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CHAPTER 30: BODY OF GOVERNMENT

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BOARD OF COMMISSIONERS

§ 30.001 COUNTY EXECUTIVE.

The three member Board of Commissioners of a county elected under this chapter is the County Executive. In the name of "The Board of Commissioners of the County of Henry," the Executive shall transact the business of the county. (I.C. 36-2-2-2) (Prior Code, § 2.04.010)

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§ 30.002 ELECTION; TERMS; ELIGIBILITY.

(A) (1) The Executive shall be elected at general elections by the county's voters. The number of members to be elected to the Executive alternates between one and two at succeeding general elections.

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(2) The term of office of a member of the Executive is four years, beginning January 1 after his or her election and continuing until his or her successor is elected and qualified.

(I.C. 36-2-2-3) (Prior Code, § 2.04.020)

(B) To be eligible for election to the Executive, a person must have been a registered voter of the district from which he or she runs for at least six months before his or her election, and must remain a resident of that district after taking office or forfeit the office. The county fiscal body shall declare the office vacant whenever a member of the Executive forfeits his or her office under this section.

(I.C. 36-2-2-5) (Prior Code, § 2.04.040)

§ 30.003 COMMISSION DISTRICTS.

(A) The Executive shall divide the county into three single-member districts that comply with state law.

(I.C. 36-2-2-4) (Prior Code, § 2.04.030)

(B) The county shall be divided into the following districts for the purpose of election of the Board of County Commissioners:

(1) Southern District—Wayne, Spiceland Franklin and Dudley Townships;

(2) Middle District—Greensboro, Harrison, Henry and Liberty Townships; and

(3) Northern District—Fall Creek, Jefferson, Prairie, Stoney Creek and Blue River Townships.

(Prior Code, § 4.08.010)

(Ord. 9(12-01), passed 12-19-2001)

§ 30.004 DISQUALIFICATION.

(A) If the Executive finds that two or more of its members are disqualified from acting in a quasi-judicial proceeding, the disqualified members shall cease to act in that proceeding. Within ten days after the finding, the County Auditor shall send a certified copy of the record of the proceeding to the judge of the county court. If the judge affirms the disqualification of the members of the Executive, he or she shall appoint disinterested and competent persons to serve as special members of the Executive in the proceeding.

(B) A person who consents to serve as a special member of the Executive must have the same qualifications as an elected member of the Executive. His or her appointment and oath shall be filed with the County Auditor and entered on the records of the Executive, and he or she may act with the other members of the Executive conducting the proceeding until a final determination is reached.

(I.C. 36-2-2-7) (Prior Code, § 2.04.060)

§ 30.005 MEETINGS.

(A) The Executive shall hold a regular meeting during the first week of each month and at other times as needed to conduct all necessary business.

(I.C. 36-2-2-6) (Prior Code, § 2.04.050)

(B) (1) If the public interest requires a special meeting of the Executive, the meeting may be called by a member of the Executive or by the:

(a) County Auditor;

(b) County Clerk, if the office of County Auditor is vacant; or

(c) County Recorder, if the offices of County Auditor and County Clerk are both vacant.

(2) An officer calling a special meeting of the Executive shall give at least six days notice of the meeting 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 the purpose of the meeting, and the Executive may not conduct any unrelated business at the meeting.

(Prior Code, § 2.04.070)

(C) The Executive may select a location other than the county courthouse for its meetings only if the courthouse is not suitable, is inconvenient or has been replaced or supplemented by other buildings to house government offices.

(I.C. 36-2-2-9) (Prior Code, § 2.04.080)

(D) (1) The County Auditor shall attend all meetings of, and record in writing the official proceedings of, the Executive.

(2) If a copy of the Executive's proceedings has been signed and sealed by the County Auditor and introduced into evidence in court, that copy is presumed to be an accurate record of the Executive's proceedings.
(I.C. 36-2-2-11) (Prior Code, § 2.04.100)

§ 30.006 BUSINESS HOURS.

(A) The Executive shall keep its office open on each business day, and at least one of its members shall be available during normal business hours for county offices.

(B) In a county subject to I.C. 36-2-3.5, at least one member of the Executive or its designee shall be in its office on each Monday, Tuesday, Wednesday, Thursday and Friday, except for holidays designated by the County Commissioners.
(I.C. 36-2-2-10) (Prior Code, § 2.04.090)

§ 30.007 POWERS.

(A) Appointments made by the Executive shall be certified by the County Auditor, under the seal of the Executive.
(I.C. 36-2-2-12) (Prior Code, § 2.04.110)

(B) (1) The Executive may employ a person only if the employment is expressly authorized by statute or is found by the Executive to be necessary to the public interest:

(a) To perform a duty required of a county officer by statute; or

(b) On a commission or percentage basis.

(2) If a person's employment under division (B)(1) above is not expressly authorized by statute, the contract for his or her employment must be filed with the circuit court for the county, and he or she must file his or her claims for compensation with that court. Any taxpayer may contest a claim under this division.

(3) A member of the Executive who recklessly violates this section commits a Class C misdemeanor and forfeits his or her office.
(I.C. 36-2-2-13) (Prior Code, § 2.04.120)

(C) (1) The Executive may appoint a county administrator to be the administrative head of the county under the supervision of the Executive and to hold office at the pleasure of the Executive. The Executive may assign any office, position or duties under its control to the administrator, and may by resolution withdraw any of the powers and duties assigned.

(2) Under the supervision of the Executive and with its express authorization by resolution, the administrator may:

(a) Assist in the administration and enforcement of policies and resolutions of the Executive;

(b) Supervise activities of county government subject to the control of the Executive;

(c) Attend meetings of the Executive;

(d) Recommend measures for adoption to the Executive;

(e) Prepare and submit reports that he or she considers advisable or that the Executive requires;

(f) Keep the Executive fully advised on the financial condition of the county;

(g) Prepare and submit a budget for each fiscal year; and

(h) Perform other duties that the Executive requests by resolution.

(3) If the administrator is absent from his or her office due to illness, death, vacation, resignation or removal, the President of the Executive, if any, or a qualified person appointed by the Executive shall act as administrator until the administrator returns to his or her duties or the Executive appoints a new administrator.

(I.C. 36-2-2-14) (Prior Code, § 2.04.130)

(D) (1) The County Auditor or a member of the Executive may administer all oaths required by this chapter.

(2) The Executive may:

(a) Punish contempt by a fine of not more than \$3 or by imprisonment for not more than 24 hours; and

(b) Enforce its orders by attachment or other compulsory process.

(3) Fines assessed by the Executive shall be executed, collected and paid over in the same manner as other fines.

(4) The County Sheriff or a deputy shall attend the meetings of the Executive, if requested by the Executive, and shall execute its orders.
(I.C. 36-2-2-15) (Prior Code, § 2.04.140)

(E) The Executive may grant licenses, permits or franchises for the use of county property if they are not exclusive, are of a definite duration and are assignable only with the consent of the Executive.
(Prior Code, § 5.04.010)

(F) If a public utility or municipally owned or operated utility that carries on business outside the corporation boundaries of municipalities in the county is engaged in an activity substantially similar to that for which a license, permit or franchise for the use of county property is sought, the Executive may grant the license, permit or franchise only with the consent of the State Public Service Commission. The Commission may give its consent only if it determines, after a public hearing of all interested parties, that public necessity and convenience require the substantially similar activity.
(Prior Code, § 5.04.020)

(G) The provisions of this chapter that concern securing the consent of the Public Service Commission do not apply to municipally owned or operated utilities.
(I.C. 36-2-2-23) (Prior Code, § 5.04.030)
Penalty, see § 10.99

COUNTY COUNCIL

§ 30.020 FISCAL BODY.

The seven-member County Council is the county fiscal body and shall act in the name of “The Henry County Council.”
(I.C. 36-2-3-2) (Prior Code, § 2.06.010)

§ 30.021 ELECTION; TERM.

(A) (1) The fiscal body shall be elected at general elections. Members elected from districts and at-large members, respectively, are to be elected in alternate elections.

(2) The County Council shall consist of four district members and three at-large members.
(Prior Code, § 2.06.030)

(B) The term of office of a member of the County Council is four years, beginning January 1 after his or her election and continuing until his or her successor is elected and qualified.
(I.C. 36-2-3-3) (Prior Code, § 2.06.020)

§ 30.022 DISTRICTS.

The county shall be divided into the following districts for the purpose of electing the members of the County Council:

(A) First District—Henry and Prairie Townships;

(B) Second District—Fall Creek, Greensboro, Harrison and Jefferson Townships;

(C) Third District—Blue River, Dudley, Franklin, Liberty and Stoney Creek Townships; and

(D) Fourth District—Spiceland and Wayne Townships.
(Prior Code, § 4.04.010)

§ 30.023 OFFICIALS; DUTIES.

(A) At its regular meeting required by this chapter, the fiscal body shall elect a President and President Pro Tem from its members.

(B) The County Auditor is the clerk of the fiscal body and shall:

(1) Preserve the fiscal body's records in his or her office;

(2) Keep an accurate record of the fiscal body'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.

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

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

(I.C. 36-2-3-6) (Prior Code, § 2.06.050)

§ 30.024 MEETINGS.

(A) The fiscal body shall hold its meetings in the county seat, in the County Auditor's office, or in another location provided by the County Executive and approved by the fiscal body.

(B) The fiscal body:

(1) Shall hold a regular meeting in January after its election for the purpose of organization and other business;

(2) Shall hold a regular meeting annually, as prescribed by I.C. 6-1.1-17, to adopt the county's annual budget and tax rate;

(3) May hold a special meeting under divisions (C) or (D) below; and

(4) In the case of a county subject to I.C. 36-2-3.5, shall hold meetings at a regularly scheduled time each month that does not conflict with the meetings of the County Executive.

(C) (1) A special meeting of the fiscal body may be called by:

(a) The County Auditor or the President of the fiscal body; or

(b) A majority of the members of the fiscal body.

(2) 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 accordance with I.C. 5-3-1-4. This division does not apply to a meeting called to deal with an emergency under I.C. 5-14-1.5-5.

(D) (1) 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.

(2) Notwithstanding division (C) above, the meeting must 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:

(a) By telephone to the members of the fiscal body; and

(b) According to I.C. 5-14-1.5. (Prior Code, § 2.06.060)

§ 30.025 ADVERSE INTEREST.

A member of the fiscal body who purchases a bond, order, claim, or demand against the county for less than its face value shall forfeit it to the county and may not enforce it by legal action.
(I.C. 36-2-3-8) (Prior Code, § 2.06.070)

§ 30.026 FORFEITURE; EXPULSION.

(A) (1) A member of the fiscal body:

(a) May not hold another county office or a state, township, or municipal office; and

(b) Must be a resident voter of the county.

(2) A member of the fiscal body who is elected from a single-member district must be a resident voter of that district and must have been a resident voter of that district for at least six months before his or her election.

(3) A member of the fiscal body who fails to comply with this section forfeits his or her office immediately.
(I.C. 36-2-3-5) (Prior Code, § 2.06.040)

(B) The fiscal body may:

(1) Expel any member for violation of an official duty;

(2) Declare the seat of any member vacant if he or she is unable or fails to perform the duties of his or her office; and

(3) Adopt its own rules to govern proceedings under this subchapter, but a two-thirds vote is required to expel a member or vacate his or her seat.
(I.C. 36-2-3-9) (Prior Code, § 2.06.080)

BOUNDARIES

§ 30.040 ADOPTION BY REFERENCE.

The county official map is hereby adopted by reference and made a part of this subchapter as fully as if the same were attached hereto and incorporated herein, and is on public display in the courthouse of the county, in the office of the County Commissioners and filed with the offices of the County Auditor and Recorder. The corporation boundaries set forth therein shall constitute the official corporation boundaries of the county.
(Prior Code, § 7.04.010)

§ 30.041 PRECINCT BOUNDARIES.

The boundaries for the precincts in the county are as follows:

(A) *Jefferson Township.* All of Jefferson Township is voter precinct one;

(B) *Prairie Township.*

(1) *Precinct one.* Commencing at the northwest corner of Prairie Township which is also the northwest corner of Section 28, Township 19N, Range 10E; thence due south on and along the west side of Sections 28, 33, 4, 9 and 16 to CR 550N; thence due east across the centers of Sections 16, 15, 14, and 13 to the Muncie Pike; thence north on and along the centerline of the Muncie Pike to the intersection of the Pike with CR 600N; thence due east along CR 600N to the southeast corner of Section 7, Township 18N, Range 11E; thence north along the east line of Section 7 and 6 to the northeast corner of Section 6, thence west to the southeast corner of Section 31, Township 19N, Range 11E; thence north to the County Line Road N; thence west along the road to the northwest corner of Section 28, Township 19N, Range 10E being the northwest corner of Prairie Township and the place of beginning;

(2) *Precinct two.* Commencing at the southeast corner of Prairie Township which is the southeast corner of Section 31, Township 18N, Range 11E; thence proceeding due west along the south line of Prairie Township to the southwest corner of Section 33, Township 18N, Range 10E which is also the southwest corner of Prairie Township; thence due north along the west line of Prairie Township to CR 550N; thence due east to the Muncie Pike; thence northeasterly on and along the centerline of the Pike to CR 600N; thence due east to the east line of Prairie Township; thence south along the east line to southeast corner of Prairie Township, to the place of beginning.

(C) *Harrison Township.* All of Harrison Township is voter precinct one;

(D) *Greensboro Township.*

(1) *Precinct one.* Commencing at the northeast corner of Greensboro Township and proceeding due west on and along the centerline of CR 100S, which is also the north line of Greensboro Township, to the centerline of CR 500W; thence due south along CR 500W to CR 350S; thence due west again to CR 625W; thence due south to the south line of Greensboro Township; thence due east along the south line to the southeast corner of Greensboro Township, which is also the southeast corner of Section 5, Township 16N, Range 10E; thence due north to road 400S; thence west along the road to the southeast corner of Section 36, Township 17N, Range 9E; thence due north to CR 100S, being the northeast corner of Greensboro Township and the place of beginning;

(2) *Precinct two.* Commencing at the northwest corner of Greensboro Township which is also the northwest corner of Section 24, Township 17N, Range 8E; thence due east on and along the north boundary lines of Greensboro Township which are also along the east lines of Sections 22, 27, and 34 to CR 350S; thence due west to CR 625W; thence south along the road to the southeast corner of Section 3, Township 16N, Range 9E; thence west one-half mile along the south line of Section 3; thence due north to the north line of Section 3; thence west along the north lines of Sections 3, 4, 5, and 6 to the Shirley Road, which point is also the southwest corner of Section 16, Township 17N, Range 8E; thence due north on the Shirley Road to CR 100S, being the northwest corner of Greensboro Township and the place of beginning.

(E) *Franklin Township.* All of Franklin Township is voter precinct one;

(F) *Dudley Township.*

(1) *Precinct one.* Commencing at the northwest corner of Dudley Township and proceeding due east on and along the north line of Dudley Township which is also the centerline of CR 400S to CR 87E, thence due south on and along CR 875E to CR 700S; thence due west on CR 700S to the Franklin Township and Dudley Township line; proceed due north to CR 400S, which is the northwest corner of Dudley Township and the place of beginning;

(2) *Precinct two.* Commencing at the southwest corner of Dudley Township, which is also the intersection of CR 350E and County Line Road S; thence due east on and along County Line Road S to the southeast corner of Dudley Township; thence due north to CR 700S; thence due west on and along CR 700S to the west line of Dudley Township, which is also the northwest corner of Section 21, Township 16N, Range 11E; thence due south to the southwest corner of Dudley Township, the intersection of CR 350 E and County Line Road S, the place of beginning.

(G) *Stoney Creek Township.* All of Stoney Creek Township is voter precinct one; and

(H) *Blue River Township*. All of Blue River Township is voter precinct one.
(Prior Code, § 4.12.010)

the question shall be continued until the next meeting.
(I.C. 36-2-4-6) (Prior Code, § 2.07.050)

LEGISLATIVE PROCEDURE

§ 30.055 REQUIRED COMPLIANCE.

A County Executive or county fiscal body adopting an ordinance, order, resolution or motion for the government of the county or the transaction of county business must comply with this subchapter.
(I.C. 36-2-4-2) (Prior Code, § 2.07.010)

§ 30.056 QUORUM.

(A) A majority of all the elected members constitutes a quorum, except as provided by division (B) below.

(B) A county fiscal body may, by a two-thirds vote, adopt a rule specifying that a certain number of members greater than a majority constitutes a quorum. (I.C. 36-2-4-3) (Prior Code, § 2.07.020)

§ 30.057 VOTE REQUIREMENTS DEFINED.

(A) (1) A requirement that an ordinance, resolution or other action be passed by a majority vote means at least a majority vote of all the elected members.

(2) A requirement that an ordinance, resolution or other action be passed by a two-thirds vote means at least a two-thirds vote of all the elected members.
(I.C. 36-2-4-4) (Prior Code, § 2.07.030)

(B) A majority vote is required to pass an ordinance, unless a greater vote is required by statute.
(I.C. 36-2-4-5) (Prior Code, § 2.07.040)

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

§ 30.058 ORDINANCES.

(A) (1) Unanimous consent of the members present is required to pass an ordinance on the same day or at the same meeting at which it is introduced.

(2) This section does not apply to an ordinance of a county fiscal body for additional appropriations.
(I.C. 36-2-4-7) (Prior Code, § 2.07.060)

(B) (1) An ordinance, order or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order or resolution must be promulgated or published according to statute before it takes effect.

(2) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two consecutive weeks, according to I.C. 5-3-1. However, if an ordinance is adopted by the legislative body of a county subject to I.C. 36-2-3.5 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

(a) The County Executive proclaims the urgent necessity; and

(b) Copies of the ordinance are posted in three public places in each of the districts of the county before it takes effect.

(3) In addition to the other requirements of this section, an ordinance passed by the legislative body of a county subject to I.C. 36-2-3.5 is considered adopted only if it is:

(a) Approved by signature of a majority of the County Executive;

(b) Neither approved nor vetoed by a majority of the Executive within ten days after passage by the legislative body; or

(c) Passed by a two-thirds vote of the legislative body within 60 days after a veto by signature of a majority of the Executive.
(I.C. 36-2-4-8) (Prior Code, § 2.07.070)

(C) Within a reasonable time after an ordinance is adopted, the County Auditor shall record it in a book kept for the purpose. The record must include the signature of the presiding officer and the attestation of the Auditor. The record, or a certified copy of the record, is presumptive evidence that the ordinance was adopted and took effect.
(I.C. 36-2-4-9) (Prior Code, § 2.07.080)

§ 30.059 MEETING RULES; SEAL.

(A) A County Executive or county fiscal body may adopt rules for the transaction of business at its meetings.
(I.C. 36-2-4-10) (Prior Code, § 2.07.090)

(B) A County Executive shall use a common seal.
(I.C. 36-2-4-11) (Prior Code, § 2.07.100)

COUNTY RECORDS

§ 30.070 APPROVED METHODS OF RECORDING DOCUMENTS.

(A) (1) A county officer who is required to record documents may record them by a photographic process if the:

(a) Process is adopted by the County Executive; and

(b) Necessary photographic equipment and supplies are furnished for that purpose by the County Executive.

(2) Photostatic recording of documents has the same force as recording of documents by handwriting, typewriter, or handwriting on partly printed pages.
(I.C. 36-2-17-3) (Prior Code, § 2.52.010)

(B) (1) A county officer may record documents by miniature photographic process or microfilm process if the:

(a) Installation of the process is approved by the County Executive; and

(b) Process provides for an original and a duplicate film copy of each document that the officer is required to record.

(2) The officer shall index and file the original copy in a suitable container in the office where the document is recorded, in a manner that is easily accessible and readable by an interested person. The officer shall preserve the duplicate copy in a fireproof vault, either in the courthouse where the office is located or in a place designated by the County Executive.

(3) When recording a release, assignment or other document that requires a marginal entry or notation on a prior record made under this section, an officer acting under this section shall:

(a) Record the document on the index page of the photographic or microfilm record containing the prior record; or

(b) Index and cross-reference the marginal entry or notation and record it on a separate page attached to or filed with and made a part of the prior record.

(4) An officer recording a document under this section has exclusive control over the film and records in his or her office, and he or she may not return an original document to the person presenting it for record until the film copy of that document is properly recorded, indexed, filed and made available to interested persons.

(I.C. 36-2-17-4) (Prior Code, § 2.52.020)

§ 30.071 PRESERVATION OF RECORDS REQUIRED.

(A) (1) If it is necessary to preserve the records of the following from damage, the County Executive shall order the officer in charge of the records to copy them in suitable books procured by

him or her for that purpose:

- (a) Circuit Court Clerk's office;
- (b) County Auditor's office;
- (c) County Treasurer's office;
- (d) County Recorder's office;
- (e) County Sheriff's office; or
- (f) Court of record.

(2) The Executive shall specify in its order the particular records or parts of records to be copied.

(B) The officer in charge of the records shall use the original documents to complete the records, and, if the original index no longer exists, shall index the completed records, if:

(1) Parts of a county's records have been destroyed;

(2) The remaining parts of the records have been copied to preserve them from damage; and

(3) The proper holder of the original documents on which the records were based presents those documents to the officer in charge of the records.

(C) If a map or plat in the office of the County Auditor or County Recorder is so worn or defaced that it is not fit for use, the Auditor or Recorder shall make an accurate copy of the legible part of the map or plat. If a part of the map or plat is illegible, the Auditor or Recorder shall resort to the most accurate sources to complete the copy.

(D) Copies of records made under this section have the same force as the original records. Certified transcripts of copies of records made under division (A) of this section have the same force as transcripts of the original records.
(I.C. 36-2-17-5) (Prior Code, § 2.52.030)

§ 30.072 DESTRUCTION OF RECORDS.

(A) (1) If records belonging to the county or court of record in the county are destroyed, the County Auditor shall immediately notify the County Executive, which shall meet at the time and place specified by the Auditor. During the next 12 months, the County Executive may hold additional meetings concerning the destroyed records if it finds that the meetings are necessary.

(2) At the meeting held under division (A)(1) of this section, after a showing that records of the county or a court of record in the county have been destroyed, the County Executive shall order the County Auditor to make out and certify a list of all the destroyed records that were furnished by the state under a statute or joint resolution. The Auditor shall immediately forward this list to the Governor, who shall immediately give notice of the destruction of county records to the state officer whose duty it is to furnish records to the county. That officer shall immediately furnish to the county all records on the list, as if the county had never received them.

(3) (a) At the meeting held under division (A)(1) of this section, the County Executive shall appoint a person as a commissioner if any of the records of the following have been destroyed:

1. Court of record in the county;
2. Clerk of a court of record in the county; or
3. County officer other than the County Recorder.

(b) After taking an oath of office, the commissioner has the powers and duties set forth in this chapter.

(I.C. 36-2-17-6) (Prior Code, § 2.52.040)

(B) (1) Before performing any of his or her duties, a commissioner appointed under division (A)(3) above shall give 20 days notice by publication under I.C. 5-3-1, and by posting written notices in each township of the county, of:

- (a) His or her appointment;
- (b) The time when he or she will begin to perform his or her duties; and
- (c) The place where he or she will begin to perform his or her duties.

(2) The commissioner may:

- (a) Employ a clerk, who shall take an oath of office before performing any of his or her duties;
- (b) Administer oaths when testimony is required to be taken before him or her;
- (c) Issue subpoenas for and compel the attendance of witnesses;
- (d) Cite persons for and issue execution for contempt;
- (e) Tax costs; and
- (f) Adjourn his or her proceedings from time to time, but after an adjournment without a day specified for reconvening, he or she may not resume his or her duties without an order of the County Executive authorizing him or her to do so.

(3) A sheriff who delivers the commissioner's writs and subpoenas and witnesses who testify before the commissioner are entitled to the same fees as are allowed for the same service or attendance in the circuit court. This compensation shall be taxed against the party bearing costs.

(4) The commissioner shall obtain record books in which the proceedings held before him or her shall be fully recorded. Proceedings concerning the different courts and different offices of the county shall be recorded in separate books.

(5) (a) The commissioner or his or her clerk may not record proof of the existence and contents of the following records and documents of a clerk of a court of record:

- 1. Judgments and decrees;

2. Writs of execution and returns of writs of execution; and

3. Recognizances and forfeitures of bonds.

(b) The commissioner or his or her clerk shall record proof of the existence and content of any other record of document that belonged to or was filed or deposited in the office of a clerk of a court of record and has been destroyed, if that proof is presented to the commissioner by a disinterested witness. However, the commissioner may receive proof of the contents of a will only if the evidence leads him or her to believe that neither the original will nor an authenticated copy can be produced.

(6) The commissioner shall record the complete statement of each witness who testifies before him or her. The commissioner may not include his or her own conclusions in the record.

(7) The commissioner shall sign the record of each day's testimony that he or she hears, and shall certify each completed volume of the record to be a complete and accurate copy of the testimony taken before him or her. The commissioner shall deliver each completed volume of the record to the appropriate county office.

