward of the 50-foot line up to the 75-foot line by maintaining or establishing a forested cover to that area from the ordinary high water ark to the 50-foot line. By definition, FORESTED COVER means the following: for trees greater than 2-inches in basal diameter, 40 square feet of basal area per acre; for trees less than 2-inches in basal diameter, forested would mean a minimum of 300 stems per acre (allowing for credit for young planted seedling trees). Provided, however, that nothing in this chapter shall be construed to authorize the Building Administrator or the Appeals Board to order the removal of any existing structure which existed on the effective date of this chapter.

(Ord. passed 5-14-02)

**§153.22 CLEARING**

A permit is required prior to any logging activity within the zoned area. Logging and clearing activities must leave no less than 40 square feet of basal area per acre of trees over 2 inches in diameter. There shall be no clear cutting of timber or substantial removal of vegetation in the district. Timber may be cut in accordance with best forest management practices after written approval by the Building Administrator. The Building Administrator is encouraged to consult with the State Forester before issuing his or her written approval. Vegetation in the district may be thinned and trimmed but not completely removed. Unique species of vegetation, designated as such by the Advisory Board, shall not be thinned or trimmed in such a manner as a limit or jeopardize a proliferation.

(Ord. passed 5-14-02)

***NONCONFORMING USES***

**§153.35 NONCONFORMING USES**

The following provisions shall apply to all nonconforming uses:

(A) A nonconforming use may be continued but may not be extended, expanded, moved or changed unless to a conforming use, except as permitted by the Appeals Board in accordance with the provisions of this chapter.

(B) Any nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is performed within 12 months of such casualty, and if the restored area has no greater coverage and contains no greater cubic content than before such casualty.

(C) In the event that any non-conforming use, conducted in a structure or otherwise, ceases, or is abandoned, for whatever reason, for any period of one year, such nonconforming use shall not be resumed, except with the approval of the Appeals Board.

(Ord. passed 5-14-02)

***ADMINSTRATION AND ENFORCMENT***

**§153.45 ADMINISTRATOR**

The duly appoint4ed and acting County Building Administrator is hereby designated and authorized to enforce this chapter under the authority of the County Surveyor’s Office.

(Ord. passed 5-14-02)

**§153.46 PERMITS**

(A) Any person, persons, firms or corporations which shall make application of any improvement location permit shall furnish the Building Administrator with the documents required to obtain that permit and a site plan of the real estate upon which said application for an improvement location permit is made.

(B) The site plan shall include the following items:

(1) Legal or site description of the real estate involved;

(2) Location and size of all buildings and structures;

(3) Width and length of all entrances and exits to and from said real estate;

(4) All adjacent and adjoining roads or highways;

(5) Building information sheets to obtain location improvement permits;

(6) Erosion control plan; and

(7) Any other information required by the Building Administrator.

(C) The Building Administrator shall establish a permit and fee schedule necessary to administer this chapter. The schedule of fees shall be approved by the Advisory Board. The fees shall be paid and collected in the same manner as County Building Code fees are paid and collected.

(D) Prior to issuing any improvement location permit for a structure within the Sugar Creek Natural Scenic District the applicant or owner of the real estate on which the structure will be located, shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or owner is not delinquent in the payment of any personal property any delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator shall withhold issuance of an improvement location permit until any delinquent personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxed owed by the applicant or owner are paid in full, including penalties.

(Ord. passed 5-14-02; Am. Commissioners Ord. 2008-8, passed 6-23-08)

**§153.47 RECORDS**

Information so furnished to the Building Administrator shall be filed by the Building Administrator and maintained as other records are kept in his or her office.

(Ord. passed 5-14-02)

**§153.48 CHANGES**

The Building Administrator may require the relocation of any proposed building or structure or property exit or entrance shown on said site plan and/or the location of new exits or entrances not shown on said site plan before issuing an improvement location permit, when such action is necessary to carry out the purpose and intent of this chapter.

(Ord. passed 5-14-02)

**§153.49 COMMENCEMENT AND COMPLETION.**

(A) Any permit holder must accomplish the following:

(1) Commence construction within 90 days of the permit being issued or as stated in the permit; and

(2) Complete all work required by the permit within 12 months of the the permit being issued or as stated in the permit.

(B) Failure to perform either (A)(1) or (2) above shall cause the permit to lapse and a new permit must be obtained.

(Ord. passed 5-14-02)

**§153.50 COMPLIANCE**

No reconstruction, construction or change in use shall be made in any improvement or building, or part thereof, now or hereafter erected, reconstructed or structurally altered, without an improvement location permit having been issued by the Building Administrator and no such permit shall be issued to make such change unless it is conformity with the provisions of this chapter.

(Ord. passed 5-14-02)

**§153.51 OCCUPANCY**

(A) No improvement shall be occupied or used after being erected, reconstructed or structurally altered, in whole or in part, for any purpose whatsoever, until a certificate of occupancy shall have been issued by the Building Administrator stating that the improvement and its use comply with all of the provisions of this chapter applicable to the building or premises or the use complies with all of the provisions of this chapter applicable to the building or premises (or the use complies with all the provisions of this chapter applicable to the building or premises) or the use in the area in which it is located.

(B) A record of all certificates of occupancy shall be kept on file in the office of the Building Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

(Ord. passed 5-14-02)

**§153.52 ANNUAL REPORT**

An annual report will be prepared by the Sugar Creek Advisory Committee to be submitted to the County Commissioners each year. This report will include but not be limited to the following:

(A) Number of permits;

(B) Number of violations;

(C) Changes in land use along the riparian corridor (i.e. building, tree planting, tree harvest, bank stabilization, signage and the like); and

(D) Any other matter that the Advisory Board deems significant.

(Ord. passed 5-14-02)

**§153.53 VIOLATIONS**

(A) If the Building Administrator finds that real or personal property is in violation of this chapter, he or she may require the owners of the property to take appropriate actions in order to bring the property into compliance with this chapter. Noncompliance with the order is a separate violation of this chapter in addition to the violation complained of.

(B) The Building Administrator, the Advisory Board, the County Floodplain Commission or County Commissioners may bring enforcement proceedings to enforce this chapter, and should there be a court finding to uphold the charges, then costs and fees will be charged to the offending party and property in question.

(C) Any party, contractor, engineer, or architect who is instrumental in providing services to a property owner in the county, the use of which services by the owner results in a violation of this chapter, will be personally chargeable as a violation of the chapter along with the owner. For any changes in use or improvements, calling for an improvement location permit, the party constructing is jointly liable for any violations of this chapter along with the owner requesting the service construction of change. Contractors as well as owners are responsible for complying with permit and paperwork requirements for improvements they are accomplishing in the county.

(Ord. passed 5-14-02)

**§153.54 REMEDIES**

(A) The Building Administrator, the County Floodplain Commission or the Board of Commissioners may institute a suit for injunction in the County Circuit or Superior Court of the county to restrain an individual from violating the provisions of this chapter or may institute suit to enforce any provisions of this chapter.

(B) The Building Administrator, the County Floodplain Commission or Board of Commissioners may also institute a suit for mandatory injunction directing any individual, a corporation, or governmental unit to remove a structure erected in violation of the provisions of this chapter.

(C) Any building erected, raised or converted, or land or premises used in violation of any provisions of this chapter or the requirements thereof, is hereby declared to be common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under applicable statutes.

(D) Actions under this chapter may be brought by the County Prosecutor or County Attorney. Any injured party or governmental unit may also bring an action under this chapter in the County Circuit or Superior Court.

(Ord. passed 5-14-02)

***BOARD OF APPEALS***

**§153.65 MEMBERSHIP**

The County Floodplain Commission shall comprise the Appeals Board. No member may serve on both the Appeals Board and the Advisory Board concurrently.

(Ord. passed 5-14-02)

**§153.66 RULES**

The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this chapter.

(Ord. passed 5-14-02)

**§153.67 MEETINGS**

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be public record.

(Ord. passed 5-14-02)

**§153.68 APPEALS FROM BUILDING ADMINISTRATOR DECISIONS**

(A) Any decision of the Building Administrator in the enforcement of this chapter shall be appealed to the Board by any person claiming to be adversely affected by such decision by filing an appeal in writing and specifying the reasons the appellant believes the action of the Building Administrator does not comply with this chapter.

(B) An appeal must be commenced within 30 days of the Building Administrator’s decision or the right to appeal is forfeited.

(Ord. passed 5-14-02)

**§153.69 DUTIES**

The Board shall have the following powers and it shall be its duty to:

(A) Hear and determine appeals from and review any order, requirement, decision or determination made by the Building Administrator in the enforcement of this chapter.

(B) Hear and decide on permits for special exceptions, or other uses upon which the Board is required to act under this chapter.

(C) Authorize upon appeal in specific cases such variances from the terms of this chapter as will not contrary to the public interest. Such variances shall be issued only where owing to special conditions, fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this chapter shall result in unnecessary hardship and where such issuance shall not violate the spirit of this chapter. The findings of facts relative to the issuance of a variance will be based upon evidence presented and on personal knowledge of the members of the Board relative to the areas and requirements in question.

(Ord. passed 5-14-02)

**§153.70 AUTHORITY**

In exercising its appeal powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done for the situation at hand, and to that end shall have all the powers of the parties from whom the appeal is taken. A simple majority of the entire Board may uphold the decision or act appealed from, or modify or reverse the act appealed from.

(Ord. passed 5-14-02)

**§153.71 APPEALS FROM APPEALS BOARD DECISIONS**

Only the decision of the Appeals Board is subject to review by the County Circuit Court.

(Ord. passed 5-14-02)

**§153.72 VARIANCES**

No variance in the application of the provisions of this chapter shall be made by the Appeals Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Appeals Board shall find:

(A) That there are exceptional or extraordinary circumstances or conditions applicable to the property or the need of the use intended that do not apply generally to the other riparian property or class or use in the same vicinity and are, or are necessary for the general public good of the area.

(B) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other riparian property in the same vicinity and area but which is denied to the property in question.

(C) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and area in which the property is located.

(D) That the granting of such variance will not materially alter the land use characteristics of the vicinity and area, diminish the marketable value of adjacent land and improvements or increase the congestion in the public streets to a detrimental degree to the neighborhood.

(Ord. passed 5-14-02)

**§153.73 HEARINGS**

Prior to the determination of an appeal, the Board shall fix a reasonable time for the hearing which will be at a regular Board meeting. Public notice shall be given at least ten days prior to the date set for the hearing by publishing a notice thereof in a newspaper of general circulation in the county setting forth the time and place of the hearing and by giving due notice to the interest persons in accordance with the rules of the Board.

(Ord. passed 5-14-02)

**§153.74 COSTS**

The party taking the appeal or requesting the special exception or variance, shall assume the cost of public notice and due notice to interested persons. Interested persons are those property owners within 400 feet of the property involved in the appeal of in the special exception, or any other county property owner who files a written statement with the Building Administrator of their claim of interest.

(Ord. passed 5-14-02)

**§153.75 FINDINGS OF FACT**

Prior to the determination of a special exception or variance, the Board shall fix a reasonable time for hearing and public notice given as indicated in §153.74. At the hearing the Board will establish findings of fact after which the Board may at the public hearing act on the special exception, or, if lacking a quorum, or for any other reason, fails to act, may make their decision at a later public meeting of the Board without further notice being issued prior to their decision. After the decision, the interested parties will be notified by ordinary mail.

(Ord. passed 5-14-02)

**§153.76 CERTIORARI**

A petition for certiorari must specify the grounds upon which the petition alleges the illegality of the Building Administrator’s action. The petition must be filed in the Circuit Court within 30 days after the Appeals Board’s decision or judicial review is forfeited.

(Ord. passed 5-14-02)

**§153.99 PENALTY**

Any individual or corporation or any other entity who affirmatively or passively allows violation of any of the provisions of this chapter shall be fined an amount of $100. Each day that violation of this chapter occurs, or continues to occur, shall constitute a separate violation thereof. In addition to the personal liability involved for violations, the amounts shall be treated as though a mechanic’s lien against the property involved and may be collected by foreclosure as a mechanic’s lien.

(Ord. passed 5-14-02)

**Title XV: Land Usage**

**CHAPTER 154: STORMWATER DRAINAGE**

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**GENERAL PROVISIONS**

**§154.01 AUTHORITY**

This chapter is adopted pursuant to the authority of I.C. 36-1-3.

(Ord. 90.5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.02 PURPOSE**

(A)(1) It is recognized that smaller streams and drainage channels serving the county may not have sufficient capacity to receive any convey stormwater runoff, resulting when land use changes from open or agricultural use to a more urbanized use.

(2) It is further recognized that deposits of sediment from developments during and after construction can reduce capacities of storm sewers and drainage systems and result in damages.

(B) Therefore, it shall be the policy of the Drainage Board that the storage and controlled release of stormwater runoff shall be required of all new development, any redevelopment and other new construction in the county. The release rate of stormwater from developed lands shall not exceed the release rate from the land area in its present land use.

(C) Because topography and the availability and adequacy of outlets for storm runoff vary with almost every site, the requirements for storm drainage tend to be an individual matter for any project. It is recommended that each proposed project be discussed with the County Surveyor’s Office at the earliest practical time in the planning stage.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.05 DEFINITIONS**

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

***BOARD.*** The Drainage Board of the county and any subordinate employee to whom they shall specifically delegate a responsibility authorized by this chapter.

***CAPACITY OF A STORM DRAINAGE FACILITY.*** The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

***CHANNEL.*** A natural or artificial watercourse which periodically or continuously contains moving water or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

***COMPENSATORY STORAGE.*** An artificial volume of storage within a floodplain used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain.

***CONTIGUOUS.***  Adjoining or in actual contact with.

***CULVERT.*** A closed conduit used for the passage of surface drainage water under a roadway, railroad, canal, or other impediment.

***DETENTION BASIN.***

(1) A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

(2) A basin designed to be completely dewatered after having provided its planned detention of runoff during a storm event.

***DETENTION STORAGE.***  The temporary detaining or storage of stormwater in storage basins in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of drainage therefrom regulated by appropriately installed devices.

***DRAINAGE AREA.*** The area from which water is carried off by a drainage system, a watershed or catchment area.

***DROP MANHOLE.*** A manhole having a vertical drop pipe connecting the inlet pipe to the outlet pipe. The vertical drop pipe shall be located immediately outside the manhole.

***DURATION.*** The time period of a rainfall event.

***EROSION.*** Wearing away of the land by running water, waves, temperature changes, ice or wind.

***FLOOD ELEVATION.*** The elevation at all locations delineating the maximum level of high waters for a flood of given return period and rainfall duration.

***FLOOD or FLOOD WATERS.*** The water of any watercourse which is above the banks of the watercourse. It also means the water of any lake which is above and outside the banks thereof.

***FLOOD HAZARD AREA.*** Any floodplain, floodway, floodway fringe or any compilation thereof which is subject to inundation by the regulatory flood or any floodplain as delineated by Zone A on a flood hazard boundary map.

***FLOODPLAIN.*** The area adjoining the river or stream which has been or may hereafter be covered by flood waters.

***FLOOD PROTECTION GRADE.*** The elevation of the lowest floor of a building. If a basement is included, the basement floor is considered the lowest floor.

***FLOODWAY.*** See ***REGULATORY FLOODWAY.***

***FLOODWAY FRINGE.*** The portion of the floodplain lying outside the floodway, which is inundated by the regulatory flood.

