

# TITLE I: GENERAL PROVISIONS

## Chapter: 10. RULES OF CONSTRUCTION; GENERAL PENALTY

### Section

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### **§10.01 TITLE OF CODE**

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

### **§10.02 INTERPRETATION**

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

### **§10.03 APPLICATION TO FUTURE ORDINANCES**

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

**§10.04 CONSTRUCTION OF CODE**

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existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under law reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

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

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted.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

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

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designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of the code, as originally enacted, or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more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

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

All references to any section of this code refer to all subsequent amendments to that section unless otherwise provided. (I.C. 1-1-1-5)

**§10.05 RULES OF INTERPRETATION; DEFINITIONS**

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

- (1) Words and phrases shall be taken in their plain, ordinary and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.
- (2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of person, unless otherwise declared in the section giving the authority.
- (3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.
- (4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable

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

**COUNTY.** Montgomery County, Indiana

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

**MONTH.** One calendar month.

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

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

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

**WRITTEN** and **IN WRITING.**

- (1) Printing, lithographing or other modes of representing words and letters.
- (2) Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

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

**§10.06 SEVERABILITY**

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

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

- (1) The remainder is so essentially and inseparably connected with an so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or
- (2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.  
(I.C. 1-1-1-8)

**§10.07 REFERENCE TO OTHER SECTIONS**

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

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

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

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

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

#### **§10.09 ERRORS AND OMISSIONS**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any questions exists regarding the nature or extent of the error.

#### **§10.10 REASONABLE TIME**

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

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

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

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty,

forfeiture or liability incurred under the section unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability. (I.C 1-1-5-1)

#### **§10.12            LIMITATION PERIODS**

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

**Statutory reference:**

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

#### **§10.13            ORDINANCES UNAFFECTED**

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

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

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

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

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

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

- (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (I.C. 36-5-2-2)(Ord. 10, passed 1-17-80; Am. Ord., passed 1-1-85)
- (2) If a statutory cites is set for them as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further Information. Example:

**“§39.01 PUBLIC RECORDS AVAILABLE**

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

*Statutory reference:*

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

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

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

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

**§10.99 GENERAL PENALTY**

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

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

## CHAPTER 11: COUNTY BOUNDARIES

### Section

#### 11.01 Boundaries

#### **§11.01 BOUNDARIES**

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



**TITLE III: ADMINISTRATION**

Chapter

**30. ELECTION PROCEDURES**

**31. BOARD OF COMMISSIONERS**

**32. COUNTY COUNCIL**

**33. BOARDS, COMMISSIONS AND DEPARTMENTS**

**34. COUNTY EMPLOYEES**

**35. FINANCE AND TAXATION**

**36. COUNTY POLICIES**

**37. EMERGENCY MANAGEMENT**

**TITLE III: ADMINISTRATION**

**CHAPTER 30: ELECTION PROCEDURES**

Section

- 30.01 Purpose
- 30.02 Commissioner districts
- 30.03 Councilman districts

**§30.01 PURPOSE**

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

(1982 Code, § 1-3-1)

**§30.02 COMMISSIONER DISTRICTS**

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

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

- (1) *District One.* All that part of the county bounded and described by a line running as follows, to wit: beginning at the northeast corner of the county at the northeast corner of Section 1, Township 20 North, Range 3 West; thence west to the northeast corner of Section 2, Township 20 North, Range 4 West; thence south to the south boundary line of the county to the southeast corner of Section 35, Township 17 North, Range 4 West; thence east to the southeast corner of the county; thence due north to the place of beginning shall form and constitute District One for the purpose.
- (2) *District Two.* All that part of the county bounded and described by a line running as follows, to wit: beginning at the northeast corner of Section 2, Township 20 North, Range 4 West, on the north boundary line of the county; thence west to the northeast corner of Section 3, Township 20 North, Range 5 West; thence south to the south county line to the southeast corner of Section 34, Township 17 North, Range 5 West, thence east on the line to the southeast corner of Section 35, Township 17 North, Range 4 West; thence north to the place of beginning shall form and constitute District Two for the purposes.
- (3) *District Three.* All that part of the county bounded and described by a line running as follows, to wit: beginning at the northeast corner of Section 3, Township 20 North, Range 5 West, on the north boundary line of the county; thence west to the northwest corner of the county; thence with the west boundary line thereof south to the southwest corner of the county; thence east to the southeast corner of Section 34, Township 17 North, Range 5 West; thence north to the place of beginning shall form and constitute District Three for the purposes. (1982 Code, § 1-3-2) **Statutory reference:**  
Similar provisions, see I.C. 36-2-2-4

### §30.03 COUNCIL DISTRICTS

(A) **Establishment of Districts.** The County Executive shall, by ordinance, divide

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

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

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

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

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

- (1) *District One.* Coal Creek Township; Wayne Township; Union One and Two; and Crawfordsville One, Two and Nine.
- (2) *District Two.* Ripley Township; Brown Township; Scott Township; Union Five, Six, and Seven; and Crawfordsville Eight.
- (3) *District Three.* Madison Township; Sugar Creek Township; Franklin Township; Union Three; and Crawfordsville Three, Four, and Ten.
- (4) *District Four.* Walnut Township; Clark Township; Union Four; and Crawfordsville Five, Six, and Seven.  
(Similar provisions, see I.C. 36-2-3-4; Ord 2016-10, passed 3-28-16)

## CHAPTER 31: BOARD OF COMMISSIONERS

### Section

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

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

- (A) The three-member Board of Commissioners, elected under I.C. 36-2-2-2, is the County Executive.
- (B) A member of the Executive who wants to resign must send written notice to the President of the County Council. The Council shall then declare the office vacant.
- (C) The County Executive will meet during the first week of January each year to elect its President and Vice-President by a majority of the whole Executive and to conduct other business as may come before it.
- (D) The President and Vice-President shall serve for one year and until the election and qualification of their successors. The President shall preside over all meetings of the Executive and, by his or her signature thereto, shall authenticate all ordinances passed by the Executive in his or her presence. (1982 Code, § 1-4-1)

### **§31.02 MEETINGS**

- (A) The Regular meetings of the Executive shall be held on the second and fourth Monday of each month at 9:00 a.m. All meetings shall be held in the Commissioners Room in the Montgomery County Courthouse. When any meeting falls on a legal holiday, it shall be held at the same hour and place on the next day that is not a legal holiday.
- (B) Special meetings may be called by the Executive if the public interest requires. At least six days' notice of the special meeting will be given unless the meeting is called to deal with an emergency under I.C. 5-14-1.5-5. The notice must include a specific statement of purpose of the meeting and the Executive may not conduct any unrelated business at the meeting. (1982 Code, § 1-4-2) (Am.Ord. 2005-01, passed 1-18-05; Am. Ord. 2006-01, passed 1-10-06; Am. Order 2016-11, passed 3-28-16)

### **§31.03 LEGISLATIVE PROCEDURES**

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

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

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

(C) If only two members of the County Executive are present at a meeting of the Executive

and they disagree on a question that is before the Executive, the question shall be continued until the next meeting. (1982 Code, § 1-4-3)

Statutory reference:

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

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

## CHAPTER 32: COUNTY COUNCIL

### Section

32.01 County Council; Fiscal Body

32.02 Meetings

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

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

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

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

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

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

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

(1982 Code, § 1-6-1)

**§32.02 MEETINGS**

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

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

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

## CHAPTER 33: BOARDS, COMMISSIONS AND DEPARTMENTS

### Section

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

### **Cross-reference:**

Board of Zoning Appeals, see § 153.36

Emergency Management, see Chapter 37

Visitor and Convention Commission, see § 110.03

### **§33.01 DRAINAGE BOARD**

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



*Statutory reference:*

Indiana Drainage Law, see IC 36-9-27  
(Am. Commissioners Ord. 2005-6, passed 9-6-05; Am. Ord. 2006-05, passed 3-14-06;  
Am. Ord.)  
2006-06, passed 3-14-06; Am. Commissioners Ord. 2006-20, passed 12-19-06; Am.  
Commissioners Ord. 2008-9, passed 6-9-08)

### **§33.02 ECONOMIC DEVELOPMENT COMMISSION**

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

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

**Cross-reference:**

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

### **§33.03 SHERIFF'S MERIT BOARD**

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

(B) The Sheriff's Merit Board shall consist of five members, with three members appointed by the Sheriff and two members elected by a majority of members of the Sheriff's Department. All members shall serve for respective terms of one, two, three and four years, with renewal of expiring terms to be a term of four years. Payment for services shall be pursuant to statute or every day or fraction thereof and members shall meet upon

call of the Sheriff or the Chairperson of the Merit Board and the Board shall be and it is hereby empowered and authorized to establishing rules and regulations, define qualifications for members of the Sheriff's force and/or county police force, discipline the Sheriff's or county police 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 affect present appointments or abrogate any terms of appointment, obligation or rights under preexisting statutes.

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

#### **§33.04 PLAN COMMISSION**

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

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

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

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

(d) The County Agricultural Agent; and

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

(2) Initially, one citizen member shall be appointed for a term of one year; one citizen member shall be appointed for a term of two years; one citizen member shall be appointed for a term of three years; and the other two shall be appointed

for terms of four years. Each member's term expires on the first Monday of January of the first, second, third or fourth year, respectively after the year of the member's appointment. Thereafter, each term shall be for four years, expiring on the first Monday of January after the fourth year.

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

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

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

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

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

### **§33.05 SHERIFF'S RESERVE UNIT**

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

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

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

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

### **§33.06 CORRECTIONS ADVISORY BOARD**

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

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

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

race if a racial minority resides in the county and a member of that minority is willing to serve.

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

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

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

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

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

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

**Cross-reference:** Sugar Creek Zoning, see Chapter 153

### **§33.08 PUBLIC DEFENDER BOARD**

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

However, a member may not be a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.

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

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

### **§33.09 FLOODPLAIN COMMISSION**

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

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

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

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

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

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

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

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

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

(I) The Commission may institute the following:

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

(1) 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

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

### **§33.10 CORONER**

(A) Election.

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

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

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

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

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

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

(3) Performance of autopsies when requested or required as provided for by I.C. 36-214-6(d) and issue verdicts and written reports;

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

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

(2) *Certificate of Death.* Within 72 hours after being notified of the death, the coroner shall file with the person in charge of interment a coroner's certificate of death. If the cause of death is not established with reasonable certainty within 72 hours, the coroner shall file with the person in charge of internment a coroner's certificate of death, with the cause of death designated as "deferred pending further action". As soon as the coroner determines the cause of death, the coroner shall file a supplemental report indicating his exact findings with the local health officer having jurisdiction, who shall



make it part of his or her official records. A coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is at least one week old and not more than three years old unless an autopsy is performed at a county expense or an autopsy is not required under I.C. 36-2-14-6(e).

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

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

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

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

**(F) Finances.**

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

**(2) Fees.** The coroner may, with the approval of the County Council, establish user

fees to defray the cost of providing certain services. These fees must be reasonable in light of the actual cost of providing such services.  
(Ord. 2005-08, passed 9-20-05).

**§33.11 MONTGOMERY COUNTY REDEVELOPMENT COMMISSION**

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

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

**(C)** *Appointments to Commission.*

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

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

**(D)** *Qualifications.* All commission members must be at least eighteen (18) years of age and residents of the special taxing district. If a commission member ceases to be qualified, he or she forfeits his or her office.

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

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

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

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

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

(J) *Compliance and Authority.* The Montgomery County Redevelopment Commission shall comply with all statutes applicable to redevelopment commissions generally, including without limitation I.C. 36-7-14.  
(Commissioners Ord. 2007-4, passed 9-24-07; Amended, Ord. 2014-7, 1-13-15; Amd. Ord. 2016-23, passed 8-22-16)

**§33.12 CENTRAL COMMUNICATIONS CENTER**

- (A) There is established the Montgomery County Central Communications Center.
  - (B) The purpose of this department is to administer the countywide enhanced emergency telephone system, as provided for in Indiana Code 36-8-16, commonly referred to as the E-911 System.
  - (C) The Center will be administered by two boards:
    - (1) *Governing Board:* The Governing Board shall:
      - (a) appoint and supervise the Director of the Center, approve all budgets and contracts, appoint certain members of the Operations Board, and take other action necessary for the operation of the Center;
      - (b) be comprised of five members:
        - (i) President of the Board of County Commissioners;
        - (ii) One County Commissioner who is appointed by the President of the Board of County Commissioners;
        - (iii) the Mayor of Crawfordsville;
        - (iv) A member of the Crawfordsville City Council who is appointed by the City Council;
        - (v) A member of the County Council who is appointed by the County Council;
      - (c) Meet at least three times per year:
        - (i) In January to appoint the Director;
        - (ii) In June to approve the budget; and
        - (iii) In October to evaluate the Director.
- The Board may also meet at any other time as required.

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

- (a)** Have three purposes:
  - (i)** Establish written policies, procedures and protocols for the operation of the Center;
  - (ii)** Establish written policies designed to ensure that in the hiring, promotion, discipline and termination of employees, the employees shall have legal protections similar to those established for police and firefighters under Indiana's merit systems and serve as the merit board;
  - (iii)** Make recommendations to the Director regarding the operations of the Center.
- (b)** be comprised of seven voting members:
  - (i)** One township or town Fire Chief, nominated by the Township and Town fire chiefs in Montgomery County and appointed by the Governing Board;
  - (ii)** One representative of an ambulance service provider who is nominated by the ambulance service provider and appointed by the Governing Board;
  - (iii)** One town marshal nominated by the town marshals in Montgomery County and appointed by the Governing Board;
  - (iv)** The Crawfordsville Fire Chief or his or her designee;
  - (v)** The Crawfordsville Police Chief or his or her designee;
  - (vi)** The Montgomery County Sheriff or his or her designee; and
  - (vii)** One representative of the public and private agencies that provide emergency services in Montgomery County who is appointed by the Governing Board.
- (c)** Have five non-voting members:

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

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

(e) elect a Vice President.

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

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

(Ord. 2011-\_\_, passed 6-27-11)

**§ 33.13 MONTGOMERY COUNTY REDEVELOPMENT AUTHORITY**

(A) *Montgomery County Redevelopment Authority.* It is hereby established by the Montgomery County Board of Commissioners, by ordinance, the Montgomery County Redevelopment Authority.

(B) *Membership.* The Montgomery County Redevelopment Authority (“Authority”) consists of three members. The three members shall be appointed the Montgomery County Board of Commissioners. All members must reside in Montgomery County, Indiana.

(C) *Terms.* An Authority member shall serve for a term of three years.

(D) *Removal of Member.* An Authority member can only be removed by the Montgomery County Board of Commissioners for cause.

- (E) *Vacancies.* Any vacancy of the Authority shall be filled the Montgomery County Board of Commissioners.
- (F) *Oath.* An Authority member must execute the oath prescribed by Indiana Code § 5-4-1 before serving on the Authority.
- (G) *Salary.* An Authority member shall not receive a salary for service to the Authority.
- (H) *By-Laws.* The Authority may adopt By-Laws.
- (I) *Meetings.* The Authority must, at least, conduct an annual meeting in the month of January to elect officers and conduct the business of the Authority. The Authority may hold regular meetings on a date, time, and place as determined by the Authority. The Authority may hold special meetings called by the Authority President or any two members of the Authority. Each member must attend at least one meeting per year, in person.
- (J) *Authority Quorum; Participation; Voting.* To conduct official business of the Authority, all meetings must possess a quorum, consisting of a majority of the members. Electronic participation by a member is allowed if all participating members and the public physically present can simultaneously communicate with each other. If a member participates in a meeting of the Authority by electronic means, as provided in this Chapter, the member is counted as present for purposes of establishing a quorum and the member may participate in any final action taken at the meeting. However, if a member or members participate in a meeting by electronic means, at least one-third of members of the Authority must be physically present. All motions of the Authority must receive a majority vote of the members to pass. All votes must be by roll-call voting.
- (K) *Reports.* No later than April 15 of each year, the Authority must submit an annual report to the Montgomery County Board of Commissioners, the Montgomery County Council, and the Indiana Department of Local Government Finance. This annual report must include the following:
- (1) Revenues;
  - (2) Expenses;
  - (3) Fund Balances;
  - (4) Amount and Maturity Date of outstanding obligations;
  - (5) Amount paid on outstanding obligations; and,
  - (6) A list of all parcels included in each tax increment financing district allocation and the base assessed valuation and incremental assessed valuation for each parcel.
- (L) *Purposes.* Pursuant to Indiana Code § 36-7-14-11, the Authority may exist for the following purposes:

- (1) Financing, constructing and leasing local public improvements to the redevelopment commission (“RDC”).
- (2) Financing and constructing additional improvements to local public improvements owned by the Authority and leasing them to the RDC.
- (3) Acquiring all or a portion of one or more local public improvements from the RDC by purchase or lease and leasing these local public improvements back to the RDC, with any additional improvements that may be made to them.
- (4) Acquiring all or a portion of one or more local public improvements from the RDC by purchase or lease to fund or refund indebtedness incurred on account of those local public improvements to enable the RDC to make a savings in debt services obligations or lease rental obligations or to obtain relief from covenants that the RDC considers to be unduly burdensome.

(M) *Powers and Duties.* The Authority has the power to perform the following:

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire or equip local public improvements;
- (2) Lease those local public improvements to the RDC;
- (3) Sue, be sued, plead, or be impleaded. All actions against the Authority must be brought in the Circuit or Superior courts of Montgomery County;
- (4) Condemn, appropriate, lease, rent, purchase or hold any real or personal property needed or considered useful in connection with a local public improvement;
- (5) Acquire real or personal property by gift, devise, or bequest and hold or disperse of that property for the purposes authorized by Indiana Code § 36-7-14.5;
- (6) Enter upon any lots or lands for the purpose of surveying or examining the land to determine the location of a local public improvement;
- (7) Design, order, contract or construct, reconstruct or renovate any local public improvement or improvements;
- (8) Employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers or other like employees necessary for the construction of local public improvements or improvements to them.
- (9) Make and enter into contracts or agreements necessary or incidental to the performance of its duties or the execution of its powers under Indiana Code § 36-7-14.5;
- (10) Take any other action necessary to implement the Authority’s purposes;

(N) *Dissolution.* Whenever the Authority determines that:

- (1) The purposes for which it was formed have been substantially fulfilled; and,
  - (2) All bonds issued and other obligations incurred by it have been fully paid or satisfied or provision for the payment of the bonds and obligation have been made in accordance with the terms of the resolution of trust indenture securing them,
- the Montgomery County Board of Commissioners may declare the Authority dissolved. On the effective date of the dissolution, the title to all funds and other property vests in



the RDC. If, at the time of dissolution, the RDC is not in existence, then the title to all funds and other property vests with Montgomery County.

(Ord. 2018-9, passed 6-11-18)

**§ 33.14 MONTGOMERY COUNTY SOLID WASTE MANAGEMENT DISTRICT**

- (A) **Montgomery County Solid Waste Management District.** It is hereby established by the Montgomery County Board of Commissioners, pursuant to Indiana Code §13-21-3-1(b)(2) and by ordinance, that Montgomery County designates itself as a county solid waste management district, known as the Montgomery County Solid Waste Management District, effective January 1, 2021. The jurisdictional area of the District is all of Montgomery County.
  
- (B) **Board of Directors.** The Board of Directors of the Montgomery County Solid Waste Management District is the governing board of the District. The Board consists seven (7) members, including two (2) members appointed by the Board of Commissioners from the membership of the Board of Commissioners, one (1) member appointed by the Montgomery County Council from the membership of the Council, one (1) member who is the Mayor of the City of Crawfordsville, one (1) member appointed by the City of Crawfordsville City Council from the City Council's membership, one(1) member appointed by the Board of Commissioners who is a member of the legislative body of a town in Montgomery County who is appointed to represent the towns in the County, and one (1) additional member appointed by the Board of Commissioners from the membership of the Board of Commissioners.
  
- (C) **Terms.** All terms for members are co-extensive with the member's term in office in that body.
  
- (D) **Removal of Member of Board of Directors.** All members of the Board serve at the pleasure of their appointing authority.
  
- (E) **Solid Waste District Plan.** On or before May 1, 2021, the Board of Directors must submit a District Plan to the Commissioner of the Indiana Department of Environmental Management (IDEM). Within sixty (60) days of submission of the plan to the Commissioner, the District will present the Plan to the Board of Commissioners for approval.
  
- (F) **Vacancies.** If a vacancy occurs, the body that appointed the vacating member will fill the vacancy by appointment and notify the Board Chairperson of the appointment.
  
- (G) **Oath.** A member of the Board of Directors must take and execute the oath prescribed by Indiana Code § 5-4-1 before serving on the Board.

**(H) Officers.** At its organization meeting each year, the Board will elect a Chairperson, Vice Chairperson, and Controller. The Chairperson and Vice Chairperson must be members of the Board. The Controller may not be a member of the Board.

**(I) Controller Duties.** The Controller will:

- (1) Be the official custodian of all District money and, subject to the terms of a resolution or trust indenture under which bonds are issue, deposit and invest all District money in the same manner as other County money is deposited and invested, as provided by Indiana Code 5-13;
- (2) be responsible to the Board for the fiscal management of the District;
- (3) Be responsible for the proper safeguarding and accounting of the District's money;
- (4) Issue warrants approved by the Board after a properly itemized and verified claim has been presented to the Board on a claim docket. The Board may, by resolution, authorize the Controller to make payment of claims for payroll, State solid waste fees, and specified vendors without prior approval of claims.
- (5) make financial reports of District money and present reports to the Board for the Board's approval;
- (6) prepare the District's annual budget; and
- (7) perform any other duties prescribed by the Board which are consistent with Indiana law.

**(J) Solid Waste Management Advisory Committee.** Within thirty (30) days of the Board's establishment, the Board will appoint and convene a Solid Waste Advisory Committee.

**(1) Membership.** The Advisory Committee will consist of five (5) members. Two members must be members of the solid waste industry operating in Montgomery County. Three members must be members of the environmental community and other citizens who are knowledgeable and interested in environmental issue and who are not employed directly or indirectly by the solid waste industry.

**(2) Terms.** The terms of members of the Advisory Committee will be set by the Board.

**(3) Meetings:** The Advisory Committee must conduct at least two (2) joint meetings with the Board each year and at least two (2) other meetings each year. The Committee must allow public comment at all meetings.

**(4) Duties:** The Advisory Committee will:

- (a) study the subjects and problems specified by the Board and recommend to the Board additional problems in need of study and discussion;
- (b) report periodically to the Board;
- (c) study subjects not specified by the Board if the Advisory Committee determines a study is warranted and report to the Board;
- (d) review the annual budget and comment on the budget at a public meeting.

**(K) Annual Budget.** The annual budget of the District must be submitted to the Board of Commissioners and the County Council and approved by the Indiana Department of Local Government Finance.

**(L) Powers.** The Board has all powers provided for by Indiana Code 13-21-3-12 and other provisions of Indiana law.

**(M) Annual Report.** Prior to March 1<sup>st</sup> each year, the Board must submit to the Indiana Department of Environmental Management, the Department of Local Government Finance, and the Board of Commissioners its annual report, as required by Indiana Code 13-21-3-13.5. The District will also publish its annual report on the County Website.

**(N) Salary.** Board members shall not receive a salary for service to the Board.

**(O) By-Laws.** The Board will adopt By-Laws for the governance and procedures for hearings.

**(P) Meetings.** The Board will conduct its annual meeting on the second Monday in January at 10 a.m. The Board will meet monthly thereafter on a date and at a time selected by the Board at its annual meeting.

**(Q) Authority Quorum; Participation; Voting.** To conduct official business of the Board, all meetings must possess a quorum, consisting of a majority of the members. A majority vote of the members is required for action by the Board.

(Ord. 2020-31, 9-22-2020).

### **§33.14 MAPPING DEPARTMENT**

**(A) Establishment.** There is established the Montgomery County Mapping Department.

**(B) Purpose.** The purpose of the Mapping Department is to administer the Geographic Information System Mapping Technology (GIS) mapping services, other mapping services and to administer the Address Confidentiality Policy and Address Numbering System of the Montgomery County government;

**(C) Director.** The Mapping Department will be supervised and managed by a Director who will be appointed by the Board of Commissioners. The Director will have all of the duties and responsibilities provided for in the job description approved by the Board of Commissioners. The Director will report to the County Administrator. The Director serves at the pleasure of the Board of Commissioners.

**(D) Administration of Address Confidentiality Policy.** The Director will administer the Montgomery County Address Confidentiality Policy, as provided for by Indiana Code §36-1-8.5 and Section 36.32 of the Montgomery County Code of Ordinances.

**(E) Administration of Address Numbering System.** The Director will administer the Montgomery County Address Numbering System Policy, as provided for in Section 90.15 to Section 90.26 of the Montgomery County Code.

(Added by Ordinance 2020-38, adopted 10- 26-2020).

### **§33.15 ENGINEERING DEPARTMENT**

**(A) Establishment.** There is established the Montgomery County Engineering Department.

**(B) Purpose.** The purpose of the Engineering Department is to provide engineering services and advice to the Highway Department, Building Department, Mapping Department, Surveyor and other departments, officers, boards, commissions and agencies of the County government. These services include, but are not limited to the administration of projects assigned by the County Administrator for roads, bridges, storm water, drainage, infrastructure, facilities and other projects, engineering services when such services are required or advisable, the administration of state and federal contracts as the employee responsible under the terms and conditions of such funding agreements, and engineering advice to the various departments, officers and agencies of the County when assigned or requested;

**(C) Director.** The Engineering Department will be supervised and managed by a Director who will be appointed by the Board of Commissioners and who is a licensed professional engineer in the State of Indiana. The Director will have all of the duties and responsibilities provided for in the job description approved by the Board of Commissioners. The Director will report to the County Administrator. The Director serves at the pleasure of the Board of Commissioners.

(Added by Ordinance 2021-1, adopted January 25, 2021)

## CHAPTER 34: COUNTY EMPLOYEES

### Section

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

### **Appendix A:** Montgomery County Employees Personnel Policy Manual

#### **§34.01 EMPLOYEE HANDBOOK**

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

#### **§34.02 PAY PERIOD**

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

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

#### **§34.03 SICK LEAVE**

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

#### **§34.04 PERSONAL BUSINESS**

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

**§34.05 PAYROLL WITHHOLDING**

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

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

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

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

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

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

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

(C) *Prepaid Legal Services.* The Auditor is authorized to withhold from the wages and salaries of employees who execute written authorizations which provide for payment for 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 PROCEDURE FOR CERTAIN EMPLOYEES**

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

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

**(a)** Demotion;

**(b)**        Failure to receive a promotion;

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

**(d)**        Termination.

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

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

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

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

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

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

#### **§34.07 SHERIFF'S DEPARTMENT DEFERRED COMPENSATION PLAN**

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

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

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

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

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

#### **§34.08 CREDIT CARD RULES**

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

(B) As authorized by the County Commissioners, the Auditor shall negotiate with banks and other financial institutions and with suppliers and service providers to the



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

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

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

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

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

**(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:
- i a claim form for the charges made signed by the employee;
  - ii original receipts and/or invoices for the charges; and
  - iii any other documentation requested by the County which supports the claim.
  - iv 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:
- i personal use;
  - ii purchase of alcohol;
  - iii any illegal purpose;
  - iv to bypass, the County's accounting system or purchasing policies.

(Ord. 2011-\_\_\_, passed 11-28-11)

#### **§34.09 COUNTY ADMINISTRATOR**

The Board of Commissioners hereby creates the position of County Administrator, as provided for in Indiana Code §36-2-2-14. The Board may from time-to-time appoint a County Administrator. The County Council will appoint two of its members to serve with the Commissioners and participate in the interview of prospective candidates for the position. The County Administrator serves at the pleasure of the Board of Commissioners. The County Administrator is the administrative head of the County government under the supervision of the Board of Commissioners. The County Administrator has all of the powers and duties assigned by the Board, including:

- (C) assist in the administration and enforcement of policies and resolutions of the Board;
  - (D) supervise the activities of county government subject to the control of the Board;
  - (E) attend meetings of the Board and the County Council;
  - (F) recommend measures for adoption to the Board;
  - (G) prepare and submit reports that the Administrator considers advisable or that the Board requires;
  - (H) keep the Board fully advised on the financial condition of the county;
  - (I) prepare and submit a budget for each fiscal year;
  - (J) perform other duties as provided for in the Administrator's job description or as requested by the Board.
- (Ord. 2019-10, passed 4-22-19).

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

(Amended Commissioners Ord. 2010-5, adopted 12-30-10; amended by Ord. 2018-13;  
2018-12)

MONTGOMERY COUNTY EMPLOYEES' PERSONNEL POLICY MANUAL

Adopted By: Montgomery County Board of Commissioners

December 30, 2010

And

Montgomery County Council

October 24, 2006

Original effective: January 1, 2007

Amended: January 1, 2011

Amended: May 9, 2016

Amended: December 5, 2016

Amended: August 21, 2018

Amended: February 25, 2019

Amended: November 23, 2020

Amended: January 25, 2021

## IMPORTANT NOTICE

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

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

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

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

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

## USE OF THIS HANDBOOK

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

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

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

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

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

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## **1. THE EMPLOYMENT RELATIONSHIP**

### **1.01 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

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

### **1.02 IMMIGRATION LAW COMPLIANCE**

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

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

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

### **1.03 HIRING PROCESS**

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

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

- Complete a County standard application for employment; and
- Provide proof of a valid Indiana Driver’s License.

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

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

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

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

#### **1.04 EMPLOYMENT AT WILL**

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

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

#### **1.05 EMPLOYEE CLASSIFICATIONS**

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

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

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

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

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

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

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

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

**1.05.2.5 TEMPORARY FULL TIME** – All employees of the County who are employed as full-time employees as part of a grant or other special program which has a limited period of time for such full-time position. The employee has no expectation of continued employment at the end of the grant period or special program period. At the time of commencement of employment, the temporary full-time employee will acknowledge the limitation of the period of employment and will not be eligible for unemployment compensation at the end of the applicable program period.

## 1.06 NEPOTISM

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

**1.06.1.1 Direct Line of Supervision:** The phrase "direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The phrase does not include the responsibilities of the County Council to make decisions regarding salary ordinances, budgets or personnel policies of the County;

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

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

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

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

**1.06.3 Application of Policy to Relatives of Elected Officials:** Unless a specific exemption applies, this policy applies to an individual who is employed by the County on the date the individual's relative begins serving a term of an elected officer of

the County. When the elected official begins serving a term of elected office, the relative employed by the County may remain employed by the County and maintain his or her position or rank. However, the relative of the elected official may not be promoted to a position that results in one relative being in the direct line of supervision of the other relative. For an individual who is a member of a merit police department, the individual may not be promoted to a position that is not within the merit ranks if the promotion would result in the individual being in the direct line of supervision of the other relative. This policy does not abrogate or affect an employment contract with the County that an individual is a party to and is in effect on the date the individual's relative begins serving a term of an elected office of the County.

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

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

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

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

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

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

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

Nepotism Policy under Indiana Code § 36-1-20.2 and § 36-1-21.

**1.06.5.2 Annual Certification:** Each elected official of the County will annually certify in writing, subject to the penalties of perjury, that the officer has not violated Indiana Code § 36-1-20.2. This certification will be submitted to the President of the Board of Commissioners not later than December 31 of each year;

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

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

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

- (a) The Commissioner files with the Auditor at a public meeting of the Board of Commissioners prior to final action on the contract or purchase a full disclosure which must:
  - (i) be in writing;
  - (ii) describe the contract or purchase to be made by the -County;
  - (iii) describe the relationship that the Commissioner has to the individual or business entity that contracts or purchases;
  - (iv) be affirmed under the penalty for perjury;
  - (v) be filed, not later 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 Commissioners accepts in a public meeting the disclosure prior to final action on the contract or purchase;
- (d) The County satisfies any other requirements under the public purchasing and bidding laws contained in Indiana Code § 5-22 or § 36-1-12;
- (e) The Commissioner must also comply with the disclosure laws of Indiana Code § 35-44-1-3, if applicable.

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

## **1.07 JOB DUTIES**

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

## **1.08 PERFORMANCE MANAGEMENT**

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



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

## **2. COMPENSATION**

### **2.01 HOURS OF WORK**

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

2.01.2 Administrative Employees: Regular hours for non-police full-time employees is thirty-seven and one-half (37.5) hours per workweek, except for employees of the Highway Department who work forty (40) hours per week. For purposes of compensation, the work week shall be from 12:00 a.m. on Thursday through 11:59 p.m. on Wednesday. County Offices will be open from 8:00 a.m. to 4:30 p.m. Monday through Friday. Supervisors shall ensure that there is adequate office coverage during these hours.

2.01.3 Police Officers: Regular hours for Police Officers will vary number of hours each week, but should not exceed 84 hours in a fourteen (14) day period. The Police Department is open at all times, but the office will be open from 8:00 a.m. to 4:30 p.m. Monday through Friday. The Sheriff will ensure that there is adequate coverage in the Police Department.

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

## **2.02 TIMEKEEPING REQUIREMENTS AND PAYDAYS**

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

## **2.03 OVERTIME**

**2.03.1 Administrative Employees:** The Department Head or Supervisor shall establish the hours of work for each employee under his/her supervision which shall be determined in accordance with the needs of the County services, and which shall take into account the reasonable needs of the public, who may be required to do business with various County departments. Supervisors shall establish the hours of work for each employee under his/her supervision. If a non-exempt employee's regular work week consists of 37.5 hours, and the employee is then authorized work greater than 37.5 hours but less than 40 hours, any time worked which is more than 37.5 hours, but not more than 40 hours during a work week is known as "gap time." Non-exempt employees who work gap time will be paid at their normal hourly rate for the hours worked or awarded compensatory time at a rate of one hour of compensatory time for each hour of gap time, subject to the election of employees not to accept compensatory time, as provided for in Subsection 203.4 of this Section, as determined by the supervisors. If a non-exempt employee works more than 40 hours in one week, the employee is entitled to either overtime compensation or compensatory time, as provided for in Subsection 2.03.4 of this Section. The overtime compensation or award of compensatory time is determined by multiplying the hours exceeding forty (40) hours in the workweek by 1.5. Overtime requests shall use the County overtime form. Exempt employees are not eligible for gap time compensation, overtime compensation or compensatory time.

**2.03.2 Police Officers:** The Sheriff shall establish the hours of work for each police officer. Authorized overtime for all non-exempt police officers is time worked in

excess of 84 hours in a 14-day period. Non-exempt police officers who work more than 84 hours in a 14-day period will be paid overtime. The standing order of the Sheriff is that no compensatory time is awarded for hours worked in excess of 84 hours in a 14-day period. The overtime compensation is determined by multiplying the hours worked in excess of 84 hours in a 14-day period by 1.5.

**2.03.3 Central Communication Center Employees:** The Director of the Central Communications Center will establish the hours of work for each employee under her supervision. If a non-exempt employee works more than 40 hours in a work week, the employee will be entitled to an award of overtime or compensatory time, subject to the election of employees to not accept compensatory time, as provided for in Subsection 2.03.4 of this Section. The overtime compensation or award of compensatory time is determined by multiplying the hours exceeding 40 hours worked in the work week pay period by 1.5. Exempt employees are not eligible for overtime compensation or compensatory time.

**2.03.4 Election by Employees to Decline Compensatory Time.**

**2.03.4.1 Administrative Employees:** On or before January 1<sup>st</sup> of each year, the Board of Commissioners shall provide to all non-exempt administrative employees a Notice of Overtime Compensation (hereinafter the “Notice”). The Notice shall advise eligible employees that compensatory time will be provided for all authorized overtime in lieu of paid overtime. The Notice shall further advise eligible employees that their consent to receive compensatory time in lieu of paid overtime will be assumed, as a condition of employment, unless the employee provides written notice to the contrary to the Board of Commissioners. This Notice is Form A-4 in the Appendix.

**2.03.4.2 Police Officers:** No election to decline compensatory time is necessary for Police Officers because the Sheriff does not award compensatory time.

**2.03.4.3 Central Communications Center Employees:** On or before January 1<sup>st</sup> of each year, the Director of the Central Communications Center will provide to all non-exempt employees a Notice of Overtime Compensation (hereinafter the “Notice”). The Notice will advise eligible non-exempt employees that compensatory time will be provided in lieu of paid overtime. The Notice will further advise these employees that their consent to receive compensatory time in lieu of paid overtime will be assumed, as a condition of employment, unless the

employee provides written notice to the contrary is delivered to the Director. This Notice is Form A-4 in the Appendix.

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

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

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

1. compensatory time used;
2. Family Medical Act Leave;
3. military leave; and,
4. disability leave (which is not taken as sick leave or PTO leave).
5. pandemic leave;
6. Families First Coronavirus Recovery Act emergency sick leave;
7. Emergency Family Medical Leave Act leave.

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

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

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

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

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

**2.03.6 Compensatory Time Limitation and Carry Forward:** Accrued compensatory time may be accumulated up to 40 hours for administrative employees and 80 hours for employees of the Central Communications Center. Accrued compensatory time should be used by the end of each calendar year. If work demands prevent the use of accrued compensatory time by the end of the calendar year, employees may carry unused compensatory time to the next calendar year, but supervisors should schedule work in the following year in a manner to use the compensatory time carried over within the first six months of the next calendar year. All accrued compensatory time at the time of retirement, resignation, promotion to an exempt position or termination will be paid in the next payroll cycle.

**2.03.7 Employee Roster & Pay Schedule (ERPS) System:** In 2018, the Montgomery County Council has adopted the Employee Roster & Pay Schedule (ERPS) system for compensation. This system is was used to determine the compensation of the employees for 2019. The following rules apply to the implementation of the system:

**2.03.7.1 ERPS Review Committee:** The Board of Commissioners will appoint three (3) persons to serve on the ERPS Review Committee. The purpose of this Committee is to consider requests for changes in compensation and recommend action on such requests for the County Council, to recommend compensation to the Council for newly created positions, and to make recommendations to the Council and Board of Commissioners concerning compensation and benefit matters. The Committee will be comprised of one (1) Commissioner, and two (2) County Council members.

**2.03.7.2 Requests for Review:** Any department head may request that the compensation of an employee in his or her department be reviewed by the Committee by submitting to the County Administrator. All requests must be made in writing and must include a copy of the employee's job description, reason for request, and any other information the department head considers relevant to the review request. Within 30 days of receiving a request, the Committee will conduct a conference with the department head regarding the request. Within ten days of the conference, the Committee will make a written recommendation to the Council for its consideration and provide a copy of the recommendation to the department head making the request.

**2.03.7.3 Council Action:** The Council will consider the recommendation of the Committee at its next regular meeting. The decision of the Council regarding the request is final.

**2.03.7.4 Adoption of Compensation System:** Consistent with Indiana law, the County Council has the authority to adopt compensation systems, rules for compensation, and rules for the implementation of such systems.

**2.037.5 Employee Roster & Pay Schedule (ERPS) System:** The Montgomery County Council has adopted the Employee Roster & Pay Schedule (ERPS) system for compensation. This ERPS system is attached as Schedule 1.

## **2.04 FLEXIBLE SCHEDULING**

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

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

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

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

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

## **2.05 DIRECT DEPOSIT**

Employees are required to provide the Auditor all information necessary to facilitate the direct deposit of their payroll checks to a bank account in their name.

## **2.06 EMERGENCY DUTY PAY**

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

## **2.07 LONGEVITY PAY**

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

## **2.08 PAYROLL DEDUCTIONS**

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

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

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

## **2.09 COMPENSATION WHEN OFFICES CLOSED**

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

# **3. EMPLOYEE BENEFITS**

## **3.01 INTRODUCTION**

The County has established a variety of employee benefit programs. The descriptions of benefits in this Employee Handbook are intended as summaries for informational purposes only. This Employee Handbook does not change or otherwise interpret the terms of the official plan documents. In the event any information contained in this Employee Handbook is inconsistent with official plan documents, the provisions of the

official document will govern in all cases. If federal or state law, rules, orders or regulations require a change to the benefits provided by the Town to employees, changes will be made to the benefits provided, and the provisions of this handbook will be deemed to have changed in order to comply with such law, rule, order or regulation.

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

### **3.02 INSURANCE**

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

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

### **3.03 RETIREMENT PLAN**

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

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

### **3.04 SUPPLEMENTAL INSURANCE**

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



### **3.05 WORKERS COMPENSATION**

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

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

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

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

In order to protect all employees, an employee must present to his/her supervisor a physician's statement releasing that employee to return to work following any injury or illness for which three or more consecutive scheduled working days have been missed.

This release must state whether the employee is able to work either (a) without limitation; or (b) with limitations, listing each limitation specifically.

### **3.06 OTHER BENEFITS**

The County provides group short term and long-term disability coverage for its employees. Certain eligibility rules apply under the terms of the policy. Employees should obtain a copy of the group plan if they have questions regarding the benefits of this insurance.

If an employee exercises his or her right to take disability leave, the employee must pay to the Auditor the employee's share of medical insurance premiums and other premiums which are normally deducted from the employee's pay. Failure to pay the employee's share will lead to the termination of the coverage for medical and other insurance which requires the payment by the employee of a portion or all of the premium.

### **3.07 ADDITIONAL BENEFITS**

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

## **4. GENERAL EMPLOYMENT POLICIES**

### **4.01 CODE OF CONDUCT.**

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

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

Employees may deal with plans, programs and information of significant public interest. Employees must not use this privileged information for their own financial advantage. If

an employee finds that he/she has an outside financial interest which could be affected by County's plans or activities, he/she must immediately report the situation to his or her supervisor. Use of privileged information for private gain is just cause for disciplinary action up to and including termination of employment.

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

- Theft or inappropriate use, removal or possession of property.
- Falsification or unauthorized tampering of County records or any records kept by the County.
- Working under the influence of alcohol or illegal drugs.
- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating County vehicles or equipment and/or any violation of the County's Drug and Alcohol Abuse Policy and Rules.
- Fighting or threatening employees or others while on the job.
- Boisterous or disruptive activity in the workplace.
- Insubordination or other disrespectful conduct.
- Careless or inappropriate operation of County vehicles or other equipment which risks or results in injury or damage to the property of the County or others.
- Violation of federal, state or local safety or health rules.
- Smoking in prohibited areas.
- Sexual or other unlawful or unwelcome harassment.
- Possession of dangerous or unauthorized materials, such as explosives, in the workplace.
- Violation of County ordinances or of federal or state laws.
- Making false or base statements, written or verbal, about other employees or County officials.
- Gambling during work hours or on County property.
- Receipt of any gifts or compensation, other than that received from the County, for services rendered on behalf of the County or during scheduled working hours.
- Engaging in any election activities or political campaign-related functions while on duty or while wearing a uniform of the County.
- Excessive absenteeism or tardiness or absence without notice.
- Unauthorized use of County equipment.
- Violation of departmental policies

- Unsatisfactory performance or conduct.
- Representing oneself as a County employee in order to aid in committing or attempting to commit a felony or misdemeanor.
- Unauthorized disclosure of any confidential County information.
- Immoral or indecent conduct or use of abusive language while on the job.
- Violation of the County's security rules, orders, regulations and directives.

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

#### **4.02 PRINCIPLES OF EMPLOYMENT.**

The job performance and personal conduct of each employee directly impacts the public's trust and the County's ability to achieve its mission of service to the community. Therefore, the following guidelines and principles have been adopted on a county-wide basis.

- Personnel actions, including recruitment, selection and advancement of employees shall be made on the basis of an individual's relative knowledge, skills and abilities.
- Employees are expected to render their best service to the County by reporting for work on time with the necessary equipment and by being properly attired to conduct their business.
- Employees are expected to notify their supervisors of conditions that would affect the performance of their duties. Employees who are unable to report to work as scheduled should contact their supervisor prior to the start of their work period. If employees must leave the work area during working hours, prior authorization should be obtained from their supervisor. Employees must receive permission from their supervisor before working overtime.
- While on the job, at the worksite or while on County property or in a County vehicle, employees may not drink alcohol, possess an open alcohol container, be under the influence of alcohol, smoke a tobacco product, or use, possess or test positive for a non-prescribed controlled substance. Using any other substance that inhibits the satisfactory performance of essential job functions should be brought to the supervisor's attention immediately.
- Employees are expected to be productive in the performance of their duties. They must demonstrate the ability and willingness to perform those duties in a satisfactory manner that conforms to the established standards, County policies and reasonable supervisory orders.

- Employees are expected to safeguard County equipment, facilities, records, supplies and funds against misuse, abuse, loss, damage, destruction or unauthorized use. Incurring a liability or expense in the name of the County without proper authorization is unacceptable.
- Employees of the County shall not use influence or position for the private advantage or personal gain of employee. Furthermore, employees shall not use physical County property or information for personal gain.
- Employees are protected against coercion for partisan political purposes and are free to exercise their rights as citizens. Employee shall refrain from participation in the management, affairs, or political campaign of any candidate for political office during work hours.
- Supervisors are expected to provide a positive work environment for employees. Supervisors should guide and direct employees in a manner that complies with established work standards and County policies. They are expected to take prompt corrective action when they observe improper performance or conduct.
- Public service and community expectations require compliance with federal, state, and local laws and regulations during both working and non-working hours. Non-compliance can damage the reputation of the County and have other serious consequences and will not be accepted.
- Employees must protect the security of confidential County information while conforming to public record laws. When questions arise, employees should ask their supervisor for assistance. Only the appointed spokesperson for the County should release information to the media.
- Employees shall not submit letters of endorsement for vendors doing business with the County.
- Employees are responsible for thoroughly acquainting themselves with the provisions of the Employee Handbook. Employees are expected to conduct themselves at all times in a way so as to effectively and efficiently carry out their responsibilities to the County and to the public.

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

#### **4.03 CONFIDENTIAL NATURE OF WORK.**

It is the responsibility of all County employees to safeguard confidential County information. Continued employment with the County is contingent upon compliance with this policy. Confidential information is defined as, but not limited to, trade secrets or confidential information relating to processes, customers, designs, drawings, marketing data, accounting, employee records, salary information, business plans and strategies, negotiations and contracts. No County employee may disclose confidential information or remove such information from the municipal building without written permission of the Board of Commissioners. If an employee is required to disclose confidential information because of a provision of federal or state law or court order, the disclosure will be treated as authorized.

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

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

#### **4.04 CONFLICTS OF INTEREST AND GRATUITIES**

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

1. Serving as an employee, officer, director, consultant or hold an elected office for any supplier of materials or services.
2. Soliciting or accepting anything of value, including a gift, loan, reward, promise of future employment, favor or service that is based upon any understanding that the action or judgment by the employee would be included.
3. Disclosing or using information not available to the general public, and gained by reason of an employee's official position or benefit, for the personal gain of any other person or business entity.
4. Using or attempting to use an employee's official position or any property or resource which may be within his or her trust, or perform his or her

official duties to secure a special privilege, benefit, or exemption for himself or herself or others.

5. Accepting any compensation, payment, or thing of value when the Employee knows or should have known that it was given to influence the action in which the employee was expected to participate in her or her official capacity. This includes items given to family members as well.
6. Accepting gifts, entertainment, or anything of value from any customer, or supplier of materials or services other than minor holiday gifts of a nominal nature. (Acceptance of nominal gifts in keeping with special occasions such as marriages, retirement, illness, unsolicited advertising or promotional materials or social courtesies which promote good public relations is permitted.)
7. Engaging in any business other than his or her regular County Duties during working hours.
8. Supervisors must avoid placing themselves in a position which could Interfere with, or create the impression of interfering with, the objective evaluation and direction of their subordinates. No supervisor shall accept gifts from subordinates, other than those of nominal value for special occasions, and no supervisor shall borrow money or accept favors from subordinates.

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

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

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

#### **4.05 ATTENDANCE**

To maintain a safe and productive work environment, Administrative employees are expected to be reliable and punctual in reporting to work. Absenteeism and tardiness place a burden on other employees and the County. An employee must fill in his or her own attendance records/timesheets when work starts and ends. Anyone attempting to sign any sheet or card other than his or her own may be subject to disciplinary action, up to and including termination. An employee who is absent without proper notification may be subject to disciplinary action. An employee is expected to be in his or her work area

and be ready to work at the designated time. Chronic lateness will not be tolerated and may result in disciplinary action, up to and including termination. In any unavoidable delay in reporting to work the employee shall call his or her supervisor or designee prior to the start of work. Punctuality is a critical part of performance and an employee who is late may be subject to disciplinary action up to and including termination. Supervisors are responsible for the attendance of all persons in their departments in accordance with the provisions of these Rules and Regulations. Attendance reports and time cards shall be submitted to the Department Head for Administrative Employees and to the Sheriff for employees of the Police Department for each party period. The Department Heads and Sheriff shall maintain complete attendance records for all employees and provide a copy to the Auditor for payroll purposes.

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

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

##### **4.06.1 Administrative Employees:**

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

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

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



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

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

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

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

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

#### **4.07 EMPLOYEE RECORDS**

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

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

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

- C. Information regarding the medical condition or history of an employee will be maintained in accordance with applicable federal and state laws and will be maintained in a separate file under the supervision of the Auditor.
- D. The personnel file of a terminated employee will be maintained in accordance with applicable state and federal laws.

#### **4.08 CHANGES TO PERSONAL INFORMATION**

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

#### **4.09 HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA) POLICY**

4.09.1 HIPAA Policy. The County will comply with all applicable portions of the Health Insurance Portability & Accountability Act of 1996 (HIPAA) in order to safeguard the protected health information of its employees and persons covered under the County's benefit plans and to comply with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rules) issued by the United States Department of Health and Human Services. For purposes of this policy, the term "protected health information" means any information that identifies the patient that relates to the patient's past, present or future physical condition, mental condition, or payment for medical expenses. In order to safeguard protected health information of its employees and persons covered under its benefit plans, do so, the County will take all steps necessary to reasonably safeguard protected health information from any intentional or unintentional use or disclosure that is in violation of the standards of HIPAA. The County has implemented a plan to reasonably safeguard protected health information. Employees or other persons who have complaints regarding the County's policies or procedures or conduct regarding its duties under HIPAA should submit a written complaint to his or her department head and to the County Administrator. Upon receipt of the complaint, the County Administrator will notify the County Attorney and the Grievance Committee (the Board of Commissioners). The Grievance Committee will respond to any such complaint within

ten (10) days of receipt of the grievance. The County's response will be in writing and will be delivered to the employee filing the complaint.

4.09.2 Discipline for Violating Policy. All employees have a duty to comply with this policy and to protect the protected health information of other employees and other persons covered under the County's benefit plans. Employees violating the County's policies, procedures and/or HIPAA will be subject to discipline for such violation.

4.09.3 Breach. To the extent that the County discovers a harmful effect of a violation of its policies and/or procedure, the County will take all necessary action to mitigate such effects.

4.09.4 No Retaliation. The County will not retaliate or intimidate any employee or other person who exercises his or her rights under the County's policies, procedures of HIPAA.

4.09.5 No Waiver of Rights. The County will not require an employee or other person covered under the County's benefit plan to waive his or her rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan or eligibility for benefits. In order to ensure that no waiver of rights is required under the County's health insurance plan, the County will review all enrollment materials.

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

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

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

**4.10.3 Proof of License and Insurance.** All employees who drive a motor vehicle in order to carry out their job duties for Montgomery County are required to have a valid operator's license, and on or before January 1 of each year, or at the time their employment begins if not employed on January 1, will provide to his or her supervisor a

copy of his or her operator's license and certify that the license is valid. If at any time during his or her employment the license becomes suspended, revoked or has expired, the employee will immediately notify his or her supervisor of this change in status. If an employee operates his or her personal motor vehicle while carrying out his or her job duties for the County, he or she will also provide to his or her supervisor, on or before January 1 of each year, or at the time his or her employment begins if not employed on January 1, proof of liability insurance for the personal vehicle. If the liability insurance lapses or is revoked or changed after submission of the proof of insurance to the supervisor, the employee must immediately report the change in status to his or her supervisor.

#### **4.11 USE OF COUNTY PROPERTY**

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

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

#### **4.12 INTERNET USAGE AND ELECTRONIC MESSAGING**

The County encourages the use of electronic mail, internet and messaging programs as a tool to help accomplish the County's legitimate business objectives by enhancing the quality and efficiency of communication. Employees are expressly prohibited from sending any messages or materials containing obscene, profane, lewd, derogatory, or otherwise potentially offensive language or images. The use of material containing racial, sexual or similar comments or jokes is forbidden. Users should respect the rights and sensitivities of recipients or potential recipients or viewers and should ensure that all messages reflect the professional image that the County wishes to portray. Employees, however, may not text while driving County vehicles.

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

- Personal gain, including the solicitation of or engagement in any non-County business.
- Viewing, transmitting, retrieving or storing material that may in any way be considered obscene or offensive.

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

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

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

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

All equipment, services and technologies provided to employees as part of the County's computer system constitute the exclusive property of the County. Similarly, all information composed, transmitted, received or stored via the County's computer system is also considered the property of the County. The County reserves the right to monitor Internet traffic and retrieve and read any data composed, sent, or received through our online connections and stored in our computer systems.

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

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

#### **4.13 CRIMINALLY CHARGED EMPLOYEES**

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

#### **4.14 POLITICAL ACTIVITIES**

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

Employees covered under this handbook shall not:

- Participate in the management, affairs, or political campaign of any candidate for political office during work hours.
- Solicit any assessments, contributions or service for any political party during work hours.
- Use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office.

#### **4.15 OUTSIDE EMPLOYMENT**

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

- The hours of outside employment do not coincide or conflict with scheduled hours of work for the County in a normal workweek.
- The outside employment does not conflict with the County job responsibilities and/or affect the ability to satisfactorily perform the County job in the normal workweek.
- The outside employment does not cause an employee to arrive late or leave early from scheduled work hours of the County job.

- The outside employment does not constitute a conflict with County interests;
- If outside employment is affecting the employee's ability to perform his/her duties or if a conflict arises from the outside employment, the Department Head will instruct the employee to discontinue the outside employment. Failure to discontinue the outside employment as directed may lead to corrective action, up to and including termination.
- All exempt employees must have approval of the Department Head or Sheriff before taking secondary employment. Special rules apply to outside employment for Police Officers, and all Officers seeking outside employment must follow these rules.

#### **4.16 NO SOLICITATION/DISTRIBUTION POLICY**

Posting or distributing notices or other written materials on County property at any time, without prior approval from the Board of Commissioners is strictly prohibited. Employees are further prohibited from soliciting other employees or non-employees on County property during the working time of either the soliciting employee or the employees being solicited.

The only exception that may apply to this policy is when an employee is engaging in distribution or solicitation related to a County-sponsored event or activity.

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

#### **4.17 NON-DISCRIMINATION ON BASIS OF DISABILITIES**

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

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

## **4.18 NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

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

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

(a) Submission to or rejection of such conduct is used as a basis for employment decisions affecting the employee; or

(b) Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

**4.18.2 Examples of harassing conduct include:**

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



- Creating or forwarding demeaning, insulting, intimidating or sexually suggestive written, recorded, or electronically transmitted messages, including screensavers.
- Making or threatening retaliation after a negative response to sexual advances.

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

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

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

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

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

**Discipline.** Appropriate action will be taken against any employee found to have engaged in prohibited harassment to ensure that the conduct will not reoccur. Appropriate action will be taken against any employee who makes any report of harassment in bad faith. Any employee found in violation of this policy may be subject to corrective action up to

and including termination of employment. The type of corrective action taken will depend on the severity of the conduct as well as any other factors presented.

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

#### **4.19 TRAVEL POLICY**

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

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

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

#### **4.20 EMERGENCY WORK FROM HOME POLICY**

Because of the extraordinary situation in the workplace caused by the COVID-19 pandemic, the County will allow certain employees, on a case-by-case basis, to work from home for temporary periods.

The County understands that employees might not be able to perform all of their essential job functions during such temporary periods while working from home. These arrangements are expected to be short-term arrangements, and the County will continue to monitor guidance from health officials and the need for remote-work arrangements.

The County may need to modify or cancel the working-from-home concept at some point during the coronavirus outbreak, and employees should not assume any specified period of time for working from home. The County may require employees to return to regular, in-person work at any time.

Department Heads, elected and appointed, will determine who is allowed to work from home and for how long on a case-by-case basis.

The policies following apply to any employee permitted to work remotely:

1. Non-Exempt Employees working from home must record all time worked and turn in the time worked on their normal timesheet. Timesheets should be emailed to their supervisor, unless other arrangements for delivery have been made. Employees working from home will be paid only for the hours they work.
2. Employees working from home are required to: document their work in a form and matter acceptable to their supervisor and work at the direction of their supervisor. Employees working from home must follow all work rules as if they were at their normal work area.
3. County-issued laptops will be allowed to be taken home. Employees who wish to take home laptops or other equipment to assist in their work from home should work with their supervisor in order to coordinate information technology issues with the County's IT consultant. County- issued laptops and other equipment are to be used for work related purposes only, and employees using such equipment must comply with all County use rules while working from home. No person other than the County employee is authorized to use these devices for any purpose. Employees who experience issues in the use of such equipment should report such issues to their supervisor and cooperate with the County IT consultant in addressing such issues, including but not limited to making devices available to the consultant at a location other than the employee's home.
4. Employees working from home will continue to be responsible for complying with all County policies and procedures that would apply as if the employee were working at the employee's normal work location.
5. Employees working from home will be expected to ensure the protection of proprietary County and customer information accessible from their home office consistent with County policies.
6. Employees working from home must coordinate and confirm with their supervisor the specific expectations and requirements of the supervisor regarding their work, including but not limited to how often and in what way an employee should check

in with his or her supervisor, how and when work will be completed and reported, and how and when work will be assigned.

7. Employees working from home must report work-related injuries to their supervisor.

## **5. HEALTH AND SAFETY POLICIES**

### **5.01 SAFETY PROGRAMS**

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

On-the-job accidents, injuries, and illnesses, regardless of how minor, must be reported to a supervisor and Board of Commissioners immediately. Employees that witness a failure to follow the safety rules shall report the incident to his or her supervisor. Failure to do so may disqualify an employee from receiving worker's compensation benefits or an excused absence and may result in disciplinary action.

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

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

### **5.02 DRUG, ALCOHOL AND SMOKE-FREE WORKPLACE**

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

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

The County Code forbids smoking of tobacco, including e-cigarettes, on County-owned property, except in designated areas, and in all County-owned or leased motor vehicles and equipment.

#### **5.02.1 POLICY REQUIREMENTS**

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

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

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

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

### **5.02.2 TESTING:**

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

**1. POST ACCIDENT:** This section applies to all employees who are involved in an accident while driving a County-owned vehicle or the employee's vehicle while engaged in county business. If there is reason to believe that the employee's impairment may be the cause of an accident, the employee must submit to a drug and alcohol screening when:

- A. a driver is involved in an accident where a fatality is involved;
- B. a driver is involved in a recordable accident and receives a citation for a moving violation;
- C. a driver is involved in a recordable accident, if either vehicle involved requires towing away from the scene or if any person involved requires medical treatment;
- D. an employee is involved in an accident while on the job and requires medical treatment.

In the event a driver is so seriously injured that he or she is unable to provide a urine or breath specimen at the time of the accident, the driver must provide the necessary authorization for the County to obtain hospital records or other documentation that would indicate whether there were controlled substances or alcohol in the driver's system at the time of the accident.

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

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

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

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

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

**5.02.4 TESTING AGENCY** – All testing shall be done by a qualified testing agency of the County's choosing and at the County's expense. The only exception is that the County will only pay for one Return to Duty Follow-up test. An employee who fails the initial Return to Duty Follow-up test must bear the cost of each subsequent test until the employee passes and is reinstated.

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

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

#### EMPLOYEE ACKNOWLEDGMENT

certify that I have received a copy of, and have read the above policy on drugs and alcohol testing procedures. I understand that as a condition of employment, I must comply with these guidelines. If I develop a problem with drugs and/or alcohol abuse

during my employment with the County, I will seek assistance through the current drug and alcohol testing program administrator.

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Employee signature

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Date



### **5.03 PREVENTION OF VIOLENCE IN THE WORKPLACE**

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

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

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

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

### **5.04 FIREARMS**

It is the policy of Montgomery County that its employees may possess and carry firearms during the course of their employment, both in their vehicles and on their person, provided that the employee is not prohibited by federal or state law from possessing firearms and the employee holds any valid license required to possess or carry such firearms. However, this policy does not authorize or allow County employees to carry firearms in the Montgomery County Courthouse or the Montgomery County Jail. This policy does not apply to employees of the Montgomery County Sheriff's Office, which has its own firearms policies and regulations.

(Am. Ord. 2020-8, passed 3/9/2020).

### **5.05 SECURITY**

The County has adopted various rules, orders, regulations and directives relating to promoting the security of County facilities and a safe workplace for employees and elected officials. The rules, orders, regulations and directives, including but not limited to, access to County buildings, reporting of security violations, responding to emergency and security circumstances, are a condition of employment, and employees may be

required to show identification, subject themselves to screening or searches, and otherwise submit to various security measures. Employees may also be required to participate in security training, to assume certain responsibilities for implementation of such policies, and otherwise assist in the furtherance of the County's security plan. Employees failing to comply with these rules, orders, regulations and directives will be subject to discipline or termination.

## **5.06 INTERNAL CONTROLS**

The County has adopted internal control policies. All employees must comply with these policies. Failure to comply with these policies will lead to the employee being subject to discipline, including but not limited to termination.

## **6. LEAVE POLICIES**

### **6.01 VACATION LEAVE**

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

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

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

### **6.02 HOLIDAYS**

**6.02.1 Determination of County Holidays:** Holidays are determined by the Board of Commissioners on a yearly basis. Full-time employees will receive compensation for the County holidays equal to the normal number of hours an employee would normally work. Part-time, temporary, and seasonal employees do not receive compensation for holidays unless they work on the holiday. As defined in Section 1.05.2.2, part-time employees are employees who are regularly scheduled to work less

than 37.5 hours per week. As defined in Section 1.05.2.3, temporary employees and seasons employees are employees who are hired for a predetermined or limited period of time or for a project. Interns and summer employees are temporary or seasonal employees.

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

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

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

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

### **6.03 PAID TIME OFF (PTO)**

**6.03.1 Accrual of PTO:** Beginning January 1, 2017, Beginning January 1, 2017, County employees will receive Paid Time Off (PTO) rather than paid vacation and sick leave. Part-time, temporary, and seasonal employees do not receive PTO, vacation or sick leave. As defined in Section 1.05.2.2, part-time employees are employees who are regularly scheduled to work less than 37.5 hours per week. As defined in Section 1.05.2.3, temporary employees and seasons employees are employees who are hired for a predetermined or limited period of time or for a project. Interns and summer employees are temporary or seasonal employees.

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

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

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

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

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

Month of Hire	PTO Hours Awarded – 37.5-hour work week	PTO Hours Awarded – 40-hour workweek
January	68.75	73.33
February	62.50	66.67
March	56.25	60.00
April	50.00	53.33
May	43.75	46.67
June	37.50	40.00
July	31.25	33.33
August	25.00	26.67
September	18.75	20.00
October	12.50	13.33
November	6.25	6.67

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

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

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

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

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

## **6.04 SICK LEAVE**

**6.04.1 Sick Leave:** In 2016, all full-time employees will receive 90 hours of paid sick leave each year, with 7.5 hours accruing each calendar month worked. Part-time, temporary, and seasonal employees do not receive paid sick leave. As defined in Section 1.05.2.2, part-time employees are employees who are regularly scheduled to work less than 37.5 hours per week. As defined in Section 1.05.2.3, temporary employees and seasons employees are employees who are hired for a predetermined or limited period of time or for a project. Interns and summer employees are temporary or seasonal employees.

Consistent with the County's current policy, employees using a sick day in any given month do not accrue a sick for that month.

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

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

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

**6.04.2 Sick Bank:** Beginning January 1, 2017, full-time employees with unused, accrued sick time as of December 31, 2016, will be allowed to retain all of those hours and use them for sick leave in addition to PTO. The limitation of accrued sick time contained in 6.04.1.1 does not apply in 2017 and later years. Full-time employees may carry forward to 2017 all unused sick time which existed on December 31, 2016. Full-time employees may donate unused sick leave or PTO to the Employee Sick Bank. The hours donated to this bank by employees are available to full-time County employees who need more sick leave than the County's policy allows. Sick Bank Leave may be used for the illness of the full-time employee or of the employee's spouse, child, stepchild, grandchild, step-grandchild, parent, mother-in-law or father-in-law. Any full-time employee may apply for sick leave by making a written application with the Sick Bank Committee, in care of the Commissioners' Administrative Assistant. The Sick Bank Committee consists of three (3) employees or elected officials appointed by the Board of County Commissioners. The Committee will review all applications and make awards of sick leave from the sick bank as the Committee, in its discretion, deems appropriate. Awards of sick leave from the sick leave bank will be reported to the employee applying for the benefit, to the employee's department head, and to the Auditor. Donations of sick time to the Sick Bank will be reported by the Committee to the employee's Department Head and to the Auditor.

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

**6.04.4 Emergency Paid Sick Leave Policy:** Beginning March 17, 2020, Montgomery County will provide emergency paid sick leave, as provided in this Section, for employees of Montgomery County. This paid sick leave program, which meets the

requirements of the federal Families First Coronavirus Response Act of 2020 (FFCRA) and which provides benefits which exceed the FFCRA, provides to all employees of Montgomery County additional paid leave for employees who cannot work due to a qualifying event related to the Coronavirus 2019 emergency.

**6.04.4.1 Qualifying Events:** If an employee is not able to work or work from home because of any of the following qualifying events, the employee is entitled to emergency paid sick leave:

**6.04.4.1.1 Self-Isolation.** The Employee is in self isolation or is hospitalized because of a diagnosis of Coronavirus 2019 (COVID-19);

**6.04.4.1.2 Symptomatic.** The employee is experiencing symptoms of COVID-19 and needs to obtain a medical diagnosis;

**6.04.4.1.3 Order or Directive:** The employee is complying with an order or recommendation from a public official with jurisdiction or a health care provider or his employer that the employee's physical presence at work would jeopardize others because of (a) the employee's exposure to COVID-19 or (b) the exhibition by the employee of the symptoms of COVID-19;

**6.04.4.1.4 Care for Family Member:** The employee is assisting or caring for a family member who has been diagnosed with COVID-19, has symptoms of COVID-19, or has been ordered or recommended to self-isolate because of either exposure to COVID-19 or is because such family member is experiencing symptoms of COVID-19. For purposes of this section, the term "family member" means a parent, spouse, son or daughter under the age of 18 years old, a son or daughter or next of kin who is pregnant, a senior citizen, has a disability or has functional needs, a grandparent or a grandchild; or

**6.04.4.1.5 Child Home from School.** The employee is caring for a child, step-child or ward who is under the age of 18 years and is at home with the employee because of a school or child care facility closure related to the COVID-19 emergency.

**6.04.4.2 Leave Benefit:** An employee who experiences a qualifying leave as described in Section 6.04.4.1 is entitled to emergency paid sick leave as follows:

**6.04.4.2.1 Full-Time Employees:** The full length of time of the qualifying event not to exceed the following:

**6.04.4.2.1.1 County Police Department.** Not to exceed 210 hours; and

**6.04.4.2.1.2 Other Full-Time:** Not to exceed 200 hours.

**6.04.4.2.2 Other Employees:** For part-time, temporary, and seasonal employees, the full length of time of the qualifying event not to exceed the number of hours the employee would be expected to work for the County during the qualifying event. If the employee is not scheduled to work during the qualifying event, not to exceed the expected number of hours per week multiplied by five weeks. If the employee is not scheduled to work during the qualifying event or if the irregular nature of the employee's hours make it difficult to determine the number of hours the employee would work, the leave benefit will be the average number of hours the employee worked in the six-month period immediately prior to the leave period, not to exceed the average amount of hours worked multiplied by five weeks.

(Am. Ord. 2020-12, passed 5/11/2020).

**6.04.4.3 Compensation:** The amount of paid leave will be based upon the salary of salaried employee and the hourly wage of all other employees.

**6.04.4.4 No Requirement to Exhaust Other Leave.** An employee is not required to exhaust other paid or unpaid leave prior to taking emergency paid sick leave.

**6.04.4.5 Additional Benefit.** The emergency paid sick leave provided for in this section is in addition to Paid Time Office (PTO) provided to the employees.

**6.04.4.6 Expansion of Benefit.** The Board of County Commissioners may expand or modify the benefits for this leave as warranted by the emergency circumstances.

**6.04.4.7 Application for Leave.** Any employee who believes that they have experienced a qualifying event may apply for the leave benefit by notifying the employee's supervisor and completing in and all applications and providing such documentation as is deemed by his or her supervisor to be required under this policy. The supervisor will determine whether the employee is eligible for leave and will notify the employee of the determination.

**6.04.4.8 Duty to Notify.** Every employee has the obligation to notify his or her supervisor if the employee:

**6.04.4.8.1** has been diagnosed with COVID-19;

**6.04.4.8.2** has symptoms of COVID-19,

**6.04.4.8.3** has been exposed to COVID-19;

**6.04.4.8.4** has traveled internationally or domestically to an area where there is a COVID-19 outbreak;



**6.04.4.8.5** lives with a person who has been diagnosed with COVID-19, has symptoms of COVID-19, has been exposed to COVID-19, or has traveled internationally or domestically to an area where there is a COVID-19 outbreak.

**6.04.4.9 Directives.** Every employee has the obligation to follow any and all isolation or self-quarantine directives of his or her employer which are designed to protect the employee, other employees or members of the public from exposure to COVID-19. Such directives may also include, but are not limited to, directives to work from home, directives to not attend planned meetings or conferences.

**6.04.4.10 Work from Home.** If an employee is directed to work from home during this public health emergency, the employee will record the amount of time worked each day and provide such records to his or her supervisor not less than weekly. If the employee is able to work from home, the hours of actual work at home will not be counted as emergency paid leave hours.

**6.04.4.11 No Right to Compensation for Unused EPSL.** At termination of the employee's employment, the employee has no right to compensation for unused emergency paid sick leave.

**6.04.4.12 Violation of Policy.** Any employee who violates this policy or who obtains emergency paid leave by providing false information to his or her employer will be subject to discipline, including but not limited to suspension and termination.

**6.04.4.13 At-Risk Employees.** The County reserves the right to require employees who are at-risk to COVID-19 because of an underlying medical condition or other risk factor to either work from home or self-isolate from exposure to COVID-19. If the employer requires an at-risk employee to work from home or self-isolate, the employer may treat the at-risk condition as a qualifying event and, in its discretion, award emergency paid sick leave to the employee.

## **6.05 LEAVE UNDER THE FAMILY MEDICAL LEAVE ACT (FMLA)**

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

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

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

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

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

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

The County allows up to twenty-six (26) workweeks of leave during any twelve-month period to an employee who requests the leave to be a military caregiver.

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

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

#### **6.05.1 Compensation for FMLA Leave**

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

#### **6.05.2 Intermittent or Reduced Hours Leave**

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

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

When an employee takes FMLA leave on an intermittent or reduced leave schedule basis, the employee may take such leave for any period of a day, but the minimum period of leave is one hour. However, the employee will not be charged FMLA leave for periods of time during which the employee is working. In accounting for FMLA leave taken, the County will charge the time taken on such leave based upon the actual workweek of the employee. For example, if the employee has a 40-hour 5-day regular work week, and takes off one day (eight hours), the employee will be charged with using one-fifth (1/5<sup>th</sup>) of a week. If the employee works a part-time 30-hour week and takes off 10 hours of FMLA leave, the employee will be charged with using one-third (1/3<sup>rd</sup>) of a week. If the employee's workweek varies from week to week to such an extent that the County is unable to determine with any certainty how many hours the employee would otherwise have worked (but for taking the FMLA leave), the County will use a weekly average of hours scheduled to work over a 12 month period prior to the beginning of the leave period (including any hours for which the employee took leave of any type) in order to calculate the employee's leave entitlement. If the employee would normally be required to work overtime but is unable to do so because of a FMLA-qualifying reason that limits the employee's ability to work overtime, the hours which the employee would have been required to work will be counted against the FMLA entitlement. For example, if the employee would normally be required to work 48 hours in a particular week but is only able to work 40 hours, the employee would be charged with using one-sixth (1/6<sup>th</sup>) of a week of FMLA leave. Voluntary overtime will not be counted against the FMLA entitlement.

### **6.05.3 Health Care Provider Authorization**

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

- The date on which the eligible event commenced.
- The probable duration of the condition.

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

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

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

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

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

#### **6.05.4 Job and Benefits Security**

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

#### **6.05.5 Continuation of Group Health Plan Coverage**

Group health plan coverage will be maintained by the County during an eligible employee's period of FMLA leave to the extent and under the same circumstances as it ordinarily is furnished to that employee. The employee's portion of premium payments should be paid by the employee to the Auditor's office on the 1<sup>st</sup> and 15<sup>th</sup> of each month. The Auditor's office will notify eligible employees concerning the amount of each

premium payment. Failure to pay such premiums during leave will result in the loss of health coverage. An eligible employee who fails to return to work after the expiration of the FMLA leave period for reasons that are not beyond his or her control will be expected to reimburse the County for health-care premiums paid by the County during the leave period. Insurance coverage provided as required herein during the course of a leave is not to be counted as COBRA coverage.

### **NON-DISCRIMINATION/NON-RETALIATION POLICY STATEMENT**

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

### **6.05.6 Emergency Paid Family and Medical Leave.**

Beginning April 2, 2020 and ending on December 31, 2020, Montgomery County will provide emergency paid Family and Medical Leave Act leave (EFMLA), as provided in this Section, for eligible employees of Montgomery County. This paid FMLA leave program, which meets the requirements of the federal Families First Coronavirus Response Act of 2020 (FFCRA), provides to all eligible employees of Montgomery County up to twelve (12) weeks of additional leave, all of which is paid leave except for the first fourteen (14) days, for employees who cannot work due to a qualifying event related to the Coronavirus 2019 emergency.

**6.05.6.1 Eligible Employees.** In order to be eligible for EFMLA, an employee must have been employed by Montgomery County for at least 30 days and have a qualifying event.

**6.05.6.2 Qualifying Events.** An eligible employee is entitled to EFMLA if an employee is not able to work or work from home because of any of the following qualifying events:

**6.05.6.2.1 Self-Isolation.** The Employee has a need for leave in order to comply with a recommendation or order by a public official with jurisdiction or health care provider that the employee's physical presence on the job would jeopardize the health of others because of (a) exposure to COVID-19 or (b) the employee is exhibiting symptoms of COVID-19 and the employee is unable to both perform the functions of his or her position and comply with such recommendation or order;

**6.05.6.2.2 Care for Family Member:** The employee has a need for leave in order to care for a family member of the employee with respect to whom a public official with jurisdiction or a health care provider makes a determination that the presence of the family member in the community would jeopardize the health of other individuals because of the (a) exposure of such family member to

COVID-19 or (b) the family member exhibits symptoms of COVID-19. For purposes of this section, the term “family member” means a parent, spouse, son or daughter under the age of 18 years old, a son or daughter or next of kin who is pregnant, a senior citizen, has a disability or has functional needs, a grandparent or a grandchild; or

**6.05.6.2.3 Child Home from School.** The employee is caring for a child, step-child or ward who is under the age of 18 years and is at home with the employee because of a school or child care facility closure related to the COVID-19 emergency.

**6.05.6.3 Leave Benefit:** An eligible employee who experiences a qualifying leave as described in Section 6.05.6.2 is entitled to up to twelve (12) weeks of EFMLA leave as follows:

**6.05.6.3.1 Unpaid EMFLA.** The first fourteen (14) days of EFMLA leave is unpaid.

**6.05.6.3.2 Paid EMFLA.** After the first fourteen (14) days of EFMLA leave, a full-time employee is entitled to receive compensation equal to two-thirds of the employee’s normal salary or wage up to Two Hundred Dollars (\$200) per day, but not to exceed a total of Ten Thousand Dollars (\$10,000) in 2020. For an employee other than a full-time employee, the amount of paid EFMLA will not exceed two-thirds of the amount of wages the employer expected to pay the employee during the leave period. If the employee is not scheduled to work during the qualifying event or if the irregular nature of the employee’s hours make it difficult to determine the number of hours the employee would work, the leave benefit will be the average number of hours the employee worked in the six-month period immediately prior to the leave period.

**6.05.6.4 No Requirement to Exhaust Other Leave.** An employee is not required to exhaust other paid or unpaid leave prior to taking EFMLA leave.

**6.05.6.5 Additional Benefit.** The EFMLA leave provided for in this section is in addition to other Family Medical Leave Act leave, Paid Time Off (PTO), and other leave provided to the employees.

**6.05.6.6 Application for Leave.** Any employee who believes that they have experienced a qualifying event may apply for the leave benefit by notifying the employee’s supervisor and completing in and all applications and providing such documentation as is deemed by his or her supervisor to be required under this policy. The employer will determine whether the employee is eligible for leave and will notify the employee of the determination.

**6.05.6.7 No Right to Compensation for Unused EFMLA.** At termination of the employee's employment, the employee has no right to compensation for unused EFMLA leave.

**6.05.6.8 Violation of Policy.** Any employee who violates this policy or who obtains EFMLA leave by providing false information to his or her employer will be subject to discipline, including but not limited to suspension and termination.

(Am. Ord. 2020-11, passed 3/23/2020).

## **6.06 MILITARY LEAVE**

### **6.06.1 Military Leave**

Military leave is granted in accordance with federal and state laws. Employees who are called to active duty or drafted into military service of the United States shall receive compensation from the County during active duty period of service based on the following formula:

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

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

### **6.06.2 Retirement Contributions**

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

### **6.06.3 Health Insurance**

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

### **6.06.4 Exceptions**

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

### **6.06.5 Condition for Benefits**

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

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

#### **6.06.6 Definitions**

"Uniformed Services" means the Armed Forces of the United States, a ready reserve component of the Armed Forces, Indiana National Guard Units, the commissioned core of the public health service, and any other service designated by the President of the United States in time of war or emergency.

#### **6.06.7 Right to Reinstatement**

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

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

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



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

#### **6.06.8 Other Benefits**

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

#### **6.06.9 Rights of Employees Related to Military Personnel**

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

#### **6.07 JURY DUTY**

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

#### **6.08 MATERNITY LEAVE**

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

#### **6.09 NURSING MOTHERS**

Employees who are nursing mothers of children up to one (1) year old will be provided with reasonable breaks to express breast milk as frequently as needed. Employees will be provided a place for the break, other than a bathroom, that is shielded from view and free

from intrusion. Employees who wish to express breast milk during the workday must notify their department supervisor/manager, either before or after returning to work following their maternity leave. Breaks taken by employees in order to express their breast milk will be paid.

Employees are responsible for providing their own breast pump. Employees may use refrigerators on the premises to store breast milk during work if such refrigerators are available. If no such refrigerators are available, employees will be responsible for their own storage of breast milk. Employees are also responsible for cleaning up the area provided for the expression of breast milk and to make reasonable efforts to keep the area free from contamination and illness transmission.

## **6.10 VOLUNTARY FIREFIGHTERS**

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

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

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

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

- 1) The absence from the employee's place of employment with the County does not exceed six (6) months from the date of injury; and
- 2) The employee provides his/her County supervisor with written statement from the fire chief, other officer in charge of the volunteer fire department or other officer in charge of the volunteer emergency medical services association. This statement should indicate that the employee was injured while performing duties as a volunteer firefighter in response to emergency firefighting or another emergency activity; and

- 3) The employee further provides his/her County supervisor with a written statement from a physician or other medical care provider which shows the injury incurred is related to the employee's emergency firefighting or other emergency response activities and which indicates the type of treatment received for such injury. Any information obtained by the County as the result of this requirement shall be kept by the County in a separate medical file for such employee and treated as a confidential medical record.

## **6.11 BEREAVEMENT LEAVE**

Employees of Montgomery County will be eligible for bereavement leave as follows:

**6.11.1 Immediate Family.** If a spouse, child, stepchild, parent, grandchild or step-grandchild of the employee dies, the employee is entitled to up to five (5) days of bereavement leave.

**6.11.2 Other Family.** If a grandparent, father-in-law, mother-in-law, great grandchild, brother, sister, brother-in-law, or sister-in-law of an employee dies, the employee is entitled to up to three (3) days of bereavement leave.

**6.11.3 Other.** If an aunt, uncle, niece, nephew, cousin of an employee dies or a relative who was related to the employee in a more distant relationship than those described in 6.11.1 or 6.11.2 dies, the employee is entitled to one (1) day of bereavement leave.

**6.11.4 Paid Leave.** Bereavement leave is paid leave, but it does not count as hours worked for purposes of determining overtime or compensatory time.

**6.11.5 Additional Leave.** If there are unusual circumstances, including but not limited to demands of travel or a unique relationship between the employee and the deceased person, the employee's supervisor may, in the exercise of his or her discretion, grant additional bereavement leave to the employee.

## **7. DISCIPLINE POLICIES**

### **7.01 DISCIPLINARY POLICY**

**7.01.1 Administrative Employees:** The discipline policy for inappropriate behavior, performance shortcomings, or attendance problems is generally progressive. That is, minor offenses or performance issues will generally be handled through the following progressive steps: oral warning, written warning, suspension without pay, and

termination; however, depending on the seriousness of the offense, one or more of the progressive steps may be bypassed. Certain violations of County Policies or protocol may be so severe or egregious as to compel termination of employment even for the first offense. Additionally, there may be situations where transfer or demotion is used in lieu of suspension or termination.

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

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

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

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

These offenses are illustrative and not all-inclusive.

- Willful neglect in the performance of the duties of the position to which the employee is assigned.
- Disregard of or failure to report violations of County ordinances, policies and regulations, including safety rules.
- Willful misuse, misappropriation, negligence or destruction of County property or conversion of County property for personal use or gain.
- Tardiness or absence from duty without prior approval from the supervisor.
- Violation of any official order, refusal to carry out lawful directions given by his or her supervisor, or other acts of insubordination.
- The use of alcoholic beverages, narcotics, drugs, or other controlled substances either while on duty or use that causes interference with job performance or efficiency of County service.
- Criminal, dishonest, or other conduct which interferes with job performance or has an effect on the efficiency of County service.
- Unauthorized release of privileged or confidential information or its use for private gain.
- Incompetent or unsatisfactory performance of duties.
- Conviction of a crime, including but not limited to charges such as DWI, Public Intoxication, and Reckless Driving.
- Knowingly giving false statements to supervisors or other officials.
- Any conduct, on or off-duty, that reflects unfavorably on the County as an employer.

- Membership in any organization which advocates the overthrow of the government of the United States by force or violence.
- Making of a false statement in an application or in any other document used to obtain employment which had not been previously discovered.
- Acceptance of gratuities in violation of County policy.
- Refusal to be examined by a designated physician when so directed by proper authority.
- The loss or suspension, inability to obtain, or restrictions upon an Indiana Operator or CDL License which prohibits or limits the employee's ability to operate a County motor vehicle or otherwise interferes with an employee's job performance.
- Failure to wear the designated uniform provided by the County.
- Any other conduct or action of such seriousness that disciplinary action is considered warranted.

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

## **7.02 IMMEDIATE DISMISSAL/MISCONDUCT**

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

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

- Breach of trust or dishonesty
- Conviction of a felony
- Willful violation of an established policy or rule
- Falsification of County records
- Gross negligence
- Insubordination
- Recordkeeping falsifications
- Undue or unauthorized absence from duty
- Deliberate non-performance of work
- Larceny or unauthorized possession of, or use of, property belonging to the County, a co-worker, visitor, or customer of the County
- Possession of dangerous weapons on County property
- Excessive absenteeism or lateness
- Marring, defacing or other willful destruction of supplied, equipment or property of the County

- Fighting or serious breach of acceptable behavior
- Violation of the alcohol or drug policy
- Violation of the Smoke-Free Ordinance pertaining to municipal property
- Theft
- Violation of the County's conflict of interest/outside employment policy and or confidentiality policy
- Leaving work premises without authorization during working hours
- Sleeping on duty

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

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

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

## **8. SEPARATION POLICIES**

### **8.01 TERMINATION OF EMPLOYMENT**

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

### **8.02 VOLUNTARY RESIGNATION**

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

### **8.03 REDUCTION IN FORCE**

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

#### **8.04 RETURN OF COUNTY PROPERTY**

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

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

#### **8.05 COMPENSATION UPON TERMINATION**

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

#### **8.06 IMPACT ON BENEFITS**

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

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

### **8.07.1 COBRA Coverage**

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

### **8.07.2 COBRA Qualifying Events**

The qualifying events under COBRA are as follows:

- Termination of employment (except for gross misconduct) or reduction in the covered employee's scheduled work hours if it results in loss of coverage;
- Death of a covered employee;
- Divorce or legal separation of the covered employee from the employee's spouse;
- The employee's eligibility for Medicare benefits (the employee's qualified beneficiaries are then entitled to continuation of coverage, not the employee); or
- Bankruptcy of the employer on or after July 1, 1986, with respect to a covered employee who has retired at any time. Loss of coverage includes a substantial elimination of coverage within one year before or after the date of commencement of bankruptcy proceedings.

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

## **9. REPEALER**

### **9.01. EFFECT OF ADOPTION OF RULES**

Upon adoption by the Board of Commissioners and County Council, these rules shall govern the employees of the County. Employees of the Police Department shall also be subject to the General Orders, Standard Operating Procedure and rules of the Police Department. All terms of the handbook are effective December 20, 2019, except as otherwise noted.





**AUTOMATIC ENROLLMENT NOTICE**

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

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

Notice of Opt-Out:

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

\_\_\_\_\_

Employee

\_\_\_\_\_

Date

**Form A-3**  
**NOTICE OF VOLUNTEER**  
**FIREFIGHTING SERVICES**

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

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

Date: \_\_\_\_\_  
\_\_\_\_\_ Printed

Received by \_\_\_\_\_ on \_\_\_\_\_, 20\_

**Form A-4**  
**NOTICE OF RIGHT TO ELECT OVERTIME**  
**COMPENSATION**

**TO: ALL EMPLOYEES OF MONTGOMERY COUNTY**

**Non-exempt employees of Montgomery County will receive compensatory time in lieu of paid overtime for all authorized overtime worked as a condition of employment. Authorized overtime for all non-exempt employees except Sheriff deputies is time worked in excess of 40 hours in a 7-day period. Authorized overtime for all non-exempt police officers is time worked in excess of 80 hours in a 14-day period for police officers.**

**Consent to compensatory time in lieu of paid overtime will be assumed for each eligible employee unless (1) such employee provides a written notice of objection to the County Administrator for administrative employees or the Sheriff for non-exempt police officers or (2) the Department Head specifically authorizes in writing paid overtime compensation for a specific time period. If the Department Head authorizes paid overtime rather than compensatory time, the Department Head must provide the written authorization to the Auditor with the applicable time sheet for the employee.**

**Form A-4**  
**NOTICE OF RIGHT TO ELECT OVERTIME COMPENSATION**

**TO: ALL EMPLOYEES**

**Non-exempt employees of Montgomery County will receive either overtime pay or compensatory time in lieu of paid overtime for all authorized overtime worked. Consent to compensatory time in lieu of paid overtime shall be assumed for each eligible employee unless such employee provides a written notice of objection to the Auditor for administrative employees. For employees of the Sheriff's Office, compensatory time is only allowed when offered by the Sheriff.**

I hereby make the following election (circle one):

1. Option 1: I am willing to receive compensatory time for all overtime hours;
2. Option 2: I hereby elect to receive overtime pay for my overtime hours worked rather than compensatory time for my overtime hours worked on \_\_\_\_\_, 202\_\_\_;
3. Option 3: I hereby elect to receive overtime pay for my overtime hours worked rather than compensatory time for all of my overtime hours worked in 202\_\_\_; or
4. Option 4: I make no election at this time.

Date: \_\_\_\_\_

Printed: \_\_\_\_\_

Received by \_\_\_\_\_ on \_\_\_\_\_, 202\_\_\_.

### **TITLE III: ADMINISTRATION**

#### **CHAPTER 35: FINANCE AND TAXATION**

##### Section

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

##### *Funds and Accounts*

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

- 35.72 Montgomery County Sheriff Department Drug Buy & Covert Investigations Cash Fund
- 35.80 Sex Offender Fund
- 35.85 Montgomery County Courthouse Clock Tower Project Fund
- 35.86 IJC Alcohol Drug Grant Fund
- 35.87 Montgomery County Courthouse Improvement Donation Fund
- 35.90 Emergency Management Performance Grants Program Fund
- 35.91 Pre-Disaster Mitigation Grant Program Fund
- 35.92 Homeland Security Grant – Projects Program Fund
- 35.93 Homeland Security Grant Program Fund
- 35.94 JABG – YSB Alternative School Fund
- 35.95 2016 ZIKA Grant Fund
- 35.96 Community Crossings Matching Grant Fund
- 35.97 Public Health Education Program Fund
- 35.98 Country Club Road Reconstruction Fund
- 35.99 Redevelopment Commission 2012 Bond Ongoing Expense Account Fund
- 35.100 Redevelopment Commission 2012 Bond Excess Account Fund
- 35.101 2017 State Homeland Security Program Grant Fund
- 35.102 County Offender Transportation Fund
- 35.103 Drug Court Grant Fund
- 35.104 2017-2018 ICJI Title II Formula Grant Fund
- 35.105 Plat Book Fund
- 35.106 Overdose Response Grant Fund
- 35.107 Supplemental Public Defender Services Fund
- 35.108 Probation Department of Corrections FY2019 1006 Grant Fund
- 35.109 Veteran’s Court Indiana Supreme Court FY2018 Problem Solving Grant Fund
- 35.110 Drug Court Indiana Supreme Court FY2018 Problem Solving Grant Fund
- 35.111 Veteran’s Treatment Court Grant Fund
- 35.112 Drug-Free Montgomery County Coalition/Local Coordinating Council Grant Fund
- 35.113 Health Department 2018/2019 Preparedness Grant Fund
- 35.114 Self Insurance Fund
- 35.115 State Homeland Security Program Grant Fund
- 35.116 Homeland Security Grant Fund
- 35.117 Health Department Drug-Free Grant Fund
- 35.118 Emergency Management Agency District 4 Healthcare Coalition
- 35.119 Hazardous Materials Emergency Preparedness Conference Grant Fund
- 35.120 Motor Vehicle Highway Fund
- 35.121 2019 Volunteer Adult Guardianship Program Grant Fund
- 35.122 2019 Drug Prosecution Grant Fund
- 35.123 2019 Opioid Recovery Project Grant Fund

- 35.124 2019 JCAP Grant Fund
- 35.125 Zoning Fee Fund
- 35.126 Drug-Free Montgomery County Coalition/Local Coordinating Council Grant Fund
- 35.127 2019 Veteran's Court Problem Solving Court Grant Fund
- 35.128 2019 Veteran's Court Grant Fund
- 35.129 2019 Drug Court Grant Fund
- 35.130 Plat Map Maintenance Fund
- 35.131 2019 JCAP Women's Grant Fund
- 35.132 2019 State Homeland Security Grant Fund
- 35.133 2019 Indiana Homeland Security Foundation Grant Fund
- 35.134 2019 Emergency Management Performance (NEMA) Grant Fund
- 35.135 2019 Emergency Management Performance (Cert) Grant Fund
- 35.136 2020 Cares Act Fund
- 35.137 2020 Coronavirus Emergency Supplemental Funding Program Fund
- 35.138 2020 Drug Court Grant Problem Solving Court Grant Fund
- 35.139 2020 Veteran's Problem-Solving Court Grant Fund
- 35.140 2020 Veteran's Treatment Court Grant Fund
- 35.141 2020 Drug Free Montgomery County Coalition Grant Fund
- 35.142 2020 Community Covid Testing Grant Fund
- 35.143 2020 Cares Act Public Health Information Technology Grant Fund
- 35.144 2020 HMEP 2021 Hazmat Grant Fund
- 35.145 2020 IPEP Safety Grant Fund
- 35.146 FY2021 Probation/Drug Court Recidivism Reduction Program Grant Fund
- 35.147 FY2021 Community Corrections Justice Reinvestment Grant Fund
- 35.148 2020 Bridge Improvement Note Fund
- 35.149 2021 Cares Act Safety Awareness Reimbursement Grant Fund
- 35.150 Solid Waste Management Fund
- 35.151 2020 Community Crossing Fund
- 35.152 Sequential Model Intercept Grant Fund
- 35.153 The American Rescue Plan Act Fund

***Cross-reference:***

*Innkeeper's Tax, see Chapter 110*

*Flood Hazard Areas, see Chapter 151*

*Stormwater Drainage, see Chapter 154*

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



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

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

**§ 35.02 VEHICLE EXCISE SURTAX**

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

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

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

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

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

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

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

### **§ 35.03 COUNTY OPTION DOG TAX**

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

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

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

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

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

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

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

**(G)** *County Option Dog Tax Fund.*

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

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

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

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

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

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

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

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

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

**(1)** The use of animal care facilities.

- (2) Animal control, including dead animal disposal.
  - (3) Reimbursement to farmers for livestock kills.
  - (4) Reimbursement to people who have undergone rabies post-exposure prophylaxis.
- (I)** *Claims for Funds.* In order for any person, firm or entity to obtain any money from the County Option Dog Tax fund, the person, firm or entity shall:
- (1) Submit a claim on an approved form for the total amount of the amount requested from the County Option Dog Tax Fund.
  - (2) Provide to the Auditor the following:
    - (a) A detailed description of the facts concerning the animals that are killed, including the name of the owner of the animal (if any) that committed the acts leading to the death of the animals, and
      - (i) A list of the animals by age, type and breed which killed in which a person, firm or entity is seeking reimbursement; or
      - (ii) A copy of a statement from a medical professional indicating the medical necessity for a person to undergo rabies post-exposure prophylaxis;
    - (b) A copy of all medical bills incurred for those persons that have undergone rabies post-exposure prophylaxis; and
    - (c) A statement that the claimant has paid to the County any and all property tax, dog tax and other taxes due.
  - (3) Have the claim approved by the County Commissioners.
  - (4) Have funds appropriated by the County Council
- (J)** *Failure to Pay Tax.* Any person who harbors or keeps a taxable dog as provided for in (A), who fail to pay the tax by the due date, commits an infraction and is subject to a fine in the amount of \$25 per dog per year. Provided, however, in 2007, no person shall be subject to a fine until after July 1, 2007. The Sheriff, and his designees, and animal

control officers of the Animal Welfare League shall have the authority to issue citations for this fine. If unpaid, the infraction will be prosecuted by the County Prosecutor in the same manner as other infractions.

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

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

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

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

## FUNDS AND ACCOUNTS

### § 35.10 STORMWATER REVIEW ACCOUNT

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

(B) The fees deposited into this account may be used by the County Engineer for providing stormwater reviews and inspection services for the Building Department, Surveyor, and other Departments, to pay the expenses of the operations of the County Engineering Department, and to pay the expenses of outside engineering consultants engaged by the County Engineer for stormwater reviews and inspections, studies and other services related to storm water or drainage matters.”

(Ord. 2011-11, passed 10-10-11, Amended by Ord. 2020-46, passed 12-30-20)

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

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

(C) This is a non-reverting fund.

**§ 35.14 COUNTY ELECTED OFFICIALS TRAINING FUND**

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

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

(C) This is a non-reverting fund.

## **§ 35.15 CUMULATIVE CAPITAL DEVELOPMENT FUND**

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

Section 1. Cumulative Capital Development Fund Re-Establishment. The Montgomery County Board of Commissioners hereby re-establishes the Cumulative Capital Development (CCD) Fund pursuant to Indiana Code §6-1.1-41, to be used for all purposes allowed and set forth in Indiana Code §36-9-14.5, including but not limited to construction, remodeling and repair of the courthouse, construction, repair, remodeling, enlargement of and equipment for a county jail or juvenile detention facility, the purchase, lease or payment of all or part of the motor vehicles for the community corrections program, purchase, construction and maintenance of public buildings and equipment therefor, acquisition of land and improvements that are necessary for construction of public buildings, for the demolition of any improvements on land to be acquired to level grade and prepare land for construction of a public building, provide funds for a cumulative drainage fund, acquire land or rights-of-way to be used for public ways or sidewalks, construction and maintenance of public ways or sidewalks, acquire land or rights-of-way for the construction of sanitary sewers or storm sewers, or both, to construct or maintain sanitary sewers or storm sewers or both, to purchase, lease or pay for all or part of a utility, to acquire, by purchase or lease, land, buildings or rights-of-way for the use of any utility that is acquired or owned by the County, to purchase or acquire land, with or without buildings, for park or recreational purposes, to purchase, lease or pay all or part of the purchase price of motor vehicles for the use or any combination of the police, community corrections program or fire department, to retire in whole or part or in part any general obligation bonds of the County, to purchase or lease equipment and other non-consumable personal property needed for any public transportation use, to purchase or lease equipment to be used to illuminate a public way or sidewalk, to purchase, lease, upgrade, maintain or repair computer hardware, computer software, wiring and computer networks, communication access systems used to connect with computer networks or electronic gateways, to pay for the services of full-time or part-time computer maintenance employees, to conduct nonrecurring in-service technology training of employees, and to purchase body armor for active members of the County police department, and now establish the rate to be



Three and thirty-three one-hundredths cents (\$0.0333) per One Hundred Dollars (\$100.00) of assessed valuation on all taxable real and personal property in Montgomery County, Indiana.