(I.C. 36-2-17-7) (Prior Code, § 2.52.050)

(C) (1) Records compiled by the commissioner, or certified copies of those records, are admissible in any legal proceeding and have the force that the same testimony would have if it were delivered orally. Complete or partial copies of a volume of the commissioner's record may be certified by the commissioner if he or she has custody of the volume; otherwise, the county officer having custody of the volume may certify copies. Certified copies of the commissioner's record have the same evidentiary force as the commissioner's record.

(2) If the County Executive finds that the commissioner is incompetent or that he or she unreasonably delays or neglects his or her duties, it may, by an order on the record, remove him or her from office and appoint a successor. An order of removal is not appealable.

(3) If more than 12 months have passed since the commissioner commenced his or her duties, the County Executive may give him or her 20 days notice to terminate his or her proceedings. After 20 days, the duties of his or her office cease. However, the County Executive may subsequently authorize the commissioner to resume his or her duties for a limited period of time.

(4) All expenses of books, stationery, and per diems under divisions (B) and (C) of this section shall be paid by the county.
(I.C. 36-2-17-8) (Prior Code, § 2.52.060)

(D) (1) If all or part of the records of the County Recorder's office are destroyed, the Recorder shall immediately obtain a book in which he or she shall restore the destroyed parts of the record. The Recorder shall, in the order in which they are presented, record in this book documents that had been recorded by the records of which have been destroyed. The Recorder shall also record the Recorder's original indorsement showing the time when each document was originally filed for record. This new record has the same force as the original record would have had if it had not been destroyed.

(2) Whenever the County Recorder acts under division (D)(1) above, he or she shall also obtain another book in which he or she shall, in the order in which it is presented, record all proof of the execution, acknowledgment, contents, destruction and recording of documents that had been recorded in his or her office but the records of which have been destroyed. The Recorder shall index this book in the manner in which records of deeds are indexed.
(I.C. 36-2-17-9) (Prior Code, § 2.52.070)

(E) (1) A person who has an interest in preserving evidence of a document, the record of which in the Recorder's office has been destroyed, shall make a verified statement before the Recorder that:

(a) He or she has an interest in preserving evidence of the document;

(b) The document was previously recorded in the Recorder's office; and

(c) He or she has searched diligently for the original of the document and has not been able to find it.

(2) After recording the person's statement and requiring him or her to sign it, the Recorder shall take and record the verified statement of each witness who testifies before him or her. The Recorder may be sworn as a witness by a person authorized to administer oaths.

(3) The Recorder shall require each witness testifying under this division (E) to make a verified statement of his or her interest in preserving his or her testimony, and shall include this statement in the record. The Recorder shall require each witness to sign the record of his or her testimony and shall add his or her certificate stating that the witness was duly sworn.

(4) A Recorder shall administer all oaths required by this section.

(5) Testimony admissible before the Recorder under this section consists of witnesses' best recollections of:

(a) The execution and acknowledgment of the document;

(b) The date of the document;

(c) The contents of the document;

(d) The prior recording of the document in the Recorder's office; and

(e) The time when the document was initially recorded or deposited for record.

(6) The Recorder shall record the complete statement of each witness who testifies before him or her. The Recorder may not include his or her own conclusions in the record.
(I.C. 36-2-17-10) (Prior Code, § 2.52.080)

(F) (1) A party to a legal proceeding may introduce a record of testimony made under division (E) above into evidence. This record has the same force as oral testimony at the trial by the witness

whose statement makes up the record, and it may be excluded, rebutted or impeached in the same manner in which that oral testimony could be excluded, rebutted or impeached.

(2) If the Recorder certifies that a copy of a record made under division (E) above is a complete copy of all parts of the record relevant to a document in issue in a trial, the certified copy is admissible in evidence in that trial and has the same force as the original record.

(3) The Recorder shall charge half the usual fee for recording a document under this division (F). (I.C. 36-2-17-12) (Prior Code, § 2.52.090)

(G) (1) If public documents in the custody of the County Treasurer are destroyed, the officer whose duty it is to furnish those documents shall immediately make new copies of them in the same manner in which they were originally made and shall deliver these copies to the Treasurer. A copy made under this division (G)(1) has the same force as the original document.

(2) If a county tax duplicate is destroyed and a copy is supplied under this section, persons charged with taxes on that copy are liable for those taxes unless they:

(a) Produce proper receipts for the taxes; or

(b) Prove to the County Treasurer or County Executive that the taxes have been paid. (I.C. 36-2-17-15) (Prior Code, § 2.52.130)

(H) If the assessment rolls and tax duplicates of a county are destroyed, the County Executive shall cause new assessments and appraisals to be made, in the same manner and under the same regulations that they were originally made, and shall conduct all proceedings necessary to enable the County Treasurer to collect all taxes due in the county. (I.C. 36-2-17-16) (Prior Code, § 2.52.140)

§ 30.073 PERMITTED USE OF AUTHENTICATED COPIES.

If the record of a will, letters of testamentary or letters of administration are destroyed, and an authenticated copy of the will or letters is presented to the clerk of the proper court, he or she shall record the copy as if it was the original and shall note on the record the date on which the document was originally recorded. A record made under this section has the same force as the original record.

(I.C. 36-2-17-12) (Prior Code, § 2.52.100)

§ 30.074 DESTRUCTION OF BOND.

(A) A guardian, administrator or executor whose official bond is destroyed in a general destruction of a county's records shall file a new bond with the proper officer within three months after the bond is destroyed. The liability on the new bond commences with its filing in the proper office. Sureties on the destroyed bond are not liable for acts of their principal occurring after the filing of the new bond.

(I.C. 36-2-17-13) (Prior Code, § 2.52.110)

(B) If the official bond of a county officer is destroyed and the county officer receives a written notice of the destruction of his or her bond from the officer having custody of the bond, he or she shall file a new bond with the proper officer within 20 days after he or she receives the notice. The liabilities on the new or old bond are the same as those prescribed by this chapter on bonds of guardians, administrators, or executors.

(I.C. 36-2-17-14) (Prior Code, § 2.52.120)

§ 30.075 RECORDS KEPT IN OFFICE; DELIVERY TO SUCCESSOR.

(A) The County Auditor, County Treasurer, County Surveyor, County Sheriff and County Superintendent of Schools shall keep in their offices all records that they are required to make and shall deliver them to their successors.

(B) The Clerk of the Circuit Court, County Auditor and County Recorder shall use permanent jet-black, non-fading ink when preparing official records in longhand. A person who violates this section commits a Class C infraction.

(I.C. 36-2-17-2) (Prior Code, § 2.52.150)
Penalty, see 10.99

CHAPTER 31: GOVERNMENT OFFICIALS

Section

- 31.01 County Auditor
- 31.02 County Treasurer
- 31.03 County Recorder
- 31.04 County Surveyor
- 31.05 County Coroner
- 31.06 County Assessor
- 31.07 County Clerk of Circuit Court
- 31.08 Prosecuting Attorney
- 31.09 Sheriff
- 31.10 Deputies; employees
- 31.11 Blanket Bond

§ 31.01 COUNTY AUDITOR.

(A) The term of the County Auditor is four years and continues until his or her successor is elected and qualified, and no person shall be eligible to the office of Auditor more than eight years in any period of 12 years.
(Ind. Constitution, Art. 6, § 2) (I.C. 36-2-9-2) (Prior Code, §§ 2.08.010)

(B) The County Auditor shall be elected by voters of the whole county.
(Prior Code, § 2.08.020)

(C) The County Auditor shall exercise the powers and duties enumerated in I.C. 36-2-9-1 and the other powers and duties as may from time to time be authorized.
(Prior Code, § 2.08.030)

(D) The fiscal officer of the county shall be the County Auditor.
(I.C. 36-2-9-2) (Prior Code, § 2.08.040)

§ 31.02 COUNTY TREASURER.

(A) The term of the County Treasurer is four years and continues until his or her successor is elected and qualified, and no person shall be eligible to the office of Treasurer more than eight years in any period of 12 years.
(Ind. Constitution, Art. 6, § 2) (I.C. 36-2-10-2)
(Prior Code, § 2.12.010)

(B) The County Treasurer shall be elected by voters of the whole county.
(Prior Code, § 2.12.020)

(C) The County Treasurer shall exercise the powers and duties enumerated in I.C. 36-2-10-1 and the other powers and duties as may from time to time be authorized.
(Prior Code, § 2.12.030)

§ 31.03 COUNTY RECORDER.

(A) The term of the County Recorder is four years and continues until his or her successor is elected and qualified, and no person shall be eligible to the office of Recorder more than eight years in any period of 12 years.
(Ind. Constitution, Art. 6, § 2) (I.C. 36-2-11-2)
(Prior Code, § 2.16.010)

(B) The County Recorder shall be elected by voters of the whole county.
(Prior Code, § 2.16.020)

(C) The County Recorder shall exercise the powers and duties enumerated in I.C. 36-2-11-1 and the other powers and duties as may from time to time be authorized.
(Prior Code, § 2.16.030)

§ 31.04 COUNTY SURVEYOR.

(A) The term of the County Surveyor is four years and continues until his or her successor is elected and qualified, and no person shall be eligible to the office of Surveyor.
(Ind. Constitution, Art. 6, § 2) (I.C. 36-2-12-2)
(Prior Code, § 2.20.010)

(B) The County Surveyor shall be elected by voters of the whole county.
(Prior Code, § 2.20.020)

(C) The County Surveyor shall exercise the powers and duties enumerated in I.C. 36-2-12-1 and the other powers and duties as may from time to time be authorized.
(Prior Code, § 2.20.030)

§ 31.05 COUNTY CORONER.

(A) The term of the County Coroner is four years and continues until his or her successor is elected and qualified, and no person shall be eligible to the office of Coroner more than eight years in any period of 12 years.
(Ind. Constitution, Art. 6, § 2) (I.C. 36-2-14-2)
(Prior Code, § 2.28.010)

(B) The County Coroner shall be elected by voters of the whole county.
(Prior Code, § 2.28.020)

(C) The County Coroner shall exercise the powers and duties enumerated in I.C. 36-2-14-1 and the other powers and duties as may from time to time be authorized.
(Prior Code, § 2.28.030)

§ 31.06 COUNTY ASSESSOR.

(A) The term of the County Assessor is four years beginning January 1 following his or her election and continuing until his or her successor is elected and qualified.
(I.C.36-2-15-2) (Prior Code, § 2.32.010)

(B) The County Assessor shall be elected by voters of the whole county at general elections every four years.
(I.C. 36-2-15-2) (Prior Code, § 2.32.020)

(C) The County Assessor shall exercise the powers and duties enumerated in I.C. 36-2-15-1 and the other powers and duties as may from time to time be authorized.
(Prior Code, § 2.32.030)

(D) The County Assessor must be a freeholder in the county.
(I.C. 36-2-15-2) (Prior Code, § 2.32.040)

§ 31.07 COUNTY CLERK OF CIRCUIT COURT.

(A) The term of the County Clerk of the Circuit Court is four years and continues until his or her successor is elected and qualified, and no person shall be eligible to the office of Clerk of the Circuit Court more than eight years in any period of 12 years.
(Ind. Constitution, Art. 6, § 2) (Prior Code, § 2.36.010)

(B) The County Clerk of the Circuit Court shall be elected by voters of the whole county.
(Prior Code, § 2.36.020)

(C) The County Clerk of the Circuit Court shall exercise the powers and duties enumerated in I.C. 33-32 and the other powers and duties as may from time to time be authorized.
(Prior Code, § 2.36.030)

Statutory reference:

*Clerk of Circuit Court; election and term,
see I.C. 33-32-2-2*

§ 31.08 PROSECUTING ATTORNEY.

There shall be elected in each judicial circuit by the voters thereof a prosecuting attorney, who shall have been admitted to the practice of law in this state before his or her election, who shall hold his or her office for four years, and whose term of office shall begin on the first day of January next succeeding his or her election. The election of prosecuting attorneys under this section shall be held at the time of holding the general election in the year 1974 and each four years thereafter, and the prosecuting attorney shall have the powers and duties as prescribed by law. (Ind. Constitution, Art. 7, § 16) (Prior Code, § 2.40.030)

§ 31.09 SHERIFF.

(A) The term of the County Sheriff is four years and continues until his or her successor is elected and qualified, and no person shall be eligible to the office of Sheriff more than eight years in any period of 12 years. (Ind. Constitution Art. 6, § 2) (I.C. 36-2-12-2) (Prior Code, § 2.24.010)

(B) The County Sheriff shall be elected by voters of the whole county. (Prior Code, § 2.24.020)

(C) The County Sheriff shall exercise the powers and duties enumerated in I.C. 36-2-12-1 and the other powers and duties as may from time to time be authorized. (Prior Code, § 2.24.030)

§ 31.10 DEPUTIES; EMPLOYEES.

(A) (1) A deputy appointed under this section may be required to give a bond, in accordance with I.C. 5-4-1, for the proper discharge of his or her duties as a deputy.

(2) A deputy appointed under this section shall take the oath required of the officer who appointed him or her. (Prior Code, § 2.48.010)

(B) (1) A deputy appointed under this section may perform all the official duties of the officer who

appointed him or her and is subject to the same regulations and penalties as the officer.

(2) The officer appointing the deputy is responsible for all the official acts of the deputy. (I.C. 36-2-16-3) (Prior Code, § 2.48.020)

(C) Each of the following county officers is entitled to appoint one first or chief deputy, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body:

(1) The County Auditor;

(2) The County Treasurer; and/or

(3) The County Recorder. (I.C. 36-2-16-4) (Prior Code, § 2.48.030)

(D) (1) The County Surveyor may appoint one first or chief deputy, if authorized by the county fiscal body, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body. A deputy county surveyor must be a competent civil engineer.

(2) The surveyor of a county having a population of 165,000 or more may appoint a registered professional civil engineer as bridge engineer.

(3) If a deputy surveyor takes field notes, he or she shall return them to the County Surveyor within 60 days. (I.C. 36-2-15-5) (Prior Code, § 2.48.040)

(E) The County Sheriff may appoint deputies under I.C. 36-8. (Prior Code, § 2.48.050)

(F) The County Coroner may appoint the number of deputies and clerical employees authorized by the county fiscal body. (I.C. 36-2-16-7) (Prior Code, § 2.48.060)

(G) The County Assessor may appoint the number of full-time or part-time deputies and employees authorized by the county fiscal body. (I.C. 36-2-16-8) (Prior Code, § 2.48.070)

(H) Deputies in charge of the various courts or branches rank as, and shall be compensated as, first or chief deputies.
(I.C. 36-2-16-9) (Prior Code, § 2.48.080)

§ 31.11 BLANKET BOND.

(A) All county officials and deputies are hereby

eligible to be covered by a blanket bond, subscribed by the county.

(B) Upon determination by the county to secure a blanket bond, regular bidding procedures shall be followed, with bids submitted by insurance carriers and other appropriate firms.
(Prior Code, § 3.36.010)

CHAPTER 32: COUNTY ORGANIZATIONS

Section

Boards

32.01 Public Defender Board

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

Commissions

32.15 Convention, Visitor and Tourism Commission

BOARD Henry County Public Defender Board created by this section.

Councils

32.30 Advisory Council for Voting Accessibility

INDIGENT DEFENDANT OR RESPONDENT. Person who requests legal representation and is determined by the court to be entitled to legal representation at public expense.

Departments

- 32.45 Specific departments established
- 32.46 Powers and duties of departments
- 32.47 County Highway Department
- 32.48 Circuit Court; County Court; jurisdiction
- 32.49 Police Reserves
- 32.50 Department of Buildings

LEGAL REPRESENTATION.

(a) Services of an attorney provided to a defendant or respondent in a matter originating in a state court in the county involving:

1. A person charged with a crime as defined in I.C. 35-41-1-6;
2. An act of delinquency as defined in I.C. 31-37-1-2;
3. A violation of a condition of probation established as a part of a sentence in a juvenile or criminal matter;
4. Detention of a person subject to extradition to another jurisdiction;
5. Proceedings to collect unpaid child support pursuant to I.C. 31-16;
6. Civil commitment and contempt proceedings; or

BOARDS

§ 32.01 PUBLIC DEFENDER BOARD.

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

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

(b) The term **LEGAL REPRESENTATION** includes services in connection with all pre-trial, trial and appellate proceedings in which an indigent defendant or respondent has a right to counsel.

(C) (1) The Board shall consist of three members:

(a) One member appointed by the County Commissioners; and

(b) Two members from different political parties appointed by majority vote of the judges who exercise felony or juvenile jurisdiction.

(2) The term of the members shall be three years.

(3) Members of the Board shall serve until their successor is appointed. An appointment to fill a vacancy shall be made by the authority appointing the member vacating the position and shall be for the remainder of the unexpired term.

(4) The following persons shall be ineligible to serve as members of the Board:

(a) City, town or county attorney;

(b) Law enforcement officer;

(c) Judge; or

(d) Court employee.

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

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

(7) The Board shall meet at least quarterly

or upon call of its Chairperson or any two members of the Board.

(8) The Board shall elect its Chairperson by a majority vote of the Board.

(D) The Board shall have the following powers and duties:

(1) Prepare a Comprehensive Plan for providing legal representation to indigent defendants or respondents in the county in accordance with I.C. 33-40-7-5. The Comprehensive Plan shall, at a minimum, provide for:

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

(b) Legal representation to an indigent defendant or respondent by the same attorney or attorneys through the pendency of the matter to the greatest extent possible; and

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

(2) Establish policies and procedure for the provision of competent legal representation for indigent defendants or respondents in criminal, juvenile, probation violation, extradition, child support and criminal contempt, and other matters pursuant to the Comprehensive Plan;

(3) Establish guidelines and procedures for the determination of indigence and for the appropriate reimbursement for legal representation provided at public expense in accordance with I.C. 33-40-3;

(4) Recommend an annual operating budget for the agency and monitor the expenditures of funds; and

(5) Prepare and submit to the County Council and the general public an annual report on the operation of the agency.

(E) Nothing contained herein shall be deemed to abridge the authority of any judge of a state court of this county from appointing counsel for any person entitled thereto under the Constitution of the United States or the Constitution of the State.

(F) Nothing contained in this section shall be deemed to create a right of reimbursement pursuant to I.C. 33-40-6, except to the extent that any claims for reimbursement comply with I.C. 33-40-6 and the standards of the State Public Defender Commission. (Ord. 2(1-99), passed 1-25-1999)

COMMISSIONS

§ 32.15 CONVENTION, VISITOR AND TOURISM COMMISSION.

(A) There is hereby created a commission for the purpose of promoting the development and growth of the convention, visitor and tourism industry in the county, called the County Convention, Visitor and Tourism Commission.

(B) The County Convention, Visitor and Tourism Commission shall have all the powers given it by statute, I.C. 6-9-18, as amended.

(C) The County Convention, Visitor and Tourism Commission shall be composed of seven members, appointed as follows.

(1) The Mayor of the City of New Castle, Indiana, shall appoint three members, only two of whom may be affiliated with the same political party. At least two of these appointees must be engaged in a convention, visitor or tourism business, or involved in or promoting conventions, visitors or tourism.

(2) The County Council shall appoint two members who are affiliated with different political parties, and one of whom must be engaged in a convention, visitor or tourism business, or involved in or promoting conventions, visitors or tourism. If available and willing to serve, at least one of those appointed must be engaged in the business of renting or furnishing rooms, lodging or accommodations, as

described in I.C. 6-9-18-3.

(3) The Board of Commissioners of the county shall appoint two members who are affiliated with different political parties, one of whom must be engaged in a convention, visitor or tourism business, or involved in or promoting conventions, visitors or tourism. If available and willing to serve, at least one of those appointed must be engaged in the business of renting or furnishing rooms, lodging or accommodations, as described in I.C. 6-9-18-3.

(4) Each member must reside in the county. Not more than one member may be affiliated with the same business entity.

(5) Each appointing authority shall designate one appointee to serve a one-year term commencing January 1, 1998 and ending December 31, 1999. Each appointing authority shall designate the second appointee, and the third appointee under division (C)(1) above, to a two-year term commencing January 1, 1998 and ending December 31, 2000. All subsequent terms shall be for two years.

(6) A member whose term expires may be re-appointed. (Ord. 4(11-97), passed 11-3-1997)

COUNCILS

§ 32.30 ADVISORY COUNCIL FOR VOTING ACCESSIBILITY.

(A) The County Advisory Council for Voting Accessibility is hereby established.

(B) There shall be no more than three and no less than two members. County residents with a variety of backgrounds, partisan affiliations and perspectives shall be encouraged to participate.

(C) Appointments are by the Board of Commissioners, and all appointees serve at the pleasure of the Board of Commissioners.

(D) The Council shall advise local officials on polling place accessibility and site selection, work

with authorities to complete the polling place survey conducted under the auspices of the Governor's Planning Council for People with Disabilities and review other accessibility issues presented to it.

(E) The Council will meet as necessary to accomplish its duties.
(Ord. 2003-16-12-23, passed 12-23-2003)

DEPARTMENTS

§ 32.45 SPECIFIC DEPARTMENTS ESTABLISHED.

The following departments are hereby established in the county:

- (A) County Cooperative Extension Agent;
- (B) County Engineer;
- (C) County Highway Depart;
- (D) County Memorial Hospital;
- (E) County Veterans Service;
- (F) County Home;
- (G) County Welfare Department;
- (H) County Attorney;
- (I) County Civil Defense Department;
- (J) County Health Department;
- (K) New Castle-County Animal Control Department;
- (L) County Police Department and Police Reserves;
- (M) County Department of Emergency Medical Service;
- (N) New Castle-County Airport Commission;

- (O) County Planning Commission;
- (P) New Castle-County Economic Development Commission;
- (Q) County Redevelopment Commission;
- (R) County Memorial Park Board;
- (S) County Board of Zoning Appeals;
- (T) New Castle-County Public Library Board;
and
- (U) Regional Wastewater District.
(Prior Code, § 2.05.010)

§ 32.46 POWERS AND DUTIES OF DEPARTMENTS.

The departments established by § 32.45 shall perform the administrative functions assigned to them by statute and ordinance.
(Prior Code, § 2.05.020)

§ 32.47 COUNTY HIGHWAY DEPARTMENT.

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

BOARD. Board of County Commissioners.

COUNTY HIGHWAY ADMINISTRATION. All aspects of construction, maintenance, repair and operation of a county highway system from planning to final execution.

COUNTY HIGHWAY SYSTEM. All roads, bridges, culverts and the necessary supports thereto of earth, masonry or other material, and further includes drainage of facilities, as well as roadside development within the rights-of-way.

HIGHWAY ENGINEER. Person employed by the Board to undertake all of the engineering duties required in operating the county

highways.

HIGHWAY SUPERVISOR. Person employed by the Board to supervise employees in carrying out plans for the construction and maintenance of the county highway system. (Prior Code, § 2.56.010)

(B) (1) The Board of Commissioners of the county is responsible to the people for the proper administration of its county highways. The Board shall formulate within the limits prescribed by the State General Assembly the policy for the development and preservation of the county highway system. The Board shall not delegate this public responsibility to any other officer or to any other employee of the county.

(2) The Board shall exercise the necessary powers to accomplish the purposes of this section. These powers shall include, but are not necessarily limited to, the following:

(a) To contract for the purchase of tools, equipment, materials and supplies;

(b) To make purchases on the open market at a fair market price of any tools, equipment, materials or supplies when the cost of any purchase does not exceed \$1,000;

(c) To contract for the services of technically qualified persons who act subject to the direction and control of the Board, as the engineering and supervisory authorities of the county highway system;

(d) To establish methods for the construction, maintenance and repair of the county highway system;

(e) To lease, rent or otherwise acquire tools or equipment or housing therefor which is necessary for the county highway system;

(f) To hire clerical assistance and other personnel as needed;

(g) To enter on lands within the county for any valid purpose of county highway

administration;

(h) To initiate necessary condemnation proceedings for rights-of-way, bottom pits or dumps for excess earth or rock. This includes the right of access condemnation where necessary to prevent undue hardships to adjoining land owners to a right-of-way;

(i) To cooperate and enter into agreements, not otherwise prohibited, with the State and City Highway Department;

(j) To provide a surety bond for a minimum of \$5,000 for faithful performance of duties by employees;

(k) To protect the highway system, the Board may prescribe road limits for any part of the system; and

(l) When work is necessary on any part of the county highway system which makes it impossible or undesirable for traffic to pass, the Board shall route a detour and mark the detour with adequate signs. (Prior Code, § 2.56.020)

(C) (1) The Board shall appoint a County Highway Engineer who shall possess all the qualifications specified for this position under the state law.

(2) The appointment or the contract of employment shall be made for a term of four years. The Board may not discharge an Engineer during the term of office except for cause.

(3) The County Surveyor may be appointed to the position if he or she is properly qualified to serve.

(4) The County Highway Engineer is not an officer of the county. (Prior Code, § 2.56.030)

(5) The County Engineer shall:

(a) Prepare all maps and plans;

(b) Prepare technical specifications for the construction, maintenance and repair of the county highways;

(c) Prepare technical specifications in any contract by which the Board may provide for the construction, maintenance and repair of the county highway system;

(d) Determine for the Board that contracts comply with the specifications prior to their adoption; and

(e) Undertake all engineering functions required in operating the county highway system and supervise those functions provided to the county under contract.