***FOOTING DRAIN.*** A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

***GRADE.*** The inclination or slope of a channel, canal, conduit and the like or natural ground surface usually expressed in terms of the percentage the vertical rise or fall bears to the corresponding horizontal distance.

***IMPACT AREAS.*** Areas defined and mapped by the Board which are unlikely to be easily drained because of one or more factors including but not limited to any of the following: soil type, topography, land where there is not adequate outlet, a floodway or floodplain, land within 75 feet of each bank of any regulated drain or within 75 feet from the centerline of any regulated ditch.

***IMPERVIOUS.*** A term applied to material through which water cannot pass or through which water passes with difficulty.

***INLET.*** An opening into a storm sewer system for the entrance of surface stormwater runoff, more completely described as a storm sewer inlet.

***JUNCTION CHAMBER.*** A converging section of conduit, usually large enough for a person to enter, used to facilitate the flow from one or more conduits into a main conduit.

***LATERAL STORM SEWER.*** A sewer that has inlets connected to it but has no other storm sewer connected.

***MANHOLE.*** Storm sewer structure through which a person may enter to gain access to an underground storm sewer or enclosed structure.

***MAJOR DRAINAGE SYSTEM.*** Drainage system carrying runoff from an area of one or more square miles.

***MINOR DRAINAGE SYSTEMS.*** Drainage systems having an area of less than one or more square miles.

***OFF-SITE.*** Everything not on site.

***ON-SITE.*** Located within the controlled area where runoff originates.

***OUTFALL.*** The point or location where storm runoff discharges from a sewer or drain. Also applies to the outfall sewer or channel which carries the storm runoff to the point of outfall.

***PEAK FLOW.*** The maximum rate of flow of water at a given-point in a channel or conduit resulting from a particular storm or flood.

***RADIUS OR CURVATURE.*** Length of radius of a circle used to define a curve.

***RAINFALL INTENSITY.*** The cumulative depth of rainfall occurring over a given duration, normally expressed in inches per hour.

***REACH.*** Any length of river, channel or storm sewer.

***REGULATED AREA.*** All of the land under the jurisdiction of the Drainage Board. Provided however the provisions of this chapter shall not apply to the City of Crawfordsville and its contiguous two-mile jurisdictional limit surrounding the city.

***REGULATORY FLOOD.*** That flood having a peak discharge which can be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to the Board. If a permit from the National Resource Commission for construction in the floodway is required, then the regulatory flood peak discharge should be calculated by a method acceptable to the Board and the Natural Resources Commission. The REGULATORY FLOOD is equivalent to a flood having a probability of occurrence of 1% in any given year.

***REGULATORY FLOODWAY.*** The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to carry and discharge the peak flow of the regulatory flood of any river or stream.

***RELEASE RATE.*** The amount of stormwater released from a stormwater control facility per unit of time.

***RETENTION BASIN.*** A basin designed to retain a permanent pool of water after having provided its planned determination of runoff during a storm event.

***RETURN PERIOD.*** The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a RETURN PERIOD of 100 years has a 1% probability of being equaled or exceeded in any one year.

***RUNOFF COEFFICIENT.*** A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drainage system to the total amount of rain falling. A coefficient of 0.5 implies that 50% of the rain falling on a given surface appears as stormwater runoff.

***SEDIMENT.*** Material of soil and rock origin, transported, carried or deposited by water.

***SIPHON.*** A closed conduit or portion of which lies above the hydraulic grade line, resulting in a pressure less than atmospheric and requiring a vacuum within the conduit to start flow. A ***SIPHON*** utilizes atmospheric pressure to effect or increase the flow of water through a conduit. An ***INVERTED SIPHON*** is used to carry stormwater flow under an obstruction such as a sanitary sewer.

***SPILLWAY.*** A waterway in or about a hydraulic structure for the escape of excess water.

***STILLING BASIN.*** A basin used to slow water down or dissipate its energy.

***STORAGE DURATION.*** The length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

***STORM SEWER.*** A closed conduit for conveying collected stormwater.

***STORMWATER DRAINAGE SYSTEM.*** All means, natural or manmade, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, stream, culverts, streets and pumping stations.

***STORMWATER RUNOFF.*** The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

***TRIBUTARY.*** Contributing stormwater from upstream land areas.

***URBANIZATION.*** The development, change or improvement of any parcel, of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

***WATERCOURSE.*** Any river, stream, creek, brook, branch, natural or manmade drainageway in or into which stormwater runoff or floodwaters flow either regularly or intermittently.

***WATERSHED.*** See ***DRAINAGE AREA.***

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 9-25-01)

**§154.06 DISCLAIMER OF LIABILITY**

(A) The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study.

(B) Larger storms may occur or stormwater runoff depths may be increased by manmade or natural causes. This chapter does not imply that land used permitted will be free from stormwater damage. This chapter shall not create liability on the part of the county or any officer or employee thereof for any damage which may result from reliance on this chapter or on any administrative decisions lawfully made thereunder.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.07 VIOLATIONS**

(A) A separate offense shall be deemed to occur for each day a violation of this chapter continues to exist.

(B) The Building Administrator shall inform the owner in writing when a violation has been found. A reasonable time will be allowed for the owner to respond, and after such time as designated by the Building Administrator, the owner, upon review and approval by the Drainage Board, will be considered to be in violation of this chapter and the fine will begin at that time and continue until the project is in compliance with this chapter.

(C) Nothing herein shall prevent the county from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall be charged to the person or persons responsible.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.08 EXEMPT PROJECTS**

Any residential, commercial or industrial subdivision (major or minor) or construction project thereon, which has had its drainage plan approved by the Board prior to the effective date of this chapter shall be exempt from all of the requirements of this chapter.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.09 FEES**

(A) The Drainage Board requires that all plans for development construction, extensions, additions, parking lots, ponds, dams, levees and other improvements be evaluated for stormwater impact and approved by the Building Administrator prior to issuing a location improvement permit.

(B) The following user fees shall take effect upon adoption and publication of notice of the adoption in accordance with the law:

(1) Site trip review to see if the impact will require that a plan be submitted, (dimensioned site plan showing existing structures, streams, drainage tile, well and septic and the proposed changes is required): $30.

(2) Additional trips required because of changes or incomplete information: $30.

(3) Plan reviews for plans submitted for approval by the Drainage Board: $65 per hour.

(C) All fees must be paid in full before a location improvement permit can be issued.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

***DRAINAGE CONTROL POLICY***

**§154.20 POLICY**

(A) It is recognized that the smaller streams and drainage channels serving the county may not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release rate of excess stormwater runoff shall be required for any development, redevelopment and new construction located within the county.

(B) Possible exceptions to the requirement are minor subdivisions and parcelization as described in Chapter 152. The Drainage Board, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization.

(C) The release rate of stormwater from developments, redevelopments, and new construction may not exceed the stormwater runoff from the land area in its present state of development. The developer must submit to the Board, detailed computations of runoff before and after development, redevelopment or new construction which demonstrate that runoff will not be increased.

(D) These computations must show that the peak runoff rate after development for the 100-year return period storm of critical duration must not exceed the three-year return period pre-development peak runoff rate. The critical duration storm is that storm duration that requires the greatest detention storage.

(E) Computations for areas up to and including 200 acres may be based on the rational method. Typical runoff coefficients are listed herein. For areas larger than 200 acres, hydrograph techniques and/or computer drainage modeling methods may be used.

(F) Hydrograph techniques and computer modeling methods used to determine stormwater runoff shall be proven methods, subject to approval of the Board.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.21 PERMITS FOR CONSTRUCTION**

(A) Chapter 318 of the Acts of 1945, as amended, Sections 17 and 19, require the Natural Resources Commission approval of any construction in a floodway, and of any works for flood control. This includes bridges, dams, levees, dikes, floodwalls, wharves, piers, dolphins, booms, weirs, bulkheads, jetties, groins, excavations, fills or deposits of any kind, utility lines or any other building, structure or obstruction.

(B) Also, any ditch work (new construction, deepening or modification) within one-half mile of a public freshwater lake of ten acres or more in area.

(C) The approval of the Natural Resources Commission, in writing, must be obtained before beginning construction.

(1) Applications for approval should be submitted to the Department of Natural Resources, Division of Water, 2475 Directors Row, Indianapolis, Indiana 46241.

(2) All applications should be made on the standard application form provided by the Commission and should be accompanied by plans, profiles, specifications and other data necessary for the Commission to determine the effect of the proposed construction upon the floodway and on flood control in the state.

(3) Application made to and approved granted by the Natural Resources Commission does not in any way relieve the owner of the necessity of security easements or other property rights, and permits and/or approvals from affected property owners and local, state and federal agencies.

(D) The engineering staff of the Division of Water is available to discuss and offer suggestions regarding requirement sin the design of structures in floodways. High water marks have been set on many of the streams in the state, and information is available from the Division of Water on actual and/or potential flooding. Information regarding bench marks set to Mean Sea Level Datum, General Adjustment of 1929, is available from the Division of Water, Surveying and Mapping Section.

(E) Applications are considered by the Commission at regular meetings usually held each month. After the application and plans have been approved by the Commission, a certificate of approval is forwarded to the applicant.

(F) A fee is charged by the Commission for approvals under the Flood Control Act. Unless stated otherwise in the approval, construction is considered to be a permanent development and no renewals of the approval are necessary, except in the cases where temporary approvals are granted for temporary construction. The right is reserved to require additional data where necessary.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.22 INFORMATION REQUIREMENTS**

(A) *Submission Required.* As provided in divisions (B) through (G), the information and data provided by a state-licensed professional engineer or land surveyor engaged in storm drainage design shall be submitted to the Board at the time of application for a building permit for any development, redevelopment or new construction on real estate which lies within the regulated area.

(B) *Topographic and Soils Map.* A soils map of the proposed development indicating soils names and their hydrologic classification must be provided when Soil Conservation Service (SCS) hydrologic methods are used. In addition, a topographic map of the land to be subdivided and adjoining land whose topography may affect the layout or drainage of the development must be provided. The contour intervals shall be one foot when slopes are less than 4% and shall be two feet when the slope exceeds 4%. On this map, the following shall be shown:

(1) The location of streams and other flood water runoff channels, the extent of the floodplains at the established 100-year flood elevation where available, regulatory floodway and the limits of the floodway, all properly identified;

(2) The normal shoreline of lakes, ponds, swamps and detention basins, their floodplains and lines of inflow and outflow, if any;

(3) The location of regulated drains, farm drains, inlets and outfalls, if any of record;

(4) Storms, sanitary and combined sewers and outfalls, if any of record;

(5) Septic tank systems and outlets, if any of record, or as otherwise known to applicant; and

(6) Seeps, springs, flowing and other wells that are visible or of record.

(C) *Preliminary Drainage Plan.* A comprehensive plan, in preliminary form (or in combined preliminary and final form), designed to handle safely the stormwater runoff and to detain the increased stormwater runoff must be provided. The plan shall provide or be accompanied by maps or other descriptive materials indicating the feasibility of the drainage plan and showing the following:

(1) The extent and area of each watershed affecting the design of detention facilities as shown on USGS quadrangle maps or other more detailed maps as required by the Board and provide a vicinity map which geographically locates project area within the county;

(2) The preliminary layout and design of proposed storm sewers, the outfall and outlet locations and approximate elevations, the receiving stream or channel and its 100-year return period water elevation;

(3) The location and design of proposed street systems used to convey or temporarily store overflow from the heavier rainstorms and the outlets for the overflow;

(4) The locations, cross sections and profiles of existing streams and floodplains to be maintained and new channels to be constructed;

(5) The materials, elevations, waterway openings and the basis for design of proposed culverts and bridges;

(6) Existing detention ponds and basins to be maintained, enlarged or otherwise altered and new ponds or basins to be built and the basis of their design;

(7) The estimated depth and amount of storage required in the new ponds or basins;

(8) The estimated location and percentage of impervious surfaces existing and expected to be constructed when the development is completed; and

(9) Any interim plan which is to be incorporated into the development pending completion of the development and the final drainage plan.

(D) *Valley Cross Section.* One or more typical cross sections must be provided showing all existing and proposed channels or other open drainage facilities carried to a point above the 100-year high water elevation showing the elevation of the existing land and the proposed changes thereto, together with the high water elevations expected from the 100-year storm under the controlled conditions called for by this chapter and showing the relationship of structures, streets and other facilities.

(E) *Site Plan.* A plan drawn to scale showing dimensions of the site with existing and proposed storm drainage facilities must be provided.

(F) *Final Drainage Plans.* Upon approval of the preliminary drainage plans by the Board, final drainage plans shall be submitted to the Board. The final plans shall provide or be accompanied by calculations, maps and/or other descriptive material showing the following:

(1) The extent and area of each watershed tributary to the drainage channels in the development;

(2) The street storm sewers and other storm drains to be built, the basis of their design, outfall and outlet locations and elevations, the receiving stream or channel and its high water elevation, and the functioning of the drains during high water conditions;

(3) The parts of the proposed street system where pavements are planned to be depressed sufficiently to convey or temporarily store overflow from storm sewers and over the curb runoff resulting from the heavier rainstorms and the outlets for the overflow;

(4) Existing streams and floodplains to be maintained and new channels to be constructed their locations, cross section and profiles;

(5) Proposed culverts and bridges to be built, their materials, elevations, waterway openings and basis of their design;

(6) Existing detention basins and ponds to be maintained, enlarged or otherwise altered and new basins or ponds to be built and the basis of their design;

(7) The estimated location and percentage of impervious surfaces existing and expected to be constructed when the development is completed;

(8) The slope, type and size of all sewers and other waterways; and

(9) For all detention basins, a plot or tabulation of storage volumes with corresponding water surface elevations and a plot or tabulation of the basin outflow rates for those water surface elevations.

(G) *Submittal; Consideration of Plans.*

(1) Preliminary and final drainage plans and/or construction plans shall be submitted to the Board 20 days prior to their regularly scheduled meeting. All preliminary plans, final plans and/or construction plans in compliance with the standards of this chapter shall be approved by the Board. The Board and/or the County Surveyor shall stamp the approval on a copy of the plans and deliver the same to the applicant. The Board shall approve or disapprove any preliminary plans, final plans and/or construction plans within 60 days of submission unless the applicant consents to a continuance or extensions.

(2) All approvals and disapprovals with written reasons shall be incorporated into the Board minutes. The County Surveyor is authorized to review engineering summaries of projects and based upon the same grant exemptions from any and all requirements of this chapter and/or waive any requirements of this chapter. Any applicant may appeal the decision of the Surveyor to the Board which shall also be authorized to grant exemptions from any and all requirements of this chapter and/or waive any requirements of this chapter at its discretion.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.23 DETERMINATION OF RUNOFF QUANTITIES**

(A) Runoff quantities shall be computed for the area of the parcel under development plus the area of the watershed flowing into the parcel under development.

(B) The quantity of runoff which is generated as the result of a given rainfall intensity may be calculated as follows:

(1) (a) For areas up to and including 200 acres, the rational method maybe used. In the rational method, the peak rate of runoff, Q, in cubic feet per second is computed as:

**Q = CIA**

1. **C** equals runoff coefficient, representing the characteristics of the drainage area and defined as the ratio of runoff to rainfall.

2. **I** equals average intensity of rainfall in inches per hour for a duration equal to the time of concentration (tc) for a selected rainfall frequency.

3. **A** equals tributary drainage area in acres. Guidance to selection of the runoff coefficient “C” is provided by the first table below, which show values for different types of surface and local soil characteristics.