Section 2. Tax Rate. The County Board of Commissioners now levies a tax on all real and personal property in Montgomery County to provide funds to the CCD Fund, with a tax rate of \$0.0333 on each \$100 of assessed valuation. This tax rate will be levied beginning with taxes for 2018 and payable in 2019.

Section 3. Publication of Notice of Adoption. The Auditor shall publish a notice of this ordinance's adoption within seven (7) days of its adoption.

Section 4. DLGF Approval. This ordinance is subject to the Indiana Department of Local Government Finance's approval. The Commissioners direct the County Auditor to submit to the Indiana Department of Local Government Finance a certified copy of this ordinance, the Notice of the Board's March 26, 2018 public hearing, the Notice of Adoption, and all proofs of publication for both Notices. This submission for the Department of Local Government Finance's approval must be made before May 1, 2018, all as provided in Indiana Code § 6-1.1-41-4.

Section 5. Advertisement. The Auditor shall annually advertise this tax levy in the same manner as other tax levies are advertised.

Section 6. Repeal of Conflicting Ordinances. The provisions of all other County ordinances in conflict with the provisions hereof, if any, are of no further force or effect and are hereby repealed.

Section 7. Duration and Effective Date. The provisions of this Ordinance shall become effective immediately and remain in full force and effect until repealed by ordinance.

(Ord. 2006-15, passed 7-11-06; Re-established in Ord. 2016-15, passed 7-12-16; Re-established in Ord. 2017-09, passed 7-10-2017; Reestablished in Ord. 2018-7, passed 4-9-18; Reestablished in Ord. 2019-4, passed 2-25-2019; Reestablished in Ord. 2020-6 passed 5-26-2020).

## **§ 35.16 RECORDER'S RECORDS PERPETUATION FUND**

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

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

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

### § 35.19 COUNTY USER FEE FUND

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

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

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

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

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

### § 35.20 RAILROAD GRADE CROSSING FUND

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

(B) *Use of Funds.* All money deposited into the Railroad Grade Crossing Fund shall be appropriated by the County Council upon submission by the Board of Commissioners of

a proper claim for funds to be used by local jurisdictions for active and passive railroad crossing safety improvement projects in Montgomery County, Indiana.

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

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

**§ 35.21 DISASTER RESPONSE REIMBURSEMENT FUND**

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

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

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

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

**§ 35.22 MONTGOMERY COUNTY 911 FUND**

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

investment of monies in this Fund must be held in a separate fund, known as the Montgomery County 911 Income Fund.

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

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

- ix. 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.

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

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

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

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

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

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

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

**§ 35.24 TITLE IV-D INCENTIVE FUND**

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

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

- (C) *Non-Reverting Fund.* Any money remaining in the Title IV-D Incentive Fund at

the end of the year does not revert to any other fund, but continues in the Title IV-D Incentive Fund. This is a non-reverting fund.

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

**§ 35.25 HOMESTEAD VERIFICATION DEDUCTION FUND**

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

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

- i. 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;
- ii. other expenses of the Office of the Auditor; and
- iii. the cost of preparing, sending, and processing notices described in Indiana Code §6-1.1-22-8.1(b)(9) and checklists or notices described in Indiana Code §6-1.122.5-12(d).

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

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

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

**§ 35.26 VETERAN'S COURT GRANT FUND**

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

(B) *Use of Funds.* All monies deposited into the Veteran's Court Grant Fund will be used to defray the expenses of the Veteran's Court in Montgomery Superior Court II,

including but not limited to the payment of wages and salaries, office supplies, contractual services, and capital expenses.

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

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

**§ 35.27 VETERAN'S COURT FEE FUND**

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

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

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

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

**§ 35.28 PRESCRIPTION DRUG PROGRAM FUND**

(A) *Source of Funds.* There is hereby created a new fund, the Prescription Drug Program Fund (Fund #9169). The source of monies in this fund is grants, donations and other monies for the purpose of assisting the Montgomery County in the administration of the program.

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

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

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

**§ 35.29**

**SHERIFF'S FINGERPRINTING FEE FUND**

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

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

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

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

**§ 35.30**

**CRAWFORDSVILLE ORDINANCE DEFERRAL FEE FUND**

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

(B) *Use of Funds.* All monies deposited into the Crawfordsville Ordinance Deferral Fee Fund will be paid to the City of Crawfordsville in order to defray the expenses of the administration of the deferral program. The Clerk will pay these funds to the City upon the City Clerk-Treasurer's written request on a quarterly basis.

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

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



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

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

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

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

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

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

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

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

(Est Ord. 2016-7, passed 2-22-16)

**§ 35.42 FAMILY MEDIATION GRANT FUND**

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

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

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

**§ 35.43 STATE CRIMINAL ALIEN ASSISTANCE PROGRAM FUND**

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

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

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

**§ 35.44 INDIANA DEPARTMENT OF CORRECTIONS COUNTY COMMUNITY CORRECTIONS FUND**

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

(B) *Use of Funds.* Monies deposited into this fund may be used to pay for the salaries, benefits, office supplies, contract services, capital expenses and other operational expenses of the community corrections program and court probations services under the program established under Indiana §11-13-2.

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

**§ 35.45            LAW ENFORCEMENT RECORDING FEE FUND**

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

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

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

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

**§ 35.50            MAJOR MOVES FUND**

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

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

**§ 35.60            RAINY DAY FUND**

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

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

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

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

**§ 35.70 ELECTRONIC MAP GENERATION FUND**

(A) Sources: There is established the Electronic Map Generation Fund. The sources of funds for this Fund shall be any and all mapping fees paid to the Montgomery County Mapping Department for maps and other information.

(B) Use of Funds: The monies deposited into this Fund may be used for the expense of providing mapping services in Montgomery County by the Mapping 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.

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

(Council Ord. 2007-05, passed 8-21-07, Amended by Ord. 2020-45, passed 12-30-20)

**§ 35.71 BUILDING DEPARTMENT CASH CHANGE FUND**

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

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

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

(A) There is established in the County a Special Non-Reverting Fund, to be known as the “Montgomery County Sheriff Department Drug Buy & Covert Investigations Cash

Fund”, into which shall be deposited One Thousand Dollars (\$1,000.00). This amount shall be maintained throughout the period of the fund’s existence.

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

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

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

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

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

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

- (1)** Deposit ninety percent (90%) of any fees collected under this section in the County Sex And Violent Offender Administration Fund; and
- (2)** Transfer ten percent (10%) of any fees collected under this section to the Treasurer of the State of Indiana for deposit in the State Sex And Violent Offender Administration Fund, as provided for by Indiana Code §11-8-8-21.

**(C)** The Montgomery County Council may appropriate money from the County Sex And Violent Offender Administration Fund to an agency or organization

involved in the administration of the sex and violent offender registry to defray the expense of administering or ensuring compliance with the laws concerning the Indiana Sex And Violent Offender Registry. These appropriations may include appropriations for any expenses associated with the administering or ensuring compliance with the laws of the Registry, including but not limited to salaries, wages, benefits, supplies, equipment, transportation and other expenses.

- (D) This is a non-reverting fund.  
(Ord. 2011-2, passed 2-14-11)

**§ 35.85 MONTGOMERY COUNTY COURTHOUSE CLOCK TOWER PROJECT FUND**

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

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

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

**§ 35.86 IJC ALCOHOL DRUG GRANT FUND**

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

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

(C) *Non-Reverting Fund.* Any money remaining in the IJC Alcohol Drug Grant Fund at the end of the year does not revert to any other fund, but continues in the IJC Alcohol Drug Grant Fund. This is a non-reverting fund.  
(Ord. 2015-9, passed 5-\_\_\_\_-15)

**§ 35.87 MONTGOMERY COUNTY COURTHOUSE IMPROVEMENT DONATION FUND**

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

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

(C) *Non-Reverting Fund.* Any money remaining in the Montgomery County Courthouse Improvement Donation Fund at the end of the year does not revert to any other fund, but continues in the Courthouse Improvement Donation Fund. This is a non-reverting fund.  
(Ord. 2016-4, passed 1-25-16)

**§ 35.90 EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM FUND**

(A) *Source of Funds.* There is hereby created a new fund, the Indiana Emergency Management Performance Grants Program Fund. The source of monies in this fund is the Fiscal Year 2014 Emergency Management Performance Grants Program, Award Number EMW-2014-EP-00030.

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

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

**§ 35.91 PRE-DISASTER MITIGATION GRANT PROGRAM FUND**

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

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

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

**§ 35.92 2013 HOMELAND SECURITY GRANT – PROJECTS PROGRAM FUND**

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

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

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

**§ 35.93 2014 HOMELAND SECURITY GRANT PROGRAM FUND**

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



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

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

**§ 35.94 JABG – YSB ALTERNATIVE SCHOOL FUND**

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

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

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

**§ 35.95 2016 ZIKA GRANT FUND**

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

(B) *Use of Funds.* All money of the 2016 Zika Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana State Department of Health and the Montgomery County Health Department.

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

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

**§ 35.96            2016 COMMUNITY CROSSINGS MATCHING GRANT FUND**

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

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

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

(Comm. Ord. 2016-28; passed )

**§ 35.97            PUBLIC HEALTH EDUCATION PROGRAM FUND**

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

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

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

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

**§ 35.98 COUNTRY CLUB ROAD RECONSTRUCTION FUND**

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

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

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

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

**§ 35.99 REDEVELOPMENT COMMISSION 2012 BOND ONGOING EXPENSE ACCOUNT FUND**

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

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

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

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

**§ 35.100 REDEVELOPMENT COMMISSION 2012 BOND EXCESS ACCOUNT FUND**

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

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

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

(Comm. Ord. 2017-08, passed 04-24-17)

**§ 35.101 2017 STATE HOMELAND SECURITY PROGRAM GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2017 State Homeland Security Program Grant Fund. The funds shall consist of grant monies received by the Montgomery County Emergency Management Department from the Indiana Department of Homeland Security pursuant to a grant award letter and agreement, dated October 2, 2017.

(B) *Use of Funds.* All money of the 2017 State Homeland Security Program Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana Department of Homeland Security and the Montgomery County Emergency Management Department.

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

(Ord. 2017-14, passed 10-23-17)

**§ 35.102 COUNTY OFFENDER TRANSPORTATION FUND**

(A) *Source of Funds.* The Montgomery County Council has created the County Offender Transportation Fund. The funds shall consist of the County’s share of transportation application fees paid to the probation department and deposited by the Treasurer.

(B) *Use of Funds.* All money in the County Offender Transportation Fund will be used to defraying the costs of returning to Indiana probationers who violate their terms of probation. The Montgomery County Council will appropriate money from this fund to the probation department as requested.

(C) *Non-Reverting Fund.*

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

(Ord. 2017-16, passed 11-13-17)

**§ 35.103 DRUG COURT GRANT FUND**

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

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

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

(Ord. 2017-17, passed 11-27-17)

**§ 35.104 2017-2018 ICJI TITLE II FORMULA GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2017-2018 ICJI Title II Formula Grant Fund. The funds shall consist of grant monies received by the Montgomery County Probation Department from the Indiana Criminal Justice Institute pursuant to a grant award letter and agreement, dated December 11, 2017.

(B) *Use of Funds.* All money of the 2017-2018 ICJI Title II Formula Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana Criminal Justice Institute and the Montgomery County Probation Department.

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

(Ord. 2018-1, passed 1-22-18)

**§ 35.105 PLAT BOOK FUND**

(A) *Fund Created.* There is hereby created a new fund, the Auditor’s Plat Book Fund. The source of monies in this fund is endorsement fees collected by the Auditor for each deed or legal description of each parcel contained in the deed for which the Auditor makes a real property endorsement, as required by Indiana Code §36-2-9-18(d).

(B) *Use of Funds.* Monies deposited into the Auditor’s Plat Book Fund will be used by the Auditor for the expenses of maintaining plat books, as required by Indiana Code §6-1.1-5-1.

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

(Ord. 2018-2, passed 1-22-18)

**§ 35.106 OVERDOSE RESPONSE GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Overdose Response Grant Fund. The funds shall consist of grant monies received by the Montgomery County Health Department from the Indiana State Health Department pursuant to a grant award letter and agreement.

(B) *Use of Funds.* All money of the Overdose Response Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana State Health Department and the Montgomery County Health Department.

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

(Ord. 2018-3, passed 1-22-18)

**§ 35.107 SUPPLEMENTAL PUBLIC DEFENDER SERVICES FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Supplemental Public Defender Services Fund. The funds shall consist of monies collected and deposited from the following sources:

- (1) Payments from a person or parent of delinquent child found, by the Court, to be able to pay for the costs of legal representation pursuant to Indiana Code § 33-40-3-6;

- (2) Payments collected by the probation department, a pre-trial services agency, or the clerk of the court for administrative fees, initial pretrial services fees and monthly pretrial services fees ordered by the Court pursuant to Indiana Code § 35-33-8-3.3;
- (3) Payments from a person found, by the Court, to be able to pay for part of the cost of representation by court-appointed legal counsel pursuant to Indiana Code § 35-33-7-6; and
- (4) Payments from the portion of the bail deposit, not remitted to the defendant, for the bond administration fee, provided for in Indiana Code 35-33-8-3.2(a)(2) and (b).

**(B)** *Use of Funds.* All money of the Supplemental Public Defender Services Fund will be used solely to supplement the provision for court-appointed legal services and may not be used to replace other funding of court-appointed legal services. The Montgomery County Council must appropriate money from the fund to supplement and provide court-appointed legal services to qualified defendants.

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

(Ord. 2018-5, passed 2-21-28)

#### **§ 35.108 PROBATION DEPARTMENT OF CORRECTIONS FY2019 1006 GRANT FUND**

**(A)** *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Probation Department of Corrections FY2019 1006 Grant Fund. The funds shall consist of monies received by the Probation Department from the Department of Corrections FY2019 1006 grant award.

**(B)** *Use of Funds.* All money of the Probation Department of Corrections FY2019 1006 Grant Fund will be used consistent with the grant award to provide for probation services, including but not limited to the payment of compensation and benefits for probations officers and other employees, to pay for supplies, contractual services and capital assets related to the programs supported by the grant.

**(C)** *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-11, passed 7-9-18)

**§ 35.109 VETERANS COURT INDIANA SUPREME COURT FY2018 PROBLEM-SOLVING COURT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Veterans Court Indiana Supreme Court FY2018 Problem Solving Court Grant Fund. The funds shall consist of monies received by the Veterans Court from the Indiana Supreme Court FY2018 Problem Solving Court grant award.

(B) *Use of Funds.* All money of the Problem Solving Court Grant Fund will be used consistent with the grant award to provide for training, incentives, chemical tests, participant transportation, evaluation, treatment and medical expenses and housing.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-15, passed 7-23-18)

**§ 35.110 DRUG COURT INDIANA SUPREME COURT FY2018 PROBLEM-SOLVING COURT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Drug Court Indiana Supreme Court FY2018 Problem Solving Court Grant Fund. The funds shall consist of monies received by the Montgomery Superior Court from the Indiana Supreme Court FY2018 Problem Solving Court grant award.

(B) *Use of Funds.* All money of the Problem Solving Court Grant Fund will be used consistent with the grant award to provide for training, incentives, chemical tests, participant transportation, evaluation, treatment and medical expenses and housing.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-16, passed 7-23-18)

**§ 35.111 VETERANS TREATMENT COURT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Veterans Treatment Court Grant Fund. The funds shall consist of monies received by the Montgomery Superior Court from the Office of Court Services/Supreme Court Office of Judicial Administration grant award.

(B) *Use of Funds.* All money of the Veterans Treatment Court Grant Fund will be used consistent with the grant award to provide for the compensation and benefits for a program coordinator/case manager, a contract mentor coordinator, drug testing and mentor training for the program.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-17, passed 7-23-18)



**§ 35.112 DRUG-FREE MONTGOMERY COUNTY COALITION/LOCAL COORDINATING COUNCIL GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Drug-Free Montgomery County Coalition/Local Coordinating Council Grant Fund. The funds shall consist of monies received by the Montgomery County Probation Department from the State of Indiana mini-grants award.

(B) *Use of Funds.* All money of the Drug-Free Montgomery County Coalition/Local Coordinating Council Grant Fund will be used consistent with the grant award to provide for Veterans Treatment Court incentives, Drug Court participant incentives, juvenile drug screens, Juvenile Truthoughts program and substance abuse assessments for jail inmates.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-18, passed 7-23-18)

**§ 35.113 HEALTH DEPARTMENT 2018/2019 PREPAREDNESS GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Health Department 2018/2019 Preparedness Grant Fund. The funds shall consist of monies received by the Montgomery County Health Department from the Indiana State Department of Health Division of Emergency Preparedness grant program.

(B) *Use of Funds.* All money of the Health Department 2018/2019 Preparedness Grant Fund will be used consistent with the grant agreement and in conformance with Federal Code 42 USC 247d-3b and will be used to provide compensation and benefits for a preparedness coordinator and other expenses of the administration of the grant.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-21, passed 9-13-18)

**§ 35.114 MONTGOMERY COUNTY SELF-INSURANCE FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Montgomery County Self-Insurance Fund (Fund 4700). The funds shall consist of monies received by the Auditor from employee contributions to the self-insurance program, funds designated by the Montgomery County Council for the County's contribution to the plan, and other funds properly used to fund the plan.

(B) *Use of Funds.* All money of the Self-Insurance Fund will be used to pay for benefits provided under the self-insurance plan, including direct medical and other expenses of benefits provided, the cost of administration of the plan, the cost of stop-loss insurance coverage used to manage the risk of the plan, the cost of the Third-Party Administrator and other plan expenses.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-24, passed 9-13-18)

**§ 35.115 2018 STATE HOMELAND SECURITY PROGRAM GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby Establishes the 2018 State Homeland Security Program Grant Fund. The funds shall consist of grant monies received by the Montgomery County Emergency Management Department from the Indiana Department of Homeland Security pursuant to a grant award letter and agreement.

(B) *Use of Funds.* All money of the 2018 State Homeland Security Program Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana Department of Homeland Security and the Montgomery County Emergency Management Department.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-27, passed 10-8-18).

**§ 35.116 2018 EMERGENCY MANAGEMENT PERFORMANCE GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2018 Emergency Management Performance Grant Fund. The funds shall consist of grant monies received by the Montgomery County Emergency Management Department from the Indiana Department of Homeland Security pursuant to a grant award letter, dated October 1, 2018, and agreement.

(B) *Use of Funds.* All money of the 2018 Emergency Management Performance Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana Department of Homeland Security and the Montgomery County Emergency Management Department. Specifically, the funds will be used to provide equipment for the Montgomery County Coroner in a manner consistent with the grant award. Any unexpended funds as of November 14, 2019 must be returned to the Indiana Department of Homeland Security.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-28, passed 10-22-18).

**§ 35.117 2018 HEALTH DEPARTMENT MCCF DRUG-FREE MONTGOMERY COUNTY GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2018 Health Department MCCF Drug-Free Montgomery County Grant Fund. The fund shall consist of grant monies received by the Montgomery County Health Department from the Montgomery County Community Foundation pursuant to a grant award letter, dated August 21, 2018, and agreement.

(B) *Use of Funds.* All money of the 2018 Health Department MCCF Drug-Free Montgomery County Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Montgomery County Community Foundation and the Montgomery County Health Department. Specifically, the funds will be used to provide a website for Drug-Free Montgomery County. Any unexpended funds must be returned to the Montgomery County Community Foundation.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-29, passed 10-22-18).

**§ 35.118 2018 EMERGENCY MANAGEMENT DISTRICT 4 HEALTHCARE COALITION GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2018 Emergency Management District 4 Healthcare Coalition Grant Fund. The funds shall consist of grant monies received by the Montgomery County Emergency Management Department from the District 4 Healthcare Coalition pursuant to a grant award letter, dated October \_\_\_, 2018, and agreement.

(B) *Use of Funds.* All money of the 2018 Emergency Management District 4 Healthcare Coalition Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the District 4 Healthcare Coalition and the Montgomery County Emergency Management Department. Specifically, the funds will be used to provide equipment for the Stop The Bleed and Tactical Medical programs.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(ord. 2018-30, passed 10-8-18).

**§ 35.119 MOTOR VEHICLE HIGHWAY FUND.**

(A) *Source of Funds.* There is hereby created a new fund, called the Motor Vehicle Highway Fund. The source of monies in this fund is the monies received from the State of

Indiana via its allocation and distribution of revenues from the State's motor vehicle highway account.

**(B)** *Use of Funds.* Monies deposited into this fund may be used only as follows:

1. *General Use.* To pay for construction, reconstruction, preservation, and maintenance of the County's highways. This includes the purchase, rental and repair of highway equipment, painting of bridges and acquisition of grounds for erection and construction of storage buildings, acquisition of rights of way and the purchase of fuel oil, and supplies necessary to the performance of construction, reconstruction, preservation, and maintenance of highways.
2. *Use Restriction.* At least fifty percent (50%) of the money expended from this fund shall be used for the construction, reconstruction, and preservation of the county's highways.
3. *Covered Bridges.* If the County receives funds from the State for maintenance of covered bridged, this special allocation will only be used for the maintenance of covered bridges in the County.
4. *Definitions:* As used in this ordinance, the following terms mean:
  - a. *Construction* means the planning, supervising, inspection, actual building, draining and all expenses incidental to the construction of a highway;
  - b. *Highways* include all roadway, rights-of-way, bridges, drainage structures, signs, guard rails, protective structures in connection with highways, drains, culverts, and bridges, and the substructure and superstructure of bridges and approaches thereto;
  - c. *Maintenance* means:
    1. for highways, means the constant making of needed repairs, to preserve a smooth-surfaced highway, adequately drained, marked and guarded by protective structures for public safety; and
    2. for bridges, means the constant making of needed repairs to preserve a smooth-surfaced highway thereon and the safety and preservation of the bridge and its approaches, together with the substructure and superstructure thereof; and
    3. for highways and bridges, means and includes the acquisition and use, in any manner, of all needed equipment, fuels, materials and supplies essential and incidental thereto.
  - d. *Preservation* means the preventative treatment, rehabilitation, or structural repairs made to the transportation infrastructure and related drainage that are included in an asset management plan approved by the Indiana Department of Transportation in collaboration with the local technical assistance program at Purdue University; and

- e. Reconstruction means widening or a rebuilding of the highway or any portion thereof.

(C) *Non-Reverting Fund.* This is a non-reverting fund.  
(Ord. 2018-32, passed 11-19-18).

**§ 35.120      2018 HMEP CONFERENCE GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2018 HMEP Conference Grant Fund. The funds shall consist of grant monies received by the Montgomery County Emergency Management Department from the Indiana Department of Homeland Security.

(B) *Use of Funds.* All money of the 2018 HMEP Conference Grant Fund will be used, without appropriation, solely to pay for and defray the cost and expenses of hazardous materials emergency preparedness training, including but not limited to the cost of conferences, travel, and lodging for such training and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana Department of Homeland Security and the Montgomery County Emergency Management Department.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2018-37, passed 11-19-18).

**§ 35.121      2019 VOLUNTEER ADULT GUARDIANSHIP PROGRAM GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2019 Volunteer Adult Guardianship Program Grant Fund. The fund shall consist of monies received by the Montgomery Superior Court 1 from the Indiana Supreme Court pursuant to a grant request for fund to support the program.

(B) *Use of Funds.* All money in the Fund will be used to pay for expenses of the Volunteer Adult Guardianship Program as provided for by the terms and conditions of the grant from the Indiana Supreme Court.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-1, passed 01-28-19).

**§ 35.122      2019 DRUG PROSECUTION GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby

establishes the 2019 Drug Prosecution Grant Fund. The fund shall consist of monies received by the Montgomery County Prosecutor from the Indiana Prosecuting Attorneys Council pursuant to a grant request.

(B) *Use of Funds.* All money in the Fund will be used to pay for expenses relating to the investigation and prosecution of violations of Indiana Code §35-48 and the procurement of training, equipment and technical assistance that enhances the ability of the Prosecutor to reduce illegal drug activity as provided for by the terms and conditions of the grant. Any unused funds must be returned to the Indiana Prosecuting Attorneys Council.

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

(Ord. 2019-6, passed 2-25-19).

### **§ 35.123 2019 OPIOID RECOVERY RESPONSE PROJECT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2019 Indiana State Opioid Response Grant Fund. The fund shall consist of monies received by the Montgomery County Probation Department from the Indiana Supreme Court.

(B) *Use of Funds.* All money in the Fund will be used to pay for training and equipment expenses relating to the administration of the grant services, consistent with the Department's grant agreement with the Indiana Supreme Court.

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

(Ord. 2019-8, passed 3-11-19), (Ord. Amended by Ord. 2020-1, passed 2-24-20).

### **§ 35.124 2019 JCAP GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2019 JCAP Grant Fund. The fund shall consist of monies received by the Montgomery County Sheriff's Department from the Indiana Drug Enforcement Association (IDEA) pursuant to a grant request.

(B) *Use of Funds.* All money in the Fund will be used to pay for expenses relating to the treatment of men and women in jail who struggle with addiction issues and who meet the criteria of the program, and these grant funds will be used to pay for services, materials and supplies consistent with the Department's grant.

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

(Ord. 2019-7, passed 3-25-2019).

**§ 35.125 ZONING FEE FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Zoning Fee Fund. The fund shall consist of monies received by the Montgomery County Zoning Administrator for the user, application and other fees paid by petitioners and applicants and fines imposed for violations of the Zoning Ordinance.

(B) *Use of Funds.* All money in the Fund will be used to pay for the operation and expense of administering the Zoning Ordinance, including but not limited to salaries, office supplies, contracts for services and capital expenses of the Zoning Administrator.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-15, passed 6-24-19).

**§ 35.126 DRUG-FREE MONTGOMERY COUNTY COALITION/LOCAL COORDINATING COUNCIL GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Drug-Free Montgomery County Coalition/Local Coordinating Council Grant Fund. The funds shall consist of monies received by the Montgomery County Probation Department from the State of Indiana mini-grants award.

(B) *Use of Funds.* All money of the Drug-Free Montgomery County Coalition/Local Coordinating Council Grant Fund will be used consistent with the grant award to provide for Veterans Treatment Court incentives, Drug Court participant incentives, juvenile drug screens, Juvenile Truthoughts program and substance abuse assessments for jail inmates.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-18, passed 6-24-19).

**§ 35.127 2019 VETERAN'S COURT PROBLEM-SOLVING COURT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2019 Veteran's Court Problem Solving Court Grant Fund. The funds shall consist of monies received by the Montgomery County Probation Department from the Indiana Supreme Court grant award.

(B) *Use of Funds.* All money of the 2019 Veteran's Court Problem Solving Court Grant

(B) Fund will be used consistent with the grant award to provide for training, incentives, participant transportation, participant treatment, and participant housing.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-19, passed 6-24-19).

**§ 35.128 2019 VETERAN’S COURT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2019 Veteran’s Court Grant Fund. The funds shall consist of monies received by the Montgomery County Probation Department from the Indiana Supreme Court grant award.

(B) *Use of Funds.* All money of the 2019 Veteran’s Court Grant Fund will be used consistent with the grant award to provide for salaries and benefits of the program coordinator, mentoring, training, drug testing and supplies.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-20, passed 6-24-19).

**§ 35.129 2019 DRUG COURT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2019 Drug Court Grant Fund. The funds shall consist of monies received by the Montgomery County Probation Department from the Indiana Supreme Court grant award.

(B) *Use of Funds.* All money of the 2019 Drug Court Grant Fund will be used consistent with the grant award to provide for training, incentives, chemical testing, participant transportation, participant treatment, and participant housing.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-21, passed 6-24-19).

**§ 35.130 PLAT MAP MAINTENANCE FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Plat Map Maintenance Fund. The fund shall consist of fees collected by the Auditor for real property endorsements pursuant to Ordinance 2019-22 and Indiana Code §36-2-9-18(d).



- (B) *Use of Funds.* All money in the Fund will be used to pay for expenses relating to the maintenance of plat books in traditional or electronic format.
- (C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-22, passed 6-24-19).

**§ 35.131 2019 JCAP WOMEN’S GRANT FUND**

- (A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2019 JCAP Women’s Grant Fund. The fund shall consist of monies received by the Montgomery County Sheriff’s Department from the Montgomery County Community Foundation pursuant to a grant award. This grant will provide funds for three years.
- (B) *Use of Funds.* All money in the Fund will be used to pay for expenses relating to the treatment of women in jail who struggle with addiction issues and who meet the criteria of the program, and these grant funds will be used to pay for services, materials and supplies consistent with the Department’s grant agreement with the Montgomery County Community Foundation.
- (C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-26, passed 10-28-19).

**§ 35.132 2019 SHSP GRANT FUND**

- (A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2019 SHSP Grant Fund. The funds shall consist of grant monies received by the Montgomery County Emergency Management Department from the Indiana Department of Homeland Security pursuant to a grant award letter and agreement.
- (B) *Use of Funds.* All money of the 2019 SHSP Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana Department of Homeland Security and the Montgomery County Emergency Management Department.
- (C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-28, passed 10-28-19).

**§ 35.133 2019 IHSFG GRANT FUND**

- (A) *Source of Funds.* The Montgomery County Board of Commissioners hereby

establishes the 2019 IHSFG Grant Fund. The funds shall consist of grant monies received by the Montgomery County Emergency Management Department from the Indiana Homeland Security Foundation to a grant award letter and agreement.

(B) *Use of Funds.* All money of the 2019 IHSFG Grant Fund will be used, without appropriation, solely to implement the “Project” and/or to provide the services in conformance with the “Grant Agreement” entered into by and between the Indiana Homeland Security Foundation and the Montgomery County Emergency Management Department.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2019-29, passed 10-28-19).

**§ 35.134 FFY 2019 Emergency Management Performance (NEMA) GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the FFY 2019 Emergency Management Performance (NEMA) Grant Fund. The fund shall consist of grant monies received by the Montgomery County Emergency Management Agency from the Indiana Department of Homeland Security.

(B) *Use of Funds.* All money in the Fund will be used to pay for expenses associated with the NEMA conference, consistent with the Agency’s grant agreement with the Indiana Department of Homeland Security.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2020-2, passed 2-10-20).

**§ 35.135 FFY 2019 Emergency Management Performance (CERT) GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the FFY 2019 Emergency Management Performance (CERT) Grant Fund. The fund shall consist of grant monies received by the Montgomery County Emergency Management Agency from the Indiana Department of Homeland Security.

(B) *Use of Funds.* All money in the Fund will be used to pay for expenses associated with the CERT conference, consistent with the Agency’s grant agreement with the Indiana Department of Homeland Security.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2020-3, passed 2-10-20).

**§ 35.136      2020 CARES ACT FUND**

(A)      *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 CARES Act Fund. The fund shall consist of monies received by the Montgomery County Board of Commissioners from the Indiana State Treasurer’s Coronavirus Relief Act pursuant to the enactment of the Coronavirus Aid, Relief and Economic Security Act (CARES Act).

(B)      *Use of Funds.* All money in the Fund will be used to address unforeseen financial needs and risks created by the COVID-19 public health emergency. The funds must be used in a manner consistent with the restrictions outlined in the Fund Guidance for State, Territorial, Local and Tribal Governments, dated April 22, 2020, the provisions of Section 601(d) of the Social Security Act, as added by Section 5001 of the CARES Act, and any terms and conditions imposed by the State Treasurer. Unspent funds in the Fund are subject to re-payment to the Indiana State Treasurer.

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

(Ord. 2020-18, passed 5-26-2020).

**§ 35.137      2020 CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM FUND**

(A)      *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 Coronavirus Emergency Supplemental Funding (CESF) Program Fund. The fund shall consist of monies received by the Montgomery County Board of Commissioners from the Indiana Criminal Justice Institute for a federal reimbursement formula grant.

(B)      *Use of Funds.* All money in the Fund will be used consistent with the terms and conditions of the grant award and used to prevent, prepare for, and respond to the COVID-19 public health emergency. In addition, the grant award is governed by 2 Code of Federal Regulations Part 200 and the Department of Justice Grants Financial Guide.

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

(Ord. 2020-19, passed 5-26-2020).

**§ 35.138      2020 DRUG COURT PROBLEM SOLVING COURT GRANT FUND**

(A)      *Source of Funds.* The Montgomery County Board of Commissioners hereby

establishes the 2020 Drug Court Problem Solving Court Grant Fund. The fund shall consist of monies received by the Montgomery County Drug Court from the Indiana Supreme Court, Office of Judicial Administration, Indiana Office of Court Services for the 2020 Problem Solving Court Grant Award (Grant Number 20-CSPSC-C54-DC-001).

(B) *Use of Funds.* All money in the Fund will be for the operations of the Drug Court, including training, travel, incentives, drug testing, transportation, participant treatment, and emergency housing, all in a manner consistent with the terms and conditions of the grant award and grant agreement.

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

(Ord. 2020-21, passed 6-22-2020).

**§ 35.139 2020 VETERANS COURT PROBLEM SOLVING COURT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 Veterans Court Problem Solving Court Grant Fund. The fund shall consist of monies received by the Montgomery County Veterans Court from the Indiana Supreme Court, Office of Judicial Administration, Indiana Office of Court Services for the 2020 Problem Solving Court Grant Award (Grant Number 20-CSPSC-C54-VC-001).

(B) *Use of Funds.* All money in the Fund will be for the operations of the Veterans Court, including training, travel, incentives, drug testing, transportation, participant treatment, and emergency housing, all in a manner consistent with the terms and conditions of the grant award and grant agreement.

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

(Ord. 2020-22, passed 6-22-2020).

**§ 35.140 2020 VETERANS TREATMENT COURT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 Veterans Treatment Court Grant Fund. The fund shall consist of monies received by the Montgomery County Veterans Treatment Court from the Indiana Supreme Court, Office of Judicial Administration, Indiana Office of Court Services for the 2020 Problem Solving Court Grant Award (Grant Number 20-5JC559-C54-001).

(B) *Use of Funds.* All money in the Fund will be for the operations of the Veterans

Treatment Court, including salary and benefits for the Coordinator, salary for the Mentor Coordinator, and participant services, all in a manner consistent with the terms and conditions of the grant award and grant agreement.

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

(Ord. 2020-23, passed 6-22-2020).

**§ 35.141 2020 DRUG FREE MONTGOMERY COUNTY COALITION GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 Drug Free Montgomery County Coalition Grant Fund. The fund shall consist of monies received by the Montgomery County Probation Department in mini-grants from the Drug Free Montgomery County Coalition/Local Coordinating Council.

(B) *Use of Funds.* All money in the Fund will be used by the Probation Department in a manner consistent with the terms and conditions of the mini-grant awards and grant agreements.

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

(Ord. 2020-28, passed 8-10-2020).

**§ 35.142 COMMUNITY COVID TESTING GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the Community COVID Testing Grant Fund. The fund shall consist of monies received by the Montgomery County Health Department from the Indiana Department of Health for testing of persons for COVID.

(B) *Use of Funds.* All money in the Fund will be used by the Health Department in a manner consistent with the terms and conditions of the Award Agreement between the Department and the Indiana Department of Health.

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

(Ord. 2020-34, passed 10-12-2020).

**§ 35.143 CARES ACT PUBLIC HEALTH INFORMATION TECHNOLOGY GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the CARES Act Public Health Information Technology Grant Fund. The fund shall consist of monies received by the Montgomery County Health Department from the Indiana Department of Health for information technology needs related to the COVID pandemic.

(B) *Use of Funds.* All money in the Fund will be used by the Health Department in a manner consistent with the terms and conditions of the Award Agreement between the Department and the Indiana Department of Health.

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

(Ord. 2020-35, passed 10-12-2020).

**§ 35.144 HMEP 2021 HAZMAT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the HMEP 2021 Hazmat Grant Fund. The fund shall consist of monies received by the Montgomery County Emergency Management Agency from the Indiana Department of Homeland Security for equipment related to its hazardous materials mass notification system.

(B) *Use of Funds.* All money in the Fund will be used by the Emergency Management Agency in a manner consistent with the terms and conditions of the Award Agreement between the Agency and the Indiana Department of Homeland Security.

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

(Ord. 2020-36, passed 10-26-2020).

**§ 35.145 2020 IPEP SAFETY GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 IPEP Safety Grant Fund. The fund shall consist of monies received by the Montgomery County Probation Department from the IPEP for safety equipment, including bullet resistant vests, puncture resistant gloves, and flashlights.

(B) *Use of Funds.* All money in the Fund will be used by the Probation Department in

(B) All money in the Fund will be used by the Probation Department in a manner consistent with the terms and conditions of the Award Agreement between the Department and the IPEP.

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

(Ord. 2020-41, passed 12-7-2020).

**§ 35.146 FY2021 PROBATION/DRUG COURT RECIDIVISM REDUCTION PROGRAM GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the FY2021 Probation/Drug Court Recidivism Reduction Program Grant Fund. The fund shall consist of monies received by the Montgomery County Probation Department from the Indiana Department of Corrections for support of the Drug Court program and will provide funding for a probation officer's salary, FICA, PERF, health insurance and mobile phone expenses.

(B) *Use of Funds.* All money in the Fund will be used by the Probation Department in a manner consistent with the terms and conditions of the Award Agreement between the Department and the Department of Corrections and may not be used for construction, renovation or costs of land acquisition, weapons and/or accessories, vehicles, ammunition, electronic immobilization devices, wearing apparel, or capital expenses.

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

(Ord. 2020-42, passed 12-7-2020).

**§ 35.147 FY2021 COMMUNITY CORRECTIONS & JUSTICE REINVESTMENT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the FY2021 Community Corrections & Justice Reinvestment Grant Fund. The fund shall consist of monies received by the Montgomery County Probation Department from the Indiana Department of Corrections for support of the Probation Department and will provide funding for two probation officers' salary, FICA, PERF, and health insurance, office supplies, dues and subscriptions, telephone, vehicle insurance, conference registration, lodging and travel expenses.

(B) *Use of Funds.* All money in the Fund will be used by the Probation Department in a manner consistent with the terms and conditions of the Award Agreement between the Department and the Department of Corrections and may not be used for construction,

renovation or costs of land acquisition, weapons and/or accessories, vehicles, ammunition, electronic immobilization devices, wearing apparel, or capital expenses.

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

(Ord. 2020-43, passed 12-7-2020).

**§ 35.148 2020 BRIDGE IMPROVEMENT NOTE CONSTRUCTION FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 Bridge Improvement Note Construction Fund. The fund shall consist of note proceeds received from Horizon Investments, Inc. pursuant to the terms and conditions of the Bridge Improvement Note of 2020.

(B) *Use of Funds.* All money in the Fund will be used for the construction, reconstruction and other improvement to Bridge 79 in Montgomery County, the acquisition of real estate and necessary appurtenances, related appurtenances and equipment, costs of issuance of the Bridge Improvement Note of 2020, and other project costs. In addition, if after all costs of the project have been paid and monies remain in this Fund, such monies may be used to repay principal and interest due on the Note.

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

(ord. 2021-2, passed 1-11-2021).

**§ 35.147 2021 CARES ACT SAFETY AWARENESS REIMBURSEMENT GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2021 CARES Act Safety Awareness Reimbursement Grant Fund. The fund shall consist of monies received from the Coronavirus Relief Fund Supplemental Program, as provided for in the grant agreement, for reimbursement for pandemic-related expenses incurred in 2020.

(B) *Use of Funds.* All money in the Fund will be used to reimburse Montgomery County for pandemic-related expenses incurred during 2020, as provided for in the grant award, in a form and manner consistent with the award.

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

(Ord. 2021-5, passed 1-11-2021).

**§ 35.145 SOLID WASTE MANAGEMENT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby



establishes the Solid Waste Management Fund. The fund shall consist of contributions from the City of Crawfordsville, monies appropriated by the Montgomery County Council, and grants, donations and other monies provided to promote and support the activities of the Solid Waste Management District in Montgomery County.

(B) *Use of Funds.* All money in the Fund will be used to provide and support solid waste management activities in Montgomery County as approved by the Montgomery County Solid Waste Management District Board.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2021-03, passed 01-25-2021).

#### **§ 35.146 2020 COMMUNITY CROSSING FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 Community Crossings Fund. The fund shall consist of monies received from the State of Indiana, as provided for in the grant agreement, for local road constructions projects.

(B) *Use of Funds.* All money in the Fund will be used to pay for the cost of the local road construction projects approved by the State of Indiana for this grant and in a form and manner as prescribed in the grant agreement. Any monies remaining in the fund after completion of the approved projects will remain in the Fund and will remain available to be used only under future grants as approved by the State of Indiana.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord.2021-4, passed 01-25-2021).

#### **§ 35.148 2020 SEQUENTIAL INTERCEPT MODEL GRANT FUND**

(A) *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2020 Sequential Intercept Model Grant Fund. The fund shall consist of monies received from the Indiana Supreme Court Office of Justice Administration, Indiana Office of Court Services, as provided for in the grant agreement, for support of the Montgomery County Courts' Peer Mentor Program.

(B) *Use of Funds.* All money in the Fund will be to pay expenses and support the Montgomery County Courts' Peer Mentor Program, including the skill building course, team member/case manager training, community outreach and barrier buster activities, as provided for in the grant award, in a form and manner consistent with the award.

(C) *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2021-06, passed 01-25-2021).

**§ 35.153 2021 AMERICAN RESCUE PLAN ACT FUND**

**(A)** *Source of Funds.* The Montgomery County Board of Commissioners hereby establishes the 2021 American Rescue Plan Act Fund. The fund shall consist of monies received from the Coronavirus State and Local Fiscal Recovery Fund, as provided for in the Act, to provide additional relief to address the continued impact of COVID-19 on the economy, public health, state and local governments, individuals, and businesses.

**(B)** *Use of Funds.* All money in the Fund will be used consistent with the County's ARP Plan and federal law for the following purposes:

- (1) To respond to the public health emergency ("PHE") concerning Covid-19 or negate its negative impacts, including assistance to households, small businesses, and nonprofits; or
- (2) Aid to impact industries such as travel, tourism, and hospitality;
- (3) To respond to worker's performing essential work during the PHE by providing premium pay to eligible workers of the County that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work.
- (4) To make necessary investments in water, sewer, or broadband infrastructure.
- (5) Provide services to the extent of the reduction in revenue.
- (6) The funds may not be used to make pension payments; or offset revenue losses resulting from any tax cut, tax delay, or tax rebate enacted after March 3, 2021.

**(C)** *Non-Reverting Fund.* This is a Non-Reverting Fund.  
(Ord. 2021-16, passed 4/26/2021).

## CHAPTER 36: COUNTY POLICIES

### Section

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**§36.01 MEMBERSHIP IN ORGANIZATIONS**

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

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

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

**§36.02 ENHANCED EMERGENCY TELEPHONE 911 SYSTEM**

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

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

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

***EXCHANGE ACCESS FACILITY.***

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

- (a) An access line;
  - (b) A private branch exchange (PBX) trunk; and
  - (c) A centrex line trunk equivalent that is provided by the service supplier.
- (2) The term also includes a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a radio common carrier.
- (3) The term does not include:
- (a) A service supplier owned and operated telephone pay station line;
  - (b) A wide area telecommunication service (WATS) line;
  - (c) A foreign exchange (FX) line; or
  - (d) An incoming only line.

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

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

- (C) (1) Each service supplier providing service in Montgomery County shall on behalf of the County collect a fee of \$1.60 per month from those service users to whom it provides exchange telephone service in the County. The service supplier shall collect the fee, for each month or part of a month an exchange access facility is in service, as part of its normal billing process. The service provider may list the fee as a separate entry on each bill. If the service supplier receives partial payment from the service user, the service supplier shall apply the payment against the amount the service user owes the service supplier first.
- (2) During January of each year, each service supplier that is required to collect the fee for the county shall provide the County Treasurer with a delinquent fee report. The service supplier shall list, on the report, the name and address of each service user who is two or more months delinquent in paying the fee. The service supplier shall also indicate the amount of delinquent fees for which each person included on the list is liable. If it becomes necessary to file a legal action to enforce the collection of the monthly enhanced emergency telephone system fee, either the service supplier or the County Treasurer may initiate such action in any court of competent jurisdiction to enforce collection of

fees for which any service user is liable. The service supplier is not obligated to file an action, however, the service provided shall simultaneously collect in the same manner the delinquent enhanced emergency telephone system fee on any service user which the service provider chooses to pursue collection of account for its services.

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

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

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

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

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

### **§36.03 RECORDING DOCUMENTS; FEES**

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

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

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

#### **§36.04 SMOKING PROHIBITED IN COUNTY BUILDINGS**

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

- (a) Courthouse: Parking lot north of courthouse;
- (b) South Boulevard: Parking lot north of building;
- (c) Milligan Center: Parking lot south of building; and
- (d) Highway Building: Parking lot south of building.

Violation of this section is punishable by a fine of \$100.

(Ord. 4-87, passed - - 87; Am. Ord. 2015-2, passed 3-9-15)

#### **§36.05 PRISONER TRANSPORTATION COSTS**

The Sheriff may request and receive a travel advance for transportation of prisoners from out-of-state, as provided under I.C. 35-33-10-3, from the Sheriff's budget under "designated prisoner transportation". Upon completion of the transportation of prisoners, the Sheriff shall submit receipts for all travel expenses incurred and return any monies not used in the travel. (Ord. 88-6, passed - -88; Amended Ord. 2015-3, passed 2-\_\_\_-15)

#### **§36.06 TRAVEL EXPENSES**

The county allows travel expenses in an amount per mile as set by the County Council from time to time.

(Ord. passed 8-10-93, Ord. 2015-2 Established the mileage rate at \$0.40 per mile, effective October 1, 2015)

#### **§36.07 REAL PROPERTY ENDORSEMENTS; FEES**

*Real Property Endorsement Fee.* The County Auditor, pursuant to I.C. 36-2-9-18, shall collect a fee of Ten Dollars (\$10.00) for each (1) deed or (2) legal description of each parcel contained in the deed for which the Auditor makes a real property endorsement. (I.C. 36-2-9-18(d)).

The fee is in addition to any other fee provided by law. The Auditor shall place revenue from such fees in the Auditor's "Plat Book Fund." (Ord. 89-9, passed -89; Amended Ord. 2018-2, passed 1-22-2018) (Ord. 2019-22, passed 6-24-19).

**§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 officeholder, 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 snowplow 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.
- (G) **Procedure for Requesting and Receiving Quotes for Certain Public Works Projects.**
- (a) **Applicability.** This section applies to all public work projects estimated, by the County, to cost less than \$50,000. This procedure does not apply for resurfacing of a road, street, or bridge unless the weight or volume of material in the project is capable of accurate measurement and verification and the specifications define the geographic point at which the project begins and ends.
  - (b) **Procedure.** The Montgomery County Board of Commissioners will invite quotes from at least three persons known to deal in the class of work proposed to be done by either of the following methods:
    - (1) **Mail.** The Board of Commissioners may mail notice inviting quotes and stating the plans and specifications on file in the Public Works Department. This notice will be mailed at least seven days before the time fixed for receiving quotes. Persons mailed this notice are not required to submit a quote before the Board of Commissioner's meeting at which the quotes are to be received and opened.
    - (2) **Telephone or Electronically.** The Board of Commissioners may solicit quotes by telephone, facsimile transmission, or electronic mail. The seven-day waiting period required under section (B)(1) does not apply to quotes solicited under this section.
  - (c) **Opening and Reading Quotes.** All quotes received pursuant to this policy will be opened publicly and read aloud at the time and place designated in the solicitation for quotes. The Board of Commissioners will announce the person who submitted each quote and the amount of each quote.

- (d) Awarding of Contract. The Board of Commissioners will award the contract for the public work project to the lowest responsible and responsive quoter.
- (e) Rejection of Quotes. The Board of Commissioners may reject all quotes submitted. If the Board of Commissioners rejects all quotes, the Board of Commissioners may negotiate and enter into agreements for the work in the open market without inviting or receiving quotes if the Board of Commissioners establishes in writing the reasons for rejecting the quotes.

**(H) Prohibited Technology Purchases.**

(1) As used in this section, “prohibited person” refers to a person that has been designated as posing a national security threat to the integrity of communications networks or the communications supply chain. Pursuant to 47 CFR 54.9, prohibited persons are designated by the Public Safety and Homeland Security Bureau (PSHSB).

(2) Money appropriated by Montgomery County may not be granted to or used to purchase or obtain equipment or services produced or provided by a prohibited person. A prohibited person cannot be considered responsible or best for purposes of determining whether a bidder or offeror is responsible or best when awarding public works contracts or any other contract with Montgomery County.

(Am. Commissioners Ord. 2005-04, passed 7-26-05; Am. Ord. 2018-34, passed 11-19-18; Am. Ord. 2020-24, passed 07-13-2020).

**§36.10 RETURN CHECK PROCESSING FEE**

Any person who tenders an insufficient funds or account- closed check to any county office shall pay a return check processing fee of \$20 to the county office.  
(Ord. 2001-1, passed 1-30-01)

**§36.11 DISPOSITION OF WORTHLESS PROPERTY**

(A) *Worthless Property Defined.* Worthless property means any property no longer needed by the County which has a value less than the estimated cost of sale of transportation of the property.

(B) *Procedure.* If at any time, a County employee believes that he/she has in his/her possession property which is not needed by the County, he/she shall determine and document the value and estimated cost of sale and transportation of the property. If the property is worthless, as defined in (A), it may be demolished, junked, or made available

to the public only as approved by the Commissioners. The employee shall demolish and/or dispose of the property only as specifically approved by the Commissioners.

(C) *Records.* The County employee disposing of worthless property shall maintain complete and accurate records of the disposal of the property. These records shall include, but not be limited to, a description of the property disposed of, the name and address of the person taking the property, a verification regarding any price paid for the property, a description of the process used to ensure that the public was aware of the opportunity to acquire the property, and other such information which evidences compliance with this policy.

(D) *Highest Offer.* The property will be turned over to the person or entity offering the most money for the property, unless the highest offer is unacceptable. If the disposing employee determines the highest offer unacceptable, he/she shall state the reasons therefor in his/her report to the Commissioners. If no offers are received, the employee may make the property available to the public on a first-come, first-served basis as long as the process used is fair and open.

(E) *No Rights Created.* This policy mirrors Indiana law, and the adoption of this policy does not create any rights or confer to any person or entity any rights which do not exist under Indiana law.

(Commissioners Ord. 2006-19, passed 10-10-06)

## **§36.12 CLAIM PAYMENTS IN ADVANCE OF BOARD ALLOWANCE**

(A) The County Auditor may make claim payments in advance of Board Allowance for the following kinds of expenses:

- (1) Property or services purchased or leased from the United States Government, its agencies, or its political subdivisions;
- (2) Insurance premiums
- (3) Utility payments or utility connection charges;
- (4) Bond or coupon payments;
- (5) Maintenance or service agreements including credit card statements;

(6) State or Federal taxes;

(7) Expenses that must be paid because of emergency circumstances.

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

(C) The Board of Commissioners shall review and allow the claim at its next regular or special meeting following the pre-approved payment of the expense.

(D) Any payment of expenses under this Section must be published in the manner provided under I.C. 36-2-6-3.

(Commissioners Ord. 2009-2, passed 5-11-09)

### **§36.13 SHERIFF SALE PROGRAM**

(A) *Establishment of Program.* The Board of Commissioners hereby establishes the Sheriff Sale Program. The Sheriff may enter into one or more contracts for administrative, technical, clerical and related services that are reasonable and appropriate for the Sheriff to effectively prepare for, manage, administer and implement a foreclosure sale program. In the alternative, the Sheriff may administer the program using the resources available in his Department.

(B) *Services Contracts.* Any and all service contracts shall provide for the delivery of such services by a contractor in compliance with all applicable statutory provisions for the conduct of foreclosure sale proceedings and the Sheriff Sale Program.

(C) *Fees.* All service contracts shall provide for the payment of a fee not to exceed statutory limitations for each sale in the Sheriff Sale Program, and the fees shall be paid directly to the service provider if a contractor provides these services. The Sheriff is also authorized to charge a fee (Foreclosure Costs Fee) for each cause number in the Sheriff Sale Program, and all such fees shall be deposited into the Sheriff Sale Fund. The Foreclosure Costs Fee shall be payable at the time of filing of the praecipe under Indiana Code 32-29-7-3(h), and this fee shall be in addition to the other statutory costs and fees of the sale. The fees are:

(1) Administrative Fee: \$13.50 per hour

(2) Civil Process: \$19.00 per hour, plus \$0.55 per mile, \$13.00 statutory fee for first defendant and \$3.00 fee for additional defendants.

(3) Sheriff's Fee: \$75.50 per cause number

(4) Contractual Service Fee: \$100 per parcel

(D) *Accounting.* The Sheriff shall account for all proceeds and fees in compliance with any and all reporting requirements as set forth by the Indiana State Board of Accounts, and any service contract shall obligate the provider to render such accounting in compliance with the laws applicable to the Sheriff .  
(Ord. 2012-3, passed 4-30-12)

### §36.14 NEPOTISM POLICY

(A) *Definitions:* The following definitions apply to the County's Nepotism Policy:

(1) *Direct Line of Supervision:* The phrase "direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The phrase does not include the responsibilities of the County Commissioners of County Council to make decisions regarding salary ordinances, budgets or personnel policies of the County;

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

(3) *Relative:* The term "relative" means any of the following:

4. a spouse;
5. a parent or stepparent; and,
6. child, an adopted child or stepchild;

7. a brother, sister, stepbrother, stepsister, or a brother or sister by the half-blood;
8. a niece or nephew;
9. an aunt or uncle; and,
10. a daughter-in-law or son-in-law.

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

**(C)** *Application of Policy to Relatives of Elected Officials:* Unless a specific exemption applies, this policy applies to an individual who is employed by the County on the date the individual's relative begins serving a term of an elected officer of the County. When the elected official begins serving a term of elected office, the relative employed by the County may remain employed by the County and maintain his or her position or rank. However, the relative of the elected official may not be promoted to a position that results in one relative being in the direct line of supervision of the other relative. For an individual who is a member of a merit police department, the individual may not be promoted to a position that is not within the merit ranks if the promotion would result in the individual being in the direct line of supervision of the other relative. This policy does not abrogate or affect an employment contract with the County that an individual is a party to and is in effect on the date the individual's relative begins serving a term of an elected office of the County.

**(D)** *Exceptions:* The following exceptions apply to the County's Nepotism Policy:

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

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

- (2) *Precinct Election Officers*: the performance of duties of a precinct election officer, as defined by Indiana Code § 3-5-2-40.1, that are imposed by Title 3 is not considered employment by the County;
  - (3) *Volunteer Firefighters*: the performance of duties of a volunteer firefighter is not considered employment by the County;
  - (4) *Sheriff's Spouse as Prison Matron*: a sheriff's spouse may be employed as a prison matron for the County under Indiana Code § 36-8-10-5, and the sheriff's spouse may be in the sheriff's direct line of supervision;
  - (5) *Term-Limited Coroners*: an individual who has served as coroner, who is currently ineligible to serve as coroner under Article 6, Section 2(B) of the Constitution of the State of Indiana, who, as coroner, received certification under Indiana Code § 36-2-14-22.3, and whose successor in the office of coroner is a relative of the individual, may be hired in the position of deputy coroner and be in the coroner's direct line of supervision;
- (E) *Annual Reports*: Each year, the following officials must file the following annual reports:
- (1) The President of the Board of Commissioners will file with the annual report filed by the County with the State Board of Accounts under Indiana Code § 5-11-13-1 a statement that the County has implemented a Nepotism Policy under Indiana Code § 36-1-20.2 and § 36-1-21.
  - (2) Each elected official of the County will annually certify in writing, subject to the penalties of perjury, that the officer has not violated Indiana Code § 36-1-20.2. This certification will be submitted to the President of the Board of Commissioners not later than December 31 of each year;
  - (3) Each Commissioner and County Council member annually certify in writing, subject to the penalties for perjury, that the officer has not violated Indiana Code § 36-1-21. This certification shall be submitted to the President of the Board of Commissioners not later than December 31 of each year.
- (F) *Contracting With the County*: The County may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with an individual who is a relative of a County Commissioner or County Council member or a business entity that is wholly or partially owned by a relative of a County Commissioner or County Council member only if the requirements of the County's policy are satisfied



and the County Commissioner or County Council member does not violate the Indiana Conflicts of Interest rules are contained in Indiana Code § 35-44-1-3.

- (1)** Disclosure: The County may enter into a contract or renew a contract with an individual or business described in Section 36.13(F) if:
  - (a)** The County Commissioner or County Council member files with the County Auditor at a public meeting of the Board of County Commissioners prior to final action on the contract or purchase a full disclosure which must:
    - (i)** be in writing;
    - (ii)** describe the contract or purchase to be made by the County;
    - (iii)** describe the relationship that the Commissioner or Council Member has to the individual or business entity that contracts or purchases;
    - (iv)** be affirmed under the penalty for perjury;
    - (v)** to be filed, not later than fifteen (15) days after final action on the contract or purchase, with the State Board of Accounts and the Clerk of the Circuit Court of the County;
  - (b)** The appropriate County agency makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered or makes a certified statement of the reasons why the vendor or contractor was selected;
  - (c)** The Board of County Commissioners accepts in a public meeting the disclosure prior to final action on the contract or purchase;
  - (d)** The County satisfies any other requirements under the public purchasing and bidding laws contained in Indiana Code § 5-22 or § 36-1-12;
  - (e)** The Commissioner or Council member must also comply with the disclosure laws of Indiana Code § 35-44-1-3, if applicable.

- (2) *Existing Contracts:* These rules do not affect the initial term of a contract in existence at the term of office of the Commissioner or Council Member of the County begins.”

**§36.15 PRISONER REIMBURSEMENT**

(A) Beginning March 1, 2011, the Sheriff will assess reimbursement costs from each person the Sheriff holds in the County Jail who in

- (1) Sentenced under a felony or misdemeanor;
- (2) Subject to lawful detention in the County Jail for more than 72 hours;
- (3) Not a member of a family that makes less than 150% of the federal income poverty level; and
- (4) Not a child detained under a juvenile court’s jurisdiction.

(B) These reimbursement costs to be assessed by the Sheriff includes:

- (1) \$30 multiplied by each day or part of day that the person is lawfully detained in the County Jail;
- (2) The direct cost of investigating a person’s potential indigent status; and
- (3) The cost of collecting the amount for which the person is responsible under this section.

(C) The Sheriff may collect the amounts a person owes under this section from the inmate’s remaining commissary account balance before the Sheriff releases the person from custody and issue to the person a bill for the remaining balance. The person must pay the invoice within 180 days of his or her receipt of the invoice. If the Sheriff does not receive the amount due, the County Attorney may collect the amount due in a civil proceeding.

**§36.16 SHERIFF’S OFFICE PRISONER PROCESSING FEE**

(Ord. 2011-3, adopted 2-28-11, repealed 2015-3, passed \_\_\_\_\_, 2015)  
(Reserved for Future Use)

**§36.17 PRISONER HEALTHCARE CO-PAYMENTS**

- (A) This section does not apply to a person confined to a county jail who:
- (1) Maintains a policy of insurance from a private company covering:
    - (a) Medical care;
    - (b) Dental care;
    - (c) Eye care; or
    - (d) Any other health care related service.
  - (2) Is willing and able to pay for the person's own medical, dental, eye, or health care; or
  - (3) Is committed to the Department of Correction.
- (B) Except as provided in division (C) below, a person confined to the Montgomery County jail may be required to make a co-payment in an amount of not more than Fifteen Dollars (\$15) for each provision of any of the following services:
- (1) Medical care;
  - (2) Dental care;
  - (3) Eye care; and
  - (4) Any other health care related service.
- (C) A person confined to the Montgomery County jail is not required to make the co-payment under division (B) above if:
- (1) The person does not have funds in the person's commissary account or trust account at the time the service is provided;
  - (2) The person does not have funds in the person's commissary account or trust account within 60 days after the service is provided;
  - (3) The service is provided in an emergency;
  - (4) The service is provided as a result of an injury received in the county jail; or
  - (5) The service is provided at the request of the Sheriff or Jail Administrator.
- (D) The County Sheriff shall:
- (1) Collect up to Fifteen Dollars (\$15) from the commissary account or inmate trust account within 60 days from the date the services are provided;
  - (2) Deposit these funds in a separate account and forward these funds to the County Auditor on a monthly basis; and
  - (3) Maintain records of all transactions and make those records available to the County Auditor upon request.
- (E) The County Auditor shall deposit all funds received under this section into the County Medical Care for Inmates Fund.

(F) The County Medical Care for Inmates Fund shall be used solely to offset county expenditures from the County General Fund for Inmate Medical Care.  
 (Ord. 95-1, passed 2-21-95; Amended Ord. 2011-4; Revised Ord 2015-3, passed 3-92-\_\_\_\_-15)

**§36.18 FEES FOR COPYING AND CERTIFICATION OF DOCUMENTS**

(A) *Authorized Fees:* The following fees will be charged for all copies, unless subject to an exception, as provided for in (B):

<b>Document</b>	<b>Fee</b>
Cost of non-color documents	\$.10 per page
Cost of color copies	\$.25 per page
Cost to certify a document	\$5 per document
Electronic copying (CD-ROM, diskette, cassette tapes)	Cost of materials (no charge if provide own disk)
Electronic Maps	Fee, as approved by the Montgomery County Council, based upon reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser
Law Enforcement Recordings	The fee for copying a Law Enforcement Recording (as defined by Indiana Code 5-14-3-2(k) shall be \$150.00.

(B) *Exceptions:* The following fees are exceptions to the general copying fee provided for above, and these fees are authorized by Indiana law:

(1) *Recorder:* The County Recorder shall charge \$1 for each page not larger than 8 ½ inches by 14 inches for furnishing copies of records and \$2 for each page that is larger than 8 ½ inches by 14 inches. These fees are required under Indiana Code 36-2-7-10;

- (2) *Health Department:* The Health Department is exempted such that its board may establish and collect fees for special services and records;
- (3) *Clerk:* The County Clerk shall charge \$1 for each certification under seal that is attached in authentication of a copy of a record, paper or transcript. The Clerk shall also charge \$1 for each page copied in preparation of a transcript or record; and
- (4) *Statutory Fees:* Any other fee provided for by Indiana law.

This schedule shall not supersede any other certification, copying, facsimile machine transmission, or search fee specified by statute or court order to be collected by a public agency. (Ord. 2015-4, passed 3-9-15, Am. Ord 2016-20, passed 8-22-16)

### **§36.19 DOCUMENT RETENTION**

- (A) **Disposal of Records:** There are two approved methods to dispose of public records: (1) by request to the Montgomery County Commission of Public Records; and (2) through use of retention schedules. The County has approved eight retention schedules (See Appendix A), seven of these are specific to county offices and the eighth is a general retention schedule. County officials must first reference their office-specific retention schedule for disposal of records, then reference the general retention schedule if the office-specific schedule does not apply. If neither the office-specific nor general retention schedules apply then the county official must submit a request to the Montgomery County Commission of Public Records for destruction or transfer of public records.
- (B) **Limitations on Disposal:** No records may be destroyed until a period of at least 3 years has elapsed from the time when the records were originally filed except that some records may be destroyed before 3 years have elapsed under certain circumstances. Two requirements must be met for records to be destroyed before 3 years have elapsed since the time the records were originally filed. First, the records must be allowed to be destroyed before 3 years according to an approved retention schedule. Second, no financial records or records relating thereto may be destroyed until the audit of the records by the State Board of Accounts has been completed, report filed, and any exceptions set out in the report satisfied.
- (C) **Procedure for Destruction of Records Using Retention Schedule:** When an office plans to destroy public records in accordance with an office-specific or the general retention schedule under Appendix A, the official must complete a Notice of Destruction (Indiana State Form 44905) and provide the original to the Clerk of the Montgomery Circuit Court and a copy to the Indiana Commission on Public Records. Thereafter, the destruction must be delayed 30 days; if there is no contact from the

Commission on Public Records during the 30 day period the records may then be destroyed.” (Ord. 2015-5, passed 3-9-15)

**§36.20 ELECTRONIC TRANSMISSION OF PROPERTY TAXES AND SPECIAL ASSESSMENT STATEMENTS**

(A) Authorization for Electronic Transmission. The County Treasurer and County Auditor have the authority to electronically submit to County taxpayers their statements and other information for property taxes and special assessments (hereafter “E-billing”) first due and payable after 2014.

(B) Documents That May Be Transmitted Electronically. Each County taxpayer may direct the County Treasurer and County Auditor to transmit the following to the taxpayer by electronic mail: (1) a statement that would otherwise be sent by the county treasurer to the person by regular mail under Indiana Code 6-1.1-22-8.1(a)(1), including a statement that reflects instalment payment due dates under Indiana Code 6-1.1-22-9.5 or 9.7; (2) a provisional tax statement that would otherwise be sent by the County treasurer to the person by regular mail under Indiana Code 6-1.1-22.5-6; (3) a reconciling tax statement that would otherwise be sent by the County treasurer to the person by regular mail under any of the following: Indiana Code 61.1-22-9, Indiana Code 6-1.1-22- 9.7, or Indiana Code 6-1.1-22.5-12, including a statement that reflect installment payment due dates; (4) a statement that would otherwise be sent by the County auditor to the person by regular mail under Indiana Code 6-1.1-17-3(b); and (5) any other information that concerns the property taxes or special assessments, and would otherwise be sent by the County treasurer or the County auditor to the person by regular mail before the last date the property taxes and special assessments may be paid without becoming delinquent. After receiving a properly filled-out and timely filed Request form as outlined below, the County Auditor or County Treasurer will transmit the information listed in this section to the taxpayer by electronic mail that provides a secure Internet link to the information.

(C) Manner of Request for E-Billing. The taxpayer may submit request for E-billing by using a Request form “Request for Electronic Transmission of Statements and Other Information” available at offices of the County Auditor and County Treasurer or on Department of Local Government Finance (“DLGF”) website. The Request form may be submitted in person, by regular mail, or an online format developed by the County and approved by DLGF. The Request form must be submitted on or before March 15th of each year. The Request form is considered filed on the postmark date or on the date it is electronically submitted. The taxpayer must follow all additional instructions listed on the Request form that may be updated from time to time. The taxpayer must provide to the County Auditor or County Treasurer any changes in e-mail address provided in the original or last request for electronic transmission.

(D) Notice and Publicizing. The County Treasurer and County Auditor must notify the County taxpayers of the option to request E-billing. The County Treasurer and County Auditor must make the Request form available to the public and publicize the availability of the E-billing option through appropriate media in a manner reasonably designed to reach members of the public.

(E) Multiple Persons Liable for Property Taxes. If more than one person is liable for property taxes, all such persons must designate one person authorized to secure the statements and other information via E-billing.

(F) Record Keeping. The County Treasurer must maintain a record that shows at least the following: (1) each person to whom a statement or other information is transmitted using E-billing; (2) the information included in the statement; and (3) whether the County Treasurer received a notice that the person's e-mail was undeliverable.

(G) E-Billing Service. The County Auditor and County Treasurer are authorized to negotiate and execute contracts with a provider necessary to obtain such administrative, technical, clerical and related services ("E-billing Services") to implement E-billing. Any E-billing Services contract shall provide for the delivery of such services by a contractor in compliance with all applicable statutory provisions for E-billing.  
(Ord. 2015-1, adopted \_\_\_\_\_, 2015)

### **§36.21 AMERICANS WITH DISABILITIES ACT POLICY**

(A) *Policy Against Discrimination*: It is the policy of Montgomery County that it will not discriminate against persons with disabilities in access to jobs, public accommodations, and government programs, public transportation and telecommunications;

(B) *Intention To Comply with ADA*: It is the policy of Montgomery County to comply with the Americans With Disabilities Act of 1990 (ADA). If a policy of the County and a provision of the ADA conflict, the ADA provision will be deemed to be the policy of the County and will be enforceable as if specifically written in this policy;

(C) *Importance of Accessibility*: Montgomery County recognizes that it is important for its facilities, programs and services to be available to all of its citizens and to the general public;

(D) *Transition Plan*: Montgomery County understands that some of its facilities, programs and services comply with the ADA and that some may not now, or may not in the future, comply with the ADA because the standards of compliance have or will be revised, changed or added. In order to comply with the ADA, the Board of Commissioners

developed in May 2014 an ADA Transition Plan which now guides future planning and implementation of accessibility improvements. Montgomery County is committed to implementing the Transition Plan as soon as possible, administratively, physically and financially. Montgomery County will, as it works toward reducing accessibility barriers within County-owned facilities, infrastructure, programming and services, be guided by public and/or employee requests and its initial or revised prioritization of the Transition Plan items. Montgomery County will strive to include annual budget appropriations to remove accessibility barriers such that its facilities, programs and services will be accessible as is reasonably possible.

- (E) *Alternate Access*: To the extent Montgomery County cannot provide access to its facilities, programs and services, it will provide alternate means for the same opportunities to persons with disabilities;
- (F) *Notice of Rights*: Montgomery County has and will continue to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of their rights and protections afforded by the ADA and the regulations promulgated thereunder;
- (G) *ADA Coordinator*: Montgomery County has designated an ADA Coordinator, and the Coordinator is responsible for the development and implementation of the ADA Transition Plan and for overall compliance with the ADA;
- (H) *Accommodation Requests and Grievance Procedures*: Montgomery County has established procedures for requests for accommodation, issued annual reports regarding implementation of the Transition Plan, requests for reasonable accommodation and grievances, and adopted and implemented a grievance procedure, all as required by the ADA. These procedures are contained in the Transition Plan which can be accessed at the County website or can be provided upon request;
- (I) *Other Power-Driven Mobility Devices*: It is the policy of Montgomery County that Other Power-Driven Mobility Devices (OPDMD) are allowed on County Roads and in County-Owned Facilities to the same extent as members of the public are allowed.

(1) *definition of OPDMD*: Other Power-Driven Mobility Device is any mobility device powered by battery, fuel or other engines that is used by an individual with a disability for the purpose of locomotion, including but not limited to golf cars, electric scooters, electronic personal assistance mobility devices, such as Segway®, or any mobility device designed to operate in areas without defined pedestrian routes.



(2) OPDMDs Authorized: OPDMDs are allowed in all areas where members of the public are allowed, unless a particular OPDMD cannot be accommodated because of legitimate safety requirements.

(3) Alternate Accommodation: If OPDMDs are not allowed in certain areas because of legitimate safety requirements, Montgomery County will provide alternative service if possible.

(4) No Exclusion From County Roads: OPDMDs will not be excluded from County Roads because of legitimate safety requirements or any other reason. Section 72.01 of the County Code will not be construed to exclude OPDMDs from County roads.

### **§36.22 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 POLICY**

(A) *Policy Against Discrimination:* It is the policy of Montgomery County that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance;

(B) *Intention to Comply with Title VI of the Civil Rights Act of 1964:* It is the policy of Montgomery County to comply with Title VI of the Civil Rights Act of 1964. If a policy of the County and a provision of Title VI of the Civil Rights Act of 1964 conflict, the Title VI provision will be deemed to be the policy of the County and will be enforceable as if specifically written in this policy;

(C) *Importance of Equal Treatment:* Montgomery County recognizes that it is important to expel all racial discrimination and to ensure that public funds are not spent in a way which encourages, subsidizes, or results in racial discrimination;

(D) *Notice of Rights:* Montgomery County has and will continue to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of their rights and protections afforded by Title VI of the Civil Rights Act of 1964;

(E) *Grievance Procedure:* Montgomery County has adopted and implemented a grievance procedure for complaints under § 36.22 of the Montgomery County Code of Ordinances. The grievance procedure was established to meet the requirements of Title VI of the Civil Rights Act of 1964. It may be used by anyone who wishes to file a complaint alleging Montgomery County discriminated on the basis of race, color, or national origin regarding the exclusion from participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving Federal financial assistance.

- (1) The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date and description of the problem.
- (2) The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Lori Dossett  
Title VI Grievance Coordinator  
Montgomery County Commissioners Office  
110 W. South Boulevard  
Crawfordsville, IN 47933  
(765) 361-2623  
Lori.dossett@montgomeryco.net

- (3) Within 15 calendar days after receipt of the complaint, Lori Dossett or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, Lori Dossett or her designee will respond in writing and where appropriate in a format accessible to the complainant. The response will explain the position of Montgomery County and offer options for substantive resolution of the complaint.
- (4) If the response of Lori Dossett or her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Montgomery County Board of Commissioners.
- (5) Within 15 calendar days after receipt of the appeal, the Montgomery County Board of Commissioners will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after that meeting, the Montgomery County Commissioners or their designee will respond in writing and where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.
- (6) All written complaints received by Lori Dossett or her designee, appeals to the Montgomery County Board of Commissioners and responses from these two offices will be retained by Montgomery County for at least three years.”

### **§36.23 BOND POLICY**

- (A) *Authorization:* The County may purchase individual bonds, blanket bonds, or crime insurance policies endorsed to cover the faithful performance of all employees, commission members, and persons acting on behalf of the local government unit,

including the Auditor, Treasurer Recorder, Surveyor, Sheriff, Coroner, Assessor, Clerk, and those employees required by law or directed to file an individual bond.

**(B)** *County Treasurer, County Sheriff and Circuit Court Clerk's Bond:* Montgomery County fixes the amount of a bond for the County Treasurer, County Sheriff and Circuit Court Clerk at \$30,000 for each \$1,000,000 of receipts of the officer's office during the last complete fiscal year before the purchase of a blanket bond, provided that this amount may not be less than \$30,000 nor more than \$300,000. The Montgomery County Council must approve the bond if sufficient. The County Auditor shall not file bonds in amounts less than \$30,000, as fixed by the Montgomery County Council.

**(C)** *Other Officials, Appointees and Employees:* Every elected or appointed officer, official, deputy, employee, or contractor of Montgomery County who is required to file a bond for the faithful performance of their duty, must file the bond in the office of the Auditor and the County Recorder. The County Recorder and deputies and employees of the recorder must file their bonds with the county Auditor and in the office of the Clerk of the circuit court. Bonds must be filed with the Recorder within 10 days of their issuance.

**(D)** *Oath of Office:* Every county officer required to give a bond must have a copy of the oath of officer recorded with the bond.

**(E)** *Filing With State Board of Accounts:* The Auditor must file a copy of the bonds with the state board of accounts contemporaneously with the filing of the County's annual financial report and electrically in the manner prescribed by I.C. § 5-14-3.8-7.

**(F)** *Time of Bonding:* An officer required to give a bond must give the bond before the commencement of his or her term of office. The officer may not take office until the policy *Payee* is given.

**(G)** *Payment of Bond:* All bonds must be payable to the state of Indiana. Every such bond shall be obligatory to such state, upon the principal and sureties, for the faithful discharge of all duties required of such officer by any law, then or subsequently in force, for the use of any person injured by any breach of the condition thereof.

**(H)** *Validity of Bonds:* No policy shall be void on a first recovery, but suits may be instituted thereon, from time to time, until the penalty thereof is exhausted. No bond shall be void because of defects in form or substance or in the approval and filing thereof, but, upon the suggestions of such defects, such policy shall be obligatory as-is property executed, filed and approved.

(I) *Forms:* The commissioner of insurance shall prescribe the form of the bonds as required by I.C. § 5-4-1-18, in consultation with the Indiana archives and records administration under I.C. § 5-15-5.1-6.

(J) *Effectiveness:* Unless the bond is canceled, the bond must continue in force for the terms of office of the individual who files the bond or policy. The aggregate liability of the surety or insurer is the amount specified in the bond.

(K) *Intent to Comply:* It is the policy of Montgomery County to comply with all provisions of the Indiana Code. If a policy of the County and a provision of the Indiana Code regarding bonds under I.C. § 5-4-1 conflict, the Indiana Code will be deemed to be the policy of the County and will be enforceable as if specifically written in this policy.

#### **§36.24 INTERNAL CONTROLS**

Montgomery County adopts, as policy, the internal controls standards as set forth by the Indiana State Board of Accounts Uniform Internal Control Standards for Indiana Political Subdivisions manual as expressly written and published by the Indiana State Board of Accounts in September 2015, as amended from time to time. In order to implement these standards, there is established an Internal Control Standards Oversight Committee. This Committee will consist of a Commissioner selected by the Board of Commissioners, a member of the County Council selected by the County Council, the Auditor, the Treasurer, the Recorder, the Clerk, the Health Department Director, Building Commissioner, the Sheriff, Chief Probation Officer and County Attorney. All officers, elected officials and employees are required to comply with the policy. Employees who fail to comply with this policy are subject to discipline, including but not limited to termination of their employment. This policy is attached as Appendix B to this Chapter (Ord 2016-01, passed 1-25-16; Am. Ord. 2018-31, passed 11-19-18).

#### **§36.25 MATERIALITY POLICY**

(A) *Reporting to Auditor:* If an elected official, appointed official or employee discovers any material irregular variances, losses, shortages, or thefts of cash or other assets, the official or employee will immediately report the irregularity or theft to the Board of County Commissioners and to the Indiana State Board of Accounts.

**(B) *Discovery of Irregularities By Auditor:*** If the Auditor discovers any material irregular variances, losses, shortages, or thefts of cash or other assets, the Auditor will immediately report the irregularity or theft to the Board of County Commissioners and to the Indiana State Board of Accounts.

**(C) *Procedure:*** Upon receipt of a report of any material irregular variance, loss, shortage, or theft, the Auditor must:

**(1) *Maintenance of Record:*** Log all reports into a spreadsheet that is permanently maintained by Montgomery County;

**(2) *Confirmation:*** Confirm the dollar amount of the variance, loss, shortage, or theft;

**(3) *Definition of Materiality:*** For purposes of this policy, the term “material” means a variance, loss, shortage, or theft of cash which exceeds \$0.00 and a variance, loss, shortage, or theft of any other (non-cash) asset which exceeds \$0.00.

**(4) *Investigation:*** Investigate the cause of any variance, loss, shortage, or theft and document all findings;

**(5) *Corrective Action:*** Document and implement corrective actions or internal control procedures to correct the causes of the variance, loss, shortage, or theft; and

**(6) *Record Keeping:*** Maintain copies of all relevant documentation, resolution of incidents, and any report to the State Board of Accounts in a centralized folder.

**(D) *Duty of Public Officials to Report Misappropriation of Public Funds:*** All public officials who have actual knowledge of, or reasonable cause to believe, there has been a misappropriation of public funds must immediately send written notice of the misappropriation to the State Board of Accounts and the prosecuting attorney pursuant to Indiana Code § 5-11-1-27(I) and to the Board of County Commissioners pursuant to this policy.

(Ord 2016-09, passed 3-14-16)

## **§36.26 PROHIBITION ON ANIMALS IN THE MONTGOMERY COUNTY COURTHOUSE**

**(A) Prohibited Animals.** No individual may bring an animal, domesticated or otherwise, into the Montgomery County Courthouse for any purpose. Prohibited animals include “Comfort

Animals/Dogs” and “Other Emotional Support Animals” as defined by the Americans with Disability Act of 1990 (“ADA”).

**(B) Exceptions.**

**(1) Service Dogs.**

**(i)** An individual may enter the Montgomery County Courthouse with a “Service Dog” which is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, as defined by the ADA.

**(ii)** Service dogs must be harnessed, leashed, or tethered, unless these devices interfere with the service animal’s work, or the individual’s disability prevents using these devices. If these devices do interfere, the individual must exercise control of the service dog by either voice, signal, or other effective controls.

**(iii)** In the event a service dog becomes out of control, and the individual fails to take effective action to bring the dog under control, or if the service dog is not housebroken, employees of Montgomery County are permitted to ask for the service dog to be removed from the Courthouse. If a service dog is removed, Montgomery County employees shall offer the person the opportunity to continue his/her business in the Courthouse and provide other reasonable accommodations to that individual.

**(2) Miniature Horses.**

**(i)** An individual may enter the Montgomery County Courthouse with a miniature horse which is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, as defined by the ADA. A miniature horse does not typically exceed 34 inches in height and does not typically weigh more than 100 pounds.

**(ii)** Montgomery County may determine that a miniature horse cannot be accommodated by the Courthouse based the following factors:

- (a)** Whether the miniature horse is housebroken;
- (b)** Whether the miniature horse is under the owner’s control;
- (c)** Whether the facility can accommodate the miniature horse’s type, size, and weight; and

(d) Whether the miniature horse's presence will compromise legitimate safety requirements necessary for safe operation of the Courthouse.

(iii) In the event a Montgomery County employee determines that the Courthouse cannot accommodate a miniature horse based on the above factors, Montgomery County employees shall offer the person the opportunity to continue his/her business in the Courthouse and provide other reasonable accommodations to that individual.

(Ord. 2016-25, passed 9-12-16)

**§36.27 PROHIBITION ON USE OF PUBLIC RECORDS FOR COMMERCIAL PURPOSES**

(A) *Use Prohibition.* Any person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity receiving public records or information, pursuant to a request made under Indiana Code 5-14-3-3(d), may not use the records or information for commercial purposes. For purposes of this section, the term 'commercial purposes' means using the record or information to sell, loan, give away or otherwise deliver the record for information obtained by a public records request to any other person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity for these purposes.

(B) *Exemption.* This prohibition does not apply to records or information used in connection with the preparation or publication of news, used for nonprofit activities, or used in academic research.

(C) *Use in Violation of Prohibition:* Any person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity using the record or information in a manner contrary to the prohibition contained in this section is prohibited from obtaining further records and data under Indiana Code 5-14-3-3(d).

(Commiss. Ord 2017-03, passed 1-23-17)

**§36.28 CONFLICTS OF INTEREST RULE FOR FEDERALLY SUPPORTED PROJECTS**

**(A) Applicability.** This conflict of interest rule applies to the selection of consultants for projects supported by federal transportation funds and award or administration of a contracts supported federal transportation funds.

**(B) Definitions.** For purposes of this policy, the following definitions apply:

- (1)** The term “consultant” means the individual or firm providing engineering or design related services as a party to a contract with Montgomery County under which the County will receive federal transportation funds;
- (2)** The term “contract” means a written procurement contract or agreement between Montgomery County and a consultant which provides for reimbursement under a Federal Highway (FAHP) grant or subgrant. This term includes but is not limited to any procurement subcontract under a contract.
- (3)** The term “engineering and design related services means:
  - (i)** program management, construction management, feasibility studies, preliminary engineering, design engineering, surveying, mapping, or architectural services with respect to a highway construction project subject to 23 U.S.C. 112(a) as defined in 23 U.S.C. 112(b)(2)(A); and
  - (ii)** professional services of an architectural or engineering nature, as defined by Indiana law, which are required to or may logically or justifiably be performed or approved by a person licensed, registered or certified to provide the services with respect to a highway construction project subject to 23 U.S.C, 112(a) and as defined in 40 U.S.C. 1102(2).

**(C) General Prohibition.** Officials and employees will not participate in the selection of a consultant, the award of a contract, or the administration of a contract if the official or employee has a conflict of interest. An official or employee has a conflict of interest if:

- (1)** he/she or his/her partner, or a family member is employed by or about to be employed by a consultant being considered for selection, award or administration of the project;
- (2)** he/she has a personal relationship that affects his/her judgment in selection, award, administration, or performance evaluation activities;
- (3)** he/she has shared information with any prospective consultant or any person that may result in a competitive advantage to a particular firm or firms;



(4) he/she has solicited or accepted a gift, favor or anything of monetary value from any consultant, potential consultants or parties to any sub-agreements for the project, and the gift, favor or thing of monetary value exceeds \$300 per day.

(5) Prior to participating in any selection of a consultant, the award of a contract or the administration of a contract, the official or employee must certify to the Board of County Commissioners that no conflict of interest exists.

(D) *Prohibition of Solicitation or Acceptance of Certain Gifts:* No officer or employee may solicit or accept a gift, favor or anything of monetary value from any consultant, potential consultant or parties to any sub-agreements, unless the gift, favor or thing of monetary value is \$300 or less per day. For purposes of this policy, the dollar value of \$300 per day or less is not substantial and may be accepted and solicited.

(E) *Exemption.* This policy does not prohibit or restrict contributions made to a political committee formed to support an elected official or candidate for elected office.

(F) *Intent.* It is the intent of the Board of Commissioners to comply with all applicable provisions of the rules and regulations promulgated by the Federal Highway Administration and the Indiana Department of Transportation regarding conflict of interest rules for local governments. This policy should be read and construed to comply with these regulations. If any portion of this policy conflicts with the regulations of the Federal Highway Administration or Indiana Department of Transportation, the conflicting provision of this policy should be treated as being invalid.

(Ord. 2017-13, passed 9-25-17)

### **§36.29 MONTGOMERY COUNTY INVESTMENT POLICY**

1. *Investment Authority.* In addition to any other statutory powers to make investments, the Treasurer may invest funds in accordance with Indiana Code §5-13-9 under these guidelines established by the Montgomery County Council and the Montgomery County Board of Commissioners.
2. *Funds That May Be Invested.* The funds that may be invested by the Treasurer under this policy include money raised by bonds issued for future specific purposes, sinking funds, depreciation reserve funds, gift, bequest or endowment, and any other funds available for investment.
3. *Authorized Types of Investments.* The Treasurer may invest or reinvest any funds held and available for investment in any of the following:

- (a) Securities backed by the full faith and credit of the U.S. Treasury or fully guaranteed by the U.S. and issued by any of the following:
    - (A) the U.S. Treasury
    - (B) a federal agency
    - (C) a federal instrumentally
    - (D) a federal government-sponsored enterprise.
  - (b) Securities fully guaranteed and issued by any of the following:
    - (A) a federal agency
    - (B) a federal instrumentality
    - (C) a federal government-sponsored enterprise.
  - (c) Municipal securities issued by an Indiana local government entity, a quasi-governmental entity related to the state, or any unit of government, a municipal corporation, or special taxing district in Indiana, if the issuer has not defaulted on any of the issuer's obligations within the 20 years preceding the date of purchase.
4. *Payment of Premiums.* If an investment under paragraph 3(a) above, pursuant to Indiana Code. §5-13-9-2(a)(1), is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities purchased shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.
  5. *Sale and Exchange Authority.* The Treasurer may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases where the new securities offered in exchange meet the requirements for initial investment.
  6. *Records Custodian.* The Treasurer is the legal custodian of the securities which the County has invested, and he/she shall accept safekeeping receipts or other reporting for securities from:
    - (a) a duly designated depository; or
    - (b) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of a at least \$10,000,000 according to the last statement of condition filed by the financial institution with its governmental supervisory body.
  7. *Investment in Money Market Mutual Funds.* The Treasurer may invest funds or reinvest funds that are held by the Treasurer and available for investment in investments commonly known as money market mutual funds that are in the form of securities of or interests in an open-end, no-load, management-type investment company or investment trust registered under the provisions of the Federal Investment Company Act of 1940, as amended. These investments shall be made through depositories designated by the state board of finance as depositories for state deposits under Indiana Code. §5-13-9.5.

- (a) The portfolio of an investment company or investment trust described above must be limited to the following:
  - (1) Direct obligation of the United States
  - (2) Obligations issued by any of the following:
    - (A) a federal agency
    - (B) a federal instrumentality
    - (C) a federal government-sponsored enterprise
  - (3) Repurchase agreements as defined by Indiana Code §5-13-9-3(a), fully collateralized by direct obligations of the U.S. or by a federal agency, a federal instrumentality, or a federal government-sponsored enterprise.
- (b) The form of securities of or interests in an investment company or investment trust must be rated as one of the following:
  - (1) AAAM, or its equivalent, by Standard and Poor's Corporation or its successor;
  - (2) AAA, or its equivalent, by Moody's Investment Service, Inc. or its successor.
- (c) The form of securities in an investment company or investment trust described above is considered to have a stated final maturity of one (1) day.

- 8. *Repurchase Agreements.* The Treasurer may enter into repurchase agreements, as defined in Indiana Code §5-13-9-3(a), with any funds that are held by the Treasurer and available for investment, as follows:
  - (a) with depositories designated by the state board of finance as depositories for state deposits under Indiana Code §5-13-9.5; and
  - (b) involving the County's purchase and guaranteed resale of any interest-bearing obligations issued or fully insured or guaranteed by the United States, a United States government agency, an instrumentality of the United States, or a federal government-sponsored enterprise.
  - (c) The Treasurer may invest in repurchase agreements without entering into a contract under Indiana Code §5-13-11 for an investment cash management system.
- 9. *Investment In Funds Related To The International Bank For Reconstruction and Redevelopment Or Reconstruction and Redevelopment of the African Development Bank.* The Treasurer may invest or reinvest any funds that are held by the Treasurer and available for investment in obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Redevelopment or the African Development Bank.
- 10. *Investment in Certificates of Deposit.* The Treasurer may deposit, invest, or reinvest any funds that are held by the Treasurer and available for investment in transaction accounts issued or offered by a designated depository of the County for the rates and terms agreed upon periodically by the Treasurer and the designated depository.

(a) When making a deposit in a certificate of deposit, the Treasurer shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the Treasurer as a public record under Indiana Code §5-14-3.

(b) If the deposit is not placed in the designated depository quoting the highest rate of interest, the Treasurer shall place the deposit in the depository quoting the second or third highest rate of interest and note the reason for placing the deposit on the memorandum of quotes.

(c) If all of the designated depositories of the County decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, the Treasurer may invest in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under Indiana Code §5-13-9.5.

**11. *Certificates of Deposit Designated By Indiana Board of Finance.*** The Treasurer may invest in certificates of deposit of depositories that have not been designated by the Montgomery County Board of Finance but have been designated by the Indiana Board of Finance as a depository for state deposits under Indiana Code §5-13-9.5. For such investments, the Treasurer shall solicit quotes for the certificate of deposit and follow the procedures specified in Indiana Code §5-13-9-5(b) and (c).

**12. *Investment in Interest Bearing Accounts.*** The Treasurer may invest public funds in interest-bearing deposit accounts, as defined by Indiana Code §5-13-9-5.3(a), in accordance with the following conditions:

(a) The funds are initially invested through a depository that is selected by the Treasurer.

(b) The selected depository arranges for the deposit of the funds in interest-bearing deposit accounts in one (1) or more federally insured banks or savings and loan associations, wherever located, for the County's account.

(c) The full amount of the principal and any accrued interest of each deposit are covered by insurance of any federal deposit insurance agency.

(d) The selected depository acts as a custodian for the County with respect to the deposits.

(e) On the same date that the County's funds are deposited, the selected depository receives an amount of deposits covered by insurance of any federal deposit insurance agency from customers of other institutions, wherever located, at least equal to the amount of the funds invested by the County through the selected depository.

Public funds invested in accordance with this section are not subject to any security or pledging requirements that may otherwise be applicable to the deposit or investment of public funds.

For purposes of this section, "deposit account" does not include any interest-bearing account that is authorized to be set up and offered by a financial institution in the course of its respective business.

- 13. *Statutory Procedure.*** The investment of public funds shall be made in accordance with Indiana Code §5-13-9-5.7 and with the Treasurer's approval.
- 14. *Limitation on Amount of Funds Invested.*** The investment of public funds under this Policy shall be limited to not more than twenty-five percent (25%) of the total portfolio of public funds invested by the County, including balances in transaction accounts.
- 15. *Treatment of Investment Interest Income.*** Interest derived from investments under this Policy shall be deposited and received in accordance with Indiana Code §5-13-9-6.
  - (a)** The Treasurer may invest tax collections under this Policy pending distribution of the collections to political subdivisions. These investments may not: exceed the amount available after giving consideration to taxes which may need to be advanced to any political subdivision; or be made in deposit accounts or repurchase agreements, the maturity dates of which are later than the time when the tax collections are required by law to be distributed to political subdivisions.
  - (b)** The interest received on the investments under section (a) above shall be received to the County general fund or any other fund from which expenses incurred in the maintenance of County highways may be paid. The Montgomery County Council shall determine the allocation of this interest among the general fund and the various highway funds into which the interest may be deposited.
  - (c)** Interest derived from the investment of the proceeds from bonded indebtedness or local tax levies may be applied to the appropriate redemption bond interest or sinking fund for the bonded indebtedness.
  - (d)** If meter deposits of a municipally-owned utility are invested, the interest earned on the investment may be applied to and used in the operation or depreciation fund of the municipally owned utility as determined by its governing body.
  - (e)** Interest from the investment of the County's public funds may not be paid personally or for the benefit of any public officer.
- 16. *Treatment of Service Charges As Interest.*** The Treasurer may be required to pay a service charge to the depository in which funds are deposited, if the depository requires all customers to pay the charge for providing the service. However, the service charge imposed must be considered in the computation of the interest rate for determining which depositories are entitled to investments as prescribed by this Policy. If the total service charge cannot be computed before the investment, the Treasurer shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid by direct charge to the deposit or other

account, or in a manner that subtracts the service charge from interest earned on the funds in the deposit or other account.

17. *Deposit Insurance.* Funds deposited in deposit accounts in accordance with Indiana Code §5-13-9 and this Policy and interest earned or accrued on the funds are public funds and are covered by the insurance fund, as defined in Indiana Code §5-13-4-15.
18. *Prohibition of Purchase of Securities on Margin.* The Treasurer may not purchase securities on margin or open a securities margin account for the investment of public funds.
19. *Joint Investment Accounts.* The Treasurer and the investing officers of other political subdivisions located within Montgomery County may establish joint investment funds by entering into a written master agreement that defines their rights and obligations, as provided in Indiana Code §5-13-9-10.
20. *Local Government Investment Pool.* The Treasurer may pay any funds held by him/her into the local government investment pool, as defined by Indiana Code §5-13-9-11(b), for the purpose of deposit, investment, and reinvestment of the funds by the treasurer of the state on behalf of the County in accordance with Indian Code §5-13-911.
21. *Expiration of Policy.* This policy shall expire 4 years after it takes effect. (Ord. 2018-19, passed 7-23-18)

### **§36.30 CONTRACTOR'S EMPLOYEE DRUG TESTING POLICY**

- (A) **Applicability.** This section applies to all public work projects estimated, by the County, to cost at least \$150,000.00.
- (B) **Contractor Employee Drug Testing Program.** Each contractor that submits a bid for a public works project in the amount of \$150,000 or more is required to submit, with that bid, a written plan for a program to test the contractor's employees for drugs. The plan shall be in compliance with Indiana Code § 4-13-18. The plan must be submitted to the Director of Public Works by email or a physical copy may be mailed to the Public Works Department. This plan must be submitted by the time set for receipt of proposal bids.
- (C) **If the contractor fails to comply with the requirements of section (B) or if the Board**

determines that the contractor's employee drug testing program has not been in effect or has not been applied at the time the contractor submitted the bid, then the contractor shall not be eligible to be awarded the public works contract under this section.  
(Ord. 2018-35, passed 11-19-18).