(Prior Code, § 2.56.040)

(D) (1) The Board shall appoint a County Highway Supervisor to assist them in carrying out the duties and responsibilities imposed by this subchapter.

(2) The County Highway Supervisor shall be qualified to carry out the county highway construction and maintenance plans, be capable of understanding the plans and specifications and possess the ability to supervise the personnel employed in the County Highway Department.

(3) The County Highway Supervisor shall be employed for a term of not longer than four years and the Board shall not discharge a supervisor during his or her term of office except for cause.

(4) The County Highway Supervisor is not an officer of the county.
(Prior Code, § 2.56.050)

(5) The County Highway Supervisor shall:

(a) Supervise other employees working on the county highway system;

(b) Advise the Board as to the number of employees required and the nature of their qualifications;

(c) Hire and discharge employees,

subject to the approval of the Board; and

(d) Purchase tools, equipment, materials and supplies according to purchasing procedures established by the county and the state.
(Prior Code, § 2.56.060)

(E) (1) On or before July 1, 1963, and at two-year intervals thereafter, the Board shall have prepared under their direction and control a four year construction plan for the county highway system which shall go into effect on and after January 1 of the following year. The plan shall include a map of the county showing the existing county highway system and other roads and also showing the proposed new construction. The plan shall provide:

(a) All sections of the county highway system to be constructed or reconstructed in the next four years;

(b) The estimated total cost of the construction or reconstruction; and

(c) The contemplated construction date for each section to be constructed.

(2) The Board shall set a date which shall not be later than August 1 for a hearing on the four-year construction plan. The Board shall give notice of the hearing on the four-year construction plan, by publication at least 14 days in advance in two newspapers of general circulation in the county. Within 60 days after the hearing, the Board shall adopt a four-year construction plan.

(3) Upon a finding of necessity, or upon a proper petition as otherwise authorized by law, the Board may at a regular or special meeting amend the four-year construction plan. Amendments shall be necessary only when it becomes advisable to add to or delete from the four-year plan or change the priority of roads within the plan.
(Prior Code, § 2.56.070)

(F) Each year by April 15, the Board shall have prepared under their direction and control a plan adopted by resolution for maintenance and repair of the county highway system to be in effect for the next 12 months. The plan shall include a map of the

county highway system and set forth a program of maintenance and repair, the nature of the work to be done, and the estimated cost thereof. The plan may be amended at any regular or special meeting to correct any omission or to provide for any emergency which may arise.

(Prior Code, § 2.56.080)

(G) (1) The budget prepared by the Board and appropriation ordinance approved by the County Council for the county highway system shall include the anticipated costs of the projects in the construction plan and the highway maintenance and repair plan.

(2) Nothing in this section shall be construed to prevent budgeting and appropriating for emergency repairs.

(3) The plans and specifications provided for in this section shall, within the limits of the law, serve as the authority for the expenditures made by the Board in administering the county highway system.

(Prior Code, § 2.56.090)

§ 32.48 CIRCUIT COURT; COUNTY COURT; JURISDICTION.

(A) The County Circuit Court shall have the civil and criminal jurisdiction as may be prescribed by law. The county shall constitute the Fifty-Eighth Judicial Circuit.

(Ind. Constitution, Art. 7, § 8) (Prior Code, §

2.40.010)

(B) The two Superior Courts known as Henry Superior Court No.1 and Henry Superior Court No. 2, shall have the civil and criminal jurisdiction as may be prescribed by law.

(I.C. 33-33-33-2, 33-33-33-6) (Prior Code, § 2.40.020)

Statutory reference:

Circuit and county courts, see I.C. 33-33-33

§ 32.49 POLICE RESERVES.

(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 maximum number of members of the reserve unit shall be 25.

(C) A member of the County Board of Commissioners and a member of the County Council, or designees of either Board shall serve as ex-officio members of the Review Board of the County Sheriff's Reserve.

(Ord. 904, passed 11-4-1985)

§ 32.50 DEPARTMENT OF BUILDINGS.

There is hereby established the County Department of Buildings, with an office of Building Commissioner and Inspectors.

(Ord. 6(11-97), passed 11-17-1997)

33.060 Temporary Grant CASA/GAL Fund
33.061 Non-reverting Airport Projects Fund
33.062 Sex and Violent Offender

33.065 Cumulative Voting System Fund

33.066 Non-reverting Voting System

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33.063 Identification Security Fund

33.064 Non-reverting Law Enforcement

33.067 Health Department Mosquito

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33.068 E911 Bond Proceeds Fund

33.069 EOHUT Fund

33.070 Local Emergency Planning Sub-Grant

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33.071 Hazardous Materials Response

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Appendix B: County Health Department Fees

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FISCAL PROCEDURES

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§ 33.001 TAXATION RATE; APPROPRIATION.

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(A) The County Council shall fix the rate of taxation for county purposes and the rate of taxation for other purposes whenever the rate is not fixed by statute and is required to be uniform throughout the county.

(B) The County Council shall appropriate money to be paid out of the county treasury, and money may be paid out of the treasury only under an appropriation made by the fiscal body, except as otherwise provided by law.
(I.C. 36-2-5-2) (Prior Code, § 3.04.010)

§ 33.002 COMPENSATION FIXED BY COUNCIL; EXCEPTIONS.

(A) The County Council shall fix the compensation of officers, deputies, and other employees whose compensation is payable from the county General Fund, county Highway Fund, county Welfare Fund, county Health Fund, county Park and Recreation Fund, Aviation Fund, or any other fund from which the County Auditor issues warrants for compensation. This includes the power to:

(1) Fix the number of officers, deputies and other employees;

(2) Describe and classify positions and services;

(3) Adopt schedules of compensation: and

(4) Hire or contract with persons to assist in the development of schedules of compensation.

(B) Notwithstanding division (A) above, the Board of each local Health Department shall prescribe the duties of all its officers and employees,

- 33.072 Non-reverting P.A.C.E. Proactive Criminal Enforcement Highway Interdiction Initiative Law Enforcement Seizures and Forfeitures Fund
- 33.073 Non-reverting Health Department Enforcement Cumulative Fund
- 33.074 Non-reverting National Road Heritage Trail Fund
- 33.075 Non-reverting Planning Commission Enforcement Cumulative Fund

Fees

- 33.125 Purchase fee for copy of Development Code and Comprehensive Plan
- 33.126 Electronic data fees
- 33.127 Sheriff's sale
- 33.128 Recorder's fees
- 33.129 Auditor fee for real property endorsement
- 33.130 Records searches by Treasurer
- 33.131 Vehicle inspection fee
- 33.132 Dishonored check
- 33.133 Health department fees
- 33.134 Uniform public records fee
- 33.135 Mobile home permit fee
- 33.136 Drainage Board meeting compensation
- 33.137 Uncertain fees
- 33.138 Fee and cash books
- 33.139 Failure to pay over fees
- 33.140 Fees not required

33.999 Penalty

Appendix A: Digital Data Fees

recommend the number of positions, describe and classify positions and services, adopt schedules of compensation, and hire and contract with persons to assist in the development of schedules of compensation. This division does not affect I.C. 16-20-2.

(C) The compensation of officers and employees of the County Department of Public Welfare shall be fixed within the ranges of the pay plan adopted by the State Personnel Board and approved by the State Budget Committee under I.C. 12-19-1 and I.C. 4-15-2.
(I.C. 36-2-5-3) (Prior Code, § 3.04.020)

§ 33.003 POSITION AND COMPENSATION RECOMMENDATIONS; BUDGET REQUESTS.

(A) Before July 2 of each year, each officer, Board, Commission and agency subject to this subchapter shall file with the County Auditor a statement that shows in detail the positions for which compensation will be requested in the annual budget for the next year and the amount or rate of compensation proposed for each full-time or part-time position. The statement must be on a form prescribed by the State Board of Accounts.

(B) The County Auditor shall present the statements submitted under division (A) above to the County Commissioners at its July meeting. The County Executive shall review the statements and make its recommendations on them. Before August 20, the County Commissioners shall present the statements and recommendations to the county fiscal body.
(I.C. 36-2-5-4) (Prior Code, § 3.04.030)

§ 33.004 ITEMIZED ESTIMATES; TIME AND CONTENTS.

(A) (1) Before the Thursday after the first Monday in August of each year, each county officer and township assessor shall prepare an itemized estimate of the amount of money required for his or her office for the next calendar year. Each budget estimate under this section must include:

- (a) The compensation of the officer;
- (b) The expense of employing deputies;
- (c) The expense of office supplies, itemized by the quantity and probable cost of each kind of supplies; and
- (d) Other expenses of the office, specifically itemized, that are payable out of the county treasury.

(2) If all or part of the expenses of a county office may be paid out of the county treasury, but only under an order of the County Commissioners to that effect, the expenses of the office shall be included in the officer's budget estimate and may not be included in the County Commissioners budget estimate.
(I.C. 36-2-5-5) (Prior Code, § 3.04.040)

(B) (1) Before the Thursday after the first Monday in August of each year, the Clerk of a court in the county shall prepare a separate estimate of the amount of money required for each court of which he or she is clerk for the next calendar year. If a court has two or more judges who preside in separate rooms or over separate divisions, the Clerk shall prepare a separate itemized estimate for court expenses in each room or division. Each Clerk's budget estimate must include:

- (a) The part of the judge's compensation that is, by statute, payable out of the county treasury;
- (b) The compensation of the probate commissioner;
- (c) The expense of employing bailiffs;
- (d) The amount of jury fees;
- (e) The amount of witness fees that are, by law, payable out of the county treasury;
- (f) The expense of employing special judges; and

(g) Other expenses of the court, specifically itemized.

(2) In addition to the estimates required by division (B)(1) above, the Clerk of the Circuit Court shall prepare an estimate of the amount of money that is, under law, taxable against the county for expenses of cases tried in other counties on changes of venue.

(3) The estimate of the amount of money required for a court or division of a court is subject to modification and approval by the judge of the court or division and shall be submitted to him or her for that purpose before being presented to the County Auditor. (I.C. 36-2-5-6) (Prior Code, § 3.04.050)

§ 33.005 COMMISSIONERS BUDGET ESTIMATE.

(A) (1) Before the Thursday after the first Monday in August of each year, the County Commissioners shall prepare an itemized estimate of all money to be drawn by the members of the Executive and all expenditures to be made by the Executive or under its orders during the next calendar year.

(2) Each Commissioner's estimate must include:

(a) The expense of construction, repairs, supplies, employees and agents, and other expenses at each building or institution maintained in whole or in part by money paid out of the county treasury;

(b) The expense of constructing and repairing bridges, itemized by the location of and amount for each bridge;

(c) The compensation of the County Attorney;

(d) The compensation of attorneys for indigents;

(e) The expenses of the County Board of Health;

(f) The expense of repairing county roads, itemized by the location of and amount for each repair project;

(g) The estimated number of precincts in the county and the amount required for election expenses, including compensation of election commissioners, inspectors, judges, clerks and sheriffs, rent, meals, hauling and repair of voting booths and machines, advertising, printing, stationery, furniture and supplies;

(h) The amount of principal and interest due on bonds and loans, itemized for each loan and bond issue;

(i) The amount required to pay judgments, settlements and court costs;

(j) The expense of supporting inmates of benevolent or penal institutions;

(k) The expense of publishing delinquent tax lists;

(l) The amount of compensation of county employees that is payable out of the county treasury;

(m) The expenses of the county Board of Review; and

(n) Other expenditures to be made by the Executive or under its orders, specifically itemized.

(I.C. 36-2-5-7) (Prior Code, § 3.04.060)

(B) (1) Pursuant to the county's home rule authority, a budget category in the Commissioner's budget, designated "Promotion of Business," is established.

(2) The purposes for which disbursements are allowed are to pay expenses of or to reimburse county officials for expenses incurred in promoting the best interest of the county. Expenses may include, but not necessarily be limited to:

(a) Rental of meeting places;

- (b) Meals;
- (c) Decorations;
- (d) Memorabilia;
- (e) Awards;
- (f) Expense incurred in interviewing job applicants;
- (g) Expenses incurred in promoting industrial, commercial and residential development;
- (h) Expenses incurred in developing relations with other units of government; and
- (i) Any other expenses of a civic or governmental nature deemed by the Commissioners to be in the interest of the county. (Ord. 3(11-88), passed 11-26-1988)

§ 33.006 ESTIMATE VERIFICATION; PRESENTATION.

(A) A certificate, verified by the officer preparing it and stating that, in his or her opinion, the amount fixed in each item will be required for the purpose indicated, must be attached to each budget estimate prepared under this subchapter. (Prior Code, § 3.04.070)

(B) Before the Thursday after the first Monday in August of each year, persons preparing budget estimates under this subchapter shall present them to the County Auditor, who shall file them in his or her office and make them available for inspection by county taxpayers. The Auditor shall also comply with the notice requirements of I.C. 6-1.1-17-3. (I.C. 36-2-5-9) (Prior Code, § 3.04.080)

§ 33.007 PREPARATION OF TAXATION AND APPROPRIATIONS ORDINANCE.

Before the County Council's annual meeting under I.C. 36-2-7(b)(2), the County Auditor shall prepare an ordinance fixing the rate of taxation for taxes to be collected in the next calendar year, and an

ordinance making appropriations by items for the next calendar year for the various purposes for which budget estimates are required. (I.C. 36-2-5-10) (Prior Code, § 3.04.090)

§ 33.008 COUNCIL ANNUAL MEETING; TAX RATE AND APPROPRIATIONS.

(A) At the County Council's annual meeting under I.C. 36-2-3-7(b)(2), the County Auditor shall present the budget estimates filed with him or her under § 33.006(B) and the ordinances prepared by him or her under § 33.007. He or she may also present his or her recommendations concerning the estimates.

(B) (1) At its annual meeting under I.C. 36-2-3-7(b)(2), the County Council shall fix the county tax rate and make appropriations for the next calendar year by:

- (a) Adopting the ordinances presented by the County Auditor;
- (b) Amending the ordinances presented by the County Auditor; or
- (c) Substituting other ordinances for those presented by the County Auditor.

(2) Each ordinance must be read on at least two separate days before its final adoption. The fiscal body may require the preparer of an estimate that is not sufficiently itemized to itemize it in more detail. At least three-fourths vote of the County Council is required to make an appropriation for an item not contained in an estimate or for a greater amount than that named in an item of an estimate.

(C) At its annual meeting under I.C. 36-2-3-7(b)(2), the County Council shall consider the statements and recommendations submitted by the County Executive under this subchapter and shall then adopt an ordinance separate from those adopted under division (B) above, fixing:

- (1) The compensation of all officers, deputies and other employees subject to this subchapter; and

(2) The number of deputies and other employees for each office, department, commission or agency, except part-time and hourly rated employees, whose employment shall be limited only by the amount of funds appropriated to pay their compensation.

(I.C. 36-2-5-11) (Prior Code, § 3.04.100)

§ 33.009 PAYMENT OF COMPENSATION.

(A) (1) The County Auditor and County Treasurer may pay salaries and wages to county officers and employees monthly, twice each month, or every two weeks.

(2) The manner of payment of salaries and wages under this division must be authorized by the County Executive.

(I.C. 36-2-8-2) (Prior Code, § 3.32.010)

(B) A county officer and his or her deputies and other employees are entitled to payment only after the officer has reported all fees collected by his or her office and paid them into the county treasury.

(I.C. 36-2-8-3) (Prior Code, § 3.32.020)

(C) A county officer or a deputy or employee of a county officer is entitled to payment for services only after he or she has rendered those services.

(I.C. 36-2-8-4) (Prior Code, § 3.32.030)

(D) Compensation of deputies and employees of county officers shall be paid by warrants that are payable to the respective deputies and employees and issued after filing of itemized and verified claims, as prescribed by I.C. 36-2-6, and allowance of the claims by the County Executive.

(I.C. 36-2-8-5) (Prior Code, § 3.32.040)

(E) A deputy or employee of a county officer who knowingly divides his or her compensation with the officer or another person in consideration of employment, or a county officer or other person who knowingly accepts a division of compensation commits a Class B misdemeanor.

(I.C. 36-2-8-6) (Prior Code, § 3.32.050) Penalty, see § 33.999

§ 33.010 ADDITIONAL APPROPRIATIONS; COMPENSATION CHANGE; EXEMPT SALARIES.

(A) If, after the adjournment of its annual meeting under I.C. 36-2-3-7(b)(2), the County Council finds that an emergency requiring additional appropriations exists, it may make additional appropriations at a special meeting. Estimates of the necessary amount of additional appropriations must be prepared and presented in an ordinance as prescribed by this subchapter.

(I.C. 36-2-5-12) (Prior Code, § 3.04.110)

(B) (1) The compensation of an elected county officer may not be changed in the year for which it is fixed.

(2) The compensation of other county officers, deputies and employees, or the number of each, may be changed at any time upon:

(a) The application of the affected officer, department, commission or agency; and

(b) A two-thirds vote of the County Council.

(I.C. 36-2-5-13) (Prior Code, § 3.04.120)

(C) This chapter does not affect the salaries of judges, officers of courts, prosecuting attorneys and deputy prosecuting attorneys whose minimum salaries are fixed by statute, but the County Council may make appropriations to pay them more than the minimums fixed by statute.

(I.C. 36-2-5-14) (Prior Code, § 3.04.130)

(D) In addition to the provisions of the state code and the regulations of the State Board of Accounts, all department heads of all county offices requesting additional appropriations or budget transfers shall have the requests filed with the County Auditor at least ten days prior to the Council meeting in which the request will be acted upon.

(Prior Code, § 3.40.010)

§ 33.011 ACCOUNTS CHARGEABLE; EXPENSES.

The Executive may approve accounts chargeable against the county, and direct the raising of sums necessary for county expenses.
(I.C. 36-2-2-16) (Prior Code, § 3.04.140)

§ 33.012 AUDIT OF ACCOUNTS.

The Executive may audit the accounts of officers who deal with money belonging to or appropriated for the benefit of the county.
(I.C. 36-2-2-17) (Prior Code, § 3.04.150)

§ 33.013 ANNUAL SETTLEMENT; ANNUAL STATEMENT.

(A) At the regular meeting of the Executive in January of each year, the Executive and the County Treasurer shall make a settlement for the preceding calendar year. A copy of the settlement sheet shall be copied in the order book of the Executive.
(I.C. 36-2-2-18) (Prior Code, § 3.04.160)

(B) At its second regular meeting each year, the Executive shall make an accurate statement of the county's receipts and expenditures during the preceding calendar year. The Executive shall post this statement at the courthouse door and two other places in the county and shall publish it in the manner prescribed by I.C. 5-3-1.
(I.C. 36-2-2-19) (Prior Code, § 3.04.170)

§ 33.014 SALE OR ACQUISITION OF COUNTY PROPERTY.

(A) The County Executive may make orders concerning county property, including orders for:

(1) The sale of the county's public buildings and the acquisition of land in the county seat on which to build new public buildings; and

(2) The acquisition of land for a public square and the maintenance of the square.

(B) A conveyance or purchase by a county of

land having a value of \$1,000 or more must be authorized by an ordinance of the county fiscal body fixing the terms and conditions of the transaction.
(I.C. 36-2-2-20) (Prior Code, § 3.04.180)

§ 33.015 COST OF NOTICE PUBLICATION.

(A) Whenever publication of a notice, report, or statement of any kind is required and a county is liable for the cost of that publication, the Executive may not make or pay for publication in more than one newspaper unless publication in two newspapers is required.

(B) A person who violates this section commits a Class C infraction.
(I.C. 36-2-2-25) (Prior Code, § 3.04.190) Penalty, see § 33.999

§ 33.016 APPEAL OF DECISION.

(A) (1) A party to a proceeding before the Executive who is aggrieved by a decision of the Executive may appeal that decision to the circuit court for the county.

(2) A person who is not a party to a proceeding before the Executive may appeal a decision of the Executive only if he or she files with the County Auditor an affidavit:

(a) Specifically setting forth his or her interest in the matter decided; and

(b) Alleging that he or she is aggrieved by the decision of the Executive.

(3) An appeal under this division must be taken within 30 days after the Executive makes the decision by which the appellant is aggrieved.
(I.C. 36-2-2-27) (Prior Code, § 3.04.200)

(B) (1) An appellant under this section must file with the County Auditor a bond conditioned on due prosecution of the appeal. The bond is subject to approval by the Auditor, and it must be in an amount sufficient to provide security for court costs.

(2) Within 20 days after he or she receives the appeal bond, the Auditor shall prepare a complete transcript for the proceedings of the Executive related to the decision appealed from and shall deliver the transcript, all documents filed during the proceedings and the appeal bond to the Clerk of the Circuit Court. (I.C. 36-2-2-28) (Prior Code, § 3.04.210)

(C) (1) An appeal under this section shall be docketed among the other causes pending in the circuit court, and shall be tried as an original cause.

(2) A court may decide an appeal under this section by:

(a) 1. Affirming the decision of the Executive; or

2. Remanding the cause to the Executive with directions as to how to proceed.

(b) May require the Executive to comply with this decision. (I.C. 36-2-2-29) (Prior Code, § 3.04.220)

§ 33.017 NOTIFICATION OF DELINQUENCY OF TAXES ON PERSONAL PROPERTY REQUIRED.

It is hereby enacted by the Board of Commissioners of the county that the County Treasurer is directed to give written notification by regular mail and notification by publication in the local newspapers to those persons or entities that are delinquent, pursuant to I.C. 6-1.1-23-9. (Ord. 4(8-93), passed - -)

§ 33.018 FOOD AND BEVERAGE EXCISE TAX.

(A) There is imposed a tax on any transaction in the county in which a food or beverage is furnished, prepared or served for consumption at a location or on equipment provided by a retail merchant for consideration at a rate equal to 1% of the gross retail income received by the merchants from the transactions, as provided in I.C. 6-9-25. The tax shall be imposed, paid and collected in the same manner

that the State Gross Retail Tax is imposed, paid and collected under I.C. 6-2.5. The gross retail income received by the retail merchant from such transaction does not include the amount of tax imposed on the transaction under I.C. 6-2.5.

(B) The Council will send a certified copy of this ordinance to the Commissioner of the Department of State Revenue immediately upon adoption.

(C) The County Treasurer shall establish a Food and Beverage Tax Receipts Fund into which will be deposited all proceeds of the tax received from the Treasurer of the State.

(D) Money in the Food and Beverage Tax Receipts Fund shall be used in accordance with I.C. 6-9.25.

(E) The Tax will terminate in accordance with I.C. 6-9-25.7 on January 1 of the second year immediately following the year during which the last of the principal of and interest on the bonds issued by or in the name of the county for the purposes set forth in division (D) above have been completely paid.

(F) The county will not repeal or reduce the tax so long as any bonds issued to finance the basketball hall of fame and secured by tax revenue are outstanding. (Ord. passed 8-12-1987)

§ 33.019 INNKEEPER'S TAX.

(A) A tax is imposed on any transaction in the county in which any room or rooms, lodgings or accommodations are rented or furnished in any hotel, motel, boat motel, inn, college or university memorial union, college or university residence hall or dormitory or tourist cabin for consideration, at a rate equal to 5% of the gross retail income derived from lodging income only, which tax is in addition to the state gross retail tax imposed under I.C. 6-2.5, all as provided in I.C. 6-9-18. The tax shall be imposed, paid and collected in the same manner that the state gross retail tax is imposed, paid and collected under I.C. 6-2.5. The gross retail income on which the tax is imposed shall not include the amount of tax imposed

on the transaction under I.C. 6-2.5.

(B) The tax does not apply to gross income received in a transaction in which:

(1) A student rents lodgings in a college or university residence 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

(2) A person rents a room, lodging or accommodations for a period of 30 days or more.

(C) Council will send a certified copy of this ordinance to the Commissioner of the Department of State Revenue immediately upon adoption.

(D) The County Treasurer shall establish a Convention, Recreation and Visitor Promotion Fund in to which will be deposited all proceeds of the tax received from the State Treasurer.

(E) Money in the Convention, Recreation and Visitor Promotion Fund shall be used solely to promote and encourage conventions, trade shows, special events, recreation and visitors in and to the county, including administrative and other incidental expenses.

(Ord. 1989-1, passed 4-26-1989; Ord. 1989-1, passed 5-8-1989)

CLAIMS AGAINST THE COUNTY

§ 33.030 PROCEDURE; PUBLICATION; EXCEPTIONS.

(A) A person who has a claim against the county shall file that claim with the County Auditor on forms furnished for that purpose by the County Executive. The County Auditor shall present the claim to the Executive, which shall examine the merits of the claim. The Executive may allow any part of the claim that it finds to be valid.

(I.C. 36-2-6-2) (Prior Code, § 3.12.010)

(B) This section does not apply to claims for

salaries fixed in a definite amount by statute per diem of jurors, and salaries of officers of a court.