(b) The composite “**C**” value used for a given drainage area with various surface types shall be the weighted average value for the total area calculated from a breakdown of individual areas having different surface types.

(c) The second table below provides runoff coefficients and inlet times for different land use classifications. In the instance of undeveloped land situated in an upstream area, a coefficient or coefficients shall be used for this area in its present or existing state of developments.

|  |  |
| --- | --- |
| ***Urban Runoff*** | |
| ***Type of Surface*** | ***Runoff Coefficient “C”*** |
| Asphalt | 0.82 |
| Concrete | 0.85 |
| Roof | 0.85 |
| ***Lawns (Sandy):*** | |
| Flat (0-2%) | 0.07 |
| Rolling (2-7%) | 0.12 |
| Steep (greater than 7%) | 0.17 |
| ***Lawns (Clay):*** | |
| Flat (0-2%) | 0.16 |
| Rolling (2-7%) | 0.21 |
| Steep (greater than 7%) | 0.30 |
| ***Woodland (Sandy):*** | |
| Flat (0-5% Slope) | 0.10 |
| Rolling (5-10% Slope) | 0.25 |
| Steep (greater than 10%) | 0.30 |
| ***Woodland (Clay):*** | |
| Flat | 0.30 |
| Rolling | 0.35 |
| Steep | 0.50 |
| ***Pasture (Sandy):*** | |
| Flat | 0.10 |
| Rolling | 0.16 |
| Steep | 0.22 |

|  |  |
| --- | --- |
| ***Urban Runoff*** | |
| ***Type of Surface*** | ***Runoff Coefficient “C”*** |
| ***Pasture (Clay):*** | |
| Flat | 0.30 |
| Rolling | 0.36 |
| Steep | 0.42 |
| ***Cultivated (Sandy):*** | |
| Flat | 0.30 |
| Rolling | 0.40 |
| Steep | 0.52 |
| ***Cultivated (Clay):*** | |
| Flat | 0.50 |
| Rolling | 0.60 |
| Steep | 0.72 |
| **NOTES TO TABLE:**  The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies. Coefficients for less frequent higher intensity storms shall be modified as follows:  Return Period (years) Multiply “C” by  25 1.1  50 1.2  100 1.25 | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Land Use and Typical Inlet Times*** | | | | |
| ***Land Use*** | ***Runoff Coefficients*** | | | ***Inlet***  ***Times***  ***(minutes)*** |
| ***Flat*** | ***Rolling*** | ***Steep*** |
| Commercial (CBD) | 0.75 | 0.83 | 0.91 | 5 |
| Commercial (Neighborhood) | 0.54 | 0.60 | 0.66 | 5 – 10 |
| Industrial | 0.63 | 0.70 | 0.77 |
| Garden Apartments | 0.54 | 0.60 | 0.66 |
| Churches | 0.54 | 0.60 | 0.66 |
| Schools | 0.31 | 0.35 | 0.39 | 10 - 15 |
| Semi-Detached Residential | 0.45 | 0.50 | 0.55 |
| Quarter-Acre Lots | 0.36 | 0.40 | 0.44 |
| Half-Acre Lots | 0.31 | 0.35 | 0.39 |
| Parkland | 0.18 | 0.20 | 0.22 | TBC |
| **NOTES TO TABLE:**  1. Flat terrain 0-2% slopes.  2. Rolling terrain 2-7% slopes.  3. Steep terrain greater than 7% slopes.  4. Interpolation, extrapolation and adjustment for local conditions shall be based on engineering experience and judgment.  5. The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies. Coefficients for less frequent higher intensity storms shall be modified as follows:  Return Period Multiply “C” by  25 1.1  50 1.2  100 1.25 | | | | |

(d) Rainfall intensity shall be determined from the rainfall frequency curves shown in § 1 of the appendix to this chapter or from data shown in § 154.58(B). The time of concentration (tc) to be used shall be the sum of the inlet time and flow time in the drainage facility from the most remote part of the drainage area to the point under consideration. The flow time in the storm sewers may be estimated by the distance in feet divided by velocity of flow in feet per second. The velocity shall be determined by the Manning Formula. Inlet time is the combined time required for the runoff to reach the inlet of the storm sewer. It includes overland flow time and flow time through established surface drainage channels such as swales, ditches and sheet flow across such areas as lawns, fields and other graded surfaces. It may be computed by using § 2 of the appendix to this chapter.

(2) The runoff rate for areas in excess of 200 acres shall be determined by methods described herein.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.24 AMOUNT TO BE ACCOMMODATED**

Various parts of drainage facility must accommodate runoff water as follows:

(A) The minor drainage system such as inlets, catch basins, street gutters, swales, sewers and small channels which collect stormwater must accommodate peak runoff from a three-year return period storm. Rainfall duration shall be equal to the time of concentration or one hour if the time of concentration is less than one hour. A first quartile storm distribution shall be used for computer modeling. The following additional requirements must be satisfied:

(1) Open channels carrying peak flows greater than 30 cubic feet per second shall be capable of accommodating peak runoff for a 50-year return period storm within the drainage easement.

(2) Culverts shall be capable of accommodating peak runoff from a 50-year return period storm when crossing under a road which is part of the State Department of Highways rural functional classification system and are classified as principal or minor arterial, major or minor collector roads.

(3) Temporary water storage will not be permitted on any local street or road, except by special exception of the Board.

(4) In urban areas first floor elevations of all living units, commercially or industrially used buildings, shall be such that all floors including basements shall two feet of freeboard above the 100-year flood elevation or at the, flood protection grade. In urban areas the land grade at houses shall be based upon the maximum flood of record or upon a flood which may occur once in 100 years, whichever is greater, together with a freeboard of two to three feet.

(B) Major drainage systems are defined herein and shall be designed in accordance with State Department of Natural Resources Standards, as described herein.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

***DESIGN STANDARDS***

**§154.35 GENERAL DESIGN**

All storm sewers subject to this chapter, whether private or public and whether constructed on private or public property, shall conform to the design standards and other requirements contained herein.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.36 MANNING EQUATION**

(A) The hydraulic capacity of storm sewers shall be determined using Manning’s Equations:

**V=1.486(2/3)(1/2)**

**N(R)(S)**

(1) **V** equals mean velocity of flow in feet per second.

(2) **R** equals the hydraulic radius in feet.

(3) **S** equals the slope of the energy grade line in feet per foot.

(4) **n** equals roughness coefficient.

(B) The hydraulic radius, **R,** is defined as the cross sectional area of flow divided by the wetted flow surface or wetted perimeter. Typical “n” values and maximum permissible velocities for storm sewer materials are listed herein. Roughness coefficient “n” values for other sewer materials can be found in standard hydraulics texts and references.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.37 MINIMIZE SIZE**

The minimum size of all storm sewers shall be 12 inches. The rate of release for detention storage shall be controlled by an orifice plate or other devices, subject to approval of the Board, where the 12-inch pipe will not limit rate of release as required.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.38 GRADE.**

(A) Sewer grade shall be such that, in general, a minimum of two feet of cover is maintained over the top of the pipe.

(B) Pipe cover less than the minimum may be used only upon approval of the Board. Uniform slopes shall be maintained between inlets, manholes and inlets to manholes.

|  |  |  |
| --- | --- | --- |
| ***Typical Values of Manning’s*** | | |
| ***Material*** | ***Manning’s*** | ***Desirable Maximum***  ***Velocities*** |
| **Closed Conduits:** | | |
| Concrete | 0.013 | 15 f.p.s. |
| Vitrified | 0.013 | 15 f.p.s. |
| Brick | 0.015 | 15 f.p.s. |
| Cast Iron | 0.013 | 15 f.p.s. |
| **Circular Corrugated Metal Pipe, Annular Corrugations 2 2/3 x ½ inches:** | | |
| Unpaved | 0.024 | 7 f.p.s. |
| 25% paved | 0.021 | 7 f.p.s. |
| 50% paved | 0.018 | 7 f.p.s. |
| 100% paved | 0.013 | 7 f.p.s. |
| **Circular Corrugated Metal Pipe, Helical, 2 2/3 x ½ inches; Unpaved Corrugations;** | | |
| 12 inches | 0.011 |  |
| 18 inches | 0.013 |  |
| 24 inches | 0.015 |  |
| 36 inches | 0.018 |  |
| 48 inches | 0.020 |  |
| 60 inches or larger | 0.021 |  |
| Corrugated polyethylene smooth interior pipe | 0.012 | 15 f.p.s. |
| Concrete culverts | 0.013 |  |
| **Open Channels:** | | |
| Concrete, trowel finish | 0.013 |  |
| Concrete, broom or float finish | 0.015 |  |
| Gunite | 0.018 |  |
| Riprap placed | 0.030 |  |
| Riprap dumped | 0.035 |  |
| Gabion | 0.028 |  |
| New earth (uniform, sodded, clay) | 0.025 |  |
| Existing earth (fairly uniform  With some weeds) | 0.030 |  |
| Dense growth of weeds | 0.040 |  |
| Dense weeds and brush | 0.040 |  |
| Swale with grass | 0.035 |  |

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.39 ALIGNMENT**

(A) Storm sewers shall be straight between manholes insofar as possible. Where long radius curves are necessary to conform to street layout, the minimum radius of curvature shall be no less than 100 feet for sewers 42 inches and larger in diameter.

(B)(1) Deflection of pipe sections shall not exceed the maximum deflection recommended by the pipe manufacturer.

(2) The deflection shall be uniform and finished installation shall follow a smooth curve.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.40 MANHOLES**

(A) Manholes shall be installed to provide access to continuous underground storm sewers for the purpose of inspection and maintenance. Manholes shall be provided at the following locations:

(1) Where two or more storm sewers converge;

(2) At the point of beginning or at the end of a curve and at the point of reverse curvature;

(3) Where pipe size changes;

(4) Where an abrupt change in alignment occurs;

(5) Where a change in grade occurs; and/or

(6) At suitable intervals in straight sections of sewer.

(B) The maximum distance between storm sewer manholes sections of sewer.

|  |  |
| --- | --- |
| ***Size of Pipe*** | ***Maximum Distance*** |
| 12 inches through 42 inches | 400 feet |
| 48 inches and larger | 600 feet |

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.41 INLETS**

(A)(1) Inlets or drainage structures shall be utilized to collect surface water through grated openings and convey it to storm sewers, channels or culverts.

(2) Inlet design and spacing shall be in accordance with § 7-400 of the State Department of Highways’ Road Design Manual Volume 1 or other approved design procedure. The inlet grate openings provided must be adequate to pass the design three-year flow with 50% of the sag inlet areas clogged.

(B) An overload channel from sag inlets to the overflow channel or basin shall be provided at sag inlets, so that the maximum depth of water that might be ponded in the street sag shall not exceed six inches.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.42 WORKMANSHIP AND MATERIALS**

(A) The specifications for the construction of storm sewers shall not be less stringent than those set forth in the latest edition of the State Department of Highways’ Standard Specifications. Additionally, ductile iron pipe shall be laid in accordance with American Society of Testing Materials (ASTM) C-12.8.

(B) Storm sewer manholes and inlets shall be constructed of masonry, cast in place concrete or precast reinforced concrete. Material and construction shall confirm to State Department of Highways’ Standard Specifications, § 720. Pipe and fittings used in storm sewer construction shall be extra-strength clay pipe (ASTM C-700), ductile iron pipe (AWWA C-151), or concrete pipe (ASTM C-76). Other pipe and fittings not specified herein may be used only when specifically authorized by the Board. Pipe joints shall be flexible and watertight and shall conform to the requirements of § 715.02 of the latest edition of the State Department of Highways’ Standard Specifications.

(C) (1) Special7 hydraulic structures required to control the flow of water in storm runoff drainage systems include junction chambers, drop manholes, inverted siphons, stilling basins and other special structures.

(2) The use of these structures shall be limited to those locations justified by prudent planning and by careful and thorough hydraulic engineering analysis.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.43 OPEN CHANNELS**

(A) All open channels subject to this chapter, whether private or public and whether constructed on private or public land, shall conform to the design standards and other design requirements contained herein.

(B) The waterway for channels shall be determined using Manning’s Equation.

**Q = AV = A1.486 (2/3)(1/2)**

**N(R)(S)**

(1) **A** equals waterway area of channel in square feet.

(2) **Q** equals discharge in cubic feet per second (cfs).

(3)  **V, R, S** and **N** are explained herein.

(C) The required channel cross section and grade are determined by the design capacity, the material in which the channel is to be constructed, and the requirements for maintenance. A minimum depth may be required to provide adequate outlets for subsurface drains, tributary ditches or streams. The channel grade shall be such that the velocity in the channel is high enough to prevent siltation but low enough to prevent erosion. Velocities less than one and one-half feet per second should be avoided because siltation will take place and ultimately reduce the channel cross section. The maximum permissible velocities in vegetal-lined channels are shown herein. Developments through which the channel is to be constructed must be considered in design of the channel section. Earthen channel side slopes shall be no steeper than two to one. Flatter slopes may be required to prevent erosion and for ease of maintenance.

(D) Where channels will be lined, side slopes shall be no steeper than one and one-half to one with adequate provision made for weep holes. Side slopes steeper than one and one-half to one may be used for lined channels provided that the side lining and structural retaining wall are designed and constructed with provisions for live and dead load surcharge.

|  |  |  |  |
| --- | --- | --- | --- |
| ***Maximum Permissible Velocities in Vegetal-Lined Channels*** | | | |
| ***Cover*** | ***Slope Range***  ***(2%)*** | ***Permissible Velocity*** | |
|  | ***Erosion***  ***Resistant Soils***  ***(feet per second)*** | ***Easily Eroded***  ***Soils (feet per***  ***Second)*** |
| Bermuda grass  Bahia  Buffalo grass  Kentucky bluegrass  Smooth brome  Bluegrass  Grass mixtures  Reed canary grass  Lespediza Sericea  Weeping love grass  Yellow bluestem  Redtop  Alfalfa  Red fescue | 0 – 5 | 8 | 6 |
| 5 – 10 | 7 | 5 |
| Over 10 | 6 | 4 |
| 0 – 5 | 7 | 5 |
| 5 – 10 | 6 | 4 |
| Over 10 | 5 | 3 |
| 0 – 5 | 5 | 4 |
| 5 – 10 | 4 | 3 |
| 0 – 5 | 3.4 | 2.5 |
| Common  Lespedeza(4)  Sudangrass (4) | (5) | | |
| 0 – 5 | 3.5 | 2.5 |
| **NOTES TO TABLE:**  (1) Use velocities exceeding five feet per second only where good covers and proper maintenance can be obtained.  (2) Do not use on slopes steeper than 10%, except for vegetated side slopes in combination with stone, concrete or highly resistant vegetative center section.  (3) Do not use on slopes steeper than 5%, except for vegetated side slopes in combination with stone, concrete or highly resistant vegetative center section.  (4) Annuals use on mild slopes or as temporary protection until permanent covers are established.  (5) Use on slopes steeper than 5% is not recommended. | | | |

(E)(1) Characteristics of a stable channel are:

(a) It neither aggrades nor degrades beyond tolerable limits.

(b) The channel banks do not erode to the extent that the channel cross-section is changed appreciably.

(c) Excessive sediment bars do not develop.

(d) Excessive erosion does not occur around culverts, bridges or elsewhere.

(e) Gullies do not form or enlarge due to the entry of uncontrolled surface flow to the channel.