**§36.31 AUTHORITY TO TRANSFER VACANT PARCELS  
TO CONTIGUOUS OWNERS.**

- (A) **Authority:** The Board of County Commissioners are authorized to sell vacant properties and certificates of sale for vacant parcels under Indiana Code §6-1.1-24-6.8.
- (B) **Definitions:** The following definitions apply to this section:
- (1) Vacant Parcel: A vacant parcel refers to a parcel that satisfies the following:
- (a) a lien has been acquired on the parcel under Indiana Code §6-1.1-24-6(a);
  - (b) if the parcel is improved on the date the certificate of sale for the parcel or the vacant parcel is offered for sale under Indiana Code §6-1.1-24, the following apply:
    - (i) one or more of the following are located on the parcel:
      - (A) A structure that may be lawfully occupied for residential use;
      - (B) A structure used in conjunction with a structure that may be lawfully occupies for residential use.
    - (ii) The parcel is:
      - (A) on the list of vacant or abandoned properties designated Under Indiana Code 6-1.1-24-1.5; or
      - (B) not occupied by a tenant or person having a substantial Property interest of public record in the parcel.
  - (c) on the date the certificate sale for the parcel or the vacant parcel is offered for sale under Indiana Code §6-1.1-24, the parcel is contiguous to one or more parcels that satisfy the following:
    - (i) one or more of the following are located on the contiguous parcel:
      - (A) a structure occupied for residential use;
      - (B) a structure used in conjunction with a structure occupied for residential use.
    - (ii) the contiguous parcel is eligible for the standard deduction under Indiana Code §6-1.1-12-37.
- (C) **Resolution Identifying Parcel to be Transferred:** The Board of Commissioners may evaluate eligible properties for transfer on the basis of the following:
- (1) Limitations on the uses of the parcel under local zoning and land use requirements;
  - (2) the minimum parcel area sufficient for construction of improvements;
  - (3) the likelihood that the parcel can be sold at a certificate sale, and
  - (4) any other factors considered appropriate by the Board;

After considering these factors, the Board will by resolution identify each vacant parcel which the Board desires to sell the vacant parcel or certificates of sale for the vacant parcel and give notice to the owner or owners of each contiguous parcel that the Board will accept written applications from contiguous owners.

- (D) **Sale Price:** The Board may sell the vacant parcel to a contiguous owner who makes a written application therefor for the sum of One Dollar plus the costs of the tax sale, the cost of prior tax sales, and other expenses of collection, as provided for in Indiana Code §6-1.1-24-5(e)(4), (5), and (6).
- (E) **More Than One Application:** If the Board receives more than one written application for a particular parcel, the Board will conduct a drawing between or among the applicants in which each applicant has an equal chance to be selected as the transferee of the vacant parcel or certificate of sale for the vacant policy.
- (F) **Effect of Transfer on Delinquent Taxes:** After the final determination by the Board of the transfer, the Board will on behalf of the County cause all delinquent taxes, special assessments, penalties, and interest with respect to the parcels to be removed from the tax duplicate and give notice to the successful applicant, Auditor and Assessor.
- (G) **Limitation on Improvements on Parcels Transferred:** If a tax deed is issued for an improved vacant parcel, the successful applicant may not sell the improved vacant parcel until after the first anniversary of the date on which the tax deed for the improved parcel is issued to the successful applicant.”  
(Ord. 2019-11, passed 4-11-19).

### §36.32 ADDRESS CONFIDENTIALITY

- (A) **Restriction of Public Access.** Montgomery County publishes a public property database web site, and Montgomery County will restrict access to the home address of a covered person who requests restricted access, as provided for by Indiana Code §36-1-8.5.
- (B) **Request for Restricted Access.** A request for restricted access may be made to the County Building Commissioner on a state address confidentiality form or other written request;
- (C) **Process.** Upon receipt of a request for restricted access, the Building Commissioner will take all steps in order to restrict access to the home address of the covered person, including but not limited to working with the County’s third-party vendor, to ensure the restriction;
- (D) **Notice of Right to Restricted Access.** In order to notify all covered persons of the right to restricted access of their home addresses on the County’s public property database website, the Building Commissioner will annually notify all covered persons of their right to restricted access. For purposes of this policy, notice to the highest-ranking law enforcement officer at a local agency shall be deemed notice to all law enforcement officers in the department and notice to the highest-ranking employee of the local office of the department of child services shall be deemed notice to all employees of the department of child services. The Building Commissioner will also



- annually provide information to local media and the County web site of the rights to restricted access in order to notify other covered persons who are not easily identified.
- (E) **Removal of Restricted Access.** Any restriction to access placed under this process will remain until:
- (1) the covered person requesting the restriction submits to the Building Commissioners a request to allow public access to his or her home address; or
  - (2) the person placing the restriction is no longer a covered person.
- (F) **Compliance.** The Building Commissioner will periodically review the County public property web site for compliance with requested restrictions;
- (G) **Name Change:** If the covered person who has placed a restriction under this section obtains a change of name under Indiana Code §34-28-2 and notifies the Building Commissioner in writing of the name change, the Building Commissioners will take all action necessary to ensure that restriction prevents a search by the general public of the public property database web site does not disclose or otherwise associate the covered person's home address with either the person's former or current name.
- (H) **Definitions:** The following definitions apply to this section:
- (3) **Covered person:** A "covered person" means:
- (a) a judge;
  - (b) a law enforcement officer;
  - (c) a victim of domestic violence;
  - (d) a public official;
  - (e) the surviving spouse of a law enforcement officer, if the officer was killed in the line of duty; or
  - (f) an employee of the department of child services.
- (4) **Employee of the Department of Child Services:** An "employee of the Department of Child Services" means an individual who is or was employed as any of the following by the department of child services established by Indiana Code §31-25-1-1:
- (a) a family case manager trainee;
  - (b) a family case manager;
  - (c) a family case manager supervisor;
  - (d) a local office director;
  - (e) a regional manager;
  - (f) a child services assistant;
  - (g) a child services attorney.
- (5) **Judge.** A "judge" means an individual who holds or formerly held office as:
- (a) a judge of a federal court, the Indiana Supreme Court, Indiana Court of Appeals, Indiana Tax Court, a circuit court, a superior court, a municipal court, a county court, or small claims court; or
  - (b) a magistrate, commissioner or juvenile referee of a court.
- (6) **Law Enforcement Officer:** A "law enforcement officer" means an individual who is or was formerly employed as:

- (a) a police officer (including a correctional police officer), sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner or the inspector general;
- (b) a deputy of any of the persons identified in subsection 4(a);
- (c) a conservation officer;
- (d) an investigator for a prosecuting attorney or for the inspector general;
- (e) an enforcement officer of the securities division of the office of the secretary of state.

**(7) Public Official.** A “public official” means an individual who holds or formerly held office at any time during the preceding four (4) years in the executive or legislative branch of the state or federal government or a political subdivision of the state or federal government.

**(8) Public Property Data Base Web Site.** A “public property database web site” means an Internet web site that:

- (a) is available to the general public over the internet;
- (b) does not require registration, subscription, or creation of a user name and password to search the web site; and
- (c) connects a covered person’s home address to the covered person’s name, so that a search of the web site for the covered person’s name discloses the covered person’s home address.

**(9) Victim of Domestic Violence:** A “victim of domestic violence” means a victim of domestic violence who is certified as a program participant in the address confidentiality program as established by the attorney general under Indiana Code §5-26.5-2.

*Authority: Indiana Code §36-1-8.5*

(Added by Ordinance 2019-27, adopted October 28, 2019)

### **§36.33 PUBLIC-PRIVATE AGREEMENT POLICY**

- I. **Establishment.** The Montgomery County Board of Commissioners hereby establishes, by ordinance, a public-private agreement policy. The purpose of this policy is to provide for the regulation of build-operate-transfer contracts and operating contracts in a manner consistent with the provisions of Indiana Code §5-23.
- II. **Definitions.** The following definitions shall apply throughout this policy:
  - a. “Board” refers to Montgomery County Board of Commissioners.
  - b. “BOT agreement” means any agreement between the Montgomery County and an operator to construct, operate, and maintain a public facility and to transfer the public facility back to Montgomery County at an established future date.
  - c. “Construction” means the process of building, renovating, reconstructing, expanding, modernizing, or assembling a public work, including any material enhancements or upgrades to an existing public facility. This term does not

include normal repair, operation, general maintenance, or preservation of a public work.

- d. "Cost" means the cost of entering into any public-private agreement, including, without limitation, the following:
    - i. The cost of acquisition and construction of any public facility or any modification, improvement, or extension of that facility.
    - ii. Any cost incident to the acquisition of any necessary property, easement, or right-of-way.
    - iii. Engineering or architectural fees, legal fees, and fiscal agents' and financial advisers' fees.
    - iv. Any cost incurred for preliminary planning to determine the economic or engineering feasibility of a proposed public-private agreement.
    - v. Costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications, the inspection and supervision of the construction of any public facility, and any other cost incurred by Montgomery County.
  - e. "County" means Montgomery County, Indiana.
  - f. "Operating agreement" means an agreement between an operator and the Board for the operation, maintenance, repair, or management of a public facility.
  - g. "Operator" means a person who has entered into either an operating agreement or a BOT agreement with the County to provide services to or on behalf of the County.
  - h. "Original term" means the initial term of a public-private agreement. The term includes all automatic renewals and automatic extensions of a public-private agreement.
  - i. "Person" means an association, a corporation, a limited liability company, a fiduciary, an individual, a joint stock company, a joint venture, a partnership, a sole proprietorship, or any other private legal entity.
  - j. "Public facility" means a facility located on, or to be located on, real property owned or leased by the County and upon which a public service is or may be provided.
  - k. "Public-private agreement" means a BOT agreement or an operating agreement.
  - l. "Public work" means any public building, highway, street, alley, bridge, sewer, drain, or any other public facility that is paid for out of public funds.
- III. **Authority.** The Board may enter into an agreement with an operator for the acquisition, planning, design, development, reconstruction, repair, maintenance, or financing of any public facility on behalf of the County.
- IV. **Prohibits Persons.** A person may not be awarded a contract under this policy if the person is or would be disqualified from being awarded a contract, including contracts for professional services, for dealing with the Government of Iran, pursuant to Indiana Code §5-22-16.5.
- V. **BOT Agreements.**
- a. *Discretionary Terms.* A BOT agreement may provide the following:

- i. The design, construction, operation, management, maintenance, or financing of the cost of a public facility shall be partially or entirely the responsibility of the operator.
  - ii. The County may lease the public facility and real property owned by the County upon which the public facility is to be located to the operator for a predetermined period. Except as provided in subdivision (V)(a)(v), the BOT agreement must provide for ownership of all improvements by the County, unless the County elects to provide for ownership of the public facility by the operator during the term of the BOT agreement. In this case, ownership reverts back to the County upon the termination of the BOT agreement.
  - iii. The operator may be authorized to retain a mutually agreed upon percentage of the revenues received in the operation and management of the public facility, or the operator may be paid an amount established by the County, which shall be applied as follows:
    - 1. Capital outlay costs for the public facility and public service plus interest and principal repayment for any debt incurred.
    - 2. Costs associated with the operation, management, and maintenance of the public facility.
    - 3. Payment to the County for reimbursement of the costs of maintenance, law enforcement, and other services if the services are performed by the County under the BOT agreement.
    - 4. An agreed upon return on investment to the operator.
  - iv. The operator may pay the County either a lease payment or a percentage of gross revenue per month for the operator's operation and use of the public facility.
  - v. If a regional jail (as defined in IC 11-12-5.5-1) is the subject of a BOT agreement under this chapter, the operator and the County may mutually agree that ownership of the regional jail will remain with the operator during the term of the BOT agreement and after termination of the BOT agreement. The County shall pay costs associated with the design, construction, financing, operation, management, and maintenance of the regional jail from funds identified under IC 11-12-5.5-3.
- b. *Mandatory Terms.* The BOT agreement must provide for the following:
- i. The identification of which costs are to be the responsibility of the operator and which costs are to be the responsibility of the County.
  - ii. The payment of contractors and subcontractors under Indiana Code §36-1-12.
  - iii. Provisions for payment and performance bonds as follows:
    - 1. For a payment bond, an amount not less than one hundred percent (100%) of the cost to design and construct the public facility.
    - 2. For a performance bond, an amount not less than fifty percent (50%) of the cost to design and construct the public facility.

- c. *Applicable Laws.* If the County enters into a BOT agreement that involves the construction of a public facility with public funds under this policy, the construction of that public facility is subject to provisions of Indiana Code § 36-1-12 regarding public works projects.

**VI. Operating Agreements.**

- a. The County may enter into an operating agreement with an operator for the operation, maintenance, repair, management, or any combination of operation, maintenance, repair, or management of any public facility for any public service to be performed on behalf of the County.

**VII. Request for Information.**

- a. *Purpose.* The Board may issue a request for information to consider the factors involved in, the feasibility of, or the potential consequences of a contemplated project involving a public facility, to prepare a request for proposals, and to evaluate any aspect of an existing public-private agreement and an associated public facility. The Board is not required to take any action after receiving a response to a request for information.
- b. *Public Notice of Request for Information.* If the Board issues a request for information, public notice of the request shall be given in accordance with Indiana Code §5-3-1.
- c. *Confidentiality of Responses; Waiver.* A response to a request for information is confidential unless the person who submits the response waives its confidentiality in writing. The identity of the person submitting the response is a public record.

**VIII. Selection of Contractor by Request for Proposals.**

- a. *Advisory Committee.* The Board shall organize a public-private agreement advisory committee (“Committee”).
- b. *Request for Proposals.* The Board will request proposals for any public-private agreement under this policy. Notice of the request for proposals will be given by publication in accordance with Indiana Code §5-3-1. Requests for proposals must include the following:
  - i. The factors or criteria that will be used in evaluating the proposals.
  - ii. A statement concerning the relative importance of price and the other evaluation factors.
  - iii. A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility.
  - iv. A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.
- c. *Committee Discussions with Offerors.* All eligible offerors will be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals. The Committee reserves the right to refuse to disclose the contents of proposals during discussions with eligible offerors.
- d. *Negotiations.* The Committee will negotiate the best and final offers of responsible offerors who submit proposals that are determined, by the Committee, to be reasonably susceptible of being selected for a public-private agreement.

- e. *Recommendation to Award Agreement.* After negotiations, the Committee will either make a recommendation, to the Board, to awarded the public-private agreement to an offeror or offerors or will terminate the request for proposals process. Any recommendation shall be in writing and explain the basis upon which the recommendation is being made. This recommendation shall be delivered to the Board and made available to the public at least seven days before Board conducts a public hearing on recommendation. If the request for proposal process is terminated, the Board may return the proposals to the offerors.
- f. *Public Hearing on Committee Recommendation:* If the Committee’s recommendation to award the public-private agreement is made to the Board, the Board shall conduct a public hearing on the recommendation. The Board shall publish notice of the hearing one time at least seven days before the hearing. This public notice must be in accordance with Indiana Code §5-3-1, and state the following information:
  - i. The date, time, and place of the hearing.
  - ii. The subject matter of the hearing.
  - iii. A description of the public-private agreement to be awarded.
  - iv. The Committee’s recommendation that has been made to award the public-private agreement to an identified offeror or offerors.
  - v. The address and telephone number of the board.
  - vi. A statement indicating that the proposals and an explanation of the basis upon which the recommendation is being made are available for public inspection and copying at the principal office of the board during regular business hours.

Following the public hearing, the Board shall make a determination as to the most appropriate response to the request for proposals and may award the public-private agreement to the successful offeror or offerors.

**IX. Contract Terms and Conditions.**

- a. *Original Term.* The County may enter into a public-private agreement for an original term not to exceed five years with Board approval. Any public-private agreement with an original term in excess of five years must be approved by the Board, the Montgomery County Council and, if the State of Indiana is a party to the agreement, the Governor of the State of Indiana.
- b. *Termination by Board.* A public-private agreement may be terminated by the Board in conformity with the terms of the public-private agreement. The agreement may provide for the payment of money to either party if the agreement is terminated. The payments may be used in the form of liquidated damages to compensate the operator for demonstrated unamortized costs, to retire or refinance indebtedness created to improve or construct assets owned by the County, or for any other purpose mutually agreeable to the operator and the County.

**X. Records.**

- a. Records of an operator that is a party to a public-private agreement are subject to inspection and copying to the same extent the records would be subject to

inspection and copying if the operator were a public agency. This section is limited to records directly relating to the public-private agreements. Records that are provided by an operator to the County that relate to compliance by the operator with the terms of a public-private agreement are subject to inspection and copying.

*Authority: Indiana Code §5-23-1*

(Added by Ordinance 2020-4, adopted February 10, 2020)

### **§36.34 CRIMINAL HISTORY BACKGROUND CHECKS REQUIRED**

- (A) **Criminal History Background Checks Required.** Hiring agents of Montgomery County shall cause a criminal history background check for all persons applying for employment with the County government. These checks must be completed prior to employment of the person applying for the position.
- (B) **Vendor.** Montgomery County has engaged a vendor to provide these criminal history background checks, and the hiring agent will coordinate the use of this service with the County Administrator.
- (C) **Use of Information.** Hiring agents will evaluate the information received from a criminal history background check and use the information, along with other information gathered from the applicant, in order to make hiring decisions. Applicants will not be automatically disqualified from employment because of the existence of a criminal history; rather, this information will be considered along with other information, and the hiring agent will consider the totality of the circumstances in order to make hiring decisions.
- (D) **Condition of Consideration.** Any person who applies for employment must consent to and authorize the background check as a condition of being a candidate for a position of employment with the County government.
- (E) **Exemption.** The Sheriff may utilize a separate service for background checks as part of the Sheriff's hiring process, and the Sheriff, the Sheriff Merit Board or other entity making the hiring decision for a position in the Sheriff's Department may use the information gathered from such background checks in any lawful manner.

(Added by Ordinance 2021- 12, adopted March 22, 2021).

### **§36.35 HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA) POLICY**

(A) **HIPAA Policy.** The County will comply with all applicable portions of the Health Insurance Portability & Accountability Act of 1996 (HIPAA) in order to safeguard the protected health information of its employees and persons covered under the County's benefit plans and to comply with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rules) issued by the United States Department of Health and Human Services. For purposes of this policy, the term "protected health information" means any information that identifies the patient that relates to the patient's past, present or future physical condition, mental condition, or

payment for medical expenses. In order to safeguard protected health information of its employees and persons covered under its benefit plans, the County will take all steps necessary to reasonably safeguard protected health information from any intentional or unintentional use or disclosure that is in violation of the standards of HIPAA. The County has implemented a plan to reasonably safeguard protected health information. Employees or other persons who have complaints regarding the County's policies or procedures or conduct regarding its duties under HIPAA should submit a written complaint to his or her department head and to the County Administrator. Upon receipt of the complaint, the County Administrator will notify the County Attorney and the Grievance Committee (the Board of Commissioners). The Grievance Committee respond to any such complaint within ten (10) days of receipt of the grievance. The County's response will be in writing and will be delivered to the employee filing the complaint.

(B) Discipline for Violating Policy. All employees have a duty to comply with this policy and to protect the protected health information of other employees and other persons covered under the County's benefit plans. Employees violating the County's policies, procedures and/or HIPAA will be subject to discipline for such violation.

(C) Breach. To the extent that the County discovers a harmful effect of a violation of its policies and/or procedure, the County will take all necessary action to mitigate such effects.

(D) No Retaliation. The County will not retaliate or intimidate any employee or other person who exercises his or her rights under the County's policies, procedures of HIPAA.

(E) No Waiver of Rights. The County will not require an employee or other person covered under the County's benefit plan to waive his or her rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan or eligibility for benefits. In order to ensure that no waiver of rights is required under the County's health insurance plan, the County will review all enrollment materials.

(Added by Ordinance 2021- 13, adopted March 22, 2021).



**APPENDIX A – RETENTION SCHEDULES**

**County General Retention Schedule**

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
<b>ADMINISTRATIVE</b>		
GEN 10-1	<p><b>MINUTES</b></p> <p>Official minutes of any county/local agency, board, commission, or of any division. <b>THIS IS A CRITICAL RECORD.</b></p> <p>[IC 5-15-6-2.5]; [IC 5-15-5.1-12]</p>	<p><b>PERMANENT. MICROFILM</b> according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the <b>INDIANA COMMISSION ON PUBLIC RECORDS.</b></p>
GEN 10-2	<p><b>COUNTY/LOCAL AGENCY, BOARD OR COMMISSION MEETING RECORDINGS</b></p> <p>For offices, boards or commissions that record their meetings and used the recordings to complete the minutes of the meetings.</p>	<p>ERASE or DESTROY after official minutes derived from them are approved.</p>
GEN 10-3	<p><b>POLICY FILES – OFFICE HOLDERS, DEPUTIES, AND DIVISION DIRECTORS.</b></p> <p>These office files document substantive actions of the county or local government unit and constitute the official record of the unit’s performance of its functions and the formation of policy and program initiatives. This series may include various types of records such as correspondence, memos, and reports concerning policy and procedures, organization, program development and reviews. <b>THIS IS A CRITICAL RECORD.</b> Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b) (6).</p> <p>[IC 5-15-6-2.5]; [IC 5-15-5.1-12]</p>	<p><b>PERMANENT. MICROFILM</b> according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the <b>INDIANA COMMISSION ON PUBLIC RECORDS.</b></p>

GEN 10-4	<p><b>GENERAL FILES</b></p> <p>Office records that are not related to policy implementation. This series includes correspondence, memos, and routine staff files.</p>	<p><b>DESTROY</b> after three (3) calendar years.</p>
GEN 10-5	<p><b>LEGAL FILES</b></p> <p>(Also called Litigation Files)  All records pertaining to litigation with the county/local government and all supporting documentation. This includes the Notice of Tort Claim for Property Damage and/or Personal Injury, SF 54668, if a claim is brought against the political subdivision. (See GEN 14-1 if no claim is brought.)  Disclosure of these records may be affected by IC 5-143-4(a) (1), (3), and (8), and also by the discretion of a public agency, IC 5-143-4(b) (6).</p> <p>Retention consistent with IC 34-11-2-6, IC 35-41-4-2(a), and IC 3411-2-4</p>	<p><b>RETAIN</b> in office five (5) calendar years after adjudication of litigation. Evaluate and transfer to County Archives, or INDIANA COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, only those files that have been determined to have historical or legal significance.</p>
GEN 10-6	<p><b>ORDINANCES AND RESOLUTIONS</b></p> <p>Includes records created by a county/local agency related to the legislature’s review of proposed laws or adoption of administrative rule(s). Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(6).</p>	<p><b>PERMANENT. MICROFILM</b> according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
GEN 10-7	<p><b>BUILDING PERMITS</b></p> <p>[IC 36-7-4-1109]</p>	<p><b>DESTROY</b> after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and</p>

		satisfaction of unsettled charges.
GEN 10-8	<p><b>DISASTER RECOVERY AND CONTINUITY PLANS</b></p> <p>The copy of all Disaster Recovery/Continuity Plans, including those for electronic systems, as well as supporting documentation used in the development of the plans.</p> <p>Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(19).</p>	<p>TRANSFER one copy of each plan to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, for permanent archival retention, upon its approval by the county/local agency. DESTROY remaining copies when outdated or replaced.</p> <p>DESTROY supporting documentation three (3) years after current plan is outdated or replaced.</p>
GEN 10-9	<p><b>NOTICES &amp; CERTIFICATES</b></p> <p>Excludes Form 100R – Certified Report of Names, Addresses, Duties and Compensation of Employees [PERMANENT]</p>	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 14-1	<p><b>NOTICE OF TORT CLAIM FOR PROPERTY DAMAGE AND/OR PERSONAL INJURY, SF 54668</b></p> <p>This form is included in GEN 10-5, Legal Files, if a claim is brought against the political subdivision.</p> <p>Retention based on IC 34-11-2-4</p>	DESTROY after three (3) calendar years if a claim is not brought against the political subdivision within the statute of limitations.
<b>ACCOUNTING &amp; FINANCE</b>		

GEN 10-10	<p>RECEIPTS/QUIETUS/RECEIPT REGISTER/QUIETUS REGISTER</p> <p>Retention based on IC 34-11-2-6</p>	<p>DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
GEN 10-11	<p>VOUCHERS/CLAIMS &amp; PURCHASE ORDERS</p> <p>Includes all claims and requisitions submitted by all county offices and departments, including all supporting documentation.</p> <p>Retention based on IC 34-11-1-2</p>	<p>DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
GEN 10-12	<p>POOR RELIEF VOUCHERS/CLAIMS</p> <p>Retention based on IC 34-11-1-2</p>	<p>DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
GEN 10-13	<p>REGISTER OF POOR RELIEF CLAIMS</p>	<p>DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>

<p>GEN 10-14</p>	<p>CANCELED CHECKS/WARRANTS</p> <p>Retention based on IC 34-11-1-2</p>	<p>DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p> <p>-OR-</p> <p>DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges if GEN 10-19, Bank Statements, includes scanned copies of checks and bank retains physical check copies for ten (10) or more calendar years.</p>
<p>GEN 10-15</p>	<p>CHECK REGISTER/WARRANT REGISTER</p> <p>Retention based on IC 34-11-1-2</p>	<p>DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
<p>GEN 10-16</p>	<p>PAYROLL RECORDS</p> <p>Applies to Forms 99A, 99B and 99C</p>	<p>PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the</p>

		INDIANA COMMISSION ON PUBLIC RECORDS.
GEN 10-17	TIME CARDS Includes Weekly Earning Record, work period.  Retention based on IC 34-11-2-1	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-18	BANK RECONCILIATION RECORDS AND REPORTS	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-19	BANK STATEMENTS, DEPOSIT TICKETS, RECORD OF DEPOSITORY BALANCES	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
GEN 10-20	FEE BOOK	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

GEN 10-21	ACCOUNTS PAYABLE JOURNAL	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-22	ACCOUNTS PAYABLE VOUCHER REGISTER	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-23	TRANSMITTALS Retention based on IC 34-11-2-6	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-24	INVESTMENTS/INSURANCE REGISTER Form 350 – Register of Investments Form 351 – Register of Insurance	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

GEN 10-25	<p><b>BONDS, BIDS, CONTRACTS AND LEASES</b></p> <p>All contracts with vendors or other units of government to provide goods or services. Files also include working papers and similar attachments used by the agency in this process. This record series also applies to an administrative entity receiving revenue through a contract or lease.</p>	<p><b>DESTROY</b> ten (10) years after expiration of the contract and after receipt of <b>STATE BOARD OF ACCOUNTS</b> Audit Report and satisfaction of unsettled charges.</p>
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	Retention based on IC 34-13-1-1	
GEN 10-26	<p><b>AS-SUBMITTED BUDGETS</b></p> <p>Includes new programs requested, justifications, breakdown of money requested, estimates, reports, and taxpayer notice</p>	<p><b>DESTROY</b> after five (5) calendar years.</p>
GEN 12-1	<p><b>PAPER CHECKS &amp; REMOTE-CAPTURE CHECKS</b></p> <p>Checks deposited with a bank by a governmental entity through the regular deposit process or the digital remote-capture process.</p> <p>Disclosure of these records may be affected by IC 5-14-3-4(a)(5) and IC 5-14-3-4(a)(12)</p> <p>Retention based on IC 34-11-2-6</p>	<p><b>DESTROY</b> paper upon receipt of deposit report from bank acknowledging the bank's acceptance. <b>RETAIN</b> digital image locally or through bank provided access for six (6) years and until receipt of <b>STATE BOARD OF ACCOUNTS</b> audit report and satisfaction of unsettled charges.</p>

**PERSONNEL**



GEN 10-27	<p><b>PERSONNEL FILES</b></p> <p>Personnel records containing documentation of the employee's working career and application for employment with the county/local government unit. Employment application shall include examination records.</p> <p>Personnel files shall be created and maintained for full-time, part-time, and temporary employees, as well as paid and unpaid interns.</p> <p>Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(2)(3)(4) and (6), and IC 5-14-3-4(b)(8).</p>	DESTROY 75 years after employee is no longer employed by the county/local government unit.
GEN 10-28	<p><b>EMPLOYEE MEDICAL RECORDS</b></p> <p>Typical record series could include Employer's Report of Injury, Report of Attending Physician, other medical information used to document work-related illnesses or injuries, and drug test results. Pursuant to United States Equal Opportunity Commission rules, this information "...shall be collected and maintained...in separate medical files..."</p> <p>Disclosure of these records may be affected by IC 5-143-4(a)(9) and the discretion of a public agency per IC 514-3-4(b)(8) and 29 CFR 1630.14(b)(1).</p>	DESTROY seven (7) years after the employee leaves county/local government.
GEN 10-29	<p><b>INMATE MEDICAL RECORDS</b></p> <p>Disclosure of these records may be affected by IC 5-143-4(a)(9) and the discretion of a public agency per IC 514-3-4(b)(8) and 29 CFR 1630.14(b)(1).</p>	DESTROY seven (7) years after the inmate is released from the jail facility.

GEN 10-30	<p><b>FAMILY AND MEDICAL LEAVE ACT OF 1993 RECORDS</b></p> <p>Records may contain applications for Family and Medical Leave (State Form 48370 or its equivalent), and any information related to use the Family and Medical Leave Act (FMLA).</p> <p>Disclosure of these records may be affected by 29 CFR 825.500(g). Retention based on 29 CFR 825.400(b).</p>	<p>DESTROY records after three (3) calendar years if no other Record Series with a longer retention period applies to them.</p> <p>If records are part of another Record Series with a longer retention, follow the retention instruction for that Record Series.</p>
GEN 10-31	<p><b>EMPLOYMENT APPLICATIONS-NOT HIRED</b></p> <p>Series includes applications from persons seeking employment who are not hired. Series also contains vacancy notices, job information bulletins, unsolicited resumes, rejection correspondence, examination material, drug test results, and other related materials. Disclosure of these records may be affected by the discretion of a public agency per IC 5-14-3-4 (b)(8)(b). Retention based on IC 4-15-2-15 (b)(4).</p>	<p>DESTROY three (3) calendar years after the decision not to hire.</p>
GEN 10-32	<p><b>EMPLOYEE HAZARDOUS EXPOSURE RECORDS</b></p> <p>Typical records could include employee exposure records and/or analyses using exposure or medical records. Disclosure of these records may be affected by IC 5-14-3-4(a) (9).</p>	<p>DESTROY Thirty-five (35) calendar years after employee termination.</p>
GEN 10-33	<p><b>LOG OF WORK-RELATED INJURIES AND ILLNESSES, OSHA FORM 300 (REVISED 01/2004)</b></p> <p>In accordance with 29 CFR 1904.0, et seq., every private and public employer with more than ten (10) employees must confidentially record every work-related death and work-related injury and illness meeting specific recording criteria in this federal rule. Electronic (computer) maintenance and retention is permitted. Any medical information attached or included with the OSHA form</p>	<p>DESTROY five (5) years after the end of the calendar year that the records cover.</p>

**County Auditor Retention Schedule**

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
	<b>NOTICES, CERTIFICATES AND CERTIFICATION</b>	
AU 10-3	Form 100R – Certified Report of Names, Addresses, Duties and Compensation of Public Employees	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
AU 10-4	Tax Sale Certificate – (Statutory)  [IC 34-11-2-5]	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
	<b>TAX RECORDS</b>	
AU 10-5	Form 9 – Tax Duplicate Form 35 – Transfer Book Form 63 – Ditch Tax Duplicate Tax Deed – (Statutory) IC 6-1.1-25-5 Form 137 – Tax Sale Record Form 137C – Tax Title Deed to County	PERMANENT MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS
AU 10-6	Form 24ET – County Auditor's Allocation of License Excise Tax	DESTROY after ten calendar years and after receipt of STATE BOARD OF

	Form 24F – Record of Annual License Excise Tax Form 102 – Apportionment of Taxes Collected	ACCOUNTS Audit Report and satisfaction of unsettled charges
AU 10-7	Indiana Property Tax Benefits (Deductions)  Homestead Standard Deduction [IC 6-1.1-12-37] Supplemental Homestead Deduction [IC 6-1.1-12-37.5] Solar Energy Heating or Cooling Systems [6-1.1-1226] Wind Power Device [IC 6-1.1-12-29] Hydroelectric Power Device [6-1.1-12-33] Geothermal Device [6-1.1-12-34] Mortgage Deduction [IC 6-1.1-12-1] Over 65 Deduction [IC 6-1.1-12-9] Blind Deduction [IC 6-1.1-12-11; 12] Over 65 Circuit Breaker Credit [IC 6-1.1-20.6-8.5] Disabled Deduction [IC 6-1.1-12-11; 12] Disabled Veteran Deduction [IC 6-1.1-12-14; 15] Veteran with Service Connected [IC 6-1.1-12-13; 15] Veteran World War One [IC 6-1.1-12-17.4] Surviving Spouse of World War One Veteran [IC 61.1-12-16; 17]	DESTROY three years after sale of property, death, refinance, or other termination of mortgage and after receipt of STATE BOARD OF ACCOUNT Audit Report and satisfaction of unsettled charges
	<b>REPORTS, STATEMENTS AND PETITIONS</b>	
AU 10-8	Form PR-6 – County Auditor's Report of Poor Relief Expenditures and Budget Estimates Form 61 – Monthly Financial Statements	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

AU 10-9	Form 137B – Statement of Costs Paid on Tax Sale Property  Form 137W – Petition: For Waiver of Delinquent Taxes, Special Assessments, Interest , Penalties and Costs Assessed Against Property and Transfer of Title of Property of Petitioner	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
<b>BONDS, BIDS AND CONTRACT</b>		
AU10-10	Form 115 – Bidder’s Record	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON
PUBLIC RECORDS		
<b>BUDGET ESTIMATE AND FUND ENCUMBRANCES</b>		
AU 10-11	Form 63G – Authorization for Encumbrances of General Drain Improvement Fund	DESTROY after ten calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
AU 10-12	Form 132M – School Fund Mortgage	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

	<b>ASSET INVENTORY</b>	
AU 10-13	Form 146 – General Fixed Asset Account Group	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
AU 10-14	Form 315A – Inventory Sheet	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

**County Assessor Retention Schedule**

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
	<b>APPEALS PROCESS FORMS</b>	
AS 12-1	SF 12483 – Petition for Correction of an Error (Form 133) SF 20916 – Notification of Final Assessment Determination	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and

	<p>(Form 115)  SF 21513 – Petition for Review of Assessment by Local Assessing Official – Property Tax Assessment Board of Appeals (Form 130)  SF 21522 – Notice of Hearing on Petition – Personal Property  SF 43087 – Notice of Defect in Completion of Assessment Appeal Form  SF 49149 – Notice of Hearing on Petition – Real Property – County Tax Assessment Board of Appeals  SF 53165 – Petition for Waiver of Penalties Against a Taxpayer or Taxpayers Representative on Real or Personal Property (Form 137 TP)  SF 53626 – Joint Report by Taxpayer/Assessor to the County Board of Appeals of a Preliminary Informal Meeting (Form 134)  SF 53958 – Short – Taxpayer’s Notice to Initiate Appeal (Form 130)</p>	<p>satisfaction of unsettled charges.</p>
	<p><b>ASSESSMENT FORMS</b></p>	

AS 12-2	<p>SF 466 – Notice of Assessment of Mobile Home (Form 2)</p> <p>SF 786 – Notice of Assessment Registration</p> <p>SF 7878 – Mobile Home Permit</p> <p>SF 9931 – Property Schedule for Gas and Oil Well Assessment (Form G&amp;O-1)</p> <p>SF 9283 – Report of Assessment for Omitted or Undervalued Property Assessment and Assessment Penalty (Form 122)</p> <p>SF 17592 – Petition for Survey and Reassessment – Real and personal Property Partially or Totally Destroyed by Disaster (Form 137R)</p> <p>SF 18158 – Real Property Assessor’s Book</p> <p>SF 18160 – Personal Property Assessor’s Book</p> <p>SF 18602 – Certification by County Assessor (of Railroad and Public Utility Assessments)</p> <p>SF 18603 – Certification by Township Assessor (of Railroad and Public Utility Assessments)</p> <p>SF 21366 – Notice of Assessment of Land and Structures (Form 11 R/A)</p> <p>SF 21368 – Township Report to County Assessor</p> <p>SF 21519 – Notice of Review of Current Year’s Assessment (Form 111/PP)</p>	<p>DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
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	<p>SF 21521 – Notice of Assessment/Change (By an Assessing Official) (Form 113/PP)</p> <p>SF 22691 – Report to County Auditor of Added Assessments and Assessment Penalties (Form 122A)</p> <p>SF 45650 – Notice of Assessment of Land and Structures (Form 11 C/I)</p> <p>SF 46725 – Notice of Assessment by Assessing Official (Form 113)</p> <p>SF 46885 – Application for Wetland Adjustment to Land Assessed Using the Agricultural Soil Productivity Method</p> <p>SF 49865 – Annually Assessed Mobile Home Assessor’s Book (Form 29MH)</p> <p>SF 51536 – Affidavit of Destroyed or Removed Property (Form 135)</p> <p>SF 51766 – Compliance with Statement of Benefits – Real Estate Improvements (Form CF-1/Real Property)</p> <p>SF 53949 – Petition for Review of Order-Making Annual Adjustments to Assessed Valuation</p> <p>SF 53950 – Permanently Flooded or Access is Permanently Prevented by Flooding (Form 137PF)</p>	
AS 12-3	SF 51767 – Statement of Benefits – Real Estate Improvements (Form SB-1/Real Property)	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
	<b>DEDUCTION FORMS</b>	

AS 12-4	<p>SF 12662 – Application for Tax Deduction for Disabled Veterans, WWI Veterans and Surviving Spouses of Certain Veterans</p> <p>SF 18379 – Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE)(ERA)</p> <p>SF 45651 – Statement for Deduction of Assessed Valuation (Fertilizer and Pesticide Storage Improvements)</p> <p>SF 52500 – Statement for Deduction of Assessed</p>	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
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	<p>Valuation Building Constructed of Coal Combustion Products (Form RE-CCP)</p> <p>SF 53179 – Application for Deduction from Assessed Valuation – Real Property Vacant Building Deduction (Form 322/VBD)</p> <p>SF 53812 – Application for Model Residence Deduction</p>	
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AS 12-5	<p>SF 5473 – Claim for Homestead Property Tax Standard/Supplemental Deduction (Form HC10)</p> <p>SF 18865 – Statement for Deduction of Assessed Valuation (Attributed to Solar Energy System/Wind, Geothermal or Hydroelectric Power Device) (Form SES/WPD)</p> <p>SF 43708 – Application for Senior Citizen Property Tax Benefits</p> <p>SF 43709 – Statement of Mortgage of Contract Indebtedness for Deduction from Assessed Valuation</p> <p>SF 43710 – Application for Blind or Disabled Person’s Deduction from Assessed Valuation</p> <p>SF 49567 – Application for Deduction from Assessed Valuation of Rehabilitated Property (Form 322A)</p> <p>SF 49568 – Application for Deduction from Assessment of Rehabilitated Property (Form 322)</p>	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
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	SF 52501 – Enterprise Zone Investment Deduction Application (Form EZ-2)	
	<b>EXEMPTION FORMS</b>	
AS 12-6	SF 49585 – Notice of Action on Exemption Application (Form 120) SF 54173 – Notice of Change of Ownership of Exempt Property	DESTROY after five calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
AS 12-7	SF 9284 – Application for Property Tax Exemption (Form 136)	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
	<b>PERSONAL PROPERTY FORMS</b>	
AS 12-8	SF 10068 – Business Tangible Personal Property Return (Form 104) SF 11274 – Business Tangible Personal Property Return (Form 103-Short) SF 11405 – Business Tangible Personal Property Assessment Return (Form 103-Long) SF 12980 – Schedule of Adjustments to Business Tangible Personal Property Return (Form 106)	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

	<p>SF 22649 – Return for Interstate Carriers (Form 103-I)</p> <p>SF 22667 – Return of Special Tools (Form 103-T)</p> <p>SF 23000 – Information Return of Not Owned Personal Property (Form 103-N Schedule I)</p> <p>SF 24056 – Claim for Exemption of Air or Water Pollution Control Facilities (Form 103-P)</p> <p>SF 24057 – Information Return of Owned Personal Property (Form 103-O)</p> <p>SF 34608 – Report to Department of Local Government Finance by County Assessor (Form 15)</p> <p>SF 42963 – Application for Deduction from Assessed Valuation – Maritime Opportunity District (Form MOD-1)</p> <p>SF 50006 – Farmer’s Tangible Personal Property Assessment Return (Form 102)</p> <p>SF 51765 – Compliance with Statement of Benefits Personal Property (Form CF-1/PP)</p> <p>SF 52497 – Business Tangible Personal Property Depreciable Assets in Pool 5 (Form 103-PS)</p> <p>SF 52498 – Schedule of Deduction from Assessed Value Pool 5 Property in Economic Revitalization Area (Form 103PS/ERA)</p> <p>SF 52499 – Statement for Deduction of Assessed Valuation (Investment Property Purchased by Manufacturers of Recycled Coal Combustion Products) (Form PP-CCP)</p> <p>SF 53854 – Business Tangible Personal Property (Form 103-SR – Single Return)</p> <p>SF 53855 – Business Tangible Personal Property (Form 104SR – Single Return)</p> <p>SF 54182 – Claim for Exemption of Enterprise Information Technology Equipment (Form 103-IT)</p> <p>SF 54484 – Equipment List for New Additions to CTP Deduction Personal Property in Certified Technology Park (Form 103-CTP/EL)</p>	
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AS 12-9	<p>SF 51764 – Statement of Benefits Personal Property (Form SB-1/PP)</p> <p>SF 52503 – Schedule of Deduction from Assessed Valuation Personal Property in Economic Revitalization Area (Form 103-ERA)</p> <p>SF 52515 – Equipment List for New Additions to ERA</p> <p>Deduction Personal Property in Economic Revitalization Area (Form 103-EL)</p> <p>SF 54483 – Schedule of Deduction from Assessed Valuation Personal Property in Certified Technology Park (Form 103-</p>	<p>DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>
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	CTP)	
	<b>UTILITY FORMS</b>	
AS 12-10	<p>SF 31289 – Annual Report – Railroad Property (U.D. Form 32)</p> <p>SF 40408 – Annual Report (U.D. Form 45)</p> <p>SF 46373 – Report of Railcar Tax (DLGF RC-1)</p> <p>SF 47336 – Water Pollution Control Equipment (Schedule A4)</p> <p>SF 47337 – Air Pollution Control Equipment (Schedule A-3)</p> <p>SF 47338 – REMC Schedule (Schedule A-5)</p> <p>SF 47339 – Pipe Valuation (Schedule A-6)</p> <p>SF 47340 – Utility Distributable Property of Pipeline Companies (Schedule A-7)</p> <p>SF 47341 – Value of Buses and Tires (Schedule A-8)</p> <p>SF 52446 – Statement of Benefits – Utility Distributable Property (Form SB-1/UD)</p> <p>SF 52447 – Schedule of Deduction from Assessed Valuation Utility Distributable Property in Economic Revitalization Area (Form UD-ERA)</p>	<p>DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>

	SF 52448 – Compliance with Statement of Benefits – Utility Distributable Property (Form CF-1/UD)	
	<b>MISCELLANEOUS</b>	
AS 12-11	SF 23261 – Power of Attorney SF 23341 – Notice of Placing of Mobile Home Upon Land or Lot – Form 1 SF 43779 – Commercial Vessel Tonnage Tax Return SF 46021 – Sales Disclosure Form (IC 6-1.1-5.5- 3(c)) SF 52694 – County Option Dog Tax SF 53569 – Tax Statement (Form TS-1A) SF 53915 – Tax Statement (Form TS-1P) SF 53954 – Authorization for Receipt of Electronic Property Tax Statements SF 54060 – Tax Statement (Form TS-1L) SF 54193 – Certificate of Net Assessed Valuations to the Department of Local Government Finance	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

AS 12-12	SF 50055 – Indiana Residential Property Record Card SF 50056 – Indiana Commercial and Industrial Property Record Card SF 50057 – Indiana Agricultural Property Record Card	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and
		satisfaction of unsettled charges.
AS 12-13	Inheritance Tax	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
	<b>OBSOLETE FORMS</b>	
AS 12-14	SF 1882 – Fixed Personal Property of Public Utilities (Form 1 – Tax Return) SF 46062 – Information Return of Not Owned Locally Assessed Personal Property (Form 1-N) SF 22671 – Individual’s Tangible Personal Property Assessment Return (Form 101)	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

**County Clerk Retention Schedule for Non-Judicial Records Only**

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
CL 10-1	RETAIL DISTRESS SALE APPLICATION & LICENSE  Licensing of Retail Distress Sales – includes original inventory.  Application for Going Out of Business, Removal and Fire Sale License. [IC 25-18-1-7]  Copy of License also retained by Auditor.	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges. FILE Application and Inventory together as a Unique Record in a Separate File System.

CL 10-2	<p>RETAIL DISTRESS SALE COPY OF INVENTORY</p> <p>Form 16 Form 16-W Form 16 pr</p> <p>[IC 25-18-1-5]</p>	<p>DESTROY after one (1) calendar year. FILE Application and Inventory together as a Unique Record in a Separate File System.</p>
CL 10-3	<p>RETAIL DISTRESS SALES BOOK</p> <p>(Licensing of Retail Distress Sales)</p> <p>[IC 25-18-1-7]</p>	<p>TRANSFER to the INDIANA STATE ARCHIVES, COMMISSION ON PUBLIC RECORDS, for EVALUATION WEEDING and SAMPLING three (3) years after completion of book. FILE Application and Inventory together as a Unique Record in a Separate File System.</p>

CL 10-4	<p>CONFLICT OF INTEREST DISCLOSURE</p> <p>[IC 35-44-1-3(d)(6)(B)]</p>	<p>DESTROY after four (4) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges. FILE as a Unique Record in a Separate File System.</p>
CL 10-5	<p>CORONER'S INQUEST-VERDICT AND WRITTEN REPORT OF DEATH</p> <p>Copy sent to Clerk's Office prior to 07/01/1994.</p> <p>[IC 36-2-14-10(a)]</p>	<p>PERMANENT. RETAIN in office or TRANSFER after twelve (12) calendar years to COUNTY ARCHIVES or INDIANA STATE ARCHIVES, COMMISSION ON PUBLIC RECORDS.</p>



CL 10-6	<p>OATHS/CERTIFICATES OF PUBLIC OFFICIALS</p> <p>(Certificate of Appointment and Election, SF 31228 and SF 32229)</p> <p>SF 47857(96) [IC 5-4-1-4(b)] (Originals)</p> <p>Examples include: County Officers: Auditor, Clerk, Recorder, Treasurer, Sheriff, Surveyor, and Assessor. Other Public Officials: Constables, Small Claims Court.</p> <p>Oaths of Deputy Clerks of Circuit Court, Local Alcoholic Beverage Commission Appointed Members. [IC 7.1-2-4-20] Library Board Members. [IC 36-12-2-19 (c)];[ IC 36-12-7-4(d)]</p>	<p>TRANSFER to the INDIANA STATE ARCHIVES, COMMISSION ON PUBLIC RECORDS, for EVALUATION, WEEDING and SAMPLING one (1) year after completion of term (if public official has not retained this record and if on file as a public record).</p>
CL 10-7	<p>LIST OF LICENSED CHILD PLACING AGENCIES</p> <p>Compiled by Division of Family and Children, FSSA. [IC 31-19-8]</p>	<p>DESTROY two (2) calendar years after expiration of list. FILE as a Unique Record in a Separate File System.</p>
CL 10-8	<p>MEDIATORS LISTS</p> <p>(Provided by Supreme Court of Indiana) Listing of approved alternative dispute mediators and type of case in which they are authorized to serve. (Supreme Court Alternative Dispute Resolution Rule 2.3)</p>	<p>DESTROY after five (5) calendar years. FILE as a Unique Record in a Separate File System</p>
CL 10-9	<p>NOTARY PUBLICS MONTHLY LIST</p>	<p>DESTROY after one (1) calendar year and when</p>
	<p>Monthly list of newly commissioned Notaries in a county. Published monthly by Secretary of State.  [IC 33-42-2-8]</p>	<p>replaced by Annual List (see COCLK 2010-10).</p>

CL 10-10	<p>NOTARY PUBLICS ANNUAL LIST</p> <p>Annual List of newly commissioned Notaries in a county. Published yearly by Secretary of State.</p> <p>[IC 33-42-2-8]</p>	<p>DESTROY after four (4) calendar years. FILE as a Unique Record in a Separate File System</p>
CL 10-11	<p>PERPETUAL CARE OF CEMETERY ENDOWMENT ACCOUNTING AND REPORT</p> <p>(prior to July 1, 1994)</p> <p>[IC 23-14-48]</p>	<p>RECORD in Non-Judicial Order Book. FILE with County Recorder after July 1, 1994. See Administrative Rule 7 for retention instructions for the Non-Judicial Order Book [AR7, 85-11-19.1R].</p>
CL 10-12	<p>RESOLUTIONS OR MEMORIALS FROM LOCAL BAR ASSOCIATIONS</p> <p>(Traditional practice by members of Local Bar and Judiciary)</p>	<p>TRANSFER to the INDIANA STATE ARCHIVES, COMMISSION ON PUBLIC RECORDS, for EVALUATION, WEEDING and SAMPLING after three (3) years, if not placed in NonJudicial Order Book.</p>
CL 10-13	<p>DECLARATION OF LOCAL DISASTER.</p> <p>[IC 10-14-3-29(a)(2)]</p>	<p>RECORD in Non-Judicial Order Book. See Administrative Rule 7 for retention instructions for the Non-Judicial Order Book [AR7, 85-1.119.1R].</p>
CL 10-14	<p>ORDERS CREATING OR AMENDING RULES OF PROCEDURE</p> <p>(Supreme Court Order)</p>	<p>DESTROY upon publication of annual rules. POST as required by order. MAINTAIN Original as Unique Record.</p>
CL 10-15	<p>OFFICIAL SEAL OF RECORDER- IMPRESSION AND VERIFIED DESCRIPTION.</p> <p>[IC 36-2-11-23(a)]</p>	<p>RECORD in Non-Judicial Order Book. See Administrative Rule 7 for retention instructions for the Non-Judicial Order Book [AR7, 85-1.119.1R].</p>

CL 10-16	INDIANA DEPARTMENT OF TRANSPORTATION/NOTICE OF OFFICIAL ACTION  (Speed Zones, Flashing Lights, etc.)	DESTROY after three (3) calendar years when outdated or superseded
CL 10-17	BAIL AGENT LICENSE/POWER OF ATTORNEY  [IC 27-10-3]	DESTROY three (3) calendar years after expiration of license.
CL 10-18	CASH BOND RECORD	DESTROY six (6) calendar years after bond becomes distributable and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
CL 10-19	MONTHLY NOTICE OF ALCOHOLIC BEVERAGE COMMISSION (ABC) MEETING	DESTROY after one (1) calendar year and when replaced by Annual List (see CL 10-20).
CL 10-20	YEARLY REGISTRY OF ALCOHOLIC BEVERAGE PERMITS [IC 7.1-2-3-9.1]	DESTROY after the new registry is available for public inspection.
CL 10-21	CHILD SUPPORT DOCKETS  Form 45 – Support Docket Form 45L – Support Docket-Loose Leaf	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS

<b>ISETS RECORDS (INDIANA SUPPORT ENHANCED TRACKING SYSTEM)</b>			
CL 10-22	<u>ISETS FORM #</u> WEAAD631      Name And Address Notification Report  WEAAD564 Agency Disbursement Report  WEAAC224 Daily Balance Report  WEAAC200 Receipt Balance Report  WEAAD561	<u>COUNTY FORM #</u> N/A 245 ADR Agency Disbursement Report 246 DCB-Daily Support Cash Book 247 DRR-Daily Receipts Register N/A 245 DCR Daily Check Register 245 VCR-Voided and Reissued Checks (Daily and Monthly)	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

	<p>Disbursement Report</p> <p>FSASECWD Check Register</p> <p>WEAAC223 Voided And Reissued Report</p> <p>WEAAD302 Undistributed Receipt Report</p> <p>WEAAC205 Reconcilement Report</p> <p>WEACC920 Outstanding Check Report</p> <p>WEACC921 Tape Reconciliation Report</p> <p>* Including all other supporting documents as determined by the Indiana Department of Child Services</p>	<p>244 DUR-Daily Undistributed Receipts</p> <p>247SAB-Summary of Approved Receipt Batches</p> <p>245 MCC-Cleared Checks</p> <p>250 ARR-Accounts Receivable Recoupment's</p> <p>246 MBR-Clerk's Support Bank Reconciliation</p> <p>245OSC- Outstanding Check Report</p> <p>245-Tape Reconciliation of Checks</p>	
CL 10-23	<p>CHECK FORM</p> <p>245 Check Form</p>	<p>DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.</p>	

CL 10-24	WEAAD310 TRIAL BALANCE REPORT	NOTE: This form will be discontinued, except for counties that find the report useful. If generated: DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
CL 10-25	WEAAD REPORTS	These report forms have been, or will be, routed to the County

	WEAAD418 Potential Refund Report WEAAD904 Aging of Paternity Reports WEAAD905 Aging of Established Cases (EOM) WEAAD923 Delinquency Reports	Prosecutor. These reports are maintained by the County Prosecuting Attorney.
	<b>CLERK'S FEE &amp; CASH BOOK</b>	
CL 10-26	FEE AND CASH BOOK ISSUE DOCKET 1790-1913	Destroy per Administrative Rule 7, 85-1.1-02.
CL 10-27	ENTRY, ISSUE DOCKET & FEE BOOK (Civil Docket, 1970 + ) - 1913 – 1990	PERMANENT. Maintain per Administrative Rule 7, 85-1.103R.
CL 10-28	REVISED FORM 41 - 1990 +  FORM 44 - Register of Fees and Funds Held in Trust	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
CL 10-29	CLERK'S CASH BOOK OF RECEIPTS AND DISBURSEMENTS  FORM 27A Form 27CC - County Court Cash Book of Receipts	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

	<b>ELECTION RECORDS</b>	
CL 10-30	Poll lists, absentee ballot applications, ballot envelopes, tally sheets, ballots and computer programs used to tabulate votes  [IC 3-10-1-31; IC 3-10-1-31.1; IC 3-12-4-13]	DESTROY twenty-two (22) months after the election for which the records were produced
CL 10-31	Unused Ballots  NOTE: Any record concerning an issue in litigation must be retained until the controversy is resolved, subject to orders of the court	DESTROY after filing deadline for recount petition. Retain one copy for election record.
CL 10-32	Voter Registration Records  Canceled registration records Voter declination records [IC 3-7-27-6 (b)]	DESTROY two (2) years after the date of the previous general election.
CL 10-33	Campaign Finance Records - General  [IC 3-9-4-6]	DESTROY four (4) years from December 1 following the election to which they pertain unless the records are in litigation.
CL 10-34	Campaign Finance Records – Judicial	DESTROY six (6) years from December 1 following the election to which they pertain unless the records are in litigation.
CL 11-01	PASSPORT APPLICATION TRANSMITTAL	DESTROY two (2) years after creation. Destruction must meet standards determined by U.S. Department of State.
CL 13-01	MARRIAGE RECORDS  Includes Application for Marriage License, Record of Marriage, Marriage Index, Marriage Licenses and other related records.  [Applications for Marriage may be PARTIALLY CONFIDENTIAL beginning in 1958. Disclosure of these records is subject to IC 5-14-3-4(a)(12) and IC 515-6-7(c)(6)].	PERMANENT. May be MICROFILMED according to 60 IAC 2 STANDARDS. Original may be retained in office or may be transferred to the County Archives or State Archives upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

### County Coroner Retention Schedule

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
CO 10-1	<p>CORONER'S VERDICT AND WRITTEN REPORT</p> <p>IC 36-2-14-10(a)</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
CO 10-2	MEDIA RELEASE	DESTROY after one (1) calendar year.
CO 10-3	<p>CORONER'S REPORT</p> <p>Identification of deceased, time and date of death, officers and officials present.</p> <p>IC 36-2-14-18(a)</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
CO 10-4	<p>CORONER'S AUTOPSY REPORT</p> <p>Written document of complete autopsy and finding of Pathologist. Produced by Pathologist. Includes autopsy photos.</p> <p>Full autopsy report non-disclosable at discretion of agency, if applicable (when Coroner has investigated a crime).</p> <p>Autopsy: 1. Photos; 2. Video recordings; and 3. Audio are CONFIDENTIAL under IC 5-14-3-4(a)(11); IC 36-214-10(b).</p>	<p>PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>



	Any health records obtained under IC 36-2-14-21 are CONFIDENTIAL. IC 36-2-14-21(d)	
CO 10-5	SCENE PHOTOS  Non-disclosable at discretion of agency, if applicable (when Coroner has investigated a crime) under IC 5-14-34(b)(1)	PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
CO 10-6	TOXICOLOGY REPORT  Non-disclosable at discretion of agency, if applicable (when Coroner has investigated a crime) under IC 5-14-34(b)(1)	PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

CO 10-7	EVIDENCE GENERATED BY CORONER'S OFFICE  DNA Stain Card, Suicide Notes Non-disclosable at discretion of agency, if applicable (when Coroner has investigated a crime) under IC 5-14-34(b)(1)	DESTROY after 100 Years.
CO 10-8	INVESTIGATIVE REPORT (Investigation Notes)  Non-disclosable at discretion of agency under IC 5-14-3-4(b)(1)	PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA
		COMMISSION ON PUBLIC RECORDS.
CO 10-9	CORONER'S RELEASE FOR CREMATION	PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
CO 10-10	CHAIN OF CUSTODY AND PROPERTY RELEASE FORM Non-disclosable at discretion of agency under IC 5-143-4(b)(1) if applicable (when Coroner has investigated a crime)	PERMANENT. Original may be retained in office or destroyed if MICROFILMED according to 60 IAC 2 STANDARDS and upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
CO 10-11	CLOTHING AND PERSONAL PROPERTY FORM	DESTROY after ten (10) years.

**County Prosecutor Retention Schedule**

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
PR 12-1	<p>DEPARTMENT OF CHILD SERVICES CASE HISTORIES</p> <p>Includes information on all Indiana child support cases (both Title IV-D and non Title IV-D) and any out of state child support cases where Indiana is involved. Supporting documents include state and/or federal forms, memos and correspondence. Disclosure of these records may be affected by 45 CFR 303.15. Retention based on 45 CFR 302.15</p>	DESTROY individual records three (3) calendar years after closure of the case, which happens when the noncustodial party's payment obligation has officially ended.

**County Recorder Retention Schedule**

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
	<b>ENTRY OF INSTRUMENTS FOR RECORDING</b>	
RE 10-1	<p>ENTRY BOOK</p> <p>[IC 32-21-2-10]</p>	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2
		STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-2	<p>ORIGINAL INSTRUMENTS NOT RETURNED TO THE PUBLIC</p> <p>These may include leases, wills and testaments, bills of sale, powers of attorney, articles of incorporation, deeds, mortgages, chattel mortgages, and other instruments.</p>	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the

		INDIANA COMMISSION ON PUBLIC RECORDS.
	<b>LAND TRANSFERS</b>	
RE 10-3	<p>ORIGINAL/OFFICIAL DEED RECORD &amp; INDEX TO ORIGINAL/INDEX TO OFFICIAL DEED RECORD</p> <p>[IC 32-21-4-1]; [IC 32-21-2-6]</p> <p>Official is original or copy of original deed record</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-4	<p>CEMETERY DEED RECORD</p> <p>[IC 14-21-3-1]</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-5	<p>SHERIFF'S DEED RECORD</p> <p>[IC 36-2-11-8]</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>

RE 10-6	<p>TAX [SALE] DEED RECORD</p> <p>[IC 36-2-11-8]</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-7	<p>QUIET TITLE RECORD/INDEX TO QUIET TITLE RECORD</p> <p>[IC 32-30-3-17]</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-8	<p>TRACT BOOK</p> <p>This is an abstract to land grants made by the federal government, showing dates of grant and filings; location and description of tract; and name, age, and nationality of patentee; also known as Letters Patent Land and Lists of Land Entries.</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-9	<p>PLAT BOOK/PLAT BOOK GENERAL INDEX/PLATS</p> <p>[IC 36-7-3-3]</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the</p>

		INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-10	INDEX OF NOTICES OF CLAIM TO REAL PROPERTY [IC 32-20-4-2]	DESTROY fifty-five (55) years after satisfaction of lien.
RE 10-11	DORMANT MINERAL INTEREST RECORD [IC 32-23-10-7]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2

		STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
	<b>MORTGAGE TRANSACTIONS</b>	
RE 10-12	ORIGINAL/OFFICIAL MORTGAGE RECORD & INDEX TO ORIGINAL/INDEX TO OFFICIAL MORTGAGE RECORD [IC 36-2-11-8]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

RE 10-13	SCHOOL FUND MORTGAGE RECORD  [IC 36-2-11-8]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-14	RELEASE OF MORTGAGE RECORD  [IC 32-29-6-9]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
	<b>LIENS</b>	
RE 10-15	MECHANIC'S LIEN RECORD/INDEX TO MECHANIC'S LIEN RECORD  [IC 32-28-3]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON
		PUBLIC RECORDS.
RE 10-16	NOTICE OF FEDERAL TAX LIEN  Form 668 (Y) (c) 1993.	DESTROY after ten (10) calendar years.
	<b>OLD AGE ASSISTANCE</b>	

RE 10-17	ABSTRACT OF OLD-AGE CERTIFICATES -- LEDGER  [IC 12-14-13-5 (3); 1936-1945 and 1947-present]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-18	CERTIFICATE FOR SUPPLEMENTAL ASSISTANCE TO AGED PERSONS  [IC 12-14-13-5 (3)]	DESTROY twenty-five (25) years after satisfaction of lien.
<b>MILITARY RECORDS</b>		
RE 10-19	ARMED FORCES DISCHARGE RECORD (DD214)  [IC 10-17-2-1]  These records include any military discharge record 1864 to present.	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
<b>BUSINESS ASSOCIATIONS</b>		
RE 10-20	ARTICLES OF ASSOCIATION AND INCORPORATION RECORD  [IC 23-1-38-6]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.



RE 10-21	<p><b>INCREASE AND DECREASE OF CAPITAL STOCK</b></p> <p>These are the original filings of papers pertaining to increase and decrease of capital stock of companies.</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of</p>
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		<p>written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-22	<p><b>RESOLUTIONS OF CORPORATIONS AND ASSOCIATIONS</b></p> <p>These are the original filings of resolutions made by corporations and associations regarding business agreements.</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-23	<p><b>REVOCATIONS</b></p> <p>These are the original filings of certificates issued by Secretary of State and filed with Recorder, revoking the business privileges of various incorporated firms.</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.</p>
RE 10-24	<p><b>CO-PARTNERSHIP RECORD / PARTNERSHIP AGREEMENTS</b></p> <p>[IC 23-15-1-1]</p>	<p>PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the</p>

		INDIANA COMMISSION ON PUBLIC RECORDS.
	<b>MISCELLANEOUS INSTRUMENTS</b>	
RE 10-25	<p>MISCELLANEOUS RECORD</p> <p>These include transcripts of miscellaneous instruments such as affidavits, wills, agreements, articles of association and incorporation, amended articles, bills of sale, certificates, contracts, liens, dissolutions, inventions, leases, powers of attorney, and resolutions. [IC 36-211-8]</p>	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-26	<p>REGISTER OF FARM NAMES</p> <p>[IC 36-2-11-17]</p>	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may
		be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

RE 10-27	FENCE MARKS RECORD  [IC 32-26-7-1]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-28	OFFICIAL BOND REGISTER  [IC 5-4-1-5.1]	PERMANENT. DO NOT LAMINATE. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.
RE 10-29	OFFICIAL BONDS  This series includes official bond, computer index, and paper index.	DESTROY after ten (10) calendar years.
	<b>UNIFORM COMMERCIAL CODE</b>	
RE 10-30	UNIFORM COMMERCIAL CODE INFORMATION REQUESTS UCC FORM 11	DESTROY six (6) calendar years after lapse or termination.
RE 10-31	UNIFORM COMMERCIAL CODE FINANCING STATEMENT FILES  Alpha files. [IC 26-1-9.1-501 (d)]	DESTROY six (6) calendar years after lapse or termination.
RE 10-32	UNIFORM COMMERCIAL CODE FINANCING STATEMENT INDEX  Numerical file. [IC 26-1-9.1-502]	DESTROY six (6) calendar years after lapse or termination.

RE 10-33	UNIFORM COMMERCIAL CODE TERMINATION FILE  [IC 26-1-501 (i) (1)]	DESTROY six (6) calendar years after lapse or termination.
RE 10-34	RECORD OF INSTRUMENTS COPIED OR PROOFED County Form 138.	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
<b>OFFICE ADMINISTRATION</b>		
RE 10-35	FEE AND CASH BOOK	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
RE 10-36	MONTHLY MORTGAGE RELEASE REPORT TO COUNTY AUDITOR  [IC 36-2-11-24]	DESTROY after five (5) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
RE 10-37	PICK-UP CARDS [PLATS]  Form 26-5-1 [IC 36-7-3-3]	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
RE 10-38	STATISTICS BOOK  These may include any or all of the following: monthly totals, front counter annual totals, UCC annual totals, copy department annual statistics, CD revenue, general fund revenue.	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

RE 10-39	LOGS These may include any or all of the following: express and postal mail; plats/survey sheet and change of custody form; re-scan listing, correction, and tracking sheet; receipts list, pickup and mail- out book, township and surveyor pick-up list; CD and microfilm pick-up sheet.	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
RE 10-40	INVOICES AND PACKING LISTS	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

**County Treasurer Retention Schedule**

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
TR 10-1	PERMANENT TAX RECORDS  Form 9 (R 1991) Tax Duplicate. Form 63 (R 1967) Ditch Duplicate. Form 63M (1972) Ditch Duplicate for Maintenance Assessments.  Form 74T (1977) Treasurers Record of Delinquent Personal Property Tax and Judgment Docket.  Form 137 (1988) Tax Sale Record. Delinquent Tax Duplicates (through 1876; now obsolete).	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives or destroyed upon receipt of written approval from the INDIANA COMMISSION ON PUBLIC RECORDS.

TR 10-2	<p><b>NON-PERMANENT TAX RECORDS</b></p> <p>Form 18 (R 1989) Real Estate Tax Statement/Receipt. Form 18CD (R 1978) Conservancy District Tax Statement/Receipt. Form 18P (R 1988) Personal Property Tax Statement/Receipt. Form 18TJ (R1988) Personal Property Tax Judgment/Receipt. Form 63A Drainage Maintenance Tax Statement/Receipt. Form 135 (R 1988) Mobile Home Tax Statement/Receipt. Form 137B (1992) Statement of Costs Paid on Tax Sale Property.</p> <p>Form 143 (R 1977) County Treasurers Record of Demands for Payment of Delinquent Personal Property, Levies on and Sales of Personal Property, Certification to Clerk of Circuit Court, and Record of Notice Precedent to Executions.</p> <p>Form 143B (R 1991) Demand Notice, Personal Property Taxes. SF 13 (R 1957) Inheritance Tax Report. SF 14 (R 1973) Inheritance Tax Receipt.</p>	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
TR 10-3	<p><b>BANKRUPTCY FILES</b></p> <p>May contain Notice of Commencement of Case/ Notice of Pendency, Discharge of Debtors/Discharge in Bankruptcy, and other related information for court.</p>	DESTROY five (5) calendar years after Discharge of Debtors/Discharge in Bankruptcy, and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
TR 10-4	<p><b>INDEX CARDS TO BANKRUPTCY FILES</b></p> <p>Open Files</p>	RETAIN in office until moved to Closed Files. DESTROY in conjunction with bankruptcy files after five (5) calendar years.

TR 10-5	NONPERMANENT REGISTERS  Form 63B (1953) Register of Ditch Assessments Collected. Form 65 (R 1967) Register of Taxes Collected. Form 65STF (1949) Surplus Tax Fund Ledger.	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
TR 10-6	PERMITS  SF 7878 - Mobile Home Permit for Moving or Transferring Title (Copies only; originals given to customer; copies also retained by county assessor).	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
TR 10-7	RECORD OF APPROPRIATION & DISBURSEMENTS  (Applies to combined form after 1925.)	DESTROY after one (1) year only if county auditor retains a copy.

**County Sheriff Retention Schedule**

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
SH 10-1	LAW ENFORCEMENT RECORDINGS	190 days unless: (1) If requested by a third party to be retained within 180 days of recording, then retained 2 years after recording; (2) If a complaint is filed regarding law enforcement activity, as defined in Indiana Code 5-14-3-2(j), within 180 days of recording, then retained 2 years after recording; (3) If recording is used in any criminal, civil or administrative proceeding, then retained until final disposition of all appeals and a court order is obtained authorizing the destruction; and (4) If a recording is used by the Sheriff for training

		purposes, it may be retained for longer than 190 days.
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(Ord. 2015-5, passed 3-9-15, Am. Ord. 2016-22, passed 8-22-16)



## **APPENDIX B – RETENTION SCHEDULES**

### **Montgomery County HIPPA Plan**

In order to carry out the HIPAA Policy, the County Administrator will implement this plan and regularly report to the Board of Commissioners regarding the execution of the plan and compliance with the law. This plan is designed to ensure compliance with the Privacy Rule promulgated by the United States Department of Health and Human Services, the County's HIPAA Policy, and other federal and state laws with further the purpose of safeguarding protected health information (PHI). The protections provided for by HIPAA extend to both employees and to family members of employees and others who are covered by the County's employee benefit programs. This plan will be disseminated annually to all employees.

#### **Rule 1: Segregation**

1.01. All PHI will be maintained by a supervisor or administrator in a separate file for each employee and not the employee's general personnel file. This separate file containing PHI is referred to as the HIPAA file.

1.02 All files containing PHI will be maintained by the records custodian in a locked file cabinet or password-protected electronic file.

1.03 All documents in the HIPAA file will be maintained on colored paper in order to distinguish it from other documents and to alert all persons that the documents are protected from unauthorized access.

#### **Rule 2: Access**

2.01 In order to comply with the County HIPAA policy, all access to PHI will be limited to only the following classes of persons:

1. Employees: access to employee PHI will be granted to employees for their own PHI by written request;
2. Other Covered Persons: access to the PHI of other persons will be granted to other persons for their own PHI if they are covered by one of the County's employee benefit programs;

3. Supervisors/Administrators: access to the PHI of employees or other persons will be granted to those supervisors of such employees or administrative employees if the PHI is needed for the requestor in order to carry out their job duties; and

4. Third Parties: access to PHI will be granted to third parties only by written request made by:

- a. the legal representative of an employee or other person covered;
- b. a party to litigation against an employee or other person covered;
- c. law enforcement officials seeking to obtain relevant information concerning an investigation or case involving an employee or other person covered; and
- d. the National Instant Background Check System (NICS) seeking to obtain information relevant to the issuance of a firearms permit or license.

2.02 All requests for access must be made in writing.

2.03 All requests for access must be maintained by the custodian in the HIPAA file and in a separate HIPAA access log.

2.04 Only the custodian may grant access.

2.05 All access must be documented by the custodian in the access log and must include the name, address, email, and telephone number of the person granted access, the date of access, and the purpose stated in the request.

2.07 All access to third parties must be approved by the County Administrator and County Attorney.

2.08 The custodian must document whether copies of the HIPAA file or any of its contents were made and provided to the requestor.

2.09 For all requests, the custodian must notify the employee of the request for access and obtain a consent to release from the employee.

2.10 The custodian will comply with subpoenas, warrants and other legally-required access only if approved by the County Attorney.

### **Rule 3 Communication**

3.01 Employees and officials who have knowledge of PHI may not communicate with anyone regarding the knowledge of PHI unless the disclosure is required in the execution of the duties of the employee's job or the official's responsibilities or authorized in writing by the employee.

### **Rules 4 Corrections**

4.01 Employees have the right to request that corrections be made to records containing their PHI. All such requests will be forwarded to the County Administrator for determination.

4.02 All determinations regarding correction will be made in writing within 10 days of receipt of the request when practicable.

### **Rule 5 Grievances**

5.01 Any person having a grievance regarding the County's administration of this plan or the policy may file a written grievance. All grievances must be delivered to the County Administrator.

5.02 Upon receipt of a grievance, the County Administrator will acknowledge receipt to the person filing the grievance and notify the Board of Commissioners.

5.03 Within 10 days of receipt, the Board of Commissioners will investigate the grievance and make written findings. The Board may conduct a private hearing with the person filing the grievance. Written findings will be delivered to the person filing the grievance.

### **Rule 6 Breaches**

If the County becomes aware of a breach of its policy, the County Administrator will notify all affected persons. This notice will be in writing. The County will mitigate the effects of any breach. Any employee, vendor, or official who becomes aware of a breach has an affirmative duty to report the breach to the County A-Administrator.

### **Rule 7 Review and Reporting**

The Board of Commissioners will appoint a HIPAA Review Committee, and this Committee will annually review the administration of this plan and the policy and report to the Board regarding any violations, breaches, proposed changes to the policy or plan, and any other matter which will promote the protection of PHI.

### **Rule 8 Training**

In order to encourage full compliance with the plan and policy, the County Administrator will ensure that annual training is conducted for all employees and officials who administer or are in position to receive PHI and that annual training is conducted for the Board. In addition, the employee handbook contains information regarding the County's policy.

### **Rule 9 Employee Discipline**

Employees who violate the County HIPAA plan or policy will be subject to discipline.

## **CHAPTER 37: EMERGENCY MANAGEMENT**

### Section

#### ***General Provisions***

- 37.01 Purpose
- 37.02 Definitions
- 37.03 Scope and Intent
- 37.04 Limitations; non suppression of powers

#### ***Administration and Enforcement***

- 37.15 Department organization and administration
- 37.16 Advisory Council
- 37.17 Department established
- 37.18 Director of Emergency Management
- 37.19 Deputy Director
- 37.20 Principal Executive Officer; Board of Commissioners
- 37.21 Volunteers
- 37.22 Budgeting and finance

#### ***Emergency Management Plan***

- 37.35 Formulation, content and adoption
- 37.36 County wide jurisdiction
- 37.37 Powers, regulations and procedures

#### ***Local Disaster Emergency***

- 37.45 Order or proclamation of local disaster emergency affecting county roads when county roads are not closed
- 37.46 Order of proclamation of local disaster emergency closing county roads
- 37.47 Media notice
- 37.48 Filing of order
- 37.49 Enforcement

## GENERAL PROVISIONS

### §37.01 PURPOSE

The purpose of this chapter is to establish in the county a Department of Emergency Management and to provide for the exercise of necessary powers during emergencies. (Ord. 1996-4, passed 10-22-96)

### §37.02 DEFINITIONS

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

**ADVISORY COUNCIL.** The County Emergency Management Advisory Council, as established under this chapter, pursuant to I.C. 10-14-3-17.

**BOARD.** The Board of County Commissioners, as elected pursuant to I.C. 36-2-2.

**CHAIRPERSON.** The Chairperson of the County Emergency Management Advisory Council as established under this chapter, pursuant to I.C. 10-14-3-17.

**EMERGENCY MANAGEMENT.** The preparation for and the execution of all emergency functions, to include mitigation, preparedness, response and recovery.

**DEPARTMENT.** The Department of Emergency Management as established under this chapter, pursuant to I.C. 10-4-3-17.

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

**DISASTER.** The occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, other water contamination requiring emergency action to avert danger or damage, hazardous materials spill or contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot, or hostile military or paramilitary action which cannot be handled by normal operating personnel, procedures, resources or facilities.

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

**MANMADE DISASTER.** Any incidents, including, but not limited to riots, strikes, insurrections, terrorist acts, civil disturbances, threats to national security or other manmade cause.

**NATURAL DISASTER.** Any incident affecting or threatening public health, welfare, safety or security including, but not limited to flood, tornado, earthquake, wind, storm, winter storm or other natural cause.

**PARTICIPATING EMERGENCY SERVICE.**

- (1) Any county department or agency designated in the emergency operations plan to participate in emergency management activities pursuant hereto; and
- (2) Any department or agency of the state, another county, a municipal corporation or a volunteer organization designated to participate to a cooperative or mutual aid agreement entered into pursuant to I.C. 10-14-3-17 and this chapter.

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

**PLAN or EMERGENCY PLAN.** The current local emergency plan whose preparation and updating are mandated by I.C. 10-14-3-17(j).

**PRINCIPAL EXECUTIVE OFFICER.**

(1) As referred to in I.C. 10-4-1-23(a) for purposes of declaring a local disaster emergency, and as referred to hereinafter, the regularly designated President of the Board of County Commissioners, except if he or she is unavailable or incapacitated, and the Board has a regularly designated President Pro-Tem, then the President Pro-Tem shall be the **PRINCIPAL EXECUTIVE OFFICER**. If the President is unavailable or incapacitated and there is no designated President Pro-Tem, then the remaining two Commissioners shall select among themselves one to be the **PRINCIPAL EXECUTIVE OFFICER** in the same manner as when an ordinary business meeting needs to be conducted in the absence of the President. If both the President and another Commissioner are absent or incapacitated, then the remaining Commissioner shall be considered the **PRINCIPAL EXECUTIVE OFFICER**. In the absence or incapacity of all County Commissioners, the Office of PRINCIPAL EXECUTIVE OFFICER shall devolve upon first the County Auditor, second, upon the County Clerk, third, upon the County Recorder and fourth, the Director.

(2) The **PRINCIPAL EXECUTIVE OFFICER** of the county selected by the above procedure, if not a member of the County Commission, shall exercise all powers and fulfill all duties of the **PRINCIPAL EXECUTIVE OFFICER** under I.C. 10-4-1-23, until the time as a County Commissioner shall no longer be unavailable or incapacitated at which time the County Commissioner, or the regularly designated President of the Board if he or she is no longer unavailable or incapacitated, shall assume all the powers and duties associated with the Office of President of the Board. The **PRINCIPAL EXECUTIVE OFFICER** selected by the above procedure, if a member of the County Commission, shall exercise all powers and fulfill all duties of the **PRINCIPAL EXECUTIVE OFFICER** under I.C. 10-4-1-23(a) until the time as the regularly designated President of the Board shall no longer be unavailable or incapacitated, at which time the regularly designated President of the Board shall resume all the powers and duties associated with his or her office.

*SEMA.* The State Emergency Management Agency established under I.C. 10-8-2-1.  
*TECHNOLOGICAL DISASTER.* Any incidents including, but not limited to severe fire, explosions, hazardous material spills, radiological problems or other technological cause.

### **§37.03 SCOPE AND INTENT.**

The general intent of this chapter is to provide for all necessary and indispensable powers and procedures reasonably needed to mitigate, prepare for, respond to and recover from emergency conditions. To this end, all powers, both ministerial and discretionary, as conferred herein shall be liberally construed and shall be construed as intending to supplement, augment and not to limit any other power or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, department and agencies.

### **§37.04 LIMITATIONS; NONSUPERSESSION OF POWERS**

(A) Nothing in this chapter is intended to supersede or delimit any statutory powers of the County Sheriff to request assistance of the National Guard under the circumstances delineated in I.C. 10-2-4-6.

(B) Nothing in this chapter is intended to supersede or delimit the powers of any incorporated municipality under I.C. 10-4-3-17 to adopt and implement emergency plans and promulgate and enforce special emergency regulations and procedures in the advent of an actual emergency affecting the county. However, pursuant to I.C. 10-5-1-15, the regulations and procedures as promulgated by the municipal authorities may not be inconsistent with the county emergency regulations and procedures as established in this chapter.

(Ord. 1996-4, passed 10-22-96)

## ***ADMINISTRATION AND ENFORCEMENT***

### **§37.15 DEPARTMENT ORGANIZATION AND ADMINISTRATION**

(A) In accordance with I.C. 10-14-3-17(d), there is established the County Emergency Management Advisory Council which shall consist of the following persons or their designees.

- (1) The President of the County Executive;
- (2) The President of the county fiscal body;



- (3) The Mayor of each city located in the county;
  - (4) An individual representing the legislative bodies of all towns located within the county;
  - (5) Representatives of private and public agencies or organizations which can be of assistance to emergency management as the organizing group considers appropriate, or as may be added later by the County Emergency Management Advisory Council; and
  - (6) One commander of a local civil air patrol unit in the county or the commander's designee.
- (B) *Officers.* The Advisory Council shall have the following officers:
- (1) *President* – The President of the Board of County Commissioners shall serve as the President of the Advisory Council;
  - (2) *Vice President:* the members of the Advisory Council shall elect at the organizational meeting each year a Vice President; and
  - (3) *Secretary:* the members of the Advisory Council shall elect at the organizational meeting each year as a Secretary
- (C) *Terms:* Members of the Advisory Council shall have the following terms:
- (1) The President of the Board of County Commissioners, the President of the County fiscal body, the mayor of each city located in the County, and the Commander of the local civil air patrol unit in the County shall serve by virtue of holding their respective offices;
  - (2) If the Commander of the local civil air patrol unit in the County designates a representative to serve as the Commander's representative, the representative serves at the pleasure of the Commander and may be removed and replaced by the Commander at any time with or without cause; and
  - (3) All other members have a term of one (1) year, beginning January 1 and ending December 31 of each year. These members may serve no more than two (2) consecutive terms.

**§37.16           ADVISORY COUNCIL**

(A)       The Emergency Management Advisory Council shall exercise general supervision and control over the emergency management and disaster program of the County and shall select and terminate, with the approval of the County Executive, a County Emergency and Disaster Management Director.

(B)       All meetings of the Advisory Council shall be open to the public, and notice of meetings shall be provided as required by Indiana law.

**§37.17           DEPARTMENT ESTABLISHED**

(A)       There is hereby established a Department of Emergency Management within the executive branch of the county government for the purpose of utilizing to the fullest extent possible the personnel and facilities of existing county departments and agencies to prepare for and meet any disaster, as defined in this chapter. The County Commissioners and Director of Emergency Management shall be responsible for its organization, administration and operation. The Department shall consist of the following:

- (1) An executive head of the Department of Emergency Management, who shall be known as the Director of Emergency Management appointed in accordance hereto;
- (2) A Deputy Director, who shall be appointed by the Director with the approval of the Advisory Council;
- (3) Emergency management volunteers, as deemed necessary and appointed by the Director in accordance herewith and in accordance with the plan;
- (4) The employees, equipment and facilities of all county departments and agencies suitable for or adaptable to emergency management and designated by the plan to participate in emergency management activity;
- (5) Staff officers with the responsibility for warning and communications, radiological, health, emergency care, police, fire and rescue, public works and public information in accordance with the plan; and,
- (6) The assistants, clerical help and other employees as deemed necessary to the proper functioning of the Department who may be appointed by the Director in accordance with the proper plan.

(B) Notwithstanding any other provisions of this chapter, no compensated position may be established within the Department of Emergency Management nor any person appointed to the position without:

- (1) The authorization of the County Council, pursuant to I.C. 36-2-5-3(a); and
- (2) The making of sufficient appropriations to pay the compensation.

(C) The County Council shall not have any power of approval over particular candidates for any position, but the County Council shall have general statutory powers to determine the number of officers, deputies and employees of county departments, classify positions and adopt schedules of compensation.

(D) It is the intent of this section that emergency management and disaster assignments under the plan shall be as nearly consistent with normal duty assignments as possible. (Ord. 1996-4, passed 10-22-96)

### **§37.18 DIRECTOR OR EMERGENCY MANAGEMENT**

(A) *Appointment:* The Director shall be appointed by the Advisory Council with the approval of the County Executive.

(B) *Termination:* The Director may be terminated by the Advisory Council, with the approval of the County Executive.

(C) *Dual Office Holding Prohibited:* The Director may not hold any other local, state or federal office.

(D) *Duties:* the Director shall have the following duties:

- (1) Direct the organization, administration and operation of the emergency management and disaster program;
- (2) Be responsible to the President of the County Executive;
- (3) Seek, negotiate and enter into mutual aid agreements, with approval or ratification by the County Commissioners; and
- (4) Perform other duties which are either assigned by the Advisory Council or required by law.

**§37.19 DEPUTY DIRECTOR**

(A) If a Deputy Director has been appointed pursuant hereto, he or she shall, during normal times, assist the Director in the performance of his or her duties.

(B) During an emergency, the Deputy Director shall assist the Director and shall fulfill the duties of the Director in the absence or incapacity of the Director to serve. (Ord. 1996-4, passed 10-22-96)

**§37.20 PRINCIPAL EXECUTIVE OFFICER; BOARD OF COMMISSIONERS**

(A) In time of normal county operations, powers and duties of the Principal Executive Officer pertaining to emergency management shall be:

- (1) Seeking the advice and input of the Director as to the advisability of declaring a local disaster emergency; and
- (2) Declaring, pursuant to I.C. 10-4-1-23(a), a local disaster emergency.

(B) In time of normal county operations, powers and duties of the County Commissioners pertaining to emergency management shall be:

- (1) Maintaining general supervision over the planning and administration for the Department.
- (2) Prepare, adopt and keep current a local disaster emergency plan as provided for in Section 37.35. The Agency shall also prepare and distribute to all appropriate officials a clear and complete written statement of:
  - (a) The emergency responsibilities of all local agencies and officials: and
  - (b) The disaster chain of command.
- (3) Coordinating emergency management activities consistent with the plan;
- (4) Making assignments of county personnel to emergency management activities consistent with the plan;
- (5) Making assignments of county personnel to emergency management duties in order

to meet situations not covered in the normal duties and powers of the agencies consistent with the plan;

(6) Taking all necessary action in coordination with the Department to conduct tests of the plan; and

(7) Educating themselves as to their responsibilities under the plan.

(C) (1) Emergency management test may be conducted at any time with or without prior notifications to persons other than the Director.

(2) All emergency tests conducted within the boundaries of the county shall be coordinated with the Department.

(D) In the administration of the Agency, the County Commissioners may:

(1) Appropriate and expend funds;

(2) Make contracts;

(3) Obtain and distribute equipment, materials and supplies for emergency management and disaster purposes;

(4) Provide for the health and safety of persons and property, including emergency assistance to victims of a disaster resulting from enemy attack;

(5) Provide for a comprehensive insurance program for its emergency management volunteers;

(6) Direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set forth by the Federal Emergency Management Agency and the Indiana Department of Homeland security;

(7) Appoint, employ, remove or provide, with or without compensation

(a) Rescue teams

(b) Auxiliary fire and police personnel; and

(c) Other emergency management and disaster workers.

- (8) Establish a primary and one or more secondary control centers to serve as command posts during an emergency;
- (9) Subject to the order of the Governor of the State of Indiana or the County Commissioners, order, assign and make available for duty employees, property or equipment of the County relating to:
  - 1 Firefighting;
  - 1 Engineering;
  - 1 Rescue;
  - 1 Health, medical and related services;
  - 1 Police;
  - 1 Transportation;
  - 1 Construction;
  - 1 Similar items of service for emergency management and disaster purposes;  
and
- (10) In the event of a national security emergency or disaster as provided for in Indiana Code §10-14-3-12, waive procedures and formalities required by County Code, ordinances, resolution or rules.  
(Ord. 2012-\_\_, passed 5-1-12)

**§37.21 VOLUNTEERS**

- (A) The Director shall assure that all-volunteer personnel meet the following qualifications before being placed on the roster as a member of the Department:
  - (1) Be at least 18 years of age or older;
  - (2) Not be convicted of a felony; and
  - (3) Have completed and have on file with the Department an application form.

**(B)** Upon satisfaction of the above requirements and formal entry upon the Department's roster of volunteers, the applicant is officially a member of the County Department of Emergency Management.  
(Ord. 1996-4, passed 10-22-96)

**§37.22 BUDGETING AND FINANCE**

The Advisory Council shall advise the Director in the preparation of the budget. The County Council shall appropriate funds as it may deem necessary for the purpose of emergency management. All funds appropriated or otherwise available to the Department of Emergency Management shall be Administered by the Director.  
(Ord. 1996-4, passed 10-22-96)

***EMERGENCY MANAGEMENT PLAN***

**§37.35 FORMULATION, CONTENT AND ADOPTION**

**(A) (1)** A county emergency operations plan shall be adopted by resolution of the County Commissioners.

**(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 attack or disaster the county, the Principal Executive Officer of the county may declare a local disaster emergency pursuant to I.C. 10-4-23(a) for any period not to exceed seven days.

**(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 activated 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 area-wide state of emergency including the county.

(D) (1) As soon as possible after a disaster emergency affecting the county is declared either by the Governor or by the Principal Executive Officer of the county shall convene a meeting of the County Commissioners to perform their legislative and administrative functions as the situation may demand.

(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:

(iii) Personnel of the Department of Emergency Management

(iv) Participating emergency services; and

(v) Any other forces at the disposal of the Commissioners hereunder for emergency management purposes.

(d) The Commissioners may order volunteer forces which have been activated pursuant to the plan to the aid of the county, state or political subdivisions thereof as soon as practicable. These volunteer forces shall be under the direction of the Department of Emergency Management.

(e) In order to control the local disaster emergency and provide for public health, safety and welfare, the Commissioners may, to the extent permitted by I.C. 10-4-1-25 and subject to its provisions, command services and/or requisition the use of:

- (i) Equipment;
- (ii) Facilities;
- (iii) Supplies; or
- (iv) Other property.

(f) The Commissioners may order the evacuation of all or part of the population from stricken areas of the county and prescribe:

- (i) Routes;
- (ii) Modes of transportation; and
- (iii) Evacuation destinations.

- i. The Commissioners may mark provision for availability and use of temporary emergency housing, which housing need not necessarily comply with any minimum housing standards, building or zoning regulations and the like, which would govern the use and location of premises for housing purposes during normal times.

- ii. The Commissioners may suspend, for the duration of the state of emergency or for a lesser period as they determine, any provisions of or procedures prescribed by ordinances of the county if they:

- (i) Would be impractical during the emergency;
- (ii) Would interfere with the implementation and carrying out of emergency plans; or
- (iii) Would be inimical to actions necessary to protect the public safety and welfare.

- i. Except in accordance herewith, hereinafter the Commissioners shall not suspend any provisions of

ordinances or procedures which are mandated by statute.

- ii.** In the event of enemy attack, or when the state of emergency has been proclaimed by the Governor, the Commissioners, in accordance with I.C. 10-14-3-17(j)(5), may waive any procedures or requirements of statute or of county ordinances reflecting statutory requirements and mandates and pertaining to:

1. The appropriation and expenditure of public funds;
2. The incurring of obligations;
3. The performance of public works;
4. The entering into contracts;
5. The employment of workers whose employment may be either:
  - a. Permanent; or
  - b. Temporary.
6. The utilization of volunteer workers;
7. The rental of equipment;
8. The purchase and distribution of:
  - a. Offices;
  - b. Materials; and
  - c. Facilities.

- i.** The Commissioners may assign any special emergency duties and functions to county:

1. Offices;
2. Departments; and
3. Agencies.

- ii.** Any unexpended and unencumbered monies budgeted and appropriated or otherwise dedicated by law to different purposes may, within the scope of each major budget and appropriation category (major object classification), be utilized and expended for the

purpose of carrying out special emergency duties and functions.

- iii.** The Commissioners may make and promulgate emergency regulations as may be deemed necessary to implement and carry out the provisions of the county's or state's plans.

**1.** The regulations shall not be effective until promulgated, through either:

- a.** Written filing in the Offices of the County Clerk and County Auditor, as required by I.C. 10-4-1-15(b); or

- b.** If filing is impossible, through conspicuous posting at two public locations within the county.

- iv.** The Commissioners may, in accordance with the plan, request the state or the country of their agencies and political subdivisions to send aid (including financial assistance) if the situation is beyond the control of the regular and emergency county forces and resources.

**(G)** All actions and regulations under the section shall be:

- (1)** Adopted by ordinance or resolution;

- (2)** Consistent with, and subordinate to, any actions, orders or regulations made by the Governor or a state agency implementing the state emergency operations plan.

**(H)** **(1)** The Director shall make recommendations and advise the Board of Commissioners or the Principal Executive Officer on any actions which it would be necessary or desirable to take hereunder in the event of any emergency.

**(2)** In the event that any emergency clearly exists or is imminent within the County, and a state of emergency has not been declared by the Governor nor is any person having the powers of the Principal Executive Officer of the county present to declare an emergency pursuant hereto, the Director may temporarily presume the existence of a state of emergency.



**(3)** When Director temporarily presumes the existence of a state of emergency, the Director shall:

**(a)** Put into effect those portions of the plan as necessary:

**(i)** To cope with the emergency; and

**(ii)** Protect the public safety and welfare.

**(b)** Be construed to have all powers necessary and dispensable to doing so to the extent not specifically limited by statute or specifically limited herein, until the time as the Chief Executive Officer becomes available;

**(c)** Have his or her functions performed by the Deputy Director to the extent that the Deputy Director is required to assume the duties of the Director, as provided hereby in the latter's absence or incapacitation during the emergency.

**(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.

**(I)** During a declared emergency, all officers and employees of incorporated and unincorporated areas of the county shall:

**(1)** Cooperate with and give active support to:

**(a)** The County Commissioners; and

**(b)** The County Emergency Management Director.

**(2)** Comply with all orders issued pursuant to this chapter by:

**(c)** The Commissioners; and

**(d)** The County Emergency Management Director.

**(J)** At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all existing inconsistent:

- (1)** Ordinances;
- (2)** Orders;
- (3)** Rules; and
- (4)** Regulations.

**(K)** **(1)** Whenever this chapter applies, it shall be unlawful and a penal ordinance violation for any person to:

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

**(b)** Failure to observe, abide by and comply with any emergency management duties, orders, regulations and procedures as made applicable to the person by the appropriate authorities; or

**(c)** Falsely wear or carry identification as a member of the Department of Emergency Management or to otherwise falsely identify or purport to be a county emergency management authority.

**(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.

**(L)** During an emergency management test or declared emergency, the following shall be immune from liability, to the extent provided by I.C. 10-14-3-17 and any other applicable law:

- (1)** The county;

- (2) Its assigned personnel;
- (3) Participating emergency services; and
- (4) Rostered volunteers.

(M) Owners of property commandeered for the use in any county official shall be reimbursed for its use by the county as the County Council shall approve with regard to:

- (1) Manner of compensation; and
- (2) Amount of compensation.

(N) The effect of a declaration of a local disaster emergency is to:

- (1) activate the response and recovery aspects of all applicable local or interjurisdictional disaster emergency plans; and
- (2) authorize the furnishing of aid and assistance under the plans.

(Ord. 1996-4, passed 10-22-96. Amended Ord. 2013-5, passed 6-24-13).

***LOCAL DISASTER EMERGENCY***

**§37.45           ORDER OR PROCLAMATION OF LOCAL DISASTER EMERGENCY  
AFFECTING COUNTY ROADS WHEN COUNTY ROADS ARE NOT  
CLOSED**

Any order or proclamation of a local disaster emergency, which does not order the closing of county roads, shall provide that:

(A)       The risk of travel on county roads is upon the person traveling upon such road or roads;

(B)       The driver or person in charge of a vehicle, whether or not stalled, that impedes or interferes with highway snow removal crews or emergency vehicles responding to an emergency may be directed to remove the vehicle from the county road by any law enforcement officer or county highway employee;

(C)       If an unoccupied vehicle impedes or interferes with highway snow removal crews or emergency vehicles and the driver or person in charge of such vehicle cannot be found, the Sheriff, County Emergency Management Director or county highway employee may order the vehicle to be towed to place of safety at the owner's expense;

(D)       A person who stops, parks or leaves a vehicle shall leave a sufficient unobstructed width of the roadway opposite the vehicle for the free passage of other vehicles and a clear view of the stopped vehicle from a distance of 300 feet in each direction upon the highway;

(E)       The 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**

**(A)** Local Travel Advisory Defined. As used in this section, the term “Local Travel Advisory” shall mean the level of emergency declared under Indiana Code §10-14-3-29 by the principal executive officer or Emergency Management Agency Director or the Director’s designee to alert the traveling public of emergency conditions that may require the imposition of travel restrictions.

**(B)** All Local travel Advisories shall be one (1) of the following:

**(1)** *Advisory*: This is the lowest level of local travel advisory and means that routine travel or activities may be restricted in areas because of a hazardous situation. Individuals traveling during an advisory should use caution or avoid these areas.

**(2)** *Watch*: This is the mid-level local travel advisory and means that conditions are threatening to the safety of the public. During a watch, only essential travel, such as travel to and from work or in emergency situations is recommended. During a watch, emergency action plans should be implemented by businesses, schools, government agencies and other organizations.

**(3)** *Warning*: This is the highest level of local travel advisory and means that travel may be restricted to emergency workers and public safety or health officials only. During a warning, individuals are directed to:

**(a)** refrain from all travel;

**(b)** comply with all necessary emergency measures;

**(c)** cooperate with public officials and disaster service forces in Executing emergency operation plans; and

**(d)** obey and comply with the lawful directions of properly identified Officers.

Further and more specific restrictions, including parking restrictions, may be included in a warning.

**(C)** *Advisories Without Declaration*. If the Emergency Management Director or Board of Commissioners determines that conditions in the County have created the need for travel advisory restrictions without a local disaster emergency declaration, the Director

or Board may issue an advisory or watch travel advisory. If the Director issues an advisory or watch travel advisory, the Director shall promptly notify the Board.