(I.C. 36-2-6-3) (Prior Code, § 3.12.020)

(C) The County Auditor shall publish all claims that have been filed for the consideration of the County Executive and shall publish all allowances made by courts of the county. Claims filed for the consideration of the Executive shall be published at least three days before each session of the Executive, and court allowances shall be published at least three days before the issuance of warrants in payment of those allowances. In publication of itemized statements filed by assistant highway supervisors for consideration of the Executive, the Auditor shall publish the name of each party and the total amount due each party named in the itemized statements. Claims and allowances subject to this section shall be published as prescribed by I.C. 5-3-1, except that only one publication in two newspapers is required.

(I.C. 36-2-6-3) (Prior Code, § 3.12.030)

(D) (1) A member of the County Executive who considers or allows a claim or the County Auditor who issues warrants in payment of allowances made by the County Executive or a court of the county, before compliance with division (C) above, commits a Class C infraction.

(2) The County Auditor shall publish one time in accordance with I.C. 5-3-1 a notice of all allowances made by a circuit or superior court or by the County Executive. The notice must be published within 60 days after the allowances are made and must state their amount to whom they are made, and for what purpose they are made.

(I.C. 36-2-6-4) (Prior Code, § 3.12.040) Penalty, see § 33.999

§ 33.031 ALLOWANCE AND PAYMENT OF CLAIMS.

(A) The County Executive may allow a claim or order the issuance of a county warrant for payment of a claim only at a regular or special meeting of the Executive. The County Auditor may issue a county warrant for payment of a claim against the county only if the Executive or a court orders him or her to do so. However, this division does not apply to the issuance of warrants related to management of the Common or Congressional School Fund.

(B) The County Executive may allow a claim only if it has been:

- (1) Itemized;
- (2) Verified;
- (3) Filed in the County Auditor's office;

and

(4) Placed on the claim docket by the Auditor at least five days before the meeting at which the Executive is to consider the claim.

(C) The County Auditor or member of a County Executive who violates this section commits a Class C infraction.

(D) The County Auditor who violates this section is liable on his or her official bond for twice the amount of the illegally drawn warrant, which may be recovered for the benefit of the county by a taxpayer of the county. A person who brings an action under this division shall give security for costs, and the court shall allow him or her a reasonable sum, including attorney's fees, out of the money recovered as compensation for his or her trouble and expense in bringing the action. This compensation shall be specified in the court's order.

(E) If, within 60 days after the County Executive allows a claim, a taxpayer of the county demands that the Executive refund the allowance to the county, and the Executive refuses to do so, the taxpayer may bring an action to recover an illegal, unwarranted or unauthorized allowance for the benefit of the county. A person who brings an action under this division shall give security for costs, and the court shall allow him or her a reasonable sum, including attorney's fees, out of the money recovered as compensation for his or her trouble and expense in bringing the action. This compensation shall be specified in the court's order.

(I.C. 36-2-6-4) (Prior Code, § 3.12.050) Penalty, see § 33.999

§ 33.032 SUPPLIES CONTRACT CLAIM.

(A) (1) A county officer or employee authorized to receive supplies contracted for by the county shall review the invoice or bill for the supplies item by item and certify in writing on the invoice or bill:

(a) The fact that the supplies listed on the invoice or bill have been delivered to him or her in compliance with the contract; or

(b) The facts showing a breach of contract.

(2) If the officer or employee discovers a breach of contract on receipt of the supplies, he or she shall deduct a just amount from the invoice or bill. The officer or employee shall immediately file his or her certificate and the bill or invoice with the County Auditor.

(B) (1) The County Executive may approve a claim on a contract for supplies only if:

(a) It finds that the claimant has complied with the contract; and

(b) The County Auditor certifies in writing that the invoice or bill for the supplies corresponds with the contract as to quality and prices.

(2) The Executive may not use a County

Auditor's certificate as the sole basis for this finding.

(C) The County Executive may make an allowance for printed blanks or stationery for a county officer only if they are to be used for the benefit of the county.
(I.C. 36-2-6-5) (Prior Code, § 3.12.060)

§ 33.033 CONTRACT WORK CLAIM.

(A) The County Executive may allow a contract claim for work that was to be conducted under the supervision of the County Surveyor, or an architect, engineer, superintendent, or inspector appointed by the Executive, only if that supervisor certifies in writing on the claim that the work listed in the claim has been performed according to the contract and that the claim is due and owing under the contract. The supervisor's certificate must be filed with the claim.

(B) A County Executive may not allow a claim on a contract covered by this section solely on the basis of the supervisor's certificate.
(I.C. 36-2-6-6) (Prior Code, § 3.12.070)

§ 33.034 CONDITIONS FOR ISSUANCE OF WARRANT.

(A) (1) The County Auditor may issue a warrant for money to be paid out of the county treasury in payment of a claim only if the claim is:

(a) Fully itemized;

(b) Verified by the claimant or someone acting on his or her behalf; and

(c) Filed with the Auditor more than five days before the first day of the meeting of the County Executive at which it is allowed.

(2) (a) The County Auditor may issue a warrant for money to be paid out of the county treasury in payment of a claim:

1. For supplies; or
2. On a contract with the

County Executive for the execution of a public work.

(b) This division applies only if the supplies were purchased in compliance with this subchapter.
(I.C. 36-2-6-7) (Prior Code, § 3.12.080)

(B) (1) A warrant for the payment of money may be drawn on the county treasury only if there is money in the county treasury.

(2) (a) The County Treasurer shall notify county officers authorized to draw warrants on the county treasury when there is no money in the county treasury.

(b) The County Treasurer is liable on his or her official bond to persons holding county warrants if those warrants were issued:

1. When there was no money in the county treasury; and

2. Before the County Treasurer gave the notice required by this division.

(c) The Treasurer is liable for the amount of those warrants, plus interest.

(3) A county officer or member of the County Executive commits a Class B misdemeanor, and is liable on his or her official bond to any person injured by his or her offense, who:

(a) Recklessly issues a bond, certificate or warrant for the payment of money that would require the county to exceed its appropriation for the bond, certificate or warrant; or

(b) Enters into an agreement of any type that would require the county to exceed its appropriation for a particular purpose.

(4) An agreement of any type is void that:

(a) Is entered into by the County Executive or a county officer, agent or employee; and

(b) Would require the county to exceed its appropriation for a particular purpose. (I.C. 36-2-6-12) (Prior Code, § 3.12.130) Penalty, see § 33.999

§ 33.035 PROHIBITED ALLOWANCES.

(A) The County Executive or a court may not make an allowance to a county officer for:

- (1) Services rendered in a criminal action;
- (2) Services rendered in a civil action; or
- (3) Extra services rendered in his or her capacity as a county officer.

(B) The County Executive may make an allowance to the Clerk of the Circuit Court, County Auditor, County Treasurer, County Sheriff, or County Assessor, or to any of those officers' employees, only if:

- (1) The allowance is specifically required by law; or
- (2) The County Executive finds, on the record, that the allowance is necessary in the public interest.

(C) A member of the County Executive who recklessly violates division (B) above commits a Class C misdemeanor and forfeits his or her office. (I.C. 36-2-6-8) (Prior Code, § 3.12.090) Penalty, see § 33.999

§ 33.036 APPEAL OF DECISION.

A person aggrieved by a decision of the County Executive made under this subchapter may appeal that decision to the circuit or superior court of the county or bring an action against the county. An appeal must be taken within 30 days of the Executive's action and must be accompanied by a bond covering court costs and payable to the Executive. If the appeal does not result in an increase of the Executive's original allowance, the appellant shall pay the costs of the appeal. (I.C. 36-2-6-9) (Prior Code, § 3.12.100)

§ 33.037 JUDGMENT EXCEEDING APPROPRIATION.

A court may obligate the county to exceed its appropriation for that court only by judgment rendered in a cause in which the court has jurisdiction of the parties and subject matter of the action. An obligation imposed on a county in violation of this section is void. (I.C. 36-2-6-10) (Prior Code, § 3.12.110)

§ 33.038 APPORTIONMENT OF CLAIM.

Whenever the County Auditor draws a warrant for a claim under this chapter, he or she shall charge the claim against the appropriation made for that purpose. If the claim is for materials, supplies or labor for more than one officer or institution, the Auditor shall apportion the claim and charge the proper amount against the appropriation for each officer or institution. Similar apportionments shall be made in other cases in which a claim should be charged to more than one appropriation. (I.C. 36-2-6-11) (Prior Code, § 3.12.120)

§ 33.039 RECOVERY OF PAYMENTS MADE IN VIOLATION.

(A) Money paid out of the county treasury in violation of this chapter may be recovered by the County Executive in an action in the name of the state against the officer who paid the money or assisted in the payment, the person who received the money, or both. If the County Executive fails to bring the action within 30 days after the illegal payment, a citizen or

taxpayer may make a written demand on the County Executive to bring the action and may then bring the action in the name of the state for the benefit of the county if the Executive fails to comply with his or her demand.

(B) If an action brought under this section is successful, the court shall award the amount of money paid out of treasury illegally, plus interest at the rate of 6% per year, to the county and shall award reasonable attorney's fees and expenses to the plaintiff.

(I.C. 36-2-6-13) (Prior Code, § 3.12.140)

§ 33.040 RECORD OF TAXES RECEIVED.

The County Treasurer shall keep a record of all money he or she receives for taxes imposed by the county fiscal body, and, on the first day of each month, shall certify the gross amount of taxes received during the preceding month to the County Auditor. The part of that amount that belongs to the county may be used by the county to pay any item of appropriation for that year.

(I.C. 36-2-6-14) (Prior Code, § 3.12.150)

§ 33.041 SETTLEMENT; OVERPAYMENT.

(A) A settlement made by the County Executive with a county, township or school officer is binding on the state or county only if the officer has accounted for all money he or she has collected by virtue of his or her office and has performed every duty required of him or her by law. If the settlement is not binding, the officer and his or her sureties are liable as if no settlement had been made.

(B) If the County Executive finds that, through mistake or any other cause, a county, township or school officer has paid over to the county, or reported, settled or accounted to the County Executive for more money than he or she owed, the Executive may:

(1) Order that the officer be repaid out of the proper fund and be given the proper credit by the County Auditor; or

(2) If the money has not yet been paid by the officer, release so much of his or her debt as it finds to be mistaken.

(I.C. 36-2-6-15) (Prior Code, § 3.12.160)

§ 33.042 LOANS; BONDS.

(A) (1) The county fiscal body may, by ordinance:

(a) Make loans for the purpose of procuring money to be used in the exercise of county powers and for the payment of county debts other than current running expenses, and issue bonds or other county obligations to refund those loans; and

(b) Make temporary loans to meet current running expenses, in anticipation of and not in excess of county revenues for the current fiscal year, which shall be evidenced by tax anticipation warrants of the county.

(2) An ordinance authorizing the issuance of bonds under this section must state the purpose for which the bonds are issued and may provide that the bonds:

(a) Are or are not negotiable;

(b) Bear interest at any rate;

(c) Run not longer than 20 years; and

(d) Mature by installments payable annually or otherwise.

(3) (a) An ordinance authorizing the issuance of tax anticipation warrants under this section must:

1. State the total amount of the issue;

2. State the denomination of the warrants;

3. State the time and place payable;

4. State the rate of interest;

5. State the funds and revenues in anticipation of which the warrants are issued and out of which they are payable; and

6. Appropriate and pledge a sufficient amount of those revenues to the punctual payment of the warrants.

(b) The warrants are exempt from taxation for all purpose.

(4) If a deficit is incurred for the current running expenses of the county because the total of county revenues for the fiscal year is less than the anticipated total, the county fiscal body shall provide for the deficit in the next county tax levy.

(I.C. 36-2-6-18) (Prior Code, § 3.12.190)

(B) (1) (a) Whenever bonds authorized under division (A) above are to be sold, the County Auditor shall prepare and place on file copies of:

1. The ordinance authorizing the sale;

2. Specifications describing the bonds to be sold;

3. A list of the outstanding debts of the county;

4. A statement of the assessed valuation of property in the county, according to the most recent assessment for property tax purposes; and

5. Any other information that may help bidders and other interested persons to understand the financial condition of the county and to determine the market value of the bonds.

(b) The Auditor shall present these items to persons requesting them and to financial institutions that are in the market for the purchase of county bonds.

(2) After filing the items required by this subchapter, the County Auditor must, in the manner prescribed by I.C. 5-3-1 and I.C. 5-1-11-2, publish a notice calling for sealed bids on the bonds and stating:

(a) The amount and type of bonds to be sold;

(b) The rate of interest the bonds are to bear;

(c) The time the bonds are to run; and

(d) That specifications and information concerning the bonds are on file in the office of the County Auditor and available on request.

(3) Whenever tax anticipation warrants issued under this subchapter are to be sold, the County Auditor must publish a notice of sale in accordance with I.C. 5-3-1. No other publication or statement is necessary.

(4) The County Auditor shall sell bonds or tax anticipation warrants to the highest responsible bidder, if a satisfactory bid is received. However, they may not be sold for less than their par value, plus the interest:

(a) Accrued at the date of sale, in the case of bonds; or

(b) Accrued at the date of delivery, in the case of tax anticipation warrants.

(5) Notwithstanding division (B)(4) above, if on the date of a sale of tax anticipation warrants no bids at par value plus the interest accrued at the date of delivery are received, the County Auditor may, at not less than par value plus interest accrued at the date of delivery:

(a) Sell all or part of the warrants at a private sale or sales; or

(b) Issue and deliver all or part of the warrants in payment of claims against the county that have been approved by the County Executive.

(6) Whenever a loan authorized by the county fiscal body is to be refunded by some manner other than the sale of bonds or tax anticipation warrants, the County Auditor must give notice, receive bids and let the loans in the manner

prescribed by this subchapter.
(I.C. 36-2-6-19) (Prior Code, § 3.12.200)

§ 33.043 ISSUANCE.

(A) Whenever any county bonds, notes or warrants are to be issued, the County Auditor must:

(1) Supervise the preparation and engraving or printing of the bonds, with the advice of the County Attorney; and

(2) Deliver the bonds to the County Treasurer, who shall be charged with them.

(B) Each county bond, note or warrant must contain a reference to the ordinance authorizing it, including the date of adoption of that ordinance.

(C) All bonds, notes or warrants of the county must be executed by the Board of Commissioners of the county and attested to by the County Auditor. Monies received for the bonds, notes or warrants shall be paid to the County Treasurer to deliver the bonds, notes or warrants to the person entitled to receive them.

(D) Tax anticipation warrants are payable at the office of the County Treasurer or at one of the authorized depositories of the county, as checks or other warrants of the county are payable, upon presentation on or after their maturity date. All interest on tax anticipation warrants ceases upon their maturity.

(I.C. 36-2-6-20) (Prior Code, § 3.12.200)

SPECIFIC FUNDS

§ 33.055 CUMULATIVE CAPITAL DEVELOPMENT FUND.

(A) There is established a County Cumulative Capital Development Fund for the following purposes:

(1) For building and repair of bridges as authorized by I.C. 8-16-3;

(2) For improving or repairing airport runways or facilities as authorized by I.C. 8-22-3-25;

(3) For construction, remodeling or repair of courthouses as authorized by I.C. 36-9-14;

(4) For construction, repair, remodeling, enlarging or equipment of a county jail as authorized by I.C. 36-9-15; and/or

(5) For building, remodeling and repair of park and recreation facilities as authorized by I.C. 36-10-3-21.

(B) The levying of an additional tax of \$0.04 on each \$100 of taxable real and personal property within the taxing district will provide monies for the Fund, the tax to be first levied in 1986 payable in 1987, and continuing with a levy of \$0.07 on each \$100 of taxable real and personal property within the district for the years 1987 payable 1988 and 1988 payable 1989 as authorized by I.C. 36-9-14.5-1, Acts of 1984, Pub. Law No. 44, § 16.
(Res. passed 6-30-1986)

§ 33.056 SHERIFF'S RESTRICTED DONATION FUND.

There is hereby created a County Sheriff's Restricted Donation Fund. The funds shall consist of deposits of restricted donations from private organizations or individuals designated for the County Sheriff's Department. Monies in the Fund may be expended for any purpose related to the County Sheriff's Department specified by donor.
(Ord. 8(1-99), passed 8-9-1999)

§ 33.057 SHERIFF'S DEPARTMENT YOUTH CAMP DONATION FUND.

There is hereby created a County Sheriff's Department Youth Camp Donation Fund. The funds shall consist of deposits of donations from private organizations or individuals designated for the County Sheriff's Department Annual Youth Camp. Monies in this Fund may be expended for any purpose related to the County Sheriff's Department Youth Camp, subject to appropriations by the County

Council.
(Ord. 6(5-99), passed 6-28-1999)

§ 33.058 HEALTH INSURANCE FUND.

The County Health Insurance Fund is a designated non-reverting fund created for the purpose of paying health care claims for county employees. The County Insurance Fund is a perpetual fund, and may be terminated by adoption of an ordinance to terminate by the Board of County Commissioners. (Ord. 15(8-98), passed 8-24-1998)

§ 33.059 YOUTH CENTER FUND.

(A) There is established a designated fund known as the Youth Center Fund.

(B) The following revenues and monies shall be deposited to and maintained in the Fund:

(1) Grant monies and/or Build Indiana funds obtained for Youth Center purposes;

(2) Federal and state and/or governmental program revenues and/or reimbursements relating to Youth Center operations and/or programs;

(3) Operational income and reimbursements relating to the Youth Center;

(4) Private donations and/or endowments designated for Youth Center purposes; and

(5) COIT and/or other tax monies designated for payment of lease rental or other purposes relating to the Youth Center.

(C) The following expenditures relating to the Youth Center may be made from the Fund:

- (1) Operational expenses;
- (2) Contract expenses;
- (3) Capital expenditures;
- (4) Lease rental payments;

(5) Program expenses; and

(6) Any other expenses approved by the appropriate Executive and/or fiscal body.

(D) (1) Interest earned on monies in the Fund shall be credited to and become part of the Fund.

(2) Any year-end balance in the Fund shall not revert to the County General Fund, but shall carry over and remain part of the Fund.

(E) The Fund shall continue in existence until terminated by ordinance, at which time, the balance shall be moved to the County General Fund. (Ord. 6-9-92, passed 9-8-1992)

§ 33.060 TEMPORARY GRANT CASA/GAL FUND.

(A) The Temporary Grant CASA/GAL designated fund is established.

(B) Grant monies received by the courts and/or by the county for the CASA/GAL functions shall be deposited to and maintained in the Fund.

(C) Expenditures allowed by the express terms of the grant agreements may be made from the Fund, at the request and direction of the judges of the Circuit and Superior Court No. 1.

(D) Interest earned on monies in the Fund shall be separately accounted for, credited to and become part of the Fund; provided, in the event grant agreement terms require any interest earned to be returned to the grantor or otherwise applied, then the express terms of the grant shall be followed.

(E) Any year end balance in the Fund shall not revert to the county General Fund, but shall carry over and remain part of the Fund. (Ord. 2007-17-11-14, passed 11-14-2007)

§ 33.061 NON-REVERTING AIRPORT PROJECTS FUND.

(A) The designated Airport Projects Fund is

established.

(B) (1) All grant monies for projects, together with any matching funds and local shares, shall be deposited to and maintained in the Fund.

(2) Only project expenditures allowed by the terms of the grant(s) may be made from the Fund. In the event the grant monies are paid as reimbursement, then the reimbursed monies may be expended for airport maintenance and improvement projects, in the discretion of and at the direction of the Board of Aviation Commissioners.

(C) The County Auditor is authorized to make expenditures from the Fund upon the direction of the Board of Aviation Commissioners.

(D) Interest earned on monies in the Fund shall be separately accounted for and credited to and become part of the Fund.

(E) (1) Any year-end balance in the Fund shall not revert to the County General Fund, but shall carry over and remain part of the Fund.

(2) The Fund shall continue in existence until terminated by substantially similar ordinances of the county and the City of New Castle. Upon termination, any remaining Fund balance shall be returned or refunded subject to the terms of the grant, or, in the event the Fund balance consists of reimbursed monies not subject to grant terms, then the balance shall be returned, refunded and/or distributed at the direction of the Board of Aviation Commissioners.

(Ord. 2007-16-11-7, passed 11-7-2007)

§ 33.062 SEX AND VIOLENT OFFENDER ADMINISTRATION FUND.

(A) The County Sex and Violent Offender Administration Fund is hereby established. The purpose of the Fund is to defray the expense of administering or ensuring compliance with the laws concerning the State Sex and Violent Offender Registry. The County Council may appropriate the money from the Fund for this purpose.

(B) (1) The annual fee for sex or violent offenders registering in the county shall be \$50. Payment of the fee shall be made upon the offender's initial registration in the county and subsequently on or before each annual registration date.

(2) A fee of \$5 shall be charged and collected each time a sex or violent offender registers an address change with the County Sheriff's Department.

(3) All fees collected under this section shall be collected by the County Sheriff's Department when a sex or violent offender registers with the County Sheriff's Department.

(C) All fees collected under this section by the County Sheriff's Department shall be transferred to the County Auditor. On a monthly basis, the County Auditor shall:

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

(2) Transfer 10% of any fees collected under this section to the state for deposit in the State Sex and Violent Offender Administration Fund under I.C. 11-8-8-21.

(D) The 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 State Sex and Violent Offender Registry.

(Ord. 2007-11-8-15, passed 8-15-2007)

§ 33.063 IDENTIFICATION SECURITY FUND.

(A) There is established a designated fund to be known as the County Identification Security Protection Fund.

(B) Commencing January 1, 2006, fees collected pursuant to I.C. 36-2-7.5 shall be deposited in the Fund.

(C) (1) The Fund shall be administered by the County Recorder.

(2) Expenditures from the Fund are subject to appropriation by the county fiscal body.

(3) The County Recorder may use money in the Fund only to purchase, upgrade, implement, or maintain redacting technology used in the office of the County Recorder.

(D) (1) Money in the Fund does not revert to the County General Fund.

(2) Upon request of the County Recorder, monies in the Fund may be invested by the County Treasurer, and interest earned thereon shall be paid into, become and remain a part of, the Fund.

(E) Pursuant to I.C. 36-2-7-6(c), authority to deposit the fees into the Fund expires July 1, 2011, unless the authority is otherwise extended by law. (Ord. 2005-6-11-2, passed 11-2-2005; Ord. 2007-9-7-18, passed 7-18-2007)

§ 33.064 NON-REVERTING LAW ENFORCEMENT SEIZURES AND FORFEITURES FUND.

There is hereby established a non-reverting Law Enforcement Seizures and Forfeitures Fund for the purpose of receiving proceeds from the seizure of certain property forfeited pursuant to statute. Money may be appropriated from the non-reverting Fund only pursuant to statute after approval by the Executive for purposes solely benefitting county law enforcement agencies directly participating in the seizures or forfeitures, consistent with federal laws and regulations. (Ord. 2004-8-8-11)

§ 33.065 CUMULATIVE VOTING SYSTEM FUND.

(A) A need exists for a Cumulative Voting Systems Fund to provide funds for and to maintain the county's voting system.

(B) (1) The Board will adhere to the provisions of I.C. 3-11-6.5 and 6-1.1-41. The proposed Fund will not exceed \$0.0167 on each \$100 of assessed valuation.

(2) The tax rate will be levied beginning with taxes for 2004 payable in 2005. (Ord. 2004-7-8-2, passed 8-2-2004)

§ 33.066 NON-REVERTING VOTING SYSTEM REIMBURSEMENT FUNDS.

(A) (1) The non-reverting Title III Requirements Voting System Reimbursement Fund, a designated fund, is established.

(2) All Title III Requirements funds, together with state matching funds, shall be deposited to and maintained in the Fund.

(3) The following expenditures, as allowed by state or federal law, may be made from the Fund:

(a) To pay any outstanding obligations incurred by the county for the voting system purchase subject to the reimbursement;

(b) When the obligations have been paid in full or in part, to improve the administration of elections for federal office in the county; and

(c) To refund to the state any amounts required to be refunded in the event the county does not comply with the requirements for receipt of the monies.

(4) Interest earned on monies in this Fund shall be separately accounted for, credited to and become part of the Fund.

(5) Any year-end balance in this Fund shall not revert to the County General Fund, but shall carry over and remain part of the Fund.

(6) The Fund shall continue in existence until terminated by ordinance. Upon termination, any remaining Fund balance shall be returned to the state.

(B) (1) The non-reverting Section 102 Voting System Reimbursement Fund, a designated fund, is established.

(2) All Section 102 funds shall be deposited to and maintained in the Fund.

(3) The following expenditures, as allowed by state or federal law, may be made from the Fund:

(a) To pay any outstanding obligations incurred by the county for the voting system purchase subject to the reimbursement;

(b) When the obligations have been paid in full or in part, to improve the administration of elections for federal office in the county; and

(c) To refund to the state any amounts required to be refunded in the event the county does not comply with the requirements for receipt of the monies.

(4) Interest earned on monies in this Fund shall be separately accounted for, credited to and become part of the Fund.

(5) Any year-end balance in this Fund shall not revert to the County General Fund, but shall carry over and remain part of the Fund.

(6) The Fund shall continue in existence until terminated by ordinance. Upon termination, any remaining Fund balance shall be returned to the state.

(C) (1) The non-reverting Section 101 Voting System Reimbursement Fund, a designated fund, is established.

(2) All Section 101 funds shall be deposited to and maintained in the Fund.