(2) Channel stability shall be determined for an aged condition and the velocity shall be based on the design flow or the bank full flow, whichever is greater, using “n” values for various channel linings as shows herein. In no case is it necessary to check channel stability for discharges greater than that from a 100-year period storm.

(3) Channel stability must be checked for conditions immediately after construction. For this stability analysis, the velocity shall be calculated for the expected flow from a ten-year return period storm on the watershed, or the bank full flow, whichever is smaller. The “n” value for new constructed channels in fine-grained soils and sands may be determined in accordance with the National Engineering Handbook 5, Supplement 8, Soil Conservation Service and shall not exceed 0.025. The allowable velocity in the newly constructed channel may be increased by a maximum of 20% to reflect the effects of vegetation to be established under the following conditions:

(a) The soil and site in which the channel is to be constructed are suitable for rapid establishment and support of erosion controlling vegetation;

(b) Species of erosion controlling vegetation adapted to the area and proven methods of establishment are shown; and

(c) The channel design includes detailed plans for establishment of vegetation on the channel side slopes.

(F) Vegetated waterways that are subject to low flows of long duration or where wet conditions prevail shall be drained with a tile system or by other means such as paved gutters. The lines may be outlet through a drop structure at the end of the waterway or through a standard tile outlet.

(G) (1) When the Board determines it is necessary to establish a new regulated drain, each developer must provide the necessary information and meet the requirements of the 1965 State Drainage Code, as amended, for the establishment of a new regulated drain.

(2) The Board shall determine the necessary easements for adequate maintenance of any new regulated drain.

(H) (1) The design of channels will provide all structures required for the proper functioning of the channel and the laterals thereto and travel ways for operation and maintenance.

(2) Recessed inlets and structures needed for entry of surface and subsurface flow into floodway.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.44 CONSTRUCTION AND MATERIALS**

(A) Specifications shall be in keeping with the current standards of engineering practice and shall describe the requirements for proper installation of the project to achieve its intended purpose.

(B) Materials acceptable for use as channel lining are:

(1) Grass:

(2) Reventment riprap:

(3) Concrete;

(4) Hand-laid riprap;

(5) Precast cement concrete riprap;

(6) Grouted riprap; and

(7) Gabions.

(C) (1) Spoil material resulting from clearing, grubbing and channel excavation shall be disposed in a manner which will:

(a) Minimize over bank wash;

(b) Provide for the free flow of water between the channel and floodplain unless the valley routing and water surface profile are based on continuous dikes being installed;

(c) Not hinder the development of travelways for maintenance;

(d) Leave the right-of-way in the best condition feasible, consistent with the project purposes, for productive use by the owner;

(e) Improve the aesthetic appearance of the site to the extent feasible; and

(f) Be approved by the IDNR or US Army Corps of Engineers (whichever is applicable) if deposited in the channels without significant erosion or degradation shall be included in the design of channel improvements. The design is also to provide the necessary flood gates, water level control devices and any other appurtenance affecting the functioning of the channels and the attainment of the purpose for which they are built.

(2) The effect of channel improvements on existing culverts, bridges, buried cables, pipelines and inlet structures for surface and subsurface drainage on the channel being improved and laterals thereto shall be evaluated to determine the need for modification or replacement. Culverts and bridges which are modified or added as part of channel improvement projects shall meet reasonable standards for the type of structure and shall have a minimum capacity equal to the design discharge or governmental agency design requirements, whichever is greater.

(3) Other lining materials shall receive specific approval of the Board. Materials shall comply with the latest edition of the State Department of Highways’ Standard Specifications.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

***STORMWATER DETENTION***

**§154.55 GENERAL DESIGN**

The following shall govern the design of any improvement with respect to the detention of stormwater runoff.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.56. ACCEPTABLE METHODS**

The increased stormwater runoff resulting from a proposed development shall be detained on-site by the provisions of appropriate detention or retention basins, parking lots, lawns or other acceptable techniques. Measures which further retard the rate of overland flow and the velocity in runoff channels may also be required to partially control the runoff rate. Detention basins shall be sized to store excess flows from storm with a 100-year return period. Control devices shall limit the discharge to a rate not greater than that prescribed by this chapter.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.58 ALLOWABLE RELEASE RATE**

(A) The allowable release rate of stormwater originating from a proposed development shall not exceed the amount specified herein. In the event the natural downstream channel or storm sewer system is inadequate to accommodate the release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of the receiving downstream channel or storm sewer system and additional detention as determined by the Board shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers or waterways.

(B) If more than one detention basin is involved in the development of the area upstream of the limiting restriction, the allowable release rate from any one detention basis shall be in direct proportion to the ration of its drainage area to the drainage area of the entire watershed upstream of the restriction.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| ***Rainfall Depths (inches)***  ***Duration Return Period (years)*** | | | | | | |
|  | 2 | 5 | 10 | 25 | 50 | 100 |
| 5 min. | 0.42 | 0.52 | 0.59 | 0.68 | 0.75 | 0.82 |
| 10 min. | 0.64 | 0.79 | 0.91 | 1.04 | 1.15 | 1.25 |
| 15 min. | 0.80 | 0.99 | 1.13 | 1.29 | 1.43 | 1.55 |
| 20 min. | 0.95 | 1.17 | 1.34 | 1.53 | 1.70 | 1.85 |
| 30 min. | 1.11 | 1.34 | 1.57 | 1.79 | 1.98 | 2.16 |
| 40 min. | 1.23 | 1.52 | 1.74 | 1.99 | 2.20 | 2.40 |
| 50 min. | 1.33 | 1.64 | 1.87 | 2.14 | 2.36 | 2.58 |
| 60 min. | 1.40 | 1.73 | 1.97 | 2.26 | 2.49 | 2.72 |
| 1.5 hrs. | 1.70 | 2.09 | 2.39 | 2.73 | 3.03 | 3.30 |
| 2 hrs. | 1.71 | 2.11 | 2.41 | 2.76 | 3.05 | 3.33 |
| 3 hrs. | 1.84 | 2.27 | 2.60 | 2.97 | 3.29 | 3.59 |
| 4 hrs. | 2.06 | 2.54 | 2.90 | 3.31 | 3.67 | 4.00 |
| 5 hrs. | 2.16 | 2.66 | 3.04 | 3.48 | 3.85 | 4.20 |
| 6 hrs. | 2.22 | 2.74 | 3.13 | 3.58 | 3.96 | 4.32 |
| 7 hrs. | 2.31 | 2.85 | 3.26 | 3.72 | 4.12 | 4.49 |
| 8 hrs. | 2.35 | 2.90 | 3.32 | 3.79 | 4.20 | 4.58 |
| 9 hrs. | 2.42 | 2.99 | 3.41 | 3.90 | 4.32 | 4.71 |
| 10 hrs. | 2.49 | 3.07 | 3.51 | 4.01 | 4.44 | 4.84 |
| 12 hrs. | 2.58 | 3.18 | 3.63 | 4.15 | 4.59 | 5.01 |
| 14 hrs. | 2.66 | 3.29 | 3.76 | 4.30 | 4.75 | 5.18 |
| 16 hrs. | 2.75 | 3.40 | 3.68 | 4.44 | 4.91 | 5.39 |
| 18 hrs. | 2.82 | 3.48 | 3.98 | 4.55 | 5.03 | 5.49 |
| 20 hrs. | 2.89 | 3.56 | 4.07 | 4.65 | 5.15 | 5.62 |
| 24 hrs. | 3.00 | 3.70 | 4.23 | 4.83 | 5.35 | 5.83 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| ***Rainfall Intensity (inches/hour)***  ***Duration Return Period (years)*** | | | | | | |
|  | 2 | 5 | 50 | 25 | 50 | 100 |
| 5 min. | 5.04 | 6.24 | 7.08 | 8.16 | 9.00 | 9.84 |
| 10 min. | 3.84 | 4.74 | 5.46 | 6.24 | 6.90 | 7.50 |
| 15 min. | 3.20 | 3.96 | 4.52 | 5.16 | 5.72 | 6.20 |
| 20 min. | 2.85 | 3.51 | 4.02 | 4.59 | 5.10 | 5.55 |
| 30 min. | 2.22 | 2.74 | 3.12 | 3.58 | 3.96 | 4.32 |
| 40 min. | 1.85 | 2.28 | 2.61 | 2.99 | 3.30 | 3.60 |
| 50 min. | 1.60 | 1.97 | 2.24 | 2.57 | 2.83 | 3.10 |
| 60 min. | 1.40 | 1.73 | 1.97 | 2.25 | 2.49 | 2.72 |
| 1.5 hrs. | 1.13 | 1.39 | 1.59 | 1.82 | 2.02 | 2.20 |
| 2 hrs. | 0.86 | 1.06 | 1.21 | 1.38 | 1.53 | 1.67 |
| 3 hrs. | 0.61 | 0.76 | 0.87 | 0.99 | 1.10 | 1.20 |
| 4 hrs. | 0.52 | 0.64 | 0.73 | 0.83 | 0.92 | 1.00 |
| 5 hrs. | 0.43 | 0.53 | 0.61 | 0.70 | 0.77 | 0.84 |
| 6 hrs. | 0.37 | 0.46 | 0.52 | 0.60 | 0.66 | 0.72 |
| 7 hrs. | 0.33 | 0.41 | 0.47 | 0.53 | 0.59 | 0.64 |
| 8 hrs. | 0.29 | 0.36 | 0.42 | 0.47 | 0.53 | 0.57 |
| 9 hrs. | 0.27 | 0.33 | 0.38 | 0.43 | 0.48 | 0.52 |
| 10 hrs. | 0.25 | 0.31 | 0.35 | 0.40 | 0.44 | 0.48 |
| 12 hrs. | 0.22 | 0.27 | 0.30 | 0.35 | 0.38 | 0.42 |
| 14 hrs. | 0.19 | 0.24 | 0.27 | 0.31 | 0.34 | 0.37 |
| 16 hrs. | 0.17 | 0.21 | 0.24 | 0.28 | 0.31 | 0.34 |
| 18 hrs. | 0.16 | 0.19 | 0.22 | 0.25 | 0.28 | 0.31 |
| 20 hrs. | 0.14 | 0.18 | 0.20 | 0.23 | 0.26 | 0.28 |
| 24 hrs. | 0.13 | 0.15 | 0.18 | 0.20 | 0.22 | 0.24 |

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.59 DRAINAGE SYSTEM OVERFLOW DESIGN**

Drainage system shall have adequate capacity to safely and adequately convey the stormwater runoff from all upstream tributary areas through the development under consideration for a storm of 100-year design return period calculated on the basis of the upstream land in its present state of development. An allowance, equivalent to the reduction in flow rate provided, shall be made for upstream detention when the upstream detention and release rate previously been approved by the Board and evidence of its construction can be shown.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.60 DETERMINATION OF STORAGE VOLUME; METHODS**

(A) For areas of 200 acres or less, the rational method may be used to determine the required volume of stormwater storage. The following eleven step procedure may be used to determine the required volume of storage. Other design methods may also be used, subject to approval of the Board, and as described herein.

(1) Determine total drainage area in acres “A;”

(2) Determine composite runoff coefficient “C” based on-existing land use (undeveloped);

(3) Determine time of concentration “tc” in minutes based on existing conditions;

(4) Determine rainfall intensity “I” in inches per hour, based on time of concentration and using data given herein for the three-year return period;

(5) Compute runoff based on existing land use (undeveloped), and three-year return period:

**Qu = CUIUA**

(6) Determine composite runoff coefficient “**Cd”** based on developed conditions and a 100-year return period;

(7) Determine the 100-year return period rainfall intensity “**Id”** for various storm durations “td” up through the time of concentration for the developed area using information herein;

(8) Determine developed inflow rates “**Qd”** for various storm durations “**td”**  measured in hours;

**Qd = CdIdA**

(9) Compute a storage rate “**Std”** for various storm durations “t**d”** up through the time of concentration of the developed area; and

**Std = Qd - Qu**

(10) Compute required storage volume “**Sr**” in acre-feet for each storm duration “**td”** hours;

**Sr = Std (td/12)**

(11) Select the largest storage volume computed in subsection (10) for detention basin design.

(B) Methods other than the rational method for determining runoff and routing of stormwater may be used to determine the storage volume required to control stormwater runoff. The procedures or methods used must receive the prior approval of the Board. The ILLUDAS, TR-20 and TR-55 models are approved by the Board for appropriate use in analysis of the runoff and routing of stormwater. The use of these models or other approved procedures can be defined in a seven step procedure to determine the required storage volume of the detention basin.

(1) Calibrate the hydrologic/hydraulic model that is to be used for prediction of runoff and routing of stormwater;

(2) For each storm duration listed herein, perform steps three through six;

(3) Determine the three-year, undeveloped peak flow. (Denote this flow by Q3u);

(4) Determine the 100-year runoff hydrograph (H100d) for developed conditions;

(5) Determine the hydrograph that must be stored (H100d) by subtracting a flow up to Q3u from the hydrograph (H100d) found in subsection (4);

(6) Determine the volume of water (V5) to be stored by calculating the area under the hydrograph (H100d); and

(7) The detention basin must be designed to store the largest volume (V5) found for any storm duration analyzed in subsection (6).

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.61 BASIN REQUIREMENTS**

(A) Basins shall be constructed to detain temporarily the stormwater runoff which exceeds the maximum peak flow rate authorized by this chapter. The volume of storage provided in these basins, together with such storage as may be authorized in other on-site facilities shall be sufficient to control excess runoff from the 100-year storm. The following design principles shall be observed:

(1) The maximum volume of water stored and subsequently released at the design release rate shall not result in a storage duration in excess of 12 hours unless additional storms occur within the period.

(2) The maximum planned depth of stormwater stored (without a permanent pool) shall not exceed five feet.

(3) All stormwater detention facilities shall be separated by not less than 50 feet from any building or structure to be occupied.

(4) All excavated excess soil may be spread so as to provide for aesthetic and recreational features such as sliding hills, sports fields and the like. Slopes no steeper than eight horizontal to one vertical for safety, erosion control, stability and ease of maintenance shall be permitted.

(5) Safety screens having a maximum opening of four inches shall be provided for any pipe or opening to prevent children or large animals from crawling into the structures.

(6) Danger signs shall be mounted at appropriate locations to ward of deep water, possible flooding conditions during storm periods and other dangers that exist. Fencing shall be provided if deemed necessary by the Board.

(7) Outlet control structures shall be designed to operate as simply as possible and shall require little or no maintenance and/or attention for proper operation. They shall limit discharges into existing or planned downstream channels or conduits so as not to exceed the predetermined maximum authorized peak flow rate.

(8) Emergency overflow facilities such as a weir or spillway shall be provided for the release of exceptional storm runoffs or in emergency conditions should the normal discharge devices become totally or partially inoperative. The overflow facility shall be of the design that its operation is automatic and does not require manual attention.

(9) Grass or other suitable vegetative cover shall be provided throughout the entire basin area. Grass should be cut regularly at approximately monthly intervals during the growing season or as required.

(10) Debris and trash removal and other necessary maintenance shall be performed on a regular basis to assure continued operation in conformance to design.

(11) A report shall be submitted to the Board describing the proposed development; the current land use conditions; the method of hydraulic and hydrologic analysis used, including any assumptions or special conditions; the results of the analysis; and the recommended drainage control facilities. Hydraulic and hydrologic calculations, including input and output files, shall be included as appendices to the report.