**(D)** If a local travel advisory is issued under this section, the County may not prohibit individuals engaged in employment necessary to:

- (1)** Maintain a safe rail system;
- (2)** Restore utility service;
- (3)** Provide any other emergency public service;

From traveling on the highways in the County.

**(E)** The driver or person in charge of a vehicle, whether or not stalled, that impedes or interferes with highway snow removal crews or emergency personnel and vehicles responding to an emergency may be directed to remove the vehicle from the county road by any law enforcement officer or county highway employee;

**(F)** If an unoccupied vehicle impedes or interferes with highway snow removal crews or emergency vehicles and the driver or person in charge of such vehicle cannot be found, the Sheriff or Emergency Management Director or county highway employee may order the vehicle to be towed to a place of safety at the owner's expense;

**(G)** A person who stops, parks or leaves a vehicle shall leave a sufficient unobstructed width of the roadway opposite the vehicle for the free passage of other vehicles and clear view of the stopped vehicle from a distance of 300 feet in each direction upon the highway;

**(H)** It is unlawful for a person to knowingly fail to comply with a lawful order or direction of a law enforcement officer, county highway employee or Emergency Management Director directing, controlling or regulating traffic under this chapter. (Ord. 200-3, passed 1-18-00; Am. Ord. passed 11-13-01. Amended Ord. 2013-5, passed 6-2413).

#### **§37.47 MEDIA NOTICE**

Upon issuance of an order declaring a local disaster emergency the president of the Board of Commissioners of the county shall cause the local media to be promptly notified. (Ord. 200-3, passed 1-18-11)

**§37.48            FILING OF ORDER**

As soon as possible, the president of the Board of Commissioners shall cause the local disaster emergency order to be filed with County Auditor.

(Ord. 200-3, passed 1-18-00)

**§37.49            ENFORCEMENT**

(A)        The driver or person in charge of a vehicle who violates §§37.45(B), 37.45(D), 37.46(C), or 37.46(E) may be directed to move the vehicle off the traveled portion of the road. (I.C. 9-211-3)

(B)        A vehicle stopped, parked or left in violation of §§37.45(B), 37.45(C), 37.45(D), 37.46(B), 37.46(D), or 37.46(E) may be towed to the nearest place of safety at owner's expense. (I.C. 9-21-16-3).

(C)    (1) Violation of the provisions of §§37.45(B), 37.45(C), 37.45(F), 37.46(C), or 37.46(F)        is cause for an action to enforce state statute and may result in the entry of a judgment of        up to \$500 for a Class C Infraction. (I.C. 9-21-5-13, I.C. 9-21-16-9, and I.C. 9-21-8-49)

(2) In the alternative, the violation may be charged as a Class C ordinance violation for which a judgment may include the amount necessary to reimburse the county for any towing or storage fee which it has incurred in addition to the prescribed fine and court costs.

(D)        Violation of the provisions of §§37.01(D) or 37.03(E) is a Class C ordinance violation for which a judgment may also include the amount to reimburse the county for any towing or storage fee which it has incurred, in addition to the prescribed fine and court costs.

(Ord. 2000-3, passed 1-18-00).”

## **TITLE V: PUBLIC WORKS**

Chapter

50 ILLEGAL DUMPING



**TITLE V: PUBLIC WORKS**  
**CHAPTER 50: ILLEGAL DUMPING**

Section

- 50.01 Title
- 50.02 Purpose
- 50.03 Definitions
- 50.04 Prohibited acts
- 50.05 Property owners' rights and responsibilities
- 50.06 Enforcement and abatement
- 50.07 Hearings

***Cross-reference:***

*Interlocal Agreements, see T.S.O. Table TV*

*Transportation of waste materials, see § 130.04*

**§50.01 TITLE**

This chapter shall be titled "Illegal Dumping Chapter" and may be cited as such.  
(Ord. 1993-6, passed 7-7-93)

**§50.02 PURPOSE**

The purpose of this chapter is to prohibit illegal dumping of solid waste materials in the county, to establish penalties for violations therefor, and to provide for the method of clean-up of open dumps. Improper disposal at recycling stations shall also be prohibited.  
(Ord. 1993-6, passed 7-7-93) Penalty, see § 10.99

**§50.03 DEFINITIONS**

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

***CONSTRUCTION/DEMOLITION DEBRIS.*** Any discarded construction or demolition materials including, but not limited to untreated lumber, paneling, drywall, roofing, shingles, siding, plumbing and electrical components, doors, windows, floor coverings and cabinets.

**CONTAMINANT:** The same meaning as that term is defined by I.C. 13-11-2-42. (Am. Commissioners Ord. 2008-1, passed 2-11-08)

**DISCARDING.** To abandon, deposit, desert, discharge, dispose, drop, dump, eliminate, emit, jettison, leave, pitch, place, put, scrap, spill, throw or toss any item, any solid waste or derivative thereof, or any inherently wastelike material in a manner such that the discarded substance remains upon the land as solid waste.

**DUMPING.**

(1) The discarding or long-term storage of any items of solid waste commonly known as garbage, rubbish, refuse construction and demolition debris, household trash, appliances, diapers, food service wastes, tires, scrap metal, vehicle parts, implement parts, fence wire and all other items and materials defined as “solid waste” below and in I.C. 13-11-2-205; and

(2) The discarding of any vehicle which do not have value beyond scrap value and which are inoperable and unlicensed or which are condensed abandoned due to the surrounding conditions.

**GARBAGE.** All putrescible animal solid, vegetable solid and semi-solid wastes from the processing, handling, preparation, cooking, serving or consumption of food or food materials.

**GENERATION.** The act or process of producing solid waste.

**GENERATOR.** The person whose actions or processes result in the production of solid waste.

**HEALTH OFFICER.** The same meaning as the term “local health officer,” as used in I.C. 1618-2-212, and shall include his or her authorized agent.

**INERT SOLID WASTE.** Earth, rocks, concrete, bricks, tiles or aged asphalt, natural wood, brush, leaves, wood chips or sawdust, any and all of which is free from contaminants.

**OPEN DUMP.** The consolidation of solid waste from one or more sources or the disposal of solid waste at a single disposal site that does not fulfill the requirements of a sanitary landfill or other land disposal method as prescribed by law or regulations, and that exists without daily cover and without regard to the possibilities of contamination or surface or

subsurface water resources, air, land or other hazard or threat of hazard to the environment or safety.

**PERSON.** Any individual, partnership, corporation, firm, company, organization, joint-stock company, municipal corporation, city, school district or corporation, county, town, association, trust, estate, government unit or other legal entity.

**SCAVENGING.** The uncontrolled and unauthorized removal of materials from solid waste at any point in the waste management system.

**SOLID WASTE.** Any yard waste, garbage, refuse, rubbish, sludge or other discarded or disposed materials, including solid, liquid or semi-solid or contained gaseous material resulting from any operation, activity or source.

**STORAGE.** Proper temporary containment of waste materials for a period of no more than 15 days or the standard interval of local commercial collection service, whichever is less.

**WASTE STORAGE CONTAINER.**

(1) A proper and suitable receptacle used for the temporary storage of solid waste while awaiting collection.

(2) Containers shall be designed to prevent escape or leakage of contents and should be resistant to scavenging animals.

**WEST CENTRAL SOLID WASTE DISTRICT.** The legally constituted solid waste district of which the county is a member pursuant to I.C. 13-26-2.

**§50.04 PROHIBITED ACTS**

(A) (1) No person shall discard any materials other than recyclables in any facility or contained intended for collecting designated recyclable materials.

(2) No person shall conduct scavenging at any facility or container intended for collecting materials with value as a designated recyclable material.

(B) (1) No person shall discard any solid waste along any roadway within the county unless it be in a proper solid waste storage container and is intended for collection and removal to a facility approved for handling the materials.

- (2) No person shall discard for final disposal or for use as fill material any inert solid waste without express consent of the property owner of the final disposal site, including county road rights-of-way.
- (3) No person shall discard for final disposal or for use as fill material any inert solid waste which is mixed or adulterated with any contaminants.
- (4) No person shall do any dumping or permit any dumping to take place at any location in the county unless the location is an approved and properly permitted landfill site.
- (5) Fill material, defined in §50.03 as *inert solid waste*, and other materials shall require an application to be filed with the County Health Department and County Highway Office and evaluated before any dumping or filling takes place. (Ord. 1993-6, passed 7-7-93; Am. Ord. passed 5-1-96) Penalty, see § 10.99

**§50.05 PROPERTY OWNERS' RIGHTS AND RESPONSIBILITIES**

- (A)
  - (1) It is the responsibility of all persons owning real property in the county to sustain diligent and good faith efforts to protect the natural environment and prevent illegal dumping on their property.
  - (2) Persons owning real property in the county shall not cause or allow the disposal upon their property of any solid waste materials.
- (B) Except as otherwise provided herein, no enforcement action may be taken under this chapter against a landowner on whose land waste has been improperly disposed without the landowner's consent, unless there has been made a diligent and good faith effort to identify, locate and take enforcement action against a person or persons who appear likely to have committed or caused the improper disposal acts.
- (C) Any landowner who in good faith provides information concerning a name, an address or any other evidence of a responsible person's identify found in wastes improperly disposed on the landowner's property is not liable to the person for an action taken by enforcement authorities under this chapter against the person as a result of information provided by the landowner.
- (D) The owner of property on which improper disposal acts have occurred may be included as a party of any enforcement action against a person who allegedly committed the violation so that the landowner may be ordered to allow the violator access to the land

to remove and properly dispose of the wastes allegedly disposed in violation of this chapter.

(E) A landowner on whose land waste has been disposed in violation of this chapter without the landowner's consent may, in addition to any other legal or equitable remedy available to the landowner, recover from the person responsible for the improper disposal reasonable expenses incurred by the landowner in removal.

(F) A landowner who consents to or allows disposal of wastes generated by others upon his or her property, without making a diligent and good faith effort to prevent the improper disposal of wastes, and who fails to notify proper authorities of the improper acts of disposal within a reasonable period of time shall be subject to enforcement procedures, and shall be deemed the responsible party and shall be served notice for clean-up of all wastes deposited upon his or her property and removal for final disposal at an approved sanitary landfill, at the landowner's expense.

(G) If a diligent and good faith effort by the Health Officer to identify, locate and take enforcement action against a person or persons who committed prohibited acts of waste disposal has been made by county authorities, and has failed to identify violators of acts prohibited herein, the owner of real estate upon which an open dump is located shall be held responsible for correcting and controlling any nuisance conditions which may occur as a result of the open dump.

(H) Materials which provide identifying information regarding the generator shall constitute a rebuttable presumption that the generator has deposited solid waste without the express consent of the landowner and in violation of this chapter. The presumption can be rebutted by proof that:

- (1) The person obtained the express consent of the landowner; or
- (2) The person properly placed solid waste in a waste storage container for pick-up by a licensed waste hauler. (Ord. 1993-6, passed 7-7-93)

#### **§50.06 ENFORCEMENT AND ABATEMENT**

(A) It shall be the duty of the County Health Officer to enforce this chapter. The Health Officer is authorized to perform inspections in the furtherance of fulfilling his or her duty to enforce this chapter. Any person violating any provision of this chapter shall be subject to fines or other injunctive action as specified in this chapter.

(B) Violators of this chapter shall be served a written initial notice of violation either in person or by any other manner reasonably calculated to result in actual notice, including certified mail. The order shall state the violation complained of, order the abatement of the violation, indicate a method of abatement, which if satisfactorily completed will adequately abate the offending violation and provide a reasonable time for abatement.

(C) Abatement of a violation must be accomplished in an environmentally safe and lawful manner pre-approved by the Health Officer by disposal of solid waste in an approved and properly permitted landfill.

(D) If the violation is not satisfactorily abated within the specified time allowed, a second notice shall be served, in the same manner as specified for initial notices and containing the same information specified for initial notices. If the conditions prevail following the specified period of time, the matter shall be referred to the attorney for the County Health Officer for appropriate legal action.

(E) If the Health Officer identifies an emergency condition presented by the violation which condition presents an imminent health and safety hazard to the citizens of the county, the Health Officer may, without notice or hearing, issue a notice reciting the existence of the emergency and requiring immediate abatement by the responsible person. (Ord. 1993-6, passed 7-7-93)

## **§50.07 HEARINGS**

Any person receiving any notice of violation as described herein may demand and shall be granted a hearing on the matter before the Health Board. Conduct of the hearing shall be prescribed by regulations promulgated by the Health Board. The Health Board shall hear testimony and take evidence on the matter, following which the Board shall sustain, modify or revoke the notice of violation issued by the Health Officer. (Ord. 1993-6, passed 7-7-93)

**TITLE VII: TRAFFIC CODE**

Chapter

70. TRAFFIC SCHEDULES

71. COURTHOUSE PARKING

72. TRAFFIC REGULATIONS

**CHAPTER 70: TRAFFIC SCHEDULES**

Schedule

- I. Weight Limits
- II. Bridge load limits
- III. Stop intersections
- IV. Speed limits

**SCHEDULE I. WEIGHT LIMITS.**

(A) This schedule is authorized pursuant to the provisions of I.C. 9-21-1-3 and I.C. 9-20-1-3 and for the reason that the highways under control of the Board of Commissioners, by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles is prohibited or permissible weight of vehicle is reduced.

(B) No vehicle with a gross weight of over eight tons shall be allowed on any road contained in the county highway system, excepting the following.

<b>Weight Limits Over Eight Tons</b>
Ladoga – Crawfordsville Road
Old State Highway 55 from Crawfordsville to Wingate
1100 North, from New Richmond to Indiana Highway 25
Russellville Road from Russellville to Indiana Highway 47
Nucor Road from 500 South to State Road 32
1000 North from Linden to New Richmond

600 South from State Road 47 to U.S. 231
Ladoga – Roachdale Road (550E)
400 South from Nucor Road to ½ mile east of Nucor Road
County Road 400 West Between SR 32 W and SR 136 W

(Ord. 92-1, passed 2-3-02; Ord. 2013-3, passed 4-22-13) Am. Commissioner Ord. 2019-9, passed 4-8-19. Penalty, see § 10.99

**(C)** No vehicle with a gross weight over six tons shall be allowed to travel upon County Road 100 West from State Road 234 West to County Road 700 South and County Road 700 South from County Road 100 West to County Road 225 West, and County Road 225 West from County Road 700 South to State Road 234, with local deliveries and agricultural vehicles and machinery used for farms along these county roads. The County Highway Director shall cause signs to be placed at the appropriate locations to inform the public of this restriction.

(Am. Commissioners Ord. 2019-12, passed 4-8-19).

**(D)** No vehicle with a gross weight over five tons shall be allowed to travel on the following County Roads, except for vehicles making deliveries to properties on such roads and agricultural vehicles and machinery servicing the farms on such roads:

(1) Roads With 5-Ton Weight Limitations:

Restricted Road	From	To	Ordinance
C.R. 150 South	St. Rd 47	U.S. 231	2015-10
C. R. 150 South	Ladoga Road	U.S. 231	2016-19
C. R. 400 South	St. Rd. 47	U. S. 231	2020-9

(2) Penalty: Any person who violates the restrictions of this weight limitation is subject to monetary fines in the following amounts:

- (a) First violation: \$100.00
- (b) second violation in a 12-month period: \$250.00
- (c) third or more violation in a 12-month period: \$500.00

(Ord. 2015-7, passed 4-13-15, Am. Ord. 2015-10, passed 5-26-15, Am. Ord 2016-19, passed 7-11-16, Am. Ord. 2020-9, passed 2-10-20).



**SCHEDULE II. BRIDGE LOAD LIMITS.**

(A) The purpose of this schedule is to establish maximum load limits for certain bridges within the county. (1982 Code, § 5-82-1)

(B) There shall be no maximum weight limit for any bridges with the following exceptions.

<i>Bridge</i>	<i>Location</i>	<i>Weight Limit/Truck Suitability</i>
Bridge 12	550 East, north of 850 North	NA
Bridge 30	1100 North, west of 850 East	NA
Bridge 36	150 North, east of 800 East	NA
Bridge 52	550 North, east of 1000 East	NA
Bridge 61	Division Road, one mile east of SR 136	NA
Bridge 69	200 South, west of 1025 East	NA
Bridge 71	450 East, south of 136	NA
Bridge 76	400 North, west of SR 43	NA
Bridge 83	275 West, north of 400 North	NA
Bridge 85	400 West, one mile south of SR 136	NA
Bridge 98	100 North, east of 650 West	NA
Bridge 103	500 North, west of 600 West	NA
Bridge 104	825 West, north of SR 136	NA
Bridge 121	825 West, north of 300 South	NA
Bridge 122	450 West, one-half mile south of 250 South	NA
Bridge 129	900 West, south of SR 32	NA
Bridge 139	200 West, south of 200 South	NA
Bridge 153	300 East, south of 300 South	NA
Bridge 167	550 East, south of SR 136	NA
Bridge 169	900 South, east of 800 East	NA
Bridge 171	1100 South, east of 550 East	NA
Bridge 184	50 South, north of 136	NA
Bridge 198	South City Line Road, west of 550 East	NA
Bridge 199	1100 South, west of 550 East	NA

Bridge 218	950 South, west of 750 West	NA
Bridge 240	900 North, west of 350 East	NA
Bridge 251	1025 East, north of SR 234	NA
Bridge 266	675 East, west of 700 East	NA
Bridge 268	600 West, north of 1000 South	NA
Bridge 269	950 East, north of 700 South	NA
Bridge 270	750 North, east of 400 West	NA
Bridge 501	Chestnut Street at Danville Avenue	NA
Bridge 502	John Street, John and Chestnut	NA
Bridge 506	Wabash Avenue at Mill Street	NA
Bridge 511	South Boulevard east of Mill Street	NA

(1982 Code, § 5-82-2; Am. Commissioners Ord. 2008-13, passed 7-28-08)  
Penalty, see § 10.99

**SCHEDULE III. STOP INTERSECTIONS.**

**(A) (1)** A person who drives a vehicle in the county shall stop and yield the right-of-way as required under this schedule at the entrance to a through county road. A person who drives a vehicle in the county shall stop at an intersection where a stop sign is erected and yield to vehicles that are not required to stop. A person who drives a vehicle in the county shall obey all official traffic-control devices placed in accordance with any county ordinance unless otherwise directed by a law enforcement officer. A person who violates any provision of this schedule commits a Class C infraction.

**(2)** For any intersection not specifically covered in this schedule, or marked with stop signs, north/south traffic will have the right-of-way.

**(B) (1)** Nothing in this schedule shall be construed to relieve any motorist from disobeying any traffic-control devices placed by the County Highway Department or State Highway Department whether or not the device is placed in accordance with the specific provisions of this schedule.

**(2)** Motor vehicles in intersections not listed herein will not be forced to stop.

**(C)** For the purpose of this schedule, the county is divided into four districts and the county road intersections in each district designated as stop intersections, in separate sections are described herein. Section Two includes intersections south of Base Road West and west of Base Road South. Section Three includes intersections north of Base Road West and west of Base Road North. Section Four includes intersections north of Base

Road East and east of Base Road North. Section Five includes intersections south of Base Road East and east of Base Road South.

(1) Section Two: Southwest

Street	Direction	Intersection
Big Four Drive	North	CR 50 South
Country Club Court	South	Country Club Road
Country Club Meadow		Country Club Road
Country Club Terrace	South	County Club Road
CR 50 South	West	Country Club Road
CR 50 South	East	Schenck Road
CR 100 West	North and South	CR 500 South
CR125 West	North and South	CR 900 South
CR 150 South	East and West	CR 200 West
CR 150 West	North and South	CR 1150 South
CR 175 West	North	CR 1150 South
CR 200 West	North and South	CR 50 South
CR 200 West	North and South	CR 150 South
CR 200 West	North and South	CR 300 South
CR 200 West	North and South	CR 600 South
CR 200 West	North and South	CR 1150 South
CR 225 West	North and South	Country Club Road
CR 225 West	North and South	CR 950 South
CR 300 West	North	CR 1100 South
CR 300 West	North and South	CR 1200 South
CR 325 West	North and South	CR 950 South
CR325 West	North and South	CR 1050 South
CR 400 South	East and West	CR 275 West
CR 400 West	North and South	CR 450 South
CR 400 West	North and South	CR 600 South
CR 450 West	North and South	CR 600 South
CR 450 West	North and South	CR 700 South
CR 475 West	North and South	CR 700 South
CR 475 West	North and South	CR 950 South
CR 500 West	North and South	Division Road
CR 525 West	North and South	Fall Creek Road
CR550 West	North and South	Davis Bridge Road
CR 575 West	North and South	CR 1150 South
CR 600 West	North and South	CR 600 South
CR 600 West	North and South	CR 950 South

CR 600 West	North and South	Division Road
CR 625 West	North and South	CR 950 South
CR 650 West	North and South	CR 575 South
CR 675 West	North and South	CR 400 South
CR 700 West	North and South	CR 400 South
CR 700 West	North and South	CR 1150 South
CR 800 West	North and South	CR 950 South
CR 825 West	North and West	CR 450 South
CR 830 West	North	CR 400 South
CR 875 West	North and South	CR 450 South
CR 890 West	North and South	CR 800 South
CR 900 West	North	CR300 South
CR 900 West	North	CR 800 South
CR 900 West	South	CR950 South
CR 900 West	North and South	Division Road
CR925 West	North and South	CR 150 South
CR 925 West	North and South	CR 300 South
CR 1000 West	North and South	CR 400 South
CR 1200 South	North and South	Putnam County Road 750 West
Crown Street	East and West	CR 475 West
Davis Bridge Road	North and South	CR 600 South
Delmar Drive East	Country Club Road	
Franklin Street	Cross Street	
Franklin Street	Crown Street	
Main Street	North and South	CR 950 South
Main Street	Cross Street	
Main Street	Crown Street	
Manning Place East	Schenck Road	
Maple Street	Crown Street	
Maple Street	North and South	CR 950 South
Monroy Circle East	Schenck Road	
Putnam County Rd 750 West	North and South	CR 1200 South
Rock River Ridge Road	South and East	Country Club Road
Rock River Ridge Road	South and East	CR 225 West
Sugar Cliff Drive	South	Country Club Road
Watson Drive East	Schenck Road	
Winslow Drive	Country Club Road	

(2) Big Four Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Big Four Drive		Big Four – Arch Road

1 Big Four Drive		Chicago Drive
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(3) Golf View Estates.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Eagles Way		Country Club Road
Golf Boulevard		Eagles Way

(4) Carrington Hills.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Greenlea Boulevard		Burning Tree Road
Greenlea Boulevard		Country Club Road
Singing Hills Drive		Burning Tree Road

(5) Section Three: Northwest.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Base Road		CR 650 West
Base Road West		CR 600 West
CR 100 West	North and South	CR 400 North
CR 100 West	North and South	CR 700 North
CR 100 West	North and South	CR 1000 North
CR 125 West		Oak Hill Road
CR 150 West		CR 575 North
CR 150 West		CR 650 North
CR 150 West		CR 700 North
CR 175 West		CR 300 North
CR 175 West		Oak Hill Road
CR 200 West		CR 1100 North
CR 225 West		CR 100 North
CR 225 West		CR 400 North
CR 275 West		CR 400 North
CR 275 West		CR 500 North
CR 275 West		CR 650 North
CR 275 West		CR 750 North
CR 275 West		Old State Road 55
CR 300 West		Black Creek Valley Road
CR 300 West		CR 500 North

CR 300 West		CR 650 North
CR 350 West		New Richmond Road
CR 400 West		New Richmond Road
CR 450 East		CR 1200 North
CR 500 West		CR 100 North
CR 500 West		CR 300 North
CR 500 West		CR 450 North
CR 500 West		CR 750 North
CR 500 West		CR 1050 North
CR 500 West		Division Road
CR 500 West		Old State Road 55
CR 525 West	North and South	CR 1050 North
CR 550 West		CR 100 North
CR 575 West		CR 900 North
CR 600 West	North and South	CR 600 North
CR 600 West		CR 900 North
CR 600 West		Old State Road 55
CR 610 West		CR 450 North
CR 610 West		CR 500 North
CR 625 West		CR 450 North
CR 625 West		CR 900 North
CR 625 West		CR 970 North
CR 650 West		Division Road
CR 700 West		CR 775 North
CR 700 West		CR 900 North
CR 700 West		CR 1125 North
CR 750 West		CR 150 North
CR 750 West		CR 650 North
CR 750 West		Division Road
CR 775 West		CR 450 North
CR 775 West		CR 650 North
CR 800 West		CR 1123 North
CR 830 West		CR 400 North
CR 875 West		CR 150 North
CR 925 West		CR 100 North
CR 925 West		CR 150 North
CR 950 West		CR 200 North
CR 950 West		CR 1125 North
CR 950 West		Old State Road 55
CR 975 West		Division Road

CR 1000 North	All directions	CR 100 West
CR 1000 West		CR 150 North
CR 1000 West		CR 700 North
CR 1000 West		CR 900 North
CR 1000 West		CR 1125 North
CR 1000 West		Old State Road 55
Farmington Hills Road		Oak Hill Road
Glen Creek Heights Road		Old Indiana 55
Lake Terrace Drive		CR 100 North
Lincoln Drive Road		CR 125 West
Mt. Zion Court		CR 100 North
New Richmond Road	North	CR 1000 North
Oak Hill Crossing		Oak Hill Lane
Oak Hill Lane		Oak Hill Road
Oak Hill Road		Lafayette Avenue
Oak Hill Road		Old State Road 55
Old State Road 55		All intersections
Twin Oaks		CR 100 North
Waynetown Road		CR 100 North

(6) Sugar Cliff Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Sugar Cliff Drive		Country Club Road
Sugar Cliff Drive	West	Sugar Cliff Drive

(7) Twin Oaks Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Blue Beach Lane		Poplar Avenue
Poplar Avenue		CR 100 North
Poplar Avenue		Poplar Avenue "C"
Poplar Avenue "A"		Poplar Avenue
Poplar Avenue "B"		Poplar Avenue
Tulip Lane		Poplar Avenue "D"
Tulip Lane "A"		Tulip Lane

(8) Cox Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Crescent Drive		Lake Vista Drive
Glenwood Drive		Lake Vista Drive
Lake Terrace Drive		CR 100 North
Lake Terrace Drive		Lake Vista Drive
Lake Vista Drive		Old Waynetown Road
Ridge Drive		Lake Vista Drive
Ridge Road		Glenwood Drive

(9) Section Four: NorthEast.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Base Road East		CR 400 East
Concord Road		CR 400 North
CR 100 East		CR 400 North
CR 100 East		CR 550 North
CR 100 East		CR 900 North
CR 100 East		CR 1000 North
CR 150 East		CR 550 North
CR 150 East		CR 800 North
CR 150 East		CR 900 North
CR 150 East		CR 1000 North
CR 150 East		CR 1200 North
CR 175 East		CR 300 North
CR 175 East		CR 400 North
CR 175 East		CR 800 North
CR 200 East	North	CR 550 North
CR 200 East	South	CR 800 North
CR 225 East		CR 1000 North
CR 250 East		CR 1200 North
CR 250 East	South	CR 1000 North
CR 275 East		CR 300 North
CR 275 East		CR 500 North
CR 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	South	CR 300 North
CR 675 East		CR 400 North
CR 680 East	South	CR 400 North
CR 775 East		CR 150 North
CR 800 East		CR 150 North
CR 800 East		CR 300 North
CR 800 East		CR 1000 North
CR 850 East		CR 900 North
CR 850 East		CR 1000 North
CR 850 East		CR 1200 North
CR 875 East		CR 150 North
CR 900 East		Bower Road
CR 900 East		CR 700 North
CR 900 East		CR 900 North

CR 925 East	South	CR 400 North
CR 950 East	North	CR 400 North
CR 1000 East	North and South	CR 1050 North
CR 1000 East	South	CR 450 North
CR 1000 East	South	CR 750 North
CR 1100 East	North and South	CR 400 North

(10) Kiger Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Kiger Road		CR 425 East

Walnut Fork Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Brenda Avenue		Shayne Drive
Freddie Switzer Lane		Brenda Avenue
Freddie Switzer Lane		Campbell Street
Shayne Drive		Campbell Street

(11) Eastern Acres Subdivision.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Center Lane		Placid Place
Placid Place		Pleasant Run
Placid Place		Tranquil Trail
Pleasant Run		Traction Road
Tranquil Trail		Traction Road

(12) Section Five: SouthEast.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Base Road		CR 400 East
Cornstalk Creek Road		CR 350 East
CR 75 East		CR 1050 South
CR 75 East		CR 1150 South
CR 100 East		CR 300 South
CR 100 East		CR 400 South
CR 100 East		CR 600 South

CR 100 East		CR 700 South
CR 100 East		CR 900 South
CR 200 East		CR 900 South
CR 200 East		Ladoga Road
CR 240 East		CR 1150 South
CR 240 East		CR 1200 South
CR 250 East		CR 150 South
CR 250 East		CR 280 South
CR 300 East		CR 350 South
CR 300 South	East and West	CR 550 East
CR 325 East		Ladoga Road
CR 310 East		Ladoga Road
CR 350 East		CR 100 South
CR 350 East		CR 200 South
CR 350 East		CR 500 South
CR 350 East		CR 600 South
CR 350 East	North	CR 750 South
CR 350 East	South	CR 1000 South
CR 360 East		Ladoga Road
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 510 South		Ladoga Road
CR 510 South		CR 360 East
CR 550 East		CR 500 South
CR 600 East		CR 400 South
CR 625 East	North	CR 400 South
CR 625 East	North and South	CR 500 South
CR 650 East		CR 900 South
CR 675 East		CR 100 South
CR 675 East		CR 200 South

CR 675 East		CR 300 South
CR 675 East		CR 400 South
CR 700 East	North and South	CR 500 South
CR 700 East		CR 750 South
CR 750 South		CR 750 East
CR 775 East		CR 100 South
CR 775 East		CR 200 South
CR 775 East		CR 300 South
CR 775 East	North and South	CR 500 South
CR 775 East		CR 700 South
CR 825 East		CR 700 South
CR 875 East		CR 200 South
CR 875 East		CR 1000 South
CR875 East		CR 1200 South
CR 900 East	South	CR 100 South
CR 900 East	North	CR 130 South
CR 900 East	South	CR 400 South
CR 925 East		CR 500 South
CR 925 East		CR 1000 South
CR 975 East		CR 1100 South
CR 975 East		CR 1200 South
CR 1000 East		CR 100 South
CR 1000 South		CR 1025 East
CR 1025 East		CR 1000 South
CR 1025 East		CR 1100 South
CR 1025 East		CR 1200 South
CR 1050 East		CR 800 South
CR 1050 East	North	New Ross Road
CR 1075 East	South	CR 200 South
CR 1075 East	North	CR 450 South
CR 1075 East	South	CR 500 South
CR 1100 East		CR 1000 South
CR 1100 South		CR 1025 East
Daugherty Lane		Traction Road
Ladoga Road		CR 500 South
Ladoga Road	North	CR 500 South
Nucor Road		CR 500 South
Willowbrook Road		CR 300 South

(13) Chigger Hollow Housing Addition.

<i>Street</i>	<i>Direction</i>	<i>Intersection</i>
Barbara Drive		Chigger Hollow Drive
Barbara Drive		Nucor Road
Connie Drive		Barbara Hollow Drive
Leland Drive		Chigger Hollow Drive

(Ord. 98-9, passed 12-15-98; Am. Ord. passed 11-23-99; Am. Ord. passed 11-23-99; Am. Ord. passed 11-23-99; Am. Ord. passed 12-19-00; Am. Ord. passed 3-27-01; Am. Ord. 1-14-03; Am. Ord. passed 10-21-03; Am. Ord. 2005-10, passed 4-12-05; Am. Ord. 2005-12, passed 4-12-05; Am. Ord. 2005-13, passed 8-16-05; Am. Ord. 2006-03, passed 1-3-06; Am. Commissioners Ord. 2009-3, passed 5-11-09; Am. Ord. 2016, passed 1-25-16)) Penalty, see § 10.99. Am. Commissioners Ord. 2016-18, passed 6-27-16; Am. Ord. 2020-20, passed 6-22-2020. Am. Commissioners Ord. 2020-48, passed 1-11-21.

**SCHEDULE IV. SPEED LIMITS.**

- (A) A person who drives any type vehicle in the county shall obey all posted speed limits on all roads.
- (B) Any person who violates posted speed limits commits a Class C infraction.

<i>Road</i>	<i>Location</i>	<i>Speed Limit</i>
All county school zones		30 mph
All public roads in Eastern Acres subdivision		20 mph
Black Creek Valley Road (Old Waynetown Road)		30 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 baseline north (U.S. 231) to CR 400 north	40 mph
Country Club Court		30 mph

Country Club Road		30 mph
Glen Way Drive		30 mph
CR 50 South	From Schenck Road to Country Club Road	30 mph
CR 100 West	From Crawfordsville City limits to CR 1100 North	40 mph
CR 100 West	From SR 234 West to CR 700 South	35 mph
CR 150 South	From Ladoga Road to Nucor Road	35 mph
CR 150 South	From Ladoga Road to SR 47	30 mph
CR 225 West	From 700 South to SR 234	35 mph
CR 225 West	From Black Creek Valley Road to County Club Road	45 mph
CR 275 West	Between Old SR 55 and SR 136	35 mph
CR 275 West	From CR400 South to CR450 South	40 mph
CR 300 South	Between SR 47 and Keller Road	40 mph
CR 300 South	From US 231 to SR 47	30 mph
CR 300 South	From US 231 east to Ladoga Road	45 mph
CR 300 South	CR 830 west and CR 1000 West (County Line Road and Mountain Road)	35 mph
CR 325 West	From SR 32 west to CR 300 south	40 mph
CR 300 North	From CR 100 West to CR 200 West	35 mph
CR 400 North	From SR 231 to Old 55	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 South	Between SR 47 and US 231 South	45mph
CR 400 East	From SR32 East to Traction Road	30 mph
CR 400 West	From SR32 West to SR 136 West	45 mph
CR 400 West	From CR 450 South to CR 600 South	40 mph
CR425 East	From SR32 to SR136	40 mph

CR 450 South	From CR 275 west to CR 400 west	40 mph
CR 500 North	From CR 275 east to Darlington City limits	40 mph
CR 500 South	From State Road 136 East to CR 500 east	40 mph
CR 500 South	From CR 500 east to Ladoga Road	40 mph
CR 550 East	From U.S. 136 to south to CR 500 south	30 mph
CR 550 North	From U.S. 231 to CR 275 east	50 mph
CR 550 South	From State Road 47 to Lancaster Dr.	35 mph
CR 570 North	From 450 east to 500 East	35 mph
CR 600 South	From SR 47 to CR 400 west	40 mph
CR 600 South	From US 231 to New Market city limits	40 mph

CR 600 South	From west New Market city limits to SR 47 West	40 mph
CR 625 East	From SR 47 to SR 32	40 mph
CR 700 East	From Darlington city limits to CR 575 north	40 mph
CR 700 East	From CR 575 north to CR 1200 north	50 mph
CR 700 South	From CR 100 West to CR 225 West	
CR 750 West	From CR 1150 south to county line	30 mph
CR 750 West	From SR 47 to CR 1000 South	30 mph
CR750 South	From County Line to CR 950 West	40 mph
CR 800 South	From SR 234 to CR 950 west	40 mph
CR 950 West	From CR 800 south to CR 750 south	40 mph
CR 750 South	From CR 950 to Montgomery County Line	40 mph
CR 950 East		40 mph
CR 950 West	From CR 800 South to CR 750 South	40 mph
CR 975 East		40 mph
CR 1000 East	North of US 32	40 mph
Division Road	From CR 400 west to CR 600 west	40 mph
Garden Street		30 mph
Ladoga Road	From CR150 south to CR 200 south	45 mph
Ladoga Road	From CR 200 south to CR 400 south	50 mph
Ladoga Road	From CR 400 south to Nucor Road	40 mph
Ladoga Road	From CR 500 south to Garden Street	50 mph
Little Turtle Trail		20 mph
Meahme Trail		20 mph
Nucor Road	From U.S. 32 south to CR 500 south	45 mph
Oak Hill Road	From city limits of Crawfordsville To Old State Road 55	30 mph
Old Oak Hill Road		30 mph
Placid Place		20 mph
Pleasant Run		20 mph
Rock River Ridge Road		30 mph
Stoneybrook Lane	Stone Crest Subdivision	30 mph
Traction Road	Base line east	30 mph
Tranquil Trail		20 mph
Wade Court	Stone Crest Subdivision	30 mph
Weemiak Trail		20 mph
Willowbrook Road		30 mph

(Ord. passed 10-20-98; Ord. passed 10-20-98; Ord. 98-8, passed 12-15-98; Am. Ord. passed 11-23-99;

Am. Ord. passed 12-7-99; Am Ord. passed 12-7-99; Am. Ord. passed 12-5-00; Am. Ord. passed 12-1900; Am. Ord. passed 12-11-01; Am. Ord. passed 12-28-01; Am. Ord. passed 4-9-02; Am Ord. passed 5-28-02; Am Ord. passed 8-12-03; Am. Ord. passed 1-14-03; Am. Ord. 2005-11, passed 4-12-05; Am. Ord. 2006-04, passed 1-10-06; Am. Commissioners Ord. 2008-12, passed 7-28-08; Am. Commissioners Ord. 2008-14, passed 8-25-08); Am. Commissioners Ord. 2009-7, passed 9-14-09. Am. Commissioners Ord. 2012-5, passed 11-24-14. Am. Commissioners Ord. 2014-5, passed 11-24-14. Penalty, see § 10.99; Am Commissioners Ord. 2106-18, passed 6-27-16. Am. Commissioners Ord. 2019-2, passed 1-4-19. Am. Commissioners Ord. 2019-9, passed 4-8-19. Am. Commissioners Ord. 2019-12, passed 4-8-19. Am. Commissioners Ord. 2020-48, passed 1-11-21.



## **CHAPTER 71: COURTHOUSE PARKING**

### Section

71.01	Courthouse parking lot regulations
71.02	Definitions
71.03	Application of rules and regulations
71.04	County employee parking
71.05	Public parking
71.06	Overnight parking prohibited
71.07	Towing of motor vehicles
71.08	Enforcement
71.99	Penalty

### **§71.01 COURTHOUSE PARKING LOT REGULATIONS**

The purpose of this chapter is to establish rules and regulations for the use of the county parking lot north of the Courthouse. (Ord. 2005-03, passed 3-15-05)

### **§71.02 DEFINITIONS**

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

***COURTHOUSE PARKING LOT.*** The parking lot located north of the Montgomery County Courthouse in Crawfordsville, Indiana.

(Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

### **§71.03 APPLICATION OF RULES AND REGULATIONS**

(A) The rules and regulations contained in this chapter apply to any and all persons parking in the North Courthouse Parking Lot and/or Courthouse Parking area.

(B) Persons parking in the Courthouse Parking Lot agree as a precondition of using the lot or area to follow all rules and regulations contained in this chapter.

(C) The Board of County Commissioners shall post on the Courthouse Parking Lot signs and other information sufficient to inform the public of the rules and regulations contained in this chapter.

(Ord. 2005-03, passed 3-15-05; Ord. 2016-2, passed 1-25-26)

**§71.04 COUNTY EMPLOYEE PARKING**

(A) The Board of County Commissioners shall from time-to-time assign to certain county employees designated parking spaces in the Courthouse Parking Lot. These assignments shall be posted in the Montgomery County Courthouse, distributed to all county elected officials and department heads, and made available to the public upon request made to the Auditor.

(B) The Board of County Commissioners shall distribute to all persons assigned designated parking places in the Courthouse Parking Lot parking permit tags, stickers, or other identifying markers. These markers shall be prominently displayed in the front window of motor vehicles of these persons.

(C) No county employee shall park in an assigned parking space in the Courthouse Parking Lot without a parking permit tag, sticker, or other identifying marker prominently displayed in the front window of his or her motor vehicle.

(D) No county employee shall park in an assigned parking space in the Courthouse Parking Lot other than the space assigned to him or her by the Board of County Commissioners.

(E) No county employee shall park in a parking space in the Courthouse Parking Lot designed for public parking.

(F) No County employee shall park in the Courthouse Parking Lot area, except the Montgomery County Sheriff or his designees who transport prisoners, detainees, juveniles, and other person to appearances, hearings, trials and conferences in the Montgomery County Courthouse. (Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

**§71.05 PUBLIC PARKING**

(A) The Board of County Commissioners shall from time-to-time designate certain parking spaces in the Courthouse Parking Lot as public parking spaces. Members of the public, other than county employees, shall be allowed to use these parking spaces on a first-come, first-served basis.

(B) No person other than a county employee may park in the parking spaces in the Courthouse Parking Lot which have been designated for county employee parking.

(C) Courthouse security officers shall keep a log of towed vehicles in order to verify towing to owners. This log shall include, but not be limited to, the make, model and year

of the motor vehicle, the license plate number, the violation date and description, time of tow, and address and telephone number of the towing service. This log may be purged after one year of the violation. (Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

**§71.06            OVERNIGHT PARKING PROHIBITED**

No person may park his or her motor vehicle in the Courthouse Parking Lot after 10:00 p.m. or before 5:00 a.m. (Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

**§71.07            TOWING OF MOTOR VEHICLES**

(A)        The Board of County Commissioners shall have the authority to cause motor vehicles parked in violation of this chapter towed from the county property by a private towing service to a storage facility.

(B)        In the event a motor vehicle parked in violation of this section is towed, the owner of the motor vehicle shall be liable to the towing service for the expense of towing and storage of the motor vehicle. The owner shall pay these expenses prior to being entitled to recover the motor vehicle from the towing service.

(C)        In the event the owner of a towed motor vehicle fails or effuses to pay these expenses and recover his or her motor vehicle, the towing service may dispose of the motor vehicle in order to pay these expenses as provided for by Indiana law.

(D)        Courthouse security officers shall keep a log of towed vehicles in order to verify towing to owners. This log shall include, but not be limited to, the make, model and year of the motor vehicle, the license plate number, the violation date and description, time of tow, and address and telephone number of the towing service. This log may be purged after one year of the violation. (Ord. 2005-03, passed 3-15-05)

**§71.08            ENFORCEMENT**

(A)        These rules and regulations shall be enforced by the Montgomery County Sheriff and his designees, including Courthouse security officers.

(B)        If a person who violates the rules and regulations of this section and fails or refuses to pay the fines provided for by § 71.99(B) in a timely manner as provided for by § 71.99(C), the County Attorney may prosecute the violation as an ordinance violation for which a judgment will include the penalty provided for in § 71.99(B), court costs, attorney's fees, and other costs incurred by the county in the enforcement of this chapter.

(Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

**§71.99 PENALTY**

(A) It shall be unlawful for any person to violate the rules and regulations contained in this section.

(B) A person who violates the rules and regulations of this section shall be subject to and pay to the Clerk a fine in the amount of \$25 for his or her first offense, \$50 for his or her second offense, and \$100 of subsequent offenses. In addition, if the person's vehicle is towed as provided for in this section, the person is also liable for the cost of towing and storage of the vehicle.

(C) All fines for violation of this section shall be paid to the Clerk within ten days of the violation.

(D) A separate offense shall be deemed committed each day during which a violation occurs or continues.

(Ord. 2005-03, passed 3-15-05; Ord 2016-3, passed 1-25-16)

**CHAPTER 72: TRAFFIC REGULATIONS**

**§72.01 REGULATION OF OFF-ROAD VEHICLES**

**(A)** (1) As used in this section ***OFF-ROAD VEHICLE*** has the definition contained in I.C. §14-8-2-185. It means a motor-driven vehicle capable of cross country travel:

- (a)** Without benefit of a road or trail; and
- (b)** On or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

**(2)** The term includes the following:

- (a)** A multi-wheel drive or low-pressure tire vehicle.
- (b)** An amphibious machine.
- (c)** A ground effect air cushion vehicle.
- (d)** An all-terrain vehicle (as defined in I.C. § 14-8-2-5.7).
- (e)** A recreational off-highway vehicle (as defined in I.C. §14-8-2-223.5).
- (f)** Other means of transportation deriving motive from a source other than muscle or wind.

**(3)** The term does not include the following:

- (a)** Any vehicle including an off-road vehicle being used for agricultural purposes.
- (b)** A vehicle being used for military or law enforcement purposes.
- (c)** A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function.
- (d)** A snowmobile.
- (e)** A registered aircraft.
- (f)** Any other vehicle properly registered by the bureau of motor vehicles.
- (g)** Any watercraft that is registered under Indiana statutes.
- (h)** A golf cart vehicle.

In addition, the term does not include any vehicle including an off-road vehicle that is being used by a person suffering from a handicap or disability, if the handicapped or disabled person is using the vehicle as a necessary means of transportation.

**(B)** As used in this section COUNTY ROAD OR RIGHT-OF-WAY means the entire width between the boundary lines of any way that is publicly maintained by Montgomery County and open for purposes of vehicular traffic located anywhere in Montgomery County, except federal interstates and highways, state roads and highways, and streets and alleys in incorporated towns in Montgomery County.

**(C)** An individual may operate an off-road vehicle on a county road or right-of-way only if:

- (1)** The individual is at least 18 years old;
- (2)** The individual's driving privileges are not currently suspended by any state;
- (3)** The individual has proof of liability insurance in at least the minimum amount required by the State of Indiana;
- (4)** The off-road vehicle is properly registered and displays any plates or decals required by state law; and
- (5)** The off-road vehicle meets all equipment requirements under state law.

**(D)** In addition, an individual may operate an off-road vehicle:

- (1)** To cross a county road or right-of-way at right angles for the purpose of getting from one area to another when the operation can be done in safety.
- (2)** As authorized by a law enforcement officer on the county road or right-of-way during emergencies.
- (3)** On a county road or right-of-way for a special event if a prearranged schedule has been approved by the appropriate county, city or town law enforcement agency.

**(E)** Any individual operating an off-road vehicle on a county road or right of way shall operate the vehicle at a reasonable and safe speed and obey all traffic rules of the State of Indiana and Montgomery County.

**(F)** This ordinance authorizes the operation of off-road vehicles only on county roads and their rights-of-way; it does not authorize the operation of an off-road vehicle on any federal interstate or highway, any state roads or highways, any street or alley in any incorporated town or city in Montgomery County, or upon any other property without the owner's consent.

**(G)** Violation of this section is a Class A infraction. This section shall be enforced in the same manner as other traffic ordinances.

(Ord. passed 4-1-03; Am. Commissioners Ord. 2007-03, passed 6-25-07. Ord. 2012-15, passed 12-10-12; Am Ord. 2017-6, passed 4-24-17)

## **TITLE IX: GENERAL REGULATIONS**

### Chapter

- 90. **STREETS AND SIDEWALKS**
- 91. **NUISANCES**
- 92. **FAIR HOUSING**
- 93. **UNSAFE BUILDING LAW**
- 94. **OBSTRUCTIONS ON PUBLIC ROADS, STREETS,  
EASEMENTS AND RIGHTS-OF-WAY**
- 95. **DRUG NUISANCES**
- 96. **INOPERABLE AND UNREGISTERED MOTOR  
VEHICLES**
- 97. **ANIMAL CONTROL**



## CHAPTER 90: STREETS AND SIDEWALKS

Section

### *General Provisions*

- 90.01 Rights-of-way
- 90.02 Improvements; minimum construction
- 90.03 Commercial drives

### *Address Numbering System*

- 90.15 Title
- 90.16 Compliance
- 90.17 Purpose
- 90.18 Application
- 90.19 Jurisdiction
- 90.20 Definitions
- 90.21 Advantages of system; county coordination
- 90.22 Property addressing
- 90.23 Responsibility
- 90.24 Obtaining street addresses
- 90.25 Incorporated cities and towns
- 90.26 Enforcement

### **GENERAL PROVISIONS**

#### **§90.01 RIGHTS-OF-WAY**

(A) The purpose of this section is to establish procedures for obtaining permission to use any part of the right-of-way of the roads of the county for laying pipe or cable or to cross any of the roads with pipe or cable. (1982 Code, § 5-84-1)

(B) (1) Any person or corporation wishing to use any part of the right-of-way or cross any roads to lay pipe or cable shall obtain permission in writing from the County Highway Department using the form as set out by the county. (1982 Code, § 5-81-2)

#### **§90.02 IMPROVEMENTS; MINIMUM CONSTRUCTION**

(A) These are the minimum construction standards which must be met before any improvement, road, culvert or other structure is accepted into the county maintenance system. These standards maybe modified from time to time as may be approved by the Board of Commissioners. If any individual or entity constructs or installs any structure or improvement in any county right-of-way that does not meet the minimum specifications of the county standards, the county shall have the right to remove the nonconforming structure or improvement and replace it, if necessary, at the expense of the landowner.

(B) The costs incurred by the county may be taxed against the landowner's real estate upon which the improvement is located and collected by the county in the same manner that real estate taxes are taxed and collected.

(C) Drives shall match the pavement section of the adjacent roadway.

(D) If a pipe is required, it shall be the State Department of Transportation's Group "D" or superior. Capacity shall be by rational calculation with a 15-inch minimum, equal to downstream pipe size, or one size larger than adjacent upstream pipes, as minimum criteria. Appropriate end treatment shall be required.

(E) Slopes from the public road to private property shall begin at the shoulder break. Grades should not exceed 10%. Side slopes should match adjacent highway construction.

(F) (1) Turning movements by the class of traffic planned for use of the drive should be possible from or to the adjacent lane without crossing the centerline. Thus, the State Department of Transportation's standard providing a 20-foot minimum width with a 20-foot radius shall be observed.

(1) 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 baseline. 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 baselines. 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 baselines.

**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 baselines 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 baselines.

**(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 baseline. 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 baselines. 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 gridline 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 entryway and placed at or higher than the height of the entryway. The color of the lettering shall be in contrast to its background. If side or back entryways open to a street, road or alley different from the address, the side of the structure shall also have the full address, including address road/street name, properly displayed.

(D) (1) In the event that private roads are assigned names or numbers that are used

for addressing purposes, it will be responsibility of the property owner(s) to install and maintain a street name sign that meets the typical street sign requirements section of the county standards.

(2) Signs shall be installed within 180 days of the signing of this subchapter or within 90 days of the issuance of a new or changed street or road name. Penalties for failure to comply are outlined in § 90.26.  
(Ord. 2000-7, passed 12-19-00)

**§90.23 RESPONSIBILITY**

- (A) (1) The responsibility for the issuance of street addresses shall be delegated to the staff of the County Building Administration. The MCBA shall issue and keep a permanent record of all issued property addresses within its jurisdiction and share the addresses with local postal authorities and E-911 personnel. Determination of county road or highway names or changes in the names shall be the sole responsibility of the County Commissioners.  
  
(2) The Commissioners shall have a final approval in the naming of streets in platted subdivisions, mobile home parks, commercial or industrial business parks and the like under its jurisdiction.
- (B) Local incorporated communities shall have final approval in the naming of roads and subdivisions streets located within their corporate boundaries.”

(Ord. 2000-7, passed 12-19-00)

**§90.24 OBTAINING STREET ADDRESSES.**

- (A) A person or business who submits an application to build a new structure in the county shall submit a plat or site plan as is normally required to obtain a building permit. Prior to issuance of an official building permit, an official address shall be assigned to the structure. The official address shall be forwarded to postal officials, the County Auditor and E-911 office. No other address shall be used for identification of the structure.
- (B) In no case shall an individual or business be permitted to assign an address to their property or a structure on that property.

(Ord. 2000-7, passed 12-19-00)

**§90.25 INCORPORATED CITIES AND TOWNS**

- (A) (1) The Building Administration and the County Commissioners do not have jurisdiction over the implementation of numbering systems within the incorporated cities and towns in the county. Numbering in these communities shall be the responsibility of the local plan commission, town board or city council. However, the County Commissioners can require that city-type addresses be implemented in these communities for purposes of defining structures for E-911 identification.



(2) All structures in the county shall be required to have city-type property addresses including those in incorporated communities.

(B) The rural route and box system now in place in some incorporated communities shall be eliminated and city-type addresses shall be assigned to all structures in the communities. (Ord. 2000-7, passed 12-19-00)

## **§90.26 ENFORCEMENT**

(A) Upon completion, all properties within the jurisdiction of the county shall be required to be in full compliance of this subchapter within six months of completion of the entire project if not assigned a new address.

(B) It is the duty of the owner or occupant of each house, business structure or other structure within the unincorporated areas of the county, now existing or hereafter erected to place on the structure and on the mailbox in front of structure, within six months from the date of passage of this subchapter, in accordance with § 90.22.

(C) In the event that the owner or occupant of any structure, as herein described, fails to comply with the terms and conditions of this subchapter, the owner or occupant, upon conviction, shall be guilty of an infraction and subject to a fine for every day that the violation is not rectified after receiving a written citation from one of the authorized agencies. All fines collected by this subchapter shall be returned the emergency telephone system budget.

(D) Authority to issue citations for violation of this subchapter hereby are granted to duly authorized personnel of the Building Administration, County Sheriff's Department, all county and city fire departments and town marshals.

(E) Copies of all citations issued will be forwarded to the County Attorney for collection in a manner consistent with other ordinances. Jurisdiction for the collection of the fines shall be the County Court.  
(Ord. 2000-7, passed 12-19-00)

## CHAPTER 91: NUISANCES

### Section

- 91.01 Public nuisances prohibited
- 91.02 Definition
- 91.03 Duties of Sanitarian or other officer
- 91.04 Violations
- 91.05 Injunction

### **§91.01 PUBLIC NUISANCES PROHIBITED**

No person shall create, cause, continue, allow or maintain any nuisance as that term is defined in this chapter.

(Ord. 1996-1, passed - - 96; Am. Ord. 2006-07, passed 6-13-06)

### **§91.02 DEFINITION**

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

**NUISANCE.** A public nuisance is whatever is injurious to health, incident, offensive to the senses or an obstruction to the free use of property so as essentially to interfere with comfortable enjoyment of life or property.

(Ord. 1996-1, passed – 96; Am. Ord. 2006-07, passed 6-13-06)

### **§91.03 DUTIES OF SANITARIAN OR OTHER OFFICER**

(A) *Investigations.* Whenever the County Sanitarian, County Building Superintendent, County Highway Superintendent, County Law Enforcement Officer or other authorized enforcement officer has reason to believe that a nuisance exists on any property in the county, he or she shall conduct an investigation of the nuisance and report the nuisance to the Montgomery County Board of Commissioners for hearing.

(B) *Inspections.* Whenever the enforcement officer has reason to believe that a nuisance exists but is unable to determine conclusively that such a nuisance exists based upon observations of the property as it appears in plain view, the officer may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

(C) *Notice of Violation.* Whenever an enforcement officer determines that a nuisance exists, the officer shall provide to the owner and occupant, if any, of the property written notice of a violation. This notice shall contain the address of the property, a description of

the nuisance, the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the nuisance, the time period in which the nuisance must be abated, the procedure for appeal by the landowner or the occupant if he or she disagrees with the enforcement officer's determination that a nuisance exists, and the action available to the county if the nuisance is not abated.

**(D)** *Time for Abatement.* The time period in which the nuisance must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner/occupant or posted on the property, whichever occurs first.

**(E)** *Appeal of Initial Determination.* If the property owner or occupant disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether a nuisance exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.

**(F)** *Compliance Report.* Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

**(G)** *Noncompliance Hearing.* In the event the landowner or occupant fails to abate the nuisance, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioners' receipt of the report. The Board shall provide notice of the hearing to the landowner and occupant. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the nuisance. The landowner and occupant will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the landowner and occupant.

**(H)** *Judicial Review.* If the owner or occupant disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its order. The court may overturn the Commissioners' order if it finds that, based upon the evidence as a whole, the findings of act were arbitrary, capricious, an abuse of discretion, unsupported by the evidence or in excess of statutory authority. The landowner or occupant has the burden of proof.

**(I)** *Remedies.* If the Board of Commissioners finds that a nuisance exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the nuisance, to

hire private contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

**(J)** *Costs of Abatement Incurred by County.* The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the County Treasurer and any other appropriate county official to be taxed against the real estate where the nuisance existed and collected as other real or personal property taxes are collected. (Ord. 1996-1, passed –96; Am. Ord. 2006-07, passed 6-13-06)

#### **§91.04 VIOLATIONS**

Any person, firm or corporation who creates, causes, continues, allows or maintains any public nuisance in the county commits a Class C infraction and is subject to a fine in the amount of \$100 for each day until the nuisance is abated. Each day of violation shall constitute a separate violation. The liability for the expense of removing or abating any nuisance shall be in addition to any penalty for violation of this chapter.  
(Ord. 1996-1, passed –96; Am. Ord. 2006-07, passed 6-13-06)

#### **§91.05 INJUNCTION**

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the landowner or occupant ordering the landowner and occupant to abate the nuisance upon terms and within the time periods consistent with this chapter.  
(Ord. 1996-1, passed –96, Am. Ord. 2006-07, passed 6-13-06)

## CHAPTER 92: FAIR HOUSING

### Section

92.01	Policy
92.02	Definitions
92.03	Unlawful practice
92.04	Discrimination in sales or rentals
92.05	Discrimination in real estate transactions
92.06	Discrimination in brokerage services
92.07	Interference, coercion and intimidation
92.08	Prevention of intimidation
92.09	Exemptions
92.10	Administrative enforcement

### §92.01 POLICY

It shall be the policy of the Commissioners to provide, within constitutional limitation, for fair housing throughout its corporate limits, as provided for under the Federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 et seq. (Ord. 93-9, passed 9-28-93)

### §92.02 DEFINITIONS

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

**AGGRIEVED PERSON.** Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that the person will be injured by a discriminatory housing practice that is about to occur. (I.C. 22-9.5-2-2)

**COMMISSION.** The Indiana Civil Rights Commission, created pursuant to I.C. 22-9-1-4 et seq.  
(I.C. 22-9.5-2-2)

**COMPLAINANT.** A person, including the Commission, who files a complaint under I.C. 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's major life activities;
- (b) A record of having an impairment;
- (c) Being regarded as having an impairment;
- (d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; and

(2) The term ***DISABILITY*** shall not include current illegal use of or addiction to a controlled substance, as defined in 21 U.S.C. 802; nor does the term ***DISABILITY*** include an individual solely because that individual is a transvestite.

(Am. Commissioners Ord. 2008-1, passed 2-11-08)

***DISCRIMINATORY HOUSING PRACTICE.*** An act that is unlawful under §§ 92.03 through 92.08 or I.C. 22-9.5-5.

***DWELLING.*** Any building, structure or part of a building or structure that is occupied as, or signed or intended for occupancy as, a residence by one or more families or any vacant land which offered for sale or lease for the construction or location of a building structure that is occupied as, or designed or intended for occupancy as a residence by one or more families. (I.C. 22-9.5-2-8).

***FAMILIAL STATUS.*** Discrimination on the basis of familial status means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 years in regard to whom the person is (a) the parent or legal custodian or (b) has the written permission of the parent or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

***FAMILY.*** An individual (I.C. 22-9.5-2-9) or individuals having familial status as that term is defined in this section.

***PERSON.*** One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts,

nonincorporated organizations, trustees, trustees in cases under Title 11 U.S.C., receivers and fiduciaries. (I.C. 22-9.5-2-11)

**TO RENT.** To lease, to sublease to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant. (I.C. 22-9.5-2-13) (Ord. 93-9, passed 9-28-93).

### **§92.03 UNLAWFUL PRACTICE**

Subject to the provisions of division (B) below, § 92.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in § 92.04 shall apply to:

- (A) All dwellings, except as exempted by division (B) below and I.C. 22-9.5-3;
- (B) Other than the provisions of division (C) below, nothing in § 92.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three single-family houses at any one time. In the sale of the single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one sale within any 24-month period. The private individual own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from application of this section only if the house is sold or rented:

(a) Without the use, in any manner, of the sales or rental facilities or services of any real estate broker, agent or salesman or any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesperson or person; and

(b) Without the publication, posting or mail after notice of advertisement or written notice in violation of § 92.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other professional assistance as necessary to perfect or transfer this title.

(2) Rooms or units in dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence.

(C) For the purposes of division (B) above, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.  
(Ord. 93-9, passed 9-29-93)

#### **§92.04            DISCRIMINATION IN SALES OR RENTALS**

As made applicable by § 92.03 and except as exempted hereby, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status or national origin;

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status or national origin;

(C) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make any preference, limitation or discrimination;

(D) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available;

(E) For-profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of particular race, color, religion, sex, disability, familial status or national origin;



- (F)**
- (1)** To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:
- (a)** That buyer or renter;
  - (b)** A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
  - (c)** Any person associated with that person.
- (2)** To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of a disability of:
- (a)** That person;
  - (b)** A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
  - (c)** Any person associated with that person.
- (3)** For purposes of this division, “discrimination” includes:
- (a)** A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to condition that existed before the modification, reasonable wear and tear excepted;
  - (b)** A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or
  - (c)** In connection with the design and construction of covered multi-family dwellings for first occupancy, a failure to design and construct those dwellings in a manner that:

1. The public-use and common use portions of the dwellings are readily accessible to and usable by disabled persons;
2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
3. All premises within the dwellings contain the following features of adaptive design:
  - a. An accessible route into and through the dwelling;
  - b. Light, switches, electrical outlets, thermostats and other environmental controls in accessible locations;
  - c. Reinforcements in bathroom walls to allow later installation of grab bars; and
  - d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements Americans With Disabilities Act of 1990 and of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people, commonly cited as “ANSI A117.1P,” suffices to satisfy the requirements of this section.

(5) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. (Ord. 93-9, passed 9-28-93)

## **§92.05            DISCRIMINATION IN REAL ESTATE TRANSACTIONS**

(A)        It shall be unlawful for any person or other entity whose business includes engaging residential real estate-related transactions to discriminate against any person in making available a transaction, or in the terms or conditions of a transaction, because of race, color, religion, sex, disability, familial status or national origin.

(B)        As used in this section, the term “residential real estate-related transaction” means any of the following:

(1) The making or purchase of loans or providing other financial assistance:

(a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(b) Secured by residential real estate.

(2) The selling, brokering or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability or familial status.

(Ord. 93-9, passed 9-28-93)

#### **§92.06 DISCRIMINATION IN BROKERAGE SERVICES**

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of the access, membership or participation, on account of race, color, religion, sex, disability, familial status or national origin.

(Ord. 93-9, passed 9-28-93)

#### **§92.07 INTERFERENCE, COERCION OR INTIMIDATION**

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by §§ 92.04 through 92.06.

(Ord. 93-9, passed 9-28-93).

#### **§92.08 PREVENTION OF INTIMIDATION**

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, disability, familial status or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or

**(B)** Any person because he or she is or has been, or in order to intimidate the person or any other person or any class of persons from:

**(1)** Participating, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described herein; or

**(2)** Affording another person or class of persons opportunity or protection so to participate.

**(C)** Any citizen because he or she is nor has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described herein, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned for not more than ten years, or both, and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 93-9, passed 9-28-93)

## **§92.09 EXEMPTIONS**

**(A)** Exemptions defined or set forth under I.C. 22-9.5-3 et seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under division (B) and (C) below.

**(B)** Nothing in this chapter shall prohibit a religious organization, association or society, or any not-for-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to the persons, unless membership in the religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

**(C)** **(1)** Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, “housing for older persons” means housing:

(a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 93-9, passed 9-28-93)

## **§92.10 ADMINISTRATIVE ENFORCEMENT**

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission, as set forth in division (B) below, shall be vested in the Chief Executive Officer of the County Commissioners.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the County Commissioners, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of this chapter by complainants to the State Civil Rights Commission, hereafter the “Commission,” for administrative enforcement actions pursuant to I.C. 22-9.5-6 and Chief Elected Officer of the County Commissioners, shall refer all complaints to the Commission as provided for under division (A) above to the Commission for purposes of investigation, resolution and appropriate relief, as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of the county shall administer their departments, programs, and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Executive Officer and the Commission to further the purposes.

(D) The Chief Executive Officer of the County Commissioners or the Chief Executive Officer’s designee shall provide information on remedies available to any aggrieved person or complainant requesting the information.

(Ord. 93-9, passed 9-28-93)

## CHAPTER 93: UNSAFE BUILDING LAW

### Section

- 93.01 Adoption by reference
- 93.02 Building Administrator
- 93.99 Penalty

#### **§93.01 ADOPTION BY REFERENCE**

The Unsafe Building Law, I.C. 36-7-9 et seq., as amended, is hereby adopted by reference and incorporated herein as fully as if set out at length in this code of ordinances. (Ord. 2006-10, passed 7-3-06)

#### **§93.02 BUILDING ADMINISTRATOR**

The Building Administrator shall be responsible for the administration of the Unsafe Building Law. (Ord. 2006-10, passed 7-3-06)

#### **§93.99 PENALTY**

A person who violates the Unsafe Building Law by any of the following commits a class C infraction and shall be subject to a fine of \$500 for each day that the violation continues. Each day that the violation continues constitutes a separate offense:

- (A) Remaining in, using or entering a building in violation of an order made under this chapter;
- (B) Knowingly interfering with or delaying the carrying out of an order made under this chapter;
- (C) Knowingly obstructing, damaging or interfering with persons engaged or property used in the performance of any work or duty under this chapter; or
- (D) Failing to comply with the provisions of this chapter articulated in I.C. 36-7-9-27. (Ord. 2006-10, passed 7-3-06)

**CHAPTER 94: OBSTRUCTIONS ON PUBLIC ROADS, STREETS, EASEMENTS,  
AND RIGHTS-OF-WAY**

Section

- 94.01 Obstructions prohibited
- 94.02 Definition
- 94.03 Duties of Sanitarian or other officer
- 94.04 Injunction
- 94.99 Penalty

*Cross-reference:*

*Streets and sidewalks, see Ch. 90*

**§94.01 OBSTRUCTIONS PROHIBITED**

No person shall create, cause, continue, allow or maintain any obstruction which interferes with the public safety or lawful use of or obstructs the vision of persons traveling on public roads, streets, easements or rights-of-way.  
(Ord. 2006-11, passed 7-3-06)

**§94.02 DEFINITION**

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

***OBSTRUCTION.*** Any vegetation, tree, shrub, vine or other object which because of its size, condition or location interferes with the public safety or lawful use of or hinders in the vision of a person traveling on public roads, streets, easements or rights-of-way. Provided, however, crops growing on private property and not on the road, street, easement or right-of-way shall not be considered an ***OBSTRUCTION*** for purposes of this chapter.  
(Ord. 2006-11, passed 7-3-06)

**§94.03 DUTIES OF THE SANITARIAN OR OTHER OFFICER**

(A) *Investigations.* Whenever the County Sanitarian, County Building Superintendent, County Highway Superintendent, County Law Enforcement Officer or other authorized enforcement officer has reason to believe that an obstruction exists on any property in the county, he or she shall conduct an investigation of the obstruction and report the obstruction to the Montgomery County Board of Commissioners for hearing.

**(B)** *Inspections.* Whenever the enforcement officer has reason to believe that an obstruction exists and believes it is necessary to enter private property in order to complete his or her investigation, the officer may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

**(C)** *Notice of Violation.* Whenever an enforcement determines that an obstruction exists, the officer shall provide to the owner and occupant, if any, of the property written notice of violation. This notice shall contain the address of the property, a description of the obstruction, the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the obstruction, the time period in which the obstruction must be abated, the procedure for appeal by the landowner or the occupant if he or she disagrees with the enforcement officer's determination that an obstruction exists, and the action available to the county if the obstruction is not abated.

**(D)** *Time for Abatement.* The time period in which the obstruction must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner/occupant or posted on the property, whichever occurs first.

**(E)** *Appeal of Initial Determination.* If the property owner or occupant disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether an obstruction exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.

**(F)** *Compliance Report.* Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

**(G)** *Noncompliance Hearing.* In the event the landowner or occupant fails to abate the obstruction, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioners' receipt of the report. The Board shall provide notice of the hearing to the landowner and occupant. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the obstruction. The landowner and occupant will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the landowner and occupant.

**(H)** *Judicial Review.* If the owner or occupant disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its



order. The court may overturn the Commissioners' order if it finds that, based upon the evidence as a whole, the findings of fact were arbitrary, capricious, an abuse of discretion, unsupported by the evidence of in excess of statutory authority. The landowner or occupant has the burden of proof.

**(I)** *Remedies.* If the Board of Commissioners finds that an obstruction exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the obstruction, to hire private contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

**(J)** *Costs of Abatement Incurred by County.* The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the County Treasurer and any other collected as other real or personal property taxes are collected.

(Ord. 2006-11, passed 7-3-06)

#### **§94.04 INJUNCTION**

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the landowner or occupant ordering the landowner and occupant to abate the obstruction upon terms and within the time periods consistent with this chapter. (Ord. 2006-11, passed 7-3-06)

#### **§94.99 PENALTY**

Any person, firm or corporation who creates, causes, continues, allows or maintains any obstruction as defined in this chapter in the county commits a Class C infraction and is subject to a fine in the amount of \$100 for each day until the obstruction is abated. Each day of violation shall constitute a separate violation. The liability for the expense of removing or abating any obstruction shall be in addition to any penalty for violation of this chapter. (Ord. 2006-11, passed 7-3-06)

## CHAPTER 95: DRUG NUISANCES

### Section

95.01	Drug nuisances prohibited
95.02	Definitions
95.03	Actions to abate

### §95.01 DRUG NUISANCES PROHIBITED

No person shall create, cause, continue, allow or maintain any drug nuisance, as defined herein, in the unincorporated areas of Montgomery County.

(Ord. 2006-13, passed 7-3-06)

### §95.02. DEFINITIONS

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

***DRUG NUISANCE.*** The use of property to commit an act constituting a drug offense under I.C. 35-48-4 or an attempt to commit or a conspiracy to commit a drug offense.

***PROPERTY.*** Any house, mobile home or apartment, including but not limited to improvements to real estate which are leased for residential or commercial purposes.

(Ord. 2006-13, passed 7-3-06)

### §95.03 ACTIONS TO ABATE

(A) *Persons Entitled to Initiate Actions.* An action to abate a drug nuisance under this chapter may be initiated by the prosecuting attorney of Montgomery County, the County Attorney or the property owner.

(B) *Notice of Drug Nuisance.* A person initiating an action under this chapter shall at least 45 days before filing an action provide notice to each tenant of the property and the owner of record as shown in the records of the County Assessor. This notice must include the date and time the nuisance was first discovered, the location of the property where the nuisance is allegedly occurring, and all evidence in the possession of the person initiating the action regarding the nuisance. The notice must hand-delivered or sent by certified mail.

(C) *Filing of Complaint.* After the expiration of the 45-day notice period, a complaint may be filed to obtain legal or equitable remedies from a court. Within 48 hours of filing the complaint, the person filing the complaint shall post a copy of the complaint in a conspicuous place on the property alleged to be a drug nuisance. Service upon the defendant(s) shall comply with I.C. 3230-8-7 and 32-30-8-8.

(D) *Hearing.* The court shall schedule a hearing on the complaint not later than 20 days after the filing of the complaint. If service of process upon the defendants is not made within five days of the hearing, the court may set a new hearing date.

(E) *Remedies.* The court may enter legal remedies and an injunction or other equitable relief. The Court may also order a tenant that created the drug nuisance on the property to vacate the property within 72 hours of the issuance of an order. If the court finds that the owner of the property knew of the existence of the drug nuisance, the court may order the owner to submit for court approval a plan for correction to ensure, to the extent reasonably possible, that the property will not again be used for a drug nuisance.

(F) *Failure of Tenant to Comply.* In the event a tenant fails to comply with a court order entered at the hearing, the owner may seek an order from the court allowing removal of the tenant and the tenant's personal property as provided for in I.C. 32-31-4.

(G) *Temporary Abatement.* Evidence that the drug nuisance has been discontinued at the time of filing of the complaint or the time of the hearing does not bar the imposition of appropriate relief by the court under this chapter. (Ord. 2006-13, passed 7-3-06)

## CHAPTER 96: INOPERABLE AND UNREGISTERED MOTOR VEHICLES

### Section

96.01	Dangerous motor vehicles prohibited
96.02	Definitions
96.03	Duties of Sanitarian or other officer
96.04	Injunction
96.05	Inspection fees
96.99	Penalty

### §96.01 DANGEROUS MOTOR VEHICLES PROHIBITED

No person shall create, cause, continue, allow or maintain any inoperable and unregistered motor vehicle which endangers the health or safety of the citizens of Montgomery County. (Ord. 2006-12, passed 7-25-06)

### §96.02 DEFINITIONS

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

***ENDANGERS HEALTH AND SAFETY.*** Any condition which adversely affects public health and safety, as reasonably determined by the County Sanitarian or his/her designee. Such conditions include but are not limited to the existence of gasoline, oils, acids or other liquids or gases which, if released or drained onto the ground or into the air, will adversely affect public health and safety.

***INOPERABLE.*** Any motor vehicle which cannot be used for its intended purpose because of mechanical malfunction or poor condition.

***MOTOR VEHICLE.*** Any automobile, motorcycle, mobile home not placed on a foundation, recreation vehicle or other vehicle as defined by Indiana law which is subject to registration with the Bureau of Motor Vehicles.

***UNREGISTERED.*** Any motor vehicle which is not registered with the Indiana Bureau of Motor Vehicles.

(Ord. 2006-12, passed 7-25-06)

**§96.03 DUTIES OF SANITARIAN OR OTHER OFFICER**

- (A) *Investigations.* Whenever the County Sanitarian, or other authorized enforcement officer has reason to believe that an inoperable and unregistered motor vehicle which endangers the health or safety of the citizens of Montgomery County (a dangerous motor vehicle) exists on any property in the county, he or she shall conduct an investigation of the hazard and report the hazard to the Montgomery County Board of Commissioners for hearing.
- (B) *Inspections.* The County Sanitarian shall inspect all inoperable and unregistered motor vehicles annually. If the owner will not consent to the inspection and the Sanitarian has reason to believe that the motor vehicle is or may be one which because of its condition endangers public health or safety, he or she may apply to a court for a warrant for the right to conduct an investigatory inspection of the motor vehicle.
- (C) *Notice of Violation.* Whenever an enforcement officer determines that a hazard exists, the officer shall provide to the owner written notice of a violation. This notice shall contain the address of the property, a description of the hazard, the name, address and telephone number of the enforcement officer, the date of any inspections, the action required to abate the hazard, the time period in which the hazard must abated, the procedure for appeal by the owner if he or she disagrees with the enforcement officer's determination that a hazard exists, and the action available to the county if the hazard is not abated.
- (D) *Time for Abatement.* The time period in which the hazard must be abated shall be not less than ten days nor more than 30 days from the date the notice is received by the owner or posted on the property, whichever occurs first.
- (E) *Appeal of Initial Determination.* If the owner disagrees with the determination of the enforcement officer, he or she may request a hearing before the Board of Commissioners. At such hearing, the enforcement officer shall present the evidence supporting the notice, and the owner or occupant shall have opportunity to present evidence and be heard on the issue of whether a hazard exists. The request for an appeal hearing must be filed within ten days of the mailing or posting of the notice, whichever occurs first.
- (F) *Compliance Report.* Within 30 days of the expiration of the time within which the abatement is to be completed, the enforcement officer shall submit to the Board of Commissioners a written report which indicates whether abatement is complete.

(G) *Noncompliance Hearing.* IN the event the owner fails to abate the hazard, the enforcement officer shall request a hearing on such failure within 30 days of the Board of Commissioner's receipt of the report. The Board shall provide notice of the hearing to the owner. At the hearing, the enforcement officer shall present evidence and recommend action to the Board to abate the hazard. The owner will also be allowed to present evidence and be heard on the matter at the hearing. The Board of Commissioners shall enter findings of fact with its order and provide the order to the owner.

(H) *Judicial Review.* If the owner disagrees with the decision of the Board of Commissioners, he or she may file with the Montgomery Circuit Court a request for judicial review. This request must be filed within 30 days of the Board entering its order. The court may overturn the Commissioners' order if it finds that, based upon the evidence as a whole, the finding of fact were arbitrary, capricious, an abuse of discretion, unsupported by the evidence or in excess of statutory authority. The owner has the burden of proof.

(I) *Remedies.* If the Board of Commissioners finds that a hazard exists and has not been abated as required in the notice of violation, the Board may order the enforcement officer to enter upon the property and take any action necessary to abate the hazard, to hire private contractors to assist in the abatement, and to purchase supplies and equipment necessary for abatement.

(J) *Costs of Abatement Incurred by County.* The County Sanitarian or other officer who oversees the abatement shall, after the abatement is completed, certify under oath the actual cost of all labor, supplies or other expense of the abatement to the Board of Commissioners. Thereupon the County Sanitarian or other officer shall serve on the owner or occupant of the property in person or by certified mail a copy of the cost of the abatement. If the owner of the abated property fails or refuses to pay for the total cost of the abatement within 30 days from the date the notice is deposited in the mail or served on his or her person, the Board of Commissioners shall certify the cost of abatement to the County Treasurer and any other appropriate county official to be taxed against the real estate where the hazard existed and collected as other real or personal property taxes are collected.

(Ord. 2006-12, passed 7-25-06)

#### **§96.04 INJUNCTION**

The county through its officers or agents shall be entitled to seek injunctive or other relief including damages, costs and attorney fees in any court. Upon proper showing the court shall enter an injunction to the owner ordering the owner to abate the hazard upon terms and within the time periods consistent with this chapter.

(Ord. 2006-12, passed 7-26-06)

**§96.05            INSPECTION FEES**

The County Sanitarian shall collect a fee for each inspection the amount of \$100 for the first inspection of all of the vehicles at a single location. If the Sanitarian is not satisfied that the hazard has been abated, the re-inspection fee shall be the sum of \$100 for each vehicle inspected at a single location. This fee shall be deposited into the Dangerous Motor Vehicle Fee Fund. This fund shall be used to pay for the expense of the administration of the chapter, including but not limited to salaries, benefits, supplies, equipment, contractual assistance and other expenses. (Ord. 2006-12, passed 7-25-06)

**§96.99            PENALTY**

Any person, firm or corporation who violates this chapter commits a Class C infraction and is subject to a fine in the amount of \$100 for each day until the hazard is abated. Each day of violation shall constitute a separate violation. The liability for the expense of removing or abating any nuisance shall be in addition to any penalty for violation of this chapter. (Ord. 2006-12, passed 7-25-06)

## CHAPTER 97: ANIMAL CONTROL

### Section

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### §97.01 DEFINITIONS

Wherever used in this Chapter, capitalized term shall have the meanings set forth below, unless the context clearly indicates or requires a different meaning:

**AGENT:** Any Individual eighteen (18) years of age or older who is authorized by an animal's Owner to have temporary or permanent custody of, shelter, have charge of, harbor, exercise control over, or otherwise act on such Owner's behalf with respect to such animal.

**ANIMAL CONTROL AGENCY:** Animal Welfare League of Montgomery County, Inc. or any other governmental or private entity charged or contracted with for the implementation of animal control services for and on behalf of Montgomery County.

**ANIMAL CONTROL AGENT:** A civilian Individual employed or appointed by an Animal Control Agency for the purposes of carrying out the provisions of this Chapter or any contract for animal control services.

**ANIMAL CONTROL FACILITY:** A facility, shelter or vehicle operated by an Animal Control Agency for promoting animal welfare and humane treatment of animals.

**ANIMAL NUISANCE:** Any animal that:

- (1) is an At Large animal;



- (2) molests passers-by or passing vehicles on public property without provocation;
- (3) attacks Individuals or other animals without provocation; or
- (4) otherwise unreasonably interferes with the free use and comfortable enjoyment of life or property.

**AT LARGE:** An animal that is:

- (1) not on a leash and is off the property of its Owner or the Owner's Agent;
- (2) on a leash that does not adequately confine the animal to the property of the Owner or the Owner's Agent;
- (3) on a leash that is not otherwise under the immediate control of an Individual physically capable of restraining the animal; or
- (4) otherwise not under the direct control of the Owner or Owner's Agent.

Notwithstanding the foregoing, an animal that is engaged in legal hunting or farming activities and is under the control and supervision of the Owner or the Owner's Agent is not considered to be At Large under this Chapter.

**COYDOG:** "Coydog" shall have the meaning prescribed by I.C. 15-20-1-5(a)(1), as amended or recodified from time to time.

**DANGEROUS ANIMAL:** The term "Dangerous Animal" includes any of the following:

- (1) Any animal which, when unprovoked, on two (2) separate occasions within the prior thirty-six (36) month period, engages in any behavior that requires a defensive action by any Individual to prevent Serious Bodily Injury when the Individual and the animal are off of the property of Owner or harbinger 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 ENFORCEMENT OFFICER.** A county sheriff; a state, county or city police officer; a town marshal; a prosecuting attorney; a conservation officer; or a deputy of any of such persons.

**MICROCHIP:** A computer chip implanted underneath the skin of an animal that contains identification information relating to that animal.

**NON-DANGEROUS ANIMAL:** Any animal which is not a Dangerous Animal.

**OWNER:** Any Person owning, keeping or harboring one (1) or more animals.

**PERSON:** Any Individual, firm, association, partnership, limited liability company, corporation, trust or estate.

**SERIOUS BODILY INJURY:** Any injury to an Individual that (1) results in death of the Individual; (2) creates a substantial risk of the Individual’s death; or (3) causes serious

permanent disfigurement, unconsciousness, extreme pain, permanent or protracted loss or impairment of the function of a bodily member or organ, or loss of human fetus.

**SEVERE INJURY:** Any physical injury to a Domestic Pet or Domestic Livestock that results in multiple bites, broken bones, muscle tears or disfiguring lacerations, or requires multiple sutures or corrective or cosmetic surgery.

**STRAY:** Any animal that does not appear, upon reasonable inquiry, to have an Owner.

**WOLF HYBRID:** “Wolf Hybrid: shall have the meaning prescribed by I.C. 15-20-1-5(a)(3), as amended or recodified from time to time. (Commissioners Ord. 2010-1, passed 9-23-10)

## **§97.02 JURISDICTION**

The provisions of this Chapter shall apply to all areas in Montgomery County outside the corporate limits of the City of Crawfordsville and of any incorporated towns. (Commissioners Ord. 2010-1, passed 9-23-10)

## **§97.03 DOMESTIC PET CARE STANDARDS**

Each Owner or Agent having custody or charge of, harboring, or exercising control over any Domestic Pet shall provide the following minimum standards of care for each such animal:

(A) Each Domestic Pet shall have access to a shelter which will protect it from the weather and allow it to stand, sit, turn around, and lie down without restriction. The shelter must be structurally sound, moisture-proof and windproof, and provide adequate protection from the cold and heat, including bedding to provide insulation and protection against cold and dampness and promote the retention of body heat in cold weather. The shelter must be placed in a dry area free of debris, feces, and standing water.

(B) Each Domestic Pet shall have sufficient and wholesome food and water, which is proper and nutritional for that species of animal.

(C) If a Domestic Pet is ill, diseased or injured, it shall receive proper veterinary care as necessary to promote the good health of the Domestic Pet and prevent the transmittal of disease to the other animals or humans.

(D) No Domestic Pet shall be abandoned, beaten, ill-treated, tormented, or otherwise abused or neglected, or involved in any dog fight, or other fight between animals or between animals and humans.

(E) A Domestic Pet shall be kept under restraint when in heat so as to prevent unintentional breeding.

(F) If a Domestic Pet is chained or tethered, the chain or tether shall not weigh more than one eighth (1/8) of the animal's body weight, shall be at least ten (10) feet in length and have swivels on both ends, so as to reduce the likelihood of entanglement. A chain or tether used to restrain a Domestic Pet must, by design and placement, be unlikely to become entangled.

(G) No Domestic Pet shall be kept or maintained on a tether for a period of more than ten (10) continuous hours, nor for more than twelve (12) hours in any twenty-four (24) hour period, nor for any duration under conditions which threaten the health or well being of the Domestic Pet.

(H) A muzzle may not be worn by a dog continuously as a means for controlling barking.  
(Commissioners Ord. 2010-1, passed 9-23-10)

#### **§97.04 ANIMAL NUISANCES**

An animal Owner or Agent shall exercise due care and control of all animals within his care, custody or control, so as to prevent them from becoming Animal Nuisances.  
(Commissioners Ord. 2010-1, passed 9-23-10)

#### **§97.05 WOLF HYBRIDS AND COYDOGS PROHIBITED**

It shall be unlawful for any person to possess or harbor a Wolf Hybrid or Coydog.  
(Commissioners Ord. 2010-1, passed 9-23-10)

#### **§97.06 IMPOUNDMENT**

(A) *Grounds for Impoundment.* Any Law Enforcement Officer or Animal Control Agent may immediately capture and impound any of the following animals:

- (1) Any At Large animal;
- (2) Any Stray animal;
- (3) Any Wolf Hybrid or Coydog;
- (4) Any unattended animal that is ill, or otherwise in need of emergency care;
- (5) Any animal that is reasonably suspected of having rabies;
- (6) Any unattended animal that is exhibiting aggressive or dangerous behavior is not sufficiently confined to the property of its Owner;
- (7) Any animal that a Law Enforcement Officer or Animal Control Agent has probable cause to believe is a Dangerous Animal; or
- (8) Any animal that a Law Enforcement Officer or Animal Control Agent has probable cause to believe has been the subject of or involved in a violation under I.C. 15-20-1-4 or I.C. 35-46-3.

**(B)** *Actions to Prevent Harm to Individuals or Other Animals.* If any animal is found At Large and cannot be safely captured, a Law Enforcement Officer may seek assistance from an Animal Control Agent, or take other action deemed appropriate, including tranquilizing or killing such animal to prevent Serious Bodily Injury to Individuals, or Severe Injury to Domestic Pets or Domestic Livestock.

**(C)** *Identification of Impounded Animals; Notice to Owners.*

- (1) Any animals which are impounded pursuant to this Chapter shall be scanned or examined by the Animal Control Facility for a Microchip, collar tag or other identification containing the Owner's name, address and/or phone number, unless doing so presents an unreasonable risk of Serious Bodily Injury to an Animal Control Agent.
- (2) If an impounded animal's Owner can be identified, the Animal Control Facility shall notify the Owner by the end of the next business day that the animal has been impounded, and that unless the animal is claimed by the Owner within ten (10) days from the date of impoundment, the animal may be placed for adoption or humanely euthanized. Notwithstanding the foregoing, in the case of a second or subsequent impoundment, the impounded animal may be placed for adoption or humanely euthanized if not claimed within five (5) days after the Owner is notified.

(3) Stray animals without any means of identification of their Owners shall be held at the Animal Control Facility a minimum of three (3) days in order to permit an Owner adequate time to reclaim them. A Stray animal which is unclaimed after having been impounded for three (3) days may be placed for adoption or humanely euthanized, except that the Stray shall be euthanized if it is a Dangerous Animal.

**(D)**     *Release from Impoundment.*

(1) Subject to the requirements and conditions of § 97.08 of this Chapter, a Non-Dangerous Animal may be returned to its Owner.

(2) The return of a Dangerous Animal to its Owner is subject to the requirements and conditions of both § 97.07 and § 97.08 of this Chapter.

**(E)**     *Treatment or Euthanizing of Sick or Injured Animals.* The Animal Control Facility shall have authority to take whatever action is reasonably necessary, including humane euthanization, to deal with a sick or injured animal, to prevent unnecessary suffering of the animal, or to prevent the spread of communicable diseases. Nothing in this Chapter shall limit the Animal Control Facility's ability to take whatever action is reasonably necessary to provide veterinary care by a veterinarian for a sick or injured animal.

(Commissioners Ord. 2010-1, passed 9-23-10)

**§97.07           DANGEROUS ANIMALS**

**(A)**     *Impoundment.* A Dangerous Animal which has been captured and impounded by a Law Enforcement Officer or Animal Control Agent shall remain impounded subject to the requirements of this Section.

**(B)**     *Euthanization of Dangerous Animals.* A Dangerous Animal which has been impounded shall be euthanized if:

(1) The Owner fails to request a hearing before the Board of Commissioners, pursuant to Subsection (C) of this § 97.07, within seven (7) days after having been notified of the impoundment;

(2) The Owner fails to satisfy the registration and confinement requirements of subsection (D) of this § 97.07 within fourteen (14) days after the Board of Commissioners' determination that the animal is a Dangerous Animal;

- (3) The Owner waives in writing all ownership interests in the Dangerous Animal;
- (4) The Dangerous Animal's Owner cannot be identified or located, and the animal remains unclaimed for three (3) days after having been impounded; or
- (5) The Dangerous Animal is re-impounded after having previously been registered under subsection (D) of this § 97.07 within five (5) days after the Owner is notified of the 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 be modified on a case-by-case basis to ensure the Dangerous Animal cannot exit the dwelling of its own volition, such as when a door or window screen are the only obstacles that prevent the animal from exiting.
- (h) The enclosure for a non-dog Dangerous Animal must be adequate to contain the species of animal kept. It may be inspected on a case-by-case basis to ensure that it is indeed escape-proof, as well as a humane method for the type of animal to be kept. This inspection will be made by or with a person competent to evaluate the type of animal involved.
- (i) Except for medical treatment or examination, the Owner will maintain the Dangerous Animal exclusively on the Owner's property. When taken off of the Owner's property for medical treatment or examination, a Dangerous Animal shall at all times be fitted with a securely attached muzzle.
- (j) The Owner shall post signs on the Owner's property where the Dangerous Animal will be kept, clearly visible from the public roadway or from fifty feet (50'), whichever is less. These signs shall advise the general public that a Dangerous Animal is on the premises.

**(E) *Other Provisions Applicable to Dangerous Animals.***

- (1) The Owner and Owner's agent of a Dangerous Animal under this Section shall notify the Montgomery County Sheriff and the Animal Control Agency immediately if the Dangerous Animal escapes, is running at large, has been stolen, or has attacked an Individual, Domestic Pet or Domestic Livestock.
- (2) A Law Enforcement Officer or Animal Control Agent may visually inspect the premises and enclosure where the Dangerous Animal is kept. The inspection may also include the placement of warning signs, the animal leash, the muzzle, and the locks. An Animal Control Agent must be satisfied that the Owner has met all Dangerous Animal requirements. If the Owner refuses to allow access to the premises for an inspection, a

Law Enforcement Officer or Animal Control Agent may apply to a court for warrant for the right to conduct an investigatory inspection of the premises.

(3) If the Owner or Owner's Agent of a Dangerous Animal violates any provisions of this Section, the Dangerous Animal may be re-impounded and held pending a court hearing. The Owner must request a court hearing within five (5) days after having been notified of the reimpoundment. At such hearing, the court shall determine whether, in fact, a violation of this Section has occurred. If the court determines that a violation of this Section has occurred, it shall have the authority to impose a fine and/or order the animal humanely euthanized.

(4) In the event that a Dangerous Animal changes Owner, the new Owner must reregister the animal and satisfy the requirements of subsection (D) above. The original Owner shall notify the Montgomery County Health Department that ownership of the animal has been transferred and provide the name and address of the new Owner.

(5) The Owner of a Dangerous Animal shall notify the Montgomery County Health Department if the address changes where the Dangerous Animal will be kept. The Owner must report the new address so an inspection may be made of the premises. (Commissioners Ord. 2010-1, passed 9-23-10)

#### **§97.08 OTHER CONDITIONS FOR RELEASE FROM IMPOUNDMENT**

(A) *Costs of Impoundment.* The Owner of an impounded animal shall be responsible for all costs of impoundment, and must pay such costs in full prior to the animal's release from impoundment.

(B) *Microchip Implantation.* Prior to the return to its Owner of any impounded dog or cat which at the time of impoundment did not bear a Microchip, collar tag or other means of identification, the Animal Control Agency shall cause a Microchip with a registered identification number to be implanted in the dog or cat at the Owner's expense. The Animal Control Agency shall be entitled to retain the dog or cat until the microchip implantation fee is paid.

(C) *Payment of County Option Dog Tax.* No dog impounded pursuant to this Chapter shall be released to its Owner until the Owner presents proof of payment of all applicable 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.”

(Amended Ord. 2011-18, passed 12-29-11)

## TITLE XI: BUSINESS REGULATIONS

### Chapter

- 110. INKEEPER'S TAX
- 111. RETAIL FOOD ESTABLISHMENTS
- 112. TATTOO PARLORS
- 113. SYNTHETIC CANNABINOIDS
- 114. DIRECT SELLERS

### Section

- 110.01 Innkeeper's tax; collection
- 110.02 Convention and Visitor Promotion Fund
- 110.03 Visitor and Convention Commission
- 110.04 Disposition of monies
- 110.05 Delinquencies; failure to file

***Statutory reference:***

*Innkeeper's Tax Administration, see I.C. 6-9-29-1 through 6-9-29-3*

### §110.01 INNKEEPERS TAX; COLLECTION

#### (A) Innkeepers Tax Generally

(1) *Tax Levied.* A tax is hereby levied on every person or corporation engaged in the business of renting or furnishing, for periods of less than 30 days, any room, rooms, lodgings or accommodations in the county in any hotel, motel, boat motel, inn, college or university memorial union or tourism cabin.

(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. Taxpayers desiring a refund of innkeepers tax paid must apply for such a refund by submitting to the County Treasurer of Revenue a claim for refund.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed --. Ord. 2012-18, passed 12-28-12; Am. Ord. 2017-11, passed 8-14-17).

#### **§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

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 a convention, visitor or tourism business or involved in or promoting conventions, visitors or tourism 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 engaged in a convention, visitor or tourism business or involved in or promoting conventions, visitors or tourism and one (1) must be a member of the Crawfordsville City Council. The appointees who are engaged in the a convention, visitor or tourism business or involved in or promoting conventions, visitors or tourism cannot be from the same business. All appointees must be residents of Montgomery County, except that a person engaged in a convention, visitors or tourism business or involved in or promoting conventions, visitors or tourism need not be a resident of Montgomery County if: (1) he or she is the owner or executive level employee of such a business; (2) the business is located in Montgomery County; and (3) he or she is a resident of the State of Indiana.

(Ord. 2018-23, passed 9-13-18)

**(3) Terms.** All terms of office of Commission members begin on January 1. Members of the Commission serve terms of two years, except that three of the original members will have one-year terms in order to stagger the terms. All terms must be staggered. A member whose term expires may be re-appointed to serve one (1) additional term. A member who has served two (2) consecutive terms is not eligible for reappointment until at least one (1) year has elapsed since his or her last term. If an initial appointment is not made by February 1, or a vacancy is not filled within 30 days, the Commission shall appoint a member by majority vote to serve for the remainder of the term.

**(4) Removal.** A member of the Commission may be removed for cause by his or her appointing authority.

**(5) No Salary.** Members of the Commission may not receive a salary. However, Commission members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

**(6) Oaths.** All members of the Commission must take an oath prior to serving.

**(7) Officers.** The Commission shall elect a President, Vice President, Treasurer and Secretary. Each officer shall serve for one year.

**(B)**      *Commission Rules and Procedure*

**(1)** *Powers Generally.* The Commission may:

- (i)**      Accept and use gifts, grants and contributions from any public or private source, under terms and conditions that the Commission considers necessary and desirable;
- (ii)**     Sue and be sued;
- (iii)**    Enter into contracts and agreements;
- (iv)**    Make rules necessary for the conduct of its business and the accomplishment of its purposes;
- (v)**     Receive and approve, alter or reject requests and proposals for funding by corporations qualified under division (B)(1)(f) below;
- (vi)**    After its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under § 110.02, to any state not-for-profit corporation for the purpose of promotion and encouragement in the county of conventions, trade shows, visitors, tourism, festivals or other special events in the county; and
- (vii)**   Require financial or other reports from any corporations that receive funds under this chapter.

**(2)** *Quorum and Majority Action.* A majority of the Commission constitutes a quorum for the transaction of business and the concurrence of a majority of the Commission is necessary to authorize any action.

**(3)** *Expenses of Commission.* All expenses of the Commission shall be paid from the Fund established under § 110.02.

**(C)**      *Meetings.* The Commission shall meet at least four (4) times per year.

**(D)**      *Budget.* On or before July 31 of each year, the Commission will approve a budget for the following year. This budget must be presented to the Montgomery County Council on or before August 15 of each year, and the Council will review the budget and determine appropriations for the Commission during the Council's annual budget process.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-7-92; Am. Ord. 98-, passed 4-28-98; Am. Ord. 2012-18, passed 12-28-12).