(3) The following expenditures, as allowed by state or federal law, may be made from the Fund:

(a) To pay any outstanding obligations incurred by the county for the voting system purchase subject to the reimbursement;

(b) When the obligations have been paid in full or in part, to improve the administration of elections for federal office in the county; and

(c) To refund to the state any amounts required to be refunded in the event the county does not comply with the requirements for receipt of the monies.

(4) Interest earned on monies in this Fund shall be separately accounted for, credited to and become part of the Fund.

(5) Any year-end balance in this Fund shall not revert to the County General Fund, but shall carry over and remain part of the Fund.

(6) The Fund shall continue in existence until terminated by ordinance. Upon termination, any remaining Fund balance shall be returned to the state.

(D) The County Clerk is authorized to apply on behalf of the county for voting system reimbursement funds under I.C. 3-11-6.5. (Ord. 2003-10-9-10, passed 9-10-2003; Ord. 2003-11-9-10, passed 9-10-2003; Ord. 2003-12-9-10, passed 9-10-2003; Res. passed 9-10-2003)

§ 33.067 HEALTH DEPARTMENT MOSQUITO ABATEMENT FUND.

(A) There is established a designated fund to be known as the Health Department Mosquito Abatement Fund.

(B) The following revenues and monies shall be deposited to and maintained in the Fund: public and private donations and/or endowments designated for mosquito control and/or abatement purposes.

(C) The following expenditures relating to mosquito control, abatement and eradication may be made from the Fund:

(1) Mosquito sprayer and chemicals used in control, abatement and eradication of mosquitoes; and

(2) Any other related expense approved by the County Executive and fiscal body.

(D) Interest earned on monies in the Fund shall be credited to and become part of the Fund.

(E) Any year-end balance in this Fund shall not revert to the County General Fund, but shall carry over and remain part of the Fund.

(F) This Fund shall continue in existence until terminated by ordinance. Upon termination, any remaining Fund balance shall be moved to the County General Fund.

(Ord. 12(10-2), passed 10-16-2002)

§ 33.068 E911 BOND PROCEEDS FUND.

(A) There is hereby created the E911 Bond Proceeds Fund. The Fund shall consist of the proceeds of the County E911 Bonds dated August 2, 2002 in the amount of \$1,460,000.

(B) Monies in the Fund may be expended for the following purposes:

(1) To pay expenses related to the financing; and

(2) To pay the bond payments, including principal and interest, as they come due.

(C) Interest on the monies in this Fund shall be accounted for and remain in the Fund. All amounts in the Fund, both principal and interest, shall carry over and remain in the Fund from year to year until the bonds are paid in full.

(Ord. 10(8-02), passed 8-7-2002)

§ 33.069 LOHUT FUND.

(A) The LOHUT Fund (0733) is hereby established for the purpose of receiving the county share of the total distribution of the County Surtax Funds and the County Wheel Tax Funds.

(B) The LOHUT Fund (0733) shall provide for the accounting of the income and expenses of

highway system projects by the county unit. Expenditures shall not be made unless first approved by the County Executive, and monies for expenditures so approved shall be appropriated by the county fiscal body.

(C) Interest earned on monies in this Fund shall be credited to and become part of the Fund.

(D) Any year-end balance in this Fund shall not revert to the County General Fund, but shall carry over and remain part of the Fund.

(Ord. 2004-5-4-21, passed 4-20-2004)

§ 33.070 LOCAL EMERGENCY PLANNING SUB-GRANT FUND.

(A) The Local Emergency Planning Sub-Grant Fund is established as a designated fund.

(B) The sub-grant payments received pursuant to the local emergency planning sub-grant agreement between the county and the State Emergency Management Agency shall be deposited to and maintained in the Fund.

(C) The following expenditures, as set out in the agreement, may be made from the Fund:

(1) To organize a Comprehensive Emergency Management Planning Team;

(2) To research and update the county's hazard, risk, and vulnerability assessments;

(3) To research and develop or update the Basic Plan portion of the county's Comprehensive Emergency Management Plan;

(4) To modify and enhance the county's Comprehensive Emergency Management Plan;

(5) To expand Community Emergency Response Team Training within the county;

(6) To complete interstate and intrastate mutual aid agreements;

(7) To facilitate communication and

interoperability protocols;

(8) To establish a common incident command system;

(9) To identify and create plans to protect critical infrastructure;

(10) To address local continuity of operations and continuity of government;

(11) To assess local hazards and risks to determine emergency management planning priorities;

(12) To coordinate citizen and family preparedness plans and programs;

(13) For grant administrative purposes, not to exceed 5% of the sub-grant award; and

(14) To return to the state any funds received that exceed actual allowable expenditures.

(D) (1) Interest earned on monies in this Fund shall be separately accounted for, credited to and become part of the Fund.

(2) However, the interest earned in excess of \$100 per federal fiscal year shall be returned to the state.

(E) Any year-end balance in this Fund shall not revert to the County General Fund, but shall carry over and remain part of the Fund.

(F) This Fund shall continue in existence until terminated by ordinance. Upon termination, any remaining Fund balance shall be returned to the state. (Ord. 2003-2-4-16, passed 4-16-2003; Ord. 2003-3-4-16, passed 4-16-2003)

§ 33.071 HAZARDOUS MATERIALS RESPONSE REIMBURSEMENT FUND.

(A) The County Auditor shall establish a fund bearing the title of Hazardous Materials Response Reimbursement Fund, and all fees collected pursuant to § 35.070 shall be deposited therein.

(B) Monies so deposited may be expended without appropriation, but only after approval of the Board of Commissioners.

(C) Expenditures from the Fund may be for services, supplies and equipment related to hazardous materials response, and for no other purpose. (Ord. 14(11-02), passed 11-13-2002)

§ 33.072 NON-REVERTING P.A.C.E. PROACTIVE CRIMINAL ENFORCEMENT HIGHWAY INTERDICTION INITIATIVE LAW ENFORCEMENT SEIZURES AND FORFEITURES FUND.

There is hereby established a Non-reverting P.A.C.E. Proactive Criminal Enforcement Highway Interdiction Initiative Law Enforcement Seizures and Forfeitures Fund for the purpose of receiving proceeds from the seizure of certain property forfeited pursuant to statute. Money may be appropriated from the non-reverting fund only pursuant to statute after approval by the executive for purposes solely benefitting P.A.C.E. Proactive Criminal Enforcement Highway Interdiction Initiative law enforcement agencies directly participating in the seizures or forfeitures, consistent with federal laws and regulations.

(Ord. 2010-01-01-27, passed 1-27-2010)

§ 33.073 NON-REVERTING HEALTH DEPARTMENT ENFORCEMENT CUMULATIVE FUND.

The Non-reverting Health Department Enforcement Cumulative Fund is hereby created. The Fund shall receive all fines, costs, fees and payments made by offenders and collected by the Health Department in its enforcement efforts and other monies properly and necessarily to be held for enforcement efforts such as donations and grants for such purposes. The funds shall be used but not limited to the efforts of the Health Department to enforce state and county health ordinances and requirements, educational efforts, costs of litigation including reasonable attorney fees, and all other reasonable costs associated with the enforcement of health standards and codes within the county. (Ord. 2010-07-08-25, passed 7-29-2010)

§ 33.074 NON-REVERTING NATIONAL ROAD HERITAGE TRAIL FUND.

(A) There is hereby established a non-reverting fund which shall be known as the Non-reverting National Road Heritage Trail Fund.

(B) The proceeds shall be deposited in the funds from Healthy Communities of Henry County, Inc. and the funds will be used to meet the 20% local match requirement required by the Indiana Department of Transportation Enhancement Project more particularly known as Project No: 9933046, Des #: 0401235.

(C) Money from this non-reverting fund may only be used as the local match for the above referenced project. If after the completion of the project, any proceeds remain in this fund, they shall be immediately be repaid to Healthy Communities, Inc. (Res. 2010-12-21-06, passed 1-27-2010)

§ 33.075 NON-REVERTING PLANNING COMMISSION ENFORCEMENT CUMULATIVE FUND.

The Non-reverting Planning Commission Enforcement Fund is hereby created. The Fund shall receive all fines, costs, fees and payments made by offenders and collected by the Planning Commission in its enforcement efforts and other monies properly and necessarily to be held for enforcement efforts. The funds shall be used but not limited to the efforts of the Planning Commission to enforce the county, Indiana Development Code and the County Comprehensive Plan, educational efforts, costs of litigation including reasonable attorney fees, and all other reasonable costs associated with the enforcement of planning and zoning standards and codes within the county. (Ord. 2010-11-11-10, passed 10-28-2010)

FEES

§ 33.125 PURCHASE FEE FOR COPY OF DEVELOPMENT CODE AND COMPREHENSIVE PLAN.

(A) The County Development Code (also known as zoning ordinance) and the Comprehensive Plan document shall be available for sale to the public in the office of the County Plan Commission.

(B) A copy of the County Development Code may be purchased for \$25.

(C) A copy of the County Comprehensive Plan may be purchased for \$5.

(D) Monies collected in the office of the County Plan Commission shall be deposited daily with the County Auditor to be receipted into the County General Fund. (Ord. 2004-2-2-18, passed 2-18-2004)

§ 33.126 ELECTRONIC DATA FEES.

(A) The fees charged for providing hard copy maps and digital data are set forth in schedules contained in Appendix A to this chapter. Two copies of the schedules are maintained in the office of the Clerk of the legislative body.

(B) Nothing herein shall be construed to require any employee of the county to provide information contained on or within a public document of an agency or department by telephone. Department heads and elected officials may, but are not required to take requests for documents by phone.

(C) Payment for information under this section shall be made at the time of delivery. However, an office may agree to invoice for the charge if that purchaser has promptly paid invoices in the past. Any entity requesting data shall be liable for the total charges for the request. Any entity failing to pay the charges shall be liable for the charges, plus interest, attorney's fees and costs of collection.

(D) Nothing herein shall compel any office to charge a fee for copies if the fee imposed by this section is contrary to state law. In the event the fees in this section are contrary to any charges established by state statute, the state statute shall apply.

(E) Pursuant to the provisions of I.C. 5-14-3-3(e), no entity other than those authorized by the county may reproduce, store, grant access, deliver or sell any information obtained from any department or office of the county to any other entity. In addition, any entity receiving information from the county shall not be permitted to use any mailing lists, addresses or data bases for the purpose of selling, advertising or soliciting the purchase of merchandise, goods or services, or to sell, loan, give away or otherwise deliver the information obtained by the request to any other entity.

(F) A copy of divisions (E), (F) and (G) shall be conspicuously posted in all offices where electronic data is sold and the restriction contained in divisions (E), (F) and (G) of this section shall be offered to any persons or entities who obtain copies of any public information from the county.

(G) Pursuant to I.C. 5-14-3-8.5, the County Council hereby establishes the County Electronic Data Fund. All fees charged under this section shall be deposited in the Fund. All funds in the Electronic Map Generation Fund shall be used only for the purposes set out in I.C. 5-14-3-8.5 and shall be subject to appropriation by the County Council. This

is a non-reverting fund, and monies in this Fund shall remain in the Fund if unexpended at the end of a year.

(H) Any unit of government within the county which has provided electronic data used by the county to create the electronic data covered by this section shall receive copies of the data for that unit's exclusive use free of charge.

(I) Any entity or unit of government having a dispute relating to, or seeking relief from, the terms of this section may seek resolution of that dispute or relief from the County Board of Commissioners.

(J) The county, by its Board of Commissioners, reserves the right to refuse a request for inspection or copying of an electronic database if compliance with the request would unreasonably interfere with the ongoing operations of the county by requiring an inordinate diversion of county manpower, materials or equipment use, or would necessitate utilization of an outside contractor.

(Ord. 2003-6-6-18, passed 6-18-2003) Penalty, see § 33.999

§ 33.127 SHERIFF'S SALE.

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

(B) The Sheriff is authorized to negotiate a contract with a provider to obtain services in order for the Sheriff to conduct the Sheriff's Sale Program, subject to the approval of the Sheriff and Commissioners and execution of the contract by the Commissioners.

(C) The Sheriff's Sale services contract shall provide for the delivery of the services by contract(the contractor) in compliance with all applicable statutory provisions for the conduct of foreclosure sale proceedings and the Sheriff's Sale Program. The Sheriff's Sale services contract shall also provide for the payment of a fee not to exceed \$100 per parcel, for each parcel in the Sheriff's Sale

Program, to the contractor for the services.

(D) The sheriff is hereby authorized to charge a fee of \$25 per parcel of the property in the Sheriff's Sale Program and to deposit the foreclosure costs fee collected by the Sheriff or Contractor as costs in the foreclosure proceeding in the appropriate fund or funds.

(E) The foreclosure costs fee shall be payable at the time of the Sheriff's Sale or upon the time of cancellation provided the publication has been ordered and shall be in addition to any other statutorily permitted fees and costs.

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

(Ord. 2005-5-8-3, passed 8-3-2005)

§ 33.128 RECORDER'S FEES.

(A) The County Recorder shall tax and collect the fees prescribed by this section for services he or she renders, and shall pay them into the county treasury at the end of each calendar month.

(B) The County Recorder shall charge:

	<i>Fee</i>
Recording Fees	
Deeds	
	\$16
	\$2
Mortgages	

	\$14
	\$2
Miscellaneous/other documents	

	\$11
	\$2
Release/partial release/assignment	

	\$12
	\$2
Any document exceeding 8½" x 14"	
	\$20

	\$5
Mechanic's lien	
	\$13

	\$2
	\$2
Horizontal properties/plats/surveys (oversized)	

	\$20
	\$5
Additional Fees	
Each additional cross reference	\$1
Copies	

	\$1
	\$2

	<i>Fee</i>
Certifying or acknowledging a document, per document	\$5
Non-confirming page, per page	\$1
Note: Documents must be no larger than 8½" x 14", 10-point type, on white paper of at least 20 lb. weight, no permanently bound or continuous forms, 2" margins at the top and bottom of first and last page with ½" margin elsewhere	
Uniform Commercial Code Fees	
Original filing, amendment, continuation, termination (two pages or less)	\$9
Original filing, amendment, continuation, termination (three pages or more)	\$13
UCC Search (one name)	\$10
Each additional name	\$5

(Prior Code, § 3.24.010)

(C) All revenue received by the Recorder pursuant to this division (C) shall be deposited in the County Recorder's Records Perpetuation Fund.

(Ord. 2(9-95), passed 9-11-1995)

(I.C. 36-2-7-10)

§ 33.129 AUDITOR FEE FOR REAL PROPERTY ENDORSEMENT.

	<i>Fee</i>
Real Estate Office	
Sale disclosure fee	\$10
Transfer fee	\$5
County map	\$2
GIS Office	
8½" x 11" map	\$1
11" x 17" map	\$2
24" x 36" map	\$10

	<i>Fee</i>
36" x 48" map	\$20
Custom map is \$20 per hour + price of the size of map	

(Ord. 3(7-89), passed 7-5-1989; Ord. 2011-1(01-12), passed 1-12-2011)

§ 33.130 RECORDS SEARCHES BY TREASURER.

(A) The County Treasurer is authorized to charge and collect a fee of \$0.50 for searching for paid or unpaid taxes on a parcel.

(B) The County Treasurer is authorized to charge and collect a fee of \$1 for matching a legal description to a parcel number.

(Ord. 3(1-95), passed 1-23-1995)

§ 33.131 VEHICLE INSPECTION FEE.

(A) A fee shall be charged by the County Sheriff's Department for the inspection of used motor vehicles, the inspection being a prerequisite for the issuance of a certificate of title by the State Bureau of Motor Vehicles as provided for in I.C. 9-29-4-2.

(B) The fee shall be \$4, as provided for in I.C. 9-29-4-2.

(C) The County Auditor is hereby directed to establish a cumulative account bearing the title of Special Vehicle Inspection Fund, and all fees collected pursuant to divisions (A) and (B) above shall be deposited therein, as provided for in I.C. 9-29-4-2.

(D) Monies so deposited shall be appropriated by the County Council only for law enforcement purposes, as provided for in I.C. 9-29-4-2. (Ord. 5(12-88), passed 12-19-1988)

§ 33.132 DISHONORED CHECK.

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

CHECK. An order instrument, including a draft instrument, payable by the drawer or endorser to the county government, regardless of whether the instrument was presented directly to the Treasurer.

DISHONORED CHECK. A check which is dishonored because the drawer:

- (a) Without valid legal cause stops payment on the order instrument;
- (b) Lacks sufficient funds to cover the amount of the order instrument;
- (c) Fails to have an account for the order instrument; or
- (d) Lacks an authorized signature on the order instrument.

(B) (1) The Treasurer may present a check to a financial institution only one time.

(2) If a check is a dishonored check, then the Treasurer shall send notice thereof to the drawer by regular United States mail to either the address printed on the drawer's check or the address given by the drawer in writing at the time the check was issued or delivered.

(C) The drawer shall pay a dishonored check fee of \$20 in addition to any sum he or she originally attempted to pay with his or her dishonored check. The payment shall be made in cash or by cashier's check or money order only.

(D) In addition to the dishonored check fee the Treasurer shall collect as set forth in division (C) above, the Treasurer may also seek any or all of the following penalties:

(1) Interest at the rate of 18% per annum on the face amount of the check from the date of the check's execution until payment is made in full;

(2) Court costs incurred in prosecuting an action that may be brought by the holder to collect on the check;

(3) Reasonable attorney's fees; and

(4) All other reasonable and permissible costs of collection, including but not limited to those permitted by I.C. 26-2-7-5, I.C. 26-2-7-6, or any other law.

(E) The Treasurer shall maintain a list of all persons who present dishonored checks payable to county government and provide the list to all departments of county government that collect money on behalf of the county. Any person on the list shall not be permitted to make a payment to the county government by way of a personal check for a period of at least five years from the date of dishonor.

(F) Pursuant to I.C. 36-1-8-13, if the Treasurer is unable to obtain payment of a dishonored check from the drawer, the Treasurer shall, not later than 90 days after the check is initially received by the county government, refer the matter to the County Prosecuting Attorney for prosecution.
(Ord. 2004-3-4-7, passed 4-7-2004)

§ 33.133 HEALTH DEPARTMENT FEES.

(A) Schedules of County Health Department fees are found in Appendix B to this chapter.

(B) All fees collected by the County Health Department shall be accounted for in detail for each program service area.

(C) All fees collected by the County Health Department derived from the sources listed in this division (C) shall be transferred to the County Health Maintenance Fund:

(1) Water testing;

(2) Inspection of transient residential buildings;

(3) Adult immunizations;

(4) International travel immunizations; or

(5) Reimbursement from any private insurance or public indemnification in accordance with I.C. 16-46-10.

(D) All other fees collected by the County Health Department shall be transferred to the County Health Fund.

(Ord. 2009-02-02-25, passed 2-25-2009)

§ 33.134 UNIFORM PUBLIC RECORDS FEE.

(A) (1) A uniform fee for certifications, copying and facsimile transmissions of public records shall be and is hereby established as follows.

(2) Except as provided in division (B) below, all departments, boards, agencies, commissions and officials of the county shall charge for the copying, certification and facsimile transmission of public records maintained by the departments, boards, agencies and commissions as follows:

(a) The per page charge for copying plain paper documents shall be \$0.10 per page;

(b) The per page charge for faxing plain paper documents shall be \$0.10 per page;

(c) The per page charge for certifying plain paper documents shall be \$0.10 per page; and

(d) No charge shall be made if the cost, as calculated above, is less than \$1.

(B) (1) This section shall not be deemed to override any existing state statute with respect to fees nor establish fees for matters other than as set forth above. To the extent that state statute establishes fees for copying or other actions otherwise covered hereby, the state statute shall be deemed to prevail.

(2) Pursuant to I.C. 5-14-3-8(j) and (k) regarding electronic mapping and I.C. 5-14-3-2 defining “direct cost,” the charge for paper copies of GIS mapping is \$1 per layer and \$1 per additional page; provided, however, payment of the charge is waived when the copy will be used for a noncommercial purpose, including the following:

- (a) Public agency program support.;
- (b) Nonprofit activities;
- (c) Journalism; and
- (d) Academic research.

(3) The charge for producing a Copy “C” property tax statement is \$1.
(Ord. 1-2000, passed 1-26-2000)

§ 33.135 MOBILE HOME PERMIT FEE.

The fee for each mobile home permit for moving or transferring a title is \$5.
(Ord. 2011-2(02-23), passed 2-23-2011)

§ 33.136 DRAINAGE BOARD MEETING COMPENSATION.

In addition to the compensation fixed under I.C. 36-2-5, a member of the County Executive is entitled to an amount not to exceed \$35 per day for each day in attendance at a meeting of a County Drainage Board.
(Prior Code, § 3.28.030)

§ 33.137 UNCERTAIN FEES.

A county officer who is uncertain of the proper fee to be charged for a service he or she renders shall bring the question, in writing, before the Circuit Court. The order of the court shall be entered of record in the same manner as other orders of the court and must authorize the officer to charge the fee

determined by the court. The officer shall enter in his or her list of fees a note showing the page of the court’s order book at which the order is entered. (I.C. 36-2-7-14) (Prior Code, § 3.28.040)

§ 33.138 FEE AND CASH BOOKS.

(A) (1) The Clerk of the Circuit Court, County Auditor, County Treasurer, County Recorder and County Sheriff shall keep, in proper fee books, an accurate account of all fees and charges required by this statute for services performed by them or their employees.

(2) Each of these officers shall also keep a cashbook, in which he or she shall enter:

- (a) Each sum of money received, in the order received;
- (b) The date of receipt;
- (c) The name of the person from whom the sum was received; and
- (d) The reason the sum was received.

(3) He or she shall keep his or her fee books and cashbooks open for inspection and deliver them to his or her successor in office as a part of the records of his or her office.
(I.C. 36-2-7-15) (Prior Code, § 3.28.050)

(B) (1) At each of its meetings, the County Executive and its attorney shall inspect the records of county officers who collect fees and compare them with the accounts submitted by those officers.

(2) A county officer who fails to deliver a fee book for inspection under this section shall forfeit \$100, to be collected by the County Prosecuting Attorney and paid into the Common School Fund of the county.
(I.C. 36-2-7-16) (Prior Code, § 3.28.060)

§ 33.139 FAILURE TO PAY OVER FEES.

An officer who fails to pay the amount due from him or her into the county treasury shall forfeit to the state a sum equal to the amount of fees actually collected during that quarter, to be collected by the County Prosecuting Attorney and paid into the Common School Fund of the county.
(I.C. 36-2-7-17) (Prior Code, § 3.28.070)

§ 33.140 FEES NOT REQUIRED.

This chapter does not require the County Sheriff to pay into the County General Fund any damages set forth in a warrant that is issued by the State Department of Revenue and on which collection is made by the Sheriff, including damages prescribed by I.C. 6-8.1-8; sums, other than court fees, retained by the Circuit Court Clerk for the Sheriff from the collections obtained by warrants of the State Employment Security Division; and sums allowed by I.C. 36-8 to sheriffs for the feeding of prisoners.
(I.C. 36-2-7-9) (Prior Code, § 3.20.010)

§ 33.999 PENALTY.

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

(B) An officer named in this chapter who knowingly taxes any fees or makes any charges for services he or she does not actually perform, charges for any services any rate or fee other than that allowed by statute, or fails to enter, tax, or charge at the proper time the proper fees for services commits a Class A misdemeanor and is liable personally upon his or her bond for any damage or loss sustained by the county.

(I.C. 36-2-7-18) (Prior Code, § 3.28.080)

(C) Any person or entity who violates the terms and conditions of § 33.086 by failing to pay, or violating division (G) of § 33.086, shall be guilty of a violation and may be fined up to \$2,500. In the event there is a violation of division (G), each violation shall be deemed a separate offense.
(Ord. 2003-6-6-18, passed 6-18-2003)

APPENDIX A: DIGITAL DATA FEES

Schedule

- I. GIS Hard Copy Maps
- II. Digital Map Data
- III. Services and Media
- IV. Digital Data Layers

SCHEDULE I. GIS HARD COPY MAPS.

(A) All GIS and electronic database materials, and any services which may be provided related thereto, are provided “as-is” without any warranty of any kind, and all warranties on merchantability and fitness for a particular purpose are hereby disclaimed. In no event shall the county be liable to the recipient or any other party for damages of any type, including but not limited to, incidental, consequential or exemplary damages arising out of the use or inability to use these materials. The law of the State of Indiana, where any litigation arising hereunder shall take place, shall govern this agreement. The agreement is the complete and exclusive statement of the agreement between the parties and may be modified only by a written agreement.

(B) The following fees apply to printing cartographic maps. The County GIS Office has a list of available layers for printing.

<i>Printer Type</i>	<i>Plot Size</i>	<i>Priced/Layer</i>
B/W laser printer	8-1/2" x 11"	\$0.50/map
B/W laser printer	11" x 17"	\$0.75/map
Color laser printer	8-1/2" x 11"	\$1
Color laser printer	11" x 17"	\$2
Plotter	>11" x 17"	\$3

(C) Any non-standard graphics, symbolization, or spatial analysis will be an additional cost based on an hourly rate. GIS maps are created to order in any sizes and scales that can be produced by county software. The county will apply actual cost to any item shipped.