(B) Detention basins which will not contain a permanent pool of water shall comply with the following requirements:

(1) Provisions shall be incorporated to facilitate complete interior drainage of detention basins, to include the provisions of natural grades to outlet structures, longitudinal and transverse grades to perimeter drainage facilities, paved gutters or the installation of subsurface drains.

(2) The detention basin shall, whenever possible, be designed to serve a secondary or multi-purpose function. Recreational facilities, aesthetic qualities (open spaces) or other types of use shall be considered in planning the detention facility.

(C) Since a retention basin by definition will contain a permanent pool of water, all the items required for detention storage shall apply except that the system of drains with a positive gravity outlet required to maintain a detention basin will not be required. A controlled positive outlet will be required to maintain the design water level in the retention basin and provide required detention storage above the design water level. However, the following additional conditions shall apply:

(1) Basins designed with permanent pools or containing permanent ponds shall have a water area of at least one-half acre. If fish are to be maintained in the pond, a minimum depth of approximately ten feet shall be maintained over at least 25% of the pond area. The remaining pond area shall have no extensive shallow areas, except as required by division (C)(3) below.

(2) In excavated ponds, the underwater side slopes in the pond shall be stable. IN the case of valley storage, natural slopes may be considered to be stable.

(3) A safety ledge four to six feet in width is required and must be installed in all ponds approximately 30 to 36 inches below the permanent water level. In addition, a similar maintenance ledge 12 to one inches above the permanent water line shall be provided. The slope between the two ledges shall be stable and of a material such as stone or riprap which will prevent erosion due to wave action.

(4)A safety ramp exit from the pond is required in all cases and shall have a minimum width of 20 feet and exit slope to six horizontal to one vertical. The ramp shall be of a material that will prevent its deterioration due to vehicle use and/or wave action.

(5) Periodic maintenance is required in ponds to control weed and larval growth. The pond shall also be designed to provide for the easy removal of sediment which will accumulate during periods of pond operation. A means of maintaining the designed water level of the pond during prolonged periods of dry weather is also required.

(6) For emergency use, basin cleaning or shoreline maintenance, facilities shall be provided or plans prepared for auxiliary equipment to permit emptying and drainage.

(7) Facilities to enhance and maintain pond water quality shall be provided, if required to meet applicable water quality standards. Design calculations to substantiate the effectiveness of these aeration facilities shall be submitted with final engineering plans. Agreements for the perpetual operation and maintenance of aeration facilities shall be submitted with final engineering plans. Agreements for the perpetual operation and maintenance of aeration facilities shall be prepared to the satisfaction of the Board.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.62 PARKING LOT STORAGE**

Paved parking lots may be designed to provide temporary detention storage of stormwater on all or a portion of their surfaces. Outlets will be designed so as to empty the stored waters slowly. Depth of storage must be limited to a maximum depth of six inches so as to prevent damage to parked vehicles and so that access to parked vehicles is not impaired. Ponding should, in general, be confined to those positions of the parking lots farthest from the area served.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.63 FACILITY FINANCIAL RESPONSIBILITY**

The construction cost of stormwater control systems and facilities as required by this chapter shall be accepted as part of the cost of land development. If general public use of the facility can be demonstrated, negotiations for public participation in the cost of such development may be considered.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.64 FACILITY MAINTENANCE RESPONSIBILITY**

(A) Facility maintenance responsibility of detention/retention facilities during construction and thereafter, shall be the responsibility of the land developer/owner. Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and shall be determined before the final drainage plans are approved.

(B) Stormwater detention and retention basins may be donated to the county or other unit government designated by the county, for ownership and permanent maintenance providing:

(1) The county or other governmental unit is willing to accept responsibility;

(2) The facility has been designed and constructed according to all applicable provisions of this chapter;

(3) All improvements have been constructed, approved and accepted by the county for the land area served by the drainage basin;

(4) Retention ponds containing a permanent pool of water have all slopes between the riprap and high water line sodded and the remaining land area hydroseeded; are equipped with electrically driven aeration devices, if required to maintain proper aerobic conditions and sustain aquatic life; have a four-foot wide crushed limestone walkway at the high water line entirely around the body of water; provide suitable public access acceptable to the responsible governmental agency; and have the high water line not closer than 75 feet to any property line; and

(5) Dry detention ponds shall have all slopes, bottom of the basin and area above the high water line hydroseeded and shall have the high water line not closer than 50 feet to any development boundary. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.65 INSPECTIONS**

All public and privately owned detention and retention storage facilities may be inspected by representatives of the county not less than once every two years. A certified inspection report covering physical conditions, available storage capacity and operational condition of key facility elements will be provided to the owner.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.66 CORRECTIVE MEASURES**

If deficiencies are found by the Inspector, the persons responsible for the detention/retention facility will be required to take the necessary measures to correct the deficiencies. If the persons responsible fail to do so, the county will undertake the work and collect from the persons responsible using lien rights, if necessary.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.67 JOINT DEVELOPMENT**

Stormwater control systems may be planned and constructed jointly by two or more developers as long as compliance with this chapter is maintained.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.68 INSTALLATIONS**

(A) Runoff and erosion control system shall be installed as soon as possible during the course of site development. Detention/retention basins shall be designed with an additional 6% of available capacity to allow for sediment accumulation resulting from development and to permit the pond to function for reasonable periods between cleanings.

(B) Basins should be designed to collect sediment and debris in specific locations so that removal costs are kept to a minimum.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.69 DETENTION FACILITIES IN FLOODPLAINS**

If detention storage is provided within a floodplain, only the net increase in storage volume above that which naturally existed on the floodplain shall be credited to the development. No credit will be granted for volumes below the elevation of the regulatory flood at the location unless compensatory storage is also provided.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.70 OFF-SITE DRAINAGE**

When the allowable runoff is released in an area that is susceptible to flooding, the developer may be required to construct appropriate storm drains through the area to avert increased flood hazard caused by the concentration of allowable runoff at one point instead of the natural overland distribution. The requirement of off-site drains shall be at the discretion of the Board.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

***PLANS AND DETERMINATIONS***

**§154.80 CERTIFICATIONS REQUIRED**

(A) After completion of the project and before final approval and acceptance can be made, a professionally prepared and certified “record set” of plans shall be submitted to the Board for review.

(B) These plans shall include all pertinent data relevant to the completed storm drainage system and shall include:

(1) Pipe size and pipe material;

(2) Invert elevations;

(3) Top rim elevations;

(4) Lengths of all pipe structures;

(5) Data and calculations showing detention basin storage volume; and

(6) Certified statement on plans stating the completed storm drainage system substantially complies with construction plans as approved by the Board.

(C) All submitted plans shall be reviewed for compliance within 30 days after submission to the Board or County Surveyor. If notice of noncompliance is not given within 30 days of submission of the plans, the plans shall be construed as approved and accepted.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.81 CHANGES IN PLAN**

Any revision, significant change or deviation in the detailed plans and specifications after formal approval by the Board shall be filed in duplicate with and approved by the Board prior to implementation of the revision or change. Copies of the revisions or changes, if approved, shall be attached to the original plans and specifications.

(Ord. 90-5, passed 8-30-9-; Am. Ord. passed 2-16-99)

**§154.82 DETERMINATION OF IMPACE DRAINAGE AREAS**

(A) The Board is authorized, but is not required to classify certain geographical areas as impact drainage areas and to enact and promulgate regulations which are generally applied. In determining impact drainage areas, the Board shall consider the factors as topography, soil type, capacity of existing regulated drains and distance from adequate drainage facility.

(B) The following areas shall be designated as impact drainage areas, unless good reason for not including them is presented to the Drainage Board:

(1) A floodway or floodplain, as designated by the State Department of Natural Resources;

(2) Land within 75 feet of each bank of any regulated drain;

(3) Land within 75 feet of the center line of any regulated drain tile; and

(4) Land where there is not an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an impact drainage area by resolution of the Board. Special requirements for development within any impact drainage area shall be included in the resolution (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.83 SUMP PUMPS**

(A) Sump pumps installed to receive and discharge groundwaters or other stormwaters shall be connected to the storm sewer where possible or discharged into a designated storm drainage channel.

(B) Sump pumps installed to receive and discharge floor drain flow or other sanitary sewage shall be connected to the sanitary sewers. A sump pump shall be used for one function only, either the discharge of stormwaters or the discharge of sanitary sewage.

(Ord. 90-5, passed 8-30-90; Am. Ord. 2-16-99)

**§154.84 DOWNSPOUTS**

All down spouts or roof drains shall discharge onto the ground or be connected to the storm sewer. No down spouts or roof drains shall be connected to the sanitary sewers.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.85 FOOTING DRAINS**

Footing drains shall be connected to storm sewers where possible or designated storm drainage channels. No footing drains or drainage tile shall be connected to the sanitary sewer.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.86 BASEMENT FLOOR DRAINS**

Basement floor drains shall be connected to the sanitary sewers.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)





CHAPTER 155: WIND ENERGY CONVERSION SYSTEMS

Section

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**§155.01 STATUTORY AUTHORIZATION**

This Chapter is enacted as an exercise of the County’s police power to regulate the use or possession of property that might endanger the public health, safety or welfare, pursuant to I.C. 36-8-2-4 and the Indiana Home Rule Law, I.C. 36-1-3.

(Commissioners Ord. 2009-5, passed 7-29-05)

**§155.02 PURPOSE**

This Chapter is adopted for the following purposes:

(A) To assure that any development and production of wind-generated electricity in Montgomery County will preserve the public health, safety and welfare; and

(B) To provide a regulatory scheme for the permitting, construction, operation, maintenance and decommissioning of wind-generated electricity facilities in the County.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.03 DEFINITIONS**

For purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

***APPLICANT.*** The entity or person who submits to the Building Commissioner an application for a WECS Project, or a Building Permit for one or more WECS Towers.

***BOARD.*** The Board of Commissioners of Montgomery County, Indiana.

***BUILDING COMMISSIONER.*** The Building Commissioner of Montgomery County, Indiana.

***COUNTY.*** Montgomery County, Indiana.

***FAA.*** The Federal Aviation Administration.

***FINANCIAL ASSURANCE.*** Reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.

***LANDOWNER.*** Any person or entity owning real estate in Montgomery County, Indiana.

***NON-PARTICIPATING LANDOWNER.*** Any Landowner who is neither an “Owner” nor a “Participating Landowner,” as those terms are defined herein.

***OPERATOR.*** The entity or person responsible for the day-to-day operation and maintenance of a WECS, including any third party subcontractors.

***OWNER.*** The entity(ies) or person(s) with an equity interest in a WECS, including its or their respective successors and assigns. Owner does not include (i) a Participating Landowner who owns less than a 5% equity interest in the WECS, or (ii) any person holding a security interest in the WECS solely to secure an extension of credit.

***PARTICIPATING LANDOWNER.*** A Landowner from whom land is leased for locating a WECS.

***PRIMARY STRUCTURE.*** For each property, a structure that one (1) or more persons occupy principally for either business or personal use. Primary Structure includes structure such as Residences and commercial building. Primary Structures excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

***PROFESSIONAL ENGINEER.*** A qualified individual who is licensed as a professional engineer in any state in the United States.

***RESIDENCE.*** A structure that is used or intended for use by one (1) or more persons use as a dwelling place.

***SUBSTATION.*** A structure containing apparatus that connects below- or above-ground electrical collection lines of the WECS to the electric utility grid, with or without increasing the voltage.

***WECS PROJECT.***  A WECS development consisting of two (2) or more WECS Towers.

***WECS TOWER.*** A free-standing or guyed support structure to which the rotor, nacelle and generator are attached.

***WECS TOWER HEIGHT.*** The distance from the rotor blade at its highest point to the top surface of the WECS Tower foundation.

***WIND ENERGY CONVERSION SYSTEM(S) (“WECS”).*** All necessary devices that together convert wind energy into electricity to an electric utility’s transmission lines, including but not limited to one or more rotors, nacelles, generators, WECS Towers, electrical components, WECS Tower foundations, Substations, electrical cabling from WECS Towers to Substations, meteorological towers, communications facilities, and other related facilities and equipment. (Commissioners Ord. 2009-5, passed 7-27-09)

**§155.04 APPLICABILITY AND SCOPE**

This Chapter governs WECS Projects that generate electricity to be sold to wholesale or retail markets, except owners of WECS with an aggregate generating capacity of 100 kilowatts (KW) or less and a WECS Tower height not exceeding 170 feet, who locate a WECS entirely on their own property. If a WECS Project is located or to be located partly in Montgomery County and partly in another county, this Chapter applies to the part of the Project located in Montgomery County. (Commissioners Ord. 2009-5, passed 7-27-09)

**§155.05 PROHIBITION**

Except as expressly provided otherwise herein, no person or entity shall construct or operate a WECS in Montgomery County without having fully complied with the provisions of this Chapter. (Commissioners Ord. 2009-5, passed 7-27-09)

**§155.06 ADMINISTRATION**

(A) *WECS Building Permit Required.* No person may construct or operate a WECS Tower within the corporate boundaries of Montgomery County unless a WECS Building Permit has been approved, financial assurances for decommissioning have been given pursuant to this Chapter, and an Economic Development Agreement and a Road Use Agreement (both as described herein) have been entered into by the Board and the Applicant, Owner or Operator.

(B) *Supercedure.* Nothing in this Chapter is intended to supercede any requirement of state or federal law, except that this Chapter may impose stricter requirements, in whole or in part, that may be imposed by any state or federal authority.

(C) *Powers and Duties of the Building Commissioner.* The Building Commissioner has the following powers and duties:

(1) To issue WECS Building Permits in accordance with the criteria set forth in this Chapter and Chapter 150 of this Code;

(2) To administer and enforce the provisions of this Chapter and all orders issued pursuant thereto;

(3) To conduct investigations and obtain data with respect to any aspect of any WECS regulated under this Chapter, and to collect and disseminate information regarding any WECS;

(4) To order suspension of operation of any WECS upon any repeated or willful violation of any of the provisions of this Chapter or when there is an imminent threat of substantial harm to the health, safety or welfare of Montgomery County residents, public or private property in Montgomery County, or natural resources;

(5) To accept grants or funds for p8urposes of administration of this Chapter and research into wind-generated electricity;

(6) To cooperate with any other governmental entity to further the purposes of this Chapter; and

(7) To collect fees from Applicants in accordance with this Chapter, as amended from time to time.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.07 WECS PROJECT APPROVAL**

(A) *Requirement.* No entity or person may construct, own or operate a WECS Project in Montgomery County without first obtaining WECS approval process, the following information shall be submitted to the Building Commissioner:

(1) *Project Description.* A narrative description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS Towers, and name plate generating capacity of each wind turbine generator; the maximum height of the WECS Towers and maximum diameter of the WECS rotor(s); the general location and total acreage of the WECS Project; and

(2) *Applicant, Owner and Operator.* Identification of the name, mailing address, email address, telephone number and brief description of each Applicant, Owner, and Operator, including their respective business structures; and

(3) *Property Owners.* Identification of the names, mailing addresses and tax parcel numbers of all property owners who will have WECS Towers, Substations, access roads or underground cabling located on their properties; and

(4) *Topographic Map.* A topographic map of the WECS project site and the surrounding area with contours of not more than five (5) foot intervals. If any WECS Tower is to be constructed within six (6) nautical miles from a public use airport, a map of sufficient scale depicting the airport and Towers shall also be provided; and

(5) *Site Plan.* A site plan submitted both on paper ( on one or more 36” x 24” sheets showing individual WECS Tower sites at a scale not greater than 1 inch = 20 feet), and on digital media in shapefile format and coordinate system State Plane Indiana West, NAD83. The site plan shall include:

(a) the proposed location of each WECS Tower, guy lines and anchor bases (if any);

(b) WECS access roads;

(c) Substations;

(d) electrical cabling;

(e) ancillary equipment;

(f) Primary Structures within one quarter (1/4) of one (1) mile of any WECS Tower;

(g) property lines, including identification of adjoining properties;

(h) setback lines;

(i) public roads, bridges, and drainage;

(j) location of all above-ground utility lines within a distance of two (2) times the WECS Tower Height of any WECS Tower;

(k) recognized historic or heritage sites within the WECS area, as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources;

(l) any wetlands within the WECS area, based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines;

(m) Location of existing underground utility lines associated with the WECS site;

(n) Location of any lay down yard to be used in construction; and

(6) *Jobs Estimate.* An estimate of the number of permanent jobs to be created in the County by the WECS Project; and

(7) *Estimated Project Budget and Construction Timetable.* A project budget to include the estimated investment in real and personal property, any applicable phasing of construction, and the estimated timetable for construction; and

(8) *Decommissioning Plan.* A Decommissioning Plan which satisfies the requirements of §155.15 of this Chapter; and

(9) *Financial Assurance for Property Owners.* An affidavit by the Applicant stating that all easements for WECS, Substations and underground cabling shall contain terms that provide financial assurance, including access to the savage value of the equipment, for the Participating Landowners to ensure that the WECS facilities will be properly decommissioned within twelve (12) months of termination or abandonment of the WECS.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.08 ECONOMIC DEVELOPMENT AGREEMENT**

(A) *Agreement Required.* No WECS Project shall be constructed or substantially modified unless the Applicant or Operator first enters into an Economic Development Agreement with the Board. The Economic Development Agreement shall provide for the following:

(1) Detailed description of the WECS Project;

(2) Detail of the timing of project implementation;

(3) Detail of economic development incentives provided to the Applicant or Operator by the County including, but not limited to:

(a) The level of Tax Abatement to be granted, if any, for consideration of the Road Use Agreement, and other benefits accruing to the County; and

(b) Other reasonable assistance to be provided by the County.