#### **§110.04        DISPOSITION OF MONIES**

All money coming into possession of the Commission shall be deposited, held, secured, invested and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money coming into possession of the Commission is subject to audit and supervision of the State Board of Accounts. Expenditures cannot be made without appropriation by the County Council.

(Ord. 2-86 passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-7-92; Am. Ord. 98-, passed 4-28-98. Ord. 2012-18, passed 12-28-12)

#### **§110.05        DELINQUENCIES; FAILURE TO FILE**

(A)        *Time for Payment of Tax.* The due date for filing the return and paying the tax is the twentieth day of the month immediately following the month of collection. A delinquent return is subject to:

(1) Loss of the collection allowance provided for in Indiana Code §6-2.5-6-10;

(2) A penalty of 10% of the gross tax collected, but not less than \$5; plus

(3) Interest payable on the gross tax due. The time factor will be the number of days delinquent divided by 365. The rate, determined by the Commissioner of the State Department of Revenue, takes effect on January 1 each year.

(B)        *Failure To Collect Or Remit Tax.* An individual who has the duty to collect and remit these taxes to the Treasurer, holds these funds in trust and is personally liable for their payment, plus any penalties and interest attributable thereto to the state or political subdivision. The individual who knowingly fails to collect or remit these taxes as prescribed commits a level 6 felony.

(C)        *Authority of Treasurer.* Since a section has been adopted requiring payment of the innkeeper's tax to the County Treasurer instead of the Department of State Revenue, the County Treasurer has the same right and powers with respect to collecting this tax as



the Department of State Revenue. In addition, the rights and powers of the Treasurer includes the power to grant refunds of innkeepers tax. Persons desiring a refund should submit a claim for a refund to the County Treasurer, as provided for by Indiana law.

**(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; Am Ord. 2017-11, passed 8-11-17).

## **CHAPTER 111: RETAIL FOOD ESTABLISHMENTS**

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**§111.01 TITLE**

This chapter and all ordinances supplemental or amendatory hereto shall be known as the Food Establishments Regulations of Montgomery County, and may be cited as such and will be referred to herein as "this chapter".

**§111.02 PURPOSE**

The purpose of this chapter is to provide minimum standards for the prevention and suppression of disease and health risks associated with the preparation and distribution of food through foodservice operations within Montgomery County, and to otherwise promote the mission of the food protection program to protect the health of all persons in Montgomery County, Indiana.

**§111.03 AUTHORITY**

The Health Officer of Montgomery County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, collect permit and incidental fees, perform inspections, order or otherwise compel correction of

violations of this chapter, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this chapter.

#### **§111.04 ADOPTION OF REGULATIONS BY REFERENCE**

(A) The regulations of the Indiana State Department of Health as found in Title 410 IAC 715.5, Title 410 IAC 7-22, Title 410 IAC 7-23, and 410 IAC 7-24, are hereby incorporated by reference in this chapter and shall include any later amendments to those regulations.

(B) Copies of the above-referenced regulations are available and on file in the office of the Montgomery County Health Department.

#### **§111.05 DEFINITIONS**

Unless the context specifically indicates otherwise, the definitions of the current food service requirements of the Indiana State Department of Health and their interpretations shall apply to the enforcement of this chapter. In addition to or to otherwise supplement or to conveniently provide definitions for interpretation, this chapter shall include the following definitions.

**111.05.01 BOARD.** The Montgomery County Board of Health of Montgomery County, Indiana.

**111.05.02 CERTIFIED FOOD HANDLER.** As defined in Rule 410 IAC 7-22 means a food handler who holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program.

**111.05.03 CRITICAL VIOLATIONS.** Those violations designated as being critical in 410 IAC 7-24, and as amended hereafter.

**111.05.04 COMMUNICABLE DISEASE.** Includes those diseases which epidemiological evidence indicates can be transmitted through food preparation or service.

**111.05.05 DEPARTMENT.** The Montgomery County Health Department of Montgomery County, Indiana, and its employees.

**111.05.06 FOOD ESTABLISHMENT.** As defined in I.C. 16-18-2-137, any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or

used for handling food. This definition also includes a retail food establishment as defined in 410 IAC 724; however, it does not include a bed and breakfast establishment.

**111.05.07 FOOD PROCESSING ESTABLISHMENT.** Any commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.

**111.05.08 HEALTH OFFICER.** The Health Officer of the Montgomery County Health Department, and his or her authorized representatives.

**111.05.09 MICRO MARKET.** An unstaffed self-checkout retail food establishment not accessible by the general public; with displays that do not exceed 75 linear feet which contain an automated payment kiosk, located within a business and only accessed by customers of business, employees, or escorted guests known to business.

**111.05.10 MICRO MARKET DISPLAY.** An open rack; refrigerator; freezer; vending machine; or beverage dispenser for use of food display

**111.05.11 MOBILE FOOD MARKET ESTABLISHMENT.** Any food establishment without a fixed location capable of being readily moved intact from location to location where food, intended for human consumption outside of the facility, is stored, sold or offered in prepackaged form, fresh or frozen.

**111.05.12 MOBILE FOOD SERVICE ESTABLISHMENT.** Any food establishment without a fixed location capable of being readily moved intact from location to location where food, intended for human consumption outside the facility is stored, sold or offered in open form, fresh or frozen.

**111.05.13 NEW PERMITTEE.** Shall be deemed to be any person, other than an immediate family member, who acquires, through an asset purchase agreement, stock purchase agreement, merger, consolidation, gift or other similar method, more than 50% of the control of a prior permittee's business.

**111.05.14 NON-CRITICAL VIOLATIONS.** Violations designated as being noncritical in 410 IAC 7-24, and as amended hereafter.

**111.05.15 OPERATE** (and its derivatives). One that operates a business or operates as a business.

**111.05.16 PERMIT.** A certificate or a permit number of a size and style previously approved by the Health Officer.

**111.05.17 PERMITTEE.** Includes the person who is the owner of or responsible for the operation of a food establishment, including a food establishment's authorized representative, and who shall be responsible for the acceptance of all notices at the address listed on the application for any permit issued hereunder.

**111.05.18 PERSON.** Includes, but not limited to, an individual, corporation, firm, partnership, proprietorship, association, business organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.

**111.05.19 PERSON IN CHARGE.** Means, as defined in 410 IAC 7-24-60, the individual present at a retail food establishment who is responsible for the operation at the time of inspection.

**111.05.20 RETAIL FOOD MARKET ESTABLISHMENT.** Any food establishment, including, but not limited to, a grocery, meat market, poultry market, fish market, egg market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any food establishment, whether fixed or movable, where food, intended for human consumption off the premises, is manufactured, produced, stored, prepared, handled, transported, sold or offered with or without charge. Provided, however, that the provisions of this chapter shall not include meat or poultry slaughterhouses.

**111.05.21 SAFE HOLDING TEMPERATURE.** As indicated in 410 IAC 7-24, as it may be hereafter amended, and as applied to potentially hazardous foods shall mean food temperatures at 41° Fahrenheit or below, and 135° Fahrenheit or above, and frozen foods at 0° Fahrenheit or below; provided, however, a tolerance of 5° Fahrenheit shall be permitted on frozen foods only.

**111.05.22 TEMPORARY FOOD SERVICE ESTABLISHMENT.** Any food establishment in any enclosure, stall or other facility, whether fixed or mobile, operating at one site or location for a period of time not in excess of 14 consecutive days, in conjunction with a single event or celebration, where food in open form intended for human consumption on or off the premises is offered with or without charge.

**111.05.23 UTENSIL.** Any implement used in the storage, preparation, service, consumption, display, transportation, or cleaning of food or drink products.

**111.05.24 VENDING MACHINE.** Means the same as the same term defined in 410 IAC 7-24-102; and a self-service device that, upon activation, through insertion of coin, paper currency, token card, key, or by manual operation, dispenses unit servings of food in

bulk or in packages without the necessity of replenishing the device between each vending operation.

## **PERMITS**

### **§111.06 PERMIT REQUIREMENTS**

It shall be unlawful for any person to sell or give away any food or to operate a food establishment or to act, whether actually or ostensibly, as a food establishment operator within Montgomery County, Indiana, without possessing a valid permit for each such operation from the Health Officer, unless otherwise exempted from the provisions of this chapter. Penalty, see § 111.99

### **§111.07 POSTING**

All permits shall be posted in a conspicuous place in view of the public in each food establishment. With respect to mobile food service establishments, the name, address and telephone number of the permittee shall be conspicuously displayed on each licensed mobile unit not less than two inches in height. In addition, a copy of the permit must be located in each mobile unit at all times for purposes of identification. Penalty, see § 111.99

### **§111.08 SEPARATE PERMITS**

- (A) Separate permits will be required for each food establishment or vending operator regardless of whether or not they are contained in the same building when:
- (1) The management or ownership is separate at the same location; or
  - (2) The food establishment is operated by the same management, but as or at separate locations.
- (B) Separate permits will not be required for a food establishment that serves alcoholic beverages and is operated under a lease management agreement or similar agreement in which the operator of the food establishment is not the same as the holder of the alcohol license issued by the State of Indiana.

Penalty, see § 111.99

**§111.09 APPLICATION FOR PERMIT**

(A) The application for a permit shall be made to the Health Officer on forms provided by the Health Officer. Such forms shall show, among other information which may be required by the Health Officer, the legal name, address, and telephone number of the permittee, the name under which said permittee intends to operate, 24 hour emergency contact information, the address of the establishment, and the number of food establishment personnel employed at the establishment (which shall include the permittee's manager, or other supervisory personnel). Said application shall include the signature of the permittee or an authorized representative of the permittee.

(B) Applications for the following list of establishments require additional information:

- (1) *Micro Market*. The number of Micro Markets intended to be operated, the locations maintained by the permittee where supplies are kept or where displays are repaired or renovated, and the type and form of the food or beverages to be dispensed from the Micro Market Displays.
- (2) *Temporary food service*. The location of any commissary or commissaries and where any supplies will be kept.

**§111.10 PERMIT DENIAL**

If an application for a permit is denied, the denial shall be in writing and include the specific reasons, with citations to any applicable statute, regulation, or other authority for the denial. In addition, the applicant's right of appeal shall be noted with reference to the section of this chapter providing for appeals.

**§111.11 PERMIT ISSUANCE**

A permit shall be issued subsequent to application and upon a determination by the Health Officer that the permittee has complied with all of the applicable provisions of this chapter, the permittee has tendered the appropriate fee as hereinafter specified, and after approval by any other applicable regulatory agency or department, including but not limited to the Building Commissioner, City Engineer, and Fire Department and compliance with any other state or local ordinance, statute, or regulation.



**§111.12 TERM**

(A) (1) The permit for a retail food service establishment, retail food market establishment, mobile food service establishment, mobile food market establishment, bed and breakfast, commissary, or food processing establishment shall be for a term of one year beginning upon the 1st day of January each year.

(2) Said permits shall be renewed annually on or before the last day of December; however, if the day of expiration of the permit falls on a weekend or government-recognized holiday, the permittee will be given until the following business day to renew the permit without late fees being assessed. Permits applied for mid-year will qualify for a proration of fees.

(B) The permit for a temporary food service establishment shall be for a term not to exceed 14 consecutive days.

(C) Any permit for a farmers market shall be for a term of up to one year running from March 1 the year of issue to February 28 the year after issue.

**§111.13 PERMIT NOT TRANSFERABLE**

No permit issued to any permittee under this chapter shall be transferable between locations or between operators.

## **CONSTRUCTION, RENOVATION, AND ALTERATION OF FOOD ESTABLISHMENTS**

### **§111.14 CONSTRUCTION**

All food establishments which are hereinafter constructed or renovated shall conform in their construction to the applicable requirements of 410 IAC 7-24, as amended, as well as with this chapter and all applicable building, zoning and fire codes.

Penalty, see § 111.99

### **§111.15 PLANS**

No construction, renovation, or alteration for any food establishment shall begin without the construction, renovation, or alteration plans being first submitted to and approved by the Health Officer. Applications, including any specificity required for particular materials required by any regulatory agency, must be filled out in full or the application may be denied. Penalty, see § 111.99

### **§111.16 EQUIPMENT**

All equipment installed in a food establishment for use in the cleansing and bactericidal treatment of utensils, or in the preparation, storing, handling, cleaning, sanitizing, serving, or displaying of any food or beverage products, shall be of a type conforming with all applicable requirements with regard to proper holding temperatures, design, construction, location, and materials.

Penalty, see § 111.99

### **§111.17 PROHIBITED EQUIPMENT**

The Health Officer may prohibit the further use of any equipment that fails to meet the requirements of this chapter or any other rule, regulation, or statute that applies to the purposes of this chapter. Penalty, see § 111.99

### **§111.18 COMPLIANCE**

All individuals and entities regulated by this chapter must fully comply at all times with all local and state building, zoning, and fire codes as a condition of any permit. Failure of any permittee to fully comply with any applicable building, zoning, and fire code shall be the basis for the suspension, immediate closure or revocation or nonrenewal of any permit issued hereunder. Penalty, see § 111.99

**§111.19 GREASE TRAP**

Unless exempted by that agency or authority having jurisdiction, all food establishments shall be required to install a grease interceptor in the waste line leading from sinks, drains and other fixtures or equipment where grease may be introduced into the drainage or sewage systems in quantities that can affect line stoppage or hinder sewage treatment. The grease interceptor must be installed in such a manner that meets all applicable requirements of any applicable Building Department and shall be located in such areas as are easily accessible for cleaning. Penalty, see § 111.99

## **APPLICATION AND PERMIT FEES**

### **§111.20 FEES**

Prior to the issuance or renewal of any permit, each permittee shall first tender to the Montgomery County Health Department an application fee and a permit fee for each such operation in accordance with the classification as established in the following schedule of fees.

### **§111.21 PLAN REVIEW FEES**

(A) Each new food establishment or bed and breakfast or any existing food establishment or bed and breakfast desiring to remodel or build any additions requiring a building or other permit which includes renovations to the food preparation area shall be required to pay an initial fee for the review of plans and specifications and for the initial inspection of the food establishment bed and breakfast. This fee is in addition to the permit fee. In the instance where there are multiple food establishments or areas within one building which will require staged final inspections at separate times, an application fee as set out below will be required for each final inspection.

PLAN REVIEW FEE	\$150.00
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(B) Additional inspections or review. In those circumstances where building or remodeling of a food establishment results in more than three inspections of the food establishment's premises or continuing review of or consultations regarding the plans thereof by the Health Officer, and which inspections or review or consultations are necessitated due to failure to have the plans completed or finalized at the time of application for a permit or the failure to implement construction or remodeling consistent with the original plans, or any other cause within the control of the food establishment which results in continuing and extra review of or consultation regarding the plans for the food establishment, there shall be an additional fee of \$100.00 payable prior to opening the food establishment.

### **§111.22 FEES FOR RENEWAL**

Upon renewal or transfer (not requiring plan review) of permits, the following fees will apply:

PERMIT FEES - RETAIL FOOD MARKET ESTABLISHMENT

(a) Up to 10,000 square feet:	\$100.00
(b) 10,001 to 35,000 square feet:	\$150.00
(c) 35,001 to 60,000 square feet:	\$200.00
(d) 60,001 square feet and over:	\$300.00

PERMIT FEES - RETAIL FOOD SERVICE ESTABLISHMENT

(a) 1 through 10 employees:	\$100.00
(b) 11 through 40 employees:	\$150.00
(c) 41 and more employees:	\$225.00

REGISTRATION FEE - FARMERS MARKET

(a) Home Based Vendor	\$5.00	
(b) Not-For-Profits		NO FEE - REGISTRATION ONLY

PERMIT FEES – MICRO MARKET

(a) 1 to 20 food or beverage displays	\$100.00
(b) 21 to 50 machines	\$150.00
(c) 51 or more machines	\$175.00

PERMIT FEES - TEMPORARY FOOD SERVICE OR FOOD MARKET ESTABLISHMENT

(a) 3 days or less of operation	\$20.00	
(1) Each additional day		\$5.00
(b) 3 Month	\$30.00	
(c) 6 Month	\$60.00	
(d) 9 Month	\$90.00	

PERMIT FEES – BED AND BREAKFAST – no plan review fee required

(a) One year	\$100.00
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## MISCELLANEOUS FEES

- |  |         |
|--|---------|
| (1) Permit replacement fee   | \$10.00 |
| (2) Processing fee (in addition to permit fee)<br>applicable to any new permit or transfer | \$25.00 |

### **§111.23 PERMIT REVOKED**

A food service establishment permit shall be revoked if false information is given on the application or the application is not properly or accurately completed.

### **§111.24 NO PERMIT OR LATE RENEWAL**

Should any permittee fail to obtain the permit prior to the opening of the food establishment for business, or should any permittee fail to renew a permit as required by this chapter, then said annual fee shall be 125% of the annual fee set forth above for that particular food establishment. Nothing in this section shall prevent the Health Officer from exercising any other rights or duties regarding suspension, closure, or revocation of the permit with regard to any food establishment.

### **§111.25 EXEMPTIONS**

(A) The permit fee provisions of this chapter shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer fresh fruits, vegetables, honey or cider; provided that, nothing herein shall be construed to limit the Health Officer's authority to inspect any such stands in order to ensure public health.

(B) Food establishments which comply with the terms and provisions of I.C.16-42-5-4 (as may be recodified and remaining applicable to exempt organizations), shall upon proof of exemption be exempt from the provisions of this chapter unless they waive said exemption. Exempt organizations such as sports leagues, church-sponsored soup kitchens, churches, and temporary senior citizen feeding sites are exempt from the permit provisions of this chapter.

(C) Food establishments which sell or offer for sale directly to the consumer only prepackaged confections such as candy, chewing gum, nutmeats, potato chips, pretzels, popcorn, coffee, juice, and soft drink beverages shall be exempt from the provisions of this chapter.

(D) Vending machines which dispense non-potentially hazardous food or drink products in prepackaged or pre-bottled form, shall be exempt from the provisions of this chapter.

**§111.26 WITHHOLDING PERMIT DUE TO DELINQUENT PERSONAL PROPERTY TAX**

Prior to issuing any new or renewal permit, the applicant or permittee shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or permittee is not delinquent in the payment of any personal property taxes. If applicant or permittee does not obtain such certificate of compliance, the Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property taxes owed by the applicant or permittee are paid in full, including penalties.

(Ord. 2003-1, passed 1-28-03; Am. Commissioners Ord. 2008-1, passed 2-11-08; Am. Commissioners Ord. 2008-8, passed 6-23-08).

**§111.27 MINIMUM STANDARDS INSUFFICIENT**

The provisions of this chapter are intended to provide standards for licensing for and inspection of food establishments. Nothing contained in this chapter shall be construed to require the Health Officer to issue or prevent the revocation of a permit if, after investigation by the Health Officer, the Health Officer concludes that issuance or continuation of a permit results in unacceptable health risks resulting from the size or configuration of the food establishment, change of use or type of food being served compared with existing facilities for the food establishment, and the likelihood that efforts to ameliorate increased health risks resulting therefrom will be unsuccessful. Any decision by the Health Officer to refuse to issue a permit or to revoke a permit for reasons found in this section shall entitle an aggrieved food establishment to a public hearing as provided in this chapter and a right to appeal as provided herein or by law.

## **MINIMUM SANITARY REQUIREMENTS**

### **§111.28 SANITARY REQUIREMENTS**

All food establishments, retail food markets, farmers markets, bed and breakfasts, vending operators, and food and beverage vending machines shall comply with at least the minimum sanitary requirements specified by the Indiana State Department of Health as provided in 410 IAC 7-24 and 410 IAC 7-22, and as those regulations may be amended or superseded hereafter. Penalty, see § 111.99

## **EDUCATION**

### **§111.29 FOOD SAFETY**

(A) Every person who is employed, or is about to be employed in a food establishment, shall be familiar with the requirements of 410 IAC 7-24. A copy of 410 IAC 7-24 shall be kept on the premises at all times. All food establishment personnel employed by a food establishment may be required to attend a food safety education program for any of the following reasons:

- (1) If the establishment is subjected to immediate closure by the Health Officer and the education program is deemed necessary by the Health Officer.
- (2) If the Health Officer determines the necessity of a food safety education program as a result of a hearing dealing with violations of this chapter.
- (3) If upon inspection it is determined that remedial efforts have not been made to correct prior violations of this chapter.

## **INSPECTIONS**

### **§111.30 FREQUENCY OF INSPECTION**

Each food establishment for which a permit is required under the provisions of this chapter shall, and any other individual or entity which delivers or transfers food, may be inspected as frequently as deemed appropriate by the Health Officer.

### **§111.31 AUTHORITY TO INSPECT AND COPY RECORDS**

The provisions of I.C. 16-20-8-1 et. seq. or any amendment thereof shall apply to inspections and access to records of inspections.



## **VIOLATIONS**

### **§111.32 PROCEDURES WHEN VIOLATIONS ARE NOTED**

- (A) At the time of an inspection any violation(s) discovered by the Health Officer shall be recorded on an inspection report that is equivalent to the Indiana State Department of Health inspection report.
- (B) A copy of the inspection report stating any violation(s) and their corrective dates shall be given to the person-in-charge of the establishment, or the report shall be delivered by mail to the address of the establishment listed on the permit application, as required under I.C. 16-20-8-5.
- (C) The Health Officer, or the Health Officer's authorized representative, shall have the final approval on all food establishment inspection reports and related documents; and shall reserve the right to make changes as deemed necessary in accordance with I.C. 16-20-8-5.

### **§111.33 EXAMINATION AND CONDEMNATION OF FOOD**

The Health Officer may, along with any other enforcement agency (if applicable), upon written notice to the owner or person in charge, place a hold order on any food if that food is in violation of any state laws. A written order must specify the reason for the hold order. The Health Officer or their authorized agent shall tag, label, or otherwise identify any food subject to the order and follow applicable statutes or regulations concerning disposal or future use or disposition of the food.

### **§111.34 EMERGENCY CLOSURE**

- (A) The Health Officer shall issue emergency closure for a retail food establishment, bed and breakfast, micro-market, and farmers market for any of the following reasons:
  - (1) Failure to possess a valid food permit required by this chapter.
  - (2) The presence of any condition that poses an imminent health hazard or substantial harm to the public health and safety.
- (B) Procedure. Any closure order will be in writing. The order shall identify the food establishment, describe the specified grounds upon which closure is based, direct the

immediate closure of the establishment and vacating of the premises by consumers, list the corrective actions necessary to re-open the food establishment, and state that a hearing on the emergency closure may be requested by the owner or operator. The order shall be served in person on the owner, or person in charge of the establishment.

**§111.35      TEMPORARY FOOD SERVICE ESTABLISHMENT PERMIT  
SUSPENSION/ CLOSURE**

(A) The Health Officer may suspend a permit for a temporary food establishment for any of the following reasons without prior notice or hearing:

(1) The operation of the temporary food establishment is deemed an imminent health hazard by the Health Department due to certain conditions, including but not limited to Title IAC 410 724 or this chapter.

(2) Interference with the Health Officer to perform their duties, including denial of access to the premises.

(B) When a permit is suspended the temporary food service establishment shall cease operation immediately. The suspension shall become effective upon service of a written notice to the permit holder or person in charge of the establishment.

(C) The Health Department may end the suspension at any time with or without a hearing if it is determined that the reason of the suspension no longer exists.

**§111.36      PERMIT REVOCATION**

(A) The Health Officer, after providing an opportunity for a hearing shall permanently revoke a retail food establishment, bed and breakfast establishment, vending machine/ micro market operation, or farmers market establishment permit for serious or repeat violation(s) of any of the requirements of Title IAC 410 7-24 or this chapter; or, interference with the Health Officer or the Health Officer's agent(s) in the performance of their duties.

(B) Prior to such action, the Health Officer shall notify the permittee in writing stating the reasons for the permit revocation and advising that the permit shall be permanently revoked after no less than ten days following service of such notice; unless a written request for a hearing is filed with the Health Department by the permittee prior to the date upon which the permit revocation is to become effective. The permit may be suspended for cause pending its revocation or a hearing.

(C) If no request for a hearing is filed prior to the date the permit revocation is to become effective, revocation of the permit becomes final.

**§111.37 HEARING**

(A) All hearings required under this or any other section shall be open to the public and held with sufficient written notice to the permittee of time, place, and nature thereof to enable the permittee to appear and participate in the hearing. The notice of hearing shall be served upon the permittee by leaving or mailing by certified mail the notice to the address listed on the permit application as the permittee's mailing address or such other address as the permittee shall designate in writing to the Health Officer.

(B) At any hearing required under this chapter, the Hearing Officer shall be the Health Officer or the Health Officer's designee. Every person who is a party to such proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.

(C) Upon the conclusion of such hearing, the Health Officer shall enter a final order, subject to the right of appeal to a court having jurisdiction of the parties and of the subject matter of the appeal.

**ENFORCEMENT**

**§111.38 ENFORCEMENT**

It shall be the duty of the Health Officer to enforce the provisions of this chapter. Any permit issued in conflict with the provisions of this chapter shall be null and void. A violation of an order issued by the Health Officer shall be considered to be a violation of this chapter and of Indiana law, when applicable.

**§111.39 VIOLATIONS**

Whenever the Health Officer determines that any entity subject to the provisions of this chapter, is in willful violation of any of the provisions of this chapter, in addition to any other remedy or penalty imposed by this chapter, the Health Officer shall furnish evidence of said willful violation to the Prosecuting Attorney of Montgomery County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s) violating the provisions of this chapter.

**§111.40 INJUNCTION**

The Health Officer may bring an action for an injunction in the Circuit or any Superior Court of Montgomery County, Indiana, to restrain any person from violating the provisions of this chapter, to cause such violation(s) to be prevented, abated or removed, or to otherwise enforce this chapter.

**§111.41      EXPENSE**

Any person violating any of the provisions of this chapter shall be liable to the Health Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.

**§111.42      CUMULATIVE**

The remedies provided in this subchapter shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

**§111.43      REQUEST FOR NOTICE**

Any entity, which is not a Retail Food Establishment, intending to host an event in Montgomery County which involves providing food to the public for the purpose of fundraising, customer appreciation, grand openings, community dinners, may request a courtesy public service consultation by requesting such a consultation from the Health Department.

**§111.99      PENALTY**

The provisions of Title 410 IAC 7-23 provides local health departments with authority to assess civil penalties (fines) for violators of laws intended to suppress disease and health risks associated with preparation and distribution of food. For purposes of tracking critical item violations and imposing fines under this chapter the Department shall maintain inspection records for not less than one year from the date of any inspection conducted after the effective date of this chapter. No fine is payable the first time a "critical item" violation is noted within any one year period after the effective date of this chapter. For a second or subsequent "critical item" violation of this chapter after its effective date, or within one year of the date of an inspection conducted after the effective date of this chapter, a civil penalty is payable as provided in this chapter.

(A) The following civil penalties (fines) shall apply for a "critical item" violation which reoccurs for a second or subsequent time within any one year period after the effective date of this chapter, regardless if that "critical item" can be corrected immediately:

- (1)** The second time the same "critical item" violation is determined within any one year period, there will be a fine of \$50.
  - (2)** The third time the same "critical item" violation is determined within any one year period, there will be a fine of \$100.
  - (3)** If the same "critical item" reappears as a violation for a fourth (or more) time within any one year period, there will be a fine of \$200.
- (B)** Each day after the expiration of the time limit for abating any violation of this chapter or completing other actions as ordered by the Health Department or the Health Officer of the county, shall constitute a distinct and separate offense.
- (C)** All fines shall be payable in full within 30 days of assessment, unless otherwise ordered by the Hearing Officer. Failure to pay fines by the due date will result in an additional 10% late fee. No permit is to be issued or renewed until all fines have been paid in full. Any fines and late fees may be collected in any manner provided herein or as provided by law including any law for collection of debts, along with attorney fees incurred to collect said amounts owing and with all costs of collection.
- (D)** Any assessment of a civil penalty by this chapter is subject to the right of appeal and a public hearing which will be scheduled, conducted, and concluded as provided in §111.36 of this chapter. Any request for an appeal shall be filed in writing with the Health Officer within ten days of assessment of the civil penalty.

## CHAPTER 112: TATTOO PARLORS

### Section

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### **§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.

**BLOODBORNE 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 bloodborne 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 infected with HIV, HBV, HCV, and other bloodborne pathogens.  
(Ord. 2004-01, passed 10-26-04)

### **§112.03 TATTOO OPERATOR TRAINING RESPONSIBILITIES.**

An individual or entity that is a tattoo operator shall comply with the following training responsibilities:

(A) Ensure that the training described in the Indiana Occupational Safety and Health Administration's Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030) is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

(B) Ensure that training on the handling of infectious waste is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated rash for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

(C) Ensure that a record of training described in division (A) is maintained, as required under the Indiana Occupational Safety and Health Administrator's Blood Borne Pathogens Standard (as found in 29 CFR 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request.

(D) Ensure that all record of training described in division (B) is maintained. (Ord. 2004-01, passed 10-26-04)

### **§112.04 TATTOO OPERATOR RESPONSIBILITIES**

(A) The tattoo operator shall ensure that tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood are provided personal protective equipment and expendables needed to implement the precautions required by this rule and the Indiana Occupational Safety and Health Administration's Blood Borne Pathogens Standard as found in 29 CFR 1910.1030.

(B) The tattoo operator shall require tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in section 27 of this rule.

(C) The tattoo operator shall display a description of compliance with the requirements contained in division (D).

(D) The tattoo operator shall display written materials prepared or approved by the department explaining universal precautions and patrons' rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the department's duties to investigate.

(E) The tattoo operator shall insure that no illicit drugs or alcohol are consumed or permitted in the tattoo parlor.

(F) The tattoo operator shall ensure 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 bloodborne 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 bloodborne 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) Handwashing 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) Leakproof 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 Protection Agency (EPA) registered disinfectant; or

**(2)** Sodium hypochlorite, 0.5% concentration, by volume (common household bleach is 10% concentration in water); the solution shall be dated and shall not be used if it is more than 24 hours old.

(Ord. 2004-01, passed 10-26-04)

**§112.16      INFECTIOUS WASTE CONTAINMENT.**

(A) Contaminated disposable needles or instruments shall be:

(1) Stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the biohazard symbol, and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

(B) Infectious wastes that are contaminated sharps or objects that could potentially become contaminated shall be placed in containers that meet the following requirements:

(1) Impervious to moisture;

(2) Sufficient strength and thickness to prevent expulsion;

(3) Secured to prevent leakage expulsion;

(4) Labeled with the biohazard symbol; and

(5) Effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

(D) If infectious waste is stored prior to final disposal, all persons subject to this rule shall store infectious waste in a secure area that:

(1) Is locked or otherwise secured to eliminate access by or exposure to the general public;

(2) Affords protection from adverse environmental conditions and vermin; and

(3) Has a prominently displayed biohazard symbol.

(E) Infectious waste shall be stored in a manner that preserves the integrity of the container, and is not conducive to rapid microbial growth and putrefaction.

(F) Reusable containers for infectious waste must be disinfected each time that they are emptied unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags or other devices that are removed with the infectious waste. (Ord. 2004-01, passed 10-26-04)

**§112.17 TREATMENT AND TRANSPORT OF INFECTIOUS WASTE**

(A) All tattoo operators shall ensure that infectious waste is either treated on-site in accordance with this rule or transported off-site for treatment in accordance with this rule.

(B) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:

- (1) Incineration in an incinerator designed to accommodate infectious waste;
- (2) Steam sterilization;
- (3) Chemical disinfection under circumstances where safe handling of the waste is assured;
- (4) Thermal inactivation;
- (5) Irradiation; or
- (6) Discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(C) All persons subject to this rule shall:

- (1) Transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and
- (2) Effectively treat infectious waste in accordance with this rule before it is compacted. (D) The tattoo operator shall ensure that infectious waste effectively treated or not is transported off-site in compliance with 410 I.A.C. 1-3.

(Ord. 2004-01, passed 10-26-04)

## **§112.18 PERMITS**

(A) *Business.* Each tattoo parlor operation shall obtain a permit from the Montgomery County Health Department. The permit shall provide the name and address of the owner of the business and the name and address of each and every tattoo artist located at each location. The cost for this permit shall be \$50 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Montgomery County Health Department shall provide the appropriate forms for

this permit. Said permit shall be posted at the tattoo parlor in the places where the tattoos are performed and clearly visible to the public.

**(B) *Tattoo Artist.*** Every person that desires to perform any tattoo shall obtain a “Tattoo artist permit” from the Montgomery County Health Department. This permit must be obtained before any tattoos are affixed to any person and after the requisite training. The applicant must satisfy the minimum requirements as set forth herein in § 112.06. The cost of said permit shall be \$25 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Montgomery County Health Department shall provide the appropriate forms for this permit. Said permits shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public.

**(C) *Withholding Permit if Property Taxes Delinquent.*** Prior to issuing any new or renewal permit the tattoo parlor or tattoo artist shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the tattoo parlor or tattoo artist is not delinquent in the payment of any personal property taxes. If the tattoo parlor or tattoo artist does not obtain such certificate of compliance, the Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property taxes owed by the tattoo parlor or tattoo artist are paid in full, including penalties. (Ord. 2004-01, passed 10-26-04; Am. Commissioners Ord. 2008-6, passed 3-24-08); Am. Commissioners Ord. 2008-8, passed 6-23-08)

## **§112.19 INSPECTION**

The Montgomery County Health Department shall conduct inspections of each and every tattoo parlor located in Montgomery County, Indiana. The Health Department shall conduct a minimum of three inspections per year. Additional inspections may be conducted by the Health Department as they determine and/or in response to complaints submitted. The results of the inspections shall be provided to each operator. Violations noted by the Health Department shall be corrected immediately. The Department shall conduct follow up inspections to determine compliance with this chapter. (Ord. 2004-01, passed 10-26-04)

## **§112.20 REVOCATION OF PERMIT**

The Health Officer or appointed representative may suspend or revoke the permit of any tattoo artist or operator for any period of time for any violation of this chapter, state or federal regulations concerning bloodborne pathogens, tattoos or workplace 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 bloodborne pathogens, tattoos or workplace regulations (OSHA) and to the satisfaction of the Health Officer or

appointed representative. Appeals of orders of revocation shall be conducted pursuant to I.C. 4-21.5-3-1 et seq. The Board of Health shall conduct administrative hearings concerning the suspension or revocation of any permit issued herein as set forth in I.C. 4-21.5-3 et seq. (Ord. 2004-01, passed 10-26-04)

**§112.99 PENALTY**

(A) If a tattoo artist or operator shall fail to obtain a permit prior to the conduct of their business or at any time after one has been issued, but has expired, that tattoo artist and/or operator may be subject to a fine of not more than \$200. Each day the tattoo artist and/or operator shall be in violation of this chapter shall constitute a separate offense.

(B) The Health Officer or appointed representative may bring an action in the Circuit or Superior Court to enforce this chapter. The Health Officer or appointed representative shall be entitled to recover all costs and expenses associated with any action for enforcement of this chapter including reasonable attorney fees.

(Ord. 2004-1, passed 10-26-04; Am. Commissioners Ord. 2008-6, passed 3-24-08)

**CHAPTER 113: SYNTHETIC CANNABINOIDS**

Section

113.01 Definitions

- 113.02 Sale of Synthetic Cannabinoids Prohibited
- 113.03 Enforcement
- 113.04 Defenses

**§113.01 DEFINITION**

***SYNTHETIC CANNABINOID.*** As used in this chapter, the term “synthetic cannabinoid” means any of the following:

- (A) All parts of the plant presently classified botanically as *Salvia Divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant its seeds or its extract;
- (B) HU-210 a substance also known as (6aR, 10aR)- 9-(Hydroxymethyl) 6,6-dimethyl-3-(2methyloctan-2-yl)- 6a, 7, 10, 10a-tetrahydrobenzo[c]chromen- 1-ol;
- (C) JWH-018, a substance also known as Naphthalen-1 –yl-(1-pentylindol-3-yl) methanone;
- (D) JWH-073, a substance also known as 1-yl(1butylindol-3-yl) methanone;
- (E) TFMPP, a substance also known as 1-[3-(trifluoromethyl)phenyl]piperazine;
- (F) Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2methylnonan-2-yl)phenol;
- (G) CP-47-497, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2methyloctan-2-yl)phenol;
- (H) JWH-250, a substance also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3yl)ethanone;
- (I) Structural analogs of any of these substances.
- (J) Any herbal-based substance sold under the name of K2, Spice, Acapulco Spices, Serenity Now, Spice Gold, Shokotsu, Afghan Incense, Baked, Black Magic, Buzz, Cherry Charm, Fire Bird, Fire “N” Ice, Pulse, Solitude or Voodoo, or any other herbal-based substance containing the foregoing described substances.  
(Commissioners Ord. 2010-4, passed 10-25-10)

**§113.02 SALE OF SYNTHETIC CANNABINOIDS PROHIBITED**

A person may not sell, barter, give, publicly display for sale, or attempt to sell, give or barter, or to possess any synthetic cannabinoid. (Commissioners Ord. 2010-4, passed 10-25-10)

**§113.03 ENFORCEMENT**

(A) The Montgomery County Sheriff’s Department is responsible for the interpretation and civil enforcement of this chapter.

(B) Enforcement personnel from the Montgomery County Sheriff’s Department may seize and destroy synthetic cannabinoids that are in violation of this chapter.

(C) A person in violation of this chapter shall be fined two hundred and fifty dollars (\$250.00). Each day a violation occurs or continues constitutes a separate offense.

(Commissioners Ord. 2010-4, passed 10-25-10)

**§113.04 DEFENSES**

(A) It is a defense under this Chapter that a person otherwise in violation is acting at the direction of an authorized agent of the County of Montgomery to enforce or ensure compliance with this Chapter.

(B) It is a defense under this Chapter that a person otherwise in violation is acting, with respect to the violation, under the direction or prescription of a person who holds an unlimited license to practice medicine under I.C. 25-22.5 or a license to practice dentistry under I.C. 25-14.

(C) It is defense under this Chapter that a person otherwise in violation is acting, with respect to the violation, in connection with a bona fide research or scientific endeavor funded by public entities or non-profit organizations.

(Commissioners Ord. 2010-4, passed 10-25-10)

**DIRECT SELLERS**

Section

114.01 Definitions

114.02 Exemptions

114.03 Registration Requirements

114.04 Additional information required

- 114.05 License and license fee
- 114.06 Investigation
- 114.07 Appeal
- 114.08 Conduct regulations
- 114.09 Revocation of registration

**§114.01                    DEFINITIONS**

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

**(A) CHARITABLE ORGANIZATION.** Any not-for-profit corporation or benevolent or philanthropic organization whose purpose is to promote education, religion or other philanthropic interests.

**(B) DIRECT SELLER.** Any individual who, individually, or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of the individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

**(C) GOODS.** Personal property of any kind, and shall include goods provided incidental to services offered or sold.

**(D) PERMANENT MERCHANT.** A direct seller who, for at least one year prior to the consideration of the application of this article to the merchants, has continuously operated an established place of business in this County or has continuously resided in this County and now does business from his residence.

(Comm. Ord 2016-24, passed 9-12-16)

**§114.02                    EXEMPTIONS**

The following shall be exempt from all provisions of this article:

**(A)** Any person delivering newspapers, fuel, dairy products or bakery goods to and at the request of regular customers on established routes;



- (B) Any person selling goods at wholesale to dealers in the goods;
- (C) Any person selling agricultural products which the person has grown or produced in the county and is being sold by a resident of the county;
- (D) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by the merchant within the county and who delivers the goods in their regular course of business;
- (E) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by the person;
- (F) Any person who has had, or one who represents a company which has, a prior business transaction, such as a prior sale of credit arrangement, with the prospective customer;
- (G) Any person selling or offering for sale a service unconnected with the sale of goods;
- (H) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law; or
- (I) Any employee, officer or agent of a charitable organization which has secured a permit as provided for elsewhere in this code.

(Comm. Ord 2016-24, passed 9-12-16)

### **§114.03                      REGISTRATION REQUIREMENTS**

- (A) Applicants must complete and return to the Montgomery County Sheriff's Office, during the hours of 8 a.m. to 4 p.m. Monday through Friday, at least three days before the applicant shall be authorized to do business, a registration form furnished by the Sheriff which shall require the following information:
  - (1) Name, permanent address, telephone number and temporary address, if any;
  - (2) Age, height, weight, color of hair and eyes;
  - (3) Name, address and telephone number of the person, firm association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
  - (4) Temporary address and telephone number from which business will be conducted, if any;

- (5) Nature of business to be conducted and a brief description of the goods and any services offered;
- (6) Make, model and license number of any vehicle to be used by the applicant in the conduct of his business;
- (7) The last three previous cities, counties, or towns where the applicant conducted similar business;
- (8) Place where applicant can be contacted for at least seven days after leaving the county; and
- (9) Statement as to whether applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

(B) Any person, firm or corporation who violates any provision of this article for which another penalty is not specifically provided shall, upon conviction, be subject to a fine in the amount of \$500. Separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Comm. Ord. 2016-24, passed 9-12-16)

**§114.04                    ADDITIONAL INFORMATION REQUIRED**

Each applicant shall present to the Montgomery County Sheriff's Office for examination:

- (A) A driver's license or some other proof of identity as may be reasonably required;
- (B) A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities; and
- (C) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law. The certificate shall state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

(Comm. Ord. 2016-24, passed - -16)

**§114.05                    INVESTIGATION AND REFUSAL**

(A) Upon receipt of each application, the Montgomery County Sheriff will refuse to register the applicant if it is determined pursuant to the investigation above, that:

- (1) The application contains any material omission or materially inaccurate statement;
- (2) Complaints of a material nature have been received and proven against the applicant by authorities in any of the three previous cities, counties and towns in which the applicant conducted similar business;
- (3) The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years the nature of which is directly related to the applicant's fitness to engage in direct selling; or
- (4) The applicant failed to comply with any applicable provisions of § 114.03.

(Comm. Ord. 2016-24, passed 9-12-16)

#### **§114.06 APPEAL OF DENIAL OR REVOCATION**

(A) Any person whose registration is denied or revoked may appeal the denial to the Board of County Commissioners by filing with the Auditor within ten (10) days of the denial or revocation a written appeal. This appeal must state the reasons the application or registrant believes that the denial or revocation is contrary to this ordinance or otherwise contrary to law.

(B) Upon receiving the appeal, the Auditor will notify the Board of County Commissioners of the appeal. The Board will conduct a hearing on the appeal within ten (10) days of the Auditor's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

(C) At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross-examine witnesses called by the Sheriff in support of the denial or revocation.

(D) Within 10 days of the hearing, the Board will make written findings and conclusions and mail the same to the appellant and the Sheriff.

(E) Either the Sheriff or the appellant may appeal the decision of the Board by filing an appeal with a court of competent jurisdiction within 30 days of the Board's decision.

(Comm. Ord. 2016-24, passed 9-12-16)

#### **§114.07 CONDUCT REGULATIONS**

The following regulations shall govern the conduct of the registrant.

(A) It shall be unlawful for any direct seller to:

- (1) Call at any dwelling or other place between the hours of 7:00 p.m. and 9:00 a.m., except by appointment;
- (2) To call at any dwelling or other place where a sign is displayed bearing the words “No Peddlers,” “No Solicitors” or words of similar meaning;
- (3) To call at the rear door of any dwelling place; or
- (4) To remain on any premises after being asked to leave by the owner, occupant or other person having authority over the premises.

(B) It shall be unlawful for a direct seller to misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of the visit, his or her identity or the identity of the organization he or she represents.

(C) It shall be unlawful for any direct seller to impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulation shall be observed.

(D) It shall be unlawful for any direct seller to make any loud noises or use any sound-amplifying device to attract customers in the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

(E) It shall be unlawful for any direct seller to allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(F) Any person, firm or corporation who violates any provision of this article for which another penalty is not specifically provided shall, upon conviction, be subject to a fine in the amount of \$500. Separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Comm. Ord. 2016-24, passed 9-12-16)

#### **§114.08                      REVOCATION OF REGISTRATION**

The registration of a direct seller may be revoked by the Montgomery County Sheriff for any violation of this article.

(Comm. Ord. 2016-24, passed 9-12-16)

#### **§114.09                      NOTICE OF FINE; APPEAL; PAYMENT OF FINE;    COLLECTION**

**(A)** In the event the Sheriff determines that a violation of this section has occurred, the Sheriff will deliver to the violator a fine citation. This citation will either be delivered personally to the violator or mailed to the violator.

**(B)** All fines are payable to the Sheriff within 30 days of the date of the fine citation.

**(C)** The violator has 10 days from the date of the issuance of the fine citation to appeal the citation to the Board of County Commissioners. The violator must file a written appeal with the Auditor. This appeal must state the reasons the violator believes that the fine is in error.

**(D)** Upon receiving the appeal, the Auditor will notify the Board of County Commissioners of the appeal. The Board will conduct a hearing on the appeal within ten (10) days of the Auditor's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

**(E)** At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross-examine witnesses called by the Sheriff in support of the denial or revocation.

**(D)** Within 10 days of the hearing, the Board will make written findings and conclusions and mail the same to the appellant and the Sheriff.

**(E)** Either the Sheriff or the appellant may appeal the decision of the Board by filing an appeal with a court of competent jurisdiction within 30 days of the Board's decision.

**(F)** If the violator fails to pay the fine within 30 days of the issuance of the citation, or 30 days from the date of the Board's decision if an appeal is filed, the Sheriff will refer the matter to the County Attorney for collection. If the matter is referred to the County Attorney for collection, the violator is liable to Montgomery County for all court costs, filing fees, and reasonable attorney's fees incurred by the County in the collection of the fine and those expenses incurred by the County in conjunction with any appeal.

(Ord. 2016-24, passed 9-12-16)

**TITLE XIII: GENERAL OFFENSES**

**CHAPTER 130: GENERAL OFFENSES**

Section

- 130.01 Operation upon public property
- 130.02 Weapons Prohibited in County Courthouse

- 130.03 Law enforcement vehicles; unlawful operation
- 130.04 Transportation of waste materials

**§130.01 OPERATION UPON PUBLIC PROPERTY**

(A) Skateboards are hereby prohibited upon county real estate. (Ord. 88-3, passed 5-1-88)

(B) No person shall operate a bicycle, rollerblades or skateboard upon the sidewalks, steps, lawn or other property of the County Courthouse. (Ord. 99-2, passed 7-6-99)  
Penalty, see § 10.99.

**§130.02 WEAPONS PROHIBITED IN COUNTY COURTHOUSE**

**§130.03 LAW ENFORCEMENT VEHICLES; UNLAWFUL OPERATION**

Both marked and unmarked law enforcement vehicles are authorized to be used for activity which is incidental to law enforcement functions, but law enforcement personnel are banned from the use of the vehicles for vacation or recreation trips which is to comply with the regulars of the Internal Revenue Service.  
(Ord. 11-85, passed –85) Penalty, see § 10.99

**§130.04 TRANSPORTATION OF WASTE MATERIALS**

(A) It shall be unlawful to transport into the county any garbage, refuse, debris, solid waste, chemicals, hazardous materials or any other substance for the purpose of its ultimate disposal, excepting that the disposal of certain materials shall be allowed upon approval by the County Commissioners of an application submitted in writing to the Commissioners not less than 60 days prior to the time proposed for the commencement of the disposal operations, setting forth the substance to be transported in to the county, the quantity of the substance to be transported, the type of method to be used for the ultimate disposal of the substance, the location of the disposal site, including the legal description and topographical maps, a certification of approval of the disposal from both federal and state agencies, and the posting of a cash and surety bond payable to the county, in an amount sufficient to save the county and its citizens harmless from any damages arising out of the disposal of the material and in compliance with all county, state and federal rules and regulations.

(B) It shall be unlawful for any person or persons to deposit, dump or dispose of any of the materials heretofore set forth in division (A) above transported into the county from any outside area unless the person or persons have complied with the requirement of division (A) above.

(C) In the event of the violation of any of the provisions of this section, the county shall have the right of injunctive relief for the purpose of preventing a continued violation of this section. (Ord. 3-84, passed 4-17-84) Penalty, see § 10.99 *Cross-reference: Illegal Dumping, see Chapter 50*

## **TITLE XV: LAND USAGE**

### Chapter 150

150. **BUILDING REGULATIONS; CONSTRUCTION**

151. **FLOOD HAZARD AREAS**



- 152. **SUBDIVISIONS**
- 153. **SUGAR CREEK ZONING**
- 154. **STORMWATER DRAINAGE**
- 155. **WIND ENERGY CONVERSION SYSTEMS**
- 156. **MAPPING FEES**

**CHAPTER 150: BUILDING REGULATIONS CONSTRUCTION**

Section

150.01	Title
150.02	Purpose
150.03	Authority
150.04	Scope
150.05	Regulations adopted by reference
150.06	Permit application
150.07	Inspections
150.08	Entry
150.09	Stop order
150.10	Certificate of occupancy
150.11	Standards
150.12	Violations
150.13	Right of Appeal
150.14	Remedies
150.99	Penalty

Appendix: Permit fees

**§150.01 TITLE**

This chapter, and all ordinances supplemental or amendatory hereto, shall be known as the “County Building Code,” may be cited as such and will be referred to herein as “this code.” (Ord. 87-3, passed 8-4-87; Am Ord. passed 9-21-87)

**§150.03 AUTHORITY**

(A) (1) The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of the code.

(2) Whenever in the building regulations it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Board of Commissioners, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with. The provision shall be construed as giving any officer discretionary

powers as to what regulations, codes or standards shall be, or power to require conditions not prescribed by ordinances or to enforce ordinance provisions in an arbitrary or discriminatory manner.

**(B)** The Building Commissioner, after having been designated as the 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.

(2) No permits shall be issued for structures with sanitary facilities or required to have sanitary facilities unless a septic permit or waiver is issued by the Montgomery County Health Department, pursuant to Chapter 157 of this Code.

(3) No permits shall be issued if the planned construction will violate any other ordinances administered by the Montgomery County Building Administration.

(4) Prior to issuing any new or renewal permit, the applicant or owner of the real estate on which the building or structure will be located, shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or owner is not delinquent in the payment of any personal property, and delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator or Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property, any delinquent personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxes owed by the applicant or owner are paid in full, including penalties. This section shall not apply to permits relating to emergency septic repairs.

**(B) (1)** A permit shall be obtained before beginning construction, alteration or repair of any building or structure using forms furnished by the Building Commissioner.

(2) All permits shall be issued by the Building Commissioner and all fees provided for herein shall be paid to the county.

**(3)** *Advanced Structural Components.*

(a) Applications for a building permit for a Class 1 or Class 2 structure, as defined in Indiana Code 22-12-1-4 and 22-12-1-5, respectively, must provide the following information:

- (i) The street address of qualifying property containing advanced structural components. Advanced structural components mean lightweight I-joists or lightweight roof trusses that have less mass cross-sectional area than sawn lumber of equivalent proportions used in an equivalent application and are assembled from combustible or noncombustible materials, or both. Advances structural components does not mean a structural assembly, joist, or truss that provides at least one hour of fire resistance when tested in accordance with the American Society for Testing and Materials Standard E119;
- (ii) The name of the township and the county in which the qualifying property is located;
- (iii) The types of advanced structural components used in the qualifying property; and

- (iv) The location of the advanced structural components used in the floor, or roof, or both, of the qualifying property.
- (b) Within 90 days after the issuance of any building permit, the Building Commissioner will send electronic notification, read receipt requested, of the structure's use of advanced structural components as defined in section 150.06(B)(3), to the local fire department and 911 telephone call center responsible for the area where the structure is located.
- (c) Upon receiving a notification from the Building Commissioner that a property contains advanced structural components, the E911 Call Center shall:
  - (i) maintain the information contained in the notification; and
  - (ii) relay the information to all responding public safety units whenever dispatching such units to the property."

(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.

**(E) Conflicts of Interest**

(1) Definitions: The following definitions apply to this subsection:

- a. Conflict of Interest: A "conflict of interest" means a direct or indirect financial interest in the issuance or denial of issuance of a permit; and
- b. Permit: A permit means any of the following:
  - i. An improvement location permit;
  - ii. A building permit;
  - iii. A certificate of occupancy;
  - iv. Approval of a site-specific development plan;
  - v. Approval of a primary or secondary plat;
  - vi. Approval of a contingent use, conditional use, special exception or special use; or
  - vii. Approval of a planned unit development.

(2) Conflict of Interest Prohibited: The Building Commissioner, Building Code Official, or Building Inspector is prohibited from issuing a building permit or oversee the issuance of a permit if the Building Commissioner, Building Code Official, or Building Inspector possesses a conflict of interest.

(3) Notice to Department Head: If the Building Commissioner, Building Code Official, or Building Inspector has a conflict of interest in the issuance of a permit, he or she must

report the conflict, in writing, to his or her Department Head immediately upon learning of the conflict. The Department Head must place this notice in the permit applicant's file.

(4) Disqualification: If the Building Commissioner or a building code official or building inspector has a conflict of interest with regard to a permit, he or she is disqualified from reviewing, participating in review discussions, making decisions, or otherwise being involved in the permit process for that particular permit.

(5) Appointment of a Qualified Temporary Replacement: The Department Head must then appoint a qualified temporary replacement Building Commissioner, Building Code Official, or Building Inspector. This appointment may be any qualified individual of the Building Department. If no County employee is qualified to be the temporary replacement, the Department Head may contract a qualified independent contractor to oversee the issuance or denial of a permit. Any appointment made or contract entered into under this policy must be with an individual who does not possess a conflict of interest in the issuance of the permit in question. The Department Head shall follow all County policies when contracting a qualified temporary replacement.

(6) Exclusion of Disqualified Official: The Department Head must ensure that all documents, records, and communications regarding the issuance of the permit are removed from the possession of the Building Commissioner, Building Code Official, or Building Inspector who possesses a conflict of interest. The Department Head shall also ensure that the employee is excluded from any internal meetings, deliberation, or communication regarding the issuance of the permit.

(7) Document Retention: The Department Head must retain all documents regarding the conflict of interest in the permit file and the official's personnel file for a period of ten years.

(8) Penalties: Failure of a Building Commissioner, Building Code Official, or Building Inspector to notify the Department Head of a conflict of interest will subject the employee to discipline. This discipline may include suspension without pay and/or termination.

(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; Am. Ord. 2018-33, passed 11-19-18). (Ord. 2019-17, passed 6-24-19).

## **§150.07        INSPECTIONS**

**(A) Inspections Generally.** Prior to or after the issuance of any building permit hereunder, the Building Commissioner shall make, or cause to be made, inspections of the work being done under the permit as are necessary to ensure full compliance with the provisions of this chapter and the terms of the permit.

**(B) Re-Inspections.** Re-inspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this chapter.

(C) Utility Inspections. Any inspections required by electrical or other utilities providing services to the site must be completed prior to the issuance of the building permit or other permissions contemplated by this Chapter. The permittee will provide to the Building Commissioner a completion of the required utility inspections, (Ord. 87-3, passed 8-4-87; Am. Ord. passed 9-21-87, Am. Ord. 2019-23, passed 8-12-19).

**§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**

**(A)** The fee for all permits (other than WECS Towers or Substations) shall be as follows:

(1) 1&2 Family Dwelling	\$150.00 base rate Plus \$.10/sq ft living space
(2) Multiple Unit (3 or more)	\$200.00 base rate Plus \$.10/sq ft living space Each additional unit \$100.00
(3) Commercial	\$300.00 base rate Plus \$.10/ sq ft (includes Comm Pole Buildings)
(a) Commercial Addition or Remodel	\$200.00 base rate Plus \$.10/sq ft
(4) Manufactured Housing	\$100.00 base rate
(5) Additions (residential)	\$100.00 base rate Plus \$.05/sq ft living space
(6) Garages	\$100 base rate Plus \$.05/sqft
(7) Pole Bldgs	\$100.00 base rate Plus \$.05/sqft
(8) Remodel with structural	\$50.00 base rate
Structural changes	Plus \$.05/sqft
Stormwater Inspection	\$40.00
Stormwater Review	\$80.00/hr
Floodplain Permit	\$100.00
Floodplain Inspection	\$40.00
Electrical Inspection	\$50.00
Demolition Permit	\$30.00
Additional Inspections	\$30.00

**(B)** Notwithstanding the provisions of paragraph (A) above, the maximum fee for any building permit shall be \$30,000.00. This limit shall not apply to permits for WECS Towers or Substations under paragraph (C) below.

**(C)** The building permit applicable to “WECS Towers” and “Substations” (as those terms are defined by Chapter 155 of this Code of Ordinances) shall be as follows:

- (1)** WECS Tower: \$1,750.00 per megawatt of generating capacity
- (2)** Substation: \$300.00

**Building Permit Expiration (Permit valid for one year) A re-issue fee of \$20.00 is required after one year from issue date.**

### **Building Permit Exemptions**

The following projects are exempt from building permits:

- 1) Portable buildings without electricity
- 2) Roofing projects with no structural changes
- 3) Siding and window replacement projects with no structural changes
- 4) Redecorating projects
- 5) Portable agricultural buildings with no electricity
- 6) Any non-electrical building project under \$2,000.00 in value

(Ord. 87-3, passed 9-14-04; Am. Commissioners Ord. 2007-02, passed 6-29-07; Am. Commissioners Ord. 2008-10, passed 6-9-08; Am. Commissioners Ord. 2009-6, passed 7-27-09)

## CHAPTER 151: FLOOD HAZARD AREAS

### Section

#### *General Provisions*

- 151.01 Statutory authorization
- 151.02 Purpose
- 151.03 Definitions
- 151.04 Administrator; duties
- 151.05 Regulatory flood elevation
- 151.06 Disclaimer of liability
- 151.07 Abrogation and greater restrictions

#### *Flood Damage Prevention*

- 151.20 Preventing increased damages
- 151.21 Protecting buildings
- 151.22 Development requirements

#### *Administration and Enforcement*

- 151.35 Improvements location permit
  - 151.36 Variances
  - 151.37 Violations
- Cross-reference:*  
*Floodplain Commission, see § 33.09*  
*Stormwater Drainage, see Chapter 154*  
*Flood Ordinance Review Account, see § 35.11*

### **GENERAL PROVISIONS**

#### **§151.01 STATUTORY AUTHORIZATION**

The Indiana Legislature granted the power to local units of government to control land use within their jurisdictions in order to accomplish the following provisions.  
(Ord. 4-1997, passed 4-15-97)

**§151.02 PURPOSE**

(A) The purpose of this chapter is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards and to reduce the potential for extraordinary public expenditures for flood protection and relief.

(B) Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the County Board of Commissioners hereby adopts the following floodplain management regulations in order to accomplish the following:

- (1) To prevent unwise developments from increasing flood or drainage hazards to others;
- (2) To protect new buildings and major improvements to buildings from flood damage;
- (3) To protect human life and health from the hazards of flooding;
- (4) To lessen the burden on the taxpayer for flood control projects, repairs to flood damaged public facilities and utilities and flood rescue and relief operations;
- (5) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- (6) To make federal subsidized flood insurance available for structures and their contents in the county by fulfilling the requirements of the National Flood Insurance Program.  
(Ord. 4-1997, passed 4-15-97)

**§151.03 DEFINITIONS**

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

***BUILDING.*** See ***STRUCTURE.***

***DEVELOPMENT.*** Any manmade change to improved or unimproved real estate including, but not limited to:

- (1) Construction, reconstruction or placement of a building or any addition to a building;

- (2) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) Installing utilities, erection of walls and fences, construction of roads or similar projects;
- (4) Constructions of flood control structures such as levees, dikes, dams, channel improvements and the like;
- (5) Mining, dredging, filling, grading, excavation or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Storage of materials; or
- (8) Any other activity that might change the direction, height or velocity of flood or surface waters.

***DEVELOPMENT.*** Does not include activities such as the maintenance of existing buildings and facilities such as painting; re-roofing; resurfacing of roads; or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation or the construction of permanent buildings.

***EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.*** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed before the effective date of this chapter.

***EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.*** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

***FBFM.*** Flood boundary and floodway map.

***FEMA.*** Federal Emergency Management Agency.

***FHBM.*** Flood hazard boundary map.

***FIRM.*** Flood insurance rate map.

**FLOOD.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation or the runoff of surface waters from any source.

**FLOODPLAIN.** The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The **FLOODPLAIN** includes both the floodway and the floodway fringe districts.

**FLOOD PROTECTION GRADE** or **FPG.** The elevation of the regulatory flood plus two feet at any given location in the **SFHA**.

**FLOODWAY.** The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

**FLOODWAY FRINGE.** Those portions of the floodplain lying outside the floodway.  
**LETTER OF MAP AMENDMENT** or **LOMA.** An amendment to the currently effective **FEMA** map that establishes that a property is not located in a special flood hazard area. A **LOMA** is only issued by **FEMA**.

**LETTER OF MAP REVISION** or **LOMR.** An official revision to the currently effective **FEMA** map. It is issued by **FEMA** and changes flood zones, delineations and elevations.

**LOWEST FLOOR.** The lowest of the following:

- (1) The top of the basement floor;
- (2) The top of the garage floor, if the garage is the lowest level of the building;
- (3) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
- (4) The top of the first floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of floodwaters unless:
  - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters, 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 a “historic structure,” provided that the alteration will not preclude the structures continued designation as a “historic structure.” (Ord. 4-1997, passed 4-15-97)

#### **§151.04 ADMINISTRATOR; DUTIES.**

The County Building Administrator is appointed to review all developments and subdivision proposals to ensure compliance with this chapter, including, but not limited to the following duties:

- (A) Ensure that all development activities within the SFHAs of the jurisdiction of the county meet the requirements of this chapter;
- (B) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- (C) Ensure that construction authorization has been granted by the State Natural Resources Commission for all development projects subject to § 151.20 and maintain a record of the authorization, either copy of actual permit or letter of recommendation;
- (D) Maintain a record of the “as-built” elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA and inspect the site before, during and after construction;
- (E) Maintain a record of the engineer’s certificate and the “as-built” floodproofed elevation of all buildings subject to § 151.21;
- (F) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this chapter and submit reports as required for the National Flood Insurance Program;
- (G) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, LOMAs, LOMRs, copies of DNR permits and letters and recommendation, federal permit documents and “as-built” elevation and floodproofing data for all buildings constructed subject to this chapter; and

(H) Notify adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse and submit copies of the notifications to FEMA. (Ord. 4-1997, passed 4-15-97)

#### **§151.05 REGULATORY FLOOD ELEVATION**

(A) This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

(B) The regulatory flood elevation and floodway limits for each of the SFHAs, delineated as "Zone A" on the flood hazard boundary map of the county, shall be according to the best data available as provided by the Department of Natural Resources.  
(Ord. 4-1997, passed 4-15-97)

#### **§151.06 DISCLAIMER OF LIABILITY**

(A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions.

(B) Therefore, this chapter does not create any liability on the part of the community, County Board of Commissioners, Natural Resources Commission or the state for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder. (Ord. 4-1997, passed 4-15-97)

#### **§151.07 ABROGATION AND GREATER RESTRICTIONS**

This chapter repeals and replaces other ordinances adopted by the County Board of Commissioners to fulfill the requirements of the National Flood Insurance Program. However, this chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this chapter repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this chapter and other ordinance easements, covenants or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the County Board of Commissioners shall assure that all National Flood Insurance Program regulations and laws, I.C. 14-28-1 and I.C. 14-28-3 are met.

(Ord. 4-1997, passed 4-15-97; Am. Commissioners Ord. 2008-1, passed 2-11-08)

## ***FLOOD DAMAGE PREVENTION***

### **§151.20 PREVENTING INCREASED DAMAGES**

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(A) Within the floodway identified on the flood boundary and floodway map, the flood insurance rate map or engineering analysis, as provided in § 151.35, shall apply:

(1) No development shall be allowed which acting alone or in combination with existing or future development will cause an 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 floodway/floodway fringe delineation has been provided) the following standard shall apply.

(2) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth of one foot and will not increase flood damages or potential flood damages.

(C) (1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants or other hazardous or toxic materials below the flood protection grade unless the materials are stored in a floodproofed storage tank or building constructed according to the requirements of § 151.22.

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above-ground openings are located above the FPG, or those which are located below the FPG are watertight.

(Ord. 4-1997, passed 4-15-97)

### **§151.21 PROTECTING BUILDINGS**

(A) In addition to the damage prevention requirements of § 151.20, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

**(B)** This building protection requirement applies to the following situations:

**(1)** Construction or placement of any new building having a floor area greater than 400 square feet;

**(2)** Structural alterations made to:

**(a)** An existing previously unaltered building, the cost of which equals or exceeds 50% of the value of the pre-altered building, excluding the value of the land; and

**(b)** Any previously altered building.

**(3)** Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building, excluding the value of the land, before damage occurred;

**(4)** Installing a manufactured home on a new site or a new manufactured home on an existing site (This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.); and

**(5)** Installing a travel trailer or recreational vehicle on a site for more than 180 days.

**(C)** This building protection requirement may be met by one of the following methods. The Building Administrator shall maintain a record of compliance with these building protection standards as required in § 151.04.

**(1)** A residential or nonresidential building may be constructed on a permanent landfill in accordance with the following:

**(a)** The fill shall be placed in layers no greater than one-foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

**(b)** The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.

**(c)** The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The top of the lowest floor including basements shall be at or above the FPG.

(2) A residential or nonresidential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls or other types of similar foundation provided:

1. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters, through providing a minimum of two openings, in addition to doorways and windows, having a total area of one square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade.

2. Any enclosure below the elevated floor is used for storage of vehicles and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice and floating debris.

(c) All areas below the FPG shall be constructed of materials resistant to flood damages. The top of the lowest floor, including basement, and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the FPG.

(3) Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral

movement. This requirement applies to all manufactured homes to be placed on a site:

- (i) Outside a manufactured home park or subdivision;
- (ii) In a new manufactured home park or subdivision;
- (iii) In an expansion to an existing manufactured home park or subdivision; or
- (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.

(4) This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) Recreational vehicles placed on a site shall either:

- (a) Be on the site for less than 180 consecutive days;
- (b) Be fully licensed and ready for highway use, defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions; or
- (c) Meet the requirements for “manufactured homes” herein.

(6) A nonresidential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

- (a) A registered professional engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood.
- (b) The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures and impacts from debris or ice.

- (c) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(Ord. 4-1997, passed 4-15-97)

## **§151.22 DEVELOPMENT REQUIREMENTS**

(A) The Building Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Floodplain Administrator finds the subdivision to be so located, the Floodplain Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Floodplain Administrator shall require appropriate changes and modifications in order to assure that:

- (1) It is consistent with the need to minimize flood damages;
- (2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
- (4) Onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(B) Developers shall record the 100-year flood elevation on all subdivision plats containing lands identified elsewhere by this chapter within a flood hazard area prior to submitting the plats for approval by the Board of Commissioners.

(C) All owners of manufactured home parks or subdivisions located within the SFHA, identified as Zone A on the community's FHMB or FIRM, shall develop an evacuation plan for those lots located in the SFHA and file it with the Building Administrator and have it filed with and approved by the appropriate community emergency management authorities. (Ord. 4-1997, passed 4-15-97)b

## ADMINISTRATION AND ENFORCEMENT

### §151.35 IMPROVEMENT LOCATION PERMIT

(A) No person, firm, corporation or governmental body not exempted by state law shall commence any “development” in the SFHA without first obtaining an improvement location permit from the Building Administrator. The Building Administrator shall not issue an improvement location permit if the proposed “development” does not meet the requirements of this chapter.

(B) The application for an improvement location permit shall be accompanied by the following:

- (1) A description of the proposed development;
- (2) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
- (3) A legal description of the property site;
- (4) A site development plan showing existing and proposed development locations and existing and proposed land grades; and
- (5) Elevation of the top of the lowest floor, including basement, of all proposed development. Elevation should be in NGVD or NAVD. In either case the conversion formula should be included.

(C) Upon receipt of an application for an improvement location permit, the Building Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.

- (1) If the site is in an identified floodway the Building Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving and the like undertaken before the actual start of construction of the building. No action shall be taken by the Building Administrator until a permit has been issued by the Natural



Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Building Administrator may issue the local improvement location permit, provided the provisions contained in §§ 151.20 and 151.21 have been met. The improvement location permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) If the site is located in an identified floodway fringe, then the Building Administrator may issue the local improvement location permit provided the provisions contained in §§ 151.20 and 151.21 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(3) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is greater than one square mile, the Building Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment. No action shall be taken by the Building Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended FPG has been received from the Department of Natural Resources. Once the Building Administrator has received the proper permit or letter of recommendation approving the proposed development, an improvement location permit may be issued provided the conditions of the improvement location permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in §§ 151.20 and 151.21 have been met.

(4) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Building Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year elevation for the site. Upon receipt, the Building Administrator may issue the local improvement location permit provided the provisions contained in §§ 151.20 and 151.21 have been met.

(D) Prior to issuing any improvement location permit, the applicant or owner of the real estate on which the “development” will be located, shall be required to obtain from Montgomery County Treasurer a certificate of clearance verifying that the applicant or owner is not delinquent in the payment of any personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator shall withhold issuance of an improvement location permit until any delinquent personal property,

any delinquent real estate taxes, drainage assessments or other special assessments taxes owed 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 may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects.
- (5)** All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction.
- (6)** The Board of County Commissioners shall issue a written notice to the recipient of a

variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums. (Ord. 4-1997, passed 4-15-97)

**§151.37 VIOLATIONS**

(A) Failure to obtain an improvement location permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the laws of the state.

(B) A separate offense shall be deemed to occur for each day the violation continues to exist.

(C) The Building Administrator shall inform the owner that any violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(D) Nothing herein shall prevent the county from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible (Ord. 4-1997, passed 4-15-97)

## CHAPTER 152: SUBDIVISIONS

### Section

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## **§152.01        PURPOSE**

This chapter is enacted to regulate the division of land within the county. The Plan Commission and the county shall have all the powers and duties with respect to preliminary and final plats of subdivisions and the procedures relating thereto which are specified by the laws of the state. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the protection of the public health, safety and general welfare, by providing for the orderly and harmonious development of the county, for the coordination of subdivision streets with existing and planned streets or highways; for the coordination with the extension of community facilities and utilities; for the establishment of similar requirements for the area and dimensions of lots and blocks within subdivisions; and for the provision of adequate and suitably located open space for schools, parks and other recreation and for adequate drainage, and protection of the water table, water sources, and the environment. (Ord. passed 4-21-03)

## **§152.02        ADMINISTRATION**

### **APPROVAL OF PLATS**

**(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 OR Plan Commission Vice President, acting in absence of the President.

### **CRITERIA FOR APPROVAL**

**(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)** Compliance with Ordinances. 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 Subdivision Control Ordinance 154, Zoning Ordinance, Storm Water Ordinance, Storm Drainage erosion and Sediment Control Ordinance, the 911 Re-addressing Ordinance, Chapter 150 Building Code, Chapter 151 Flood Hazard Code, Chapter 153 Sugar Creek Zoning, Chapter 155 WECS, Chapter 157 Private Sewage Disposal, local and state building codes, local and state health codes, and county highway specifications, if applicable.

(2) Prevention of Air Pollution and Water Pollution. 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) Unsuitable Land. 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) Road Access. 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, Am. Ord. 2020-32, passed 9-26-2020).

### **§152.03 JURISDICTION**

This chapter shall apply to all land in the county except land in incorporated areas of towns or cities in Montgomery County. (Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

### **§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, 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.

**MINOR PLAT.** The division of land fronting on an existing dedicated street or road which (1) does not create more than five lots, with the balance of the original parcel counting as one of the five lots, (2) provides for minimum lot size of two or more acres, and (3) does not involve the creation of any new public or private streets or roads.

**PLAT.** A map or plan indicating graphically a proposed subdivision or re-subdivision of land.

**RECORDER.** The Montgomery 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 two or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of transfer of ownership. Parcelization for agricultural purposes is exempt.

**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.

**ZONING ADMINISTRATOR.** The Montgomery County Zoning Administrator. (Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

## ***APPLICATION PROCEDURES***

### **§152.15 WAIVERS**

Where the strict 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, in its discretion, waive the requirements of this chapter as they would apply to individual lots or areas of the proposed subdivision. (Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

(A) *Waivers.* In considering waivers, the Plan Commission must find:

- (1) The strict enforcement of the Subdivision Control Ordinance would result in extraordinary hardship or deny the reasonable use of the land due to unusual conditions of topography or other exceptional condition's peculiar to the site;
- (2) The proposed alternate proposal complies with the Zoning Ordinance or the applicant has been granted a variance by the Board of Zoning Appeals; and
- (3) The proposed alternative will not
  - (A) be detrimental to the public health, safety, or general welfare;
  - (B) be injurious to adjacent property;



(C) contradict the general intent of the purposes of the Subdivision Control Ordinance, Comprehensive Plan, or Zoning Ordinance or the goals and objectives thereof.

(B) *Application for Waivers.* At the time of filing a request, the applicant must submit a written request for waivers and state the reason which support the request.

(C) *Public Hearing.* Waivers require a public hearing and will be heard at the same time as the underlying request.

(D) *Limitation in Granting.* The Plan Commission may grant waivers that it, in its discretion, meet the criteria articulated in § 152. 18(A), but the Plan Commission may not grant waivers that are not specifically requested at the time of filing by the applicant.

(E) *Variances.* The Plan Commission has no authority to grant variances from the Zoning Ordinance.

(F) *Procedure.* Prior to approving or denying any underlying request, the Plan Commission must either approve or deny the waiver request.

#### **§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 Zoning 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, Am. Ord. 2020-32, passed 9-26-2020).

#### **§152.17        APPLICATION**

A subdivider desiring approval of a plat, plat amendment, re-plat or vacation of a plat of a subdivision of any land lying within the county jurisdiction shall submit a written application for a certificate of approval and 10 copies of a preliminary plat of the subdivision to the Zoning Administrator. The Zoning Administrator will review the application for completeness and notify the application of additional information required for submission. (Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

**§152.18 FEE**

At the time of filing an application for approval of the preliminary plat, plat amendment, re-plat or vacation of a plat, the application shall be accompanied by an application fee of \$150 for residential applications or \$300 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, Am. Ord. 2020-32, passed 9-26-2020).

**§152.19 PUBLIC HEARING**

If the Zoning Administrator is satisfied that the application is complete they shall, within 30 days or receipt, set a date for hearing for the Commission and provide written notice to the applicant and notify by general publications or otherwise, any person, governmental unit, or entity owning land within one-half mile from the subject site prior to the date set for the hearing. The notice to interested parties must be mailed at least 10 days prior to the hearing. The costs of publishing any notice of hearing shall be paid by the applicant prior to the approval. (Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

**§152.20 IMPACT ASSESSMENTS**

After reviewing an application, the Zoning Administrator may require that impact assessments be done for discussion at the time of the public hearing. Such assessments shall be performed by qualified professionals with training, experience, and expertise in the field relevant to the specific section of the study in which work shall be performed. After the public hearing has been opened, the Plan Commission may also require such studies at the expense of the applicant. 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 paid by the applicant. (Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

**§152.21 STEPS FOR SUBDIVISION APPROVAL**

Steps for subdivision approval:

- (A) Application for subdivision submitted to the Zoning Administrator.
- (B) General presentation of the proposed development to the Plan Commission.
- (C) Concept approval by the Plan Commission.

**(D) Technical Approvals:**

(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, Am. Ord. 2020-32, passed 9-26-2020).

## *PLATTING PROCEDURES*

### **§152.35      PLAT REQUIREMENTS**

(A) *Preliminary Plat Plans.* The primary plat shall be required as part of any application for primary plat approval. If applicable, the applicant shall submit proof of secured public sewer and/or public water connection. The plat shall be drawn at a scale of 50 feet to 1 inch, except that when the drawing at the scale requires more than 1 sheet, the plat may be drawn at a scale of 100 feet to 1 inch. Sheets shall not exceed 24 inches by 36 inches in size. The Primary Plat shall be prepared and certified by a land surveyor and/or a professional engineer registered by the state. A primary subdivision plat shall be submitted showing the following, but not limited to:

- (1) The proposed name of the subdivision.
- (2) Names and addresses of the owner, subdivider, and consulting engineer, land surveyor, or planning firm that prepared the plan;
- (3) Legend and notes including the scale, north point, and date;
- (4) Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners;
- (5) Existing use of the tract and all contiguous tracts surrounding the proposed subdivision;
- (6) All section and municipal corporate boundaries lying within or contiguous to the tract;
- (7) Topographic contours at typical intervals of one foot if the general slope of the tract is less than 5% or intervals of two feet if the slope is in excess of 5%. Said contours shall be referenced to mean sea level elevations;
- (8) Layout of lots, showing dimensions and numbers and square footage of each lot;
- (9) Building lines showing setback dimensions throughout the subdivision;
- (10) Parcels of land proposed to be dedicated or reserved for schools, open space

(indicating its use as park, playground, natural area, or other) or other public, semi-public or community purposes;

**(11)** Streets, rights-of-way, and driveways within 500 feet of the site of the gradients, types and widths of pavements, curbs, sidewalks, and horizontal curve radii;

**(12)** Existing and proposed easements including the location, width, and purpose of such easements;

**(13)** Location, size, and capacity of any public sewer and/or water utilities, if such facilities are available;

**(14)** Location of natural streams, regulated drains, floodplain, pipelines, power lines, and the like;

**(15)** A description of the surface drainage system to an approved outlet, including data showing that said outlet is adequate to accommodate the drainage requirements of the finished subdivision. Arrows designated the general drainage of all streets and lots shall be included;

**(16)** Location of any subsurface drainage required under the County Health Code and/or Chapter 154, or amendments hereto showing the location of all easements and all data pertaining to the size and capacity of such drainage.

**(17)** The boundaries and numbers of sections shall be shown if the primary plat is to be divided into sections or phases of development;

**(18)** Protective covenant and restrictions which are properly prepared and legally sound shall be subject to the approval of the Plan Commission; and

**(19)** Buffer yard, lighting and parking plans, if applicable.

**(20)** Names and addresses of all property owners within one-half mile of the subject site.

**(21)** One digital copy of the plat in shape file format (Indiana State Plane NAD 83) or GEO database format.

**(B) *Secondary Plat Plans.*** The plat shall be drawn at a scale of 50 feet to 1 inch, except that when the drawing at that scale requires more than 1 sheet, the plat may be drawn at a scale of 100 feet to 1 inch. Sheets shall not exceed 34 inches by 44 inches in size. The secondary plat shall be prepared and certified by a land surveyor and/or a professional engineer registered by

the state. The secondary plat may include all or only a part of the primary plat which has received approval. The following information shall be shown on the secondary plat, but not limited to:

- (1) The name of subdivision and section number followed by the words “secondary plat;
- (2) Accurate boundary lines, with dimension and angles, which provide a legal survey of the tract, closing with an error of not more than 1 foot in 5,000 feet;
- (3) Accurate distances and directions to the nearest official monument. Reference corners shall be accurately described on the plan;
- (4) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;
- (5) Accurate meters and bounds description of the tract boundary;
- (6) Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder.
- (7) Street names;
- (8) Complete curve data for all curves included in the plan;
- (9) Street lines with accurate dimensions in feet and hundredths of feet with angles 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) Names and addresses of all land owners within one-half mile of the subject site.
- (22) Certificate of approval by the Plan Commission;  
(Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

**§152.36        PRELIMINARY PLAT APPROVALS**

(A) *Decision by the Plan Commission.* Within 30 days of the public hearing concerning an application for approval of a subdivision plat, the Plan Commission shall notify the applicant in writing stating whether the primary plat is approved or disapproved.

(B) *Approval.* If the Plan Commission determines that the primary plat complies with the standards set forth in this chapter, it shall make written findings of fact and a decision granting primary approval to the plat. The decision must specify any condition imposed, commitment made and waiver granted and must be signed by the President or Vice President acting in the absence of the President.

(1) The Plan Commission may impose conditions upon or accept commitments made that are, in its discretion, 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.

(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, or the Vice President acting in the absence of the President.

(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, Am. Ord. 2020-32, passed 9-26-2020).

### **§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, approve with conditions, 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 or Vice 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;
- (6) The Zoning Administrator; and
- (7) The County Health Officer.

(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, Am. Ord. 2020-32, passed 9-26-2020).



**§152.38        RECORDING**

A plat, plat amendment, re-plat or vacation of 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 or the Vice President, and if applicable the required performance bond as provided for in §152.39(B) has been provided to the Zoning Administrator. The filing and recording of the plat are without legal effect unless approved by the Plan Commission. (Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

**§152.39        REQUIRED IMPROVEMENTS**

(A) *Completed.* 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 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) *Improvements Not Completed.* In the alternative, if the required improvements have not been installed, the applicant must provide to the Zoning Administrator a performance bond, letter or credit, or surety acceptable to the Zoning Administrator in an amount determined by the Zoning Administrator to be sufficient to ensure completion of the unfinished required improvements. This bond must be payable to Montgomery County. All required improvements must be completed within two (2) years of the approval of the final plat. The bond must be provided on the date the applicant intends to record the final plat. The provisions of the bond are a prerequisite to recording.

(C) *Release of Surety.* The surety shall not be released until the applicant has provided the Zoning Administrator with a certificate of completion, and the Zoning Administrator inspects the improvements and accepts certified compliance with the approval. If the Zoning Administrator and applicant agree to a partial release schedule, as provided for in Indiana Code 36-7-4-709(h), Zoning Administrator may, upon completion of some portion of the required improvements to the satisfaction of the Zoning Administration, authorize partial release of any surety annually or more frequently as provided for in the schedule.

(D) *Failure to Complete Improvements.* If the applicant fails to complete the required improvements, the Zoning Administrator is entitled to make a claim on the surety on behalf of the County, and receive the surety proceeds and cause the improvements to be constructed.

(E) *Certificate of Occupancy.* No certificate of occupancy may be granted for the subject site, or any part thereof, until the required improvements are completed and certified by the Zoning Administrator.

(F) *Maintenance Bonds.* The Plan Commission may require the applicant to post a maintenance bond, not to exceed an effective period of three years.

(G) *Surety Amounts.* The amount of any surety must be based upon a value provided for in an engineer's estimate of an actual contract amount, if applicable to complete the improvements.

(Ord. passed 4-21-03, Am. Ord. 2020-32, passed 9-26-2020).

#### **§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 acknowledgment, 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)

#### **§152.41 VACATION OF PLATS**

(A) **Agreed Vacations.** If all of the owners of land in a plat are in agreement regarding a proposed vacation, the owners may file a written instrument to vacate all or part of that plat. The instrument must be executed by all owners of land in the plat, acknowledged and recorded in the same manner as a deed to land.

1. **Procedure.** Prior to offering the instrument for recording, an owner must obtain approval from the Plan Commission and file the instrument with the Montgomery County Auditor.
2. **No Public Hearing.** The instrument for vacation may be approved by the Plan Commission without a public hearing.
3. **Recording.** After approval by the Plan Commission and filing with the Auditor, the instrument may be recorded.

(B) **Contested Vacations.** If not all landowners in a plat agree to a vacation of the plat or any part thereof, one or more may file a petition to vacate all of the plat or only that part of the plat that pertains to the land owned by the petitioner or petitioners.

1. **Petition.** The Petitioner must state in the petition the reasons for the circumstances prompting the request, specifically describe the property in the plat proposed to be vacated, and the name and address of every owner of the land in the plat.

**Vacation of Covenants.** Recorded covenants of a plat may only be vacated if the Plan Commission finds:

- a. the platted area is within an area needing redevelopment and the covenant vacation would promote recovery of property values in the area needing redevelopment by allowing or encouraging normal development and occupancy of the platted area;
- b. the covenant vacation is needed to secure for the public adequate light, air, convenience of access, or safety from flood or other danger; or
- c. the covenant vacation is needed to lessen or avoid congestion in the public ways.

3. **Hearing.** Not more than 30 days after receiving the petition, the Zoning Administrator will schedule a hearing on the petition and provide notice to all owners of land in the plat, with said notice to be mailed at least 10 days prior to the hearing. The petitioner or petitioners will pay the expense of the mailing of this notice. At the public hearing, the petitioner or petitioners and all owners of land in the plat will have the opportunity to be heard on the proposed vacation.

4. **Decision.** After the public hearing, the Plan Commission will approve, approve with conditions, or disapprove the request. In order to approve the request, the Plan Commission must find:

- a. conditions in the platted area have changed so as to defeat the original purpose of the plat;
- b. it is in the public interest to vacate all or part of the plat; and
- c. the value of that part of the land in the plat not owned by the petitioner or petitioners will not be diminished by the vacation.

5. **Conditions.** The Plan Commission may impose reasonable conditions as part of any approval.

6. **Judicial Review.** The petitioner or other interested party may seek judicial review of the approval or disapproval of the vacation, as provided for in Indiana law.

7. **Recording.** The order vacating the plat or any portion thereof must be recorded by the Zoning Administrator.

**8. Limitations.** After a disapproval of a requested vacation, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for two years of the date of the prior disapproval.

***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) Residential Subdivisions

- a. 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.
- b. 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.

(2) Commercial. All Commercial lots served by a community sanitary sewer system approved by the State Board of Health shall not have a minimum lot area of less than 3,000 square feet. If the site is served by a private septic system, the Zoning Administrator will determine the minimum lot size after considering the area needed to allow proper function of the private sanitary system.

(3) Industrial. All Industrial lots shall have a minimum lot area of not less than 20,000 square feet.

(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.* Sidelines 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 60 feet. Those setbacks will be measured from the right-of-way of the street or road on which the lot has frontage.

(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 20 feet for land zoned Agricultural, 10 feet for land zoned Commercial, 5 feet for land zoned Residential, and 20 feet for land zoned Industrial.

(H) *Minimum Rear Yard.* A rear yard on a lot is required and in no event shall be less than 20 feet for land zoned Agricultural, 10 feet for land zoned Commercial, 5 feet for land zoned Residential, and 20 feet for land zoned Industrial.

(I) *Minimum Road Frontage.* Each lot shall have a minimum road frontage as follows: 100 feet for land zoned Agricultural, 30 feet for land zoned Commercial, 40 feet for land zoned Residential, and 100 feet for land zoned Industrial.

(Ord. passed 8-6-02; Ord. passed 04-21-03, Am. Ord. 2020-32, passed 9-26-2020).

## **§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 sightlines 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)

**§152.57 DRAINAGE**

Each subdivision storm water system must be designated its own legal drain, as provided for by Chapter 154. No plat may be approved until the applicant obtains the approval of the Drainage Board.

**§152.58 JUDICIAL REVIEW**

Pursuant to I.C. 36-7-4-715, final decisions of the Plan Commission regarding preliminary plats, final plats, imposition of conditions on a plat, vacation of all or part of a plat and the imposition of a condition on approval of the vacation of all or part of a plat (including the vacation of any recorded covenants filed with the plat) are subject to judicial review, as provided for in I.C. 36-7-4-1600 series.

**§152.59 ENFORCEMENT**

A violation of this ordinance is a common nuisance, and the owner or possessor of the structure, land, or premises is liable for maintaining a common nuisance if there is a violation

on the land. In addition, any person or entity that violates this ordinance is subject to a fine in an amount not to exceed \$2,500 for each day that a violation of this ordinance exists. Each day of a continuing violation constitutes a separate violation. The County Attorney, on behalf of the Plan Commission, may file a complaint against the violator and prosecute the alleged violation. The Plan Commission and or Zoning Administrator may invoke any legal, equitable or special remedy, and the violator shall bear the cost of the enforcement.

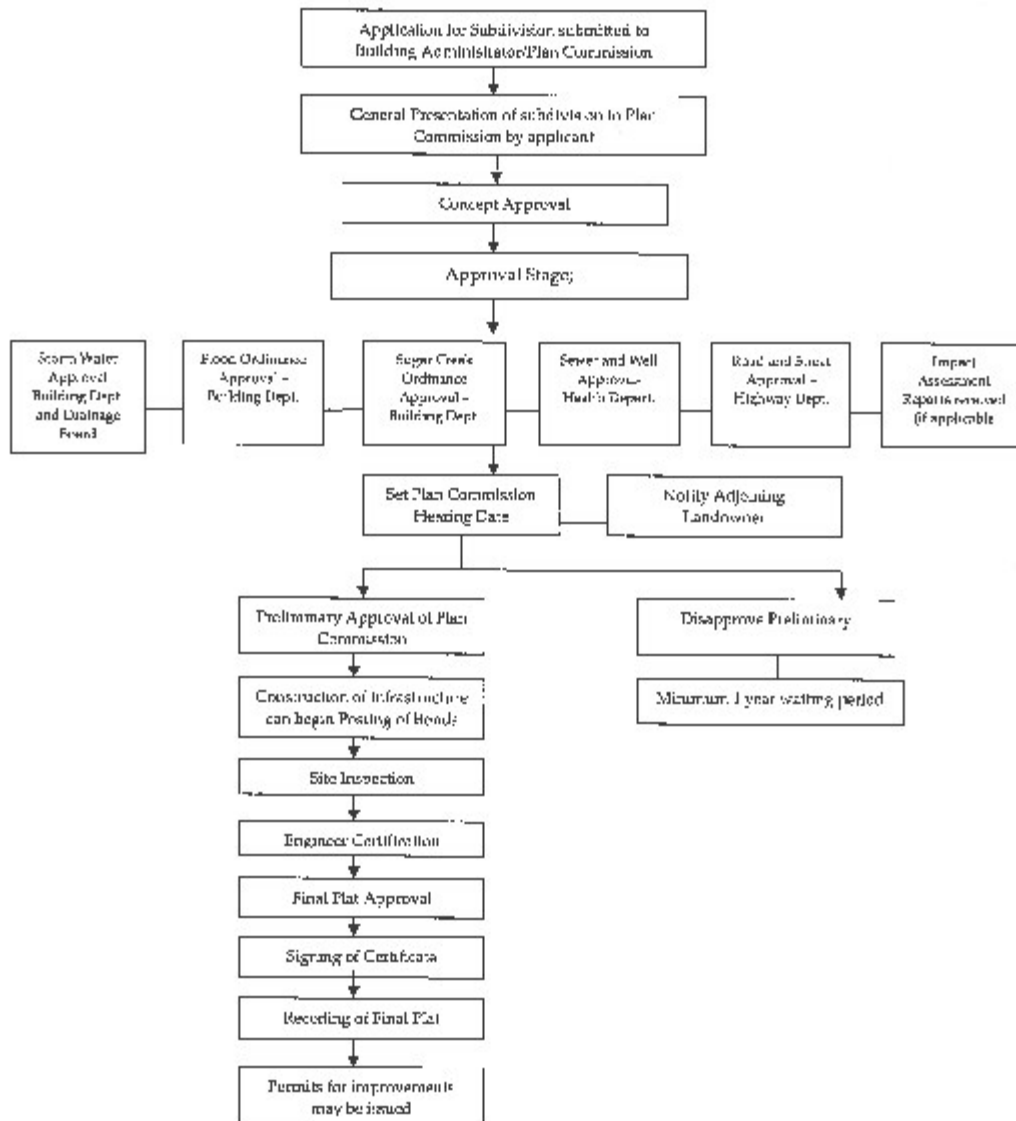
**§152.60        MINOR PLATS**

Applications for Minor Plats will be submitted to the Zoning Administrator. If the Zoning Administrator finds that the Minor Plat satisfies the requirements of this Ordinance and all other applicable ordinances, rules and regulations, the preliminary plat will be administratively approved. The Zoning Administrator will then schedule a public hearing on the final plat, and the Minor Plat will follow the same procedure and process of all other plats for the final plat approval. If the Zoning Administrator finds that the Minor Plat does not satisfy the requirements, the Zoning Administrator will deny the application. (Ord. 2020-32, passed 9-26-2020).

**Title XV: Land Usage**  
**APPENDIX: STEPS FOR SUBDIVISION APPROVAL**

(Ord. passed 4-21-03)

**Steps For Subdivision Approval:**





**APPENDIX A**

**MONTGOMERY COUNTY  
ROAD AND STREET DESIGN STANDARDS**

**Adopted November 23, 2020**

**Effective January 1, 2021**

## **Street Design Standards and Street Improvements**

### **Conformance with Regulations**

The arrangement, character, extent, width, grade, and location of all streets shall conform to all of the elements of these regulations. Indiana Department of Transportation Standard Specification Montgomery County Standards dated 12/06/2000 shall be used for all improvements.

### **Street Classifications**

Street classifications are as follows:

1. Minor Arterial
2. Major Collector
3. Minor Collector
4. Local Roads
5. Cul-de-sac

### **Design Standards**

Street designs shall adhere to the following design standards:

1. AASHTO Standards -- Current AASHTO Standards shall be followed as minimum design requirements unless otherwise specified in this Ordinance.
2. Conformance with Plans -- All streets shall be planned to conform to the Comprehensive Plan and the Montgomery County Thoroughfare Plan.
3. Protection of Property -- Whenever a subdivision abuts or contains an existing or proposed major street, the Plan Commission may require frontage roads, screening of double frontage lots, a "non-access" easement along the property lines, deep lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. In those instances, where a non-access easement is proposed along a state or federal highway, this easement shall be granted specifically to Indiana Department of Transportation.
4. Connecting Street Pattern -- In order to provide a functional County street system, the Plan Commission may require an owner to construct a street pattern that provides connections to adjoining developed and vacant undeveloped properties. The coordination of streets from one (1) subdivision to another is essential to the county in order to provide a continuation of not

only vehicular access, but also for transportation and distribution lines for most utilities, such as water, sewer, gas, electricity and telephone systems.

5. Access to Vacant Land -- The Plan Commission may waive the requirement of constructing an access street to vacant land. In these cases, the owner shall be required to dedicate the necessary right-of-way, but the person who develops the adjoining vacant property will be required to construct the street. The Plan Commission shall determine at the primary hearing, the need and location of these access streets.

6. Continuation of Streets -- All streets, including those proposed to provide the continuation of streets to adjacent property, shall be constructed to the boundary lines of the subdivision and in accordance with the standards of this ordinance. If a subdivision is approved contiguous to existing right-of-way dedicated for a continuing street, but the street has not been constructed, the owner of the new subdivision must construct the entire street including the portion that is not contained within the owner's project.

7. Street to Match Plan -- A proposed street, matching the Thoroughfare Plan standards, or at a minimum classified as a local road, shall provide for the continuation of existing, planned or platted streets on adjacent property.

8. Street Parallel to Railroad or Roads -- Where a subdivision borders on or contains a railroad right-of-way, limited access highway right-of-way, arterial or collector street, the Plan Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of the approach grade of any future grade separation structure.

9. Dead End Streets -- A dead end street shall not be permitted except where a street is proposed to be and should logically be extended but is not yet constructed. A temporary cul-de-sac shall be constructed for any dead-end street that exceeds three hundred (300) feet in length from the nearest intersection. Drainage details for the temporary cul-de-sac shall be specified by the applicant and approved by the Plan Commission. A dead-end street that does not require a temporary cul-de-sac shall have adequate drainage provisions as approved by the Plan Commission.

10. Stub Streets -- Where, in the opinion of the Plan Commission, street connection to adjoining property is appropriate, proposed streets shall be extended to the boundary of the development for connection to existing streets on the boundary of adjoining property or for future connection. Stub streets shall be placed at intervals of one thousand (1000) feet.

11. Temporary Cul-de-Sacs -- A temporary cul-de-sac shall have an easement radius of not less than fifty (50) feet and shall have a driving surface radius of not less than forty (40) feet. The cross section of a temporary cul-de-sac shall be at least nine (9) inches of compacted #53 aggregate over a compacted sub-base. If it is anticipated that the temporary cul-de-sac will be required for longer than three (3) years, additional two- (2) inches of asphalt intermediate shall be required. Any temporary cul-de-sac still with a stone surface at the end of the maintenance period must be paved with two (2) inches of asphalt intermediate prior to release of the maintenance guarantee.

12. Permanent Cul-de-Sacs -- Permanent cul-de-sacs shall not provide access to more than 25% of all lots in the subdivision, and no cul-de-sac shall serve more than twenty (20) lots. Cul-de-Sacs shall not be used to avoid connection with an existing street, to avoid extension of a collector or arterial street, or to avoid connection to adjoining property.

13. Access Easement -- An easement providing access to a street shall be prohibited except where it serves no more than three lots, and the Plan Commission finds that the plans for its control and maintenance is clearly defined.