<i>Staff Position</i>	<i>Hourly Rate</i>
GIS Administrator	\$20

GIS Database Administrator	\$20
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(Ord. 2003-6-6-18, passed 6-18-2003)

SCHEDULE II. DIGITAL MAP DATA.

(A) The county publishes its GIS data on CD-ROM in the following formats.

<i>Vector CD-ROM Data</i>	<i>Files (Size)</i>	<i>CDs</i>	<i>Price</i>
GIS Base Map- DXF/DWG format	250 MB	1	\$30
GIS Base Map- shape format	250 MD	1	\$30
GIS USGS topographic data	190 MB	1	\$3

(B) List of map data layers included on each CD are in Schedule IV.

(C) The following archived image data is available in CD-ROM sets. The digital Ortho photo CDs also includes coordinate files.

<i>Image CD-ROM Data</i>	<i>Files (Size)</i>	<i>CDs</i>	<i>Price</i>
1998 Digital Ortho photos-1-1/2; ft. pixels MrSid format	252 MB	1	\$500
1998 Digital Ortho photos-1-1/2; ft. pixels	5.65 GB	9	\$500
1993 Historical photo images-1-1/2; ft. Pixels	5.35 GB	9	\$300

(D) The following fees will apply to custom requests for county digital GIS data.

<i>Item</i>	<i>Fee</i>	<i>Format</i>
Custom digital layer creation	1 hr min.	Any format that can be reproduced by County Software
Custom rate cost	See Schedule III	
Media cost	See Schedule III	

(E) The following fees apply to county archived aerial photography images at a per image basis. Image data is in TIFF format. Digital Ortho Photo images come with coordinate files.

<i>Item</i>	<i>Cost</i>
1998 Digital Ortho-photo	\$9
Historical photo image	\$9
Media cost	\$1

(F) Custom hourly rates will apply on requests for electronic data or reports requiring custom queries or technical staff hours in addition to media costs. A \$5 per order processing fee will be accessed per order.

(Ord. 2003-6-6-18, passed 6-18-2003)

SCHEDULE III. SERVICES AND MEDIA.

(A) Rates are applied by the quarter-hour with a minimum of one hour.

<i>Staff Position</i>	<i>Hourly Rate</i>
GIS Administrator	\$20
GIS Database Administrator	\$20

(B) Media costs.

<i>Item</i>	<i>Cost</i>
3-1/2 floppy disc	\$0.60
CD-ROM	\$1

(C) (1) The county will quote prices for other electronic data records not detailed in schedule based on hourly custom rate and any direct costs associated with program development or passed on from third party consultants.

(2) The county reserves the right to refuse requests for electronic data products or services that may unreasonably interfere with ongoing operations of the county by requiring an inordinate diversion of county's manpower, materials or equipment use or would necessitate utilization of an outside contractor.

(Ord. 2003-6-6-18, passed 6-18-2003)

SCHEDULE IV. DIGITAL DATA LAYERS.

(A) *Data layers and formats.*

<i>Layer</i>	<i>Available Formats</i>	
	<i>Shape File Format</i>	<i>DXF or DWG Format</i>
County boundary	Yes	Yes
County sections	Yes	Yes
Dimension and lot text	No	Yes
Hydrology	Yes	Yes
Land use	Yes	Yes
Municipal boundaries	Yes	Yes
Parcel boundaries	Yes	Yes
Railroad centerlines	Yes	Yes
Regulated drains	Yes	Yes
Road centerlines	Yes	Yes
School districts (U.S. census data)	Yes	Yes
Soils	Yes	Yes
Townships	Yes	Yes
Voting districts	Yes	Yes
Zoning boundaries	Yes	Yes

(B) *Included information.* Database information included in the parcel layer has only the parcel tag, owner name, legal acreage, and legal description.
 (Ord. 2003-6-6-18, passed 6-18-2003)

APPENDIX B: COUNTY HEALTH DEPARTMENT FEES

Schedule

- I. Environmental
- II. Vital Statistics
- III. Nursing

SCHEDULE I. ENVIRONMENTAL FEES.

(A) Bed and breakfast and retail food establishment permit fees are as follows:

(1) Permanent establishments operating annually based on number of employees:

- (a) One to 19 employees shall pay \$75 per year;
- (b) Twenty to 49 employees shall pay \$100 per year; and
- (c) Fifty or more employees shall pay \$150 per year.

(2) New permanent establishments filing applications between June 1 and December 31 will be charged one-half of the aforementioned permit fee for establishments operating annually.

(3) Permanent establishments operating less than six months during and one calendar year shall pay one-half the scheduled fee for establishments operating annually.

(4) A 25% late fee will be assessed after February 1 to establishments operating annually who are applying late.

(5) A plan review fee equivalent to the permit fee will be assessed to each bed and breakfast and retail food establishment which has not previously obtained a permit.

(B) A temporary food establishment permit fee will be assessed as \$10 per day for each day of operation, not to exceed 14 days or \$140 per event.

(C) On-site septic system fees shall be as follows:

- (1) New construction permits are \$100 each;
- (2) Replacement and/or expansion permits are \$75 each;
- (3) Repair of a system component permits are \$25 each;

- (4) Connect to an existing system permits are \$25 each;
- (5) Commercial projects are \$200 each; and
- (6) Existing permit renewals are \$50 each renewal.

(D) Fees for tattoo parlor operations and tattoo artist shall be as follows:

- (1) Permanent tattoo parlor establishments operating annually shall pay \$100 per year; and
- (2) Each person obtaining an annual tattoo artist permit shall pay \$50 per year.

(E) Fees for public and semi-public pools and spas shall be as follows:

(1) Pools and spas which operate only during the months of May, June, July, August and September (seasonal) shall pay a permit fee of \$25;

(2) Pools and spas which operate in months other than May, June, July, August and September (annual) shall pay a permit fee of \$50; and

(3) Each additional pool or spa operated by the same owner at the same address shall pay an additional fee of \$25.

(F) Fees for water testing, including but not limited to, drinking water and pool water shall be as follows:

- (1) Bacterial, coliform-\$20/sample;
- (2) Bacterial, e. coli-\$25/sample;
- (3) Fluoride-\$25/sample;
- (4) Nitrate-\$25/sample;
- (5) Heterotrophic plate count-\$20/sample; and
- (6) Chlorine-\$20/sample.

(G) Annual permit fees for each transient residential building shall be as provided under the following schedule:

- (1) Zero to 50 rooms-\$100;
- (2) Fifty-one to 100 rooms-\$150;
- (3) One hundred and one to 200 rooms-\$200; and
- (4) Over 200 rooms-\$300.

(Ord. 2009-02-02-25, passed 2-25-2009)

SCHEDULE II. VITAL STATISTICS.

Vital statistics fees shall be as follows:

<i>Document</i>	<i>Fee</i>
Birth certificate for active and veteran of all U. S. Armed Forces	Free
Standard sized birth certificate	\$7
Laminated wallet sized birth certificate	\$10
Death certificate for active and veteran of all U. S. Armed Forces	Free
All other death certificate	\$10
Genealogy certificate	\$2
Affidavit pursuant to court order	\$10

(Ord. 2009-02-02-25, passed 2-25-2009)

SCHEDULE III. NURSING FEES.

Public health nursing fees shall be as follows:

<i>Service</i>	<i>Fee</i>
Adult immunizations	Price equal to cost of vaccine, plus nominal administrative fee not to exceed \$15
Childhood immunizations	\$1 per shot, maximum \$2 per child, maximum \$3 per family
Mantoux TB/Tine tests	\$5
Treatment for lice	\$5

(Ord. 2009-02-02-25, passed 2-25-2009)

CHAPTER 34: PURCHASING PROCEDURES

Section

- 34.01 Designation of purchasing agents
- 34.02 Purchasing rules

PURCHASING AGENCY. County Board of Commissioners.

PURCHASING AGENT.

§ 34.01 DESIGNATION OF PURCHASING AGENTS.

(A) The Board of Commissioners determines that it is the purchasing agency for the county.

(B) The Board of Commissioners hereby designates the following persons to serve as purchasing agents for the county:

- (1) Each elected county official;
- (2) Each circuit, superior and county court judge;
- (3) County Highway Superintendent;
- (4) County Memorial Park Superintendent; and

(5) County employees as are designated in writing from time to time.
(Ord. 10(7-98), passed 7-6-1998)

§ 34.02 PURCHASING RULES.

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

PURCHASE. Buy, procure, rent, lease or otherwise acquire, and all functions that pertain to purchasing and to contract administration.

(1) Individual authorized by the Board to purchase supplies with an estimated value of \$500 or less on the open market, if there is a line item in the department's budget for the supplies.

(2) The Board has authorized the following **PURCHASING AGENTS**:

- (a) Each elected county official;
 - (b) Each circuit, superior and county court judge sitting in the county;
 - (c) County Highway Superintendent;
 - (d) County Highway Engineer;
 - (e) Memorial Park Superintendent;
- and
- (f) Other county officials or employees as may be authorized in the official minutes of the Board.

(B) (1) All notices of invitation for bids shall be published in accordance with I.C. 5-3-1 in any two of the following newspapers:

- (a) *Courier-Times*;
- (b) *Middletown News*; and/or
- (c) *Knightstown Banner*.

(2) The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of bids. The notice will be published two times, at least one week apart. The second publication must occur at least seven days prior to the date the bids will be opened.

(C) (1) All notices of request for proposals shall be published in accordance with I.C. 5-3-1 in any two of the following newspapers:

- (a) *Courier-Times*;
- (b) *Middletown News*; and/or
- (c) *Knightstown Banner*.

(2) The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least ten days prior to the date the proposals will be opened.

(D) (1) All notices of request for specifications shall be published in accordance with I.C. 5-3-1 in any two of the following newspapers:

- (a) *Courier-Times*;
- (b) *Middletown News*; and/or
- (c) *Knightstown Banner*.

(2) The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least ten days prior to the date the proposals will be opened.

(E) Whenever a notice or other material, including specifications, an invitation for bids, request for proposals or request for specifications, is sent by mail, the purchasing agent may also send the notice or other material by electronic means, provided that the transmission of the information is at least as efficient as mailing the information.

(F) (1) (a) Bids received in response to an invitation for bids must be opened publicly in the presence of at least one or more witnesses at the time and place designated in the invitation for bids.

(b) Proposals received in response to a request for proposals must be opened so as to avoid disclosure of the contents to competing offerors during the process of negotiation.

(c) Proposals received in response to a request for specifications may be opened as specified in the request for specifications.

(2) The purchasing agency may receive electronic offers in response to an invitation to bid, request for proposals or request for specifications. The purchasing agency may receive an electronic offer only if:

(a) The solicitation includes the procedure for the electronic transmission of the offer; and

(b) The purchasing agency receives the offer on a fax machine or other system with a security feature that protects the contents of an electronic offer with the same degree of protection as provided to an offer not transmitted electronically.

(3) (a) An offeror may correct inadvertent errors in a bid up to the time at which bids will be opened by supplementing the erroneous bid and submitting a revised bid. A bidder may not supplement an inadvertently erroneous bid after the time at which the bids were opened.

(b) A bidder may withdraw a bid containing inadvertent errors up to the time at which bids will be opened and for a period of not more than 24 hours after the time at which the bids were opened.

(4) When the purchasing agent makes a written determination that it is in the county's best interests, the purchasing agent may cancel a solicitation or reject all offers.

(G) (1) The purchasing agency may purchase supplies with an estimated cost of less than \$25,000 on the open market without inviting or receiving quotes.

(2) A purchasing agent may purchase supplies with an estimated value of \$500 or less on the open market, if there is a line item in the department's budget for the supplies.

(H) When a purchasing agent believes that trading or exchanging county owned property as a part of a purchase and in reduction of the purchase price may be a benefit to the county, then:

(1) Specifications for bidders shall describe the property to be traded, and may request that bids or alternate bids reflect a reduction of the purchase price by the value of the trade-in;

(2) The invitation to quote shall describe the property to be traded, and may request that quotes or alternate quotes reflect a reduction of the purchase price by the value of the trade-in; or

(3) When property is purchased on the open market under these rules or any law, the purchasing agency or agent may condition the purchase upon the seller's acceptance of a trade-in, if the purchasing agency or agent believes the condition would secure the best value for the county.

(Ord. 2004-10-9-15, passed 9-15-2004)

CHAPTER 35: CIVIL EMERGENCIES AND EMERGENCY MANAGEMENT

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§ 35.001 PURPOSE.

The purpose of this chapter is to establish a Department of Emergency Management and to provide for the exercise of necessary powers during emergencies.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.002 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.

DEPARTMENT. The Department of Emergency Management, as established under this chapter pursuant to I.C. 10-14-3-17.

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 human-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. The preparation for and the execution of all emergency functions, to include mitigation, preparedness, response and recovery.

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.

HUMAN-MADE DISASTER. Any incidents including, but not limited to, riots, strikes, insurrections, terrorist acts, civil disturbances, threats to national security or other human-made cause.

NATURAL DISASTER. Any incidents 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.

(2) Any department or agency of the state, another county, a municipal corporation, or a volunteer organization designated to participate in the county's emergency management programs and activities pursuant to a cooperative or mutual aid agreement entered into pursuant to I.C. 10-14-3-17.

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(h).

PRINCIPAL EXECUTIVE OFFICER.

(1) 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, as referred to in I.C. 10-14-3-29(a) for purposes of declaring a local disaster emergency, and as referred to hereinafter. 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.

(2) 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.

(3) 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. 10-14-3-29 until the time 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.

(4) The Principal Executive Officer of the county 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. 10-14-3-29 until the time 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.

TECHNOLOGICAL DISASTER. Any incidents including, but not limited to, severe fire, explosions, hazardous material spills, radiological problems or other technological cause.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.003 GENERAL 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 and augment, and not to limit, any other powers or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, departments and agencies.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.004 LIMITATIONS.

(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. 10-14.

(B) Nothing in this chapter is intended to supersede or delimit the powers of any incorporated municipality under I.C. 10-14-3-17 to adopt and implement emergency plans, and promulgate and enforce special emergency regulations and procedures in the advent of an actual emergency affecting the municipality. However, pursuant to I.C. 10-14-3-22, 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. 3(8-00), passed 8-7-2000)

ORGANIZATION AND ADMINISTRATION

§ 35.015 ADVISORY COUNCIL.

(A) (1) In accordance with I.C. 10-14-3-17(c), there is established the County Emergency Management Advisory Council, which shall consist of the following persons or their designees:

(a) The President of the County Executive;

(b) The President of the county fiscal body;

(c) The mayor of each city located in the county;

(d) An individual representing the legislative bodies of all towns located within the county;

(e) Representatives of the 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

(f) One commander of a civil air patrol unit in the state, or the commander's designee (if locally available).

(2) All representatives and designees shall provide written documentation of their appointments from the appointing entity.

(3) All new members pursuant to division (A)(1)(e) above are subject to the approval of the Advisory Council.

(4) Advisory Council members shall take the oath of office and be sworn by the County Clerk or by another officer authorized by law to take oaths.

(5) A member's term shall expire when the appointing authority, above, appoints a replacement.

(B) The Advisory Council shall have a Chairperson, a Vice-Chairperson, and a Recording Secretary. These officers shall be elected by the Advisory Council for one-year terms.

(C) (1) The Advisory Council shall exercise general supervision and control over the emergency management and disaster program of the county, and shall select, with the approval of the County Executive, a county Emergency Management Director, who shall have direct responsibility for the organization, administration and operation of the emergency management program in the county and

shall be responsible to the Chairperson of the Advisory Council. The Emergency Management Director shall not hold any other local or state government office.

(2) The Advisory Council shall have the power to terminate, with the approval of the County Executive, a county Emergency Management Director under the circumstances delineated in § 35.017 below.

(3) The Advisory Council shall meet at least once biannually, the frequency, time and place being determined by the Council. Meetings shall be held by the Advisory Council on or before May 31 and November 30 of each year.

(4) Any and all meetings of the Advisory Council shall be open meetings and shall be posted in accordance with I.C. 5-14-1.5. (Ord. 3(8-00), passed 8-7-2000)

§ 35.016 DEPARTMENT ORGANIZATION.

(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 with § 35.017;

(2) An Assistant 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 with § 35.017(C) 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 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) 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 plan.

(B) Notwithstanding any other provision of this chapter, no compensated position may be established within the Department of Emergency Management nor any person appointed to a compensated 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 numbers 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. 3(8-00), passed 8-7-2000)

§ 35.017 DIRECTOR OF EMERGENCY MANAGEMENT.

(A) (1) The Director of Emergency Management shall be appointed by the County Emergency Management Advisory Council with the approval of the County Executive. The Director may

hold no other local, state or federal office.

(2) (a) The Director's appointment may be terminated if the Advisory Council, pursuant to § 35.015(C)(2), determines the Director to be:

1. Incapable of fulfilling his or her duties due to physical or mental disability;

2. Unwilling to perform his or her duties.

(b) The Advisory Council may terminate the Director's appointment for any reason not prohibited by law.

(3) The Advisory Council shall consult with the Executive Director of the State Department of Homeland Security to obtain his or her opinion on the abilities and competence of the Director prior to the Advisory Council's termination of the Director. The State Department of Homeland Security Executive Director's opinion hereunder shall be advisory only.

(4) Additional qualifications for Director may be determined by the Advisory Council, with approval from the County Commissioners pursuant to I.C. 10-14-3-17(d).

(B) Payment of the Director's salary, as established by the county fiscal body, is dependent upon the Director fulfilling the requirements set forth within this chapter and in the position description, including, but not limited to, all the mandated requirements required for the county to receive the 50% reimbursement of the Director's salary from the State; provided that if a Director fails to complete the requirements necessary for the county to receive the 50% reimbursement from the State, any payment due to that Director shall be reduced by that amount throughout the following year.

(C) The Director, subject to the direction and control of the Advisory Council, shall be Executive head of the Department and shall have responsibility for the organization, administration and operation of the emergency management organization, including the following specific powers and duties:

(1) Submitting to the Advisory Council and the County Commissioners a biannual report, by April 30 and October 30, stating the steps completed within the previous six months and the requirements that must be accomplished in the following months to satisfy the years requirements as set forth by the State Department of Homeland Security;

(2) Submitting to the Advisory Council and the County Commissioners a yearly report on the county's comprehensive emergency management, including mitigation, preparedness, response and recovery taken in the previous year and planned and recommended for the year to come;

(3) Keeping the County Commissioners fully informed on emergency management activities;

(4) Writing and implementing the plan, which shall conform to the guidelines contained in the most current state and federal guidance documents if the county wishes to receive state and/or federal matching funds;

(5) Assuring that all county employees and rostered volunteers with responsibilities as part of the plan receive training in the functions which they are to perform under the plan;

(6) Designing and conducting exercises of the plan, as required by the State Department of Homeland Security;

(7) Assuring that the plan addresses all hazards and includes all cities, towns and other population centers within the county;

(8) Updating the plan as needed to keep it current, as required by I.C. 10-14-3-17;

(9) Identifying and analyzing the effects of hazards that threaten the jurisdiction;

(10) Working closely with officers and employees of incorporated and unincorporated areas of the county to develop a hazard mitigation program to eliminate or reduce potential hazards;

(11) Inventorying manpower and material resources from governmental and private sector sources that would be available in a disaster or emergency;

(12) Identifying resource deficiencies and working with appropriate officials on measures to correct them;

(13) Developing an emergency operating center (EOC) as a site from which key officials can direct and control operations during a disaster or emergency;

(14) Developing and maintaining emergency communications systems;

(15) Establishing a system to alert key officials in event of a disaster or emergency;

(16) Developing continuity of government procedures and systems;

(17) Establishing and maintaining a shelter and reception and care system;

(18) Developing a training program for emergency response personnel;

(19) Developing a tests and exercise program;

(20) Coordinating with industry to develop and maintain industrial emergency plans and capabilities in support of the plan;

(21) As soon as an emergency or disaster declaration has been made, making rapid and accurate assessment of:

(a) Property damage;

(b) Personal injuries;

(c) Fatalities;

(d) Basic needs; and

(e) Special needs.

(22) Submitting to the State Department of Homeland Security the assessment specified in division (C)(23) below in the State Department of Homeland Security's required format and time frame for submission;

(23) Providing to the State Department of Homeland Security Director annual reports and documentation as mandated by the State Department of Homeland Security;

(24) Competently managing the Department's various functions, including, among others, financial, personnel and logistic;

(25) Timely responsiveness to the Chairperson of the Advisory Council, as mandated by I.C. 10-14-3-17(d);

(26) Timely obedience to the directives of superior state authorities;

(27) Assuring that the activities of the Department at all times comport with I.C. 10-14-3 and other applicable statutes and county ordinances;

(28) Attendance at, and passing grades in, the Emergency Management Professional Development Series for emergency management presented by the Public Safety Training Institute within one year of first assuming the position of Director;

(29) Attendance at, and passing grades in, the emergency management training as may be required by the State Department of Homeland Security in subsequent years;

(30) Assuring the Assistant Director's attendance at, and passing grades in, the Emergency Management Professional Development Series for emergency management presented by the Public Safety Training Institute within one year of first assuming the position of Assistant Director;

(31) Assuring the Assistant Director's and all paid emergency management staff's attendance at, and passing grades in, the emergency management training as may be required by the State Department of Homeland Security in subsequent years;

(32) Assuring ongoing attendance by the Director, the Assistant Director and all paid emergency management staff at further emergency management courses presented by the Public Safety Training Institute to assure continued knowledge of the latest information on emergency management;

(33) Responsibility for public relations, information and education regarding all phases of emergency management;

(34) Assuring coordination within the county of all activities for emergency management;

(35) Maintaining liaison and coordination with all other affected agencies, public and private;

(36) Coordination of the recruitment and training for volunteer personnel and agencies to augment the personnel and facilities of the county for emergency management purposes;

(37) Seeking, negotiating and entering into, with the approval or ratification of the Commissioners and to the extent consistent with the State Emergency Operations Plan and program, mutual aid arrangements with other public and private agencies for emergency management purposes, and taking all steps in accordance with the arrangements to comply with or take advantage thereof in the event of an actual emergency affecting the parties;

(38) Accepting any offer of the Federal Government to provide for the use of the county any services, equipment, supplies, materials or funds for emergency management purposes by way of gift, grant or loan, when the offer has been approved by the Governor;

(39) Seeking and accepting from any person, firm or corporation, any gratuitous offers to provide services, equipment, supplies, materials, funds, or licenses or privileges to use real estate or

other premises, to the county for emergency management purposes;

(40) Issuing proper insignia and papers to emergency management workers and other people directly concerned with emergency management;

(41) Assuring that all volunteers meet the criteria set forth in § 35.020 prior to accepting them as volunteers of the Department; and

(42) In addition to the powers and duties expressly provided above, the Director shall be construed to have all powers and duties of a local emergency management director as provided under I.C. 10-14-3. In particular, but not by limitation, the Director, through the Department, may perform or cause to be performed with respect to the county, any function parallel or analogous to those performed on a statewide basis by the State Department of Homeland Security under I.C. 10-14-3. (Ord. 3(8-00), passed 8-7-2000)

§ 35.018 ASSISTANT DIRECTOR.

(A) If an Assistant Director has been appointed pursuant to § 35.016, he or she shall, during normal times, assist the Director in the performance of his or her duties.

(B) During an emergency, the Assistant Director shall assist the Director and shall fulfill the duties of the Director in the absence or incapacity of the Director to serve. (Ord. 3(8-00), passed 8-7-2000)

§ 35.019 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. 10-14-3-29,

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) Adoption of the plan;

(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) Emergency management tests may be conducted at any time with or without prior notification to persons other than the Director. All emergency tests conducted within the boundaries of the county shall be coordinated with the Department. (Ord. 3(8-00), passed 8-7-2000)

§ 35.020 VOLUNTEERS.

The Director shall assure that all volunteer personnel meet the following qualifications before being placed on the roster as a member of the Department:

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

(B) Not be convicted of a felony; and

(C) Have completed and have on file with the Department an application form.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.021 BUDGETING AND FINANCE.

(A) The Advisory Council shall advise the Director in the preparation of the budget.

(B) The County Council shall appropriate the funds as it may deem necessary for the purpose of emergency management.

(C) All funds appropriated or otherwise available to the Department of Emergency Management shall be administered by the Director pursuant to applicable law.
(Ord. 3(8-00), passed 8-7-2000)

EMERGENCY OPERATIONS PLAN

§ 35.035 ADOPTION INTENT.

A county emergency operations plan shall be adopted by resolution of the County Commissioners. In the preparation of this plan, as it pertains to county organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent possible.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.036 MINIMUM CONTENT.

(A) 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 III 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.

(B) In addition, all emergency services within the county shall:

- (1) Assure that all plans are drafted subject to the requirements of the plan if they develop internal plans;
- (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. 3(8-00), passed 8-7-2000)

§ 35.037 JURISDICTION.