(4) Payment(s) to be made by the Applicant or Operator to the County in consideration for the possible elimination or restriction of other new residential, agricultural, recreational or commercial/industrial development resulting from the development of the wind farm (“Economic Development Payments”).

(5) Allowance for the payment in lieu of property taxes (“PILOT”) in the event of any change in law, rules, or regulations which would exempt any or all of the investment in the WECS by the Applicant or Operator.

(6) *Jobs Estimate.* An estimate of the number of permanent jobs to be created in the County by the WECS Project; and

(7) *Estimated Project Budget and Construction Timetable.* A project budget to include the estimated investment in real and personal property, any applicable phasing of construction, and the estimated timetable for construction; and

(8) *Decommissioning Plan.* A Decommissioning Plan which satisfies the requirements of §155.15 of this Chapter; and

(9) *Financial Assurance for Property Owners.* An affidavit by the Applicant stating that all easements for WECS, Substations and underground cabling shall contain terms that provide financial assurance, including access to the savage value of the equipment, for the Participating Landowners to ensure that the WECS facilities will be properly decommissioned within twelve (12) months of termination or abandonment of the WECS.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.08 ECONOMIC DEVELOPMENT AGREEMENT**

(A) *Agreement Required.* No WECS Project shall be constructed or substantially modified unless the Applicant or Operator first enters into an Economic Development Agreement with the Board. The Economic Development Agreement shall provide for the following:

(1) Detailed description of the WECS Project;

(2) Detail of the timing of project implementation;

(3) Detail of economic development incentives provided to the Applicant or Operator by the County including, but not limited to:

(a) The level of Tax Abatement to be granted, if any, for consideration of the Road Use Agreement, and other benefits accruing to the County; and

(b) Other reasonable assistance to be provided by the County.

(4) Payment(s) to be made by the Applicant or Operator to the County in consideration for the possible elimination or restriction of other new residential, agricultural, recreational or commercial/industrial development resulting from the development of the wind farm (“Economic Development Payments”).

(5) Allowance for the payment in lieu of property taxes (“PILOT”) in the event of any change in laws, rules, or regulations which would exempt any or all of the investment in the WECS by the Applicant or Operator.

(6) Any other general provisions deemed necessary and agreed to by the Applicant or Operator and the Board.

(7) Payments to be made by the Applicant or Operator for the use, repair, and modification of County roads and County drainage system necessary to accommodate the WECS Project (to be detailed in a Road Use Agreement between the Applicant or Owner and the County).

(8) Description of other incentives and benefits provided to the Applicant or Operator by any other governmental agency.

(B) *Agreement Individually Negotiated.* The Economic Development Agreement will be negotiated for each WECS Project between the Applicant, Owner or Operator and the Board based on the Project scope and specifics of each WECS Project in the County.

(Commissioners Ord. 2009-5, passed 7-29-09)

**§155.09 COUNTY ROADS AND DRAINAGE**

(A) *Agreement Required.* No WECS Project shall be constructed or substantially modified unless the Applicant or Operator first enters into a County Road Use and Drainage Repair Agreement with the Board. The County Road Use and Drainage Repair Agreement shall provide for the following:

(1) A detailed map indicating any County road to be utilized for construction, operation, maintenance, or decommissioning by the Applicant, Owner, or Operator; including any other County-owned or controlled property such as bridges, culverts, road shoulders, and intersections (“Designated Roads).

(2) Process for determining the existing condition of each Designated Road prior to any use by the Applicant, Owner, or Operator. Such process may involve video and/or textual narrative for each Designated Road, with the cost of such report to be borne by the Applicant, Owner, or Operator (a “Designated Road Condition Report”).

(3) Timelines for completing the Designated Road Condition Report, role of the Montgomery County Highway Superintendent (“Highway Superintendent”), and process for settling any disputes as to the Road Condition Report.

(4) Identification of any County-regulated drains that may be affected (“Drain Location Map”) by the Applicant, Owner, or Operator to be provided to the Montgomery County Drainage Board.

(5) Allowed Usage of the Designated Roads by the Applicant, Owner, or Operator as granted by the Board.

(6) Required improvements to the Designated Roads by the Applicant, Owner, or Operator as granted by the Board.

(7) Safety requirements, including:

(a) Speed limits,

(b) Directional and/or warning signage,

(c ) Notices to emergency agencies, school corporations, and other entities as deemed necessary for road closures that may be required.

(8) Dust control measures.

(9) Removal of temporary improvements.

(10) Designated road repair identification, repair, and cost responsibility.

(11) Performance assurances required of the Applicant, Owner or Operator.

(12) Applicable fines for non-compliance with the County Road Usage and Drainage Repair Agreement.

(13) Any other provisions deemed necessary and agreed to by the Applicant, Owner, or Operator and the Board.

(B) *Agreement Individually Negotiated.* A County Road Use and Drainage Repair Agreement will be negotiated for each WECS between the Applicant, Owner, or Operator and the Board based on the project scope and specifics for each WECS project in the County.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.10 WECS BUILDING PERMITS**

(A) *Building Permit Required.* No WECS Tower or Substation shall be constructed or substantially modified unless the Applicant or Operator first obtains a WECS Building Permit from the Building Commissioner, pursuant to Chapter 150 of this Code and the requirements of this Chapter.

(B) *Application for WECS Building Permit.* In addition to the requirements for a Building Permit under Chapter 150 of this Code, the Applicant shall provide the following information to the Building Commissioner.

(1) Location of all above-ground utility lines within a radius equal to two (2) times the heights of the proposed WECS Towers.

(2) Location of all underground utility lines associated with the WECS Tower sites.

(3) Dimensional representation of the structural components of the tower construction including the base and footings.

(4) Schematic of electrical systems associated with the WECS Towers including all existing and proposed electrical connections.

(5) Certificate(s) of design compliance that the relevant wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyd Wind Energie, or an equivalent third party, that the nacelle, rotor, generator and electrical components confirm to industry standards then applicable.

(6) Certificate by a Professional Engineer that the foundation and tower design of each WECS Tower is sufficient to withstand wind loan requirements for structure as defined by the International Code Council, and is within accepted professional standards, given local soil and climate conditions.

(7) Copies of all necessary recorded access easements and necessary recorded utility easements.

(8) A fire protection plan for construction and operation of the facility.

(9) To the extent applicable, a drainage plan for construction and operation approved by the Montgomery County Drainage Board.

(10) To the extent applicable, an erosion control plan approved by the Montgomery County Soil and Water Conservation District.

(11) Proof of compliance with the Indiana Tall Structures Act, I.C. 8-21-10.

(12) Any other information reasonably requested by the Building Commissioner. (Commissioners Ord. 2009-5, passed 7-27-09)

**§155.11 DESIGN AND INSTALLATION STANDARDS**

(A) *Electrical Components.*

(1) All turbines and other electrical components of the WECS Tower shall confirm to applicable local, state, and national codes, and relevant national and international industry standards. Used, experimental or prototype equipment shall not be installed or used as part of a WECS Tower without the prior written approval of the Building Commissioner.

(2) All electrical collection cables between WECS Towers shall be located underground unless they are located on public or utility rights-of-way or with prior written approval of the Building Commissioner. All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the Landowner until the same reach the property line or a Substation adjacent to the property line.

(3) No appurtenances other than those associated with the wind turbine operations shall be connected to any WECS Tower except with express, written permission by the Building Commissioner.

(B) *Controls and Brakes.* All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Stall regulation shall not be considered a sufficient braking system for over-speed protection. All mechanical brakes shall be operated in a fail-safe mode.

(C) *Color.* Except as otherwise required by FAA regulations, towers, and blades shall be painted white or gray or another non-obtrusive color. Finishes shall be matte or non-reflective.

(D) *Warnings.*

(1) A reasonably visible warning sign concerning voltage must be placed at the based of all pad-mounted transformers and Substations.

(2) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to at least fifteen (15) feet above the ground.

(E) *Climb Prevention.* All WECS Towers must include features to deter climbing or be protected by anti-climbing devices including at minimum the following:

(1) Locked WECS Tower doors to prevent unauthorized entry; and

(2) No outside ladders or stairways on any WECS Tower.

(F) *Blade Clearance.* The minimum distance between the ground and any protruding blade(s) utilized on a WECS Tower shall be fifteen (15) feet, as measured at the lowest pint of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

(G) *Noise and Vibration.* Noise levels generated by the operation of a WECS shall not exceed sixty (60) decibels measured from the nearest Primary Structure. Noise and vibration levels shall comply with all other applicable county, state and federal laws, ordinances or regulations.

(H) *Utility Interconnection.* The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility’s service regulations applicable to WECS, as amended from time to time.

(I) *Setbacks.*

(1) Except as otherwise provided herein, no WECS Tower shall be located within any of the following minimum setback distances:

|  |  |
| --- | --- |
| **Distance from …** | **Minimum Setback Distance** |
| Property line, measured from the center of the WECS Tower to the property line | 1.1 times the WECS Tower Height |
| Residences, measured from the center of the WECS Tower to the nearest corner of the structure | Not less than:  (i) 1,000 feet from Residences of Participating Landowners; or Participating Landowners; or (ii) 1,300 feet from Residences of Non-Participating Landowners |
| Road or street rights-of-way, measured from the center of the WECS Tower to the nearest edge of the right-of-way | 1.1 times the WECS Tower Height, or 350 feet, whichever is greater |
| Railroad rights-of-way, public utility easements, or underground pipeline easements, measured from the center of the WECS Tower to the nearest edge of the right-of-way or easement | 1.1 times the WECS Tower Height, or 350 feet, whichever is greater |
| Regulated drains subject to jurisdiction of the Montgomery County Drainage Board pursuant to I.C. 36-9-27, measured from the nearest edge of the WECS Tower foundation | 75 feet from (i) the center line of any tiled drain or (ii) the top edge of the nearest bank of an open drain |
| Sugar Creek, measured from the center of the WECS Tower to the nearest ordinary high water mark | 2,640 feet (1/2 mile) from the nearest “ordinary high water mark” as defined by 312 IAC 1-1-26 |
| Incorporated limits of a municipality, or boundary of a platted residential subdivision outside the corporate limits of a municipality, measured from the nearest edge of the WECS Tower foundation | 1,500 feet |
| State, county, city or town parks, measured from the center of the WECS Tower to the nearest point on the park boundary | 1,500 feet |

(2) No Substation shall be located nearer than 1,000 feet from any Residence. Participating Landowners may agree in writing to reduce the 1,000-foot Substation setback from Residences on their property. Any such written agreement shall be executed and acknowledge by all affected Participating Landowners, filed with the Building Commissioner and recorded in the office of the Recorder of Montgomery County.

(3) No WECS Tower of Substation shall be located within any dedicated public easement or public right-of-way.

(4) Adjacent Landowners may agree in writing to reduce the minimum setbacks from their common property lines. Any such written agreement shall be executed and acknowledged by all affected Landowners, filed with the Building Commissioner and recorded in the office of the Recorder of Montgomery County.

(5) New Residences built adjacent to or within the area of a WECS shall observe the minimum setback requirements set forth above for Residences.

(J) *Lighting.*

(1) Except with respect to lighting required by the FAA all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the WECS facilities.

(2) Any WECS Tower, Substation, underground cabling or other WECS facility declared to be unsafe by the Montgomery County Building Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the County Ordinances governing the removal of nuisances.

(K) *Water Wells and Septic Systems.* All WECS facilities shall comply with applicable septic and well regulation as required by the Montgomery County Health Department and the State of Indiana Department of Public Health.

(L) *Navigable Airspace.* No WECS Tower or Substation shall be located at a location or a height that is determined by the FAA to be an obstruction or a hazard to navigable airspace.

(M) *Compliance with Additional Regulations.* Nothing in this Chapter is intended to preempt other applicable state and federal laws and regulations.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.12 WASTE MANAGEMENT**

All solid waste whether generated from supplies, equipment, parts, packaging used or consumed in the construction, operation or maintenance of aWECS, including retired or replaced parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All hazardous waste generated by the operation and maintenance of a WECS, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.13 OPERATION AND MAINTENANCE**

(A) *Interference.* If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the Owner or Operator shall take reasonable steps to respond to resolve the interferences.

(B) *Coordination with Local Fire Department.*

(1) The Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.

(2) Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department’s emergency response plan.

(3) Nothing in this Section shall alleviate the need to comply with all other applicable fire laws and regulations.

(C) *Materials Handling, Storage and Disposal.*

(1) All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

(2) All hazardous materials or waste related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.14 LIABILITY INSURANCE**

The Owner or Operator of a WECS shall maintain a current general liability policy covering bodily injury and property damage and name the County as an additional insured with limits of at least two million dollars ($2,000,000) per occurrence and five million dollars ($5,000,000) in the aggregate, with a deductible of no more than five thousand dollars ($5,000). Such policy or policies shall be issued by insurer(s) reasonably acceptable to the Building Commissioner. The Owner or Operator shall provide the Building Commissioner or certificate or certificates of all such insurance in force from time to time. (Commissioners Ord. 2009-5, passed 7-27-09)

**§155.15 DECOMMISSIONING PLAN**

(A) Prior to receiving WECS Project approval or a WECS Tower Building Permit under this Chapter, the Applicant, Owner, and/or Operator must formulate a written Decommissioning Plan reasonably acceptable to and approved by the Board, to ensure that the WECS Project is properly decommissioned.