14. Right-of-Way Width -- The street right-of-way width shall be in accordance with the Thoroughfare Plan right-of-way widths:

- a. Minor Arterial – 85'
- b. Major Collector – 70'
- c. Minor Collector – 60'
- d. Local Road – 50'
- e. Subdivision Road – 50'
- f. Cul-de-sac – 55' radius

15. Paving Width -- The paved width of all streets shall be adequate to serve the existing and future estimated traffic load for the development.

a. A new local road or subdivision road widths shall be in accordance with Table 5.2 Typical Roadway Standards of the Montgomery County Thoroughfare Plan. The Plan Commission has the shall have the authority to increase/decrease the right of way widths.

b. A cul-de-sac shall be paved to a diameter of ninety feet (90') measured at the asphalt pavement edge excluding concrete curb or stone shoulders.

c. A new local road or subdivision road shall be paved in accordance with the Montgomery County Standards dated 12/06/2000. Where a proposed street is an extension of an existing

paved street that exceeds the minimum dimension set forth above, the Plan Commission shall require the owner to match the width of the existing paved street.

16. Minimize Through Traffic -- Proposed local, subdivision, or cul-de-sac streets shall be designed to minimize through traffic movement, which is to be limited to collector streets.

17. Acceptable Limits -- Acceptable limits for visibility, curvature, and maximum grade depend on topography, functional classification, anticipated traffic volumes, number and nature of access points, etc. Road design specifications shall be based on AASHTO guidelines and sound engineering judgment. The County Engineer must approve the design speeds selected for each project.

18. Street Grade -- A proposed street shall be adjusted to the contour of the land so as to provide usable lots grades & driveway slopes and a reasonable street grade. The maximum allowable street grade shall not exceed five (5) percent. The minimum allowable street grade shall not be less than five-tenths (0.5) percent.

19. Intersection Sight Distance -- The values for intersection sight distance shall be used at all intersections, both for new and existing intersections. No new features such as signs, embankments, walls, or landscaping, shall be constructed which reduces the sight distance below the intersection sight distance.

20. Decision Sight Distance -- Where unusual or complex situations exist, decision sight distance (per AASHTO Standards) may be required by the County Engineer to provide an added margin of safety.

21. Reverse Curves -- A reverse curve on a major street shall have a straight tangent between elements of said reverse curve of not less than one hundred (100) feet.

22. Additional Requirements -- The sections above deal with minimum requirements. Individual projects, particularly commercial and industrial subdivisions, may warrant additional requirements dictated by sound engineering design. Such additional requirements must be specified by the Plan Commission as a condition of approval.

23. Safety Concerns -- The Plan Commission may deny the proposed location of an access road from a proposed development onto an existing or proposed county road, due to safety concerns.

24. Improvements Required -- If, in the sole opinion of the Plan Commission, the proposed access road presents a potential hazard to the motoring public, the applicant may be required to make improvements to an existing or proposed county road as a condition of allowing access. These improvements may include, but are not limited to deceleration or acceleration lanes, passing blisters or other improvements.

a. Criteria -- Improvements shall be required based on the following criteria:

- I. Sight distance;
- II. Number of lots;
- III. Proposed use;
- IV. Street classification;
- V. Traffic generation;
- VI. Existing or proposed conditions; and
- VII. Sound engineering design.

b. Intersections -- As a minimum requirement, at an intersection of a subdivision street, commercial or industrial drive with an existing street or road, the developer shall install deceleration, acceleration, and passing lanes along the existing roadway in accordance with the geometry delineated in the Indiana Department of Transportation Driveway Permit Manual Version 1.1 dated August 2018.

c. Construction -- All roadwork involving the construction of passing blisters and/or accel/decal lanes shall require a one-inch (1") overlay of bituminous surface which shall extend across the full width of the existing roadway as well as the new features. Limits of this work shall be the extreme ends of the tapers and/or blister. Butt joints shall be milled at the ends of the work to ensure a smooth transition. The pavement section shall be installed in accordance with the Montgomery County Standards.

25. Number of Access Roads -- The minimum number of access roads required into a subdivision will be based upon the number of lots. For residential subdivision access with 50 or less lots one public entrance shall be required. For residential subdivision access with 51 or greater lots two public entrance shall be required. These are minimum recommendations, and the Plan Commission may require additional access. All access points required by the number of lots in that phase must be provided for in that phase, or in a previous phase, and not delayed to a future phase.

26. Cul-de-Sac Length -- A cul-de-sac street shall not exceed six hundred feet in length measured from the centerline of the nearest intersection to the center of the cul-de-sac.

27. Half Streets -- Dedication of new half streets shall be prohibited. Where a dedicated or platted half street is adjacent to a tract being subdivided, the other half of said half-street shall be platted and constructed.

28. Additional Right-of-Way for Existing Streets -- The applicant shall dedicate additional right-of-way width as required to meet these regulations when the subdivision adjoins or includes an existing street that does not conform to the minimum right-of-way dimension as established by the Comprehensive Plan and the Montgomery County Thoroughfare Plan.

29. Blocks -- Block lengths in residential areas shall be two lots deep and shall not exceed eight hundred (800) feet in length, nor be less than three hundred (300) feet in length, with length measured centerline of street to centerline of street. Pedestrian ways shall be required through the middle of blocks that are more than eight hundred (800) feet long, or at other appropriate locations, as deemed necessary by the Plan Commission. In determining whether pedestrian ways are required, the Plan Commission shall consider methods of maintaining such ways, and the usefulness in providing access to any common open space, water areas, recreational areas, schools, churches, and other surrounding uses.

30. Cul-de-Sac Islands -- No fence, wall, sign, hedge, tree or shrub planting, or other similar item which obstructs sight lines and elevations between two (2) and eight (8) feet above the street shall be placed within any cul-de-sac island.

31. Traffic Calming – It is a goal of Montgomery County to create residential streets that are safe and contribute to the quality of life within the neighborhoods. This Ordinance encourages street design that accomplishes this goal by the use of street hierarchy, geometric standards, and good engineering practices. When utilized appropriately, responsible street design does not need extraneous or additional “traffic calming” features. However, if deemed necessary, such traffic calming features will be designed and located according to standard recommended practices and must be approved by the County Engineer.

32. Maximum Ponding Depth – Maximum ponding depth shall be six (6) inches at the crown of the roadway for a 100-year storm event.

33. Horizontal centerline curve radius shall meet or exceed 1990 AASHTO Standards and shall correspond to the following design speeds:

- a. Subdivision Roads shall have a design speed of 30 mph and require a 150-foot minimum centerline radius.
- b. Local Roads, Minor and Major Collectors shall have a design speed of 40 mph and require a 300-foot minimum centerline radius.
- c. Primary Arterials and Secondary Arterials shall have a design speed of 50

mph and require a 675-foot minimum centerline radius.

d. Tangent distance between reverse curves shall be 100 feet.

34. Subdivision – the curb/gutter and sidewalk requirements are based upon total number of lots in a subdivision and not based upon each section (phased development). The overall size of the development is required to be shown on the preliminary plat.

### **Intersections**

1. Curb Radii -- Street curbs shall be rounded by radii of sufficient length to permit the smooth flow of traffic, but in no case shall the curb radii be less than twenty-five (25) feet for Local Roads, or forty (40) feet for a Minor Arterial, and Major/Minor Collectors or roads in a commercial or industrial development or roads which intersect with State Roads or State Highways.

1. Street with No Curbs -- Where a proposed street with curbs intersects an existing street without curbs, the curb radius shall be designed so there is a minimum of twelve (12) feet separation between the curb and edge of the existing street pavement. Termination of curb shall be a smooth taper terminating to meet a proposed grade.

2. Separation Between Right-of-Way and Curb -- Street right-of-way at intersections shall be designed to provide a minimum of ten (10) feet separation between the street right-of-way and curb.

3. Angle -- Intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than seventy-five (75) degrees.

5. Multiple Street Intersections -- Intersection of more than two (2) streets at one point shall not be permitted.

6. Roundabouts -- Roundabout or traffic circles and appropriate signage shall be approved by the County Engineer. Design of roundabouts shall follow guidelines set forth by the Federal Highway Administration.

7. Radii Follow Greater Functional Classification -- When a street of lesser functional classification intersects with a street of greater functional classification the radii arcs at the intersection will comply with the standards for the street of greater functional classification.

8. Straight Street -- There shall be at least one hundred (100) feet of straight street before entering an intersection, unless otherwise approved by the County Engineer.



9. Driveway Separations -- Driveway locations shall conform to the following minimum requirements for separation:

- a. Minor Arterial – 300’ Residential Driveway, 600’ Non-Residential Driveway
- b. Major Collector – 200’ Residential Driveway, 200’ Non-Residential Driveway
- c. Minor Collector – 200’ Residential Driveway, 200’ Non-Residential Driveway
- d. Local Road – 100’ Residential Driveway, 100’ Non-Residential Driveway
- e. Subdivision Road – 75’, with maximum of one per lot

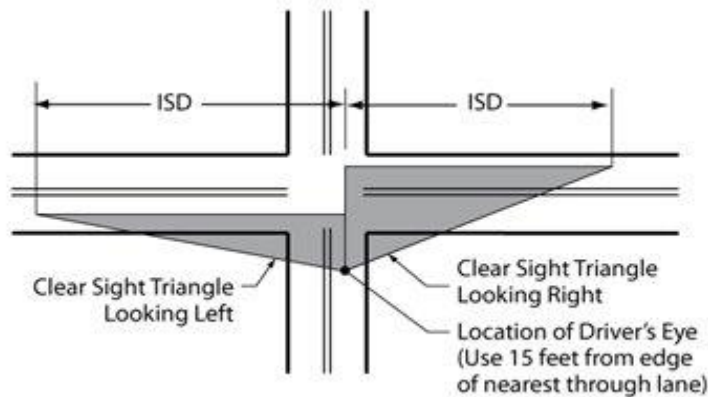
10. Street Separations -- Street intersections shall not be closer than three hundred (300) feet center line to center line for residential and local streets and six hundred (600) feet center line to center line for collector and arterial streets and must be denoted on the construction plans. This provision does not apply to a frontage road.

11. Pavement Thickness -- When a street of lesser functional classification intersects with a street of greater functional classification, whether new or existing, the pavement thickness of all improvements within the right-of-way of the intersection shall comply with the street requiring the greatest thickness.

### **Sight Distance at Intersections**

1. Insufficient sight distance can be a contributing factor in intersection traffic crashes. Intersection sight distance is typically defined as the distance a motorist can see approaching vehicles before their line of sight is blocked by an obstruction near the intersection. The driver of a vehicle approaching or departing from a stopped position at an intersection should have an unobstructed view of the intersection, including any traffic control devices, and sufficient lengths along the intersecting roadway to permit the driver to anticipate and avoid potential collisions. Examples of obstructions include crops, hedges, trees, parked vehicles, utility poles, or buildings. In addition, the horizontal and vertical alignment of the roadway approaching the intersection can reduce the sight triangle of vehicles navigating the intersection.
2. It is important for approaching motorists on the major road to see side street vehicles approaching the Stop sign, and for minor road motorists to see approaching major road vehicles before entering the intersection. Poor sight distance can lead to rear-end crashes on the approaches and to angle crashes within the intersection because motorists may be unable to see and react to traffic control devices or approaching vehicles.
3. The area needed for provision of this unobstructed view is called the Clear Sight Triangle (see Figure 3).

**Figure 3. Sight Distance Triangles for 4-Leg Stop-controlled Intersections<sup>2</sup>**



4. The Intersection Sight Distance (ISD) is measured along the major road beginning at a point that coincides with the location of the minor road vehicle. Table 3 provides the recommended values for ISD, based on the following assumptions:
  - Stop control of the minor road approaches;
  - Using driver eye and object heights associated with passenger cars;
  - Both minor and major roads are considered at level grade;
  - Considers a left-turn from the minor road as the worst-case scenario (i.e., requiring the most sight distance); and
  - The major road is an undivided, two-way, two-lane roadway with no turn lanes.
5. If conditions at the intersection being evaluated differ from these assumptions, an experienced traffic engineer or highway designer should be consulted to determine whether different ISD values should be used.

<b>Table 3. Sight Distance at Intersections</b>		
<b>Speed (mph) *</b>	<b>Stopping Sight Distance (ft.)</b>	<b>Design Intersection Sight Distance (ft.)</b>
<b>25</b>	<b>155</b>	<b>280</b>
<b>30</b>	<b>200</b>	<b>335</b>
<b>35</b>	<b>250</b>	<b>390</b>
<b>40</b>	<b>305</b>	<b>445</b>
<b>45</b>	<b>360</b>	<b>500</b>
<b>50</b>	<b>425</b>	<b>555</b>

<b>55</b>	<b>495</b>	<b>610</b>
<b>60</b>	<b>570</b>	<b>665</b>
<b>65</b>	<b>645</b>	<b>720</b>
<b>Source: <i>A Policy on Geometric Design of Highway and Streets, 5th Edition</i>, American Association of State Highway and Transportation Officials (AASHTO), 2004.</b>		

6. Stopping Sight Distance (SSD) provides sufficient distance for drivers to anticipate and avoid collisions. However, in some cases this may require a major road vehicle to stop or slow to accommodate the maneuver by a minor road vehicle. To enhance traffic operations, sight distances that exceed the recommended SSD (as shown in Table 3) are desirable.

a. Intersection Visibility -- No fence, wall, sign, hedge, tree or shrub planting or other similar item which obstructs sight lines at an elevation between two (2) and eight (8) feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points twenty-five (25) feet from the intersection of residential or local road lines, and fifty (50) feet from the intersection of arterial or collector road lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.

b. Median Visibility -- No fence, wall, sign, hedge, tree or shrub planting, or other similar item which obstructs sight lines and elevations between two (2) and eight (8) feet above the street shall be placed within any median area within one hundred (100) feet of an intersection. No walls, rocks, or boulders larger than two (2) feet in any dimension shall be placed in the median.

c. Stop Sign Visibility -- No trees shall be planted in any portion of a public street right-of-way within one hundred fifty (150) feet of a stop sign.

**Street Improvements**

1. Plan and Profile -- In general, a street shall be completed to the grade shown on the plan and profile sheet. A plan and profile sheet for each street shall be provided by the owner and prepared by a registered professional engineer or registered land surveyor.
2. Street Construction Standards -- The minimum requirements for street construction shall be in accordance with the latest edition of “Standard Specifications” of the Indiana

Department of Transportation, in effect at the time of approval. (Hereinafter referred to as the Standard Specifications).

- a. Subgrade -- The subgrade shall be prepared in compliance with the Standard Specifications.
  - b. Subbase -- The subbase, where required, shall be #53 crushed aggregate (or equal), as determined by the County Engineer, and shall be prepared in compliance with the Standard Specifications. If the subgrade is modified in accordance with the Standard Specifications, there shall be no reduction of the required aggregate thickness.
  - b. Street Surface -- The street surface shall be of Portland cement concrete or hot asphaltic concrete. Portland cement concrete materials and construction shall be in compliance with Section 500 of the Standard Specifications and these regulations. The Montgomery County Engineer has determined that any part of the subgrade or subbase is frozen when its temperature reaches 32° Fahrenheit. Hot asphaltic concrete materials and construction shall be in compliance with Section 400 of the Standard Specifications and these regulations.
3. Backfill -- All utility excavations under the pavement or within five (5) feet of the edge of the pavement be backfilled with Structure Backfill or Flowable Mortar as specified in the Standard Specifications. Installation shall conform to the Standard Specifications. Any deviation from these provisions must be approved by the County Engineer's Office prior to construction.
4. Subsurface Drains -- Subsurface drains shall be installed at a depth of two (2) feet below and behind the back of curb in line with and parallel to the inside face of the curb or along the junction where the face of the concrete curb meets material for the travel surface. The subsurface drains shall be a minimum of six- (6) inch diameter perforated polyethylene pipe. Four (4) inch laterals shall be provided for each lot, extended to the right-of-way line and capped. The ends shall be marked by permanently marking (stamping) the lateral in the curb and extending a board or other suitable material to the surface and dimensioned on the record drawings. No direct surface water, or garage floor drains will be allowed to connect to the subsurface drain.
4. Aggregate Base -- Stone aggregate base shall be placed under the curb and extended to the aggregate placed for the subsurface drain. This aggregate base shall be continuous and shall match the bottom of pavement (top of subgrade) or be four (4) inches thick whichever is more.

5. Soil Conditions in Streets -- Wet spots or other unusual soil conditions may develop in streets. These streets must comply with any or all of the following requirements:

a. Underdrains -- Four (4) inch Polyethylene lateral underdrains which extend under the subbase and connect directly to the subsurface drains shall be placed at regular intervals through the wet areas;

b. Additional Aggregate -- Compacted aggregate (#53 stone) shall be added to the street cross section to a thickness as determined by the County Engineer. This shall be in addition to the minimum base requirement;

c. Excavation and Backfill -- Soft spots may be over excavated and backfilled with compacted aggregate as approved by the County Engineer;

c. Geogrid may be used with the written approval of the County Engineer

d. Soil Modification -- Soil Modification (such as Lime Stabilization) in accordance with the Standard Specifications may be used.

I. Preconstruction Notification -- If soil modification is planned to be used, this must be stated in the preconstruction conference.

II. Subbase Depth -- No reduction in subbase depth will be permitted.

III. Application rates -- Application rates shall be determined according to the Standard Specifications and industry standards, based on testing of the in-place subgrade. Test results and proposed application rates must be provided to and approved by the County Engineer prior to use.

### **Joints for Rigid Pavement**

Rigid pavement shall be jointed in order to control cracking. Joints for rigid pavement shall be constructed in accordance with the type and dimensions and at the locations required by Standard Specifications, these regulations, or as directed by the County Engineer's Office.

1. Spacing -- Spacing of weakened plane, transverse, or contraction joints shall not exceed twenty (20) feet. Closer spacing to average fifteen (15) feet is encouraged. A transverse contraction joint may either be formed or sawed dummy groove, ribbon or pre-molded strip type, and shall be one fourth (1/4) the thickness of the pavement.

2. Sawing -- When a transverse joint is to be formed by sawing, care must be taken to saw the grooves soon after placing the concrete to prevent the formation of cracks due to contraction of the slab.

3. Catch Basins and Manholes -- One of the above-named joints shall be placed at every catch basin and manhole in the line of pavement. The location of manholes in the pavement shall determine the exact location of the joints.
4. Full Pavement Width -- All joints shall extend throughout the curb to the full width of pavement.
5. Transverse Expansion Joint -- a transverse expansion joint shall be placed at the intersections, tangent points of sharp curves, and wherever else shown on the plans.
6. Longitudinal Joint -- Whenever the width between forms of the pavement under construction is greater than ten (10) feet, a longitudinal joint shall be constructed so as to divide the pavement into strips not to exceed ten (10) feet each. This may be accomplished by sawing or by installing a slot or groove as herein described for a contraction joint.
7. Curing Compound -- White membrane curing compound AASHTO Number 2-M-14B must be properly applied to give complete coverage immediately after finishing, around all inlets and manholes and every fifty (50) lineal feet of pavement, as well as where concrete adjoins asphalt.

### **Curb and Gutters**

1. Curbs -- A two (2) foot concrete curb and gutter shall be required for subdivisions consisting of twenty-six (26) lots or more for, single family, two family and multifamily residential subdivision streets. Streets in commercial or industrial (non-residential) subdivisions shall have the option of using two (2) foot concrete curb and gutter or concrete chair back curbs.
2. Construction -- Materials, concrete specifications and construction procedure shall comply with the Montgomery County Standard Details. Cold weather construction shall be in accordance with the Indiana Department of Transportation Standard Specifications.
3. Valley Gutters -- Valley gutters, which connect gutter drains across street intersections, are strictly prohibited.
4. Frozen Material -- The Montgomery County Engineer has determined that a material is considered frozen when any part of its temperature reaches 32° Fahrenheit.

5. Height of Asphalt -- The maximum height of the asphalt shall meet or exceed the gutter line of the curb.

6. Details -- It is the intent and purpose of this section to encourage streets and rights-of-way to be dedicated to the county for ownership and maintenance whenever possible. It is a long-range benefit to the entire county for streets and rights-of-way to be maintained publicly rather than privately. There may be, however, a situation in which a privately owned and maintained street is a more reasonable alternative.

1. Standards -- In any development in which a private street is allowed, the street shall conform to County standards.
2. Required Covenants -- The covenants of the secondary plat shall contain the following statement: "The streets and ingress/egress easements shown hereon are to be privately owned and maintained by the home-owner's or commercial association pursuant to the articles of incorporation of said association.

### **Sidewalks, Pathways and Pedestrian Ways**

#### 1. Location

a. Major Plats: Sidewalks are not required in subdivisions of one to twenty-five (1-25) lots. Subdivisions that consist of twenty-six to forty (26-40) lots shall require sidewalks on one side of road or street. Subdivisions consisting of forty-one (41) lots or more require sidewalks along both sides of all streets and along the development side of all existing county roads.

b. Minor Plats: Sidewalks are not required along the development side of all existing county roads, for minor subdivisions, sidewalks must be installed when sidewalks become contiguous or adjacent on surrounding property.

2. Sidewalk Plan -- A plan for a sidewalk system shall be prepared that will provide every lot within a subdivision, or portion thereof, with reasonable access to a sidewalk connecting with all of the community facilities, commercial enterprises and other residential subdivisions located near or adjacent to the subdivision, and in a manner that will provide safe and convenient pedestrian circulation throughout the neighborhood or area in which the subdivision is located and which will avoid pedestrian and vehicular traffic conflict.

3. Sidewalk Construction -- Sidewalk materials and construction requirements shall conform to the Standard Specifications, and shall meet the following requirements:

a. Material -- Be constructed only of 4,000 psi concrete unless otherwise expressly approved by the Plan Commission;

- b. Depth -- Have a minimum depth of four (4) inches, or have a minimum depth of six (6) inches when built in an area of proposed vehicular crossing;
- c. Slope -- Have a cross slope of no steeper than one-quarter (1/4) inch per foot toward the street;
- d. In Right-of-Way -- Be located at least one (1) foot inside the right-of-way line, unless located within an easement outside of the right-of-way.
- e. Consistency, Slump, and Mixture -- Have consistency, slump, and mixture specifications as established by the Standard Specifications;
- f. Joints -- Be jointed every four (4) feet, with expansion joints every forty (40) feet to prevent cracking and heaving;
- g. Compliance with ADA -- Have curb ramps installed at all intersections and at all other locations where required for compliance with the Americans with Disabilities Act (ADA).

4. Minimum Width -- Sidewalks, pathways and pedestrian ways shall have a minimum width as follows:

- a. One or Two Family -- In One- or Two-Family Developments, along collector, local, or residential interior streets, minimum width shall be five (5) feet;
- b. Multifamily -- In Multifamily Developments, minimum width shall be five (5) feet;
- c. Perimeter -- For a perimeter subdivision sidewalk located along a County road, minimum width shall be six (6) feet;
- d. Commercial or Industrial -- For Commercial or Industrial, minimum width shall be as approved by the Plan Commission;
- e. Pedestrian ways -- For Pedestrian ways that connect two streets or connect directly to a park, school or other public or semi-public use, minimum width shall be six (6) feet.

5. Easement Required -- In order to facilitate pedestrian access from the street to schools, parks, playgrounds, or other nearby streets, the Plan Commission may require a perpetual unobstructed easement at least fifteen (15) feet in width. This easement shall be indicated on both the primary and secondary plats. The construction details shall be shown on the construction plans and must be specifically approved by the Plan Commission.

6. Vertical Drop -- There shall be no vertical drop in excess of twelve (12) inches within five (5) feet of the outside edge of the sidewalk, or an approved barrier must be installed in accordance with the Standard Specifications.

7. Installation -- Sidewalks shall be installed by the lot owners:

- a. Prior to the issuance of the Certificate of Occupancy by the Planning and Building Department; or



b. Prior to the end of the designated maintenance period. The lot owner must complete the installation of all remaining sidewalks and pedestrian ways located interior to the subdivision, even if the lots are not yet developed.

c. The lot owner is responsible for maintenance of the sidewalk including clearing during winter events. If the County Engineer or Building Administrator determine the condition of the sidewalk warrants replacement the lot owner will be responsible for the cost of the replacement.

### **Easements**

No permanent encroachments shall be allowed within any of the following easements:

1. Access Easements -- Access easements providing legal access to land shall be at least fifty (50) feet in width and shall have the capability of providing suitable locations for future public streets meeting the standards set forth in this ordinance. No more than three lots shall receive access from a private access easement.

2. Drainage and Utility Easements -- Drainage and utility easements shall be at least fifteen (15) feet in width on each side of any public street that has a right-of-way width of less than fifty (50) feet.

3. Utility Easements -- Utility easements shall be allocated in areas of suitable size and location. Such easements shall provide reasonable continuity from block to block and shall be at least fifteen (15) feet in width. The Plan Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this section.

4. Drainage Easements -- Drainage easements shall be provided where the Plan Commission deems them necessary to provide proper drainage for the subdivision. Such easements shall be at least fifteen (15) feet in width and may be coincident with utility easements. Where a regulated drain traverses a subdivision, the easement for the drain shall be in accordance with the Montgomery County Surveyor and the Montgomery County Drainage Board.

5. Maintenance Easements -- Maintenance easements for dams or adjoining property may be required where the Plan Commission deems them appropriate.

6. Farm Tile Easements -- Farm tile easements for protection and maintenance shall be at least thirty (30) feet in width, and shall be provided where there are farm tiles that are to remain on property proposed for subdivision. The Plan Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this section.

### **Street Identification Signs and Regulatory Signs**

1. Installation -- The owner shall install street identification signs at each street intersection within and on the perimeter of the subdivision. The developer shall install all appropriate regulatory signs as required by the County Engineer's office.
2. Street Identification Signs -- Street identification signs shall comply with the current issue of Indiana Manual of Uniform Traffic Control Devices regarding size, material, reflectivity and location. Street identification signs for public roads shall be white letters on a green background. Street identification signs for private roads shall be white letters on a blue background. Size of letters and sign dimensions shall comply with Montgomery County Highway Department requirements.
3. Regulatory Signs -- Regulatory signs shall comply with the current issue of Indiana Manual of Uniform Traffic Control Devices regarding size, material, reflectivity and location. The developer shall place regulatory signs in accordance with the current issue of the Indiana Manual of Uniform Traffic Control Devices and as directed by the Montgomery County Highway Department.
4. Locations -- Sign locations must be shown on the construction plans.

### **Roadside Ditches**

1. When Required -- Roadside ditches are required for all existing or proposed roads that will not have curbs and gutters.
2. Shoulder Width and Slopes -- Roadside ditches shall be located so as to provide a shoulder width as shown in the Montgomery County Standards and sound engineering design. Drainage side slopes shall be 3:1. In no case shall the shoulder width be less than four (4) feet. The Plan Commissioner may require a wider shoulder and drainage ditch.
3. Culvert Cover -- Roadside ditches are to be constructed to provide a minimum of twelve inches (12") of cover over the driveway culvert pipe, or as recommended by the manufacturer, whichever is greater.
4. Driveway Pipe Size -- The minimum size of a driveway pipe shall be twenty-four feet (24') of twelve-inch (12") culvert pipe. The Montgomery County Highway Department may require a larger pipe diameter and/or length.

### **Bridges and Similar Drainage Structures**

1. Design and Construction Standards -- All bridges and similar drainage structures shall be designed and constructed in accordance with AASHTO Standard Specifications for Highway Bridges, Current Edition and the Standard Specifications.

2. Rails -- All bridges shall be designed to incorporate a crash-tested barrier rail per Indiana Department of Transportation (INDOT) specifications and adequate lengths of a crash-tested approach rail. The length of approach rail shall meet INDOT Rehabilitation, Restoration, and/or Resurfacing (3R or RRR) requirements or better, and be approved by the County Engineer.

3. Approval -- Structure size and type and final design plans must be approved by the Montgomery County Engineer. The County Engineer may require additional right of way for future maintenance of the structure.

4. Testing and Inspection -- Material certifications and testing must be done during construction in accordance with INDOT Specifications, and copies provided to the County Engineer. On-site construction inspection shall be provided by the owner in accordance with County procedures for locally funded bridges, with the County Engineer copied on all inspectors' reports and correspondence. Also, the County Engineer must participate in the final inspection. A separate Maintenance Bond for three (3) year must be provided to the County Engineer. All construction within an existing county road right-of-way and any crossings of the travel surface will require a permit from the County Engineer prior to construction. Whenever any construction activities occur within a public road right-of-way, traffic control devices shall be placed in accordance with INDOT standards and the Manual on Uniform Traffic Control Devices, Part VI. The devices shall be installed prior to any construction and shall be maintained during the entire time that the special conditions exist. They shall be removed immediately thereafter.

#### **Construction Within Road Right-of-Way**

All right-of-way repairs on the pavement or within five (5) feet of the edge of the pavement shall be backfilled with Structure Backfill or Flowable Mortar as specified in the Standard Specifications. Installation shall conform to Section 715 of the Standard Specifications. Any deviation from these provisions must be approved by the County Engineer's Office prior to repair.

#### **Right-of-Way Repairs**

All right-of-way repairs on the pavement or within five (5) feet of the edge of the pavement shall be

backfilled with Structure Backfill or Flowable Mortar as specified in the Standard Specifications.

Installation shall conform to Section 715 of the Standard Specifications. Any deviation from these provisions must be approved by the County Engineer's Office prior to repair.

## 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 use or structure than is required by such easements, covenants or agreements between parties, or by such ordinances, rules, regulations or permits, the provisions of this chapter shall control. (Ord. passed 5-14-02)

## §153.05 DEFINITIONS

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

**ADVISORY BOARD.** A Board of six members appointed by the County Commissioners and one member appointed by the Director of the Department of Natural Resources to advise the County Commissioners as to the means of protecting and preserving the stream in a scenic and natural state. A majority of the members shall be owners of land abutting Sugar Creek in the county. Also, included on the Board serving in advisory (non-voting) roles are the following: the County Sheriff, the County Building Administrator, a State Department of Natural Resources Conservation Officer and the County Health Officer. The term of the six (6) Board members shall be for three (3) years, with each term beginning on January 1 and expiring on December 31. Because the Board reorganized in 2015 and Board members have staggered terms, two (2) members' terms expire in 2017, two (2) members' terms expire in 2018, and two (2) members' terms expire in 2019. If a vacancy occurs before the expiration of a term, the new member will complete the unexpired term of the prior member. At its first meeting each year the Board shall elect from its members a President, Vice President and Secretary who shall serve for one year or until the next election of officers. The Board shall meet at least quarterly and at such other times as may be necessary to conduct its business.

**BUILDING ADMINISTRATOR.** That person designated by the Board of County Commissioners as the County Building Administrator.

**BUILDING OR STRUCTURE.** Includes any building of all types and descriptions including but not limited to dwellings, trailers, campers, garages, barns, sheds, pole buildings, outbuildings, any roofed structure whether enclosed or open, bridges, culverts, decks, steps, or docks, or any other permanent improvement or structure but does not include tents (pitched for temporary recreational use)

**CERTIFICATE OF OCCUPANCY.** A certificate stating that the occupancy improvement and use of land for building or structure referred to therein complies with the provisions of this chapter.

***IMPROVEMENT LOCATION PERMIT.*** A permit stating that the proposed timber cutting, logging, erection, construction, alteration, enlargement and/or moving of a building or structure referred to therein, including but not limited to dams, levies, wells, septic systems and water systems, complies with the provisions of the chapter.

***NONCONFORMING USE.*** An existing use of land or structure which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located

***PERSON OR INDIVIDUAL.*** Any private individual, corporation, partnership, or limited liability company.

***VARIANCE.*** A modification of the specific requirements of this chapter granted by the Appeals Board in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other riparian properties in the same vicinity and district.

(Ord. passed 5-14-02. Am. Ord. 2017-5, adopted 4-10-17).

#### **§153.06 GOVERNMENTAL UNITS**

All governmental units are subject to the provisions of this chapter, provided, however, this chapter shall not be construed to impose any restrictions or additional requirements for the construction or reconstruction or repair of any public road or bridge, and all public roads and bridges are hereby exempted from the provisions of this chapter.

(Ord. passed 5-14-02)

## *NATURAL SCENIC DISTRICT*

### **§153.20        DISTRICTS**

The entire geographic area covered by this chapter shall be designated as a natural scenic district and is limited to agricultural and recreational use. It is the purpose of this district to limit and eliminate further development in the Sugar Creek corridor which would tend to reduce or destroy the natural scenic value of this unique are without great economic or environmental benefit to the public as a whole as well as to protect the citizens of the county from the adverse effects 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 mark to the 50-foot line. By definition, FORESTED COVER means the following: for trees greater than 2-inches in basal diameter, 40 square feet of basal area per acre; for trees less than 2-inches in basal diameter, forested would mean a minimum of 300 stems per acre (allowing for credit for young planted seedling trees). Provided, however, that nothing in this chapter shall be construed to authorize the Building Administrator or the Appeals Board to order the removal of any existing structure which existed on the effective date of this chapter.  
(Ord. passed 5-14-02)

### **§153.22        CLEARING**

A permit is required prior to any logging activity within the zoned area. Logging and clearing activities must leave no less than 40 square feet of basal area per acre of trees over 2 inches in diameter. There shall be no clear-cutting of timber or substantial removal of vegetation in the district. Timber may be cut in accordance with best forest management practices after written approval by the Building Administrator. The Building Administrator is encouraged to consult with the State Forester before issuing his or her written approval. Vegetation in the district may be thinned and trimmed but not completely removed. Unique



species of vegetation, designated as such by the Advisory Board, shall not be thinned or trimmed in such a manner as to limit or jeopardize a proliferation. (Ord. passed 5-14-02)

### ***NONCONFORMING USES***

#### **§153.35 NONCONFORMING USES**

The following provisions shall apply to all nonconforming uses:

(A) A nonconforming use may be continued but may not be extended, expanded, moved or changed unless to a conforming use, except as permitted by the Appeals Board in accordance with the provisions of this chapter.

(B) Any nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is performed within 12 months of such casualty, and if the restored area has no greater coverage and contains no greater cubic content than before such casualty.

(C) In the event that any non-conforming use, conducted in a structure or otherwise, ceases, or is abandoned, for whatever reason, for any period of one year, such nonconforming use shall not be resumed, except with the approval of the Appeals Board.

(Ord. passed 5-14-02)

## *ADMINISTRATION AND ENFORCEMENT*

### **§153.45        ADMINISTRATOR**

The duly appointed and acting County Building Administrator is hereby designated and authorized to enforce this chapter under the authority of the County Surveyor's Office.  
(Ord. passed 5-14-02)

### **§153.46        PERMITS**

(A) Any person, persons, firms or corporations which shall make application of any improvement location permit shall furnish the Building Administrator with the documents required to obtain that permit and a site plan of the real estate upon which said application for an improvement location permit is made.

(B) The site plan shall include the following items:

- (1) Legal or site description of the real estate involved;
- (2) Location and size of all buildings and structures;
- (3) Width and length of all entrances and exits to and from said real estate;
- (4) All adjacent and adjoining roads or highways;
- (5) Building information sheets to obtain location improvement permits;
- (6) Erosion control plan; and
- (7) Any other information required by the Building Administrator.

(C) The Building Administrator shall establish a permit and fee schedule necessary to administer this chapter. The schedule of fees shall be approved by the Advisory Board. The fees shall be paid and collected in the same manner as County Building Code fees are paid and collected.

(D) Prior to issuing any improvement location permit for a structure within the Sugar Creek Natural Scenic District the applicant or owner of the real estate on which the structure will be located, shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or owner is not delinquent in the payment of any

personal property any delinquent real estate taxes, drainage assessments or other special assessments taxes. If applicant or owner does not obtain such certificate of compliance, the Montgomery County Building Administrator shall withhold issuance of an improvement location permit until any delinquent personal property, any delinquent real estate taxes, drainage assessments or other special assessments taxed owed by the applicant or owner are paid in full, including penalties. (Ord. passed 5-14-02; Am. Commissioners Ord. 2008-8, passed 6-23-08)

**§153.47        RECORDS**

Information so furnished to the Building Administrator shall be filed by the Building Administrator and maintained as other records are kept in his or her office. (Ord. passed 5-14-02)

**§153.48        CHANGES**

The Building Administrator may require the relocation of any proposed building or structure or property exit or entrance shown on said site plan and/or the location of new exits or entrances not shown on said site plan before issuing an improvement location permit, when such action is necessary to carry out the purpose and intent of this chapter.  
(Ord. passed 5-14-02)

**§153.49        COMMENCEMENT AND COMPLETION.**

(A) Any permit holder must accomplish the following:

- (1) Commence construction within 90 days of the permit being issued or as stated in the permit; and
- (2) Complete all work required by the permit within 12 months of the 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 an individual, a corporation, or governmental unit to remove a structure erected in violation of the provisions of this chapter.

(C) Any building erected, raised or converted, or land or premises used in violation of any provisions of this chapter or the requirements thereof, is hereby declared to be common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under applicable statutes.

(D) Actions under this chapter may be brought by the County Prosecutor or County Attorney. Any injured party or governmental unit may also bring an action under this chapter in the County Circuit or Superior Court.  
(Ord. passed 5-14-02)

#### ***BOARD OF APPEALS***

**§153.65 MEMBERSHIP**

The County Floodplain Commission shall comprise the Appeals Board. No member may serve on both the Appeals Board and the Advisory Board concurrently.  
(Ord. passed 5-14-02)

**§153.66 RULES**

The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this chapter.  
(Ord. passed 5-14-02)

**§153.67 MEETINGS**

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be public record.  
(Ord. passed 5-14-02)

**§153.68 APPEALS FROM BUILDING ADMINISTRATOR DECISIONS**

(A) Any decision of the Building Administrator in the enforcement of this chapter shall be appealed to the Board by any person claiming to be adversely affected by such decision by filing an appeal in writing and specifying the reasons the appellant believes the action of the Building Administrator does not comply with this chapter.

(B) An appeal must be commenced within 30 days of the Building Administrator's decision or the right to appeal is forfeited.  
(Ord. passed 5-14-02)

**§153.69 DUTIES**

The Board shall have the following powers and it shall be its duty to:

(A) Hear and determine appeals from and review any order, requirement, decision or determination made by the Building Administrator in the enforcement of this chapter.

(B) Hear and decide on permits for special exceptions, or other uses upon which the Board is required to act under this chapter.

(C) Authorize upon appeal in specific cases such variances from the terms of this chapter as will not contrary to the public interest. Such variances shall be issued only where owing to special conditions, fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this chapter shall result in unnecessary hardship and where such issuance shall not violate the spirit of this chapter. The findings of facts relative to the issuance of a variance will be based upon evidence presented and on personal knowledge of the members of the Board relative to the areas and requirements in question.  
(Ord. passed 5-14-02)

#### **§153.70        AUTHORITY**

In exercising its appeal powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done for the situation at hand, and to that end shall have all the powers of the parties from whom the appeal is taken. A simple majority of the entire Board may uphold the decision or act appealed from, or modify or reverse the act appealed from.  
(Ord. passed 5-14-02)

#### **§153.71        APPEALS FROM APPEALS BOARD DECISIONS**

Only the decision of the Appeals Board is subject to review by the County Circuit Court.  
(Ord. passed 5-14-02)

#### **§153.72        VARIANCES**

No variance in the application of the provisions of this chapter shall be made by the Appeals Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Appeals Board shall find:

(A) That there are exceptional or extraordinary circumstances or conditions applicable to the property or the need of the use intended that do not apply generally to the other riparian property or class or use in the same vicinity and are, or are necessary for the general public good of the area.

(B) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other riparian property in the same vicinity and area but which is denied to the property in question.

(C) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and area in which the property is located.

(D) That the granting of such variance will not materially alter the land use characteristics of the vicinity and area, diminish the marketable value of adjacent land and improvements or increase the congestion in the public streets to a detrimental degree to the neighborhood.  
(Ord. passed 5-14-02)

**§153.73        HEARINGS**

Prior to the determination of an appeal, the Board shall fix a reasonable time for the hearing which will be at a regular Board meeting. Public notice shall be given at least ten days prior to the date set for the hearing by publishing a notice thereof in a newspaper of general circulation in the county setting forth the time and place of the hearing and by giving due notice to the interest persons in accordance with the rules of the Board.  
(Ord. passed 5-14-02)

**§153.74        COSTS**

The party taking the appeal or requesting the special exception or variance, shall assume the cost of public notice and due notice to interested persons. Interested persons are those property owners within 400 feet of the property involved in the appeal of in the special exception, or any other county property owner who files a written statement with the Building Administrator of their claim of interest.  
(Ord. passed 5-14-02)

**§153.75        FINDINGS OF FACT**

Prior to the determination of a special exception or variance, the Board shall fix a reasonable time for hearing and public notice given as indicated in §153.74. At the hearing the Board will establish findings of fact after which the Board may at the public hearing act on the special exception, or, if lacking a quorum, or for any other reason, fails to act, may make their decision at a later public meeting of the Board without further notice being issued prior to their decision. After the decision, the interested parties will be notified by ordinary mail. (Ord. passed 5-14-02)



**§153.76 CERTIORARI**

A petition for certiorari must specify the grounds upon which the petition alleges the illegality of the Building Administrator's action. The petition must be filed in the Circuit Court within 30 days after the Appeals Board's decision or judicial review is forfeited.  
(Ord. passed 5-14-02)

**§153.99 PENALTY**

Any individual or corporation or any other entity who affirmatively or passively allows violation of any of the provisions of this chapter shall be fined an amount of \$100. Each day that violation of this chapter occurs, or continues to occur, shall constitute a separate violation thereof. In addition to the personal liability involved for violations, the amounts shall be treated as though a mechanic's lien against the property involved and may be collected by foreclosure as a mechanic's lien. (Ord. passed 5-14-02)

## CHAPTER 154: STORMWATER DRAINAGE

### Section

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***GENERAL PROVISIONS***

**§154.01      AUTHORITY AND JURISDICTION**

This chapter is adopted pursuant to the authority of I.C. §36-9-28.5 and I.C. §36-1-3. The rules and regulations contained in this Chapter apply to all unincorporated areas in Montgomery County, Indiana and in Towns in Montgomery County that elect to allow this policy to apply inside its corporate boundaries.

(Ord. 90.5, passed 8-30-90; Am. Ord. passed 2-16-99; Am. Ord 2016-17, passed 6-27-16, Am. Ord. 2020-29, passed 8-10-2020).

**§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 Plan Commission 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 rates are defined in Section 154.60, Determination of Storage Volume, Methods (B)(8) and (9).

(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 and County Engineer at the earliest practical time in the planning stage. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

## **§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.

***COMMISSION.*** The Montgomery County Plan Commission.

***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 parking lots, schoolyards, 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 floodwaters.

**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 Plan Commission 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, including but not limited to roofs, paved driveways, gravel driveways, and storage areas, and water surface.

**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. Areas more than one square mile will require permits from the Indiana Department of Natural Resources, Indiana Department of Environmental Management, Army Corp of Engineers, and any other governing agencies having jurisdiction.

**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 DRAINS.** All of the land under the jurisdiction of the Montgomery County Drainage Board. Provided however the provisions of this chapter shall not apply to the City of Crawfordsville.

**REGULATORY DRAIN EASEMENTS.** An easement for the purpose of maintaining existing infrastructure by the Montgomery County Drainage Board. Said easement must be assessable to the public right-of-way.

**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 within a detention/retention pond used to convey stormwater with a volume in excess of a 100-year storm event.

**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 drainage way 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, Am. Ord. 2020-29, passed 8-10-2020).

#### **§154.06       DISCLAIMER OF LIABILITY**

(A) The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study.

(B) Larger storms may occur or stormwater runoff depths may be increased by manmade or natural causes. This chapter does not imply that land used permitted will be free from stormwater damage. This chapter shall not create liability on the part of the county or any officer or employee thereof for any damage which may result from reliance on this chapter or on any administrative decisions lawfully made thereunder. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

#### **§154.07       VIOLATIONS**

(A) Continuing Violations: A separate offense shall be deemed to occur for each day a violation of this chapter continues to exist.

(B) Notice of Violation. The County Engineer on behalf of the Plan Commission shall inform the owner in writing when a violation has been found. The notice to correct will include a description of the violation, the action necessary to be taken by the violator in order to correct the violation, the reasonable time to be allowed for the correction of the violation, the amount of fines per day which will accrue and be owed by the violator if the violation is not corrected, and the procedure available to the violator to appeal the determination of the County Engineer that a violation exists.

(C) Appeal of Notice of Violation. The person or entity receiving a notice of violation has the right to appeal the County Engineer's determination to the Plan Commission. In order to

appeal the determination, the person must file a written appeal with the Secretary of the Commission a statement which states all facts which supports the appeal. This statement must be mailed or delivered to the Secretary within ten (10) days of the receipt of the notice of violation. If the person or entity receiving the notice of violation fails to file a timely appeal, the person or entity is deemed to have waived the right to appeal and to have admitted the violation.

**(D) Hearing on Appeal.** Upon receipt of a timely filed appeal, the Secretary of the Commission will notify the Commission President of such receipt, and the President will schedule a public hearing on the appeal and conduct the appeal hearing within 30 days of the receipt of the timely filed appeal. The Secretary will provide written notice of the hearing to the party filing the appeal and to the County Engineer. At the hearing, the party appealing the notice of violation may be represented by an attorney, may present evidence which supports the appeal, and may present any legal authority in support of the appeal. After the party filing the appeal concludes this presentation, the County Engineer will be afforded the opportunity to respond to the appeal and present evidence and authority supporting the County Engineer's determination that a violation exists or existed at the time of the issuance of the notice. The Commission will make findings and conclusions supporting its decision on the appeal within 10 days of the hearing, and the Secretary of the Commission will mail copies of its decision to the party appealing the determination and to the County Engineer.

**(E) Appeal of Commission:** The party filing the appeal may appeal the decision of the Commission by filing with a court of competent jurisdiction a petition for review within 30 days of the party's receipt of the Commission's decision.

**(F) Fine Citation.** If the person receiving the notice of violation does not correct the violation, the County Engineer will mail to the violator a fine citation which states the fine due from the violator. The fine is payable to Montgomery County and is due within 30 days of the date of the citation.

**(G) Fines.** For each violation of this Chapter, the violator is subject to fine in the amount of \$100 per day.

**(H) Enforcement.** The County Engineer will have the right to file a case for the collection of any and all unpaid fines. In addition, the Surveyor will have the right to issue a stop-work order, obtain injunctive relief in order to prevent the continuing violation of this Chapter, and to obtain any and all other legal relief provided for by Indiana law in order to enforce this Chapter. In addition, in the event that the County Engineer incurs expenses for court costs and/or attorney's fees for the enforcement of this Chapter, the violator will be liable for such court costs and/or attorney's fees.

(I) Other Remedies. Nothing herein shall prevent the county from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall be charged to the person or persons responsible.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

**§154.08        RESERVED**

**§154.09        FEES**

(A) All plans for development, construction, extensions, additions, parking lots, ponds, dams, levees, and other improvements must be evaluated for storm water impact and approved by the County Engineer prior to the issuance of a location improvement permit.

(B) The following user fees shall take effect upon adoption and publication of notice of the adoption in accordance with the law:

(1) Site trip review to see if the impact will require that a plan be submitted, (dimensioned site plan showing existing structures, streams, drainage tile, well and septic and the proposed changes is required): \$40.

(2) Additional trips required because of changes or incomplete information: \$30.

(3) Plan reviews for plans submitted for approval by the Commission:  
The amount charged to the Commission or County Engineer by a professional engineer to review or, if reviewed by the County Engineer the amount equal to the time required for the review multiplied by \$100 per hour.

(C) All fees must be paid in full before a location improvement permit can be issued.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

***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) The Commission, 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 is defined in Section 154.60, Determination of Storage Volume, Methods (B)(8) and (9), and the Plan Commission has the authority to increase or decrease the release rates.

(D) The developer must submit to the Commission, detailed computations of runoff before and after development, redevelopment or new construction which demonstrate that runoff will not be increased.

(E) 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 rates as defined in Section 154.60, Determination of Storage Volume, Methods (B)(8) and (9). The Plan Commission has the authority to increase or decrease these rates. The critical duration storm is that storm duration that requires the greatest detention storage.

(F) Computations for areas of ten (10) acres or more will be based upon the National Resources Conservation Service (NRCS) Curve Number Method for determining runoff rate and sizing storm water storage. Computations for areas less than ten (10) acres will be use the Rational Method for determining runoff rate and sizing storm water storage. Project area means the entire area of the parcel (not just the disturbed area). For areas larger than ten (10) acres, hydrograph techniques and/or computer drainage modeling methods may be used.

(G) Hydrograph techniques and computer modeling methods used to determine stormwater runoff shall be proven methods, subject to approval of the Plan Commission.  
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

#### **§154.21 PERMITS FOR CONSTRUCTION**

(A) Chapter 318 of the Acts of 1945, as amended, Sections 17 and 19, require the Indiana Department of Natural Resources 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 Indiana Department of Natural Resources (IDNR), in writing, must be obtained before beginning construction.

- (1) Applications for approval should be submitted to the IDNR Division of Water.
- (2) All applications should be made on the standard application form provided by the IDNR and should be accompanied by plans, profiles, specifications and other data necessary for the IDNR 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 IDNR 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 Montgomery County Floodplain Administrator 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 Administrator on actual and/or potential flooding. Information regarding bench marks set to Mean Sea Level Datum, General Adjustment of 1929, is available from the Montgomery County Surveyor's Office.

(E) Applications are considered by the Plan Commission at regular meetings usually held each month. After the application and plans have been approved by the Plan Commission, a certificate of approval is forwarded to the applicant.

(F) A fee is charged by the Plan 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, Am. Ord. 2020-29, passed 8-10-2020).

## **§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 5% and shall be two feet when the slope exceeds 5%. On this map, the following shall be shown:

- (1) The location of streams and other floodwater 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, (if provided by the land owner) storm sewer inlets and outfalls;
- (4) Underground and overhead utilities, sanitary and combined;
- (5) Septic tank and perimeter drains, outlets, if any of record with the Montgomery County Health Department, 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 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. A professional engineer shall provide documentation that existing detention pond control structure (embankments) have been constructed according to current standards of engineering practices;

(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 Plan Commission, final drainage plans shall be submitted to the Commission. 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;

(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; and

(10) In all platted residential and commercial/industrial developments, the owner will provide a twenty-foot (20') drainage easement along the subdivision perimeter, along the rear yards, storm sewer between lots of all lots which are not along the perimeter and centered along all storm sewers within development. These easements will be shown on the plans and secondary plat. Storm sewers larger than 42-inches may require a larger easement width and shall be determined by the Montgomery County Engineer. A 50-foot drainage easement shall be provided beyond the top of the bank of all stormwater detention/retention ponds. The purpose of the drainage easement is to allow the Montgomery County Drainage Board to maintain or replace the proposed infrastructure.

**(G) *Submittal; Consideration of Plans.***

(1) Preliminary and final drainage plans and/or construction plans shall be submitted to the Plan Commission 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 Commission. The Commission and/or the County Engineer shall stamp the approval on a copy of the plans and deliver the same to the applicant. The Commission 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 Commission minutes. The County Engineer and the County Surveyor having the authorization 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 Engineer and/or Surveyor to the Commission 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, Am. Ord. 2020-29, passed 8-10-2020).

### **§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 10 (10) acres, the rational method maybe used. In the rational method, the peak rate of runoff, Q, in cubic feet per second is computed as:

$$Q = CIA$$

(i) C equals runoff coefficient, representing the characteristics of the drainage area and defined as the ratio of runoff to rainfall.

(ii) I equals average intensity of rainfall in inches per hour for a duration equal to the time of concentration (tc) for a selected rainfall frequency.

(iii) A equals tributary drainage area in acres. Guidance to selection of the runoff coefficient “C” is provided by the first table below, which show values for different types of surface and local soil characteristics.

(b) The composite “C” value used for a given drainage area with various surface types shall be the weighted average value for the total area calculated from a breakdown of individual areas having different surface types.

(c) The second table below provides runoff coefficients and inlet times for different land use classifications. In the instance of undeveloped land situated in an upstream area, a coefficient or coefficients shall be used for this area in its present or existing state of developments.

<b>Urban Runoff</b>	
<b>Type of Surface</b>	<b>Runoff Coefficient "C"</b>
Asphalt	0.82
Concrete	0.85
Roof	0.85
<b>Lawns (Sandy):</b>	
Flat (0-2%)	0.07
Rolling (2-7%)	0.12
Steep (greater than 7%)	0.17
<b>Lawns (Clay):</b>	
Flat (0-2%)	0.16
Rolling (2-7%)	0.21
Steep (greater than 7%)	0.30
<b>Woodland (Sandy):</b>	
Flat (0-5% Slope)	0.10
Rolling (5-10% Slope)	0.25
Steep (greater than 10%)	0.30
<b>Woodland (Clay):</b>	
Flat	0.30
Rolling	0.35
Steep	0.50
<b>Pasture (Sandy):</b>	
Flat	0.10
Rolling	0.16
Steep	0.22
<b>Urban Runoff</b>	
<b>Type of Surface</b>	<b>Runoff Coefficient "C"</b>
<b>Pasture (Clay):</b>	
Flat	0.30
Rolling	0.36
Steep	0.42
<b>Cultivated (Sandy):</b>	
Flat	0.30
Rolling	0.40
Steep	0.52
<b>Cultivated (Clay):</b>	
Flat	0.50
Rolling	0.60
Steep	0.72

**NOTES TO TABLE:**

The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies. Coefficients for less frequent higher intensity storms shall be modified as follows:

<u>Return Period (years)</u>	<u>Multiply "C" by</u>
25	1.1
50	1.2
100	1.25

<i>Land Use and Typical Inlet Times</i>				
<i>Land Use</i>	<i>Runoff Coefficients</i>			<i>Inlet Times (minutes)</i>
	<i>Flat</i>	<i>Rolling</i>	<i>Steep</i>	
Commercial (CBD)	0.75	0.83	0.91	5
Commercial (Neighborhood)	0.54	0.60	0.66	5 – 10
Industrial	0.63	0.70	0.77	
Garden Apartments	0.54	0.60	0.66	
Churches	0.54	0.60	0.66	
Schools	0.31	0.35	0.39	10 - 15
Semi-Detached Residential	0.45	0.50	0.55	
Quarter-Acre Lots	0.36	0.40	0.44	
Half-Acre Lots	0.31	0.35	0.39	
Parkland	0.18	0.20	0.22	TBC

**NOTES TO TABLE:**

Flat terrain 0-2% slopes.

Rolling terrain 2-7% slopes.

Steep terrain greater than 7% slopes.

Interpolation, extrapolation and adjustment for local conditions shall be based on engineering experience and judgment.

The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies.

Coefficients for less frequent higher intensity storms shall be modified as follows:

<u>Return Period</u>	<u>Multiply "C" by</u>
25	1.1
50	1.2
100	1.25

(d) Rainfall intensity shall be determined from the rainfall frequency curves shown in § 1 of the appendix to this chapter or from data shown in § 154.58(B). The time of concentration (tc) to be used shall be the sum of the inlet time and flow time in the drainage facility from the most remote part of the drainage area to the point under consideration. The flow time in the storm sewers may be estimated by the distance in feet divided by velocity of flow in feet per second. The velocity shall be determined by the Manning Formula. Inlet time is the combined time required for the runoff to reach the inlet of the storm sewer. It includes overland flow time and flow time through established surface drainage channels such as swales, ditches and sheet flow across such areas as lawns, fields and other graded surfaces. It may be computed by using § 2 of the appendix to this chapter.

(2) The runoff rate for areas in excess of 200 acres shall be determined by methods described herein.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

**§154.24 AMOUNT TO BE ACCOMMODATED**

Various parts of drainage facility must accommodate runoff water as follows:

(A) The minor drainage system such as inlets, catch basins, street gutters, swales, sewers and small channels which collect stormwater must accommodate peak runoff as defined in Section 154.60, Determination of Storage Volume, Methods (B)(8) and (9). 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 Plan Commission.

(4) The lowest floor elevations of all living units, open vents in crawl space, windows in basements, 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. A flood route shall be shown on the construction plans.

(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, Am. Ord. 2020-29, passed 8-10-2020).

## *DESIGN STANDARDS*

### **§154.35 GENERAL DESIGN**

All storm sewers subject to this chapter shall conform to the design standards and other requirements contained herein.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

### **§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 Plan Commission, where the 12-inch pipe will not limit rate of release as required. Minimum and Maximum slopes shall be those capable of producing velocities of between 2.5 and 10 feet per second, respectively, when the sewer is flowing full. A minimum of two (2) feet of vertical separation between storm and sanitary sewer is required. When the vertical separation distance is not possible, the sanitary sewer must be encased in concrete or ductile steel within five (5) feet, each side, of the crossing centerline. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

#### **§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 Plan Commission. Uniform slopes shall be maintained between inlets, manholes and inlets to manholes.

<i>Typical Values of Manning's</i>		
<i>Material</i>	<i>Manning's</i>	<i>Desirable Maximum Velocities</i>
<b>Closed Conduits:</b>		
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.
<b>Circular Corrugated Metal Pipe, Annular Corrugations 2 2/3 x 1/2 inches:</b>		
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.
<b>Circular Corrugated Metal Pipe, Helical, 2 2/3 x 1/2 inches; Unpaved Corrugations;</b>		
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	
<b>Open Channels:</b>		
Concrete, trowel finish	0.013	
Concrete, broom or float finish	0.015	
Gunitite	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, Am. Ord. 2020-29, passed 8-10-2020).



**§154.39 ALIGNMENT**

- (A) Storm sewers shall be straight between storm manholes and inlet structures.  
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

**§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) Where pipe size changes;
- (3) Where an abrupt change in alignment occurs;
- (4) Where a change in grade occurs; and/or
- (5) At suitable intervals in straight sections of sewer.

- (B) The maximum distance between storm sewer manholes sections of sewer.

<i>Size of Pipe</i>	<i>Maximum Distance</i>
12 inches through 42 inches	400 feet
48 inches and larger	600 feet

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

**§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 Indiana Department of Transportation’s Road Design Manual Volume 1 or other approved design procedure. The inlet grate openings provided must be adequate to pass the design ten (10) 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, Am. Ord. 2020-29, passed 8-10-2020).

#### **§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 Indiana Department of Transportation's Standard Specifications. Additionally, ductile iron pipe shall be laid in accordance with American Society of Testing Materials (ASTM) C-12.8.

(B) Storm sewer manholes and inlets shall be constructed of masonry, cast in place concrete or precast reinforced concrete. Material and construction shall conform to Indiana Department of Transportation's 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 Commission. Pipe joints shall be flexible and watertight and shall conform to the requirements of § 715.02 of the latest edition of the Indiana Department of Transportation's Standard Specifications. All storm sewers within the public right-of-way will be concrete or corrugated metal pipe and able to handle HS-20 loading. The minimum size of a storm sewer is 12 inches.

(C) (1) Special hydraulic structures required to control the flow of water in storm runoff drainage systems include junction chambers, drop manholes, inverted siphons, stilling basins and other special structures.

(2) The use of these structures shall be limited to those locations justified by prudent planning and by careful and thorough hydraulic engineering analysis.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

#### **§154.43 OPEN CHANNELS**

(A) All open channels subject to this chapter, whether private or public and whether constructed on private or public land, shall conform to the design standards and other design requirements contained herein.

(B) The waterway for channels shall be determined using Manning's Equation.

$$Q = AV = \underline{1.486} (2/3)(1/2) N(R)(S)$$

(1) **A** equals waterway area of channel in square feet.

(2) **Q** equals discharge in cubic feet per second (cfs).

(3) **V, R, S** and **N** are explained herein.

(C) The required channel cross-section and grade are determined by the design capacity, the material in which the channel is to be constructed, and the requirements for maintenance. A minimum depth may be required to provide adequate outlets for subsurface drains, tributary ditches or streams. The channel grade shall be such that the velocity in the channel is high enough to prevent siltation but low enough to prevent erosion. Velocities less than one and one-half feet per second should be avoided because siltation will take place and ultimately reduce the channel cross-section. The maximum permissible velocities in vegetal-lined channels are shown herein. Developments through which the channel is to be constructed must be considered in design of the channel section. Earthen channel side slopes shall be no steeper than three 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 retaining wall shall be designed and constructed with provisions for live and dead load surcharge.

**Maximum Permissible Velocities in Vegetal-Lined Channels**

<i>Cover</i>	<i>Slope Range (2%)</i>	<i>Permissible Velocity</i>	
		<i>Erosion Resistant Soils (feet per second)</i>	<i>Easily Eroded Soils (feet per Second)</i>
Bermuda grass	0 – 5	8	6
	5 – 10	7	5
	Over 10	6	4
Bahia Buffalo grass Kentucky bluegrass Smooth brome Bluegrass	0 – 5	7	5
	5 – 10	6	4
	Over 10	5	3
Grass mixtures Reed canary grass	0 – 5	5	4
	5 – 10	4	3
Lespedeza Sericea Weeping love grass Yellow bluestem Redtop Alfalfa Red fescue	0 – 5	3.4	2.5
Common Lespedeza(4) Sudangrass (4)	(5)		
	0 – 5	3.5	2.5

**NOTES TO TABLE:**

Use velocities exceeding five feet per second only where good covers and proper maintenance can be obtained.

Do not use on slopes steeper than 10%, except for vegetated side slopes in combination with stone, concrete or highly resistant vegetative center section.

Do not use on slopes steeper than 5%, except for vegetated side slopes in combination with stone, concrete or highly resistant vegetative center section.

Annuals use on mild slopes or as temporary protection until permanent covers are established.

Use on slopes steeper than 5% is not recommended.

**(E) (1) Characteristics of a stable channel are:**

- (a)** It neither aggrades nor degrades beyond tolerable limits.
- (b)** The channel banks do not erode to the extent that the channel cross-section is changed appreciably.
- (c)** Excessive sediment bars do not develop.
- (d)** Excessive erosion does not occur around culverts, bridges or elsewhere.
- (e)** Gullies do not form or enlarge due to the entry of uncontrolled surface flow to the channel.

**(2)** Channel stability shall be determined for an aged condition and the velocity shall be based on the design flow or the bank full flow, whichever is greater, using “n” values for various channel linings as shown 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 Plan Commission or 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 Commission or 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, Am. Ord. 2020-29, passed 8-10-2020).

#### **§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) Revetment 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 travel ways 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, IDEM, 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 Commission. Materials shall comply with the latest edition of the Indiana Department of Transportation's Standard Specifications. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

### ***STORMWATER DETENTION***

#### **§154.55 GENERAL DESIGN**

The following shall govern the design of any improvement with respect to the detention of stormwater runoff.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

#### **§154.56. ACCEPTABLE METHODS**

The increased stormwater runoff resulting from a proposed development shall be detained onsite by the provisions of appropriate detention or retention basins, parking lots, lawns or other acceptable techniques. Measures which further retard the rate of overland flow and the velocity in runoff channels may also be required to partially control the runoff rate. Detention basins shall be sized to store excess flows from storm with a 100-year return period. Control devices shall limit the discharge to a rate not greater than that prescribed by this chapter. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

#### **§154.58 ALLOWABLE RELEASE RATE**

(A) The allowable release rate of stormwater originating from a proposed development shall not exceed the amount specified herein. In the event the natural downstream channel or storm sewer system is inadequate to accommodate the release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of the receiving downstream channel or storm sewer system and additional detention as determined by the Plan Commission shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers or waterways.

(B) If more than one detention basin is involved in the development of the area upstream of the limiting restriction, the allowable release rate from any one detention basis shall be in direct proportion to the ration of its drainage area to the drainage area of the entire watershed upstream of the restriction.



<i>Rainfall Depths (inches)</i>						
<i>Duration</i>	<i>Return Period (years)</i>					
	2	5	10	25	50	100
5 min.	0.42	0.52	0.59	0.68	0.75	0.82
10 min.	0.64	0.79	0.91	1.04	1.15	1.25
15 min.	0.80	0.99	1.13	1.29	1.43	1.55
20 min.	0.95	1.17	1.34	1.53	1.70	1.85
30 min.	1.11	1.34	1.57	1.79	1.98	2.16
40 min.	1.23	1.52	1.74	1.99	2.20	2.40
50 min.	1.33	1.64	1.87	2.14	2.36	2.58
60 min.	1.40	1.73	1.97	2.26	2.49	2.72
1.5 hrs.	1.70	2.09	2.39	2.73	3.03	3.30
2 hrs.	1.71	2.11	2.41	2.76	3.05	3.33
3 hrs.	1.84	2.27	2.60	2.97	3.29	3.59
4 hrs.	2.06	2.54	2.90	3.31	3.67	4.00
5 hrs.	2.16	2.66	3.04	3.48	3.85	4.20
6 hrs.	2.22	2.74	3.13	3.58	3.96	4.32
7 hrs.	2.31	2.85	3.26	3.72	4.12	4.49
8 hrs.	2.35	2.90	3.32	3.79	4.20	4.58
9 hrs.	2.42	2.99	3.41	3.90	4.32	4.71
10 hrs.	2.49	3.07	3.51	4.01	4.44	4.84
12 hrs.	2.58	3.18	3.63	4.15	4.59	5.01
14 hrs.	2.66	3.29	3.76	4.30	4.75	5.18
16 hrs.	2.75	3.40	3.68	4.44	4.91	5.39
18 hrs.	2.82	3.48	3.98	4.55	5.03	5.49
20 hrs.	2.89	3.56	4.07	4.65	5.15	5.62
24 hrs.	3.00	3.70	4.23	4.83	5.35	5.83

<i>Rainfall Intensity (inches/hour)</i>						
<i>Duration</i>	<i>Return Period (years)</i>					
	2	5	50	25	50	100
5 min.	5.04	6.24	7.08	8.16	9.00	9.84
10 min.	3.84	4.74	5.46	6.24	6.90	7.50
15 min.	3.20	3.96	4.52	5.16	5.72	6.20
20 min.	2.85	3.51	4.02	4.59	5.10	5.55
30 min.	2.22	2.74	3.12	3.58	3.96	4.32
40 min.	1.85	2.28	2.61	2.99	3.30	3.60
50 min.	1.60	1.97	2.24	2.57	2.83	3.10
60 min.	1.40	1.73	1.97	2.25	2.49	2.72
1.5 hrs.	1.13	1.39	1.59	1.82	2.02	2.20
2 hrs.	0.86	1.06	1.21	1.38	1.53	1.67
3 hrs.	0.61	0.76	0.87	0.99	1.10	1.20
4 hrs.	0.52	0.64	0.73	0.83	0.92	1.00
5 hrs.	0.43	0.53	0.61	0.70	0.77	0.84
6 hrs.	0.37	0.46	0.52	0.60	0.66	0.72
7 hrs.	0.33	0.41	0.47	0.53	0.59	0.64
8 hrs.	0.29	0.36	0.42	0.47	0.53	0.57
9 hrs.	0.27	0.33	0.38	0.43	0.48	0.52
10 hrs.	0.25	0.31	0.35	0.40	0.44	0.48
12 hrs.	0.22	0.27	0.30	0.35	0.38	0.42
14 hrs.	0.19	0.24	0.27	0.31	0.34	0.37
16 hrs.	0.17	0.21	0.24	0.28	0.31	0.34
18 hrs.	0.16	0.19	0.22	0.25	0.28	0.31
20 hrs.	0.14	0.18	0.20	0.23	0.26	0.28
24 hrs.	0.13	0.15	0.18	0.20	0.22	0.24

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

**§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 Plan Commission or Board and evidence of its construction

can be shown. The overflow path area shall be shown on the construction documents and recorded plat as hatched area or another distinctive symbol.

(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

**§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):

$$Q_u = CUIUA$$

- (6) Determine composite runoff coefficient “Cd” based on developed conditions and a 100-year return period;
- (7) Determine the 100-year return period rainfall intensity “Ia” for various storm durations “td” up through the time of concentration for the developed area using information herein;
- (8) Determine developed inflow rates “Qd” for various storm durations “td” measured in hours;

$$Q_d = C_d I_d A$$

- (9) Compute a storage rate “Std” for various storm durations “td” up through the time of concentration of the developed area; and

$$S_{td} = Q_d - Q_u$$

(10) Compute required storage volume “**Sr**” in acre-feet for each storm duration “**td**” hours;

$$\mathbf{Sr} = \mathbf{Std} \quad (\mathbf{td}/12)$$

(11) Select the largest storage volume computed in subsection (10) for detention basin design.

(12) The release rate of stormwater from developments, redevelopments, and new construction is defined in Section 154.60, Determination of Storage Volume, Methods (B)(8) and (9), and the Plan Commission has the authority to increase or decrease the release rates.

(B) Methods other than the rational method for determining runoff and routing of stormwater may be used to determine the storage volume required to control stormwater runoff. The procedures or methods used must receive the prior approval of the Board. The ILLUDAS, TR20 and TR-55 models are approved by the Board for appropriate use in analysis of the runoff and routing of stormwater. The use of these models or other approved procedures can be defined in a seven-step procedure to determine the required storage volume of the detention basin.

(1) Calibrate the hydrologic/hydraulic model that is to be used for prediction of runoff and routing of stormwater;

(2) For each storm duration listed herein, perform steps three through six;

(3) Determine the three-year, undeveloped peak flow. (Denote this flow by  $Q_u^3$ );

(4) Determine the 100-year runoff hydrograph ( $H_d^{100}$ ) for developed conditions;

(5) Determine the hydrograph that must be stored ( $H_d^{100}$ ) by subtracting a flow up to  $Q_u^3$  from the hydrograph ( $H_d^{100}$ ) found in subsection (4);

(6) Determine the volume of water ( $V_5$ ) to be stored by calculating the area under the hydrograph ( $H_d^{100}$ );

(7) The detention basin must be designed to store the largest volume ( $V_5$ ) found for any storm duration analyzed in subsection (6);

(8) Retention/Detention systems will be designed to store the 10-year developed CN and have a release rate equal to 0.2 cubic feet per second (cfs) per acre of development; and

- (9) Retention/Detention systems will be designed to store the 100-year developed CN and have a release rate equal to 0.4 Cfs per acre of development.  
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

#### **§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 24 hours unless additional storms occur within the period.
- (2) The maximum planned depth of stormwater stored (without a permanent pool) shall not exceed five (5) feet.
- (3) All stormwater detention facilities shall be separated by not less than 50 feet from any building or structure to be occupied and if located within seventy-five (75) feet of a roadway or sidewalk must have a vehicular barrier in a design acceptable to the Commission. In addition, all detention facilities will have an emergency access ramp.
- (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 **four** 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) All basins must be surrounded by a chain link fence surrounding its perimeter. The property owner of the basin may apply for a waiver of this requirement of the owner provide proof of liability insurance and executes an indemnity agreement in which the owner agrees to indemnify and hold Montgomery County, and its boards, officers, employees, and agents harmless from the liability for claims asserted by persons or other entities because of personal injury, death, property damages or other injury relating to the basin. Any such indemnity obligation will be permanent and will become an obligation of the owner of the land in perpetuity. In addition, any such indemnity obligation must appear as a covenant running with the land and be recorded

in the Office of the Recorder of Montgomery County. The Commission, in its discretion, may grant or deny any such waiver request. As a condition of any approval of the waiver, the Commission may require the owner to post a performance bond in order to secure its faithful performance. Danger signs shall be mounted at appropriate locations to warn of deep water, possible flooding condition during storm periods, and other dangers that exist.

**(7)** Outlet control structures shall be constructed and locate 0.5 feet above an approved receiving ditch or storm sewer system and be designed to operate as simply as possible and shall require little to 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 bi-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 Commission 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.

**(12)** The minimum size for a retention/detention restrictor is 4 inches.

**(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.

(3) All detention basins will be designed and constructed with a flow line slope of 1.0%. Flow line slopes between 0.5% and 1.0% shall install a minimum of four-inch perforated under drain. The perforated under drain shall be constructed in a chevron pattern spaced on 30-foot centers across the bottom of the detention basin and shall be located at least one (1) foot below the bottom of the basin. The perforated under drain will be connected to the detention basin outlet structure. If the flow line slope is less than 0.5%, a concrete paved ditch will be installed, and the paved ditch will be constructed in a chevron pattern spaced on 30-foot centers across the bottom of the basin.

(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, a minimum depth of eight (8) feet shall be maintained over at least 50% of the pond area, and a safety ledge which meets the requirements of subsection (3). 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)(4) 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 ramp exit from the pond is required in all cases and shall have a minimum width of 14 feet and exit slope to six horizontals to one vertical. The ramp shall be of a material that will prevent its deterioration due to vehicle use and/or wave action. Adequate access to the safety ramp shall be provided by locating it adjacent to the public right-of-way or by providing a clear route recorded within an access easement or a common area.

(4) 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.

(5) For emergency use, basin cleaning or shoreline maintenance, facilities shall be provided or plans prepared for auxiliary equipment to permit emptying and drainage.

(6) 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, Am. Ord. 2020-29, passed 8-10-2020).

**(D) Standards for Peak Flow Control.**

(1) In the design of detention ponds, route the on-site 10-year and 100-year in-flow hydrographs through the pond (with the initial elevation at normal pool) and size the main outlet to limit peak outflows to the allowable release rates. If an orifice will need to be used to limit outflow, use the actual orifice size needed to meet the release rate requirements, unless calculated diameter is less than 4 inches, in which case the minimum 4-inch orifice diameter will be used. The resulting maximum water surface elevation is to top peak flow control storage for on-site flows. If no off-site flows are routed through the detention facility, then this will be the pond's 100-year elevation and the emergency spillway invert elevation is set one (1) foot higher than the 100-year elevation.

(2) Off-site flows that are by-passes (no detention) through the site detention pond (rather than bypassed around the pond), should be routed through a separate outlet (such as drop inlet structure) with its control elevation set one (1) foot above the on-site 100-year pond elevation. The 100-year pond elevation is determined by routing the on-site and off-site 100-year inflow hydrographs through the pond. Ideally, a separate emergency spillway should be provided with an invert elevation set at the combined (on-site and off-site) 100-year ponding elevation. A less desirable option would be to route the off-site flows through the emergency spillway with the invert elevation set one (1) foot above the on-site 10-year ponding elevation. However, since this would result in water flowing over the emergency spillway more frequently, this option may require additional erosion control measures based upon the estimated frequency of use.

**(E) Management of Off-Site Runoff.** Runoff from all upstream, tributary areas (off-site land areas) may be bypassed around the retention/detention facility without attenuation. Such runoff may also be routed through the detention/retention facility provided that a separate outlet system is incorporated for the safe passage of such flows (i.e. not through the primary



of an on-site detention facility). Note that the efficiency of the retention/detention facility in controlling on-site runoff may be severely affected if the off-site area is considerably larger than the on-site area. As a general guidance, on-line detention may not be effective in controlling on-site runoff where the ratio area to the on-site area is larger than 5:1. Additional detention (above and beyond that required for on-site area) may be required by the Montgomery County Engineer when the ratio of off-site area to on-site area is larger than 5:1.

**(F) Downstream Restrictions.** In the event the downstream receiving channel or storm water system is inadequate to accommodate the post-developed release rate, as determined by the Montgomery County Engineer or Montgomery County Surveyor, then the allowable release rate will be reduced to that rate permitted by the capacity of the receiving downstream channel or storm sewer system. Additional detention, as determined by the Montgomery County Engineer, will be required to store that portion of the runoff exceeding the capacity of the receiving sewers or waterways. When such downstream restrictions are suspected, the Montgomery County Engineer may require additional analysis to determine the receiving system's limiting downstream capacity. If the proposed development makes up only a portion of the underdeveloped watershed upstream of the limiting restriction, the allowable release rate for the development shall be in direct proportion to the ratio of its drainage area to the drainage area of the entire watershed upstream of the restriction. As an alternative to reduction of the release rates, the Montgomery County Engineer may require the applicant to pursue alleviating downstream restrictions. The applicant would be responsible for obtaining all permits and consents required and for all expenses involved in such undertaking. (Am. Ord. 2020-29, passed 8-10-2020).

#### **§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 furthest 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 hydro seeded; 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 hydro seeded 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.

**(1)** Platted residential developments must include a perforated underdrain for each lot which connects to the sump pump(s). This underdrain system must be designed by an engineer and sized to handle anticipated flows. No sanitary sewage or garage floor drains or roof drains may be connected to the underdrain system. This underdrain system must connect to the subdivision storm water system. Perimeter septic system tile may connect to the perforated underdrain system with the approval of the Montgomery County Health Department. A professional engineer will design the perforated underdrain system to ensure that water will not back flow into the septic system.

**(2)** Platted residential developments must submit a report by a licensed geotechnical engineer which includes a determination of the anticipates ground water table. The engineer will recommend appropriate spacing for the soil borings, soil boring locations, soil profile, and ground water elevations will be shown on the recorded plat. The residential developer may request a waiver of this requirement as long as the recorded plat clearly states (bold text) “no soil borings were obtained for development). Ground water elevation determination and flow rates shall be the responsibility of the residential builder in sizing sump pump where the proposed structure includes a basement.”

**(3)** Platted residential developments must file an application with the Plan Commission and drainage Board and cooperate with the Plan Commission and Drainage Board in designating the storm water system for the subdivision, including retention basins, detention basins, storm sewers, storm inlets, manholes, and underdrains, to be a

separate legal drain which is subject to the legal jurisdiction of the Drainage Board. The Board will determine the appropriate regulated drain rate for each development. No approvals may be granted for development and no permits may be issued until this designation has been approved by the Board.

(4) The owner will provide the Board and Commission with As-Built drawings of all storm water systems, including but not limited to all basins. These As-Built drawings must also be submitted to the Montgomery County Mapping Department in an electronic format consistent with the Mapping Department's layering system. All storm water structures inverts must be constructed to within 0.083 feet of the approved construction documents. All stormwater detention/retention basins must be constructed to within 0.167 feet of the approved construction documents. Drainage systems may not be constructed below the drainage outlet for the development.

(5) Platted residential developments will provide a 100-year flood route. Residence finish floor and/or crawl space vents will be set a minimum of 1 foot above the 100-year flood route elevation.

(6) Platted residential developments will provide a 20-foot wide drainage easement along the perimeter of the subdivision and along all lot rear yards abutting another residential lot.

(7) Un-platted residential lots may not have impervious area exceeding 35%.

(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, Am. Ord. 2020-29, passed 8-10-2020).

#### **§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 Plan Commission. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

### ***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 County Engineer and Commission 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 Commission.

(C) All submitted plans shall be reviewed for compliance within 30 days after submission to the County Engineer and Commission. 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, Am. Ord. 2020-29, passed 8-10-2020).

#### **§154.81 CHANGES IN PLAN**

Any revision, significant change or deviation in the detailed plans and specifications after formal approval by the Commission, and if a subdivision, also by the Board, shall be filed in duplicate with and approved by the Commission 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, Am. Ord. 2020-29, passed 8-10-2020).

**§154.82 DETERMINATION OF IMPACT DRAINAGE AREAS**

(A) The Plan Commission 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 Commission 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 Commission:

- (1) A floodway or floodplain, as designated by the Indiana Department of Natural Resources and/or Federal Emergency Management Agency (FEMA);
- (2) Land within 75 feet of each bank of any regulated drain;
- (3) Land within 75 feet of the centerline 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 Commission. 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, Am. Ord. 2020-29, passed 8-10-2020).

**§154.83 SUMP PUMPS**

(A) Sump pumps installed to receive and discharge groundwaters or other stormwaters shall be connected to a designated underdrain system as provided for in Section 154.68(A)(1).

(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 stormwater or the discharge of sanitary sewage.

(Ord. 90-5, passed 8-30-90; Am. Ord. 2-16-99, Am. Ord. 2020-29, passed 8-10-2020).

**§154.84        DOWNSPOUTS**

All downspouts or roof drains shall discharge onto the ground or be connected to the storm sewer. No downspouts or roof drains shall be connected to the sanitary sewers or sump pump underdrain system. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99, Am Ord. 2020-29, passed 8-10-2020).

**§154.85        FOOTING DRAINS**

Footing drains shall be connected to storm sewers where possible or designated storm drainage channels. No footing drains or drainage tile shall be connected to the sanitary sewer. (Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

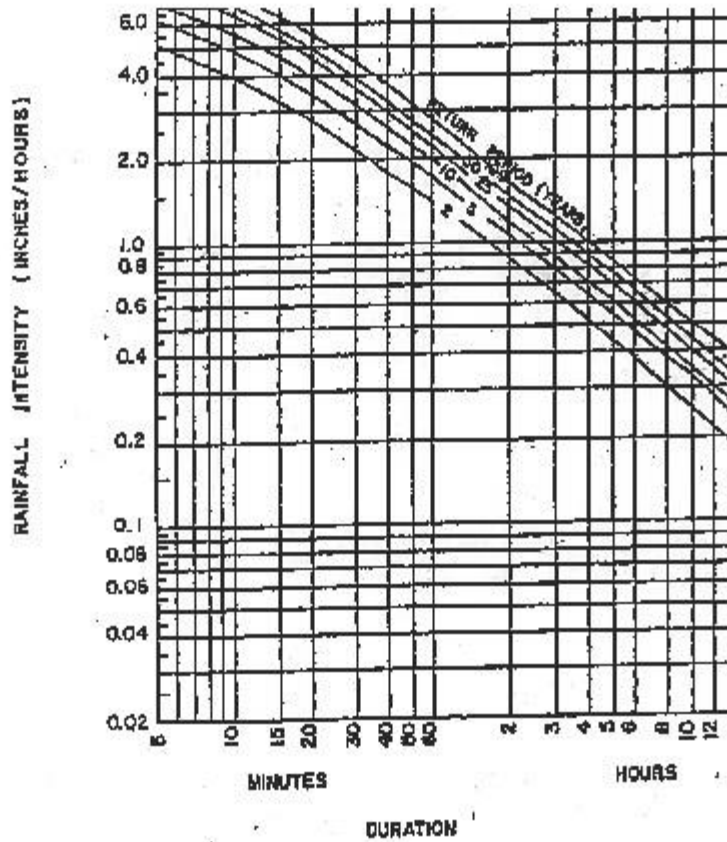
**§154.86        BASEMENT FLOOR DRAINS**

Basement floor drains shall be connected to the sanitary sewers.  
(Ord. 90-5, passed 8-30-90; Am. Ord. passed 2-16-99)

Title XV: Land Usage  
APPENDIX: RAINFALL DATA

- § 1 Rainfall intensity-duration-frequency curves
- § 2 Nomograph for determining time of concentration

§ 1 RAINFALL INTENSITY-DURATION-FREQUENCY CURVES.



(O  
8-30-91)

rd. 90-5, passed



Title XV: Land Usage

§ 2 NOMOGRAPH FOR DETERMINING TIME OF CONCENTRATION.

(Ord. 90-5, passed 8-30-90)

Time of Concentration of Rainfall on Small Drainage Basins

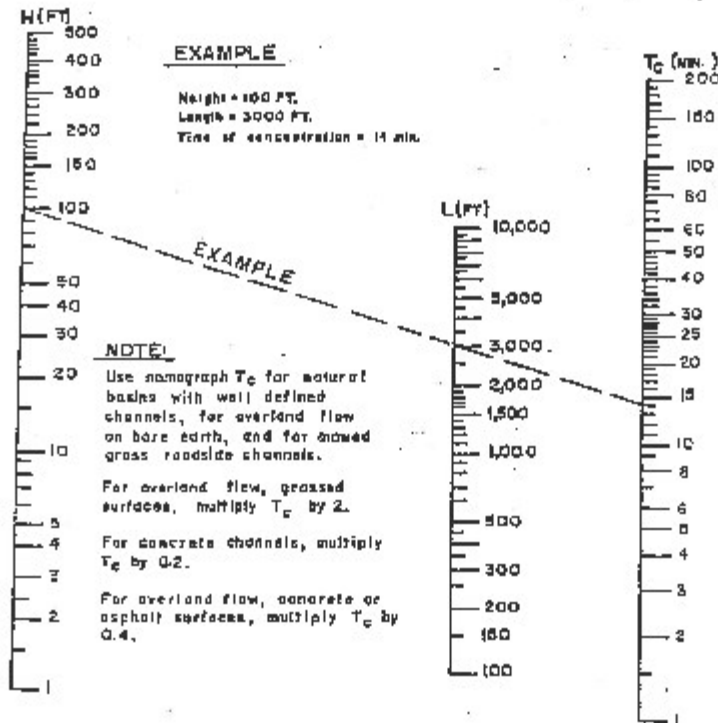


Figure 2. Nomograph for Determining Time of Concentration  
 (Developed from the Kirpich Equation)

## CHAPTER 155: WIND ENERGY CONVERSION SYSTEMS

### Section

- 155.01 Statutory Authorization
- 155.02 Purpose
- 155.03 Definitions
- 155.04 Applicability and Scope
- 155.05 Prohibition
- 155.06 Administration
- 155.07 WECS Project Approval
- 155.08 Economic Development Agreement
- 155.09 County Roads and Drainage
- 155.10 WECS Tower Building Permits
- 155.11 Design and Installation Standards
- 155.12 Waste Management
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- 155.14 Liability Insurance
- 155.15 Decommissioning Plan
- 155.16 Variances
- 155.17 Enforcement
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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 of not less than 120 feet and not greater than 325 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 and all applicable regulations of the Montgomery County Zoning Ordinance and Code of Ordinances. (Commissioners Ord. 2009-5, passed 7-27-09)

**§155.06 ADMINISTRATION**

**(A) *WECS Building Permit Required.*** No person or entity may construct or operate a WECS Tower within the corporate boundaries of Montgomery County unless a WECS Building Permit has been approved, all applicable zoning approvals have been obtained, financial assurances for decommissioning have been given pursuant to the Montgomery County Zoning Ordinance, and an Economic Development Agreement and a Road Use Agreement (both as described herein) have been entered into by the Board and the Applicant, Owner or Operator.

**(B) *Supercedure.*** Nothing in this Chapter is intended to supersede any requirement of state or federal law, except that this Chapter may impose stricter requirements, in whole or in part, that may be imposed by any state or federal authority.

**(C) *Powers and Duties of the Building Commissioner.*** The Building Commissioner has the following powers and duties:

- (1)** To issue WECS Building Permits in accordance with the criteria set forth in this Chapter and Chapter 150 of this Code;
- (2)** To administer and enforce the provisions of this Chapter and all orders issued pursuant thereto;
- (3)** To conduct investigations and obtain data with respect to any aspect of any WECS regulated under this Chapter, and to collect and disseminate information regarding any WECS;
- (4)** To order suspension of operation of any WECS upon any repeated or willful violation of any of the provisions of this Chapter or when there is an imminent threat of substantial harm to the health, safety or welfare of Montgomery County residents, public or private property in Montgomery County, or natural resources;

(5) To accept grants or funds for purposes of administration of this Chapter and research into wind-generated electricity;

(6) To cooperate with any other governmental entity to further the purposes of this Chapter; and

(7) To collect fees from Applicants in accordance with this Chapter, as amended from time to time.

(Commissioners Ord. 2009-5, passed 7-27-09)

#### **§155.07 WECS PROJECT APPROVAL**

(A) *Requirement.* No entity or person may construct, own or operate a WECS Project in Montgomery County without first obtaining WECS approval process, the following information shall be submitted to the Building Commissioner and Zoning Administrator:

(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:

any);

(a) the proposed location of each WECS Tower, guy lines and anchor bases (if

(b) WECS access roads;

(c) Substations;

(d) electrical cabling;

(e) ancillary equipment;

Tower;

(f) Primary Structures within one quarter (1/4) of one (1) mile of any WECS

(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 § 6.03(L) of the Montgomery County Zoning Ordinance; and

(9) *Financial Assurance for Property Owners.* An affidavit by the Applicant stating that all easements for WECS, Substations and underground cabling shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the Participating Landowners to ensure that the WECS facilities will be properly decommissioned within twelve (12) months of termination or abandonment of the WECS and in accordance with §6.03 of the Montgomery County Zoning Ordinance and this Chapter.

(10) *Noise Study.* A noise study by a licensed acoustician chosen by the Montgomery County Board of Zoning Appeals and paid for by the wind developer shall be submitted with any application for a wind turbine generation tower. This study must conform with the requirements as detailed in the Montgomery County Zoning Ordinance § 6.03(D)(1). (Commissioners Ord. 2009-5, passed 7-27-09)

#### **§155.08 ECONOMIC DEVELOPMENT AGREEMENT**

(A) *Agreement Required.* No WECS Project shall be constructed or substantially modified unless the Applicant or Operator first enters into an Economic Development Agreement with the Board. The Economic Development Agreement shall provide for the following:

- (1) Detailed description of the WECS Project;
- (2) Detail of the timing of project implementation;
- (3) Detail of economic development incentives provided to the Applicant or Operator by the County including, but not limited to:
  - (a) The level of Tax Abatement to be granted, if any, for consideration of the Road Use Agreement, and other benefits accruing to the County; and
  - (b) Other reasonable assistance to be provided by the County.
- (4) Payment(s) to be made by the Applicant or Operator to the County in consideration for the possible elimination or restriction of other new residential, agricultural, recreational or commercial/industrial development resulting from the development of the wind farm (“Economic Development Payments”).



- (5) Allowance for the payment in lieu of property taxes (“PILOT”) in the event of any change in law, rules, or regulations which would exempt any or all of the investment in the WECS by the Applicant or Operator.
- (6) *Jobs Estimate.* An estimate of the number of permanent jobs to be created in the County by the WECS Project; and
- (7) *Estimated Project Budget and Construction Timetable.* A project budget to include the estimated investment in real and personal property, any applicable phasing of construction, and the estimated timetable for construction; and
- (8) *Decommissioning Plan.* A Decommissioning Plan which satisfies the requirements of §155.15 of this Chapter; and
- (9) *Financial Assurance for Property Owners.* An affidavit by the Applicant stating that all easements for WECS, Substations and underground cabling shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the Participating Landowners to ensure that the WECS facilities will be properly decommissioned within twelve (12) months of termination or abandonment of the WECS.

(Commissioners Ord. 2009-5, passed 7-27-09)

**§155.09 COUNTY ROADS AND DRAINAGE**

(A) *Agreement Required.* No WECS Project shall be constructed or substantially modified unless the Applicant or Operator first enters into a County Road Use and Drainage Repair Agreement with the Board. The County Road Use and Drainage Repair Agreement shall provide for the following:

- (1) A detailed map indicating any County road to be utilized for construction, operation, maintenance, or decommissioning by the Applicant, Owner, or Operator; including any other County-owned or controlled property such as bridges, culverts, road shoulders, and intersections (“Designated Roads”).
- (2) Process for determining the existing condition of each Designated Road prior to any use by the Applicant, Owner, or Operator. Such process may involve video and/or textual narrative for each Designated Road, with the cost of such report to be borne by the Applicant, Owner, or Operator (a “Designated Road Condition Report”).
- (3) Timelines for completing the Designated Road Condition Report, role of the

Montgomery County Highway Superintendent (“Highway Superintendent”), and process for settling any disputes as to the Road Condition Report.

(4) Identification of any County-regulated drains that may be affected (“Drain Location Map”) by the Applicant, Owner, or Operator to be provided to the Montgomery County Drainage Board.

(5) Allowed Usage of the Designated Roads by the Applicant, Owner, or Operator as granted by the Board.

(6) Required improvements to the Designated Roads by the Applicant, Owner, or Operator as granted by the Board.

(7) Safety requirements, including:

(a) Speed limits,

(b) Directional and/or warning signage,

(c) Notices to emergency agencies, school corporations, and other entities as deemed necessary for road closures that may be required.

(8) Dust control measures.

(9) Removal of temporary improvements.

(10) Designated road repair identification, repair, and cost responsibility.

(11) Performance assurances required of the Applicant, Owner or Operator.

(12) Applicable fines for non-compliance with the County Road Usage and Drainage Repair Agreement.

(13) Any other provisions deemed necessary and agreed to by the Applicant, Owner, or Operator and the Board.

**(B) *Agreement Individually Negotiated.*** A County Road Use and Drainage Repair Agreement will be negotiated for each WECS between Applicant, Owner, or Operator and the Board based on the project scope and specifics for each WECS project in the County. And such agreement will contain the following terms:

**(1) *Post-Construction Requirements:*** Post-construction, the applicants will comply with the following provisions:

**(a) *Road Repairs:*** Any road damage caused by the transport of any matter or material utilized in any way regarding the WECS, in the construction of the WECS, the installation of the same, and/or the removal and decommissioning of the same, shall be repaired to the satisfaction of the Montgomery County Highway Department Superintendent (as per the Road Use and Maintenance Agreement). The Superintendent may choose to require other remediation of road(s) upon completion of the WECS or said Superintendent is authorized to collect fees for oversized load permits.

**(b) *Performance Bond:*** A corporate surety bond in an amount to be determined by a professional highway engineer selected by the Board of County Commissioners will be required by the Superintendent to ensure Montgomery County that future repairs are completed to the satisfaction of the Board of County Commissioners. The cost of such bond shall be paid by the WECS applicant, and/or operator and said bond shall remain in full force and effect until the Decommissioning Plan and Decommissioning Agreement are fully completed as prescribed by this Chapter and the Decommissioning Agreement.

**(c) *As-Built Plans Requirement:*** Upon completion of all development, the exact measurements of the location of utilities, structures and components erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, and/or operator shall submit a copy of the Final Construction Plans (as build plans), if amended, said Plans shall be submitted as amended, to the Building Commissioner and Highway Superintendent with the exact measurements shown thereon. The Building Commissioner, after being satisfied that the measurements are substantially the same as indicated in the originally approved final plan(s) or as the same were from time to time amended, shall approve, date and sign said Construction Plans for the WECS, which the applicant, owner, and/or operator shall then record.

**(d) *Change in Ownership:*** It is the duty and responsibility of a WECS applicant, WECS owner or WECS operator, and any subsequent WECS owner and WECS operator, in addition to the notice requirements of any WECS plan(s) and WECS agreement(s) to notify by written affidavit the Building Commissioner of any change in the ownership of the WECS or any part of the ownership thereof, and/or any change of any description whatsoever in the operation of the WECS during the life of the WECS, to and through the time that the final Decommissioning Plan and Decommissioning Agreement are concluded and all applicable acceptances, releases and performance standards of any

description have been met, concluded, and accepted by the proper local, state, federal or private authority, department, agency, and person(s), and all financial payments or financial obligations are fully satisfied and all appropriate parties are in receipt thereof. In order for the owner and/or operator to inform said Building Commissioner of the required information regarding changes as herein provided, said notices shall be sent by certified mail with certified funds for any required recording fees and any other applicable fees to the Building Commissioner.

#### **§155.10 WECS BUILDING PERMITS**

**(A) *Building Permit Required.*** No WECS Tower or Substation shall be constructed or substantially modified unless the Applicant or Operator first obtains a WECS Building Permit from the Building Commissioner, pursuant to Chapter 150 of this Code and the requirements of this Chapter. The Building Commissioner may not issue a permit if the Economic Development Agreement, Road Use Agreement, or Decommissioning Agreement entered into by and between the Board of Commissioners and the applicant was executed more than two (2) years prior to the date of the permit application.

**(B) *Application for WECS Building Permit.*** In addition to the requirements for a Building Permit under Chapter 150 of this Code, the Applicant shall provide the following information to the Building Commissioner.

- (1)** Location of all above-ground utility lines within a radius equal to two (2) times the heights of the proposed WECS Towers.
- (2)** Location of all underground utility lines associated with the WECS Tower sites.
- (3)** Dimensional representation of the structural components of the tower construction including the base and footings.
- (4)** Schematic of electrical systems associated with the WECS Towers including all existing and proposed electrical connections.
- (5)** Certificate(s) of design compliance that the relevant wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party, that the nacelle, rotor, generator and electrical components conform to industry standards then applicable.
- (6)** Certificate by a Professional Engineer that the foundation and tower design of each

WECS Tower is sufficient to withstand wind load requirements for structure as defined by the International Code Council, and is within accepted professional standards, given local soil and climate conditions.

(7) Copies of all necessary recorded access easements and necessary recorded utility easements.

(8) A fire protection plan for construction and operation of the facility.

(9) To the extent applicable, a drainage plan for construction and operation approved by the Montgomery County Drainage Board.

(10) To the extent applicable, an erosion control plan approved by the Montgomery County Soil and Water Conservation District.

(11) Proof of compliance with the Indiana Tall Structures Act, I.C. 8-21-10.