(A) Except as provided by § 35.004, 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 to § 35.035, and the exercise of any powers of the Principal Executive Officer of the county and the County Commissioners under §§ 35.050 through 35.057, shall be:

(1) Comprehensive and inclusive countywide; and

(2) Effective in both the incorporated 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. 3(8-00), passed 8-7-2000)

EMERGENCY POWERS, REGULATIONS AND PROCEDURES

§ 35.050 APPLICATION OF SUBCHAPTER.

This section shall apply whenever:

(A) A state of emergency affecting all or part of the county has been declared by the Governor pursuant to I.C. 10-14-3-12;

(B) 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. 10-14-3-29 and § 35.052(A);

(C) A presumptive state of emergency is deemed to exist affecting all or part of the county causing the Director to invoke and implement emergency plans and procedures in accordance with § 35.052(E); or

(D) 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.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.051 DEPARTMENT RESPONSIBILITIES PRIOR TO DISASTER DECLARATION.

The Department of Emergency Management shall have the following responsibilities prior to declaration of a disaster:

(A) The warning function as prescribed in the portion of the plan;

(B) Assuring proper functioning of emergency communications throughout the county, including all cities and towns, as prescribed in the communications

portion of the plan; and

(C) Assuring that mitigation, training and exercising have been performed.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.052 SPECIAL EMERGENCY POWERS AND DUTIES.

(A) (1) In the event of actual or threatened enemy attack or disaster affecting the county, the Principal Executive Officer of the county may declare a local disaster emergency, pursuant to I.C. 10-14-3-29, 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) County Clerk;

(b) County Auditor; and

(c) 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 to § 35.035 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. 10-14-3-12, has already proclaimed a statewide or area wide state of emergency, including the county.

(B) (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, 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 in division (B)(1) above, the meeting shall be convened in accordance with I.C. 36-2-2-8.

(3) Any meeting of the Commissioners shall:

(a) Be deemed an emergency meeting;

(b) Be subject only to the 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) 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.

(C) (1) In the event that a quorum of the

Board of Commissioners cannot be assembled for purposes of the meeting required under division (B) above, 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.

(D) (1) At the meeting convened under division (B) above, the Commissioners may exercise any of their normal Executive and legislative powers to the extent related to the emergency and necessary to deal therewith.

(2) In addition to the powers enumerated in division (D)(1) above, 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 to division (A) above, to last more than seven days if necessary.

(b) The Commissioners may terminate the state of emergency, except for a state of emergency declared by the Governor.

(c) The Commissioners may assemble and utilize emergency management forces, including:

1. Personnel of the Department of Emergency Management;

2. Participating emergency services; and

3. Any other forces at the disposal of the Commissioners hereunder for emergency management purposes.

(d) The Commissioners may order volunteer forces which have been activated pursuant to the plan to the aid of the county, state or political subdivisions thereof as soon as practicable. These volunteer forces shall be under the direction of the Department of Emergency Management.

(e) In order to control the local disaster emergency and provide for public health, safety and welfare, the Commissioners may, to the extent permitted by I.C. 10-14-3-17 and subject to its provisions, command services and/or requisition the use of:

1. Equipment;

2. Facilities;

3. Supplies; or

4. Other property.

(f) The Commissioners may order the evacuation of all or part of the population from stricken areas of the county, and prescribe:

1. Routes;

2. Modes of transportation; and

3. Evacuation destinations.

(g) The Commissioners may make provision for availability and use of temporary emergency housing, which housing need not necessarily comply with any minimum housing standards, building or zoning regulations and the like, which would govern the use and location of premises for housing purposes during normal times.

(h) The Commissioners may suspend, for the duration of the state of emergency, or for a lesser period as they determine, any provisions of or procedures prescribed by ordinances of the county if they:

1. Would be impractical during the emergency;

2. Would interfere with the

implementation and carrying out of emergency plans;
or

3. Would be inimical to actions necessary to protect the public safety and welfare.

(i) Except in accordance with division (D)(2)(m) below, the Commissioners shall not suspend any provisions of ordinances or procedures which are mandated by statute.

(j) In the event of enemy attack, or when the state of emergency has been proclaimed by the Governor, the Commissioners, in accordance with I.C. 10-14-3-17(j)(5), may waive any procedures or requirements of statute, or of county ordinances reflecting statutory requirements and mandates, and pertaining to:

1. Appropriation and expenditure of public funds;

2. Incurring of obligations;

3. Performance of public works;

4. Entering into contracts;

5. Employment of workers whose employment may be either:

a. Permanent; or

b. Temporary.

6. Utilization of volunteer workers;

7. Rental of equipment; and

8. Purchase and distribution of:

a. Supplies;

b. Materials; and

c. facilities.

(k) The Commissioners may assign any special emergency duties and functions to county

offices, departments and agencies.

(l) Any unexpended and unencumbered monies budgeted and appropriated but not 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 the special emergency duties and functions.

(m) 1. 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.

2. 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. 10-14-3-22(b)(2); or

b. If filing is impossible, through conspicuous posting at two public locations within the county.

3. The regulation shall have the full force of law and shall be enforceable by any police officer in accordance with I.C. 10-14-3-24.

(n) The Commissioners may, in accordance with the plan, request the state or the United States or their agencies and political subdivisions to send aid, including financial assistance, if the situation is beyond the control of the regular and emergency county forces and resources.

(3) All actions and regulations under this section shall be:

(a) Adopted by ordinance or resolution; and

(b) Consistent with, and subordinate to, any actions, orders, or regulations made by the Governor or a state agency implementing the state Emergency Operations Plan.

(E) (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 under division (D) in the event of any emergency.

(2) In the event that an emergency clearly exists or is imminent within the county, and a state of emergency has not been declared by the Governor nor is any person having the powers of the Principal Executive Officer of the county, as defined in § 35.002, present to declare an emergency pursuant to division (A) above, the Director may temporarily presume the existence of a state of emergency.

(3) When the Director temporarily presumes the existence of a state of emergency, the Director shall:

(a) Put into effect those portions of the plan as necessary:

1. To cope with the emergency;
- and
2. Protect the public safety and welfare.

(b) Be construed to have all powers necessary and dispensable to doing so to the extent not specifically limited by statute or specifically limited herein, until the time as a Chief Executive Officer becomes available; and

(c) Have his or her functions performed by the Assistant Director to the extent that the Assistant Director is required to assume the duties of the Director, as provided by § 35.018 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 in order to assist local emergency services in time of need.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.053 GENERAL DUTIES.

During a declared emergency, all officers and employees of incorporated and unincorporated areas of the county shall cooperate with, give active support to and comply with all orders issued pursuant to this chapter by the County Commissioners and the county Emergency Management Director.
(Ord. 3(8-00), passed 8-7-2000)

§ 35.054 EMERGENCY ORDERS, RULES AND REGULATIONS.

(A) 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 ordinances, orders, rules and regulations.

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

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

(2) Fail to observe, abide by and comply with any emergency management duties, orders, regulations and procedures as made applicable to the person by the appropriate authorities; or

(3) Falsely wear or carry identification as a member of the county Department of Emergency Management or to otherwise falsely identify or purport to be a county emergency management authority.
(Ord. 3(8-00), passed 8-7-2000) Penalty, see § 35.999

§ 35.055 TRAVEL ON COUNTY ROADS DURING DECLARED EMERGENCY.

(A) Any order or proclamation of a local disaster emergency, other than orders or proclamations closing county roads, shall provide that:

(1) The risk of travel on county roads is upon the person traveling upon the road or roads;

(2) The driver or person in charge of a vehicle, whether or not stalled, that impedes, obstructs, prohibits, impairs 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;

(3) 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 200 feet in either direction; (I.C. 9-21-16-2)

(4) The driver of each vehicle shall drive at a reduced speed appropriate to the weather and highway conditions; and (I.C. 9-21-5-4)

(5) It is unlawful for a person to knowingly fail to comply with a lawful order or direction of a law enforcement officer invested by law with authority to direct, control or regulate traffic. (I.C. 9-21-8-1)

(B) Any order or proclamation of a local disaster emergency closing county roads shall provide that:

(1) No travel is permitted on county roads until the order closing the roads has been terminated by the Board of Commissioners, provided that the order does not prohibit travel on county roads by individuals engaged in employment necessary to:

(a) Maintain a safe rail system;

(b) Restore utility service; or

(c) Provide any other emergency public service.

(2) The driver or person in charge of a vehicle, whether or not stalled, that impedes, obstructs, prohibits, impairs 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;

(3) 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 200 feet in either direction; and

(4) It is unlawful for a person to knowingly fail to comply with a lawful order or direction of a law enforcement officer invested by law with authority to direct, control or regulate traffic. (I.C. 9-21-8-1)

(C) Upon issuance of an order declaring a local disaster emergency, the President of the Board of Commissioners shall cause the local media to be promptly notified.

(D) As soon as is possible, the President of the Board of Commissioners shall cause the local disaster emergency order to be filed with the County Clerk.

(E) (1) The driver or person in charge of a vehicle who violates divisions (A)(2), (A)(3), (B)(2) or (B)(3) of this section may be directed to move the vehicle off the traveled part of the road. (I.C. 9-21-16-3)

(2) A vehicle stopped, parked or left in violation of division (A)(2), (A)(3), (B)(2) or (B)(3) of this section may be towed to the nearest place of safety at owner's expense. (I.C. 9-21-16-3)

(F) Where in this section, reference is made to Indiana Code, the references shall be construed to include any amendments to or transfers of the referenced code sections, as well as any replacement or successor laws. (Ord. 17(11-98), passed 11-23-1998)

§ 35.056 LIMITATION OF LIABILITY.

During an emergency management test or declared emergency, the county, its assigned personnel, participating emergency services and rostered volunteers shall be immune from liability, to the extent provided by I.C. 10-14-3 and any other applicable law.

(Ord. 3(8-00), passed 8-7-2000)

§ 35.057 REIMBURSEMENT FOR COMMANDEERED PROPERTY.

Owners of property commandeered for use in any emergency by any county official shall be reimbursed for the use by the county as the County Council shall approve with regard to manner and amount of compensation.

(Ord. 3(8-00), passed 8-7-2000)

§ 35.058 ENHANCED EMERGENCY TELEPHONE SYSTEM.

(A) 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. Telephone system which utilizes the three digit number "911" to send automatic number identification and automatic location identification for reporting police, fire, medical or other emergency situations.

SERVICE SUPPLIER. Person, business or corporation who provides exchange telephone service to a service user.

SERVICE USER. Person, business or corporation to whom exchange telephone service is provided.

(B) The Board hereby adopts and approves the Enhanced Emergency Telephone System (E911) in the county. Further, the Board now requests that each service supplier within the county, which service supplier does not presently have facilities for the E911 system, adopt and provide for the E911 system for all service users serviced by that service supplier.

(C) A monthly service fee per telephone access line shall be collected by the service supplier to pay for the lease, purchase and/or maintenance of the enhanced emergency telephone equipment, including necessary computer hardware, software and database provisioning, the rates associated with the service supplier's enhanced emergency telephone network services and the personnel expenses of the emergency telephone system. The fee is established at the rate of \$0.85 per telephone access line and will be assessed against all access lines of telephone subscribers in the service area covered by the E911 system; provided that the fee imposed hereunder shall not exceed 10% of the average monthly telephone access line charge in the county.

(D) 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 fees. The remaining amount of the fee collected during the calendar quarter shall be remitted to the County Auditor within ten days after the last day of the quarter. At the same time that the collected fees are remitted, the service supplier shall provide a fee collection report to the County Auditor on a form provided and approved by the County Auditor.

(E) The County Auditor shall deposit the remitted fees in a separate fund known as the E911 Fund. The County Auditor may invest money in the Fund in the same manner as other monies are invested, with the interest earned from the investment to be deposited to the E911 Fund.

(F) By January 31 of each year, each service supplier that is required to collect the fee for the county shall provide a delinquent fee report to the County Auditor. The report shall list the name, address and amount due for each service user who is two or more months delinquent in paying the E911 fee. The county, by its authorized official(s), may initiate an action in any court of competent jurisdiction to enforce the collection of the fees for which any service user is liable.

(Ord. 2(7-91), passed 7-15-1991)

HAZARDOUS MATERIALS RESPONSE

§ 35.070 REIMBURSEMENT OF COSTS AND EXPENSES.

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

AGENCY. The County Emergency Management Agency.

BOARD. The Board of Commissioners of the county.

DANGEROUS, HAZARDOUS, OR TOXIC SUBSTANCES.

(1) Those which are:

(a) Listed in the latest edition of the U.S. Department of Transportation “Emergency Response Guidebook”; and

(b) As identified by “National Assistance” providers listed in the guidebook and accessible by phone numbers provided therein.

(2) The reference materials in subsections (a) and (b) are hereby incorporated by reference as if fully set out herein, and two copies of each such reference are on file in the office of the County Auditor for public inspection.

PERSON. An individual, partnership, co-operative, firm, company, corporation, association, trust, estate, government entity, or any other legal entity or their legal representatives, agents, or assigns.

RESPONSE. Any and all instances when one or more members of the County Emergency Management Agency are called out to the scene of an incident involving the presence or suspected presence of dangerous, hazardous, or toxic substances.

RESPONSIBLE PARTY. The person liable for reimbursement for costs and expenses associated with operation of the County Emergency Management Agency Division of Hazardous

Materials Response, as set out in division (B).

(B) *Billing for response expense.*

(1) Any person that uses, stores, handles, transports, or disposes of any dangerous, hazardous, or toxic substances or materials in a fashion or manner to which the Agency responds shall be liable to the county for reimbursement of the costs and expenses made necessary by such response of the Agency.

(2) The responsible party shall be billed by the Agency personnel responding and for each mutual aid personnel responding pursuant to the call of the Agency.

(3) The responsible party for payment shall make payment to the County Auditor no later than 30 days following receipt of the billing. Failure of the responsible party to make timely payment shall be deemed a violation of this section and shall be subject to a penalty equivalent to 5% of the total billed amount for every day that the responsible party fails to make such payment.

(4) The responsible party may object to the payment by filing with the Board a written objection to the billed amount. Upon receipt of such written objection, the Board shall consider the matter at its next regularly scheduled meeting and shall allow the responsible party an opportunity to object to the billing. The Board shall deliberate and issue a written opinion concerning the appropriateness of the billed amount. The Board shall cause the written decision to be mailed to the responsible party, by certified mail, return receipt requested, on the day the decision is issued. The responsible party may appeal the decision of the Board, by requesting judicial review in the Circuit Court no later than 30 days from the date of the Board’s decision pursuant to the provisions I.C. 36-2-2-27, as it may be amended replaced or recodified.

(C) *Cost of response; payment.*

(1) When the Agency is called to the scene of a release of or an accident involving dangerous, hazardous, or toxic substances, the responsible party shall reimburse the county at replacement cost for any

Agency equipment or supplies which are damaged, lost, spent, destroyed, rendered irreparable, or used up in responding to or managing the release or accident; provided that any reimbursement under this subsection shall be limited to equipment and supplies which are listed on the equipment and Supply Inventory List of the Agency which shall be kept on file at the offices of the Agency and made available for public inspection by appointment during normal business hours of the Agency.

(2) In addition to the reimbursement obligations contained in division (C)(1), the responsible party shall be billed by the Agency the rate of \$70 per hour for each employee and member of responding Agency, well as for each mutual aid member and employee that responds pursuant to a mutual aid agreement with the Agency.

(D) *Outside county boundaries.* When the Agency responds to a release or accident outside of the boundaries of the county, the responsible party shall be billed the sum of \$2,000 per response, in addition to any and all charges for which the responsible party may be held liable under division (C), and shall be billed and pay for same as provided in division (B).
(Ord. 6(11-00), passed 11-20-2000; Ord. 15(11-02), passed 11-13-2002)

MULTI-HAZARD MITIGATION PLAN

§ 35.100 ADOPTED BY REFERENCE.

The Multi-Hazard Mitigation Plan, copies of which are on file in the office of the county, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein. (Res. 2010-11-10-10, passed 11-10-2010)

§ 35.999 PENALTY.

(A) Any person who commits an offense as described in § 35.054 shall be liable to a fine of \$2,500, the fine to be subject, however, to the discretion of the court of jurisdiction.

(B) 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 in § 35.054.

(C) Violation of the provisions of § 35.055(A)(2),(3),(4) or (5) and/or (B)(2),(3),(4) or (5) 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; I.C. 9-21-8-49) (Ord. 17(11-98), passed 11-23-1998; Ord. 3(8-00), passed 8-7-2000)

CHAPTER 36: PERSONNEL POLICIES

Section

- 36.01 Personnel policy for non-elected employees adopted by reference
- 36.02 Deferred compensation plan
- 36.03 Drug-free workplace policy

§ 36.01 PERSONNEL POLICY FOR NON-ELECTED EMPLOYEES ADOPTED BY

REFERENCE.

(A) The revised personnel policy for non-elected employees, copies of which are on file in the office of the county, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(B) The Substance Abuse Policy for Employees with Commercial Drivers Licenses, copies of which are on file in the office of the county, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Ord. 4(4-02), passed - -2002; Ord. 2010-09-10-13, passed - -2010)

§ 36.02 DEFERRED COMPENSATION PLAN.

(A) The County Commissioners establish a deferred compensation plan for the County Sheriff's Department to allow for the voluntary participation of employees of the Sheriff's Department.

(B) The Sheriff's Department will utilize the deferred compensation plan established by county Sheriff Departments in the state known as the State Sheriffs 457(b) Plan and participate in the group trust arrangement established by that deferred compensation plan, and the Sheriff is authorized to sign the adoption agreement to participate in the deferred compensation plan.

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

(Ord. 2008-7-9-10, passed 9-10-2008)

§ 36.03 DRUG-FREE WORKPLACE POLICY.

(A) The unlawful manufacture, dispensing, use, distribution, and/or being under the influence of a controlled substance or alcoholic beverage by employees of the county in the workplace is prohibited. Proper use of a drug authorized by prescription from a physician licensed to practice medicine is not a violation of this policy. Violation of this policy will be grounds for disciplinary sanctions which may include, but shall not be limited to, immediate suspension without pay, termination of employment, and/or referral for prosecution. The dangers of unlawful use of drugs and/or the use of alcohol in the workplace include:

- (1) Injury to the user;
- (2) Injury to co-workers;
- (3) Injury to members of the public;
- (4) Damage to county property;
- (5) Damage to property of county employees;
- (6) Damage to property of members of the public;
- (7) Loss of efficiency;
- (8) Loss of work time, including absenteeism and tardiness;
- (9) Loss of work quality; and
- (10) Damage to workplace morale.

(B) Employees are encouraged to make use of drug and alcohol counseling and rehabilitation programs offered by Comprehensive Mental Health Services (CMHS), Alcoholics Anonymous, Narcotics Anonymous, and the Mental Health Association in this community. Employees are encouraged to discuss their desire to participate in such programs with their supervisors and/or department heads who may assist the employees in contacting these or other counseling or rehabilitation programs. As a condition of continued employment, each employee shall abide

by the terms of this policy. No later than five days after conviction, the employee shall notify the department head and Board of Commissioners of any criminal drug statute conviction for a violation occurring in the workplace. After notification by the employee of such a conviction, or upon otherwise receiving notice of the conviction, the county shall:

(1) Within ten days, notify in writing any grantor, federal, or state agency whose grant

agreement requires such notice; and

(2) Within 30 days, take appropriate personnel action against the employee and/or require the employee to satisfactorily participate in an approved drug or alcohol abuse assistance or rehabilitation program.

(Ord. 2004-11-11-24, passed 11-24-2004)

CHAPTER 37: GENERAL COUNTY POLICIES

Section

General Provisions

- 37.01 Prisoner work-release program
- 37.02 Jail inmates medical services payment
- 37.03 Ambulance and transport service; user fees; billing
- 37.04 Pre-approved or pre-pay procedures permitted
- 37.05 County Justice Center; prohibited electronic devices
- 37.06 Courthouse policies
- 37.07 Credit card usage by county officials
- 37.08 Authority to enter public-private agreements adopted
- 37.09 Local public agency consultant selection process
- 37.10 County golf course
- 37.11 Membership; dues
- 37.12 Mileage
- 37.13 Township trustee on plan commission; compensation

Smoking in Public Places

- 37.30 Definitions
- 37.31 Smoking prohibited
- 37.32 Responsibilities of proprietors
- 37.33 Posting of signs

- 37.34 Retaliation prohibited
- 37.35 Other laws
- 37.36 Interpretation
- 37.37 Enforcement

37.99 Penalty

Appendix A: Ambulance Management Policy

GENERAL PROVISIONS

§ 37.01 PRISONER WORK-RELEASE PROGRAM.

(A) A work release program through the County Jail is hereby established.

(B) The County Sheriff shall establish eligibility guidelines for prisoners to enter the work-release program.

(C) (1) Each prisoner in the work-release program shall pay a daily fee equal to one hour's wages, or \$14, which ever is greater, for each day worked in the program.

(2) Proceeds generated by the County Sheriff Department's work-release program will be deposited in the General Fund.
 (Ord. 1999-01, passed 2-24-1999; Ord. 2(1-00), passed 2-23-2000)

§ 37.02 JAIL INMATES MEDICAL SERVICES PAYMENT.

(A) Subject to the exceptions noted in I.C. 11-12-5-5(a) and (c), a person confined in the County Jail shall be required to make a co-payment in the sum of \$7 for each and every provision of medical care, dental care, eye care or any other health care related service.

(B) Any money collected shall be deposited into the County Medical Care for Inmates Fund.

(C) Rules for implementation of this section may be proposed by the County Sheriff, and are subject to the approval of the County Commissioners.

(D) The statutory exceptions include:

(1) Inmates confined to the County Jail who maintain a policy of insurance from a private company covering medical care, eye care, dental care and any other health care related services;

(2) Inmates who are committed to the State Department of Correction;

(3) Persons who do not have funds in their commissary account or trust account at the time the service is provided;

(4) Persons who do not have funds in their commissary account or trust account within 30 days after the service is provided;

(5) If the service is provided in an emergency;

(6) If the service is provided as a result of an injury received in the county jail; or

(7) If the service is provided at the request of the Sheriff or Jail Administrator.

(Ord. 1(5-95), passed 5-8-1995)

§ 37.03 AMBULANCE AND TRANSPORT SERVICE; USER FEES; BILLING.

(A) There is hereby established the County Sheriff's Emergency Ambulance and Transport Service (hereinafter "ambulance service"), under the jurisdiction of the County Sheriff.

(B) (1) There is hereby established a non-appropriated cumulative Reimbursable Ambulance Fund for the deposit of fees and charges received for use of the ambulance service, and for deposit of donations, on a non-reverting basis.

(2) All funds in the Reimbursable Ambulance Fund shall be used to replace and/or upgrade equipment used in the ambulance service and to provide funding for the operation of the ambulance service.

(C) The following charges are hereby established per occurrence for usage of the ambulance service:

(1) *Ambulance fees.*

<i>Run Type</i>	<i>Rate</i>
ALS 1 emergency	Base rate \$650
ALS 1 non-emergency	Base rate \$600
ALS 2 emergency	Base rate \$750
ALS w/nurse	Base rate \$750
BLS/ALS mileage	Mileage \$10
<i>Run Type</i>	<i>Rate</i>
BLS emergency	Base rate \$400
BLS non-emergency	Base rate \$350

(2) *Wheelchair van fees.*

<i>Run Type</i>	<i>Rate</i>
Ambulatory one-way	Base rate \$20

Wheelchair one-way	Base rate \$30
Van mileage	Mileage \$2
Waiting time per 30-minute increment for trips over 25 miles	\$10

(3) *Review of rates.* Rates shall be reviewed and may be revised by the County Commissioners and County Council and shall be subject to and in compliance with all rules, regulations and limitations of federal and state law.

(D) Upon recommendation of the County Sheriff and County Auditor, the Board of Commissioners may contract with a third party to provide billing services for the ambulance service.

(E) All payments received pursuant to the schedules in division (C) above shall be paid into the County Auditor's Office for deposit into the Reimbursable Ambulance Fund. No expenditures may be made from the Fund without the prior approval of the County Commissioners and County Council.

(F) The ambulance service may accept assignment of insurance carrier payments, including Medicare and Medicaid, for ambulance services for full or partial payment of the aforesaid charges. However, the acceptance of this coverage(s) shall not relieve the user of the ultimate responsibility for the payment of the total amount of fees owed, provided that payments made to the ambulance service by Medicaid and Medicare authorities shall be subject to all existing rules, regulations and limitations of the federal and state law, and the county shall not require any payment not authorized pursuant to the law.

(G) The County Sheriff shall implement a written financial management policy governing the billing and collection of ambulance and transport service user fees. The policy shall include provisions for hardship cases and write-offs. The policy shall be reviewed and may be revised by the County Commissioners and County Council and shall be subject to and in compliance with all rules, regulations and limitations of federal and state law. A copy of this policy is included herein as Appendix A to this chapter.

(Ord. 2003-5-5-7, passed 5-7-2003; Ord. 2005-8-12-14, passed 12-21-2005; Ord. 2006-7-12-13, passed 12-13-2006)

§ 37.04 PRE-APPROVED OR PRE-PAY PROCEDURES PERMITTED.