( B) Decommissioning shall include removal of WECS Towers (including foundations to the extent specified in Section 155.15(C) of this Chapter), rotors, nacelles, generators, above-ground wiring or cabling, electrical components, Substations, access roads and any other associated facilities.

(C) A Decommissioning Plan shall provide for removal of all WECS Tower foundations or footings to a depth of forty-eight inches (48”) beneath the soil surface, and restoration of the area occupied by the Project Improvements, including access roads, to as near as practicable to the same condition that existed immediately before construction of such improvements. Participating Landowners may waive in writing the requirement to remove access roads to WECS Towers on their property.

(D) A Decommissioning Plan shall also address the need for and planned use of County roads and infrastructure needed and necessary to carry out the Plan in a prompt manner. In order to protect and preserve the County’s roads and infrastructure, and to the extent not otherwise included in the County Road Use and Drainage Repair Agreement required under Section 155.09 of this Chapter, the Owner or Operator, prior to the commencement of decommissioning pursuant to the approved Decommissioning Plan, shall provide financial assurance in an amount reasonably acceptable to the Board to cover the cost of any damage to or destruction of County roads or infrastructure which may be caused by decommissioning of the WECS Towers or Project in accordance with the Decommissioning Plan.

(E) Prior to receiving WECS Project approval or a WECS Tower Building Permit, the Applicant, Owner or Operator shall submit to the Building Commissioner a contractor cost estimate for demolition and removal of the WECS improvements, and a detailed estimate of the salvage value of the WECS components. The cost estimate shall be provided by a competent and qualified party such as a Professional Engineer, a contractor capable and experience in WECS decommissioning, or other person(s) with relevant experience or expertise in WECS decommissioning reasonably acceptable to the Building Commissioner.

(F) The Applicant, Owner or Operator must provide financial assurance in an amount at least equal to the 125% of the amount of the demolition and removal contractor cost estimate minus the reasonable salvage value of the WECS components, in the form a surety bond, irrevocable letter of credit or other security reasonably acceptable to the Building Commissioner. No such surety bond or irrevocable letter of credit shall be released until the WECS is properly decommissioned in accordance with the Decommissioning Plan, as determined by the Building Commissioner.

(G) The amount of financial assurance agreed to by the Board and the Applicant, Owner or Operator shall be reviewed on each five-year anniversary of the date of the Decommissioning plan. As part of such review process, the Applicant, Owner or Operator shall submit to the Building Commissioner an updated cost estimate for demolition and removal of the WECS components, in accordance with Section 155.15(f) of this Chapter. If such updated cost estimate is in an amount greater than the original cost estimate submitted pursuant to Section 155.15(E), the Building Commissioner may order the Applicant, Owner or Operator to increase the amount of financial assurance so as to equal at least 125% of such updated cost estimate. If such updated cost estimate is in an amount less than the original cost estimate submitted pursuant to Section 155.15(E) of this Chapter, the Building Commissioner may permit the Applicant, Owner or Operator to decrease the amount of financial assurance, but not to an amount less than 125% of such updated cost estimate.

(H) A WECS, or any WECS Tower within a WECS project, shall be considered abandoned if it has not been operated for the generation of electricity for a continuous period of more than twelve (12) months. Upon abandonment of a WECS or WECS Tower, the Owner or Operator shall promptly proceed with decommissioning in accordance with the Decommissioning Plan approved by the Board.

(I) If an Owner or Operator fails, neglects or refuses to promptly commence or continue with decommissioning in accordance with the approved Decommissioning Plan, the Building Commissioner shall send written notice of such default to the Owner and Operator. Such notice shall provide the Owner and Operator a reasonable time, not to exceed ninety (90) days to either commence or resume decommissioning of the abandoned WECS or WECS Tower. Upon the failure, neglect or refusal of the Owner or Operator to commence or resume decommissioning within the time specified in such notice, the Building Commissioner may demolish and remove the abandoned WECS or WECS Tower according to the approved Decommissioning Plan, at the expense of the Owner or Operator. For such purposes, the Building Commissioner may enter upon any Participating Landowner’s property. To recover the cost of such demolition and removal, the Building Commissioner may proceed against the surety bond or other security provided by the Applicant to secure performance under the Decommissioning Plan. In addition to, and not in lieu of proceeding against the surety bond or other security, the Building Commissioner may, but shall not be required to, sell any salvage WECS property in any commercially reasonable manner, subject to the rights of any secured creditor holding a security interest in such property, and apply the net proceeds of any such sale toward the cost of such demolition and removal.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.16 VARIANCES**

(A) *Prior Approval Required.* No WECS may be constructed, modified or expanded without full and complete compliance with the requirements and standards contained in this Chapter, unless a variance is first granted by the Board.

(B) *Application for Variance.* The Applicant or Operator shall submit an Application for Variance, in the form prescribed by the Building Commissioner, for any variances sought in connection with a WECS. A single Application for Variance may be submitted for all variances sought. The filing fee for an Application for Variance shall be $250.00. In addition, the Applicant or Operator shall be responsible for all publication fees and postage costs for the publication and service of notices as required by this Chapter, as well as any other direct costs incurred by the County in consideration of the application for variance.

(C) *Action on Application.* All Applications for Variance shall be heard and determined by the Board in accordance with § 155.18.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.17 ENFORCEMENT**

(A) The Owner or Operator of a WECS shall submit, on an annual basis, a summary of the operation and maintenance reports to the Building Commissioner. In addition to the above annual summary, the Owner or Operator shall furnish such other operation and maintenance reports as the Building Commissioner reasonably requests.

(B) Any physical modification to a WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with the Building Commissioner to determine whether the physical modification requires re-certification.

(C) The Building Commissioner may and his or her staff, along with licensed professionals retained for the specific purpose of conducting inspections, may inspect any WECS facility upon twenty-four (24) hours prior notice, or without notice in the event of an emergency posing a threat of imminent harm to the environment or to the health, safety or general welfare of the public. If any Owner or Operator refuses the Building Commissioner access to a WECS for purposes of making an inspection, the Building Commissioner may order a suspension all WECS operations until such time as the inspection has occurred and the Building Commissioner is satisfied that no imminent threat of substantial harm to health, human safety or the environment exists, or that such threat has been eliminated.

(D) The fee for each inspection shall as determined by the Board time to time, and shall be payable by the Owner or Operator to the Building Commissioner, in addition to reimbursement to the County of the actual fees charged by licensed professionals retained by the Building Commissioner to conduct or assist with such inspection.

(E) If the Building Commissioner finds that any WECS facility is in violation of the requirements of this Chapter, he or she may order the Owner or Operator to take appropriate actions in order to bring facilities into compliance with this Chapter. Noncompliance with any such order is a separate violation of this Chapter in addition to the violation complained of.

(F) The Building Commissioner may also suspend or revoke a WECS Project approval or WECS Tower Building Permit for repeated or willful violation of any of the terms of the WECS Project approval or Building Permit or the provisions of this Chapter if the Building Commissioner determines there is an imminent threat of irreparable harm to the environment; or of serious hazard to the health, safety, and general welfare of the public.

(G) If a WECS Project Approval or WECS Tower Building Permit is revoked, the Building Commissioner may order the Applicant, Owner or Operator to commence decommissioning of the WECS upon 30 days notice.

(H) It is unlawful to violate any of the provisions of this Chapter, or fail to perform any duty imposed by this Chapter, or any order issued by the Building Commissioner. Any Owner or Operator found to have committed any such violation shall be subject to a penalty to be assessed by the Building Commissioner in an amount not to exceed $2,500 for each day such violation continues.

(I) In determining the amount of a penalty to assess under this Chapter, the Building Commissioner shall consider the Owner or Operator’s history of previous violations with respect to the WECS, the seriousness of the violation, including any irreparable harm to the environment and hazard to the health, safety, and general welfare of the public, the Owner or Operator’s negligence, and the demonstrated good faith of the Owner or Operator to achieve repaid compliance after notification of the violation.

(J) Upon the assessment of a penalty under this Chapter, the Building Commissioner shall immediately inform the Owner or Operator of the amount of the penalty assessed and issue an order to pay the penalty. The Owner or Operator shall have 30 days from the receipt of the order to pay the penalty or appeal the assessment pursuant to §155.18 of this Chapter.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.18 HEARINGS AND APPEALS**

The Board shall hear and determine (1) appeals from any order, requirement, decision, or determination made by the Building Commissioner under this Chapter or in relation to its enforcement, and (2) applications for approval of variances from the requirements of this Chapter.

(A) *Appeals from Decisions or Orders of Building Commissioner.*

(1) An appeal from a decision or order of the Building Commissioner must specify the grounds of the appeal and must be filed with the Board within thirty (30) days after the date of the decision or order being appealed.

(2) The Building Commissioner shall, on the request of the Board, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal is taken.

(3) Certified copies of the documents, plans, and papers constituting the record may be transmitted for purposes of subsection (2) above.

(4) Upon appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the Building Commissioner from which the appeal is taken.

(B) *Variances.* In determining whether to approve an Application for Variance, the Board shall make written findings whether the proposed variance satisfies each of the following criteria:

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(3) The need for the variance arises from some condition peculiar to the property involved; and

(4) The strict application of the terms of this Chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought.

(C) *Hearings*

(1) The Board shall fix a reasonable time for the hearing of appeals and Applications for Variances.

(2) Notice by publication in accordance with I.C. 5-3-1, and written notice to interested parties by certified mail, shall be given at least ten (10) days before the date set for the hearing.

(3) Interested persons shall include all Landowners owning real estate located within 1,000 feet of the property involved in the appeal or in the Application for Variance, and any other Landowner who files a written statement with the Building Commissioner of his or her claim of interest at least fourteen (14) days before the hearing. The Board may in its discretion designate additional interested parties.

(4) The party taking the appeal, or applying for the variance, shall assume the cost of publication and mailing of notice of the hearing.

(5) At the hearing, the party appealing or applying for the variance may appear in person, by agent, or by attorney.

(6) The Building Commissioner may appear before the Board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.

(7) Other persons may appear and present relevant evidence.

(8) No person may communicate with any member of the Board before the hearing with intent to influence the member’s action on an appeal or Application for Variance pending before the Board. Not less than five (5) days before the hearing, however, the Building Commissioner or any interested party may file with the Board a written statement setting forth any facts or opinions relating to the matter.

(9) The Board may require any party adverse to any appeal or Application for Variance to enter a written appearance specifying the party’s name and address.

(10) The Board shall hear and decide all appeals and Applications for Variance in an open public meeting, and each such decision shall be filed with the minutes of the Board’s meetings. (Commissioners Ord. 2009-5, passed 7-27-09)

**§155.19 JUDICIAL REVIEW.**

Each decision of the Board under §155.18 is subject to judicial review by certiorari. Any person, other than the Building Commissioner, who is aggrieved by a decision of the Board may file a verified petition for judicial review, alleging that the decision is illegal in whole or in part and specifying the grounds of the illegality. All petitions for judicial review must be filed with an Indiana state court of general jurisdiction sitting in Montgomery County, Indiana, within thirty (30) days after the date of the decision of the Board.

CHAPTER 157: PRIVATE SEWAGE DISPOSAL

**§157.01 DEFINITIONS**

The following definitions apply to this Chapter:

**(A) State Definition** means all definitions set forth in 410 IAC 6-8.2, as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference;

(B) **Board** means the Montgomery County Board of Public Health, Montgomery County, Indiana;

**(C) Building** meansa structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy or persons, fixtures or personal property, and from which there emanates any sewage;

**(D) Commercial** means any building which is not a one or two family dwelling;

**(E) Department** means the Montgomery County Health Department, and/or its employees;

**(F) Dwelling** means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used;

**(G) Environmental Health Specialist** means an individual as defined in Indiana Code

§ 25-32-1-1(B);

**(H) Health Officer** means the Director of Public Health for the Montgomery County Health Department, Montgomery County, Indiana, or his/her authorized representative.

(I) **Installer** means any person who constructs, installs, replaces, alters, modifies or repairs any residential or commercial sewage disposal system subject to the provisions of this Chapter, other than one which services his/her/its building. In the event that the person is any association of two or more people, then said association shall designate one individual who shall be designated as the installer and responsible for compliance with all provisions hereunder;

(J) **Legal Drain** means any tile or drainage-way regulated by the Montgomery County Surveyor;

(K) **Permit** means a certificate of a size and style approved by the Health Officer or his/her designee;

(L) **Permittee** means the person who is the owner of the real estate, his/her/its authorized representative, who is responsible for the application of a construction permit and who shall be responsible for the acceptance of notices at the address listed on the permit applications;

(M) **Public Sewer** means any sanitary sewer constructed, installed, maintained, operated or owned by a municipality, sewage district or utility company. A county legal drain, mutual drain or private drain installed for the sole purpose of carrying surface water runoff and subsoil drainage shall not be considered a public sewer under this definition;

(N) **Residential** means a building used or intended to be used as a one or two-family dwelling.

(O) **Sewage** means all water-carried waste derived from ordinary living processes. This

does include grey-water discharge;

(P) **Soil Scientist** means an individual who is a Specialist or Classifier of soils, certified by the Indiana Registry of Soil Scientists.

**§157.02 SEWAGE DISPOSAL**

(A) **State Rules:** All rules and regulations of 410 IAC 6-8.2, as amended from time to time, of the Indiana State Department of Health are hereby incorporated by reference.

(B) **Public/Municipal Sewer Available**: Whenever a public sewer is or becomes available within 300 feet of a residential or commercial building, a direct connection shall be made to said public sewer as defined under IC 36-9-23-30 subsection (b), provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatment facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

**(C) Public/Municipal Sewer Not Available**: All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.

**(D) Construction of Privy:** Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) must be approved by the Health Commissioner and maintained in accordance with this Chapter and Indiana law.

**(E) Correction of Defects:** Should any defect exist or occur in any private sewage disposal system or privy which would cause the sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Officer or his/her designee. Failure to correct the defect within the time table established by the Health Officer or his/her designee shall be considered a violation of this Chapter and shall subject the owner/permittee to the sanctions set forth in Section 157.10, subject, however, to the provisions of Section 157.09.

**(F) Adaptation of Residential System:** Whenever there is any alteration of the structure or significant change in the use or occupancy of a residential building which would affect the functioning of the existing private sewage disposal system, including the addition of a bedroom or bedroom equivalent, then the system shall be modified, enlarged or replaced in accordance with the requirements of this article. Plans for any such changes shall be submitted to the Montgomery County Health Department.

**(G) Adaptation of Commercial System:** Whenever there is any alteration of the structure or significant change in the use of occupancy of a commercial building which would affect the functioning of the existing private sewage disposal system, including but not limited to the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this Chapter. Any such changes will require Indiana State Department of Health approval and/or waiver.

**§157.03 CONSTRUCTION REQUIREMENTS OF PRIVATE SEWAGE DISPOSAL SYSTEMS**

**(A) Indiana State Department of Health Requirements:** All rules and regulations of 410 IAC 6-8.2 as amended from time to time, of the Indiana State Department of Health are hereby incorporated by reference.

**(B) Lot Dimensions:** Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated slight or moderate for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service, shall contain a minimum of one (1.0) acre or 43,560 square feet as per Montgomery County Code Section 152.52 (Lots; A;2) and suitable soils and topography to permit compliance with this Chapter.

**(C) On Site Evaluation:** At least three borings from the proposed septic disposal system location. One boring shall be done with a soil auger. The second sample from the proposed septic disposal system location, and any additional confirmation samples, may be taken with a push probe. Additional borings shall be required if the original proposed septic area soils are disturbed.