(12) Any other information reasonably requested by the Building Commissioner.  
(Commissioners Ord. 2009-5, passed 7-27-09)

(C) *Expiration of Permit:* Any WECS Building Permit issued by the Building Commissioner expires two (2) years after the date of issuance. No WECS Tower or Substation may be constructed or modified without a valid WECS permit. Permits issued under this Chapter may be renewed after the initial two-year period for a period one (1) year so long as the application for such renewal is filed before the expiration of the permit. The fee for a WECS Tower permit is \$1,750.00 per megawatt of generating capacity. The fee for a Substation permit is \$300.00. The fee for the renewal of either a WECS Tower or Substation permit is \$50.00.

(Ord. 2018-4, passed 7-9-18)

## **§155.11 DESIGN AND INSTALLATION STANDARDS**

### **(A) *Electrical Components.***

(1) All turbines and other electrical components of the WECS Tower shall conform to applicable local, state, and national codes, and relevant national and international industry standards. Used, experimental or prototype equipment shall not be installed or used as part of a WECS Tower without the prior written approval of the Building Commissioner.

(2) All electrical collection cables between WECS Towers shall be located

underground. All transmission lines that are buried should be at a depth of 10 feet 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) *Aesthetics.* Each wind turbine generator or meteorological testing tower shall be subject to any applicable standards of the FAA. When the towners are not subject to the FAA regulation, each wind turbine generator, including all accessory structures, shall, to the extent possible, use material, and colors that will blend them then into the natural setting and surrounding buildings.

(D) *Warnings.*

(1) A reasonably visible warning sign concerning voltage must be placed at the based of all pad-mounted transformers and Substations.

(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) Fences with locking portals at leet high; or
- (2) Anti-climbing devices 15 feet lly from the base of the tower.
- (3) Locked tower doors.

(F) *Blade Clearance.* T The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than 50 feet or 1/3 of the tower height, whichever is greater.

*Noise.* Any proposed wind turbine generator shall produce sound levels that are no more than 32 decibels as measured on the dB(A) scale at the property lines of the site in question. For all tower systems, a Noise Study shall be submitted in accordance with the provisions of the Montgomery County Zoning Ordinance § 6,03(D)(1).

(5) Noise a

(ord. 2018-4, passed 7-9-18)

**(G) Vibrations.** Any proposed wind turbine generator shall not produce vibrations humanly perceptible beyond the property on which it is located or cause vibrations that could be detected in nearby structures or damage underground wells.

**(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:

<b>Distance from ...</b>	<b>Minimum Setback Distance</b>
Any adjoining Property lot line, road right-of-way or overhead electrical transmission or distribution lines measured from the center of the WECS Tower	2,640 feet or 5 times the height of the tower from the base to the tip of the blad in vertical position, whichever is greater.
Any town, city or school as measured from the center of the WECS Tower to the closest Corporate Limit boundary line or school property, respectively	1 Mile
Regulated drains subject to the jurisdiction of the Montgomery County Drainage Board, measured from the nearest edge of the WECS Tower foundation.	75 Feet (i) from the centerline of any tiled drain or (ii) the top edge of any open ditch.
Sugar Creel measured from the center of the WECS tower to the nearest ordinary high-water mark.	2,640 feet

**(2) Substations:** 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) **Right or Way:** No WECS Tower or Substation shall be located within any dedicated public easement or public right-of-way.
- (4) **Waivers:** 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.

**Grandfathered Set-Backs:** Once a WECS Tower or Substation is constructed, the setback and noise buffer are established. If after construction, a landowner sells the land to another person or entity, the new owner is treated, for the purposes of this section, in the same manner as the previous owner, regardless of whether the new landowner has an agreement with a WECS provider.

- (5) **WECS' Occupying Multiple Parcels.:** Wind Farms and WECS' occupying multiple parcels may have internal property line setbacks waived by execution of a written document signed by all and owners sharing such a property line.  
(Ord. 2018-4, passed 7-9-18)

**(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. In the instance that "strobe" lighting is required it should be configured so that it is alternating lighting; white light during the daylight, red light at night.

(2) Any WECS Tower, Substation, underground cabling or other WECS facility declared to be unsafe by the Montgomery County Building Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the County Ordinances governing the removal of nuisances.

**(K) Water Wells and Septic Systems.** All WECS facilities shall comply with applicable septic and well regulation as required by the Montgomery County Health Department and the State of Indiana Department of Public Health.

**(L) Navigable Airspace.** No WECS Tower or Substation shall be located at a location or a



height that is determined by the FAA to be an obstruction or a hazard to navigable airspace.  
(M) *Compliance with Additional Regulations.* Nothing in this Chapter is intended to preempt other applicable state and federal laws and regulations.  
(Commissioners Ord. 2009-5, passed 7-27-09)

## **§155.12 WASTE MANAGEMENT**

All solid waste whether generated from supplies, equipment, parts, packaging used or consumed in the construction, operation or maintenance of a WECS, including retired or replaced parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All hazardous waste generated by the operation and maintenance of a WECS, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.  
(Commissioners Ord. 2009-5, passed 7-27-09)

## **§155.13 OPERATION AND MAINTENANCE**

(A) *Interference.* If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the Owner or Operator shall take reasonable steps to respond to resolve the interferences.

(B) *Coordination with Local Fire Department.*

(1) The Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.

(2) Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.

(3) Nothing in this Section shall alleviate the need to comply with all other applicable fire laws and regulations.

(C) *Materials Handling, Storage and Disposal.*

(1) All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

(2) All hazardous materials or waste related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

(Commissioners Ord. 2009-5, passed 7-27-09)

#### **§155.14 LIABILITY INSURANCE**

The Owner or Operator of a WECS shall maintain a current general liability policy covering bodily injury and property damage and name of Montgomery County as an additional insured with limits of at least two million dollars (\$2,000,000) per occurrence, per wind tower and five million dollars (\$5,000,000) in the aggregate, with a deductible of no more than five thousand dollars (\$5,000). (Commissioners Ord. 2009-5, passed 7-27-09)

#### **§155.15 DECOMMISSIONING PLAN**

(A) The Applicant, Owner or Operator must provide financial assurance in an amount at least equal to 125% of the amount of the demolition and removal contractor cost estimate in the form of an irrevocable letter of credit reasonably acceptable to the Building Commissioner. No 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.

(Am. Commissioner Ord. 2019-13, passed 5-13-19).

#### **§155.16 SPECIAL EXCEPTIONS**

(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, or the Zoning Ordinance, unless a variance or a special exception is first granted by the Board or the Board of Zoning Appeals.

#### **§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 Commissioners and Zoning Administrator. In addition to the above annual summary, the Owner or Operator shall furnish such other operation and maintenance reports as the Building Commissioner or Zoning Administrator 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 and Zoning Administrator to determine whether the physical modification requires re-certification.

**(C)** The Building Commissioner or Zoning Administrator 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 or Zoning Administrator access to a WECS for purposes of making an inspection, the Building Commissioner or Zoning Administrator may order a suspension all WECS operations until such time as the inspection has occurred and the Building Commissioner or Zoning Administrator 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 or Zoning Administrator, in addition to reimbursement to the County of the actual fees charged by licensed professionals retained by the Building Commissioner or Zoning Administrator to conduct or assist with such inspection.

**(E)** If the Building Commissioner or Zoning Administrator 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 or Zoning Administrator 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 or Zoning Administrator 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 within 30 days issuance of the 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 or Zoning Administrator. 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 or Zoning Administrator 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 or Zoning Administrator 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)

(K) Violations. In the event that a violation exists and the permit holder or operator of the WECS facility or system fails or refuses to comply with an order of the Building Commissioner or Zoning Administrator, fails to pay a fine as provided for in subsection H of this Section, or otherwise violates the provisions of this Chapter, the Building Commissioner or Zoning Administrator has the authority to seek against such violator a money judgment, injunction or other legal remedy, either legal or equitable, in order to enforce this Chapter. If such enforcement action is filed by the Building Commissioner or Zoning Administrator, the violator will be responsible for all costs incurred in the enforcement action, including but not limited to reasonable attorney's fees, court costs, litigation expenses, the cost of consultants and experts and other expenses related to the enforcement action.  
(Ord. 2018-4, passed 7-9-18)

## **§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.

(C) *Hearings*

(1) The Board shall fix a reasonable time for the hearing of appeals.

(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 2,640 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, 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 to enter a written appearance specifying the party's name and address.

(10) The Board shall hear and decide all appeals in an open public meeting, and each such decision shall be filed with the minutes of the Board's meetings. (Commissioners Ord. 2009-5, passed 7-27-09)

### **§155.19 JUDICIAL REVIEW.**

Each decision of the Board under §155.18 is subject to judicial review by certiorari. Any person, other than the Building Commissioner, who is aggrieved by a decision of the Board may file a verified petition for judicial review, alleging that the decision is illegal in whole or in part and specifying the grounds of the illegality. All petitions for judicial review must be filed with an Indiana state court of general jurisdiction sitting in Montgomery County, Indiana, within thirty (30) days after the date of the decision of the Board.

## **CHAPTER 157: PRIVATE SEWAGE DISPOSAL**

### Section

- 157.01 Definitions
- 157.02 Sewage Disposal
- 157.03 Construction Requirements
- 157.04 Construction Permit
- 157.05 Registration of Installers
- 157.06 Inspections
- 157.07 Maintenance and Sampling
- 157.08 Economic Hardship
- 157.09 Denial, Suspension, Revocation
- 157.10 Penalties

**§157.01        DEFINITIONS**

The following definitions apply to this Chapter:

**STATE DEFINITION** means all definitions set forth in 410 IAC 6-8.2, as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference;

**BEDROOM** means a room as defined by 410 IAC 6-8.3-6, as amended from time to time;

**BEDROOM EQUIVALENT** means as defined by 410 IAC 6-8.3-6, as amended from time to time;

**BOARD** means the Montgomery County Board of Public Health, Montgomery County, Indiana;

**BUILDING** means a structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy or persons, fixtures or personal property, and from which there emanates any sewage;

**COMMERCIAL** means any building which is not a one or two-family dwelling;

**DEPARTMENT** means the Montgomery County Health Department, and/or its employees;

**DWELLING** means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used;

**ENVIRONMENTAL HEALTH SPECIALIST** means an individual as defined in Indiana Code § 25-32-1-1(B);

**HEALTH OFFICER** means the Director of Public Health for the Montgomery County Health Department, Montgomery County, Indiana, or his/her authorized representative.

**INSTALLER** means any person who constructs, installs, replaces, alters, modifies or repairs any residential or commercial sewage disposal system subject to the provisions of this Chapter, other than one which services his/her/its building. In the event that the person is an association of two or more people, then said association shall designate one individual who shall be designated as the installer and responsible for compliance with all provisions hereunder;

**LEGAL DRAIN** means any tile or drainage-way regulated by the Montgomery County Surveyor;

**PERMIT** means a certificate of a size and style approved by the Health Officer or his/her designee;

**PERMITEE** means the person who is the owner of the real estate, his/her/its authorized representative, who is responsible for the application of a construction permit and who shall be responsible for the acceptance of notices at the address listed on the permit applications;

**PUBLIC SEWER** means any sanitary sewer constructed, installed, maintained, operated or owned by a municipality, sewage district or utility company. A county legal drain, mutual drain or private drain installed for the sole purpose of carrying surface water runoff and subsoil drainage shall not be considered a public sewer under this definition;

**RESIDENTIAL** means a building used or intended to be used as a one or two-family dwelling.

**SEWAGE** means all water-carried waste derived from ordinary living processes. This does include grey-water discharge;

**SOIL SCIENTIST** means an individual who is a Specialist or Classifier of soils, certified by the Indiana Registry of Soil Scientists.

## **§157.02 SEWAGE DISPOSAL**

**(A) State Rules:** All rules and regulations of 410 IAC 6-8.2, as amended from time to time, of the Indiana State Department of Health are hereby incorporated by reference.

**(B) Public/Municipal Sewer Available:** Whenever a public sewer is or becomes available within 300 feet of a residential or commercial building, a direct connection shall be made to said public sewer as defined under IC 36-9-23-30 subsection (b), provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatment facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

**(C) Public/Municipal Sewer Not Available:** All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.



**(D) Construction of Privy:** Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) must be approved by the Health Commissioner and maintained in accordance with this Chapter and Indiana law.

**(E) Correction of Defects:** Should any defect exist or occur in any private sewage disposal system or privy which would cause the sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Officer or his/her designee. Failure to correct the defect within the time table established by the Health Officer or his/her designee shall be considered a violation of this Chapter and shall subject the owner/permittee to the sanctions set forth in Section 157.10, subject, however, to the provisions of Section 157.09.

**(F) Adaptation of Residential System:** Whenever there is any alteration of the structure or significant change in the use or occupancy of a residential building which would affect the functioning of the existing private sewage disposal system, including the addition of a bedroom or bedroom equivalent, then the system shall be modified, enlarged or replaced in accordance with the requirements of this article. Plans for any such changes shall be submitted to the Montgomery County Health Department.

**(G) Adaptation of Commercial System:** Whenever there is any alteration of the structure or significant change in the use 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:

	<b>Number of Bedrooms</b>	<b>Size of tank (gallons)</b>
	1, 2 or 3	1,000
a.	1,250	
b.	1,500	
c.	or more	1,500 + 150 for each bedroom greater than 5

**(E) Distribution Boxes:** All distribution boxes shall be of concrete construction.

**(F) Access Openings:** All septic tanks shall have at least one (1) access opening per tank (or per compartment in two-compartment tanks) of at least eighteen (18) inches in diameter, with a riser that extends to ground level for inspection and cleaning purposes. Such access opening shall be fitted with a safely secured, childproof, gas-tight cover.

**(G) Abandoned Septic Tanks:** Abandoned septic tanks must be pumped, can have the top crushed in and shall be filled with sand or pea gravel, as not to hold water or shall be removed.

#### **§157.04 CONSTRUCTION PERMITS**

**(A) Construction Permit Required:** An owner or permittee shall first obtain a construction permit (new, repair) from the Health Department prior to the commencement of any excavation, construction, modification or addition to any existing or new private sewage disposal system.

**(B) Permit to be Posted:** No person shall perform any work on a private sewage disposal system project unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the private sewage disposal system is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

(C) *Application for Permit:* The application for such permit shall be submitted to the Health Department on a form provided by the Health Department and shall be supplemented by any building plans, specifications and other information deemed necessary by the Health Department or as required by 410 IAC 6-8.2.

(D) *Permit Fees:* Prior to the issuance of any permit, each owner/permittee shall first tender to the Montgomery County Health Department, a fee or fees, which shall be deposited into the County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule:

<b>Type of Permit</b>	<b>Fee</b>
Commercial System – new or replacement	\$250.00
Residential System – new or replacement	\$150.00
Construction – re-inspection	\$25.00
Renewal of Expired Permit	\$50.00
Abandonment – inspection	\$25.00
Contractor Testing	\$50.00
Contractor Annual Registration –before January 31	\$50.00
Contractor Annual Registration –after January 31	\$75.00

(E) *Term and Renewal:* A construction permit shall be valid for two (2) years from the date of issuance. If the permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. The construction permit is not transferable.

**§157.05            REGISTRATION OF INSTALLERS**

(A) *Registration Requirements:* Except for a person working on his/her own private sewage disposal system which serves as the dwelling in which he/she resides, no person shall construct, install, replace, alter, modify or repair any private sewage disposal system unless that person has first registered with the Montgomery County Health Department as an installer. Application for registration shall be on forms provided by the Health Department.

**(B) Conditions for Registration:** Every person required to register under this section shall be knowledgeable of all laws, rules and regulations of both the state and county governing private sewage disposal systems. Prior to registration, the applicant must demonstrate knowledge of the applicable laws, rules and regulation by passing a proficiency exam conducted by the Health Department with a score of eighty percent (80%) or higher. The registration exam shall be reviewed from time to time to determine its applicability to current laws, rules and regulations. Where taking a written exam is not feasible, due to language or reading difficulties, arrangements will be made to allow for an oral examination to assure proficiency. Opportunity for re-examination shall be afforded to an applicant upon request, but not more than frequently than once per month.

**(C) Seminar:** At the request of the Local Board of Health, but not more often than once per year, a person registered under this section shall attend a seminar on sewage disposal conducted by the Montgomery County Health Department, Indiana State Department of Health, or IOWPA. **(D) Expiration:** Registrations under this section shall expire annually on December 31. Each installer shall be required to re-register annually on or before January 15, 2012 and on or before January 15th of each succeeding year.

**(D) Annual Fee:** An annual registration fee of fifty dollars (\$50.00) 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 Seventy-Five dollars (\$75.00).

**(E) Notice of Violation:** Whenever the Health Department determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by an installer, the Health Department shall give written notice, in person or by certified mail, of the alleged violation to the installer. Such notice shall include the following:

- (1) A statement of the alleged violation; and
- (2) An order allowing a reasonable time for the performance of any act required to correct the violation.

**(F) Suspension or Revocation:** If the violation is not corrected within the designated time, the Health Department may suspend or revoke the installer's registration subject to the provisions contained in Sections 157.02, 157.03, 157.04 or 157.09 of this Chapter.

- (1) If the registration is suspended, the installer may be reinstated by the Health Department upon correction of all violations.
- (2) If the registration is revoked, the Health Department shall require, at a

minimum, that the installer:

- (a) be retested;
- (b) pay registration fee; and
- (c) correct all outstanding violations to the satisfaction of the Health Department prior to being re-registered.

**(G) *Not Registered:*** Any person constructing, installing, replacing, altering or repairing, any private sewage disposal system who is not registered as an installer under this section shall be deemed to be in violation of this Chapter and shall be subject to all penalties set forth in this Chapter.

**(H) *Testing Fees:*** The testing fee is Fifty dollars (\$50.00). If the installer is IOWPA certified, this fee is waived.

(Ord. 2012-12, passed 9-24-12; amended by Ord. 2018-20, passed 7-23-18)

## **§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 stage 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 unsanitary or other conditions, which, in its opinion constitute an imminent health hazard, the Health Department may, without notice or hearing, issue and serve a written order on the owner/permittee/installer requiring the immediate cessation of operation/installation. Said written order shall state the existence of the imminent health hazard and shall specify the corrective action to be taken. Such order shall be effective immediately.

#### **(E) Appeal**

**(1)** Any owner/permittee/installer aggrieved by any final order of the Health Officer or designee is entitled to a review of the final order before the Commissioners of Montgomery County, Indiana by filing a written request therefor with the Secretary for the Board of Commissioners of Montgomery County within fifteen (15) days of the Health Officer or designee's final order.

**(2)** The Board of Commissioners shall conduct a hearing on the appeal within 30 days of the receipt of the appeal. The Board shall provide notice to the owner/permittee/installer at least 10 days prior to the hearing. The owner/permittee/installer is entitled to present evidence and be represented by an attorney at the hearing. Within 10 days of the hearing, the Board will make written findings of fact and enter its final order or determination of the matter in writing in its permanent records and mail a copy of its findings and final order or determination to the owner/permittee/installer.

### **§157.10 PENALTIES**

**(A) *Enforcement:*** It shall be the duty of the Health Officer or his/her designee to enforce the provisions of this Chapter. Any Permit or registration issued in conflict with the provisions of this Chapter shall be null and void. A violation of an order issued by the Health Officer or designee or Health Board shall be considered to be a violation of this Chapter.

**(B) *Violations:*** Whenever the Health Officer or his/her designee determines that any owner,

permittee, installer or any other person, is in willful violation of any of the provisions of this Ordinance, the Health Officer or his/her designee shall furnish evidence of said willful violation to the Prosecuting Attorney of Montgomery County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s).

**(C) *Penalty:*** Any person who willfully violates any of the provisions of this Chapter shall be subject to a fine of not more than \$500.00 for each violation. Each day of the existence of any violation of this Chapter shall be considered to be a separate offense.

**(D) *Injunction :*** The Health Officer or designee may bring an action for an injunction in the Circuit or Superior Court of Montgomery County, Indiana to restrain any person from violating the provisions of this Chapter, or to cause such violation to be prevented, abated or removed.

**(E) *Expense:*** Any person violating any of the provisions of this Chapter shall be liable to the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and court costs.

**(F) *Cumulative:*** The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

(Ord. 2012-13, passed 9-24-12; Amended by Ord. 2018-20, passed 7-23-18)



**CHAPTER 158: PUBLIC AND SEMI-PUBLIC SWIMMING POOL AND SPA  
OPERATIONS**

Section

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**§158.01 TITLE.**

This chapter may be referred to as the “Montgomery County Swimming Pool Ordinance.”

(Ord. 2013-4, passed 5-28-2013)

**§158.02 ADOPTION BY REFERENCE.**

The regulations located at 410 IAC 6-2.1 et seq. entitled “Public and Semi-Publics,” as amended from time to time and promulgated by the Indiana State Department of Health and 675 IAC 20-1.1 et seq., 675 IAC 20-2 et seq., and 675 IAC 20-3 et seq. entitled “Swimming Pool Code,” as amended from time to time and promulgated by the Indiana Fire Prevention and Building Safety Commission are hereby incorporated and adopted by reference. One copy of these regulations shall be on file with the Montgomery County Health Department.

(Ord. 2013-4, passed 5-28-2013)

**§158.03 DEFINITIONS.**

Except as provided below, the terms defined in 410 IAC 6-2.1 and 675 IAC 2-1.1 shall carry the same definitions wherever used in this chapter as the definition provided in those regulations. For the purpose of this chapter, the terms below shall be defined as follows:

***ALKALINITY.*** The total amount of bicarbonate, carbonate, and hydroxide compounds present in water. ***ALKALINITY*** refers to the ability or capacity of water to resist change in pH.

***ANNUAL POOLS.*** Pools that are open all year.

***CALCIUM HARDNESS.*** The amount of calcium dissolved in the water. ***CALCIUM HARDNESS*** shall be expressed in parts per million of calcium carbonate.

***CHLORINE.*** The chemical element Cl that exists as a gas in its elemental form and which is an oxidant and biocidal agent, used in swimming pool disinfection. ***CHLORINE*** may be derived from chlorine gas, calcium hypochlorite, sodium hypochlorite, or lithium hypochlorite.

***COMBINED CHLORINE (CHLORAMINE).*** The portion of the total chlorine existing in water in chemical combination with ammonia, nitrogen, and/or organic compounds. ***CHLORAMINE*** causes eye and skin irritation and has a strong, objectionable odor.

***CYANURIC ACID.*** A chemical family of pool sanitizer products (isocyanurates) that are used to prevent the decomposition of chlorine by ultra-violet light. ***CYANURIC ACID*** is also referred to as stabilizer, isocyanuric acid, conditioner, or triazinetrione.

***DISINFECTANT.*** A chemical or chemicals used to react with and to kill undesirable or pathogenic organisms and having an easily measured free residual.

***FREE CHLORINE.*** That portion of the total chlorine remaining in chlorinated water that is not combined with ammonia, nitrogen compounds, or other compounds and will react chemically with undesirable or pathogenic organisms.

***HEALTH DEPARTMENT.*** The Montgomery County Health Department.

***HEALTH OFFICER.*** The Montgomery County Health Officer or his/her duly authorized representative.

***HEALTH HAZARD.*** Any condition which in the opinion of the Health Officer may reasonably lead to injury or disease or put the public health at risk. A ***HEALTH HAZARD*** may include, but shall not be limited to: unacceptable disinfection residuals; unacceptable bacterial levels; water clarity that does not allow viewing all parts of the pool.

***IMMINENT HEALTH HAZARD.*** Any event, circumstance or situation, which in the discretion of the Health Officer, presents a serious and present health or safety risk to a person or to the public at large.

***INSPECTION.*** A review of any portion of a swimming pool facility and its operations. The facility shall include the swimming pool and surrounding area, water supply, sewage disposal system, mechanical equipment and equipment room, chemical storage facility, safety and testing equipment, bathhouse, and any other portion of the swimming pool facility as deemed necessary by the Health Officer. The operations shall include bacteriological reports, operating records, and chemical water testing results.

***LICENSEE.*** Any individual, association, company, corporation, partnership, division of government or other group acting as a unit, trust, estate, agent or legal representative thereof who shall hold title to the real estate upon which the pool is placed, or who shall be legally responsible for the operations of the pool, or who shall be so named as the owner on the pool permit application.

***MECHANICAL CHEMICAL FEEDER.*** A device approved by the Health Officer that allows for the continuous (24 hours per day) and automatic addition of a chemical which imparts an easily measured free residual. All such devices must be sized to provide an acceptable chemical residual, sufficiently adjustable to readily increase or decrease the chemical as necessary, and durable enough to operate continuously 24 hours per day.

***OPERATING RECORDS.*** A written record on approved forms, completed daily,

outlining hours of operation, and all testing results (including bacterial, disinfectant residual, combined chlorine, pH, alkalinity, cyanuric acid calcium hardness), and any changes to the pool operation.

**PERSON(S) IN CHARGE (PIC).** The individual(s) who has knowledge of all laws, rules and regulations of both the State of Indiana and Montgomery County governing swimming pools and who supervises compliance with all parts of this chapter. The PIC shall be available to the health department, either in person or by telephone, at all times during normal working hours. In addition, the PIC shall be available within one hour for emergencies during non-working hours.

**pH.** A measure of the relative acidity or basicity of water as indicated by the hydrogen ion concentration. **pH** is expressed as a number on the scale of 0 to 14.

**POOL ENCLOSURE.** The barrier between the swimming pool area and the area outside which is intended to deter unauthorized entry from outside the swimming pool area. The **POOL ENCLOSURE** shall provide self-closing and self-latching hardware on all gates, doors, or other accesses through the enclosure; and shall be locked when the swimming pool is closed.

**PUBLIC POOL.** Any pool, other than a semi-public pool defined in this section, which is intended to be used for swimming or bathing and is operated by a concessionaire, owner, lessee, operator, or licensee, regardless of whether a fee is charged for use. Nothing in this Chapter will be construed as applying to any pool constructed at a one (1) or two (2) family dwelling and maintained by an individual for the sole use of the household or house guests.

**SEASONAL POOLS.** Pools that are open less than all year.

**SEMI-PUBLIC POOLS.** Any pool restricted for use by residents, members, or registered guests that is intended to be used for swimming or bathing and is operated solely for and in conjunction with

- (1) hotels, motels, apartments, condominiums, bed and breakfast facilities or similar facilities associated with lodging;
- (2) camps or mobile home parks; or
- (3) membership clubs, churches or associations.

**STATE HEALTH DEPARTMENT.** The Indiana State Department of Health.

**STOP WORK ORDER.** A written order of the Health Officer to stop all work on a project or construction of a swimming pool until the project is in compliance with all provisions of this chapter.

**SUPERCHLORINATE.** The practice of adding a sufficient amount of chlorine to water to destroy chlorine demand compounds and any combined chlorine which may be present. **SUPERCHLORINATION** is referred to as breakpoint chlorination. Generally, chlorine must be added to ten times the difference between the free chlorine and the total chlorine in the swimming pool water to super chlorinate and achieve breakpoint chlorination.

**SWIMMING POOL.** An artificial body of water used by individuals primarily for the purposes of swimming, wading, diving, recreation, or instruction, and includes all related equipment, bathhouses, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool. **SWIMMING POOLS** shall include any structure, basin, chamber, or tank containing water for swimming, wading, diving, recreation or instruction and shall include swimming pools, pools, slide pools, spa pools, wave pools, wading pools, diving pools, whirlpools, hot tubes, water slides, and spas. **SWIMMING POOLS** shall not include:

- (4) Residential swimming pools serving one- or two-family dwellings and maintained by an individual for the sole use of the household and house guests;
- (5) Portable hot tubs or other pools or spas operated for medical treatment, physical therapy, or related purposes, or that are drained and cleaned between uses and filled directly prior to use; and
- (6) Natural bathing areas such as streams, lakes, rivers, or man-made lakes.

**TEST KIT.** A set of devices and reagents used to accurately monitor the disinfectant residual, pH, alkalinity, calcium hardness, combined chlorine, and any other chemical characteristic of the water determined by the Health Officer as important in the control of water quality. A **TEST KIT** shall be durable; shall have the appropriate range of standards which are accurate and stable; shall have fresh reagents; and shall be simple to use. When cyanuric acid is used, a test kit for determining cyanuric acid levels shall be provided.

**TOTAL DISSOLVED SOLIDS.** The total amount of dissolved matter in water (such as calcium, magnesium, carbonate, bicarbonates, metallic compounds and the like).

(Ord. 2013-4, passed 5-28-2013)

#### **§158.04 LICENSE REQUIREMENTS**

(A) *License Requirement.* No person shall operate a swimming pool in Montgomery County without a valid license. A swimming pool license shall be issued for a term of one year commencing May 1st and expiring on April 30th of the subsequent year and must be renewed annually.

(B) *Limitations.* The person(s) in charge shall only be in charge of one pool for any given facility except for facilities with more than one pool located on the same or contiguous property. The licensee may be the person in charge or must specify a person in charge. At any time the swimming pool is not under the operation of the specified person(s) in charge, the licensee shall find a new person in charge within one week. If the new person in charge is not specified within one week, the swimming pool shall close. Swimming pool licenses are not transferable and shall be conspicuously posted at every swimming pool.

(Ord. 2013-4, passed 5-28-2013)

#### **§158.05 ISSUANCE OF LICENSE**

(A) *Application.* Any pool owner wishing to operate a swimming pool in Montgomery County shall make written application for a license to operate the swimming pool on approved forms. The application shall include the name and address of the owner, the location and type of proposed swimming pool, dimensions and volume of pool(s), the signature of the owner, the names, addresses, and phone numbers of the person(s) in charge, the days and hours of operation, and any other information deemed necessary by the Health Officer. Application for licensure must be completed prior to all requests for inspection.

(B) *Education.* Each applicant must have its Person in Charge participate in a Certified Pool Operator's course or pass a test administered by the Health Department in order to demonstrate the requisite knowledge of operations prior to issuance of a license.

(C) *Inspection.* Before approving an application for a license to operate a swimming pool, the Health Officer shall inspect the swimming pool to determine compliance with this chapter.

(D) *Fee.* The applicant shall pay a license fee as required by Section 158.16.

(E) The Health Officer shall promptly issue a license if the applicant satisfied the conditions of this section and all rules of the Department, the swimming pool is in compliance with this chapter and is designed, constructed, and equipped to be operated in a manner which protects public health.

(Ord. 2013-4, passed 5-28-2013)

**§158.06 LICENSE RESTRICTIONS**

A swimming pool which has not held a required license to operate for a period of one year, or has had its license revoked by the Health Officer, shall be required to apply for a new license before resuming operations and shall not be issued a license to operate unless it complies with all of the requirements of this chapter, including the construction, design, equipment, and sanitation requirements applicable to a new swimming pool. Upon change of ownership of a swimming pool, a new license to operate must be obtained from the Health Department prior to operating under the new owner. A license will not be issued to the new owner unless the swimming pool is in compliance with current codes and regulations.

(Ord. 2013-4, passed 5-28-2013)

**§158.07 SAMPLING AND TESTING**

Bacteriological examination of all swimming pools must be completed prior to opening and at least once per week as outlined in Rule 410 IAC 6-2.1. Sample results must be submitted in writing to the Health Department within seven days of sample collection. Every swimming pool shall be equipped with a chemical test kit. Tests for residual disinfectant and pH in the swimming pool shall be conducted not less than two times per day and recorded on approved forms. These tests shall be conducted prior to opening the pool and spa to swimmers and one other time later in the day when the pool is in use by swimmers. Tests for alkalinity and cyanuric acid shall be conducted as necessary to maintain acceptable chemical balance but not less than once per week. Tests for combined chlorine shall be conducted at least twice per week. The Health Department recommends but does not require that the test for calcium hardness be conducted at least once per month. Results shall be recorded on the approved operating record forms. All such records shall be maintained for at least one year and shall be available for examination by the Health Officer.

(Ord. 2013-4, passed 5-28-2013)

**§158.08 ADDITION OF CHEMICALS.**

(A) The water chemistry and bactericidal chemical concentrations shall be maintained within the parameters as established in Rule 410 IAC 6-2.1.

### Required Disinfectant Levels

	Chlorine		Bromine	
Pool Type	Minimum	Maximum	Minimum	Maximum
Wading pool	3.0 ppm	7.0 ppm	4.0 ppm	10 ppm
Spa pools	2.0 ppm	7.0 ppm	4.0 ppm	10 ppm
Waterslide plunge pool	2.0 ppm	7.0 ppm	3.0 ppm	10 ppm
Wave pool	2.0 ppm	7.0 ppm	3.0 ppm	10 ppm
All other pool	1.0 ppm	7.0 ppm	2.0 ppm	10 ppm

### Required Levels of Other Chemical Parameters

	Minimum	Maximum
Ph	7.2	7.8
Cyanuric Acid	NA	60 mg/L
Alkalinity	80 mg/L	NA
Combined Chlorine	NA	0.50 mg/L
NA=not applicable		
Cyanuric Acid shall not be used in any indoor pool		

**(B)** Where the concentration of combined chlorine is greater than 0.50 mg/L (ppm), the swimming pool shall be superchlorinated or otherwise treated in a manner to oxidize and diminish the concentration of combined chlorine. No harsh or irritating chemical shall be added manually and directly to the water of any swimming pool except under emergency conditions. Should it be necessary to add any such chemical in concentrated form directly into the water of any swimming pool, use of the swimming pool shall be terminated until such time as the chemical is dissolved completely in and is diffused thoroughly throughout the swimming pool. The broadcasting or manual application of chemicals to maintain a disinfectant residual or pH is prohibited except as may be required to superchlorinate the swimming pool. Under no conditions may superchlorination or manual adjustment of pH occur while the swimming pool is in use by swimmers.  
(Ord. 2013-4, passed 5-28-2013)



## **§158.09           INSPECTIONS**

The Health Officer may enter upon the swimming pool premises and other property of a person at all reasonable times for the purpose of inspecting the swimming pool, examining records maintained by the operator, and carrying out the requirements of this chapter upon producing proper credentials and identification. No person shall open or place in service any swimming pool without first obtaining a license for such cooperation from the Health Officer. An applicant for licensure shall notify the Health Officer, to request an initial inspection, at least one week prior to the anticipated opening. The Health Officer shall make the inspection within three working days of the receipt of notice from the applicant but only after a minimum of one satisfactory bacterial sample is received by the Health Department. A minimum of one additional inspection will normally be completed during the swimming pool's regular operating season but inspections may be performed as often as necessary for the efficient and effective enforcement of this chapter.

(Ord. 2013-4, passed 5-28-2013)

## **§158.10           REPORT OF INSPECTION**

Whenever an inspection is made of a swimming pool, the findings shall be recorded on an approved inspection report form. The inspection report form shall summarize the violations of this chapter and shall set forth requirements for correction. A copy of the completed inspection report form shall be presented to the person(s) in charge of the swimming pool at the conclusion of the inspection. The complete inspection report form constitutes an official notice of the inspection findings and an order of the Health Officer to correct all violations found.

(Ord. 2013-4, passed 5-28-2013)

## **§158.11           CORRECTION OF VIOLATIONS**

The completed inspection form shall specify a reasonable period of time for the correction of the noted violations. Correction of all violations shall be accomplished within the period specified in accordance with the following provisions:

(A) If an imminent health hazard is determined by the Health Officer to exist, the swimming pool shall immediately close to all swimmers and guests until the violation can be corrected. Operations shall not be resumed until authorized by the Health Officer.

**(B)** If the weekly bacterial water tests do not demonstrate acceptable water quality, the swimming pool shall immediately close to all swimmers. The pool may reopen only after a satisfactory bacterial test result is obtained.

**(C)** If inspection by the Health Officer determines a disinfectant residual below the levels required in 410 IAC 6-2.1 for the type of pool in question, the swimming pool shall immediately close to all swimmers and guests as required by Rule 410 IAC 6-2.1 until disinfectant levels are acceptable. Suitable chlorine levels shall be verified by the Health Officer prior to reopening the swimming pool to swimmers and guests.

**(D)** All other violations of this chapter shall be corrected in accordance with the Montgomery County Swimming Pool Inspection Form and the following schedule:

**(1)** *Water quality*: Corrective action required to commence immediately with compliance required within 24 hours.

**(2)** *Water clarity*: Corrective action required to commence immediately with compliance required within 48 hours.

**(3)** *Disinfectant residual*: Corrective action required to commence immediately with compliance required within 48 hours.

**(4)** *Circulation and filtration*: Compliance required within 30 days if water quality is being maintained. If water quality cannot be maintained, the Health Officer may order closure until repairs are completed.

**(5)** *Tests and records*: Corrective action required to commence immediately with compliance required within ten days.

**(6)** *Structures and fixtures*: Compliance required within the number of days specified by the Health Officer dependent upon severity, but with compliance always required prior to renewal of the license.

**(7)** *Safety*: Corrective action required to commence immediately with compliance required within the number of days specified by the Health Officer.

**(8)** *Signs and enclosure*: Compliance required prior to opening; replacements required within 30 days.

**(9)** *Cleanliness*: Compliance required within ten days.

(10) *License*: License to be obtained and posted prior to opening; if licensure cannot be demonstrated, then immediate closure is required until the license is obtained.

(Ord. 2013-4, passed 5-28-2013)

#### **§158.12       SUSPENSION OF LICENSE.**

(A) The Health Officer may, upon written notice without prior warning or hearing, suspend any license to operate a swimming pool for any of the following reasons:

- (1) The operation, in the opinion of the Health Officer, constitutes an imminent health hazard.
- (2) Interference with the Health Officer in the performance of his or her duties;
- (3) Failure to correct any specific violation on two or more consecutive routine inspections; or
- (4) Failure to comply with the correction schedule established by the Health Officer.

(B) The license shall be promptly reinstated when it has been verified by the Health Officer that the reason for suspension has been corrected. Suspension shall be for a period not exceeding 30 days. Whenever the license to operate a swimming pool is suspended, the licensee or the person(s) in charge shall be notified in writing that the license to operate the swimming pool is, upon serving of the notice, immediately suspended. Opportunity for a hearing will be provided if a written request for a hearing is filed, by the licensee or the person(s) in charge, with the Health Officer shall be afforded within 20 days of receipt of the request. If no written request for hearing is filed within ten days, the suspension is sustained. The Health Officer shall end the suspension upon request of the licensee or the person(s) in charge if the reason for the suspension no longer exists. If after 30 days the suspension is still in place, the Health Officer shall conduct a hearing for license revocation.

(Ord. 2013-4, passed 5-28-2013)

#### **§158.13       LICENSE REVOCATION**

(A) The Health Officer may, after providing opportunity for hearing, revoke a license to operate a swimming pool for any of the following reasons:

- (1) Repeated violations of this chapter found in consecutive inspections;

- (2) Interference with the Health Officer in the performance of his or her duties; or
- (3) As a result of a license suspension which has exceeded 30 days.

(B) Before revocation, the Health Officer shall notify the licensee or the person(s) in charge, in writing, of the reasons for which such license is subject to revocation. The license to operate the swimming pool shall be revoked at the end of ten days following service of such notice unless a written request for a hearing is filed with the Health Officer within the ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the license to operate the swimming pool becomes final.

(Ord. 2013-4, passed 5-28-2013)

#### **§158.14 SERVICE OF NOTICE**

Any notice provided for in this chapter is properly served when it is delivered to the licensee or to the person(s) in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the licensee. A copy of the notice shall be filed in the records of the Health Department.

(Ord. 2013-4, passed 5-28-2013)

#### **§158.15 HEARINGS**

(A) The hearings provided for in this chapter shall be conducted by the Health Officer at a time and place designated by the Health Officer. The Health Officer shall make a final finding based upon the complete hearing record and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the licensee, or to the person in charge, by the Health Officer within ten days of the hearing if requested. The licensee and person(s) in charge shall immediately comply with an order or decision of the Health Officer. Should the Health Officer be unable to conduct a hearing or should he consider it in the best interests of Montgomery County to do so, he or she may in his or her discretion request that the Montgomery County Board of Health conduct the hearing.

(B) In the event that the licensee or his or her authorized representative fails to attend any hearing, he or she shall be deemed to have accepted the decision of the Health Officer.

(C) In the event that the licensee or the person(s) in charge fails to abide by the hearing decision or written orders of the Health Officer, the Health Officer may furnish written evidence of the violation to the Montgomery County Prosecutor for prosecution for violation

of the provisions of this chapter. The Health Officer may also furnish written evidence of the violation to the office of the Montgomery County Attorney for appropriate action against the licensee including enforcement action for violation of the provisions of this chapter.

(Ord. 2013-4, passed 5-28-2013)

#### **§158.16 LICENSE FEES**

(A) *Application Fees.* License fees shall be charged prior to the issuance of a license to operate a swimming pool in Montgomery County. The fees shall be as follows:

- (1) Seasonal Pools: \$100.00;
- (2) Annual Pools: \$125.00;
- (3) Annual Pools and Spas: \$175.00; and
- (4) Schools: Exempt.

(B) *Renewal Fees.* Each year, the holder of a valid license may apply for renewal. The fee for such renewal is the same as the license fee provided for in Section 158.16(A).

(C) *Additional Inspection Fees:* For re-inspection due to violations, closures and revocations, an additional inspection fee in the amount of \$50.00 per inspection shall be paid by the operator. Schools are subject to this fee.

(D) *Pool License Fund.* The fees payable under this Chapter shall be deposited into the Pool License Fund. These funds may be used by the Health Department to pay any and all expenses associated with the regulation of pools as provided for in this section, including but not limited to salaries, supplies, services, and capital equipment. This shall be a non-reverting fund.

(Ord. 2013-4, passed 5-28-2013)

#### **§158.17 LICENSE FEE PENALTY**

Any person found to be operating a swimming pool without a valid license shall be assessed a fine in the amount of \$100.00 per day. The Health Officer may not issue a license until the fines arising from this subsection are paid.

(Ord. 2013-4, passed 5-28-2013)

**§158.18 PLAN REVIEW**

Prior to the construction, rehabilitation, or alteration of any swimming pool in Montgomery County a plan review fee shall be paid, as provided in the Health Department Fee Schedule as amended periodically. The plans and specification sheets stamped with the State of Indiana Plan Release, shall also be submitted to the Health Officer for plan review. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed and non-fixed equipment and facilities. Failure to submit the appropriate plan review fee and construction plans prior to beginning construction, rehabilitation, or alteration may result in a stop-work order.

(Ord. 2013-4, passed 5-28-2013)

**§158.19 CONSTRUCTION**

(A) In the event that any provision of this chapter is ultimately determined by a court of competent jurisdiction to conflict with any provision of 410 IAC 6-2.1 et seq., 675 IAC 20-1.1 et seq., 675 IAC 20-2 et seq., or 675 IAC 20-3 et seq., then and in any such event the more strict provision shall govern.

(B) In the event that any provision of this chapter is ultimately determined by a court of competent jurisdiction to be preempted by any state or federal law or regulation, this chapter shall automatically be deemed amended by eliminating the pre-empted provision and incorporating in its place the applicable provision of the preempting state or federal law or regulation.

(C) Each provision of this chapter shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, remainder shall continue in full force and effect.

(D) Compliance with the requirements of this chapter does not obviate or eliminate the necessity of complying with any other applicable federal, state or local laws and regulations affecting swimming pools.

(Ord. 2013-4, passed 5-28-2013)

**§158.20 AUTHORITY OF HEALTH OFFICER**

It is hereby acknowledged, understood, and declared by the Commissioners of the County of Montgomery, Indiana, that under this chapter the Health Officer is required to exercise and is vested with the authority to exercise his or her discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of the County of Montgomery, Indiana in regulating swimming pools. The authority of the Health Officer to issue, deny, suspend, or revoke or fail or refuse to issue, deny, suspend, or revoke any license, approval, order registration or similar authorization under this chapter is hereby declared to be discretionary.

(Ord. 2013-4, passed 5-28-2013)

**§158.99 PENALTY**

Any person who violates any provision of this chapter shall be deemed to have committed a violation and, upon conviction, shall be fined not more than \$500 for the first offense and not more than \$1,000 for the second and each subsequent offense. Each violation of the chapter shall constitute a separate violation, and each day that a violation continues shall constitute a separate violation. In addition to the specific enforcement mechanisms contained within this chapter, the Health Officer may furnish written evidence of any violation of this chapter to the Montgomery County Prosecutor and/or the Montgomery County Attorney for appropriate action against the licensee and the person(s) in charge, including prosecution and enforcement action for violation of the provisions of this chapter.

(Ord. 2013-4, passed 5-28-2013)

**TABLE OF SPECIAL ORDINANCES**

**Table**

**I. ECONOMIC REVITALIZATION AREAS**

**II. PURCHASES**

**III. VACATIONS OF PUBLIC WAYS**

**IV. INTERLOCAL AGREEMENTS**

**V. CUMULATIVE CAPITAL DEVELOPMENT Table of Special Ordinances**

**TABLE I: ECONOMIC REVITALIZATION AREAS**

<b>Res./Ord. No.</b>	<b>Date Passed</b>	<b>Description</b>
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**

<b>Res./Ord. No.</b>	<b>Date Passed</b>	<b>Description</b>
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.
<b>Ord. No.</b>	<b>Date Passed</b>	<b>Description</b>
-		Vacation of county highway

9-85	11-25-85	Vacation of public way
89-10	11-6-89	Vacation of county road
90-2	7-11-88	Vacation of public street
90-3		Vacation of public street
92-3	4-6-92	Vacation of platted easement
98-7	11-17-98	Vacation of public road
99-3	8-3-99	Vacation of county road
4-2003	8-12-03	Vacation of part of public street
2006-08	4-11-06	Vacation of public street
2006-14	6-6-06	Vacation of county road
2008-07	4-14-08	Vacation of public alley in Fredericksburg (Mace)
2017-02	1-23-17	Vacation of portion of ally located in Parkersburg

**TABLE III: VACATIONS OF PUBLIC WAYS**

Ord.	Date Passed	Description
Ord. 2018-10	6-18-18	That the portion of Campbell Street, a platted but unimproved street in Walnut Hills Subdivision No. 2, from the east boundary line of Lot 34 to the west terminus of such street, in Montgomery County, is hereby vacated.

**TABLE IV: INTERLOCAL AGREEMENTS**

<b>Ord. No.</b>	<b>Date Passed</b>	<b>Description</b>
Res. -	-	Purchase of real estate for the Preservation of public health and safety
2-1991	6-17-91	Formation of the West Central Indiana Joint Solid Waste District, including the counties of Montgomery, Hendricks, Morgan, Parke and Putnam
Ord. 2005-05	7-12-05	Amending the West Central Solid Waste District Agreement
Res. 2006-07	12-12-06	Authorizing Intergovernmental Cooperation Agreement for the Provision of Dispatching Services by the City of Crawfordsville
Commissioners Ord. 2008-03	2-25-08	Amending the West Central Solid Waste District Agreement

**TABLE V: CUMULATIVE CAPITAL DEVELOPMENT**

<b>Ord. No.</b>	<b>Date Passed</b>	<b>Description</b>
Ord. 2015-1	7-14-15	Re-establishing the Cumulative Capital Development Fund and Increasing the Tax Rate for the Fund
Ord. 2017-09	7-10-2017	Re-establishing the Cumulative Capital Development Fund and Increasing the Tax Rate for the Fund at \$0.0333 cents per \$100 assessed valuation.
Ord. 2018-7	4-9-2018	Re-establishing the Cumulative Capital Development Fund and Increasing the Tax Rate for the Fund at \$0.0333 cents per \$100

assessed valuation

Ord. 2017-10	7-10-2017	Re-establishing the Cumulative Bridge Fund at \$.10 per \$100 assessed valuation
Ord. 2018-6	4-9-2018	Re-establishes the Cumulative Bridge Fund at \$.10 per \$ 100 Assessed valuation
Ord. 2019-4	2-25-2019	Re-establishes the Cumulative Bridge Fund at \$.10 per \$ 100 Assessed valuation
Ord. 2020-15	5-26-2020	Re-establishes the Cumulative Bridge Fund at \$.10 per \$ 100 Assessed valuation
Ord. 2020-38	10-26-2020	Re-establishes the Cumulative Bridge Fund at \$0.040 per \$100 Assessed valuation

ACCEPTANCE OF DEDICATION OF PUBLIC ROADS

Item	Road	Date Accepted	Ordinance
1	Logan Road	September 28, 2015	2015-16
2	Willowbrook Road	June 27, 2016	2016-18

# Montgomery County

## Zoning Ordinance

Chapter 159 of the Montgomery County Code

Adopted: June 10, 2019

ZONING ORDINANCE – MONTGOMERY COUNTY, INDIANA

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## ARTICLE 1 – BASIC PROVISIONS

- 1.01 TITLE:** The official title of this Ordinance is: “Zoning Ordinance of Montgomery County, Indiana.”
- 1.02 AUTHORITY:** This Ordinance is adopted pursuant to the Indiana Code 36-7 et seq., and all acts supplemental and amendatory thereto.
- 1.03 COMPLIANCE:** No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Ordinance and after the lawful issuance of the permits required by the Ordinance.
- 1.04 SEVERABILITY:** If any provision of this Ordinance or the application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.
- 1.05 JURISDICTION AREA:** This Ordinance shall apply to all unincorporated land within Montgomery County.
- 1.06 APPLICATION:** It is not intended by this Ordinance to interfere with, abrogate or amend any existing easements, covenants, or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul or in any way interfere with any existing provisions of laws or ordinances, or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this Ordinance shall control; but where such private covenants, permits, agreements, rules or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.

## ARTICLE 2 – DISTRICT REGULATIONS

- 2.01 ZONE MAPS:** A “Zone Map” of Montgomery County in Montgomery County is hereby adopted as a part of this Ordinance and is marked Appendix A. The Zone Map shall be kept on file and available for examination at the Office of the Zoning Administrator.
- 2.02 ZONING DISTRICTS:** The entire unincorporated area of Montgomery County is divided into the districts stated in this Ordinance as shown by the district boundaries on the Zone Maps. The districts are as follows:
- “A” Agricultural
  - “C” Commercial
  - “I” Industrial
  - “PUD” Planned Unit Developments
  - “R” Residential

The districts designated by this Section and defined by Sections 203 thru 208 of this Ordinance and Permitted Uses, Table A, shall control the zoning of all land within the jurisdiction of this Ordinance, except land defined and determined to be within the jurisdiction of Section 209, Flood Districts, of this Ordinance.

- 2.03 DISTRICT BOUNDARIES:** District boundaries shown within the lines of streets, streams, and transportation rights-of-way shall be deemed to follow their centerlines. The vacation of streets shall not affect the location of such district boundaries.
- 2.04 AGRICULTURAL (A) DISTRICT:** The district designated for agriculture, “A”, is intended for areas that cannot feasibly be served with public water and sewer facilities. This district will preserve and protect agricultural land from undesirable urban growth while permitting limited residential development on large-size lots that provide adequate space for private water and sewage facilities.
- 2.05 COMMERCIAL (C) DISTRICT:** The district designated for business, “C”, is limited to business and certain public uses. By establishing compact districts for such uses, more efficient traffic movement, parking facilities, fire protection, and police protection may be provided.
- 2.06 INDUSTRIAL (I) DISTRICT:** The district designated for industry, “I”, provides suitable space for existing industries and their expansion as well as for future industrial

development. The locations of the districts are near railroads or highways in order to meet the transportation needs of industry.

**2.07 RESIDENTIAL(R) DISTRICT:** The district designated for residential use, “R”, is limited to dwellings and public or semi-public uses which are normally associated with residential districts and those which would not detract from the residential character of the neighborhood. The purpose of this district is to create an attractive, stable, and orderly residential environment.

**2.08 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT:** This district is established to provide for the development of mixed-use zoning districts as provided for in Indiana Code §37-7-4-1500 et seq. A Planned Unit Development District is a district for which a Planned Unit Development ordinance has been adopted. The adopted ordinance establishes the land use and zoning regulations for the district.

**2.09 FLOOD CONTROL REGULATIONS:** Montgomery County shall acknowledge the most current model floodplain ordinance from the Indiana Department of Natural Resources Division of Water.

**2.10 USES:** The permitted uses for each district are shown on Table A. The uses that are listed for the various districts shall be according to the common meaning of the term or according to definitions in this Ordinance. Permitted uses as defined under this Section shall be subject to all the conditions and restrictions set out in this Ordinance and all provisions thereunder. Uses allowed by special exception are allowed only with the approval of the Board of Zoning Appeal in those districts provided for in the Use Table (Table A).

**TABLE A  
USE TABLE**

**A, AGRICULTURE DISTRICT  
PERMITTED USES**

- |                                       |  |
|---------------------------------------|--|
| 1. Accessory Uses                     | 15. Machine & Welding Shops                    |
| 2. Agriculture & Agriculture Building | 16. Manufactured/Mobile Homes                  |
| 3. Airports                           | 17. Mineral Excavations                        |
| 4. Bed & Breakfast                    | 18. Private Air Strips                         |
| 5. Cemeteries                         | 19. Private Clubs & Camps                      |
| 6. Churches                           | 20. Public Parks & Playgrounds                 |
| 7. Commercial Recreational Uses       | 21. Recycling Collection Points                |
| 8. Essential Services                 | 22. Riding Stable                              |
| 9. Farm Equipment Sales & Service     | 23. Schools; Public & Parochial                |
| 10. Fertilizer, Sales & Storage       | 24. Single-Family Dwellings                    |
| 11. Grain Elevators & Feed Mills      | 25. Tanks, Bulk Storage                        |
| 12. Greenhouses & Nurseries           | 26. Telecommunications Facilities              |
| 13. Golf Courses                      | 27. Veterinary Hospitals                       |
| 14. Home Occupations/Day Care         | 28. Confined Feeding Operations                |
|                                       | 29. Solar Energy Systems, Farms and Facilities |

**C, COMMERCIAL DISTRICT  
PERMITTED USES**

- |                                       |                                     |
|---------------------------------------|-------------------------------------|
| 1. Accessory Uses                     | 17. Print Shops                     |
| 2. Automobile sales, service & repair | 18. Private Clubs                   |
| 3. Churches                           | 19. Public Parks                    |
| 4. Cleaning & Laundry plants          | 20. Public & Parochial Schools      |
| 5. Commercial Recreation Uses         | 21. Public Transportation Terminals |
| 6. Commercial Schools                 | 22. Recycling Collection Points     |
| 7. Convenience Stores                 | 23. Research Laboratories           |
| 8. Day Care Centers                   | 24. Residential, upper-story        |
| 9. Drive-In Business                  | 25. Restaurants                     |
| 10. Essential Services                | 26. Retail Business                 |
| 11. Farm implement sales & service    | 27. Service Stations                |
| 12. Funeral Homes                     | 28. Supply Yards                    |
| 13. Hospitals & clinics               | 29. Theaters                        |
| 14. Hotels & Motels                   | 30. U-Store warehouses              |
| 15. Machine & Welding Shops           | 31. Veterinary Hospitals & Clinics  |

16. Offices

32. Wholesale Businesses

**I, INDUSTRIAL DISTRICT  
PERMITTED USES**

- |   |  |
|---|--|
| 1. Airports                             | 16. Recycling Centers                          |
| 2. Asphalt Mixing Plants                | 17. Recycling Collection Points                |
| 3. Automobile Sales, Service, & Repair  | 18. Research & Testing Laboratories            |
| 4. Automobile & Truck Body Shop         | 19. Service Stations                           |
| 5. Bulk Fuel Storage                    | 20. Stockyards & Slaughterhouses               |
| 6. Concrete Mixing Plants               | 21. Supply Yards                               |
| 7. Convenience Stores                   | 22. Tanks, Bulk Storage                        |
| 8. Essential Services                   | 23. Telecommunications Facilities              |
| 9. Farm Equip. Sales, Service, & Repair | 24. Truck & Railroad Terminals                 |
| 10. Fertilizer Plants                   | 25. U-Store Warehouses                         |
| 11. General Manufacturing               | 26. Warehouses                                 |
| 12. Grain Elevators & Feed Mills        | 27. Water & Sewage Treatment Plants            |
| 13. Machine and Welding Shops           | 28. Wholesale Business                         |
| 14. Mineral Excavation                  | 29. Micro Wind System or tower                 |
|   | 30. Solar Energy Systems, Farms and Facilities |

**I, INDUSTRIAL DISTRICT  
SPECIAL EXCEPTION USES**

1. Wind Turbines
2. WECS
3. Sanitary Landfill
4. Waste Transfer Station
5. Meteorological Testing Towers more than 120 feet in height

**R, RESIDENTIAL DISTRICTS  
PERMITTED USES**

- |                       |                                 |
|-----------------------|---------------------------------|
| 1. Accessory Uses     | 11. Multi-family Dwellings      |
| 2. Bed & Breakfast    | 12. Nursery Schools             |
| 3. Churches           | 13. Nursing Homes/Asst living   |
| 4. Condominiums       | 14. Public Parks & Playgrounds  |
| 5. Essential Services | 15. Public & Parochial Schools  |
| 6. Funeral Homes      | 16. Recycling Collection Points |

- |                               |                              |
|-------------------------------|------------------------------|
| 7. Home Occupations/Day Care  | 17. Residential Subdivisions |
| 8. Garden Homes               | 18. Single-Family Dwellings  |
| 9. Duplexes                   | 19. Two-Family Dwellings     |
| 10. Manufactured/Mobile Homes |                              |

**2.11 LOT AND YARD REQUIREMENTS:** The minimum lot area, minimum width of lot, minimum depth of front yard, minimum width of each side yard, and minimum depth of rear yard for each district shall be as shown on the following table:

District	Minimum Lot Area (Square feet)	Minimum Lot Area Per Family (Square feet)	Minimum Road Frontage (Feet)	*Minimum Set Back Front Yard (Feet)	Minimum Width Side Yard (Feet)	Minimum Depth Rear Yard (Feet)
A	43,560	100% of tract	100	60	20	20
C	3,000	3,000	30	60	10	10
R	7,000***	2,500	40	60	5	5
I	20,000	N/A	100	60	20	20

\* Front setbacks are measured from the right-of-way of the street or road on which the lot has frontage.

\*\* From the top of the slope

\*\*\* If the lot or site is served by sanitary sewer. If the lot or site is not served by sanitary sewer, then the minimum lot area is 43,560 square feet (1 acre).



## ARTICLE 3 – PLAN COMMISSION

**3.01 ADVISORY PLAN COMMISSION:** The Montgomery County Board of Commissioners previously adopted Ordinance 2006-06 (amended by Ordinance 2006-20 and Ordinance 2008-9) in order to establish the Montgomery County Advisory Plan Commission. The Plan Commission has the authority to conduct public hearings and make recommendations to the Montgomery County Board of Commissioners regarding the adoption and amendment of the Comprehensive Plan, applications for amendments to the zoning maps (rezones), applications for adoption or amendment of a Planned Unit Development district ordinance, amendments to the Subdivision Control Ordinance, and the adoption and amendment of this Zoning Ordinance. The Plan Commission also has the authority to grant waivers from the requirements of the Subdivision Control Ordinance if such waivers are specifically authorized in the Subdivision Control Ordinance. The Plan Commission also has the authority to conduct public hearings and make determinations and decisions regarding plats, replats, amendments, and vacations of plats, development plan reviews and other matters as provided for in the Montgomery County Zoning Ordinance and Subdivision Control Ordinance. The adoption of this Ordinance supplements the ordinances previously adopted by the Board of County Commissioners.

**3.02 DUTIES AND POWERS:** The Plan Commission will have all of the authority, powers, duties and responsibilities provided by this Ordinance and Indiana Code §36-7-4-200 series, 36-7-4-300 series, and 36-7-4-400 series.

**3.03 COMPOSITION:** The Plan Commission consists of nine (9) 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 the Surveyor's designee, as long as the Surveyor's designee is a resident of Montgomery County;
- (D) The County Extension Educator, so long as the Educator is a resident. If the Educator is not a resident of Montgomery County, he or she may serve on the Commission to and until October 1, 2021. Thereafter, the County Extension Board will select a resident of Montgomery County who is a property owner with agricultural interest to serve on the Commission, and the non-resident Educator will serve the Commission in a nonvoting advisory capacity;
- (E) Five citizen members appointed by the Board of County Commissioners. Of these citizen members, not more than three may be from the same political party. Each of these five citizen members must be either a resident of the unincorporated area of the County or a resident of the County who is also the

owner of real property located in whole or in part in the unincorporated area of the County. However, at least three of these citizen members must reside in the unincorporated area of the County.

**3.04 CITIZEN MEMBER ELIGIBILITY:** Each citizen member of the Plan Commission will be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area. A citizen member may not hold an elective office, as defined by Indiana Code §3-5-2-17, or any other appointed office in municipal, county, or state government, except for membership on the Board of Zoning Appeals as required by Indiana Code §36-7-4-902

**3.05 TERMS:** The member appointed by the Board of County Commissioners from its membership and the member appointed by the County Council have a term of office that is coextensive with the members' term of office on the appointing authority unless the appointing authority appoints another of its members to serve at the Board's first regular meeting of the year. The Surveyor's term is coextensive with the member's term of office. The County Extension Educator's term is coextensive with the member's term of office. A property owner appointed by the County Extension Board when the Educator is not a resident of Montgomery County has a term of one (1) year. All citizens members have four-year terms. These terms expire on the first Monday of January of the fourth year after the member's appointment.

**3.06 REMOVAL:** The appointing authority may remove a member of the Plan Commission for cause. If the appointing authority wishes to remove a member, the authority must mail notice to the member at the member's residential address. This notice must state the reasons for the removal. A member who is removed may, within 30 days after receiving the notice of removal, appeal the removal to the circuit court or superior court of Montgomery County.

**3.07 VACANCIES:** If a vacancy occurs among the Plan Commission members who are appointed, then the appointing authority will appoint a new member to serve the unexpired term of the vacating member. The new member must meet the same requirements as the vacating member, including residency requirements. The appointing authority must appoint this new member within 90 days after the vacancy occurs. If a vacancy occurs in the Office of the County Surveyor while the Surveyor is serving on the Plan Commission, the County Engineer will participate with the Plan Commission during the time the Office of Surveyor is vacant. During this time, the County Engineer has all the powers and duties of a regular member.

**3.08 ABSENCES:** A member who misses three consecutive regular meetings of the Plan Commission may be treated by the appointing authority, in its discretion, as if the member has resigned.

**3.09 RULES OF PROCEDURE:** The Plan Commission has the authority to adopt rules of procedure for the proper administration of the Zoning Ordinance, Subdivision Control Ordinance and its other statutory duties and responsibilities.

**3.10 QUORUM:** A quorum of the Plan Commission consists of a majority of the entire membership of the Commission who are qualified to vote.

**3.11 ACTION BY THE COMMISSION:** Action by the Plan Commission is not official unless it is authorized at a regular or special meeting by a majority of the entire membership of the Commission.

**3.12 OFFICERS:** At its first regular meeting of each year, the Plan Commission will elect from its membership a president and vice president. The vice president may act as president during the absence or disability of the president. The Plan Commission may appoint and affix the duties of a secretary. The secretary is not required to be a member of the Commission.

**3.13 FEES:** The Plan Commission may establish a schedule of reasonable fees to defray the administrative costs associated with processing and hearing administrative appeals and petitions for rezoning, special exceptions, special uses, contingent uses, and variances, the cost of issuing permits, and the cost of other official action.

## ARTICLE 4 – BOARD OF ZONING APPEALS

**4.01 COMPOSITION:** There is created and established the Advisory Board of Zoning Appeals to be known as the Montgomery County Board of Zoning Appeals, which shall have the duties and powers as established by Indiana Code 36-7-4-900 et seq. The Montgomery County Board of Zoning Appeals shall consist of five members, appointed as follows:

(1) Three citizen members appointed by the County Commissioners, of whom one must be a member of the plan commission and two must not be members of the plan commission;

(2) One citizen member appointed by the County Council, who must not be a member of the plan commission.

(3) One member appointed by the plan commission from the plan commission's membership, who must be a county agricultural agent or a citizen member of the plan commission other than the member appointed under subdivision (1).

**4.02 ELIGIBILITY:** None of the members of the Board of Zoning Appeals may hold elective office or any other appointed office, except as permitted by Indiana Code §36-7-4-902, in a municipal, county or state government. A member of the Board of Zoning Appeals must be either a resident of the unincorporated area of the County or be a resident of the County and also an owner of real property located in whole or in part in the unincorporated area of the County. However, at least a majority of the total number of citizen members must be residents of the unincorporated area of the County.

**4.03 TERMS:** The initial members of the Board of Zoning Appeals will have the following terms:

A. The member appointed by the Plan Commission under 4.01(3) will have a term of one year;

B. The citizen members appointed by the Board of County Commissioners under 4.01(1) will have terms of 2 years, 3 years and 4 years, as designated by the Board of County Commissioners at the time of the initial appointments; and

C. The citizen member appointed by the County Council under 4.01(2) will have a term of four years.

When the initial term of office expires, each new member will have a term of four years. Each term expires on the first Monday of January of the first, second, third or fourth year, respectfully, after the year of the member's appointment.

**4.04 VACANCIES:** If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority will appoint a member for the unexpired term of the vacating member.

**4.05 ABSENCES:** A member of the Board of Zoning Appeals who misses three consecutive regular meetings of the Board may be treated by the appointing authority, in its discretion, as if the member has resigned.

**4.06 QUORUM:** A quorum consists of a majority of the entire membership of the Board of Zoning Appeals.

**4.07 ACTION:** Action of the Board of Zoning Appeals is not official unless it is authorized by a majority of the entire membership of the Board of zoning Appeals.

**4.08 OFFICERS:** At the first regular meeting of each year, the Board of Zoning Appeals will elect a chair and vice chair from its membership. The vice chair may act as chair during the absence or disability of the chair. The Board may also appoint a secretary and such employees as are necessary for the discharge of its duties.

**4.09 GENERAL:** The Montgomery County Board of Zoning Appeals shall hold meetings, keep minutes and, pursuant to notice, shall conduct hearings, compel the attendance of witnesses, take testimony, and render decisions in writing, all as required by law. When permitting any appeal, variance, or change of a non-conforming use, the Montgomery County Board of Zoning Appeals may impose such conditions and requirements, as it deems necessary for the protection of adjacent property and the public interest. The Board of Zoning Appeals further shall have the following specific powers and duties in connection with the implementation of this Ordinance.

- A.** To grant, grant with modifications, or deny any application for a special exception.
- B.** To hear and decide an appeal from any order, requirement, decision or determination made by the Zoning Administrator, hearing officer, or staff in the administration or enforcement of this Ordinance.
- C.** To hear and decide an appeal from any order, requirement, decision or determination made by any administrative board, other than the Plan Commission, in the administration or enforcement of this Ordinance.

- D. To exercise all powers conferred on it by law, local ordinance or rule in the manner so prescribed, including to invoke any legal, equitable, or special remedy available by law or this Ordinance for the enforcement of the provisions of this Ordinance or actions taken thereunder. This Section shall not be construed as a limitation on the Board's powers.
- E. To adopt rules and procedures for the administration of the Board's duties provided such rules do not conflict with this Ordinance.

**4.10 VARIANCE OF USE:** The Board of Zoning Appeals has the authority to approve or deny applications for variances of use from the requirements of the Zoning Ordinance. In approving a variance of use, the Board may impose reasonable conditions and approve voluntary commitments. A variance of use may be approved by the Board if the Board finds as follows:

- A. The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- C. The need for the variance arises from some condition peculiar to the property involved;
- D. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- E. The approval does not interfere substantially with the Comprehensive Plan.

In deciding whether to grant a variance, the Board of Zoning Appeals may exercise its discretion.

**4.11 VARIANCE FROM DEVELOPMENT STANDARDS:** The Board of Zoning Appeals has the authority to approve or deny applications for variances from the development standard of the Zoning Ordinance. In approving a variance from development standards, the Board may impose reasonable conditions and voluntary commitments. A variance from the development standards may be approved by the Board if the Board finds as follows:

- A. The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

C. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

In deciding whether to grant a variance, the Board of Zoning Appeals may exercise its discretion.

**4.12 SPECIAL EXCEPTIONS:** The Board of Zoning Appeals has the authority to approve or deny applications for special exceptions. Special exceptions are those uses that, because of their unique characteristics and potentially adverse impact upon the immediate area, as well as the unincorporated area of the County as a whole, require a greater degree of scrutiny and review of site characteristics and impacts to determine their suitability in a given location. Therefore, the determination of a special exception is contingent upon the request meeting a set of development standards. The Board may approve a special exception with supplemental conditions or deny the request. Only the owner of real property may file an application for a special exception. The Board may approve a special exception only if it finds:

A. The requested special exception is listed as a special exception for the specific zoning district in which the property is located;

B. The granting of the special exception will not be detrimental to or endanger the public's health, safety, or general welfare;

C. The granting of the special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity or substantially diminish or impair property values within the specific zoning district;

D. The site will be adequately served by essential public facilities and services, such as roads and highways, police and fire protection, drainage structures, refuse disposal, water and sanitary sewer, and schools or that the persons or agencies responsible for the establishment of the proposed special exception are able to adequately provide for such services;

E. The granting of the special exception will not create excessive additional requirements at public expense for public and services, nor be detrimental to the economic welfare of the community or result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance;

F. At least one year has elapsed since any denial by the Board of Zoning Appeals of any prior application for a special exception that would have authorized substantially the same for all or part of the site, unless the board determines that conditions in the area have substantially changed.

G. For the purpose of supplementing the consideration of the application, the Board will also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

(1) In what respects the proposed special exception meets the requirement and standard of this Ordinance and its relationship and compatibility to adjacent properties;

(2) The method by which the proposed special exception makes adequate provision for public services, provides adequate control over vehicular traffic and furthers the amenities of light, air, recreation and visual enjoyment; and

(3) Whether the proposed special exception is in accordance with the general objectives and findings of the Comprehensive Plan.

The listing of a special exception within a zoning district does not constitute a presumption that such special exception will be approved. Rather, each application for a special exception will be evaluated on an individual basis, in relation to its compliance with the conditions and standard of the Zoning Ordinance and the standards for each district in which the special exception would be located if approved. A special exception permit only authorizes the particular use at a particular location for which the special exception is approved. A special exception permit will automatically expire if the special exception is discontinued or abandoned for a period of twelve months. The approval of a special exception does not authorize development, construction, reconstruction, alteration or moving of any building or structure. Rather, the grant merely authorizes the preparation, filing and processing of applications for such permits or approvals as may be required by the rules, regulations and ordinances of the County. In deciding a special exception, the Board of Zoning Appeals must grant the special exception if the applicant satisfies the seven (7) criteria contained in this section. When granting a special exception, however, the Board of Zoning Appeals may impose conditions which are appropriate under the circumstances of the case.

**4.13 NON-CONFORMING USES:** Any legal non-conforming use created by the adoption of this Zoning Ordinance may not be enlarged or expanded without the approval of the Montgomery County Board of Zoning Appeals.

**4.14 NOTICE:** Whenever a public hearing is required, the Board of Zoning Appeals will fix a reasonable time for the hearing and publish notice in accordance with Indiana Code §5-3-1-2 and Indiana Code §5-3-1-4. In addition, the Board will provide notice to interested parties by mailing a notice of the public hearing to such parties at least 14 days prior to the public hearing. The applicant will pay for the cost of providing notice, including the cost of publishing notice and mailing notice to interested persons. The Board will, by rule, determine who are interested parties, how notice is to be provided to them and who is require to provide the notice.

**4.15 PROHIBITED CONTACT:** No person may communicate with any member of the Board of Appeals before the hearing with the intent to influence the member's action on a matter pending before the Board.



## ARTICLE 5 – ADMINISTRATION AND ENFORCEMENT

**5.01 ADMINISTRATION RESPONSIBILITY:** The Montgomery County Advisory Plan Commission and Zoning Administrator shall establish the procedure and responsibilities for the administration and enforcement of this Ordinance.

**5.02 PERMITS:** No permit shall be issued unless the proposed structure or use of structure or land is in complete conformity with the provisions of the Montgomery County Zoning Ordinance, Subdivision Control Ordinance and other rules, regulations and ordinances of the County.

- A.** Except as provided in this Ordinance, an improvement location permit shall be obtained before any structure in the Commercial, Residential, Planned Unit Development, and Industrial zoning districts may be constructed.
- B.** If a septic permit is required, then said permit, issued by the Montgomery County Department of Health, should be presented to the Zoning Administrator prior to an issuance of an Improvement Location Permit.
- C.** If a Building Permit is required by County ordinance, a building permit must be obtained from the Building Commissioner. Nothing in this Ordinance negates the requirements of the County Building Code, rules, regulations and ordinances.
- D.** No improvement location permit shall be required for:
  - (1)** Routine maintenance, repair, or remodeling of existing structures not involving any change of use or additional lot coverage.
  - (2)** Essential Services;
  - (3)** Lot and yard improvements such as children’s playhouses, drives, fences, concrete patios, decks, play equipment, retaining walls, sidewalks, and landscaping, unless such lot or yard improvements are on, over or within ten (10) feet of a septic system or utility easement. If these improvements are on, over or within ten (10) feet of a septic system or utility easement, then an improvement location permit is required.
  - (4)** Anything constructed within the Agricultural District.

- E.** All applications for permits shall be accompanied by a plot plan that shows the following items clearly and completely;
- (1) The location, dimensions, and nature of the property; and;
  - (2) The location and dimensions of any existing or proposed structures; (no structure shall be located on an easement, existing sanitary sewer, septic system, water utility facility or water well); and
  - (3) All adjoining thoroughfares and any existing or proposed access to these thoroughfares; and
  - (4) The existing and proposed use of all structures and land; and
  - (5) Such other information as may be necessary to determine conformance with this Ordinance.
- F.** All applications for permits shall be made by the recorded owner (or the recorded owners' contractor) of the lot on which the improvement is to be located. Contract purchasers, equitable owners, lessees, or other holders of less than a fee simple interest shall not make applications.

**5.03 FEES:** All fees and assessments allowable by State Statute or this Ordinance for permits shall be promulgated by the Montgomery County Advisory Plan Commission. The Montgomery County Advisory Plan Commission may modify the fees and assessments at any time.

**5.04 VIOLATIONS AND PENALTIES:** Any structure or use that violates this Ordinance shall be deemed to be a common nuisance and the owner of the structure or land shall be liable for maintaining a common nuisance. Any person or legal entity that is found by a Court of competent jurisdiction to have violated any provision of this Ordinance may be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00) per offense, plus costs, and attorney fees where the action is not brought pursuant to I.C. 36-7-4-1013, and have judgment entered accordingly. Each day that a violation exists is a separate violation. The Plan Commission, Board of Zoning Appeals and Zoning Administrator may request the County Attorney to prosecute any violations, and the enforcing authority may also request injunctive relief in order to prevent a violation of this Ordinance.

## **ARTICLE 6 – WIND TURBINES & WIND ENERGY CONVERSION SYSTEMS**

**6.01 PURPOSE AND SCOPE:** This article establishes general guidelines for the siting and use of wind turbine generators, meteorological (MET) testing towers and related devices and structures. This article is intended to:

- A.** Protect residential areas from any potentially adverse visual or noise impacts of wind turbine generators or related devices and structures.
- B.** Provide for a land use that will provide an energy source with low associated environmental impacts and protect the health, safety, and welfare of Montgomery County residents.
- C.** Provide for the removal of abandoned or noncompliant wind turbine generator towers, meteorological (MET) towers, or related devices and structures.
- D.** Allow restricted use of wind turbine generator towers and meteorological towers of limited height.

### **6.02 APPLICABILITY**

- A.** Micro Wind System towers and meteorological testing towers less than 120 feet in height shall be permitted as listed under Table A and are subject to the standards of section 6.03. These towers are not, however, subject to Section 6.04 & 6.06. Portions of sections 6.03 & 6.05 may be waived for micro wind systems when deemed appropriate by the Zoning Administrator.
- B.** All Wind Farms, Large Wind Turbines, and WECS, and all related devices and structures are only allowed if a special exception is granted by the Board of Zoning Appeals, as provided for in Article 4, are subject to all of the standards and requirements of this Article and only allowed in Industrial Districts. Meteorological testing towers (MET) towers 120' feet in height to 325 feet, and all related devices and structures for the above shall only be allowed as a special exception in Industrial Districts with approval in by the Board of Zoning Appeals in accordance with this Article and the provisions in Article 4 for special exceptions.

## 6.03 GENERAL REQUIREMENTS

**A. Minimum Site Area.** The minimum site area for a wind turbine generator or a meteorological testing towers (MET) tower erected prior to a wind turbine generator shall be as necessary to meet required setbacks and any other standards of this ordinance.

### **B. Setbacks.**

1. Micro towers and any associated features shall be set back from any adjoining property lot line, road right-of-way, railroad right-of-way or overhead electrical transmission or distribution lines a minimum distance equal to the total height of the structure.
2. Each proposed large wind turbine generator or meteorological testing tower shall meet the following applicable setback requirements:
  - a. Each wind turbine generator or meteorological testing towers (MET) and any associated features shall be set back from any adjoining property lot line, road right-of-way, railroad right-of-way or overhead electrical transmission or distribution lines a minimum distance of 2,640 feet or 5 times the height of the tower from the base to the tip of the blade in vertical position, whichever is greater. The Board of Zoning Appeals may, during consideration of a special exception application, increase the setback up to 3,200 feet if it finds that such increased set back is necessary to protect the interests of adjacent residential property.
  - b. Wind Farms and WECS' occupying multiple parcels may have internal property line setbacks waived by execution of a written document signed by all land owners sharing such a property line. All such documents shall be recorded in the office of the Montgomery County Recorder within 45 days of the signing of each wind lease agreement and said document shall be cross referenced to the current recorded deed. The wind developer may not submit a memorandum of lease containing multiple lease contracts to the Montgomery County Recorder. Signed wind lease contracts not submitted to the Montgomery County Recorder's office within 45 days of signing are null and void in Montgomery County.

- c. The setback distance for the WECS shall be one mile from any town or city or school. Distance shall be measured from the center of the foundation at the base of the WECS to the closest Corporate Limit boundary line or school property, respectively.
- C. Minimum Rotor Wind Vane or Blade Clearance.** The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than 50 feet or 1/3 of the tower height whichever is greater.
- D. Maximum Noise Levels.** Any proposed wind turbine generator shall produce sound levels that are no more than 32 decibels as measured on the dB(A) scale at the property lines of the site in question. For all towers other than micro wind systems the following shall be provided:
- 1. A noise study by a licensed acoustician chosen by the Montgomery County Board of Zoning Appeals and paid for by the wind developer shall be submitted with any application for a wind turbine generator tower. Said study shall be prepared by a qualified professional acoustician with no less than three years of experience conducting WECS and community noise sound studies and shall include the following, at a minimum:
    - a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis of the expectation;
    - b. A survey and report prepared by a qualified acoustician with no less than three years of experience conducting WECS community noise sound studies and wind development that analyzes the preexisting ambient noise (including seasonal variation) and the potentially affected residences, schools, public buildings or other noise sensitive land uses located within 2 miles of the proposed project site. Study shall include decibels for both A and C weighted scales.
    - c. A description and map of the cumulative noise impacts and any problem areas identified.
    - d. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive land uses.

- E. Maximum Vibrations.** Any proposed wind turbine generator shall not produce vibrations humanly perceptible beyond the property on which it is located or cause vibration that could be detected in nearby structures or damage underground wells.
- F. Electrical Components.**
1. All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards.
  2. Electrical Collection Cables - All WECS electrical collection cables between each WECS shall be located underground. All transmission lines that are buried should be at a depth of 10 feet until the same reach the property line or a substation adjacent to the property line.
- G. Interference with Reception.** Any wind turbine generators shall be constructed and operated so that they do not interfere with public safety communications, emergency medical communications, emergency management communications, television, microwave, GPS for agricultural use, military defense radar, navigational or radio reception to neighboring areas.
- H. State or Federal Requirements.** Any proposed wind turbine generator or meteorological testing tower shall meet or exceed any additional local, state, or federal standards and regulations.
- I. Aesthetics and Lighting.** Any proposed wind turbine generator or meteorological testing tower shall meet the following requirements:
1. Each wind turbine generator or meteorological testing tower shall, be subject to any applicable standards of the FAA. When said towers are not subject to FAA regulation said tower shall be marked or identified in order to easily be identified for low-level aviation operations as noted below;
    - a. Towers shall be painted utilizing a pattern used to mark structures based on size and shape, which is eight equal alternating horizontal bands from the base to the tip of the tower of alternating stripes of aviation orange and white.
    - b. Each tower shall have lighting that shall be shielded as much as possible so that no glare extends beyond the boundaries of the facility. In the

instance that “strobe” lighting is required it should be configured so that it is alternating lighting; white light during daylight, red light at night.

2. Each wind turbine generator, including all accessory structures, shall, to the extent possible, use materials, and colors that will blend them into the natural setting and surrounding buildings.
3. Each wind turbine generator tower shall be artificially lighted, as required by the FAA in which instance all lighting shall be shielded as much as possible so that no glare extends substantially beyond the boundaries of the facility. In the instance that “strobe” lighting is required it should be configured so that it is alternating lighting; white light during daylight, red light at night.
4. Each wind turbine generator tower and meteorological tower may be a monopole, monotube or lattice style construction and shall be self-supporting. Towers shall not include guy wires.

**J. Signs.** A sign no more than 4 square feet in area displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the wind turbine generator or meteorological testing tower erected prior to a wind turbine generator. No wind turbine generator tower or MET tower or site shall include an advertising sign.

**K. Not Essential Services.** Wind turbine generators and meteorological testing towers shall be regulated and permitted pursuant to this Article of the Zoning Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

**L. Removal of Abandoned or Unsafe Wind Turbine Generators or Meteorological Testing Towers.**

1. Any wind turbine generator or meteorological testing tower that is not operated for a continuous period of 6 months shall be considered abandoned.
2. Any tower found to be unsafe or not in compliance with the special exception conditions related to noise or shadow flicker placed upon it by the Board of Zoning Appeals (BZA) or this Ordinance, shall be found to be in violation of the special exception approval.

3. The owner of any wind turbine generator tower or meteorological testing tower that is abandoned or in violation of the special exception approval shall remove the same within twelve (12) months of receipt of notice from the Zoning Administrator of such abandonment or violation.
4. In addition to removing the wind turbine generator, or meteorological testing tower, the owner shall restore the site to its condition prior to location of the wind turbine generator or meteorological testing tower (excluding replanting of original vegetation and trees), subject to reasonable wear and tear and shall stabilize soils through use of ground cover. All concrete and rebar must be removed from the soil.
5. Failure to remove an abandoned wind turbine generator or meteorological testing tower within the twelve (12) month period provided in this subsection shall be grounds for the Zoning Administrator to pursue the violation as prescribed under this Ordinance.
6. A decommissioning plan approved by the Montgomery County Plan Commission and County Commissioners providing for the method and payment of the anticipated cost of removing a WECS at the end of its serviceable life or upon it's becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned.
  - a. Content

A decommissioning plan, for all systems except micro wind systems shall include, at a minimum, the following:

    - (I). Assurance - Written assurance that the WECS will be properly decommissioned upon the expiration of its serviceable life or in the event of its discontinuance or abandonment.
    - (ii). Cost estimates for all WECS except Micro WECS, an estimate of the costs of decommissioning and removing the WECS upon the expiration of its useful life, or in the event of its discontinuance or abandonment. The cost estimates shall be made by a professional engineer, contractor, or other person with expertise or experience in decommissioning and removal of WECS, and shall be updated every five (5) years for approval by the Montgomery County Advisory Plan Commission.



(iii). Financial assurance the cost of removal and site restoration is the full responsibility of the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the wind energy system and to restore the site, the following steps shall be followed:

- 1). For each wind energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost.
- 2). The Zoning Administrator shall require independent verification of the adequacy of this amount.
- 3). This money shall be secured in the form of an irrevocable letter of credit, payable upon demand by Montgomery County, in a form acceptable to the Plan Commission, for the full cost of the estimated removal and restoration, in an amount determined by the Montgomery County Advisory Plan Commission and approved by the Montgomery County Commissioners. No deductions for salvage value or other credits are allowed from the estimated cost of removal and restoration.

(iv). Abandonment Verification under penalties for perjury, that all easements and/or leases for the WECS contain terms that provide financial assurances to the property owners to ensure that the WECS are properly decommissioned within one (1) year of the expiration of its serviceable life or in the event of its discontinuance or abandonment.

**M. Climb Prevention.** All Tower designs must include features to deter climbing or be protected by anti-climbing devices, when applicable, such as:

1. Fences with locking portals at least six feet high; or
2. Anti-climbing devices 15 feet vertically from the base of the tower.
3. Locked tower doors.

**N. Waste Management.** All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old 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 the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.

- O. 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 then-current service regulations applicable to WECS.
- P. Warnings.** A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
- Q. Drainage Repair.** All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to near original condition, and so as not to impede the natural flow of water. All repairs must be completed within a reasonable amount of time agreed upon by the Montgomery County Surveyor.
- R. Use of Roads.**  
An Applicant, Owner, or Operator proposing to use any county road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall prior to construction: Identify all such public roads and services;

1. Roads

- a. Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Montgomery County Highway Superintendent and Montgomery County Board of Commissioners. The Superintendent shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
- b. Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Montgomery County Highway Superintendent. The Superintendent may choose to require either remediation of road repair upon completion of the project or are authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a

Professional Engineer may be required by the Superintendent to ensure the county that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.

- c. Newly constructed WECS access roads may not impede the flow of water.
- d. All repairs must be completed in the time period agreed upon by the Montgomery County Highway Superintendent.
- e. Throughout the life of the project as repairs to WECS are made, road repairs will be completed each time the company's equipment traverses Montgomery County roads if the Montgomery County Highway Superintendent deems repairs be necessary, at the wind developer's expense.
- f. The location of all WECS access roads must be approved by the Montgomery County Plan Director and may not be located closer than 2,000 feet from any residence as measured from the center of the access road to the corner of the residence.

**S. Dust Control.** Reasonable dust control measures will be required by the County during construction of the WECS.

**T. Sewer and Water.**

- 1. Any facility shall comply with existing septic and well regulation as required by the Montgomery County Health Department and the State of Indiana Department of Public Health.
- 2. Wells within one mile of each site shall be inspected by a licensed certified Indiana well installed prior to and following construction. All expenses associated with the inspections shall be at the expense of the developer. Any damage caused by vibration or the operations of WECS or their construction shall be repaired at the expense of the developer and construction companies and these companies are required to provide commercial water tanks and water to affected homes until an investigation is complete and problems, if caused by WECS construction or operation, are mitigated.

**U. Height.** The following height limitations apply to this Article:

Use	Height Limitation
Micro Wind System tower	120 feet
MET tower	325 feet
Wind Farms, Wind Turbines, WECS	600 feet

**V. Fire Prevention and Emergency Response Plan and Requirements.**

1. Description of the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
2. Designation of the specific agencies that would respond to potential fire or other emergencies.
3. Description of all emergency response training and equipment needed to respond to a fire or other emergency including an assessment of the training

**W.** The site plan and other documents shall illustrate and describe mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands, avian and wildlife (migratory bird patterns and bat population effects), other fragile ecosystems, historical/cultural sites and antiquities.

**X. Shadow Flicker.** At no time shall a wind turbine’s tower, nacelle, or blades create shadow flicker on any non-participating landowner’s residential property. For the purpose of this section a nonparticipating landowner shall be defined as a landowner on which a tower does not physically sit.

**Y. Property Value Guarantee** will be offered by the wind developer to all residents and landowners within two miles of a wind turbine. Fair market value will be established by, at minimum, two reputable appraisers of the Montgomery County Plan Commission’s choice to establish baseline data for property values at the wind developer’s expense. If the property value of a home decreases and a home or landowner is unable to sell his property after the wind turbines are erected, the developer will pay that landowner the difference or buy the property at the baseline fair market value determined prior to construction of the wind project.

**Z.** Prior to meeting with landowners in Montgomery County to secure leases and holding private meetings with residents, the wind developer must notify every

household and landowner within five miles of a planned wind project of their intentions to develop a wind farm in the area via certified letter. The wind developer must also contact the Montgomery County Zoning Administrator and inform the Montgomery County Planning Commission of their intent to develop a wind farm in Montgomery County prior to notice being sent to residents and landowners and prior to meeting with landowners to secure wind lease contracts in Montgomery County.

#### **6.04 SPECIAL EXCEPTION APPROVAL REQUIRED**

- A.** Unless exempted under Section 6.02, all wind turbine generators and anemometer towers shall be subject to special exception approval and all requirements for special exception uses contained in this Article and in this ordinance for special exceptions generally. In addition to the general standards of approval for special exception, all special exceptions regulated under this Article shall comply with the following standards of approval:
1. The use shall meet all general requirements listed above in Section 6.03.
  2. All irrevocable letters of credit and bonds required by this Article must be submitted to the Zoning Administrator at the time of the application for special exception.
  3. As specified in Section 6.03 a Noise Study is submitted including satisfactory mitigation measures to assure that no nearby residential uses will be subjected to noise impacts greater than 32 dBA at the property line.
  4. The special exception, if granted by the BZA, for a proposed project shall be valid for a period of one (1) year in which to apply for an Improvement Location Permit, after which, approval shall terminate and be of no further force or effect if construction in earnest of the approved tower/s has not commenced.

#### **B. APPLICATION REQUIREMENTS**

Prior to the construction of a WECS, the Applicant shall obtain approval for the following: (1) an Application for a Special Exception from the Montgomery County Board of Zoning Appeals (“BZA”) to permit a WECS in any zone list under table A, (2) Request for Variance for any variances anticipated on the WECS Project, and (3) Drainage approval as required under the Montgomery County Stormwater and Erosion

Control Ordinance when deemed necessary, (4) an Improvement Location Permit from the Zoning Administrator.

1. The Application for Special Exception

a. The application shall be filed with the Montgomery County Board of Zoning Appeals and include the following items:

- (i). A WECS Project summary, including, to the extent available:
  - (1) Each turbine's point location, including its name plate generating capacity; the make and model of the WECS that will be installed; the maximum height of the WECS Tower(s) measured from the base to the tip of the blade in vertical position and diameter of the WECS(s) rotor(s); and (2) a description of the Applicant, Owner, and Operator, including their respective business structures.
- (ii). The name(s), address (es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with WECS or associated utility lines on their properties. All leases for properties with WECS must be filed in the Montgomery County Recorder's Office within 45 days of the contract being signed agreeing to a wind lease or said contract is null and void in Montgomery County.
- (iii). A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five-foot intervals.
- (iv). A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower site not greater than 1-inch equals 20 feet): the proposed location of the wind energy facility (including planned locations of each WECS Tower; WECS access roads; Substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: Primary Structures within one mile of any WECS; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) time the WECS Tower Height of any WECS Tower; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in

accordance with the applicable U. S. Army Corps of Engineer requirements and guidelines.

- (v). Location of all existing underground utility lines associated with the WECS site.
  - (vi). All required hearing filing fees as prescribed by this ordinance.
2. The Application for Improvement Location Permit
- a. The Applicant shall apply to the Zoning Administrator for an Improvement Location Permit. In addition to the information required on the Improvement Location Permit Application and those documents required under section 6.03, the Applicant shall provide the following information to the Zoning Administrator prior to the issuance of an Improvement Location Permit:
    - (i). Location of all utility lines within a radius equal to two (2) times the height of the proposed WECS.
    - (ii). Location of all underground utility lines associated with the WECS site.
    - (iii). Dimensional representation of the structural components of the tower construction including the base and footings.
    - (iv). Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.
    - (v). Manufacturer's specifications and installation and operation instructions and an un-redacted operations safety manual for the model of WECS that will be installed.
    - (vi). Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by BOCA.
    - (vii). All turbines shall be new equipment commercially available. Used, experimental or proto-type equipment still in testing shall be approved by the Board of Zoning Appeals as per the normal special exception process.

- (viii). Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Montgomery County Board of Zoning Appeals.
- (ix). No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Board of Zoning Appeals.
- (x). A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.
- (xi). A revegetation plan for restoring areas temporarily disturbed during construction.
- (xii). A fire protection plan for construction and operation of the Facility.
- (xiii). Any other item reasonably requested by the Zoning Administrator or Board of Zoning Appeals.
- (xiv). A drainage plan for construction and operation must be developed under the standards of the Montgomery County Stormwater and Erosion Control Ordinance.
- (xv). An erosion control plan must be developed and provided in compliance with the Montgomery County Stormwater and Erosion Control Ordinance and all other local, state, and federal regulations.

**B.** Each WECS Tower and MET tower shall require an Improvement Location Permit.

## **6.05 OPERATION**

### **A. Interference**

If, after construction of the WECS, the Zoning Administrator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the Owner or operators shall be notified in writing and the Owner or Operator shall take reasonable



steps to respond to minimize the complaint. Applicant, owner and/or operator shall take such actions as may be required to mitigate interference with electromagnetic communications, such as public safety communications, emergency medical communications, emergency management communications, radio, telephone, microwaves, GPS for agricultural use, military defense radar or television signals caused by any WECS. In addition, the applicant, owner and/or operator shall comply with the following:

1. Failure to remedy a complaint - If the Zoning Administrator determines that an owner or operator has unreasonably failed to remedy verified interference with the broadcast of residential television, telecommunication, communication or microwave transmissions within ninety (90) days after owner or operator received a written complaint related thereto, the Zoning Administrator may take appropriate action to rescind the permit or approval associated to the WECS in question. This does not apply to interference with private telecommunications systems.

#### **B. Coordination with Local Fire Department**

1. The WECS applicant, owner or operator shall submit to all providers of emergency services serving the WECS Project area a copy of the as-built site map in digital format, if requested.
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.

- D.** An ongoing log of maintenance activities performed on all WECS shall be submitted to Zoning Administrator on an annual basis.

#### **6.06 LIABILITY INSURANCE**

The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage and name Montgomery County as an additional insured with limits of at least \$2 million per occurrence per wind tower and \$5 million in the aggregate with a deductible of no more than \$5,000.

## ARTICLE 7 – PLANNED UNIT DEVELOPMENTS

**7.01 PURPOSE:** The Planned Unit Development (PUD) zoning district is established to provide for the development of mixed zoning classifications, densities, and uses under a common classification when presented to the Plan Commission in a well-prepared, organized and documented plan. This zoning district is intended to provide for:

- A. Greater flexibility in applying the ordinances to mixed zoning classifications;
- B. Innovative approaches to meet the demands of the housing, commercial, and business markets;
- C. The recognition of the interdependency of the above markets; and
- D. The planning and development of mixed zoning classifications to be consistent with the best interest of the jurisdictional area of the County and the applicable County ordinances.

**7.02 AUTHORITY TO VARY REGULATIONS:** In connection with approving a Planned Unit Development District, the Plan Commission and the County Commissioners shall have the authority to approve a Planned Unit Development District that varies from the provisions of this Zoning Ordinance or of the Subdivision Control Ordinance provided, however, such variation:

- A. will achieve the purposes for which planned unit developments may be approved pursuant to the requirements of this Chapter;
- B. will not violate the general purposes, goals, and objectives of the Zoning Ordinance and the County's Comprehensive Plan;
- C. will not unduly burden adjacent roadways; and
- D. will result in a development providing adequate and appropriate levels of open space and other compensating amenities both within the proposed development and to the County.

**7.03 OWNERSHIP & CONTROL:** The properties subject to any Planned Unit Development request must either be under single ownership or control, or must demonstrate consent to inclusion in the PUD request if not under a single ownership or control.

**A.** Properties under multiple ownership or control may be subject to a Planned Unit Development request, provided:

1. All owners of record provide a signed, notarized consent form for the petition file authorizing inclusion of the property within the PUD request; and
2. The properties included within a PUD request shall all be contiguous.

**B.** Properties included in a Planned Unit Development request may revoke consent, in writing, at any point during the PUD process until the approved PUD ordinance and any commitments are recorded with the title to the property.

**C.** A request to include a site within a PUD zoning district may originate from the County Commissioners or Plan Commission in accordance with the procedures of the Montgomery County Zoning Ordinance.

#### **7.04 MINIMUM PROJECT AREA**

**A.** There shall be no minimum project acreage for a Planned Unit Development District.

**7.05 PERMITTED USES & PUD CLASSIFICATIONS:** All land use classifications that are allowed in this Ordinance may be permitted within a PUD, unless otherwise omitted. All various types of development, i.e., residential, commercial or industrial shall meet the requirements of this Zoning Ordinance as they apply to those classifications.