(A) The following categories are designated for pre-approved or pre-payment procedures as authorized by I.C. 36-2-6-4.5:

- (1) Property or services purchased or leased from the U.S. Government, its agencies or its political subdivisions;
- (2) License or permit fees;
- (3) Insurance claims;
- (4) Utility payments or utility connection charges;
- (5) General grant programs where advance funding is prohibited;
- (6) Grants or state funds authorized by statute;
- (7) Maintenance or service agreements;
- (8) Lease or rental payments;
- (9) Bond or coupon payments;
- (10) Payroll;
- (11) State or federal taxes;
- (12) Expenses paid for emergency services;
- (13) Collect freight deliveries;
- (14) Conference registrations approved by the Board of Commissioners;
- (15) Reimbursement for conference expenses incurred while attending approved conferences;
- (16) Credit card or charge card expenses

incurred by the county government office for lawful purposes;

- (17) Postage;
- (18) Purchase of emergency vehicles;
- (19) Return of fugitives;
- (20) Drug Task Force drug buy money; and
- (21) Emergency repairs or replacements.

(B) Pursuant to State Code, each payment must be fully itemized and cash invoice or bill certified by the County Auditor. The pre-approved or pre-paid claim must be advertised and approved at the next scheduled meeting of the County Board of Commissioners. A payment of expenses under this section must be published in the manner provided under I.C. 36-2-6-4.5, § 3.
(Ord. 2009-1-1-09, passed 1-2-2009)

§ 37.05 COUNTY JUSTICE CENTER; PROHIBITED ELECTRONIC DEVICES.

(A) No person may bring into the County Justice Center an electronic device, including, but not limited to, a cellular telephone, camera, video camera, any device capable of audio and/or video recording, PDA's, Ipods, pagers, and any device that has internet capabilities, except for the following:

- (1) Authorized officers of the court, including but not limited to, judges, attorneys, probation officers, case managers, CASAs, and guardians ad litem.
- (2) Any county employee, who is in the Justice Center for county business.
- (3) Any other individual whom a judge authorizes to bring in such a device.
- (4) Cameras may be allowed for ceremonial purposes, as specifically authorized by each court, which includes but is not limited to, educational functions, weddings, and final adoptions.

(B) The County Sheriff and court personnel are authorized to monitor and enforce compliance with this section.

(C) This section does not prohibit anyone with a disability that necessitates the availability or use of an electronic device to possess one in the County Justice Center.
(Ord. 2010-03-05-26, passed 5-26-2010) Penalty, see § 37.99

§ 37.06 COURTHOUSE POLICIES.

(A) In the event of death of an elected official, the courthouse shall be closed on the day of the funeral. If the funeral is in the morning, the courthouse shall be closed until 1:00 p.m. If the funeral is in the afternoon, the courthouse shall be closed from noon to 4:00 p.m.
(Prior Code, § 2.64.010)

(B) In the event of death of an elected official, the courthouse flag shall be flown at half-mast during the funeral. If the funeral is in the morning, the flag shall be at half-mast from 8:00 a.m. to 1:00 p.m. If the funeral is in the afternoon, the flag shall be at half-mast from 1:00 p.m. to 4:00 p.m.
(Prior Code, § 2.64.020)

§ 37.07 CREDIT CARD USAGE BY COUNTY OFFICIALS.

(A) County elected officials or their designees and/or department heads (hereinafter responsible person) are hereby authorized to obtain and use a credit card for use in carrying out the official functions of that office or department and for no other purpose.

(B) The responsible person shall control the use of the credit card and, when the use of the card has been accomplished, maintain custody of same.

(C) The responsible person shall maintain an accounting system or log including the names and positions of individuals requesting use of the card, the estimated amounts to be charged, the fund and account numbers to be charged, and the date the card

is issued and returned.

(D) The credit card cannot be used to bypass the county's accounting system.

(E) The responsible person shall timely submit claim for payment of the charges, together with receipts or paid bills documenting the purchase, in the same manner as other claims.

(F) The responsible person shall personally pay any interest or penalty incurred due to late submission of late claims or late furnishing of documents.
(Res. 2009-08-26-01, passed 8-26-2009)

§ 37.08 AUTHORITY TO ENTER PUBLIC-PRIVATE AGREEMENTS ADOPTED.

The provisions and terms of I.C. 5-23 *et seq.* are hereby adopted and incorporated into this section.
(Ord. 2009-09-10-28, passed - -2009)

§ 37.09 LOCAL PUBLIC AGENCY CONSULTANT SELECTION PROCESS.

(A) The Board of Commissioners shall establish policies and procedures for selection of consultants on projects involving U.S. Department of Transportation and State Department of Transportation funding.

(B) The Board of Commissioners shall coordinate the policies and procedures with the requirements and policies of the appropriate state and federal agencies.

(C) The Board of Commissioners shall offer training upon the policies and procedures to interested and affected local officials.
(Res. passed 9-10-2008)

§ 37.10 COUNTY GOLF COURSE.

(A) The county, by its Executive, may exercise its powers under I.C. 36-1-4-6 in relation to the public golf course owned by the county in any of the following manners:

(1) The Executive may exercise the powers with employees, hired pursuant to county policy and processes, who are subject to the supervision of the Executive;

(2) The Executive may contract with a person or entity to exercise the powers on behalf of and subject to the direction of the Executive;

(3) The Executive may, by written delegation, authorize any statutory board or commission of the county to exercise the powers subject to the direction of the Executive; and/or

(4) The Executive may, by ordinance, prescribe any additional methods of exercising the powers.

(B) An annual budget for the operation of the golf course shall be prepared and submitted to the Executive no later than September 1 of each year for the next ensuing calendar year, and appropriations in addition to the budget and transfers within the budget shall be subject to the approval of the Executive, provided that the budget, additional appropriations and transfers shall be prepared and approved:

(1) By the Executive under division (A)(1) above;

(2) Submitted by the contractor and approved by the Executive under division (A) above;

(3) Submitted by the authorized board or commission and approved by the Executive under division (A)(3) above; or

(4) As provided for in a separate ordinance under division (A)(4) above.

(C) A special Golf Course non-reverting Fund for golf course purposes, to be funded initially with monies now held in the Golf Course General Fund, is hereby established. All golf course revenues and any other monies designated for the golf course shall be deposited daily with the County Auditor to the Fund. Monies in the Fund may be used only for golf course purposes, including operating expenses and capital improvements. Monies in the Fund shall not revert to

the County General Fund at the end of the year.
(Ord. 3(3-02), passed 3-13-2002)

§ 37.11 MEMBERSHIP; DUES.

(A) 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 the elected and appointed officials and members of the county's boards, councils, 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.
(Prior Code, § 3.08.010)

(B) 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.
(I.C. 36-1-3-2) (Prior Code, § 3.08.020)

(C) (1) Each department of county government with the authority to submit a budget to the County Council may include in the budget a line item for payment of dues in one or more associations organized to share information about services provided by that department, and that payment of the dues is subject to appropriation by the County Council.

(2) Pursuant to guidelines issued by the State Board of Accounts, dues in professional organizations, such as the State Bar Association and the American Bar Association, are not payable from county funds; provided, however, that disciplinary fees payable to the State Supreme Court for full-time county employees may be paid from a proper appropriation.

(3) This section shall not prevent any county department from submitting to this Board and to the County Council a request for additional memberships for the department head and his or her department and/or employees, based upon a showing of value and appropriate benefit to the county and to the taxpayers.
(Ord. 20(12-98), passed 12-28-1998; Ord. 2006-3-5-24, passed 5-24-2006)

§ 37.12 MILEAGE.

(A) County officers, except for officers subject to divisions (B) and (C) below, are entitled to a sum for mileage in the performance of their official duties equal to the sum per mile paid to state officers and employees in an amount determined by the county fiscal body.
(I.C. 36-2-7-3) (Prior Code, § 3.16.010)

(B) (1) This section does not apply to travel required of a county sheriff under the Uniform Criminal Extradition Act.

(2) If the County Sheriff uses his or her personal automobile for travel within the state for use in an emergency, he or she is entitled to a sum for mileage equal to the sum per mile paid to state officers and employees, as determined by the court having jurisdiction in the case.
(I.C. 36-2-7-4)
(Prior Code, § 3.16.020)

(C) (1) The following persons may use their own conveyances when necessary for the performance of their official duties, and are entitled to a sum for mileage equal to the sum per mile paid to state officers and employees:

(a) The County Surveyor, if authorized by the County Executive to use his or her own conveyance;

(b) The County Coroner, if authorized by the County Executive to use his or her own conveyance;

(c) A deputy or other employee of the County Surveyor or County Coroner, if authorized by

the County Executive to use his or her own conveyance;

(d) 1. A deputy or other employee of the County Assessor, if engaged in field work and authorized by the Assessor to use his or her own conveyance; however

2. An assessing team is entitled to only one sum for mileage under this division (C)(1)(d).

(2) The County Executive may not make a mileage allowance if the Executive furnishes and maintains a vehicle for the officer or deputy in question.

(3) A person seeking compensation under this section must file an itemized claim with the County Executive each month under I.C. 36-2-6. (I.C. 36-2-7-5) (Prior Code, § 3.16.030)

(D) Sums for mileage prescribed by this section are in addition to other compensation prescribed by statute, and the persons receiving the sums are not required to pay them into the County General Fund. (I.C. 36-2-7-6) (Prior Code, § 3.16.040)

(E) Any changes in the sum per mile that the state establishes by July 1 of any year shall be included in the compensation that the County Council fixes in that same year to take effect January 1 of the next year. However, the fiscal body may, by ordinance, provide for the change in the sum per mile to take effect before January 1 of the next year. (I.C. 36-2-7-7) (Prior Code, § 3.16.050)

(F) This section does not affect statutes permitting counties to furnish motor vehicles for use of a county officer.

(I.C. 36-2-7-8) (Prior Code, § 3.16.060)

Statutory reference:

Uniform Criminal Extradition Act, see I.C. 35-33-10

§ 37.13 TOWNSHIP TRUSTEE ON PLAN COMMISSION; COMPENSATION.

The township trustee appointed to the Plan Commission under I.C. 36-7-4-208(a)(6), as enacted or as it may be amended in the future, is entitled to be compensated and reimbursed for mileage, in the same manner as each other member of the Plan Commission, as determined by the County Council. (Ord. 12(2-99), passed 12-27-1999)

SMOKING IN PUBLIC PLACES

§ 37.30 DEFINITIONS.

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

BAR. A portion of an establishment where a person can purchase and consume alcoholic beverages, including but not limited to, taverns, night clubs and cocktail lounges.

ENCLOSED AREA. All space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.

HEALTH CARE FACILITY. An office or institution providing care or treatment of diseases, whether physical, mental, emotional or other medical, physiological or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. The term **HEALTH CARE FACILITY** shall include all waiting rooms, hallways, private rooms, semi-private rooms, and wards within health care facilities.

MEMBERSHIP CLUB. A facility owned or operated by an association or corporation, which shall:

- (1) Not be operated for pecuniary gain;
- (2) Registered under state law;

(3) Determined by the Internal Revenue Service to be operating under not-for-profit status; and

(4) Consist of a membership:

(a) Formed as a lodge, local chapter, or corresponding unit of a fraternal order recognized on a national basis;

(b) Comprised of persons who have served in the armed forces of the United States; or

(c) Formed as a recognized, exclusive association of persons organized for a joint or common purpose for which application for membership, the payment of dues, and self-governance by the membership are distinguishing characteristics, and where entry into, and use of the facility is restricted to members and guests of members.

OFFICE. A building, structure or area used by the general public or serving as a place of work, at which principal activities consist of professional, clerical or administrative services. An **OFFICE** includes, but is not limited to, professional offices, offices in financial institutions, business offices, telemarketing offices and governmental offices.

OTHER PERSON IN CHARGE. The agent of the proprietor authorized to perform administrative direction to and general supervision of the activities within a place of work and public place at any given time.

PERSON. Any municipal corporation, individual, firm, partnership, association, corporation, company or organization of any kind.

PLACE OF WORK/EMPLOYMENT. Any enclosed, indoor location at which two or more individuals perform any type of a service for consideration of payment under any type of employment relationship, including but not limited to, an employment relationship with or for a private corporation, partnership, individual, municipal corporation or government agency. This term includes any location where two or more individuals

gratuitously perform services for which individuals are ordinarily paid. Examples of a place of work include enclosed, indoor areas of an office, a public conveyance, a factory, a warehouse, a hotel or motel, and other locations where services are performed under an employment relationship. Enclosed, indoor areas of private clubs, and rooms used for private meetings or social functions are places of work, if two or more persons acting under an employment relationship provide cleaning, catering, food or beverage service, maintenance or other support services at the location.

PROPRIETOR. The party, regardless of whether the party is the owner or lessee of the place of work or public place, who ultimately controls, governs or directs the activities within the place of work or public place. The term **PROPRIETOR** may apply to a corporation as well as to an individual.

PUBLIC PLACE. Any enclosed, indoor area used by the general public or serving as a place of work, including but not limited to, bars, restaurants, retail stores, offices and other commercial establishments, public conveyances, auditoriums, arenas, meeting rooms, common areas of rental apartment buildings, educational facilities other than public schools, sports arenas, theaters, shopping malls, banks, laundromats, barber and beauty shops, retail food production locations, marketing establishments and health care facilities.

RESTAURANT. Any establishment used as, or held out to, the public as having food available for payment to be consumed on the premises, including coffee shops, diners, cafeterias, cafes, luncheonettes, sandwich stands and soda fountains. The term **RESTAURANT** shall include a bar area within the restaurant and the restaurant area of a membership club if it serves the general public and not just its members and guests.

SHOPPING MALL. An enclosed public walkway or hall area that serves to connect retail or professional establishments.

SMOKING. The inhaling, exhaling, combustion, and/or lighting of any cigarette, cigar, pipe or any other lighted smoking equipment. **SMOKING** includes carrying a lighted cigarette, cigar, pipe or

any other lighted and/or smoldering smoking equipment.

SPORTS ARENA. Any sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

THEATER. Any enclosed facility, open to the public, which is primarily used for or designated for the purpose of exhibiting any motion picture, stage drama, musical recital, dance, lecture or other similar performance.
(Ord. 2010-12-11-10, passed 11-10-2010)

§ 37.31 SMOKING PROHIBITED.

(A) Except as provided in division (C), no person shall smoke in public places and/or places of work/employment, in addition to, but not limited to, the following:

- (1) Aquariums, galleries, libraries and museums;
- (2) Areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including but not limited to, professional offices, banks, laundromats, hotels and motels;
- (3) Bars, except as provided in division (C);
- (4) Buildings and grounds owned by the county or any department, agency or subdivision thereof;
- (5) Convention facilities;
- (6) Elevators;
- (7) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance, including an outdoor movie theater;

- (8) Health care facilities;
- (9) Licensed childcare and adult day care facilities;
- (10) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
- (11) Polling places;
- (12) Public transportation facilities, including buses and taxicabs, under the authority of the county, and ticket, boarding and waiting areas of public transit depots;
- (13) Restaurants;
- (14) Restrooms, lobbies, reception areas, hallways and other common-use areas;
- (15) Retail stores of whatever nature;
- (16) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the county or a political subdivision of the state, when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the county;
- (17) Schools;
- (18) Services lines;
- (19) Shopping malls;
- (20) Sports arenas, including enclosed places in outdoor arenas;
- (21) Sleeping rooms of hotels and motels rented to guests; or
- (22) Bingo facilities, except as provided in division (C) .

(B) To ensure that tobacco smoke does not enter public places and places of work/employment,

and that persons entering such places are not exposed involuntarily to tobacco smoke, smoking is prohibited within 25 feet of entrances, exits, open windows and ventilation intakes of public places and places of work/employment.

(C) The prohibitions of this section do not apply to:

(1) Private residences, except when used as a licensed day care, adult day care or health care facility;

(2) Motor vehicles;

(3) Outdoor dining areas of restaurants that have no direct exit from the premises and where the nearest seating is at least ten feet from the entrance to the smoke-free area;

(4) Any bar that:

(a) Holds a beer, liquor, or wine retailer's permit under the laws of this state;

(b) Allows no customers to enter at any time who is under the age of 18;

(c) Employs no person under the age of 18;

(d) Is not physically located within a business otherwise required to be smoke free by this subchapter;

(5) Membership clubs, provided that if a membership club claims that it is exempt from this subchapter, that it provides the appropriate documents to the officials requesting said documents within three days of the request. This exemption shall not apply to those areas of the membership club that serves as a restaurant or bar that serves the general public, in addition to its members and guests, unless the membership club complies with subsection (4) above; or

(6) Bingo facilities, provided that no one under 18 years of age is permitted to work, attend, or be at or in the bingo facility. (Ord. 2010-12-11-10, passed 11-10-2010) Penalty, see § 37.99

§ 37.32 RESPONSIBILITIES OF PROPRIETORS.

(A) Notwithstanding any other provision of this subchapter, an owner, operator, manager, proprietor or other person in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a nonsmoking place by placing a sign conforming with the requirements of § 37.33.

(B) Ensure that ashtrays, lighters and matchbooks are not provided in areas where smoking is prohibited, except that there may be a device to dispose of smoking materials located directly outside of the entrances.

(C) Ask any person who smokes in an area where smoking is prohibited to refrain from smoking and, if the person does not refrain from smoking after being asked to do so, ask the person to leave and use any other means that may be appropriate to obtain compliance.

(D) Notwithstanding the above, an employer, owner or operator may designate a smoking area not less than 25 feet from any entrance. (Ord. 2010-12-11-10, passed 11-10-2010) Penalty, see § 37.99

§ 37.33 POSTING OF SIGNS.

Every public place and place of work/employment where smoking is prohibited by this subchapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited. Any establishment exempted from this chapter under § 37.31(C)(3),(4),(5) and (6) shall clearly and conspicuously post the following sign at every entrance "This is a Smoking Establishment." (Ord. 2010-12-11-10, passed 11-10-2010) Penalty, see § 37.99

§ 37.34 RETALIATION PROHIBITED.

No person or employer shall discharge, refuse to

hire, penalize, discriminate against or in any manner retaliate against any employee, applicant for employment or customer because the employee, applicant or customer exercises any right to a smoke-free environment provided by this subchapter or other law.

(Ord. 2010-12-11-10, passed 11-10-2010) Penalty, see § 37.99

§ 37.35 OTHER LAWS.

This subchapter shall not be interpreted to permit smoking where it is otherwise restricted by other applicable laws or to supersede any local laws that are more restrictive.

(Ord. 2010-12-11-10, passed 11-10-2010)

§ 37.36 INTERPRETATION.

This subchapter shall be construed broadly to effectuate the purposes described in the preamble of this subchapter and any amendments thereto.

(Ord. 2010-12-11-10, passed 11-10-2010)

§ 37.37 ENFORCEMENT.

(A) This subchapter shall be enforced by the Health Department or any law enforcement agency.

(B) Any citizen who desires to register a complaint under this subchapter may initiate enforcement with the Health Department.

(C) The Health Department shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this subchapter.

(D) An owner, manager, operator or employee of an establishment regulated by this subchapter shall inform persons violating this subchapter of the appropriate provisions thereof.

(Ord. 2010-12-11-10, passed 11-10-2010)

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

(B) A person who smokes in an area where smoking is prohibited by the provisions of §§ 37.30 through 37.37 shall be guilty of an infraction, punishable by a fine not exceeding \$50.

(C) A person who owns, manages, operates or otherwise controls a public place or place of work/employment and who fails to comply with the provisions of §§ 37.30 through 37.37 or any amendment thereto, shall be guilty of an infraction, punishable by:

(1) A fine not exceeding \$100 for a first violation.

(2) A fine not exceeding \$200 for a second violation within one year.

(3) A fine not exceeding \$500 for each additional violation within one year.

(D) Each day on which a violation of §§ 37.30 through 37.37 occurs shall be considered a separate and distinct violation.

(Ord. 2010-12-11-10, passed 11-10-2010)

§ 37.99 PENALTY.

(5) Billing agency shall make a reasonable attempt to locate debtor when mail is returned due to invalid address.

(6) Billing agency shall apply state and federally-mandated adjustments to Medicare and Medicaid accounts.

(7) After completion of the usual and customary billing process, billing agency is authorized to write off account balances of \$50 or less, whereas the cost of collecting these amounts would exceed expected income.

(8) Billing agency shall maintain documentation of all efforts made to collect amounts owed.

(9) Refer to collection and hardship policy for accounts not resolved through the usual and customary billing process.
(Ord. 2006-7-12-13, passed 12-13-2006)

APPENDIX A: AMBULANCE MANAGEMENT POLICY

Schedule

- I. Billing policy
- II. Collection policy
- III. Hardship policy
- IV. Write-off policy

SCHEDULE I. BILLING POLICY.

(A) The County Sheriff's Emergency Ambulance and Transport Service (HCATS) provides medical treatment and transportation on a fee-for-service basis. Fees are established by county ordinance. Billing services are provided under contract with a qualified billing agency, authorized by the County Board of Commissioners. This policy sets forth the usual and customary procedure to accomplish timely billing of patient accounts.

(B) (1) HCATS shall timely furnish to billing agency a patient care report, and insurance and demographic data for each billable incident. This data shall be provided to billing agency within one week of service date.

(2) Billing agency shall timely file claims with appropriate insurance carriers, including Medicare, Medicaid and commercial insurances.

(3) When insurance information is not available or cannot be verified, billing agency shall contact patient/guarantor to determine insurance coverage.

(4) Patients without insurance and those with unpaid balances shall be billed initially and again at 30, 60 and 90 days, unless the account has been paid in full.

SCHEDULE II. COLLECTION POLICY.

(A) The County Sheriffs Emergency Ambulance and Transport Service, in cooperation with billing agency, shall make a reasonable attempt to collect outstanding balances in excess of \$50, prior to any write off. No later than six months after service date, collection efforts shall commence.

(B) At the discretion of the Sheriff, one or more of the following may be employed:

- (1) Attorney letter to debtor from County Attorney or designee;
- (2) Referral of account to small claims court;
- (3) Referral of account to third-party collection agency, subject to approval by fiscal authority;
- (4) Sheriff shall consider cost versus anticipated results of collection action. When the cost of collection is expected to exceed income, the account should be considered for write-off;
- (5) All collection efforts shall be documented, prior to any write-off; and
- (6) If a debtor makes a claim of hardship at any time during the billing or collection process, refer to hardship policy.
(Ord. 2006-7-12-13, passed 12-13-2006)

SCHEDULE III. HARDSHIP POLICY.

(A) It is the intent of the County Sheriff's Emergency Ambulance and Transport Service to practice a uniform billing and collection policy. However, it is recognized that financial hardship may render an account past-due or uncollectible. Claims of hardship shall be validated prior to any balance adjustment or write-off.

(B) In cooperation with billing agency, the following procedure shall be followed:

(1) Billing agency shall attempt to secure monthly payments from debtor, not to exceed six months in duration, to resolve the account balance in full. Failure of debtor to timely remit monthly payments shall subject the debtor to collection action.

(2) Billing agency shall furnish a hardship application to debtor, in an attempt to validate hardship claim. Failure to return the completed hardship application within 15 days shall render the claim of hardship invalid and subject the debtor to collection action.

(3) Hardship application shall attempt to determine employment, income and financial status of debtor. Hardship status shall not be granted without a completed hardship application.

(4) At the discretion of the Sheriff, and after review of the completed hardship application, one or more of the following steps may be taken:

(a) Accept monthly payments, not to exceed six months;

(b) Write off part of the balance and accept monthly payments; and/or

(c) Write off the entire balance.

(Ord. 2006-7-12-13, passed 12-13-2006)

SCHEDULE IV. WRITE-OFF POLICY.

(A) It is the policy of the County Sheriff's Emergency Ambulance and Transport Service (HCATS) to exercise due diligence in the billing and collection of user fees. No official or employee shall authorize, direct or execute write-offs or adjustments to records which are not documented or warranted. No account shall be eligible for write off unless it has first been processed in compliance with the billing, collection and/or hardship policies of HCATS.

(B) The following conditions apply to any adjustments to record balances and write-off of bad debts or uncollectible accounts receivable:

(1) Billing agency is authorized to post state and federally-mandated Medicare and Medicaid adjustments to record balances. All adjustments shall be reported monthly to HCATS.

(2) Billing agency is authorized to write off balances of \$50 or less, following usual and customary billing procedure. The cost of collecting small balances exceeds the anticipated revenue.

(3) Billing agency is authorized to write off balances in cases of bankruptcy, where HCATS is an unsecured creditor and recovery is unlikely.

(4) At the discretion of the Sheriff, validated hardship claims may be accepted for partial or total write-off of accounts.

(5) Accounts referred to an attorney may be written off, if it is determined that no resources exist with which to pay the account.

(6) Accounts referred to small claims court may be written off only if the case is adjudicated in favor of the debtor.

(7) Accounts referred to a third-party collection agency may be written off, if it is determined that no resources exist with which to pay the account.

(8) This write-off policy shall at all times be administered in compliance with State Board of Accounts and local auditing requirements.
(Ord. 2006-7-12-13, passed 12-13-2006)