(D) **Requirements for Septic Tanks:** Residential tanks shall be of concrete construction. Residential septic tanks shall have the following capacity in gallons:

|  |  |
| --- | --- |
| **Number of Bedrooms** | **Size of tank (gallons)** |
| 1, 2 or 3 | 1,000 |
| 4 | 1,250 |
| 5 | 1,500 |
| 6 or more | 1,500 + 150 for each bedroom greater than 5 |

**(E) Distribution Boxes:** All distribution boxes shall be of concrete construction.

**(F) Access Openings:** All septic tanks shall have at least one (1) access opening per tank (or per compartment in two compartment tanks) of at least eighteen (18) inches in diameter, with a riser that extends to ground level for inspection and cleaning purposes. Such access opening shall be fitted with a safely secured, child proof, gas tight cover.

**(G) Abandoned Septic Tanks:** Abandoned septic tanks must be pumped, can have the top crushed in and shall be filled with sand or pea-gravel, as not to hold water or shall be removed.

**§157.04 Construction Permit**

**(A) Construction Permit Required:** An owner or permittee shall first obtain a construction permit (new, repair) from the Health Department prior to the commencement of any excavation, construction, modification or addition to any existing or new private sewage disposal system.

**(B) Permit to be Posted:** No person shall perform any work on a private sewage disposal system project unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the private sewage disposal system is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

**(C) Application for Permit:** The application for such permit shall be submitted to the Health Department on a form provided by the Health Department and shall be supplemented by any building plans, specifications and other information deemed necessary by the Health Department or as required by 410 IAC 6-8.2.

**(D) Permit Fees:** Prior to the issuance of any permit, each owner/permittee shall first tender to the Montgomery County Health Department, a fee or fees, which shall be deposited into the County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule:

|  |  |
| --- | --- |
| **Type of Permit** | **Fee** |
| Construction – new or replacement | $150.00 |
| Construction – repair or alteration | $100.00 |
| Construction – re-inspection | $25.00 |
| Construction – renewal | $25.00 |
| Abandonment – inspection | $25.00 |

**(E) Term and Renewal:** A construction permit shall be valid for two (2) years from the date of issuance. If the permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. The construction permit is not transferable.

**§157.05 REGISTRATION OF INSTALLERS**

(A) **Registration Requirements:** Except for a person working on his/her own private sewage disposal system which serves as the dwelling in which he/she resides, no person shall construct, install, replace, alter, modify or repair any private sewage disposal system unless that person has first registered with the Montgomery County Health Department as an installer. Application for registration shall be on forms provided by the Health Department.

**(B) Conditions for Registration:** Every person required to register under this section shall be knowledgeable of all laws, rules and regulations of both the state and county governing private sewage disposal systems. Prior to registration, the applicant must demonstrate knowledge of the applicable laws, rules and regulation by passing a proficiency exam conducted by the Health Department with a score of eighty percent (80%) or higher. The registration exam shall be reviewed from time to time to determine its applicability to current laws, rules and regulations. Where taking a written exam is not feasible, due to language or reading difficulties, arrangements will be made to allow for an oral examination to assure proficiency. Opportunity for re-examination shall be afforded to an applicant upon request, but not more than frequently than once per month.

**(C) Seminar:** At the request of the Local Board of Health, but not more often than once per year, a person registered under this section shall attend a seminar on sewage disposal conducted by the Montgomery County Health Department, Indiana State Department of Health, or IOWPA.

**(D) Expiration:** Registrations under this section shall expire annually on December 31. Each installer shall be required to re-register annually on or before January 15, 2012 and on or before January 15th of each succeeding year.

**(E) Annual Fee:** An annual registration fee of twenty-five dollars ($25.00) will be charged which shall be paid no later than January 31 of each year. If the annual fee is not paid on or before January 31 of each year, the fee will be fifty dollars ($50.00).

**(F) Notice of Violation:** Whenever the Health Department determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by an installer, the Health Department shall give written notice, in person or by certified mail, of the alleged violation to the installer. Such notice shall include the following:

(1) A statement of the alleged violation; and

(b) An order allowing a reasonable time for the performance of any act required to correct the violation.

**(G) Suspension or Revocation:** If the violation is not corrected within the designated time, the Health Department may suspend or revoke the installer’s registration subject to the provisions contained in Sections 157.02, 157.03, 157.04 or 157.09 of this Chapter.

(1) If the registration is suspended, the installer may be reinstated by the Health Department upon correction of all violations.

(2) If the registration is revoked, the Health Department shall require, at a minimum, that the installer:

(a) be retested;

(b) pay registration fee; and

(c) correct all outstanding violations to the satisfaction of the Health Department prior to being re-registered.

**(H) Not Registered:** Any person constructing, installing, replacing, altering or repairing,

any private sewage disposal system who is not registered as an installer under this section shall be deemed to be in violation of this Chapter and shall be subject to all penalties set forth in this Chapter.

(I) Testing Fees: The testing fee is twenty-five dollars ($25.00). If the installer is IOWPA certified, this fee is waived.

**§157.06 INSPECTIONS**

**(A) Commencement of Construction:** Upon issuance of a construction permit under Indiana Code §16-41 et seq. and Section 157.04 of this Chapter, the permittee may commence installation and construction of the private sewage disposal system. The Health Department may inspect the work at any state of construction.

**(B) Substantial Completion:** Upon substantial completion of the installation, the permittee shall notify the Health Department that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made.

(1) No portion of the installation shall be used and, when the system serves a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in full compliance.

(2) The inspection shall be made within two (2) working days of the Health Department’s receipt of notice that the system is ready for inspection.

**(C) Abandoned Tanks:** Upon substantial completion of the work required for abandonment of a septic tank, and prior to covering the tank, the owner/permittee/installer shall notify the Health Department that the work is ready for inspection and pay the inspection fee.

**§157.07 MAINTENANCE AND SAMPLING**

**(A) Sanitary Condition Mandatory:** Every private sewage disposal system will be constructed and maintained so that the effluent leaving the Permittee’s system will be sanitary.

**(B) Inspection and Sampling:** The Health Department will be permitted to enter upon any property at any reasonable time to inspect and take samples from a private sewage disposal system. If said test results should indicate a residential or commercial sewage disposal system failure, said failure will constitute a violation of Indiana Code §16-20 et seq.

**§157.08 ECONOMIC HARDSHIP**

**(A) Economic Hardship:**  In the event an owner/permittee is unable to comply with the provisions of Section 157.02 of this Chapter due to the economic hardship that might be imposed, then the Health Officer may, upon application and proof of inability to pay the cost of compliance, extend the period within which said owner/permittee shall be required to make the hook-up provided the owner/permittee has an existing private sewage disposal system which is operating properly.No extension or extensions may exceed 12 months in length.

**§157.09 DENIAL, SUSPENSION, REVOCATION**

**(A) Denial and Approval of Permit**

(1) In the event the Health Department determines that the application for the

Construction Permit does not meet the standards set forth in this article, then the Health

Department shall be required to notify the Permittee of such denial in person and/or in

writing, within thirty (30) days of the original application, stating the specific reasons for the

denial of the permit.

(2) In the event the Health Department issues written directives regarding corrective actions, then the Permittee shall have a reasonable amount of time to address and comply with the items set forth in the directives in order to be able to obtain the Construction Permit.

**(B) Suspension of Permit/Registration:** The Health Department may order the suspension of a Construction Permit or Installer Registration. The Health Department may order the suspension of a permit or registration for any of the following reasons:

(1) Failure to meet any of the standards of any of the provisions of this Chapter

or violations of any of provisions of this Chapter.

(2) Interference with Health Department personnel in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or preventing the Health Department personnel in the performance of his/her duties.

**(C) Revocation of Permit/Registration:** Any Permit and/or registration issued hereunder may be revoked by the Health Department as the result of the willful or continued violation of any provision of this Chapter.

**(D) Immediate Revocation:** Notwithstanding any of the other provisions of this Chapter, whenever the Health Department finds insanitary or other conditions, which, in its opinion constitute an imminent health hazard, the Health Department may, without notice or hearing, issue and serve a written order on the owner/permittee/installer requiring the immediate cessation of operation/installation. Said written order shall state the existence of the imminent health hazard and shall specify the corrective action to be taken. Such order shall be effective immediately.

**(E) Appeal**

**(1)** Any owner/permittee/installer aggrieved by any final order of the Health Officer

or designee is entitled to a review of the final order before the Commissioners of

Montgomery County, Indiana by filing a written request therefor with the Secretary for the

Board of Commissioners of Montgomery County within fifteen (15) days of the Health

Officer or designee’s final order.

(2) The Board of Commissioners shall conduct a hearing on the appeal within 30 days of the receipt of the appeal. The Board shall provide notice to the owner/permittee/installer at least 10 days prior to the hearing. The owner/permittee/installer is entitled to present evidence and be represented by an attorney at the hearing. Within 10 days of the hearing, the Board will make written findings of fact and enter its final order or determination of the matter in writing in its permanent records and mail a copy of its findings and final order or determination to the owner/permittee/installer.

**§157.10 PENALTIES**

**(A) Enforcement:** It shall be the duty of the Health Officer or his/her designee to enforce the provisions of this Chapter. Any Permit or registration issued in conflict with the provisions of this Chapter shall be null and void. A violation of an order issued by the Health Officer or designee or Health Board shall be considered to be a violation of this Chapter.

**(B) Violations:** Whenever the Health Officer or his/her designee determines that any owner, permittee, installer or any other person, is in willful violation of any of the provisions of this Ordinance, the Health Officer or his/her designee shall furnish evidence of said willful violation to the Prosecuting Attorney of Montgomery County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s).

**(C) Penalty:** Any person who willfully violates any of the provisions of this Chapter shall be subject to a fine of not more than $500.00 for each violation. Each day of the existence of any violation of this Chapter shall be considered to be a separate offense.

**(D) Injunction :** The Health Officer or designee may bring an action for an injunction in the Circuit or Superior Court of Montgomery County, Indiana to restrain any person from violating the provisions of this Chapter, or to cause such violation to be prevented, abated or removed.

**(E) Expense:** Any person violating any of the provisions of this Chapter shall be liable to the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney’s fees and court costs.

**(F) Cumulative:** The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.”

IT IS FURTHER ORDAINED that Chapter 150.06(A)(3) of Title XV of the County Code is hereby amended to read as follows:

“(3) No permits shall be issued for structures with sanitary facilities or required to

have sanitary facilities unless a permit or waiver is issued by the Montgomery County Health Department pursuant to Chapter 157 of Title XV.”

IT IS FURTHER ORDAINED that all ordinances or parts of ordinances in conflict herewith are hereby repealed. Any provisions of Title XV of the County Code which are not expressly amended, revised or replaced by this ordinance shall remain in full force and effect.

IT IS FURTHER ORDAINED that invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

IT IS FURTHER ORDAINED that this Ordinance shall become effective as of January 1, 2013.

Adopted this 24th day of September, 2012.

**TABLE OF SPECIAL ORDINANCES**

Table

**I. ECONOMIC REVITALIZATION AREAS**

**II. PURCHASES**

**III. VACATIONS OF PUBLIC WAYS**

**IV. INTERLOCAL AGREEMENTS**

**Table of Special Ordinances**

**TABLE I: ECONOMIC REVITALIZATION AREAS**

|  |  |  |
| --- | --- | --- |
| **Res./Ord. No.** | **Date Passed** | **Description** |
| Res. - | -- | Designation of certain area, petitioned for by Terra Products, Inc., as an economic revitalization area |
| Res. - | -- | Designation of certain area, consisting of 16 acres, as an economic revitalization area |
| Res. 10-85 | 12-2-85 | Designation of certain area, less than 5% of county territory, as an economic revitalization area |
| Res. 9-1987 | 8-24-87 | Designation of certain area, petitioned for by O’Brien Manufacturing Company, as an economic revitalization area |
| Res. 13-1987 | 10-27-87 | Designation of certain area, petitioned for by Raymark Industries, Inc., as an economic revitalization area |
| Res. 14-1987 | 10-12-87 | Designation of a certain area, petitioned for by Hudson Machine Tool, Inc., as an economic revitalization area |

**TABLE II: PURCHASES**

|  |  |  |
| --- | --- | --- |
| **Res./Ord. No.** | **Date Passed** | **Description** |

Res. - -- Purchase of real estate for the preservation of public health and safety

|  |  |  |
| --- | --- | --- |
| 2012-6 | 6-25-12 | The right of way along County Road 325 West, between 2717 South, County Road 325 West and 2759 South, 325 West. |
| 2012-9 | 7-23-12 | The alley in the unincorporated Town of Parkersburg, between 11469 South State Road 231 and 11477 South State Road 231. |
|  |  |  |
| 2012-11 | 9-24-12 | A portion of County Road 550 South, beginning at a point at which the County Road traverses parcel 14 east of the Miles’ residence located at 8253 West, County Road 550 South, and ending at the east boundary of the Miles’ property. |
|  |  |  |
| 2012-12 | 9-24-12 | A portion of County Road 550 South and County Road 800 West, beginning at a point on the West boundary of the Sinhas’ property and ending at the north boundary of the Sinhas’ property. |
|  |  |  |
| 2012-14 | 10-29-12 | The alley in the unincorporated Town of Linnsburg, west of lots 19 and 20 of Clements & Lee’s Addition. |
|  |  |  |
| 2011-10 | 07-11-11 | A portion of Water Street in the unincorporated area known as Browns’ Valley which is immediately west of lot 45 and immediately east of lot 46. |
|  |  |  |
| 2011-13 | 10-10-11 | A portion of Clay Street in the unincorporated area known as May, which is immediately south of State Road 136 to the southern terminus of Clay Street. |

**TABLE III: VACATIONS OF PUBLIC WAYS**

|  |  |  |
| --- | --- | --- |
| **Ord. No.** | **Date Passed** | **Description** |
| - |  | Vacation of county highway |
| 9-85 | 11-25-85 | Vacation of public way |
| 89-10 | 11-6-89 | Vacation of county road |
| 90-2 | 7-11-88 | Vacation of public street |
| 90-3 |  | Vacation of public street |
| 92-3 | 4-6-92 | Vacation of platted easement |
| 98-7 | 11-17-98 | Vacation of public road |
| 99-3 | 8-3-99 | Vacation of county road |
| 4-2003 | 8-12-03 | Vacation of part of public street |
| 2006-08 | 4-11-06 | Vacation of public street |
| 2006-14 | 6-6-06 | Vacation of county road |
| 2008-07 | 4-14-08 | Vacation of public alley in Fredericksburg (Mace) |

**TABLE IV: INTERLOCAL AGREEMENTS**

|  |  |  |
| --- | --- | --- |
| **Ord. No.** | **Date Passed** | **Description** |
| Res. - | -- | Purchase of real estate for the  Preservation of public health and safety |
| 2-1991 | 6-17-91 | Formation of the West Central Indiana Joint Solid Waste District, including the counties of Montgomery, Hendricks, Morgan, Parke and Putnam |
| Ord. 2005-05 | 7-12-05 | Amending the West Central Solid Waste District Agreement |
| Res. 2006-07 | 12-12-06 | Authorizing Intergovernmental Cooperation Agreement for the Provision of Dispatching Services by the City of Crawfordsville |
| Commissioners Ord.  2008-03 | 2-25-08 | Amending the West Central Solid Waste District Agreement |