**A.** Planned Unit Development — Residential (PUD-R)

1. Permitted uses may include any use allowed in any Residential zoning district, and all uses ancillary to residential character.
2. A PUD-R may not exclude group homes, residential facilities for the developmentally disabled, or residential facilities for the mentally ill.

**B.** Planned Unit Development — Commercial (PUD-C)

1. Permitted uses may include those allowed in any Commercial zoning district, any Industrial Zoning District, and all uses ancillary to Commercial or Industrial character.

### C. Planned Unit Development — Mixed (PUD-M)

1. Permitted uses may include any use allowed in any Residential, Commercial, or Industrial Zoning District.
2. Residential areas within a PUD-M may not exclude group homes, residential facilities for the developmentally disabled, or residential facilities for the mentally ill.

## 7.06 DEVELOPMENT STANDARDS

### A. Standards:

1. Development Standards:
  - a. **Applicability:** Unless alternate development standards are specified in the PUD district ordinance, the default development standards of the zoning district specified in the PUD district ordinance shall apply to the PUD zoning district.
  - b. **Authorization to Propose Alternate Development Standards:** The petitioner may propose the use of alternate development standards.
  - c. **Alternate development standards deemed appropriate by the Plan Commission in order to accomplish the intent of the PUD shall be specified in the PUD District Ordinance that is certified by the Plan Commission and adopted by the County Commissioners.**
  - d. **Any lessening or other modification of the default development standards of the zoning district specified shall be directly linked to the intent of the PUD to:**
    - (i) Provide a mixed-use development;
    - (ii) Provide a creative design; or
    - (iii) Address the unusual physical conditions of the site.
  - e. **Supplemental Exhibits as Standards:** Where supplemental exhibits (including, but not limited to elevations, renderings, materials samples, and color palates) are provided as supporting documentation of a concept, style, theme, or other element of a PUD zoning district, such supplemental exhibits shall be considered a component of the Development Standards of the PUD zoning district for the purposes of Secondary Review

- (i) Any Supplemental Exhibit provided as supporting documentation as stated above shall identify (by corresponding section and sub-section numbers) the element of the applicable PUD District Ordinance that the submitted Supplemental Exhibit illustrates.
- (ii) Where any such Supplemental Exhibit is provided as illustration of compliance with any PUD District Ordinance standard requiring a numerical minimum, and where any such Supplemental Exhibit reflects provision of the required element in excess of said minimum, the Supplemental exhibit shall provide notation disclosing such.
- (iii) Any conflict or confusion between supplemental exhibits and the text of the approved ordinance shall be resolved through interpretation by the Zoning Administrator.

2. Design & Construction Standards:

- a. **Applicability:** Unless alternate design and construction standards are adopted in the PUD district ordinance, the design and construction standards of the Montgomery County ordinances shall apply to each PUD District.
- b. **Authorization to Propose Alternate Design Standards:** The petitioner may propose the use of alternate design and construction standards.
- c. Alternate design standards deemed appropriate by the Plan Commission in order to accomplish the intent of the PUD shall be specified in the PUD District Ordinance that is certified by the Plan Commission and adopted by the County Commissioners.
- d. Any lessening or other modification of the default design and construction standards of the zoning district specified shall be directly linked to the intent of the PUD to:
  - (i) Provide a mixed-use development;
  - (ii) Provide a creative design; or
  - (iii) Address the unusual physical conditions of the site.

3. Procedure for Establishing Alternate Standards:

- a. **Montgomery County Building Department:** All proposals to deviate from the default design and construction standards of Montgomery County shall be reviewed by the Building Administrator in conjunction with the PUD district ordinance and concept plan(s).
- b. **Local, State and Federal Agencies:** Prior to the petition appearing before the Plan Commission for public hearing, the petitioner shall be responsible for securing the

approval of the alternate standards of any local, State and Federal agencies that would have facilities affected by an alternate standard.

- c. Restriction: Failure to secure the approval of any proposed alternate standard of any agency that would have facilities affected by an alternate standard shall preclude the bringing of any Development Plan that relies on such alternative standard before the Plan Commission or County Commissioners for consideration.

**B. Definitions:**

1. Applicability: The definitions found in Article 9 of the Montgomery County Zoning Ordinance shall apply to every PUD zoning district.
2. Restrictions and Prohibitions: The petitioner shall not propose alternate definitions for words that are already defined in Article 9 of the Montgomery County Zoning Ordinance.
3. New Definitions: The petitioner may propose definitions for words that are not already defined in Article 9 of the Montgomery County Zoning Ordinance.
4. Amended Definitions: The petitioner may propose amendment of definitions for words that are already defined in Article 9 of the Montgomery County Zoning Ordinance.

**7.07 PROCEDURES FOR INITIAL REVIEW**

The complete review and approval process for a Planned Unit Development Ordinance consists of the following elements.

**A. Pre-filing Conference:**

1. A Pre-Filing conference between the petitioner and Zoning Administrator shall occur a minimum of ten (10) days prior to the filing of a proposed PUD district ordinance and concept plan.
2. Documentation necessary for a Pre-Filing conference shall include, at a minimum:
  - a. Draft PUD zoning district ordinance text; and
  - b. A Preliminary Plan;

3. Standards for the information required of the documents necessary for a Pre-Filing Conference.
4. The Pre-Filing conference shall serve as an opportunity to alert the petitioner to potential conflicts with adopted County policies, plans, and ordinances, as well as an opportunity to alert the petitioner to potential conflicts with affected utility and service providers.
5. Failure to identify potential conflicts with County policies, plans and ordinances or with affected utility and service providers at the Pre-Filing Conference will not eliminate the responsibility of the petitioner to address issues identified later in the approval process.

**B. Submittal:**

1. The submitted PUD zoning District request shall consist of:
  - a. A completed application packet from the Montgomery County Building Department;
  - b. Proposed PUD zoning district ordinance text;
  - c. Supporting information as required by the Zoning Administrator; and
  - d. Any additional information identified as necessary by the Zoning Administrator at the Pre-Filing Conference.
    - (i) Failure to provide the information listed in Section 6.07 (B) 1.a. shall result in the petition not being docketed for the next available hearing date.

**C. Technical Advisory Committee (TAC)**

1. Any proposed PUD zoning district shall appear before the Technical Advisory Committee prior to any Public Hearing.
2. Any PUD zoning district proposing to modify any adopted design or construction standard of Montgomery County shall submit a description of the proposed change.
3. Any PUD zoning district proposing to modify any adopted design or construction standard of any utility or service provider shall submit a description of the proposed change.
4. The affected Department or utility or service provider shall provide a written response to the proposed modified design or construction standard prior to any public hearing of the proposed PUD zoning district.



**D. Plan Commission informational appearance**

1. Upon completion of elements 1-4 of this Section, the proposed PUD zoning district shall appear before the Montgomery County Plan Commission for an informational presentation of the proposed PUD zoning district.
2. The informational appearance shall be conducted at a regularly-scheduled Plan Commission meeting.
3. The informational appearance shall not constitute the required public hearing for the proposed PUD zoning district.
4. The informational meeting shall be administered by County staff and appointed board members in accordance with the Rules of Procedure of the Montgomery County Plan Commission.
5. No action may be taken on any proposed PUD zoning district at an informational meeting, and no comments, proposed changes, or requested changes shall be considered binding.

**E. Plan Commission public hearing**

1. A petition having completed elements 1-5 of this section may undergo public hearing before the Montgomery County Plan Commission.
2. Legal notice for any public hearing on any proposed PUD zoning district shall be provided in accordance with the Montgomery County Plan Commission Rules of Procedure.
3. The public hearing for any proposed PUD zoning district shall be conducted in accordance with the terms of the Montgomery County Rules of Procedure.
4. Action by the Plan Commission at a public hearing for a proposed PUD zoning district shall take the following form:
  - a. Recommendation of approval to the Montgomery County Commissioners;
  - b. Recommendation of approval with conditions or commitments to the Montgomery County Commissioners;
  - c. Recommendation of denial to the Montgomery County Commissioners; or
  - d. Continuance of the matter to a later hearing date.

**F. County Commissioners**

1. A petition having undergone public hearing before the Plan Commission shall be placed on the Montgomery County Commissioners agenda within forty-five (45) days of certification of the Plan Commission recommendation.

2. County Commissioners shall consider the petition for the Planned Unit Development ordinance in accordance with the procedures for amending the Zoning Map set forth Montgomery County Zoning Ordinance and Indiana law.
3. The County Commissioners shall take the following action on the petition:
  - a. Adopt the proposed PUD zoning district;
  - b. Adopt the proposed PUD zoning district with conditions and/or commitments;
  - c. Return the proposed PUD zoning district to the Plan Commission with proposed amendments; or
  - d. Deny the proposed PUD zoning district.

## **7.08 SECONDARY REVIEW BY THE PLAN COMMISSION**

**A.** Secondary Review of any PUD zoning district shall be delegated to the Montgomery County Plan Commission, as per Indian Code §36-7-4-1511.

### **B.** Development Plan Review

1. Development Plan Review by the Plan Commission shall serve as the secondary review of the PUD for any non-residential portion of any approved PUD zoning district.
  - a. Development Plan Review will include consideration of the following:
    - i. the arrangement of the structure(s) on the site;
    - ii. the architectural styles of the project;
    - iii. the arrangement of open space and landscape improvements on the site;
    - iv. the management of traffic in a manner that creates conditions favorable to the health, safety, convenience and harmonious development of the community;
    - v. parking lots and garages;
    - vi. landscape design
    - vii. site illumination;
    - viii. the grading, drainage, and erosion control measures proposed
  - b. Any Development Plan Review of an adopted PUD zoning district may consist of the entire area of the adopted PUD zoning district, or any portion of the PUD zoning district.
  - c. Undergoing Development Plan Review of any portion of an adopted PUD zoning district shall not remove the requirement to plat any newly created, divided or

otherwise modified lot in accordance with the terms of the Montgomery County Subdivision Control Ordinance.

2. Primary and Secondary Plat
  - a. Primary Plat review by the Plan Commission shall serve as the secondary review of the PUD for any residential portion of any approved PUD zoning district.
  - b. Secondary Plat review of any approved PUD zoning district shall be in accordance with the terms of the Montgomery County Subdivision Control Ordinance.

## **7.09 PHASING, EXTENSIONS AND ABANDONMENT**

### **A. Phasing Schedule**

1. The phasing schedule submitted as a component of the approved PUD zoning district shall govern the timing of the development of the PUD zoning district.
2. Secondary Review by the Plan Commission for the components of the PUD zoning district identified in the approved phasing schedule (either Development Plan Review or Primary Plat) shall be completed successfully within the timeline established by the approved phasing schedule.
  - a. Failure to complete a Secondary Review for a component of a PUD zoning district within the timeframe established by the phasing schedule shall require amendment of the PUD zoning district prior to seeking any additional Secondary Review for any other component of the PUD zoning district.
  - b. While such amendment is pending and until such amendment is approved, no permits shall be issued in that portion of the PUD subject to the pending amendment.
3. All approvals subsequent to the required Secondary Review approval (ex: final/secondary plat, ILP, etc...) shall be completed within the timeline for said approval established by the Montgomery County Zoning Ordinance or Subdivision Control Ordinance.

### **B. Extensions of Time**

1. Any request for any extension of time shall be completed prior to the expiration of the time period in question.

- a. Extensions of time filed, but not approved, by the expiration of the time period in question shall be considered denied upon the expiration of the time period in question.
2. Administrative: A single extension of time to complete Secondary Review of any component of a PUD zoning district may be granted by the Zoning Administrator.
  - a. Any such extension shall be for a maximum of six (6) months.
  - b. Any such extension shall be requested in writing, confirmed in writing, added to the petition file, and reported to the Plan Commission at the next scheduled meeting.
  - c. The required Secondary Review of the component of the PUD zoning district shall be completed prior to the expiration of the six (6) month extension.
3. Any other request for an extension of time shall be considered an amendment to the adopted PUD zoning district.

### C. Abandonment

1. Abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Secondary Review for twenty-four (24) consecutive months, or upon the expiration of two (2) years from the date of approval of last component of the PUD zoning district receiving approval.
2. An amendment shall be initiated to the zoning map, as provided by law, so that the land will be zoned into a category or categories that most nearly approximate its then existing use or such other zoning category or categories that the legislative body deems appropriate.

## 7.10 RECORDING

### A. Recording Prior to Construction

1. Prior to the issuance of any Improvement Location Permit or any development occurring:
  - a. A copy of the approved PUD zoning district ordinance text shall be recorded with the title to the subject site;

- b. Any concept plan, graphic or other visual rendering adopted as a component of the PUD zoning district ordinance shall be reduced to a legible, recordable form and recorded with the title to the subject site; and
- c. Any written commitments attached during the approval of the PUD zoning district shall be placed on the form adopted by the Montgomery County and recorded with the title to the subject site.

## **7.11 AMENDMENT**

### **A. Amendment**

- 1. A detailed amendment shall be required when proposing to:
  - a. Modify or terminate a condition of approval;
  - b. Modify or terminate a commitment of approval;
  - c. Increase the density or intensity of the project (e.g. additional structures, additional square footage, etc...);
  - d. A new right-of-way is proposed;
  - e. A right-of-way is proposed to be removed from the approved PUD zoning district, concept plan, Development Plan Review or Primary Plat for the project;
  - f. The ratio of platted lot area to common area and/or open space is being increased;
  - g. The boundary of the area included in the PUD zoning district is being expanded to include additional area or contracted to exclude areas previously included in the approved PUD zoning district.
- 2. A detailed amendment shall follow the same procedures for approval as the approval of the PUD, with the exception of the following: (a) No Informational Appearance before the Plan Commission shall be required (amendment petitions may proceed directly to Public Hearing after all other preliminary steps).

### **B. Considerations**

- 1. In consideration of any proposed amendment, the Plan Commission shall evaluate the following:
  - a. Consistency of the proposed amendment with the intent of the original PUD zoning district;

- b. Consistency of the proposed amendment with the recommendations of all current adopted Montgomery County land use policies and plans (ex: Comprehensive Plan, Parks Master Plan, Thoroughfare Plan, Trail and Sidewalk Plan, et al).
- c. Changes to physical site conditions and to the physical conditions of properties abutting the subject site; and (d) Changes to market demand, demographic shifts, geopolitical considerations, and other policy and legal environmental changes.

## ARTICLE 8 – AMENDMENTS

**8.01 AUTHORITY:** The ratification, amendment, or repeal of this Ordinance, shall at all times be controlled by the form, procedures, and authorization as set forth in I.C. 36-7-4-600 et. seq. and any and all amendments thereto.

**8.02 PETITIONS:** Petitions for amendments shall be filed with the Montgomery County Advisory Plan Commission, and the Petitioner, upon such filing, shall whether or not the proposed amendment is enacted, pay a filing fee as established by the Montgomery County Advisory Plan Commission and the cost of public notice that is required.

## ARTICLE 9 – DEFINITIONS

**9.01 GENERAL:** Certain words used in this Ordinance are defined below. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the male gender shall include the female gender and the female gender shall include the male gender; and the word “shall” is mandatory and not permissive.

- A. BOARD OF ZONING APPEALS:** The Montgomery County Board of Zoning Appeals.
- B. BUILDING SET BACK LINES:** A line extending across a lot establishing the minimum open space to be provided between the front line of buildings and the front lot line in a recorded subdivision.
- C. COMMISSION OR PLAN COMMISSION:** The Montgomery County Advisory Plan Commission.
- D. COMPREHENSIVE PLAN:** The most recent Comprehensive Plan of Montgomery County on file with the Montgomery County Recorder.
- E. COUNTY COMMISSIONERS:** The legislative body of the county government.
- F. DIRECTOR:** The Director of the Montgomery County Advisory Plan Commission.
- G. EASEMENT:** A right of use over the property of another.
- H. ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by public utilities, legislative bodies, or municipal or other governmental agencies of underground or overhead gas, electrical, conduit, steam, water, sewage, drainage or other distribution systems, including, but not limited to poles, wires, mains, drains, sewers, pipes, signals, hydrants, public way signs, transmission equipment, towers, antennas, microwave disc, and any other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of service by such public utilities, legislative bodies, or municipal or other governmental agencies. This definition shall also include municipal buildings.



- I. **FRONT YARD:** The space not containing any structures or storage areas between a structure or storage area and a public way street, road, or right-of way.
- J. **FRONTAGE:** The width of a lot measured along a continuous and straight line connecting the side lot lines at a point where said side lot lines intersect the right-of-way line of a street, road, or highway from which such lot has legal access.
- K. **GARBAGE COLLECTOR:** A business operation owned by a legislative body or private entity to collect, but not dispose of, refuse, garbage, or trash whether by contract or private pay.
- L. **JUNK:** Scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or zinc, and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles and cans, or old used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes and crates, used pipe or pipe fixtures, used automobiles, trucks, or airplanes, tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled.
- M. **JUNKYARD:** Any place where junk, waste, discarded, or salvage materials are bought, exchanged, sold, stored, baled, packed, disassembled, or handled, including automobile wrecking yard, house wrecking, and structural steel materials and equipment, but not including the purchase or storage of used furniture and household equipment used or salvaged materials as a part of a manufacturing operations. Any site in which vehicles are cannibalized shall be determined to be a junkyard.
- N. **LEGISLATIVE BODY:** The governing body of an incorporated town, city, or county.
- O. **LOT, MINIMUM AREA:** The horizontal projection area of a lot computed exclusive of any portion of the right-of-way of any Public Way.
- P. **LOT OF RECORD:** Any lot that individually, or as part of a subdivision, has been recorded in the office of recorder of the Deeds of the County.
- Q. **LOT, WIDTH OF:** The calculated measurement at the front property line.

- R. **MICRO WIND SYSTEM:** A free standing or building-mounted wind system that has a nameplate capacity (manufacturer's rating) of 10 kilowatts or less, and does not exceed a total height of 120 feet. Micro wind systems are subject to regulations in all zoning districts.
- S. **MUNICIPAL BUILDING:** A building or structure housing a Legislative Body Office or a non-commercial public use, including, but not limited to, police, fire, library, and utility structures.
- T. **NON-CONFORMING STRUCTURE:** A structure designed, converted, or adapted for use prior to the adoption of the ordinance prohibiting the structure.
- U. **NON-CONFORMING USE:** Any use or arrangement of land or structure legally existing at the time of enactment of the Montgomery County Zoning Ordinance or any of its amendments, which does not conform to the provisions of the Montgomery County Zoning Ordinance or the Montgomery County Subdivision Control Ordinance.
- V. **OWNER:** Any individual, firm, association, syndicate, co-partnership or corporation having proprietary interests in the land upon which the proposed request for action is requested.
- W. **PUBLIC WAY:** A Public Way includes any highway, street, avenue, road, boulevard, lane, court, alley, places, or any designed parcel used for public transportation.
- X. **REAR YARD:** That area of a lot encompassing the space between the nearest foundation of a building to a rear lot line and the rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rear lot line, which shall be that yard at the opposite end of the lot from the front yard.
- Y. **RECYCLING COLLECTION POINT:** A tract of land and/or structure that is used for the collection of recyclables on a periodic basis by a non-for-profit organization, a fraternal group, a school district or a church group.
- Z. **RECYCLING CENTER:** A structure used commercially for collecting, storing, or purchasing materials for recycling, such as, but not limited to, aluminum, copper, or brass.

- AA. RIGHT-OF-WAY:** A strip of land occupied or intended to be occupied by a public way, pedestrian way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or sewer main, special landscaping, drainage swale, or for other special uses.
- BB. SANITARY LANDFILL:** A parcel of land used for the disposal of accumulations of refuse or other discarded materials.
- CC. SET BACK:** The distance between the right-of-way of a public way and a principal and/or accessory structure.
- DD. SOLAR ENERGY SYSTEMS, FARMS AND FACILITIES:** Any solar collector or other solar energy device, group of devices (solar array, solar farm or solar distribution facility), or structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating.
- EE. SPOT ZONING:** The process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners. The extension or expansion of an adjacent area of a zoning classification shall not be construed as spot zoning.
- FF. SUPPLY YARD:** A commercial establishment storing or offering for sale wholesale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. A supply yard does not include the wrecking, salvage, cannibalizing, dismantling, or storing of automobiles or similar vehicles.
- GG. USE:** The purpose or activity for which the lot, parcel, tract, building, or structure thereon is designated, arranged, or intended, or for which it is occupied or maintained.
- HH. WATER & SEWAGE TREATMENT PLANT:** A building, structure or facility where water and/or sewage are treated and processed for the health and safety of the public by either a Legislative Body or private enterprise.
- II. WIND ENERGY CONVERSION SYSTEM (WECS):** The equipment that converts and then stores or transfers energy from the wind into usable forms of

energy and includes any base, blade, foundation, generator, nacelle, rotor, wind tower, transformer, turbine, vane, wind farm collection system, wire, or other component used in the system.

**JJ. WIND FARM:** Two or more large or small wind systems on a single property or aggregated properties for the purpose of converting and then storing or transferring energy from the wind into usable forms of energy.

**KK. WIND FARM COLLECTION SYSTEM:** All the low-voltage wiring and cabling connecting any wind turbine with another wind turbine or to a place where voltage is stepped up, commonly known as a substation or switching station, and all wiring or cabling connecting a turbine, system, switching station or substation to electrical transmission lines or interconnectivity facility that connects the system to the electrical service grid.

**LL. WIND TURBINE GENERATOR:** A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted and are a part of a micro wind system, small wind system, or large wind system: 1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind kinetic energy into electrical energy. 2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device. 3. A generator, alternator, or other device used to convert the mechanical energy transferred by the rotation of the rotor into electrical energy.

**MM. WIND TURBINE GENERATOR HEIGHT:** The distance between the ground and the highest point of the wind turbine generator tower including blades, when a blade is at its highest point of rotation.

**NN. YARD:** An open space on the same lot, parcel, or tract with a building or structure unoccupied and unobstructed from its lowest level upward, except as otherwise permitted by the ordinance.

**OO. YARD, FRONT:** A yard extending across the full length of the front lot line between the side lot lines.

**PP. YARD, REAR:** A yard extending along the full length of the rear lot line between the side lot lines.

**QQ. YARD, SIDE:** A yard extending along a side from the front to the rear yard.

**ADDITIONAL TERMS:** Terms not specifically defined herein shall have the meanings set forth in by the interpretation of the Montgomery County Board of Zoning Appeals.

## ARTICLE 10 –CONFINED FEEDING OPERATIONS

**10.01 DEFINITIONS:** The following definitions apply to this article and to the Zoning Ordinance:

(A) Animal Unit: The term “animal unit” is a unit of measurement calculated by multiplying the number of animals contained in a Confined Feeding Operation (CFO) or Concentrated Animal Feeding Operation (CAFO) site by the animal unit factor corresponding to the species, gender, age, etc. of the animals on the site. Animal units are used to determine separation distances for CFO/CAFO sites.

(B) Animal Unit Factor: See Table in Section 10.03(G)(3) of this article.

(C) Clean Record: The term “clean record” means a record with the Indiana Department of Environmental Management (IDEM) that is without any violations during the previous five (5) year period.

(D) CFO/CAFO Applicant: The terms “CFO Applicant” and “CAFO Applicant” refer to a person or persons, legal entity or legal entities who apply to the Montgomery County Zoning Administrator for approval of CFO/CAFO site(s).

(E) Confined Feeding Operation: The term “Confined Feeding Operation” means:

(1) any confined feeding of at least:

(a) 300 cattle;

(b) 600 swine or sheep;

(c) 30,000 fowl; or

(d) 500 horses.

(2) any Animal Feeding Operation (AFO), as defined in 327 IAC 19-2-3,

(a) electing to be subject to Indiana Code 13-18-10; or

(b) that is causing a violation of

(i) water pollution control laws;

(ii) any rules of the Environmental Rules Board established under Indiana Code 13-13-8; or

(iii) the provisions of Indiana Code 13-18-10.

For purposes of this definition, “confined feeding” means the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where animals are confined, fed, and maintained for at least 45 days during any 12 month period and where ground cover or vegetation is not sustained over at least 50% of the animal confinement area. The term confined feeding does not include (1) a livestock market where animals are assembled from at least 2 sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal inspection or (2) a livestock sale barn or auction market where animals are kept for not more than 10 days. A confined feeding operation and is also referred to as a CFO. (Authority 327 IAC 19-2-7).

(F) Concentrated Animal Feeding Operation: The term “Concentrated Animal Feeding Operation” is defined in 40 Code of Federal Regulations §122.23 and is also referred to as a CAFO.

(G) Existing CFO/CAFO: The terms “existing CFO” and “existing CAFO” mean a completed CFO/CAFO site permitted by the Indiana Department of Environmental Management as of the effective date of this Article.

(H) Homestead: For purposes of CFO/CAFO site evaluation, at least ten percent (10%) of a residence held as joint tenant, tenant in common, tenant be the entireties, shareholder, partner, member, beneficiary or other legally recognized equity interest holder. Ownership by a person’s spouse, child and/or parents may also qualify as a homestead.

(I) IDEM: The term “IDEM” means the Indiana Department of Environmental Management.

(J) Manure: The term “manure” means any animal feces or urine, any biological material such as bedding which has been in contact with animal manure or urine, and any storm water, groundwater, or process water that has been comingled with animal feces or urine.

(K) Manure Application: The term “manure application” means the method of applying manure by injection or land application. Surface application on an established crop refers to a green established crop.

(L) Odor Abatement: For the purposes of the CFO/CAFO site evaluation, the term “odor abatement” means the methods of odor control. Acceptable methods of odor abatement are listed in Table 10-1.

(M) Public Use Area: The term “public use area” means land owned by the United States of America, the State of Indiana, or a political subdivision of the State of Indiana with facilities that attract the public to congregate and remain in the area for significant periods of time.

(N) Shelter Belt. The term “shelter belt” means facilities and structures designed to control impacts of CFOs/CAFOs, as provided in and in accordance with the Natural Resources Conservation Service (NRCS) Conservation Practice Standard for Windbreak/Shelterbelt Establishment Code 380.

(O) Truck Turnaround. For purposes of CFO/CAFO site evaluation, the term “truck turnaround” means a cul-de-sac or T-shaped turnaround area provided so as to prevent semi-trailers from backing off of or onto a road. The truck turnaround area must be adequate for a semi-trailer to turn around on the site and must be covered in an all-weather surface.

(P) Use of Attachment with Application. For purposes of CFO/CAFO site evaluation, the term “use of attachment with application” means an attachment used in the process of manure application to cover exposed area of the equipment and control of spray manure.

(Q) Water Conservation: The term “water conservation” means the methods that significantly reduce the amount of water used in the CFO/CAFO, such as wet/dry feeders or other feeding and watering systems.

(R) Violations, IDEM or EPA: The term “violation, IDEM or EPA” means an enforcement action resulting in an Agreed Order or a Commissioner’s Order within the preceding five (5) years from the Indiana Department of Environmental Management, a Consent Agreement or Final Order within the preceding five (5) years from the United States Environmental Protection Agency, or a finding from a court of law that a person or persons, or a legal entity or legal entities, has caused a substantial endangerment to human health or the environment. A legal entity shall be deemed to have incurred a violation if an owner, member, shareholder, or interest holder of at least ten percent (10%) of the entity has incurred a violation personally.

## **10.02 PURPOSE AND APPLICABILITY**

(A) Purpose. The purpose of this article is to incorporate into the Montgomery County Zoning Ordinance a system for evaluating sites for CFO/CAFO facilities. It is acknowledged that agriculture is an essential component of the Montgomery County economy and the progress



of the agriculture industry must be recognized and planned for in the Montgomery County Zoning Ordinance.

(B) **Applicability.** The standards and regulations contained in this article apply to the location and planning of CFO and CAFO sites in Montgomery County. Certain provisions do not apply to existing CFOs and CAFOs. However, the standards and regulations apply to any new CFOs and CAFOs, as well as the expansion of existing CFOs and CAFOs.

(C) **Other Regulation Authority.** It is acknowledged that CFOs and CAFOs are permitted and regulated by the Indiana Department of Environmental Management and regulated further by the Office of the Indiana State Chemist, the Indiana State Board of Animal Health and other federal and state agencies. The purpose of this article is to determine, under Montgomery County's zoning authority, the appropriate location for CFOs and CAFOs. Nothing in this article should be read to conflict with existing federal or state regulation of CFOs and CAFOs or to regulate these facilities or their operation.

### **10.03 SITING REQUIREMENTS**

(A) **Approval Required.** No person or entity will start construction of or operate a new CFO/CAFO or expand an existing CFO/CAFO without first obtaining approval from the Montgomery County Zoning Administrator as required by this article.

(B) **Permitted Zoning Districts.** A CFO or CAFO may be located only on a parcel of land in an Agriculture zoning district.

(C) **Lot Size.** A CFO or CAFO may be located only on a parcel not less than the acreage required to meet State and Local agency ordinances and restrictions, regardless of the amount of space or acreage to be allotted for the barns or operating facilities.

(D) **Minimum Front Yard Set Back:** The minimum front yard setback is two hundred fifty (250) feet from the centerline of any road to the nearest foundation of the CFO/CAFO. If a CFO/CAFO abuts more than one road, then the front yard setback will apply to each property line with road frontage.

(E) **Minimum Side Yard Set Back:** The minimum side yard setback is two hundred fifty (250) feet from the side property lines to the nearest foundation of the CFO/CAFO.

(F) Minimum Rear Yard Set Back: The minimum rear yard setback is two hundred fifty (250) feet from the rear property line to the nearest foundation of the CFO/CAFO.

(G) Minimum Road Frontage: The minimum road frontage is one hundred fifty (150) feet.

(H) Permitted Entrances: A CFO/CAFO site may have no more than one (1) entrance to a county road, and the applicant must obtain a driveway permit from the Montgomery County Highway Department prior to construction of the entrance. A CFO/CAFO site may have up to two (2) entrances to a State Highway or State Road, and the applicant must obtain a driveway permit from the Indiana Department of Transportation prior to construction of the entrance (s).

(I) Required Minimum Separation Distances:

(1) Residential Structure not located on the proposed site: the application separation distances are:

- (a) Foundation to Foundation: at least 2,640 feet, as measures from the foundation of the CFO structure to foundation of the residential structure. This residential separation distance allowed to be reduced to 1,320 feet with use of not more than four odor mitigation tactics in (10.1); and
- (b) Property Line to Property Line: Separation distance, from the property line of the CFO parcel to property line of the residential structure parcel is at least 1,320 feet. This Separation distance can be reduced to 660 feet with use of not more than four odor mitigation tactics in table (10.1);
- (c) Calculation of Separation Reduction: The Separation Distance Reduction provided for in this subsection is calculated by multiplying each mitigation tactic used by 0.125 and then multiplying that product times the default separation distance. The maximum reduction is 50% of the applicable separation distance.

**Separation Distance Reduction -Table 10.1**

1.Deep pit	Minimum 14-month storage pit pumped once per year.
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2. Berm and Vegetation screens	Combination of berm and vegetation screen around perimeter of site.
3. Dietary program	Diet changed every 21 days to minimize nutrient excretion into pit.
4. Power washing	Animal barns washed and cleaned every 6 months to minimize dust particles that carry odor.
5. Slatted floors	Animals stay clean and reduces manure build up that creates odor
6. Pit additives	Chemicals or Biologicals that reduce omission of odor by reducing pH levels.
7. Solid-liquid Separation	Separating urea from solid fecal matter mechanically or with sedimentation basin.
8. Air Treatment	Trapping air vented and treating prior to discharge to atmosphere.
9. Anaerobic Digester	Process by which microorganisms break down biodegradable material in the absence of oxygen.

- (2) School or educational institution – 5280 feet;
- (3) Church or religious institution – 2640 feet;
- (4) Open legal drain, stream or river (without a 20-foot filter strip) – 500 feet;
- (5) Open legal drain, stream or river (with a 20-foot filter strip) – 300 feet;
- (6) Municipality – 5280 feet
- (7) Residential Subdivision – 2640 feet
- (8) Public Use Area – 5280 feet
- (9) Water Well (other than one used to service CFO/CAFO) – 500 feet;
- (10) High Employment Centers (100+ full-time equivalent employees) – 2640 feet
- (11) Business or commercial use (not otherwise specified above) – 2640 feet.
- (12) Nucor Road – 3960 feet

(J) Separation Distance Calculation Standards

- (1) The minimum distance from residential property does not apply to a residence owned by the CFO/CAFO operator;
- (2) The minimum distances contained in (I) for neighboring residential homes will be increased based upon the number of head of livestock. This calculation is made by multiplying the number of head of livestock by the animal unit factor to determine the animal unit value. This animal unit value is then multiplied by a factor of 0.5 to create the adjusted separation distance

from neighboring residential homes. The minimum separation distance will be 2640 feet even if the adjusted separation distance is less. The adjusted separation distance calculation is only used to increase the minimum separation distance.

(3) For purposes of calculating adjusted separation distances, the following animal unit factors will be used:

Animal Type	Animal Unit Factor
A. Dairy Cattle	
1. Mature Cow or Bull	1.4
2. Heifer	0.7
3. Calf	0.2
B. Beef Cattle	
1. Slaughtered Steer or Stock Cow	1.1
2. Feeder Cattle or Heifer	0.7
3. Cow and Calf Pair	1.3
4. Calf	0.2
C. Swine	
1. Boars or Sows, including litters	0.45
2. Finishers or gilts	0.4
3. Nursery pigs	0.07
D. Horse	1.0
E. Sheep and Lambs	0.1
F. Chickens	

1. Laying Hen or Broiler (liquid manure system)	0.011
2. Laying Hen or Broiler (dry manure system)	0.005
G. Turkeys	
1. Over 5 pounds (finishers)	0.018
2. Under 5 pounds (starters)	0.005
H. Ducks	0.01
I. Other animals not listed above	Avg. weight of animal in pounds divided by 1,100 lbs.

(K) Truck Turnaround: A cul-de-sac or T-shaped turnaround area provided so as to prevent semi-trailers from backing off of or onto a road. The truck turnaround area must be adequate for a semi-trailer to turn around on the site and must be covered in an all-weather surface.

(L) Clean Record: The proposed owner of the CFO is without any violations during the previous five (5) year period from (IDEM) Indiana Department of Environmental Management.

(M) Neighboring Property Owner Waiver: A landowner, other than the CFO applicant, may waive the applicable separation distance by executing a written, irrevocable waiver which is in recordable form and in a form acceptable to the Montgomery County Zoning Administrator. This waiver must be submitted with the application, must create a covenant which runs with the land in perpetuity, and must be recorded in the Office of the Montgomery County Recorder.

(N) Separation distances apply to CFO only. The separation distances provided for in this Article apply only to the siting of CFO facilities and do not in any manner restrict the rights of a landowner, other than the land on which the CFO is located, to use, develop and enjoy the landowner's real estate. These distances cannot be used by the applicant or any other person or entity against any other party or as a basis to restrict or limit the use, development or enjoyment of such real estate.

## **10.04 PROCEDURE**

(A) Applications. All applications for siting approval must be submitted to the Montgomery County Zoning Administrator.

(B) Determination of Completeness: The Zoning Administrator will determine within ten (10) days of receipt of the application whether the application contains all information necessary for consideration. If the Administrator finds that the application is not complete, the Administrator will notify the applicant in writing of the information needed to make the application complete. The applicant must then provide the necessary information to the Administrator within 30 days. If the applicant does not provide the information within 30 days, the Administrator will consider the application to be withdrawn. When the Administrator determines an application is complete, the Administrator will process the application and make a decision on the application within 30 days of the determination that the application is complete.

(C) Application Fee: The applicant will tender with the application the fee in the amount of \$500.00. This is a nonrefundable fee.

(D) Determination of Siting: The Zoning Administrator will determine whether the proposed site meets the siting standards and regulations of this Article and the requirements of the Zoning Ordinance. If the proposed site does not meet the siting standards, the Administrator will reject the application and notify the applicant in writing.

(E) Manure Application. All manure application methods must comply with the requirements of IDEM, the Office of the Indiana State Chemist, the Natural Resources Conservation Service, and any other federal or state regulatory body or agency with jurisdiction.

## **10.05 INSPECTIONS AFTER ISSUANCE OF CERTIFICATE APPROVING SITE**

The Zoning Administrator has the right to inspect the CFO/CAFO after issuance of a certificate of approval, and all applicants consent to the Administrator's entry upon the site for the purpose of inspection.

## **10.06 VIOLATIONS AND REMEDIES**

In the event that after the issuance of a certificate of approval, the Zoning Administrator determines that the CFO/CAFO is in violation of this article, the Administrator may impose a fine for the violation and seek enforcement of this article as provided for by Section 5.04 of the Zoning Ordinance.

## **10.07 APPEALS**

Any person may appeal an order, requirement, decision or determination of the Zoning Administrator in the administration of this article to the Board of Zoning Appeals. All such appeals must be in writing and filed with the secretary of the Board of Zoning Appeals within thirty (30) days of the decision of the Zoning Administrator.

# **ARTICLE 11 – URBAN OVERLAY DISTRICT**

## **11.01 PURPOSE**

The purpose of the Urban Overlay District (UO) is to promote and protect the public health, safety, comfort, convenience, morals and general welfare by providing for consistent and coordinated standards of development for land adjacent to or within one-half (1/2) of one mile of the corporate limits of the City of Crawfordsville. These standards are a tool designed to ensure harmonious development of land near the City of Crawfordsville and to promote development which is structurally and aesthetically similar to development in the City. The district's character, vitality, quality and functionality are important to Montgomery County in the promotion of economic development, a high quality of life, and harmonious development, and the creation of the district will accomplish these purposes through:

1. the promotion of coordinated development in land near the boundaries of the City;
2. the establishment of high standards for development on properties in the district, including buildings, signs, parking, lighting and other site improvements;
3. the establishment of development and use standards that will promote the quality, scale, character, and type of development consistent with existing and future development in the City.

## **11.02 BOUNDARIES**

The boundaries of the Urban Overlay District are those areas of the unincorporated area of Montgomery County adjacent to and within one-half (1/2) of one mile of the corporate boundaries of the City of Crawfordsville. If any portion of a parcel is located in the boundaries

of the Urban Overlay District, the standards, rules and regulations of the District apply to the entire parcel.

**11.03 APPLICATION**

The standards and regulations contained in this Article do not affect the use of the land. Rather, these standards and regulations impose additional development standards over the underlying use of the land as provided for in the Montgomery County Zoning Ordinance. The standards and regulations apply only to development occurring after the effective date of this Article.

**11.04 OPEN SPACE**

All Planned Unit Developments in the District must provide for open space which is at least ten percent (10%) of the gross acreage of the Planned Unit Development, less rights-of-way. All such open space must be designated for recreational or scenic use, landscape buffers for adjoining uses, or set aside for future public facilities.

**11.05 PLANNED UNIT DEVELOPMENT STANDARDS**

All Planned Unit Developments for residential or mixed-use development must be at least five (5) acres. All residential lots in a PUD must have lot sizes of at least 7,000 square feet and must have a minimum lot width of at least 60 feet. If adjacent to single-family neighborhood(s), the PUD must provide that all two-family and multi-family uses are located in the center of the PUD rather than in the area adjacent to the single-family neighborhood. All mixed-use PUDs which contain residential use must contain at least fifty percent (50%) single family use and not more than thirty percent (30%) for two-family or multi-family use and not more than twenty percent (20%) for non-residential use. For purposes of calculating the percentage of use, the total number of square feet of use will be used.

**11.06 BULK STANDARDS**

For purposes of this district, the following standards apply:

Standard (in feet)	Agricultural	Residential	Commercial	Industrial
Minimum Lot Size				
A. Single Family with sewer	8,500	8,500		
B. Per Unit with sewer		3,500		
C. Single Family without sewer	43,560	43,560		
Lot Width	250	60	200	100
Front Yard Set Back	100	25	40	30
Side Set Back	50	5	20	30
Rear Yard Set Back	50	25	40	30
Maximum Height – Principal	35	35	35	55
Maximum Height – Accessory	None	18	18	18
Minimum Floor Area – single family		950		



Minimum Floor Area – 2-family/multi-family		500/unit		
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### 11.07 PARKING

(A) Parking Space Size. All off-street parking must meet the following standards:

Type	Width and Length
Parallel	9 x 22
Right Angle	9 x 20
60-degree angle	9 x 18
45-degree angle	9 x 17
Compact car	8 x 15

(B) Minimum Number of Spaces: The number of required spaces must meet the requirements of Appendix B of the City of Crawfordsville Zoning Ordinance (shown as Table 11-1).

(C) Miscellaneous Standards: All off-street parking areas containing more than five (5) parking spaces must be graded and designed to manage storm water. All parking areas must provide lighting that is non-polluting and that reflect away from adjacent properties. If the parking area extends to the property line, wheel stops or other parking devices must be installed in order to prevent parking which extends over the property line.

(D) Minimum Number of ADA Spaces: The number of Americans with Disability Act (ADA) spaces required is as follows:

Number of Required Spaces	Required ADA Spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of total
1001 +	20 plus 1 for each 100 over 1,000

### 11.08 STACKING REQUIREMENTS

For Commercial uses, the following drive-thru stacking standards apply:

Type of Use	Number of Cars	Measured
Bank	4 per teller lane	Teller or box
Restaurant Order Area	6	Order Box
Restaurant Pick Up Area	4	Order Box to Pick Up Area
Car Wash Automated	6/stall	Entrance
Car Wash Self-Serve	3/stall	Entrance
Gasoline Pump Island	2/pump	Pump Island

### 11.09 SIGNS

All signs, except those exempt or prohibited by the City of Crawfordsville Zoning Ordinance, may be no more than 5 square feet in area for each foot of width of the principal structure associated with the sign. Signs may not blink, flash or flutter and may not change in light intensity or brightness.

### 11.10 STREET LIGHTS

For all residential subdivisions, street lighting must be constructed every 250 feet of the street, on opposite sides of the street in a stagger, and at the entrance and all street intersections.

### 11.11 OFF-STREET LOADING REQUIREMENTS

The following requirements for off-street loading apply:

Type of Use	Floor Area	Number of Spaces
Manufacturing, Distribution, Wholesale, Storage, Warehousing	10,000 – 25,000	1
	25,001-60,000	2
	60,001 – 100,000	3
	Each 50,000 above 100,000	1
Office, Hotel, Motel, Retail Sales	10,000 – 60,000	1
	60,001-100,000	2
	Each 50,000 above 100,000	1
Other		As determined by Zoning Administrator

## ARTICLE 12 – FEE SCHEDULE

**12.01 FEE SCHEDULE:** The following fees are required for applications pursuant to the Zoning Ordinance:

Item	Type of Application	Fee	Other
1	Rezone	\$300 for 2 acres or less; \$300 plus \$25 for each additional acre in excess of 2 acres	(1) Certified mail (return receipt requested) postage to all adjacent and other property owners, as required by zoning ordinance or Indiana law – paid by applicant to postal service; and (2) Publication of Notice of public hearing in the <i>Journal Review and The Paper 24-7</i> – paid by applicant to newspapers.
2	Variance	\$200	(1) Certified mail (return receipt requested) postage to all adjacent and other property owners, as required by zoning ordinance or Indiana law – paid by applicant to postal service; and (2) Publication of Notice of public hearing in the <i>Journal Review and The Paper 24-7</i> – paid by applicant to newspapers.
3	Special Exception	\$200	(1) Certified mail (return receipt requested) postage to all adjacent and other property owners as required by Indiana law – paid by applicant to postal service;

			(2) Publication of notice of public hearing in the <i>Journal Review</i> and <i>The Paper 24-7</i> – paid by applicant to newspapers.
4	CFO	\$500	(1) Certified mail (return receipt requested) postage to all property owners required by zoning ordinance – paid by applicant to postal service.
5	Planned Unit Developments (original and amendments)	\$750	(1) Certified mail (return receipt requested) postage to all adjacent and other property owners as required by Indiana law – paid by applicant to postal service; and (2) Publication of notice of public hearing in the <i>Journal Review</i> and <i>The Paper 24-7</i> – paid by applicant to newspapers
6	Stormwater Review, traffic study, fiscal study or other required study	Cost of Study to County	Paid by applicant directly to reviewing engineer or engineering firm, traffic engineer or traffic engineering firm, fiscal consultant or other consultant.
7	Solar Energy System, Farm or Facility Permit	\$500 for projects of 100 acres or less; \$550 for projects of more than 100 acres but not more than 200 acres; \$600 for projects of more than 200 acres but not more than 300 acres; \$650 for projects of more than 300 acres but not more than 400 acres; \$700 for projects of more than 400 acres but not more than 500 acres; \$750 for projects of more than 500 acres but not more than 600 acres; \$800 for projects of more than 600 acres but not more than 700 acres; \$850 for projects of more than 700 acres but not more than 800 acres; \$900 for projects more than 800 acres	

		but not more than 900 acres; \$950 for projects more than 900 acres but not more than 1,000 acres; \$1,000 for projects more than 1,000 acres.	
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**ARTICLE 13—SOLAR FARMS AND FACILITIES**

**13.01 Purpose.** The regulation of solar energy systems, solar farms and facilities and other solar energy devices is authorized by Indiana Code §36-7-2-2 and is designed to protect the public health, welfare and safety. The purpose of this Section is to plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements. These regulations allow solar energy systems, solar farms and facilities and other solar energy devices in certain areas, and, therefore, do not have the effect of unreasonably restricting the use of such facilities other than for the preservation and protection of the public health and safety. It is the policy of Montgomery County to promote and encourage the use of solar energy systems and facilities, and these regulations are not intended to and do not have the effect of significantly increasing the cost of such systems, decreasing the efficiency of such systems, or impeding alternative systems of comparable cost and efficiency.

**13.02 Permitted Districts.** Solar energy systems, solar farms and facilities are allowed only in the Agriculture and Industrial Zoning Districts.

**13.03. Exemptions.** Solar devices which are part of the structure of a residence or business or part of the permitted yard of a residence or business and which are designed to provide electrical power, heating or cooling, or water heating only for the residence or business are exempt from this regulation.

**13.04 Setbacks:** All ground-mounted solar panels or arrays must be at least thirty (30) feet from any property line, at least one hundred (100) feet from the center of any road, street, highway, alley or public way, at least two hundred (200) feet from the property line if adjoined by property

that is zoned residential, and at least two (200) hundred feet from the property line if adjoined by property that is zoned agricultural which has a single family dwelling within five hundred (500) feet of the solar panels or arrays. When the solar facilities for a single project encompass multiple parcels, there is no required setback from a property line for the internal property lines in the project. Security fencing, access roads, and distribution poles and wires may be located within the set-backs but may not be located in a road right-of-way.

**13.05 Height Limitations:** Ground-mounted solar panels or arrays may not exceed twenty (20) feet in height as measured from the natural grade to the top of the panel or array when at its highest position.

**13.06 Permits.** Each property owner must obtain a solar farm permit prior to constructing, operating or maintaining a solar energy system, farm or facility. In order to obtain a permit, the applicant must submit to the Zoning Administrator a conceptual site plan which includes the general footprint of the solar energy system, farm or facility the number of panels, the generating capacity, the location of all fences, electrical poles and lines, the location of all other equipment and structures, the location of any and all underground electrical lines, facilities and structures, the location of all access roads, rights-of-way and easements, drainage plan for the site which complies with the Montgomery County Storm Water Ordinance, a road use plan for construction, specifications for equipment, compliance with all applicable industry standards and safety codes, Federal Aviation Administration rules and regulations, and Federal Communications Commission rules and regulations. Within 15 days of receipt of an application for a permit, the Zoning Administrator will determine whether the application is complete. The Zoning Administrator will notify the applicant in writing of his determination. If the application is complete, the application will be reviewed by the Zoning Administrator and then by the Plan Commission as a request for a development plan review, as provided for in Section 13. If the application is not complete, the applicant must provide to the Zoning Administrative the supplemental information within sixty (60) days. If the applicant fails to provide the supplemental material for the application in a timely manner, the application will be dismissed.

**13.07 Development Plan Review:** The Plan Commission will conduct a public hearing on the application as a request for a development plan review, as provided for in Section 13 of the Zoning Ordinance.

**13.08 Issuance of Permit:** If the Plan Commission approves the development plan and the applicant has satisfied all of the requirements of this Ordinance, the Subdivision Control Ordinance, and all other applicable ordinances, rules and regulations, the Zoning Administrator will issue an improvement location permit.

**13.09 Permit Fee:** At the time of submission, the applicant will submit to the Zoning Administrator a nonrefundable fee in the amount of \$500.00, plus the following additional fee for solar energy systems, farms or facilities that are more than one hundred (100) acres:

Acres	Additional Fee
100+ to 200	\$50
200+ to 300	\$100
300+ to 400	\$150
400+ to 500	\$200
500+ to 600	\$250
600+ to 700	\$300
700+ to 800	\$350
800+ to 900	\$400
900+ to 1,000	\$450
1,000+	\$500

**13.10 Fencing:** All solar energy systems, farms and facilities shall be surrounded by a security fence not less than eight (8) feet in height and not more than twelve (12) feet in height in order to prevent unauthorized access. All gates will be locked. The applicant will place a sign, not to exceed eight square feet in area, which contains the name and address of the operator and an emergency telephone contact number for the operator.

**13.11 Exterior Lighting.** All exterior safety lighting will be developed in a manner which precludes light trespass onto adjoining parcels and which is limited to the amount of light needed for maintenance, safety and security.

**13.12 Legal Drains:** No solar energy system, farm or facility may encroach upon the seventy-five (75) easement of any legal drain or ditch. If the construction of the solar energy system, farm or facility requires the relocation of any legal drain or ditch, such relocation must be approved by the Montgomery County Drainage Board.

**13.13 Private and Mutual Drains:** No solar energy system, farm or facility may encroach upon any private or mutual drain or ditch. If the construction of the solar energy system, farm or facility requires the relocation of any private or mutual drain or ditch, such relocation must be approved by the parties to the private or mutual drain or ditch, performed at the expense of the operator, and relocated in a manner so as not to materially impede the function of the drain or ditch. This obligation to refrain from encroaching upon any private or mutual drain or ditch continues and applies even if the encroachment is discovered after construction of the project.

**13.14 Damage to Roads:** The applicant will be allowed to use County roads to transport equipment, materials and supplies to the location for construction. Prior to the issuance of a permit, the applicant must provide to the Zoning Administrator a road use plan. This plan must be approved by the Zoning Administrator and the County Highway Superintendent. The applicant will be responsible for any road and ditch damage caused by the applicant during construction and operations. In order to ensure the applicant's financial responsibility, the applicant must provide to the County a bond, letter of credit or other surety in an amount determined by the County Engineer to be sufficient to cover the expense of remediation of damages. The amount of the bond, letter of credit or other surety required must be the County Engineer's estimate of road damages caused during the construction of solar projects. If the applicant disagrees with the determination by the County Engineer of the amount of the bond, letter of credit or other surety, the applicant may appeal this determination to the Board of Zoning Appeals. This bond, letter of credit or surety must be in an amount and in a form acceptable to the Zoning Administrator. After construction of the project, the County Engineer will inspect the roads and ditches contained in the road use plan and determine whether damage has resulted because of the applicant's project. If the County Engineer finds that such damage has occurred, the Engineer will provide written notice to the applicant of the estimated cost of the remediation. The County will cause the remediation to occur, and the Engineer will certify to the applicant the expense of the remediation. The applicant will pay to the County the certified amount within sixty (60) days of receipt of the notice of the certified amount. If the applicant fails to timely pay the remediation expense, the County will be entitled to file a claim with the bond company or holder of the letter of credit or other surety and be paid from the bond, letter of credit or other surety.

**13.15 Enforcement:** In the event of a violation of this Section, the Zoning Administrator may enforce the Ordinance using the rights and remedies provided for in Section 5.04 of the Zoning Ordinance.

(Am. Ord. 2020-27, passed, 6/27/2020).





## ARTICLE 14 – PERMITS AND DEVELOPMENT PLAN REVIEWS

### 14.01 IMPROVEMENT LOCATION PERMITS

**A. ILP Required.** No building or other structure shall be erected, moved, added to, or structurally altered, nor shall any building, structure, or land be established or changed in use without an Improvement Location Permit issued by the Zoning Administrator. An Improvement Location Permit shall be issued only in conformity with the provisions of this Ordinance, or upon written order from the Board of Zoning Appeals deciding an appeal, special exception or variance.

**B. Application.** Applications for an Improvement Location Permit shall:

1. be signed by the owner or agent of the land;
2. clearly state that the permit will expire and may be revoked if work  
has not begun within one year of issuance or completed within two years  
of issuance.
3. contain at a minimum the information, plans and data sufficient to  
allow the Zoning Administrator to determine whether to issue the permit.  
The Administrator may promulgate a list of such information required or  
provide a list to the applicant of information needed in order to process the  
application.
4. if for a site in an industrial district, a certificate of compliance  
subscribed to by a Registered Professional Engineer or Architect,  
certifying that the intended use will satisfy the requirements of this  
Article, the development standards of the zoning district and the  
provisions of the Zoning Ordinance, Subdivision Control Ordinance  
and any other applicable ordinance, rule or regulation.

**C. Action by the Zoning Administrator.** Within fifteen business days after receipt of a complete application, the Zoning Administrator will either approve or disapprove the application or notify the applicant that the application is not complete. If the Zoning Administrator determines that the application is not complete, the applicant will provide to the Zoning

Administrator the needed information within thirty days. If the Zoning Administrator determines that the application should be approved, the Administrator will return to the applicant one set of plans marked "Approved" and signed by the Administrator. If the Administrator determines that the application should be denied, the Administrator will return to the applicant one set of plans marked "disapproved" and signed by the Administrator. If approved, the applicant will post the permit in a conspicuous place on the property in question, and this permit will attest to the fact that the plans for construction or alteration are in compliance with the provisions of this Ordinance.

**D. Expiration of Improvement Location Permit.** The work or use authorized by any improvement location permit must be commenced within one year of the date of the issuance of the permit. After one year, if no work has commenced, the permit will expire and become void. All work authorized by the permit must be completed within two years of the date of issuance of the permit, unless the Administrator extends the effectiveness of the permit upon a showing of good cause by the applicant.

**E. Failure to Obtain Permit.** The failure to obtain an improvement location permit as required by this Ordinance is a violation of this Ordinance. The Zoning Administrator may issue a stop work order, initiate civil proceedings to enforce this Ordinance, issue a fine citation, or take any action to enforce this Ordinance which is allowed by Indiana law.

**F. Limitations.** Improvement Location Permits are issued on the basis of plans and applications approved by the Zoning Administrator and, therefore, only authorize the use, construction or work set forth in such plans and applications. Any use, arrangement, construction or work which is contrary to that authorized is a violation of this ordinance and subject to enforcement just as if the applicant had failed to obtain a permit, as provided for in Section 13.01(E).

**G. Fee:** The fee for an Improvement Location Permit is Fifty Dollars (\$50.00).

## **14.02 CERTIFICATE OF OCCUPANCY**

**A. Scope.** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy has been issued by the Zoning Administrator.

**B. Exemptions.** No certificate of occupancy is required for:

1. Agriculture Construction except confined feeding operations and solar farms and facilities; and
2. Residential construction such as garages and storage buildings which

will not be used or occupied as livable space.

**C. Applications.** Applications for certificates of occupancy will be filed with the Zoning Administrator within thirty (30) days of the completion of the improvements to any building or premises.

**D. Change in Use.** No change shall be made in the use of land or use of any building or any part thereof now or hereafter erected, constructed or structurally altered without a certificate of occupancy having been issued, and no such certificate shall be issued to make such change unless it is in conformity with the provisions of this Ordinance.

**E. Issuance.** Within ten (10) business days after receipt of notice of substantial completion, as provided for in Section 13.02(C), the Zoning Administrator will inspect the premises and either approve or disapprove the certificate of occupancy. If the Administrator approves a certificate of occupancy, the owner or occupant may occupy the premises. If the Administrator denied the certificate, the Administrator will provide to the applicant written reasons for the denial and then re-inspect the premises within seven (7) business days of the owner providing notice that the owner has corrected all deficiencies.

**F. Temporary Certificate of Occupancy.** The Zoning Administrator may issue a temporary certificate of occupancy for a period of not more than six (6) months during alterations or partial occupancy of a building or structure pending the completion of the work if the Administrator determines that part of the building or structure may be safely occupied prior to the completion of the work.

**G. Failure to Obtain Permit.** The failure to obtain a certificate of occupancy as required by this Ordinance is a violation of this Ordinance. The Zoning Administrator may issue a stop work order, initiate civil proceedings to enforce this Ordinance, issue a fine citation, or take any action to enforce this Ordinance which is allowed by Indiana law.

**H. Limitations.** Certificates of Occupancy are issued on the basis of plans and applications approved by the Zoning Administrator and, therefore, only authorize the use, construction or work set forth in such plans and applications. Any use, arrangement, construction or work which is contrary to that authorized is a violation of this ordinance and subject to enforcement just as if the applicant had failed to obtain a permit, as provided for in Section 13.02(G).

### **14.03 DEVELOPMENT PLANS**

**A. Purpose.** The development plan review process is designed to promote the safe and efficient use of land, to protect property values, and to ensure orderly and harmonious development patterns in the unincorporated areas of Montgomery County that is in accordance with the Comprehensive Plan.

**B. Authority.** The Plan Commission shall have exclusive authority to review and approve or disapprove those development plans.

**C. Scope.** Plan Commission review of development plans is required for;

1. Residential development of multi-family housing;
2. Commercial development
3. Industrial development
4. Wind Farms
5. Confined Feeding Operations
6. Solar Farms and Facilities
7. Planned United Developments
8. the addition or removal of a vehicular access point to any existing right of way
9. the addition or removal of a drive-through service lane;
10. the addition or removal of a loading dock;
11. the additions to or expansion of any existing use or structure by more than thirty-five percent (35%) of its current size

Except as specifically noted above, single-family residential development and agricultural development are exempt from the requirement of development plan review.

**D. Procedure.** All applications for development plan review will be reviewed by the Zoning Administrator for completeness. The Administrator will notify the applicant of any deficiencies in the application. Once the Administrator has received a complete application, the Administrator will conduct a technical review of the plan and may seek additional information from the applicant. The Administrator will then schedule a public hearing on the plan review and notify the applicant of the hearing date and time. The Applicant will provide notice of this public hearing to all owners of parcels of land adjoining or adjacent to the site and all landowners within six hundred sixty (660) feet of the property line of the site. This notice must

be mailed by the applicant by registered mail, return receipt required, postage prepaid, at least fourteen (14) days prior to the public hearing. The applicant will provide proof of mailing and the returned receipts to the Zoning Administrator prior to the public hearing. The Administrator will cause notice of this public hearing to be published as required by Indiana law.

**E. Criteria for Review.** The Plan Commission will review the development plan in order to determine whether the plan complies with all provisions of the Zoning Ordinance, Subdivision Control Ordinance, and other applicable land use ordinances. In its consideration of the plan, the Plan Commission will evaluate:

1. **Arrangement of Structures** on the site with respect to how well it allows for safe and effective use of the proposed development, creates innovative and efficient environments and utilizes individual building designs which achieve enhanced relationship between the development and the land, is comparable with development on adjacent property, and considered off-site utilities and services and minimizes the potential impacts on existing or planned utilities, infrastructure and services;

2. **Architectural styles** of the project and its type, arrangement, and use of building materials to enhance the built environment;

3. **The Arrangement of open space and landscape improvements** on The site with respect to how well it creates a desirable and functional environment, preserves unique features of natural resources where possible, and respects desirable natural resources on adjacent sites;

4. **The Management of traffic** in a manner that creates conditions favorable to the health, safety, convenience and harmonious development of the community including that the design and location of proposed street, road and highway access points minimize safety hazards and congestion, that the capacity of adjacent streets, roads and highways are sufficient to safely and efficiently accept the traffic proposed to be generated by the development, that the pedestrian circulation for the site minimize safety hazards for both pedestrians and vehicular traffic, and that the internal traffic circulation and the points of ingress and egress are compatible with

existing planned streets, road and highways and planned developments;

5. **Parking lots or garages** with respect to how well they are located, designed and screened to minimize adverse visual impacts on adjacent properties and provide for any required parking lot screening and landscaping;

6. **Landscape design** with respect to how well it complies with any required landscaping provisions.

7. **Site illumination** with respect with respect to how it has been designed and located so as to comply with any requirements designed to minimize adverse impacts to adjacent properties;

8. **Grading, drainage and erosion control measures** with respect to how well they meet the requirements of the Subdivision Control Ordinance, the Zoning Ordinance, Storm Water Ordinance and Storm Drainage and sediment control regulations.

**F. Special Studies.** The Plan Commission and the Zoning Administrator may require special studies, including but limited to traffic studies, in order to assist them in the review of the plan. The cost of any such studies will be paid by the applicant.

**G. Plan Commission Decision.** Following the public hearing, the Plan Commission will either approve, approve with supplemental conditions, or disapprove the application.

1. **Conditions.** The Commission may impose conditions on the approval in order to achieve the purposes and objectives of the Zoning Ordinance. Such conditions will be made part of the findings.

2. **Commitments.** The Plan Commission may also accept voluntary commitments from the owner. Any such commitments will be included in the findings and must be in a written form acceptable to the Commission. These written commitments must be recorded at the expense of the applicant.

**3. Performance Guarantee.** The Plan Commission may require the applicant to provide and furnish the County with a performance guarantee in the form of a performance bond, maintenance bond, irrevocable letter of credit or other surety in a form and amount determined by the Commission to ensure the completion of roads, streets, stormwater, utilities, landscaping or other features of the development.

**H. Waivers.** The Plan Commission may grant a waiver of a development standard as a component of its review for the following standards:

1. Landscape Design; and
2. Building materials.

**I. Effect of Approval.** The approval of a development plan shall not authorize the establishment or extension of any use or the development, construction, reconstruction, alteration or moving of any building or structure. The approval merely authorizes the preparation, filing, and processing of applications for any permits or approvals that may be required by this Ordinance or any other ordinance or law. Furthermore, the approval only authorizes the particular construction or development for which it was approved and will automatically expire and cease to be valid if the construction or development exceeds the terms or conditions of the approval. Prior to the issuance of an improvement location permit, the applicant will participate in a pre-construction meeting with the Zoning Administrator in order to determine whether all conditions of the approval have been satisfied.

**J. Expiration of Approval.** The applicant must obtain an improvement location permit within one year of the date of approval of the development plan. After one year, the approval will expire. The Plan Commission may, for good cause shown and after a public hearing, extend the effectiveness of its approval for a period of not more than six (6) months.

(Am. Ord. 2020-45, passed 12-30-2020).



THIS IS THE LAST PAGE OF TEXT FOR THE MONTGOMERY COUNTY ZONING ORDINANCE.

“I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.”

Name: Daniel L. Taylor

APPENDIX A  
ZONE MAP

# **APPENDIX B**

## **MONTGOMERY COUNTY ROAD AND STREET DESIGN STANDARDS**

**Adopted November 23, 2020**

**Effective January 1, 2021**

# Street Design Standards and Street Improvements

## Conformance with Regulations

The arrangement, character, extent, width, grade, and location of all streets shall conform to all of the elements of these regulations. Indiana Department of Transportation Standard Specification Montgomery County Standards dated 12/06/2000 shall be used for all improvements.

## Street Classifications

Street classifications are as follows:

1. Minor Arterial
2. Major Collector
3. Minor Collector
4. Local Roads
5. Cul-de-sac

## Design Standards

Street designs shall adhere to the following design standards:

2. AASHTO Standards -- Current AASHTO Standards shall be followed as minimum design requirements unless otherwise specified in this Ordinance.
2. Conformance with Plans -- All streets shall be planned to conform to the Comprehensive Plan and the Montgomery County Thoroughfare Plan.
3. Protection of Property -- Whenever a subdivision abuts or contains an existing or proposed major street, the Plan Commission may require frontage roads, screening of double frontage lots, a "non-access" easement along the property lines, deep lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. In those instances, where a non-access easement is proposed along a state or federal highway, this easement shall be granted specifically to Indiana Department of Transportation.
4. Connecting Street Pattern -- In order to provide a functional County street system, the Plan Commission may require an owner to construct a street pattern that provides connections to adjoining developed and vacant undeveloped properties. The coordination of streets from one (1) subdivision to another is essential to the county in order to provide a continuation of not only vehicular access, but also for transportation and distribution lines for most utilities, such as water, sewer, gas, electricity and telephone systems.
5. Access to Vacant Land -- The Plan Commission may waive the requirement of constructing an access street to vacant land. In these cases, the owner shall be required to dedicate the necessary right-of-way, but the person who develops the

adjoining vacant property will be required to construct the street. The Plan Commission shall determine at the primary hearing, the need and location of these access streets.

6. Continuation of Streets -- All streets, including those proposed to provide the continuation of streets to adjacent property, shall be constructed to the boundary lines of the subdivision and in accordance with the standards of this ordinance. If a subdivision is approved contiguous to existing right-of-way dedicated for a continuing street, but the street has not been constructed, the owner of the new subdivision must construct the entire street including the portion that is not contained within the owner's project.

7. Street to Match Plan -- A proposed street, matching the Thoroughfare Plan standards, or at a minimum classified as a local road, shall provide for the continuation of existing, planned or platted streets on adjacent property.

8. Street Parallel to Railroad or Roads -- Where a subdivision borders on or contains a railroad right-of-way, limited access highway right-of-way, arterial or collector street, the Plan Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of the approach grade of any future grade separation structure.

9. Dead End Streets -- A dead end street shall not be permitted except where a street is proposed to be and should logically be extended but is not yet constructed. A temporary cul-de-sac shall be constructed for any dead-end street that exceeds three hundred (300) feet in length from the nearest intersection. Drainage details for the temporary cul-de-sac shall be specified by the applicant and approved by the Plan Commission. A dead-end street that does not require a temporary cul-de-sac shall have adequate drainage provisions as approved by the Plan Commission.

10. Stub Streets -- Where, in the opinion of the Plan Commission, street connection to adjoining property is appropriate, proposed streets shall be extended to the boundary of the development for connection to existing streets on the boundary of adjoining property or for future connection. Stub streets shall be placed at intervals of one thousand (1000) feet.

11. Temporary Cul-de-Sacs -- A temporary cul-de-sac shall have an easement radius of not less than fifty (50) feet and shall have a driving surface radius of not less than forty (40) feet. The cross section of a temporary cul-de-sac shall be at least nine (9) inches of compacted #53 aggregate over a compacted sub-base. If it is anticipated that the temporary cul-de-sac will be required for longer than three (3) years, additional two- (2) inches of asphalt intermediate shall be required. Any temporary cul-de-sac still with a stone surface at the end of the maintenance period must be paved with two (2) inches of asphalt intermediate prior to release of the maintenance guarantee.

12. Permanent Cul-de-Sacs -- Permanent cul-de-sacs shall not provide access to more than 25% of all lots in the subdivision, and no cul-de-sac shall serve more than twenty

(20) lots. Cul-de-Sacs shall not be used to avoid connection with an existing street, to avoid extension of a collector or arterial street, or to avoid connection to adjoining property.

13. Access Easement -- An easement providing access to a street shall be prohibited except where it serves no more than three lots, and the Plan Commission finds that the plans for its control and maintenance is clearly defined.

14. Right-of-Way Width -- The street right-of-way width shall be in accordance with the Thoroughfare Plan right-of-way widths:

- a. Minor Arterial – 85'
- b. Major Collector – 70'
- c. Minor Collector – 60'
- d. Local Road – 50'
- e. Subdivision Road – 50'
- f. Cul-de-sac – 55' radius

15. Paving Width -- The paved width of all streets shall be adequate to serve the existing and future estimated traffic load for the development.

a. A new local road or subdivision road widths shall be in accordance with Table 5.2 Typical Roadway Standards of the Montgomery County Thoroughfare Plan. The Plan Commission shall have the authority to increase/decrease the right of way widths.

b. A cul-de-sac shall be paved to a diameter of ninety feet (90') measured at the asphalt pavement edge excluding concrete curb or stone shoulders.

c. A new local road or subdivision road shall be paved in accordance with the Montgomery County Standards dated 12/06/2000. Where a proposed street is an extension of an existing paved street that exceeds the minimum dimension set forth above, the Plan Commission shall require the owner to match the width of the existing paved street.

16. Minimize Through Traffic -- Proposed local, subdivision, or cul-de-sac streets shall be designed to minimize through traffic movement, which is to be limited to collector streets.

17. Acceptable Limits -- Acceptable limits for visibility, curvature, and maximum grade depend on topography, functional classification, anticipated traffic volumes, number and nature of access points, etc. Road design specifications shall be based on AASHTO guidelines and sound engineering judgment. The County Engineer must approve the design speeds selected for each project.

18. Street Grade -- A proposed street shall be adjusted to the contour of the land so as to provide usable lots grades & driveway slopes and a reasonable street grade. The maximum allowable street grade shall not exceed five (5) percent. The minimum allowable street grade shall not be less than five-tenths (0.5) percent.

19. Intersection Sight Distance -- The values for intersection sight distance shall be used at all intersections, both for new and existing intersections. No new features such as signs, embankments, walls, or landscaping, shall be constructed which reduces the sight distance below the intersection sight distance.

20. Decision Sight Distance -- Where unusual or complex situations exist, decision sight distance (per AASHTO Standards) may be required by the County Engineer to provide an added margin of safety.

21. Reverse Curves -- A reverse curve on a major street shall have a straight tangent between elements of said reverse curve of not less than one hundred (100) feet.

22. Additional Requirements -- The sections above deal with minimum requirements. Individual projects, particularly commercial and industrial subdivisions, may warrant additional requirements dictated by sound engineering design. Such additional requirements must be specified by the Plan Commission as a condition of approval.

23. Safety Concerns -- The Plan Commission may deny the proposed location of an access road from a proposed development onto an existing or proposed county road, due to safety concerns.

24. Improvements Required -- If, in the sole opinion of the Plan Commission, the proposed access road presents a potential hazard to the motoring public, the applicant may be required to make improvements to an existing or proposed county road as a condition of allowing access. These improvements may include, but are not limited to deceleration or acceleration lanes, passing blisters or other improvements.

a. Criteria -- Improvements shall be required based on the following criteria:

- I. Sight distance;
- II. Number of lots;
- III. Proposed use;
- IV. Street classification;
- V. Traffic generation;
- VI. Existing or proposed conditions; and
- VII. Sound engineering design.

b. Intersections -- As a minimum requirement, at an intersection of a subdivision street, commercial or industrial drive with an existing street or road, the developer shall install deceleration, acceleration, and passing lanes along the existing roadway in accordance with the geometry delineated in the Indiana Department of Transportation Driveway Permit Manual Version 1.1 dated August 2018.

c. Construction -- All roadwork involving the construction of passing blisters and/or accel/decel lanes shall require a one-inch (1") overlay of bituminous surface which shall extend across the full width of the existing roadway as well as the new features. Limits of this

work shall be the extreme ends of the tapers and/or blister. Butt joints shall be milled at the ends of the work to ensure a smooth transition. The pavement section shall be installed in accordance with the Montgomery County Standards.

25. Number of Access Roads -- The minimum number of access roads required into a subdivision will be based upon the number of lots. For residential subdivision access with 50 or less lots one public entrance shall be required. For residential subdivision access with 51 or greater lots two public entrance shall be required. These are minimum recommendations, and the Plan Commission may require additional access. All access points required by the number of lots in that phase must be provided for in that phase, or in a previous phase, and not delayed to a future phase.

26. Cul-de-Sac Length -- A cul-de-sac street shall not exceed six hundred feet in length measured from the centerline of the nearest intersection to the center of the cul-de-sac.

27. Half Streets -- Dedication of new half streets shall be prohibited. Where a dedicated or platted half street is adjacent to a tract being subdivided, the other half of said half-street shall be platted and constructed.

28. Additional Right-of-Way for Existing Streets -- The applicant shall dedicate additional right-of-way width as required to meet these regulations when the subdivision adjoins or includes an existing street that does not conform to the minimum right-of-way dimension as established by the Comprehensive Plan and the Montgomery County Thoroughfare Plan.

29. Blocks -- Block lengths in residential areas shall be two lots deep and shall not exceed eight hundred (800) feet in length, nor be less than three hundred (300) feet in length, with length measured centerline of street to centerline of street. Pedestrian ways shall be required through the middle of blocks that are more than eight hundred (800) feet long, or at other appropriate locations, as deemed necessary by the Plan Commission. In determining whether pedestrian ways are required, the Plan Commission shall consider methods of maintaining such ways, and the usefulness in providing access to any common open space, water areas, recreational areas, schools, churches, and other surrounding uses.

30. Cul-de-Sac Islands -- No fence, wall, sign, hedge, tree or shrub planting, or other similar item which obstructs sight lines and elevations between two (2) and eight (8) feet above the street shall be placed within any cul-de-sac island.

31. Traffic Calming -- It is a goal of Montgomery County to create residential streets that are safe and contribute to the quality of life within the neighborhoods. This Ordinance encourages street design that accomplishes this goal by the use of street hierarchy, geometric standards, and good engineering practices. When utilized appropriately, responsible street design does not need extraneous or additional "traffic calming" features. However, if deemed necessary, such traffic calming features will be designed and located according to standard recommended practices and must be approved by the County Engineer.



32. Maximum Ponding Depth – Maximum ponding depth shall be six (6) inches at the crown of the roadway for a 100-year storm event.

33. Horizontal centerline curve radius shall meet or exceed 1990 AASHTO Standards and shall correspond to the following design speeds:

- a. Subdivision Roads shall have a design speed of 30 mph and require a 150-foot minimum centerline radius.
- b. Local Roads, Minor and Major Collectors shall have a design speed of 40 mph and require a 300-foot minimum centerline radius.
- c. Primary Arterials and Secondary Arterials shall have a design speed of 50 mph and require a 675-foot minimum centerline radius.
- d. Tangent distance between reverse curves shall be 100 feet.

34. Subdivision – the curb/gutter and sidewalk requirements are based upon total number of lots in a subdivision and not based upon each section (phased development). The overall size of the development is required to be shown on the preliminary plat.

## **Intersections**

1. Curb Radii -- Street curbs shall be rounded by radii of sufficient length to permit the smooth flow of traffic, but in no case shall the curb radii be less than twenty-five (25) feet for Local Roads, or forty (40) feet for a Minor Arterial, and Major/Minor Collectors or roads in a commercial or industrial development or roads which intersect with State Roads or State Highways.

6. Street with No Curbs -- Where a proposed street with curbs intersects an existing street without curbs, the curb radius shall be designed so there is a minimum of twelve (12) feet separation between the curb and edge of the existing street pavement. Termination of curb shall be a smooth taper terminating to meet a proposed grade.

7. Separation Between Right-of-Way and Curb -- Street right-of-way at intersections shall be designed to provide a minimum of ten (10) feet separation between the street right-of-way and curb.

8. Angle -- Intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than seventy-five (75) degrees.

5. Multiple Street Intersections -- Intersection of more than two (2) streets at one point shall not be permitted.

6. Roundabouts -- Roundabout or traffic circles and appropriate signage shall be approved by the County Engineer. Design of roundabouts shall follow guidelines set forth by the Federal Highway Administration.

7. Radii Follow Greater Functional Classification -- When a street of lesser functional classification intersects with a street of greater functional classification the radii arcs at the intersection will comply with the standards for the street of greater functional classification.

8. Straight Street -- There shall be at least one hundred (100) feet of straight street before entering an intersection, unless otherwise approved by the County Engineer.

9. Driveway Separations -- Driveway locations shall conform to the following minimum requirements for separation:

- a. Minor Arterial – 300' Residential Driveway, 600' Non-Residential Driveway
- b. Major Collector – 200' Residential Driveway, 200' Non-Residential Driveway
- c. Minor Collector – 200' Residential Driveway, 200' Non-Residential Driveway
- d. Local Road – 100' Residential Driveway, 100' Non-Residential Driveway
- e. Subdivision Road – 75', with maximum of one per lot

10. Street Separations -- Street intersections shall not be closer than three hundred (300) feet center line to center line for residential and local streets and six hundred (600) feet center line to center line for collector and arterial streets and must be denoted on the construction plans. This provision does not apply to a frontage road.

11. Pavement Thickness -- When a street of lesser functional classification intersects with a street of greater functional classification, whether new or existing, the pavement thickness of all improvements within the right-of-way of the intersection shall comply with the street requiring the greatest thickness.

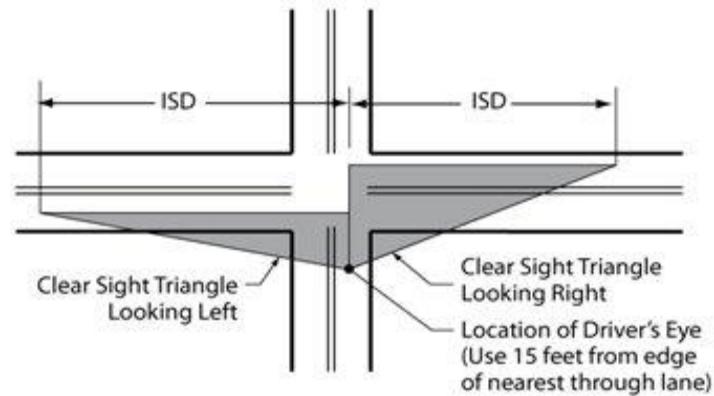
### **Sight Distance at Intersections**

7. Insufficient sight distance can be a contributing factor in intersection traffic crashes. Intersection sight distance is typically defined as the distance a motorist can see approaching vehicles before their line of sight is blocked by an obstruction near the intersection. The driver of a vehicle approaching or departing from a stopped position at an intersection should have an unobstructed view of the intersection, including any traffic control devices, and sufficient lengths along the intersecting roadway to permit the driver to anticipate and avoid potential collisions. Examples of obstructions include crops, hedges, trees, parked vehicles, utility poles, or buildings. In addition, the horizontal and vertical alignment of the roadway approaching the intersection can reduce the sight triangle of vehicles navigating the intersection.

8. It is important for approaching motorists on the major road to see side street vehicles approaching the Stop sign, and for minor road motorists to see approaching major road vehicles before entering the intersection. Poor sight distance can lead to rear-end crashes on the approaches and to angle crashes within the intersection because motorists may be unable to see and react to traffic control devices or approaching vehicles.

9. The area needed for provision of this unobstructed view is called the Clear Sight Triangle (see Figure 3).

**Figure 3. Sight Distance Triangles for 4-Leg Stop-controlled Intersections<sup>9</sup>**



10. The Intersection Sight Distance (ISD) is measured along the major road beginning at a point that coincides with the location of the minor road vehicle. Table 3 provides the recommended values for ISD, based on the following assumptions:
- Stop control of the minor road approaches;
  - Using driver eye and object heights associated with passenger cars;
  - Both minor and major roads are considered at level grade;
  - Considers a left-turn from the minor road as the worst-case scenario (i.e., requiring the most sight distance); and
  - The major road is an undivided, two-way, two-lane roadway with no turn lanes.
11. If conditions at the intersection being evaluated differ from these assumptions, an experienced traffic engineer or highway designer should be consulted to determine whether different ISD values should be used.

**Table 3. Sight Distance at Intersections**

Speed (mph) *	Stopping Sight Distance (ft.)	Design Intersection Sight Distance (ft.)
25	155	280
30	200	335
35	250	390
40	305	445
45	360	500
50	425	555
55	495	610
60	570	665
65	645	720

Source: *A Policy on Geometric Design of Highway and Streets*, 5th Edition, American Association of State Highway and Transportation Officials (AASHTO), 2004.

12. Stopping Sight Distance (SSD) provides sufficient distance for drivers to anticipate and avoid collisions. However, in some cases this may require a major road vehicle to stop or slow to accommodate the maneuver by a minor road vehicle. To enhance traffic operations, sight distances that exceed the recommended SSD (as shown in Table 3) are desirable.

a. Intersection Visibility -- No fence, wall, sign, hedge, tree or shrub planting or other similar item which obstructs sight lines at an elevation between two (2) and eight (8) feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points twenty-five (25) feet from the intersection of residential or local road lines, and fifty (50) feet from the intersection of arterial or collector road lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.

b. Median Visibility -- No fence, wall, sign, hedge, tree or shrub planting, or other similar item which obstructs sight lines and elevations between two (2) and eight (8) feet above the street shall be placed within any median area within one hundred (100) feet of an intersection. No walls, rocks, or boulders larger than two (2) feet in any dimension shall be placed in the median.

c. Stop Sign Visibility -- No trees shall be planted in any portion of a public street right-of-way within one hundred fifty (150) feet of a stop sign.

## **Street Improvements**

7. Plan and Profile -- In general, a street shall be completed to the grade shown on the plan and profile sheet. A plan and profile sheet for each street shall be provided by the owner and prepared by a registered professional engineer or registered land surveyor.
8. Street Construction Standards -- The minimum requirements for street construction shall be in accordance with the latest edition of "Standard Specifications" of the Indiana Department of Transportation, in effect at the time of approval. (Hereinafter referred to as the Standard Specifications).
  - e. Subgrade -- The subgrade shall be prepared in compliance with the Standard Specifications.
  - b. Subbase -- The subbase, where required, shall be #53 crushed aggregate (or equal), as determined by the County Engineer, and shall be prepared in compliance with the Standard Specifications. If the subgrade is modified in accordance with the Standard Specifications, there shall be no reduction of the required aggregate thickness.

f. Street Surface -- The street surface shall be of Portland cement concrete or hot asphaltic concrete. Portland cement concrete materials and construction shall be in compliance with Section 500 of the Standard Specifications and these regulations. The Montgomery County Engineer has determined that any part of the subgrade or subbase is frozen when its temperature reaches 32° Fahrenheit. Hot asphaltic concrete materials and construction shall be in compliance with Section 400 of the Standard Specifications and these regulations.

3. Backfill -- All utility excavations under the pavement or within five (5) feet of the edge of the pavement be backfilled with Structure Backfill or Flowable Mortar as specified in the Standard Specifications. Installation shall conform to the Standard Specifications. Any deviation from these provisions must be approved by the County Engineer's Office prior to construction.

4. Subsurface Drains -- Subsurface drains shall be installed at a depth of two (2) feet below and behind the back of curb in line with and parallel to the inside face of the curb or along the junction where the face of the concrete curb meets material for the travel surface. The subsurface drains shall be a minimum of six- (6) inch diameter perforated polyethylene pipe. Four (4) inch laterals shall be provided for each lot, extended to the right-of-way line and capped. The ends shall be marked by permanently marking (stamping) the lateral in the curb and extending a board or other suitable material to the surface and dimensioned on the record drawings. No direct surface water, or garage floor drains will be allowed to connect to the subsurface drain.

9. Aggregate Base -- Stone aggregate base shall be placed under the curb and extended to the aggregate placed for the subsurface drain. This aggregate base shall be continuous and shall match the bottom of pavement (top of subgrade) or be four (4) inches thick whichever is more.

10. Soil Conditions in Streets -- Wet spots or other unusual soil conditions may develop in streets. These streets must comply with any or all of the following requirements:

a. Underdrains -- Four (4) inch Polyethylene lateral underdrains which extend under the subbase and connect directly to the subsurface drains shall be placed at regular intervals through the wet areas;

b. Additional Aggregate -- Compacted aggregate (#53 stone) shall be added to the street cross section to a thickness as determined by the County Engineer. This shall be in addition to the minimum base requirement;

c. Excavation and Backfill -- Soft spots may be over excavated and backfilled with compacted aggregate as approved by the County Engineer;

g. Geogrid may be used with the written approval of the County Engineer

- h. Soil Modification -- Soil Modification (such as Lime Stabilization) in accordance with the Standard Specifications may be used.
- I. Preconstruction Notification -- If soil modification is planned to be used, this must be stated in the preconstruction conference.
- II. Subbase Depth -- No reduction in subbase depth will be permitted.
- III. Application rates -- Application rates shall be determined according to the Standard Specifications and industry standards, based on testing of the in-place subgrade. Test results and proposed application rates must be provided to and approved by the County Engineer prior to use.

### **Joints for Rigid Pavement**

Rigid pavement shall be jointed in order to control cracking. Joints for rigid pavement shall be constructed in accordance with the type and dimensions and at the locations required by Standard Specifications, these regulations, or as directed by the County Engineer's Office.

- 2. Spacing -- Spacing of weakened plane, transverse, or contraction joints shall not exceed twenty (20) feet. Closer spacing to average fifteen (15) feet is encouraged. A transverse contraction joint may either be formed or sawed dummy groove, ribbon or pre-molded strip type, and shall be one fourth (1/4) the thickness of the pavement.
- 2. Sawing -- When a transverse joint is to be formed by sawing, care must be taken to saw the grooves soon after placing the concrete to prevent the formation of cracks due to contraction of the slab.
- 9. Catch Basins and Manholes -- One of the above-named joints shall be placed at every catch basin and manhole in the line of pavement. The location of manholes in the pavement shall determine the exact location of the joints.
- 10. Full Pavement Width -- All joints shall extend throughout the curb to the full width of pavement.
- 11. Transverse Expansion Joint -- a transverse expansion joint shall be placed at the intersections, tangent points of sharp curves, and wherever else shown on the plans.
- 12. Longitudinal Joint -- Whenever the width between forms of the pavement under construction is greater than ten (10) feet, a longitudinal joint shall be constructed so as to divide the pavement into strips not to exceed ten (10) feet each. This may be accomplished by sawing or by installing a slot or groove as herein described for a contraction joint.
- 7. Curing Compound -- White membrane curing compound AASHTO Number 2-M-14B must be properly applied to give complete coverage immediately after finishing, around all inlets and manholes and every fifty (50) lineal feet of pavement, as well as where concrete adjoins asphalt.

## **Curb and Gutters**

1. Curbs -- A two (2) foot concrete curb and gutter shall be required for subdivisions consisting of twenty-six (26) lots or more for, single family, two family and multifamily residential subdivision streets. Streets in commercial or industrial (non-residential) subdivisions shall have the option of using two (2) foot concrete curb and gutter or concrete chair back curbs.

2. Construction -- Materials, concrete specifications and construction procedure shall comply with the Montgomery County Standard Details. Cold weather construction shall be in accordance with the Indiana Department of Transportation Standard Specifications.

3. Valley Gutters -- Valley gutters, which connect gutter drains across street intersections, are strictly prohibited.

4. Frozen Material -- The Montgomery County Engineer has determined that a material is considered frozen when any part of its temperature reaches 32° Fahrenheit.

5. Height of Asphalt -- The maximum height of the asphalt shall meet or exceed the gutter line of the curb.

6. Details -- It is the intent and purpose of this section to encourage streets and rights-of-way to be dedicated to the county for ownership and maintenance whenever possible. It is a long- range benefit to the entire county for streets and rights-of-way to be maintained publicly rather than privately. There may be, however, a situation in which a privately owned and maintained street is a more reasonable alternative.

2. Standards -- In any development in which a private street is allowed, the street shall conform to County standards.

2. Required Covenants -- The covenants of the secondary plat shall contain the following statement: "The streets and ingress/egress easements shown hereon are to be privately owned and maintained by the home-owner's or commercial association pursuant to the articles of incorporation of said association.

## **Sidewalks, Pathways and Pedestrian Ways**

1. Location

a. Major Plats: Sidewalks are not required in subdivisions of one to twenty-five (1-25) lots. Subdivisions that consist of twenty-six to forty (26-40) lots shall require sidewalks on one side of road or street. Subdivisions consisting of forty-one (41) lots or more require sidewalks along both sides of all streets and along the development side of all existing county roads.

b. Minor Plats: Sidewalks are not required along the development side of all existing county roads, For minor subdivisions, sidewalks must be installed when sidewalks become contiguous or adjacent on surrounding property.

2. Sidewalk Plan -- A plan for a sidewalk system shall be prepared that will provide every lot within a subdivision, or portion thereof, with reasonable access to a sidewalk connecting with all of the community facilities, commercial enterprises and other residential subdivisions located near or adjacent to the subdivision, and in a manner that will provide safe and convenient pedestrian circulation throughout the neighborhood or area in which the subdivision is located and which will avoid pedestrian and vehicular traffic conflict.

3. Sidewalk Construction -- Sidewalk materials and construction requirements shall conform to the Standard Specifications, and shall meet the following requirements:

a. Material -- Be constructed only of 4,000 psi concrete unless otherwise expressly approved by the Plan Commission;

b. Depth -- Have a minimum depth of four (4) inches, or have a minimum depth of six (6) inches when built in an area of proposed vehicular crossing;

c. Slope -- Have a cross slope of no steeper than one-quarter (1/4) inch per foot toward the street;

d. In Right-of-Way -- Be located at least one (1) foot inside the right-of-way line, unless located within an easement outside of the right-of-way.

e. Consistency, Slump, and Mixture -- Have consistency, slump, and mixture specifications as established by the Standard Specifications;

f. Joints -- Be jointed every four (4) feet, with expansion joints every forty (40) feet to prevent cracking and heaving;

g. Compliance with ADA -- Have curb ramps installed at all intersections and at all other locations where required for compliance with the Americans with Disabilities Act (ADA).

4. Minimum Width -- Sidewalks, pathways and pedestrian ways shall have a minimum width as follows:

a. One or Two Family -- In One- or Two-Family Developments, along collector, local, or residential interior streets, minimum width shall be five (5) feet;

b. Multifamily -- In Multifamily Developments, minimum width shall be five (5) feet;

c. Perimeter -- For a perimeter subdivision sidewalk located along a County road, minimum width shall be six (6) feet;

d. Commercial or Industrial -- For Commercial or Industrial, minimum width shall be as approved by the Plan Commission;

e. Pedestrian ways -- For Pedestrian ways that connect two streets or connect directly to a park, school or other public or semi-public use, minimum width shall be six (6) feet.

5. Easement Required -- In order to facilitate pedestrian access from the street to schools, parks, playgrounds, or other nearby streets, the Plan Commission may require a perpetual unobstructed easement at least fifteen (15) feet in width. This easement shall be indicated



on both the primary and secondary plats. The construction details shall be shown on the construction plans and must be specifically approved by the Plan Commission.

6. Vertical Drop -- There shall be no vertical drop in excess of twelve (12) inches within five (5) feet of the outside edge of the sidewalk, or an approved barrier must be installed in accordance with the Standard Specifications.

7. Installation -- Sidewalks shall be installed by the lot owners:

a. Prior to the issuance of the Certificate of Occupancy by the Planning and Building Department; or

b. Prior to the end of the designated maintenance period. The lot owner must complete the installation of all remaining sidewalks and pedestrian ways located interior to the subdivision, even if the lots are not yet developed.

c. The lot owner is responsible for maintenance of the sidewalk including clearing during winter events. If the County Engineer or Building Administrator determine the condition of the sidewalk warrants replacement the lot owner will be responsible for the cost of the replacement.

## **Easements**

No permanent encroachments shall be allowed within any of the following easements:

1. Access Easements -- Access easements providing legal access to land shall be at least fifty (50) feet in width and shall have the capability of providing suitable locations for future public streets meeting the standards set forth in this ordinance. No more than three lots shall receive access from a private access easement.

2. Drainage and Utility Easements -- Drainage and utility easements shall be at least fifteen (15) feet in width on each side of any public street that has a right-of-way width of less than fifty (50) feet.

3. Utility Easements -- Utility easements shall be allocated in areas of suitable size and location. Such easements shall provide reasonable continuity from block to block and shall be at least fifteen (15) feet in width. The Plan Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this section.

4. Drainage Easements -- Drainage easements shall be provided where the Plan Commission deems them necessary to provide proper drainage for the subdivision. Such easements shall be at least fifteen (15) feet in width and may be coincident with utility easements. Where a regulated drain traverses a subdivision, the easement for the drain shall be in accordance with the Montgomery County Surveyor and the Montgomery County Drainage Board.

5. Maintenance Easements -- Maintenance easements for dams or adjoining property may be required where the Plan Commission deems them appropriate.

6. Farm Tile Easements -- Farm tile easements for protection and maintenance shall be at least thirty (30) feet in width, and shall be provided where there are farm tiles that are to remain on property proposed for subdivision. The Plan Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this section.

### **Street Identification Signs and Regulatory Signs**

1. Installation -- The owner shall install street identification signs at each street intersection within and on the perimeter of the subdivision. The developer shall install all appropriate regulatory signs as required by the County Engineer's office.

2. Street Identification Signs -- Street identification signs shall comply with the current issue of Indiana Manual of Uniform Traffic Control Devices regarding size, material, reflectivity and location. Street identification signs for public roads shall be white letters on a green background. Street identification signs for private roads shall be white letters on a blue background. Size of letters and sign dimensions shall comply with Montgomery County Highway Department requirements.

3. Regulatory Signs -- Regulatory signs shall comply with the current issue of Indiana Manual of Uniform Traffic Control Devices regarding size, material, reflectivity and location. The developer shall place regulatory signs in accordance with the current issue of the Indiana Manual of Uniform Traffic Control Devices and as directed by the Montgomery County Highway Department.

4. Locations -- Sign locations must be shown on the construction plans.

### **Roadside Ditches**

1. When Required -- Roadside ditches are required for all existing or proposed roads that will not have curbs and gutters.

2. Shoulder Width and Slopes -- Roadside ditches shall be located so as to provide a shoulder width as shown in the Montgomery County Standards and sound engineering design. Drainage side slopes shall be 3:1. In no case shall the shoulder width be less than four (4) feet. The Plan Commissioner may require a wider shoulder and drainage ditch.

3. Culvert Cover -- Roadside ditches are to be constructed to provide a minimum of twelve inches (12") of cover over the driveway culvert pipe, or as recommended by the manufacturer, whichever is greater.

4. Driveway Pipe Size -- The minimum size of a driveway pipe shall be twenty-four feet (24') of twelve-inch (12") culvert pipe. The Montgomery County Highway Department may require a larger pipe diameter and/or length.

### **Bridges and Similar Drainage Structures**

1. Design and Construction Standards -- All bridges and similar drainage structures shall be designed and constructed in accordance with AASHTO Standard Specifications for Highway Bridges, Current Edition and the Standard Specifications.

2. Rails -- All bridges shall be designed to incorporate a crash-tested barrier rail per Indiana Department of Transportation (INDOT) specifications and adequate lengths of a crash-tested approach rail. The length of approach rail shall meet INDOT Rehabilitation, Restoration, and/or Resurfacing (3R or RRR) requirements or better, and be approved by the County Engineer.

3. Approval -- Structure size and type and final design plans must be approved by the Montgomery County Engineer. The County Engineer may require additional right of way for future maintenance of the structure.

4. Testing and Inspection -- Material certifications and testing must be done during construction in accordance with INDOT Specifications, and copies provided to the County Engineer. On-site construction inspection shall be provided by the owner in accordance with County procedures for locally funded bridges, with the County Engineer copied on all inspectors' reports and correspondence. Also, the County Engineer must participate in the final inspection. A separate Maintenance Bond for three (3) year must be provided to the County Engineer. All construction within an existing county road right-of-way and any crossings of the travel surface will require a permit from the County Engineer prior to construction. Whenever any construction activities occur within a public road right-of-way, traffic control devices shall be placed in accordance with INDOT standards and the Manual on Uniform Traffic Control Devices, Part VI. The devices shall be installed prior to any construction and shall be maintained during the entire time that the special conditions exist. They shall be removed immediately thereafter.

### **Construction Within Road Right-of-Way**

All right-of-way repairs on the pavement or within five (5) feet of the edge of the pavement shall be backfilled with Structure Backfill or Flowable Mortar as specified in the Standard Specifications. Installation shall conform to Section 715 of the Standard Specifications. Any deviation from these provisions must be approved by the County Engineer's Office prior to repair.

### **Right-of-Way Repairs**

All right-of-way repairs on the pavement or within five (5) feet of the edge of the pavement shall be backfilled with Structure Backfill or Flowable Mortar as specified in the Standard Specifications.

Installation shall conform to Section 715 of the Standard Specifications. Any deviation from these provisions must be approved by the County Engineer's Office prior to repair.

# TABLE A

## REZONE ORDINANCES

Date	Ord. No.	Property Owner	Rezone Designation	Brief Legal Description
June 22, 2020	Ord. 2020-25	Nathan Slavens	Agricultural District to Residential	EH SEQ 6-17-5 45.21A PT SWQ 5-17-5 45.21 Acres Located at: 6673 S. 600 W. Crawfordsville

THIS IS THE LAST PAGE OF TEXT FOR THE MONTGOMERY COUNTY ZONING ORDINANCE.

“I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.”

Name: Daniel L. Taylor